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HOUSE BILL 249

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Dennis J. Roch

AN ACT

RELATING TO SCHOOL PERSONNEL; ENACTING THE TEACHER AND SCHOOL
LEADER EFFECTIVENESS ACT; PROVIDING FOR EFFECTIVENESS
EVALUATIONS FOR LICENSED SCHOOL EMPLOYEES; 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.--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:

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1 A. "licensed school employee" is limited to those
2 licensed school employees who provide services at one or more
3 public schools in the school district;

4 B. "school district" includes charter schools;

5 C. "school principal" includes assistant principals
6 and head administrators of charter schools; and

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

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

12 "[NEW MATERIAL] RULES IMPLEMENTATION.--

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

17 (1) the submission, review and approval of
18 district procedures for the annual effectiveness evaluation of
19 licensed school employees;

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

23 (3) the measurement of student achievement
24 growth and associated implementation procedures required
25 pursuant to Section 6 of the Teacher and School Leader

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1 Effectiveness Act; and

2 (4) a process for monitoring each school
3 district's implementation of its teacher and school leader
4 effectiveness evaluation system in accordance with the Teacher
5 and School Leader Effectiveness Act.

6 B. The department shall adopt:

7 (1) a list of approved assessments to measure
8 student achievement growth; and

9 (2) a list of approved measures of teacher and
10 school leader effectiveness for the multiple measures component
11 of the teacher and school leader effectiveness evaluations.

12 C. During the development of rules to implement the
13 provisions of the Teacher and School Leader Effectiveness Act,
14 the secretary shall convene an advisory committee of New Mexico
15 teachers, principals, other licensed school employees and other
16 stakeholders to provide feedback and suggestions of ways to
17 ensure a fair and objective evaluation system for licensed
18 school employees.

19 D. School districts shall continue to use the
20 highly objective uniform statewide standards of evaluation for
21 evaluating, promoting, terminating and discharging licensed
22 school employees during the 2012-2013 and 2013-2014 school
23 years. Beginning with the 2014-2015 school year, each school
24 district shall implement its department-approved teacher and
25 school leader effectiveness evaluation system, and employment

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1 decisions pertaining to effectiveness evaluations, promotions,
2 terminations and discharges shall be made pursuant to the
3 Teacher and School Leader Effectiveness Act."

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

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

8 A. For the purpose of increasing student
9 achievement by improving the quality of instruction, school
10 administration and supervision in the public schools of the
11 state, every school district shall establish procedures for
12 evaluating the performance of duties and responsibilities of
13 all licensed school employees in the school district. Each
14 school district shall report annually to the department the
15 results of its effectiveness evaluations of licensed school
16 employees and the alignment of its effectiveness evaluation
17 system with the three-tiered licensure system.

18 B. The department shall approve each school
19 district's teacher and school leader effectiveness evaluation
20 system and shall monitor each school district's implementation
21 of the system.

22 C. By December 1 of each year, the secretary shall
23 report to the governor and the legislature on the approval and
24 implementation status of each school district's teacher and
25 school leader effectiveness evaluation system, including

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1 aggregate performance results and findings from the
2 department's monitoring process.

3 D. A teacher and school leader effectiveness
4 evaluation system shall:

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

8 (2) provide appropriate instruments,
9 procedures and criteria and continuous quality improvement of
10 professional skills, with results used to inform the
11 professional development of licensed school employees;

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

16 (4) identify those teaching fields for which
17 special evaluation procedures and criteria may be developed;

18 (5) include measures of student achievement
19 growth worth fifty percent, observations worth twenty-five
20 percent and multiple measures worth twenty-five percent, unless
21 otherwise provided for in Subsections F, H and I of this
22 section;

23 (6) differentiate among at least five levels
24 of performance, which include the following:

25 (a) exemplary, meets competency;

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1 (b) highly effective, meets competency;
2 (c) effective, meets competency;
3 (d) minimally effective, does not meet
4 competency; and

5 (e) ineffective, does not meet
6 competency; and

7 (7) establish a peer assistance process to
8 assist in improving the level of instruction and learning in
9 each public school. The peer assistance process may inform
10 formative evaluations as a part of the regular teacher and
11 school leader effectiveness evaluation system and may be used
12 to assist beginning teachers, licensed school employees placed
13 on performance probation and those who request assistance.

14 E. The teacher and school leader effectiveness
15 evaluation procedures for licensed school employees shall be
16 based on the performance of students assigned to their
17 classrooms or public schools as provided in the Teacher and
18 School Leadership Effectiveness Act. The procedures shall
19 comply with the requirements of Subsections F through U of this
20 section.

21 F. A teacher effectiveness evaluation shall be
22 conducted for each teacher at least once a year. Each
23 evaluation shall be based on sound educational principles and
24 contemporary research in effective educational practices. The
25 student achievement growth component of a teacher's

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1 effectiveness evaluation shall be based on valid and reliable
2 data and indicators of student achievement growth assessed
3 annually through a combination of thirty-five percent
4 standards-based assessment and fifteen percent additional
5 department-approved assessments, for a total of fifty percent;
6 provided that for subjects and grade levels not measured by
7 state assessments, a school district shall select assessments
8 from a list of options approved by the department.

9 G. A school district shall use the state-adopted
10 measure of student achievement growth calculated by the
11 department for all courses associated with state assessments
12 and shall select comparable measures of student achievement
13 growth for other grades and subjects as provided in Section 6
14 of the Teacher and School Leader Effectiveness Act.

15 H. For classroom teachers with three years or more
16 of student achievement growth data, the student achievement
17 growth component of the teacher effectiveness evaluation shall
18 include growth data as provided in Section 6 of the Teacher and
19 School Leader Effectiveness Act.

20 I. For teachers who are classroom teachers who do
21 not teach in a grade or subject that has a standards-based
22 assessment for which student achievement growth can be
23 calculated, during the first two years of implementation of the
24 teacher and school leader effectiveness evaluation system, the
25 student achievement growth component of the evaluation may be

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1 based on the school's A through F letter grade and account for
2 twenty-five percent of the overall evaluation. The multiple
3 measures component shall account for fifty percent of the
4 effectiveness evaluation in such cases.

5 J. For school principals, the student achievement
6 growth component of the school leader effectiveness evaluation
7 shall include student achievement growth data for students
8 assigned to the public school over the course of at least three
9 years. The student achievement growth component of the
10 effectiveness evaluation shall be based on the school's A
11 through F letter grade and shall constitute fifty percent of
12 the school leader effectiveness evaluation.

13 K. Until a school district has had its teacher and
14 school leader effectiveness evaluation system in place for at
15 least two years, the student achievement growth components of
16 the teacher and school leader effectiveness evaluations may be
17 based on the public school's A through F letter grade for
18 twenty-five percent of the overall evaluation. The multiple
19 measures component shall account for fifty percent in such
20 cases. The school district may choose to continue to use the
21 public school's school grade as its student achievement growth
22 components or may submit another student achievement growth
23 component for department approval.

24 L. If a school district develops an assessment that
25 measures student achievement growth for classroom teachers who

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1 do not teach in a standards-based assessment grade or subject,
2 the school district shall submit the assessment to the
3 department for approval.

4 M. The teacher effectiveness evaluation shall base
5 at least twenty-five percent of the results on data and
6 indicators of instructional practice for teachers.
7 Instructional practices shall be observed using a common
8 research-based observational protocol approved by the
9 department, with a demonstrated correlation to improved student
10 achievement.

11 N. For classroom teachers, effectiveness evaluation
12 criteria shall include indicators based on research-based
13 instructional practices as determined by the department.

14 O. Classroom teachers who are rated highly
15 effective or exemplary on their most recent annual
16 effectiveness evaluation shall be observed at least once a
17 year. The observation shall be completed by their school
18 principals.

19 P. Classroom teachers who are rated effective,
20 minimally effective or ineffective on their most recent annual
21 effectiveness evaluation shall be observed at least twice a
22 year. One observation shall be completed by their school
23 principal and one observation may be completed by an external
24 observer.

25 Q. Feedback on classroom observations shall be

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1 given to classroom teachers within ten days after the
2 observation is completed.

3 R. For licensed school employees who are not
4 classroom teachers, performance criteria shall be based on
5 research-based indicators and may include specific job-
6 effectiveness expectations related to student support.

7 S. For school principals, effectiveness evaluation
8 criteria shall include indicators based on each of the
9 leadership standards adopted by the department. The school
10 leader effectiveness evaluation shall include a means to give
11 other licensed school employees and parents an opportunity to
12 provide input into the school principal's effectiveness
13 evaluation, when appropriate.

14 T. Multiple measures approved by the department
15 shall be twenty-five percent of the school district's teacher
16 and school leader effectiveness evaluation system, except as
17 otherwise provided in the Teacher and School Leader
18 Effectiveness Act. The multiple measures shall be aligned with
19 improved student achievement. Each school district shall adopt
20 at least two multiple measures, and each individual multiple
21 measure may equal no more than ten percent of the twenty-five
22 percent.

23 U. The school administrator responsible for
24 supervising a licensed school employee shall evaluate the
25 licensed school employee's performance. The school district's

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1 teacher and school leader effectiveness evaluation system may
2 provide for the supervisor to consider input from other trained
3 evaluators and observers."

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

6 "[NEW MATERIAL] EVALUATION--WRITTEN REPORT--POST-
7 EVALUATION CONFERENCE--NOTIFICATION OF MINIMALLY EFFECTIVE OR
8 INEFFECTIVE PERFORMANCE--RESULTS OF EVALUATION--CORRECTIVE
9 ACTION.--

10 A. Every evaluator shall submit a written report on
11 the effectiveness evaluation of each licensed school employee
12 to the licensed school employee and to the local
13 superintendent. Once each component of an effectiveness
14 evaluation is completed, the evaluator shall not change that
15 component. A licensed school employee who is rated minimally
16 effective or ineffective may provide a written response to the
17 effectiveness evaluation, and the response shall become a
18 permanent attachment to the licensed school employee's
19 personnel file.

20 B. For licensed school employees evaluated as
21 minimally effective or ineffective, the written report shall
22 describe the minimally effective or ineffective performance and
23 include notice of the procedural requirements of this section.
24 The notice shall constitute notice of uncorrected
25 unsatisfactory work performance pursuant to Section 22-10A-30

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1 NMSA 1978.

2 C. The evaluator shall arrange a post-evaluation
3 conference with each licensed school employee no later than ten
4 days after the licensed school employee's effectiveness
5 evaluation is completed.

6 D. At the post-evaluation conference with a
7 licensed school employee evaluated as minimally effective or
8 ineffective, the evaluator shall make recommendations with
9 respect to specific areas of unsatisfactory performance and
10 provide other useful feedback that provides the initial
11 framework for an individual professional growth plan.

12 E. School principals and other supervisors shall
13 use the results of the teacher and school leader effectiveness
14 evaluations to develop strategic support for licensed school
15 employees who are rated minimally effective or ineffective,
16 which support shall align with best practices identified by the
17 department. The evaluator shall provide assistance in helping
18 to correct unsatisfactory performance.

19 F. If the licensed school employee has an
20 employment contract, the licensed school employee shall be
21 placed on a performance growth plan and be governed by the
22 provisions of this section pertaining to the demonstration of
23 corrective action for ninety school days following the receipt
24 of the notice of minimally effective or ineffective
25 performance; provided that weekends, school holidays and school

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1 vacation periods are not counted when calculating the ninety-
2 day period. During the ninety-day period, the licensed school
3 employee shall be observed and evaluated periodically and shall
4 be apprised of progress. The evaluator shall provide
5 assistance and notification of in-service training
6 opportunities to help correct the performance deficiencies
7 noted.

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

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

25 I. The local superintendent shall notify the

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1 department of a licensed school employee who receives two
2 consecutive minimally effective or ineffective evaluations and
3 who has been given written notice by the school district that
4 the licensed school employee is being discharged or terminated
5 or that the local school board intends to discharge or
6 terminate the licensed school employee.

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

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

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

14 A. By October 1, 2012 the department shall propose
15 a formula to measure individual student achievement growth on
16 the state standardized assessments used for school
17 accountability. The formula shall take into account each
18 student's prior performance, grade level and subject. In
19 developing the formula, the department shall consider other
20 factors, including student attendance, student disciplinary
21 records, student disabilities and student English language
22 proficiency. The formula shall not set different expectations
23 for student achievement growth based on gender, race, ethnicity
24 or socioeconomic status. The department shall adopt the
25 formula by rule by December 1, 2012.

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1 B. Beginning with the 2013-2014 school year, each
2 school district shall use the department-adopted student
3 achievement growth measure to measure the growth in achievement
4 of each student.

5 C. A school district may request through the
6 effectiveness evaluation system approval process to use an
7 alternative student achievement measure rather than an
8 achievement growth measure for courses for which the
9 alternative measure is a more appropriate measure of teacher
10 effectiveness. A school district may request to use a
11 combination of achievement growth and the alternative
12 achievement measure.

13 D. For classroom teachers who are assigned to
14 courses not associated with state assessments, a school
15 district may request through the effectiveness evaluation
16 system approval process to include achievement growth
17 demonstrated on state assessments as a percentage of the
18 overall effectiveness evaluation. Achievement growth of the
19 state assessment shall be based on the students assigned to the
20 teacher. The achievement growth of the teacher's assigned
21 content area, as measured by the district-selected assessment,
22 shall be the greater percentage.

23 E. Until July 1, 2015, for classroom teachers of
24 courses for which the district has not implemented appropriate
25 assessments or for which the school district has not adopted a

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1 comparable measure of student achievement growth, student
2 achievement growth shall be measured by the growth in
3 achievement of the classroom teacher's students on state
4 assessments or, for courses in which enrolled students do not
5 take the state assessment, achievement growth based on the
6 school's A through F letter grade. A local superintendent may
7 assign instructional team student achievement growth to
8 classroom teachers in lieu of using the school grade growth
9 calculation."

10 SECTION 7. A new section of the Public School Code is
11 enacted to read:

12 "[NEW MATERIAL] STUDENT ASSESSMENT PROGRAMS FOR PUBLIC
13 SCHOOLS.--

14 A. A school district is responsible for the
15 measurement of the achievement gains of students in all
16 subjects and grade levels other than subjects and grade levels
17 required for the state student achievement testing program.

18 B. Beginning with the 2014-2015 school year, each
19 school district shall administer, for each course offered in
20 the school district, a student assessment that measures mastery
21 of the content, as described in the state-adopted course
22 description, at the necessary level of rigor for the course.

23 The assessments may include:

24 (1) statewide assessments pursuant to this
25 section;

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1 (2) other standardized assessments approved by
2 the department, including nationally recognized standardized
3 assessments;

4 (3) industry certification examinations; and

5 (4) department-approved school district-
6 developed or -selected end-of-course assessments.

7 C. Subsection B of this section shall be
8 implemented as the department identifies methods to assist and
9 support school districts in the development and acquisition of
10 assessments."

11 SECTION 8. A new section of the Public School Code is
12 enacted to read:

13 "[NEW MATERIAL] PUBLIC SCHOOL PERSONNEL--SALARY
14 SCHEDULE.--The school district shall designate positions to be
15 filled, prescribe qualifications for those positions and
16 provide for the appointment, compensation, promotion,
17 suspension, discharge or termination of licensed school
18 employees, subject to the requirements of the Teacher and
19 School Leader Effectiveness Act."

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