AN ACT

RELATING TO SCHOOL PERSONNEL; ENACTING THE TEACHER AND SCHOOL LEADER EFFECTIVENESS ACT; PROVIDING FOR EFFECTIVENESS EVALUATIONS FOR TEACHERS AND SCHOOL LEADERS; PROVIDING FOR SYSTEMS, PROCEDURES, CRITERIA AND MONITORING; PROVIDING ASSESSMENT COMPONENTS; REQUIRING POST-EVALUATION ACTIONS.

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

SECTION 1. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Teacher and School Leader Effectiveness Act"."

SECTION 2. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Teacher and
School Leader Effectiveness Act:

A. "certified observer" means an individual who:

(1) is assigned by the local superintendent to conduct an observation;

(2) holds an active level three-B license or an active teaching license;

(3) is employed by a school district or charter school as an administrator or a teacher;

(4) completes the department's teacher observation training and passes the department's assessment of the adopted observation protocol; and

(5) following satisfaction of the requirement in Paragraph (4) of this subsection, each year before August 1, completes follow-up training and passes the department's assessment of the adopted observation protocol in any location in the state;

B. "evaluation" means a final summative rating that is composed of measures that include growth in student achievement, observations and locally selected multiple measures;

C. "local superintendent" includes a head administrator of a charter school;

D. "post-evaluation conference" means the final review of all components of the teacher evaluation at the end of the school year;
E. "school district" includes a charter school;

F. "school principal" includes an assistant principal and a head administrator of a charter school; and

G. "teacher" includes instructional support providers who provide services at one or more public schools in the school district."

SECTION 3. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] RULES IMPLEMENTATION.--

A. The department shall promulgate rules to carry out the provisions of the Teacher and School Leader Effectiveness Act, including rules that establish uniform procedures for:

(1) the submission, review and approval of school district procedures for the annual effectiveness evaluation of teachers and school principals;

(2) the standards for each effectiveness level required pursuant to Section 4 of the Teacher and School Leader Effectiveness Act; and

(3) the measurement of student achievement growth and associated implementation procedures required pursuant to Section 6 of the Teacher and School Leader Effectiveness Act.

B. The department shall adopt:

(1) a list of approved assessments to measure

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student achievement growth; and

(2) a list of approved measures of teacher and school principal effectiveness for the multiple measures component of the teacher and school principal effectiveness evaluations.

C. In the 2015-2016 school year and in subsequent school years, each school district shall continue to implement its department-approved teacher and school principal effectiveness evaluation system, and employment decisions pertaining to effectiveness evaluations, promotions, terminations and discharges shall be made pursuant to the Teacher and School Leader Effectiveness Act and as otherwise provided by law."

SECTION 4. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] EFFECTIVENESS EVALUATION PROCEDURES AND CRITERIA.--

A. For the purpose of increasing student achievement by improving the quality of instruction, school administration and supervision in the public schools of the state, every school district shall establish procedures for evaluating the performance of duties and responsibilities of all teachers and school principals in the school district. Each school district shall report annually to the department the results of its effectiveness evaluations of those
employees.

B. The department shall approve each school
district's teacher and school principal effectiveness
evaluation system and shall monitor each school district's
implementation of the system.

C. A teacher and school principal effectiveness
evaluation system shall:

(1) be designed to support effective
instruction and student achievement, with the results used to
inform school district- and school-level improvement plans;

(2) provide appropriate instruments,
procedures and criteria and continuous quality improvement of
professional skills, with the results used to inform the
professional development of teachers and school principals;

(3) include a mechanism to examine
effectiveness data from multiple sources, which may include
giving parents and students opportunities to provide input into
effectiveness evaluations when appropriate;

(4) identify those teaching fields, including
special education and English as a second language, for which
special evaluation procedures and criteria may be developed;

(5) include measures of student achievement
growth, except as otherwise provided in the Teacher and School
Leader Effectiveness Act, observations and multiple measures; and
(6) differentiate among at least five levels of performance, which include the following:

(a) exemplary, meets competency;
(b) highly effective, meets competency;
(c) effective, meets competency;
(d) minimally effective, does not meet competency; and
(e) ineffective, does not meet competency.

D. The effectiveness evaluation procedures for teachers and school principals shall be based on the performance of students assigned to their classrooms or enrolled in their public schools as provided in the Teacher and School Leader Effectiveness Act. The procedures shall comply with the requirements of Subsections E through N of this section.

E. A teacher effectiveness evaluation shall be conducted for each teacher at least once a year. Each evaluation shall be based on sound educational principles and contemporary research in effective educational practices. The student achievement growth component of a teacher's effectiveness evaluation shall be based on valid and reliable data and indicators of student achievement growth assessed annually. Student achievement growth shall be based on a department-approved, standards-based assessment. For subjects
and grade levels not measured by state assessments, a school district shall develop assessments pursuant to the provisions of Subsection I of this section or select assessments from a list of options approved by the department.

F. A school district shall use the department-adopted measures of student achievement growth calculated by the department for all courses associated with state assessments or district-created, department-approved assessments and shall select comparable measures of student achievement growth for other grades and subjects as provided in Section 6 of the Teacher and School Leader Effectiveness Act.

G. The student achievement growth component of the teacher effectiveness evaluation shall constitute, for classroom teachers with:

(1) no student achievement growth data, no part of the evaluation;

(2) one or two years of student achievement growth data, twenty-five percent of the evaluation; and

(3) three or more years of student achievement growth data, forty percent of the evaluation.

H. For school principals, the student achievement growth component of the effectiveness evaluation shall include student achievement growth data for students enrolled in the public school for no fewer than the three most recent years. The student achievement growth component of the effectiveness
evaluation shall be based on the student growth components of
the school's A through F letter grade and shall constitute
forty percent of the school principal effectiveness evaluation.

I. If a school district develops an assessment that
measures student achievement growth for classroom teachers who
do not teach in a standards-based assessment grade or subject,
the school district shall submit the assessment to the
department for approval.

J. Forty percent of the teacher effectiveness
evaluation shall be based on data and indicators of
instructional practice for teachers, except as otherwise
provided in the Teacher and School Leader Effectiveness Act. A
certified observer shall observe those practices using a common
research-based observational protocol approved by the
department, with a demonstrated correlation to improved student
achievement.

K. Regardless of that teacher's ratings on other
components of the effectiveness evaluation, a teacher whose
students' average growth per year for all years measured and
factored into the student achievement growth component of the
evaluation is one grade level or more shall be deemed as
meeting competency in that component of the evaluation and
shall not, based on all evaluation components, be rated
minimally effective or ineffective.

L. A teacher whose students' average growth per
year for all years measured and factored into the student achievement growth component of the evaluation is less than one grade level but who has demonstrated competency in the observation and multiple measures components of the effectiveness evaluation shall:

(1) not be rated minimally effective or ineffective for the purposes of license renewal, revocation, suspension, denial or advancement pursuant to the School Personnel Act; and

(2) be rated minimally effective or ineffective, based on all evaluation components, for purposes of an improvement plan pursuant to Section 5 of the Teacher and School Leader Effectiveness Act.

M. Feedback on classroom observations shall be given to classroom teachers within ten school days after each formal observation is completed.

N. For school principals, effectiveness evaluation criteria shall include indicators based on each of the leadership standards adopted by the department. Forty percent of the school principal effectiveness evaluation shall be based on observations conducted by the superintendent and using a highly objective uniform statewide standard evaluation.

O. Multiple measures approved by the department shall be twenty percent of the school district's teacher and school principal effectiveness evaluation system, except as
otherwise provided in the Teacher and School Leader Effectiveness Act. The multiple measures shall be aligned with improved student achievement. Each school district shall adopt at least one multiple measure.

P. The school administrator responsible for supervising a teacher or school principal shall evaluate the teacher's or school principal's performance. The school district's teacher and school principal effectiveness evaluation system may provide for the supervisor to consider input from other trained evaluators and observers."

SECTION 5. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] EVALUATION--WRITTEN REPORT--POST-EVALUATION CONFERENCE--NOTIFICATION OF MINIMALLY EFFECTIVE OR INEFFECTIVE PERFORMANCE--RESULTS OF EVALUATION--CORRECTIVE ACTION--LICENSE REVOCATION.--

A. At the request of a school district, the department or an external evaluator selected by the department may conduct a review of:

(1) a teacher who is rated exemplary or highly effective on components other than the student achievement growth component and who is rated minimally effective or ineffective on the student achievement growth component of the teacher effectiveness evaluation; and

(2) a teacher who is rated minimally effective
or ineffective on components other than the student achievement growth component and who is rated exemplary or highly effective on the student achievement growth component of the teacher effectiveness evaluation.

B. Every evaluator shall submit a written report on the effectiveness evaluation of each teacher or school principal to that teacher or school principal and to the local superintendent. Once each component of an effectiveness evaluation is completed, the evaluator shall not change that component. A teacher or school principal who is rated, based on all evaluation components, minimally effective or ineffective may provide a written response to the effectiveness evaluation, and the response shall become a permanent attachment to the teacher's or school principal's personnel file.

C. For a teacher or school principal evaluated as minimally effective or ineffective, the written report shall describe the minimally effective or ineffective performance and include notice of the procedural requirements of this section. The notice shall constitute notice of uncorrected unsatisfactory work performance pursuant to Section 22-10A-30 NMSA 1978.

D. After all components of the evaluation are complete, the evaluator shall arrange a post-evaluation conference with each teacher or school principal who, based on
all evaluation components, is evaluated as minimally effective or ineffective. At the conference, the evaluator shall make recommendations with respect to specific areas of unsatisfactory performance and provide other useful feedback that provides the initial framework for an individual performance growth plan.

E. School principals and other supervisors shall use the results of the teacher and school principal effectiveness evaluations to develop strategic support for teachers and school principals who are rated minimally effective or ineffective, which support shall align with best practices identified by the department. The evaluator shall provide assistance in helping to correct unsatisfactory performance.

F. If the teacher or school principal has an employment contract, the teacher or school principal shall be placed on a performance growth plan and be governed by the provisions of this section pertaining to the demonstration of corrective action for ninety school days following the receipt of the notice of minimally effective or ineffective performance; provided that weekends, school holidays and school vacation periods are not counted when calculating the ninety-day period. During the ninety-day period, the teacher or school principal shall be observed and evaluated periodically and shall be apprised of progress. The evaluator shall provide
assistance and notification of in-service training opportunities to help correct the performance deficiencies noted.

G. Within five school days after the allowed ninety-day period, the evaluator shall evaluate whether the performance deficiencies have been corrected and forward a recommendation to the local superintendent. Within ten school days after receiving the evaluator's recommendation, the local superintendent shall notify in writing the teacher or school principal who has an employment contract whether the performance deficiencies have been satisfactorily corrected. If satisfactory progress has not been made, the local superintendent shall determine whether to discharge the employee in compliance with Section 22-10A-27 NMSA 1978 or, if at the end of a school year, to terminate the employment of the employee in compliance with Section 22-10A-24 NMSA 1978.

H. An exemption to the provisions of this section may be provided for upon appeal for extraordinary circumstances as determined by the department.

I. The local superintendent shall notify the department of a teacher or school principal who receives two consecutive minimally effective or ineffective evaluations and who has been given written notice by the school district that the employee is being discharged or terminated.

J. Without the agreement of the local
superintendent, the department shall not, as provided in
Section 22-2-2 NMSA 1978, revoke the license of a teacher who
holds a level one, two or three license for incompetency based
on a teacher effectiveness evaluation rating of minimally
effective or ineffective.

K. This section does not grant a probationary
employee a right to continued employment beyond the term of the
probationary employee's contract."

SECTION 6. A new section of the Public School Code is
enacted to read:

"[NEW MATERIAL] MEASUREMENT OF STUDENT ACHIEVEMENT GROWTH
IN LEARNING.--

A. By July 15, 2015, the department shall propose a
formula to measure individual student achievement growth on the
state standardized assessments used for school accountability.
The formula shall take into account each student's prior
performance, grade level and subject. The formula shall not
set different expectations for student achievement growth based
on gender, race, ethnicity or socioeconomic status. The
department shall adopt the formula by rule by September 1,
2015.

B. Beginning with the 2015-2016 school year, each
school district shall use the department-adopted instrument to
measure the growth in achievement of each student.

C. For classroom teachers who are assigned to
courses not associated with state assessments, a school
district may request, through the effectiveness evaluation
system approval process, to include achievement growth
demonstrated on state assessments as a percentage of the
overall effectiveness evaluation. Achievement growth of the
state assessment shall be based on the students assigned to the
teacher. The achievement growth of the teacher's assigned
content area, as measured by the district-selected, department-
approved assessment, shall be the greater percentage."

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

"22-2-2. DEPARTMENT--GENERAL DUTIES.--The department
shall:

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

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

C. supervise all schools and school officials
coming under its jurisdiction, including taking over the
control and management of a public school or school district
that has failed to meet requirements of law or department rules

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or standards, and, until such time as requirements of law, standards or rules have been met and compliance is ensured, the powers and duties of the local school board and local superintendent shall be suspended;

D. prescribe courses of instruction to be taught in all public schools in the state, requirements for graduation and standards for all public schools, for private schools seeking state accreditation and for the educational programs conducted in state institutions other than the New Mexico military institute;

E. provide technical assistance to local school boards and school districts;

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

G. assess and evaluate all state institutions and those private schools that desire state accreditation;

H. enforce requirements for home schools. Upon finding that a home school is not in compliance with law, the department may order that a student attend a public school or a private school;

I. require periodic reports on forms prescribed by .199821.6
it from all public schools and attendance reports from private schools;

J. determine the qualifications for and issue licenses to teachers, instructional support providers and school administrators according to law and according to a system of classification adopted and promulgated by rules of the department;

K. notwithstanding the provisions of Section 5 of the Teacher and School Leader Effectiveness Act, deny, suspend or revoke a license according to law for incompetency, moral turpitude or any other good and just cause;

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

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

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

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

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

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

(1) is based upon current scientifically based
reading research;

(2) aligns with department-adopted reading
standards;
(3) includes strategies and assessment
measures to ensure that beginning teachers are proficient in
teaching reading; and

(4) was designed after seeking input from
experts in the education field;

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

S. solicit input from local school boards and
school districts in the formulation and implementation of
department rules; and

T. report to the legislature or any of its
committees as requested and report findings of any educational
research study made with public money to the legislature
through its appropriate interim or standing committees."

SECTION 8. Section 22-10A-19 NMSA 1978 (being Laws 2003,
Chapter 153, Section 50, as amended) is amended to read:

"22-10A-19. TEACHERS AND SCHOOL PRINCIPALS--
ACCOUNTABILITY OTHER LICENSED SCHOOL EMPLOYEES--EVALUATIONS--
PROFESSIONAL DEVELOPMENT--PEER INTERVENTION--MENTORING
TRAINING.--

A. [The department shall adopt criteria and minimum
highly objective uniform statewide standards of evaluation for
the annual performance evaluation of licensed school employees.

The professional development plan for teachers shall include
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documentation on how a teacher who receives professional development that has been required or offered by the state or a school district or charter school incorporates the results of that professional development in the classroom.] Teachers and school principals shall be evaluated in accordance with the Teacher and School Leader Effectiveness Act.

B. The local superintendent shall adopt policies, guidelines and procedures for the performance evaluation process. Evaluation by other school employees shall be one component of the evaluation tool for school administrators of licensed school employees who are not teachers or school principals.

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

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

E. If a level two or three-A teacher's performance evaluation indicates less than satisfactory performance and competency, the school principal may require the teacher to

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undergo peer intervention, including mentoring, for a period
the school principal deems necessary. If the teacher is unable
to demonstrate satisfactory performance and competency by the
end of the period, the peer interveners may recommend
termination of the teacher.

F-1 C. At least every two years, school principals
shall attend a training program approved by the department to
improve their evaluation, administrative and instructional
leadership skills."

SECTION 9. SEVERABILITY.--If any part or application of
the Teacher and School Leader Effectiveness Act is held
invalid, the remainder or its application to other situations
or persons shall not be affected.

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