

1 HOUSE BILL 292

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO THE REGULATION AND LICENSING DEPARTMENT;  
12 PROHIBITING REQUIRING RESUBMISSION OF FINGERPRINTS TO RENEW A  
13 BUSINESS, PROFESSIONAL OR OCCUPATIONAL LICENSE.  
14

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 9-16-6 NMSA 1978 (being Laws 1983,  
17 Chapter 297, Section 22) is amended to read:

18 "9-16-6. SUPERINTENDENT--DUTIES AND GENERAL POWERS.--

19 A. The superintendent is responsible to the  
20 governor for the operation of the department. It is [~~his~~] the  
21 superintendent's duty to manage all operations of the  
22 department and to administer and enforce the laws with which  
23 [~~he~~] the superintendent or the department is charged.

24 B. To perform [~~his~~] the superintendent's duties,  
25 the superintendent has every power expressly enumerated in the

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1 laws, whether granted to the superintendent or the department  
2 or any division of the department, except where authority  
3 conferred upon any division is explicitly exempted from the  
4 superintendent's authority by statute. In accordance with  
5 these provisions, the superintendent shall:

6 (1) except as otherwise provided in the  
7 Regulation and Licensing Department Act, exercise general  
8 supervisory and appointing authority over all department  
9 employees, subject to any applicable personnel laws and  
10 regulations;

11 (2) delegate authority to subordinates as ~~[he]~~  
12 the superintendent deems necessary and appropriate, clearly  
13 delineating such delegated authority and the limitations  
14 thereto;

15 (3) organize the department into those  
16 organizational units ~~[he]~~ the superintendent deems will enable  
17 it to function most efficiently, subject to any provisions of  
18 law requiring or establishing specific organizational units;

19 (4) within the limitations of available  
20 appropriations and applicable laws, employ and fix the  
21 compensation of those persons necessary to discharge ~~[his]~~ the  
22 superintendent's duties;

23 (5) take administrative action by issuing  
24 orders and instructions, not inconsistent with the law, to  
25 assure implementation of and compliance with the provisions of

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1 law for whose administration or execution [~~he~~] the  
2 superintendent is responsible and to enforce those orders and  
3 instructions by appropriate administrative action or actions in  
4 the courts;

5 (6) conduct research and studies that will  
6 improve the operations of the department and the provision of  
7 services to the citizens of the state;

8 (7) provide courses of instruction and  
9 practical training for employees of the department and other  
10 persons involved in the administration of programs, with the  
11 objective of improving the operations and efficiency of  
12 administration;

13 (8) prepare an annual budget of the  
14 department;

15 (9) provide cooperation, at the request of  
16 heads of administratively attached agencies, in order to:

17 (a) minimize or eliminate duplication of  
18 services and jurisdictional conflicts;

19 (b) coordinate activities and resolve  
20 problems of mutual concern; and

21 (c) resolve by agreement the manner and  
22 extent to which the department shall provide budgeting,  
23 [~~record-keeping~~] recordkeeping and related clerical assistance  
24 to administratively attached agencies;

25 (10) appoint, with the governor's consent, a

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1 "director" for each division. These appointed positions are  
2 exempt from the provisions of the Personnel Act. Persons  
3 appointed to these positions shall serve at the pleasure of the  
4 superintendent;

5 (11) give bond in the penal sum of twenty-five  
6 thousand dollars (\$25,000) and require directors to each give  
7 bond in the penal sum of ten thousand dollars (\$10,000)  
8 conditioned upon the faithful performance of duties, as  
9 provided in the Surety Bond Act. The department shall pay the  
10 costs of these bonds; and

11 (12) require performance bonds of such  
12 department employees and officers as ~~[he]~~ the superintendent  
13 deems necessary, as provided in the Surety Bond Act. The  
14 department shall pay the costs of these bonds.

15 C. The superintendent may apply for and receive,  
16 with the governor's approval, in the name of the department any  
17 public or private funds, including ~~[but not limited to]~~ United  
18 States government funds, available to the department to carry  
19 out its programs, duties or services.

20 D. The superintendent may make and adopt such  
21 reasonable and procedural rules and regulations as may be  
22 necessary to carry out the duties of the department and its  
23 divisions; provided that where a licensing entity requires  
24 submission of fingerprints as part of the initial license  
25 application, and a licensee has provided fingerprints and the

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1 license has been issued, the licensing entity shall not require  
2 a licensee to submit fingerprints again to renew the license,  
3 but a licensee shall submit to a background investigation if  
4 required. No rule or regulation promulgated by the director of  
5 any division in carrying out the functions and duties of the  
6 division shall be effective until approved by the  
7 superintendent, unless otherwise provided by statute. Unless  
8 otherwise provided by statute, no regulation affecting any  
9 person or agency outside the department shall be adopted,  
10 amended or repealed without a public hearing on the proposed  
11 action before the superintendent or a hearing officer  
12 designated by ~~[him]~~ the superintendent. The public hearing  
13 shall be held in Santa Fe unless otherwise permitted by  
14 statute. Notice of the subject matter of the regulation, the  
15 action proposed to be taken, the time and place of the hearing,  
16 the manner in which interested persons may present their views  
17 and the method by which copies of the proposed regulation,  
18 proposed amendment or repeal of an existing regulation may be  
19 obtained shall be published once at least thirty days prior to  
20 the hearing date in a newspaper of general circulation and  
21 mailed at least thirty days prior to the hearing date to all  
22 persons who have made a written request for advance notice of  
23 hearing. All rules and regulations shall be filed in  
24 accordance with the State Rules Act."