

AN ACT

RELATING TO EDUCATION; CLARIFYING, CORRECTING AND RECONCILING SECTIONS OF THE PUBLIC SCHOOL CODE TO COMPLY WITH THE EDUCATION REFORM OF 2003; DEFINING "TEACHER"; PROVIDING FOR SCREENING, MONITORING AND DIAGNOSTIC TESTING OF READING FOR KINDERGARTEN THROUGH GRADE TWO; EXTENDING THE TIME OF A LEVEL ONE LICENSE; PROVIDING FOR MENTORING FOR LEVEL THREE TEACHERS; CLARIFYING THAT SCHOOL BOARDS APPROVE ANNUAL BUDGETS; REQUIRING HEALTH EDUCATION AND PHYSICAL EDUCATION IN CERTAIN GRADES; DECLARING AN EMERGENCY.

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

Section 1. Section 22-1-2 NMSA 1978 (being Laws 2003, Chapter 153, Section 3, as amended) is amended to read:

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

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

B. "commission" means the public education commission;

C. "department" means the public education department;

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

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

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

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

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

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

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

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

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

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

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

O. "school-age person" means a person who is at least five years of age prior to 12:01 a.m. on September 1 of the school year and who has not received a high school diploma or its equivalent. A maximum age of twenty-one shall be used for a person who is classified as special education membership as defined in Section 22-8-21 NMSA 1978 or as a resident of a state institution;

P. "school building" means a public school, an

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

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

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

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

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

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

V. "secretary" means the secretary of public education;

W. "state agency" or "state institution" means the New Mexico military institute, New Mexico school for the blind and visually impaired, New Mexico school for the deaf, New

Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley crippled children's hospital, Las Vegas medical center and any other state agency responsible for educating resident children;

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

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

Z. "teacher" means a person who holds a level one, two or three-A license and whose primary duty is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers;

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

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

Section 2. Section 22-2C-4 NMSA 1978 (being Laws 2003, Chapter 153, Section 13, as amended) is amended to read:

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

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

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

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

(2) for grades three through nine, standards-based academic performance writing assessment with the writing assessment scoring criteria applied to the extended response writing portions of the language arts criterion-referenced tests by the 2005-2006 school year; and

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

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

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

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

Section 3. Section 22-5-4 NMSA 1978 (being Laws 1967, Chapter 16, Section 28, as amended) is amended to read:

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

A. subject to the rules of the department, develop educational policies for the school district;

B. employ a local superintendent for the school district and fix the superintendent's salary;

C. review and approve the annual school district budget;

D. acquire, lease and dispose of property;

E. have the capacity to sue and be sued;

F. acquire property by eminent domain pursuant to the procedures provided in the Eminent Domain Code;

G. issue general obligation bonds of the school district;

H. provide for the repair of and maintain all property belonging to the school district;

I. for good cause and upon order of the district court, subpoena witnesses and documents in connection with a hearing concerning any powers or duties of the local school board;

J. except for expenditures for salaries, contract for the expenditure of money according to the provisions of the Procurement Code;

K. adopt rules pertaining to the administration of all powers or duties of the local school board;



L. accept or reject any charitable gift, grant, devise or bequest. The particular gift, grant, devise or bequest accepted shall be considered an asset of the school district or the public school to which it is given;

M. offer and, upon compliance with the conditions of such offer, pay rewards for information leading to the arrest and conviction or other appropriate disciplinary disposition by the courts or juvenile authorities of offenders in case of theft, defacement or destruction of school district property. All such rewards shall be paid from school district funds in accordance with rules promulgated by the department; and

N. give prior approval for any educational program in a public school in the school district that is to be conducted, sponsored, carried on or caused to be carried on by a private organization or agency."

Section 4. Section 22-10A-4 NMSA 1978 (being Laws 2003, Chapter 153, Section 35) is amended to read:

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

A. Teaching and school administration are recognized as professions, with all the rights, responsibilities and privileges accorded professions, having their first responsibility to the public they serve. The primary responsibilities of the teaching and school

administration professions are to educate the children of this state and to improve the professional practices and ethical conduct of their members.

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

C. A level one license is a provisional license that gives a beginning teacher the opportunity, through a formal mentorship program, for additional preparation to be a quality teacher. A level two license is given to a teacher who is a fully qualified professional who is primarily responsible for ensuring that students meet and exceed department-adopted academic content and performance standards; a teacher may choose to remain at level two for the remainder of the teacher's career. A level three-A license is the highest level of teaching licensure for those teachers who choose to advance as instructional leaders in the teaching profession and undertake greater responsibilities such as curriculum development, peer intervention and mentoring. A

level three-B license is for teachers who commence a new career path in school administration by becoming school administrators.

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

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

Section 5. Section 22-10A-7 NMSA 1978 (being Laws 2003, Chapter 153, Section 38) is amended to read:

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

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

B. Each school district, in accordance with department rules, shall provide for the mentorship and evaluation of level one teachers. At the end of each year and at the end of the license period, the level one teacher shall be evaluated for competency. If the teacher fails to demonstrate satisfactory progress and competence annually, the

teacher may be terminated as provided in Section 22-10A-24 NMSA 1978. If the teacher has not demonstrated satisfactory progress and competence by the end of the five-year period, the teacher shall not be granted a level two license.

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

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

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

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

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

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

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

F. The department shall establish competencies and qualifications for specific grade levels, types and subject

areas of level one licensure, including early childhood, elementary, middle school, secondary, special education and vocational education.

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

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

Section 6. Section 22-10A-9 NMSA 1978 (being Laws 2003, Chapter 153, Section 40) is amended to read:

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

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

B. The department shall develop a framework for a teacher mentorship program for all level one teachers. The

department shall work with licensed school employees, representatives from teacher preparation programs and the commission on higher education to establish the framework.

C. The framework shall include:

- (1) individual support and assistance for each beginning teacher from a designated mentor;
- (2) structured training for mentors;
- (3) an ongoing, formative evaluation that is used for the improvement of teaching practice;
- (4) procedures for a summative evaluation of beginning teachers' performance during at least the first three years of teaching, including annual assessment of suitability for license renewal, and for final assessment of beginning teachers seeking level two licensure;
- (5) support from local school boards, school administrators and other school district personnel; and
- (6) regular review and evaluation of the teacher mentorship program.

D. The department shall:

- (1) require submission and approval of each school district's teacher mentorship program;
- (2) provide technical assistance to school districts that do not have a well-developed teacher mentorship program in place; and
- (3) encourage school districts to

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

Section 7. Section 22-10A-10 NMSA 1978 (being Laws 2003, Chapter 153, Section 41) is amended to read:

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

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

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

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

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

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

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

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

Section 8. Section 22-10A-11 NMSA 1978 (being Laws 2003, Chapter 153, Section 42) is amended to read:

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

A. A level three-A license is a nine-year license granted to a teacher who meets the qualifications for that level and who annually demonstrates instructional leader competencies. If a level three-A teacher does not demonstrate essential competency in a given school year, the school district shall provide the teacher with additional professional development and peer intervention during the



following school year. If by the end of that school year the teacher fails to demonstrate essential competency, a school district may choose not to contract with the teacher to teach in the classroom.

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

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

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

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

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

(4) for the 2006-2007 school year, forty-

five thousand dollars (\$45,000); and

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

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

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

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

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

(2) for school principals of schools with two hundred one to four hundred students, a minimum salary of

sixty thousand dollars (\$60,000) for a standard ten-month contract;

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

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

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

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

Section 9. Section 22-13-1 NMSA 1978 (being Laws 2003, Chapter 153, Section 57) is amended to read:

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

A. The department shall require public schools to address department-approved academic content and performance standards when instructing in specific department-required

subject areas as provided in this section. A public school or school district failing to meet these minimum requirements shall not be accredited by the department.

B. All kindergarten through third grade classes shall provide daily instruction in reading and language arts skills, including phonemic awareness, phonics and comprehension, and in mathematics. Students in kindergarten and first grades shall be screened and monitored for progress in reading and language arts skills and students in second grade shall take diagnostic tests on reading and language arts skills.

C. All first, second and third grade classes shall provide instruction in art, music, a language other than English and instruction that meets content and performance standards shall be provided in physical education and health education.

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

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

(2) mathematics;

(3) language other than English;

(4) communication skills;

- (5) science;
- (6) art;
- (7) music;
- (8) social studies;
- (9) New Mexico history;
- (10) United States history;
- (11) geography;
- (12) physical education; and
- (13) health education.

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

F. In ninth through twelfth grades, instruction that meets academic content and performance standards shall be provided in health education."

Section 10. Section 22-13-1.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 5, as amended) is amended to read:

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

A. At the end of grades eight through eleven, each student shall prepare an interim next-step plan that sets forth the coursework for the grades remaining until high school graduation. Each year's plan shall explain any differences from previous interim next-step plans, shall be filed with the principal of the student's high school and

shall be signed by the student, the student's parent and the student's guidance counselor or other school official charged with coursework planning for the student.

B. Each student must complete a final next-step plan during the senior year and prior to graduation. The plan shall be filed with the principal of the student's high school and shall be signed by the student, the student's parent and the student's guidance counselor or other school official charged with coursework planning for the student.

C. An individualized education program that meets the requirements of Subsections A and B of this section and that meets all applicable transition and procedural requirements of the federal Individuals with Disabilities Education Act for a student with a disability shall satisfy the next-step plan requirements of this section for that student.

D. A local school board shall ensure that each high school student has the opportunity to develop a next-step plan and is reasonably informed about:

- (1) curricular and course options;
- (2) opportunities available that lead to different post-high-school options; and
- (3) alternative opportunities available if the student does not finish a planned curriculum.

E. The secretary shall:

(1) establish specific accountability standards for administrators, counselors, teachers and school district staff to ensure that every student has the opportunity to develop a next-step plan;

(2) promulgate rules for accredited private schools in order to ensure substantial compliance with the provisions of this section;

(3) monitor compliance with the requirements of this section; and

(4) compile such information as is necessary to evaluate the success of next-step plans and report annually, by December 15, to the legislative education study committee and the governor.

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

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

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

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

which shall have a laboratory component;

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

(5) one unit in physical education;

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

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

G. The department shall establish a procedure for students to be awarded credit through completion of specified career technical education courses for certain graduation requirements.

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

I. A student shall not receive a high school diploma who has not passed a state graduation examination in the subject areas of reading, English, mathematics, writing, science and social science. The state graduation examination on social science shall include a section on the constitution



of the United States and the constitution of New Mexico. If a student exits from the school system at the end of grade twelve without having passed a state graduation examination, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system the student takes and passes the state graduation examination, the student may receive a high school diploma.

J. As used in this section:

(1) "final next-step plan" means a next-step plan that shows that the student has committed or intends to commit in the near future to a four-year college or university, a two-year college, a trade or vocational program, an internship or apprenticeship, military service or a job;

(2) "interim next-step plan" means an annual next-step plan in which the student specifies post-high-school goals and sets forth the coursework that will allow the student to achieve those goals; and

(3) "next-step plan" means an annual personal written plan of studies developed by a student in a public school or other state-supported school or institution in consultation with the student's parent and school counselor or other school official charged with coursework planning for the student.

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

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

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