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HOUSE BILL 152

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY

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AN ACT

RELATING TO ADULT EDUCATION; PROVIDING DUTIES TO THE HIGHER  
EDUCATION DEPARTMENT; CREATING A FUND; ESTABLISHING  
REQUIREMENTS FOR CHARTER SCHOOLS PROVIDING ADULT EDUCATION  
SERVICES TO RECEIVE FUNDING; REQUIRING A STRATEGIC ADULT  
EDUCATION PLAN; MAKING APPROPRIATIONS.

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

**SECTION 1.** Section 9-25-8 NMSA 1978 (being Laws 2005,  
Chapter 289, Section 8) is amended to read:

"9-25-8. SECRETARY--DUTIES AND GENERAL POWERS.--

A. The secretary is responsible to the governor for  
the operation of the department. It is the secretary's duty to  
manage all operations of the department and to administer and  
enforce the laws with which the secretary or the department is  
charged.

.216404.3

1           B. To perform the duties of the secretary, the  
2 secretary has every power expressly enumerated in the law,  
3 whether granted to the secretary, the department or any  
4 division of the department, except when any division is  
5 explicitly exempted from the secretary's power by statute. In  
6 accordance with these provisions, the secretary shall:

7                 (1) except as otherwise provided in the Higher  
8 Education Department Act or Chapter 21 NMSA 1978, exercise  
9 general supervisory and appointing power over all department  
10 employees, subject to applicable personnel laws and rules;

11                (2) delegate power to subordinates as the  
12 secretary deems necessary and appropriate, clearly delineating  
13 such delegated power and the limitations to that power;

14                (3) organize the department into  
15 organizational units as necessary to enable it to function most  
16 efficiently, subject to any provisions of law requiring or  
17 establishing specific organizational units;

18                (4) within the limitations of available  
19 appropriations and applicable laws, employ and fix the  
20 compensation of those persons necessary to discharge the duties  
21 of the secretary;

22                (5) take administrative action by issuing  
23 orders and instructions, not inconsistent with law, to ensure  
24 implementation of and compliance with the provisions of law for  
25 which administration or execution the secretary is responsible

1 and to enforce those orders and instructions by appropriate  
2 administrative action in the courts;

3 (6) conduct research and studies that will  
4 improve the operation of the department and the provision of  
5 services to the ~~[citizens]~~ residents of the state;

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

11 (8) prepare an annual budget for the  
12 department; ~~[and]~~

13 (9) provide cooperation, at the request of  
14 administratively attached agencies and adjunct agencies, in  
15 order to:

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

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

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

24 (10) conduct oversight of adult education  
25 services statewide.

1           C. The secretary may apply for and receive, with  
2 the governor's approval, in the name of the department, any  
3 public or private funds, including United States government  
4 funds, available to the department to carry out its programs,  
5 duties or services.

6           D. The secretary may make and adopt such reasonable  
7 and procedural rules as may be necessary to carry out the  
8 duties of the department and its divisions. No rule  
9 promulgated by the director of any division in carrying out the  
10 functions and duties of the division shall be effective until  
11 approved by the secretary. Unless otherwise provided by  
12 statute, no rule affecting any person or agency outside the  
13 department shall be adopted, amended or repealed without a  
14 public hearing on the proposed action before the secretary or a  
15 hearing officer designated by the secretary. No rule  
16 promulgated by the department shall infringe upon the authority  
17 vested by Article 12 of the constitution of New Mexico in the  
18 boards of regents of the educational institutions specified in  
19 that article. The final public hearing on adoption, amendment  
20 or repeal of a rule shall be held in Santa Fe unless otherwise  
21 permitted by statute. Notice of the subject matter of the  
22 rule, the action proposed to be taken, the time and place of  
23 the hearing, the manner in which interested persons may present  
24 their views and the method by which copies of the proposed rule  
25 or proposed amendment or repeal of an existing rule may be

.216404.3

1 obtained shall be published once at least thirty days prior to  
2 the hearing date in a newspaper of general circulation and  
3 mailed at least thirty days prior to the hearing date to all  
4 persons who have made a written request for advance notice of  
5 hearing. All rules shall be filed in accordance with the State  
6 Rules Act."

7 SECTION 2. A new section of Chapter 21 NMSA 1978 is  
8 enacted to read:

9 "[NEW MATERIAL] ADULT EDUCATION SERVICES FUND--CREATED--  
10 PURPOSE--REQUIREMENTS TO RECEIVE FUNDING.--

11 A. The "adult education services fund" is created  
12 as a nonreverting fund in the state treasury. The fund  
13 consists of appropriations, gifts, grants and donations. The  
14 higher education department shall administer the fund, and  
15 money in the fund is appropriated to the higher education  
16 department to provide funding to charter schools providing  
17 adult education services that comply with the requirements of  
18 Subsection C of this section. Money in the fund is subject to  
19 appropriation by the legislature. Disbursements from the fund  
20 shall be made by warrant of the secretary of finance and  
21 administration pursuant to vouchers signed by the secretary of  
22 higher education or the secretary's authorized representative.

23 B. The higher education department shall provide  
24 annual funding to supplement a state or locally chartered  
25 charter school's operational or instructional costs for adult

1 students. The department shall use the state or locally  
2 chartered charter school's financial plan provided in  
3 Subsection C of this section to determine the financial need of  
4 each state or locally chartered charter school prior to the end  
5 of fiscal year 2020. The department shall disburse the  
6 funding for each state or locally chartered charter school at  
7 the beginning of fiscal year 2021. Each state or locally  
8 chartered charter school may receive up to six thousand dollars  
9 (\$6,000) in funding per student, per school year; provided that  
10 the total amount of funding distributed shall not exceed the  
11 available money in the adult education services fund.

12 C. In order to receive funding from the adult  
13 education services fund, charter schools shall comply with the  
14 following requirements:

15 (1) provide a copy of the charter school's  
16 original mission and vision plan for the education of adults;

17 (2) demonstrate that the charter school has  
18 served adult students for no less than five years and was  
19 serving adult students at the time this 2020 act went into  
20 effect;

21 (3) demonstrate that at least fifteen percent  
22 of the education services provided by the charter school are to  
23 the adult population;

24 (4) provide a financial plan that details the  
25 charter school's financial need for fiscal year 2021 before the

1 end of fiscal year 2020; and

2 (5) demonstrate through the charter school's  
3 chartering authority and state auditors:

4 (a) fiscal responsibility and liquidity;

5 (b) governing body compliance; and

6 (c) compliance with the requirements as  
7 defined in the chartering authority's charter framework and  
8 contract."

9 SECTION 3. TEMPORARY PROVISION--STRATEGIC ADULT EDUCATION  
10 PLAN.--

11 A. During the 2020-2021 school year, the higher  
12 education department and the public education department shall  
13 work to develop a strategic adult education plan with school  
14 districts and charter schools that provide education services  
15 to adult students who have not received a high school diploma  
16 or its equivalent and who have reached their twenty-second  
17 birthday on the first day of the school year.

18 B. The strategic adult education plan shall  
19 include:

20 (1) a structure for a funding system for adult  
21 education programs for adult students who have not received a  
22 high school diploma or its equivalent and who have reached  
23 their twenty-second birthday on the first day of the school  
24 year;

25 (2) supports for adult education programs for

.216404.3

1 adult students who have not received a high school diploma or  
2 its equivalent and who have reached their twenty-second  
3 birthday on the first day of the school year;

4 (3) a pilot project that includes best  
5 practices for adult student remediation, academic acceleration  
6 and social-emotional supports; and

7 (4) rules regarding the safe and productive  
8 interaction between adult non-traditional students and  
9 traditional students.

10 **SECTION 4. APPROPRIATION.--**Six million dollars  
11 (\$6,000,000) is appropriated from the general fund to the adult  
12 education services fund for expenditure in fiscal year 2021 and  
13 subsequent fiscal years to provide operational and  
14 instructional funds to charter schools providing education  
15 services for persons who have not received a high school  
16 diploma or its equivalent and who have reached their twenty-  
17 second birthday on the first day of the school year and meet  
18 other criteria provided in the Public School Finance Act. Any  
19 unexpended or unencumbered balance remaining at the end of a  
20 fiscal year shall not revert to the general fund.

21 **SECTION 5. APPROPRIATION.--**Two hundred thousand dollars  
22 (\$200,000) is appropriated from the general fund to the higher  
23 education department for expenditure in fiscal year 2021 to  
24 hire personnel to oversee adult education services provided  
25 statewide and to provide funding to assist with operational



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1 expenses. Any unexpended or unencumbered balance remaining at  
2 the end of fiscal year 2021 shall revert to the general fund.

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