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HOUSE BILL 212

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Mimi Stewart

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

**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 ACCOUNTABILITY 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; MAKING**

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1 APPROPRIATIONS; DECLARING AN EMERGENCY.

2

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

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

6 "22-1-1. PUBLIC SCHOOL CODE. -- Chapter [~~77 NMSA 1953~~] 22
7 NMSA 1978 may be cited as the "Public School Code". "

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

10 "22-1-1.2. [NEW MATERIAL] LEGISLATIVE FINDINGS AND
11 PURPOSE. --

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

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

21 (1) attracts and retains quality teachers for
22 public schools;

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

25 (3) recognizes that cultural diversity in the

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1 state presents special challenges for policymakers,
2 administrators, teachers and students; and

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

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

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

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

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

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

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

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

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

20 G. It is the purpose of this 2003 public school
21 reform legislation to provide the framework to implement the
22 legislative findings to ensure student success in New Mexico."

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

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

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

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

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

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

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

22 F. "instructional support provider" means a person
23 who is employed to support the instructional program of a
24 school district, including educational assistant, librarian,
25 school counselor, social worker, school nurse, speech-language

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1 pathologist, psychologist, physical therapist, occupational
2 therapist, recreational therapist, interpreter for the deaf and
3 diagnostician;

4 G. "licensed school employee" means teachers,
5 school administrators and instructional support providers;

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

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

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

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

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

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

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

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

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

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

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

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

25 T. "school principal" means the chief instructional

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1 leader and administrative head of a public school;

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

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

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

15 X. "state educational institution" means an
16 institution enumerated in Article 12, Section 11 of the
17 constitution of New Mexico;

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

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

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

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

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

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

9 "22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING AND
10 ENROLLING--OPEN ENROLLMENT. --

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

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

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

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1 D. In adopting and promulgating rules concerning
2 the enrollment of students transferring from a home school or
3 private school to the public schools, the local school board
4 shall provide that the grade level at which the transferring
5 student is placed is appropriate to the age of the student or
6 to the student's score on a student achievement test
7 administered according to the statewide [~~and local school~~
8 ~~district testing programs as determined by the state~~
9 ~~superintendent or both~~] assessment and accountability system

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

14 (1) definition of the school district boundary
15 and the boundaries of attendance areas for each public school;

16 (2) for each public school, definition of the
17 boundaries of areas outside the school district boundary or
18 within the school district but outside the public school's
19 attendance area and within a distance of the public school that
20 would not be served by a school bus route as determined
21 pursuant to Section 22-16-4 NMSA 1978 if enrolled, which areas
22 shall be designated as "walk zones";

23 (3) priorities for enrollment of students as
24 follows:

25 (a) first, [~~persons~~] students residing

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1 within the school district and within the attendance area of a
2 public school;

3 (b) second, ~~[persons]~~ students enrolled
4 in a school ranked as a school that needs improvement or a
5 school subject to corrective action;

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

8 [~~(c)—third~~] (d) fourth, all other
9 applicants;

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

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

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

20 (b) a student's behavior in another
21 school district or private school in this state or any other
22 state during the preceding twelve months that is detrimental to
23 the welfare or safety of other students or school ~~[personnel]~~
24 employees.

25 F. In adopting and promulgating rules governing

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1 enrollment and re-enrollment at public schools other than
2 charter schools within the district, a local school board may
3 establish additional enrollment preferences for rules admitting
4 students in accordance with the [~~second and~~] third and fourth
5 priorities of enrollment set forth in Subparagraphs [~~(b) and~~]
6 (c) and (d) of Paragraph (3) of Subsection E of this section.

7 The additional enrollment preferences may include:

- 8 (1) after-school child care for students;
- 9 (2) child care for siblings of students
10 attending the public school;
- 11 (3) children of employees employed at the
12 public school;
- 13 (4) extreme hardship;
- 14 (5) location of a student's previous school;
- 15 (6) siblings of students already attending the
16 public school; and
- 17 (7) student safety.

18 G. As long as the maximum allowable class size
19 established by law or by rule of a local school board,
20 whichever is lower, is not met or exceeded in a public school
21 by enrollment of [~~first-priority~~] first- and second-priority
22 persons, the public school shall enroll other persons applying
23 in the priorities stated in the school district rules adopted
24 pursuant to Subsections E and F of this section. If the
25 maximum would be exceeded by enrollment of an applicant in the

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1 second ~~[or third]~~ through fourth priority, the public school
2 shall establish a waiting list. As classroom space becomes
3 available, persons highest on the waiting list within the
4 highest priority on the list shall be notified and given the
5 opportunity to enroll. "

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

10 "22-2-2. STATE BOARD--DUTIES.--Without limiting those
11 powers granted to the state board pursuant to Section 22-2-1
12 NMSA 1978, the state board shall perform the following duties:

13 A. properly and uniformly enforce the provisions of
14 the Public School Code;

15 B. determine policy for the operation of all public
16 schools and vocational education programs in the state,
17 including vocational programs that are part of a juvenile
18 construction industries initiative for juveniles who are
19 committed to the custody of the children, youth and families
20 department;

21 C. appoint a state superintendent;

22 D. purchase and loan instructional material to
23 students pursuant to the Instructional Material Law and adopt
24 rules relating to the use and operation of instructional
25 material depositories in the instructional material

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1 distribution process;

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

4 F. assess and evaluate all state institutions and
5 those private schools that desire state accreditation;

6 G. determine the qualifications for and issue [~~a~~
7 ~~certificate to any person teaching, assisting teachers,~~
8 ~~supervising an instructional program, counseling, providing~~
9 ~~special instructional services or administering in public~~
10 ~~schools~~] licenses to teachers, instructional support providers
11 and school administrators according to law and according to a
12 system of classification adopted and published by the state
13 board;

14 H. deny, suspend or revoke a [~~certificate held by a~~
15 ~~certified school instructor or certified school administrator~~]
16 license according to law for incompetency, [~~immorality~~] moral
17 turpitude or any other good and just cause;

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

20 J. prescribe courses of instruction, requirements
21 for graduation and standards for all public schools, for
22 private schools seeking state accreditation and for the
23 educational programs conducted in state institutions other than
24 the New Mexico military institute;

25 K. adopt rules for the administration of all public

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1 schools and bylaws for its own administration;

2 L. require periodic reports on forms prescribed by
3 it from all public schools and attendance reports from private
4 schools;

5 M authorize adult educational programs to be
6 conducted in schools under its jurisdiction and adopt and
7 promulgate rules governing all such adult educational programs;

8 N. require [~~any~~] a public school under its
9 jurisdiction that sponsors athletic programs involving sports
10 to mandate that the participating student obtain catastrophic
11 health and accident insurance coverage, such coverage to be
12 offered through the school and issued by an insurance company
13 duly licensed pursuant to the laws of New Mexico;

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

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

20 Q. require prior approval for [~~any~~] an educational
21 program in a public school that is to be conducted, sponsored,
22 carried on or caused to be carried on by a private organization
23 or agency;

24 R. approve or disapprove all rules promulgated by
25 [~~any~~] an association or organization attempting to regulate

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1 [any] a public school activity and invalidate any rule in
2 conflict with any rule promulgated by the state board. The
3 state board shall require [any] an association or organization
4 attempting to regulate [any] a public school activity to comply
5 with the provisions of the Open Meetings Act and be subject to
6 the inspection provisions of the Public Records Act. The state
7 board may require performance and financial audits of [any] an
8 association or organization attempting to regulate [any] a
9 public school activity. The state board shall have no power or
10 control over the rules or the bylaws governing the
11 administration of the internal organization of the association
12 or organization;

13 S. review decisions made by the governing board or
14 officials of [any] an organization or association regulating
15 [any] a public school activity, and any decision of the state
16 board shall be final in respect thereto;

17 T. accept or reject [any] a charitable gift, grant,
18 devise or bequest. The particular gift, grant, devise or
19 bequest accepted shall be considered an asset of the state;

20 U. establish and maintain regional centers, at its
21 discretion, for conducting cooperative services between public
22 schools and school districts within and among those regions and
23 [to facilitate] for facilitating regulation and evaluation of
24 school programs;

25 V. assess and evaluate public schools for

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1 accreditation purposes [~~at least one third of all public~~
2 ~~schools each year through visits by department of education~~
3 ~~personnel to investigate~~] to determine the adequacy of [~~pupil~~]
4 student gain in standard required subject matter, adequacy of
5 [~~pupil~~] student activities, functional feasibility of public
6 school and school district organization, adequacy of staff
7 preparation and other matters bearing upon the education of the
8 students;

9 W. provide for management and other necessary
10 personnel to operate [~~any~~] a public school or school district
11 that has failed to meet requirements of law, state board
12 standards or state board rules; provided that the operation of
13 the public school or school district shall not include any
14 consolidation [~~or reorganization~~] without the approval of the
15 local school board of that school district. Until such time as
16 requirements of law, standards or rules have been met and
17 compliance is assured, the powers and duties of the local
18 school board shall be suspended;

19 X. establish and implement a plan that provides for
20 technical assistance to local school boards through workshops
21 and other in-service training methods [~~provided, however, that~~
22 ~~no plan shall require mandatory attendance by any member of a~~
23 ~~local school board~~];

24 Y. submit a plan applying for funds available under
25 Public Law 94-142 and disburse these funds in the manner and

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1 for the purposes specified in the plan;

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

6 AA. develop a systemic framework for professional
7 development that provides training to ensure quality teachers
8 and school principals and that improves and enhances student
9 achievement. The state board shall work with [~~public~~] school
10 [~~educators~~] employees, the commission on higher education and
11 institutions of higher education to establish the framework.

12 The framework shall include:

13 (1) the criteria for school districts to apply
14 for professional development funds, including an evaluation
15 component that will be used by the department [~~of education~~] in
16 approving [~~to~~] school district professional development
17 plans; and

18 (2) guidelines for developing extensive
19 professional development activities for school districts
20 [~~including teaching strategies, curriculum materials, distance~~
21 ~~learning networks and web sites to ensure that the state~~
22 ~~board's rules pertaining to content standards and benchmarks~~
23 ~~are used by New Mexico teachers~~] that:

24 (a) improve teachers' knowledge of the
25 subjects they teach and the ability to teach those subjects to

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1 all of their students;

2 (b) are an integral part of the public
3 school and school district plans for improving student
4 achievement;

5 (c) provide teachers, school
6 administrators and instructional support providers with the
7 strategies, support, knowledge and skills to help all students
8 meet New Mexico academic standards;

9 (d) are high quality, sustained,
10 intensive and focused on the classroom; and

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

14 BB. approve education curricula and programs
15 offered in all two-year public post-secondary educational
16 institutions, [~~including northern New Mexico state school~~]
17 except those in Chapter 21, Article 12 NMSA 1978, that lead to
18 [~~certificates for~~] alternative [~~certification~~] licenses for
19 degreed [~~individuals~~] persons pursuant to Section [~~22-10-3.5~~]
20 22-10A-8 NMSA 1978 or [~~certification~~] licensure for educational
21 [~~assistant~~] assistants; and

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

25 (1) is based upon current scientifically based

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1 reading research;

2 (2) aligns with state board-adopted reading
3 standards;

4 (3) includes strategies and assessment
5 measures to ensure that beginning teachers are proficient in
6 teaching reading; and

7 (4) was designed after seeking input from
8 experts in the education field. "

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

11 "22-2-6. DEPARTMENT [~~OF EDUCATION~~]-DUTIES.-- Subject to
12 the policies of the state board and the supervision and
13 direction of the state superintendent, the department [~~of~~
14 ~~education~~] shall have the following duties:

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

20 B. issue a state identification number for each
21 public school student for use in the accountability data
22 system;

23 [~~B.-~~] C. advise boards of regents of state
24 educational institutions on matters concerning the Public
25 School Code;

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1 ~~[G.]~~ D. prescribe, print and distribute forms to
2 carry out the duties of the state board pursuant to the Public
3 School Code;

4 ~~[D.]~~ E. annually, prior to December 1, prepare and
5 publish a report on public and private education in the state
6 and distribute the report to the governor and the legislature;

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

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

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

15 ~~[H.]~~ I. prepare and distribute patriotic material
16 to schools in the state; and

17 ~~[I.]~~ J. evaluate all educational programs in state
18 institutions under the authority of the secretary of ~~[the]~~
19 health ~~[and environment department]~~ and the secretary of
20 children, youth and families."

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

23 "22-2-8. ~~[EDUCATIONAL]~~ SCHOOL STANDARDS. -- The state board
24 shall prescribe ~~[minimum educational]~~ standards for all public
25 schools in the state. A copy of these ~~[educational]~~ standards

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1 shall be furnished by the department ~~[of education]~~ to each
2 local school board, local superintendent and school principal.

3 The ~~[educational]~~ standards shall include ~~[minimum]~~ standards
4 for the following areas:

5 A. curriculum, including academic content and
6 performance standards;

7 B. organization and administration of education;

8 C. the keeping of records, ~~[other than]~~ including
9 financial records prescribed by the ~~[chief]~~ department;

10 D. membership accounting;

11 E. teacher preparation;

12 F. the physical condition of public school
13 buildings and grounds; and

14 G. educational facilities of public schools,
15 including laboratories and libraries. "

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

18 "22-2-14. ~~[EDUCATION REQUIREMENTS--ENFORCEMENT]~~ LOCAL
19 SCHOOL BOARDS--PUBLIC SCHOOLS--SUSPENSION--PROCEDURES. --

20 A. Money budgeted by a school district shall be
21 spent first to attain and maintain the requirements for a
22 school district as prescribed by law and by standards and
23 ~~[regulations]~~ rules as prescribed by the state board. The
24 state superintendent shall give written notification to a local
25 school board, local superintendent and school principal, as

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1 applicable, of any failure to meet requirements by any part of
2 the school district under the control of the local school
3 board. The notice shall specify the deficiency. Instructional
4 units or administrative functions may be disapproved for such
5 deficiencies. The state superintendent shall disapprove
6 instructional units or administrative functions [~~which~~] that he
7 determines to be detrimental to the educational process.

8 B. Within thirty days after receipt of the notice
9 of failure to meet requirements, the local school board, local
10 superintendent and school principal, as applicable, shall:

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

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

16 C. The state board shall suspend from authority and
17 responsibility [~~any~~] a local school board [~~which~~], local
18 superintendent or school principal that has had notice of
19 disapproval and fails to comply with procedures of Subsection B
20 of this section. The state superintendent shall act in lieu of
21 the suspended local school board, local superintendent or
22 school principal until the state board removes the suspension.

23 D. To suspend a local school board, local
24 superintendent or school principal, the state board shall
25 deliver to the local school board an alternative order of

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

11 E. The state superintendent may suspend a local
12 school board, local superintendent or school principal pending
13 a hearing before the state board when the local school board,
14 local superintendent or school principal has been notified of
15 disapproval and when the state superintendent has sufficient
16 reason to believe that the educational process in the school
17 district or public school has been severely impaired or halted
18 as a result of deficiencies so severe as to warrant disapproved
19 status before the question of suspension can be presented to
20 the state board for a hearing.

21 F. The state superintendent, while acting in lieu
22 of a suspended local school board, local superintendent or
23 school principal, shall execute all the legal authority of the
24 local school board, local superintendent or school principal
25 and assume all the responsibilities of ~~[that]~~ the local school

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1 board, local superintendent or school principal.

2 G. The provisions of this section shall be invoked
3 at any time the state superintendent finds the school district
4 or public school has failed to attain and maintain the
5 requirements of law or state board standards and [~~regulations~~]
6 rules. "

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

9 "22-2-15. HEARINGS--SUSPENSION CONTINUANCE AND
10 DISCONTINUANCE-- APPEALS. --

11 A. Within ten days after suspension, or within a
12 reasonable time as the suspended local school board, local
13 superintendent or school principal may request, the state board
14 shall give a hearing to the local school board, local
15 superintendent or school principal. At this hearing, the local
16 school board, local superintendent or school principal may
17 appear and show cause why the suspension should not be
18 continued. The [~~state board~~] department employees who
19 conducted the evaluations upon which the suspension was based
20 shall appear and give testimony.

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

24 C. [~~Any~~] A local school board, local superintendent
25 or school principal aggrieved by the decision of the state

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1 board may appeal to the district court pursuant to the
2 provisions of Section 39-3-1.1 NMSA 1978. "

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

5 "22-2A-1. [NEW MATERIAL] SHORT TITLE. -- Chapter 22,
6 Article 2A NMSA 1978 may be cited as the "Assessment and
7 Accountability Act". "

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

10 "22-2A-2. [NEW MATERIAL] PURPOSES. -- The purposes of the
11 Assessment and Accountability Act are to comply with federal
12 accountability requirements; to provide the means whereby
13 parents, students, public schools and the public can assess the
14 progress of students in learning and schools in teaching
15 required academic content; and to institute a system in which
16 public schools, school districts and the department are held
17 accountable for ensuring student success. "

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

20 "22-2A-3. [NEW MATERIAL] ACADEMIC CONTENT AND PERFORMANCE
21 STANDARDS-- STATE BOARD POWERS AND DUTIES. --

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

25 (1) mathematics;

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- 1 (2) reading and language arts;
- 2 (3) science; and
- 3 (4) social studies.

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

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

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

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

18 "22-2A-4. [NEW MATERIAL] STATEWIDE ASSESSMENT AND
19 ACCOUNTABILITY SYSTEM - INDICATORS - - REQUIRED TESTS - - ALTERNATIVE
20 TESTS - - LIMITS ON ALTERNATIVES TO ENGLISH LANGUAGE READING
21 TEST. - -

22 A. The state board shall establish a statewide
23 assessment and accountability system that is aligned with the
24 state academic content and performance standards and that
25 measures adequate yearly progress for each student, public

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1 school and school district. Adequate yearly progress shall be
2 determined primarily by student academic achievement, as
3 demonstrated by statewide standards-based academic performance
4 tests; however, the state board may include other indicators of
5 adequate yearly progress, including graduation rates for high
6 schools and attendance for elementary and middle schools.

7 B. The academic assessment program for adequate
8 yearly progress shall test student achievement as follows by
9 the school year indicated:

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

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

21 (3) for grades four, six, eight and eleven,
22 standards-based academic performance writing tests by the 2005-
23 2006 school year; and

24 (4) for one of grades three through five and
25 six through nine and for grade eleven, standards-based academic

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1 performance tests in science by the 2007-2008 school year.

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

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

12 E. Students who have been determined to be limited
13 English proficient may be allowed to take the standards-based
14 academic performance test in their primary language. A student
15 who has attended school for three consecutive years in the
16 United States shall participate in the English language reading
17 test unless granted a waiver by the department based on
18 criteria established by the state board. An English language
19 reading test waiver may be granted only for a maximum of two
20 additional years and only on a case-by-case basis. "

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

23 "22-2A-5. [NEW MATERIAL] STUDENT ACHIEVEMENT RATINGS--
24 CALCULATION OF ADEQUATE YEARLY PROGRESS.--The state board shall
25 adopt the process and methodology for calculating adequate

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1 yearly progress. The statewide standards-based academic
2 performance tests used to assess adequate yearly progress shall
3 be valid and reliable and shall conform with nationally
4 recognized professional and technical standards. Academic
5 performance shall be measured by school and by the following
6 subgroups:

- 7 A. ethnicity;
- 8 B. race;
- 9 C. limited English proficiency;
- 10 D. students with disabilities; and
- 11 E. poverty. "

12 Section 15. Section 22-2-8.6 NMSA 1978 (being Laws 1986,
13 Chapter 33, Section 7, as amended) is recompiled as Section
14 22-2A-6 NMSA 1978 and is amended to read:

15 "22-2A-6. [~~EDUCATIONAL CONTENT STANDARDS~~] REMEDIATION
16 PROGRAMS-- PROMOTION POLICIES-- RESTRICTIONS. --

17 A. [~~The state board shall identify educational~~
18 ~~content standards as measured by the state assessment program~~
19 ~~and establish performance levels of proficiency.~~] Remediation
20 programs, academic improvement programs and promotion policies
21 shall be aligned with [~~content standards and based on the~~
22 ~~following:~~

- 23 (1) ~~statewide assessment results;~~
- 24 (2) alternative school-district-determined
- 25 assessment results and

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[~~(3) student performance in school~~]
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 [~~a level of proficiency established by the content~~
~~standards~~] 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 [~~of education~~].
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 [~~or guardian~~];
however, where parents are determined to be indigent according
to guidelines established by the state board, the [~~local~~]
school [~~board~~] district shall bear those costs.
D. Diagnosis of weaknesses identified by [~~the~~
~~reading or writing performance assessment instrument~~
~~administered pursuant to Section 22-2-8.5 NMSA 1978~~] a
student's academic achievement may serve as criteria in
assessing the need for remedial programs or retention.
E. A parent [~~or guardian~~] shall be notified no

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1 later than the end of the second grading period that his child
2 is failing to [~~attain appropriate grade level proficiency in~~
3 ~~content standards~~] make adequate yearly progress, and a
4 conference consisting of the parent [~~or guardian~~] and the
5 teacher shall be held to discuss possible remediation programs
6 available to assist the student in attaining [~~the required~~
7 ~~level of proficiency established by the content standards~~]
8 adequate yearly progress. Specific academic deficiencies and
9 remediation strategies shall be explained to the student's
10 parent [~~or guardian~~] and a written plan developed containing
11 timelines, academic expectations and the measurements to be
12 used to verify that a student has overcome his academic
13 deficiencies. Remediation programs and academic improvement
14 programs include tutoring, extended day or week programs,
15 summer programs and other research-based models for student
16 improvement.

17 F. At the end of grades one through seven, three
18 options are available, dependent on a student's [~~attainment of~~
19 ~~the required level of proficiency established by the content~~
20 ~~standards~~] adequate yearly progress:

21 (1) the student has [~~attained the level of~~
22 ~~proficiency required by the content standards~~] made adequate
23 yearly progress and shall enter the next higher grade;

24 (2) the student has not [~~attained the required~~
25 ~~level of proficiency~~] made adequate yearly progress and shall

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1 participate in the required level of remediation. Upon
2 certification by the school district that the student has
3 [~~successfully overcome his areas of deficiency~~] made adequate
4 yearly progress, he shall enter the next higher grade; or

5 (3) the student has not [~~attained the level of~~
6 ~~proficiency required by the content standards~~] made adequate
7 yearly progress upon completion of the prescribed remediation
8 program and upon the recommendation of the [~~certified school~~
9 ~~instructor~~] teacher and school principal shall either be:

10 (a) retained in the same grade for no
11 more than one school year with an academic improvement plan
12 developed by the student assistance team in order to [~~attain~~
13 ~~proficiency of content standards~~] meet adequate yearly
14 progress, at which time the student shall enter the next higher
15 grade; or

16 (b) promoted to the next grade if the
17 parent [~~or guardian~~] refuses to allow his child to be retained
18 pursuant to Subparagraph (a) of this paragraph. In this case,
19 the parent [~~or guardian~~] shall sign a waiver indicating his
20 desire that the student be promoted to the next higher grade
21 with an academic improvement plan designed to address specific
22 academic deficiencies. The academic improvement plan shall be
23 developed by the student assistance team outlining timelines
24 and monitoring activities to ensure progress toward overcoming
25 those academic deficiencies. Students failing to [~~attain~~

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1 ~~proficiency of content standards]~~ make adequate yearly progress
2 at the end of that year shall then be retained in the same
3 grade for no more than one year in order to have additional
4 time to master the required content standards.

5 G. At the end of the eighth grade, a student who
6 fails to [~~attain proficiency of content standards]~~ make
7 adequate yearly progress shall be retained in the eighth grade
8 for no more than one school year [~~in order]~~ to [~~attain~~
9 ~~proficiency of content standards]~~ make adequate yearly progress
10 or if the student assistance team determines that retention of
11 the student in the eighth grade will not assist the student
12 [~~attain the appropriate level of academic achievement and~~
13 ~~proficiency of standards]~~ make adequate yearly progress, the
14 team shall design a high school graduation plan to meet the
15 student's needs for entry into the work force or a post-
16 secondary educational institution. If a student is retained in
17 the eighth grade, the student assistance team shall develop a
18 specific academic improvement plan that clearly delineates the
19 student's academic deficiencies and prescribes a specific
20 remediation plan to address those academic deficiencies.

21 H. A student who fails to [~~attain proficiency of~~
22 ~~content standards]~~ make adequate yearly progress for two
23 successive school years shall be referred to the student
24 assistance team for placement in an alternative program
25 designed by the school district. Alternative program plans

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1 shall be filed with the department [~~of education~~].

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

6 J. For the purposes of this section:

7 (1) "academic improvement plan" means a
8 written document developed by the student assistance team that
9 describes the specific content standards required for a certain
10 grade level that a student has not achieved and that prescribes
11 specific remediation programs such as summer school, extended
12 day or week school and tutoring;

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

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

23 [~~(4) "statewide assessment results" means the~~
24 ~~results obtained from the New Mexico achievement assessment~~
25 ~~that is administered annually to grades three through nine~~

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1 ~~pursuant to state board rule; and~~

2 ~~(5)]~~ (4) "student assistance team" means a
3 group consisting of a student's:

- 4 (a) teacher;
- 5 (b) school counselor;
- 6 (c) school administrator; and
- 7 (d) parent ~~[or legal guardian].~~ "

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

10 "22-2A-7. [NEW MATERIAL] ADEQUATE YEARLY PROGRESS--SCHOOL
11 IMPROVEMENT PLANS--CORRECTIVE ACTION. --

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

15 B. Within ninety days of being notified that a
16 public school within the school district has been ranked as a
17 public school that needs improvement, the school district shall
18 submit an improvement plan for that public school to the
19 department. In developing the improvement plan, the local
20 superintendent, the president of the local school board and the
21 school principal of the public school that needs improvement
22 shall hold a public meeting to inform parents and the public of
23 the public school's rank. The meeting shall be used to elicit
24 suggestions from parents and the public on how to improve the
25 public school. After the public meeting, the school district

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1 shall develop the public school's improvement plan, and the
2 local school board shall approve the improvement plan before it
3 is submitted to the department. The improvement plan shall be
4 approved by the department within thirty days of its
5 submission.

6 C. The improvement plan shall include:

7 (1) documentation of performance measures in
8 which the public school failed to make adequate yearly
9 progress;

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

12 (3) benchmarks to be used to indicate progress
13 in meeting academic content and performance standards;

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

16 (5) the support services that shall be
17 provided to students and applications for federal and state
18 funds; and

19 (6) any other information the public school
20 that needs improvement, the local superintendent, the local
21 school board or the department deems necessary.

22 D. A public school that needs improvement may apply
23 to the department for financial or other assistance in
24 accordance with the improvement plan. The public school shall
25 make application for assistance substantially in the form

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

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

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

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

24 H. If a public school fails to make adequate yearly
25 progress for four consecutive school years, it shall be ranked

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1 as a public school subject to corrective action and the school
2 district, in conjunction with the department, shall take one or
3 more of the following actions in addition to earlier
4 improvements:

- 5 (1) replace staff as allowed by law;
- 6 (2) implement a new curriculum;
- 7 (3) decrease management authority of the
8 public school;
- 9 (4) appoint an outside expert to advise the
10 public school;
- 11 (5) extend the school day or year; or
- 12 (6) change the public school's internal
13 organizational structure.

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

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

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

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

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

15 "22-2A-8. [NEW MATERIAL] ADEQUATE YEARLY PROGRESS--
16 SUPPLEMENTAL INCENTIVE FUNDING--STATE PROGRAM FOR OTHER
17 ACHIEVEMENT. --

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

24 B. The state board may institute a "state improving
25 schools program" that measures public school improvement by

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

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

17 "22-2A-9. [NEW MATERIAL] INCENTIVES FOR SCHOOL
18 IMPROVEMENT FUND--CREATED--DISTRIBUTIONS.--

19 A. The "incentives for school improvement fund" is
20 created in the state treasury. The fund includes
21 appropriations, federal allocations for the purposes of the
22 fund, income from investment of the fund, gifts, grants and
23 donations. Balances in the fund shall not revert to any other
24 fund at the end of any fiscal year. The fund shall be
25 administered by the department, and money in the fund is

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1 appropriated to the department to provide supplemental
2 incentive funding for the adequate yearly progress program and
3 the state improving schools program. No more than three
4 percent of the fund may be retained by the department for
5 administrative purposes. Money in the fund shall be expended
6 on warrants of the secretary of finance and administration
7 pursuant to vouchers signed by the state superintendent or his
8 authorized representative.

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

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

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1 development activities. "

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

4 "22-2A-10. [NEW MATERIAL] SCHOOLS IN NEED OF IMPROVEMENT
5 FUND--CREATED. --

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

21 B. Distributions from the fund shall be by
22 application approved by the department based on a public
23 school's approved improvement plan as provided in Section
24 22-2A-7 NMSA 1978. "

25 Section 20. A new section of the Public School Code,

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1 Section 22-2A-11 NMSA 1978, is enacted to read:

2 "22-2A-11. [NEW MATERIAL] ASSESSMENT AND ACCOUNTABILITY
3 SYSTEM REPORTING-- PARENT SURVEY-- DATA SYSTEM - FISCAL
4 INFORMATION. --

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

9 B. The state board shall adopt the format for
10 reporting annual yearly progress of public schools, school
11 districts and the department. If the state board has adopted a
12 state improving schools program, the annual accountability
13 report shall include the results of that program for each
14 public school. The annual accountability report format shall
15 be clear, concise and understandable to parents and the general
16 public. All annual accountability reports shall ensure that
17 the privacy of individual students is protected.

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

21 D. The school district's annual accountability
22 report shall also include the results of a survey of parents'
23 views of the quality of their children's school. The survey
24 shall be conducted each year in time to include the results in
25 the annual accountability report. The survey shall compile the

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1 results of a written questionnaire that shall be sent home with
2 the students to be given to their parents. The survey may be
3 completed anonymously. The survey shall be no more than one
4 page, shall be clearly and concisely written and shall include
5 not more than twenty questions that shall be answered with
6 options of a simple sliding scale ranging from "strongly agree"
7 to "strongly disagree" and shall include the optional response
8 "don't know". The survey shall also include a request for
9 optional written comments, which may be written on the back of
10 the questionnaire form. The questionnaire shall include
11 questions in the following areas:

- 12 (1) parent-teacher-school relationship and
13 communication;
- 14 (2) quality of educational and extracurricular
15 programs;
- 16 (3) instructional practices and techniques;
- 17 (4) resources;
- 18 (5) school employees, including the school
19 principal; and
- 20 (6) parents' views of teaching staff
21 expectations for the students.

22 E. The state board shall develop no more than ten
23 of the survey questions, which shall be reviewed by the
24 legislative education study committee prior to implementation.
25 No more than five survey questions shall be developed by the

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1 local school board, and no more than five survey questions
2 shall be developed by the staffs of each public school;
3 provided that at least one-half of those questions shall be
4 developed by teachers rather than school administrators, in
5 order to gather information that is specific to the particular
6 community surveyed. The questionnaires shall indicate the
7 public school site and shall be tabulated by the department
8 within thirty days of receipt and shall be returned to the
9 respective schools to be disseminated to all parents.

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

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

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

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

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

8 K. At the end of fiscal year 2005, after the budget
9 approval cycle, the department shall produce a report to the
10 legislature that shows for all school districts using
11 performance-based program budgeting the relationship between
12 that portion of a school district's program cost generated by
13 each public school in the school district and the budgeted
14 expenditures for each public school in the school district as
15 reported in the district's performance-based program budget.

16 At the end of fiscal year 2006 and subsequent fiscal years,
17 after the budget approval cycle, the department shall report on
18 this relationship in all public schools in all school districts
19 in the state.

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

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

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

7 "22-5-4. LOCAL SCHOOL BOARDS--POWERS--DUTIES. --A local
8 school board shall have the following powers or duties:

9 A. subject to the [~~regulations~~] rules of the state
10 board, [~~supervise and control all public schools within the~~
11 ~~school district and all property belonging to or in the~~
12 ~~possession of~~] develop educational policies for the school
13 district;

14 B. employ a local superintendent [~~of schools~~] for
15 the school district and fix his salary;

16 [~~C. delegate administrative and supervisory~~
17 ~~functions of the local school board to the superintendent of~~
18 ~~schools;~~

19 D. ~~subject to the provisions of law, approve or~~
20 ~~disapprove the employment, termination or discharge of all~~
21 ~~employees and certified school personnel of the school district~~
22 ~~upon a recommendation of employment, termination or discharge~~
23 ~~by the superintendent of schools; provided that any employment~~
24 ~~relationship shall continue until final decision of the board.~~
25 Any employment, termination or discharge without the prior

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1 ~~recommendation of the superintendent is void;~~

2 ~~E. apply to the state board for a waiver of certain~~
3 ~~provisions of the Public School Code relating to length of~~
4 ~~school day, staffing patterns, subject area or the purchase of~~
5 ~~instructional materials for the purpose of implementing a~~
6 ~~collaborative school improvement program for an individual~~
7 ~~school;~~

8 ~~F. fix the salaries of all employees and certified~~
9 ~~school personnel of the school district;~~

10 ~~G. contract, lease, purchase and sell for the~~
11 ~~school district;]~~

12 C. review and approve the school district budget;

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

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

15 [~~J.~~] F. acquire property by eminent domain [as]
16 pursuant to the procedures provided in the Eminent Domain Code;

17 [~~K.~~] G. issue general obligation bonds of the
18 school district;

19 [~~L.~~] H. provide for the repair and maintain all
20 property belonging to the school district;

21 [~~M.~~] I. for good cause and upon order of the
22 district court, subpoena witnesses and documents in connection
23 with a hearing concerning any powers or duties of the local
24 school boards;

25 [~~N.~~] J. except for expenditures for salaries,

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1 contract for the expenditure of money according to the
2 provisions of the Procurement Code;

3 ~~[P.]~~ K. adopt ~~[regulations]~~ rules pertaining to the
4 administration of all powers or duties of the local school
5 board;

6 ~~[P.]~~ L. accept or reject any charitable gift,
7 grant, devise or bequest. The particular gift, grant, devise
8 or bequest accepted shall be considered an asset of the school
9 district or the public school to which it is given; and

10 ~~[P.]~~ M. offer and, upon compliance with the
11 conditions of such offer, pay rewards for information leading
12 to the arrest and conviction or other appropriate disciplinary
13 disposition by the courts or juvenile authorities of offenders
14 in case of theft, defacement or destruction of school district
15 property. All such rewards shall be paid from school district
16 funds in accordance with ~~[regulations that shall be]~~ rules
17 promulgated by the ~~[department of education]~~ state board. "

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

20 "22-5-6. NEPOTISM PROHIBITED. --

21 A. ~~[No]~~ A local ~~[school board]~~ superintendent shall
22 not initially employ or approve the initial employment in any
23 capacity of a person who is the spouse, father, father-in-law,
24 mother, mother-in-law, son, son-in-law, daughter or daughter-
25 in-law of a member of ~~[such]~~ the local school board or the

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1 local superintendent. The local school board may waive the
2 nepotism rule for family members of a local superintendent.

3 B. Nothing in this section shall prohibit the
4 continued employment of a person employed on or before March 1,
5 [1981] 2003. "

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

8 "22-5-11. [~~LOCAL SCHOOL BOARDS~~] SCHOOL DISTRICT SALARY
9 [~~SCHEDULE~~] SYSTEM --

10 A. Prior to the beginning of each school year, each
11 local [~~school board~~] superintendent shall file with the
12 department [~~of education a~~] the school district salary
13 [~~schedule~~] system, which salary [~~schedule~~] system shall
14 incorporate any salary increases or compensation measures
15 specifically mandated by the legislature. Salaries for
16 teachers and school administrators shall be aligned with the
17 licensure framework provided for in the School Personnel Act.

18 B. [~~No~~] A local [~~school board~~] superintendent shall
19 not reduce the school district salary [~~schedule~~] system
20 established pursuant to Subsection A of this section without
21 the prior written approval of the state superintendent. The
22 state superintendent shall give written notice to the
23 legislative finance committee, the legislative education study
24 committee and the department of finance and administration of
25 [~~any~~] approved reduction of any school district's salary

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1 [schedule] system, including the reasons for the request for
2 reduction and the grounds for approval. "

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

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

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

17 "22-5-14. [NEW MATERIAL] LOCAL SUPERINTENDENT-- POWERS AND
18 DUTIES. --

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

21 B. The local superintendent shall:

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

24 (2) administer and supervise the school
25 district;

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

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

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

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

18 Section 26. Section 22-5-4.6 NMSA 1978 (being Laws 1990,
19 Chapter 52, Section 3, as amended) is recompiled as Section
20 22-5-15 NMSA 1978 and is amended to read:

21 "22-5-15. COLLABORATIVE SCHOOL IMPROVEMENT PROGRAMS. --

22 A. A local [~~school board~~] superintendent may
23 approve an individual public school's plan to implement a
24 collaborative school improvement program upon a finding that
25 the plan is in the best interest of the public school and is

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1 supported by the participating teaching staff.

2 B. The input and concerns of parents, students,
3 school [~~personnel~~] employees and members of the community shall
4 be solicited and considered in the development and adoption of
5 a collaborative school improvement program.

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

21 D. A teacher participating in the development and
22 implementation of a collaborative school improvement program
23 may contact the state board to comment on the local [~~school~~
24 ~~board~~'s] superintendent's waiver request if [~~he~~] the teacher
25 communicated his opinion in writing to the local [~~school-board~~]

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1 superintendent at the time the local [~~school board~~]
2 superintendent approved implementation of the program. "

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

5 "22-5-16. [NEW MATERIAL] ADVISORY SCHOOL COUNCILS--
6 CREATION-- DUTIES. --

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

11 B. A school council shall be created and its
12 membership elected in accordance with local school board rule.
13 School council membership shall reflect an equitable balance
14 between school employees and parents and community members. At
15 least one community member shall represent the business
16 community, if such person is available. The school principal
17 may serve as chairman. The school principal shall be an active
18 member of the school council.

19 C. The school council shall:

20 (1) work with the school principal and give
21 advice, consistent with state and school district rules and
22 policies, on policies relating to instructional issues and
23 curricula and on the public school's proposed and actual
24 budgets;

25 (2) develop creative ways to involve parents

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1 in the schools;

2 (3) where appropriate, coordinate with any
3 existing work force development boards or vocational education
4 advisory councils to connect students and school academic
5 programs to business resources and opportunities; and

6 (4) serve as the champion for students in
7 building community support for schools and encouraging greater
8 community participation in the public schools. "

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

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

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

17 "22-8-9. BUDGETS-- MINIMUM REQUIREMENTS. --

18 A. [~~No~~] A budget for a school district shall not be
19 approved by the department [~~of education~~] that does not provide
20 for:

21 (1) a school year consisting of at least one
22 hundred eighty full instructional days or the equivalent
23 thereof, exclusive of any release time for in-service training;
24 or

25 (2) a variable school year consisting of a

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1 minimum number of instructional hours established by the state
2 board; and

3 (3) a pupil-teacher ratio or class or teaching
4 load as provided in Section ~~[22-2-8-2]~~ 22-10A-20 NMSA 1978.

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

10 ~~[C.—The local school board shall submit a plan for~~
11 ~~the implementation of an alternate school year to the state~~
12 ~~superintendent for his approval.]"~~

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

16 "22-8-43. PUBLIC SCHOOL READING PROFICIENCY FUND--
17 CREATED.--The "public school reading proficiency fund" is
18 created in the state treasury. The fund shall consist of
19 appropriations, gifts, grants and donations. The fund shall be
20 administered by the department ~~[of education]~~, and money in the
21 fund is appropriated to the department to distribute awards to
22 ~~[local]~~ public schools that implement innovative, ~~[research-~~
23 ~~based]~~ scientifically based reading programs. The department
24 ~~[of education]~~ shall develop procedures and rules for the
25 application and award of money from the fund, including

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1 criteria upon which to evaluate innovative, [~~research-based~~]
2 scientifically based reading programs. Schools receiving funds
3 shall show evidence that they are using quality, [~~research-~~
4 ~~based~~] scientifically based reading [~~programs~~] research to
5 improve reading proficiency and shall develop individualized
6 reading plans for students who fail to meet grade level reading
7 proficiency standards. Disbursements of the fund shall be made
8 by warrant of the department of finance and administration
9 pursuant to vouchers signed by the state superintendent. Any
10 unexpended or unencumbered balance remaining in the fund at the
11 end of any fiscal year shall not revert but shall remain to the
12 credit of the fund. "

13 Section 31. Section 22-10-4.1 NMSA 1978 (being Laws 1997,
14 Chapter 238, Section 6) is recompiled as Section 22-8-44 NMSA
15 1978 and is amended to read:

16 "22-8-44. EDUCATOR [~~CERTIFICATION~~] LICENSURE FUND--
17 DISTRIBUTION-- APPROPRIATION. --

18 A. The "educator [~~certification~~] licensure fund" is
19 created in the state treasury and shall be administered by the
20 [~~state~~] department [~~of public education~~]. The fund shall
21 consist of money collected from application fees for
22 [~~certification~~] licensure or for renewal of [~~certification~~]
23 licensure by the state board [~~of education~~].

24 B. Money in the fund is appropriated to the [~~state~~]
25 department [~~of public education for the purpose of funding~~] to

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1 fund the educator background check program. Money in the fund
2 and any interest that may accrue to the fund shall not revert
3 at the end of the fiscal year but shall remain to the credit of
4 the fund. "

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

7 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--
8 OPERATION. --

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

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

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

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

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

8 F. A charter school shall negotiate with a [~~local~~]
9 school district to provide transportation to students eligible
10 for transportation under the provisions of the Public School
11 Code. The [~~local~~] school district, in conjunction with the
12 charter school, may establish a limit for student
13 transportation to and from the charter school site not to
14 extend beyond the [~~local~~] school district boundary.

15 G. A charter school may negotiate with a [~~local~~]
16 school district for capital expenditures.

17 H. A charter school shall be a nonsectarian,
18 nonreligious and non-home-based public school that operates
19 within a [~~public~~] school district.

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

23 J. A charter school shall be subject to the
24 provisions of [~~Sections 22-1-6 and~~] Section 22-2-8 NMSA 1978
25 and the Assessment and Accountability Act.

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1 K. A charter school may acquire [~~pledge~~] and
2 dispose of property; provided that, upon termination of the
3 charter, all assets of the charter school shall revert to the
4 local school board that authorized the charter.

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

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

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

19 Section 33. Section 22-10-1 NMSA 1978 (being Laws 1975,
20 Chapter 306, Section 1, as amended) is recompiled as Section
21 22-10A-1 NMSA 1978 and is amended to read:

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

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

1 "22-10A-3. [NEW MATERIAL] LICENSE OR CERTIFICATE

2 REQUIRED--APPLICATION FEE--GENERAL DUTIES. --

3 A. Except as otherwise provided in this subsection,
4 any person teaching, supervising an instructional program or
5 providing instructional support services in a public school or
6 state agency; any person administering in a public school; and
7 any person providing health care and administering medications
8 or performing medical procedures in a public school shall hold
9 a valid license or certificate from the department authorizing
10 the person to perform that function. This subsection does not
11 apply to a person performing the functions of a practice
12 teacher as defined by the state board.

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

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

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- 1 D. Each licensed school employee shall:
- 2 (1) enforce all laws and rules applicable to
- 3 his public school and school district or to the educational
- 4 program of the state agency;
- 5 (2) if teaching, teach the prescribed courses
- 6 of instruction;
- 7 (3) exercise supervision over students on
- 8 property belonging to the public school or state agency and
- 9 while the students are under the control of the public school
- 10 or state agency; and
- 11 (4) furnish reports as required. "

12 Section 35. A new section of the Public School Code,

13 Section 22-10A-4 NMSA 1978, is enacted to read:

14 "22-10A-4. [NEW MATERIAL] TEACHERS AND SCHOOL

15 ADMINISTRATORS-- PROFESSIONAL STATUS-- LICENSURE LEVELS-- SALARY

16 ALIGNMENT. --

17 A. Teaching and school administration are

18 recognized as professions, with all the rights,

19 responsibilities and privileges accorded professions, having

20 their first responsibility to the public they serve. The

21 primary responsibilities of the teaching and school

22 administration professions are to educate the children of this

23 state and to improve the professional practices and ethical

24 conduct of their members.

25 B. The New Mexico licensure framework for teachers

1 and school administrators is a progressive career system in
2 which licensees are required to demonstrate increased
3 competencies and undertake increased duties as they progress
4 through the licensure levels. The minimum salary provided as
5 part of the career system shall not take effect until the state
6 board has adopted increased competencies for the particular
7 level of licensure and a highly objective uniform statewide
8 standard of evaluation.

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

25 D. All teacher and school administrator salary

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1 systems shall be aligned with the licensure framework in a
2 professional educator licensing and salary system.

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

7 Section 36. Section 22-10-3.3 NMSA 1978 (being Laws 1997,
8 Chapter 238, Section 1, as amended) is recompiled as Section
9 22-10A-5 NMSA 1978 and is amended to read:

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

13 A. An applicant for initial [~~certification~~]
14 licensure shall be fingerprinted and shall provide two
15 fingerprint cards or the equivalent electronic fingerprints to
16 the department [~~of education~~] to obtain the applicant's federal
17 bureau of investigation record. Convictions of felonies or
18 misdemeanors contained in the federal bureau of investigation
19 record shall be used in accordance with the Criminal Offender
20 Employment Act. Other information contained in the federal
21 bureau of investigation record, if supported by independent
22 evidence, may form the basis for the denial, suspension or
23 revocation of a [~~certificate~~] license for good and just cause.
24 Records and related information shall be privileged and shall
25 not be disclosed to a person not directly involved in the

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1 [certification] licensure or employment decisions affecting the
2 specific applicant. The applicant for initial [certification]
3 licensure shall pay for the cost of obtaining the federal
4 bureau of investigation record.

5 B. Local school boards and regional education
6 cooperatives shall develop policies and procedures to require
7 background checks on an applicant who has been offered
8 employment, a contractor or a contractor's employee with
9 unsupervised access to students at a public school [~~including a~~
10 ~~charter school~~].

11 C. An applicant for employment who has been
12 initially [certified] licensed within [~~twelve~~] twenty-four
13 months of applying for employment with a local school board,
14 regional education cooperative or a charter school shall not be
15 required to submit to another background check if the
16 department [~~of education~~] has copies of his federal bureau of
17 investigation records on file. An applicant who has been
18 offered employment, a contractor or a contractor's employee
19 with unsupervised access to students at a public school
20 [~~including a charter school~~] shall provide two fingerprint
21 cards or the equivalent electronic fingerprints to the local
22 school board, [~~or~~] regional education cooperative or charter
23 school to obtain his federal bureau of investigation record.
24 The applicant, contractor or contractor's employee who has been
25 offered employment by a regional education cooperative or at a

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1 public school [~~including a charter school~~] may be required to
2 pay for the cost of obtaining a background check. At the
3 request of a local school board, regional education cooperative
4 or charter school, the department [~~of education~~] is authorized
5 to release copies of federal bureau of investigation records
6 that are on file with the department [~~of education~~] and that
7 are not more than [~~twelve~~] twenty-four months old. Convictions
8 of felonies or misdemeanors contained in the federal bureau of
9 investigation record shall be used in accordance with the
10 Criminal Offender Employment Act; provided that other
11 information contained in the federal bureau of investigation
12 record, if supported by independent evidence, may form the
13 basis for the employment decisions for good and just cause.
14 Records and related information shall be privileged and shall
15 not be disclosed to a person not directly involved in the
16 employment decision affecting the specific applicant who has
17 been offered employment, contractor or contractor's employee
18 with unsupervised access to students at a public school.

19 [~~including a charter school.~~

20 C. ~~The department of education shall implement the~~
21 ~~provisions of Subsection A of this section on or before July 1,~~
22 ~~1998.]~~

23 D. A local superintendent shall report to the
24 department any known conviction of a felony or misdemeanor
25 involving moral turpitude of a licensed school employee that

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1 results in any type of action against the licensed school
2 employee.

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

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

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

20 "22-10A-6. [~~CERTIFICATION~~] EDUCATIONAL REQUIREMENTS FOR
21 LICENSURE. --

22 A. The state board shall require [~~any~~] a person
23 seeking [~~certification~~] licensure or reciprocity in elementary
24 or secondary education to [~~complete~~] have completed the
25 following minimum requirements in the college of arts and

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1 sciences:

2 (1) twelve hours in English;

3 (2) twelve hours in history, including
4 American history and western civilization;

5 (3) six hours in mathematics;

6 (4) six hours in government, economics or
7 sociology;

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

10 (6) six hours in fine arts.

11 B. In addition to the requirements specified in
12 Subsections A and C of this section, the state board shall
13 require that a person seeking standard or alternative
14 elementary [~~certification~~] licensure shall have completed six
15 hours of reading courses, and a person seeking standard or
16 alternative secondary [~~certification~~] licensure shall have
17 completed three hours of reading courses in subject matter
18 content. The state board shall establish requirements that
19 provide a reasonable period of time to comply with the
20 provisions of this subsection.

21 C. Except for licensure by reciprocity, the state
22 board shall require, prior to [~~certification~~] initial
23 licensure, no less than fourteen weeks of student teaching, a
24 portion of which shall occur in the first thirty credit hours
25 taken in the college of education and shall be under the direct

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1 supervision of a [~~certified school instructor~~] teacher and a
2 portion of which shall occur in the student's senior year with
3 the student teacher being directly responsible for the
4 classroom.

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

9 [~~E.—The requirements in Subsections A and C of this~~
10 ~~section shall apply to students first entering a college or~~
11 ~~university beginning in the fall of 1986.~~

12 F.] E. Vocational teacher preparatory programs may
13 be exempt from Subsections A through C of this section upon a
14 determination by the state board that other [~~certification~~]
15 licensure requirements are more appropriate for vocational
16 teacher preparatory programs. "

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

19 "22-10A-7. [NEW MATERIAL] LEVEL ONE LICENSURE. --

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

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

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

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

17 (1) holds a baccalaureate degree from an
18 accredited educational institution;

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

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

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

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1 check.

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

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

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

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

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

21 "22-10A-8. [NEW MATERIAL] ALTERNATIVE LEVEL ONE
22 LICENSE. --

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

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

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

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

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

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

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

23 B. A degree referred to in Subsection A of this
24 section shall correspond to the subject area of instruction and
25 the particular grade level that will enable the applicant to

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1 teach in a competent manner as determined by the department.

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

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

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

11 "22-10A-9. [NEW MATERIAL] TEACHER MENTORSHIP PROGRAM FOR
12 LEVEL ONE TEACHERS--PURPOSE--STATE BOARD DUTIES--DEPARTMENT
13 DUTIES.--

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

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

25 C. The framework shall include:

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

3 (2) structured training for mentors;

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

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

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

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

15 D. The department shall:

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

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

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

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

3 "22-10A-10. [NEW MATERIAL] LEVEL TWO LICENSURE. --

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

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

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

25 D. With the adoption by the state board of the

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1 statewide objective performance evaluation for level two
2 teachers, the minimum salary for a level two teacher for a
3 standard nine and one-half month contract shall be as follows:

4 (1) for the 2003-2004 school year, thirty
5 thousand dollars (\$30,000);

6 (2) for the 2004-2005 school year, thirty-five
7 thousand dollars (\$35,000); and

8 (3) for the 2005-2006 school year, forty
9 thousand dollars (\$40,000). "

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

12 "22-10A-11. [NEW MATERIAL] LEVEL THREE LICENSURE--TRACKS
13 FOR TEACHERS AND SCHOOL ADMINISTRATORS.--

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

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

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1 license.

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

7 (1) for the 2003-2004 school year, thirty
8 thousand dollars (\$30,000);

9 (2) for the 2004-2005 school year, thirty-five
10 thousand dollars (\$35,000);

11 (3) for the 2005-2006 school year, forty
12 thousand dollars (\$40,000);

13 (4) for the 2006-2007 school year, forty-five
14 thousand dollars (\$45,000); and

15 (5) for the 2007-2008 school year, fifty
16 thousand dollars (\$50,000).

17 D. A level three-B license is a nine-year license
18 granted to a school administrator who meets the qualifications
19 for that level. Licenses may be renewed upon satisfactory
20 annual demonstration of instructional leader and administrative
21 competency.

22 E. The department shall grant a level three-B
23 license to an applicant who has been a level three-A
24 instructional leader for at least one year, has satisfactorily
25 completed state board-approved courses in administration and a

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1 state board-approved administration apprenticeship program and
2 demonstrates instructional leader competence required by the
3 state board and verified by the local superintendent through
4 the highly objective uniform statewide standard of evaluation.

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

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

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

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

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

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

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1 contract; and

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

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

7 "22-10A-12. [NEW MATERIAL] LIMITED RECIPROCITY. -- A
8 teacher or school principal licensed in another state may be
9 granted a level two or level three license if he has teaching
10 experience, demonstrates the required competencies and meets
11 other requirements and qualifications for the license for which
12 he applies, including clearance of the required background
13 check. The local superintendent may require a mentorship
14 period for the licensee if he deems it necessary. A teacher
15 who holds an out-of-state license may apply for a lower level
16 license if he does not meet the requirements for the higher
17 level. "

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

20 "22-10A-13. [NEW MATERIAL] NATIVE AMERICAN LANGUAGE AND
21 CULTURE CERTIFICATES. -- The state board may issue a Native
22 American language and culture certificate to a person
23 proficient in a Native American language and culture of a New
24 Mexico tribe or pueblo who meets criteria established by the
25 state board. A baccalaureate degree is not required for the

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1 person applying for this certificate. The Native American
2 language and culture certificate shall be issued and renewable
3 in accordance with procedures established by the state board. "

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

6 "22-10A-14. [NEW MATERIAL] CERTIFICATES OF WAIVER. --

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

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

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

25 Section 46. A new section of the Public School Code,

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1 Section 22-10A-15 NMSA 1978, is enacted to read:

2 "22-10A-15. [NEW MATERIAL] SUBSTITUTE TEACHER
3 CERTIFICATE. -- The state board shall provide by rule for the
4 qualifications for a substitute teacher certificate. A local
5 school board may provide for additional qualifications or
6 requirements as it deems necessary. Substitute teacher
7 certificates shall be issued by the school district."

8 Section 47. A new section of the Public School Code,
9 Section 22-10A-16 NMSA 1978, is enacted to read:

10 "22-10A-16. [NEW MATERIAL] PARENTAL NOTIFICATION. --

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

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

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

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

24 (4) the qualifications of any instructional
25 support providers if the student is served by educational

1 assistants or other instructional support providers.

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

6 C. The local superintendent shall:

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

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

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

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

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

19 "22-10A-17. [NEW MATERIAL] INSTRUCTIONAL SUPPORT PROVIDER
20 LICENSES. --

21 A. The department shall license instructional
22 support providers, including educational assistants,
23 librarians, school counselors, school social workers, school
24 nurses, speech-language pathologists, psychologists, physical
25 therapists, physical therapy assistants, occupational

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1 therapists, occupational therapy assistants, recreational
2 therapists, interpreters for the deaf, diagnosticians and other
3 service providers. The department may provide a professional
4 licensing framework in which licensees can advance in their
5 careers through the demonstration of increased competencies and
6 the undertaking of increased duties.

7 B. The state board shall provide by rule for the
8 requirements for licensure of types of instructional support
9 providers. If an instructional support provider practices a
10 licensed profession, he shall provide evidence satisfactory to
11 the department that he holds a current, unsuspended license in
12 the profession for which he is applying to provide
13 instructional support services. The instructional support
14 provider shall notify the school district and department
15 immediately if his professional license is suspended, revoked
16 or denied. Suspension, revocation or denial of a professional
17 license shall be just cause for discharge or termination and
18 suspension, revocation or denial of the instructional support
19 provider license. "

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

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

25 A. under the general supervision of the local

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1 superintendent, assume administrative responsibility and
2 overall instructional leadership for the public school to which
3 he is assigned, including the discipline of students and the
4 planning, operation, supervision and evaluation of the
5 educational program of the school;

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

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

12 D. take disciplinary action against school
13 employees;

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

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

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

22 "22-10A-19. [NEW MATERIAL] TEACHERS AND SCHOOL
23 PRINCIPALS-- ACCOUNTABILITY-- EVALUATIONS-- PROFESSIONAL
24 DEVELOPMENT-- PEER INTERVENTION-- MENTORING. --

25 A. The state board shall adopt criteria and minimum

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

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

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

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

25 E. At least every two years, school principals

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1 shall attend a training program approved by the department to
2 improve their evaluation, administrative and instructional
3 leadership skills. "

4 Section 51. Section 22-2-8.2 NMSA 1978 (being Laws 1986,
5 Chapter 33, Section 3, as amended) is recompiled as Section
6 22-10A-20 NMSA 1978 and is amended to read:

7 "22-10A-20. STAFFING PATTERNS-- CLASS LOAD-- TEACHING
8 LOAD. --

9 A. The individual class load for elementary school
10 teachers shall not exceed twenty students for kindergarten;
11 provided that any teacher in kindergarten with a class load of
12 fifteen to twenty students shall be entitled to the assistance
13 of an [~~instructional~~] educational assistant.

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

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

24 D. The daily teaching load per teacher for grades
25 seven through twelve shall not exceed one hundred sixty

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1 students, except the daily teaching load for teachers of
2 required English courses in grades seven and eight shall not
3 exceed one hundred thirty-five with a maximum of twenty-seven
4 students per class and the daily teaching load for teachers of
5 required English courses in grades nine through twelve shall
6 not exceed one hundred fifty students with a maximum of thirty
7 students per class.

8 E. Students receiving special education services
9 integrated into a regular classroom for any part of the day
10 shall be counted in the calculation of class load averages.
11 Students receiving special education services not integrated
12 into the regular classroom shall not be counted in the
13 calculation of class load averages. Only classroom teachers
14 charged with responsibility for the regular classroom
15 instructional program shall be counted in determining average
16 class loads. In elementary schools offering only one grade
17 level, average class loads may be calculated by averaging
18 appropriate grade levels between schools in the school
19 district.

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

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

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1 Waivers may only be granted if a school district demonstrates
2 that:

3 (1) no portable classrooms are available;

4 (2) no other available sources of funding
5 exist to meet its need for additional classrooms;

6 (3) the school district is planning
7 alternatives to increase building capacity for implementation
8 within one year; and

9 (4) the parents of all children affected by
10 the waiver have been notified in writing:

11 (a) of the statutory class load
12 requirements;

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

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

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

23 [~~H.~~] I. Each school district shall report to the
24 department [~~of education~~] the size and composition of classes
25 subsequent to the fortieth day and the December 1 count.

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1 Failure to meet class load requirements within two years shall
2 be justification for the disapproval of the school district's
3 budget by the state superintendent.

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

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

19 ~~[K. Effective with the 1987-88 school year,~~
20 ~~certified school instructors]~~ L. Teachers shall not be
21 required to perform noninstructional duties except in emergency
22 situations as defined by the state board. For purposes of this
23 subsection, "noninstructional duties" means noon hall duty,
24 noon ground duty and noon cafeteria duty."

25 Section 52. Section 22-10-22 NMSA 1978 (being Laws 1967,

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1 Chapter 16, Section 124, as amended) is recompiled as Section
2 22-10A-31 NMSA 1978 and is amended to read:

3 "22-10A-31. DENIAL, SUSPENSION AND REVOCATION OF
4 ~~[CERTIFICATES--APPEAL]~~ LICENSES. -- ~~[A.]~~ In accordance with the
5 procedures provided in the Uniform Licensing Act, the state
6 board may deny, suspend or revoke a [certificate held by a
7 certified school instructor or administrator] department-issued
8 license for incompetency, [immorality] moral turpitude or any
9 other good and just cause.

10 ~~[B. A certificate may be suspended or revoked only~~
11 ~~according to the following procedure:-~~

12 ~~(1) the state board serving written notice of~~
13 ~~the suspension or revocation on the person holding the~~
14 ~~certificate in accordance with the law for service of process~~
15 ~~in civil actions. The notice of the suspension or revocation~~
16 ~~shall state the grounds for the suspension or revocation of the~~
17 ~~certificate. The notice of the suspension or revocation shall~~
18 ~~describe the rights of the person holding the certificate and~~
19 ~~include instructions for requesting a hearing before the state~~
20 ~~board. A hearing shall be requested within thirty days of~~
21 ~~receipt of the notice of suspension or revocation. If a~~
22 ~~hearing is requested, the hearing shall be held not more than~~
23 ~~ninety days from the date of the request for the hearing;~~

24 ~~(2) the state board or its designated hearing~~
25 ~~officer conducting a hearing that provides the person holding~~

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1 ~~the certificate, or his attorney, an opportunity to present~~
2 ~~evidence or arguments on all pertinent issues. A transcript~~
3 ~~shall be made of the entire hearing conducted by the state~~
4 ~~board or its designated hearing officer; and~~

5 ~~(3) the state board rendering a written~~
6 ~~decision in accordance with the law and based upon evidence~~
7 ~~presented and admitted at the hearing. The written decision~~
8 ~~shall include findings of fact and conclusions of law and shall~~
9 ~~be based upon the findings of fact and the conclusions of law.~~
10 ~~A written copy of the decision of the state board shall be~~
11 ~~served upon the person holding the certificate within sixty~~
12 ~~days from the date of the hearing. Service of the written copy~~
13 ~~of the decision shall be in accordance with the law for service~~
14 ~~of process in civil actions or by certified mail to the~~
15 ~~person's address of record.~~

16 ~~C. The secretary of the state board, with the~~
17 ~~approval of the state board or its designated hearing officer,~~
18 ~~may subpoena witnesses, require their attendance and giving of~~
19 ~~testimony and require the production of books, papers and~~
20 ~~records in connection with a hearing held pursuant to the~~
21 ~~provisions of Subsection B of this section. Also, the state~~
22 ~~board may apply to the district court for the issuance of~~
23 ~~subpoenas and subpoenas duces tecum in the name of and on~~
24 ~~behalf of the state board.~~

25 ~~D. Any person aggrieved by a decision of the state~~

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1 board, after a hearing pursuant to this section, may appeal the
2 decision to the district court pursuant to the provisions of
3 Section 39-3-1.1 NMSA 1978.]"

4 Section 53. Section 22-10-3.2 NMSA 1978 (being Laws 1988,
5 Chapter 48, Section 1, as amended) is recompiled as Section
6 22-10A-32 NMSA 1978 and is amended to read:

7 "22-10A-32. [~~CERTIFIED SCHOOL PERSONNEL AND SCHOOL~~
8 ~~NURSES~~] LICENSED SCHOOL EMPLOYEES -- REQUIRED TRAINING PROGRAM --

9 A. All [~~certified school personnel and school~~
10 ~~nurses~~] licensed school employees shall be required to complete
11 training in the detection and reporting of child abuse and
12 neglect and substance abuse. This requirement shall be
13 completed within the [~~person's~~] licensed school employee's
14 first year of employment by a school district [~~in the state~~].

15 B. Pursuant to the policy and [~~regulations~~] rules
16 adopted by the state board, the department [~~of education~~] shall
17 develop a training program, including training materials and
18 necessary training staff, to meet the requirement of Subsection
19 A of this section to make the training available in every
20 school district [~~in the state~~]. The department [~~of education~~]
21 shall coordinate the development of the program with
22 appropriate staff at the human services department and the
23 department of health.

24 C. The training program developed pursuant to this
25 section shall be made available by the department [~~of~~

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1 ~~education~~] to the deans of every college of education in
2 New Mexico for use in providing such training to students
3 seeking elementary and secondary education [~~certification~~]
4 licensure. "

5 Section 54. Section 22-1-7 NMSA 1978 (being Laws 1989,
6 Chapter 344, Section 2) is recompiled as Section 22-10A-33 NMSA
7 1978 and is amended to read:

8 "22-10A-33. [~~PUBLIC SCHOOLS~~] VIOLENCE-- VANDALISM -
9 REPORTING. --

10 A. [~~Any public~~] A school administrator, teacher or
11 other school employee [~~of a local school board~~] who observes or
12 has direct knowledge from a participant or victim of an act of
13 violence upon a [~~public~~] school administrator, teacher or other
14 school employee [~~of a local school board~~] in the lawful
15 discharge of his duties or vandalism to public school property
16 shall file [~~a~~] an incident report describing the incident
17 pursuant to procedures established by the [~~state~~] department
18 [~~of public education~~].

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

23 C. The [~~state~~] department [~~of public education~~]
24 shall establish uniform reporting procedures for incidents of
25 violence or vandalism described in Subsection A of this

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1 section. The procedures shall include requirements for:

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

5 (2) annual incident reports by local ~~[school]~~
6 superintendents of all reported incidents to local school
7 boards;

8 (3) annual incident reports by local school
9 boards of all reported incidents to the state superintendent
10 ~~[of public instruction]~~; and

11 (4) annual incident reports by the state
12 superintendent ~~[of public instruction]~~ of all reported
13 incidents to the state board ~~[of education]~~. The annual
14 incident report filed with that board shall be summarized and
15 submitted to an appropriate interim committee of the
16 legislature with recommendations to decrease the incidence of
17 violence and vandalism in the public schools. "

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

20 "22-12-1. SHORT TITLE. -- ~~[Sections 77-10-1 through 77-10-7~~
21 ~~New Mexico Statutes Annotated, 1953 Compilation]~~ Chapter 22,
22 Article 12 NMSA 1978 may be cited as the "Compulsory School
23 Attendance Law". "

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

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1 "22-12-3. RELIGIOUS INSTRUCTION EXCUSAL. -- [~~Any~~] A student
2 may, subject to the approval of the [~~local~~] school [~~board~~]
3 principal, be excused from school to participate in religious
4 instruction for not more than one class period each school day
5 with the written consent of his parents at a time period not in
6 conflict with the academic program of the school. The local
7 school board and its school employees shall not assume
8 responsibility for the religious instruction or permit it to be
9 conducted on school property. "

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

13 "22-13-1. [NEW MATERIAL] SUBJECT AREAS-- MINIMUM
14 INSTRUCTIONAL AREAS REQUIRED-- ACCREDITATION. --

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

21 B. All first, second and third grade classes shall
22 provide daily instruction in reading and language arts skills,
23 including phonemic awareness, phonics and comprehension, and
24 mathematics.

25 C. All first, second and third grade classes shall

1 provide instruction in art, music and a language other than
2 English.

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

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

9 (2) mathematics;

10 (3) language other than English;

11 (4) communication skills;

12 (5) science;

13 (6) art;

14 (7) music;

15 (8) social studies;

16 (9) New Mexico history;

17 (10) United States history;

18 (11) geography; and

19 (12) physical fitness.

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

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

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1 Section 1 and by Laws 2001, Chapter 276, Section 1) is
2 recompiled as Section 22-13-1.1 NMSA 1978 and is amended to
3 read:

4 "22-13-1.1. GRADUATION REQUIREMENTS. --

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

9 B. [~~Beginning with students entering the ninth~~
10 ~~grade in the 1986-87 school year~~] Successful completion of a
11 minimum of twenty-three units aligned to the state academic
12 content and performance standards shall be required for
13 graduation. These units shall be as follows:

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

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

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

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

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1 (5) one unit in physical ~~[fitness]~~ education
2 or other physical activity;

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

7 (7) nine elective units ~~[only the following~~
8 ~~elective units shall be counted toward meeting the requirements~~
9 ~~for graduation: fine arts, i. e., music, band, chorus and art;~~
10 ~~practical arts; physical education; languages other than~~
11 ~~English; speech; drama; vocational education; mathematics;~~
12 ~~science; English; R. O. T. C.; social science; computer science;~~
13 ~~health education; American sign language; and other electives~~
14 ~~approved by the state board.~~

15 ~~With the approval of the local school board, participation~~
16 ~~on an athletic team or in an athletic sport during the school~~
17 ~~day may count toward fulfillment of the physical education~~
18 ~~required unit]~~ and eight elective units for students entering
19 the ninth grade in the 2005-2006 school year that meet state
20 board content and performance standards. Student service
21 learning shall be offered as an elective.

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

24 D. ~~[No]~~ A student shall not receive a high school
25 diploma who has not passed a state graduation examination in

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

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

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

18 "22-13-1.2. [NEW MATERIAL] HIGH SCHOOL CURRICULA AND END-
19 OF-COURSE TESTS--ALIGNMENT.--High school curricula and end-of-
20 course tests shall be aligned with the placement tests
21 administered by two- and four-year public post-secondary
22 educational institutions in New Mexico. The department shall
23 collaborate with the commission on higher education in aligning
24 high school curricula and end-of-course tests with the
25 placement tests."

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

4 "22-13-1.3. READING INITIATIVE--DESIGN.--

5 A. The department [~~of education~~] shall design and
6 implement a statewide reading initiative to improve reading
7 proficiency in the state. The design of the reading initiative
8 shall be based upon quality, [~~research-based~~] scientifically
9 based reading [~~programs~~] research that has been shown to
10 improve reading proficiency and shall include the following:

11 (1) consistent assessment and evaluation of
12 student reading levels;

13 (2) appropriate professional staff development
14 to assist [~~classroom-certified instructional staff~~] licensed
15 school employees in the instruction of reading [~~programs~~];

16 (3) extra time in the student's day or year
17 for implementation of reading programs;

18 (4) rewards provided to [~~certified school~~
19 ~~instructors~~] teachers and other applicable licensed school
20 employees in public schools that improve student reading
21 proficiency; and

22 (5) criteria for public schools to establish
23 an individualized reading plan for students who fail to meet
24 grade level reading proficiency standards.

25 B. The department [~~of education~~] shall use national

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1 experts to work with the department to develop an immediate
2 reading initiative and a long-term plan for sustained reading
3 improvement.

4 C. The department [~~of education~~] shall involve
5 school district personnel, especially [~~certified~~] licensed
6 elementary reading specialists, parents and other interested
7 persons in the design of the reading initiative. "

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

10 "22-22-4. VARIABLE SCHOOL CALENDAR [~~REQUEST~~]. -- The local
11 school board [~~of any school district~~] may [~~adopt by resolution~~
12 ~~a request to the state board for approval to~~] operate a public
13 school or the school district under a variable school calendar.
14 The state board shall develop criteria for the establishment of
15 a variable school calendar in a school district. Those
16 criteria shall include a requirement that the local school
17 board demonstrate substantial community support for
18 implementation of the variable school calendar. [~~The state~~
19 ~~board shall consider the request for approval at an open public~~
20 ~~hearing held in the school district making the request.~~]"

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

25 "22-22-5. VARIABLE SCHOOL CALENDAR-- ACTION BY [~~DEPARTMENT~~

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1 ~~AND] STATE BOARD. --~~

2 ~~[A. The state board shall make rules and~~
3 ~~regulations pursuant to the Variable School Calendar Act~~
4 ~~necessary to establish procedures for making application,~~
5 ~~requiring reports and maintaining supervision of operations of~~
6 ~~a district under a variable school calendar. In addition, the~~
7 ~~state board may make rules and regulations necessary to~~
8 ~~implement the provisions of the Variable School Calendar Act.~~

9 B.] The state board may suspend or modify existing
10 rules [and regulations] pertaining to school district
11 operations upon recommendation of the state superintendent when
12 those rules [and regulations] prevent or impede the
13 implementation of the Variable School Calendar Act. "

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

16 "22-22-6. VARIABLE SCHOOL CALENDAR--EFFECT [~~OF APPROVAL~~
17 ~~OF REQUEST~~]. -- [~~Upon approval of the state board of the request~~
18 ~~of a local school board for operation under a variable school~~
19 ~~calendar, such] The variable school calendar for [that] a
20 public school or school district shall be in lieu of any other
21 school calendar provided by law, and all requirements for
22 reporting or operating under existing school calendars shall be
23 suspended for the public school or school district upon the
24 initiation of operations under a variable school calendar [~~and~~
25 ~~the rules and regulations made pursuant thereto~~]. The public~~

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1 school or school district shall continue to operate under the
2 approved variable school calendar until the local school board
3 ~~[requests the state board by resolution for approval of the~~
4 ~~discontinuance of]~~ discontinues the variable school calendar
5 ~~[and the request is approved by the state board]. "~~

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

8 "[NEW MATERIAL] SHORT TITLE. -- Sections 64 through 68 of
9 this act may be cited as the "Family and Youth Resource Act". "

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

12 "[NEW MATERIAL] ADVISORY COMMITTEE-- MEMBERS-- MEETINGS--
13 DUTIES. --

14 A. The "family and youth resource advisory
15 committee" is created. Members of the committee are:

16 (1) the state superintendent or his designee;

17 (2) the secretary of health or his designee;

18 (3) the secretary of human services or his
19 designee;

20 (4) the secretary of children, youth and
21 families or his designee; and

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

24 (a) one representative each from four
25 different local community-based organizations, including faith-

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1 based providers, involved with the provision of health or
2 social services to families; and

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

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

9 C. The committee shall meet as frequently as it
10 deems appropriate or necessary, but at least once a year. The
11 chairman may call special meetings as he deems necessary and
12 shall convene special meetings at the request of a majority of
13 the members.

14 D. A majority of the committee constitutes a
15 quorum.

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

19 F. The department shall staff the committee.

20 G. The committee shall:

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

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

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

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

6 "[NEW MATERIAL] PROGRAMS-- PURPOSE-- FUNCTIONS. --

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

12 B. The purpose of the program is to provide an
13 intermediary for students and their families at public schools
14 to access social and health care services. The goal of the
15 program is to forge mutual long-term relationships with public
16 and private agencies and community-based, civic and corporate
17 organizations to help students attain high academic achievement
18 by meeting certain nonacademic needs of students and their
19 families.

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

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

25 (2) make referrals to health care and social

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1 service providers;

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

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

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

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

16 (a) counseling, training and placement
17 for employment;

18 (b) drug and alcohol abuse counseling;

19 (c) family crisis counseling; and

20 (d) mental health counseling;

21 (7) promote family support and parent
22 education programs; and

23 (8) seek out other services or goods a student
24 or his family needs to assist the student to stay in school and
25 succeed. "

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

3 "[NEW MATERIAL] FAMILY AND YOUTH RESOURCE PROGRAMS--
4 GRANTS-- DEPARTMENT DUTIES. --

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

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

11 (1) a statement of need, including demographic
12 and socioeconomic information about the area to be served by
13 the program;

14 (2) goals and expected outcomes of the
15 program;

16 (3) services and activities to be provided by
17 the program;

18 (4) written agreements for the provision of
19 services by public and private agencies, community groups and
20 other parties;

21 (5) a work plan and budget for the program,
22 including staffing requirements and the expected availability
23 of staff;

24 (6) hours of operation;

25 (7) strategies for dissemination of

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- 1 information about the program to potential users;
- 2 (8) training and professional development
- 3 plans;
- 4 (9) plans to ensure that program participants
- 5 are not stigmatized for their use of the program;
- 6 (10) a physical description of the place in
- 7 the school or adjacent to the school in which the program will
- 8 be located;
- 9 (11) letters of endorsement and commitment
- 10 from community agencies and organizations and local
- 11 governments; and
- 12 (12) any other information the department
- 13 requires.

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

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

19 "[NEW MATERIAL] FAMILY AND YOUTH RESOURCE FUND. --The
20 "family and youth resource fund" is created in the state
21 treasury. The fund shall consist of appropriations, gifts,
22 grants, donations and earnings from investment of the fund.
23 The fund shall not be transferred to any other fund at the end
24 of a fiscal year. The fund shall be administered by the
25 department, and money in the fund is appropriated to the

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1 department to carry out the purposes of the Family and Youth
2 Resource Act. Money in the fund shall be disbursed on warrants
3 issued by the secretary of finance and administration pursuant
4 to vouchers signed by the state superintendent or his
5 authorized representative. "

6 Section 69. A new section of Chapter 2, Article 3 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] LEGISLATIVE COUNCIL SERVICE-- OFFICE OF
9 EDUCATION ACCOUNTABILITY. --

10 A. The "office of education accountability" is
11 created in the legislative council service. The office shall
12 provide an independent evaluation of the Assessment and
13 Accountability Act and the School Personnel Act by:

14 (1) monitoring the implementation of those
15 acts;

16 (2) periodically reviewing school district and
17 school-based decision-making policies relating to the
18 recruitment and retention of school employees;

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

21 (4) conducting studies of other states'
22 efforts at assessment and accountability and other educational
23 reforms and report its findings to the New Mexico legislative
24 council, legislative education study committee and legislative
25 finance committee.

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

6 Section 70. TEMPORARY PROVISION--DISTANCE LEARNING
7 CAPABILITY.--The commission on higher education and the state
8 department of public education shall inventory the current
9 distance learning capability of public post-secondary
10 educational institutions and prepare a statewide plan for the
11 delivery by public post-secondary educational institutions of
12 distance education courses for teachers and other licensed
13 school employees in reading instruction for kindergarten
14 through third grade and multilingual instruction in elementary
15 and secondary schools. The inventory and plan, including
16 funding recommendations, shall be submitted to the legislative
17 education study committee by October 1, 2004.

18 Section 71. APPROPRIATIONS.--

19 A. Three million one hundred thousand dollars
20 (\$3,100,000) is appropriated from the temporary assistance for
21 needy families block grant to the family and youth resource
22 fund for expenditure in fiscal year 2004 to carry out the
23 purposes of the Family and Youth Resource Act. Any unexpended
24 or unencumbered balance remaining at the end of fiscal year
25 2004 shall not revert.

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1 B. Six million dollars (\$6,000,000) is appropriated
2 from the general fund to the state department of public
3 education for expenditure in fiscal year 2004 to fund the cost
4 of increasing the minimum salary of teachers to thirty thousand
5 dollars (\$30,000). Any unexpended or unencumbered balance
6 remaining at the end of fiscal year 2004 shall revert to the
7 general fund.

8 C. Two million eight hundred thousand dollars
9 (\$2,800,000) is appropriated from the general fund to the state
10 department of public education for expenditure in fiscal year
11 2004 to implement the evaluation system for the three-tiered
12 licensure framework. Any unexpended or unencumbered balance
13 remaining at the end of fiscal year 2004 shall revert to the
14 general fund.

15 D. Two million dollars (\$2,000,000) is appropriated
16 from the general fund to the state department of public
17 education for expenditure in fiscal year 2004 to be distributed
18 to school districts for costs associated with administering
19 required standards-based academic performance tests. Any
20 unexpended or unencumbered balance remaining at the end of
21 fiscal year 2004 shall revert to the general fund.

22 E. Three hundred thousand dollars (\$300,000) is
23 appropriated from the general fund to the state department of
24 public education for expenditure in fiscal year 2004 for the
25 accountability data system. Any unexpended or unencumbered

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1 balance remaining at the end of fiscal year 2004 shall revert
2 to the general fund.

3 F. One hundred twenty thousand dollars (\$120,000)
4 is appropriated from the general fund to the legislative
5 education study committee for expenditure in fiscal years 2003
6 and 2004 to contract for an independent study of the effect of
7 the new professional licensing system on the instructional
8 staff training and experience index in the state equalization
9 guarantee distribution. Any unexpended or unencumbered balance
10 remaining at the end of fiscal year 2004 shall revert to the
11 general fund.

12 G. Five hundred thousand dollars (\$500,000) is
13 appropriated from the general fund to the legislative council
14 service for expenditure in fiscal year 2004 to establish an
15 office of education accountability. Any unexpended or
16 unencumbered balance remaining at the end of fiscal year 2004
17 shall revert to the general fund.

18 Section 72. RECOMPILATION. --

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

22 B. Sections 22-2-6.1 through 22-2-6.10 NMSA 1978
23 (being Laws 1986, Chapter 94, Sections 1 through 9 and Laws
24 1989, Chapter 373, Section 5, as amended) are recompiled as
25 Sections 22-11A-1 through 22-11A-10 NMSA 1978.

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1 C. Section 22-2-8.1 NMSA 1978 (being Laws 1986,
2 Chapter 33, Section 2, as amended) is recompiled as Section
3 22-13-2 NMSA 1978.

4 D. Section 22-2-19 NMSA 1978 (being Laws 2000,
5 Chapter 107, Section 3, as amended) is recompiled as Section
6 22-13-3.2 NMSA 1978.

7 E. Sections 22-10-2, 22-10-10 and 22-10-23 through
8 22-10-27 NMSA 1978 (being Laws 1975, Chapter 306, Section 2,
9 Laws 1967, Chapter 16, Section 112, Laws 1969, Chapter 116,
10 Sections 1 and 3 through 5 and Laws 1994, Chapter 95, Section
11 1, as amended) are recompiled as Sections 22-10A-2 and
12 22-10A-34 through 22-10A-39 NMSA 1978.

13 F. Sections 22-10-11 through 22-10-14.1, 22-10-16
14 through 22-10-18 and 22-10-21 NMSA 1978 (being Laws 1967,
15 Chapter 16, Sections 113 through 116, Laws 1986, Chapter 33,
16 Section 23, Laws 1967, Chapter 16, Sections 118 and 119, Laws
17 1986, Chapter 33, Section 25 and Laws 1967, Chapter 16,
18 Sections 120 and 123, as amended) are recompiled as Sections
19 22-10A-21 through 22-10A-30 NMSA 1978.

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

23 Section 73. REPEAL. -- Sections 22-1-6, 22-2-7, 22-2-8.3,
24 22-2-8.5, 22-2-8.9, 22-2-8.10, 22-2-17, 22-2-18, 22-10-3,
25 22-10-3.1, 22-10-3.4 through 22-10-3.6, 22-10-4, 22-10-5

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1 through 22-10-9 and 22-13A-1 through 22-13A-6 NMSA 1978 (being
2 Laws 1989, Chapter 308, Section 1, Laws 1967, Chapter 16,
3 Section 10, Laws 1986, Chapter 33, Sections 4 and 6, Laws 2001,
4 Chapter 165, Section 1, Laws 2001, Chapter 287, Section 1, Laws
5 1993, Chapter 168, Sections 1 and 2, Laws 1975, Chapter 306,
6 Section 3, Laws 1986, Chapter 33, Section 18, Laws 1997,
7 Chapter 238, Section 2, Laws 1999, Chapter 249, Sections 1 and
8 2, Laws 1967, Chapter 16, Sections 107 and 108, Laws 1973,
9 Chapter 135, Section 1, Laws 1967, Chapter 16, Sections 109
10 through 111 and Laws 1989, Chapter 137, Sections 1 through 6,
11 as amended) are repealed.

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

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