

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 249

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

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. "formative evaluation" means an evaluation that  
2 creates ongoing opportunities for feedback to enable a  
3 teacher's instruction to be improved;

4           B. "licensed school employee" is limited to those  
5 licensed school employees who provide services at one or more  
6 public schools in the school district;

7           C. "school district" includes charter schools;

8           D. "school principal" includes assistant principals  
9 and head administrators of charter schools; and

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

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

15          "NEW MATERIAL] RULES IMPLEMENTATION.--

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

20                 (1) the submission, review and approval of  
21 district procedures for the annual effectiveness evaluation of  
22 licensed school employees;

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

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

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

9 B. The department shall adopt:

10 (1) a list of approved assessments to measure  
11 student achievement growth; and

12 (2) a list of approved measures of teacher and  
13 school leader effectiveness for the multiple measures component  
14 of the teacher and school leader effectiveness evaluations.

15 C. During the development of rules to implement the  
16 provisions of the Teacher and School Leader Effectiveness Act,  
17 the secretary shall convene an advisory committee of New Mexico  
18 teachers, principals, other licensed school employees,  
19 representatives from two statewide teacher associations and  
20 other stakeholders to provide feedback and suggestions of ways  
21 to ensure a fair and objective evaluation system for licensed  
22 school employees. The membership of the advisory committee  
23 shall be appointed in such a way as to provide for cultural  
24 diversity and to give geographic representation to all areas of  
25 the state.

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1           D. School districts shall continue to use the  
2 highly objective uniform statewide standards of evaluation for  
3 evaluating, promoting, terminating and discharging licensed  
4 school employees during the 2012-2013 and 2013-2014 school  
5 years. Beginning with the 2014-2015 school year, each school  
6 district shall implement its department-approved teacher and  
7 school leader effectiveness evaluation system, and employment  
8 decisions pertaining to effectiveness evaluations, promotions,  
9 terminations and discharges shall be made pursuant to the  
10 Teacher and School Leader Effectiveness Act."

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

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

15           A. For the purpose of increasing student  
16 achievement by improving the quality of instruction, school  
17 administration and supervision in the public schools of the  
18 state, every school district shall establish procedures for  
19 evaluating the performance of duties and responsibilities of  
20 all licensed school employees in the school district. Each  
21 school district shall report annually to the department the  
22 results of its effectiveness evaluations of licensed school  
23 employees and the alignment of its effectiveness evaluation  
24 system with the three-tiered licensure system.

25           B. The department shall approve each school

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1 district's teacher and school leader effectiveness evaluation  
2 system and shall monitor each school district's implementation  
3 of the system.

4 C. By December 1 of each year, the secretary shall  
5 report to the governor and the legislature on the approval and  
6 implementation status of each school district's teacher and  
7 school leader effectiveness evaluation system, including  
8 aggregate performance results and findings from the  
9 department's monitoring process.

10 D. A teacher and school leader effectiveness  
11 evaluation system shall:

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

15 (2) provide appropriate instruments,  
16 procedures and criteria and continuous quality improvement of  
17 professional skills, with results used to inform the  
18 professional development of licensed school employees;

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

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

25 (5) include measures of student achievement

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1 growth worth fifty percent, observations worth twenty-five  
2 percent and multiple measures worth twenty-five percent, unless  
3 otherwise provided for in Subsections F, H and I of this  
4 section;

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

7 (a) exemplary, meets competency;  
8 (b) highly effective, meets competency;  
9 (c) effective, meets competency;  
10 (d) minimally effective, does not meet  
11 competency; and

12 (e) ineffective, does not meet  
13 competency; and

14 (7) establish a peer assistance process to  
15 assist in improving the level of instruction and learning in  
16 each public school. The peer assistance process may inform  
17 formative evaluations as a part of the regular teacher and  
18 school leader effectiveness evaluation system and may be used  
19 to assist beginning teachers, licensed school employees placed  
20 on performance probation and those who request assistance.

21 E. The teacher and school leader effectiveness  
22 evaluation procedures for licensed school employees shall be  
23 based on the performance of students assigned to their  
24 classrooms or public schools as provided in the Teacher and  
25 School Leadership Effectiveness Act. The procedures shall

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1 comply with the requirements of Subsections F through U of this  
2 section.

3 F. A teacher effectiveness evaluation shall be  
4 conducted for each teacher at least once a year. Each  
5 evaluation shall be based on sound educational principles and  
6 contemporary research in effective educational practices. The  
7 student achievement growth component of a teacher's  
8 effectiveness evaluation shall be based on valid and reliable  
9 data and indicators of student achievement growth assessed  
10 annually through a combination of thirty-five percent  
11 standards-based assessment and fifteen percent additional  
12 department-approved assessments, for a total of fifty percent;  
13 provided that for subjects and grade levels not measured by  
14 state assessments, a school district shall select assessments  
15 from a list of options approved by the department.

16 G. A school district shall use the state-adopted  
17 measure of student achievement growth calculated by the  
18 department for all courses associated with state assessments  
19 and shall select comparable measures of student achievement  
20 growth for other grades and subjects as provided in Section 6  
21 of the Teacher and School Leader Effectiveness Act.

22 H. For classroom teachers with three years or more  
23 of student achievement growth data, the student achievement  
24 growth component of the teacher effectiveness evaluation shall  
25 include growth data as provided in Section 6 of the Teacher and

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1 School Leader Effectiveness Act.

2 I. For teachers who are classroom teachers who do  
3 not teach in a grade or subject that has a standards-based  
4 assessment for which student achievement growth can be  
5 calculated, during the first year of implementation of the  
6 teacher and school leader effectiveness evaluation system, the  
7 student achievement growth component of the evaluation may be  
8 based on the school's A through F letter grade and account for  
9 twenty-five percent of the overall evaluation. The multiple  
10 measures component shall account for fifty percent of the  
11 effectiveness evaluation in such cases.

12 J. For school principals, the student achievement  
13 growth component of the school leader effectiveness evaluation  
14 shall include student achievement growth data for students  
15 assigned to the public school over the course of at least three  
16 years. The student achievement growth component of the  
17 effectiveness evaluation shall be based on the school's A  
18 through F letter grade and shall constitute fifty percent of  
19 the school leader effectiveness evaluation.

20 K. Until a school district has had its teacher and  
21 school leader effectiveness evaluation system in place for one  
22 year, the student achievement growth components of the teacher  
23 and school leader effectiveness evaluations may be based on the  
24 public school's A through F letter grade for twenty-five  
25 percent of the overall evaluation. The multiple measures

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1 component shall account for fifty percent in such cases. The  
2 school district may choose to continue to use the public  
3 school's school grade as its student achievement growth  
4 components or may submit another student achievement growth  
5 component for department approval.

6 L. A school district must develop or choose an  
7 assessment that measures student achievement growth for  
8 classroom teachers who do not teach in a standards-based  
9 assessment grade or subject, and the school district shall  
10 submit the assessment to the department for approval.

11 M. The teacher effectiveness evaluation shall base  
12 at least twenty-five percent of the results on data and  
13 indicators of instructional practice for teachers.  
14 Instructional practices shall be observed using a common  
15 research-based observational protocol approved by the  
16 department, with a demonstrated correlation to improved student  
17 achievement.

18 N. For classroom teachers, effectiveness evaluation  
19 criteria shall include indicators based on research-based  
20 instructional practices as determined by the department.

21 O. Classroom teachers who are rated highly  
22 effective or exemplary on their most recent annual  
23 effectiveness evaluation shall be observed at least once a  
24 year. The observation shall be completed by their school  
25 principals.

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1 P. Classroom teachers who are rated effective,  
2 minimally effective or ineffective on their most recent annual  
3 effectiveness evaluation shall be observed at least twice a  
4 year. One observation shall be completed by their school  
5 principal and one observation may be completed by an external  
6 observer.

7 Q. Feedback on classroom observations shall be  
8 given to classroom teachers within ten days after the  
9 observation is completed.

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

14 S. For school principals, effectiveness evaluation  
15 criteria shall include indicators based on each of the  
16 leadership standards adopted by the department. The school  
17 leader effectiveness evaluation shall include a means to give  
18 other licensed school employees and parents an opportunity to  
19 provide input into the school principal's effectiveness  
20 evaluation, when appropriate.

21 T. Multiple measures approved by the department  
22 shall be twenty-five percent of the school district's teacher  
23 and school leader effectiveness evaluation system, except as  
24 otherwise provided in the Teacher and School Leader  
25 Effectiveness Act. The multiple measures shall be aligned with

1 improved student achievement. Each school district shall adopt  
2 at least two multiple measures, and each individual multiple  
3 measure may equal no more than ten percent of the twenty-five  
4 percent.

5 U. The school administrator responsible for  
6 supervising a licensed school employee shall evaluate the  
7 licensed school employee's performance. The school district's  
8 teacher and school leader effectiveness evaluation system may  
9 provide for the supervisor to consider input from other trained  
10 evaluators and observers."

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

13 "[NEW MATERIAL] EVALUATION--WRITTEN REPORT--POST-  
14 EVALUATION CONFERENCE--NOTIFICATION OF MINIMALLY EFFECTIVE OR  
15 INEFFECTIVE PERFORMANCE--RESULTS OF EVALUATION--CORRECTIVE  
16 ACTION.--

17 A. Every evaluator shall submit a written report on  
18 the effectiveness evaluation of each licensed school employee  
19 to the licensed school employee and to the local  
20 superintendent. Once each component of an effectiveness  
21 evaluation is completed, the evaluator shall not change that  
22 component. A licensed school employee who is rated minimally  
23 effective or ineffective may provide a written response to the  
24 effectiveness evaluation, and the response shall become a  
25 permanent attachment to the licensed school employee's

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1 personnel file.

2 B. For licensed school employees evaluated as  
3 minimally effective or ineffective, the written report shall  
4 describe the minimally effective or ineffective performance and  
5 include notice of the procedural requirements of this section.  
6 The notice shall constitute notice of uncorrected  
7 unsatisfactory work performance pursuant to Section 22-10A-30  
8 NMSA 1978.

9 C. The evaluator shall arrange a post-evaluation  
10 conference with each licensed school employee no later than ten  
11 days after the licensed school employee's effectiveness  
12 evaluation is completed.

13 D. At the post-evaluation conference with a  
14 licensed school employee evaluated as minimally effective or  
15 ineffective, the evaluator shall make recommendations with  
16 respect to specific areas of unsatisfactory performance and  
17 provide other useful feedback that provides the initial  
18 framework for an individual professional growth plan.

19 E. School principals and other supervisors shall  
20 use the results of the teacher and school leader effectiveness  
21 evaluations to develop strategic support for licensed school  
22 employees who are rated minimally effective or ineffective,  
23 which support shall align with best practices identified by the  
24 department. The evaluator shall provide assistance in helping  
25 to correct unsatisfactory performance.

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

15           G. Within five school days after the allowed  
16 ninety-day period, the evaluator shall evaluate whether the  
17 performance deficiencies have been corrected and forward a  
18 recommendation to the local superintendent. Within ten school  
19 days after receiving the evaluator's recommendation, the local  
20 superintendent shall notify the licensed school employee who  
21 has an employment contract in writing whether the performance  
22 deficiencies have been satisfactorily corrected. If  
23 satisfactory progress has not been made, the local  
24 superintendent shall determine whether to discharge the  
25 licensed school employee in compliance with Section 22-10A-27

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1 NMSA 1978 or, if at the end of a school year, to terminate the  
2 employment of the employee in compliance with Section 22-10A-24  
3 NMSA 1978.

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

7 I. The local superintendent shall notify the  
8 department of a licensed school employee who receives two  
9 consecutive minimally effective or ineffective evaluations and  
10 who has been given written notice by the school district that  
11 the licensed school employee is being discharged or terminated  
12 or that the local school board intends to discharge or  
13 terminate the licensed school employee.

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

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

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

21 A. By October 1, 2012 the department shall propose  
22 a formula to measure individual student achievement growth on  
23 the state standardized assessments used for school  
24 accountability. The formula shall take into account each  
25 student's prior performance, grade level and subject. In

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1 developing the formula, the department shall consider other  
2 factors, including student attendance, student disciplinary  
3 records, student disabilities and student English language  
4 proficiency. The formula shall not set different expectations  
5 for student achievement growth based on gender, race, ethnicity  
6 or socioeconomic status. The department shall adopt the  
7 formula by rule by December 1, 2012.

8 B. Beginning with the 2013-2014 school year, each  
9 school district shall use the department-adopted student  
10 achievement growth measure to measure the growth in achievement  
11 of each student.

12 C. A school district may request through the  
13 effectiveness evaluation system approval process to use an  
14 alternative student achievement measure rather than an  
15 achievement growth measure for courses for which the  
16 alternative measure is a more appropriate measure of teacher  
17 effectiveness. A school district may request to use a  
18 combination of achievement growth and the alternative  
19 achievement measure.

20 D. For classroom teachers who are assigned to  
21 courses not associated with state assessments, a school  
22 district may request through the effectiveness evaluation  
23 system approval process to include achievement growth  
24 demonstrated on state assessments as a percentage of the  
25 overall effectiveness evaluation. Achievement growth of the

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1 state assessment shall be based on the students assigned to the  
2 teacher. The achievement growth of the teacher's assigned  
3 content area, as measured by the district-selected assessment,  
4 shall be the greater percentage.

5 E. Until July 1, 2015, for classroom teachers of  
6 courses for which the district has not implemented appropriate  
7 assessments or for which the school district has not adopted a  
8 comparable measure of student achievement growth, student  
9 achievement growth shall be measured by the growth in  
10 achievement of the classroom teacher's students on state  
11 assessments or, for courses in which enrolled students do not  
12 take the state assessment, achievement growth based on the  
13 school's A through F letter grade. A local superintendent may  
14 assign instructional team student achievement growth to  
15 classroom teachers in lieu of using the school grade growth  
16 calculation."

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

19 "[NEW MATERIAL] STUDENT ASSESSMENT PROGRAMS FOR PUBLIC  
20 SCHOOLS.--

21 A. A school district is responsible for the  
22 measurement of the achievement gains of students in all  
23 subjects and grade levels other than subjects and grade levels  
24 required for the state student achievement testing program.

25 B. Beginning with the 2014-2015 school year, each



1 school district shall administer, for each course offered in  
 2 the school district, a student assessment that measures mastery  
 3 of the content, as described in the state-adopted course  
 4 description, at the necessary level of rigor for the course.

5 The assessments may include:

- 6 (1) statewide assessments pursuant to this  
 7 section;
- 8 (2) other standardized assessments approved by  
 9 the department, including nationally recognized standardized  
 10 assessments;
- 11 (3) industry certification examinations; and
- 12 (4) department-approved school district-  
 13 developed or -selected end-of-course assessments.

14 C. Subsection B of this section shall be  
 15 implemented as the department identifies methods to assist and  
 16 support school districts in the development and acquisition of  
 17 assessments."

18 **SECTION 8.** A new section of the Public School Code is  
 19 enacted to read:

20 "NEW MATERIAL] PUBLIC SCHOOL PERSONNEL--SALARY  
 21 SCHEDULE.--The school district shall designate positions to be  
 22 filled, prescribe qualifications for those positions and  
 23 provide for the appointment, compensation, promotion,  
 24 suspension, discharge or termination of licensed school  
 25 employees, subject to the requirements of the Teacher and

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1 School Leader Effectiveness Act."

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

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