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Analysis of New Mexico State School Laws

John Seyfried

SEYFRIED

ANALYSIS
OF NEW
MEXICO
SCHOOL

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ANALYSIS OF NEW MEXICO STATE SCHOOL LAWS

By
John Edward Seyfried

A Thesis Submitted for the Degree
of Master of Arts in Education

University of New Mexico
1928

PREFACE

The analysis that follows does not purport to do what only a state-wide survey could properly do, that is, treat fully and minutely the New Mexico public school situation. The real intent is to occasion serious thought on the larger problems of the public schools, and thereby to assist in paving the way for an expert state survey, preliminary to more constructive action. The extent that school problems may be treated herein is limited by the fact that only such time, effort, and other resources were at the writer's disposal as are commonly available in the preparation of a thesis to be submitted in partial fulfillment of the requirements for the degree of Master of Arts.

The writer acknowledges his indebtedness to all who assisted, directly or indirectly, in the preparation of this thesis. He is especially grateful to Doctor S. P. Nanninga for guidance and assistance throughout; to Superintendent John Milne and Mr. J. R. McCollum for valuable suggestions and criticisms; and to Miss Marcella Reidy for correcting the manuscript.

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CHAPTER I

THE PROBLEM

INTRODUCTION

The period embracing the last ten or fifteen years has been one of extensive progress in education, more, perhaps, than any other period of comparative length. Advancement has not been confined to one branch or division of education but has spread generally over the entire field. State legislation in behalf of public schools has been no exception, and consequently, many changes have been brought about in state school laws—some good, some bad, but as a whole advances over laws of earlier years.

New Mexico, like other states, has taken some part in the movement for better schools. Although relatively young, New Mexico has made a worth-while start, natural difficulties and drawbacks considered, and today is enjoying a goodly number of sound educational laws and practices that some of the older and wealthier states are being denied on account of tradition, polit-

ical conditions, or other reasons.

Neither New Mexico, nor any of the states, has reached the place where she can rightfully feel satisfied to any extent with her schools and, incidentally, her school laws. Education is such a dynamic force that no state can hope to keep progress and pace with the best and soundest educational policies without constant changing and reconstructing. Laws framed not many years ago were no doubt good in their day, but great discoveries and improvements, as well as changes in American life and society within recent years have made many of them obsolete, some even detrimental, when viewed in the light of leading modern ideas and demands. While New Mexico's school laws are strong in some respects, they are woefully weak in others. She is no exception in being forced to face readjustment and to align herself with new movements, if she expects to further promote education, the greatest of all civilizing agents.

STATEMENT AND PURPOSE

It would be somewhat difficult to say offhand with any degree of accuracy how the state school laws of New Mexico compare with those of other states, and wherein they are strong or weak. A general statement or comparison might be sufficient for ordinary purposes, but for

the gaining of an intelligent understanding and a workable knowledge, no such superficial method would suffice. To say what New Mexico should do in the matter of readjusting her school laws can be done wisely only by a careful analysis and comparison of her present laws with what is considered good today by leading authorities on education. To make such an analysis or study and to propose changes in conformity to the latest sound educational policies is the purpose of this thesis.

A critical analysis of New Mexico's school laws at this time should prove of interest and value. Each year finds greater belief in and advance toward a larger unit of administration and a more central control or regulation of the minimum essentials or standards of education, especially toward state control. The time seems close at hand when the population at large will be willing to admit that increased expenditures on education are profitable, both to the individual and to society as a whole.

SCOPE

The critical analysis that follows will be confined largely to the provisions made for public schools in the New Mexico State Constitution and the New Mexico School Code of 1925, as published by the State Super-

intendent and revised by the writer to include the New Mexico State Session Laws of 1925 and 1927. In addition to the analysis of the foregoing laws, special mention will be made of outstanding legislation which should be passed to make New Mexico's school laws comparable to the best standards of the present day.

The criticisms offered herein are designed to be constructive rather than destructive. Unless a better plan can be offered no change will be advocated, except in cases where the evils of the present plan are so outstanding that abolition is unquestionably necessary. Wherever good major provisions are found in the laws, an attempt will be made to call them to attention with the hope that some aid might be offered to preserve and help make them function better in practice. No criticisms of vital points are made unless they are in accord with the best theories of modern educators or practices in other states. Recommendations are not made with the idea that they should all be put into effect at once, but rather on the contention that they should eventually become a part of the State Laws, unless better plans arise in the meantime. They embody changes, however, considered necessary, and which New Mexico is in a position to adopt by making adjustments which seem to be reasonably

within her power.

SOURCES

Provisions for state school laws as advocated in the 1923 Revised Osceola Code and Cubberley's State School Administration, 1927, are largely the bases of the criticisms and recommendations. Both of these texts have been created as a result of long research and study. They are taken as standards for comparison because they contain almost all the best practices of the states and the latest sound educational principles. References will be made frequently, however, to other leading school writers, to state surveys, and to decisions handed down by the highest courts, both of the Federal Government and of the states. Many of the evils of the New Mexico school laws herein pointed out as detrimental to the best interests of the schools were called to the writer's attention by leading educators within the State.

METHOD AND PROCEDURE

To simplify the analysis and to make the recommendations clearer, the following plan of treatment will be observed:

1. New Mexico State Constitution
    (a) Introduction

(b) Analysis and criticism by Sections of each Article on the public schools, with recommended changes

(c) Summary and conclusions

2. New Mexico State School Code, including the 1925 and 1927 Session Laws

(a) Introduction

(b) Analysis and criticism, either by Sections or by Chapters, with recommended changes

(c) Summary and conclusions

3. General Recommendations and Summary

(a) Other needed legislation

(b) Order for carrying out the most important recommended reforms

(c) Conclusions

CHAPTER II

NEW MEXICO STATE CONSTITUTION

INTRODUCTION

In treating provisions for education in a state constitution it is to be kept in mind that a constitution is the supreme law. People band together under an agreement to govern and be governed according to certain definite tenets or principles, the terms of which they embody in an instrument—a constitution—either written or unwritten.

The paramount idea of framing a constitution is to guarantee the people certain inalienable rights, rights not subject to change against the wishes of the people. A constitution is not intended primarily to be detailed provisions. It should contain statements of the underlying fundamentals necessary to perpetuate the principles which a people unite to enjoy, and these principles, stated in a way that will permit adjustments necessary to promote welfare and progress.

To say what school laws should be incorporated in the Constitution, proper consideration must be given to the question of what should as a general rule be included in such a document. Today many state school systems are

suffering because of unwise provisions in their constitutions, or perhaps, because of lack of constitutional provision--and largely, because of lack of consideration and foresight.

No doubt most of the states would revise their constitutions today if given the opportunity. All the states fully realize by now that constitutions after adoption are hard to change, and that only the best worded and most carefully thought-out instruments withstand time to any extent.

Constitutional provisions should be general, broad, and flexible, yet definite and specific enough to have clearly defined limits in case there need be any. One of the main reasons the United States has been such an outstanding nation is because of the vision of those who framed the National Constitution. The American forefathers left a document that embodies to a high degree all the foregoing mentioned qualities.

Whether or not laws found in a state constitution in behalf of education are of the type they should be depends to some extent on whether or not they meet the tests heretofore stated. School laws that are narrow and framed with regard for present needs only soon outgrow their usefulness. Those of a detailed nature, or which are too

definite or specific, are not capable of adjustment to ever changing needs. On the other hand, constitutions with no well defined limits are likely to permit of changes and alterations that soon usurp the fundamental privileges and rights which a people desire to perpetuate.

Some wonder may arise as to the importance of embodying in the Constitution certain laws or principles. This is partly answered in saying that the Constitution is the supreme law of the State. Power to make laws must be traced back to the Constitution, and only laws not in conflict with this supreme authority actually become or continue as law when put to test. In order that the legislature may provide or make laws for the schools, the power to do so must be directly or indirectly given to them in the Constitution. Moreover, statutory law is subject at any time to change by the legislature. Constitutional provision can be altered also, but the procedure is much more difficult, and is more dependent on the direct will of the people.

The status of laws passed by legislatures is never certain, unless the constitution provides for them in so many words, or until they have been passed on by the highest courts. This is true to some extent with constitutional amendments, although the likelihood of error

is much less. Bills passed by legislatures have continued for years as laws, but when tested or tried have been declared by the courts to be unconstitutional and to have no effect. This is further reason why state constitutions should be made to embody those outstanding, stable principles and fundamentals necessary to insure sound educational systems.

In making the analysis and criticisms of the Constitution, conscious effort has been made to embody the mentioned principles, as well as to hew to the line on the fundamentals of education now accepted as sound and beyond the experimental stage. What has been said in regard to constitutions in previous paragraphs has been done to explain why it is well to have the New Mexico Constitution make adequate provisions for education, and to justify to some extent the criticisms and recommendations which follow.

Article V (N. M. State Constitution)

EXECUTIVE DEPARTMENT

SECTION 1. The executive department shall consist of a governor, lieutenant governor, secretary of state, state auditor, state treasurer, attorney-general, superintendent of public instruction and commissioner (of) public lands, who shall be elected for the term of two years beginning on the first day of January next after their election.

Such officers shall, after having served two consecutive terms, be ineligible to hold any state office for

two years thereafter.

The officers of the executive department except the lieutenant governor, shall during their terms of office, reside and keep the public records, books, papers and seals of office at the seat of government.

SECTION 3. ELIGIBILITY. No person shall be eligible to any office specified in section one, hereof, unless he be a citizen of the United States, at least thirty years of age, nor unless he shall have resided continuously in New Mexico for five years next preceding his election; nor to the office of attorney-general, unless he be a licensed attorney of the supreme court of New Mexico in good standing; nor to the office of superintendent of public instruction unless he be a trained and experienced educator.

COMPENSATION. The annual compensation to be paid the superintendent of public instruction shall be $3000; which compensation shall be paid to the respective officers in equal quarterly payments. The compensation herein fixed shall be full payment for all services rendered by said officers (executive dept.) and they shall receive no other fees or compensation whatsoever. The compensation of any of said officers (executive dept.) may be increased or decreased by law after the expiration of ten years from the date of the admission of New Mexico as a state.

Provision should be made in the State Constitution for a superintendent of public instruction, but instead of being elected as the New Mexico Constitution provides, the best American experience and theory indicate that he should be appointed by the state board of education.[1] The average voter gives too little thought to the matter of having a suitable man at the head of a state school system, and has too little opportunity of knowing who is

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[1] Educational Conditions in Arizona. U. S. Bureau of Education, 1917, No. 44, p. 37-40.

a suitable candidate for the office to entrust this important duty to him. Consequently, in states where the plan of election has been carried out the results in most cases have been unfavorable.[1] Those who have held this important office in New Mexico have not been, as a whole, comparable to the best educational talent that was to be had, if the appointive method, as later outlined herein, had been in use. So long as the state superintendent must depend on the vote of the people for continuation in office there is great likelihood that he will be politically dominated, and consequently, will not discharge the duties of office as impartially and fearlessly as he would were he held directly accountable to the state board of education, instead of to the people at large.[2]

The policy of electing the state superintendent of public instruction, furthermore, limits the office to those who fulfill the state qualifications as to eligibility to election, which means that the office is limited to those who reside within the State. This provision

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[1]Cubberley, E. P. State School Administration, p. 274-283.

[2]An Educational Study of Alabama. U. S. Bureau of Education, 1919, No. 41, p. 50-51.

prevents choosing from among the best educators available. While it is true that there may be persons within the State who can creditably fill this important position, it is not a foregone conclusion that there are individuals who would accept it, or that there always will be such persons available. In fact, it is preferable under ordinary circumstances occasionally to have a superintendent of public instruction from without the State, especially one who has had training elsewhere. Inbreeding in education is detrimental when carried on to any extent.

The specific provision limiting the superintendent's term of office to a certain number of years, particularly such a small number as two, and the one requiring that he reside continuously within the State for five years next preceding his election, are fundamentally wrong.[1] The standards requiring him to be a citizen of the United States, at least thirty years of age, and that he be a trained and experienced educator are not objectionable, although minor details scarcely need regulating in the constitution in states where the superintendent is appointed rather than elected. There is no defense for fixing the superintendent's salary in the Constitution, unless a

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[1] Public Education in Kentucky. A Report by the Kentucky Educational Commission, 1921, No. 41. p. 19-21.

minimum only is provided. This is a matter that should be left to the state board of education, and not to the legislature.[1] No state can expect to secure the services of a leading educator at $3000 a year; and so long as the power to increase his salary is placed in the hands of the legislature there is danger that a sufficient amount will not be provided to insure securing men of high caliber.

It is recommended that the Constitution be made to provide for a superintendent of public instruction as chief executive officer of the state board of education, said officer to be appointed by the state board for such a period of time as the board may see fit. The superintendent should not be dismissed during term of office, except for cause, and on vote of at least five members where the board is seven in number, and a correspondingly or proportionally high number if the board is otherwise composed. No restrictions as to qualifications of the state superintendent, or on his salary, should be placed on the state board in the Constitution, except as stated, a minimum salary might be set.[2] If specific regulations

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 28.

[2] Ibid., p. 20-29.

California. Report of the Special Legislative Committee on Education, p. 14-15.

are made, they should be statutory so as to be more easily altered or changed to suit varying conditions. Constitutional provision should be made, however, giving the state board power to choose the state superintendent free from all restrictions as to residence, party, religion, race, or sex of the person appointed; and his qualifications, tenure, and compensation should be as provided by the board itself, except that the appointee must be an experienced and competent educator.[1]

Article XII (N. M. State Constitution)

EDUCATION

SECTION 1. A uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state shall be established and maintained.

The foregoing in substance is desirable, forever establishing the fact, unless changed in the Constitution itself, that the State shall maintain a uniform system of free public schools. Education has long been admitted to be a function of the state.[2] The framers of the Constitution showed foresight in not prescribing school age limits, but leaving the determination of this matter to

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[1]Cubberley, E. P. State School Administration, p. 290-295.

[2]A Manual of Educational Legislation. U. S. Bureau of Education, 1924, No. 36, p. 1-4.

the legislature. The more democratic way of providing free public schools is to require equal opportunity to all rather than to make the schools equally open to all. The states are rapidly beginning to apply this broader interpretation in practice, without opposition from the public or interference by the courts.

SECTION 2. The permanent school fund of the state shall consist of the proceeds of sales of sections two, sixteen, thirty-two and thirty-six in each township of the state, or the lands selected in lieu thereof; the proceeds of sales of all lands that have been or may hereafter be granted to the state not otherwise appropriated by the terms and conditions of the grant; such portion of the proceeds of sales of lands of the United States within the state as has been or may be granted by congress; also all other grants, gifts and devises made to the state, the purpose of which is not otherwise specified.

What has been set down in this Section is all right so far as it goes, but other provisions should be made for increasing this fund. This matter will be discussed further under Section 4.

SECTION 3. The schools, colleges, universities and other educational institutions provided for by this constitution shall forever remain under the exclusive control of the state, and no part of the proceeds arising from the sale or disposal of any lands granted to the state by congress, or any other funds appropriated, levied or collected for educational purposes, shall be used for the support of any sectarian, denominational or private school, college or university.

This Section needs little comment or discussion as it

is self-explanatory and fully in accord with the best educational principles. The schools provided for in the Constitution, or others that may be established by the legislature, should be a state system as opposed to a series of loose and independent school systems. It should also be provided here that the different city and county-district schools should be distinct and separate corporations from the civic corporations with which they may be wholly or partly coterminous.[1]

SECTION 4. All fines and forfeitures collected under general laws; the net proceeds of property that may come to the state by escheat; the rentals of all school lands and other lands granted to the state, the disposition of which is not otherwise provided for by the terms of the grant or by act of congress; and the income derived from the permanent school fund, shall constitute the current school fund of the state. The legislature shall provide for the levy and collection of an annual tax upon all the taxable property in the state for the maintenance of the public schools, the proceeds of such tax levy to be added to the current school fund above provided for. The current school fund shall be distributed among the school districts of the state in the proportion that the number of children of school age in each district bears to the total number of such children in the state, and shall provide for the levy and collection of additional local taxes for school purposes. A public school shall be maintained for at least five months in each year in every school district in the state.

Before making the distribution above provided for, there shall be taken from the current school fund as above created, a sufficient reserve to be distributed among school districts in which the proceeds of the annual local

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[1]Cubberley, E. P. State School Administration, p. 117-134.

tax, when levied to the limit allowed by law, plus the regular quota of current school funds allotted to said district, shall not be sufficient for the maintaining of a school for the full period of five months, and this reserve fund shall be so distributed among such districts as to enable each district to hold school for the said period.

All fines and forfeitures collected under general law, the net proceeds of property that may come to the State by escheat, should also go to the state permanent school fund rather than to the current school fund.[1] This source of income is indefinite, and should not be depended upon as a source of current funds. If it were added to the permanent fund, under a wise plan of investment, it could be made a perpetual source of income. The current school fund should be derived from the income of the permanent fund and the rental of unsold lands, and from a general state-school tax, or an appropriation if necessary.[2]

The provision in this particular Section of the Constitution that the legislature shall levy and collect an annual tax upon all property in the State for the maintenance of the public schools is not in accord with the best practices or theories of today. It is enough to provide in the Constitution for a general state-school

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[1]Cubberley, E. P. State and County Educational Reorganization, p. 7-8.
[2]Ibid.,p. 8-9.

tax, leaving the plan of levy and collection to the state legislature, unless some really good plan could be agreed upon. The present plan of levying and collecting an annual tax upon all taxable property has about outgrown its usefulness.[1] What other scheme of taxation would serve the best interests of the State is not within the scope of this thesis, as sound recommendations could hardly be made without a survey. This matter is treated at greater length under the State School Code, with suggested plans that school financiers advocate, or which have proved successful in other states.

It seems certain, however, that the legislature should be required by the Constitution to supply by taxation or by appropriation, a minimum amount, preferably, not lower than twenty dollars for each pupil in average daily attendance in the public elementary and secondary schools of the State during the preceding year. The method of taxing to raise this amount should be left to the legislature, with power to authorize other forms of taxation for educational purposes, and such increases in

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[1]Cubberley, E. P. State School Administration, p. 414-443.
Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 493-496.

the minimum stated as they may see fit. A general county tax should be provided for in each county, which amount should not be less than the minimum set for the state-school tax. This matter is treated further under Chapter VI of the School Code.

The method employed in this State for distributing the school fund is unsound when viewed in the light of the best up-to-date plans.[1] Certainly it does not encourage increased attendance or place a premium on greater effort or better schools. The present trend of distribution in other states is on the basis of number of teachers employed, plus aggregate attendance, with a reserve fund to aid poorer districts.[2] A number of good plans on this order have been worked out by other states. It would be better to leave the plan of apportionment to statutory regulation instead of constitutional control, unless some flexible plan could be devised. It is adequate for the Constitution to recite that the income from the permanent school fund, including land rentals, with the state tax, or appropriation

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[1] The Public School System of Arkansas. U. S. Bureau of Education, 1923, No. 10, p. 10-12.

[2] An Educational Study of Alabama. U. S. Bureau of Education, 1919, No. 41, p. 499-502,507-509.

for schools, shall be apportioned each year to the different school corporations of the State in a manner provided by law as will tend best to equalize both the burden and advantages of education throughout the State.[1]

The stipulation in this Section for special aid to insure at least a five months term each year in every school district in the State is entirely inadequate today as a constitutional minimum. At least eight months should be prescribed in the Constitution as the minimum length of term, if present practices are considered as criteria.[2]

The providing of additional help to carry on a minimum term for poorer school districts is commendable, but if the school term were longer, it would be better. The idea of helping financially poor districts is in accord with the best modern educational principles. People are now generally agreed, as stated, that education is a function of the state, and where proper facilities are not provided, and the local unit is not at fault, the state should give additional aid.[3] The method

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[1]Cubberley, E. P. State School Administration, p. 450-486.

[2]Public Education in Oklahoma. U. S. Bureau of Education, 1923, No. 14, p. 25.

[3]Cubberley, E. P. State School Administration, p. 472-486.

prescribed in New Mexico for aiding poorer districts is practically inoperative today because of the county-unit plan of taxation. The State really gives no special aid to the poorer districts. When the State increases the apportionment, as recommended, the law should be changed so that special aid will be given to the needy districts.

That part of the current school fund which represents the income from the permanent fund should be used, if at all possible, as a reserve fund, as far as may be, to equalize educational advantages throughout the counties of the State. The apportionment of the income should be provided for in the statutes.

SECTION 5. Every child of school age and of sufficient physical and mental ability shall be required to attend a public or other school during such period and for such time as may be prescribed by law.

What is prescribed here is both wise and needed. Under this Section should be included a passage requiring the legislature to see that proper education is offered the delinquent, defective, and dependent classes of children.[1]

SECTION 6. A state board of education is hereby

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[1]An Educational Study of Alabama. U. S. Bureau of Education, 1919, No. 41, p. 275-286.

created, to consist of seven members. It shall have the control, management and direction of all public schools, under such regulations as may be provided by law. The governor and the state superintendent of public instruction shall be ex-officio members of said board and the remaining five members shall be appointed by the governor, by and with the consent of the senate; and shall include the head of some state educational institution, a county superintendent of schools, and one other person actually connected with educational work. The legislature may provide for district or other school officers, subordinate to said board.

Instead of simply creating a state board of education, the Constitution should declare for a state department of education, entrusting such board with general administration of the system of public instruction to be provided for by law.[1] At the head of this department should be a board of education composed of not less than five nor more than nine members, said board to be appointed by the governor, one each year, and for such length of terms that one member retires each year.[2] The governor should have the power to appoint the board wholly on considerations of personal merits and fitness; the board should be kept free from racial, political, or sectarian influences.[3]

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[1] Public Education in Kentucky. A Report by the Kentucky Educational Commission, p. 13-16.

[2] A Manual of Educational Legislation. U. S. Bureau of Education, 1924, No. 36, p. 7-9.

[3] Cubberley, E. P. State School Administration, p. 282-298.

California. Report of the Special Legislative Committee on Education, 1920, p. 12.

The restrictions placed in the Constitution on the governor in his selection of the state board of education are hindrances that should be removed. No ex-officio members should be on the board, especially the governor himself. Experience clearly points out that a board with the appointing power as a member is likely to be dominated by this member. A board can act much more fearlessly when the one who does the appointing is not a member of the board, and who is not present at the sessions, except on special occasions. It might be well to provide that after the governor has once appointed the board no member shall be dismissed except for sufficient cause. The hands of the appointing power should not be tied too tightly, however, as he is directly responsible to the people, and should have power to remove any officer appointed by him for incompetency, neglect of duty or malfeasance in office, as provided for in Section 5, Article V of this Constitution.[1] He should not, however, have power to remove the board simply because it acted contrary to his wishes, although in doing so it legislated or performed for the best interests of the schools. Cubberley in referring to

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[1]California. Report of the Special Legislative Committee on Education, 1920, p. 12.

this matter says:

"The power of removal should be entrusted to the Governor, and should be only for immorality, malfeasance in office, or gross incompetency. If the proper kind of rules are selected such contingencies are very unlikely to happen. Removals for other causes should not be countenanced. If the board becomes too bad, it is best to legislate it out of office and create a new one. . . . . it is desirable that a Governor, during the first few years of his term of office, should not be able to change the character of the board."[1]

School heads or officers should not be required to be members of the state board of education as such men are usually so occupied with their own educational problems that they have little time to give to further work of a like nature.[2] Also, since most school heads hold positions through appointment they are as a rule hampered in carrying out the duties of board members. Favoritism in behalf of their own institutions or local school problems is more likely to be prevalent among school administrators than among the average lay board. As a rule school heads are not as desirable as other classes of good standing, especially on a board where a large number of the appointees must be actually engaged in educational work.[3] This contention is borne out by

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[1]Cubberley, E. P. State School Administration, p. 291.
[2]Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 15.
[3]Ibid.,p. 15.

the Indiana Educational Commission Report:

"Despite the fact that the state board of education as now constituted includes in its membership some of the best education talent in the State, it is not and cannot become an effective body. Loyalty to their own institutions and professional positions prevent the professional members from giving fearless and disinterested service to the public schools. Nay, more, the men should not be so situated that if they stand out against politicians in respect to public school matters, the institutions which they are in charge will be imperiled.

"The professional members of the board are, moreover, increasingly subject to the board's authority, there is scarcely an action of the board in which some professional member does not have a personal interest. This personal interest of the professional members affects the policies of the board . . . . with the result that often little progress is made . . . . In the execution of its policies, the board's subordinates come at times into conflict with the board's professional members, to the inevitable embarrassment of the subordinates and not infrequently to the partial defeat of the board's purpose."[1]

The part of this Section which gives power to the legislature to provide for district or other school officers subordinate to the state board, should not be held to include the power to provide or fill offices that are a necessary part of the state department of education. The state board should have, by constitutional provision, power to appoint its own officers, agents, and assistants, without restrictions as to residence, race, etc., and to fix their terms and compensations, as provided for by law.

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[1] Public Education in Indiana. Indiana Educational Commission Report, 1923, p. 162.

The powers of the state board should be defined generally in the Constitution to prevent possibility of conflict, and in order that the powers may remain inviolate and free from the whims of legislatures. Regardless of whether the board has power to appoint the state superintendent of public instruction, it should be specifically provided in the Constitution that the board shall have power over the state superintendent. A dual-headed system such as exists today in New Mexico, that is, the superintendent and the board acting more or less independently of each other, is certainly not to be commended, and is a serious drawback to the state educational system. The Revised Constitution for the Osceola Code provides for the following powers and duties of the state board:

"The state board of education shall constantly strive to improve the system of public instruction provided by the state; shall require reports from all educational institutions, supported wholly or in part by the state, and may require reports from all other institutions, associations, organizations, or corporations engaged in any form of educational work; shall see that the educational laws of the state are properly enforced; shall have power to classify the schools of the state, public and private, and to regulate the conferring of degrees and diplomas; shall have exclusive control of the certification of teachers throughout the state; shall have power to adopt rules and regulations for the sanitary inspection and approval of school buildings, and, in connection with the state board of health, for the physical examination and improvement of school children and school employees; may make rules and regulations,

not inconsistent with law, for the government of the schools of the state, or for the direction of its executive officers; shall act as a board of control for the state library and the state museum; shall have general supervision of the educational departments of all charitable, penal, or reformatory institutions maintained by the state; all schools or classes maintained by the state or by any school district, for the training of teachers for the state; shall prepare and transmit to the general assembly, biennially a detailed budget covering the needed expenses of the state department of education, the state normal schools, the state library, the state museum, and such other educational institutions maintained by the state as may in the future be placed under its control; shall make an annual report to the governor, which shall be printed and distributed in sufficient quantities to meet the needs of the state; and shall perform such additional duties as may be assigned to it from time to time by the general assembly. The state board of education shall have power, and it shall be their duty, to recommend to the general assembly needed or desirable changes in the educational legislation of the state, and to this end may submit to it proposed changes or additions in the form of general recommendations or prepared bills, and, if submitted as bills, such must be referred to the proper committees in both the house of representatives and the senate."[1]

SECTION 7. The principal of the permanent school fund shall be invested in the bonds of the state or Territory of New Mexico, or of any county, city, town, board of education or school district therein. The legislature may by three-fourths vote of the members elected to each house provide that said funds may be invested in other interest bearing securities. All bonds or other securities in which any portion of the school fund shall be invested must be first approved by the governor, attorney-general and secretary of state. All losses from such funds, however occurring, shall be reimbursed by the state.

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[1]Cubberley, E. P. State and County Educational Reorganization, p. 5-7.

The provisions of this Section are almost the reverse of what is considered best today. Educators recommend, as a result of costly experience, that legislatures have no power to borrow, loan, or invest any of the principal or the income of the state permanent school fund; in fact it is advocated that the Constitution should specifically provide that legislatures have no control over the handling of school funds. It is considered advisable that the state board of education, which should control school funds, have no power to invest such funds in State bonds, or any bonds of subdivisions of the State, unless such bonds meet the savings-bank requirements of the State; and are purchased in the open market or by competitive bidding; and adequate provision has been made to redeem them.[1] Investment of the permanent school fund and its income should be entirely in the hands of the state school board, and any losses which might occur should be replaced from income of the state board of education.[2]

The foregoing should be made a part of the Constitution rather than what is now included in this Section. Experi-

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[1]Cubberley, E. P. State and County Educational Reorganization, 8-9.
[2]Ibid., p. 8-9.

ences of other states, California, Colorado, Wisconsin and Michigan, emphatically indicate that the legislature should have no power to control the investment of school funds. Rather than discourage investment in other interest bearing securities aside from those of the State, outside investments should be encouraged, as there is less likelihood they will prove unsafe. The precautions limiting investments to those approved by the governor, attorney-general, and secretary of state are not adequate. Too often the minds of these individuals are alike, and not infrequently, guided by political opinion or pressure instead of by unfettered judgment. Neither is the stipulation that "all losses from school funds, however occurring, shall be reimbursed by the State" to be taken seriously, as the policy pursued by states in issuing certificates of indebtedness to pay such losses is nothing more than thrusting a perpetual tax burden on the people, thus compelling them to pay interest on debts owed to themselves.[1] It is well to keep state money at home, but only when the investments are as safe and profitable as those to be had elsewhere.

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[1] A number of states hold such evidences of debt—Arkansas, California, Illinois, Louisiana, Michigan, Mississippi, New Hampshire, Ohio and Tennessee.

SECTION 8. The legislature shall provide for the training of teachers in the normal schools or otherwise so that they may become proficient in both the English and Spanish languages, to qualify them to teach Spanish-speaking pupils and students in the public schools and educational institutions of the state; and shall provide proper means and methods to facilitate the teaching of the English language and other branches of learning to such pupils and students.

It is right for the Constitution to provide for the training of teachers as the strength of the educational system depends more on the quality of the teachers than anything else. There is some question whether special mention should be made in the Constitution to train teachers in the Spanish language. It is generally admitted that a teacher does not need knowledge of a foreign language to teach English to non-English speaking children.[1] In fact, numerous authorities say that the use of a foreign language to aid in teaching English is a handicap to some teachers rather than an aid. This provision may have been advantageous at one time, but general indications are that it has outgrown its usefulness. It certainly opens up an opportunity for abuse in a state composed so largely of Spanish-American people as is New Mexico.

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[1] Goldberger, Henry H. Teaching English to the Foreign Born. U. S. Bureau of Education, 1919, No. 80, p. 14.

SECTION 9. No religious test shall ever be required as a condition of admission into the public schools or any educational institution of this state, either as a teacher or student, and no teacher or student of such school or institution shall ever be required to attend or participate in any religious service whatsoever.

The contents of this Section should be in every state constitution in some form. The democratic spirit of the public schools hinges on this Section and the Section that provides that the public schools shall offer equal opportunity to all, or be equally open to all.

SECTION 10. Children of Spanish descent in the State of New Mexico shall never be denied the right and privilege of admission and attendance (on) the public schools or other public educational institutions of the state and they shall never be classed in separate schools, but shall forever enjoy perfect equality with other children in all public schools and educational institutions of the state, and the legislature shall provide penalties for the violation of this section. This section shall never be amended except upon a vote of the people of this state in an election at which at least three-fourths of the electors voting in the whole state and at least two-thirds of those voting in each county in the state shall vote for such amendment.

This Section is unusual, but in face of the fact that the State of New Mexico was composed largely of a Spanish-American population at the time of adoption of the Constitution it was no doubt a wise provision and necessary to some extent to secure adoption. Whether or not this regulation should continue in force is somewhat doubtful; an intelligent answer in any case would be dependent on

local needs. In the light of modern school laws it would probably be better if no mention were made of this matter, leaving the problem to be solved according to the wishes of the individual community. There can be no doubt that segregation in some instances would be of advantage to both races, while in others it would be distinctly a disadvantage. The only safe way to prevent segregation actually occurring, of course, if desirable, is by constitutional regulation. Unless segregation is prohibited by the State Constitution in so many words, any classification or segregation of races by the legislature, which preserves substantially equal school advantages, is not prohibited by either the State or Federal Constitution. The highest courts of most of the states and of the Federal Government have so held. Should segregation become more or less necessary in some communities, as it likely will, this Section makes segregation almost impossible.

SECTION 12. All lands granted under the provisions of the act of congress entitled "an Act to enable the people of New Mexico to form a constitution and state government and be admitted in the Union on an equal footing with the original states; and to enable the people of Arizona to form a constitution and state government and be admitted into the Union on an equal footing with the original states," for the purposes of said several institutions are hereby accepted and confirmed to said institutions, and shall be exclusively used for the purposes for which they were granted; provided, that one hundred and seventy thousand acres of the land granted by said

act for normal school purposes are hereby equally apportioned between said three normal institutions, and the remaining thirty thousand acres thereof is reserved for a normal school which shall be established by the legislature and located in one of the counties of Union, Quay, Curry, Roosevelt, Chaves, or Eddy.

Here the State is only signifying willingness to carry out one of the provisions laid down by the National Government. It is well that the lands granted to the schools have been protected at least to this extent by constitutional regulation.

SECTION 17. There shall be a uniform system of textbooks for the public schools which shall not be changed more than once in six years.

A uniform system of textbooks for the public schools is no longer considered desirable.[1] What uniform would mean in this Section is not clear, as the term is left to the courts for final definition. If the best interests of the community are to be served, individual differences cared for, and schools to teach subject matter which will likely function in later life, then much latitude and freedom must be allowed each locality in choosing texts. Certainly no school should be forced to choose from a smaller number than five up-to-date texts

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[1]Cubberley, E. P. State School Administration, p. 565-568.

in each subject. The county and city are the most desirable units for choosing textbooks. Some state control in this matter is not objectionable, especially in a state like New Mexico; perhaps a plan of adoption with reasonable freedom would be best for the next few years. Sparseness of population, low standing of the teaching corps, especially in the rural schools, and weak county-units favor closer state supervision. But a narrow system such as prescribed in the Constitution, and now in practice, does harm as well as good.[1]

A hard and fast time limit for the period of adoption is hardly considered advisable. When a book or text has served its days of usefulness, it should go. The saving in money at the most represents only a small fraction of the total cost of education; whereas the loss otherwise greatly offsets the small, immediate saving in dollars and cents.[2] It is certainly unwise to have as rigid a Section in the Constitution.

SUMMARY AND CONCLUSIONS

The next few paragraphs, in addition to being a

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[1] Cubberley, E. P. State School Administration, p. 565-568.

[2] See U. S. Bureau of Education, 1915, No. 36. Free Textbooks and State Uniformity.

summary and conclusion, will treat the Constitution as a whole, in a more or less general way. Treatment of the foregoing Sections hardly offers room fully to discuss the Constitution in relation to education, without diverging. Particular emphasis will be placed in what follows, on laws not included in the New Mexico Constitution, but which really should be to make the instrument effective in the broadest and safest manner.[1]

The New Mexico Constitution does not definitely define the state school system in one sense, whereas from another angle it does in too much detail. Particular effort has been made to provide or mention the institutions of higher learning, but little has been said of what the public schools shall consist. The provision for a uniform system of free public schools throws the matter too much open to interpretation by the courts. While usually the higher courts can be depended upon to give broad interpretations, decisions are not uncommon where the scope of the schools has been greatly limited as a result of their rulings. It would be better to provide for a system of public instruction that shall in-

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[1]See Constitutional Provisions in Osceola Code, p. 3-15. Cubberley, E. P. State and County Educational Reorganization.

clude elementary and secondary schools, normal schools, state university, and other such schools or forms of public instruction as may be directed by the legislature. This would forever establish the fact that local units might expand the public schools to include kindergartens, junior colleges, etc. It is well, in fact, to provide that any school corporation may establish, or be made to establish, kindergartens, schools for the education of delinquent, defective and dependent children, trade schools, schools for educating adults, free public libraries and museums, or other types of education as the legislature may include as a part of the state educational system.

The Constitution should also further provide that the legislature may classify the school corporations of the State on the basis of size, form, or organization, and grant different powers and duties to different classifications; and may also permit school districts to classify schools so as to separate the over-age, defective, delinquent, or negro race, or in any other way that will help to carry out the objects for which a system of public education has been established.

Although by statutory provision New Mexico now has a form of county-unit for school administration and taxation, the State Constitution should really provide

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Although by statutory provision New Mexico has a form of county-unit for school administration and taxation, the State Constitution should really provide

for a special kind of unit, preferably, for a pure county-unit. With the establishment of such a unit it should be provided that the county board, elected from each county should have general supervision and control of the public school system of the county; except cities that maintain a complete elementary and secondary school system and have a superintendent, should have power: to supervise their own schools; select textbooks to be used; outline details of the course of instruction; employ teachers, supervisors, and other employees; and according to law, determine the scope of the school system to be maintained. Instead of electing county superintendents the office should be filled by county boards without any restrictions, except that appointees hold an administrator's certificate. The board should have power to fix the superintendent's compensation, as well as to hire all other help needed and to determine their salaries. The board should have full power over the schools, subject to and in accordance with state laws. The county board should determine and certify for levy the necessary, additional taxes for education, and apportion all the state and county-school funds and taxes to the different school corporations within the county, as provided by law, and in such a way to equalize educa-

tional advantages in the county.[1]

The Constitution should provide that each county and city school corporation have power within the limits set by the State to certify for levy its taxes within county or city, without interference by the authorities of any municipal corporation of which it may be coterminous or may form a part. Such a plan would be much more effective than the one now in use in New Mexico, where politics and outside influences are allowed to make the schools suffer to keep a low tax rate. A scheme that makes the needs of school corporations depend largely upon the opinions of experts and representatives of big interests, chosen for the primary purpose of keeping taxes down, is certainly abominable. Perhaps New Mexico as a whole is not able educationally to carry out a more progressive scheme, but certainly she will be a long time overcoming the handicap under the present method of taxation and regulation of what each school corporation may do in behalf of its own schools.

The Constitution should give power to the legislature to provide what basic courses shall be taught, but each

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[1]Cubberley, E. P. State and County Educational Reorganization, p. 10-11.

county or city unit should be given a great deal of freedom in the matter, especially in making out courses of study and selecting textbooks.

A good constitution should provide that all textbooks and necessary school supplies shall be furnished free. While there seems to be no reason why a statutory law could not be passed in New Mexico to this effect, it would be better to be on the safe side by embodying a law in the Constitution. What can happen when entrusting important problems to the legislature may be seen from what happened to the law relating to free textbooks passed at the 1927 Session. Only textbooks for the first two grades were to be included the first year, and consequently the law was later agreed to be unconstitutional on the grounds of class legislation. How many other attempts and mistakes will be made before this urgent need is finally embodied in a law, none can tell. Numerous other impediments may arise before the goal has been finally reached; and it is not at all unlikely that in the end a constitutional amendment will be required to make it safe and effective.

The matter of control of state public school lands is another problem urgently in need of constitutional legislation. These lands, estimated to be worth all the way

from forty to fifty-eight million dollars, are, and have been, in the complete control of non-experts. In spite of the fact that school lands are set aside wholly for the purpose of education, educators have absolutely no direct control over them. As the Constitution now provides, this vast heritage of the schools is under the control of the land commissioner, who is, so far as these lands are concerned, practically czar. The sad part, the land commissioner is an elected officer of the state executive department, who needs little or no knowledge of the duties of the office to secure election, providing he commands political strength. Once elected he becomes an under-paid official entrusted with power to handle a gigantic business enterprise.

To remedy conditions a constitutional amendment is needed at the earliest possible day, an amendment that will place all school lands under control of the state board of education.[1] In giving control to the state board it might be wise to definitely provide that the board appoint as a part of the state department of education an expert to oversee these lands, such expert not

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[1]Cubberley, E. P. State and County Educational Reorganization, p. 8-9.

to be one of their own number.[1] Like other members of the said department, the board should be free to hire an official without restrictions, except that the appointee be employed only on the recommendation of the state superintendent. If a unified type of organization is to be maintained in the state department the named official should be, like all other employees of the state department of education, under the supervision of the state superintendent. The salary to be paid the overseer of state school lands should be left to the state board, with full power to pay whatever is necessary to secure a man capable of handling the great responsibility of the position--one who has the ability to manage a business with approximately a million-dollar annual income. The appointed land offcer's actions should be governed by the rules and regulations prescribed by the board, and consequently he should be responsible to the board for carrying out the duties prescribed.

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[1] An Educational Study of Alabama. U. S. Bureau of Education, 1919, No. 41, p. 60.

In forty-three states, state departments of education now hold and control all personal and real property belonging to the state school fund. (Strayer, Englehardt and Others. Problems in Educational Administration, p. 15.)

The suggested plan would, it is believed, work out satisfactorily under the state department as now organized, but it would be more effective under the suggested plan of a reorganized board. Much depends, it is true, on whether or not the governor makes a wise selection of a board, or allows his choosing to be dominated by politics. No plan is ideal; if the governor insists on choosing poor board members the acquiring of a board would have to be thrown into the hands of the people, or according to some other plan of appointment. This is not likely to be necessary, as a governor's mistakes in handling the state board would be so evident that he could hardly resort to the kind of tactics common in distributing political plums.

Little reflection is necessary to establish the belief that unless some change is made in the system of handling public school lands in New Mexico, the State will ultimately see her school lands slip from grasp at a price far below actual value. Experiences of other states, such as Michigan and Wisconsin, should serve as a timely warning.

Before concluding the analysis and discussion of the Constitution, it might be well to add a few words on the advisability of altering the Constitution. Any one at

all familiar with securing of an entirely new state constitution or revising or amending an old one knows what a difficult and uncertain task it is in any state. Not infrequently the disadvantages under the constitution as it stands are little worse than the struggle for alteration or revision. The American people as a whole look on changing state constitutions with great suspicion, and consequently, only a small percentage of amendments ever carry.

The criticisms offered so far have not been made wholly for the purpose of securing direct changes. The intent has been, in truth, more to scrutinize the Constitution according to the principles advocated by outstanding educators and successful practices, as a part in disseminating among the people of the State information on what the New Mexico Constitution should do for education. Amendments to constitutions do not always fail because they are unsound, but often because they are unknown or misunderstood by the people.

Little hope can be held out for the New Mexico Constitution, or any state constitution, ever embracing all that is sound in education. The best to be hoped for is such changes as become necessary from time to time to insure the State a good educational system. On the other

hand, none can tell how soon opportunity may arise generally to reconstruct this supreme authority, or greatly to alter it, and whether or not the people will be ready is dependent to some extent on what actions have been taken and what thinking has been done beforehand.

Some of the more important changes suggested should be brought about, however. Education in the State is about ready for further awakening, and when the time actually comes the people will not be slow to adopt principles considered to be safeguards to the welfare of the educational system of the State.

Experiences of other states would indicate that the greatest possibility for constitutional reform lies in bringing about a gradual change. Almost all the amendments to the New York Constitution failed when offered to the voters in a group, but later passed in the same form when presented a few at a time. If such is to be true of New Mexico, the time is then at hand when something must be done by those interested in education, if important changes are to be made in time to avoid losses that are certain to result from delay.

Surely some advantage is to be gained, even if no amendments are made, if a knowledge of what is good in education can be carried to the people. As surely as

reliable information is disseminated or broadcasted, so is this later to find its way into actual use, if not in one form, then another.

CHAPTER III

NEW MEXICO STATE SCHOOL CODE, INCLUDING 1925 AND 1927 SESSION LAWS

INTRODUCTION

State school codes are to public schools somewhat as rule books are to athletic games. They prescribe state rules and regulations for the actual working or operation of the schools. Unlike state constitutions, school codes attempt not only to set forth broad principles to care for the needs of the schools over a long period of time, but to regulate and control the actual operation of the schools according to present needs.

Where and to what extent a state school code should regulate or define what the schools may do is a matter that requires a separate answer to almost every individual point to be considered. Generally the function of the state in participating in school affairs is to set minimum standards[1] and to establish levels which all schools must come up to in order to receive recognition and state aid.[2] The purpose of intervention by the state

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[1]Cubberley, E. P. State School Administration, p. 270-303.
[2]Ibid., p. 270-303, 523.

is to concern itself with activities common to the state as a whole, and which need to be treated more or less uniformly. Problems and essentials that can be best handled by the local units independently, must wherever practical, be left to the control of the local units, with perhaps stimulation and supervision on behalf of the state. The best state laws are those so framed that the state and the local units work hand in hand, the former aiding and encouraging the latter. The best interests of society should be advanced; but still, proper regard ought to be had for the rights and needs of the various communities and the individual.

Laws prescribed by legislatures are not intended to be as broad and far-reaching as those embodied in constitutions. Rather, they are intended to define in detail, so far as laws may be made to apply as a whole to all the schools in the state, principles set forth in the constitution itself. Legislative regulation is more easily made, and consequently more easily changed, and therefore may be made to care more specifically for present conditions. The true intent of a state code might be briefly thought of as carrying out and defining according to present day conditions and needs, those ideas embodied in a state constitution. This main difference between the

constitution and the school code exists, the former largely confines itself to saying what may and may not be done, while the latter, to saying what shall and shall not be done. Powers not enumerated in the laws, directly or impliedly, are usually held by the courts as not existing.[1]

A school code may contain too many as well as too few laws. Either may prove detrimental. The trouble with school laws, is hardly so much in the quantity as in the quality. Too many of the wrong kind of laws are on statute books. Code laws should be sufficient in number and scope to make clear what the schools may do and to make it possible for each school to operate in accord with the best ideas and practices of the time. Minute details and regulations, however, that can serve no real purpose should not be allowed to clog the statutes. Cramping uniformity is to be avoided in state school codes.

What has preceded would imply that certain considerations and principles are to be observed in framing state statutory laws for education, just as was found to be true in making constitutional provision. Not only may too few laws, or perhaps too many laws, prove detrimental,

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[1]Trusler, H. R. Essentials of School Law, p. 86

but poor laws, laws too much in detail, or possibly laws too broad, might all tend in some instances to hamper educational progress rather than serve as aids.

Criticisms that follow attempt to point out the weaknesses enumerated, as well as other defects that may prove impediments according to the best present day standards and trends.

Chapter I (N. M. School Code)

STATE BOARD OF EDUCATION

SECTION 101. The State Board of Education, pursuant to Section 6, Article 12, State Constitution, shall be the governing authority of all public elementary and High Schools of the State and shall cause the provisions of this Chapter to be carried into effect to the end that the school laws of the State shall be properly and uniformly enforced. Said Board shall determine educational policies of the State, and shall enact and publish by-laws for the administration of the public school system, which by-laws when enacted and published shall have the force of law. For the purpose of enforcing the provisions of this article, and enacting and publishing the by-laws of this Board, the State Board of Education shall, if necessary, institute legal proceedings. The State Board of Education shall explain the true intent and meaning of the law, and shall decide without expense to the parties concerned, all controversies and disputes that arise under it, and their decision shall be final. The Secretary of the State Board of Education shall have authority to administer oaths in any part of the State, to witnesses in any matter pending before said Board.

The above Section seems clearly to imply that the state board of education is the controlling authority of the state schools. From this Section and Section 201,

Chapter II of this Code, which says, "subject to the supervision of the state board, the state superintendent shall do so and so," it is evident that the legislature considers the said board to have authority over the superintendent of public instruction. It is to be kept in mind, however, that the office of state superintendent of public instruction is created by the Constitution itself, and that the office is filled by the direct vote of the people. While the reasons and indications cited lead one to believe that the statutes consider the state board of education supreme authority over the state school system, subject to legislative control, the Constitution is not clear on this point, and the real intent and purpose can be decided only by the higher courts. The opinions or rulings of the legislature have no definite effect on this matter, as the Constitution is the paramount authority, and when the State School Code conflicts with the Constitution the latter takes precedent. Whether the state board is superior to the state superintendent, or whether each may act independently of the other, is a matter that should be definitely settled in the near future, if education in the State is to progress as it should.[1] Certainly experience and worth-while practices

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[1]California. Report of the Special Legislative Committee on Education, 1920, p. 17-21.

dictate that the state board should have control over the state superintendent, even though the latter office is appointive and the former elective.[1]

The other provisions in this Section are valuable, and necessary parts of a good school code. When considering the provision that the state board of education shall decide all controversies and disputes that arise under the State School Laws, reference is made, or should be made, to matters of fact and not matters of law. The usual access to the courts cannot be denied when matters of law arise. The state board, although classed as a quasi-judicial body, cannot usurp regular functions delegated to the courts, if those concerned choose to carry matters higher.[2]

SECTION 102. At the 1925 regular session of the Legislature, and at every regular session thereafter, the Governor, with the consent of the Senate, shall appoint two or three qualified persons, as the case may be, as members of said board to succeed the members thereof whose terms expire. The persons heretofore appointed as members of the said board, and those appointed under this Act, shall hold office for a term of four years after their appointment.

What is stated here other than that the governor, with

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[1]Cubberley, E. P. State and County Educational Reorganization, p. 25.
[2]Trusler, H. R. Essentials of School Law, p. 77-83.

the consent of the senate, shall appoint a state board of education, is contrary to the best legislative trend. The matter of appointing a state board has been treated fully under Section 6, Article XII of the Constitution. In regard to appointing with the consent of the senate it would be better, perhaps, to give the governor full power to appoint members as he sees fit.

SECTION 103. The Governor shall be the President of said Board, and the Superintendent of Public Instruction the Secretary thereof. For Board attendance, the appointive members of said Board shall each receive Five (5.00) Dollars per day of actual attendance, and Six ($.06) cents for each mile necessarily traveled by them from and to their respective places of residence, payable from the State Board of Education appropriation therefor.

SECTION 104. Four annual board meetings shall be held at the office of the Superintendent of Public Instruction, and other meetings may be held as the Governor or Board may direct. In the absence of the Governor at Board meetings, the members present shall elect a President pro tempore.

As already mentioned, the governor, the appointing power, should not be a member of the board.[1] Neither should the state superintendent be an ex-officio member. Ex-officio members on state school boards are not desirable, theoretically, nor from the standpoint of experience.[2] If the state superintendent is to be the executive officer

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[1]California. Report of the Special Legislative Committee on Education, 1920, p. 12.

[2]California. loc. cit.

in the state scheme of public instruction, as he should be, there is little question that he should have no vote in making laws he is to execute. He should act, however, in an advisory capacity in formulating and outlining these policies. It is permissible that the state superintendent serve as secretary to the board; and it is wise that he be admitted or be present at all meetings except when he is directly under discussion.[1]

It is better to provide that board members be allowed a fixed amount each year, say $100 each, rather than a set rate for each day of actual attendance.[2] Lump amounts discourage unnecessary meetings, and are likely to encourage better and more timely dispatch of business. To avoid too few meetings, a minimum number should be provided for as stated in Section 104; preferably four, to be scattered over the year, one each in August, November, February, and May. In addition to a small salary, whenever allowed, each member is entitled to expenses.[3] The idea of computing expenses per mile traveled is not likely to be as satisfactory as other methods that might be devised. The

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[1]Cubberley, E. P. State School Administration, p. 282-291.

[2]Ibid., p. 292.

[3]Cubberley, E. P. State and County Educational Reorganization, p. 19-22.

weight of opinion today seems to oppose any remuneration at all, except expenses.[1]

SECTION 105. The State Board of Education shall have the following powers:

(a) To adopt a system of school books for use in the first eight grades of the public schools and in the name of the state to contract with the publishers of such books for the purchase and delivery thereof, under such regulations as said Board may prescribe. Provided, however, that on the adoption of a uniform series of textbooks, such series shall not be changed during the period of six years next succeeding such adoption, and no adoption shall be made prior to June 15, 1927.

The claws on this provision have been clipped, fortunately, in that the power is only given and not made mandatory, and that the law is so worded to include elementary grades only. A uniform system of textbooks is not desirable, as was brought out under the Constitution. If there must be uniformity, authority to choose is properly given to the state board. A committee of experts chosen by the board would likely make the wisest selections. The state board has already attempted to delegate the power and duty of selecting texts, but was restrained by an opinion of the attorney general. The right to delegate the selection of textbooks should be given to the board in the statutes.

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 14.

The price of textbooks is not reduced much, if any, by state adoptions and contracts. Cubberley concludes that state adoption increases the cost of textbooks rather than decreases it, when quality is taken into consideration.[1] The bugaboo about the costs of textbooks has been responsible largely for defeating free textbook legislation. Uninformed and unscrupulous politicians have led the people to believe that one of the costliest parts of a school system is textbooks, when in reality the cost does not exceed two per cent of the total expenditures.[2] The longest period for adoption of a textbook should hardly be longer than the life of the book. Unquestionably, in the long run it is not economical to use texts antiquated educationally.[3]

(b) To adopt a standard of efficiency for business colleges, commercial departments of public schools, and for private and denominational schools, and to issue certificates of recognition to such colleges and schools as meet the standard of efficiency.

This regulation belongs in the Code. The State should encourage and welcome private endeavor in education so

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[1]Cubberley, E. P. State School Administration, p. 560-563.

[2]See Free Textbooks and State Uniformity. U. S. Bureau of Education, 1915, No. 36.

[3]A Manual of Educational Legislation. U. S. Bureau of Education, 1919, No. 4, p. 59-69.

long as it measures up to the standard prescribed by the State. Private education has been a powerful influence in the United States; its past record makes it worthy of any encouragement and aid that will not interfere with the public schools, and which will assist private schools to go even beyond the State standards.[1] There can be little question that plenty of work exists for both public and private educational institutions, when the two work hand in hand. The decision of the higher courts over the United States are in accord with the idea that parents shall have the right to say where their children shall be educated, and what their education shall consist of, so long as the level is up to that required by the state. The decision of the United States Supreme Court in the Oregon Case[2] conclusively establishes the fact that the state cannot compel parents to send children to public schools if they choose to give them equal advantages in some other manner.

(c) To adopt and prescribe a course in industrial education, including domestic science, manual training and

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[1]Inglis, Alexander. Principles of Secondary Education, p. 196-198.

[2]United States. U. S. Supreme Court Reports. 69 Law. Ed., Oct. Term 1924, U. S. 266-268, p. 1070-1079.

Bruere, Robert W. Supreme Court on Educational Freedom. Survey, No. 54, July 1, 1925, p. 379-381.

agriculture, and prescribe regulations for the teaching thereof in all schools.

This paragraph makes clear, so far as the legislature may determine or rule, that the kinds of education or training mentioned are within the meaning of the term public schools, or better public education. While it is well that the state board is given control over vocational education, the board should not take the liberty of providing and regulating these in a way likely to handicap local units in carrying out their programs. Here again, the State should set minimum standards, but should not attempt to regulate details that only the individual schools can properly handle.

(d) To hold or cause to be held, examinations for teachers for all the elementary and high schools of the state, under such regulations as it may prescribe; to fix the fees for all examinations and certifications, and pay the cost thereof from such funds as may be provided therefor.

The foregoing is truly a duty and function of the state board, although the sooner this duty becomes unnecessary the better for the schools.[1] Certification by examination in a few states has almost become a relic of bygone days; it should so become in all states. More will

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 44.

be said on examinations and certification under Code Chapter XI.

(e) To determine qualifications of persons teaching or desiring to teach school in any of the public elementary and high schools of the state and to that end promulgate, from time to time, a system of classification of teachers.

This function is a part of the state superintendent's work. At least, it should be done on his advice or recommendation.[1] The change is advocated on the assumption that the state superintendent is a highly trained and experienced educator.

(f) To certificate teachers according to law and the prescribed classification of said board, and at its discretion to issue temporary teaching certificates in the interim of examinations, but in no case shall a person under the age of 18 years be certificated.

The state board should have power to certificate teachers according to law.[2] The power or duty belongs to the state, and should not be left to local units.[3] The granting of power to issue temporary certificates is dangerous in many respects, and is hardly necessary today,

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 20-29.

[2] Cubberley, E. P. State School Administration, p. 635-636.

[3] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 44.

except possibly within narrow limits. The little advantage to be gained is usually more than offset by the evils that arise from the abuse of the power. Whether or not granting temporary certificates should be completely dispensed with in New Mexico at this time is questionable. Fortunately, under the present regulations of the state board, no temporary certificates are issued except when all major requirements are met. Issuance is for a period of one year only, with no renewal.

(g) To revoke teachers certificates for incompetence, immorality or for any cause which would have withheld its issuance in the first instance, but action hereunder shall only be taken after service of the accusation upon the accused person and hearing or opportunity to be heard thereon shall have been given the accused.

The appointing or granting power should have the right of revocation within certain defined limits. The limits prescribed are reasonable, although there are no well set standards to say what shall actually constitute any of the mentioned violations. The state board should be the judge of matters of fact in cases of dispute, with the right to say what is meant by incompetence, immorality, etc., as laid down in this law.[1] What might be considered

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[1]Trusler, H. R. Essentials of School Law, p. 77-83.

competent or incompetent by a jury might not be so interpreted by an educator or a body of men acting in an educational capacity. Unless the courts assume a policy of hands off in deciding such cases, and they have in numerous instances, dismissal will hardly be possible, and education will suffer accordingly. It is only fair that the accused be apprised of the charges, and be given an opportunity for a fair and impartial hearing.

(h) To prescribe the times, manner and courses of study and fees for all teachers institutes.

Whether institute fees are permitted by the State at present is doubtful. A recent opinion of the attorney general is to the effect that the right to budget for institute fees has been repealed. The state board should continue, regardless of the final decision, to encourage and cooperate with the local units in the matter of institutes. Institutes are discussed further under Chapter XI, Section 1106.

(i) To make and require the performance of all needful rules and regulations respecting the general powers of supervision of schools by said board.

(j) To institute or cause to be instituted, prosecutions against all persons for violations of the school laws.

(k) To make full report of school conditions to the legislature.

These three paragraphs need no comment; the powers delegated belong to the state board.

(1) To prescribe and enforce a course of study in the elementary and high schools of the state and determine the number of credits necessary for graduation from all high schools.

The power to prescribe a course of study in the elementary and high schools of the State can hardly be considered necessary except within narrow bounds. State courses of study are, unless suggestive, more likely to do harm than good. They take the life and individuality out of teaching, and are, therefore, not conducive to the new idea of varying education to suit local and individual needs.[1] Well worked out courses of study, changed often enough to keep abreast of times, can be used to advantage in New Mexico, especially in the rural schools. Such courses should be more or less suggestive and should not be enforced except to a limited degree.[2] In working out state courses of study great care must be taken to provide content and organization for the needs of the small schools

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[1] Cubberley, E. P. State School Administration, p. 317-322.

[2] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 104-108.

and rural schools of all the different types prevalent in the State.[1]

The State might well define or prescribe the basic number of credits necessary for graduation from all high schools, but the rule should not be interpreted to deny individual schools the right to add other requirements which might be evaluated in terms of credits or units, as extra curricular activities, etc.

(m) To adopt rules and regulations not inconsistent with law, for its own government and for the government of the public elementary and high schools of the state.

(n) To require reports at such times as it may deem necessary, on such forms as it may prescribe, from all state educational institutions, and from all schools coming within the provisions of this Act, including private and denominational schools, and from all officials thereof.

These are necessary powers if the state board is to function properly. It is especially essential that the board be able to make binding rules and regulations. Action on the part of the legislature is often slow. Furthermore, the legislature should not be expected to give sufficient time and thought to school problems to regulate all the matters that the State should oversee. The state board

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[1] Public Education in Oklahoma. U. S. Bureau of Education, 1923, No. 14, p. 67.

is more likely to legislate for the best interest of the schools in minor matters on account of closer touch with the schools and the expert guidance of the state superintendent.

Other duties and powers which the Code should prescribe for the state board are: to adopt rules and regulations for the sanitary inspections and approval of school buildings; in conjunction with the state board of health, to provide for health matters, such as physical development and physical examinations in the schools;[1] control educational departments of all charitable, penal, and reformatory institutions of the State; and manage and invest the state school fund under regulations as heretofore advocated as a part of the Constitution.[2] In practice the State now regulates and controls to a limited extent construction of buildings, sanitation, and matters of health.

Chapter II (N. M. School Code)

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

SECTION 201. Subject to the supervision of the State Board of Education, the State Superintendent of Public

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 14.

[2] Cubberley, E. P. State and County Educational Reorganization, p. 20-24.

Instruction shall have general supervision of public instruction and shall have the following powers and be charged with the following duties:

The above portion of Section 201 clearly indicates, as previously mentioned, that the legislature intended the state superintendent to be subordinate to the state board, especially in certain matters. Whether or not the state superintendent is subordinate depends on the ruling of the Supreme Court on the question of conflict between this Statute and the Constitution. The Supreme Courts in North Dakota and Wyoming have held that where the superintendent of public instruction is a constitutional officer whose powers are implied generally in his title, it is not competent for the legislature to assign these powers to any officer or commission.[1]

(a) To supervise all municipal and rural schools and authorities thereof.
(b) To confer and visit with governing boards of State Educational Institutions and county and municipal boards of education.
(c) To suspend, after notice and full hearing, or opportunity for hearing, any county superintendent, or any institute, or cause to be initiated proceedings to remove such superintendent from office, according to law.

These three provisions are rightfully powers and duties

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[1]California. Report of the Special Legislative Committee on Education, 1920, p. 19.

of the state superintendent's office.[1]

(d) With the consent of the Attorney General, to render legal opinions upon request of any school authority.

It is well to specify in the Code that it shall be the duty of the state superintendent to render legal opinions to school authorities in conjunction with the attorney general; but this in no way should be held to mean that opinions given are to bind the state board, or even the state superintendent himself, if the matters on which an opinion is requested is later brought to trial. Conditions might and likely would in most cases, nevertheless, serve as mitigating circumstances. Opinions rendered would in no way bind the courts. The foregoing statements are based on established legal principles.

(e) To visit the schools of each county as often as may be consistent with the discharge of his duties, for the purpose of holding teachers' meetings, conferring with County School Superintendents, school boards and school authorities, and awakening and guiding public sentiment concerning practical interests of education and diffusing a knowledge of desirable improvements in the government

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 218-221.
Public Education in Kentucky. A Report by the Kentucky Educational Commission, 1921, No. 41, p. 150.

and instruction of schools.

(f) To prescribe and cause to be printed all blanks and forms necessary in carrying out the details of the elementary and high schools, and distribute the same in such manner as in his judgment will best subserve the school interests.

(g) To prepare and distribute programs for patriotic exercises for the proper observance of holidays.

(h) To prepare and cause to be published and distributed bi-ennially a report of all elementary and high schools, academies, normal schools, colleges, and private and denominational schools in the state.

(i) To keep a record as Secretary of all proceedings of the State Board of Education.

(j) To compile and publish school laws and distribute the same to the various school authorities of the state.

All these subdivisions contain regulations which belong in a good state school code.

(k) To employ at his pleasure an assistant superintendent of public instruction, who shall be thoroughly conversant with the Spanish and English languages, whose compensation shall be fixed by law. The said Assistant Superintendent of Public Instruction shall perform such duties as the State Superintendent shall direct, and his acts shall have the same legal effect as those of the State Superintendent.

It is no doubt of distinct advantage, and more or less necessary, to have an assistant superintendent thoroughly conversant with the Spanish language. But this is a detail that might well be left from the statutes. No restrictions should be placed on the state superintendent in the choice of an assistant, except the approval

of the state board.[1] The salary should not be fixed by law, unless a minimum only, but should be left to the state board.[2]

SECTION 202. The said Superintendent shall keep an accurate account of all official moneys received by him, and, at least thirty (30) days prior to January 1st of each year, make a full and complete report to the Governor of all school matters, administrative and financial, within the sphere of his official knowledge.

Under the proposed scheme of appointing the state superintendent it would not be necessary or advisable to require the state superintendent to make a financial report to the governor, unless the report were to be considered as coming from the superintendent as representative of the board. The superintendent should make an annual report to the board, who in turn should report back to the governor or the legislature, as the occasion required. The state superintendent should be subordinate to the state board and should derive his power from the board, and therefore, should be directly responsible to the board. This is a well established principle in any organization.

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 79.
[2] Ibid., p. 79.

The best manner of handling finances is to organize the department of education into divisions, with the board as the legislative division and the state superintendent as the executive officer.[1] Provision should be made in the Code for forming any type of organization the state board of education may choose.[2] The different divisions might consist of the following departments: business, statistical, school lands, rural and agricultural, extension, industrial and vocational, and others as needs might arise. All these would be under the state board, and consequently under the immediate control and supervision of the state superintendent. Conditions within the State at present would not justify the more extensive type of organization; although the aim should be to organize at the earliest opporunity such a board as presented in Figure I, page 70.

SECTION 203. The said Superintendent is hereby authorized to employ competent persons to grade examination papers of applicants for teachers' certificates and to pay for such service in accordance with appropriations made therefor.

This Section would not be necessary if the department

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 13-15.

[2] Ibid., p. 13.

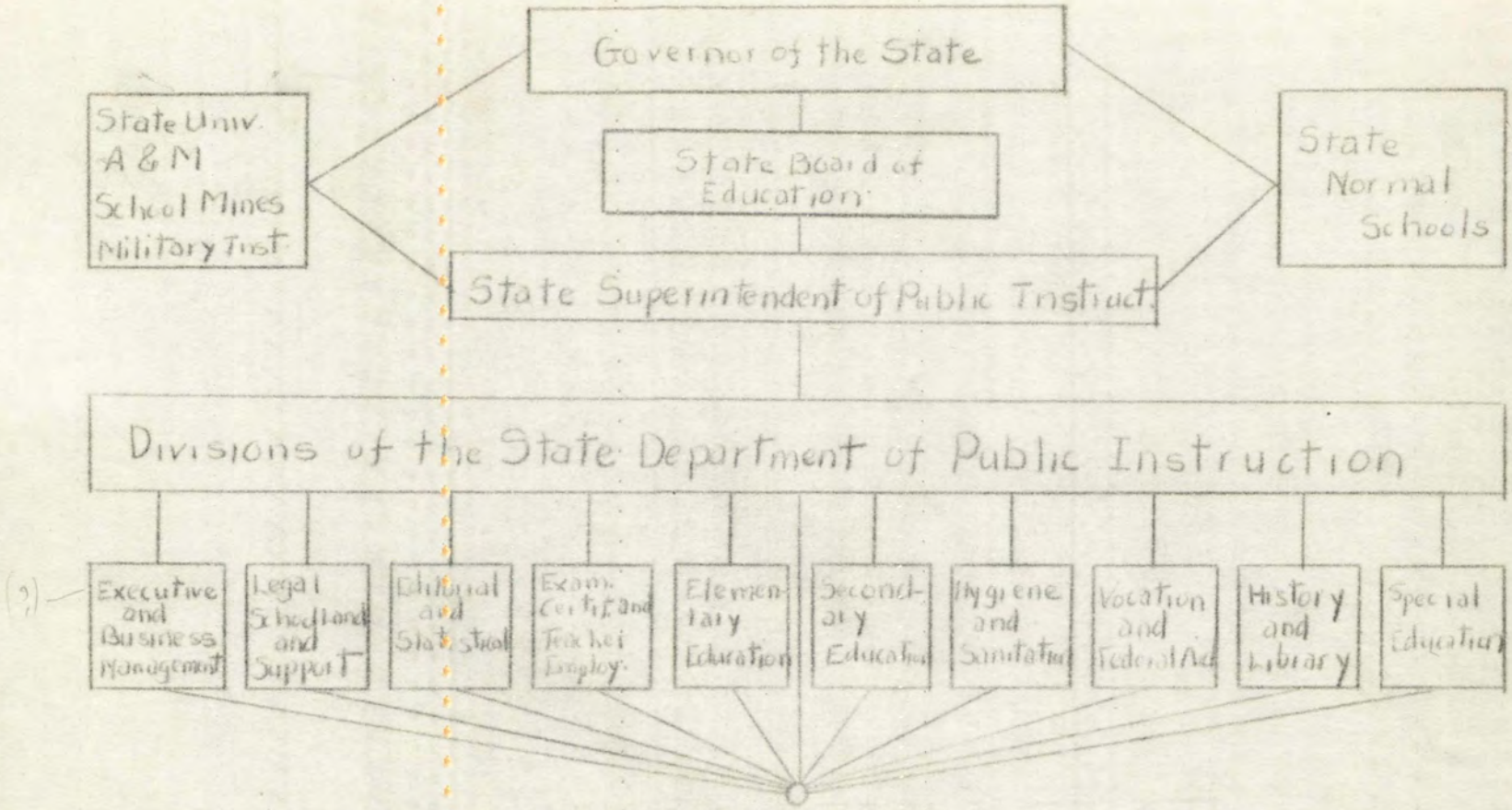

FIG. 2. PROPOSED PLAN FOR REORGANIZATION OF NEW MEXICO STATE DEPT OF EDUCATION[1]

1 A somewhat similar Board was recommended for South Dakota by the State Survey Commission (U.S. Bureau of Education Bulletin, 1918, No 30, P. 25).

were organized as suggested under the foregoing Section. The state superintendent should have, with the approval of the board, authority to make expenditures necessary for the proper discharge of the duties of his office.

The sum and substance of the powers and duties of the state superintendent are that he be the executive officer of the state system of public instruction, with power to enforce all laws relating to the school system of the state, and to carry into effect all rules and regulations made by the state board in conformity to law. In addition to acting as advisor to the board in determining educational policies, he should have direct control over the department of education. Expressed in another manner, the state superintendent should be the highly trained and expert cog in the state department of education, with duties and powers to carry out policies of the board.

Chapter III (N. M. School Code)

EDUCATIONAL BUDGET AUDITOR

SECTION 301. An Educational Budget Auditor, learned in accountancy, finance and educational administration, shall be appointed by, and hold office at the pleasure of the Governor. He shall file the oath of office required of other State Officers. He shall execute to the State, and file with the Secretary of State, a good and sufficient surety company bond, in the amount of $5,000, conditioned for the faithful and impartial discharge of his duties.

Said bond shall be approved by the Attorney General, and the premium thereof shall be paid by the state out of any moneys not otherwise appropriated.

SECTION 302. He shall be charged with the following duties:

(a) To compile and preserve accurate information concerning school finance and administration; to immediately report to the Governor any violation of the budget law, or any illegal expenditures of school funds.

(b) To confer with the State Tax Commission as to the forms for reports and budgets to be required from all school districts, and all state educational institutions, and, jointly with said Commission, to prescribe such necessary forms and reports as may be deemed expedient.

(c) To prescribe the forms for, and supervise and control the preparation of all budgets and estimates of all public schools and state educational institutions.

To consult and advise with the State Superintendent of Public Instruction in regard to financial matters affecting all schools.

This Chapter can best be treated as a whole. It is no doubt true there is need for an auditing department in conjunction with the state school system;[1] but the plan as outlined here falls short of filling the need. The educational budget auditor should be a part of the state department of education, appointed by the state board of education and not by the governor.[2] Forty-three states give the state department of education power to loan, apportion, and supervise expenditures of school funds.[3]

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[1] Public Education in Oklahoma. U. S. Bureau of Education, 1923, No. 14, p. 33.

[2] Public Education in Kentucky. A Report by the Kentucky Educational Commission, 1921, No. 41, p. 201-203.

[3] Strayer, Englehardt, and Others. Problems in Educational Administration, p. 15.

The budget auditor as defined in this Section is given too much authority; and incidentally, too much power is conferred on the governor, the appointing power. Probably at present it is necessary in New Mexico to have some plan of checking, beforehand, what the local units are doing for education in the way of raising taxes and making expenditures. But it is not sound educationally to give the budget auditor power to say what and what not the local units may spend for education.[1] While in reality it may be true that the school board and school authorities make the budget, the determining of whether the budget is appropriate is left to a non-educational board. The latter, on account of unfamiliarity with school matters allows itself in many instances to be dominated by the budget auditor and outside non-educational influences.

One of the outstanding evils in the present plan of education in the State is the fact that the budget auditor in actual practice is allowed to say what should be spent in each of the cities and counties for education. Cubberley emphatically favors giving each local unit independence in the matter of support of schools and placing full author-

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[1] Public Education in Oklahoma. U. S. Bureau of Education, 1923, No. 14, p. 30-33.

ity in the hands of local boards, independent of other local officers.[1] The plan of having a budget auditor, not a member of the state department of education, to travel about the state to determine beforehand how much the local units shall spend, undoubtedly meets with his disapproval. The desirability of fiscal independence will be treated further under the subject of School Finance and Taxation.

Since the State aids in the support of education, there is little question that it should have some say in how state money is to be spent. This matter can and is being satisfactorily regulated in practically all the other states without a drastic scheme like the one in force in New Mexico.[2] The state department of education should be consulted on the matter of budgets and other financial matters when necessary, but the local units in case of disagreement should have final authority so long as they keep within the limits prescribed by law.[3]

No doubt there are instances in New Mexico where the

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[1] Cubberley, E. P. State School Administration, p. 439.
[2] See Osceola Code; also Maryland, New York, and California plans.
[3] Cubberley, E. P. State and County Educational Reorganization, p. 111.
Ibid.,p. 439.
Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 505.

present plan of state control of finances works to good advantage, and has been a means of curtailing or limiting wholesale graft. But in theory, and in most cases of actual practice, according to New Mexico school administrators, the plan has proved itself antiquated and detrimental to educational progress. Under the system of having the educational budget auditor and the state tax commission regulate school finances and taxation, big corporation interests, big landholders, and politics play a dominating part in determining what shall be spent for schools, and not uncommonly or infrequently, without due regard for the schools and their needs.

It is a problem worthy of extensive study to determine whether simply abolishing the office of budget auditor, or transferring it to the state department of education, and thus allowing the local units more control over financial matters would prove adequate. Already taxes in some parts of the State on certain kinds of property are claimed to be little short of confiscation. It is possible and highly probable that the provisions of this Chapter would no longer be necessary if proper adjustments were made in the taxation methods now used in behalf of the schools. The matter of school budgets and their regulation, as well as the subject of taxation, will be treated at further length

under Chapter VI of the Code.

Chapter IV (N. M. School Code)

COUNTY SCHOOL SUPERINTENDENTS

SECTION 401. The office of County School Superintendent as it existed immediately prior to the passage of this Act is hereby recognized and confirmed. At the general election to be held in the year 1926, and at each general election thereafter, there shall be elected in each county in the state one County School Superintendent who shall take office on the first day of January following his election, and hold office for a term of two years, or until his successor shall have been duly elected and has qualified, unless sooner removed for cause. Each County School Superintendent shall, before entering upon the discharge of the duties of his office, take and subscribe to the oath or affirmation as provided by law, which oath or affirmation shall be filed in the office of the County Clerk. Within thirty days after receiving his certificate of election, or appointment, he shall give a bond in the sum of $2,000.00, conditioned on the faithful and impartial discharge of his duties. Said bond shall be approved by the District Judge of the district in which the respective county is located, and filed with the County Clerk, and the premium thereof shall be paid by the county out of the County Salary Fund. Said Superintendents shall receive annually from the School Fund salaries based on the number of rural school rooms in which school is being conducted under the jurisdiction of the respective County Boards of Education at the time of the election of such Superintendent, at the following rates:

In counties in which the number of such rural school rooms is twenty-five or less $1600.00

In counties in which the number of such rural school rooms is more than twenty-five and less than forty-one rooms 1800.00

In counties in which the number of such rural school rooms is more than forty and less than sixty-one 2000.00

In counties in which the number of such rural school rooms is more than sixty and less than eighty-one 2250.00

In counties in which the number of such rural school rooms is eighty-one and over 2500.00

Section 2. That Section 402 of Chapter 148, Session Laws of 1923, be and the same is hereby repealed.

It is now quite generally admitted that the county school superintendent, like the state superintendent, should be appointed by a board—in the case of the county superintendent—by the county board of education.[1] County boards should be free to make appointments without restrictions, except that appointees must be highly trained and experienced educators. The best way to insure procuring the proper kind of county superintendents would be to require each county superintendent to hold a distinct supervisory certificate, based on a combination of education, professional training, and experience. If this Section gave more consideration to the important matter of personal fitness and less to unimportant and needless details, it would be much more effective.[2]

One of the weakest links in the New Mexico school organization is the poor caliber of the county superintendents. Little hope can be held out for improvement so

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[1] Cubberley, E. P. State School Administration, p. 219-234.
An Educational Study of Alabama. U. S. Bureau of Education, 1919, No. 41, p. 76.

[2] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 52-55.
An Educational Study of Alabama. U. S. Bureau of Education, 1919, No. 41, p. 76.

long as the office is elective, purely political, and bound up with the petty restrictions elective offices usually entail. The best educational talent cannot be attracted until the office is made more secure, reasonably free from politics, and the salary made commensurate with what the dignity and professional status of the office is entitled to be.

The county board should be free to set the salary of the county superintendent.[1] It might be well for the State to require a minimum salary to make certain that capable men will be attracted. The present method of arriving at a fair salary in New Mexico has little to be said in its favor.

The period of appointment for the county superintendent should be at least for four years, with no restrictions on reappointment if the board sees fit. A trial or probationary period would be desirable. In case a shorter term is prescribed the county superintendent will be confronted constantly by the idea of reappointment, and will be, consequently, greatly hampered in fearlessly dis-

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[1]The Educational System of South Dakota. U. S. Bureau of Education, 1918, No. 31, p. 37.

charging the duties of his office.[1] Permitting a county superintendent to serve only four years in succession, as is true in New Mexico today by constitutional regulation, is based on a philosophy that party politics alone can interpret and justify. Certainly a much longer period is desirable for the schools if the officers are of the proper caliber.

SECTION 403. The employed and elected County School Superintendents shall devote all of their time to the performance of their official duties.

This is a needed safeguard under the present elective system. If the office were raised to the proper professional dignity or rank the regulation would scarcely need to be a part of the School Code.

SECTION 404. Subject to the superior and supervisory power of the State Board of Education and the Superintendent of Public Instruction, the County School Superinten- shall have power and be charged with the following duties:

(a) To exercise a careful supervision over all of the rural schools of the county.

(b) To visit each rural school within his county at least once each year and at such other times as the State Board of Education or the Superintendent of Public Instruction shall direct.

(c) To consult with school directors concerning the conduct of their schools and to hold teachers' meetings for the advancement of school interests.

(d) To supervise the methods of instruction in rural

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[1] The Educational System of South Dakota. U. S. Bureau of Education, 1918, No. 31, p. 37.

schools.

(e) To distribute school laws.

(f) To keep a record of official acts, which record shall at all times be subject to public inspection.

(g) To obey the legal instructions and decisions of the State Board of Education and Superintendent of Public Instruction.

(h) To maintain a complete record of the boundaries of all school districts.

(i) To maintain his official office at the county seat.

(j) To make reports to the State Board of Education and Superintendent of Public Instruction and to the County Board of Education in accordance with law and when requested to do so by such authorities.

(k) To administer oaths and affirmations to school directors, teachers and all other persons, in official matters relating to schools, without charge therefor.

(l) To make a monthly report to the State Superintendent of Public Instruction within ten days next succeeding each school month covering the subjects mentioned in Section 405 of this Act.

The provisions prescribed above need little comment as they are mostly detailed regulations generally considered as powers and duties of the county school superintendent's office. In their entirety those enumerated are too narrow. The county superintendent should be to the county school board what the state superintendent is to the state board. His duties and powers should be comparable to the state superintendent's, except that his authority would be confined to the county. Other important duties and powers of the county superintendent, in addition to being the executive officer of the county school organization, and the duties stated, would be:

"To see that the laws relating to schools and child welfare are obeyed.

"To nominate for appointment by the county board such assistants as are needed to carry out the work of his office, and if necessary, to recommend for dismissal employees in his department.

"To nominate for election by the county board of education, all teachers and principals in the county schools; to assign them to their positions when elected; transfer them as occasion might arise; to suspend them for cause; and to recommend them for promotion, or for dismissal.

"To organize institutes and other such meetings as prescribed by law; to organize reading circles, and otherwise to advise and help in the training of teachers in service.

"To decide disputes arising under the School Code within the county, and brought to him on appeal.

"To direct the taking of the school census, and if necessary to cause it to be retaken at county expense.

"To have general supervision over school buildings within the county, approve apportionment sheets for all school funds, and to approve the monthly pay-roll of all teachers and other employees of the county board of education."[1]

SECTION 405. Prior to the 15th day of July in each year, the County School Superintendent shall transmit to the Superintendent of Public Instruction a written report covering the preceding year ending June 30th, of the number of school districts and schools in the county; the names, age and sex of children in school attendance; the children of school age in the county; the average daily attendance in each school and the length of time each school was taught in the last school term; the number and names of teachers employed, the branches taught, the textbooks used; number and names of private and select schools and academies in the county; the tax money produced and paid for teachers' salaries; the total amount of public money spent for all school purposes in the county, and such other information as the Superintendent of Public Instruction may require.

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[1] Cubberley, E. P. State and County Educational Reorganization, p. 48-53.

The duties imposed here are reasonable and should be included in the Code.

SECTION 406. When budget allowance therefor shall be made, the County School Superintendent with the consent of the County Board of Education may employ a Clerk. Such Clerk shall also be Clerk of the County Board of Education and may be allowed a salary from the school funds, which salary shall be based on the number of rural school rooms in which school is being conducted under the jurisdiction of the County Board of Education, at rate not in excess of:

$500.00	for 21 to 30 rooms
600.00	for 31 to 40 rooms
700.00	for 41 to 50 rooms
800.00	for 51 to 60 rooms
900.00	for 61 to 70 rooms
1000.00	for 71 to 80 rooms
1100.00	for 81 to 90 rooms
1200.00	for 91 rooms and over.

In computing the number of rural school rooms for such purpose, each district in which transportation is conducted in lieu of the maintenance of school shall be computed as one school room.

Such Clerk shall under the supervision of the County Treasurer make a monthly distribution of all maintenance school funds according to distribution percentages furnished under the provisions of this Act by the Educational Budget Auditor, and shall keep ledger accounts for the various districts, showing the distribution of taxes to those districts and the payments, and shall enter a record of all warrants issued for school maintenance expenses in such districts, and shall perform such other duties as may be assigned by the County School Superintendent and County Board of Education. In counties in which the number of school rooms does not exceed twenty, no Clerk shall be employed.

The matters treated in this Section should be left to the county board. The regulations stated, if included under a general statement giving the necessary power to the board, would be sufficient. A board should have au-

thority to determine the salaries of those employed as parts of the county unit of organization.

SECTION 407. The State Board of Education may remove any County School Superintendent appointed under the provisions of Section 401 hereof for malfeasance, misfeasance or nonfeasance in office, or for immorality or conviction of crime, or misdemeanor, or for incompetency, after written accusation has been served upon such County School Superintendent and hearing thereon had, or opportunity therefor given. No such Superintendent, once removed, by the State Board of Education, shall again be employed as County School Superintendent in any county in the state.

Under an appointive or elective system the county board of education usually has power to remove the county superintendent for the causes enumerated and under the conditions specified. The county superintendent ought to have the right of appeal to the state superintendent, whose decision should be final, except on matters which the courts have a right to pass on.[1]

Whether or not a dismissed superintendent should have the right to hold office again is a question that could be decided wisely only by treating each case separately. If county superintendents were required to hold certificates, they should be permitted to hold office or to be hired so long as the State saw fit to keep their certificates alive.

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[1] Cubberley, E. P. State and County Educational Reorganization, p. 45-46.

The treatment for county superintendents in such matters should be no different than for city superintendents, principals, or even teachers, under the same or similar circumstances. Few branches of activity in the State would go to the extremes recommended in the above law. Not uncommonly a good man is thrown out of office when not at fault; and occasionally a discharged employee makes a comeback that justifies thoughtful consideration. The seriousness of the offense should, of course, be the determining factor in forever barring one from the position.

SECTION 408. For school visitation expenses, the County School Superintendent shall be allowed from the school funds annually on the basis of the rooms in which school is being conducted under the jurisdiction of the County Board not more than:

$250.00 for less than 31 rooms
300.00 for 31 to 40 rooms
350.00 for 41 to 50 rooms
400.00 for 51 to 60 rooms
450.00 for 61 to 70 rooms
500.00 for 71 to 80 rooms
550.00 for 81 to 90 rooms
600.00 for 91 rooms or more.

Payment for such expenses shall be by voucher and based upon an affidavit of said Superintendent, stating in detail the rooms visited by him and the date of each visit, accompanied by a school visitation report in such form as may be prescribed by the Educational Budget Auditor; PROVIDED, that where the term of office of a County School Superintendent expires on December 31st of any school year, the said Superintendent shall not expend more than fifty percentum of the school visitation expenses provided in the budget for such school year ending June 30th next succeeding.

The regulation of expenses to be allowed the county superintendent purely on a basis of the number of rooms under his jurisdiction seems unscientific. Such matters as the number of separate schools, number of rooms in each, how the schools are scattered, condition of the county which must be traveled over, are all factors that ought to be considered if the plan is to be used. It would be more desirable to leave this matter to be determined by the county board rather than by the superficial method now in use, with perhaps some constructive limits as guides.

A general criticism of this Chapter is that under the present method of filling the personnel of the county board and county superintendent, as is true with the state board and state superintendent, too much opportunity is afforded to develop a double-headed system. The county superintendent is given ample reason to believe that since he derives his power from the people he may act independently of the board. No evidence can be presented to show that such a condition exists in any of the counties. The possibility still remains, nevertheless. The School Code would be much stronger and more in accord with the best

policies if the superintendent were specifically made subordinate to the county board, and derived his power much in the same manner as recommended for the state superintendent.

To obtain the best results from the county system of organization each county should as rapidly as conditions will permit endeavor to perfect an organization similar to the one in Figure II, page 87.

Chapter V (N. M. School Code)

VOCATIONAL EDUCATION

SECTION 501. The State of New Mexico hereby accepts the benefits of an Act of Congress, entitled, "An Act to Provide for the Promotion of Vocational Education; to provide for co-operation with the states in the promotion of such education in agriculture and the trades and industries; to provide for co-operation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure," approved February 23, 1917, and will observe and comply with all the requirements thereof.

SECTION 502. The State Board of Education is hereby designated as the State Board for the purposes of the said Act and is hereby given all necessary powers to co-operate with the Federal Board of Vocational Education in the administration of the provisions of the Act.

SECTION 503. The State Treasurer shall receive and be custodian of all funds appropriated by the United States Government to the State of New Mexico for the purposes of the above mentioned Act and shall pay out the same on the order of the Auditor, who shall have the authority of the State Board of Education for the drawing of any warrants on this fund, provided that all such payments must be in harmony with the purposes of the said Act, and that the State Board of Education shall file with the State Auditor copies of all vouchers covering the expenditure of such funds.

SECTION 504. The State of New Mexico hereby accepts

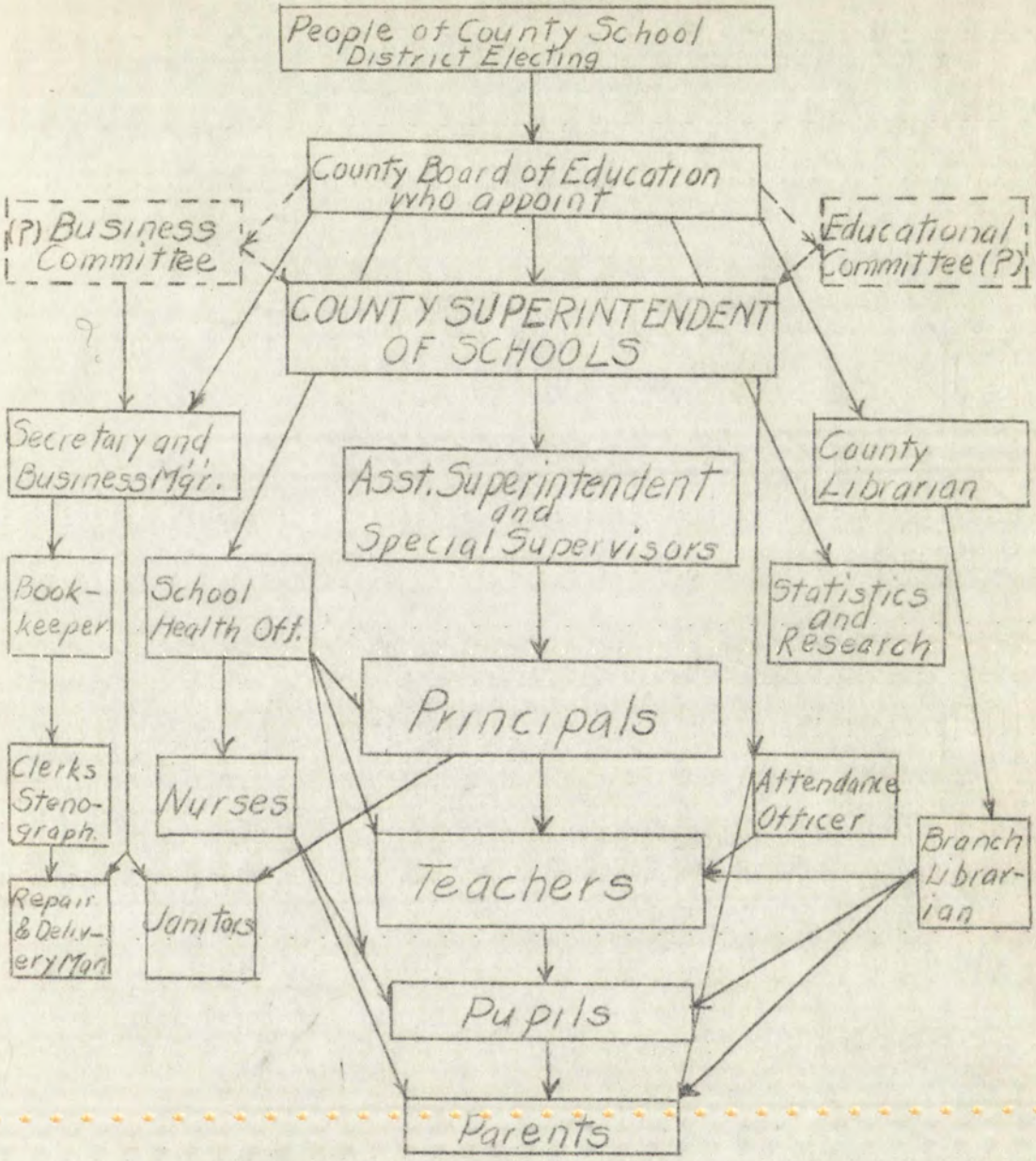

FIG. 2 PROPOSED COUNTY-UNIT EDUCATIONAL ORGANIZATION FOR STATE OF NEW MEXICO[1]

[1] Cubberley, E.P. State School Administration, P. 233.

the benefits and provisions of the Act of Congress, entitled, "An Act to Provide for the Promotion of Vocational Rehabilitation of Persons Disabled in Industry or Otherwise and Their Return to Civil Employment," approved June 2, 1920, and will observe and comply with the requirements of said Act.

SECTION 505. The State Board of Education is hereby designated as the State Board for the purposes of this Act, and is hereby empowered to do all things necessary to carry out the objects of such accepted legislation, and to cooperate with the Federal Government, the Federal Board of Vocational Education, or any other Federal, State or private agency in the administration of this Act.

SECTION 506. The State Treasurer is hereby designated as the receiver and custodian of funds appropriated by the Federal and State governments to carry out the purposes hereof, the same to be withdrawn by warrants of the State Auditor, supported by itemized vouchers of the said State Board.

SECTION 507. Gifts and donations in aid of the objects of this Act, in the discretion of said State Board, may be received and expended in pursuance of such directions as may be attached thereto, a full report thereof to be made annually by said State Board to the Governor.

There is little question that the State acted for the best interests of the schools in accepting the provisions of the Federal Act in granting aid to the states in vocational education. The carrying on of the work was properly delegated to the state board of education, as it belongs in this department. Only in the wealthier and more thickly populated states is it likely to prove of advantage to create a separate board of vocational education. Thirty-five of the states which accepted the benefits of the mentioned act placed authority in the hands of state boards of education.

The same comments hold true in regard to the "Act to Provide for the Promotion of Vocational Rehabilitation of Persons Disabled in Industry or Otherwise and their Return to Civil Employment."

Chapter VI (N. M. School Code)

SCHOOL FINANCE AND TAXATION

SECTION 601. In the month of April in each odd numbered year each Board of County Commissioners shall appoint one resident taxpayer of said County from each of the two dominant political parties, who shall serve as school budget commissioners, and who, with the Educational Budget Auditor, shall, prior to June 20th of each year, fix the budget allowances for all public elementary and high schools in the county. The said Commissioners shall each receive as compensation the sum of $5.00 per day for actual attendance upon budget hearings, traveling expenses to and from the County Seat at the rate of 10c per mile for each mile actually traveled.

SECTION 602. The governing boards of all school districts shall submit to their respective School Budget Commissioners, an estimate of school maintenance and direct district charges of the public schools within their jurisdiction for the ensuing school fiscal year. After January 1st, 1924, such estimate shall be submitted to the School Budget Commissioners prior to April 15th of each year. When an item is included in such estimate for insurance upon school buildings as provided in Section 6, Chapter 73, Laws of 1925, the same may include premiums for a period of three years when a three year insurance policy can be purchased at a lower proportionate rate of premium than a one year insurance policy.

SECTION 603. Budget allowances shall include elementary and High School maintenance, County and Municipal Board Administrative Expense, County Emergency Funds, Direct District Charge Funds, Interest on Bonds, Sinking Funds and School Maintenance Suspense Fund. These may be further divided as the Educational Budget Auditor and the State Tax Commission may require. Transfer of funds within the maintenance division may be made by the governing board with the consent and approval of the Educa-

tional Budget Auditor; PROVIDED, however, that the Emergency Fund may be transferred only as the State Tax Commission may direct and no expenditure shall be made from the Emergency Fund unless and until the transfer has been approved by the State Tax Commission.

SECTION 604. Elementary and High School Maintenance shall include all teachers' salaries, janitors' wages and supplies, fuel, water and light, interest on certificates of indebtedness, library and school supplies, books for indigent children, census enumeration, transportation of pupils, County and Municipal Board administration expenses, and may include salary and expenses of truant officer and school nurse.

Direct District Charge Funds shall include property insurance, lease of school buildings and equipment, new equipment, purchase of school grounds, improvement of grounds and buildings, repairs to the original cost of all school trucks and wagons, and interest on the sinking funds for district school bonds.

SECTION 605. Not later than June 15th of each year the Educational Budget Auditor shall certify the budgets to the State Tax Commission.

SECTION 606. Before July 1st of each year, the State Tax Commission shall fix the final budget allowances for said schools and thereupon certify same to the Board of County Commissioners, the County Treasurer, and to county, municipal, Union high school and independent boards of education. Where Section 605 has been complied with and the final budget allowances are not made by the State Tax Commission within the time specified herein, the Educational Budget Auditor shall fix the final budget allowances for said schools, and thereupon certify the same to the said Boards and Treasurers.

SECTION 607. After deducting school cash balances as of June 30th, anticipated apportionment of common school income funds, current school funds, delinquent taxes, school maintenance suspense fundsas hereinafter provided for, and all other credits applicable to school maintenance, the State Tax Commission shall certify to the Board of County Commissioners before September 1st of each year the net amount to be raised by tax levies and rates thereof.

SECTION 608. In order to provide funds with which to meet current cash needs at the opening of the school term beginning July 1st, 1926, and each school year thereafter, the State Tax Commission shall before calculating the net amount to be raised by tax levies and rates thereof add to

the total amount of the school maintenance budget such amount not in excess of five per cent of such budget as together with other cash balances and funds receivable may be necessary to conduct school operations on a cash basis for a period of two months.

The County Treasurer shall create a separate fund, as hereinbefore provided, to be known as School Maintenance Suspense Fund and into such fund he shall credit at the time of making monthly distributions the percentage of income for maintenance purposes as certified to him by the Educational Budget Auditor, and no payment shall be made out of said School Maintenance Suspense Fund except for maintenance expense for the next succeeding school year, and it shall be unlawful for any State or County Commission, official or Board to authorize or direct the expenditure or loan or transfer of any moneys from said School Maintenance Suspense Fund for any other use or purpose.

SECTION 609. Budgets shall not be altered or amended after final approval, except by the State Tax Commission, after advertisement and public hearing, and no such alteration or amendment thereof shall in any case be made for any year after September 1st.

SECTION 610. Where the County Budget Commissioners or governing authorities of a school fail to prepare a budget or estimate hereunder, the Educational Budget Auditor shall prepare the same from such information as he may possess.

SECTION 611. The total budget allowance of any district shall not be approved for more than five (5) per cent in excess of the allowance for the district for the last preceding year unless the State Tax Commission shall enter an order that the increase is essentially necessary.

SECTION 612. Any county or school officer diverting or expending any school money contrary to the budget allowance, with his sureties, shall be liable to the State for the amount thereof.

SECTION 613. Any county officer of school official who shall violate any of the provisions of this Act, shall be fined not more than One Thousand ($1,000.00) Dollars, or imprisoned for not more than one year in the Penitentiary, or be fined and imprisoned as aforesaid in the discretion of the court.

SECTION 614. Each board of County Commissioners, when other county taxes are levied, shall annually levy a tax on all the taxable property of the county of one half of

one mill, and the proceeds thereof shall be monthly transmitted to the State Treasurer and (converted) into the State Common School Current Fund.

SECTION 615. The Board of County Commissioners shall annually levy, at the time of making other county levies (1) a general county school tax, not in excess of eighteen mills, at the rate certified by the State Tax Commission, and (2) a special district tax in the district to meet all direct charges, except interest and sinking fund, shall not exceed five mills on the dollar.

SECTION 616. The Educational Budget Auditor shall annually certify to each County Treasurer the percentage of distribution of all maintenance school funds, among the various districts of the county, also the Administrative Funds, Emergency Fund, and School Maintenance Suspense Fund. Each County Treasurer shall create and maintain for each district within the county a School Maintenance Account and where levies have been made for same, he shall create and maintain a separate District Direct Charge Account, Interest Fund Account, and Sinking Fund Account. He shall create and maintain one Emergency Fund and one Administrative Fund Account for the County, one School Maintenance Suspense Account, and in case any district in the County has an Administrative Budget, a separate Administrative Account shall be kept for such district by said Treasurer.

SECTION 617. The district tax proceeds for direct charges shall be credited to each district from which collected, in a separate fund, and be disbursed upon the warrant or voucher of the governing authority of such district.

SECTION 618. All school funds to the credit of any district shall be kept by the County Treasurer and withdrawn only by warrant or voucher of the proper board of education, as and when the expense matures. Treasurers of all county and municipal boards of education shall forthwith transmit to the County Treasurer for credit of their respective districts any school moneys in their possession or control at the time this Act takes effect.

SECTION 619. Annually on July first, the State Treasurer shall certify to the Superintendent of Public Instruction and the Educational Budget Auditor, the money in the state common school current fund for apportionment and the same shall thereupon be apportioned by said Superintendent and said Auditor specifically among all the common school districts of the state upon the basis specified in Section 4, Article 12, of the State Constitution. The said apportionment shall thereupon be certified to the

State Auditor and State Treasurer, and, as it affects individual counties, to the respective county treasurers and county, independent and municipal boards of education. The State Auditor shall thereupon draw his warrant on the State Treasurer in favor of the proper county treasurer for the apportioned amount of the combined districts of the county and the same shall be credited by the county treasurer to the individual school districts of the county in accordance with the certified apportionment and used for the maintenance of schools therein.

SECTION 620. Funds in the county treasury to the credit of the respective school districts shall be withdrawn only upon the warrants of the county, independent or municipal boards of education or Union high school boards, as the case may be, and in no event shall any money credited to any district be expended or debts be incurred, except as herein authorized.

SECTION 621 and SECTION 622 repealed by Chapter 10, Session Laws of 1925, as follows:

"All laws relating to Poll Taxes are hereby repealed, except that said laws shall remain in force in so far as may be necessary to collect poll taxes which may have accrued prior to April 25th, 1925."

The problem of finance and taxation has been touched lightly in preceding discussions. The system in use in New Mexico is so weak and behind times that it is hardly worth attacking the minor details outlined here for carrying out the plan. Simply trimming the branches would do little good. The system needs to be attacked and treated from the roots.

When it is kept in mind that the purpose of the state is to stimulate and encourage education, and to aid in equalizing educational opportunities, little thought need be given to this Chapter of the Code to see how far amiss of the aims the present plan really is, especially the

Sections giving the State, not the state department of education, liberty to supervise and control the making of budgets and to set itself up as the final judge of what the local units may spend in behalf of education. The State in the matter of school finances and taxation has set maximum rather than minimum standards throughout, and has appointed itself to see that these maximum standards are not reached, unless agreeable to certain interests, which commonly, are not the people's. Instead of adopting a plan like the one in force in Arizona and California, namely, the setting of a fixed amount per pupil in average daily attendance, this amount to be matched by at least an equal amount from the local unit, the State takes the power of not only saying how little it shall give, but what the local units may raise by taxing themselves, and by controlling what they actually raise. It may be true that abuses arose under a plan of allowing the local units more independence, but this is not an indictment against the plan as much as it is against the educational level of the local units. Many of the other states, including New York, California, and Maryland, have found that local units are able to control local taxation without unreasonable checks on the part of the state, which fact, is reason to believe that the same

conclusion could be reached in New Mexico if the plan were properly tried out. Surely the educational level will never be raised so long as the local units are to be unduly handicapped in the matter of improving their schools. If the State is greatly interested in protecting the financial interests of the local units, then some plan of state taxation should be worked out that will permit the State to make larger appropriations or disbursements to needy districts or counties.

Local units should have fiscal independence according to school financiers. After extensive study on the desirability of fiscal independence, Doctors George W. Frasier and J. R. McGaughey both conclude that fiscal independence in education is proper. According to these two authorities the local school board should be given power to handle its own matters of tax levies and expenditures without restriction on the part of state, or other county or city authorities, within certain provisions prescribed by law. In a monograph, entitled, Control of City School Finances, Doctor Frasier concludes:[1]

"1. Fiscal Independence is right in principle

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[1]p. 66-72. Published by Bruce Publishing Company, 1922.

"2. Fiscal Independence is not a violation of the principles of taxation
"3. Fiscal Independence works better in practice
"4. Fiscal Independence makes for a continuity of educational policy
"5. Fiscal Independence provides adequate financial safeguards for the community
"6. Fiscal Independence tends to keep politics out of the school."

The making of a school budget belongs, according to the authorities last cited, as well as to numerous others, in the hands of school boards and school administrators, and not in the hands of special boards.[1] What could the average resident taxpayer be expected to know about the needs of the schools, and what chance would such individual or individuals have of securing an adequate budget if forced to meet with an antagonistic educational budget auditor, who has in fact, according to New Mexico laws, in conjunction with the state tax commission, the final say in determining what the local budget shall be.

Under the method now in use, instead of the local units having a fairly definite idea the year before what their budget or allowance will be for the ensuing year, they are in almost absolute doubt until perhaps July 1st immediately preceding the opening of school. And further-

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[1] Public Education in Oklahoma. U. S. Bureau of Education, 1923, No. 14, p. 32-35.

more, under the plan of raising taxes and making the apportionment, only a small share of the budget is likely to be had when needed. The truth of the last statement is evident, since little money is available until taxes are collected, which is rarely before December 1st to any appreciable degree.

The restriction that the budget shall not exceed five per cent of the allowance for the district the preceding year, unless the state tax commission shall enter an order that the tax is essentially necessary, is again a case of the State clearly usurping the power of the local unit. Such a law has litte regard for rapidly changing needs and conditions.

Judging from the status of education in New Mexico as disclosed by recent reports the present plan of providing financial support is entirely inadequate. The 1920 U. S. Census showed the percentage of native-born white illiterates in New Mexico to be 11.6 per cent, or higher than any state in the Union. It is true some discrepancies might have occurred in the classifications, or that the arbitrary standards of classifying the races threw an unusual burden on the State. Still there is sufficient reliability in the report to indicate that the general educational level in New Mexico is low. States in the first

quartile showed only 0.4 per cent to 0.9 per cent illiteracy. In Arizona, Colorado, and Texas, states with large numbers of Spanish-Americans, the percentages of illiterate native-born whites were respectively: 2.1, 1.4, and 3.0. New Mexico, according to Norton's study,[1] ranks thirty-eighth in ability to support education, whereas, according to the 1920 U. S. Census, as far as the white, native-born population is concerned she ranks forty-eighth in illiteracy.[2] Ayres' study,[3] which took into consideration the ten most important indexes[4] of educational progress, found New Mexico in 1918 to rank

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[1]Norton, J. K. The Ability of the States to Support Education, p. 44.

[2]In the 1924-25, biennial survey of education, New Mexico ranked forty-fourth in illiteracy of total population of ten years of age and over. The four states which ranked lower: Alabama, Louisiana, Mississippi, and South Carolina, all contain large negro populations, nearly one-half in two of these states. (Phillips, Frank M. Statistics of State School Systems, 1924-25. U. S. Bureau of Education, 1927, No. 13, p. 18).

[3]Ayres, Leonard P. An Index Number for State School Systems, p. 10.

[4]

	Rank of New Mexico
1. Per cent of school population attending school daily	46
2. Average days attended by each child of school age	39
3. Average number of days schools were kept open	32
4. Per cent that high school attendance was of total attendance	41
5. Per cent that boys were of girls in high schools	16

thirty-first among the states. The efforts of private and parochial schools in all probability aided considerably in the showing made.

The fact that the 1910, 1918, and 1922 reports on financial support accorded education, as tabulated by Norton,[1] disclosed that New Mexico only once came up to the average total expenditures per child in the United States, is a fair indication that inadequate finances have played a leading part in her educational status. Taking one as an arbitrary average for the expenditure for education for each child in the United States in 1910, according to Norton, New Mexico spent .55 per child; in 1918, 1.11; and in 1922, .84. The amount spent in 1922 was nearly three times as low as the total expenditure per child in California, and more than one and one-half times less than Arizona and Colorado.

It is true that New Mexico has many handicaps that make the support of education exceedingly difficult. On

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6. Average expenditure per child in average attendance	12
7. Average expenditure per child of school age	27
8. Average expenditure per teacher employed	18
9. Expenditure per pupil for purposes other than teachers' salaries	4
10. Expenditure per teacher employed for salaries	27

(Ibid., p. 49).

[1]Norton, J. K. Op. cit., p. 44.

the basis of effort actually expended in behalf of education in 1922, taking into consideration, per cent of wealth expended, per cent of average total income expended, and per cent of average current income expended, New Mexico ranked eleventh,[1] surpassing some of the wealthier states, as well as a number of the poorer ones.[2] If the wealthier states had actually done all within their power, New Mexico could well afford to feel proud of what she did. The comparison is not enlightening, however, as there is evidence to the effect that the wealthier states made no effort to reach the limit, as wealth and other favorable conditions made it unnecessary for them to extend themselves. The best school financiers take the position that the wealthier states are capable of much greater effort without imposing any real burden on the people.

Since it cannot be denied that educational facilities in New Mexico are generally poor, and that the State is already making greater effort to support her schools than most of the states, the problem then is, What is to be

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[1]Norton, J. K. Op. cit., p. 50.

[2]The ten states surpassing New Mexico in effort expended on public education were: Wyoming, Minnesota, Nebraska, South Dakota, Montana, Indiana, Idaho, Utah, North Dakota, and California.

done to remedy conditions? Shall matters be allowed to drift on, or shall even greater effort be attempted?

In regard to finances and taxation, there are two outstanding and main solutions to improve education within the State, namely; secure more federal aid; or devise other, or more extensive methods of state revenue. Little hope can be held out for the former at this time as strong opposition has developed against the idea of the Federal Government making further expenditures to equalize educational opportunities over the United States. The probable, early solution rests, apparently, within the State itself.

In reference to the latter means it may be said with a fair degree of certainty that with more business in school affairs, and a remodeled plan of taxation and apportionment, sufficient funds can be provided within the State to raise greatly the educational level over the State as a whole. In 1922, according to Norton's calculations,[1] New Mexico spent only .67 per cent of her total wealth on education, 2.99 per cent of her average total income, and 3.10 per cent of her current income. The percentage of total income expended was small in compar-

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[1]Norton, J. K. Op. cit., p. 49.

ison to what many people still believe should go to religion and charity, namely ten per cent, or more than three times as much as was and is now being spent for education in New Mexico.

Surely the State can afford greater expenditures for education, when the need is considered, and how profitable the investment will likely prove to be in the future. Doctor Moehlman in his text on Public School Finance,[1] says: "On a basis of purely financial consideration the American people can not only afford the schools as operating at present, but can afford even the better and more extensive schools demanded by democracy." Cubberley also takes the position that the states have far from reached their limit in taxing themselves, if they tap their resources wisely.[2] Doctor F. H. Swift, Professor of Education, University of California, one of the foremost authorities in America on school finances says:

"It is the writer's belief, based on a first hand study of nearly one third of the states, that there is not a state in the Union which, if it were to adopt a sound and scientific system of financing education, would not be able to place adequate educational facilities within reach of every school child, and to maintain a complete

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[1] p. 94.

[2] State School Administration, p. 430.
Also see An Educational Study of Alabama, p. 505. 1919, No. 41.

free system of public instruction from the kindergarten to the state university."[1]

What system of state taxation would be best for New Mexico is problematic, and can be answered here in a general way only. New Mexico differs so greatly from California, New York, Massachusetts, Wisconsin, Maryland, and other leading states that it would be unsafe to say that the plans used in any of them would be best in this State, unless such statements were made from extensive investigation, or by actual trial.

Swift favors the Maryland plan of state school funds and their apportionment. This plan might not prove satisfactory in its entirety for the State of New Mexico, but it represents many of the leading principles that New Mexico under any wise plan or procedure should adopt in some form or another, if she has not already done so. Writing in the American School Board Journal[2] for February, 1928, Swift has the following to say:

"Maryland enjoys the unique distinction of being one of the few states in the Union which has worked out a scheme of financing public schools, which, in a sound and relatively satisfactory way, equalizes school burdens, revenues, and consequently educational opportunities. It will be helpful to summarize at the outset features of

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[1] In Chapter on "Public School Finance," in Biennial Survey of Education in United States, 1920-22, Vol. I, p. 33.

[2] p. 39.

the Maryland system of school support. These include the following: (1) the organization of the school system on the basis of the county unit; (2) requiring from every county the submission of a budget showing the cost of providing a minimum school program; (3) an assured fund from state and county sources to meet the costs submitted by the county and approved by state authorities; (4) a state minimum salary scale graduated to professional qualifications of teachers; (5) liberal state appropriations available to all counties regardless of wealth; (6) the apportionment of the major portion of state funds upon the basis of school census and aggregate attendance; (7) provision of a state equalization fund available to every county which levies a county school tax of a minimum rate fixed by law (6.7 mills) and is unable to finance from all other state and county funds its minimum state-approved program; (8) the computation of the total county school budget on the theory that teachers' wages should constitute 76 per cent of the total current costs."

The model plan advocated by the National Tax Association, a professional organization of administrators and students of taxation in this country contains the three following main propositions:

"1. That every person having taxpaying ability should pay some sort of a direct personal tax to the government under which he is domiciled, and from which he receives the personal benefits that government confers;

"2. That business carried on for profit in any locality should be taxed for the benefits it receives; and

"3. That tangible property should be taxed by the jurisdiction in which it is located, because it there receives protection and other governmental benefits and services."[1]

The California system may be cited as an example of one that embraces many features. By constitutional amend-

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[1] Cubberley, E. P. State School Administration, p. 428.

ment the state grants aid of at least $30 for each pupil in average daily attendance in the elementary schools; and at least $60 for each pupil in the secondary schools, must also be levied. The appropriations come from the state corporation taxes, and must be set aside each year by the state controller and treasurer.[1]

In New Mexico it is evident, first of all, that the State must give more aid to the local units. The best educational minds believe that at least from 40 to 60 per cent of the cost of education should be borne by the states.[2] According to the 1920 U. S. Bureau of Education Report, which may be taken as a pretty accurate index of conditions today,[3] New Mexico contributes less than 25 per cent, the county unit over 75 per cent, and the smaller unit, the district, less than 5 per cent. This condition indicates that the State should more than double her efforts. If she does, along with continued efforts on the part of the counties and the districts, school finances in the State would be placed on a sound basis.

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[1]Cubberley, E. P. State School Administration, p. 433.

[2]Ibid., p. 437-439.

[3]Data available from State Officials for 1927, as compiled by J. R. McCollum for the N. M. E. A., and published in the N. M. E. Review, April 1928, corroborate this statement.

To raise the additional amount needed in New Mexico the old plan of allowing a ½ per cent mill tax on all tangible property ought to be abolished, and the State should look elsewhere for a source of revenue, such as corporation taxes, income taxes, severance taxes, etc., and leave the tangible property to the county and the district.[1] State taxation of tangible property is admitted to be weak.[2] It only tends to add more taxes on many sources already overtaxed. Those who can best afford to be taxed escape the burden to a large degree, and the extra load is shifted to the small property holder of a limited income.[3] California has found a solution in the state corporation tax; also New York by pursuing a plan that involves the following elements:

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[1] See Survey of Education in Utah, Chapter XI, p. 398-507.

[2] Professor Edwin R. A. Seligman of Columbia University, in his work on "The General Property Tax," p. 52, says:

"Practically the general property tax, as actually administered today is, beyond all peradventure, the worst tax known to the civilized world . . . . It puts a premium on dishonesty and debauches public conscience. It reduces deception to a system and makes a science of knavery; it presses hardest on those least able to pay. It imposes double taxation on one and grants immunity to the next. In short, the general property tax is so flagrantly inequitable that its retention can be explained only through ignorance or inertia."

[3] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 493-495.

An Educational Study of Alabama. U. S. Bureau of Education, 1919, No. 41, p. 505-509.

"1. A personal income tax to reach individuals.

"2. A rather complicated series of business taxes, which levy a direct tax on productive enterprises, and which may in turn be shifted to individuals through an increase in the cost of materials produced or services rendered.

"3. An almost complete abolition of the personal property tax, and a very material lightening of the burden on small real property.

"4. The levying of certain special taxes, such as automobile tax and 'ear marking' these for special purposes as road maintenance, etc."[1]

The sum and substance of the best present educational legislation applicable to the New Mexico situation is adoption of some plan of state-wide taxation that is fixed, yet flexible enough to meet growing conditions, and which is safe from legislative action and gubernatorial influence, as well as reasonably safe from politics and the control of big interests.[2] Pool the wealth of the state as far as possible to provide adequate revenue for all the public schools, and not for the richer districts alone. No plan that permits of evading payment of taxes, by one method or another, as the present New Mexico plan does, will ever prove adequate or satisfactory. The rich, the poor, the influential, etc., must all be taxed fairly. Make the income large enough to enable the State to bear

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[1]Cubberley, E. P. State School Administration, p. 427.

[2]A Manual of Educational Legislation. U. S. Bureau of Education, 1919, No. 4, p. 31-38.

one-half to three-fourths of the cost of public education. Devise a system of apportionment that will guarantee each district a fixed amount, and which will make sufficient allowance for further appropriation to encourage local effort, as well as make provision to equalize educational opportunities among the poorer districts. And, in addition, put into effect the other suggested changes, such as: place the budget auditor under the board of education, grant fiscal independence to the local units, etc.

Section 615 which permits of (1) a general county school tax, not in excess of eighteen mills at the rate specified by the state tax commission, and (2) a special district tax to meet all direct charges, except interest and sinking fund shall not exceed five mills on the dollar are instances in which many outstanding educators agree that it is permissible for the state to set maximum standards as well as minimum standards in order to protect the interests of the people. The Oklahoma Survey Commission does not, however, apparently favor even such limitations, as one of its recommendations is: "Remove all limitations on state and local taxation."[1] It does

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[1]Public Education in Oklahoma. U. S. Bureau of Education, 1923, No. 14, p. 25.

believe, on the other hand, in the state board reviewing and approving all local budgets.[1] Present practices would indicate, under any plan, that it is unsafe to give local boards full sway in levying taxes, without some kind of a check. Not infrequently local boards have taken drastic steps before the real consequences were surmised. Of course a low maximum is likely to do harm, especially on the usual weak plan of assessing values of property. Whether or not the plan of setting a tax levy limit is to benefit the schools is to have the standard sufficiently high to care for the needs of the schools and still not so high as to be a source of financial danger. The local units should in every case at least have power to increase or change the limits. The limit set in the New Mexico School Code is closely in agreement with that recommended in the Osceola Code. Whether it is high enough depends on how fairly property is assessed in comparison to its true value. More will be said on property valuations under the next Chapter of the Code.

The plan suggested by Cubberley, given below, is preferable to the one in use in New Mexico, although he states no limits for taxation but leaves this to be determined,

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[1] Public Education in Oklahoma. U. S. Bureau of Education, 1923, No. 14, p. 33.

as it should be, by each individual state. The main advantage in the plan recommended by Cubberley is that it provides the school board certain limits, but allows the county, city, or district, as the case may be, to go beyond this limit by popular vote. Cubberley gives the following as embodying the best present day principles and practices in the matter of school-district taxation:

"1. The board of education (of each city and county-unit school district) shall each year prepare a budget of estimated income and expenditures, and after deducting the amount to be received from state and county sources, shall certify the remainder to the proper tax-levying authorities as the amount to be raised for school maintenance and for building and grounds for the ensuing year.

"2. The amount so certified must be levied and collected on the assessed valuation of the school district, provided the tax rate does not exceed ---- mills for maintenance, or ---- mills for buildings and grounds.

"3. Should the above limitations as to levy provide insufficient funds, the school board for any city or county-unit school district may submit to the people of the school district, at the annual school election, the question of increasing the above maximum rates, for either or both funds, for a limited period or indefinitely, and to any stated rate up to ---- mills for maintenance and ---- mills for buildings and grounds. Should a majority voting at said election approve of the increases, the amounts voted shall in the future be the limits for the district.

"4. All School funds from whatever source, shall be subject to expenditures, for the purposes for which they were provided by the board of education for the city or county-unit school district, and in such manner as it may see fit, so long as such expenditure is not contrary to state law.

"5. Bond interest and sinking funds, together with principal payment on bonded indebtedness, shall be cared for by city or county tax-levying authorities, from special taxes levied for the purpose, and shall not be regarded as a part of the school budget or held within the taxation

limits stated above."[1]

The method of distributing and apportioning state and county funds has been discussed under Article XII, Section 4 of the Constitution.

The major changes recommended will overcome many of the present financial difficulties. A number of minor changes are needed in order to place county and city districts on a more business like basis. The present practices of buying school furniture, equipment, and supplies, on credit, than forcing dealers to wait for years for payment is deplorable. Surely something ought to be done to protect those who in good faith deal with subdivisions of the state. Large numbers of accounts now remain unpaid, which probably never will be paid because of some insignificant technicality. The state and its legal subdivisions should offer others the same expediency in business that they demand of others. Individuals must not be made to suffer on account of weaknesses for which the state is responsible. Outstanding, just debts ought to be paid; and changes should be made in the laws that will make it possible for each county and city to purchase necessary supplies on a sound business plan. If payment cannot be made within a reasonable time, thirty

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[1]Cubberley, E. P. State School Administration, p. 441-442.

to ninety days, the laws should be revised to make it possible to furnish creditors with legal, bankable paper.

Chapter VII (N. M. School Code)

SCHOOL BONDS

SECTION 701. For the erection of school buildings and purchase of school grounds, school districts of the State shall have the power to issue negotiable bonds of the district. When the amount of a bond issue is $10,000.00 or less, such bonds may be issued in the form of term bonds, due not less than five years nor more than twenty years from date of issue, redeemable at the pleasure of the power issuing same at any time designated in the bonds. In the case of term bonds, sinking funds may be provided, commencing the third year after date of issue for the payment of the principal of such bonds at the date of option, or when matured, as the governing authorities may elect; provided, that after the lapse of two-thirds of the term of such bonds, an annual levy for sinking fund therefor shall be made sufficient to pay such bonds at maturity. When sinking funds sufficient to retire one or more term bonds shall have been accrued, the County, Municipal, Independent or Union Board of Education shall by lot select the bond or bonds to be called for redemption at the next interest date and the County Treasurer shall notify the holders of said bond or bonds by publication in a newspaper of general circulation throughout the County, in two successive issues, not less than thirty days prior to the date of redemption, calling said bond or bonds for redemption on the next interest bearing date, and after such date the said bond or bonds shall cease to bear interest.

All bond issues in an amount over $10,000.00 shall be issued in serial form, to run for not less than five years nor more than twenty years, and shall be payable in consecutive order in substantially equal annual installments, commencing the fifth year from date of issue. Sinking funds shall be provided commencing the third year after date of issue for the payment of the principal of Serial Bonds as herein authorized at the date of maturity. All bonds shall bear interest from date of issue at a rate not exceeding 6% per annum. The County Treasurer shall offer such bonds for sale after publication of notice of

the time and place of sale, in a newspaper of general circulation throughout the County in which issued and also in one financial newspaper published in the City of New York, once each week for four consecutive weeks prior to the date fixed for such sale. Such notice shall specify the amount, denomination, maturity and description of the bonds to be offered for sale, and the place, day and hour at which sealed bids therefor will be received and opened, and that only unconditional bids will be considered, and that each bid must be accompanied by a certified check, drawn on a solvent bank or trust company, payable to the order of the County Treasurer, for not less than five per centum of the amount of the bid, as a guaranty that the bonds will be taken by the bidder if his bid is accepted and the bidder does not take the bonds in accordance therewith. At the place and time specified in such notice, the County Treasurer and the Chairman or Secretary of the Board, to whom was presented the petition asking for the calling of election at which said bonds were authorized for sale shall open the bids in public and the Board shall award the bonds to the responsible bidder or bidders offering the highest price therefor, but no bid shall be accepted for less than ninety-five per centum of the par value of the bonds, plus the interest accrued from the last preceding interest date to the date of sale. Before delivery of bonds to the purchaser, the County Treasurer shall detach and cancel all matured interest coupons. No bonds authorized hereunder shall be issued or sold in excess of the authorized amount. No commission, attorneys fees, examination fees or any expenses, other than advertising shall be paid for the sale of any bonds. Bonds issued hereunder shall be in substantially the following form:

UNITED STATES OF AMERICA STATE OF NEW MEXICO
SERIAL No..... BOND No.....

CITY OF.....
(If a City)

SCHOOL DISTRICT No..... COUNTY OF.....

SCHOOL DISTRICT BOND

THE.....,
(Official Title of Board)

State of New Mexico, on the faith, credit and behalf of the school district above mentioned, hereby acknowledges said district indebted and promises to pay to the bearer.....years from date hereof, the sum of.....

Dollars in lawful money of the United States of America, with interest thereon from date hereof at the rate of.. .....per centum per annum, payable semi-annually on the .....days of.....and....., each year, coupons therefor being attached hereto, both principal and interest being payable upon presentation and surrender of this bond or the proper coupon at the office of the State Treasurer of the State of New Mexico, or at.....at the option of the holder hereof.

This bond is one of a series of bonds numbered.... .....to....., inclusive, of the denomination of.....aggregating.....dollars, and was duly authorized by the legally qualified voters of said district at an election held on....., the "transcript of bond proceedings" therefor being approved by the Attorney General of the State of New Mexico on the.....day of.....19..... This bond is issued under the provisions of Chapter....., Laws of 1923, State of New Mexico, and Acts amendatory thereof, and all the acts, matters and things required to occur, be done and performed to legally issue said bonds, have duly occurred, happened, been done and performed. This bond is redeemable by the authority issuing it, any time after .....years from its date, by paying the principal and accrued interest and giving public notice of desire to redeem and thereafter this bond shall cease to bear interest. The date of this bond is.....

In testimony whereof, the said.....
(Official Title of Board)
State of New Mexico has caused the seal of said Board to be hereto affixed and this bond to be signed by the
.....
.....

Bond Serial No.....
Coupon No.....

INTEREST COUPON

SCHOOL DISTRICT No..... COUNTY OF.....
NEW MEXICO

On this.....day of....., 19.... the....., State of New Mexico,
(Official Title of Board)
for and on behalf, faith and credit of School District No.....County of....., State of New Mexico, hereby promises to pay bearer at the office of the State Treasurer of the State of New Mexico, or..... .....at the option of the holder hereof.....

Dollars, being six months' interest then due on said bond and numbered.....

.....

SECTION 702. To initiate the right to issue bonds hereunder, a petition in duplicate asking for the calling of an election must filed between January 15th and May 31st, both inclusive, (and at no other time), with the Board of County Commissioners in case of rural districts, and with the City Council or Board of Trustees in cases of Municipal districts, and with the Union High School Board in the cases of Union High Schools, containing the genuine signatures of qualified electors of the district, who shall have paid a property tax therein during the preceding year to the number of ten per cent of the combined vote cast in said district at the last preceding general election for Governor. Said petition may be in substantially the following form:

"The undersigned, qualified voters of school district No....., County of....., New Mexico, petition the ....., to call a
(Board or Council or Trustees)
special school bond election in said district for the purpose of voting upon the following questions:

1. Shall the said district vote its bonds in the total sum of.....
.....
(Here insert purpose for which bonds are to be issued, as: "Erect and furnish school buildings" or (and) "purchase of school grounds.")

Two separate questions may be submitted in the petition for election and in the election, in which case the vote thereon shall be separately counted, canvassed and certified, but not more than one such election hereunder shall be held in any two consecutive years.

SECTION 703. Upon receipt of said petition the official body to which the same shall be addressed shall meet and determine the sufficiency of said petition and the genuineness of the signatures thereto and in the event of its affirmative finding of sufficiency thereof it shall order an election for said purpose to be held in said district at a designated time, which shall be not less than thirty nor more than fifty days after such finding, but in no event shall any such election be held on or within five days preceding or succeeding any general election held in the county. The said finding of said official authority shall be made by resolution, spread on the records and may be substantially as

follows:

Whereas, petition for the calling of an election to vote on issuance of bonds for school purposes in School District No.....County of....., New Mexico, has been duly presented, and found to be in accordance with law;

Now, therefore, it is resolved that an election for said purposes shall be held in said district on the... .....day of....., 19.....

Ayes: .....
(Names of members voting affirmatively)

Nays: .....
(Names of members voting negatively)

Done this.....day of....., 19.....

SECTION 704. The authority passing such resolutions shall cause a copy of said resolution to be published in a newspaper at least fifteen days before the date set for said election, and obtain affidavit of publication therefor.

SECTION 705. At least five days prior to the date set for holding such election the said official authority calling it shall publish in a newspaper, and post in five conspicuous places in the district a notice of election which may be in substantially the following terms:

NOTICE OF SCHOOL BOND ELECTION

Notice is given that on the....day of,....., 19....., there will be held in School District No...., County of....., New Mexico, an election for the purpose of determining whether said district shall become indebted in the total sum of $.....and issue bonds therefor, for the purpose of.....
.....
(Here state purpose, as "erecting and furnishing school building, etc.")

.....
(Official title of authority)

SECTION 706. The form of the ballots to be used at such elections shall be substantially as follows:

BOND ELECTION FOR DISTRICT No.....
County of....., New Mexico

For the issuance of bonds of the district in the total sum of $....., for.....
(purpose)

Against the issuance of bonds of the district in the total sum of $....., for.....
(purpose)

Only such ballots as are substantially in comformity to the form herein specified shall be cast, counted or canvassed, and no ballot containing any identification mark or qualifying words or statements shall be counted. The provisions of Sections 2015 to 2020, both inclusive, and 2027 and 2028, Code 1915, shall have application to elections held hereunder.

SECTION 707. Elections hereunder shall be held on the day for which the same were called. The authority calling the election shall:

1. Appoint three election judges, who shall take the oath provided by Section 1982, Code 1915, before entering upon the discharge of their duties and serve without pay.

2. Deliver ballot boxes and supplies to said judges at least one day preceding the date of the election.

3. Deliver a sufficient number of printed ballots to said election judges prior to the day of election.

4. Deliver to said judges a blank "certificate of result of election."

SECTION 708. The hours for casting votes at said election shall be from eight A. M. until six P. M. One ballot shall be delivered to each qualified voter of the district presenting himself to vote, and after he marks the same it shall be folded by him and placed in the ballot box by the judges of election. At the close of the election the said judges shall publicly count the vote cast and replace the voted ballots in the ballot box and seal and return same to the authority from whom it was received. The judges shall execute and deliver forthwith to the said authority a certificate of result of election, which may be substantially in the following form:

The undersigned duly appointed election judges have counted the vote cast at election for school district No....., County of....., New Mexico, held on the.....day of....., 19....., and find the result as follows:

For the issuance of said bonds for.....
(purpose)
there was cast.....votes;

Against the issuance of bonds for.....
(purpose)
there was cast.....votes;

.....
.....
.....
(Judges of election)

SECTION 709. Within ten days after such election the authority calling it shall publicly canvass the returns of such election and ascertain from an inspection of the ballots cast the result thereof. It shall thereupon enter in its record a certificate of the canvassing and result of said election which may be substantially as follows:

The undersigned authority certifies that it canvassed the returns of a special school district election held on the.....day of....., 19....., in School District No....., County of....., New Mexico, and finds the result of said election to be as follows:

Ballots legally cast for the issuance of school bonds in the total sum of $....., for.....
(purpose)
were.....
(number)

Ballots legally cast against last specified proposition were.....
(number)

Dated this.....day of....., 19...
.....

SECTION 710. Within ten days thereafter a copy of said last mentioned certificate shall be published in a newspaper in conformity to the publication section provided herein and affidavit of publication shall be obtained therefor.

Chapter 73, Session Laws of 1925, Section 25. The publication for issuance of Bonds under this Act shall also be made in Spanish, provided there is such paper published in Spanish published in said county.

SECTION 711. Any time prior to five days preceding the day set for an election, but not afterwards, any person or corporation may attack the validity of the petition asking for the election or the resolution approving said petition, or both, by action in the district court of the county of the district affected and the court shall have power to require appearance and answer therein in such time as it shall elect. All such cases shall take precedence over all other court business.

SECTION 712. Any person or corporation may institute in the district court of the county of the district affected an action or suit to contest the validity of all proceedings taken subsequent to those mentioned in the last preceding section, but no such suit or action shall be maintained unless the same be instituted within ten days after the publication of the certificate specified in Section 709 hereof.

SECTION 713. Upon application of any person, the clerk of the district court of the county in which the school district affected is situated shall make a certificate, if the facts warrant and not otherwise, substantially as follows:

"STATE OF NEW MEXICO }
COUNTY OF ..... } ss.

The undersigned certifies that the records of my office disclose no pending suit or action against... ....., or its (Authority issuing or to issue said bonds) members, attacking, or any judgment of record invalidating, the right of said authority to issue bonds under an election held in School District No....., County of....., 19.....
(SEAL) .....
(Clerk of district court)"

SECTION 714. Before any bonds shall be issued hereunder the County Commissioners or the City Council, or town or village Trustees, as the case may be, shall make up and submit to the Attorney General for approval or rejection a Transcript of Bond Proceedings which shall contain one copy of the following:

1. Petition mentioned in Section 702 hereof;
2. Resolution mentioned in Section 703 hereof;
3. Affidavit of publication mentioned in Section 704 hereof;
4. Notice of election mentioned in Section 705 hereof;
5. Form of ballot used, mentioned in Section 706 hereof;
6. Certificate of canvass of election mentioned in Section 709.
7. Certificate of result of election mentioned in Section 708.
8. Affidavit of publication mentioned in Section 710.
9. Certificate of Court Clerk mentioned in Section 713.
10. Original affidavit of authority presenting transcript that copies are true and correct copies of originals on file.

SECTION 715. The Attorney General shall attach his certificate of approval or rejection to said transcript, after careful investigation of the legality of said election and proceedings as shown by said transcript, and return same to the authority from which received. When

the Attorney General shall approve such transcript, the authority to issue bonds under such election shall mature, and not otherwise, unless (and until) the validity of the bond proceedings be established by prior court action, provided, however, that bonds hereunder shall not be issued or sold after July 1st, in any calendar year.

SECTION 716. The authority issuing bonds hereunder shall register the same, showing number, date, amount and interest on and payment thereof.

SECTION 717. Principal of and interest on said bonds shall be payable at the office of the State Treasurer or designated bank, upon presentation of bonds or coupons, as the case may be, and upon payment, the said bonds and coupons shall be marked cancelled and delivered to authority issuing same and retained until such time as the Educational Budget Auditor shall direct the destruction thereof.

SECTION 718. Annually the Board of County Commissioners shall levy a tax in the district sufficient to pay the interest and when necessary to provide for the sinking fund for said bonds, as herein otherwise provided.

SECTION 719. No bonds shall be issued in any school district, which, with existing indebtedness of the district, shall create in the district an indebtedness exceeding six per cent of the assessed valuation of the taxable property therein, as such valuation is shown by the last preceding general assessment.

(See Chapter 131, Session Laws of 1925, appendix)

The content of this Chapter generally meets with the best up-to-date plans, except the provision that bonds under $10,000 are to be paid by sinking funds. Engleharct, Hoyt, and a number of others declare that bonds to be paid by sinking funds should be prohibited by law. Hoyt says:

"The cost to the community of issuing serial bonds is exactly the same as the cost of issuing so-called 'straight' or 'sinking fund bonds,' maturing all at one time, provided that the sinking fund earns interest at

the same rate that the bonds bear. But in spite of this fact, municipal sinking funds are not usually maintained as they should be, and it has seemed impossible to prevent mismanagement and losses of such funds."[1]

And Englehardt says:

"The two types of sinking funds found in American cities are those with and those without investments. Judging from studies that have been made of the administration of sinking funds, it appears that neither type of fund is satisfactory in providing payment for bonds."[2]

Serial bonds are preferable to term bonds, and therefore, the restriction that all bond issues over $10,000 shall be in serial bonds is well grounded, although as far as practicable all bonds should be serial bonds, issued for a short period. Also, the condition limiting bonds to a rate of interest not higher than 6 per cent per annum is a good safeguard.

Section 719, prohibiting issuance of bonds which shall not, with the existing indebtedness, create a total indebtedness exceeding six per cent of the last preceding assessed valuation of taxable property is in accord with a somewhat similar provision in the Osceola Code, which sets five per cent as a limit.[3] The average for the United States is five per cent; the rate is the

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[1]Fowlkes, J. G. School Bonds, p. 79.
[2]Ibid., p. 79.
[3]Cubberley, E. P. State and County Educational Reorganization, p. 129.

same for the western section of the United States, which division includes eleven states, among them New Mexico.[1]

Little comparison can be made among the states on the amount or limits of bonded indebtedness that the laws allow without considering the method of assessing property values. One state may assess property at its actual value as determined from the cash real estate transactions over the past three-year period, whereas the assessed valuation in another state may represent only thirty per cent of the cash value. The fact that Wisconsin and several other states permit a bonded indebtedness of five per cent of the actual cash or true value, gives reason to believe that the statutory limit in New Mexico is low. Add to this the fact that New Mexico assesses property at sixty per cent of its true value, and the likelihood that the assessed valuations are not equitable in a state where large acreages are held or controlled by a few men of power and political influence, it is evident that some communities are likely to be handicapped in educational efforts because of the narrow taxing limits. A method of true valuation is without doubt more satisfactory than assessed valuation.[2]

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[1]Fowlkes, J. G. Op. cit., p. 60-65.
[2]Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 428-430.

It might be well to provide that no bonds of any kind or denomination shall run for longer than thirty years; that bonds shall be in denominations of not less than $100, nor more than $1000; and that all bonds must be redeemed serially, beginning not more than five years from the date of issue, and continuing each year until redeemed.[1]

Chapter 131, Session Laws of 1925, are valuable because they make it a duty for the state tax commission to furnish information which each county, city, town, village, etc., should be sure of before attempting a bond issue. Some might see in this Chapter an attempt to extend the limits of state control.

Criticism on making provision for the issuing of bonds for school purposes still arises. Opposition has waned, until today it is admitted even by many of the opponents that bond issues are necessary to care for the rapidly increasing school needs. The pay-as-you-go plan tried by many cities has not proved successful. Saint Louis, Missouri and Portland, Oregon, are the two outstanding examples of cities that tried the pay-as-you-go plan, but who found it necessary to

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[1]Fowlkes, J. G. Op. cit., p. 92-100.

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Chapter 151, Session Laws of 1925, are valuable because they make it a duty for the state tax commission to furnish information which each county, city, town, village, etc., should be sure of before attempting a bond issue. Some might see in this Chapter an attempt to extend the limits of state control.

Criticism on making provision for the issuing of bonds for school purposes still arises. Opposition has waned, until today it is admitted even by many of the opponents that bond issues are necessary to care for the rapidly increasing school needs. The pay-as-you-go plan tried by many cities has not proved successful. Saint Louis, Missouri and Portland, Oregon, are the two outstanding examples of cities that tried the pay-as-you-go plan, but who found it necessary to

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[1]Novikes, J. H. Op. cit., p. 98-100.

issue bonds to provide adequate funds for school building purposes. Every state in the Union now has legislation authorizing local communities to borrow money and to issue bonds for school purposes.

Chapter VIII (N. M. School Code)

RURAL SCHOOLS

SECTION 801. All County Boards of Education, as they are now constituted, shall cease to exist upon the date when the members of the county boards of education, herein provided for, shall have been selected and shall qualify. All public records and all public property, now in the hands of county boards of education, shall be delivered to the County Board of Education, as herein created, immediately upon their qualifying.

Hereafter, County Boards of Education shall consist of four members, who shall be legally qualified electors and no more than two of whom shall belong to the same political party. One of said members shall be a resident of and selected from each of the three County Commissioners' districts, and the fourth member shall be the County School Superintendent, and not more than one of such appointed members shall reside in incorporated municipalities. Said Board shall be styled.....County Board of Education, and shall have power as such to sue and to be sued, contract and acquire and dispose of school property pursuant to law.

SECTION 802. The County Board of Education herein provided, shall, from their own number elect a president and vice president. The County School Superintendent shall be the secretary of said Board. The Board shall meet at the county seat of its respective county on the first Monday in January, April, July and October and shall hold such additional meetings as shall be called by the President of the board or two or more of its members. No member of such board shall receive in any one year, as per diem payments, more than the sum of one hundred dollars($100.00). For attendance at meetings of the Board, the members shall receive two

dollars and fifty cents($2.50) per day of actual attendance, plus traveling expenses to and from meetings at a rate not in excess of ten cents per mile for each mile actually traveled by the shortest usually traveled route. When transportation is by railway train or bus line, only the actual fare paid shall be allowed. Provided the County School Superintendent shall receive no additional salary for County Board attendance.

SECTION 803. Each member of said Board shall take an oath of office and execute a surety company bond in the sum of Three Thousand ($3,000.00) Dollars, conditioned on the faithful performance of his duties and the proper and legal drawing of all school vouchers and warrants and disbursements of school funds, and said bonds shall be approved by the District Judge and filed with the County Clerk. The premiums on such bond shall be paid from the county board administrative fund.

The District Judge of each Judicial District shall appoint from the qualified electors of the respective counties in his district, three members of the County Board of Education on or before July 1st, 1927, and on or before January 1st of each odd numbered year thereafter. Any appointed member of a County Board of Education for conviction of any felony or of any misdemeanor involving moral turpitude; failure, neglect, or refusal to discharge any duty upon the officer by virtue of his office; knowingly demanding or receiving illegal fees as such officer; gross negligence in discharging the duties of the office; any other act or acts which in the opinion of the State Board of Education amount to corruption in office or gross immorality, rendering incumbent unfit to fill the office.

In actuality, as well as principle, county school boards entrusted with no duties except school duties are desirable. How county boards should be secured is a debated question, although the weight of opinion seems to favor a distinctly educational board elected by the

people.[1] Objections may be offered to both types of boards, especially when appointed or elected by local political machines.[2]

If either the county board or the county superintendent is to be elected, certainly it should be the former and not the latter. As was stated when discussing the choice of a state superintendent, the average voter is more capable of passing opinion on a board member than on an expert or highly trained school official like state and county superintendents should be.[3]

The main reason advocated for elective offices is that they are more democratic--in other words, more in keeping with the wishes of the people and republican ideals. Election by direct vote, it is claimed, gives the people right to feel that an officer is directly responsible to them. But in practice it is questionable if the people make proper use of the privilege. Too few people care what kind of officers serve them, especially if some selfish advantage is to be gained. A happy compromise between the democratic ideal and the

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[1] A Manual of Educational Legislation. U. S. Bureau of Education, 1924, No. 36, p. 14-15.
[2] Ibid., p. 14-15.
[3] Ibid., p. 16-18.

method that will insure the best public officials is necessary if the former and latter are not found to be one and the same.

The present plan in New Mexico of district judges appointing county boards is not desirable, but is as good, perhaps, as any plan of appointment. Appointment in any case depends, it is true, on the caliber of the person or persons who do the appointing. Politics, lack of knowledge about school affairs, and possibly local business interests, may all tend to make appointments of a poor caliber. Election of a county board would be better, it seems, as it is unquestionably true that of the two, the county board and the county superintendent, the latter should be appointed. The best practices favor election of at least one or the other. If appointment must be the method for one or both, it would be wise to remove appointment as far as possible from local politics.

The county organization should be, as far as possible and practical, a miniature form of the state plan of organization. The county board should be the controlling power of the county schools, with the county school superintendent subordinate to the board and act-

ing as its executive officer.[1] Where the county superintendent derives his authority directly from the people by election, and the county board, which is, or should be the superior power, derives its authority indirectly, a condition arises much like the one existing in the state department—two controlling powers acting independently of each other. This condition can be prevented to some extent by legislation specifically defining the powers of each, even though one may be elective and the other appointive.

The restriction in this Section prohibiting the appointing of more than two board members from the same political party is trite, and should be laid on the shelf-with other antiquities.

It is considered advisable to appoint or elect school board members at large, although the requirement that one must come from each of the three county commissioners' districts imposes little handicap; and no doubt under some circumstances is advantageous.

Little argument can be advanced to justify having a county school board of four members. The recommended

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number is five or seven, with five preferred in ordinary-sized counties. Four only opens greater possibilities for deadlock on vital problems, therefore, encouraging pairing of votes and compromising to a greater degree.

Like the state superintendent of public instruction, the county superintendent should not be a member of the board under whom he works. A superintendent has no right to vote on legislative work that he is to execute; he should take no part except to act in an advisory capacity to the board.

Instead of allowing a set amount per diem for days in actual attendance for each board member, it is advisable to fix an amount per year for each member, as was proposed for members of the state board. This discourages unnecessary meetings and encourages the transaction of business expeditiously. Discontinuance of salaries for board members is recommended in most of the state surveys. It is necessary, when yearly salaries are allowed, to require at least four meetings per year, spaced to occur at proper times.

What is written in the first paragraph of Section 803 is no more than should be demanded of officers with as much authority as the county school board has.

The regulations permitting dismissal of board members are those usually considered sufficient, if well grounded. The degree or extent of the charges should be determining factors. No county school board member should be dismissed without opportunity for a hearing; it should be so provided in the Code. It might be well that specific mention be made that dismissed board members shall have the right of appeal to the state board, especially on charges involving matters of fact.

SECTION 804. Except with respect to Independent and Union High School Districts, the County Board of Education shall have supervision and control of all rural schools and districts, and of sites, buildings, equipment and funds of said districts, with the power to employ and discharge all teachers and all school employees of said schools, subject to the limitations herein otherwise provided; provided that the County Board of Education may in its discretion, delegate to the County School Superintendent the power to employ and discharge all teachers and school employees. Contracts involving the expenditure of more than two hundred dollars shall be in writing. Contracts involving the expenditure of five hundred dollars or more shall be in writing, and upon sealed competitive bids, after notice and advertisement of such bids shall have been published once a week for four consecutive weeks in some legal newspaper of general circulation in the county; provided notices and advertisement shall not apply to teachers' salaries. When plans and specifications for the erection of school buildings shall have been changed, altered or revised after advertisement of bids for the construction thereof, the governing Boards shall be required to re-advertise for bids to cover minor alterations or changes in plans required to correct errors or omissions in the original specifications.

The objection to this Section is that the county school board should not have power to appoint teachers independently. The law should provide that no teachers shall be appointed by the board except on the recommendation of the county superintendent.[1] Where the county superintendent is a properly trained educator this is assurance that the personnel of the teaching corps will be up to the proper educational level. The average school board knows little about the qualifications of a good teacher. The above legal regulation would tend to limit the possibility of crowding school faculties with relatives, friends, and political favorites. In New Mexico under present conditions, in some cases it makes little difference who does the appointing; some boards are as well qualified to select good teachers as are the superintendents.

Professionally speaking, since the superintendent is responsible for getting service from the teachers, organizing and controlling them, he should have some say in choosing them. Likewise, with dismissal; if the

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The Educational System of South Dakota. U. S. Bureau of Education, 1918, No. 31, p. 252.

superintendent is to wield proper authority, he should have positive authority in matters of dismissal. In few instances should dismissal occur without the superintendent's recommendation.

SECTION 805. Rural school districts may be changed or consolidated after a petition, filed with the County Board of Education prior to the first day of April in any year, containing the signatures of qualified electors of the respective districts affected, to the number of 15% of the electors of each district. The County Board of Education shall, within ten days after the filing of such petition, call an election in each district affected upon the question, to be held under the supervision of school directors. Said election shall be called, conducted, canvassed and proclaimed in substantially the same manner as is provided in this Act for bond elections. If a majority of the qualified electors in each district shall vote in favor of the consolidation or change, it shall be made upon order of the County Board of Education, but an election on the question of consolidation or change, shall not take place in any district oftener than once in two years, nor shall the order of consolidation or change be effective until July 2nd, next following the making of such order. In no case shall any consolidation of or change in boundaries in school districts be made so as to reduce the assessed valuation of any district affected by such change or consolidation to a point where the bonded indebtedness is greater than six per cent of the assessed value of all property remaining in any such district.

In the Osceola Code[1] the right to change or consolidate rural school districts is given to the county board, without vote of the people. This plan seems

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[1]Cubberley, E. P. State and County Educational Reorganization, p. 61-62.

advisable. The control and management of the schools are entrusted to the board, and, therefore, they should not be unduly handicapped in matters of organization.[1] If the voters are dissatisfied with the board's action, recourse would be through the polls, directly or indirectly. The plan in this State is clumsy and slow. The law should specify that creating sub-districts is for convenience in regulating attendance and supervising buildings only, and in no way is intended to affect the larger district organization, the county.[2] The county is the best unit of organization; districts should be created as auxiliaries in minor matters only. The right to create sub-districts should be, according to the Osceola Code, on the basis of teachers, three or less being required for a second-class attendance sub-district, and four or more for a first-class attendance sub-district. New Mexico really needs a somewhat similar plan to make the State a strong county-unit system. City districts will be discussed under Section 817.

SECTION 806. All districts shall be as nearly square

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[1] The Educational System of South Dakota. U. S. Bureau of Education, 1918, No. 31, p. 71-75.

[2] See attendance sub-district plans provided for in Cubberley's State and County Educational Reorganization, p. 59-68.

as the topography will permit. Hereafter in no event shall any consolidation in ordinary rural districts be made which will make any side or boundary line thereof longer than ten miles and in case of consolidated districts longer than twenty-five miles, nor shall the long-side or boundary line of any district, ordinary or consolidated, be greater in length than twice the length of the shortest side or boundary line.

The provisions of this Section are possibly adequate in practice today, although, with the new idea of bringing the child to the school, rather than the school to the child, there is danger that the limits defined are too narrow. This is a detail that should be left, perhaps, to the county board or state board instead of being regulated in the statutes.

SECTION 807. Upon changes or consolidation, under this Chapter, the County Board shall make such reapportionment of the resources, debits and credits of the affected districts as shall to it seem proper, subject to review by the State Board of Education upon application of the Board or School Directors or taxpayers aggrieved.

This Section offers no objections and invites no comment.

SECTION 808. Consolidations of rural school districts made in two or more counties may be affected in the same manner and subject to the same restrictions as provided in the last three preceding sections and the County Boards of Education of the territory or districts affected shall jointly act in the proceedings to consolidate. The County which had the largest average daily atten-

dance within the territory consolidated shall govern said consolidated districts as though it were wholly within its own territory, except as to the making of tax levies. Funds of the fractional part of the consolidated district in the servient county shall be transferred from time to time to the County Treasurer of the dominant county and credited to the consolidated district.

In consolidated districts, according to the Osceola Code,[1] the best policy is to have the joint district under the educational, statistical, and financial control of the local board of education, and the supervisory control of the county superintendent of education in which the school-house is located. So far as could be learned, the plan in this State works to no disadvantage. The Osceola Code[2] states that consolidation may be made by an agreement between the two boards without any special election or authority from the people. This provision seems better, as there is little likelihood of the board acting contrary to the wishes of the people. The problem of consolidation is likely to receive better consideration by the board than it would if subjected to popular vote.

SECTION 809. The County Board of Education shall have power to acquire real estate by way of eminent domain as in the case of railroads. It shall also have power to issue school district bonds in the manner provided for in

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[1]Cubberley, E. P. State and County Educational Reorganization, p. 60.
[2]Ibid., p. 60.

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BONDING DGS. The County Board of Education shall have power to acquire real estate by gift or eminent domain as in the case of railroads. It shall also have power to issue school district bonds in the manner provided for in

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this Act. The County Board of Education may constitute any Board of School Directors its Agent to execute any ministerial duties, including repair to and maintenance of school buildings, grounds and equipment and the purchase of fuel and school supplies. Such County Boards may also call upon the Boards of School Directors to submit their recommendations as to teachers to be employed in their several districts, and to submit recommendations as to budget requirements.

The authority given in this Section rightfully belongs to the board, and should be included in the Code.

SECTION 810. In anticipation of the collection of taxes for which levies have previously been made, county and municipal boards of education with the consent of the Educational Budget Auditor may borrow money for school maintenance expenses upon certificates of indebtedness bearing interest at rate not in excess of eight per centum per annum. Such certificates of indebtedness shall be issued on the faith and credit and on behalf of the district for which such money is borrowed, and the total amount of such certification issued and unpaid by a district shall not at any time be in excess of the budget allowance for maintenance of schools in such district for a period of ninety days. The moneys thereafter first credited to the School Maintenance Fund of the respective debtor district shall be paid in satisfaction of such certificates of indebtedness.

When tax levies for the construction of, and repair to school buildings have previously been made, county and municipal boards of education may borrow on certificates of indebtedness for the purpose of meeting immediate payments on contracts for such repairs and improvements. Such certificates of indebtedness shall be issued on the faith and credit and on behalf of the district for which such money is borrowed, and may bear interest at rate not in excess of eight per centum per annum. The moneys thereafter first collected on such levies shall be paid in satisfaction of such certificates of indebtedness.

This Section is more or less necessary under the

present program of finances. It is well that the county and municipal boards have authority to borrow. It would be better to reorganize matters in such a way as to make this unnecessary except in extremely rare cases. If permission to borrow is necessary, it should come from one of the departments of the state board of education. The real goal in reorganization is to keep matters referring directly to education in the hands of special machinery set up to control education.

SECTION 811. Annually before July 15, the County, Municipal, Independent and Union County High School Boards of Education shall make a report to the State Superintendent of Public Instruction of the financial and administrative transactions of such Boards for the last preceding year, and with respect to such other matters as the State School Superintendent may require. Municipal, Union High School and Independent Boards of Education shall at the time of making such reports to the State Superintendent of Public Instruction file a true and correct copy thereof with their respective County School Superintendent.

The state department of education is entitled to the information stated here; also from time to time other data as required. The laws should make it clear that schools must furnish all information requested, if they are to share in state aid. The county superintendent should have copies of this information also, as his office is entitled to any data and facts necessary for efficient administration.

SECTION 812. In each rural school district there shall be a "Board of School Directors" composed of three persons. In newly created districts the County School Superintendent shall appoint the three members of said board to hold office until the next succeeding election for school directors. All rural school directors shall be elected for a term of three years, and in any newly created district at the first election of school directors, one shall be elected for a term of one year, one for a term of two years, and one for a term of three years, so that annually there shall be elected in each rural school district, one director, except when it shall be necessary to elect more in order to fill vacancies.

Districts, or what should be called attendance sub-districts, should have a board of school directors. Second-class districts, those having less than three teachers, should have one director only, who should act more as a custodian of property and medium between the people and the county board, rather than be entrusted with duties given to regular school boards.[1] Educators see a great waste of time and energy, as well as a handicap to the schools, in having many lesser boards of three to five members, with powers they are not capable of handling well. The second-class districts, schools with four or more teachers, should have boards of three members, with more power; especially power to instruct county boards of education to add to the ballots the question of levying a sub-district tax, not over 2½ mills in amount; to pro-

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[1]Cubberley, E. P. State and County Educational Reorganization, p. 62-63.

vide additional specified material equipment of educational facilities in addition to what the county board of education can provide, and if voted, to direct its expenditure.[1]

The term of office and manner of electing board members are satisfactory.

SECTION 813. On the second Tuesday of March of each year the directors serving at that time shall post notices of an election to be held by them on the first Tuesday in April by the qualified voters for one school director. Only legal voters, residing in said district shall be qualified to vote at said election; the votes shall be by written or printed ballots, and the elections shall be held between the hours of eight A. M. and six P. M. on the first Tuesday of April, at the public school house or some other convenient place to be specified in said notice; the result of said election shall be certified by said directors to the County School Superintendent, and the terms of office of said directors shall begin on the first Monday of May following their election. The directors so elected shall take and file with the County School Superintendent, before the first Monday of May, an oath of office, which shall be administered by the directors serving, and in said oath shall be set forth the number of said school district.

Any school director who shall fail to call the election and post the notices therefor or to correctly certify the result of such election as required in this section shall be deemed guilty of malfeasance in office and shall be disqualified from again holding said office by appointment or otherwise for a period of one year thereafter, and shall be finéd not less than twenty-five dollars nor more than one hundred dollars, or imprisonment in the county jail, not less than twenty-five nor more than one hundred days. And it shall be the duty of the County School Superintendent to make affidavits of the facts to the District Judge or before any Justice of the

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[1] Cubberley, E. P. State and County Educational Reorganization, p. 62-63.

Peace and to act as prosecuting witness against said director. The said school directors shall truly canvass the vote cast at the election and send the ballots, together with their certificate of election, to the County Superintendent, where said ballots shall remain in his custody for a period of thirty days, during which time notice of contest may be given by any person interested. If no such notice shall be given within such period, the County School Superintendent shall destroy such ballots. But if such notice of contest be given it shall be his duty to turn the same over in exactly the same conditions as they were received by him to the County Clerk of his county where they may be examined under the same terms and conditions as ballots in other cases of contested elections for county officers, and the same provisions shall apply to a contest for the position of school director as is provided by law for contesting other county officers.

SECTION 814. At each election of such directors, only one director shall be voted for, except in case of an election to fill a vacancy for an unexpired term.

SECTION 815. The said Board shall elect a Chairman and Clerk. Vacancies in said Board shall be filled by appointment by the County Board of Education, the appointee to hold office until the next succeeding election of school directors.

No comment on these Sections.

SECTION 816. On or before August 1st, of each year, the clerk of the Board of School Directors shall make and certify to the County School Superintendent a complete census of unmarried persons within the district under the age of twenty-one years, and over the age of five years, stating in full, names, ages and sex of such persons. For such enumeration the clerk of said board of school directors shall be paid from the funds of the district the sum of three cents for each genuine name enumerated. Any clerk wilfully enumerating on said list a dead or fictitious person, or one not a resident of his school district, or one not coming within the age limits, or who shall fail to make the enumeration herein provided for and transmit the same to the County School Superintendent, upon conviction, shall be fined not more than $100, or be imprisoned

not more than thirty days, or by both such fine and imprisonment, in the discretion of the court.

The method of census taking advocated for New Mexico has outgrown its usefulness, except as a means of securing a list to start a continuing census. Until a recount is necessary, a census taken by actual count should be kept alive by statutory regulation requiring parents, schools, and other organizations and individuals capable of furnishing information, to give notice of any information that would alter the census records. A census record should be in detail. The law ought to provide that a record be made of the following: name of child; sex; date of birth; on whose authority date of birth taken; place of birth; name of parent or guardian; full address of abode, including school-attendance district; physical condition; mental condition as far as may be determined; school attending; position in school; reason if not attending school; if employed, where, how and when; vaccination certificate record. All records should be kept on a duplicate card system, and according to a form prescribed by the state superintendent of public instruction. The attendance department should have one set of cards, and the school attended the other, whether public

or private school.[1]

What the age limit for the census should be, depends on the purpose of the census. If it is purely for enforcing compulsory attendance laws, the law would determine the limits. The Osceola Code uses 5 to 18 years. If apportionment is made on the basis of the number of children of school age in the district, it makes little difference what the age limits are; it is commonly thought that by widening the limits the rural districts are benefitted. The matter of apportionment on the basis of census age has been discussed under Article XII of the Constitution.

Paying the census taker at the rate of so much per head enumerated is a plan that encourages padding the census role. To recommend a method that would overcome this objection is difficult, as any community entrusted with this duty could likely avoid the law if it so willed. The matter should be left to the board, with the understanding that it is free to expend whatever amount is necessary to secure a reliable census. If apportionment

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[1]Cubberley, E. P. State and County Educational Reorganization, p. 185-188.

were not made on the basis of census enrollment, local boards would have little or no motive to make the census inaccurate. The Oklahoma Survey Committee recommends that in cities the superintendent direct and the teachers take the school census.[1]

SECTION 817. Where the average daily attendance for the last two preceding school terms is less than 100 in school districts within incorporated cities, towns and villages, including the territory thereto annexed for school purposes, and such vacancies have been certified by the County School Superintendent to the County Board of Education, the said school district within such incorporated cities, towns and villages including the territory thereto annexed for school purposes, shall be classed and governed as rural districts and be within the jurisdiction and control of the County Board of Education, and if and when such districts shall have an average daily attendance of 100 or more pupils for two or more consecutive school terms and such fact shall have been certified to the State Superintendent of Public Instruction, such districts shall become Municipal districts upon the certification of the State Superintendent of Public Instruction, and shall be governed in all respects as Municipal School Districts.

City, town, or village districts, like attendance sub-districts (as discussed under Section 805) should be created mainly on the basis of teachers employed. The Osceola Code[2] states that all school districts which: employ twenty-five or more full time teachers; maintain

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[1] Public Education in Oklahoma. U. S. Bureau of Education, 1923, No. 14, p. 72.

[2] Cubberley, E. P. State and County Educational Reorganization, p. 65-68.

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SECTION 817. Where the average daily attendance for the last two preceding school terms is less than 100 in school districts within unincorporated cities, towns and villages, including the territory thereto annexed for school purposes, and such vacancies have been certified by the County School Superintendent to the County Board of Education, the rural school district within such incorporated cities, towns and villages including the territory thereto annexed for school purposes, shall be classed and governed as rural districts and be within the jurisdiction and control of the County Board of Education, and if and when such districts shall have an average daily attendance of 100 or more pupils for two or more consecutive school terms and such fact shall have been certified to the State Superintendent of Public Instruction, such districts shall become Municipal districts upon the certification of the State Superintendent of Public Instruction, and shall be governed in all respects as Municipal School Districts.

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[1] Public Education in Oklahoma. U. S. Bureau of Education, 1923, No. 14, p. 72.
Cubberley, E. P. States and County Educational Reorganization, p. 65-66.

a full elementary and secondary course of instruction; employ a city superintendent of schools not required to teach to exceed one hour a day; and who shall have a board of five members, or who shall organize such a board, shall be known as city-school districts and shall be under the control and management of city boards of education, the same as rural schools are under the county board. City districts according to the mentioned Code should be divided into two classes, those employing twenty-five or more, but less than four hundred teachers, being cities of the second class; and those employing 400 or more teachers, cities of the first class. If a similar method of classification were in force in New Mexico Section 815 would not apply, that is, unless the number of teachers fell below twenty-five; in which case the school would drop back to an attendance sub-district of the second class.

Classifying schools according to number of teachers is evidently better than pupil basis. Unless a district is actually able to supply an adequate number of teachers to control and manage its own schools it would be better that it remain in the larger unit, the county, for its maintenance.

The part of the law stating that schools with an

average daily attendance of 100 or more pupils for more than two consecutive terms, when such fact shall be certified to the state superintendent, shall become municipal districts on certification of the state superintendent, is a provision that tends to break down the county unit rather to build it up. The idea of a county unit of organization is to take in a larger area so that the wealth may be pooled and a more uniform system of schools maintained. Instead of encouraging a number of small straggling independent districts, the purpose should be to discourage them.[1]

SECTION 818. Any rural school district in which the average daily attendance for two consecutive school terms exceeds four hundred (400), may become an independent rural school district upon the certification of the Superintendent of Public Instruction and shall thereafter be governed by a board of school directors appointed, or elected, and holding office, as in other rural school districts, but which shall have the same powers, and perform the same duties, as are provided by law for municipal boards of education; except that bond elections shall be held, conducted and canvassed, and the bonds of such districts issued, as in cases of ordinary rural school districts.

That for the purpose of voting bonds for the purchase of grounds and erection and furnishing of school buildings, such consolidation shall be complete from the time such order is signed by the County Board of Education as aforesaid. And Provided, further, that any bond election of any school district which has heretofore been held between the time of signing of such order for consolidation and July 2nd of any year is hereby validated,

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[1] Public Education in Oklahoma. U. S. Bureau of Education, 1923, No. 14, p. 15-19.

and all bonds by authority of such election are hereby validated and confirmed.

The criticism here would be much the same as under the last paragraph of the preceding Section. The above plan caters too much toward the return to the old district system, unless carried out as suggested under Section 805; it tends to weaken the county system of organization, which educators with little dissent believe to be the best type of organization.[1]

Chapter IX (N. M. School Code)

MUNICIPAL SCHOOLS

SECTION 901. Except as otherwise provided in Section 817 hereof, cities, towns and villages, including territory annexed thereof for school purposes, shall be known as municipal schools and districts.

SECTION 902. Except as otherwise provided by law, municipal school districts and the public elementary and high schools therein shall be governed by a Board of Education in the name of the "Board of Education of the ..... of....., New Mexico"
(City, town or village)
and as such except as otherwise provided have like powers over the schools and districts within its jurisdiction as those possessed by County Boards of Education over their respective schools and districts. In addition, the municipal Boards of Education shall have power to fill vacancies in their membership, by majority vote of the members of the Board, the appointee to hold office until the next succeeding election for members of such Board.

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[1]The Educational System of South Dakota. U. S. Bureau of Education, 1918, No. 31, p. 292.

What has been provided in these two Sections is plainly sound. Both city and county boards should have full legal control over the schools under their jurisdiction, according to law and to the rules and regulations of the state department.

SECTION 903. The said board shall be composed of five members, residents of the district, who shall be elected for a term of four years from March first succeeding their election. They shall serve without pay. No person who is a state, county or municipal officer, or teacher in any school or student attending any school, shall be a member of said board.

SECTION 904. On the first Tuesday of April in each odd numbered year, the qualified electors of the district and the territory attached thereto for school purposes shall elect at large two or three members of said board, as the case may be, to succeed those now holding office whose terms expire. Said elections shall be held, conducted, returned and canvassed as in cases of elections of officers in the respective incorporated cities, towns and villages, except that no registration shall be required.

Five is the preferable number for a school board, especially in cities no larger than those found in New Mexico, or which are likely to be found in the State for a number of years.[1] It would be better to have the length of term five years to make it possible for one new member to take office each year. It is wiser to have the

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 76-79.

incoming member take office in March, or earlier, instead of May, as was formerly true. The change permits a new member to take part in electing the teachers for the new school year, and to otherwise participate in school matters bearing on the early future.

If members were elected for a period of five years, there would be no need to elect more than one each year. The provision that members are to be elected from at large is commendable; the law will do much toward eliminating ward politics and petty rivalry among board members.

SECTION 905. From among its members the board shall elect a President, Vice President and Clerk. The clerk shall receive such compensation as the board shall fix, but not in excess of $300.00 annually where the average daily attendance of the whole district is less than one thousand pupils, and not in excess of $600.00 annually where the average daily attendance is more than one thousand pupils. He shall perform the enumeration duties as is required in rural districts without extra compensation.

The approved practice is to allow no salaries to members of city school boards.[1] In small school systems the superintendent of schools usually has time to act as

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 53, 78.

incoming member take office in March, or earlier, instead of May, as was formerly true. The change permits a new member to take part in electing the teachers for the new school year, and to otherwise participate in school matters bearing on the early future.

If members were elected for a period of five years, there would be no need to elect more than one each year. The provision that members are to be elected from at large is commendable; the law will do much towards eliminating ward politics and petty rivalry among board members.

SECTION 908. From among its members the board shall elect a President, Vice President and Clerk. The clerk shall receive such compensation as the board shall fix, but not in excess of $800.00 annually where the average daily attendance of the whole district is less than one thousand pupils, and not in excess of $800.00 annually where the average daily attendance is more than one thousand pupils. He shall perform the enumeration duties as is required in rural districts without extra compensation.

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1928, No. 16, p. 33, 78.

clerk to the board. In larger schools where the clerk's duties are heavy some one should be employed to act as board clerk. Extensive search revealed nothing that would justify employing a board member as clerk at a salary. The fixing of the clerk's salary should be left to the board itself, especially where the clerk is not a board member.

The term average daily attendance opens up a big field for abuse, here as well as elsewhere, unless clearly defined. The school laws should leave, according to the Osceola Code,[1] the definition of the term average daily attendance to the state board of education to act on according to the recommendation of the state superintendent.

SECTION 906. The said board shall have the same powers and duties respecting its districts and schools as are possessed by County Boards of Education. It may also employ a Superintendent who must be of good moral character and possess a first grade teacher's certificate, or scholastic standing equivalent thereto. Hereafter such districts shall not, however, exceed fifteen miles square in area, nor shall any territory for elementary school purposes be included within such district to any point five miles beyond the incorporated limits of such city, town or village. Petitions for changes and consolidations shall be filed and elections held in substantially the same manner as in case of rural school districts. Changes

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or consolidations shall be ordered jointly by the municipal and county boards of education where such changes or consolidations affect both municipal and rural districts.

The regulations in this Section do not go far enough. It would be well to specify that the board may select the superintendent for a period of four years; in fact, it is recommended that the law state that the board shall employ him for four years with a probationary period of one year.[1] Nothing was found in the law that would prohibit employing a superintendent for any period. Dismissal after a contract is entered into should be only on four-fifths vote of the board on charges of immorality, incompetency, insubordination, or wilful neglect of the duties of office.

A long term of office for a superintendent is desirable; it gives more permanence, and accordingly, more opportunity to engage in real administrative work, such as carrying out a constructive program. In case of longer tenure high qualifications should be established in order to lessen the likelihood or chances of securing poor superintendents. It would be desirable to have a special supervisor's or administrator's certificate, as heretofore

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[1] Cubberley, E. P. State School Administration, p. 650-653.

recommended; and require all superintendents to hold or possess one.

There is some question about the prescribed district limits. Local units should control this matter the same as was recommended for the creation of city districts and consolidations.

SECTION 907. The said boards shall before July 15th of each year transmit to the County School Superintendent a report substantially as specified in Section 405 hereof.

It is proper for city boards to report to the county each year, as well as to the state superintendent in order that these two units may articulate.

This Chapter of the Code should be supplemented by a Section defining the major duties of the board and the superintendent as they relate to each other. What powers the superintendent should have is not a settled question. It is agreed, however, that many of the duties that school boards attempt to handle really belong to the superintendent. This is especially true in New Mexico, where ignorant boards attempt to discharge duties that only experienced and professionally trained educators are able to handle properly. The Osceola Code prescribes the

following duties for the superintendent:

"Each such superintendent shall act as the chief executive officer of the board of education for the school district electing him, and shall have general coordinating authority and oversight over the work of all executive officers and other employees of the school district. He shall have full responsibility for the courses of instruction, the selection of text and supplemental books, and the selection, promotion, assignment, transfer, or dismissal of assistant superintendents, special supervisors, principals, and teachers, the board of education acting on all such matters only on his recommendation. In case of a conflict in authority between the superintendent of education and any other executive officer, the superintendent shall decide, unless the board of education shall otherwise order, in each case."[1]

A section somewhat like this in the New Mexico School Code would aid greatly in limiting school boards from usurping functions which rightfully belong to superintendents.

Chapter X (N. M. School Code)

HIGH SCHOOLS

SECTION 1001. Any school district which may hereafter have twenty or more eighth grade graduates enrolled for high school work, may establish and maintain a high school therein upon the filing of proper certificate with the Secretary of the County Board of Education by the County School Superintendent; PROVIDED, however, that high schools established at the time this Act takes effect and having an average daily attendance of eight or more regularly enrolled high school pupils may

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[1]Cubberley, E. P. State and County Educational Reorganization, p. 77.

be maintained and budget allowance therefor shall be made.

Under the proper kind of county organization it is the duty of the county board to provide adequate secondary school facilities for all rural school children in the county. The county board must maintain high schools properly situated to care for the needs, or else arrange to have city school districts provide accommodations at the expense of the county. The county board should have authority to locate secondary schools, combine districts, or perform other acts which make it possible to provide adequate school facilities. Small straggling high schools are to be discouraged, especially where it is practicable for existing schools to care for the needs, even though to do so would make it necessary to transport students over a number of miles.[1]

The statutory plan provided is weak, and should give way to the foregoing recommendation, or to some other plan that would equalize educational opportunity. Existence of a high school should be a requisite for securing city classification, and therefore no other provision for

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[1]Cubberley, E. P. State School Administration. p. 232-236.

establishing high schools is necessary.

SECTION 1002. Two or more contiguous school districts, municipal or rural, or either or both, having a combined average daily attendance of two hundred or more pupils, may unite and form a Union High School district for the purpose of establishing and maintaining a high school therein.

SECTION 1003. Upon the petition of the governing authorities of school districts to unite and form a union high school district, describing the districts, and a petition of the electors in each district to the number of fifteen per cent of the total vote cast therein for Governor at the last preceding general election held therein, the Board of County Commissioners shall call an election to be held in said district upon the question of forming said district for union high school purposes. The election shall be called, conducted, canvassed and proclaimed in substantially the same manner as is provided for bond elections herein; provided, such consolidation shall not be effective unless a majority of the legal voters voting on the question shall vote in favor thereof in each of the several districts affected.

SECTION 1004. After a favorable vote upon creating a union high school district the governing authorities of each of the districts forming the union district shall delegate one of its members as a member of the Union High School Board and he shall hold such delegated office at the pleasure of the board appointing him, so long as he shall remain a member of the first named board. Where a union high school district is created by the consolidation of an even number of rural and municipal districts or either or both, one director of such union high school district to serve at large from the several districts so constituting the same shall be appointed by combined members of the boards of all districts included within such union high school district; and in the event such members fail to agree upon the selection of such member to serve at large, he shall be appointed from within such union high school district by the County Board of Education. Such member shall hold office during the term of the remaining members of such board. The Union High School Board shall have the same powers and duties as municipal boards of education.

SECTION 1005. As between the same districts not

more than one election under Section 1003 shall be held in any two years. The creation of districts hereunder shall take effect on the first day of July succeeding the election. No district, or fraction thereof, shall be included in a Union High School district unless the majority of the electors voting in the district shall be in favor of the Union district.

Comment under Section 1001 applies equally well to this Section. The method outlined here might be used to establish the fact or to compel the county board to consider establishing a county high school, consolidated or union, at some point in the county. It is recommended that nothing more than a petition to the county board be required to secure consideration. An appeal to the state board of education for final settlement should be allowed in case of disagreement.[1]

SECTION 1006. Union High School districts may be dissolved upon petition and election of similar character as near as may be as herein provided. Upon dissolution the County School Superintendent shall apportion the liabilities and assets of the district as to him shall seem just, the same to be subject to the approval of the State Superintendent of Public Instruction.

Whatever plan is finally adopted for the establishment of high schools should also be available to dissolve such schools in case there is no further need, or

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[1]Cubberley, E. P. State and County Educational Reorganization, p. 59-68.

some better plan is worked out.[1]

Chapter XI (N. M. School Code)

TEACHERS

SECTION 1101. Every teacher shall present his certificate to the school authority employing him before assuming the duties of a school teacher; report on taking charge of a rural school and immediately upon closing the term; enforce the course of study, the use of adopted text books and the rules and regulations prescribed for schools; hold pupils to strict account for disorderly behavior on the way to and from schools; exercise a supervision over pupils on the play grounds and at recesses, and in rural school temporarily suspend pupils for infractions thereof; report to the County School Superintendent all suspensions hereunder when same are made in rural schools; keep a school register which shall be preserved as a record of the school; furnish such monthly reports to superintendents and governing authorities as they may require, and in rural schools at the end of each term make report to the County School Superintendent showing the number of pupils attending the school during the term, giving names, ages and sex, the average daily attendance and the branches taught.

No harm is done in enumerating the important duties of the teacher, unless it be made to appear that no other duties may be imposed. The safest way is to provide that teachers are required to perform whatever duties the board or superintendent may prescribe that are within the terms of the contract and the usual duties of teachers

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[1] Lumbrey, E. P. State and County Educational Organization, p. 57-58.

under the same or similar circumstances. Since all the duties cannot be enumerated it would be better to provide for services in a way that no question would arise over what the teacher should do.

Instead of compelling a teacher simply to present her certificate before actually starting work controversy and inconvenience can be avoided by making it illegal to contract to teach without possessing a valid certificate. The law so reads in Illinois, and has proved highly satisfactory.

SECTION 1102. No teacher shall use any sectarian or denominational books in the schools, or teach sectarian doctrine in the schools, and any teacher violating the provisions of this section shall be immediately discharged, his certificate to teach school revoked, and be forever barred from receiving any school moneys and employment in the public schools in the state. Provided, that this section shall not be construed to interfere with the use of school buildings for other purposes authorized by the County Board after school hours.

Although this Section is sweeping and drastic it is proper to prohibit by law the teaching of sectarianism. It might be better to provide that the state board of education have the right to reinstate a teacher after the first offense, but on second conviction that she be forever barred from teaching in the public schools.

While there is a law prohibiting sectarianism in the public schools, there is evidence that the law is not being enforced, and that sectarianism is being taught. Little good what is written in the statute books can do unless the law is actually enforced. Sectarianism has no place in American public schools. Efforts should be made to prevent any violations, regardless who or what denominations are offenders. Keep church and state separate is one of the principles on which the United States were organized; and the closer this principle is adhered to the better for all persons and factions. The superintendent or board who allows religion to enter into the matter of choosing teachers indirectly violates the spirit of the law prohibiting the teaching of sectarianism.

SECTION 1103. Any person who teaches in the public schools without the required teacher's certificate shall forfeit all claim to compensation for services rendered.

Under Section 1101 mention was made of the regulation requiring a teacher to submit a certificate before assuming her duties. The penalty prescribed here places on the teacher the burden of actually having a certificate before beginning work. This regulation may seem

unjust in a few instances, but it is prudent, as the State has no way of checking up on certificates in time to prevent teachers from working a month or more without certificates. As local boards are often lax in this matter, it is necessary to some extent to require teachers to assume teaching duties at their own risk if they have no certificates. Without some penalty the law would probably be ineffective.

SECTION 1104. Not more than one teacher shall be employed:

(a) In rural schools, to every twenty-five pupils or major fraction thereof;

(b) In municipal schools, to every thirty pupils or major fraction thereof; and

(c) In high schools, to every twenty pupils or major fraction thereof.

Where the total number of pupils in any school as classified in the preceding sub-section a, b, and c, is less than the minimum therein stated but in excess of eight, one teacher may be employed for such school. Provided, that in high schools established at the time this Act takes effect and having less than 31 and more than 18 regularly enrolled high school pupils in average daily attendance, two teachers may be employed. And, provided, further, that in rural schools in which the average daily attendance during the preceding school year was less than 38 and more than 30, and in which the entire eight elementary grades are taught, two teachers may be allowed.

The above numbers shall be computed upon the basis of average daily attendance. Teachers of special subjects shall not be included in the authorized number of teachers mentioned in this section, but no teacher of special subjects shall be employed unless there are at least forty regularly enrolled high school pupils in average daily attendance, and not more than one teacher of special subjects shall be employed for each forty pupils or major fraction thereof, provided, however, that

in every high school with fifty or more pupils, one special teacher in addition to those already provided for may be employed providing that such teacher is qualified to teach both Spanish and English and does teach classes in Spanish, and in no event shall the total number of teachers of special subjects exceed six in number.

The State should place no restrictions on the county or other local units on the number of teachers employed. In fact, the State should place a premium on providing a large teaching corps.[1] The local units have a right to determine the number of teachers to be employed. It is desirable for the State to require at least one teacher for a certain number of pupils in each class. The standards in this Section are to be condemned as too low in many cases. Under proper conditions teaching efficiency has been found not to decrease up to forty pupils to a class.[2] Fewer than twenty-five is often desirable, however.[3]

Instead of saying that at least so many pupils must be in average daily attendance before a school may be established or continued, this matter should be left to the county board to determine without unnecessary restric-

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[1]Cubberley, E. P. State School Administration, p. 465-468.

[2]Almack and Lang. Problems of the Teaching Profession, p. 199-202.

[3]Ibid., p. 202-205.

tions. The county board should have the choice of furnishing transportation to the nearest schools, establishing schools, or possibly making allowances to maintain pupils in neighboring schools. Such legislation would tend more toward consolidation, and would curtail to some extent the practice of hiring teachers with families to swell the enrollment; or to use other like means to acquire an average daily attendance sufficient to secure establishment of a separate school.

The regulations for special teachers are no better than those for teachers in regular subjects. This matter should be left to the local boards, free from statutory restriction.

There is no justification for giving special mention to the Spanish language in the Code. Local needs and wants should control this matter; no state-wide regulation in favor of any foreign language should be made lest some locality be forced to suffer. Whether or not a foreign language should be taught rests largely on the purpose; whether the purpose is justifiable is determined by a number of factors.[1] It is true Spanish speaking people predominate in numbers in this State; or at least,

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[1]Inglis, Alexander. Op. cit., Chapter XIII, p. 447-478.

have predominated. But this is not sufficient reason why state-wide preference should be given to the Spanish language. English is the only tongue that should be specifically provided for by law; the teaching of other languages should be made possible in a general way only. In fact, preference should not be given to a foreign language any where in the United States. Any preference needed should be manifested in exercise of the power given to the local units to determine what shall be taught. The criticisms offered on page 31 concerning Code reference to the Spanish language are equally applicable here.

SECTION 1105. No Board of Education, County School Superintendent or Board of School Directors, or any member of such Boards, shall discharge a teacher without granting to such teacher full hearing and the right of appeal to the State Board of Education.

The above law is certainly just. Every teacher is entitled to notice of proffered charges, and an opportunity for a hearing.[1] It is recommended by educators that trials or hearings be as informal as possible, and that employment of legal counsel be discouraged. It

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[1]Almack and Lang. Op. cit., p. 231.
Trusler, H. R. Op. cit., p. 205-209.

would hardly be wise to place regulations in the Code on the latter points.

SECTION 1106. Teachers' institutes shall be regulated by the State Board of Education and the expenses thereof paid according to the budget allowance therefor.

The attorney general has ruled that institutes, so far as State support is concerned, have been legislated out of existence. Whether or not the opinion will hold is uncertain at this time. Institutes as now conducted in New Mexico should be abolished. They are nothing more than a short course designed to prepare teachers to take examinations for certificates. They do little to improve teachers in service.

Institutes the country over have changed greatly within the last few years. The old time institute has about ceased to serve any purposeful function. The new and better regulation is to leave the matter of institutes to the counties and cities, with the cooperation of the state department. The state department is not in a position to plan and regulate all the various institutes in a manner likely to serve the best interests of the individual communities. Institutes are still considered advisable, although with better educational facilities

for teachers they continue to lose their hold.[1] They have resolved themselves into a form of organized teachers' meetings.

SECTION 1107. For the salary purposes of this Act, teaching certificates issued by the State Board of Education shall be classified as follows:

I. Elementary Certificates:
   1. (a) First Grade on Credentials.
      (b) First Grade on Examination.
   2. (a) Second Grade on Credentials.
      (b) Second Grade on Examination.

II. Professional Certificates:
   1. For elementary or grade teachers
      (a) Five Year Professional
      (b) Life Elementary
   2. For High School Teachers
      (a) Five Year High School Certificate
      (b) Life High School Certificate

Each of said certificates designated shall be issued upon credentials or after examination. The minimum requirements for issuance of certificate are as follows:

I. Elementary Certificates:

1. (a) First Grade on Credentials; (a) Graduation from a standard approved four year high school covering at least 15 units of work, (b) a minimum of 16 semester hours or 24 term hours work in a standard college, university or normal school, (c) 9 months' teaching experience.

1. (b) First Grade on Examination; Examination in subjects prescribed by the State Board of Education with an average of 90% and no grade in any branch below 75%.

2. (a) Second Grade on Credentials: Graduation from a standard approved four year high school covering at least 15 units of work.

2. (b) Examination in subjects prescribed by the State Board of Education with an average of at least 75% with no grade in any subject below 60%.

II. Professional Certificates:

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[1]Almack and Lang. Op. cit., p. 168-170.

1. (a) Five Year Professional; Graduation from a standard approved high school comprising 15 units of secondary work and credentials from a standard college, university or normal school comprising at least 60 semester hours or 90 term hours.

1. (b) Life Elementary. Graduation from a standard approved high school comprising at least 15 units of work and at least 90 semester or 135 term hours work in an accredited college, university or normal school and 45 months successful teaching experience, 9 months of which must have been in New Mexico.

2. For High School Teachers:

(a) Five Year High School Certificate on credentials, graduation from a standard approved four year high school covering at least 15 units of work, or college entrance examinations covering same, and graduation from a standard college, university or normal school with an A. B. or a B. S. degree or their equivalents.

(b) Life High School Certificate on credentials, the same as 2. (a) plus evidence of forty-five months of successful high school teaching experience of which nine months must have been in New Mexico.

This Section has been revised and expanded by the state board according to the power of law given to them elsewhere in this Code. The new certificate rules and regulations are as follows:

Elementary Certificates

(Valid only in the first eight grades)

Second Grade on Examination:-- Granted upon passing an examination in the following subjects: Reading, Penmanship, Orthography, Grammar, Geography, Arithmetic, Physiology, U. S. History, U. S. Civics, New Mexico History and Civics, General Science, Pedagogy, New Mexico School Law and one industrial subject (Agriculture, Domestic Science, Manual Training, Bookkeeping, Commercial Law.) Minimum required 60%; average 75%. This certificate is valid for two years, and is subject to one renewal providing the holder thereof is engaged in

active school work and raises all the grades on this certificate that are below 75% to 75% or above, during the life of the certificate, or if all the grades are above 75%, it may be renewed by securing passing grades of 75% in at least two of the four subjects required for a first grade certificate by examination but not required for a second grade.

First Grade on Examination:-- Granted on passing examinations in same subjects as above and in addition English Literature, Current History, Psychology and one optional subject (Algebra, Botany, Zoology, Spanish.) Minimum required, 75%; average 90%. This certificate is valid for three and may be renewed for three years providing the holder thereof is engaged in active school work and attends at least one session in some accredited institution during the life of the certificate and secures at least six (6) semester hours or nine (9) term hours of credit.

Note.--Normal school or college credits will not be accepted in lieu of examination grades on either of the above certificates.

Second Grade on Credentials:-- Granted to applicants who are graduates of a four-year accredited high school covering 15 units of work which shall include one-half unit in each of the following: U. S. History, U. S. Civics, Physiology and one Industrial Subject, (Domestic Science, Manual Training, Agriculture or a Commercial Subject) and at least one-third unit in New Mexico History and Civics. An examination grade of 75% or above may be substituted for credit in New Mexico History and Civics but for no other subject. This certificate is valid for two years and is subject to one renewal provided the holder thereof is engaged in active school work and attends at least one session in some accredited institution during the life of the certificate and secures at least six (6) semester hours or nine (9) term hours of college credit.

First Grade on Credentials:-- Granted on same qualifications as second grade on credentials, and in addition, 24 term hours or 16 semester hours of college or normal work, one half of which must be in Education, and nine months' successful teaching experience, which must be properly certified. This certificate is valid for three years and is subject to renewal on the same conditions as the second grade on credentials.

Five Year Professional:-- Granted to applicants who present credits covering graduation from a four-year

accredited high school comprising at least 15 units of secondary work, and 90 term hours or 60 semester hours of work in a standard university, college or normal school. At least 16 semester hours or 24 term hours of the latter must be in Education. Credit or passing grade in New Mexico History and Civics is also required. This certificate is valid for five years and is subject to one renewal. It may be renewed provided the holder thereof is engaged in active school work and attends at least one session in some accredited institution during the life of the certificate and secures at least 8 semester hours or 12 term hours of college credit.

Life (Elementary):-- Granted on the same credentials as the Five Year Professional Certificate except that 135 term hours or 90 semester hours of university, college or normal work are required, and 45 months' teaching experience, 9 months of which must have been in New Mexico.

Kindergarten:-- Granted to applicants who are graduates of reputable kindergarten institutions and who present credit or passing grade in New Mexico History and Civics. This certificate is valid for three years. The one on credentials may be renewed indefinitely provided the holder is engaged in active school work. The one on examination may be renewed upon the same conditions as the First Grade Certificate by Examination.

High School Certificates

Junior High School:-- Granted on the same credentials as the Five-Year Professional Certificate for elementary grades, and in addition, 18 months' teaching experience, properly certified, nine months of which must have been in New Mexico. This certificate is valid for five years in a one, two or three year high school, and is subject to one renewal.

High School:-- Granted to applicants who present credentials covering graduation from an approved high school comprising at least 15 units of work, or college entrance examinations covering same, and graduation from a standard college, university or normal school with an A. B. or B. S. degree or their equivalents, granted on a minimum of 120 semester hours or 180 term hours, at least 15 semester hours or 22½ term hours, of which must be in Education, and credit or passing grade in New Mexico History and Civics. This certificate is valid

for five years in any high school in the state and may be extended under such conditions as the State Board may prescribe.

Life (High School):-- Granted on the same credentials as the five-year High School Certificate and in addition thereto, evidence of 45 months' successful teaching experience in high schools, nine months of which must have been in New Mexico.

Special Certificates

Special certificates are granted to teachers of special subjects, such as Home Economics, Manual Training, Agriculture, Physical Training, Music, Art, etc. The requirements are: high school graduation; 30 semester hours of college training, or the equivalent, 20 semester hours of which must be in the special field of subjects for which the applicant desires certification; and credit or passing grade in New Mexico History and Civics. This certificate is valid for three years and entitles the holder to teach in any grade, but only the subjects designated. It is renewable upon evidence that the holder thereof is doing satisfactory work and making such professional advancement as is satisfactory to the State Board of Education.

Vocational Home Economics:-- Granted to applicants who are to teach this subject under the Smith Hughes Act. Requirements are: Degree from a standard four-year college course with 25% of the credits required for graduation in home economics and 20% in related subjects (science and art); fifteen semester hours in education; at least two years practical experience in homemaking; New Mexico History and Civics as stated above.

Vocational Agriculture:-- Teachers of vocational agriculture must have the following minimum requirements for certification: (a) Graduates of a standard four year course in agriculture of college grade; (b) Fifteen or more semester hours in educational subjects, including "Methods of Teaching Vocational Agriculture;" (c) Three or more years of actual farm experience, after the age of twelve; (d) Credit in New Mexico History and Civics.

Institute Certificates

1. Conductor's Certificate:-- This certificate is granted to applicants who are in possession of a Life Certificate in New Mexico or a degree from a standard four-year college, university or normal school, or to a person who has had the professional training equivalent

thereto or experience and superior ability in educational work which would warrant the granting of such certificate. The applicant must show evidence of successful teaching experience in New Mexico or elsewhere. This certificate will not be granted to an applicant who has not instructed in at least one institute.

2. Instructors' Certificate:-- This certificate is granted to applicants who are in possession of valid five year Professional Certificates in New Mexico or to graduates of standard colleges, universities or normal schools or to those who have such professional experience and ability in educational work as would warrant the granting of such certificates.

3. Special Institute Certificate:-- This certificate may be granted to applicants who have been educated and trained in some special branch of education, such as kindergarten, primary methods, music, drawing, etc., upon presenting credentials showing that they are qualified to teach these special subjects.

Temporary and Emergency Certificates

Temporary Certificates:-- These certificates are issued to applicants who have met all the requirements for the certificates applied for except credit in New Mexico History and Civics, or other minor requirement, and who have had no opportunity to obtain this credit. It is valid for one year only and but one will be issued to any individual.

Temporary Junior High School Certificate:-- This certificate is issued on the same credentials as the regular Junior High School Certificate except that 12 term hours in Education will be accepted instead of 24 hours, or 8 semester hours instead of 16 semester hours, and it may be issued on only nine months' teaching experience. It is not to be issued except in cases where the holder of a regular Junior High School Certificate can not be obtained. It is valid for one year and only one will be issued to any person.

Emergency Certificate:-- This certificate is valid in the elementary grades only. It is issued at the discretion of the State Superintendent in cases of strict emergency when legally certified teachers can not be obtained. The County Board shall make the request for this certificate and present all the applicant's credentials. The certificate is valid for one year only and only one will be issued to any person.

Notes

(a) Applicants for certificates must be at least 18 years of age.

(b) Every teacher shall present his certificate to the school authority employing him before assuming the duties of a school teacher. Quoted from section 1101, New Mexico School Code.

(c) Applicants for certificates on credentials should file transcripts of both high school and college credits, properly signed by principal or registrar of the schools attended.

(d) The certification fee is $1.00 in all cases except a five-year certificate, which is $5.00, and a life certificate, which is $10.00.

(e) Certificates issued under rulings made prior to January, 1923, can not be renewed, but applicants must qualify under the new law upon the expiration of such certificates. Holders of unexpired certificates issued upon examination grades will be given credit for all such grades, but normal school or college credits which were substituted for examination grades will not be accepted.

(f) All grades of 90% or above from an unexpired second grade certificate, issued under either the old or new ruling, may be applied on a first grade certificate but cannot be used on another second grade.

(g) Grades of 75% and above may be carried for one current year and applied on a certificate the following year providing they have not been used on any certificate.

(h) All subjects accepted as Education by accredited colleges will be accepted as such by this department on a certificate on credentials.

(i) The maximum amount of college credit that will be accepted for attending an 8 weeks' summer session at normal school or college is 10 semester or 15 term hours. This is also the maximum amount of credit that will be accepted through correspondence study in one current year.

(j) The Department cannot issue certificates to non-residents unless they have secured teaching positions within the State.

(k) Certificates above a first grade must have the approval of the State Board of Education. A credit in New Mexico History and Civics is necessary before a regular certificate can be issued.

(l) Certificates issued after September 1st of one year and before June 30th of the succeeding year shall

be dated as of September 1st next preceding the issuance of that certificate. Certificates issued after July 1st of any given year and before September 1st of that same year, shall bear the date of September 1st next following their issuance.

(m) Extension work, where classes are held, can be accepted in lieu of summer work providing evidence is presented from the school under which the extension work is taken, that nine term hours or six semester hours work is done.

No personal checks accepted.

The revised certificate laws conform generally to the best ideas on certification of teachers. Certification is purely a function of the state department of education.[1] It would be better to have in addition to the certificates issued a supervisory or administrator's certificate. This certificate should be required of all superintendents, both county and city, principals and supervisors. The exact requirements should vary according to the demands of the position. Such a plan of certification would do much toward insuring better leadership throughout the State, especially among the county superintendents. A similar plan works well in California.

According to the better standards an elementary

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[1]Public Education in Kentucky. A Report by the Kentucky Educational Commission, 1921, No. 41, p. 174-176.

Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 43-49.

school teacher should have a high school education and two years of normal school training; a high school teacher, a degree from a standard college or university.[1] On this basis, the requirements for elementary school teachers in New Mexico are too low. Certificates may be acquired through examination by those who have little more than an elementary school education. Likewise, a certificate may be secured on credentials barely equivalent to a good high school training.

It is recommended that the certification standards be raised for elementary school teachers. If the requirements are raised to a normal school training a large number of unfits will be eliminated. Little improvement can be hoped for as long as the backdoor is open. New Mexico schools are suffering because of poorly trained elementary school teachers; this is especially true in some counties where the level of the teaching force is shamefully low. This condition is not as much on account of a scarcity of good teachers, as it is poor organization and poor administration. The remedy must come from higher up. Local school boards are little concerned whether real teachers are employed or simply school

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[1]Almack and Lang. Op. cit., p. 23.

keepers, so long as they can operate the schools at a minimum expenditure. Few school boards measure a school by results. The average board aims at operating as niggardly as possible, regardless of the effects on the children.

Temporary and emergency certificates are not desirable--in fact, as already stated, it would be better for the schools to discontinue issuing them. The need is more psychological than real. There are no serious objections to these certificates when issued by a properly organized state department acting on the recommendation of a properly qualified state superintendent. The New Mexico State Board of Education is to be commended for setting up restrictions on the issuance of temporary certificates.

At present, possibly it would not be wise to abandon the issuing of second grade certificates. This should, nevertheless, be one of the aims of the State; and as early as possible plans should be made to this end.[1] Also, certification be examination should be abolished

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[1]See Topic on Certification of Teachers in Utah, p. 44-49, Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18.

in the near future. Those who desire to teach have ample opportunity to take advantage of school facilities offered teachers to secure certificates on credentials. Teachers who are professionally interested do not have to resort to the back-door route. The abolishing of certificates by examination would not unjustly close the doors on good teaching material; whereas, on the other hand, it would be a means of eliminating and shutting out a great number of poorly prepared teachers. The ordinary form of examinations for certificating teachers has not been, nor likely never will be, a satisfactory way of choosing good teaching timber.[1]

The granting of life certificates is not the best policy—that is, granting of certificates good during the life of the holder, regardless of whether he continues to teach.[2] It is recommended that life certificates continue in force for not more than five years after the date the holder ceases to teach. When once void these certificates could be revived or made valid

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[1]Cubberley, E. P. State School Administration, Chapter XXIII, p. 621-639.

[2]Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 46.

by certain professional growth, such as carrying out a plan of training prescribed by the state board of education.[1]

New Mexico's plan of no interstate comity is a doubtful policy. The free circulation of teachers among states is considered helpful. It would be well if the State recognized other states which have as high, or higher standards. The Osecola Code has such a clause.[2] Cubberley recommends interstate comity in his 1927 text.

The issuing of institute certificates will no longer be necessary if the recent opinion of the attorney general continues to be binding.

Note (j), which says that the department cannot issue certificates to non-residents unless they have secured teaching positions seems contrary to good policy and the best practices. As suggested under Section 1101, it is advocated that teachers have a certificate before they actually sign a contract. Such a regulation seems discriminatory; it unquestionably places non-

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[1]Cubberley, E. P. State School Administration, p. 644-647.

[2]Cubberley, E. P. State and County Educational Reorganization, p. 150.

resident teachers under a disadvantage.

SECTION 1108. First and second grade certificates issued prior to the passage of this Act shall remain in force during their prescribed terms, but shall not be renewed. The salary per month shall be computed and paid on the basis of the months school is actually taught in the district during the term. All teachers shall be paid monthly.

It is fair that certificates issued before a change in the laws should continue in force for the time granted. A certificate is really a form of contract between the state and the holder, and therefore should not be revoked without sufficient reason. Those who hold certificates issued prior to the change are entitled to a reasonable time to fulfill the new requirements.

The provision in this Section relating to the computing of salaries is somewhat indefinite as to what it covers. If it is simply to prescribe that salaries shall be paid monthly, and that each payment is to be a proportional amount of what one month is to the whole term of the contract, it is not objectionable. If it is, however, a provision to allow a county or district to cut short the length of the term and to pay the teachers only for the time actually employed, it is questionable and open to severe criticism.

That this clause is likely to be held to mean that a teacher cannot recover salary for time not actually employed, although not at fault, seems evident from an opinion given recently by the attorney general. In reply to the question as to whether teachers are entitled to salary during a period of enforced closing of schools, the attorney general gave the following opinion:

> "The Supreme Court of New Mexico has held that the law is read into teachers' contracts the same as though the law were a written provision in the contract. This being the case this office has heretofore held that in cases where schools have been closed the teachers are not entitled to pay for that period of time."

It is doubtful how the courts would rule on any particular case, although evidence seems to indicate that the teacher would be denied her rights. This is a condition that should be remedied by striking from the Code the part of Section 1108 which reads: "The salary per month shall be computed and paid on the basis of the months school is actually taught in the district during the term." Rulings and decisions from other states establish conclusively that the teacher is entitled to salary when she stands ready to fulfill her part of the contract.[1]

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[1]Trusler, H. R. Op. cit., p. 218-221.

That a teacher should be entitled to salary certainly seems equitable. The opportunity of securing a teaching position comes practically only once a year. A teacher who accepts a position does so as a rule with the understanding that she will be employed for a definite number of months. If she knew the term was to be cut short in one locality her decision might be different. It is questionable whether the districts should reserve the right to close the schools at any time without considering the interests of the teachers.

As mentioned previously, the big weakness in the present plan of having a minimum term set by the State, is, that local units are allowed to close schools earlier if there is a shortage of funds. Practically no effective way exists at present to prevent some of the local units from running short on funds, either intentionally or otherwise. The State instead of helping to prevent occurrences is giving encouragement by its methods of appropriations and supervision of local finances. If some arrangement were in force that would not make it so easy for the local units to shorten the school term, it is quite probable that sufficient money could be provided to maintain a minimum term.

This problem needs to be solved not only from the

teachers' standpoint and welfare, but from the standpoint of the children and individual communities as well. As far as the teacher is concerned, some effort should be put forth to make her contract secure, unless affected by acts beyond human control. Other occupations offer security of contract, and why should not teaching do as much?

SECTION 1109. No person shall be employed in the schools of the State who is afflicted with tuberculosis. All teachers shall present to the governing authorities of the schools where employed a certificate from a licensed physician to the effect that they are free from any transmissible disease, provided that when any teacher shall be re-employed for another year no new health certificate shall be furnished unless required by the governing authorities.

Not only should this Section read that no person shall be employed in the schools of the State who is afflicted with tuberculosis, but likewise, with any one of a number of other transmissible or communicable diseases, such as syphilis. If it is prudent to make a ruling against tuberculosis, it should be wise to make it against other diseases, which are practically as dangerous and much harder to detect.

The latter part of this Section, if properly carried out would prevent the employment of teachers dangerous to the health of pupils. Unfortunately, health permits

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are obtained by those who are really not physically fit to be employed as teachers. The responsibility should be shifted to some degree on the teacher as to whether she is suffering from a communicable disease. Any one who conceals information about himself to the danger of his pupils, should, on being detected, forfeit his salary and be liable to punishment according to law. Some penalty should attach also to the issuing of health certificates when the certificates are really not deserving.

The matters mentioned need especial attention in New Mexico on account of the large number of health-seekers who desire employment in the schools.

Chapter XII (N. M. School Code)

SCHOOL ATTENDANCE

SECTION 1201. Pupils who are residents of a district shall be permitted to attend school in the same regardless of the time when they acquired such residence, whether before or after the enumeration. Provided, that where, in the option of the County School Board or Municipal School Board and on approval of said opinion by the State Board of Education, it is for the best advantage and interest of the school that separate rooms be provided for the teaching of pupils of African descent, and said rooms are so provided, such pupils may not be admitted to the school rooms occupied and used by pupils of Caucasian or other descent. Provided, further, that such rooms set aside for the teaching of such pupils of African descent shall be as good and as well kept as those used by pupils of Caucasian or other descent, and teaching therein shall be as efficient. Provided, further, that pupils of Caucasian or other descent may not

are obtained by those who are really not physically fit to be employed as teachers. The responsibility should be shifted to some degree on the teacher as to whether she is suffering from a communicable disease. Only one who conceals information about himself to the danger of his pupils, should, on being detected, forfeit his salary and be liable to punishment according to law. Some penalty should attach also to the issuing of health certificates when the certificates are really not deserving.

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be admitted to the school rooms so provided for those of African descent.

SECTION 1202. Governing authorities of schools may admit non-resident pupils to the schools under their charge, provided school accommodations are sufficient to provide for them, and may determine the rate of tuition for pupils non-resident of the state and collect same, which tuition shall not be greater than the average cost per capita for education based on the daily average attendance of the district for the previous school term. When non-resident pupils, their parents or guardians, pay a school tax in this state the amount of such tax shall be credited on their tuition in a sum not to exceed the amount of such tuition, and they shall be required to pay tuition only for the difference therein.

The contents of these two Sections are clear, and in essence, are regulations that both experience and theory affirm are for the good of the schools.

SECTION 1203. Children between the ages of six and sixteen years, both inclusive, shall attend public schools of the state for as many weeks as the public schools in the district in which such children reside shall be in session, except that children actually attending private or denominational schools maintaining courses of instruction approved by the State Board of Education, those physically or mentally unfit or incompetent and those residing more than three miles from public school houses and to whom no free public means of conveyance to and from school are furnished shall be exempt from the provisions of this Act. The governing authorities of private and denominational schools shall monthly report to the governing authorities of the public schools wherein such private and denominational schools are situated, the children enrolled in such private and denominational schools who fail to attend the same.

The state age limits for compulsory attendance are commendably broad. The limits set in this State agree

with the best present day practices. There is a tendency throughout the United States to extend the age limits and to enact legislation that will aid in increasing the number enrolled between the ages of 5 and 18.[1]

It would be better to require that only children eight or more years old shall be compelled to attend if they live as far as three miles from the school and no transportation is furnished. Those under eight should be compelled to attend if they live within two miles of a school or free transportation is provided.[2] Children of six years should not be expected to walk a distance of three miles if poor and unable to afford means of carriage. This matter is unlikely to occur often enough to cause much trouble. The law would be more effective if it were directed toward compelling the county to furnish transportation for cripples and those living more than two miles from school.

SECTION 1204. Children subject to the provisions of this Act, between the ages of fourteen and sixteen years, may be excused by issuance of certificate of employment, from full time public school attendance, by the city or

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 86-90.

[2] Cubberley, E. P. State and County Educational Reorganization, p. 190-192.

county school superintendents within whose jurisdiction such children reside or are employed, upon assurance that said children are then or in the immediate future shall be definitely employed in some gainful trade or occupation. The certificate of employment shall contain the name, age and residence of the child excused, by whom employed or to be employed, the last grade attended by the child and a recitation that the child is excused from full-time public school attendance until the certificate shall be revoked.

The objection to this Section is that it would exempt children between the ages of fourteen and sixteen if gainfully employed, regardless of whether such employment were necessary. It would be more satisfactory if permission were granted only on the basis of actual need; and even then, whenever possible, some form of state aid should be supplied to prevent poor children from sacrificing the heritage of two valuable years of education. The kinds of employment should be limited. This latter point is cared for in the 1925 Session Laws relating to child employment, which laws will be analyzed later.

SECTION 1205. Whenever in any school district there shall have been issued fifteen such employment certificates there shall be established a part-time school or class giving instruction for not less than one hundred and fifty hours per year and for not less than five hours per week between the hours of 8 A. M. and 6 P. M.

If labor permits are to be issued, and from all indications they are necessary to some degree, the State

has made a forward step in providing further training for those prematurely called into active life.

SECTION 1206. Whenever the number of hours for which a child over fourteen years and less than sixteen years of age may be employed shall be fixed by Federal or State law the hours of attendance upon a part-time school or class shall be counted as a part of the number of hours so fixed by the Federal or State laws, but nothing contained herein shall affect the right of the employer to reduce the compensation of the child.

SECTION 1207. The State Board of Education shall adopt rules and regulations concerning the establishment of part-time schools and classes.

These Sections are necessary regulations and grants of powers to carry out the establishment and maintenance of part-time schools.

SECTION 1208. Whenever any school district shall deem it inexpedient to establish part-time schools or classes it shall present to the State Superintendent of Public Instruction the reasons for such inexpediency, and the State Superintendent may excuse the district from the establishment of such part-time schools or classes if he deems such reasons sufficient.

It is all right to provide a means of exceptions for part-time schools, as it is possible that conditions will arise where it will be difficult to carry out the regulations established. The law opens a gap which offers opportunity to dodge maintaining part-time schools, and whether it should continue depends a great deal on the abuses that arise. The granting of final say to the

state superintendent makes the law much safer.

SECTION 1209. Any person, firm or corporation employing a child between the ages of fourteen and sixteen years of age shall permit the attendance of such child upon a part-time school or class whenever any such part-time school or class shall have been established in the district where the child resides or may be employed, and any employer, firm or corporation employing any child over fourteen and less than sixteen years of age contrary to the provisions of this Act shall be subject to a fine of not less than five dollars nor more than fifty dollars for each separate offense.

SECTION 1210. Parents, guardians and persons having control of children subject to the provisions of this Act are hereby made responsible for the public school attendance of such children, and any parent, guardian or person aforesaid who shall violate any of the provisions of this chapter, after any school authority shall have given public notice of the substance of the provisions of this Act, upon conviction, shall be fined not less than five dollars nor more than one hundred dollars or imprisoned in the county jail for not less than five nor more than ninety days, and in addition to the penalty aforesaid any parent, guardian or person having control of children subject to the provisions of this Act who shall violate the provisions hereof shall be subject to the writ of mandamus issued out of the district court of the county, at the instance and in the name of county or municipal boards of education or county or city superintendents of schools, without consent of the Attorney General. Justices of the peace shall also have jurisdiction in prosecution under this section.

SECTION 1211. The school officials charged with the responsibility of enforcing the compulsory attendance laws of this State shall also be responsible for the enforcement of the attendance upon part-time schools or classes in accordance with the terms of this Act.

SECTION 1212. Principals or teachers in charge of schools in this State shall weekly make a report in writing to the County School Superintendent containing the names of all persons having control of children of school age who have failed to send such children to school as required herein. The presiding judge of the

district court at each session shall instruct the Grand Jury as to the substance of the compulsory school attendance law.

Unless the provisions contained in these four Sections are in force, there is little likelihood that the mentioned laws in behalf of compulsory attendance will be really effective. Specific regulations for enforcement, as well as penalties for violations, are necessary to make laws effective.

SECTION 1213. In every rural school district and in every municipal school district the minimum school term shall consist of at least seven months. When school funds permit, school must be maintained for at least one hundred and forty days of actual teaching, where the term is seven months, inclusive of holidays except when prevented by fire, flood, epidemic of disease or other cause beyond the control of the school authorities.

At least eight months of school should be required, and preferably nine, with the way open for longer terms.[1] Cities should be permitted to keep the schools open the entire calendar year. The weakness of the law in New Mexico, is, when sufficient funds are not available, no special length of term is required. This is a loophole

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[1] Public Education in Oklahoma. U. S. Bureau of Education, 1923, No. 14, p. 25.

that practically ruins the effectiveness of the law. It would be difficult, perhaps nigh impossible, to maintain full terms without sufficient finances. This is a condition that should not exist, however, under ordinary times, even during the usual dull years. More effective business administration and provisions beforehand to care for such emergencies would make cases of shortened terms extremely rare. The Osceola Code offers no opportunity to escape a minimum length term.

SECTION 1214. Above the primary grades the school day shall consist of not less than five hours nor more than six hours, exclusive of the noon intermission. The school month shall consist of twenty days, or four weeks of five days each.

It does not seem necessary or judicious to have this Section a part of the School Laws. The regulation is liable to serve as a handicap at any time. The control of the school hours or length of the school day should be left to the local boards, subject to any rules and regulations that the state board may adopt.

Chapter XIII (N. M. School Code)

NIGHT AND CORRESPONDENCE SCHOOLS

SECTION 1301. Whenever there are ten or more illiterate or semi-illiterate adult persons in any school district who wish to attend school at night the Board of

Education of the district may employ a competent instructor therefor. Such schools shall be taught not more than two hours per night, three times per week during the school term.

SECTION 1302. The said instructor shall receive such compensation for his services as the governing authority of the school may fix, subject to allowances therefor in the general school budget, but not more than twenty-five dollars monthly shall be paid for such services.

The caring for illiterates, especially adults, is a progressive step and a worth-while undertaking for any state.[1] It would be well if the local school authorities could fix the salaries of instructors in these schools without restrictions, the same as is done for full time teachers. This is a small matter, except that it involves a principle.

SECTION 1303. It shall be unlawful for any correspondence school, business college or commercial department of any other school, or its agents, to canvass prospective students in New Mexico for the purpose of selling to such students or any one for such students, any scholarship or tuition in advance in such school, or to contract in advance for such scholarship or tuition or to take payment for the same in money, notes or other evidences of indebtedness before the registration in good faith of such student in such school, college or commercial department, without the school, its agent or representative first making application to the State Board of Education as hereinafter provided, and receiving from such State Board of Education a permit granting to the school so applying the right to canvass and sell

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 347-379.

scholarships and to receive tuition in advance.

SECTION 1304. The application to the State Board of Education shall set forth the name of the school seeking such permit, its location, the number of instructors employed in such school, the course or courses of study in which instruction is offered, the subjects included in each course, and in addition thereto the applicant shall, upon request of the board, furnish such other information as may be required by such board. The application shall be signed by some authorized representative of the school and shall be accompanied by such fee as may be required by the State Board of Education.

SECTION 1305. The State Board of Education shall have authority and power to revoke any permit issued by it at its discretion for cause satisfactory to the board.

SECTION 1306. Any person who shall violate Section 1303 shall upon conviction be fined not less than five dollars nor more than one hundred dollars for each offense, or imprisoned in jail for not less than five nor more than sixty days, or by both such fine and imprisonment in the discretion of the court.

SECTION 1307. Nothing in this chapter shall be construed to prevent canvassing for students where no scholarship is sold nor fees for tuition are collected in advance, or prevent the legitimate advertising of any such school.

These Sections have little bearing on the public school system, and need no analysis here.

Chapter XIV (N. N. School Code)

MISCELLANEOUS

SECTION 1401. Governing school authorities shall have power to accept any unconditional charitable gifts, grants, devices and bequests and the same shall become an asset only of the district or school to which the same was made.

SECTION 1402. When the corporate authorities of any town or the probate judge of the county, for any county in this state in which any town may be situated, shall have entered at the proper land office, the land

or any part of the land settled and occupied as the site of such town, pursuant to the provisions of the Act of Congress entitled, "An Act for the relief of citizens of towns upon the lands of the United States under certain circumstances, passed May 23rd, 1844," and any amendments that may be made thereto, or where such land may be entered by the proper authorities under and by virtue of any special act of congress, and where the corporate authorities fail to comply with the provisions of Section 5519, New Mexico Statutes Annotated, Codification of 1915, et seq., and any blocks, lots, shares or parcels of land remain unsold, the title to said unsold blocks, lots, shares or parcels of land shall vest and be in the school district in which such land is located, and it shall be the duty of the board of trustees of such town to transfer, by proper deed of conveyance said unsold blocks, lots, shares, or parcels of land to the board of education of such school district.

SECTION 1403. The Board of Education of any such school district shall appoint by order or resolution, a board of appraisers, to consist of three freeholders of any such school district, who shall have no interest in said unsold blocks, lots, shares or parcels of land or the improvements thereon. Each of said appraisers shall take an oath to faithfully discharge his duties as such appraiser and shall file such oath in the office of the clerk of said board of education before commencing his duties as such appraiser. In case such appraiser shall fail or neglect to make the appraisement hereinafter specified and file the same with the clerk of such board of education within ten days after their appointment, then said board may appoint a new board of appraisers for the purpose herein provided.

SECTION 1404. Said appraisers shall appraise all such blocks, lots, shares and parcels of land, thus conveyed to such board of education, at their just and full cash value, and file their written appraisement as aforesaid. Said appraisement shall contain a description of each lot or parcel of land so appraised and a statement of the cash value of each lot and parcel of land appraised. Said appraisers shall make a separate statement of the value of such lots and parcels of land without improvements and the aggregate value of both. There shall be attached to such appraisement a written affidavit of the said appraisers, verifying each statement of such appraisement and reciting that each

of said lots or parcels of land is appraised at its just value.

SECTION 1405. Any or all of said lots may be sold at any time by such boards of education at public vendue to the highest bidder for cash. Provided, that no block, lot, share or parcel of land shall be sold for less than the appraised value thereof.

SECTION 1406. When any of said lots, shares or parcels of land are to be sold at public vendue, the president of the board of education shall give notice, signed in his official capacity, of the time and place of sale of blocks, lots, shares or parcels of land to be sold, by advertisement, published in the county where such school district is situated, or if no newspaper is published in said county, then in the newspaper published nearest said school district. Such public sale shall be advertised to be made at some public place in said town, and to be sold at some specified time between the hours of sunrise and sunset.

SECTION 1407. Such lots or parcels of land shall be offered for sale singly, unless a greater price can be obtained by selling several lots or parcels of land together, in which case several lots or parcels of land can be sold together. Such public sale may be continued, if necessary, from day to day, for a period not to exceed three days at any one sale.

SECTION 1408. A new appraisement of lots or parcels of land to be sold shall be made, in case no appraisement thereof has been made for three months next preceding the date of such sale. Said appraisement shall be made, either by the old board of appraisers, or a new board of appraisers, to be appointed in the same manner and with the same qualifications as the first board of appraisers. New boards of appraisers may be appointed whenever necessary to have any of said blocks, lots, shares or parcels of land appraised.

SECTION 1409. The moneys arising from the sale of said lots, blocks, shares and parcels of land, after defraying the expense of such sales, shall be paid into the County Treasury and applied to the support and maintenance of free, non-sectarian public schools within the limits of any such school district, or used and expended in the erection of school buildings for the use of the public schools of said district and for furnishing such buildings, and for no other purposes.

SECTION 1410. In all cases when prior to February

25, 1897, any person may have entered thereon and improved any lots belonging to such school district, such person, after the report of such board of appraisers, may purchase any of such lots from the said board of education for cash at the appraised value of said lots, exclusive of improvements.

SECTION 1411. All persons purchasing any lots or parcels of land as above provided shall pay for the drawing, execution and acknowledgment of the deed of conveyance, together with fifty cents to the clerk of such board of education, for attestation with seal of said board of education, by the clerk of said board.

SECTION 1412. All conveyances of lots or parcels of land, shall be signed by the president of the board of education and attested by the clerk of said board, and shall have the seal of said board of education affixed thereto, and be acknowledged by the president of the board of education in the same manner as other conveyances of real estate.

There are no objections to the last Sections, twelve in number, which refer to acquiring land. So far as is known, the laws are satisfactory and work well in practice.

SECTION 1413. The respective boards of education are hereby required to insure all school property and to pay all premiums thereon from the funds credited to the districts over which they have control.

The insuring of school property should be made a duty of the school board. Failure to make provision in the statutes would no doubt result in the loss of much school property. It is well that all doubt is removed as to how insurance should be paid. It would be

economical to provide that the annual budget may be made to include an amount sufficient to pay insurance premiums for a three year period. Whether insurance premiums for longer than one year could legally be included in the budget at present is doubtful.

SECTION 1414. Except as otherwise provided by law, all property belonging to school districts and all property the title of which is or may be vested in the board of education, shall not be sold, transferred or disposed of, except for cash or its equivalent and with the written consent of the Superintendent of Public Instruction.

A check should be placed on the local board on the sale of school property. Experience has proved that school lands and property have been as a rule handled unwisely. With a well organized state department the restriction imposed should work to the advantage and not to the disadvantage of the people.

SECTION 1415. No board of regents of any state educational institution, board of education, board of school directors, nor any member of said boards, nor any school official or teacher, either directly or indirectly, shall act as agent for any person, firm or corporation engaged in selling school books, school furniture, equipment, apparatus, ar any other kind of school supplies, property or life insurance, or doing any work under contract, nor shall any such board or members thereof or school officers or teachers receive any commission on account thereof, and all persons identified in an official capacity with the public schools or with the state educational institutions

supported in whole or in part by public funds of this state are prohibited from being parties directly or indirectly to any such contract, or interested in any such contract in connection with the operation or maintenance of such public schools or state educational institutions and any contract in which such persons are so interested or to which they are parties shall be void. Any person violating the provisions of this section shall be fined not exceeding One Thousand ($1,000.00) Dollars or imprisoned not exceeding one year in the penitentiary or be fined and imprisoned as aforesaid in the discretion of the court.

The efficacy of this Section is more or less apparent. The wording of the law is somewhat indefinite, as it leaves doubt as to whether a teacher is to be restricted during the summer vacation. Surely a teacher should not be prohibited from engaging in certain kinds of work during the summer months, even though under contract to teach the coming year. This seems a clear violation of personal rights and liberty. The law is just, whenever a teacher is actually drawing a salary, but when the salary ceases, he should be free to engage in whatever kind of employment is to be found, so long as the employment is otherwise lawful and legitimate. It is questionable whether the possibilities of malpractice justify the law. The real prohibition should be that it is unlawful to use one's position as a means of personal gain in letting school contracts, hiring teachers, etc.

SECTION 1416. The school authorities shall cause the United States flag to be displayed upon the public school buildings at all times when the weather permits, and at other times conspicuously in the school building. Such school authorities shall comply with all rules and regulations for the proper care, custody and display of the flag as may be promulgated by the Superintendent of Public Instruction.

SECTION 1417. The County Board of Education and the boards of education of municipal schools, Union High Schools and independent districts, and the principals or superintendents thereof prior to the fifteenth day of July of each year shall make a report to the State Superintendent of Public Instruction in writing showing in detail the financial condition of the schools under their jurisdiction, the manner in which the school moneys have been disbursed during the preceding school year, the amounts expended for repairs and improvements of school houses and grounds, whether rented or owned by the district, the value of all school property in detail, the amount of bonded indebtedness of the districts, the status of the interest and sinking funds, the amounts paid for rent, fuel and other items, salaries paid teachers for the preceding school year, the number and sex of the school population and such other information as may be required by the State Superintendent of Public Instruction, County School Superintendent or Educational Budget Auditor. Failure to properly prepare and forward said reports shall subject the members of said Board of Education, principals and superintendents to a fine of not more than One Hundred ($100.00) Dollars or imprisonment in the county jail not more than sixty days or both such fine and imprisonment in the discretion of the court. It shall be the duty of the State Superintendent of Public Instruction to institute or cause to be instituted proceedings against such offenders.

Nothing need be said on these two Sections as both regulations are needed; the latter is absolutely necessary for the maintenance of a good organization.

SECTION 1418. In such grades as the State Board of

Education shall prescribe the following subjects shall be taught in the public schools of the state: Reading, writing, arithmetic, spelling, geography, language and grammar, Spanish, New Mexico history, United States history, including the Declaration of Independence and the Constitution of the United States and of New Mexico, local civil government, elements of physiology and hygiene, morals and manners, music, drawing, elementary bookkeeping, the fundamental principles of common honesty, honor, industry and economy, the laws of health, physical exercise, household economics, manual training and other vocational subjects, and such other branches of learning as may seem expedient may be prescribed by the state board of education.

The subjects enumerated here are as a whole those that should be taught in the public schools. The prescribing of courses in morals, manners, fundamental principles of common honesty, honor, industry, and economy should scarcely be considered subjects in themselves, but rather subject matter and training to be taught or offered as parts or supplements to all subjects.

The main purpose of the above law is to say what subjects shall be taught and not necessarily what may be taught. Whether or not Spanish and bookkeeping are to be taught in any school should be left to the final decision of each board, with perhaps some regulation requiring a certain amount of vocational education to be offered in accordance with the community's needs. The Code should provide that local units teach in addition to the required subjects, such other subjects as their

needs dictate, so long as the subjects are not contrary to law.

Instead of prescribing a course in physical exercise, the subject should be given the broader title, physical education. Also, a course in citizenship, rather than local civil government would be more in accord with present educational ideals. A good course in citizenship could be made to treat local civil government adequately.

SECTION 1419. The school district boundaries shall be accurately located by the county surveyor at the request of the governing authority of the district and maps thereof shall be made and retained in the office of the county school superintendent. The expense thereof, not exceeding Fifty ($50.00) Dollars per school district, at the discretion of the board of county commissioners, shall be paid from the school funds of the district; provided, this section shall not authorize the resurvey of school districts where the boundaries have been heretofore accurately surveyed.

SECTION 1420. Except as otherwise specifically provided herein, whenever publication or advertisement is required herein it shall be made by one insertion in English in a newspaper published in the county and having general circulation therein, or if there be no such newspaper then in any newspaper of the state having a general circulation in said county.

SECTION 1421. Except as to county boards of education, and to elective county school superintendents, effective January first, 1925, the re-enactment herein of laws creating officers and boards shall not be construed as affecting the term of school officers in office immediately preceding the taking effect of this Act. Except as herein otherwise provided, boards and officials heretofore elected or appointed shall be charged with all the duties and liabilities as are imposed on school boards or officials hereafter elected or appointed and

having similar duties. This Act shall not affect prosecutions or removal of officers under former laws for offenses committed prior to the taking effect of this Act, nor shall it affect or impair any valid assessment or the enforcement of the collection of taxes levied prior hereto for lawful school purposes.

These three Sections need no comment.

SECTION 1422. No school shall be maintained or budget allowance be made in any school district of this state unless said school shall have an average daily attendance of at least eight (8) pupils. No budget allowance for the transportation of pupils shall be made in any school district of this state unless there are at least eight (8) pupils of school age whom it is necessary to transport and no budget allowance shall be made for the transportation of pupils residing within three miles of the school building.

The matters involved in this Section relating to maintaining schools have been discussed to some extent under Section 1104, Chapter XI of the Code. Establishment of small schools should be discouraged; the county board should have the right to say whether small schools should be established. Consolidation is needed, not more separate plants.

No restriction should be placed on the county board in providing transportation. If the county can afford to do so, transportation should be supplied for those who live farther than a mile from school, and for cripples. It might be well to make the law read that the county

board has the right to supply transportation to those living within two miles, but must either furnish transportation or give special aid to those living at a distance greater than two miles.

SECTION 1423. Governing authorities of school districts shall have power to purchase school books and school supplies for indigent school attendance children and loan such books and such supplies to such children to enable them to attend school to advantage, but not more than Fifty ($50.00) Dollars shall be spent therefor in any district during any school term.

Under the present policy of no free textbooks this regulation is sound, although it would be better if no limits were set to handicap the work. It would not be objectionable to set a limit of $50.00, with the right to exceed this amount on the approval of the state superintendent.

SECTION 1424. Any official who shall divert any school funds from the purposes for which the same were raised or embezzle the same, upon conviction shall be fined not less than One Thousand ($1,000.00) Dollars and be imprisoned in the penitentiary for not less than two nor more than five years and be summarily removed from office by the court imposing the sentence.

No comment.

SECTION 1425. Any school in a school district having four hundred, or more, pupils, in average daily attendance shall have power to establish and maintain, through their

governing authorities, kindergartens for the instruction of resident children of the district between four and six years of age, the cost thereof to be included in the budget allowance of the district and paid from tax proceeds as other maintenance expenses are paid. Upon the petition of the heads of not less than thirty-five (35) families having as members thereof, children between the ages of four and six, the governing authorities shall establish and maintain such kindergartens, provided that the school in connection with which such kindergarten is desired is moved in the petition; and provided further that the petitioners reside within the same school district as that served by the school in connection with which such kindergarten is desired. The State Board of Education shall have the power to prescribe the course of training, study and discipline for said kindergartens. No person shall teach kindergarten schools without a diploma from a reputable kindergarten teacher's institute or without passing an examination in kindergarten work prescribed by the State Board of Education.

Kindergartens should be provided for as a part of the public school system. The arbitrary regulations prescibed here are objectionable. If kindergartens are desirable for schools of one size they are equally desirable for other sizes, providing a sufficient number of pupils elect to attend. A more democratic and equitable arrangement would be to give any school district, county or city, the right to maintain or give kindergarten instruction, ranging from one-half to two years. Kindergarten instruction should be considered a part of the elementary school course.[1] Whether small schools,

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[1]Cubberley, E. P. State and County Educational Reorganization, p. 83.

as attendance sub-districts, should offer kindergarten instruction is a matter that county and local school officials should decide.

SECTION 1426. Schools of elementary and high school grades are classified as follows:
(1) Kindergarten; (2) Primary, which shall include the first, second and third grades; (3) Intermediate, which shall include the fourth, fifth and sixth grades; (4) Grammar, which shall include the seventh and eighth grades, and (5) High School, which shall include the ninth, tenth, eleventh and twelfth grades, or any of such grades.

The classification of schools in the State is in accordance with the best plans, except leading states permit secondary schools to include the first two years of college, also. Most states for the purpose of apportionment divide the entire system into elementary and secondary schools, the former including the kindergarten and the regular eight grades, and the latter the four higher grades and the two years now known as junior college grades.

SECTION 1427. The words "governing authorities," or their equivalents as used herein shall refer to either county or municipal boards of education, Union high school boards, boards of school directors of independent districts, the state board of education or the superintendent of public instruction, according to the context.

No comment.

SECTION 1429. Nothing contained in this Act shall invalidate or in any wise affect the validity, extent and force of school bonds heretofore issued nor levies therefor.

SECTION 1430. It is hereby declared that if any chapter, paragraph, clause or sentence herein be adjudged unconstitutional, all other parts of this Act shall not be affected thereby.

SECTION 1431. The following laws are hereby repealed: New Mexico Statutes Annotated, Codification of 1915, Sections 4809, 4812 to 4833, inclusive, 4835, 4838, 4841 to 4843, inclusive, 4847 to 4850, inclusive, 4852, 4853, 4856, 4858, 4859, 4861 to 4894, inclusive, 4899, 4903, 4904, 4909, 4910, 4915, 4918, 4920 to 4935, inclusive, 4937, 4948 to 4958, inclusive, 4963, 4964, 4965, 4968, 4970, Laws of 1915, Chapters 79, 81, 82, 88, and so much of 91 as applies to High Schools.

Laws of 1917, Chapters 29, 101 and 105; Extraordinary Session of 1917, Chapter 2; Laws of 1919, Chapters 14, 69, 83, 105, 142, 145, 146, 173, and such parts of 72 as concern the publication of school board proceedings; and Laws of 1921, Chapters 40, 46, 88, 162, 172, 190, 201, and so much of Section 12 of Chapter 206 and so much of Sections 310 and 311, Chapter 133, and so much of Chapter 104 as refers to schools and so much of Chapter 188 as refers to schools.

Chapter 73 Session Laws 1925. If any clause, phrase, sentence or paragraph of this Act shall be held by any court to be unconstitutional such unconstitutionality shall not be held to affect in any way or to invalidate or to interfere with any part of this Act except the clause, phrase, sentence, or paragraph, held to be unconstitutional.

Chapter 73 Session Laws 1925. That it is necessary for the preservation of the public peace, health and safety of the inhabitants of the State of New Mexico that the provisions of this Act shall take effect immediately, and therefore, an emergency is hereby declared to exist and this Act shall take effect and be in full force and effect from and after its passage and approval.

These Sections concern past laws. The stipulations are necessary to make the statutes as legal and secure as possible.

Chapter 131 Session Laws 1925

AN ACT

To Require Notice of Proposed Bond Issues
to be Sent to the State Tax Commission.

Be It Enacted by the Legislature of the State of New Mexico:

SECTION 1. That when any county, city, town, village, or school district of the state shall have in contemplation the issuance of any bonds, the governing authorities thereof shall before initiating any proceedings for such issue, forward to the State Tax Commission a notice of such proposal in writing.

SECTION 2. It shall be the duty of the State Tax Commission, upon receipt of the notice mentioned in Section 1 hereof to furnish such governing authorities with all necessary information with reference to the valuation, present outstanding indebtedness, limitations as to tax rates and debt contracting power and such other information as may be useful to such governing authorities and to the voters of such county, city, town, village or school district in the consideration of any proposal to issue bonds, upon the adoption of a bond issue as provided by law by a county, city, town, village or school district, the governing authorities thereof shall prepare a true and complete transcript of proceedings had in connection with such bond issue. One copy of the transcript of the proceedings shall be immediately filed with the State Tax Commission, one copy kept by the governing authorities and one copy to be furnished to the officer or commission approving the bond issue as to its legality as provided by law.

SECTION 3. That it is necessary for the preservation of the public peace, health and safety of the inhabitants of the State of New Mexico, that the provisions of this Act shall become effective at the earliest possible time, and, therefore, an emergency is hereby declared to exist, and this Act shall take effect and be in full force and effect from and after its passage and approval.

No objections are noted to what is prescribed in this Act. It is believed that it works to the general advan-

tage of all concerned. Intead of the state tax commission handling matters pertaining to the schools, these functions should be delegated, whenever possible, to the state board of education.

Chapter 79 Session Laws 1925

AN ACT

Relating to the Employment of Children, Hours of Labor, Age Limit, Providing an Inspector, Examination for Inspector, and Providing Penalties for Violation of this Act, and Repealing all Acts and Parts of Acts in Conflict with this Act.

Be It Enacted by the Legislature of the State of New Mexico:

SECTION 1. No child under fourteen years of age shall be employed or permitted to labor at any gainful occupation whatsoever during the hours during which the public schools in the district in which the child resides are in session. No child under the age of fourteen years shall be employed at any gainful occupation when the school of the district in which such child resides is not in session unless such child shall have a permit certificate issued in the manner and by the authority herein directed.

SECTION 2. No child over the age of fourteen years and under the age of sixteen years shall be employed or permitted to labor at any gainful occupation during the term of the public school of the district in which the child resides, unless said child has procured and filed permit certificate as herein provided for.

SECTION 3. No child under the age of sixteen years shall be employed or permitted to labor at any gainful occupation for more than forty-four hours in any one week, nor more than eight hours in any one day, except under special circumstances to be determined by the officer who issued the permit, but in no case shall such child be permitted to work more than forty-eight hours in any one week nor shall such child begin work before the hour of seven o'clock in the morning nor continue

after the hour of seven o'clock in the evening of any one day.

SECTION 4. The provisions of this Act shall not apply to children under sixteen years of age working for their own parents or guardians on premises or land owned or occupied by them, and nothing in this Act shall be so construed as to authorize any child under sixteen years of age to be employed at any gainful occupation dangerous to the life, limb, or health of such child as defined by Section Five of this Act; and nothing in this section shall be so construed as to authorize any child under fourteen years of age to be employed or permitted to labor during the hours during which the public schools in the district in which the child resides are in session.

SECTION 5. No child under the age of sixteen years shall be employed or permitted to labor at any of the following occupations or in any of the following positions: Belted sewing machines in any workshop of factory, or assisting therein in any capacity whatever; adjusting any belt to any machinery; oiling, wiping, or cleaning machinery, while in motion or assisting therein; operating or assisting in operating circular saws; wood jointers; wood shapers; planers; sandpaper or wood polishing machinery; picker machines; machines used in picking hair; paperlacing machines; burnishing machines in any tannery or leather manufactory; job or cylinder printing presses, operated by power other than foot power; emery or polishing wheels used for polishing metal; wood-turning or boring machinery; steam boilers; steam machinery; or other steam-generating apparatus, dough brakes or cracker machinery of mills; laundering machinery; passenger or freight elevators; preparing any composition in which dangerous or poisonous acids or alkalies are used; manufacture of paints, colors, or white lead; dipping, drying or packing matches; manufacturing, packing or storing powder, dynamite, nitroglycerine compounds, fuses or other explosives; manufacture of goods for immoral purposes; nor in or about any establishment where malt or alcoholic liquors are manufactured, packed, wrapped or bottled; hotel; concert hall; moving picture show; pool or billiard hall; wholesale drug store; or place of amusement; nor in operating any automobile (automobile) motor car, or truck, nor in any bowling alley; nor in any employment dangerous to lives and limbs, or injurious to the health or morals of

children under the age of sixteen years; PROVIDED, that this Act shall not apply to the employment of any child as a singer or musician in a church, school or academy, engaged in the study or practice of music; or as a musician in any concert, or in a theatrical exhibition with the written consent of the mayor of the city, or the president of the council of the village, where such concert or exhibition takes place. PROVIDED FURTHER, that, the provisions of this Act shall not apply to children engaged in working with machinery in any school or place where manual training or domestic science is taught, but this provision shall not apply to apprenticeships under the supervision of an instructor.

SECTION 6. No child under the age of eighteen years shall be employed or permitted to labor in any mine or quarry underground or at or about any place where explosives are used.

SECTION 7. No boy under the age of sixteen years shall be employed or permitted to labor as a messenger for a telegraph, telephone, or messenger company in the distribution, transmission or delivery of goods or messages before seven o'clock in the morning or after eight o'clock in the evening of any day; and no female under the age of twenty-one years shall be thus employed at any time.

SECTION 8. Permit certificates shall be issued only by the city school superintendent in towns of two thousand inhabitants or over, and by the county school superintendent in all other cases. No permit certificate shall be issued to any child until satisfactory proof has been furnished that the work in which the child is to engage is not dangerous to the child nor injurious to its health or morals; and any such application for such certificate must show that the child is in good physical health and that the work to be performed is not such as would result in injury to the health, morals or mental development of such child, and satisfactory proof of the age of the child at date of the application, shall be furnished; Provided, however, that in the case of children over the age of fourteen years and under the age of sixteen years, any application for the employment of children at any gainful occupation during the session hours of the public school of the district in which the child resides, shall set forth in addition to the foregoing, the necessity, to

the family or to the dependents of the child, or for his own support, of the income to be derived from such employment or labor. Whenever the person authorized to issue the labor permit is satisfied that the provisions of this section have been complied with, he shall issue to such child a labor permit, keeping one copy on file and sending one copy of this permit to the State Bureau of Child Welfare. No permit certificate shall be in force without renewal for a longer period than six months from the date of issuance thereof.

SECTION 9. The officer authorized to issue permits may renew any labor permit at the expiration thereof, for a period not exceeding six months upon a satisfactory showing upon the part of the child, its parent or guardian, or person in loco parentis, that the provisions of this Act are being complied with and that such child is in good health, such extension of time shall be made by such officer writing upon the certificate the following words: "this certificate is extended for a period of.....days from this date," and by signing his or her name thereto.

SECTION 10. Whenever any child is employed or permitted to labor at any gainful occupation permitted by the laws of this State the employer of such child shall preserve on file the labor permit of such child and shall keep posted in a conspicuous place about the premises where such child is employed a list of all children there at work by virtue of labor permits. The form for all labor permits shall be prepared by and shall contain such information concerning the identity of the child as may be prescribed by the Bureau of Child Welfare.

SECTION 11. All employment certificates and records and the premises where children are employed shall be subject to inspection by representatives of the Bureau of Child Welfare. Such Bureau may, for cause, cancel any labor permit, with the concurrence of the officer issuing such permit, but in case they disagree, then the district court may cancel said permit on complaint setting forth the grounds therefor under the provisions of this Act.

SECTION 12. The frequent presence of any child under sixteen years of age, during school hours, at any place where workers are at work more or less habitually shall be prima facie evidence that such child is unlawfully engaged in labor, if no permit is exhibited.

SECTION 13. Whoever employs a child, or whoever

having under his control a child to be employed in violation of any of the provisions of this Act, shall be guilty of a misdemeanor, and shall be fined not less than twenty-five dollars nor more than three hundred dollars, and on default of the payment of such fine may be sentenced to the county jail for not less than five days nor more than fifteen days. Each violation of this Act shall constitute a separate offense. In the event of a second conviction of employer for violation of this Act, the court trying the case shall sentence such employer to the county jail for a period of not less than thirty days; and for any succeeding conviction for the like offense, the court trying the case shall sentence the employer to imprisonment in the state penitentiary for a period of not less than one year nor more than two years.

SECTION 14. The district courts are hereby given original jurisdiction in all cases of violations of the provisions of this Act.

SECTION 15. There is hereby provided for a State Child Labor Inspector, appointed by and subject to the Director of the Bureau of Child Welfare. Said inspector must be qualified by special training and experience for this work and must pass a satisfactory examination given by the Director of the Bureau of Child Welfare for this purpose.

SECTION 16. All Acts and parts of Acts in conflict herewith are hereby repealed.

Laws relating to child labor are not necessarily a part of the school code. The Osceola Code includes regulations on child labor that directly concern the schools.

The laws prescribed in this Chapter are sound, explicit, and thorough, and at least the minimum regulations needed for any state. While the schools are indirectly affected, the regulations are of inestimable value to the cause of education.

Chapter 58 Session Laws 1925

AN ACT

To Provide Free Public Library Service

Be It Enacted by the Legislature of the State of New Mexico:

SECTION 1. The governing board of any municipal school district may include in its estimate for school maintenance a request for an allowance for the support of free public library service available to the residents of the county in cooperation with other library agencies. The county board of education is also authorized to include a similar request in the estimates for the county administrative fund. Upon presentation of satisfactory evidence of the desirability and need of such allowance or allowances, the School Budget Commissioners are hereby authorized to comply with such requests and to fix the amount of such allowance or allowances.

SECTION 2. That it is necessary for the preservation of the public peace and safety of the inhabitants of the State of New Mexico that the provisions of this Act shall become effective at the earliest possible time, and therefore, an emergency is hereby declared to exist and this Act shall take effect and be in full force and effect from and after its passage and approval.

Education now covers a much broader field than it did a few years ago. Libraries, or library service, including free use by the public, is considered a part of the broader interpretation of education. Legislation that sanctions such expansion and aids in carrying it out is in step with the modern trend. The public schools should be made to include as rapidly as possible all

activities which have as their main object educational growth and public development.[1]

Chapter 80 Session Laws 1925

AN ACT

To Amend Section 5330 of the New Mexico Statutes, Annotated, Codification 1915, Relating to the Beginning and Ending of the Fiscal Year.

Be It Enacted by the Legislature of the State of New Mexico:

SECTION 1. Section 5330 of the New Mexico Statutes Annotated, Codification 1915, be and the same is hereby amended to read as follows:

"SECTION 5330. The fiscal year for the state and for the counties, cities, towns, villages and school districts thereof shall begin on July 1 and end on June 30. The year beginning on July 1, 1925, shall be known as the fourteenth fiscal year. Provided, that with reference to appropriations for state purposes, not to exceed seven-twelfths (7/12) of the appropriations for the thirteenth fiscal year, as heretofore known shall be available for expenditure for that portion of said thirteenth fiscal year ending June 30, 1925, and the remaining five-twelfths (5/12) of the appropriations for such thirteenth fiscal year shall apply on and shall not be in addition to the appropriations made for the fourteenth fiscal year as above defined."

The change of the school fiscal year from the old plan of commencing August 1 and closing July 31 to July 1 to June 30 is of advantage. The new dates are more

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[1]Cubberley, E. P. State School Administration, p. 361-379.

satisfactory so far as making reports is concerned. In addition, the change gives a month or more on the new year before the opening of school. Under the old plan closing of the fiscal year was carried over to almost time to open the new school term, therefore interfering with the new school year. During July attention should be centered on the coming year, and not on the year immediately preceding. The revised dates give more time to use the past school-year reports to aid in planning and preparing for the coming session. The amended dates are the same as those used in the Osceola Code.

Chapter 4 Session Laws 1927

AN ACT

To Provide that the Principal of the Public School Fund and other Public Funds may be Invested in Interst Bearing State Highway Debentures.

SECTION 1. The principal of the permanent school fund and other public funds may be invested in interest bearing State Highway Debentures authorized by law issued before or after the passage of this Act to anticipate the collection of tax levies, licenses, motor vehicle registration fees, gasoline taxes or other revenues or income at any time provided for the State Road Fund for construction or maintenance of public highways or bridges in this State.

Upon approval by the State Board of Finance and other officials whose approval is required by law for such investment, the State Treasurer may purchase such debentures at par and accrued interest without advertising or offering them for sale notwithstanding that the law

authorizing their issue may have Provided, that they sold to the highest bidder after advertising.

SECTION 2. That it is necessary (for) the preservation of the public peace and safety of the inhabitants of the State of New Mexico that the provisions hereof shall take effect at the earliest possible time, and, THEREFORE, an emergency is hereby declared to exist and this Act shall take effect from and after its passage and approval.

Experience shows that the investment of state school funds in state highway bonds has been, not only unprofitable, but in some cases disastrous. Investment of school funds has been discussed somewhat at length under Article XII, Section 7 of the Constitution. School funds should not be invested unless the conditions stated there are fulfilled. Investment in state securities are not as safe as many other investments which are to be had.[1] The provisions of this Act do not agree with what educators prescribe, especially the recommendations of those familiar with school finances. The Act is weak, particularly from the standpoint of the schools; for this reason it should not be a part of the Code. Payment of most road bonds is dependent on gasoline taxes. The recent decision by the Illinois Supreme Court on the

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[1]The Public School System of Arkansas. U. S. Bureau of Education, 1923, No. 11, p. 107.

unconstitutionality of gasoline taxes, makes this source of revenue doubtful. If the case is upheld by the United States Supreme Court practically every state in the Union will be forced to search for new sources of revenue to retire existing road bonds. Road bond values will be seriously menaced, and payment in many instances will be extremely uncertain.

Legislatures pass many laws like the above because they believe the state's money should be kept at home. They take the attitude of "why go elsewhere to borrow when we have money at home to lend." Sight is lost of the fact that when one borrows from himself he is not as likely to consider the safety factor or to scrutinize the procedure as much as interested second parties would.

The Act opens up too big a field for political moves, especially the last paragraph of Section 1; it also offers too much opportunity for unsound business transactions.

SUMMARY AND CONCLUSION

The New Mexico School Code has been treated generally under the foregoing analysis. Some matters pertinent to the subject of school codes could not be dis-

cussed without diverging. The New Mexico Statutes do not treat sufficiently all the matters pertaining to the schools which need regulating by law. There is practically no demand for further legislation on minor and petty details; in fact the Statutes already contain too many insignificant laws. Other matters of importance, besides those pointed out, should be added to the Code Laws. These will be treated in Chapter IV.

The School Code as published by the state department of education for some reason does not contain all the Statutes that directly refer to the schools. Laws that relate to state institutions, especially educational institutions, have been entirely omitted. No real reason is evident for not including these statutes; they are of especial importance to the state educational system. It would be well to add to the School Code a number of other state laws that refer to education. Parts of the State Constitution which refer directly to education should also be included as a part of the Code, immediately preceding the statutory laws.

Organization of the Code as a whole is somewhat poor. It would be better to group the statutes under such large headings as: Administrative Organization; The System of Public Instruction; Support of the Public

School System; Environment and Equipment; Teaching Force; and State Oversight and Control. This plan is used in the Osceola Code. It is not necessarily recommended verbatim, but more as an example of a general scheme for grouping the statutes. The looser idea used in codifying the New Mexico laws makes it difficult to obtain a clear view of the educational laws without a general and somewhat careful study of the Code as a whole. A more unified organization would reduce repetition to a minimum; also make it much easier to find, as well as to interpret the laws.

School laws are usually made, unfortunately, by men not familiar with the problems of public education. If important legislation relating to cattle or road building is being considered, experts are usually called on for advice. Not so to any extent with education. The prevalent attitude is, that any one is qualified to pass legislation relating to public education. In all probability, most of the laws enumerated in the Code were made and approved by men with little or no knowledge of public education; and, likely, without consulting educators or seeking expert opinion. Many provisions in the Code really support this contention. This is an indictment against educators also; especially the teaching

profession, who are content to sit idly by, allowing their duties to be usurped by the unskilled and incompetent. Even few lawyers, trained as the level of the profession is, are competent to prescribe for the schools, without guidance. More expert leadership is needed in law making, especially so far as the schools are concerned; quibbling over minor details and technicalities instead of attacking the major problems is to be deplored.

The next chapter is a general treatment of the school laws, with special emphasis on needed reform. A general summary of the analysis, as well as further treatment on the Constitution and Code, follows.

CHAPTER IV

GENERAL RECOMMENDATIONS, SUMMARY AND CONCLUSION

OTHER NEEDED LEGISLATION

In addition to the school laws already in force in New Mexico, other legislation is needed. What has been stated thus far has been mostly in reference to laws already included in the Constitution or Code. The main purpose of this Chapter is to treat needed laws, not discussed heretofore, and to summarize the outstanding, advocated changes in the state system of education. The paragraphs that immediately follow will be centered on: free textbooks and school supplies; state teachers' salary schedule; teachers' tenure and pensions; training of teachers in service; and the control of education for incorrigibles, delinquent children, and defectives.

FREE TEXTBOOKS AND SCHOOL SUPPLIES

The furnishing of free textbooks and school supplies is one of the present urgent needs of education in New Mexico. A similar view is held by the people as evidenced by the fact that the legislature has already made attempts to carry the idea into effect. Although there is likelihood that free textbooks will soon become a

reality, there is little surety that such will come true unless the movement has the wholehearted support of the people and the backing of educators over the State. Definite action must be taken beforehand to insure success.

There is little question that free textbooks and school supplies should be furnished in the public schools;[1] some opposition exists, however. Free textbooks are especially desirable in New Mexico on account of the financial condition of a large percentage of the population.[2] The furnishing of free texts and school supplies will, it is true, directly increase the costs of education to the State. On the other hand the change would make for other savings which will greatly offset the expenditures. A distinct saving should result from better teaching, higher enrollment and attendance, less loss of time at the opening of school, and from more general uniformity of the right kind.[3]

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[1] Public Education in Oklahoma. U. S. Bureau of Education, 1923, No. 14, p. 71-73.

[2] A Manual of Educational Legislation. U. S. Bureau of Education, 1924, No. 36, p. 49-52.

[3] Cubberley, E. P. State School Administration, Chapter XXI, p. 555-580.

Also see U. S. Bureau of Education Bulletin, 1915, No. 36.

STATE SALARY SCHEDULE FOR TEACHERS

Another problem for legislative action is the establishing of a state salary schedule for teachers, with consequently higher standards for entrance into the profession. This schedule should be put into actual operation, not simply on paper but in practice. No state can hope to make much progress in raising the educational level without a good teaching corps. And without a good salary schedule, one that offers at least a living wage to start, with a fair increase for service and improvement, a good teaching corps cannot be had.[1] Adequate pay, not only for city school teachers but for rural teachers as well, both in the elementary and secondary schools, must be the goal.[2]

TEACHERS' TENURE

In addition to better salaries the State needs laws regulating tenure--laws that will favor the pro-

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[1] The Public School System of Arkansas. U. S. Bureau of Education, 1923, No. 10, p. 44.

[2] Public Education in Kentucky. A Report by the Kentucky Educational Commission, 1921, No.41, p. 175-180. Almack and Lang. Op. cit., Chapter XIII, p. 235-253. Cubberley, E. P. State School Administration, p. 651-659.

fessionally trained teacher and tend to weed out the unfit. This calls for devising a plan whereby teachers will be judged on merits as teachers and not on qualities, perhaps trivial things, foreign to the criteria of teaching ability. The tenure must be made reasonably secure for the teacher after a probationary period has been passed, providing she continues to measure up to some fair standard prescribed or approved by the State. The State must offer the teacher an opportunity at least equal to the one afforded those engaged in other professions or vocations.[1]

TEACHERS' PENSIONS

Closely allied to teachers' salaries is the question of establishing a state-wide form of pensioning to provide public school teachers protection at the time when they will no longer be useful as public servants. Teachers are entitled to protection, not as an act of charity, but rather in payment of an obligation owed to them becuuse of low salaries. The saving a system of pensioning will bring the State will more than offset the State's contribution. The penion idea should

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[1]Cubberley, E. P. State School Administration, p. 642-652.
Almack and Lang. Op. cit., p. 215-233.

be developed as a necessary part of the compensation offered those who devote their lives to teaching, and as an inducement to draw the best possible talent into the field.[1]

CONTROL OF SCHOOL BUILDINGS

The State School Laws make little provision for regulating and controlling school buildings over the State, as to planning, constructing, care, and upkeep. The Code should provide for state oversight in these matters, especially in requiring that all plans for new buildings must agree with those prescribed by the State. This would require that the State adopt a building code and maintain a division or office in the state department to oversee these matters.[2] Under this branch or division, or closely related thereto, might be included a division to control and regulate sanitary and health conditions of the public schools.[3] Although the state board now exercises these powers to a limited

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[1]Cubberley, E. P. State School Administration, p. 658-664.
Almack and Lang. Op. cit., p. 255-271.
Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 466-469.
[2]A Manual of Educational Legislation. U. S. Bureau of Education, 1919, No. 4, p. 41-45.
[3]Ibid., p. 38-42.

degree, the Code should specifically provide that they be performed.

TRAINING OF TEACHERS IN SERVICE

It would be advisable also to include in the Code regulations for training of teachers in service. The plan could profitably be made to correlate with a state salary schedule based on qualifications, service, and yearly improvement. Revalidating or renewing of certificates only on the basis of having fulfilled certain requirements would increase the need for such legislation. Under the laws finally adopted should be included regulations for reading circles and institutes of various kinds.[1]

INCORRIGIBLES, DEFECTIVES AND DELINQUENTS

The matter of incorrigibles, defective children, and delinquents cannot be discussed fully here. The best practices today are to the effect that all matters pertaining to the education of these classes in state institutions should be under the control of the state board of education.[2] More detailed legislation is

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[1]Cubberley, E. P. State School Administration, p. 585-614.
[2]Ibid., p. 701-707.

needed in New Mexico on this subject; and incidentally, more interest is needed on the part of the public. If the State is to give equal educational opportunity to all, this matter cannot be long neglected.[1] The present dissatisfaction at the Reform School at Springer points out the need of the suggested change.

ORDER OF CARRYING OUT REFORMS

In the criticisms and suggestions offered so far, little attention has been paid to comparisons of any kind; nor has any real attempt been made to say what is most important, and in what order reforms should be attempted or remedies applied. The purpose of the closing paragraphs is to discuss the recommended changes as they relate to each other, and to suggest an order and plan for putting the needed reforms into effect, as well as to summarize what the analysis has disclosed.

Perhaps the weakest link in the state school system at present is the organization of the state department and the county unit. This is true at least to the extent that it is believed that the place to begin to strengthen the state school system is on the reorgan-

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 361-379.

ization of these divisions.

There seems to be little question among educators familiar with the New Mexico state school situation that little progress can be made in the public schools until the state department is reorganized somewhat after the fashion suggested. There can be little unity and concerted effort without good leadership; cooperation for not only one term or administration, but for a number of years. Once the state department is put on firm footing the State is then ready to step forward in the direction of something really constructive.

A strong state department would automatically help to strengthen the county organization, as well as the smaller units. Not only this, but many of the other changes needed would automatically fall in line without the need of much conscious effort. It would be well, nevertheless, to do as much as possible at the outset toward strengthening the county unit, as the State and counties must work hand in hand to remedy present conditions. The city schools will aid materially, but they need little consideration at present, as they are by far the strongest cogs in the state educational system. Special effort must be spent to make New Mexico a pure county unit of school organization in the fullest sense

of the term, instead of a combination county and district system.[1] No further movement toward the district system than the establishment of attendance sub-districts should be allowed.

Next in importance would be an extensive state survey made by disinterested experts, to determine exactly the status of education within the State—to locate the weaknesses and their intensity, and to otherwise provide bases for sound suggestions and recommendations for constructive action. A worth-while survey should conclusively point out the best order of putting needed reforms into effect.

Of no less importance than the major points mentioned, and which need early attention, is the necessity of a change in the methods of taxation and apportioning of funds. These matters have been discussed at length elsewhere, and need little additional comment. It is highly probable that a study of revenues which New Mexico could produce would reveal that ample funds could be provided to supply the types of schools present day needs demand. The Utah Survey Commission made such a

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[1] Public Education in Oklahoma. U. S. Bureau of Education, 1923, No. 14, p. 15-19.

prediction in regard to the Utah Public Schools. The Commission's report was as follows:

"It is possible that a study of revenues which Utah could produce by providing a State severance tax, a State corporation tax, and State graduated personal income tax would show that Utah, like California, North Carolina, and Massachusetts, could do away entirely with her present State general property taxes. On the other hand, if she cannot at present do away with the State general property tax she can by adopting other forms of taxation greatly reduce her present rates, both State and local."[1]

Little progress can be made in any state, especially in a state with as many disadvantages and impediments to overcome as New Mexico has, unless the wealth of the state is pooled on the largest possible scale. The public schools must be assured a large state appropriation, and in addition the poorer districts must be assured special aid. A change in the plan of apportionment is truly necessary, but to be effective an increase in the amount the State actually apportions is paramount.

With the foregoing suggestions in effect, others would naturally follow. Once the movement for better schools is started in the right direction, and kept in motion until a fair degree of momentum is acquired, a really progressive program can be carried into effect.

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[1] Survey of Education in Utah. U. S. Bureau of Education, 1926, No. 18, p. 500.

New Mexico has a bright future in education, but how bright depends on how well and how soon present handicaps are removed.

FINAL CONCLUSION

As a final conclusion, an attempt will be made to summarize briefly what the analysis has revealed. As was mentioned at the outset, it is difficult to say how New Mexico's laws as a whole compare with those of other states, and even after a somewhat detailed analysis. In certain respects, as has been pointed out, New Mexico excels some of the states, whereas in other respects she sinks below their standing. There is, however, little question that New Mexico, on the basis of the census reports and statistics cited, falls well below the level of the more progressive states, and as a whole, somewhat below the average of all the states. In fact data are sufficient to indicate forcibly that New Mexico is among the lowest states in the Union in the matter of public education.

But regardless of the classification that might be decided upon, it still remains true that in the light of the ideal state school laws or in comparison with the best laws among the states, New Mexico has a

gigantic task before her. Much has been done; and much continues to be done. Indications are that even greater work lies ahead, work which requires the leadership of the best talent to be had, from among both statesmen and educators. And further, in spite of the fact that the State is now putting forth commendable effort in behalf of education, still greater effort is needed, not only mental and physical effort, but financial as well.

How to secure increased effort, better leadership, more financial assistance, and ultimately a higher educational level are real problems, all worthy of extensive study and investigation. The analysis that has preceded, it is believed, unquestionably discloses that the true solution to each of these lies partly, and in some cases, largely, through legislative action, through both constitutional amendment and a revision of the State School Code.

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