

AN ACT

H
B

RELATING TO PUBLIC EDUCATION; PROVIDING PUBLIC SCHOOL REFORMS;
ENACTING THE ASSESSMENT AND ACCOUNTABILITY ACT; CREATING AN
ASSESSMENT AND ACCOUNTABILITY SYSTEM BASED ON CHALLENGING
ACADEMIC CONTENT AND PERFORMANCE STANDARDS AND RIGOROUS TESTING
AGAINST THOSE STANDARDS TO DETERMINE ANNUAL YEARLY PROGRESS OF
STUDENTS, PUBLIC SCHOOLS, SCHOOL DISTRICTS AND THE STATE
DEPARTMENT OF PUBLIC EDUCATION; PROVIDING FOR SANCTIONS AND
REWARDS; PROVIDING FOR IMPROVEMENT INDICATORS IN ADDITION TO THE
ASSESSMENT AND ACCOUNT ABILITY SYSTEM; PROVIDING FOR MORE
STRINGENT COMPETENCY REQUIREMENTS FOR TEACHERS AND SCHOOL
PRINCIPALS; PROVIDING FOR LICENSURE OF CERTAIN SCHOOL EMPLOYEES;
CHANGING CERTAIN GOVERNANCE STRUCTURES; PROVIDING FOR SCHOOL
COUNCILS; PROVIDING POWERS AND DUTIES; ENACTING THE FAMILY AND YOUTH
RESOURCE ACT; AMENDING, REPEALING, ENACTING AND RECOMPILING
SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

2
1
2
P
a
g
e
1

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

Section 2. A new section of the Public School Code, Section 22-1-1.2 NMSA 1978, is enacted to read:

"22-1-1.2. LEGISLATIVE FINDINGS AND PURPOSE.--

H
B

A. The legislature finds that no education system can be sufficient for the education of all children unless it is founded on the sound principle that every child can learn and succeed, and the system must meet the needs of all children by recognizing that student success for every child is the fundamental goal.

2
1
2
P
a
g
e

B. The legislature finds further that the key to student success in New Mexico is to have a multicultural education system that:

2

(1) attracts and retains quality and diverse teachers to teach New Mexico's multicultural student population;

(2) holds teachers, students, schools, school districts and the state accountable;

(3) integrates the cultural strengths of its diverse student population into the curriculum with high expectations for all students;

(4) recognizes that cultural diversity in the state presents special challenges for policymakers, administrators, teachers and students; and

(5) elevates the importance of public education in the state by clarifying the governance structure at different levels.

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

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

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

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

(3) public schools make adequate yearly progress toward educational excellence; and

(4) school districts and the state are prepared to actively intervene and improve failing public schools.

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

F. The legislature finds further that the public school governance structure needs to change to provide accountability from the bottom up instead of from the top down. Each school principal, with the help of school councils made up of parents and teachers, must be the instructional leader in the public school, motivating and holding accountable both teachers and students. Each local superintendent must function as the school district's chief executive officer and have responsibility for the day-to-day operations of the school district, including personnel and student disciplinary decisions.

G. It is the purpose of this 2003 public school reform legislation to provide the framework to implement the legislative findings to ensure student success

H
B

2
1
2
P
a
g
e

3

in New Mexico."

H
B

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

2
1
2
P

"22-1-2. DEFINITIONS.--As used in the Public School Code:

a
g
e

A. "adequate yearly progress" means the measure adopted by the state board based on federal requirements to assess the progress that a student, a public school or school district or the state makes toward improving student achievement;

4

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

C. "department" means the state department of public education;

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

E. "home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science;

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

G. "licensed school employee" means teachers, school administrators

and instructional support providers;

H. "local school board" means the policy-setting body of a school district;

I. "local superintendent" means the chief executive officer of a school district;

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

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

L. "public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school;

M. "school" means a supervised program of instruction designed to educate a student in a particular place, manner and subject area;

N. "school administrator" means a person licensed to administer in a school district and includes school principals and central district administrators;

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

H
B
2
1
2
P
a
g
e
5

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

H
B
2
1
2
P
a
g
e
6

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

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

S. "school employee" includes licensed and nonlicensed employees of a school district;

T. "school principal" means the chief instructional leader and administrative head of a public school;

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

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

W. "state board" means the state board of education;

X. "state educational institution" means an institution enumerated in

Article 12, Section 11 of the constitution of New Mexico;

Y. "state superintendent" means the superintendent of public instruction;

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

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

BB. "certified school instructor" means a teacher or instructional support provider; and

CC. "certified school employee" or "certified school personnel" means a licensed school employee."

Section 4. Section 22-1-4 NMSA 1978 (being Laws 1975, Chapter 338, Section 1, as amended by Laws 2001, Chapter 239, Section 1 and by Laws 2001, Chapter 244, Section 1) is amended to read:

"22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING AND ENROLLING--OPEN ENROLLMENT.--

A. Except as provided by Section 24-5-2 NMSA 1978, a free public school education shall be available to any school-age person who is a resident of this state and has not received a high school diploma or its equivalent.

B. A free public school education in those courses already offered to persons pursuant to the provisions of Subsection A of this section shall be available to any person who is a resident of this state and has received a high school diploma or its equivalent if there is available space in such courses.

H
B
2
1
2
P
a
g
e
7

C. Any person entitled to a free public school education pursuant to the provisions of this section may enroll or re-enroll in a public school at any time and, unless required to attend school pursuant to the Compulsory School Attendance Law, may withdraw from a public school at any time.

D. In adopting and promulgating rules concerning the enrollment of students transferring from a home school or private school to the public schools, the local school board shall provide that the grade level at which the transferring student is placed is appropriate to the age of the student or to the student's score on a student achievement test administered according to the statewide assessment and accountability system.

E. A local school board shall adopt and promulgate rules governing enrollment and re-enrollment at public schools other than charter schools within the school district. These rules shall include:

- (1) definition of the school district boundary and the boundaries of attendance areas for each public school;
- (2) for each public school, definition of the boundaries of areas outside the school district boundary or within the school district but outside the public school's attendance area and within a distance of the public school that would not be served by a school bus route as determined pursuant to Section 22-16-4 NMSA 1978 if enrolled, which areas shall be designated as "walk zones";
- (3) priorities for enrollment of students as follows:
 - (a) first, students residing within the school district and within the attendance area of a public school;
 - (b) second, students enrolled in a school ranked as a

H
B
2
1
2
P
a
g
e
8

school that needs improvement or a school subject to corrective action;

(c) third, students who previously attended the public school; and

(d) fourth, all other applicants;

(4) establishment of maximum allowable class size if smaller than that permitted by law; and

(5) rules pertaining to grounds for denial of enrollment or re-enrollment at schools within the school district and the school district's hearing and appeals process for such a denial. Grounds for denial of enrollment or re-enrollment shall be limited to:

(a) a student's expulsion from any school district or private school in this state or any other state during the preceding twelve months; or

(b) a student's behavior in another school district or private school in this state or any other state during the preceding twelve months that is detrimental to the welfare or safety of other students or school employees.

F. In adopting and promulgating rules governing enrollment and re-enrollment at public schools other than charter schools within the district, a local school board may establish additional enrollment preferences for rules admitting students in accordance with the third and fourth priorities of enrollment set forth in Subparagraphs (c) and (d) of Paragraph (3) of Subsection E of this section. The additional enrollment preferences may include:

(1) after-school child care for students;

(2) child care for siblings of students attending the public school;

H
B
2
1
2
P
a
g
e
9

- (3) children of employees employed at the public school;
- (4) extreme hardship;
- (5) location of a student's previous school;
- (6) siblings of students already attending the public school; and
- (7) student safety.

H
B

2
1
2
P
a
g
e

G. As long as the maximum allowable class size established by law or by rule of a local school board, whichever is lower, is not met or exceeded in a public school by enrollment of first- and second-priority persons, the public school shall enroll other persons applying in the priorities stated in the school district rules adopted pursuant to Subsections E and F of this section. If the maximum would be exceeded by enrollment of an applicant in the second through fourth priority, the public school shall establish a waiting list. As classroom space becomes available, persons highest on the waiting list within the highest priority on the list shall be notified and given the opportunity to enroll."

1
0

Section 5. Section 22-2-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 5, as amended by Laws 2001, Chapter 286, Section 1 and by Laws 2001, Chapter 299, Section 5) is amended to read:

"22-2-2. STATE BOARD--DUTIES.--Without limiting those powers granted to the state board pursuant to Section 22-2-1 NMSA 1978, the state board shall perform the following duties:

- A. properly and uniformly enforce the provisions of the Public School Code;
- B. determine policy for the operation of all public schools and vocational education programs in the state, including vocational programs that are part

of a juvenile construction industries initiative for juveniles who are committed to the	H
custody of the children, youth and families department;	B
C. appoint a state superintendent;	2
D. purchase and loan instructional material to students pursuant to the	1
Instructional Material Law and adopt rules relating to the use and operation of	2
instructional material depositories in the instructional material distribution process;	P
E. designate courses of instruction to be taught in all public schools in	a
the state;	g
F. assess and evaluate all state institutions and those private schools	e
that desire state accreditation;	1
G. determine the qualifications for and issue licenses to teachers,	1
instructional support providers and school administrators according to law and	
according to a system of classification adopted and published by the state board;	
H. deny, suspend or revoke a license according to law for	
incompetency, moral turpitude or any other good and just cause;	
I. make full and complete reports on consolidation of school districts to	
the legislature;	
J. prescribe courses of instruction, requirements for graduation and	
standards for all public schools, for private schools seeking state accreditation and for	
the educational programs conducted in state institutions other than the New Mexico	
military institute;	
K. adopt rules for the administration of all public schools and bylaws for	
its own administration;	
L. require periodic reports on forms prescribed by it from all public	

schools and attendance reports from private schools;

H
B

M. require a public school under its jurisdiction that sponsors athletic programs involving sports to mandate that the participating student obtain catastrophic health and accident insurance coverage, such coverage to be offered through the school and issued by an insurance company duly licensed pursuant to the laws of New Mexico;

2
1
2
P
a
g
e

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

1
2

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

P. require prior approval for an educational program in a public school that is to be conducted, sponsored, carried on or caused to be carried on by a private organization or agency;

Q. approve or disapprove all rules promulgated by an association or organization attempting to regulate a public school activity and invalidate any rule in conflict with any rule promulgated by the state board. The state board shall require an association or organization attempting to regulate a public school activity to comply with the provisions of the Open Meetings Act and be subject to the inspection provisions of the Public Records Act. The state board may require performance and financial audits of an association or organization attempting to regulate a public school activity. The state board shall have no power or control over the rules or the bylaws governing the administration of the internal organization of the association or organization;

R. review decisions made by the governing board or officials of an organization or association regulating a public school activity, and any decision of the state board shall be final in respect thereto;

S. accept or reject a charitable gift, grant, devise or bequest. The particular gift, grant, devise or bequest accepted shall be considered an asset of the state;

T. establish and maintain regional centers, at its discretion, for conducting cooperative services between public schools and school districts within and among those regions and for facilitating regulation and evaluation of school programs;

U. assess and evaluate public schools for accreditation purposes to determine the adequacy of student gain in standard required subject matter, adequacy of student activities, functional feasibility of public school and school district organization, adequacy of staff preparation and other matters bearing upon the education of the students;

V. provide for management and other necessary personnel to operate a public school or school district that has failed to meet requirements of law, state board standards or state board rules; provided that the operation of the public school or school district shall not include any consolidation without the approval of the local school board of that school district. Until such time as requirements of law, standards or rules have been met and compliance is assured, the powers and duties of the local school board shall be suspended;

W. establish and implement a plan that provides for technical assistance to local school boards through workshops and other in-service training methods;

H
B
2
1
2
P
a
g
e
1
3

X. submit a plan applying for funds available under Public Law 94-142 and disburse these funds in the manner and for the purposes specified in the plan;

Y. enforce requirements for home schools. Upon finding that a home school is not in compliance with law, the state board has authority to order that a student attend a public school or a private school;

Z. develop a systemic framework for professional development that provides training to ensure quality teachers and school principals and that improves and enhances student achievement. The state board shall work with school employees, the commission on higher education and institutions of higher education to establish the framework. The framework shall include:

- (1) the criteria for school districts to apply for professional development funds, including an evaluation component that will be used by the department in approving school district professional development plans; and
- (2) guidelines for developing extensive professional development activities for school districts that:
 - (a) improve teachers' knowledge of the subjects they teach and the ability to teach those subjects to all of their students;
 - (b) are an integral part of the public school and school district plans for improving student achievement;
 - (c) provide teachers, school administrators and instructional support providers with the strategies, support, knowledge and skills to help all students meet New Mexico academic standards;
 - (d) are high quality, sustained, intensive and focused on the classroom; and

H
B

2
1
2
P
a
g
e

1
4

(e) are developed and evaluated regularly with extensive participation of school employees and parents;

AA. approve education curricula and programs offered in all two-year public post-secondary educational institutions, except those in Chapter 21, Article 12 NMSA 1978, that lead to alternative licenses for degreed persons pursuant to Section 22-10A-8 NMSA 1978 or licensure for educational assistants; and

BB. withhold program approval from a college of education or teacher preparation program that fails to offer a course on teaching reading that:

- (1) is based upon current scientifically based reading research;
- (2) aligns with state board-adopted reading standards;
- (3) includes strategies and assessment measures to ensure that beginning teachers are proficient in teaching reading; and
- (4) was designed after seeking input from experts in the education field."

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

"22-2-6. DEPARTMENT --DUTIES.--Subject to the policies of the state board and the supervision and direction of the state superintendent, the department shall have the following duties:

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

B. issue a state identification number for each public school student for

H
B
2
1
2
P
a
g
e
1
5

- use in the accountability data system; H
B
- C. advise boards of regents of state educational institutions on matters 2
concerning the Public School Code; 1
2
P
- D. prescribe, print and distribute forms to carry out the duties of the a
state board pursuant to the Public School Code; g
e
- E. annually, prior to December 1, prepare and publish a report on 1
public and private education in the state and distribute the report to the governor and 6
the legislature;
- F. keep accurate records of all money received by the state
superintendent or the department;
- G. publish and distribute copies of the Public School Code and rules
promulgated by the state board to local school boards in the state;
- H. confer with local school boards and licensed school employees on
matters concerning education in the state;
- I. prepare and distribute patriotic material to schools in the state; and
- J. evaluate all educational programs in state institutions under the
authority of the secretary of health and the secretary of children, youth and families."

Section 7. Section 22-2-8 NMSA 1978 (being Laws 1967, Chapter 16, Section 11) is amended to read:

"22-2-8. SCHOOL STANDARDS.--The state board shall prescribe standards for all public schools in the state. A copy of these standards shall be furnished by the department to each local school board, local superintendent and school principal. The standards shall include standards for the following areas:

- A. curriculum, including academic content and performance standards;

- B. organization and administration of education;
- C. the keeping of records, including financial records prescribed by the department;
- D. membership accounting;
- E. teacher preparation;
- F. the physical condition of public school buildings and grounds; and
- G. educational facilities of public schools, including laboratories and libraries."

H
B
2
1
2
P
a
g
e
1
7

Section 8. Section 22-2-14 NMSA 1978 (being Laws 1978, Chapter 129, Section 1, as amended) is amended to read:

"22-2-14. LOCAL SCHOOL BOARDS--PUBLIC SCHOOLS--SUSPENSION--PROCEDURES.--

A. Money budgeted by a school district shall be spent first to attain and maintain the requirements for a school district as prescribed by law and by standards and rules as prescribed by the state board. The state superintendent shall give written notification to a local school board, local superintendent and school principal, as applicable, of any failure to meet requirements by any part of the school district under the control of the local school board. The notice shall specify the deficiency. Instructional units or administrative functions may be disapproved for such deficiencies. The state superintendent shall disapprove instructional units or administrative functions that he determines to be detrimental to the educational process.

B. Within thirty days after receipt of the notice of failure to meet requirements, the local school board, local superintendent and school principal, as

applicable, shall:

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

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

C. The state board shall suspend from authority and responsibility a local school board, local superintendent or school principal that has had notice of disapproval and fails to comply with procedures of Subsection B of this section. The state superintendent shall act in lieu of the suspended local school board, local superintendent or school principal until the state board removes the suspension.

D. To suspend a local school board, local superintendent or school principal, the state board shall deliver to the local school board an alternative order of suspension, stating the cause for the suspension and the effective date and time the suspension will begin. The alternative order shall also contain notice of a time, date and place for a public hearing, prior to the beginning of suspension, to be held by the state board, at which the local school board, local superintendent or school principal may appear and show cause why the suspension should not be put into effect. Within five days after the hearing, the state board shall make permanent, modify or withdraw the alternative order.

E. The state superintendent may suspend a local school board, local superintendent or school principal pending a hearing before the state board when the local school board, local superintendent or school principal has been notified of disapproval and when the state superintendent has sufficient reason to believe that the educational process in the school district or public school has been severely

H
B
2
1
2
P
a
g
e
1
8

impaired or halted as a result of deficiencies so severe as to warrant disapproved status before the question of suspension can be presented to the state board for a hearing.

F. The state superintendent, while acting in lieu of a suspended local school board, local superintendent or school principal, shall execute all the legal authority of the local school board, local superintendent or school principal and assume all the responsibilities of the local school board, local superintendent or school principal.

G. The provisions of this section shall be invoked at any time the state superintendent finds the school district or public school has failed to attain and maintain the requirements of law or state board standards and rules."

Section 9. Section 22-2-15 NMSA 1978 (being Laws 1978, Chapter 129, Section 2, as amended) is amended to read:

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

A. Within ten days after suspension, or within a reasonable time as the suspended local school board, local superintendent or school principal may request, the state board shall give a hearing to the local school board, local superintendent or school principal. At this hearing, the local school board, local superintendent or school principal may appear and show cause why the suspension should not be continued. The department employees who conducted the evaluations upon which the suspension was based shall appear and give testimony.

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

H
B
2
1
2
P
a
g
e
1
9

C. A local school board, local superintendent or school principal aggrieved by the decision of the state board may appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

Section 10. A new section of the Public School Code, Section 22-2A-1 NMSA 1978, is enacted to read:

"22-2A-1. SHORT TITLE.--Chapter 22, Article 2A NMSA 1978 may be cited as the "Assessment and Accountability Act"."

Section 11. A new section of the Public School Code, Section 22-2A-2 NMSA 1978, is enacted to read:

"22-2A-2. PURPOSES.--The purposes of the Assessment and Accountability Act are to comply with federal accountability requirements; to provide the means whereby parents, students, public schools and the public can assess the progress of students in learning and schools in teaching required academic content; and to institute a system in which public schools, school districts and the department are held accountable for ensuring student success."

Section 12. A new section of the Public School Code, Section 22-2A-3 NMSA 1978, is enacted to read:

"22-2A-3. ACADEMIC CONTENT AND PERFORMANCE STANDARDS--STATE BOARD POWERS AND DUTIES.--

A. The state board shall adopt academic content and performance standards for grades one through twelve in the following areas:

- (1) mathematics;
- (2) reading and language arts;
- (3) science; and

H
B
2
1
2
P
a
g
e
2
0

(4) social studies.

H
B

B. The state board may adopt content and performance standards in other subject areas.

2
1
2

C. Academic content and performance standards shall be sufficiently academically challenging to meet or exceed federal requirements.

P
a
g
e

D. The department shall measure the performance of every public school in New Mexico. Public schools achieving the greatest improvement in adequate yearly progress shall be eligible for supplemental incentive funding. The state board shall establish the corrective actions and interventions necessary for public schools that do not achieve adequate yearly progress."

2
1

Section 13. A new section of the Public School Code, Section 22-2A-4 NMSA 1978, is enacted to read:

"22-2A-4. STATEWIDE ASSESSMENT AND ACCOUNTABILITY SYSTEM--
INDICATORS--REQUIRED TESTS--ALTERNATIVE TESTS--LIMITS ON
ALTERNATIVES TO ENGLISH LANGUAGE READING TEST.--

A. The state board shall establish a statewide assessment and accountability system that is aligned with the state academic content and performance standards and that measures adequate yearly progress for each student, public school and school district. Adequate yearly progress shall be determined primarily by student academic achievement, as demonstrated by statewide standards-based academic performance tests; however, the state board may include other indicators of adequate yearly progress, including graduation rates for high schools and attendance for elementary and middle schools.

B. The academic assessment program for adequate yearly progress

shall test student achievement as follows by the school year indicated:

(1) for grades kindergarten through two, diagnostic and standards-based tests on reading that include phonemic awareness, phonics and comprehension by the 2003-2004 school year;

(2) for grades three through nine and for grade eleven, standards-based academic performance tests in mathematics, reading and language arts and social studies by the 2005-2006 school year; provided that testing in ninth grade and testing in social studies shall not occur until the legislature has provided funding for test development and implementation;

(3) for grades four, six, eight and eleven, standards-based academic performance writing tests by the 2005-2006 school year; and

(4) for one of grades three through five and six through nine and for grade eleven, standards-based academic performance tests in science by the 2007-2008 school year.

C. The department shall involve appropriate licensed school employees in the development of the standards-based academic performance tests.

D. All students shall participate in the academic assessment program. The state board shall adopt standards for reasonable accommodations in academic testing for students with disabilities and limited English proficiency, including when and how accommodations may be applied. The legislative education study committee shall review the standards prior to adoption by the state board.

E. Students who have been determined to be limited English proficient may be allowed to take the standards-based academic performance test in their primary language. A student who has attended school for three consecutive years in

H
B

2
1
2
P
a
g
e

2
2

the United States shall participate in the English language reading test unless granted a waiver by the department based on criteria established by the state board. An English language reading test waiver may be granted only for a maximum of two additional years and only on a case-by-case basis."

H
B
2
1
2
P
a
g
e
2
3

Section 14. A new section of the Public School Code, Section 22-2A-5 NMSA 1978, is enacted to read:

"22-2A-5. STUDENT ACHIEVEMENT RATINGS--CALCULATION OF ADEQUATE YEARLY PROGRESS.--The state board shall adopt the process and methodology for calculating adequate yearly progress. The statewide standards-based academic performance tests used to assess adequate yearly progress shall be valid and reliable and shall conform with nationally recognized professional and technical standards. Academic performance shall be measured by school and by the following subgroups:

- A. ethnicity;
- B. race;
- C. limited English proficiency;
- D. students with disabilities; and
- E. poverty."

Section 15. Section 22-2-8.6 NMSA 1978 (being Laws 1986, Chapter 33, Section 7, as amended) is recompiled as Section 22-2A-6 NMSA 1978 and is amended to read:

"22-2A-6. REMEDIATION PROGRAMS--PROMOTION POLICIES-- RESTRICTIONS.--

- A. Remediation programs, academic improvement programs and

promotion policies shall be aligned with alternative school-district-determined assessment results and requirements of the assessment and accountability program.

B. Local school boards shall approve school district-developed remediation programs and academic improvement programs to provide special instructional assistance to students in grades one through eight who fail to attain adequate yearly progress. The cost of remediation programs and academic improvement programs shall be borne by the school district. Remediation programs and academic improvement programs shall be incorporated into the school district's educational plan for student success and filed with the department.

C. The cost of summer and extended day remediation programs and academic improvement programs offered in grades nine through twelve shall be borne by the parent; however, where parents are determined to be indigent according to guidelines established by the state board, the school district shall bear those costs.

D. Diagnosis of weaknesses identified by a student's academic achievement may serve as criteria in assessing the need for remedial programs or retention.

E. A parent shall be notified no later than the end of the second grading period that his child is failing to make adequate yearly progress, and a conference consisting of the parent and the teacher shall be held to discuss possible remediation programs available to assist the student in attaining adequate yearly progress. Specific academic deficiencies and remediation strategies shall be explained to the student's parent and a written plan developed containing timelines, academic expectations and the measurements to be used to verify that a student has

H
B
2
1
2
P
a
g
e
2
4

overcome his academic deficiencies. Remediation programs and academic improvement programs include tutoring, extended day or week programs, summer programs and other research-based models for student improvement.

F. At the end of grades one through seven, three options are available, dependent on a student's adequate yearly progress:

(1) the student has made adequate yearly progress and shall enter the next higher grade;

(2) the student has not made adequate yearly progress and shall participate in the required level of remediation. Upon certification by the school district that the student has made adequate yearly progress, he shall enter the next higher grade; or

(3) the student has not made adequate yearly progress upon completion of the prescribed remediation program and upon the recommendation of the teacher and school principal shall either be:

(a) retained in the same grade for no more than one school year with an academic improvement plan developed by the student assistance team in order to meet adequate yearly progress, at which time the student shall enter the next higher grade; or

(b) promoted to the next grade if the parent refuses to allow his child to be retained pursuant to Subparagraph (a) of this paragraph. In this case, the parent shall sign a waiver indicating his desire that the student be promoted to the next higher grade with an academic improvement plan designed to address specific academic deficiencies. The academic improvement plan shall be developed by the student assistance team outlining timelines and monitoring activities to ensure

H
B
2
1
2
P
a
g
e
2
5

progress toward overcoming those academic deficiencies. Students failing to make adequate yearly progress at the end of that year shall then be retained in the same grade for no more than one year in order to have additional time to master the required content standards.

G. At the end of the eighth grade, a student who fails to make adequate yearly progress shall be retained in the eighth grade for no more than one school year to make adequate yearly progress or if the student assistance team determines that retention of the student in the eighth grade will not assist the student make adequate yearly progress, the team shall design a high school graduation plan to meet the student's needs for entry into the work force or a post-secondary educational institution. If a student is retained in the eighth grade, the student assistance team shall develop a specific academic improvement plan that clearly delineates the student's academic deficiencies and prescribes a specific remediation plan to address those academic deficiencies.

H. A student who fails to make adequate yearly progress for two successive school years shall be referred to the student assistance team for placement in an alternative program designed by the school district. Alternative program plans shall be filed with the department.

I. Promotion and retention decisions affecting a student enrolled in special education shall be made in accordance with the provisions of the individual educational plan established for that student.

J. For the purposes of this section:

(1) "academic improvement plan" means a written document developed by the student assistance team that describes the specific content

standards required for a certain grade level that a student has not achieved and that prescribes specific remediation programs such as summer school, extended day or week school and tutoring;

(2) "alternative school-district-determined assessment results" means the results obtained from student assessments developed by a local school board and conducted at an elementary grade level or middle school level;

(3) "educational plan for student success" means a student-centered tool developed to define the role of the academic improvement plan within the school district that addresses methods to improve a student's learning and success in school and that identifies specific measures of a student's progress; and

(4) "student assistance team" means a group consisting of a student's:

- (a) teacher;
- (b) school counselor;
- (c) school administrator; and
- (d) parent."

Section 16. A new section of the Public School Code, Section 22-2A-7 NMSA 1978, is enacted to read:

"22-2A-7. ADEQUATE YEARLY PROGRESS--SCHOOL IMPROVEMENT PLANS--CORRECTIVE ACTION.--

A. A public school that fails to make adequate yearly progress for two consecutive school years shall be ranked as a school that needs improvement.

B. Within ninety days of being notified that a public school within the school district has been ranked as a public school that needs improvement, the school

H
B
2
1
2
P
a
g
e
2
7

district shall submit an improvement plan for that public school to the department. In developing the improvement plan, the local superintendent, the president of the local school board and the school principal of the public school that needs improvement shall hold a public meeting to inform parents and the public of the public school's rank. The meeting shall be used to elicit suggestions from parents and the public on how to improve the public school. After the public meeting, the school district shall develop the public school's improvement plan, and the local school board shall approve the improvement plan before it is submitted to the department. The improvement plan shall be approved by the department within thirty days of its submission.

H
B
2
1
2
P
a
g
e
2
8

C. The improvement plan shall include:

- (1) documentation of performance measures in which the public school failed to make adequate yearly progress;
- (2) measurable objectives to indicate the action that will be taken to address failed measures;
- (3) benchmarks to be used to indicate progress in meeting academic content and performance standards;
- (4) an estimate of the time and the resources needed to achieve each objective in the improvement plan;
- (5) the support services that shall be provided to students and applications for federal and state funds; and
- (6) any other information the public school that needs improvement, the local superintendent, the local school board or the department deems necessary.

D. A public school that needs improvement may apply to the

department for financial or other assistance in accordance with the improvement plan.

H
B

The public school shall make application for assistance substantially in the form required by the department. The department shall evaluate applications for assistance and may recommend changes to an application or to an improvement plan if warranted by the final application. The department shall consider innovative methods to assist the public school in meeting its improvement plan, including department or other school employees to serve as a mobile assistance team to provide administrative, classroom, human resource and other assistance to the public school that needs improvement as needed and as provided in applications approved by the department.

2
1
2
P
a
g
e
2
9

E. If a public school fails to make adequate yearly progress for two or more consecutive school years, it shall provide transportation or pay the cost of transportation, within available funds, for students who choose to enroll in a higher ranked public school.

F. If a public school fails to make adequate yearly progress for three or more consecutive school years, it shall provide supplemental services, including after-school programs, tutoring and summer services, within available funds.

G. The state board shall adopt rules that govern the priority for students for whom supplemental services shall be provided and for students for whom transportation costs are paid.

H. If a public school fails to make adequate yearly progress for four consecutive school years, it shall be ranked as a public school subject to corrective action and the school district, in conjunction with the department, shall take one or more of the following actions in addition to earlier improvements:

- (1) replace staff as allowed by law;

- (2) implement a new curriculum;
- (3) decrease management authority of the public school;
- (4) appoint an outside expert to advise the public school;
- (5) extend the school day or year; or
- (6) change the public school's internal organizational structure.

H
B
2
1
2
P
a
g
e

I. If a public school fails to make adequate yearly progress for five consecutive school years, the school district, in conjunction with the department, shall take one or more of the following actions in addition to other improvements:

3
0

- (1) reopen the public school as a charter school;
- (2) replace all or most of the staff as allowed by law;
- (3) turn over the management of the public school to the department; or
- (4) make other governance changes.

J. A school district that fails to make adequate yearly progress for two consecutive school years may be subject to the same requirements as a public school that needs improvement or the same requirements as a public school subject to corrective action, as determined by the state board. A school district that fails to make adequate yearly progress for four consecutive school years shall be subject to corrective action.

K. The state or a school district shall not enter into management contracts with private entities for the management of a public school or a school district subject to corrective action."

Section 17. A new section of the Public School Code, Section 22-2A-8 NMSA 1978, is enacted to read:

"22-2A-8. ADEQUATE YEARLY PROGRESS--SUPPLEMENTAL INCENTIVE FUNDING--STATE PROGRAM FOR OTHER ACHIEVEMENT.--

H
B

A. The state board shall institute an "adequate yearly progress program" that measures public schools' improvements in adequate yearly progress. The public schools that show the greatest improvement in adequate yearly progress shall be eligible for supplemental funding from the incentives for school improvement fund, including allowable federal funds.

2
1
2
P
a
g
e
3
1

B. The state board may institute a "state improving schools program" that measures public school improvement by adequate yearly progress and other indicators, including school safety; dropout rate; parent and community involvement; and, if not used to determine adequate yearly progress, graduation and attendance rates. Those indicators may be weighed against socioeconomic variables such as the percentage of student mobility rates, the percentage of limited English proficient students using criteria established by the federal office of civil rights and the percentage of students eligible for free or reduced-fee lunches and other factors determined by the state board. Public schools that show the greatest improvement through the use of additional indicators may be eligible for supplemental funding from the incentives for school improvement fund. Funding for the state improving schools program shall include federal funds only if allowed by federal law or rule."

Section 18. A new section of the Public School Code, Section 22-2A-9 NMSA 1978, is enacted to read:

"22-2A-9. INCENTIVES FOR SCHOOL IMPROVEMENT FUND--CREATED--DISTRIBUTIONS.--

A. The "incentives for school improvement fund" is created in the state

treasury. The fund includes appropriations, federal allocations for the purposes of the fund, income from investment of the fund, gifts, grants and donations. Balances in the fund shall not revert to any other fund at the end of any fiscal year. The fund shall be administered by the department, and money in the fund is appropriated to the department to provide supplemental incentive funding for the adequate yearly progress program and the state improving schools program. No more than three percent of the fund may be retained by the department for administrative purposes. Money in the fund shall be expended on warrants of the secretary of finance and administration pursuant to vouchers signed by the state superintendent or his authorized representative.

H
B
2
1
2
P
a
g
e
3
2

B. The state board shall adopt a formula for distributing incentive funding from the fund. Distributions for the adequate yearly progress program shall account for at least sixty percent of the fund, including federal funds if those funds are restricted to adequate yearly progress improvements. Up to forty percent of the fund, not including restricted federal funds, may be used for the state improving schools program. The total number of public schools that receive supplemental funding shall not constitute more than fifteen percent of the student membership in the state. Distributions shall be made proportionately to public schools that qualify.

C. Each public school's school council shall determine how the supplemental funding shall be used. The money received by a public school shall not be used for salaries, salary increases or bonuses, but may be used to pay substitute teachers when teachers attend professional development activities."

Section 19. A new section of the Public School Code, Section 22-2A-10 NMSA 1978, is enacted to read:

"22-2A-10. SCHOOLS IN NEED OF IMPROVEMENT FUND--CREATED.--

H
B

A. The "schools in need of improvement fund" is created in the state treasury. The fund includes appropriations, federal allocations for the purposes of the fund, income from investment of the fund, gifts, grants and donations. Balances in the fund shall not revert to any other fund at the end of any fiscal year. The fund shall be administered by the department, and money in the fund is appropriated to the department to provide assistance to public schools in need of improvement and public schools subject to corrective action. No more than three percent of the fund may be retained by the department for administrative purposes. Money in the fund shall be expended on warrants of the secretary of finance and administration pursuant to vouchers signed by the state superintendent or his authorized representative.

2
1
2
P
a
g
e
3
3

B. Distributions from the fund shall be by application approved by the department based on a public school's approved improvement plan as provided in Section 22-2A-7 NMSA 1978."

Section 20. A new section of the Public School Code, Section 22-2A-11 NMSA 1978, is enacted to read:

"22-2A-11. ASSESSMENT AND ACCOUNTABILITY SYSTEM REPORTING--
PARENT SURVEY--DATA SYSTEM--FISCAL INFORMATION.--

A. The state board shall adopt the format for reporting individual student assessments to parents. The student assessments shall report each student's progress and academic needs as measured against state standards.

B. The state board shall adopt the format for reporting annual yearly progress of public schools, school districts and the department. If the state board has adopted a state improving schools program, the annual accountability report shall

include the results of that program for each public school. The annual accountability report format shall be clear, concise and understandable to parents and the general public. All annual accountability reports shall ensure that the privacy of individual students is protected.

C. Local school boards may establish additional indicators through which to measure the school district's performance in areas other than adequate yearly progress.

D. The school district's annual accountability report shall also include the results of a survey of parents' views of the quality of their children's school. The survey shall be conducted each year in time to include the results in the annual accountability report. The survey shall compile the results of a written questionnaire that shall be sent home with the students to be given to their parents. The survey may be completed anonymously. The survey shall be no more than one page, shall be clearly and concisely written and shall include not more than twenty questions that shall be answered with options of a simple sliding scale ranging from "strongly agree" to "strongly disagree" and shall include the optional response "don't know". The survey shall also include a request for optional written comments, which may be written on the back of the questionnaire form. The questionnaire shall include questions in the following areas:

- (1) parent-teacher-school relationship and communication;
- (2) quality of educational and extracurricular programs;
- (3) instructional practices and techniques;
- (4) resources;
- (5) school employees, including the school principal; and
- (6) parents' views of teaching staff expectations for the

students.

H
B

E. The state board shall develop no more than ten of the survey questions, which shall be reviewed by the legislative education study committee prior to implementation. No more than five survey questions shall be developed by the local school board, and no more than five survey questions shall be developed by the staffs of each public school; provided that at least one-half of those questions shall be developed by teachers rather than school administrators, in order to gather information that is specific to the particular community surveyed. The questionnaires shall indicate the public school site and shall be tabulated by the department within thirty days of receipt and shall be returned to the respective schools to be disseminated to all parents.

2
1
2
P
a
g
e
3
5

F. The school district's annual accountability report shall be adopted by the local school board, may be published no later than November 15 of each year and may be published at least once each school year in a newspaper of general circulation in the county where the school district is located. In publication, the report shall be titled "The School District Report Card" and disseminated in accordance with guidelines established by the state board to ensure effective communication with parents, students, educators, local policymakers and business and community organizations.

G. The annual accountability report shall include the names of those local school board members who failed to attend annual mandatory training.

H. The annual accountability report shall include data on expenditures for central office administration and expenditures for the public schools of the school district.

I. The department shall create an accountability data system through which data from each public school and each school district may be compiled and reviewed. The department shall provide the resources to train school district personnel in the use of the accountability data system.

J. The department shall verify data submitted by the school districts.

K. At the end of fiscal year 2005, after the budget approval cycle, the department shall produce a report to the legislature that shows for all school districts using performance-based program budgeting the relationship between that portion of a school district's program cost generated by each public school in the school district and the budgeted expenditures for each public school in the school district as reported in the district's performance-based program budget. At the end of fiscal year 2006 and subsequent fiscal years, after the budget approval cycle, the department shall report on this relationship in all public schools in all school districts in the state.

L. When all public schools are participating in performance-based budgeting, the department shall recommend annually to the legislature for inclusion in the general appropriation act the maximum percentage of appropriations that may be expended in each school district for central office administration.

M. The department shall disseminate its statewide accountability report to school districts; the governor, legislators and other policymakers; and business and economic development organizations."

Section 21. Section 22-5-4 NMSA 1978 (being Laws 1967, Chapter 16, Section 28, as amended) is amended to read:

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

H
B
2
1
2
P
a
g
e
3
6

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| <p>A. subject to the rules of the state board, develop educational policies for the school district;</p> | <p>H
B
2
1</p> |
| <p>B. employ a local superintendent for the school district and fix his salary;</p> | <p>2
P
a
g
e</p> |
| <p>C. review and approve the school district budget;</p> | <p>3
7</p> |
| <p>D. acquire, lease and dispose of property;</p> | |
| <p>E. have the capacity to sue and be sued;</p> | |
| <p>F. acquire property by eminent domain pursuant to the procedures provided in the Eminent Domain Code;</p> | |
| <p>G. issue general obligation bonds of the school district;</p> | |
| <p>H. provide for the repair and maintain all property belonging to the school district;</p> | |
| <p>I. for good cause and upon order of the district court, subpoena witnesses and documents in connection with a hearing concerning any powers or duties of the local school boards;</p> | |
| <p>J. except for expenditures for salaries, contract for the expenditure of money according to the provisions of the Procurement Code;</p> | |
| <p>K. adopt rules pertaining to the administration of all powers or duties of the local school board;</p> | |
| <p>L. accept or reject any charitable gift, grant, devise or bequest. The particular gift, grant, devise or bequest accepted shall be considered an asset of the school district or the public school to which it is given; and</p> | |
| <p>M. offer and, upon compliance with the conditions of such offer, pay rewards for information leading to the arrest and conviction or other appropriate</p> | |

disciplinary disposition by the courts or juvenile authorities of offenders in case of theft,
defacement or destruction of school district property. All such rewards shall be paid
from school district funds in accordance with rules promulgated by the state board."

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

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

A. A local superintendent shall not initially employ or approve the initial
employment in any capacity of a person who is the spouse, father, father-in-law,
mother, mother-in-law, son, son-in-law, daughter or daughter-in-law of a member of the
local school board or the local superintendent. The local school board may waive the
nepotism rule for family members of a local superintendent.

B. Nothing in this section shall prohibit the continued employment of a
person employed on or before March 1, 2003."

Section 23. Section 22-5-11 NMSA 1978 (being Laws 1986, Chapter 33,
Section 12, as amended) is amended to read:

"22-5-11. SCHOOL DISTRICT SALARY SYSTEM.--

A. Prior to the beginning of each school year, each local
superintendent shall file with the department the school district salary system, which
salary system shall incorporate any salary increases or compensation measures
specifically mandated by the legislature. Salaries for teachers and school
administrators shall be aligned with the licensure framework provided for in the School
Personnel Act.

B. A local superintendent shall not reduce the school district salary
system established pursuant to Subsection A of this section without the prior written

H
B
2
1
2
P
a
g
e
3
8

approval of the state superintendent. The state superintendent shall give written notice to the legislative finance committee, the legislative education study committee and the department of finance and administration of approved reduction of any school district's salary system, including the reasons for the request for reduction and the grounds for approval."

H
B
2
1
2
P
a
g
e

Section 24. A new section of the Public School Code, Section 22-5-13 NMSA 1978, is enacted to read:

3
9

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

Section 25. A new section of the Public School Code, Section 22-5-14 NMSA 1978, is enacted to read:

"22-5-14. LOCAL SUPERINTENDENT --POWERS AND DUTIES.--

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

B. The local superintendent shall:

- (1) carry out the educational policies and rules of the state board and local school board;
- (2) administer and supervise the school district;
- (3) employ, fix the salaries of, assign, terminate or discharge all

employees of the school district;

(4) prepare the school district budget based on public schools' recommendations for review and approval by the local school board and the department. The local superintendent shall tell each school principal the approximate amount of money that may be available for his school and provide a school budget template to use in making school budget recommendations; and

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

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

Section 26. Section 22-5-4.6 NMSA 1978 (being Laws 1990, Chapter 52, Section 3, as amended) is recompiled as Section 22-5-15 NMSA 1978 and is amended to read:

"22-5-15. COLLABORATIVE SCHOOL IMPROVEMENT PROGRAMS.--

A. A local superintendent may approve an individual public school's plan to implement a collaborative school improvement program upon a finding that the plan is in the best interest of the public school and is supported by the participating teaching staff.

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

H
B
2
1
2
P
a
g
e
4
0

C. If necessary for the implementation of a collaborative school improvement program, the local superintendent may apply to the state board for a waiver of Public School Code provisions relating to length of school day, staffing patterns, subject areas or purchase of instructional material. The state board may approve a request for a waiver upon a finding that the local superintendent has demonstrated accountability for student learning through alternative planning and that the participating teaching staff supports the implementation of a collaborative school improvement program. The local superintendent shall provide the state board with a program budget that shows the type and number of students served, the type and number of school employees involved and all expenditures of the waiver.

H
B
2
1
2
P
a
g
e
4
1

D. A teacher participating in the development and implementation of a collaborative school improvement program may contact the state board to comment on the local superintendent's waiver request if the teacher communicated his opinion in writing to the local superintendent at the time the local superintendent approved implementation of the program."

Section 27. A new section of the Public School Code, Section 22-5-16 NMSA 1978, is enacted to read:

"22-5-16. ADVISORY SCHOOL COUNCILS--CREATION--DUTIES.--

A. Each public school shall create an advisory "school council" to assist the school principal with school-based decision-making and to involve parents in their children's education.

B. A school council shall be created and its membership elected in accordance with local school board rule. School council membership shall reflect an equitable balance between school employees and parents and community members.

At least one community member shall represent the business community, if such person is available. The school principal may serve as chairman. The school principal shall be an active member of the school council.

H
B
2
1
2
P
a
g
e
4
2

C. The school council shall:

- (1) work with the school principal and give advice, consistent with state and school district rules and policies, on policies relating to instructional issues and curricula and on the public school's proposed and actual budgets;
- (2) develop creative ways to involve parents in the schools;
- (3) where appropriate, coordinate with any existing work force development boards or vocational education advisory councils to connect students and school academic programs to business resources and opportunities; and
- (4) serve as the champion for students in building community support for schools and encouraging greater community participation in the public schools."

Section 28. Section 22-8-1 NMSA 1978 (being Laws 1967, Chapter 16, Section 55) is amended to read:

"22-8-1. SHORT TITLE.--Chapter 22, Article 8 NMSA 1978 may be cited as the "Public School Finance Act"."

Section 29. Section 22-8-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 63, as amended) is amended to read:

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

A. A budget for a school district shall not be approved by the department that does not provide for:

- (1) a school year consisting of at least one hundred eighty full

instructional days or the equivalent thereof, exclusive of any release time for in-service training; or

(2) a variable school year consisting of a minimum number of instructional hours established by the state board; and

(3) a pupil-teacher ratio or class or teaching load as provided in Section 22-10A-20 NMSA 1978.

B. The state board shall, by rule, establish the requirements for an instructional day, the standards for an instructional hour and the standards for a full-time teacher and for the equivalent thereof."

Section 30. Section 22-2-6.12 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 14, Section 2, as amended) is recompiled as Section 22-8-43 NMSA 1978 and is amended to read:

"22-8-43. PUBLIC SCHOOL READING PROFICIENCY FUND--CREATED.--The "public school reading proficiency fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants and donations. The fund shall be administered by the department, and money in the fund is appropriated to the department to distribute awards to public schools that implement innovative, scientifically based reading programs. The department shall develop procedures and rules for the application and award of money from the fund, including criteria upon which to evaluate innovative, scientifically based reading programs. Schools receiving funds shall show evidence that they are using quality, scientifically based reading research to improve reading proficiency and shall develop individualized reading plans for students who fail to meet grade level reading proficiency standards. Disbursements of the fund shall be made by warrant of the department of finance and administration pursuant to

H
B

2
1
2
P
a
g
e

4
3

vouchers signed by the state superintendent. Any unexpended or unencumbered balance remaining in the fund at the end of any fiscal year shall not revert but shall remain to the credit of the fund."

Section 31. Section 22-10-4.1 NMSA 1978 (being Laws 1997, Chapter 238, Section 6) is recompiled as Section 22-8-44 NMSA 1978 and is amended to read:

"22-8-44. EDUCATOR LICENSURE FUND--DISTRIBUTION--APPROPRIATION.-

-

A. The "educator licensure fund" is created in the state treasury and shall be administered by the department. The fund shall consist of money collected from application fees for licensure or for renewal of licensure by the state board.

B. Money in the fund is appropriated to the department to fund the educator background check program. Money in the fund and any interest that may accrue to the fund shall not revert at the end of the fiscal year but shall remain to the credit of the fund."

Section 32. Section 22-8B-4 NMSA 1978 (being Laws 1999, Chapter 281, Section 4, as amended) is amended to read:

"22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--OPERATION.--

A. A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry or need for special education services.

B. A charter school shall be administered and governed by a governing body in the manner set forth in the charter.

H
B
2
1
2
P
a
g
e
4
4

C. A charter school shall be responsible for its own operation, including preparation of a budget, contracting for services and personnel matters.

H
B
2
1

D. A charter school may negotiate or contract with a school district, a university or college or any third party for the use of a facility, its operation and maintenance and the provision of any service or activity that the charter school is required to perform in order to carry out the educational program described in its charter.

2
P
a
g
e
4
5

E. In no event shall a charter school be required to pay rent for space that is deemed available, as negotiated by contract, in school district facilities; provided that the facilities can be made available at no cost to the district. All costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the district.

F. A charter school shall negotiate with a school district to provide transportation to students eligible for transportation under the provisions of the Public School Code. The school district, in conjunction with the charter school, may establish a limit for student transportation to and from the charter school site not to extend beyond the school district boundary.

G. A charter school may negotiate with a school district for capital expenditures.

H. A charter school shall be a nonsectarian, nonreligious and non-home-based public school that operates within a school district.

I. Except as otherwise provided in the Public School Code, a charter school shall not charge tuition or have admission requirements.

J. A charter school shall be subject to the provisions of Section 22-2-8

NMSA 1978 and the Assessment and Accountability Act.

H
B

K. A charter school may acquire and dispose of property; provided that, upon termination of the charter, all assets of the charter school shall revert to the local school board that authorized the charter.

2
1
2
P

L. A charter school may accept or reject any charitable gift, grant, devise or bequest; provided that no such gift, grant, devise or bequest shall be accepted if subject to any condition contrary to law or to the terms of the charter. The particular gift, grant, devise or bequest shall be considered an asset of the charter school to which it is given.

a
g
e
4
6

M. A charter school may contract and sue and be sued. A local school board that approves a charter school shall not be liable for any acts or omissions of the charter school.

N. A charter school shall comply with all state and federal health and safety requirements applicable to public schools."

Section 33. Section 22-10-1 NMSA 1978 (being Laws 1975, Chapter 306, Section 1, as amended) is recompiled as Section 22-10A-1 NMSA 1978 and is amended to read:

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

Section 34. A new section of the Public School Code, Section 22-10A-3 NMSA 1978, is enacted to read:

"22-10A-3. LICENSE OR CERTIFICATE REQUIRED--APPLICATION FEE--
GENERAL DUTIES.--

A. Except as otherwise provided in this subsection, any person

teaching, supervising an instructional program or providing instructional support services in a public school or state agency; any person administering in a public school; and any person providing health care and administering medications or performing medical procedures in a public school shall hold a valid license or certificate from the department authorizing the person to perform that function. This subsection does not apply to a person performing the functions of a practice teacher as defined by the state board.

H
B
2
1
2
P
a
g
e
4
7

B. The state board shall charge a reasonable fee for each application for or the renewal of a license or certificate. The application fee may be waived if the applicant meets a standard of indigency established by the department.

C. A person performing the duties of a licensed school employee who does not hold a valid license or certificate or has not submitted a complete application for licensure or certification within the first three months from beginning employment duties shall not be compensated thereafter for services rendered until he demonstrates that he holds a valid license or certificate. This section does not apply to practice teachers as defined by rules of the state board.

D. Each licensed school employee shall:

- (1) enforce all laws and rules applicable to his public school and school district or to the educational program of the state agency;
- (2) if teaching, teach the prescribed courses of instruction;
- (3) exercise supervision over students on property belonging to the public school or state agency and while the students are under the control of the public school or state agency; and
- (4) furnish reports as required."

Section 35. A new section of the Public School Code, Section 22-10A-4 NMSA 1978, is enacted to read:

"22-10A-4. TEACHERS AND SCHOOL ADMINISTRATORS--PROFESSIONAL STATUS--LICENSURE LEVELS--SALARY ALIGNMENT.--

A. Teaching and school administration are recognized as professions, with all the rights, responsibilities and privileges accorded professions, having their first responsibility to the public they serve. The primary responsibilities of the teaching and school administration professions are to educate the children of this state and to improve the professional practices and ethical conduct of their members.

B. The New Mexico licensure framework for teachers and school administrators is a progressive career system in which licensees are required to demonstrate increased competencies and undertake increased duties as they progress through the licensure levels. The minimum salary provided as part of the career system shall not take effect until the state board has adopted increased competencies for the particular level of licensure and a highly objective uniform statewide standard of evaluation.

C. A level one license is a provisional license issued for the first three years of teaching that gives a beginning teacher the opportunity, through a formal mentorship program, for additional preparation to be a quality teacher. A level two license is given to a teacher who is a fully qualified professional who is primarily responsible for ensuring that students meet and exceed state board-adopted academic content and performance standards; a teacher may choose to remain at level two for the remainder of his career. A level three-A license is the highest level of teaching licensure for those teachers who choose to advance as instructional leaders

H
B

2
1
2
P
a
g
e

4
8

in the teaching profession and undertake greater responsibilities such as curriculum development, peer intervention and mentoring. A level three-B license is for teachers who commence a new career path in school administration by becoming school administrators.

H
B
2
1
2
P
a
g
e
4
9

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

E. All teachers and school administrators who hold teaching or administrator certificates on the effective date of this 2003 act shall meet the requirements for their level of licensure by September 1, 2006 and shall be issued licenses."

Section 36. Section 22-10-3.3 NMSA 1978 (being Laws 1997, Chapter 238, Section 1, as amended) is recompiled as Section 22-10A-5 NMSA 1978 and is amended to read:

"22-10A-5. BACKGROUND CHECKS--KNOWN CONVICTIONS--REPORTING REQUIRED--LIMITED IMMUNITY--PENALTY FOR FAILURE TO REPORT.--

A. An applicant for initial licensure shall be fingerprinted and shall provide two fingerprint cards or the equivalent electronic fingerprints to the department to obtain the applicant's federal bureau of investigation record. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act. Other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the denial, suspension or revocation of a license for good and just cause. Records and related information shall be privileged and shall not be disclosed to a person not directly involved in the licensure or employment decisions

affecting the specific applicant. The applicant for initial licensure shall pay for the cost of obtaining the federal bureau of investigation record.

B. Local school boards and regional education cooperatives shall develop policies and procedures to require background checks on an applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students at a public school.

C. An applicant for employment who has been initially licensed within twenty-four months of applying for employment with a local school board, regional education cooperative or a charter school shall not be required to submit to another background check if the department has copies of his federal bureau of investigation records on file. An applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students at a public school shall provide two fingerprint cards or the equivalent electronic fingerprints to the local school board, regional education cooperative or charter school to obtain his federal bureau of investigation record. The applicant, contractor or contractor's employee who has been offered employment by a regional education cooperative or at a public school may be required to pay for the cost of obtaining a background check. At the request of a local school board, regional education cooperative or charter school, the department is authorized to release copies of federal bureau of investigation records that are on file with the department and that are not more than twenty-four months old. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act; provided that other information contained in the federal bureau of investigation record, if supported by

H
B
2
1
2
P
a
g
e
5
0

independent evidence, may form the basis for the employment decisions for good and just cause. Records and related information shall be privileged and shall not be disclosed to a person not directly involved in the employment decision affecting the specific applicant who has been offered employment, contractor or contractor's employee with unsupervised access to students at a public school.

H
B
2
1
2
P
a
g
e

D. A local superintendent shall report to the department any known conviction of a felony or misdemeanor involving moral turpitude of a licensed school employee that results in any type of action against the licensed school employee.

5
1

E. The state board may suspend or revoke the license of a local superintendent who fails to report a criminal conviction involving moral turpitude of a licensed school employee.

F. A person who in good faith reports any known conviction of a felony or misdemeanor involving moral turpitude of a licensed school employee shall not be held liable for civil damages as a result of the report; provided that the person being accused shall have the right to sue for any damages sustained as a result of negligent or intentional reporting of inaccurate information or the disclosure of any information to an unauthorized person."

Section 37. Section 22-2-8.7 NMSA 1978 (being Laws 1986, Chapter 33, Section 8, as amended by Laws 2001, Chapter 255, Section 1 and by Laws 2001, Chapter 261, Section 1) is recompiled as Section 22-10A-6 NMSA 1978 and is amended to read:

"22-10A-6. EDUCATIONAL REQUIREMENTS FOR LICENSURE.--

A. The state board shall require a person seeking licensure or reciprocity in elementary or secondary education to have completed the following

minimum requirements in the college of arts and sciences:

- (1) twelve hours in English;
- (2) twelve hours in history, including American history and western civilization;
- (3) six hours in mathematics;
- (4) six hours in government, economics or sociology;
- (5) twelve hours in science, including biology, chemistry, physics, geology, zoology and botany; and
- (6) six hours in fine arts.

B. In addition to the requirements specified in Subsections A and C of this section, the state board shall require that a person seeking standard or alternative elementary licensure shall have completed six hours of reading courses, and a person seeking standard or alternative secondary licensure shall have completed three hours of reading courses in subject matter content. The state board shall establish requirements that provide a reasonable period of time to comply with the provisions of this subsection.

C. Except for licensure by reciprocity, the state board shall require, prior to initial licensure, no less than fourteen weeks of student teaching, a portion of which shall occur in the first thirty credit hours taken in the college of education and shall be under the direct supervision of a teacher and a portion of which shall occur in the student's senior year with the student teacher being directly responsible for the classroom.

D. Nothing in this section shall preclude the state board from establishing or accepting equivalent requirements for purposes of reciprocal licensure

or minimum requirements for alternative licensure.

H
B

E. Vocational teacher preparatory programs may be exempt from Subsections A through C of this section upon a determination by the state board that other licensure requirements are more appropriate for vocational teacher preparatory programs."

2
1
2
P
a
g
e

Section 38. A new section of the Public School Code, Section 22-10A-7 NMSA 1978, is enacted to read:

5
3

"22-10A-7. LEVEL ONE LICENSURE.--

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

B. Each school district, in accordance with state board rules, shall provide for the mentorship and evaluation of level one teachers. At the end of each year and at the end of the license period, the level one teacher shall be evaluated for competency. If the teacher fails to demonstrate satisfactory progress and competence annually, the teacher may be terminated as provided in Section 22-10A-24 NMSA 1978. If the teacher has not demonstrated satisfactory progress and competence by the end of the three-year period, he shall not be granted a level two license.

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

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

(1) holds a baccalaureate degree from an accredited

educational institution;

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

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

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

E. The department shall issue an alternative level one license to an applicant who meets the requirements of Section 22-10A-8 NMSA 1978.

F. The state board shall establish competencies and qualifications for specific grade levels, types and subject areas of level one licensure, including early childhood, elementary, middle school, secondary, special education and vocational education.

G. Beginning with the 2003-2004 school year, with the adoption by the state board of a highly objective uniform statewide standard of evaluation for level one teachers, the minimum salary for a level one teacher shall be thirty thousand dollars (\$30,000) for a standard nine and one-half month contract.

H. Teachers who hold level one licenses on the effective date of this 2003 act must be evaluated by the end of the 2006-2007 school year."

Section 39. A new section of the Public School Code, Section 22-10A-8 NMSA 1978, is enacted to read:

"22-10A-8. ALTERNATIVE LEVEL ONE LICENSE.--

A. The department shall issue an alternative level one license to a

H
B
2
1
2
P
a
g
e
5
4

person who is at least eighteen years of age and who has:

(1) completed a baccalaureate degree at an accredited institution of higher education, including completion of a minimum of thirty credit hours at either the undergraduate or graduate level in the subject area of instruction for which he is applying for a license;

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

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

(4) passed the New Mexico teacher assessments examination; and

(5) completed a minimum of twelve semester hours of instruction in teaching principles in a program approved by the department; or

(6) demonstrated to the department, in conjunction with the school district or state agency, that he has met the state board-approved competencies for level one teachers that correspond to the grade level that will be taught.

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

C. An alternative level one teacher shall participate in the same mentorship, evaluation and other professional development requirements as other

H
B
2
1
2
P
a
g
e

5
5

level one teachers.

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

Section 40. A new section of the Public School Code, Section 22-10A-9 NMSA 1978, is enacted to read:

"22-10A-9. TEACHER MENTORSHIP PROGRAM FOR LEVEL ONE TEACHERS--PURPOSE--STATE BOARD DUTIES--DEPARTMENT DUTIES.--

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

B. The department shall develop a framework for a teacher mentorship program for all level one teachers. The state board shall work with licensed school employees, representatives from teacher preparation programs and the commission on higher education to establish the framework.

C. The framework shall include:

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

(2) structured training for mentors;

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

(4) procedures for a summative evaluation of beginning teachers' performance during the first three years of teaching, including annual

H
B
2
1
2
P
a
g
e
5
6

assessment of suitability for license renewal, and for final assessment of beginning teachers seeking level two licensure;

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

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

D. The department shall:

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

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

(3) encourage school districts to collaborate with teacher preparation program administrators at institutions of higher education, career educators, educational organizations, regional service centers and other state and community leaders in the teacher mentorship program."

Section 41. A new section of the Public School Code, Section 22-10A-10 NMSA 1978, is enacted to read:

"22-10A-10. LEVEL TWO LICENSURE.--

A. A level two license is a nine-year license granted to a teacher who meets the qualifications for that level and who annually demonstrates essential competency to teach. If a level two teacher does not demonstrate essential competency in a given school year, the school district shall provide the teacher with additional professional development and peer intervention during the following school year. If by the end of that school year the teacher fails to demonstrate essential

H
B

2
1
2
P
a
g
e

5
7

competency, a school district may choose not to contract with the teacher to teach in the classroom.

B. The department shall issue a level two license to an applicant who successfully completes the three-year level one license or is granted reciprocity as provided by state board rules; demonstrates essential competency required by the state board as verified by the local superintendent through the highly objective uniform statewide standard of evaluation; and meets other qualifications as required by the state board.

C. The department shall provide for qualifications for specific grade levels, types and subject areas of level two licensure, including early childhood, elementary, middle, secondary, special education and vocational education.

D. With the adoption by the state board of the statewide objective performance evaluation for level two teachers, the minimum salary for a level two teacher for a standard nine and one-half month contract shall be as follows:

- (1) for the 2003-2004 school year, thirty thousand dollars (\$30,000);
- (2) for the 2004-2005 school year, thirty-five thousand dollars (\$35,000); and
- (3) for the 2005-2006 school year, forty thousand dollars (\$40,000)."

Section 42. A new section of the Public School Code, Section 22-10A-11 NMSA 1978, is enacted to read:

"22-10A-11. LEVEL THREE LICENSURE--TRACKS FOR TEACHERS AND SCHOOL ADMINISTRATORS.--

H
B
2
1
2
P
a
g
e
5
8

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

B. The department shall grant a level three-A license to an applicant who has been a level two teacher for at least three years and holds a post-baccalaureate degree or national board for professional teaching standards certification; demonstrates instructional leader competence as required by the state board and verified by the local superintendent through the highly objective uniform statewide standard of evaluation; and meets other qualifications for the license.

C. With the adoption by the state board of a highly objective uniform statewide standard of evaluation for level three-A teachers, the minimum salary for a level three-A teacher for a standard nine and one-half month contract shall be as follows:

- (1) for the 2003-2004 school year, thirty thousand dollars (\$30,000);
- (2) for the 2004-2005 school year, thirty-five thousand dollars (\$35,000);
- (3) for the 2005-2006 school year, forty thousand dollars (\$40,000);
- (4) for the 2006-2007 school year, forty-five thousand dollars (\$45,000); and
- (5) for the 2007-2008 school year, fifty thousand dollars (\$50,000).

D. A level three-B license is a nine-year license granted to a school

H
B
2
1
2
P
a
g
e
5
9

administrator who meets the qualifications for that level. Licenses may be renewed upon satisfactory annual demonstration of instructional leader and administrative competency.

E. The department shall grant a level three-B license to an applicant who has been a level three-A instructional leader for at least one year, has satisfactorily completed state board-approved courses in administration and a state board-approved administration apprenticeship program and demonstrates instructional leader competence required by the state board and verified by the local superintendent through the highly objective uniform statewide standard of evaluation.

F. Beginning with the 2005-2006 school year, the standard contract and minimum annual salary for a level three-B school principal shall be based on the size of the school in which the school principal is employed, as follows:

(1) for school principals of schools with two hundred or fewer students, a minimum salary of fifty-eight thousand dollars (\$58,000) for a standard ten-month contract;

(2) for school principals of schools with two hundred one to four hundred students, a minimum salary of sixty thousand dollars (\$60,000) for a standard ten-month contract;

(3) for school principals of schools with four hundred one to six hundred students, a minimum salary of sixty-two thousand dollars (\$62,000) for a standard ten-month contract;

(4) for school principals of schools with six hundred one to eight hundred students, a minimum salary of sixty-four thousand dollars (\$64,000) for a standard ten-month contract;

H
B
2
1
2
P
a
g
e
6
0

(5) for school principals of schools with eight hundred one to one thousand students, a minimum salary of sixty-six thousand dollars (\$66,000) for a standard ten-month contract; and

(6) for school principals of schools with more than one thousand students, a minimum salary of sixty-eight thousand dollars (\$68,000) for a standard ten-month contract."

Section 43. A new section of the Public School Code, Section 22-10A-12 NMSA 1978, is enacted to read:

"22-10A-12. LIMITED RECIPROCITY.--A teacher or school principal licensed in another state may be granted a level two or level three license if he has teaching experience, demonstrates the required competencies and meets other requirements and qualifications for the license for which he applies, including clearance of the required background check. The local superintendent may require a mentorship period for the licensee if he deems it necessary. A teacher who holds an out-of-state license may apply for a lower level license if he does not meet the requirements for the higher level."

Section 44. A new section of the Public School Code, Section 22-10A-13 NMSA 1978, is enacted to read:

"22-10A-13. NATIVE AMERICAN LANGUAGE AND CULTURE CERTIFICATES.-
-The state board may issue a Native American language and culture certificate to a person proficient in a Native American language and culture of a New Mexico tribe or pueblo who meets criteria established by the state board. A baccalaureate degree is not required for the person applying for this certificate. The Native American language and culture certificate shall be issued and renewable in accordance with procedures

H
B
2
1
2
P
a
g
e
6
1

established by the state board."

H
B

Section 45. A new section of the Public School Code, Section 22-10A-14 NMSA 1978, is enacted to read:

2
1
2
P

"22-10A-14. CERTIFICATES OF WAIVER.--

a
g
e

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

6
2

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

C. At the request of a local superintendent, the department may issue a certificate of assignment waiver to a licensed teacher who is assigned to teach outside his teaching endorsement area. A certificate of assignment waiver may be renewed each school year if the teacher provides satisfactory evidence of continued progress toward meeting the requirements for endorsement.

D. A teacher who holds a teaching or assignment waiver shall not be assigned to a school that has not made adequate yearly progress for two consecutive years."

Section 46. A new section of the Public School Code, Section 22-10A-15 NMSA 1978, is enacted to read:

"22-10A-15. SUBSTITUTE TEACHER CERTIFICATE.--The state board shall provide by rule for the qualifications for a substitute teacher certificate. A local school

board may provide for additional qualifications or requirements as it deems necessary.

H
B

Substitute teacher certificates shall be issued by the school district."

2

Section 47. A new section of the Public School Code, Section 22-10A-16

1

NMSA 1978, is enacted to read:

2

P

"22-10A-16. PARENTAL NOTIFICATION.--

a

g

e

A. Within sixty calendar days from the beginning of each school year, every school district shall issue a notice to parents that they may obtain information regarding the professional qualifications of their children's teachers, instructional support providers and school principals. At a minimum, the information shall include:

6

3

(1) whether the teacher has met state qualifications for licensure for the grade level and subjects being taught by the teacher;

(2) whether the teacher is teaching under a teaching or assignment waiver;

(3) the teacher's degree major and any other license or graduate degree held by the teacher; and

(4) the qualifications of any instructional support providers if the student is served by educational assistants or other instructional support providers.

B. A local superintendent shall give written notice to the parents of those students who are being taught for longer than four consecutive weeks by a substitute teacher or by a person who is not qualified to teach the grade or subject.

C. The local superintendent shall:

(1) ensure that the notice required by this section is provided by the end of the four-week period following the assignment of that person to the

classroom;

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

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

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

Section 48. A new section of the Public School Code, Section 22-10A-17 NMSA 1978, is enacted to read:

"22-10A-17. INSTRUCTIONAL SUPPORT PROVIDER LICENSES.--

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

B. The state board shall provide by rule for the requirements for licensure of types of instructional support providers. If an instructional support provider practices a licensed profession, he shall provide evidence satisfactory to the department that he holds a current, unsuspended license in the profession for which he is applying to provide instructional support services. The instructional support provider shall notify the school district and department immediately if his professional

H
B
2
1
2
P
a
g
e
6
4

license is suspended, revoked or denied. Suspension, revocation or denial of a professional license shall be just cause for discharge or termination and suspension, revocation or denial of the instructional support provider license."

Section 49. A new section of the Public School Code, Section 22-10A-18 NMSA 1978, is enacted to read:

"22-10A-18. SCHOOL PRINCIPALS--DUTIES.--In addition to other duties prescribed by law, a school principal shall:

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

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

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

D. take disciplinary action against school employees;

E. develop a proposed budget for the public school, with input from the school council, and submit it to the local superintendent; and

F. perform other duties assigned to him by the local superintendent to implement the policies of the local school board."

Section 50. A new section of the Public School Code, Section 22-10A-19 NMSA 1978, is enacted to read:

"22-10A-19. TEACHERS AND SCHOOL PRINCIPALS--ACCOUNTABILITY--

H
B
2
1
2
P
a
g
e
6
5

EVALUATIONS--PROFESSIONAL DEVELOPMENT --PEER INTERVENTION--
MENTORING.--

H
B

2
1
2
P
a
g
e

6
6

A. The state board shall adopt criteria and minimum highly objective uniform statewide standards of evaluation for the annual performance evaluation of licensed school employees. The local superintendent shall adopt policies, guidelines and procedures for the performance evaluation process. Evaluation by other school employees shall be one component of the evaluation tool for school administrators.

B. As part of the highly objective uniform statewide standard of evaluation for teachers, the school principal shall observe each teacher's classroom practice to determine the teacher's ability to demonstrate state-adopted competencies.

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

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

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

Section 51. Section 22-2-8.2 NMSA 1978 (being Laws 1986, Chapter 33,

Section 3, as amended) is recompiled as Section 22-10A-20 NMSA 1978 and is amended to read:

"22-10A-20. STAFFING PATTERNS--CLASS LOAD--TEACHING LOAD.--

A. The individual class load for elementary school teachers shall not exceed twenty students for kindergarten; provided that any teacher in kindergarten with a class load of fifteen to twenty students shall be entitled to the assistance of an educational assistant.

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

C. The average class load for an elementary school teacher at an individual school shall not exceed twenty-four students when averaged among grades four, five and six.

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

E. Students receiving special education services integrated into a regular classroom for any part of the day shall be counted in the calculation of class load averages. Students receiving special education services not integrated into the regular classroom shall not be counted in the calculation of class load averages. Only

H
B

2
1
2
P
a
g
e

6
7

classroom teachers charged with responsibility for the regular classroom instructional program shall be counted in determining average class loads. In elementary schools offering only one grade level, average class loads may be calculated by averaging appropriate grade levels between schools in the school district.

H
B
2
1
2
P
a
g
e
6
8

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

G. The state superintendent may waive the individual school class load requirements established in this section. Waivers shall be applied for annually and a waiver shall not be granted for more than two consecutive years. Waivers may only be granted if a school district demonstrates that:

- (1) no portable classrooms are available;
- (2) no other available sources of funding exist to meet its need for additional classrooms;
- (3) the school district is planning alternatives to increase building capacity for implementation within one year; and
- (4) the parents of all children affected by the waiver have been notified in writing:
 - (a) of the statutory class load requirements;
 - (b) that the school district has made a decision to deviate from these class load requirements; and
 - (c) of the school district plan to achieve compliance with the class load requirements.

H. If a waiver is granted pursuant to Subsection G of this section to an individual school, the average class load for elementary school teachers at that school

shall not exceed twenty students in grade one and shall not exceed twenty-five students when averaged among grades two, three, four, five and six.

I. Each school district shall report to the department the size and composition of classes subsequent to the fortieth day and the December 1 count. Failure to meet class load requirements within two years shall be justification for the disapproval of the school district's budget by the state superintendent.

J. The department shall report to the legislative education study committee by November 30 of each year regarding each school district's ability to meet class load requirements imposed by law.

K. Notwithstanding the provisions of Subsection G of this section, the state board may waive the individual class load and teaching load requirements established in this section upon a demonstration of a viable alternative curricular plan and a finding by the state board that the plan is in the best interest of the school district and that, on an annual basis, the plan has been presented to and is supported by the affected teaching staff. The department shall evaluate the impact of each alternative curricular plan annually. Annual reports shall be made to the legislative education study committee.

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

Section 52. Section 22-10-22 NMSA 1978 (being Laws 1967, Chapter 16, Section 124, as amended) is recompiled as Section 22-10A-31 NMSA 1978 and is amended to read:

H
B
2
1
2
P
a
g
e
6
9

"22-10A-31. DENIAL, SUSPENSION AND REVOCATION OF LICENSES.--In accordance with the procedures provided in the Uniform Licensing Act, the state board may deny, suspend or revoke a department-issued license for incompetency, moral turpitude or any other good and just cause.

Section 53. Section 22-10-3.2 NMSA 1978 (being Laws 1988, Chapter 48, Section 1, as amended) is recompiled as Section 22-10A-32 NMSA 1978 and is amended to read:

"22-10A-32. LICENSED SCHOOL EMPLOYEES--REQUIRED TRAINING PROGRAM.--

A. All licensed school employees shall be required to complete training in the detection and reporting of child abuse and neglect and substance abuse. This requirement shall be completed within the licensed school employee's first year of employment by a school district.

B. Pursuant to the policy and rules adopted by the state board, the department shall develop a training program, including training materials and necessary training staff, to meet the requirement of Subsection A of this section to make the training available in every school district. The department shall coordinate the development of the program with appropriate staff at the human services department and the department of health.

C. The training program developed pursuant to this section shall be made available by the department to the deans of every college of education in New Mexico for use in providing such training to students seeking elementary and secondary education licensure."

Section 54. Section 22-1-7 NMSA 1978 (being Laws 1989, Chapter 344,

H
B
2
1
2
P
a
g
e
7
0

Section 2) is recompiled as Section 22-10A-33 NMSA 1978 and is amended to read:

"22-10A-33. VIOLENCE--VANDALISM--REPORTING.--

A. A school administrator, teacher or other school employee who observes or has direct knowledge from a participant or victim of an act of violence upon a school administrator, teacher or other school employee in the lawful discharge of his duties or vandalism to public school property shall file an incident report describing the incident pursuant to procedures established by the department.

B. A person who files an incident report pursuant to this section shall not be discriminated against in any manner or discharged by a local superintendent because he has filed that report.

C. The department shall establish uniform reporting procedures for incidents of violence or vandalism described in Subsection A of this section. The procedures shall include requirements for:

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

(2) annual incident reports by local superintendents of all reported incidents to local school boards;

(3) annual incident reports by local school boards of all reported incidents to the state superintendent; and

(4) annual incident reports by the state superintendent of all reported incidents to the state board. The annual incident report filed with that board shall be summarized and submitted to an appropriate interim committee of the legislature with recommendations to decrease the incidence of violence and vandalism in the public schools."

H
B

2
1
2
P
a
g
e

7
1

Section 55. Section 22-12-1 NMSA 1978 (being Laws 1967, Chapter 16,
Section 169) is amended to read:

"22-12-1. SHORT TITLE.--Chapter 22, Article 12 NMSA 1978 may be cited as
the "Compulsory School Attendance Law"."

Section 56. Section 22-12-3 NMSA 1978 (being Laws 1971, Chapter 238,
Section 1, as amended) is amended to read:

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

Section 57. Section 22-13-1 NMSA 1978 (being Laws 1967, Chapter 16,
Section 180, as amended) is repealed and a new Section 22-13-1 NMSA 1978 is
enacted to read:

"22-13-1. SUBJECT AREAS--MINIMUM INSTRUCTIONAL AREAS REQUIRED--
ACCREDITATION.--

A. The state board shall require public schools to address state board-
approved academic content and performance standards when instructing in specific
state board-required subject areas as provided in this section. A public school or
school district failing to meet these minimum requirements shall not be accredited by
the state board.

B. All first, second and third grade classes shall provide daily
instruction in reading and language arts skills, including phonemic awareness, phonics

H
B
2
1
2
P
a
g
e
7
2

and comprehension, and mathematics.

H
B

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

2
1
2

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

P
a
g
e

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

7
3

(2) mathematics;

(3) language other than English;

(4) communication skills;

(5) science;

(6) art;

(7) music;

(8) social studies;

(9) New Mexico history;

(10) United States history;

(11) geography; and

(12) physical fitness.

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

Section 58. Section 22-2-8.4 NMSA 1978 (being Laws 1986, Chapter 33, Section 5, as amended by Laws 2001, Chapter 257, Section 1 and by Laws 2001,

Chapter 276, Section 1) is recompiled as Section 22-13-1.1 NMSA 1978 and is amended to read:

"22-13-1.1. GRADUATION REQUIREMENTS.--

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

B. Successful completion of a minimum of twenty-three units aligned to the state academic content and performance standards shall be required for graduation. These units shall be as follows:

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

(2) three units in mathematics, at least one of which is equivalent to the algebra 1 level or higher;

(3) two units in science, one of which shall have a laboratory component; provided, however, that with students entering the ninth grade beginning in the 2005-2006 school year, three units in science shall be required, one of which shall have a laboratory component;

(4) three units in social science, which shall include United States history and geography, world history and geography, and government and economics;

(5) one unit in physical education or other physical activity;

(6) one unit in communication skills or business education, with a major emphasis on writing and speaking and that may include a language other than

H
B

2
1
2
P
a
g
e

7
4

English; and

(7) nine elective units and eight elective units for students entering the ninth grade in the 2005-2006 school year that meet state board content and performance standards. Student service learning shall be offered as an elective.

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

D. A student shall not receive a high school diploma who has not passed a state graduation examination in the subject areas of reading, English, math, writing, science and social science. The state graduation examination on social science shall include a section on the constitution of the United States and the constitution of New Mexico. If a student exits from the school system at the end of grade twelve without having passed a state graduation examination, he shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system he takes and passes the state graduation examination, he may receive a high school diploma.

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

Section 59. A new section of the Public School Code, Section 22-13-1.2 NMSA 1978, is enacted to read:

"22-13-1.2. HIGH SCHOOL CURRICULA AND END-OF-COURSE TESTS--ALIGNMENT.--High school curricula and end-of-course tests shall be aligned with the placement tests administered by two- and four-year public post-secondary educational institutions in New Mexico. The department shall collaborate with the commission on higher education in aligning high school curricula and end-of-course tests with the

H
B
2
1
2
P
a
g
e
7
5

placement tests."

Section 60. Section 22-2-6.11 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 14, Section 1, as amended) is recompiled as Section 22-13-1.3 NMSA 1978 and is amended to read:

"22-13-1.3. READING INITIATIVE--DESIGN.--

A. The department shall design and implement a statewide reading initiative to improve reading proficiency in the state. The design of the reading initiative shall be based upon quality, scientifically based reading research that has been shown to improve reading proficiency and shall include the following:

- (1) consistent assessment and evaluation of student reading levels;
- (2) appropriate professional staff development to assist licensed school employees in the instruction of reading;
- (3) extra time in the student's day or year for implementation of reading programs;
- (4) rewards provided to teachers and other applicable licensed school employees in public schools that improve student reading proficiency; and
- (5) criteria for public schools to establish an individualized reading plan for students who fail to meet grade level reading proficiency standards.

B. The department shall use national experts to work with the department to develop an immediate reading initiative and a long-term plan for sustained reading improvement.

C. The department shall involve school district personnel, especially licensed elementary reading specialists, parents and other interested persons in the

design of the reading initiative."

H
B

Section 61. Section 22-22-4 NMSA 1978 (being Laws 1972, Chapter 16, Section 4, as amended) is amended to read:

2
1
2

"22-22-4. VARIABLE SCHOOL CALENDAR.--The local school board may operate a public school or the school district under a variable school calendar. The state board shall develop criteria for the establishment of a variable school calendar in a school district. Those criteria shall include a requirement that the local school board demonstrate substantial community support for implementation of the variable school calendar."

P
a
g
e

7
7

Section 62. Section 22-22-5 NMSA 1978 (being Laws 1972, Chapter 16, Section 5, as amended by Laws 1993, Chapter 24, Section 2 and also by Laws 1993, Chapter 226, Section 49) is amended to read:

"22-22-5. VARIABLE SCHOOL CALENDAR--ACTION BY STATE BOARD.--

The state board may suspend or modify existing rules pertaining to school district operations upon recommendation of the state superintendent when those rules prevent or impede the implementation of the Variable School Calendar Act."

Section 63. Section 22-22-6 NMSA 1978 (being Laws 1972, Chapter 16, Section 6, as amended) is amended to read:

"22-22-6. VARIABLE SCHOOL CALENDAR--EFFECT The variable school calendar for a public school or school district shall be in lieu of any other school calendar provided by law, and all requirements for reporting or operating under existing school calendars shall be suspended for the public school or school district upon the initiation of operations under a variable school calendar. The public school or school district shall continue to operate under the approved variable school

calendar until the local school board discontinues the variable school calendar."

H
B

Section 64. A new section of the Public School Code is enacted to read:

2

"SHORT TITLE.--Sections 64 through 68 of this act may be cited as the "Family and Youth Resource Act"."

1

2

P

a

g

e

Section 65. A new section of the Public School Code is enacted to read:

"ADVISORY COMMITTEE--MEMBERS--MEETINGS--DUTIES.--

7

8

A. The "family and youth resource advisory committee" is created.

Members of the committee are:

- (1) the state superintendent or his designee;
- (2) the secretary of health or his designee;
- (3) the secretary of human services or his designee;
- (4) the secretary of children, youth and families or his

designee; and

(5) the following members appointed by the state board:

(a) one representative each from four different local community-based organizations, including faith-based providers, involved with the provision of health or social services to families; and

(b) one local superintendent or his designee from a school district in which there are more than two schools eligible to participate in the family and youth resources program.

B. The members of the committee shall appoint the chairman and such other officers as they deem necessary.

C. The committee shall meet as frequently as it deems appropriate or necessary, but at least once a year. The chairman may call special meetings as he

deems necessary and shall convene special meetings at the request of a majority of the members.

D. A majority of the committee constitutes a quorum.

E. Members who are not state officers may be reimbursed for per diem and mileage expenses as provided in the Per Diem and Mileage Act.

F. The department shall staff the committee.

G. The committee shall:

(1) recommend to the department guidelines for the creation, implementation and operation of programs;

(2) recommend to the department standards and criteria for awarding grants and the form and content of grant applications; and

(3) review applications for grants and make recommendations to the department within ninety days of receipt of the grant applications."

Section 66. A new section of the Public School Code is enacted to read:

"PROGRAMS--PURPOSE--FUNCTIONS.--

A. A "family and youth resources program" may be created in any public school in the state. The department shall accept applications for grants from public schools in which eighty percent of the students are eligible for the free or reduced-fee lunch program to fund their program.

B. The purpose of the program is to provide an intermediary for students and their families at public schools to access social and health care services.

The goal of the program is to forge mutual long-term relationships with public and private agencies and community-based, civic and corporate organizations to help students attain high academic achievement by meeting certain nonacademic needs of

H
B
2
1
2
P
a
g
e
7
9

students and their families.

C. A program shall include the employment of a resource liaison, who shall:

(1) assess student and family needs and match those needs with appropriate public or private providers, including civic and corporate sponsors;

(2) make referrals to health care and social service providers;

(3) collaborate and coordinate with health and social service agencies and organizations through school-based and off-site delivery systems;

(4) recruit service providers and business, community and civic organizations to provide needed services and goods that are not otherwise available to a student or his family;

(5) establish partnerships between the school and community organizations such as civic, business and professional groups and organizations; and recreational, social and after-school programs such as boys' and girls' clubs and boy and girl scouts;

(6) identify and coordinate age-appropriate resources for students in need of:

(a) counseling, training and placement for employment;

(b) drug and alcohol abuse counseling;

(c) family crisis counseling; and

(d) mental health counseling;

(7) promote family support and parent education programs;

and

(8) seek out other services or goods a student or his family

H
B

2
1
2
P
a
g
e
8
0

needs to assist the student to stay in school and succeed."

H
B

Section 67. A new section of the Public School Code is enacted to read:

2
1

"FAMILY AND YOUTH RESOURCE PROGRAMS--GRANTS--DEPARTMENT

2
P

DUTIES.--

a
g

A. Subject to the availability of funding, grants are available to a public school or group of public schools that meets department eligibility requirements.

e
8

B. Applications for grants shall be in the form prescribed by the department and shall include the following information:

1

- (1) a statement of need, including demographic and socioeconomic information about the area to be served by the program;
- (2) goals and expected outcomes of the program;
- (3) services and activities to be provided by the program;
- (4) written agreements for the provision of services by public and private agencies, community groups and other parties;
- (5) a work plan and budget for the program, including staffing requirements and the expected availability of staff;
- (6) hours of operation;
- (7) strategies for dissemination of information about the program to potential users;
- (8) training and professional development plans;
- (9) plans to ensure that program participants are not stigmatized for their use of the program;
- (10) a physical description of the place in the school or adjacent to the school in which the program will be located;

(11) letters of endorsement and commitment from community agencies and organizations and local governments; and

H
B

(12) any other information the department requires.

2
1
2

C. Grants shall not be awarded for applications submitted that supplant funding and other resources that have been used for purposes similar to the program."

P
a
g
e

Section 68. A new section of the Public School Code is enacted to read:

8
2

"FAMILY AND YOUTH RESOURCE FUND.--The "family and youth resource fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and earnings from investment of the fund. The fund shall not be transferred to any other fund at the end of a fiscal year. The fund shall be administered by the department, and money in the fund is appropriated to the department to carry out the purposes of the Family and Youth Resource Act. Money in the fund shall be disbursed on warrants issued by the secretary of finance and administration pursuant to vouchers signed by the state superintendent or his authorized representative."

Section 69. A new section of Chapter 2, Article 3 NMSA 1978 is enacted to read:

"DEPARTMENT OF FINANCE AND ADMINISTRATION--OFFICE OF EDUCATION ACCOUNTABILITY.--

A. The "office of education accountability" is created in the department of finance and administration. The office shall provide an independent evaluation of the Assessment and Accountability Act and the School Personnel Act by:

(1) monitoring the implementation of those acts;

(2) periodically reviewing school district and school-based

decision-making policies relating to the recruitment and retention of school employees; H
B

(3) verifying the accuracy of reports of public school, school 2
district and state performance; and 1
2

(4) conducting studies of other states' efforts at assessment P
and accountability and other educational reforms and report its findings to the a
legislative education study committee and legislative finance committee. g
e

8
3

B. The state department of public education, school districts and other agencies of the state or its political subdivisions shall cooperate with the office of education accountability and provide information as requested by the office."

Section 70. TEMPORARY PROVISION--DISTANCE LEARNING CAPABILITY.--

The commission on higher education and the state department of public education shall inventory the current distance learning capability of public post-secondary educational institutions and prepare a statewide plan for the delivery by public post-secondary educational institutions of distance education courses for teachers and other licensed school employees in reading instruction for kindergarten through third grade and multilingual instruction in elementary and secondary schools. The inventory and plan, including funding recommendations, shall be submitted to the legislative education study committee by October 1, 2004.

Section 71. TEMPORARY PROVISIONS--BUDGET REQUIREMENTS.--

A. Prior to the approval of school district and charter school budgets for fiscal year 2004, the state superintendent shall verify that each local school board is providing a six percent salary increase for teachers and instructional support providers, except educational assistants, no later than the last pay period of December, 2003 and a two percent salary increase for all other school employees,

including transportation employees, effective July 1, 2003, and a minimum salary of thirty thousand dollars (\$30,000) for teachers, effective July 1, 2003.

B. Prior to the approval of a school district or charter school's budget for fiscal year 2004, the state superintendent shall verify that an amount equal to or more than one percent of a school district's or charter school's approved fiscal year 2003 operating budget has been reallocated to direct instruction for expenditure in fiscal year 2004.

C. A total of nine million dollars (\$9,000,000) in school districts' and charter schools' unrestricted and unreserved cash balances and emergency reserve, as of June 30, 2003, shall be transferred to school districts' fiscal year 2004 budgets.

D. Prior to the approval of a school district's or charter school's budget for fiscal year 2004, the state superintendent shall verify that the school district's or charter school's ending cash balance does not exceed:

(1) nine percent if the current year program cost is less than five million dollars (\$5,000,000);

(2) seven and one-half percent if the current year program cost is five million dollars (\$5,000,000) but less than ten million dollars (\$10,000,000);

(3) six percent if the current year program cost is ten million dollars (\$10,000,000) but less than twenty-five million dollars (\$25,000,000);

(4) four and one-half percent if the current year program cost is twenty-five million dollars (\$25,000,000) but less than two hundred million dollars (\$200,000,000); and

(5) three and one-half percent if the current year program cost is two hundred million dollars (\$200,000,000) or more.

H
B
2
1
2
P
a
g
e
8
4

E. The limits provided for in Subsection D of this section shall be implemented if the amount of a school district's or charter school's credit does not exceed fifteen percent of its cash balance but is not less than seven dollars fifty cents (\$7.50) per MEM as reported on the fortieth day of the current year. For a school district or charter school that exceeds those limits, the state superintendent shall adjust its state equalization guarantee distribution accordingly.

H
B
2
1
2
P
a
g
e
8
5

F. In developing fiscal year 2004 operating budgets, school districts and charter schools shall not budget June 30, 2003 cash balances without the approval of both the superintendent of public instruction and the secretary of finance and administration.

G. A school district or charter school may request a waiver of the maximum cash balance requirements in Subsection D of this section from the superintendent of public instruction for a hardship that would impair the operation of the school district or charter school.

Section 72. RECOMPILATION.--

A. Section 22-1-8 NMSA 1978 (being Laws 1993, Chapter 166, Section 1) is recompiled as Section 22-21-2 NMSA 1978.

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

C. Section 22-2-8.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 2, as amended) is recompiled as Section 22-13-2 NMSA 1978.

D. Section 22-2-19 NMSA 1978 (being Laws 2000, Chapter 107,

Section 3, as amended) is recompiled as Section 22-13-3.2 NMSA 1978.

E. Sections 22-10-2, 22-10-10 and 22-10-23 through 22-10-27 NMSA 1978 (being Laws 1975, Chapter 306, Section 2, Laws 1967, Chapter 16, Section 112, Laws 1969, Chapter 116, Sections 1 and 3 through 5 and Laws 1994, Chapter 95, Section 1, as amended) are recompiled as Sections 22-10A-2 and 22-10A-34 through 22-10A-39 NMSA 1978.

F. Sections 22-10-11 through 22-10-14.1, 22-10-16 through 22-10-18 and 22-10-21 NMSA 1978 (being Laws 1967, Chapter 16, Sections 113 through 116, Laws 1986, Chapter 33, Section 23, Laws 1967, Chapter 16, Sections 118 and 119, Laws 1986, Chapter 33, Section 25 and Laws 1967, Chapter 16, Sections 120 and 123, as amended) are recompiled as Sections 22-10A-21 through 22-10A-30 NMSA 1978.

G. Sections 22A-1-1 through 22A-1-5 NMSA 1978 (being Laws 1989, Chapter 113, Sections 1 through 5) are recompiled as Sections 22-13-3.3 through 22-13-3.7 NMSA 1978.

Section 73. REPEAL.--Sections 22-1-6, 22-2-7, 22-2-8.3, 22-2-8.5, 22-2-8.9, 22-2-8.10, 22-2-17, 22-2-18, 22-10-3, 22-10-3.1, 22-10-3.4 through 22-10-3.6, 22-10-4, 22-10-5 through 22-10-9 and 22-13A-1 through 22-13A-6 NMSA 1978 (being Laws 1989, Chapter 308, Section 1, Laws 1967, Chapter 16, Section 10, Laws 1986, Chapter 33, Sections 4 and 6, Laws 2001, Chapter 165, Section 1, Laws 2001, Chapter 287, Section 1, Laws 1993, Chapter 168, Sections 1 and 2, Laws 1975, Chapter 306, Section 3, Laws 1986, Chapter 33, Section 18, Laws 1997, Chapter 238, Section 2, Laws 1999, Chapter 249, Sections 1 and 2, Laws 1967, Chapter 16, Sections 107 and 108, Laws 1973, Chapter 135, Section 1, Laws 1967, Chapter 16,

Sections 109 through 111 and Laws 1989, Chapter 137, Sections 1 through 6, as amended) are repealed.

Section 74. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HB 212

Page 87