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HOUSE BILL 81

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Mimi Stewart

AN ACT

**RELATING TO PUBLIC EDUCATION; ENACTING PUBLIC SCHOOL REFORMS;
PROVIDING FOR MORE STRINGENT COMPETENCY REQUIREMENTS FOR
TEACHERS AND SCHOOL PRINCIPALS; PROVIDING FOR LICENSURE OF
CERTAIN SCHOOL EMPLOYEES; CHANGING CERTAIN GOVERNANCE
STRUCTURES; PRESCRIBING POWERS AND DUTIES; PROVIDING FOR
REGIONAL SERVICE CENTERS; PROVIDING FOR SCHOOL COUNCILS;
INCREASING RETIREMENT BENEFITS FOR SERVICE OVER TWENTY-FIVE
YEARS; PROVIDING FOR RETURN TO EMPLOYMENT OF CERTAIN RETIREES;
AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE
NMSA 1978; DECLARING AN EMERGENCY.**

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

**Section 1. Section 22-1-1 NMSA 1978 (being Laws 1967,
Chapter 16, Section 1, as amended) is amended to read:**

"22-1-1. PUBLIC SCHOOL CODE. -- Chapter [~~77 NMSA 1953~~] 22

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1 NMSA 1978 may be cited as the "Public School Code". "

2 Section 2. A new Section 22-1-1.2 NMSA 1978 is enacted
3 to read:

4 "22-1-1.2. [NEW MATERIAL] LEGISLATIVE FINDINGS AND
5 PURPOSE. --

6 A. The legislature finds that the key to student
7 success in New Mexico is an education system that attracts and
8 retains quality teachers for schools; that holds teachers,
9 students, schools and school districts accountable; and that
10 elevates the importance of public education in the state by
11 clarifying the governance structure at different levels.

12 B. The legislature finds further that the teacher
13 shortage in this country has affected the ability of New
14 Mexico to compete for the best teachers, and that unless the
15 state and school districts find ways to mentor beginning
16 teachers, intervene with teachers while they still show
17 promise, improve the job satisfaction of quality teachers and
18 elevate the teaching profession by shifting to a professional
19 educator licensing and salary system, schools will be unable
20 to recruit and retain the highest quality teachers in the
21 teaching profession in New Mexico.

22 C. The legislature finds further that a well-
23 designed, well-implemented and well-maintained assessment and
24 accountability system is the linchpin of public school reform
25 and must ensure that:

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1 (1) students who do not meet or exceed
2 expectations will be given individual attention and assistance
3 through extended learning programs and individualized
4 tutoring;

5 (2) teachers who do not meet performance
6 standards must improve their skills or they will not continue
7 to be employed as teachers; and

8 (3) school districts and the state are
9 prepared to actively intervene and improve failing schools.

10 D. The legislature finds further that improving
11 children's reading and writing abilities and literacy must
12 remain a priority of the state.

13 E. The legislature finds further that the public
14 school governance structure needs to change to provide
15 accountability from the bottom up instead of from the top
16 down. Each school principal, with the help of school councils
17 made up of parents and teachers, must be the instructional
18 leader in the school, motivating and holding accountable both
19 teachers and students. Each local superintendent must
20 function as the school district's chief executive officer and
21 have responsibility for the day-to-day operations of the
22 school district, including personnel and student disciplinary
23 decisions. Local school boards, which do not serve full time,
24 need to focus on educational policy for the school district
25 and need to be relieved of personnel and student disciplinary

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1 decisions. Many department of education duties need to
2 devolve to regional service centers so that state technical
3 assistance and some accountability functions may be closer to
4 the school districts, thus offering more immediate help in
5 improving performance and efficiency.

6 F. It is the purpose of this 2001 public school
7 reform legislation to provide the framework to implement the
8 legislative findings to ensure student success in New Mexico."

9 Section 3. Section 22-1-2 NMSA 1978 (being Laws 1967,
10 Chapter 16, Section 2, as amended) is repealed and a new
11 Section 22-1-2 NMSA 1978 is enacted to read:

12 "22-1-2. [NEW MATERIAL] DEFINITIONS. --As used in the
13 Public School Code:

14 A. "commercial advertiser" means a person who
15 advertises a product or service for profit or not for profit
16 and has a permitted advertisement;

17 B. "department" means the state department of
18 public education;

19 C. "forty-day report" means the report of
20 qualified student membership of each school district and of
21 those eligible to be qualified students but enrolled in a
22 private school or a home school for the first forty days of
23 school;

24 D. "home school" means the operation by the parent
25 of a school-age person of a home study program of instruction

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1 that provides a basic academic educational program, including
2 reading, language arts, mathematics, social studies and
3 science;

4 E. "instructional support provider" means a person
5 who is employed to support the instructional program of a
6 school district, including educational assistant, librarian,
7 school counselor, social worker, school nurse, speech-language
8 pathologist, psychologist, physical therapist, occupational
9 therapist, recreational therapist, interpreter for the deaf
10 and diagnostician;

11 F. "licensed school employee" means teachers,
12 school administrators and instructional support providers;

13 G. "local school board" means the policy-setting
14 body of a school district;

15 H. "local superintendent" means the chief
16 executive officer of a school district;

17 I. "parent" includes a guardian or other person
18 having custody and control of a school-age person;

19 J. "private school" means a school, other than a
20 home school, that offers on-site programs of instruction and
21 that is not under the control, supervision or management of a
22 local school board;

23 K. "public school" means that part of a school
24 district that is a single attendance center where instruction
25 is offered by one or more teachers and is discernible as a

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1 building or group of buildings generally recognized as either
2 an elementary, middle, junior high or high school or any
3 combination of those;

4 L. "school" means any supervised program of
5 instruction designed to educate a student in a particular
6 place, manner and subject area;

7 M. "school administrator" means a person licensed
8 to administer in a school district and includes school
9 principals and central district administrators;

10 N. "school-age person" means a person who is at
11 least five years of age prior to 12:01 a.m. on September 1 of
12 the school year and who has not received a high school diploma
13 or its equivalent. A maximum age of twenty-one shall be used
14 for a person who is classified as special education membership
15 as defined in Section 22-8-2 NMSA 1978 or as a resident of a
16 state institution;

17 O. "school building" means a public school, an
18 administration building and related school structures or
19 facilities, including teacher housing, that is owned, acquired
20 or constructed by the school district as necessary to carry
21 out the functions of the school district;

22 P. "school bus private owner" means a person,
23 other than a school district, the department, the state or any
24 other political subdivision of the state, that owns a school
25 bus;

1 Q. "school district" means an area of land
2 established as a political subdivision of the state for the
3 administration of public schools and segregated geographically
4 for taxation and bonding purposes;

5 R. "school employee" includes licensed and
6 nonlicensed employees of a school district;

7 S. "school principal" means the chief
8 instructional leader and administrative head of a public
9 school;

10 T. "school year" means the total number of
11 contract days offered by public schools in a school district
12 during a period of twelve consecutive months;

13 U. "state agency" or "state institution" means the
14 New Mexico military institute, New Mexico school for the
15 visually handicapped, New Mexico school for the deaf, New
16 Mexico boys' school, girls' welfare home, New Mexico youth
17 diagnostic and development center, Sequoyah adolescent
18 treatment center, Carrie Tingley crippled children's hospital,
19 Las Vegas medical center and any other state agency
20 responsible for educating resident children;

21 V. "state board" means the state board of
22 education;

23 W. "state educational institution" means an
24 institution enumerated in Article 12, Section 11 of the
25 constitution of New Mexico;

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1 X. "state superintendent" means the superintendent
2 of public instruction;

3 Y. "substitute teacher" means a person who holds a
4 certificate to substitute for a teacher in the classroom;

5 Z. "teacher" means a person who holds a level one,
6 two or three-A license and whose primary duty is classroom
7 instruction or the supervision, below the school principal
8 level, of an instructional program;

9 AA. "certified school instructor" means a teacher
10 or instructional support provider;

11 BB. "certified school employee" or "certified
12 school personnel" means a licensed school employee;

13 CC. "consolidated school district" means a school
14 district created by order of the state board through the
15 consolidation of one or more existing school districts; and

16 DD. "consolidation" means the combination of part
17 or all of the geographical area of an existing school district
18 with part or all of the geographical areas of one or more
19 contiguous existing school districts. "

20 Section 4. Section 22-1-6 NMSA 1978 (being Laws 1989,
21 Chapter 308, Section 1, as amended) is amended to read:

22 "22-1-6. TESTS AND ASSESSMENTS- - ANNUAL SCHOOL DISTRICT
23 ACCOUNTABILITY REPORT REQUIRED. - -

24 A. School districts [~~shall be~~] are required to
25 publish an annual school district accountability report to

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1 provide district-wide data for the previous school year. The
2 state board shall establish the format for the accountability
3 reports and ensure that the relevant data is provided annually
4 to parents, students, educators, policymakers, legislators,
5 the governor and business and economic development
6 organizations. The department [~~of education~~] shall establish
7 the following [~~five~~] six indices through which public school
8 performance shall be measured and reported to school
9 districts:

10 (1) student achievement as measured by a
11 nationally norm-referenced test approved by the department [~~of~~
12 ~~education~~] or a criterion-referenced test or through a
13 performance-based instrument to measure proficiency;

14 (2) school safety;

15 (3) the dropout rate;

16 (4) the graduation rate;

17 [~~(4)~~] (5) attendance; and

18 [~~(5)~~] (6) parent and community involvement.

19 The department [~~of education~~] shall establish the
20 methodology for measuring each of the [~~five~~] six indices.

21 B. [~~Effective July 1, 1999~~] School districts shall
22 annually administer a developmentally appropriate nationally
23 norm-referenced test, criterion-referenced test or [~~a~~
24 ~~standards-based~~] performance-based assessment to all students
25 enrolled in [a] public [~~school in grades three through nine.~~

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1 ~~Only~~ schools. Students with disabilities deemed incapable of
2 taking the test as determined on their individual educational
3 ~~[program]~~ programs shall ~~[be exempted from this requirement]~~
4 participate in the state's alternate assessment.

5 ~~[Additionally]~~ Students who have been assessed as non-English
6 or ~~[limited English proficient]~~ English language learner using
7 state-approved language assessments and meeting required
8 thresholds shall be exempted from this test and provided an
9 alternative norm-referenced test, criterion-referenced test or
10 ~~[standards-based]~~ performance-based assessment in their
11 primary language. School districts shall report the following
12 to the department ~~[of education]~~:

13 (1) the results of the norm-referenced test,
14 criterion-referenced test or ~~[standards-based]~~ performance-
15 based assessment;

16 (2) the results of the writing assessment;

17 ~~[(2)]~~ (3) the number of enrolled students who
18 did not take the test, the school in which they are enrolled
19 and the reason for ~~[the exemption from]~~ not participating
20 in the test; and

21 ~~[(3)]~~ (4) separately and as part of the
22 aggregate report, the results of assessments of students
23 enrolled in special education class A, B, C and D programs who
24 took the test and the school in which they are enrolled,
25 except in cases where the number of students being reported is

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1 less than ten.

2 C. School districts shall set two-, four- and six-
3 year benchmarks in each of the [~~five~~] six indices for each
4 public school. Local school boards may establish additional
5 indices, if reviewed by the department [~~of education~~], through
6 which to measure the school district's performance in other
7 areas.

8 D. School districts shall administer and report
9 department-approved criterion-referenced end-of-course tests
10 for the following designated core of high school courses that
11 are required for graduation:

- 12 (1) algebra 1;
- 13 (2) geometry;
- 14 (3) English 10;
- 15 (4) United States history; and
- 16 (5) biology.

17 [~~D.~~] E. The annual accountability report shall
18 also include the results of a survey of parents' views of the
19 quality of their children's school. The survey shall be
20 conducted each year in time to include the results in the
21 annual accountability report. The survey shall compile the
22 results of a written questionnaire that shall be sent home
23 with the students to be given to their parents. The survey
24 may be completed anonymously. The survey shall be no more
25 than one page, shall be clearly and concisely written and

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1 shall include not more than twenty questions that shall be
2 answered with options of a simple sliding scale ranging from
3 "strongly agree" to "strongly disagree" and shall include the
4 optional response "don't know". The survey shall also include
5 a request for optional written comments, which may be written
6 on the back of the questionnaire form. The questionnaire
7 shall include questions in the following areas:

8 (1) parent-teacher-school relationship and
9 communication;

10 (2) quality of educational and
11 extracurricular programs;

12 (3) instructional practices and techniques;

13 (4) resources;

14 (5) school personnel, including the school
15 principal; and

16 (6) parents' view of teaching staff
17 expectations for the students.

18 F. The state board shall develop no more than ten
19 of the survey questions, which shall be reviewed by the
20 legislative education study committee prior to implementation.
21 No more than five survey questions shall be developed by the
22 local school board, and no more than five survey questions
23 shall be developed by the staffs of each [~~individual~~] public
24 school [~~site~~]; provided that at least [~~half~~] one-half of those
25 questions [~~are~~] shall be developed by teachers rather than

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1 school administrators, in order to gather information that is
2 specific to the particular community surveyed. The
3 questionnaires shall indicate the public school site and shall
4 be tabulated by the department [~~of education~~] within thirty
5 days of receipt and shall be returned to the respective
6 schools to be disseminated to all parents.

7 [~~E.~~] G. The annual accountability report for each
8 school district shall be adopted by the local school board,
9 may be published no later than November 15 of each year and
10 may be published at least once each school year in a newspaper
11 of general circulation in the county where the school district
12 is located. In publication, the report shall be titled "The
13 School District Report Card" and disseminated in accordance
14 with guidelines established by the state board to ensure
15 effective communication with parents, students, educators,
16 local policymakers and business and community organizations.

17 H. The accountability report shall include the
18 names of those local school board members who failed to attend
19 mandatory training.

20 [~~F.~~] I. The department [~~of education~~] shall create
21 an accountability data system through which data from each
22 public school and each school district may be compiled and
23 reviewed. The department [~~of education~~] shall provide the
24 resources to train school district personnel in the use of the
25 accountability data system.

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1 ~~[G.]~~ J. The department ~~[of education]~~ shall verify
2 data submitted by the school districts.

3 ~~[H.]~~ K. The state board shall measure the
4 performance of every public school in New Mexico. Public
5 schools achieving the highest level of performance shall be
6 eligible for supplemental incentive funding. The state board
7 shall establish the corrective actions and interventions
8 necessary for public schools whose performance level is low.

9 ~~[I. Appropriation is contingent upon inclusion of~~
10 ~~one million four hundred thirty three thousand dollars~~
11 ~~(\$1,433,000) in the general appropriation act to meet the~~
12 ~~provisions of this act.]"~~

13 Section 5. Section 22-1-7 NMSA 1978 (being Laws 1989,
14 Chapter 344, Section 2) is amended to read:

15 "22-1-7. PUBLIC SCHOOLS-- VIOLENCE-- VANDALISM -
16 REPORTING. --

17 A. ~~[Any public]~~ A school administrator, teacher or
18 other school employee ~~[of a local school board]~~ who observes
19 or has direct knowledge from a participant or victim of an act
20 of violence upon a ~~[public]~~ school administrator, teacher or
21 other school employee of a local school board in the lawful
22 discharge of his duties or vandalism to public school property
23 shall file a report with the local superintendent describing
24 the incident pursuant to procedures established by the ~~[state]~~
25 department ~~[of public education]~~.

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1 B. ~~[Any]~~ A person who files an incident report
2 pursuant to this section shall not be discriminated against in
3 any manner or discharged by a local ~~[school board]~~
4 superintendent because he has filed that report.

5 C. The ~~[state]~~ department ~~[of public education]~~
6 shall establish uniform reporting procedures for incidents of
7 violence or vandalism described in Subsection A of this
8 section. The procedures shall include requirements for:

9 (1) incidents to be reported, incident
10 description and report on action taken in response to the
11 reported incident;

12 (2) annual reports by local ~~[school]~~
13 superintendents of all reported incidents ~~[to local school]~~
14 ~~boards~~];

15 (3) annual reports by local school boards of
16 all reported incidents to the state superintendent ~~[of public~~
17 ~~instruction]~~; and

18 (4) annual reports by the state
19 superintendent ~~[of public instruction]~~ of all reported
20 incidents to the state board ~~[of education]~~. The report filed
21 with ~~[that]~~ the state board shall be summarized and submitted
22 to an appropriate interim committee of the legislature with
23 recommendations to decrease the incidence of violence and
24 vandalism in the public schools. "

25 Section 6. A new section of Chapter 22, Article 1 NMSA

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1 1978 is enacted to read:

2 "[NEW MATERIAL] ADVISORY SCHOOL COUNCILS-- CREATION--
3 DUTIES. --

4 A. A public school may create an advisory "school
5 council" to assist the school principal with school-based
6 decision-making and to involve parents in their children's
7 education.

8 B. A school council may be created and its
9 membership provided for in accordance with local school board
10 rule. School council membership shall reflect an equitable
11 balance between school employees and parents and community
12 members. The school principal may serve as chairman.

13 C. The school council shall:

14 (1) work with the school principal and give
15 advice, consistent with state and district rules and policies,
16 on policies relating to instructional issues and curricula;

17 (2) develop creative ways to involve parents
18 in the schools; and

19 (3) serve as the champion for students in
20 building community support for schools and encouraging greater
21 community participation in the public schools."

22 Section 7. Section 22-2-2 NMSA 1978 (being Laws 1967,
23 Chapter 16, Section 5, as amended) is amended to read:

24 "22-2-2. STATE BOARD-- DUTIES. -- Without limiting those
25 powers granted to the state board pursuant to Section 22-2-1

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1 NMSA 1978, the state board shall perform the following duties:

2 A. properly and uniformly enforce the provisions
3 of the Public School Code;

4 B. determine policy for the operation of all
5 public schools and vocational education programs in the state,
6 including vocational programs that are part of a juvenile
7 construction industries initiative for juveniles who are
8 committed to the custody of the children, youth and families
9 department;

10 C. appoint a state superintendent;

11 D. purchase and loan instructional material to
12 students pursuant to the Instructional Material Law and adopt
13 rules relating to the use and operation of instructional
14 material depositories in the instructional material
15 distribution process;

16 E. designate courses of instruction to be taught
17 in all public schools in the state;

18 F. assess and evaluate all state institutions and
19 those private schools that desire state accreditation;

20 G. determine the qualifications for and issue a
21 [certificate] license to [~~any person teaching, assisting~~
22 ~~teachers, supervising an instructional program, counseling,~~
23 ~~providing special instructional services or administering in~~
24 ~~public schools~~] teachers, instructional support providers and
25 school administrators according to law and according to a

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1 system of classification adopted and published by the state
2 board;

3 H. suspend or revoke a [~~certificate held by a~~
4 ~~certified school instructor or certified school administrator~~]
5 license according to law for incompetency, immorality or any
6 other good and just cause;

7 I. make full and complete reports on consolidation
8 of school districts to the legislature;

9 J. prescribe courses of instruction, requirements
10 for graduation and standards for all public schools, for
11 private schools seeking state accreditation and for the
12 educational programs conducted in state institutions other
13 than the New Mexico military institute;

14 K. adopt rules for the administration of all
15 public schools and bylaws for its own administration;

16 L. require periodic reports on forms prescribed by
17 it from all public schools and attendance reports from private
18 schools;

19 M. authorize adult educational programs to be
20 conducted in schools under its jurisdiction and adopt and
21 promulgate rules governing all such adult educational
22 programs;

23 N. require [~~any~~] a public school under its
24 jurisdiction that sponsors athletic programs [~~involving~~
25 ~~sports~~] to mandate that the participating student obtain

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1 catastrophic health and accident insurance coverage, such
2 coverage to be offered through the school and issued by an
3 insurance company duly licensed pursuant to the laws of New
4 Mexico;

5 O. require all accrediting agencies for public
6 schools in the state to act with its approval;

7 P. accept and receive all grants of money from the
8 federal government or any other agency for public school
9 purposes and disburse the money in the manner and for the
10 purpose specified in the grant;

11 Q. require prior approval for ~~any~~ an educational
12 program in a public school that is to be conducted, sponsored,
13 carried on or caused to be carried on by a private
14 organization or agency;

15 R. approve or disapprove all rules promulgated by
16 ~~any~~ an association or organization attempting to regulate
17 ~~any~~ a public school activity and invalidate any rule in
18 conflict with ~~any~~ a rule promulgated by the state board.
19 The state board shall require ~~any~~ an association or
20 organization attempting to regulate ~~any~~ a public school
21 activity to comply with the provisions of the Open Meetings
22 Act and be subject to the inspection of the Public Records
23 Act. The state board may require performance and financial
24 audits of ~~any~~ an association or organization attempting to
25 regulate ~~any~~ a public school activity. The state board

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1 shall have no power or control over the rules or the bylaws
2 governing the administration of the internal organization of
3 the association or organization;

4 S. review decisions made by the governing board or
5 officials of ~~[any]~~ an organization or association regulating
6 any public school activity, and ~~[any]~~ a decision of the state
7 board shall be final in respect thereto;

8 T. accept or reject ~~[any]~~ a charitable gift,
9 grant, devise or bequest. The particular gift, grant, devise
10 or bequest accepted shall be considered an asset of the state;

11 ~~[U. establish and maintain regional centers at its
12 discretion, for conducting cooperative services between public
13 schools and school districts within and among those regions
14 and to facilitate regulation and evaluation of school
15 programs;~~

16 ~~V.-]~~ U. assess and evaluate public schools for
17 accreditation purposes ~~[at least one-third of all public
18 schools each year through visits by department of education
19 personnel to investigate]~~ to determine the adequacy of ~~[pupil]~~
20 student gain in standard required subject matter, adequacy of
21 ~~[pupil]~~ student activities, functional feasibility of public
22 school and school district organization, adequacy of staff
23 preparation and other matters bearing upon the education of
24 the students;

25 ~~[W.-]~~ V. provide for ~~management~~ and other necessary

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1 personnel to operate [~~any~~] a public school or school district
2 that has failed to meet requirements of law, state board
3 standards or state board rules; provided that the operation of
4 the public school or school district shall not include any
5 consolidation or reorganization without the approval of the
6 local school board [~~of that school district~~]. Until such time
7 as requirements of law, standards or rules have been met and
8 compliance is assured, the powers and duties of the local
9 school board shall be suspended;

10 [~~X.-~~] W. establish and implement a plan that
11 provides for technical assistance to local school boards
12 through workshops and other in-service training methods;
13 [~~provided, however, that no plan shall require mandatory~~
14 ~~attendance by any member of a local school board;~~

15 [~~Y.-~~] X. submit a plan applying for funds available
16 under Public Law 94-142 and disburse these funds in the manner
17 and for the purposes specified in the plan;

18 [~~Z.-~~] Y. enforce requirements for home schools.
19 Upon finding that a home school is not in compliance with law,
20 the state board has authority to order that a student attend a
21 public school or a private school; and

22 [~~AA.-~~] Z. develop a systemic framework for
23 professional development that provides training to ensure
24 quality teachers and school principals and that improves and
25 enhances student achievement. The state board shall work with

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1 [public] school [educators] employees, the commission on
2 higher education and institutions of higher education to
3 establish the framework. The framework shall include:

4 (1) the criteria for school districts to
5 apply for professional development funds, including an
6 evaluation component that will be used by the department [~~of~~
7 ~~education~~] in approving local school district professional
8 development plans; and

9 (2) guidelines for developing extensive
10 professional development activities for school districts,
11 including teaching strategies, curriculum materials, distance
12 learning networks and web sites, to ensure that the state
13 board's rules pertaining to content standards and benchmarks
14 are used by New Mexico teachers. "

15 Section 8. Section 22-2-6 NMSA 1978 (being Laws 1967,
16 Chapter 16, Section 9, as amended) is amended to read:

17 "22-2-6. DEPARTMENT [~~OF EDUCATION~~]- - DUTIES. - - Subject to
18 the policies of the state board and the supervision and
19 direction of the state superintendent, the department [~~of~~
20 ~~education~~] shall have the following duties:

21 A. supervise all schools and school officials
22 coming under the jurisdiction of the state board, including
23 taking over the control and management of a public school or
24 school district that has failed to meet requirements of law or
25 state board rules or standards;

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1 B. advise boards of regents of state educational
2 institutions on matters concerning the Public School Code;

3 C. prescribe, print and distribute forms to carry
4 out the duties of the state board pursuant to the Public
5 School Code;

6 D. annually, prior to December 1, prepare and
7 publish a report on public and private education in the state
8 and distribute the report to the governor and the legislature;

9 E. keep accurate records of all money received by
10 the state superintendent or the department [~~of education~~];

11 F. publish and distribute copies of the Public
12 School Code and [~~regulations~~] rules promulgated by the state
13 board to local school boards in the state;

14 G. confer with local school boards and [~~certified~~
15 ~~school personnel~~] licensed school employees on matters
16 concerning education in the state;

17 H. prepare and distribute patriotic material to
18 schools in the state; and

19 I. evaluate all educational programs in state
20 institutions under the authority of the secretary of [~~the~~]
21 health [~~and environment department~~]. "

22 Section 9. Section 22-2-6.11 NMSA 1978 (being Laws 2000
23 (2nd S.S.), Chapter 14, Section 1) is amended to read:

24 "22-2-6.11. READING INITIATIVE--DESIGN. --

25 A. The [~~state~~] department [~~of public education~~]

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1 shall design and implement a statewide reading initiative to
2 improve reading proficiency in the state. The design of the
3 reading initiative shall be based ~~[upon]~~ on quality, research-
4 based reading programs shown to improve reading proficiency
5 and shall include the following:

6 (1) consistent assessment and evaluation of
7 student reading levels;

8 (2) appropriate professional staff
9 development to assist ~~[classroom-certified-instructional-~~
10 ~~staff]~~ licensed school employees in the instruction of reading
11 ~~[programs]~~;

12 (3) extra time in the student's day or year
13 for implementation of reading programs; and

14 (4) rewards provided to ~~[certified-school-~~
15 ~~instructors]~~ teachers and other applicable licensed school
16 employees in schools that improve student reading proficiency.

17 B. The ~~[state]~~ department ~~[of-public-education]~~
18 shall use national experts to work with ~~[the-department]~~ it to
19 develop an immediate reading initiative and a long-term plan
20 for sustained reading improvement.

21 C. The ~~[state]~~ department ~~[of-public-education]~~
22 shall involve ~~[local]~~ school district personnel, especially
23 ~~[certified]~~ licensed elementary reading specialists, parents
24 and other interested persons in the design of the reading
25 initiative. "

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1 Section 10. Section 22-2-8 NMSA 1978 (being Laws 1967,
2 Chapter 16, Section 11) is amended to read:

3 "22-2-8. EDUCATIONAL STANDARDS. --The state board shall
4 prescribe ~~minimum~~ educational standards for all public schools
5 in the state. A copy of these educational standards shall be
6 furnished by the department [~~of education~~] to each local
7 school board, local superintendent and school principal. The
8 educational standards shall include ~~minimum~~ standards for the
9 following areas:

- 10 A. curriculum, including content standards and
11 benchmarks;
- 12 B. organization and administration of education;
- 13 C. the keeping of records, other than financial
14 records prescribed by the [~~chief~~] state superintendent;
- 15 D. membership accounting;
- 16 E. teacher preparation;
- 17 F. the physical condition of public school
18 buildings and grounds; and
- 19 G. educational facilities of public schools,
20 including laboratories and libraries. "

21 Section 11. Section 22-2-8.2 NMSA 1978 (being Laws 1986,
22 Chapter 33, Section 3, as amended) is amended to read:

23 "22-2-8.2. STAFFING PATTERNS--CLASS LOAD--TEACHING
24 LOAD. --

- 25 A. The individual class load for elementary school

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1 teachers shall not exceed twenty students for kindergarten;
2 provided that any teacher in kindergarten with a class load of
3 fifteen to twenty students shall be entitled to the assistance
4 of an educational assistant.

5 B. The average class load for elementary school
6 teachers at an individual school shall not exceed twenty-two
7 students when averaged among grades one, two and three;
8 provided that any teacher in grade one with a class load of
9 twenty-one or more shall be entitled to the full-time
10 assistance of an educational assistant.

11 C. [~~Effective with the 1994-95 school year~~] The
12 average class load for an elementary school teacher at an
13 individual school shall not exceed twenty-four students when
14 averaged among grades four, five and six.

15 D. The daily teaching load per teacher for grades
16 seven through twelve shall not exceed one hundred sixty
17 students, except the daily teaching load for teachers of
18 required English courses in grades seven and eight shall not
19 exceed one hundred thirty-five with a maximum of twenty-seven
20 students per class and the daily teaching load for teachers of
21 required English courses in grades nine through twelve shall
22 not exceed one hundred fifty students with a maximum of thirty
23 students per class.

24 E. Students receiving special education services
25 integrated into a regular classroom for any part of the day

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1 shall be counted in the calculation of class load averages.
2 Students receiving special education services not integrated
3 into the regular classroom shall not be counted in the
4 calculation of class load averages. Only classroom teachers
5 charged with responsibility for the regular classroom
6 instructional program shall be counted in determining average
7 class loads. In elementary schools offering only one grade
8 level, average class loads may be calculated by averaging
9 appropriate grade levels between schools in the school
10 district.

11 F. Class load limits provided for in this section
12 do not apply to band or music classes or athletics electives.

13 ~~[F.]~~ G. The state superintendent may waive the
14 individual school class load requirements established in this
15 section. Waivers shall be applied for annually and a waiver
16 shall not be granted for more than two consecutive years.

17 Waivers may only be granted if a school district demonstrates:

- 18 (1) no portable classrooms are available;
- 19 (2) no other available sources of funding
20 exist to meet its need for additional classrooms;
- 21 (3) the district is planning alternatives to
22 increase building capacity for implementation within one year;
23 and
- 24 (4) the parents of all children affected by
25 the waiver have been notified in writing:

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1 (a) of the statutory class load
2 requirements;

3 (b) that the school district has made a
4 decision to deviate from these class load requirements; and

5 (c) of the school district plan to
6 achieve compliance with the class load requirements.

7 [~~G.~~] H. If a waiver is granted pursuant to
8 Subsection [~~F~~] G of this section to an individual school, the
9 average class load for elementary school teachers at that
10 school shall not exceed twenty students in grade one and shall
11 not exceed twenty-five students when averaged among grades
12 two, three, four, five and six.

13 [~~H.~~] I. Each school district shall report to the
14 department [~~of education~~] the size and composition of classes
15 subsequent to the fortieth day and the December 1 count.
16 Failure to meet class load requirements within two years shall
17 be justification for the disapproval of the school district's
18 budget by the state superintendent.

19 [~~I.~~] J. The department [~~of education~~] shall report
20 to the legislative education study committee by November 30 of
21 each year regarding each school district's ability to meet
22 class load requirements imposed by law.

23 [~~J.~~] K. Notwithstanding the provisions of
24 Subsection [~~F~~] G of this section, the state board may waive
25 the individual class load and teaching load requirements

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1 established in this section upon a demonstration of a viable
2 alternative curricular plan and a finding by the state [~~board~~]
3 superintendent that the plan is in the best interest of the
4 school district and that, on an annual basis, the plan has
5 been presented to and is supported by the affected [~~teaching~~
6 ~~staff~~] teachers. The department [~~of education~~] shall evaluate
7 the impact of each alternative curricular plan annually.
8 Annual reports shall be made to the legislative education
9 study committee.

10 [~~K. Effective with the 1987-88 school year,~~
11 ~~certified school instructors~~]

12 L. Teachers shall not be required to perform
13 noninstructional duties except in emergency situations as
14 defined by the state board. For purposes of this subsection,
15 "noninstructional duties" means noon hall duty, noon ground
16 duty and noon cafeteria duty."

17 Section 12. Section 22-2-8.3 NMSA 1978 (being Laws 1986,
18 Chapter 33, Section 4, as amended) is amended to read:

19 "22-2-8.3. SUBJECT AREAS--MINIMUM INSTRUCTIONAL AREAS
20 REQUIRED--ACCREDITATION.--

21 A. The state board shall require [~~instruction~~]
22 public schools to address state board-approved content
23 standards, benchmarks and performance standards when
24 instructing in specific state board-required subject areas as
25 provided in Subsections B through [~~F~~] E of this section.

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1 [Any] A public school or school district failing to meet these
2 minimum requirements shall not be accredited by the state
3 board.

4 B. All first, [and] second and third grade classes
5 shall provide daily instruction in language arts skills,
6 including [~~phonics~~] phonemic and phonological skills and
7 mathematics.

8 [~~C. All third grade classes shall provide daily~~
9 ~~instruction in language arts skills and mathematics.~~

10 [~~D. All fourth, fifth and sixth grade classes shall~~
11 ~~provide instruction in language arts skills, with an emphasis~~
12 ~~on writing and editing; mathematics; science; and social~~
13 ~~studies, including geography. The following subject areas~~
14 ~~shall be offered in the remaining instructional time: art;~~
15 ~~music; physical education; health; and computer literacy,~~
16 ~~including a general familiarization with computers and support~~
17 ~~in the areas of mathematics and writing through word~~
18 ~~processing.~~

19 E. All seventh grade classes shall provide
20 instruction in English, with an emphasis on grammar and
21 writing; communication skills or science; New Mexico history
22 and geography; mathematics; and physical fitness. Remaining
23 instructional time may be used for electives listed in
24 Subsection G of this section.

25 F. All eighth grade classes shall provide

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1 ~~instruction in English, mathematics, United States history,~~
2 ~~and science. Remaining instructional time may be used for~~
3 ~~electives listed in Subsection G of this section.~~

4 ~~G. The electives authorized in Subsections E and F~~
5 ~~of this section are art, industrial arts, chorus, band, home~~
6 ~~economics, typing, creative writing, speech, drama, Spanish,~~
7 ~~computer literacy, American sign language and other electives~~
8 ~~approved by the state board.]~~

9 C. All first, second and third grade classes shall
10 provide instruction in art, music and a language other than
11 English.

12 D. In fourth through eighth grades, instruction
13 that meets content standards, benchmarks and performance
14 standards shall be provided in the following subject areas:

15 (1) language arts skills, with an emphasis on
16 writing and editing at least one year and an emphasis on
17 grammar and writing at least one year;

18 (2) mathematics;

19 (3) language other than English;

20 (4) communication skills;

21 (5) science;

22 (6) art;

23 (7) music;

24 (8) social studies;

25 (9) New Mexico history;

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1 (10) United States history;

2 (11) geography; and

3 (12) physical fitness.

4 E. In fourth through eighth grades, school
5 districts shall offer electives that contribute to academic
6 growth and skill development and provide career and technical
7 education. "

8 Section 13. Section 22-2-8.4 NMSA 1978 (being Laws 1986,
9 Chapter 33, Section 5, as amended) is amended to read:

10 "22-2-8.4. GRADUATION REQUIREMENTS. --

11 A. At the end of the eighth grade or during the
12 ninth grade, each student shall prepare an individual program
13 of study for grades nine through twelve. The program of study
14 shall be signed by a student's parent [~~or guardian~~].

15 B. [~~Beginning with students entering the ninth~~
16 ~~grade in the 1986-87 school year~~] Successful completion of a
17 minimum of twenty-three units shall be required for
18 graduation. These units shall be as follows:

19 (1) four units in English, with major
20 emphasis on grammar and literature;

21 (2) three units in mathematics;

22 (3) two units in science, one of which shall
23 have a laboratory component;

24 (4) three units in social science, which
25 shall include United States history and geography, world

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1 history and geography, and government and economics;

2 (5) one unit in physical fitness;

3 (6) one unit in communication skills, with
4 major emphasis on writing and speaking, which may include a
5 language other than English; and

6 (7) nine elective units [~~Only the following~~
7 ~~elective units shall be counted toward meeting the~~
8 ~~requirements for graduation: fine arts, i. e. music, band,~~
9 ~~chorus and art; practical arts; physical education; languages~~
10 ~~other than English; speech; drama; vocational education;~~
11 ~~mathematics; science; English; R. O. T. C.; social science;~~
12 ~~computer science; health education; American sign language;~~
13 ~~and other electives approved by the state board] that meet
14 state board content standards, benchmarks and performance
15 standards. With the approval of the local school board,
16 participation on an athletic team or in an athletic sport
17 during the school day may count toward fulfillment of the
18 physical education required unit.~~

19 C. Final examinations shall be administered to all
20 students in all classes offered for credit.

21 D. [~~Beginning with students entering the ninth~~
22 ~~grade in the 1986-87 school year, no]~~ A student shall not
23 receive a high school diploma [who] if he has not passed a
24 state competency examination in the subject areas of [reading]
25 language arts, writing, English, [math] mathematics, science

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1 and social science [~~Beginning with the 1996-97 school year~~].
2 The state competency [~~examinations~~] examination on social
3 science shall include a section on the constitution of the
4 United States and the constitution of New Mexico. If a
5 student exits from the school system at the end of grade
6 twelve without having passed a state competency examination,
7 he shall receive an appropriate state certificate indicating
8 the number of credits earned and the grade completed. If
9 within five years after a student exits from the school system
10 he takes and passes the state competency examination, he may
11 receive a high school diploma.

12 E. The state board may establish a policy to
13 provide for administrative interpretations to clarify
14 curricular and testing provisions of the Public School Code. "

15 Section 14. Section 22-2-8.5 NMSA 1978 (being Laws 1986,
16 Chapter 33, Section 6, as amended) is amended to read:

17 "22-2-8.5. [~~ADDITIONAL STATEWIDE~~] READING ASSESSMENTS
18 AND WRITING PRODUCTION TESTING-- WRITING PORTFOLIO. --

19 A. The state board shall expand the program of
20 educational accountability established through its educational
21 standards by adding reading assessments and writing production
22 tests to its existing uniform statewide system of assessment
23 to determine [~~pupil~~] student status, progress and degree of
24 achievement of basic skills and of essential educational
25 competencies.

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1 B. The department [~~of education~~] shall involve
2 [~~local~~] school district personnel, especially [~~certified~~]
3 licensed elementary reading specialists, in the development of
4 methods on a statewide basis to measure student reading
5 performance in order to assist school districts in the
6 assessment of student problem areas in the first and second
7 grades.

8 C. The department [~~of education~~] shall involve
9 [~~local~~] school district personnel, especially [~~certified~~
10 ~~school instructors~~] teachers, in the [~~fourth and sixth grades,~~
11 ~~in the~~] development or selection of a uniform statewide on-
12 demand writing production test for school districts, which
13 shall be administered in grades four, [~~and~~] six, eight and ten
14 to measure student writing performance in order to assist
15 school districts in the assessment of student problem areas.

16 D. The state board shall require an annual writing
17 portfolio for each student in all grades. For purposes of
18 this subsection, "writing portfolio" means two on-demand
19 writing pieces scored by the school district in accordance
20 with the language arts performance standard rubric or the New
21 Mexico writing assessment program rubric. "

22 Section 15. Section 22-2-14 NMSA 1978 (being Laws 1978,
23 Chapter 129, Section 1, as amended) is amended to read:

24 "22-2-14. [~~EDUCATION REQUIREMENTS--ENFORCEMENT~~] LOCAL
25 SCHOOL BOARDS--PUBLIC SCHOOLS--SUSPENSION--PROCEDURES. --

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1 A. Money budgeted by a school district shall be
2 spent first to attain and maintain the requirements for a
3 school district as prescribed by law and by standards and
4 ~~[regulations]~~ rules as prescribed by the state board. The
5 state superintendent shall give written notification to a
6 local school board, the local superintendent and a school
7 principal, if applicable, of any failure to meet requirements
8 by any part of the school district under the control of the
9 local school board. The notice shall specify the deficiency.
10 Instructional units or administrative functions may be
11 disapproved for such deficiencies. The state superintendent
12 shall disapprove instructional units or administrative
13 functions ~~[which]~~ that he determines to be detrimental to the
14 educational process.

15 B. Within thirty days after receipt of the notice
16 of failure to meet requirements, the local school board, local
17 superintendent and school principal, if applicable, shall:

18 (1) comply with the specific and attendant
19 requirements in order to remove the cause for disapproval; or

20 (2) submit plans satisfactory to the state
21 superintendent to meet requirements and remove the cause for
22 disapproval.

23 C. The state board shall suspend from authority
24 and responsibility ~~[any]~~ a local school board ~~[which]~~, local
25 superintendent or school principal that has had notice of

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1 disapproval and fails to comply with procedures of Subsection
2 B of this section. The state superintendent shall act in lieu
3 of the suspended local school board, local superintendent or
4 school principal until the state board removes the suspension.

5 D. To suspend a local school board, local
6 superintendent or school principal, the state board shall
7 deliver to the local school board an alternative order of
8 suspension, stating the cause for the suspension and the
9 effective date and time the suspension will begin. The
10 alternative order shall also contain notice of a time, date
11 and place for a public hearing, prior to the beginning of
12 suspension, to be held by the state board, at which the local
13 school board, local superintendent or school principal may
14 appear and show cause why ~~[it should not be suspended]~~
15 suspension should not be put into effect. Within five days
16 after the hearing, the state board shall make permanent,
17 modify or withdraw the alternative order.

18 E. The state superintendent may suspend a local
19 school board, local superintendent or school principal pending
20 a hearing before the state board when the local school board,
21 local superintendent or school principal has been notified of
22 disapproval and when the state superintendent has sufficient
23 reason to believe that the educational process in the school
24 district or public school has been severely impaired or halted
25 as a result of deficiencies so severe as to warrant

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1 disapproved status before the question of suspension can be
2 presented to the state board for a hearing.

3 F. The state superintendent, while acting in lieu
4 of a suspended local school board, local superintendent or
5 school principal, shall execute all the legal authority of the
6 local school board, local superintendent or school principal
7 and assume all the responsibilities of [~~that board~~] the local
8 school board, local superintendent or school principal.

9 G. The provisions of this section shall be invoked
10 at any time the state superintendent finds the school district
11 or public school has failed to attain and maintain the
12 requirements of law or state board standards and [~~regulations~~]
13 rules. "

14 Section 16. Section 22-2-15 NMSA 1978 (being Laws 1978,
15 Chapter 129, Section 2, as amended) is amended to read:

16 "22-2-15. HEARINGS--SUSPENSION CONTINUANCE AND
17 DISCONTINUANCE--APPEALS.--

18 A. Within ten days after suspension, or within a
19 reasonable time as the suspended local school board, local
20 superintendent or school principal may request, the state
21 board shall give a hearing to the local school board, local
22 superintendent or school principal. At this hearing, the
23 local school board, local superintendent or school principal
24 may appear and show cause why the suspension should not be
25 continued. The [~~state board~~] department employees who

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1 conducted the evaluations upon which the suspension was based
2 shall appear and give testimony.

3 B. After the hearing, the state board shall
4 continue or discontinue the suspension of the local school
5 board, local superintendent or school principal.

6 C. ~~[Any]~~ A local school board, local
7 superintendent or school principal aggrieved by the decision
8 of the state board may appeal to the district court pursuant
9 to the provisions of Section 39-3-1.1 NMSA 1978. "

10 Section 17. Section 22-2-19 NMSA 1978 (being Laws 2000,
11 Chapter 107, Section 3) is amended to read:

12 "22-2-19. FULL-DAY KINDERGARTEN PROGRAMS. --

13 A. The state board shall adopt rules for the
14 development and implementation of child-centered and
15 developmentally appropriate full-day kindergarten programs.
16 ~~[Establishment of full-day kindergarten programs shall be~~
17 ~~voluntary on the part of school districts and]~~ Student
18 participation in full-day kindergarten shall be voluntary on
19 the part of parents.

20 B. The department ~~[of education]~~ shall require
21 schools with full-day kindergarten programs to conduct age-
22 appropriate assessments to determine the placement of students
23 at instructional level and the effectiveness of child-
24 centered, developmentally appropriate kindergarten.

25 C. The department ~~[of education]~~ shall monitor

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1 full-day kindergarten programs and ensure that they serve the
2 children most in need based upon indicators in the at-risk
3 ~~[factor]~~ index. If the department ~~[of education]~~ determines
4 that a program is not meeting the benchmarks necessary to
5 ensure the progress of students in the program, the department
6 ~~[of education]~~ shall notify the school district that failure
7 to meet the benchmarks shall result in the cessation of
8 funding for the following school year. The department ~~[of~~
9 ~~education]~~ shall compile the program results submitted by the
10 school districts and make an annual report to the legislative
11 education study committee and the legislature.

12 D. Full-day kindergarten programs shall be phased
13 in over a ~~[five-year]~~ three-year period as follows ~~[with~~
14 ~~priority given to those districts that serve children in~~
15 ~~schools with the highest proportion of students most in need~~
16 ~~based upon indicators in the at-risk factor]~~:

17 (1) effective with the 2000-2001 school year,
18 ~~[one-fifth]~~ twenty percent of New Mexico's kindergarten
19 classes may be full day;

20 (2) effective with the 2001-2002 school year,
21 ~~[two-fifths of New Mexico's]~~ sixty percent of kindergarten
22 classes may be full day; and

23 (3) effective with the 2002-2003 school year,
24 ~~[three-fifths of New Mexico's]~~ all kindergarten classes may be
25 full day.

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1 ~~[(4) effective with the 2003-2004 school~~
2 ~~year, four-fifths of New Mexico's kindergarten classes may be~~
3 ~~full day; and~~

4 ~~(5) effective with the 2004-2005 school year,~~
5 ~~all of New Mexico's kindergarten classes may be full day]~~

6 E. A school district may apply to the department
7 for a waiver of accelerated full-day kindergarten if it can
8 demonstrate that it does not have adequate and appropriate
9 facilities or qualified teachers; provided, however, that
10 wavers shall not extend beyond the 2003-2004 school year.

11 ~~[E.]~~ F. During the phase-in period, school
12 districts shall apply to the department [of education] to
13 receive funding for full-day kindergarten programs. In
14 granting approval for funding of full-day kindergarten
15 programs, the department [of education] shall ensure that
16 full-day kindergarten programs are first implemented in
17 schools that have the highest proportion of students most in
18 need based upon the at-risk index and [to] in schools with
19 available classroom space. "

20 Section 18. A new Section 22-2C-1 NMSA 1978 is enacted
21 to read:

22 "22-2C-1. [NEW MATERIAL] SHORT TITLE. -- Chapter 22,
23 Article 2C NMSA 1978 may be cited as the "Regional Service
24 Center Act". "

25 Section 19. A new Section 22-2C-2 NMSA 1978 is enacted

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1 to read:

2 "22-2C-2. [NEW MATERIAL] FINDINGS AND PURPOSE. -- The
3 purpose of the Regional Service Center Act is to decentralize
4 certain functions of the department and to centralize at the
5 regional level functions of school districts that may be
6 offered more efficiently, economically and effectively by a
7 single entity. Further, the purpose of that act is to move
8 most accountability, regulatory functions, technical
9 assistance and other services of the department to regional
10 service centers, thereby providing more immediate assistance
11 to local school districts to ensure that all school districts
12 in the state will meet or exceed state performance standards."

13 Section 20. A new Section 22-2C-3 NMSA 1978 is enacted
14 to read:

15 "22-2C-3. [NEW MATERIAL] DEFINITIONS. -- As used in the
16 Regional Service Center Act:

- 17 A. "center" means a regional service center;
- 18 B. "director" means the director of a center; and
- 19 C. "enterprise activity" means the sale of goods
20 and services by a center that are not part of the center's
21 state accountability and accreditation functions. "

22 Section 21. A new Section 22-2C-4 NMSA 1978 is enacted
23 to read:

24 "22-2C-4. [NEW MATERIAL] REGIONAL SERVICE CENTERS
25 CREATED-- COORDINATING COUNCIL CREATED-- DIRECTOR. --

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1 A. The state superintendent shall create "regional
2 service centers" in no more than ten regions of the state to
3 help school districts improve their performance and operate
4 more efficiently and economically. Centers are organizational
5 units of the department. The state superintendent may phase
6 in the centers over a five-year period from July 1, 2001 and
7 shall determine the location and service area of each center
8 after consultation with school districts. When determining
9 the location of a center, the state superintendent shall
10 consider the efficacy of locating on a campus of a state post-
11 secondary educational institution.

12 B. The state superintendent shall appoint an
13 advisory "coordinating council" made up of the local
14 superintendents from each school district in the region. The
15 coordinating council shall advise the director and the state
16 superintendent on services to be provided by the center and on
17 other matters as requested. The coordinating council shall
18 meet annually to evaluate and review how well the center is
19 satisfying the needs of the school districts and their
20 communities, to discuss new program development and to make
21 recommendations on services to be provided. The coordinating
22 council may meet more often as requested by the director or
23 the state superintendent.

24 C. The state superintendent shall appoint a
25 "director" for each center, who shall report to and work under

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1 the general supervision of the state superintendent. The
2 director shall be appointed without regard to political
3 affiliation and solely on the ground of fitness to perform the
4 duties of his office. He shall be paid a salary fixed by the
5 state superintendent pursuant to a salary system adopted by
6 the state board.

7 D. The director shall appoint such professional,
8 technical and clerical support as may be necessary to carry
9 out the powers and duties of the center. Employees of the
10 center may choose membership in the educational retirement
11 association or the public employees retirement association."

12 Section 22. A new Section 22-2C-5 NMSA 1978 is enacted
13 to read:

14 "22-2C-5. [NEW MATERIAL] CENTERS-- POWERS AND DUTIES. --

15 A. A center shall:

16 (1) provide programmatic technical
17 assistance, including resource assistance to schools in need
18 of improvement;

19 (2) use the expertise of school district
20 personnel to provide technical assistance and input on issues
21 affecting the school districts in the service area;

22 (3) perform department accountability and
23 accreditation functions assigned to it by the state
24 superintendent, including:

25 (a) training school districts on and

1 enforcing the state assessment and accountability system;

2 (b) monitoring and ensuring that
3 curriculum, teaching and student assessment instruments are
4 aligned to state standards, benchmarks and performance
5 indicators;

6 (c) monitoring educational plans for
7 student success;

8 (d) performing departmental
9 accreditation services; and

10 (e) approving, monitoring and
11 evaluating district program budgets to ensure that budgets are
12 tied to educational plans for student success; and

13 (4) perform other duties assigned to it by
14 the state superintendent.

15 B. A center may:

16 (1) develop and conduct professional
17 development and other education training courses for school
18 personnel and district administrators;

19 (2) provide accounting and finance functions,
20 including handling federal flow-through funds;

21 (3) provide administrative and legal
22 services, including serving as central purchasing agent and
23 providing centralized purchasing;

24 (4) provide technology support services;

25 (5) provide human resources management and

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1 assistance, including training school principals in personnel
2 management;

3 (6) provide special education and other
4 educational services;

5 (7) assist schools with peer intervention;

6 (8) provide grant research and writing
7 services;

8 (9) provide truancy prevention support; and

9 (10) provide other programs or services
10 requested by school districts and approved by the state
11 superintendent. "

12 Section 23. Section 22-5-4 NMSA 1978 (being Laws 1967,
13 Chapter 16, Section 28, as amended) is amended to read:

14 "22-5-4. LOCAL SCHOOL BOARDS-- POWERS-- DUTIES. -- A local
15 school board shall have the following powers or duties:

16 A. subject to the [~~regulations~~] rules of the state
17 board, [~~supervise and control all public schools within the~~
18 ~~school district and all property belonging to or in the~~
19 ~~possession of the school district~~] develop educational
20 policies for the school district;

21 B. employ a local superintendent of schools for
22 the school district and fix his salary;

23 [~~C. delegate administrative and supervisory~~
24 ~~functions of the local school board to the superintendent of~~
25 ~~schools~~;

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1 ~~D. subject to the provisions of law, approve or~~
2 ~~disapprove the employment, termination or discharge of all~~
3 ~~employees and certified school personnel of the school~~
4 ~~district upon a recommendation of employment, termination or~~
5 ~~discharge by the superintendent of schools; provided that any~~
6 ~~employment relationship shall continue until final decision of~~
7 ~~the board. Any employment, termination or discharge without~~
8 ~~the prior recommendation of the superintendent is void;~~

9 ~~E. apply to the state board for a waiver of~~
10 ~~certain provisions of the Public School Code relating to~~
11 ~~length of school day, staffing patterns, subject area or the~~
12 ~~purchase of instructional materials for the purpose of~~
13 ~~implementing a collaborative school improvement program for an~~
14 ~~individual school;~~

15 ~~F. fix the salaries of all employees and certified~~
16 ~~school personnel of the school district;~~

17 ~~G. contract, lease, purchase and sell for the~~
18 ~~school district;]~~

19 C. review and approve the school district budget;

20 [H.] D. acquire, lease and dispose of property;

21 [I.] E. have the capacity to sue and be sued;

22 [J.] F. acquire property by eminent domain [as]
23 pursuant to the procedures provided in the Eminent Domain
24 Code;

25 [K.] G. issue general obligation bonds of the

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1 school district;

2 [L-] H. provide for the repair and [maintain]
3 maintenance of all property belonging to the school district;

4 [M-] I. for good cause and upon order of the
5 district court, subpoena witnesses and documents in connection
6 with a hearing concerning any powers or duties of the local
7 school boards;

8 [N-] J. except for expenditures for salaries,
9 contract for the expenditure of money according to the
10 provisions of the Procurement Code;

11 [O-] K. adopt [~~regulations~~] rules pertaining to
12 the administration of all powers or duties of the local school
13 board;

14 [P-] L. accept or reject any charitable gift,
15 grant, devise or bequest. The particular gift, grant, devise
16 or bequest accepted shall be considered an asset of the school
17 district or the public school to which it is given; and

18 [Q-] M. offer and, upon compliance with the
19 conditions of such offer, pay rewards for information leading
20 to the arrest and conviction or other appropriate disciplinary
21 disposition by the courts or juvenile authorities of offenders
22 in case of theft, defacement or destruction of school district
23 property. All such rewards shall be paid from school district
24 funds in accordance with [~~regulations that shall be~~] rules
25 promulgated by the [~~department of education~~] state board. "

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1 Section 24. A new Section 22-5-4.1 NMSA 1978 is enacted
2 to read:

3 "22-5-4.1. [NEW MATERIAL] LOCAL SUPERINTENDENT-- POWERS
4 AND DUTIES. --

5 A. The local superintendent is the chief executive
6 officer of the school district.

7 B. The local superintendent shall:

8 (1) carry out the educational policies and
9 rules of the state board and local school board;

10 (2) administer and supervise the school
11 district;

12 (3) employ, fix the salaries of, assign,
13 terminate or discharge all employees of the school district;

14 (4) prepare the school district budget for
15 review and approval by the local school board and the
16 department; and

17 (5) perform other duties as required by law,
18 the department or the local school board.

19 C. The local superintendent may apply to the state
20 board for a waiver of certain provisions of the Public School
21 Code relating to length of school day, staffing patterns,
22 subject area or the purchase of instructional materials for
23 the purpose of implementing a collaborative school improvement
24 program for an individual school. "

25 Section 25. Section 22-5-4.6 NMSA 1978 (being Laws 1990,
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1 Chapter 52, Section 3, as amended) is amended to read:

2 "22-5-4.6. COLLABORATIVE SCHOOL IMPROVEMENT PROGRAMS. --

3 A. A local [~~school-board~~] superintendent may
4 approve an individual school's plan to implement a
5 collaborative school improvement program upon a finding that
6 the plan is in the best interest of the school and is
7 supported by the participating teaching staff.

8 B. The input and concerns of parents, students,
9 school personnel and members of the community shall be
10 solicited and considered in the development and adoption of a
11 collaborative school improvement program.

12 C. If necessary for the implementation of a
13 collaborative school improvement program, the local [~~school-~~
14 ~~board~~] superintendent may apply to the state board for a
15 waiver of Public School Code provisions relating to length of
16 school day, staffing patterns, subject areas or purchase of
17 instructional material. The state board may approve a request
18 for a waiver upon a finding that the local [~~school-board~~]
19 superintendent has demonstrated accountability for student
20 learning through alternative planning and that the
21 participating teaching staff supports the implementation of a
22 collaborative school improvement program. The local [~~school-~~
23 ~~board~~] superintendent shall provide the state board with a
24 program budget that shows the type and number of students
25 served, the type and number of personnel involved and all

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1 expenditures of the waiver.

2 D. A teacher participating in the development and
3 implementation of a collaborative school improvement program
4 may contact the state board to comment on the local [~~school~~
5 ~~board's~~] superintendent's waiver request if [~~he~~] the teacher
6 communicated his opinion in writing to the local [~~school~~
7 ~~board~~] superintendent at the time the local [~~school-board~~]
8 superintendent approved implementation of the program."

9 Section 26. A new Section 22-5-5.1 NMSA 1978 is enacted
10 to read:

11 "22-5-5.1. [NEW MATERIAL] LOCAL SCHOOL BOARD TRAINING. --
12 The department shall develop a mandatory training course for
13 local school board members that explains state board rules,
14 department policies and procedures, statutory powers and
15 duties of local school boards, legal concepts pertaining to
16 public schools, finance and budget and other matters deemed
17 relevant by the department. The department shall notify local
18 school board members of the dates of the training course, the
19 last of which shall not be later than three months after a
20 school board election."

21 Section 27. Section 22-5-6 NMSA 1978 (being Laws 1971,
22 Chapter 199, Section 1, as amended) is amended to read:

23 "22-5-6. NEPOTISM PROHIBITED. --

24 A. [~~No local school board~~] A local superintendent
25 shall not initially employ or approve the initial employment

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1 in any capacity of a person who is the spouse, father, father-
2 in-law, mother, mother-in-law, son, son-in-law, daughter or
3 daughter-in-law of a member of ~~[such]~~ the local school board
4 or the local superintendent. The local school board may waive
5 the nepotism rule for family members of a local
6 superintendent.

7 B. Nothing in this section shall prohibit the
8 continued employment of a person employed on or before March
9 1, ~~[1981]~~ 2001. "

10 Section 28. Section 22-5-11 NMSA 1978 (being Laws 1986,
11 Chapter 33, Section 12, as amended) is amended to read:

12 "22-5-11. ~~[LOCAL SCHOOL BOARDS]~~ SCHOOL DISTRICT SALARY
13 [SCHEDULE] SYSTEM --

14 A. Prior to the beginning of each school year,
15 each local ~~[school board]~~ superintendent shall file with the
16 department ~~[of education]~~ a district salary ~~[schedule]~~ system,
17 which salary ~~[schedule]~~ system shall incorporate any salary
18 increases or compensation measures specifically mandated by
19 the legislature. Salaries for teachers and school
20 administrators shall be aligned with the licensure framework
21 provided for in Chapter 22, Article 10A NMSA 1978.

22 B. ~~[No]~~ A local ~~[school board]~~ superintendent
23 shall not reduce the district salary ~~[schedule]~~ system
24 established pursuant to Subsection A of this section without
25 the prior written approval of the state superintendent. The

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1 state superintendent shall give written notice to the
2 legislative finance committee, the legislative education study
3 committee and the department of finance and administration of
4 any approved reduction of any school district's salary
5 [~~schedule~~] system, including the reasons for the request for
6 reduction and the grounds for approval. "

7 Section 29. Section 22-8-1 NMSA 1978 (being Laws 1967,
8 Chapter 16, Section 55) is amended to read:

9 "22-8-1. SHORT TITLE. -- [~~Sections 77-6-1 through 77-6-46~~
10 ~~New Mexico Statutes Annotated, 1953 Compilation]~~ Chapter 22,
11 Article 8 NMSA 1978 may be cited as the "Public School Finance
12 Act". "

13 Section 30. Section 22-8-9 NMSA 1978 (being Laws 1967,
14 Chapter 16, Section 63, as amended) is amended to read:

15 "22-8-9. BUDGETS-- MINIMUM REQUIREMENTS. --

16 A. No budget for a school district shall be
17 approved by the department that does not provide for:

18 (1) beginning with the 2001-2002 school year,
19 a school year consisting of at least one hundred ninety days,
20 including one hundred eighty full instructional days or the
21 equivalent thereof [~~exclusive of any release time for in-~~
22 ~~service training]~~ and ten days for professional development
23 and other staff purposes for teachers; provided, however, that
24 the additional days are contingent on appropriation by the
25 legislature to implement the requirement; or

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1 (2) a variable school year consisting of a
2 minimum number of instructional hours established by the state
3 board, including professional development time that is
4 equivalent to ten days as provided in Paragraph (1) of this
5 subsection; and

6 (3) a pupil-teacher ratio or class or
7 teaching load as provided in Section 22-2-8.2 NMSA 1978.

8 B. The state board shall, by ~~[regulation]~~ rule,
9 establish the requirements for ~~[a teaching]~~ an instructional
10 day, the standards for an instructional hour and the standards
11 for a full-time ~~[certified classroom instructor]~~ teacher and
12 for the equivalent thereof.

13 ~~[C. The local school board shall submit a plan for~~
14 ~~the implementation of an alternate school year to the state~~
15 ~~superintendent for his approval.]~~

16 ~~D. The provisions of Subsection C and Paragraph~~
17 ~~(2) of Subsection A of this section shall apply to school~~
18 ~~districts with a MEM of one thousand or fewer.]~~

19 C. Beginning with the 2001-2002 school year, each
20 public school budget shall include enough money to compensate
21 teachers for an additional one-half hour beyond the contract
22 day in effect for the 2000-2001 school year for student
23 curriculum and instructional preparation time. The provisions
24 of this subsection are contingent on appropriation by the
25 legislature to implement the requirement."

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1 Section 31. Section 22-10-1 NMSA 1978 (being Laws 1975,
2 Chapter 306, Section 1, as amended) is recompiled as Section
3 22-10A-1 NMSA 1978 and is amended to read:

4 "22-10A-1. SHORT TITLE. -- Chapter 22, Article [~~10~~] 10A
5 NMSA 1978 may be cited as the "School Personnel Act". "

6 Section 32. Section 22-2-8.7 NMSA 1978 (being Laws 1986,
7 Chapter 33, Section 8, as amended) is recompiled as Section
8 22-10A-3 NMSA 1978 and is amended to read:

9 "22-10A-3. [~~CERTIFICATION~~] LICENSURE REQUIREMENTS. --

10 A. The state board shall require [~~any~~] a person
11 seeking [~~certification~~] licensure or reciprocity in elementary
12 [~~and~~] or secondary education to complete the following minimum
13 requirements in the college of arts and sciences:

14 (1) twelve hours in English;

15 (2) twelve hours in history, including
16 American history and western civilization;

17 (3) six hours in mathematics;

18 (4) six hours in government, economics or
19 sociology;

20 (5) twelve hours in science, including
21 biology, chemistry, physics, geology, zoology and botany; and

22 (6) six hours in fine arts.

23 B. The state board shall require, prior to
24 [~~certification~~] licensure, no less than fourteen weeks of
25 student teaching, a portion of which shall occur in the first

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1 thirty credit hours taken in the college of education and
2 shall be under the direct supervision of a [~~certified school~~
3 ~~instructor~~] teacher and a portion of which shall occur in the
4 student's senior year with the student teacher being directly
5 responsible for the classroom.

6 C. Nothing in this section shall preclude the
7 state board from establishing or accepting equivalent
8 requirements for purposes of reciprocal [~~certification~~]
9 licensure or minimum requirements for alternative
10 [~~certification~~] licensure.

11 [~~D. The requirements in Subsections A and B of~~
12 ~~this section shall apply to students first entering a college~~
13 ~~or university beginning in the fall of 1986.~~

14 E.] D. Vocational teacher preparatory programs may
15 be exempt from Subsections A and B of this section upon a
16 determination by the state board that other licensure or
17 certification requirements are more appropriate for vocational
18 teacher preparatory programs. "

19 Section 33. A new Section 22-10A-4 NMSA 1978 is enacted
20 to read:

21 "22-10A-4. [NEW MATERIAL] TEACHERS AND SCHOOL
22 ADMINISTRATORS--PROFESSIONAL STATUS--LICENSURE LEVELS--SALARY
23 ALIGNMENT.--

24 A. Teaching and school administration are
25 recognized as professions, with all the rights,

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1 responsibilities and privileges accorded professions, having
2 their first responsibility to the public they serve. The
3 primary responsibilities of the teaching and school
4 administration professions are to educate the children of this
5 state and to improve the professional practices and ethical
6 conduct of their members.

7 B. The New Mexico licensure framework for teachers
8 and school administrators is a progressive career system in
9 which licensees are required to demonstrate increased
10 competencies and undertake increased duties as they progress
11 through the licensure levels.

12 C. A level one license is a provisional license
13 issued for the first three years of teaching that gives a
14 beginning teacher the opportunity, through a formal mentorship
15 program, for additional preparation to be a quality teacher.
16 A level two license is given to a teacher who is a fully
17 qualified professional who is primarily responsible for
18 ensuring that students meet and exceed state board-adopted
19 standards and benchmarks; a teacher may choose to remain at
20 level two for the remainder of his career. A level three-A
21 license is the highest level of teaching licensure for those
22 teachers who choose to advance as instructional leaders in the
23 teaching profession and undertake greater responsibilities
24 such as curriculum development, peer intervention and
25 mentoring. A level three-B license is for teachers who

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1 commence a new career path in school administration by
2 becoming school administrators.

3 D. All teacher and school administrator salary
4 systems shall be aligned with the licensure framework in a
5 professional educator licensing and salary system.

6 E. All teachers and school administrators who hold
7 level two or three certificates on the effective date of this
8 2001 act shall meet the requirements for their level of
9 licensure by September 1, 2004 and shall be issued licenses.
10 Level two and three licenses issued pursuant to this
11 subsection shall be for nine years. "

12 Section 34. A new Section 22-10A-5 NMSA 1978 is enacted
13 to read:

14 "22-10A-5. [NEW MATERIAL] LEVEL ONE LICENSURE--MINIMUM
15 SALARY.--

16 A. A level one license is a provisional three-year
17 license for beginning teachers that requires as a condition of
18 licensure that the licensee undergo a formal mentorship
19 program and an annual intensive evaluation by the school
20 administrator for three full school years before applying for
21 a level two license.

22 B. Each school district, in accordance with state
23 board rules, shall provide for the mentorship and evaluation
24 of level one teachers. At the end of each year and at the end
25 of the license period, the level one teacher shall be

1 evaluated for competency. If the teacher fails to demonstrate
2 satisfactory progress and competence annually, the teacher may
3 be terminated as provided in Section 22-10A-22 NMSA 1978. If
4 the teacher has not demonstrated satisfactory progress and
5 competence by the end of the three-year period, he shall not
6 be granted a level two license.

7 C. Except in exigent circumstances defined by
8 state board rule, a level one license shall not be extended
9 beyond the initial period.

10 D. The department shall issue a standard level one
11 license to an applicant who is at least eighteen years of age
12 who:

13 (1) holds a baccalaureate degree from an
14 accredited educational institution;

15 (2) has successfully completed a state board-
16 approved teacher preparation program from a nationally
17 accredited or state-approved educational institution;

18 (3) has passed the New Mexico teacher
19 assessments examination; and

20 (4) meets other qualifications for level one
21 licensure, including clearance of the required background
22 check.

23 E. The department shall issue an alternative level
24 license to an applicant who meets the requirements of Section
25 22-10A-6 NMSA 1978.

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1 F. The department shall establish competencies and
2 qualifications for specific grade levels, types and subject
3 areas of level one licensure, including early childhood,
4 elementary, middle school, secondary, special education and
5 vocational teaching.

6 G. Beginning with the 2002-2003 school year, with
7 the adoption by the state board of more stringent competency
8 requirements for level one teachers, the minimum salary for a
9 level one teacher shall be thirty thousand dollars (\$30,000)
10 for a standard nine and one-half month contract, increased
11 proportionately for additional service up to a minimum
12 annualized salary of thirty-seven thousand eight hundred
13 ninety-five dollars (\$37,895).

14 H. Teachers who hold level one certificates on the
15 effective date of this 2001 act must meet the more stringent
16 competencies by the end of the 2002-2003 school year or by the
17 end of three years, whichever comes later. "

18 Section 35. A new Section 22-10A-6 NMSA 1978 is enacted
19 to read:

20 "22-10A-6. [NEW MATERIAL] ALTERNATIVE LEVEL ONE
21 LICENSE. --

22 A. The department shall issue an alternative level
23 one license to a person who is at least eighteen years of age
24 and who has:

25 (1) completed a baccalaureate degree at an

1 accredited institution of higher education, including
2 completion of a minimum of thirty credit hours at either the
3 undergraduate or graduate level in the subject area of
4 instruction for which he is applying for a license;

5 (2) completed a master's degree at an
6 accredited institution of higher education, including
7 completion of a minimum of twelve graduate credit hours in the
8 subject area of instruction for which he is applying for a
9 license; or

10 (3) completed a doctoral degree at an
11 accredited institution of higher education; and

12 (4) passed the New Mexico teacher assessments
13 examination.

14 B. A degree referred to in Subsection A of this
15 section shall correspond to the subject area of instruction
16 and the particular grade level that will enable the applicant
17 to teach in a competent manner as determined by the
18 department.

19 C. Prior to assuming teaching duties, a person who
20 holds an alternative level one license shall:

21 (1) complete a minimum of twelve semester
22 hours of instruction in teaching principles in a program
23 approved by the department; or

24 (2) demonstrate to the department, in
25 conjunction with the school district or state agency, that he

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1 has met the state board-approved competencies for level one
2 teachers that correspond to the grade level that will be
3 taught.

4 D. An alternative level one teacher shall
5 participate in the same mentorship and other professional
6 development requirements as other level one teachers.

7 E. A school district or state agency shall not
8 discriminate against a teacher on the basis that he holds an
9 alternative level one license."

10 Section 36. A new Section 22-10A-7 NMSA 1978 is enacted
11 to read:

12 "22-10A-7. [NEW MATERIAL] STATEWIDE TEACHER MENTORSHIP
13 PROGRAM FOR BEGINNING TEACHERS--PURPOSE--STATE BOARD DUTIES--
14 DEPARTMENT DUTIES.--

15 A. The purpose of the statewide teacher mentorship
16 program is to provide beginning teachers with an effective
17 transition into the teaching field, to build on their initial
18 preparation and to ensure their success in teaching; to
19 improve the achievement of students; and to retain capable
20 teachers in the classroom and to remove teachers who show
21 little promise of success.

22 B. The department shall develop a framework for a
23 teacher mentorship program for all level one teachers. The
24 state board shall work with licensed school employees,
25 representatives from teacher preparation programs and the

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1 commission on higher education to establish the framework.

2 C. The framework shall include:

3 (1) individual support and assistance for
4 each beginning teacher from a designated mentor;

5 (2) structured training for mentors;

6 (3) an ongoing, formative evaluation that is
7 used for the improvement of teaching practice;

8 (4) procedures for a summative evaluation of
9 beginning teachers' performance during the first three years
10 of teaching, including annual assessment of suitability for
11 license renewal, and for final assessment of beginning
12 teachers seeking level two licensure;

13 (5) support from local school boards, school
14 district administrators and other school district personnel;
15 and

16 (6) regular review and evaluation of the
17 teacher mentorship program.

18 D. The department shall:

19 (1) require submission and approval of each
20 school district's teacher mentorship program;

21 (2) provide technical assistance to school
22 districts that do not have a well-developed teacher mentorship
23 program in place; and

24 (3) encourage school districts to collaborate
25 with teacher preparation program administrators at

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1 institutions of higher education, career educators,
2 educational organizations, regional service centers and other
3 state and community leaders in the teacher mentorship
4 program "

5 Section 37. A new Section 22-10A-8 NMSA 1978 is enacted
6 to read:

7 "22-10A-8. [NEW MATERIAL] LEVEL TWO LICENSURE. --

8 A. A level two license is a nine-year license
9 granted to a teacher who meets the qualifications for that
10 level and who annually demonstrates essential competency to
11 teach. If a level two teacher does not demonstrate essential
12 competency in a given school year, the school district shall
13 provide the teacher with additional professional development
14 and peer intervention during the following school year. If by
15 the end of that school year the teacher fails to demonstrate
16 essential competency, a school district may choose not to
17 contract with the teacher to teach in the classroom.

18 B. The department shall issue a level two license
19 to an applicant who successfully completes the three-year
20 level one license or is granted reciprocity as provided by
21 state board rules; demonstrates essential competency required
22 by the state board as verified by the local superintendent
23 through a state-approved evaluation process; and meets other
24 qualifications as required by the state board.

25 C. The department shall provide for qualifications

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1 for specific grade levels, types and subject areas of level
2 two licensure, including early childhood, elementary, middle
3 level, secondary, special education and vocational teaching.

4 D. Beginning with the 2003-2004 school year, with
5 the adoption by the state board of more stringent competency
6 requirements for level two teachers, the minimum salary for a
7 level two teacher shall be forty thousand dollars (\$40,000)
8 for a standard nine and one-half month contract, increased
9 proportionately for additional service up to a minimum
10 annualized salary of fifty thousand five hundred twenty-six
11 dollars (\$50,526). "

12 Section 38. A new Section 22-10A-9 NMSA 1978 is enacted
13 to read:

14 "22-10A-9. [NEW MATERIAL] LEVEL THREE LICENSURE--TRACKS
15 FOR TEACHERS AND SCHOOL ADMINISTRATORS. --

16 A. A level three-A license is a nine-year license
17 granted to a teacher who meets the qualifications for that
18 level and who annually demonstrates instructional leader
19 competencies.

20 B. The department shall grant a level three-A
21 license to an applicant who has been a level two teacher for
22 at least three years and holds a post-baccalaureate degree or
23 national board certification; demonstrates instructional
24 leader competence as required by the state board and verified
25 by the local superintendent through a state-approved

1 evaluation process; and meets other qualifications for the
2 license.

3 C. Beginning with the 2003-2004 school year, with
4 the adoption by the state board of more stringent competency
5 requirements for level three-A teachers, the minimum salary
6 for a level three-A teacher shall be fifty thousand dollars
7 (\$50,000) for a standard nine and one-half month contract,
8 increased proportionately for additional service up to a
9 minimum annualized salary of sixty-three thousand one hundred
10 fifty-eight dollars (\$63,158).

11 D. A level three-B license is a nine-year license
12 granted to a school administrator who meets the qualifications
13 for that level. Licenses may be renewed upon satisfactory
14 annual demonstration of instructional leader and
15 administrative competency.

16 E. The department shall grant a level three-B
17 license to an applicant who has been a level three-A
18 instructional leader for at least one year, has satisfactorily
19 completed state board-approved courses in administration and a
20 state board-approved administration apprenticeship program and
21 demonstrates instructional leader competence required by the
22 state board and verified by the local superintendent through a
23 state-approved evaluation process.

24 F. Beginning with the 2002-2003 school year, the
25 standard contract and minimum annual salary for a level three-

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1 B school principal shall be based on the size of the school in
2 which the school principal is employed, as follows:

3 (1) for school principals of schools with two
4 hundred or fewer students, a minimum salary of fifty-eight
5 thousand dollars (\$58,000) for a standard ten-month contract,
6 increased proportionately for additional service up to a
7 minimum annualized salary of sixty-nine thousand six hundred
8 dollars (\$69,600);

9 (2) for school principals of schools with two
10 hundred one to four hundred students, a minimum salary of
11 sixty thousand dollars (\$60,000) for a standard ten-month
12 contract, increased proportionately for additional service up
13 to a minimum annualized salary of seventy-two thousand dollars
14 (\$72,000);

15 (3) for school principals of schools with
16 four hundred one to six hundred students, a minimum salary of
17 sixty-two thousand dollars (\$62,000) for a standard ten-month
18 contract, increased proportionately for additional service up
19 to a minimum annualized salary of seventy-four thousand four
20 hundred dollars (\$74,400);

21 (4) for school principals of schools with six
22 hundred one to eight hundred students, a minimum salary of
23 sixty-four thousand dollars (\$64,000) for a standard ten-month
24 contract, increased proportionately for additional service up
25 to a minimum annualized salary of seventy-six thousand eight

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1 hundred dollars (\$76,800);

2 (5) for school principals of schools with
3 eight hundred one to one thousand students, a minimum salary
4 of sixty-six thousand dollars (\$66,000) for a standard ten-
5 month contract, increased proportionately for additional
6 service up to a minimum annualized salary of seventy-nine
7 thousand two hundred dollars (\$79,200); and

8 (6) for school principals of schools with
9 more than one thousand students, a minimum salary of sixty-
10 eight thousand dollars (\$68,000) for a standard ten-month
11 contract, increased proportionately for additional service up
12 to a minimum annualized salary of eighty-one thousand six
13 hundred dollars (\$81,600). "

14 Section 39. A new Section 22-10A-10 NMSA 1978 is enacted
15 to read:

16 "22-10A-10. [NEW MATERIAL] LIMITED RECIPROCITY. -- A
17 teacher or school principal licensed in another state may be
18 granted a level two or level three license if he has teaching
19 experience, demonstrates the required competencies and meets
20 other requirements and qualifications for the license for
21 which he applies, including clearance of the required
22 background check. The local superintendent may require a
23 mentorship period for the licensee if he deems it necessary.
24 A teacher who holds an out-of-state license may apply for a
25 lower level license if he does not meet the requirements for

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1 the higher level. "

2 Section 40. A new Section 22-10A-11 NMSA 1978 is enacted
3 to read:

4 "22-10A-11. [NEW MATERIAL] CERTIFICATES OF WAIVER. --

5 A. If a local superintendent or governing
6 authority of a state agency certifies to the department that
7 an emergency exists in the hiring of a qualified person, the
8 department may issue a certificate of teaching waiver or
9 assignment waiver.

10 B. The department may issue a certificate of
11 teaching waiver to a person who holds a baccalaureate degree
12 but does not meet other requirements for licensure as a level
13 one teacher. Certificates of teaching waivers are one-year
14 waivers and may be renewed only if the holder provides
15 satisfactory evidence of continued progress toward a level one
16 license.

17 C. At the request of a local superintendent, the
18 department may issue a certificate of assignment waiver to a
19 licensed teacher who is assigned to teach outside his teaching
20 endorsement area. A certificate of assignment waiver may be
21 renewed each school year if the teacher earns credit at the
22 rate of nine semester hours each year until he meets the
23 requirements for the endorsement. "

24 Section 41. A new Section 22-10A-12 NMSA 1978 is enacted
25 to read:

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1 "22- 10A- 12. [NEW MATERIAL] SUBSTITUTE TEACHER
2 CERTIFICATE. --The state board shall provide by rule for the
3 qualifications for a substitute teacher certificate. A local
4 school board may provide for additional qualifications or
5 requirements it deems necessary. "

6 Section 42. A new Section 22- 10A- 13 NMSA 1978 is enacted
7 to read:

8 "22- 10A- 13. [NEW MATERIAL] PARENTAL NOTIFICATION. --

9 A. Effective in the 2002-2003 school year, a local
10 superintendent shall give written notice to the parents of
11 those students who are being taught for longer than thirty
12 days by a person who does not hold a level one, two or three
13 license.

14 B. The local superintendent shall:

15 (1) ensure that the notice required by this
16 section is provided not later than the thirtieth consecutive
17 instructional day following the assignment of that person to
18 the classroom;

19 (2) ensure that the notice required by this
20 section is provided in a bilingual form to a parent whose
21 primary language is not English;

22 (3) retain a copy of the notice required
23 pursuant to this section; and

24 (4) ensure that information relating to
25 teacher licensure is available to the public upon request. "

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1 Section 43. A new Section 22-10A-14 NMSA 1978 is enacted
2 to read:

3 "22-10A-14. [NEW MATERIAL] INSTRUCTIONAL SUPPORT
4 PROVIDER LICENSES. - -

5 A. The department shall license instructional
6 support providers, including educational assistants,
7 librarians, school counselors, school social workers, school
8 nurses, speech-language pathologists, psychologists, physical
9 therapists, physical therapy assistants, occupational
10 therapists, occupational therapy assistants, recreational
11 therapists, interpreters for the deaf, diagnosticians and
12 other service providers. The department may provide a
13 professional licensing framework in which licensees can
14 advance in their careers through the demonstration of
15 increased competencies and the undertaking of increased
16 duties.

17 B. The state board shall provide by rule for the
18 requirements for licensure of types of instructional support
19 providers. If an instructional support provider practices a
20 licensed profession, he shall provide evidence satisfactory to
21 the department that he holds a current, unsuspended license in
22 the profession in which he is applying to provide
23 instructional support services. The instructional support
24 provider shall notify the school district immediately if his
25 license is suspended, revoked or denied. "

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1 Section 44. A new Section 22-10A-15 NMSA 1978 is enacted
2 to read:

3 "22-10A-15. [NEW MATERIAL] LICENSE OR CERTIFICATE
4 REQUIRED--GENERAL DUTIES.--

5 A. A person performing the duties of a licensed
6 school employee who does not hold a valid license or
7 certificate or has not submitted a complete application for
8 licensure within the first three months from beginning
9 employment duties shall not thereafter be compensated for
10 services rendered. This section does not apply to practice
11 teachers as defined by rules of the state board.

12 B. Each licensed school employee shall:

13 (1) enforce all laws and rules applicable to
14 his public school and school district or to the educational
15 program of the state agency;

16 (2) if teaching, teach the prescribed courses
17 of instruction;

18 (3) exercise supervision over students on
19 property belonging to the public school or state agency and
20 while the students are under the control of the public school
21 or state agency; and

22 (4) furnish reports as required. "

23 Section 45. A new Section 22-10A-16 NMSA 1978 is enacted
24 to read:

25 "22-10A-16. [NEW MATERIAL] SCHOOL PRINCIPALS--DUTIES.--

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1 In addition to other duties prescribed by law, a school
2 principal shall:

3 A. under the general supervision of the local
4 superintendent, assume administrative responsibility and
5 overall instructional leadership for the public school to
6 which he is assigned, including the discipline of students and
7 the planning, operation, supervision and evaluation of the
8 educational program of the school;

9 B. recommend to the local superintendent the
10 employment, promotion, transfer, discharge and termination of
11 school employees in his school;

12 C. evaluate the performance of school employees
13 and develop professional development plans or job improvement
14 plans to assist school employees to improve;

15 D. take disciplinary action against employees; and

16 E. perform other duties assigned to him by the
17 local superintendent to implement the policies of the local
18 school board. "

19 Section 46. A new Section 22-10A-17 NMSA 1978 is enacted
20 to read:

21 "22-10A-17. [NEW MATERIAL] TEACHERS AND SCHOOL
22 PRINCIPALS-- ACCOUNTABILITY-- EVALUATIONS-- PROFESSIONAL
23 DEVELOPMENT-- PEER INTERVENTION-- MENTORING. --

24 A. The state board shall adopt criteria and
25 minimum statewide performance standards for the annual

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1 performance evaluation of licensed school employees. The
2 local superintendent shall adopt policies, guidelines and
3 procedures for the evaluation process. Evaluation by other
4 school employees shall be one component of the evaluation tool
5 for school administrators.

6 B. As part of the performance evaluation of
7 teachers, the school principal shall observe each teacher's
8 classroom practice to determine the teacher's ability to
9 demonstrate state-adopted competencies.

10 C. At the beginning of each school year, teachers
11 and school principals shall devise professional development
12 plans for the coming year, and evaluations shall be based in
13 part on how well the professional development plan was carried
14 out.

15 D. If a level two or three-A teacher's evaluation
16 indicates less than satisfactory performance and competency,
17 the school principal may require the teacher to undergo peer
18 intervention, including mentoring, for a period the school
19 principal deems necessary. If the teacher is unable to
20 demonstrate satisfactory performance and competency by the end
21 of the period, the peer interveners may recommend termination
22 of the teacher.

23 E. At least every two years, school principals
24 shall attend a training program approved by the department to
25 improve their evaluation and administrative skills and

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1 instructional leadership. "

2 Section 47. Section 22-10-11 NMSA 1978 (being Laws 1967,
3 Chapter 16, Section 113, as amended) is recompiled as Section
4 22-10A-18 NMSA 1978 and is amended to read:

5 "22-10A-18. EMPLOYMENT CONTRACTS--DURATION. --

6 A. All employment contracts between [~~local~~] a
7 school [~~boards~~] district and [~~certified school personnel~~]
8 licensed school employees and between a governing [~~authorities~~
9 ~~of~~] authority of a state [~~agencies~~] agency and [~~certified~~
10 ~~school instructors~~] licensed school employees shall be in
11 writing on forms approved by the state board. These forms
12 shall contain and specify the term of service, the salary to
13 be paid, the method of payment, the causes for termination of
14 the contract and other provisions required by [~~the~~
15 ~~regulations~~] rules of the state board.

16 B. All employment contracts between [~~local~~] a
17 school [~~boards~~] district and [~~certified school personnel~~]
18 licensed school employees and between a governing
19 [~~authorities~~] authority of a state [~~agencies~~] agency and
20 [~~certified school instructors~~] licensed school employees shall
21 be for a period of one school year except:

22 (1) contracts for less than one school year
23 are permitted to fill personnel vacancies [~~which~~] that occur
24 during the school year;

25 (2) contracts for the remainder of a school

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1 year are permitted to staff programs when the availability of
2 funds for the programs is not known until after the beginning
3 of the school year;

4 (3) contracts for less than one school year
5 are permitted to staff summer school programs and to staff
6 federally funded programs in which the federally approved
7 programs are specified to be conducted for less than one
8 school year;

9 (4) contracts not to exceed three years are
10 permitted for [~~certified~~] school administrators in public
11 schools who are engaged in administrative functions for more
12 than one-half of their employment time; and

13 (5) contracts not to exceed three years are
14 permitted at the discretion of the local [~~school board~~]
15 superintendent for [~~certified school instructors~~] licensed
16 school employees in public schools who have [~~been employed~~]
17 worked in the school district for three consecutive school
18 years.

19 C. An employment contract not to exceed five years
20 is authorized between a local school board and a local
21 superintendent.

22 [~~C.~~] D. Persons employed under contracts for
23 periods of less than one school year as provided in Paragraphs
24 (1) and (2) of Subsection B of this section shall be accorded
25 all the duties, rights and privileges of the [~~Certified~~]

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1 School Personnel Act.

2 ~~[D.]~~ E. In determination of eligibility for
3 unemployment compensation rights and benefits for ~~[certified~~
4 ~~school instructors]~~ licensed school employees where those
5 rights and benefits are claimed to arise from the employment
6 relationship between governing authorities of state agencies
7 or local school ~~[boards]~~ districts and ~~[certified school~~
8 ~~instructors]~~ licensed school employees, that period of a year
9 not covered by a school year shall not be considered an
10 unemployment period.

11 ~~[E.]~~ F. Except as provided in Section ~~[22-10-12]~~
12 22-10A-20 NMSA 1978, a person employed by contract pursuant to
13 this section has no legitimate objective expectancy of
14 reemployment, and no contract entered into pursuant to this
15 section shall be construed as an implied promise of continued
16 employment pursuant to a subsequent contract.

17 G. Employment contracts between school districts
18 and teachers shall include ten contract days beyond the
19 instructional year for professional development.

20 H. The teacher contract school day in each school
21 district shall be extended by one-half hour over the contract
22 school day provided in the 2000-2001 school year; provided
23 that the contract school day shall not be longer than eight
24 hours or its equivalent in schools operating on a variable
25 calendar. The additional one-half hour shall be used by

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1 teachers for student curriculum and instructional preparation
2 time.

3 I. School districts and state agencies may pay
4 licensed school employees according to their employment
5 contracts on evidence of attendance at any professional
6 meeting connected with their profession as educators or
7 associated with the courses of instruction in which they
8 specialize.

9 J. Licensed school employees shall be paid at
10 least once a month during a school year. The salary may be
11 paid at least once a month during a twelve-month period
12 although services are to be performed during a period less
13 than the twelve months.

14 K. The provisions of Subsections G and H of this
15 section shall not operate unless the legislature has funded
16 the additional time."

17 Section 48. Section 22-10-21 NMSA 1978 (being Laws 1967,
18 Chapter 16, Section 123, as amended) is recompiled as Section
19 22-10A-19 NMSA 1978 and is amended to read:

20 "22-10A-19. SUPERVISION AND CORRECTION PROCEDURES. --

21 A. For the purposes of Sections 22-10A-19 through
22 22-10A-26 NMSA 1978, "school principal" includes other school
23 district personnel who have the authority to supervise school
24 employees, correct their work performance and recommend
25 termination or discharge.

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1 B. The state board shall prescribe by
2 ~~[regulations]~~ rule the procedures to be followed by a ~~[local]~~
3 school ~~[board or the governing authority of a state agency]~~
4 principal in supervising and correcting unsatisfactory work
5 performance of ~~[certified school personnel]~~ school employees
6 before notice of intent to discharge is served upon them ~~[and~~
7 ~~by the governing authority of a state agency in supervising~~
8 ~~and correcting unsatisfactory work performance of certified~~
9 ~~school instructors before notice of intent to discharge is~~
10 ~~served upon them. These regulations]~~. The rules shall
11 provide that written records shall be kept on all action taken
12 by a ~~[local]~~ school ~~[board or the governing authority of a~~
13 ~~state agency]~~ principal to improve ~~[any person's]~~ a school
14 employee's unsatisfactory work performance and all
15 improvements made in the ~~[person's]~~ school employee's work
16 performance. These written records shall be introduced as
17 evidence at any hearing for the ~~[person]~~ school employee
18 conducted by the local ~~[school board or the governing~~
19 ~~authority of the state agency]~~ superintendent. "

20 Section 49. A new Section 22-10A-20 NMSA 1978 is enacted
21 to read:

22 "22-10A-20. [NEW MATERIAL] NOTICE OF REEMPLOYMENT--
23 TERMINATION. --

24 A. On or before the last day of the school year of
25 an existing employment contract, each school principal shall

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1 recommend to the local superintendent the reemployment or
2 termination of each licensed school employee at his school.
3 The local superintendent, based on the recommendations of the
4 school principal, shall serve written notice of reemployment
5 or termination on each licensed school employee employed by
6 the school district. A notice of reemployment shall be an
7 offer of employment for the ensuing school year. A notice of
8 termination shall be a notice of intention not to reemploy for
9 the ensuing school year.

10 B. Failure of the local superintendent to serve a
11 written notice of reemployment or termination on a licensed
12 school employee shall be construed to mean that notice of
13 reemployment has been served upon the person for the ensuing
14 school year according to the terms of the existing employment
15 contract but subject to any additional compensation allowed
16 other licensed school employees of like qualifications and
17 experience employed by the school district.

18 C. Nothing in this section shall be construed to
19 mean that failure of a local superintendent to serve a written
20 notice of reemployment or termination shall automatically
21 extend a licensed school employee's employment contract for a
22 period in excess of one school year. "

23 Section 50. Section 22-10-13 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 115, as amended) is recompiled as Section
25 22-10A-21 NMSA 1978 and is amended to read:

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1 "22- 10A- 21. REEMPLOYMENT- - ACCEPTANCE- - REJECTION- - BINDING
2 CONTRACT. - -

3 A. Each [~~certified school instructor~~] licensed
4 school employee shall deliver to the local [~~school board of~~
5 ~~the school district or to the governing authority of the state~~
6 ~~agency~~] superintendent in which the [~~person~~] licensed school
7 employee is employed a written acceptance or rejection of
8 reemployment for the ensuing school year within fifteen days
9 from the following:

10 (1) the date written notice of reemployment
11 is served upon the [~~person~~] licensed school employee; or

12 (2) the last day of the school year when no
13 written notice of reemployment or termination is served upon
14 the [~~person~~] licensed school employee on or before the last
15 day of the school year.

16 B. Delivery of the written acceptance of
17 reemployment by a [~~certified school instructor~~] licensed
18 school employee creates a binding employment contract between
19 the [~~certified school instructor~~] licensed school employee and
20 the [~~local school board or the governing authority of the~~
21 ~~state agency~~] school district until the parties enter into a
22 formal written employment contract. Written employment
23 contracts between local [~~school boards or governing~~
24 ~~authorities of state agencies~~] superintendents and [~~certified~~
25 ~~school instructors~~] licensed school employees shall be

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1 executed by the parties not later than ten days before the
2 first day of a school year. "

3 Section 51. A new Section 22-10A-22 NMSA 1978 is enacted
4 to read:

5 "22-10A-22. [NEW MATERIAL] TERMINATION
6 DECISIONS--PRINCIPALS--LOCAL SUPERINTENDENTS--PROCEDURES.--

7 A. A school principal may recommend the
8 termination of a school employee of his school who has worked
9 for the school district for three full consecutive years or
10 less for any reason he deems sufficient. Based upon this
11 recommendation, the local superintendent may terminate the
12 school employee. Upon request of the school employee, the
13 local superintendent shall provide written reasons for the
14 school principal's decision to recommend termination. The
15 reasons shall be provided within ten working days of the
16 request. The reasons shall not be publicly disclosed by the
17 local superintendent or school principal. The reasons shall
18 not provide a basis for contesting the decision under the
19 School Personnel Act.

20 B. A local superintendent may not terminate a
21 school employee who has worked at a school district for more
22 than three full consecutive years without just cause.

23 C. A school employee who has worked for a school
24 district for more than three full consecutive years and who
25 receives a notice of termination pursuant to either Section

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1 22-10A-20 NMSA 1978 or this section may request an opportunity
2 to make a statement to the local superintendent on the
3 recommendation to terminate him by submitting a written
4 request to the local superintendent within five working days
5 from the date written notice of termination is served upon
6 him. The school employee may also request in writing the
7 reasons for the school principal's recommendation to terminate
8 him. The local superintendent shall request that the school
9 principal provide written reasons for his recommendation to
10 terminate the school employee within five working days from
11 the date the written request for a meeting and the written
12 request for the reasons were received by the local
13 superintendent. Neither the school principal nor local
14 superintendent shall publicly disclose his reasons for
15 termination.

16 D. The school employee's request pursuant to
17 Subsection C of this section shall be granted if he responds
18 to the school principal's written reasons as provided in that
19 subsection by submitting in writing to the local
20 superintendent a contention that the recommendation and
21 subsequent decision to terminate him was made without just
22 cause. The written contention shall specify the grounds on
23 which it is contended that the recommendation and subsequent
24 decision was without just cause and shall include a statement
25 of the facts that the school employee believes support his

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1 contention. This written statement shall be submitted within
2 ten working days from the date the school employee receives
3 the written reasons from the school principal. The submission
4 of this statement constitutes a representation on the part of
5 the school employee that he can support his contentions and an
6 acknowledgment that the school principal may offer the causes
7 for his recommendation and any relevant data in his possession
8 in rebuttal of the school employee's contentions.

9 E. A local superintendent shall meet to hear the
10 school employee's statement in no less than five or more than
11 fifteen working days after the local superintendent receives
12 the statement. The hearing shall be conducted informally in
13 accordance with the provisions of the Open Meetings Act. The
14 school employee and the school principal may each be
15 accompanied by a person of his choice. First, the school
16 principal shall present the factual basis for his
17 recommendation that just cause exists for the termination of
18 the school employee, limited to those reasons provided to the
19 school employee pursuant to Subsection C of this section.
20 Then, the school employee shall present his contentions,
21 limited to those grounds specified in Subsection D of this
22 section. The school principal may offer such rebuttal
23 testimony as he deems relevant. All witnesses may be
24 questioned by the local superintendent, the school employee or
25 his representative and the school principal or his

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1 representative. The local superintendent may consider only
2 such evidence as is presented at the hearing and need consider
3 only such evidence as he considers reliable. No record shall
4 be made of the proceeding. The local superintendent shall
5 notify the school employee and the school principal of his
6 decision in writing within five working days from the
7 conclusion of the meeting. "

8 Section 52. Section 22-10-17 NMSA 1978 (being Laws 1986,
9 Chapter 33, Section 24, as amended) is recompiled as Section
10 22-10A-23 NMSA 1978 and is amended to read:

11 "22-10A-23. DISCHARGE HEARING--PROCEDURES. --

12 A. A local [~~school board or the governing~~
13 ~~authority of a state agency~~] superintendent may discharge a
14 [~~certified~~] licensed school employee only for just cause
15 according to the following procedure:

16 (1) the [~~superintendent~~] school principal
17 shall serve a written notice of his intent to recommend
18 discharge on the [~~certified~~] licensed school employee in
19 accordance with the law for service of process in civil
20 actions; and

21 (2) the [~~superintendent~~] school principal
22 shall state in the notice of his intent to recommend discharge
23 the cause for his recommendation and shall advise the
24 [~~certified~~] licensed school employee of his right to a
25 discharge hearing before the local [~~school board or governing~~

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1 ~~authority]~~ superintendent as provided in this section.

2 B. A [~~certified~~] licensed school employee who
3 receives a notice of intent to recommend discharge pursuant to
4 Subsection A of this section may exercise his right to a
5 hearing before the local [~~school board or governing authority]~~
6 superintendent by giving the school principal and local
7 superintendent [~~or administrator~~] written notice of that
8 election within five working days of his receipt of the notice
9 to recommend discharge.

10 C. The local [~~school board or governing authority]~~
11 superintendent shall hold a discharge hearing no less than
12 twenty and no more than forty working days after the local
13 superintendent [~~or administrator~~] receives the written
14 election from the [~~certified~~] licensed school employee and
15 shall give the [~~certified~~] licensed school employee at least
16 ten days written notice of the date, time and place of the
17 discharge hearing.

18 D. [~~Each party~~] The [~~local superintendent or~~
19 ~~administrator~~] school principal and the [~~certified~~] licensed
20 school employee may be accompanied by [~~a person~~] persons of
21 [~~his~~] their choice.

22 E. The parties shall complete and respond to
23 discovery by deposition and production of documents prior to
24 the discharge hearing.

25 F. The local [~~school board or governing authority]~~

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1 superintendent shall have the authority to issue subpoenas for
2 the attendance of witnesses and to produce books, records,
3 documents and other evidence at the request of either party
4 and shall have the power to administer oaths.

5 G. The [~~local superintendent or administrator~~]
6 school principal shall have the burden of proving by a
7 preponderance of the evidence that, at the time of the notice
8 of intent to recommend discharge, he had just cause to
9 discharge the [~~certified~~] licensed school employee.

10 H. The [~~local superintendent or administrator~~]
11 school principal shall present his evidence first, with the
12 [~~certified~~] licensed school employee presenting his evidence
13 [~~thereafter~~] second. The local [~~school board or governing~~
14 ~~authority~~] superintendent shall permit either party to call,
15 examine and cross-examine witnesses and to introduce
16 documentary evidence.

17 [~~I. An official record shall be made of the~~
18 ~~hearing. Either party may have one copy of the record at the~~
19 ~~expense of the local school board or governing authority.~~

20 J.] I. The local [~~school board~~] superintendent
21 shall render [~~its~~] his written decision within twenty days of
22 the conclusion of the discharge hearing. "

23 Section 53. A new Section 22-10A-24 NMSA 1978 is enacted
24 to read:

25 "22-10A-24. [NEW MATERIAL] APPEALS--INDEPENDENT

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1 ARBITRATOR- - QUALIFICATIONS- - PROCEDURE- - BINDING DECISION. - -

2 A. A school employee who is still aggrieved by a
3 decision of a local superintendent rendered pursuant to
4 Section 22-10A-22 or 22-10A-23 NMSA 1978 may appeal the
5 decision to an independent arbitrator. A written notice of
6 appeal shall be submitted to the local superintendent within
7 five working days from the receipt of his written decision or
8 the refusal of the local superintendent to grant a hearing.
9 The appeal shall be accompanied by a statement of particulars
10 specifying the grounds on which it is contended that the
11 decision was impermissible pursuant to Section 22-10A-22 or
12 22-10A-23 NMSA 1978 and including a statement of facts
13 supporting the contentions. Failure of the school employee to
14 submit a timely appeal or a statement of particulars with the
15 appeal shall disqualify him for any appeal and render the
16 local superintendent's decision final.

17 B. The local superintendent and the school
18 employee shall meet within ten working days from the receipt
19 of the request for an appeal and select an independent
20 arbitrator to conduct the appeal. If the parties fail to
21 agree on an independent arbitrator, they shall request the
22 presiding judge in the judicial district in which the school
23 employee's public school is located to select one. The
24 presiding judge shall select the independent arbitrator within
25 five working days from the date of the parties' request.

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1 C. A qualified independent arbitrator shall be
2 appointed who is versed in employment practices and school
3 procedures and who preferably has experience in the practice
4 of law. No person shall be appointed to serve as the
5 independent arbitrator who has any direct or indirect
6 financial interest in the outcome of the proceeding, has any
7 relationship to any party in the proceeding, is employed by
8 the local school district or is a member of or employed by any
9 professional or labor organization of which the school
10 employee is a member.

11 D. Appeals from the decision of the local
12 superintendent shall be decided after a de novo hearing before
13 the independent arbitrator. The issue to be decided by the
14 independent arbitrator is whether there was just cause for the
15 decision of the local superintendent to terminate or discharge
16 the school employee.

17 E. The de novo hearing shall be held within thirty
18 working days from the selection of the independent arbitrator.
19 The arbitrator shall give written notice of the date, time and
20 place of the hearing, and such notice shall be sent to the
21 employee and the local superintendent.

22 F. Each party has the right to be represented by
23 counsel at the hearing before the independent arbitrator.

24 G. Discovery shall be limited to depositions and
25 requests for production of documents on a time schedule to be

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1 established by the independent arbitrator.

2 H. The independent arbitrator may issue subpoenas
3 for the attendance of witnesses and for the production of
4 books, records, documents and other evidence and shall have
5 the power to administer oaths. Subpoenas so issued shall be
6 served and enforced in the manner provided by law for the
7 service and enforcement of subpoenas in a civil action.

8 I. The rules of civil procedure shall not apply to
9 the de novo hearing, but it shall be conducted so that both
10 contentions and responses are amply and fairly presented. To
11 this end, the independent arbitrator shall permit either party
12 to call and examine witnesses, cross-examine witnesses and
13 introduce exhibits. The technical rules of evidence shall not
14 apply, but, in ruling on the admissibility of evidence, the
15 independent arbitrator shall require reasonable substantiation
16 of statements or records tendered, the accuracy or truth of
17 which is in reasonable doubt.

18 J. The local superintendent has the burden of
19 proof and shall prove by a preponderance of the evidence that,
20 at the time the notice of termination or the notice of intent
21 to discharge was served on the school employee, the local
22 superintendent had just cause to terminate or discharge the
23 school employee. If the local superintendent proves by a
24 preponderance of the evidence that there was just cause for
25 its action, then the burden shifts to the school employee to

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1 rebut the evidence presented by the local superintendent.

2 K. The independent arbitrator shall uphold the
3 local superintendent's decision only if it proves by a
4 preponderance of the evidence that, at the time the notice of
5 termination or intent to discharge was served on the school
6 employee, the local superintendent had just cause to terminate
7 or discharge the school employee. If the local superintendent
8 fails to meet its burden of proof or if the school employee
9 rebuts the proof offered by the local superintendent, the
10 arbitrator shall reverse the decision of the local
11 superintendent.

12 L. No official record shall be made of the
13 hearing. Either party desiring a record of the arbitration
14 proceedings may, at his own expense, record or otherwise
15 provide for a transcript of the proceedings; provided,
16 however, that the record so provided shall not be deemed an
17 official transcript of the proceedings nor shall it imply any
18 right of automatic appeal or review.

19 M. The independent arbitrator shall render a
20 written decision affirming or reversing the action of the
21 local superintendent. The decision shall contain findings of
22 fact and conclusions of law. The parties shall receive actual
23 written notice of the decision of the independent arbitrator
24 within ten working days from the conclusion of the de novo
25 hearing.

1 N. The sole remedies available under this section
2 shall be reinstatement or payment of compensation reinstated
3 in full but subject to any additional compensation allowed
4 other school employees of like qualifications and experience
5 employed by the school district and including reimbursement
6 for compensation during the entire period for which
7 compensation was terminated, or both, less an offset for any
8 compensation received by the school employee during the period
9 the compensation was terminated.

10 O. Unless a party can demonstrate prejudice
11 arising from a departure from the procedures established in
12 this section and in Section 22-10A-22 NMSA 1978, such
13 departure shall be presumed to be harmless error.

14 P. The decision of the independent arbitrator
15 shall be binding on both parties and shall be final and
16 nonappealable except where the decision was procured by
17 corruption, fraud, deception or collusion, in which case it
18 shall be appealed to the district court in the judicial
19 district in which the public school is located.

20 Q. Each party shall bear its own costs and
21 expenses. The independent arbitrator's fees and other
22 expenses incurred in the conduct of the arbitration shall be
23 assigned at the discretion of the independent arbitrator.

24 R. Local school districts shall file a record with
25 the department of all terminations and discharges and all

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1 actions arising from terminations and discharges annually. "

2 Section 54. Section 22-10-16 NMSA 1978 (being Laws 1967,
3 Chapter 16, Section 118, as amended) is recompiled as Section
4 22-10A-25 NMSA 1978 and is amended to read:

5 "22-10A-25. EXCEPTED FROM PROVISIONS. -- Sections
6 [~~22-10-12 through 22-10-14.1~~] 22-10A-20 through 22-10A-22 and
7 22-10A-24 NMSA 1978 do not apply to the following:

8 A. a [~~certified school instructor~~] licensed school
9 employee employed to fill the position of a [~~certified school~~
10 ~~instructor~~] licensed school employee entering military
11 service;

12 B. a person who is employed as a [~~certified~~]
13 school administrator; or

14 C. a [~~non-certified~~] nonlicensed school employee
15 employed to perform primarily district-wide management
16 functions. "

17 Section 55. Section 22-10-18 NMSA 1978 (being Laws 1967,
18 Chapter 16, Section 120, as amended) is recompiled as Section
19 22-10A-26 NMSA 1978 and is amended to read:

20 "22-10A-26. COMPENSATION PAYMENTS TO DISCHARGED
21 PERSONNEL. --

22 A. Payment of compensation to [~~any certified~~
23 ~~school instructor~~] a licensed school employee employed by a
24 [~~local school board or by the governing authority of a state~~
25 ~~agency and payment of compensation to any certified school~~

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1 ~~administrator employed by a local school board]~~ school
2 district shall terminate as of the date, after a hearing, that
3 a written copy of the decision of the local [~~school board or~~
4 ~~the governing authority of the state agency]~~ superintendent to
5 discharge the [~~person]~~ licensed school employee is served on
6 [~~the person]~~ him. If the compensation of the [~~person]~~
7 licensed school employee discharged during the term of a
8 written employment contract is to be paid monthly during a
9 twelve-month period for services to be performed during a
10 period less than twelve months, the [~~person]~~ licensed school
11 employee shall be entitled to a pro rata share of the
12 compensation payments due for the period during the twelve
13 months in which no services were to be performed.

14 B. In the event the action of the local [~~school~~
15 ~~board]~~ superintendent in discharging a [~~certified school~~
16 ~~instructor or administrator or the action of the governing~~
17 ~~authority of a state agency in discharging a certified school~~
18 ~~instructor]~~ licensed school employee is reversed on appeal,
19 payment of compensation to the [~~person]~~ licensed school
20 employee shall be reinstated in full but subject to any
21 additional compensation allowed other [~~certified school~~
22 ~~instructor or administrator]~~ licensed school employees of like
23 qualifications and experience employed by the school district
24 [~~or state agency]~~ and including reimbursement for compensation
25 during the entire period the compensation was terminated less

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1 an offset for any compensation received by the [person]
2 licensed school employee from a school district [~~or state~~
3 ~~agency~~] during the period the compensation was terminated. "

4 Section 56. A new Section 27-10A-27 NMSA 1978 is enacted
5 to read:

6 "22-10A-27. [NEW MATERIAL] LICENSED SCHOOL EMPLOYEES IN
7 STATE AGENCIES. --

8 A. Licensed school employees in state agencies are
9 subject to the School Personnel Act.

10 B. Employees of state agencies who are not covered
11 by the Personnel Act and who were covered by the provisions of
12 the School Personnel Act on the effective date of this 2001
13 act shall continue to be covered by the School Personnel Act. "

14 Section 57. Section 22-10-22 NMSA 1978 (being Laws 1967,
15 Chapter 16, Section 124, as amended) is recompiled as Section
16 22-10A-28 NMSA 1978 and is amended to read:

17 "22-10A-28. SUSPENSION AND REVOCATION OF [~~CERTIFICATES~~]
18 LICENSE-- APPEAL. --

19 A. The state board may suspend or revoke a
20 [~~certificate~~] department-issued license held by a [~~certified~~
21 ~~school instructor or administrator~~] licensed school employee
22 for incompetency, immorality or any other good and just cause.

23 B. A [~~certificate~~] license may be suspended or
24 revoked only according to the following procedure:

25 (1) the state board [~~serving~~] serves written

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1 notice of the suspension or revocation on the [~~person holding~~
2 ~~the certificate~~] licensed school employee in accordance with
3 the law for service of process in civil actions. The notice
4 of the suspension or revocation shall state the grounds for
5 the suspension or revocation of the [~~certificate~~] license.

6 The notice of the suspension or revocation shall describe the
7 rights of the [~~person holding the certificate~~] licensed school
8 employee and include instructions for requesting a hearing
9 before the state board. A hearing shall be requested within
10 thirty days of receipt of the notice of suspension or
11 revocation. If a hearing is requested, the hearing shall be
12 held not more than ninety days from the date of the request
13 for the hearing;

14 (2) the state board or its designated hearing
15 officer [~~conducting~~] conducts a hearing that provides the
16 [~~person holding the certificate~~] licensed school employee, or
17 his attorney, an opportunity to present evidence or arguments
18 on all pertinent issues. A transcript shall be made of the
19 entire hearing conducted by the state board or its designated
20 hearing officer; and

21 (3) the state board [~~rendering~~] renders a
22 written decision in accordance with the law and based upon
23 evidence presented and admitted at the hearing. The written
24 decision shall include findings of fact and conclusions of law
25 and shall be based upon the findings of fact and the

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1 conclusions of law. A written copy of the decision of the
2 state board shall be served upon the [~~person holding the~~
3 ~~certificate~~] licensed school employee within sixty days from
4 the date of the hearing. Service of the written copy of the
5 decision shall be in accordance with the law for service of
6 process in civil actions or by certified mail to the
7 [~~person's~~] licensed school employee's address of record.

8 C. The secretary of the state board, with the
9 approval of the state board or its designated hearing officer,
10 may subpoena witnesses, require their attendance and giving of
11 testimony and require the production of books, papers and
12 records in connection with a hearing held pursuant to the
13 provisions of Subsection B of this section. Also, the state
14 board may apply to the district court for the issuance of
15 subpoenas and subpoenas duces tecum in the name of and on
16 behalf of the state board.

17 D. Any person aggrieved by a decision of the state
18 board, after a hearing pursuant to this section, may appeal
19 the decision to the district court pursuant to the provisions
20 of Section 39-3-1.1 NMSA 1978. "

21 Section 58. Section 22-10-3.2 NMSA 1978 (being Laws
22 1988, Chapter 48, Section 1, as amended) is recompiled as
23 Section 22-10A-29 NMSA 1978 and is amended to read:

24 "22-10A-29. [~~CERTIFIED SCHOOL PERSONNEL AND SCHOOL~~
25 ~~NURSES~~] LICENSED SCHOOL EMPLOYEES--CHILD ABUSE AND NEGLECT AND

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1 SUBSTANCE ABUSE REQUIRED TRAINING PROGRAM --

2 A. All [~~certified school personnel and school~~
3 ~~nurses~~] licensed school employees shall be required to
4 complete training in the detection and reporting of child
5 abuse and neglect and substance abuse. This requirement shall
6 be completed within the [~~person's~~] licensed school employee's
7 first year of employment by a school district [~~in the state~~].

8 B. Pursuant to the policy and [~~regulations~~] rules
9 adopted by the state board, the department [~~of education~~]
10 shall develop a training program, including training materials
11 and necessary training staff, to meet the requirement of
12 Subsection A of this section to make the training available in
13 every school district [~~in the state~~]. The department [~~of~~
14 ~~education~~] shall coordinate the development of the program
15 with appropriate staff at the human services department and
16 the department of health.

17 C. The training program developed pursuant to this
18 section shall be made available by the department [~~of~~
19 ~~education~~] to the deans of every college of education in
20 New Mexico for use in providing such training to students
21 seeking elementary and secondary education [~~certification~~]
22 licensure. "

23 Section 59. Section 22-11-2 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 126, as amended) is amended to read:

25 "22-11-2. DEFINITIONS.--As used in the Educational

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1 Retirement Act:

2 A. "member" means ~~any~~ an employee, except for a
3 participant or a retired member, coming within the provisions
4 of the Educational Retirement Act;

5 B. "regular member" means:

6 (1) a person regularly employed as a
7 teaching, nursing or administrative employee of a state
8 educational institution, except for:

9 (a) a participant; or

10 (b) all employees of a general hospital
11 or outpatient clinics thereof operated by a state educational
12 institution named in Article 12, Section 11 of the
13 constitution of New Mexico;

14 (2) a person regularly employed as a
15 teaching, nursing or administrative employee of a junior
16 college or community college created pursuant to Chapter 21,
17 Article 13 NMSA 1978, except for a participant;

18 (3) a person regularly employed as a
19 teaching, nursing or administrative employee of a technical
20 and vocational institute created pursuant to the Technical and
21 Vocational Institute Act, except for a participant;

22 (4) a person regularly employed as a
23 teaching, nursing or administrative employee of the New Mexico
24 boys' school, the New Mexico girls' school, the Los Lunas
25 medical center or a school district or as a certified school

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1 instructor of a state institution or agency providing an
2 educational program and holding a standard or substandard
3 certificate issued by the state board, except for a
4 participant;

5 (5) a person regularly employed by the
6 department of education or the board holding a standard or
7 substandard certificate issued by the state board at the time
8 of commencement of such employment;

9 (6) a member classified as a regular member
10 in accordance with the [~~regulations~~] rules of the board;

11 (7) a person regularly employed by the New
12 Mexico activities association holding a standard certificate
13 issued by the state board at the time of commencement of such
14 employment; or

15 (8) a person regularly employed by a regional
16 education cooperative holding a standard certificate issued by
17 the state board at the time of commencement of such
18 employment;

19 C. "provisional member" means a person not
20 eligible to be a regular member but who is employed by a local
21 administrative unit designated in Subsection B of this
22 section; provided, however, that employees of a general
23 hospital or outpatient clinics thereof operated by a state
24 educational institution named in Article 12, Section 11 of the
25 constitution of New Mexico are not provisional members;

1 D. "local administrative unit" means an employing
2 agency however constituted that is directly responsible for
3 the payment of compensation for the employment of members or
4 participants;

5 E. "beneficiary" means a person having an
6 insurable interest in the life of a member or a participant
7 designated by written instrument duly executed by the member
8 or participant and filed with the director to receive a
9 benefit pursuant to the Educational Retirement Act that may be
10 received by someone other than the member or participant;

11 F. "employment" means employment by a local
12 administrative unit that qualifies a person to be a member or
13 participant;

14 G. "service employment" means employment that
15 qualifies a person to be a regular member;

16 H. "provisional service employment" means
17 employment that qualifies a person to be a provisional member;

18 I. "prior employment" means employment performed
19 prior to the effective date of the Educational Retirement Act
20 that would be service employment or provisional service
21 employment if performed thereafter;

22 J. "service credit" means that period of time with
23 which a member is accredited for the purpose of determining
24 his eligibility for and computation of retirement or
25 disability benefits;

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1 K. "earned service credit" means that period of
2 time during which a member was engaged in employment or prior
3 employment with which he is accredited for the purpose of
4 determining his eligibility for retirement or disability
5 benefits;

6 L. "allowed service credit" means that period of
7 time during which a member has performed certain nonservice
8 employment with which he may be accredited, as provided in the
9 Educational Retirement Act, for the purpose of computing
10 retirement or disability benefits;

11 M. "retirement benefit" means an annuity paid
12 monthly to members whose employment has been terminated by
13 reason of their age;

14 N. "disability benefit" means an annuity paid
15 monthly to members whose employment has been terminated by
16 reason of a disability;

17 O. "board" means the educational retirement board;

18 P. "fund" means the educational retirement fund;

19 Q. "director" means the educational retirement
20 director;

21 R. "medical authority" means a medical doctor
22 within the state or as provided in Subsection D of Section
23 22-11-36 NMSA 1978 either designated or employed by the board
24 to examine and report on the physical condition of applicants
25 for or recipients of disability benefits;

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1 S. "actuary" means a person trained and regularly
2 engaged in the occupation of calculating present and projected
3 monetary assets and liabilities under annuity or insurance
4 programs;

5 T. "actuarial equivalent" means a sum paid as a
6 current or deferred benefit that is equal in value to a
7 regular benefit, computed upon the basis of interest rates and
8 mortality tables;

9 U. "contributory employment" means employment for
10 which contributions have been made by both a member and a
11 local administrative unit pursuant to the Educational
12 Retirement Act;

13 V. "qualifying state educational institution"
14 means the university of New Mexico, New Mexico state
15 university, New Mexico institute of mining and technology, New
16 Mexico highlands university, eastern New Mexico university,
17 western New Mexico university, Albuquerque technical-
18 vocational institute, Clovis community college, Luna
19 vocational-technical institute, Mesa technical college, New
20 Mexico junior college, northern New Mexico state school, San
21 Juan college and Santa Fe community college;

22 W. "participant" means:

23 (1) a person regularly employed as a faculty
24 or professional employee of the university of New Mexico, New
25 Mexico state university, New Mexico institute of mining and

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1 technology, New Mexico highlands university, eastern New
2 Mexico university or western New Mexico university who first
3 becomes employed with such an educational institution on or
4 after July 1, 1991, or a person regularly employed as a
5 faculty or professional employee of the Albuquerque technical-
6 vocational institute, Clovis community college, Luna
7 vocational-technical institute, Mesa technical college, New
8 Mexico junior college, northern New Mexico state school, San
9 Juan college or Santa Fe community college who is first
10 employed by the institution on or after July 1, 1999 and who
11 elects, pursuant to Section 22-11-47 NMSA 1978, to participate
12 in the alternative retirement plan; and

13 (2) a person regularly employed who performs
14 research or other services pursuant to a contract between a
15 qualifying state educational institution and the United States
16 government or any of its agencies who elects, pursuant to
17 Section 22-11-47 NMSA 1978, to participate in the alternative
18 retirement plan, provided that the research or other services
19 are performed outside the state;

20 X. "salary" means the compensation or wages paid
21 to a member or participant by any local administrative unit
22 for services rendered; [~~and~~]

23 Y. "alternative retirement plan" means the
24 retirement plan provided for in Sections 22-11-47 through
25 22-11-52 NMSA 1978; and

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1 Z. "retired member" means a regular member whose
2 employment has been terminated by reason of age and who is
3 receiving or is eligible to receive retirement benefits. "

4 Section 60. Section 22-11-21 NMSA 1978 (being Laws 1967,
5 Chapter 16, Section 144, as amended) is amended to read:

6 "22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE
7 UNITS. --

8 A. Each member shall make contributions to the
9 fund in the amount of seven and six-tenths percent of his
10 annual salary.

11 B. Until June 30, 1993, each local administrative
12 unit shall make a yearly contribution to the fund of a sum
13 equal to seven and six-tenths percent of the annual salary of
14 each member employed by the local administrative unit.

15 C. Beginning July 1, 1993 and ~~[thereafter]~~ through
16 June 30, 2001, each local administrative unit shall make a
17 yearly contribution to the fund of a sum equal to eight and
18 sixty-five hundredths percent of the annual salary of each
19 member employed by the local administrative unit.

20 D. Beginning July 1, 2001 and thereafter, each
21 local administrative unit shall make a yearly contribution to
22 the fund of a sum equal to eight and ninety-five hundredths
23 percent of the annual salary of each member employed by the
24 local administrative unit. "

25 Section 61. Section 22-11-30 NMSA 1978 (being Laws 1967,

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1 Chapter 16, Section 153, as amended) is amended to read:

2 "22-11-30. RETIREMENT BENEFITS. --

3 A. Retirement benefits for a member retired
4 pursuant to the Educational Retirement Act on or before June
5 30, 1967 shall be paid monthly and shall be one-twelfth of a
6 sum equal to one and one-half percent of the first four
7 thousand dollars (\$4,000) of the member's average annual
8 salary and one percent of the remainder of the member's
9 average annual salary multiplied by the number of years of the
10 member's total service credit.

11 B. Retirement benefits for a member retired
12 pursuant to the Educational Retirement Act on or after July 1,
13 1967 but on or before June 30, 1971 shall be paid monthly and
14 shall be one-twelfth of a sum equal to one and one-half
15 percent of the first six thousand six hundred dollars (\$6,600)
16 of the member's average annual salary and one percent of the
17 remainder of the member's average annual salary multiplied by
18 the number of years of the member's total service credit.

19 C. Retirement benefits for a member retired
20 pursuant to the Educational Retirement Act on or after July 1,
21 1971 but on or before June 30, 1974 shall be paid monthly and
22 shall be one-twelfth of a sum equal to one and one-half
23 percent of the member's average annual salary multiplied by
24 the number of years of the member's total service credit.

25 D. Retirement benefits for a member retired

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1 pursuant to the Educational Retirement Act on or before June
2 30, 1974 but returning to employment on or after July 1, 1974
3 for a cumulation of one or more years shall be computed
4 pursuant to Subsection E of this section. Retirement benefits
5 for a member retired pursuant to the Educational Retirement
6 Act on or before June 30, 1974 but returning to employment on
7 or after July 1, 1974 for a cumulation of less than one year
8 shall be computed pursuant to Subsection A of this section if
9 his date of last retirement was on or before June 30, 1967 or
10 pursuant to Subsection B of this section if his date of last
11 retirement was on or after July 1, 1967 but not later than
12 June 30, 1971 or pursuant to Subsection C of this section if
13 his date of last retirement was on or after July 1, 1971 but
14 not later than June 30, 1974.

15 E. Retirement benefits for a member age sixty or
16 over, retired pursuant to the Educational Retirement Act on or
17 after July 1, 1974 but not later than June 30, 1987, shall be
18 paid monthly and shall be one-twelfth of a sum equal to:

19 (1) one and one-half percent of the member's
20 average annual salary multiplied by the number of years of
21 service credit for:

- 22 (a) prior employment; and
23 (b) allowed service credit for service
24 performed prior to July 1, 1957, except United States military
25 service credit purchased pursuant to Paragraph (3) of

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1 Subsection A of Section 22-11-34 NMSA 1978; plus

2 (2) two percent of the member's average
3 annual salary multiplied by the number of years of service
4 credit for:

5 (a) contributory employment;

6 (b) allowed service credit for service
7 performed after July 1, 1957; and

8 (c) United States military service
9 credit for service performed prior to July 1, 1957 and
10 purchased pursuant to Paragraph (3) of Subsection A of Section
11 22-11-34 NMSA 1978.

12 F. Retirement benefits for a member age sixty or
13 over, retired pursuant to the Educational Retirement Act on or
14 after July 1, 1987 but not later than June 30, 1991, shall be
15 paid monthly and shall be one-twelfth of a sum equal to two
16 and fifteen-hundredths percent of the member's average annual
17 salary multiplied by the number of years of the member's total
18 service credit; provided that this subsection shall not apply
19 to any member who was retired in any of the four quarters
20 ending on June 30, 1987 without having accumulated not less
21 than 1.0 years earned service credit after June 30, 1987.

22 G. Except as provided in Subsection H of this
23 section, retirement benefits for a member age sixty or over,
24 retired pursuant to the Educational Retirement Act on or after
25 July 1, 1991, shall be paid monthly and shall be one-twelfth

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1 of a sum equal to two and thirty-five hundredths percent of
2 the member's average annual salary multiplied by the number of
3 years of the member's total service credit; provided that this
4 subsection shall not apply to any member who was retired in
5 any of the four consecutive quarters ending on June 30, 1991
6 without having accumulated at least one year earned service
7 credit beginning on or after July 1, 1991.

8 H. Retirement benefits for a member age sixty or
9 over, retired pursuant to the Educational Retirement Act on or
10 after July 1, 2004, shall be paid monthly and shall be:

11 (1) for a member whose total service credit
12 is equal to or greater than twenty-six years but less than
13 twenty-seven years, one-twelfth of a sum equal to two and
14 thirty-eight hundredths percent of the member's average annual
15 salary multiplied by the number of years of the member's total
16 service credit; provided that this subsection shall not apply
17 to any member who was retired in any of the four consecutive
18 quarters ending on June 30, 2004 without having accumulated at
19 least one year earned service credit beginning on or after
20 July 1, 2003;

21 (2) for a member whose total service credit
22 is equal to or greater than twenty-seven years but less than
23 twenty-eight years, one-twelfth of a sum equal to two and
24 forty-one hundredths percent of the member's average annual
25 salary multiplied by the number of years of the member's total

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1 service credit; provided that this subsection shall not apply
2 to any member who was retired in any of the four consecutive
3 quarters ending on June 30, 2004 without having accumulated at
4 least one year earned service credit beginning on or after
5 July 1, 2003;

6 (3) for a member whose total service credit
7 is equal to or greater than twenty-eight years but less than
8 twenty-nine years, one-twelfth of a sum equal to two and
9 forty-four hundredths percent of the member's average annual
10 salary multiplied by the number of years of the member's total
11 service credit; provided that this subsection shall not apply
12 to any member who was retired in any of the four consecutive
13 quarters ending on June 30, 2004 without having accumulated at
14 least one year earned service credit beginning on or after
15 July 1, 2003;

16 (4) for a member whose total service credit
17 is equal to or greater than twenty-nine years but less than
18 thirty years, one-twelfth of a sum equal to two and forty-
19 seven hundredths percent of the member's average annual salary
20 multiplied by the number of years of the member's total
21 service credit; provided that this subsection shall not apply
22 to any member who was retired in any of the four consecutive
23 quarters ending on June 30, 2004 without having accumulated at
24 least one year earned service credit beginning on or after
25 July 1, 2003; or

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1 (5) for a member whose total service credit
2 is thirty years or greater, one-twelfth of a sum equal to two
3 and one-half percent of the member's average annual salary
4 multiplied by the number of years of the member's total
5 service credit; provided that this subsection shall not apply
6 to any member who was retired in any of the four consecutive
7 quarters ending on June 30, 2004 without having accumulated at
8 least one year earned service credit beginning on or after
9 July 1, 2003.

10 I. A member's average annual salary pursuant to
11 Subsection H of this section shall be computed on the basis of
12 the last three years for which contribution was made or upon
13 the basis of any consecutive three years for which
14 contribution was made by the member, whichever is higher.

15 [~~H.~~] J. Except as provided in Subsection I of this
16 section, a member's average annual salary, pursuant to this
17 section, shall be computed on the basis of the last five years
18 for which contribution was made or upon the basis of any
19 consecutive five years for which contribution was made by the
20 member, whichever is higher.

21 K. Unless otherwise required by the provisions of
22 the Internal Revenue Code of 1986, members shall begin
23 receiving retirement benefits by age seventy and six months,
24 or upon termination of employment, whichever occurs later."

25 Section 62. A new section of the Educational Retirement

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1 Act is enacted to read:

2 "[NEW MATERIAL] RETURN TO EMPLOYMENT-- BENEFITS

3 CONTINUED-- ADMINISTRATIVE UNIT CONTRIBUTIONS. --

4 A. Effective January 1, 2002, a retired member may
5 begin employment at a local administrative unit and shall not
6 be required to suspend retirement benefits if the member has
7 not been employed as an employee or independent contractor by
8 a local administrative unit for at least twelve consecutive
9 months from the date of retirement to the commencement of
10 employment or reemployment with a local administrative unit.
11 If the retired member returns to employment without first
12 completing twelve consecutive months of retirement, the
13 retired member shall remove himself from retirement.

14 B. A retired member who returns to employment
15 during retirement pursuant to Subsection A of this section is
16 entitled to continue to receive retirement benefits but is not
17 entitled to acquire service credit or to acquire or purchase
18 service credit in the future for the period of the retired
19 member's reemployment with a local administrative unit.

20 C. A retired member who returns to employment
21 shall not make contributions to the fund as specified in the
22 Educational Retirement Act; however, the administrative unit's
23 contributions as specified in that act shall be paid to the
24 fund as if the retired member was a non-retired employee. "

25 Section 63. Section 22-12-3 NMSA 1978 (being Laws 1971,

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1 Chapter 238, Section 1, as amended) is amended to read:

2 "22-12-3. RELIGIOUS INSTRUCTION EXCUSAL. -- Any student
3 may, subject to the approval of the ~~[board]~~ school ~~[board]~~
4 principal, be excused from school to participate in religious
5 instruction for not more than one class period each school day
6 with the written consent of his parents at a time period not
7 in conflict with the academic program of the school. The
8 local school board and its school employees shall not assume
9 responsibility for the religious instruction or permit it to
10 be conducted on school property. "

11 Section 64. A new Section 22-13C-1 NMSA 1978 is enacted
12 to read:

13 "22-13C-1. [NEW MATERIAL] SHORT TITLE. -- Chapter 22,
14 Article 13B NMSA 1978 may be cited as the "Probationary School
15 Intervention Act". "

16 Section 65. A new Section 22-13C-2 NMSA 1978 is enacted
17 to read:

18 "22-13C-2. [NEW MATERIAL] PURPOSE OF ACT. -- The purpose
19 of the Probationary School Intervention Act is to provide
20 financial and other assistance to public schools ranked
21 probationary by the state board. "

22 Section 66. A new Section 22-13C-3 NMSA 1978 is enacted
23 to read:

24 "22-13C-3. [NEW MATERIAL] DEFINITIONS. -- As used in the
25 Probationary School Intervention Act:

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1 A. "fund" means the probationary school
2 intervention fund;

3 B. "probationary school" means a public school or
4 school district that has been ranked as probationary by the
5 state; and

6 C. "program" means the probationary school
7 intervention program "

8 Section 67. A new Section 22-13C-4 NMSA 1978 is enacted
9 to read:

10 "22-13C-4. [NEW MATERIAL] PROGRAM CREATED--
11 ADMINISTRATION--APPLICATION--PROGRAM APPROVAL.--

12 A. The "probationary school intervention program"
13 is created. The program shall be administered by the
14 department. The department shall assign personnel from the
15 central office and regional service centers to serve as mobile
16 assistance teams to provide administrative, classroom, human
17 resource and other assistance to probationary schools as
18 needed and as provided in applications approved by the
19 department.

20 B. Within ninety days of being notified that it
21 has been ranked probationary, a public school or school
22 district shall submit an improvement plan to the department.
23 In developing the improvement plan, the local superintendent,
24 the president of the local school board and the school
25 principal of a probationary school shall hold a public meeting

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1 to inform parents and the public that a public school or the
2 school district has been ranked as probationary. The meeting
3 shall be used to elicit suggestions from parents and the
4 public on how to improve the probationary school. After the
5 public meeting, the school district shall develop the
6 probationary school's improvement plan, and the local school
7 board shall approve the improvement plan before it is
8 submitted to the department. The improvement plan shall be
9 approved by the department within thirty days of its
10 submission.

11 C. An improvement plan shall include:

12 (1) documentation of performance measures in
13 which the probationary school failed to meet standards;

14 (2) measurable objectives to indicate the
15 action that will be taken to address failed measures;

16 (3) benchmarks to be used to indicate
17 progress in meeting standards;

18 (4) an estimate of the time and the resources
19 needed to achieve each objective in the improvement plan; and

20 (5) any other information the probationary
21 school, the local superintendent, the local school board or
22 the department deems necessary.

23 D. A probationary school may apply to the program
24 for financial or other assistance pursuant to an improvement
25 plan developed by the probationary school. The probationary

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1 school shall make application for assistance to the program
2 substantially in the form required by the department. The
3 department shall evaluate applications for assistance and may
4 recommend changes to an application or to an improvement plan
5 if warranted by the final application.

6 E. The department may assign an assistance team to
7 the probationary school to help implement the improvement
8 plan, as provided in the application. The department shall
9 assign an assistance team to the probationary school if the
10 school has not met objectives or otherwise improved by the end
11 of the first year.

12 F. If the state superintendent determines that a
13 probationary school has not met the objectives of the
14 improvement plan for two consecutive years, he may take direct
15 control of the probationary school pursuant to Section 22-2-14
16 NMSA 1978. "

17 Section 68. Section 22-22-4 NMSA 1978 (being Laws 1972,
18 Chapter 16, Section 4, as amended) is amended to read:

19 "22-22-4. VARIABLE SCHOOL CALENDAR--REQUEST.--The local
20 school board [~~of any school district may adopt by resolution a~~
21 ~~request to the state board for approval to~~] may operate a
22 public school or the school district under a variable school
23 calendar. The state board shall develop criteria for the
24 establishment of a variable school calendar in a school
25 district. Those criteria shall include a requirement that the

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1 local school board demonstrate substantial community support
2 for implementation of the variable school calendar. [The
3 state board shall consider the request for approval at an open
4 public hearing held in the school district making the
5 request.] "

6 Section 69. Section 22-22-5 NMSA 1978 (being Laws 1972,
7 Chapter 16, Section 5, as amended by Laws 1993, Chapter 24,
8 Section 2 and also by Laws 1993, Chapter 226, Section 49) is
9 amended to read:

10 "22-22-5. VARIABLE SCHOOL CALENDAR--ACTION BY
11 [~~DEPARTMENT AND~~] STATE BOARD. -- [A. ~~The state board shall make~~
12 ~~rules and regulations pursuant to the Variable School Calendar~~
13 ~~Act necessary to establish procedures for making application,~~
14 ~~requiring reports and maintaining supervision of operations of~~
15 ~~a district under a variable school calendar. In addition, the~~
16 ~~state board may make rules and regulations necessary to~~
17 ~~implement the provisions of the Variable School Calendar Act.~~

18 B.] The state board may suspend or modify existing
19 rules [~~and regulations~~] pertaining to school district
20 operations upon recommendation of the state superintendent
21 when those rules [~~and regulations~~] prevent or impede the
22 implementation of the Variable School Calendar Act. "

23 Section 70. Section 22-22-6 NMSA 1978 (being Laws 1972,
24 Chapter 16, Section 6, as amended) is amended to read:

25 "22-22-6. VARIABLE SCHOOL CALENDAR--EFFECT OF APPROVAL

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1 OF REQUEST. -- ~~[Upon approval of the state board of the request~~
2 ~~of a local school board for operation under a variable school~~
3 ~~calendar, such]~~ The calendar for [that] a variable school
4 calendar public school or school district shall be in lieu of
5 any other school calendar provided by law, and all
6 requirements for reporting or operating under existing school
7 calendars shall be suspended for the school or school district
8 upon the initiation of operations under a variable school
9 calendar ~~[and the rules and regulations made pursuant~~
10 ~~thereto]~~. The public school or school district shall continue
11 to operate under the approved variable school calendar until
12 the local school board ~~[requests the state board by resolution~~
13 ~~for approval of the discontinuance of the variable school~~
14 ~~calendar and the request is approved by the state board]~~
15 discontinues the variable school calendar. "

16 Section 71. TEMPORARY PROVISION-- INITIAL REGIONAL
17 SERVICE CENTERS-- DEPARTMENT DECENTRALIZATION. --

18 A. At least three regional service centers shall
19 be operating by July 1, 2004. The superintendent of public
20 instruction shall create one regional service center in the
21 northwest region of the state and shall convert two existing
22 regional educational cooperatives into regional service
23 centers. The superintendent of public instruction may change
24 the regional boundaries of the converted regional service
25 centers.

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1 B. The state department of public education shall
2 conduct an in-depth analysis of department functions,
3 positions and resources that should be moved to regional
4 services centers and develop a plan, including a time
5 schedule, for the orderly transition of those functions,
6 positions and resources. The department shall provide
7 periodic reports to the legislative education study committee
8 and any other appropriate legislative committee on the
9 development and progress of its decentralization plan.

10 Section 72. TEMPORARY PROVISION--TRANSFER OF REGIONAL
11 EDUCATION COOPERATIVES' APPROPRIATIONS, PROPERTY AND
12 AGREEMENTS--DISPOSITION OF REGIONAL CENTER COOPERATIVES'
13 PROPERTY. --

14 A. As the state superintendent converts regional
15 education cooperatives to regional service centers, personnel,
16 appropriations, money, records, furniture, equipment and other
17 property of a regional education cooperative shall be
18 transferred to the regional service center that replaces the
19 regional education cooperative. Contractual obligations of
20 the regional education cooperative shall be contractual
21 obligations of the regional service center.

22 B. When the state superintendent creates a
23 regional service center in a region that has a regional center
24 cooperative, the school districts that participated in the
25 regional center cooperative shall disband the regional center

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1 cooperative. The school districts shall provide for the
2 disposition of money, records, furniture, equipment and other
3 property either as provided in the joint powers agreement that
4 created the regional center cooperative or by transferring the
5 property to the department.

6 Section 73. RECOMPILATION. --

7 A. Sections 22-2-6.1 through 22-2-6.10 NMSA 1978
8 (being Laws 1986, Chapter 94, Sections 1 through 9 and Laws
9 1989, Chapter 373, Section 5, as amended) are recompiled as
10 Sections 22-11A-1 through 22-11A-10 NMSA 1978.

11 B. Sections 22-10-2, 22-10-3.3, 22-10-3.4,
12 22-10-4, 22-10-4.1, 22-10-10 and 22-10-23 through 22-10-27
13 NMSA 1978 (being Laws 1975, Chapter 306, Section 2, Laws 1997,
14 Chapter 238, Sections 1 and 2, Laws 1967, Chapter 16, Section
15 107, Laws 1997, Chapter 238, Section 6, Laws 1967, Chapter 16,
16 Section 112, Laws 1969, Chapter 116, Sections 1, 3 and 4, Laws
17 1969, Chapter 119, Section 5 and Laws 1994, Chapter 95,
18 Section 1, as amended) are recompiled as Section 22-10A-2 and
19 Sections 22-10A-30 through 22-10A-39 NMSA 1978.

20 C. Sections 22A-1-1 through 22A-1-5 NMSA 1978
21 (being Laws 1989, Chapter 113, Sections 1 through 5) are
22 recompiled as Sections 22-12A-1 through 22-12A-5 NMSA 1978.

23 Section 74. REPEAL. -- Sections 22-2-7, 22-10-3,
24 22-10-3.1, 22-10-3.5, 22-10-3.6, 22-10-5 through 22-10-9,
25 22-10-12, 22-10-14, 22-10-14.1 and 22-10-17.1 NMSA 1978 (being

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1 Laws 1967, Chapter 16, Section 10, Laws 1975, Chapter 306,
2 Section 3, Laws 1986, Chapter 33, Section 18, Laws 1999,
3 Chapter 249, Sections 1 and 2, Laws 1967, Chapter 16, Section
4 108, Laws 1973, Chapter 135, Section 1, Laws 1967, Chapter 16,
5 Sections 109 through 111, 114 and 116 and Laws 1986, Chapter
6 33, Sections 23 and 25, as amended) are repealed.

7 Section 75. DELAYED REPEAL. -- Sections 22-2B-1 through
8 22-2B-6 NMSA 1978 (being Laws 1993, Chapter 232, Sections 1
9 through 6) are repealed effective July 1, 2005.

10 Section 76. EMERGENCY. -- It is necessary for the public
11 peace, health and safety that this act take effect
12 immediately.