

AN ACT

RELATING TO PUBLIC EDUCATION; ENACTING PUBLIC SCHOOL REFORMS;  
PROVIDING FOR MORE STRINGENT COMPETENCY REQUIREMENTS FOR  
TEACHERS AND SCHOOL PRINCIPALS; PROVIDING FOR LICENSURE OF  
CERTAIN SCHOOL EMPLOYEES; CHANGING CERTAIN GOVERNANCE  
STRUCTURES; PRESCRIBING POWERS AND DUTIES; PROVIDING FOR  
REGIONAL SERVICE CENTERS; PROVIDING FOR SCHOOL COUNCILS;  
INCREASING RETIREMENT BENEFITS FOR SERVICE OVER TWENTY-FIVE  
YEARS; PROVIDING FOR RETURN TO EMPLOYMENT OF CERTAIN  
RETIREEES; CREATING COMMITTEES, TASK FORCES AND COUNCILS;  
AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE  
NMSA 1978; DECLARING AN EMERGENCY.

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

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

"22-1-1. PUBLIC SCHOOL CODE. -- Chapter 22 NMSA 1978 may  
be cited as the "Public School Code". "

Section 2. A new Section 22-1-1.2 NMSA 1978 is enacted  
to read:

"22-1-1.2. LEGISLATIVE FINDINGS AND PURPOSE. --

A. The legislature finds that no education system  
can be sufficient for the education of all children unless it  
is founded on the sound principle that every child can learn  
and succeed, and the system must meet the needs of all

children by recognizing that student success for every child is the fundamental goal.

B. The legislature finds further that the key to student success in New Mexico is an education system that attracts and retains quality teachers for schools; that holds teachers, students, schools and school districts accountable; and that elevates the importance of public education in the state by clarifying the governance structure at different levels.

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

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

(1) students who do not meet or exceed expectations will be given individual attention and assistance through extended learning programs and

individualized tutoring;

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

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

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

F. The legislature finds further that the public school governance structure needs to change to provide accountability from the bottom up instead of from the top down. Each school principal, with the help of school councils made up of parents and teachers, must be the instructional leader in the school, motivating and holding accountable both teachers and students. Each local superintendent must function as the school district's chief executive officer and have responsibility for the day-to-day operations of the school district, including personnel and student disciplinary decisions. Local school boards, which do not serve full time, need to focus on educational policy for the school district and need to be relieved of personnel and student disciplinary decisions. Many department of education duties need to devolve to regional service centers so that state technical assistance and some accountability functions may be closer to the school districts, thus

offering more immediate help in improving performance and efficiency.

G. It is the purpose of this 2001 public school reform legislation to provide the framework to implement the legislative findings to ensure student success in New Mexico. "

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

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

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

B. "department" means the state department of public education;

C. "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;

D. "home school" means the operation by a parent, guardian or other person having custody of a school-age person who instructs a home study program that provides a basic academic educational program, including but not limited to reading, language arts, mathematics, social

studies and science;

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

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

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

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

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

J. "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;

K. "public school" means that part of a school district that is a single attendance center where 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;

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

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

N. "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 22-8-2 NMSA 1978 or as a resident of a state institution;

O. "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;

P. "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;

Q. "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;

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

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

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

U. "state agency" or "state institution" means the New Mexico military institute, New Mexico school for the visually handicapped, 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;

V. "state board" means the state board of education;

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

X. "state superintendent" means the superintendent of public instruction;

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;

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

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

CC. "consolidated school district" means a school district created by order of the state board through the consolidation of one or more existing school districts; and

DD. "consolidation" means the combination of part or all of the geographical area of an existing school district with part or all of the geographical areas of one or more contiguous existing school districts."

Section 4. Section 22-1-6 NMSA 1978 (being Laws 1989, Chapter 308, Section 1, as amended) is amended to read:

"22-1-6. TESTS AND ASSESSMENTS--ANNUAL SCHOOL DISTRICT ACCOUNTABILITY REPORT REQUIRED.--

A. School districts are required to publish an annual school district accountability report to provide district-wide data for the previous school year. The state board shall establish the format for the accountability reports and ensure that the relevant data is provided annually to parents, students, educators, policymakers, legislators, the governor and business and economic development organizations. The department shall establish

the following six indices through which public school performance shall be measured and reported to school districts:

- (1) student achievement as measured by a nationally norm-referenced test approved by the department and a criterion-referenced test and through a performance-based instrument to measure proficiency;
- (2) school safety;
- (3) the dropout rate;
- (4) the graduation rate;
- (5) attendance; and
- (6) parent and community involvement.

The department shall establish the methodology for measuring each of the six indices.

B. School districts shall annually administer a developmentally appropriate nationally norm-referenced test, criterion-referenced test or performance-based assessment to all students enrolled in public schools. Students with disabilities deemed incapable of taking the test as determined on their individual educational programs shall participate in the state's alternate assessment. Students who have been assessed as non-English or English language learner using state-approved language assessments and meeting required thresholds shall be exempted from this test and provided an alternative norm-referenced test, criterion-referenced test or performance-based assessment in their

primary language. School districts shall report the following to the department:

(1) the results of the norm-referenced test, criterion-referenced test or performance-based assessment;

(2) the results of the writing assessment;

(3) the number of enrolled students who did not take the test, the school in which they are enrolled and the reason for not participating in the test; and

(4) separately and as part of the aggregate report, the results of assessments of students enrolled in non-English classes, limited English proficient classes or special education class A, B, C and D programs who took the test and the school in which they are enrolled, except in cases where the number of students being reported is less than ten.

C. School districts shall set two-, four- and six-year benchmarks in each of the six indices for each public school. Local school boards may establish additional indices, if reviewed by the department, through which to measure the school district's performance in other areas.

D. School districts shall administer and report department-approved criterion-referenced end-of-course tests for the following designated core of high school courses that are required for graduation:

(1) algebra 1;

- (2) geometry;
- (3) English 10;
- (4) United States history; and
- (5) biology.

E. The annual accountability report shall also include the results of a survey of parents' views of the quality of their children's school. The survey shall be conducted each year in time to include the results in the annual accountability report. The survey shall compile the results of a written questionnaire that shall be sent home with the students to be given to their parents. The survey may be completed anonymously. The survey shall be no more than one page, shall be clearly and concisely written and shall include not more than twenty questions that shall be answered with options of a simple sliding scale ranging from "strongly agree" to "strongly disagree" and shall include the optional response "don't know". The survey shall also include a request for optional written comments, which may be written on the back of the questionnaire form. The questionnaire shall include questions in the following areas:

- (1) parent-teacher-school relationship and communication;
- (2) quality of educational and extracurricular programs;
- (3) instructional practices and techniques;

- (4) resources;
- (5) school personnel, including the school principal; and
- (6) parents' view of teaching staff expectations for the students.

F. The state board shall develop no more than ten of the survey questions, which shall be reviewed by the legislative education study committee prior to implementation. No more than five survey questions shall be developed by the local school board, and no more than five survey questions shall be developed by the staffs of each public school; provided that at least one-half of those questions shall be developed by teachers rather than school administrators, in order to gather information that is specific to the particular community surveyed. The questionnaires shall indicate the public school site and shall be tabulated by the department within thirty days of receipt and shall be returned to the respective schools to be disseminated to all parents.

G. The annual accountability report for each school district shall be adopted by the local school board, may be published no later than November 15 of each year and may be published at least once each school year in a newspaper of general circulation in the county where the school district is located. In publication, the report shall be titled "The School District Report Card" and

disseminated in accordance with guidelines established by the state board to ensure effective communication with parents, students, educators, local policymakers and business and community organizations.

H. The accountability report shall include the names of those local school board members who failed to attend mandatory training.

I. The accountability report shall include data on expenditures for central office administration and expenditures for the public schools of the school district.

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

K. The department shall verify data submitted by the school districts.

L. The state board shall measure the performance of every public school in New Mexico. Public schools achieving the highest level of performance shall be eligible for supplemental incentive funding. The state board shall establish the corrective actions and interventions necessary for public schools whose performance level is low.

M. At the end of fiscal year 2003, after the budget approval cycle, the department shall produce a report

to the legislature that shows for all districts using performance-based program budgeting the relationship between that portion of a school district's program cost generated by each public school in the school district and the budgeted expenditures for each public school in the school district as reported in the district's performance-based program budget. At the end of fiscal year 2004 and subsequent fiscal years, after the budget approval cycle, the department shall report on this relationship in all public schools in all school districts in the state.

N. When all schools are participating in performance-based budgeting, the department shall recommend annually to the legislature for inclusion in the general appropriation act the maximum percentage of appropriations that may be expended in each school district for central office administration."

Section 5. Section 22-1-7 NMSA 1978 (being Laws 1989, Chapter 344, Section 2) is amended to read:

"22-1-7. PUBLIC SCHOOLS-- VIOLENCE-- VANDALISM-- REPORTING.--

A. A school administrator, teacher or other school employee who observes or has direct knowledge from a participant or victim of an act of violence upon a school administrator, teacher or other school employee of a local school board in the lawful discharge of his duties or vandalism to public school property shall file a report with

the local superintendent describing the incident pursuant to procedures established by the department.

B. A person who files an incident report pursuant to this section shall not be discriminated against in any manner or discharged by a local superintendent because he has filed that report.

C. The department shall establish uniform reporting procedures for incidents of violence or vandalism described in Subsection A of this section. The procedures shall include requirements for:

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

(2) annual reports by local superintendents of all reported incidents;

(3) annual reports by local school boards of all reported incidents to the state superintendent; and

(4) annual reports by the state superintendent of all reported incidents to the state board. The report filed with the state board shall be summarized and submitted to an appropriate interim committee of the legislature with recommendations to decrease the incidence of violence and vandalism in the public schools. "

Section 6. A new section of Chapter 22, Article 1 NMSA 1978 is enacted to read:

"ADVISORY SCHOOL COUNCILS-- CREATION-- DUTIES. --

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

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

C. The school council shall:

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

(2) develop creative ways to involve parents in the schools;

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

(4) serve as the champion for students in

building community support for schools and encouraging greater community participation in the public schools."

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

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

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. appoint a state superintendent;

D. purchase and loan instructional material to students pursuant to the Instructional Material Law and adopt rules relating to the use and operation of instructional material depositories in the instructional material distribution process;

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

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

G. determine the qualifications for and issue a license to teachers, instructional support providers and school administrators according to law and according to a system of classification adopted and published by the state board;

H. suspend or revoke a license according to law for incompetency, immorality or any other good and just cause;

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

J. prescribe courses of instruction, 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;

K. adopt rules for the administration of all public schools and bylaws for its own administration;

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

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

N. require a public school under its jurisdiction that sponsors athletic programs 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. require all accrediting agencies for public schools in the state to act with its approval;

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

Q. require prior approval for an educational program in a public school that is to be conducted, sponsored, carried on or caused to be carried on by a private organization or agency;

R. 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 a rule promulgated by the state board. The state board 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 of the Public Records Act. The state board may require performance and financial audits of an association or organization attempting to regulate a public school activity. The state board shall have no power or control over the rules or the bylaws governing the administration of

the internal organization of the association or organization;

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

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

U. assess and evaluate public schools for accreditation purposes to determine the adequacy of student gain in standard 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;

V. provide for management and other necessary personnel to operate a public school or school district that has failed to meet requirements of law, state board standards or state board rules; provided that the operation of the public school or school district shall not include any consolidation without the approval of the local school board. Until such time as requirements of law, standards or rules have been met and compliance is assured, the powers and duties of the local school board shall be suspended;

W. establish and implement a plan that provides

for technical assistance to local school boards through workshops and other in-service training methods;

X. submit a plan applying for funds available under Public Law 94-142 and disburse these funds in the manner and for the purposes specified in the plan;

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

Z. develop a systemic framework for professional development that provides training to ensure quality teachers and school principals and that improves and enhances student achievement. The state board shall work with school employees, the commission on higher education and institutions of higher education to establish the framework. The framework shall include:

(1) the criteria for school districts to apply for professional development funds, including an evaluation component that will be used by the department in approving local school district professional development plans; and

(2) guidelines for developing extensive professional development activities for school districts, including teaching strategies, curriculum materials, distance learning networks and web sites, to ensure that the state board's rules pertaining to content standards and

benchmarks are used by New Mexico teachers."

Section 8. Section 22-2-6 NMSA 1978 (being Laws 1967, Chapter 16, Section 9, as amended) is amended to read:

"22-2-6. DEPARTMENT--DUTIES.--Subject to the policies of the state board and the supervision and direction of the state superintendent, the department shall have the following duties:

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

B. advise boards of regents of state educational institutions on matters concerning the Public School Code;

C. prescribe, print and distribute forms to carry out the duties of the state board pursuant to the Public School Code;

D. 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;

E. keep accurate records of all money received by the state superintendent or the department;

F. publish and distribute copies of the Public School Code and rules promulgated by the state board to local school boards in the state;

G. confer with local school boards and licensed school employees on matters concerning education in the state;

H. prepare and distribute patriotic material to schools in the state; and

I. evaluate all educational programs in state institutions under the authority of the secretary of health. "

Section 9. Section 22-2-6.11 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 14, Section 1) is amended to read:

"22-2-6.11. READING INITIATIVE--DESIGN. --

A. The department shall design and implement a statewide reading initiative to improve reading proficiency in the state. The design of the reading initiative shall be based on quality, research-based reading programs shown to improve reading proficiency and shall include the following:

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

(2) appropriate professional staff development to assist licensed school employees in the instruction of reading;

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

(4) rewards provided to teachers and other applicable licensed school employees in schools that improve student reading proficiency; and

(5) criteria for schools to establish individualized reading plans for students who fail to meet grade level reading proficiency standards.

B. The department shall use national experts to work with it to develop an immediate reading initiative and a long-term plan for sustained reading improvement.

C. The department shall involve school district personnel, especially licensed elementary reading specialists, parents and other interested persons in the design of the reading initiative."

Section 10. Section 22-2-8 NMSA 1978 (being Laws 1967, Chapter 16, Section 11) is amended to read:

"22-2-8. EDUCATIONAL CONTENT AND PERFORMANCE STANDARDS. --The state board shall prescribe minimum educational content and performance standards for all public schools in the state. A copy of these standards shall be furnished by the department to each local school board, local superintendent and school principal. The standards shall include minimum standards for the following areas:

- A. curriculum, including content standards and benchmarks;
- B. organization and administration of education;
- C. the keeping of records, other than financial records prescribed by the state superintendent;
- D. membership accounting;
- E. teacher preparation;

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

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

Section 11. Section 22-2-8.2 NMSA 1978 (being Laws 1986, Chapter 33, Section 3, as amended) is amended to read:

"22-2-8.2. STAFFING PATTERNS--CLASS LOAD--TEACHING LOAD.--

A. The individual class load for elementary school teachers shall not exceed twenty students for kindergarten; provided that any teacher in kindergarten with a class load of fifteen to twenty students shall be entitled to the assistance of an educational assistant.

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

C. The average class load for an elementary school teacher at an individual school shall not exceed twenty-four students when averaged among grades four, five and six.

D. The daily teaching load per teacher for grades seven through twelve shall not exceed one hundred sixty students, except the daily teaching load for teachers of

required English courses in grades seven and eight shall not exceed one hundred thirty-five with a maximum of twenty-seven students per class and the daily teaching load for teachers of required English courses in grades nine through twelve shall not exceed one hundred fifty students with a maximum of thirty students per class.

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

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

G. The state superintendent may waive the individual school class load requirements established in this section. Waivers shall be applied for annually and a waiver shall not be granted for more than two consecutive years. Waivers may only be granted if a school district

demonstrates:

- (1) no portable classrooms are available;
- (2) no other available sources of funding exist to meet its need for additional classrooms;
- (3) the district is planning alternatives to increase building capacity for implementation within one year; and
- (4) the parents of all children affected by the waiver have been notified in writing:
  - (a) of the statutory class load requirements;
  - (b) that the school district has made a decision to deviate from these class load requirements; and
  - (c) of the school district plan to achieve compliance with the class load requirements.

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

I. Each school district shall report to the department the size and composition of classes subsequent to the fortieth day and the December 1 count. Failure to meet class load requirements within two years shall be

justification for the disapproval of the school district's budget by the state superintendent.

J. The department shall report to the legislative education study committee by November 30 of each year regarding each school district's ability to meet class load requirements imposed by law.

K. Notwithstanding the provisions of Subsection G of this section, the state board may waive the individual class load and teaching load requirements established in this section upon a demonstration of a viable alternative curricular plan and a finding by the state superintendent that the plan is in the best interest of the school district and that, on an annual basis, the plan has been presented to and is supported by the affected teachers. The department shall evaluate the impact of each alternative curricular plan annually. Annual reports shall be made to the legislative education study committee.

L. Teachers shall not be required to perform noninstructional duties except in emergency situations as defined by the state board. For purposes of this subsection, "noninstructional duties" means noon hall duty, noon ground duty and noon cafeteria duty. "

Section 12. Section 22-2-8.3 NMSA 1978 (being Laws 1986, Chapter 33, Section 4, as amended) is amended to read:

"22-2-8.3. SUBJECT AREAS-- MINIMUM INSTRUCTIONAL AREAS REQUIRED-- ACCREDITATION. --

A. The state board shall require public schools to address state board-approved content standards, benchmarks and performance standards when instructing in specific state board-required subject areas as provided in Subsections B through E of this section. A public school or school district failing to meet these minimum requirements shall not be accredited by the state board.

B. All first, second and third grade classes shall provide daily instruction in language arts skills, including phonemic and phonological skills and mathematics.

C. All first, second and third grade classes shall provide instruction in art, music and a language other than English.

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

(1) language arts skills, with an emphasis on writing and editing at least one year and an emphasis on grammar and writing 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; and
- (12) physical fitness.

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. "

Section 13. Section 22-2-8.4 NMSA 1978 (being Laws 1986, Chapter 33, Section 5, as amended) is amended to read:

"22-2-8.4. GRADUATION REQUIREMENTS. --

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

B. Successful completion of a minimum of twenty-three units 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 at 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 2003-2004 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 fitness;

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

(7) nine elective units, and eight elective units for students entering the ninth grade in the 2003-2004 school year that meet state board content standards, benchmarks and performance standards. Student service learning shall be offered as an elective. With the approval of the local school board, participation on an athletic team or in an athletic sport during the school day may count toward fulfillment of the physical education required unit.

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

D. A student shall not receive a high school diploma if he has not passed a state competency examination in the subject areas of language arts, writing, English, mathematics, science and social science. The state competency 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 competency examination, he 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 he takes and passes the state competency examination, he may receive a high school diploma.

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

Section 14. Section 22-2-8.5 NMSA 1978 (being Laws 1986, Chapter 33, Section 6, as amended) is amended to read:

"22-2-8.5. READING ASSESSMENTS AND WRITING PRODUCTION TESTING--WRITING PORTFOLIO.--

A. The state board shall expand the program of educational accountability established through its educational standards by adding reading assessments and writing production tests to its existing uniform statewide system of assessment to determine student status, progress and degree of achievement of basic skills and of essential educational competencies.

B. The department shall involve school district personnel, especially licensed elementary reading specialists, in the development of methods on a statewide basis to measure student reading performance in order to assist school districts in the assessment of student problem

areas in kindergarten through third grade. The assessment shall provide a means of demonstrating continuous progress in reading and diagnostic information on phonics, phonemic awareness and comprehension.

C. The department shall involve school district personnel, especially teachers in the elementary, middle and junior high school grades, in the development or selection of a uniform statewide on-demand writing production test for school districts, which shall be administered in grades four, six, eight and ten to measure student writing performance in order to assist school districts in the assessment of student problem areas.

D. The state board shall require an annual writing portfolio for each student in all grades. For purposes of this subsection, "writing portfolio" means two on-demand writing pieces scored by the school district in accordance with the language arts performance standard rubric or the New Mexico writing assessment program rubric."

Section 15. Section 22-2-14 NMSA 1978 (being Laws 1978, Chapter 129, Section 1, as amended) is amended to read:

"22-2-14. LOCAL SCHOOL BOARDS--PUBLIC SCHOOLS--  
SUSPENSION--PROCEDURES.--

A. Money budgeted by a school district shall be spent first to attain and maintain the requirements for a school district as prescribed by law and by standards and

rules as prescribed by the state board. The state superintendent shall give written notification to a local school board, the local superintendent and a school principal, if applicable, of any failure to meet requirements by any part of the school district under the control of the local school board. The notice shall specify the deficiency. Instructional units or administrative functions may be disapproved for such deficiencies. The state superintendent shall disapprove instructional units or administrative functions that he determines to be detrimental to the educational process.

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

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

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

C. The state board shall suspend from authority and responsibility a local school board, local superintendent or school principal that has had notice of disapproval and fails to comply with procedures of Subsection B of this section. The state superintendent

shall act in lieu of the suspended local school board, local superintendent or school principal until the state board removes the suspension.

D. To suspend a local school board, local superintendent or school principal, the state board shall deliver to the local school board an alternative order of suspension, stating the cause for the suspension and the effective date and time the suspension will begin. The alternative order shall also contain notice of a time, date and place for a public hearing, prior to the beginning of suspension, to be held by the state board, at which the local school board, local superintendent or school principal may appear and show cause why suspension should not be put into effect. Within five days after the hearing, the state board shall make permanent, modify or withdraw the alternative order.

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

state board for a hearing.

F. The state superintendent, while acting in lieu of a suspended local school board, local superintendent or school principal, shall execute all the legal authority of the local school board, local superintendent or school principal and assume all the responsibilities of the local school board, local superintendent or school principal.

G. The provisions of this section shall be invoked at any time the state superintendent finds the school district or public school has failed to attain and maintain the requirements of law or state board standards and rules. "

Section 16. Section 22-2-15 NMSA 1978 (being Laws 1978, Chapter 129, Section 2, as amended) is amended to read:

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

A. Within ten days after suspension, or within a reasonable time as the suspended local school board, local superintendent or school principal may request, the state board shall give a hearing to the local school board, local superintendent or school principal. At this hearing, the local school board, local superintendent or school principal may appear and show cause why the suspension should not be continued. The department employees who conducted the evaluations upon which the suspension was based shall appear

and give testimony.

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

C. A local school board, local superintendent or school principal aggrieved by the decision of the state board may appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978. "

Section 17. A new Section 22-2C-1 NMSA 1978 is enacted to read:

"22-2C-1. SHORT TITLE. -- Chapter 22, Article 2C NMSA 1978 may be cited as the "Regional Service Center Act". "

Section 18. A new Section 22-2C-2 NMSA 1978 is enacted to read:

"22-2C-2. FINDINGS AND PURPOSE. -- The purpose of the Regional Service Center Act is to decentralize certain functions of the department and to centralize at the regional level functions of school districts that may be offered more efficiently, economically and effectively by a single entity. Further, the purpose of that act is to move most accountability, regulatory functions, technical assistance and other services of the department to regional service centers, thereby providing more immediate assistance to local school districts to ensure that all school districts in the state will meet or exceed state performance standards. "

Section 19. A new Section 22-2C-3 NMSA 1978 is enacted to read:

"22-2C-3. DEFINITIONS. --As used in the Regional Service Center Act:

- A. "center" means a regional service center;
- B. "director" means the director of a center; and
- C. "enterprise activity" means the sale of goods and services by a center that are not part of the center's state accountability and accreditation functions."

Section 20. A new Section 22-2C-4 NMSA 1978 is enacted to read:

"22-2C-4. REGIONAL SERVICE CENTERS CREATED-- COORDINATING COUNCIL CREATED-- DIRECTOR. --

A. The state superintendent shall create "regional service centers" in no more than eight regions of the state to help school districts improve their performance and operate more efficiently and economically. Centers are organizational units of the department. The state superintendent may phase in the centers over a five-year period from July 1, 2002 and shall determine the location and service area of each center after consultation with school districts. When determining the location of a center, the state superintendent shall consider the efficacy of locating on a campus of a state post-secondary educational institution.

B. The state superintendent shall appoint an

advisory "coordinating council" made up of the local superintendents from each school district in the region. The coordinating council shall advise the director and the state superintendent on services to be provided by the center and on other matters as requested. The coordinating council shall meet annually to evaluate and review how well the center is satisfying the needs of the school districts and their communities, to discuss new program development and to make recommendations on services to be provided. The coordinating council may meet more often as requested by the director or the state superintendent.

C. The state superintendent shall appoint a "director" for each center, who shall report to and work under the general supervision of the state superintendent. The director shall be appointed without regard to political affiliation and solely on the ground of fitness to perform the duties of his office. He shall be paid a salary fixed by the state superintendent pursuant to a salary system adopted by the state board.

D. The director shall appoint such professional, technical and clerical support as may be necessary to carry out the powers and duties of the center. "

Section 21. A new Section 22-2C-5 NMSA 1978 is enacted to read:

"22-2C-5. CENTERS-- POWERS AND DUTIES. --

A. A center shall:

(1) provide programmatic technical assistance, including resource assistance to schools in need of improvement;

(2) use the expertise of school district personnel to provide technical assistance and input on issues affecting the school districts in the service area;

(3) perform department accountability and accreditation functions assigned to it by the state superintendent, including:

(a) training school districts on and enforcing the state assessment and accountability system;

(b) monitoring and ensuring that curriculum, teaching and student assessment instruments are aligned to state standards, benchmarks and performance indicators;

(c) monitoring educational plans for student success;

(d) performing departmental accreditation services; and

(e) approving, monitoring and evaluating district program budgets to ensure that budgets are tied to educational plans for student success; and

(4) perform other duties assigned to it by the state superintendent.

B. A center may:

(1) develop and conduct professional

development and other education training courses for school personnel and district administrators;

(2) provide accounting and finance functions, including handling federal flow-through funds;

(3) provide administrative and legal services, including serving as central purchasing agent and providing centralized purchasing;

(4) provide technology support services;

(5) provide human resources management and assistance, including training school principals in personnel management;

(6) provide special education and other educational services;

(7) assist schools with peer intervention;

(8) provide grant research and writing services;

(9) provide truancy prevention support; and

(10) provide other programs or services requested by school districts and approved by the state superintendent. "

Section 22. 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 state board, develop educational policies for the school district;

- B. employ a local superintendent of schools for the school district and fix his salary;
- C. review and approve the 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 and maintenance of 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 boards;
- 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; and
- 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 state board. "

Section 23. A new Section 22-5-4.1 NMSA 1978 is enacted to read:

"22-5-4.1. LOCAL SUPERINTENDENT-- POWERS AND DUTIES. --

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

B. The local superintendent shall:

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

(2) administer and supervise the school district;

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

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

(5) perform other duties as required by

law, the department or the local school board.

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

Section 24. Section 22-5-4.6 NMSA 1978 (being Laws 1990, Chapter 52, Section 3, as amended) is amended to read:

"22-5-4.6. COLLABORATIVE SCHOOL IMPROVEMENT PROGRAMS. --

A. A local superintendent may approve an individual school's plan to implement a collaborative school improvement program upon a finding that the plan is in the best interest of the school and is supported by the participating teaching staff.

B. The input and concerns of parents, students, school personnel and members of the community shall be solicited and considered in the development and adoption of a collaborative school improvement program.

C. If necessary for the implementation of a collaborative school improvement program, the local superintendent may apply to the state board for a waiver of Public School Code provisions relating to length of school day, staffing patterns, subject areas or purchase of instructional material. The state board may approve a

request for a waiver upon a finding that the local superintendent has demonstrated accountability for student learning through alternative planning and that the participating teaching staff supports the implementation of a collaborative school improvement program. The local superintendent shall provide the state board with a program budget that shows the type and number of students served, the type and number of personnel involved and all expenditures of the waiver.

D. A teacher participating in the development and implementation of a collaborative school improvement program may contact the state board to comment on the local superintendent's waiver request if the teacher communicated his opinion in writing to the local superintendent at the time the local superintendent approved implementation of the program."

Section 25. A new Section 22-5-5.1 NMSA 1978 is enacted to read:

"22-5-5.1. LOCAL SCHOOL BOARD TRAINING. --The department shall develop a mandatory training course for local school board members that explains state board rules, department policies and procedures, statutory powers and duties of local school boards, legal concepts pertaining to public schools, finance and budget and other matters deemed relevant by the department. The department shall notify local school board members of the dates of the training

course, the last of which shall not be later than three months after a school board election."

Section 26. Section 22-5-6 NMSA 1978 (being Laws 1971, Chapter 199, Section 1, as amended) is amended to read:

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

A. A local superintendent shall not initially employ or approve the initial employment in any capacity of a person who is the spouse, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter or daughter-in-law of a member of the local school board or the local superintendent. The local school board may waive the nepotism rule for family members of a local superintendent.

B. Nothing in this section shall prohibit the continued employment of a person employed on or before March 1, 2001."

Section 27. Section 22-5-11 NMSA 1978 (being Laws 1986, Chapter 33, Section 12, as amended) is amended to read:

"22-5-11. SCHOOL DISTRICT SALARY SYSTEM --

A. Prior to the beginning of each school year, each local superintendent shall file with the department a district salary system, which salary system shall incorporate any salary increases or compensation measures specifically mandated by the legislature. Salaries for teachers and school administrators shall be aligned with the licensure framework provided for in Chapter 22, Article 10A

NMSA 1978.

B. A local superintendent shall not reduce the district salary system established pursuant to Subsection A of this section without the prior written approval of the state superintendent. The state superintendent shall give written notice to the legislative finance committee, the legislative education study committee and the department of finance and administration of any approved reduction of any school district's salary system, including the reasons for the request for reduction and the grounds for approval."

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

"22-8-1. SHORT TITLE. -- Chapter 22, Article 8 NMSA 1978 may be cited as the "Public School Finance Act". "

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

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

A. No budget for a school district shall be approved by the department that does not provide for:

(1) beginning with the 2001-2002 school year, a school year consisting of at least one hundred eighty-five days, including one hundred eighty full instructional days or the equivalent thereof and five days for professional development and other staff purposes for teachers; provided, however, that the additional days are contingent on appropriation by the legislature to implement

the requirement; or

(2) a variable school year consisting of a minimum number of instructional hours established by the state board, including professional development time that is equivalent to five days as provided in Paragraph (1) of this subsection; and

(3) a pupil-teacher ratio or class or teaching load as provided in Section 22-2-8.2 NMSA 1978.

B. The state board shall, by rule, establish the requirements for an instructional day, the standards for an instructional hour and the standards for a full-time teacher and for the equivalent thereof."

Section 30. Section 22-10-1 NMSA 1978 (being Laws 1975, Chapter 306, Section 1, as amended) is recompiled as Section 22-10A-1 NMSA 1978 and is amended to read:

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

Section 31. Section 22-2-8.7 NMSA 1978 (being Laws 1986, Chapter 33, Section 8, as amended) is recompiled as Section 22-10A-3 NMSA 1978 and is amended to read:

"22-10A-3. LICENSURE REQUIREMENTS. --

A. The state board shall require a person seeking licensure or reciprocity in elementary or secondary education to complete the following minimum requirements in the college of arts and sciences:

(1) twelve hours in English;

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

(3) six hours in mathematics;

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

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

(6) six hours in fine arts.

B. The state board shall require, prior to licensure, no less than fourteen weeks of student teaching, a portion of which shall occur in the first thirty credit hours taken in the college of education and shall be under the direct supervision of a teacher and a portion of which shall occur in the student's senior year with the student teacher being directly responsible for the classroom.

C. Nothing in this section shall preclude the state board from establishing or accepting equivalent requirements for purposes of reciprocal licensure or minimum requirements for alternative licensure.

D. Vocational teacher preparatory programs may be exempt from Subsections A and B of this section upon a determination by the state board that other licensure or certification requirements are more appropriate for vocational teacher preparatory programs. "

Section 32. A new Section 22-10A-4 NMSA 1978 is

enacted 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 state board has adopted increased competencies for the particular level of licensure.

C. A level one license is a provisional license issued for the first three years of teaching 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 state

board-adopted standards and benchmarks; a teacher may choose to remain at level two for the remainder of his 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 level two or three certificates on the effective date of this 2001 act shall meet the requirements for their level of licensure by September 1, 2004 and shall be issued licenses. Level two and three licenses issued pursuant to this subsection shall be for nine years."

Section 33. A new Section 22-10A-5 NMSA 1978 is enacted to read:

"22-10A-5. LEVEL ONE LICENSURE--MINIMUM SALARY.--

A. A level one license is a provisional three-year license for beginning teachers that requires as a condition of licensure that the licensee undergo a formal mentorship program and an annual intensive evaluation by the

school administrator for three full school years before applying for a level two license.

B. Each school district, in accordance with state board 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-22 NMSA 1978. If the teacher has not demonstrated satisfactory progress and competence by the end of the three-year period, he shall not be granted a level two license.

C. Except in exigent circumstances defined by state board 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 state board-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 license to an applicant who meets the requirements of Section 22-10A-6 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 teaching.

G. Beginning with the 2002-2003 school year, with the adoption by the state board of more stringent competency requirements 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, increased proportionately for additional service up to a minimum annualized salary of thirty-seven thousand eight hundred ninety-five dollars (\$37,895).

H. Teachers who hold level one certificates on the effective date of this 2001 act must meet the more stringent competencies by the end of the 2002-2003 school year or by the end of three years, whichever comes later."

Section 34. A new Section 22-10A-6 NMSA 1978 is enacted to read:

"22-10A-6. ALTERNATIVE LEVEL ONE LICENSE. --

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

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

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

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

(4) passed the New Mexico teacher assessments examination.

B. A degree referred to in Subsection A of this section shall correspond to the subject area of instruction and the particular grade level that will enable the applicant to teach in a competent manner as determined by the department.

C. Prior to assuming teaching duties, a person who holds an alternative level one license shall:

(1) complete a minimum of twelve semester hours of instruction in teaching principles in a program

approved by the department; or

(2) demonstrate to the department, in conjunction with the school district or state agency, that he has met the state board-approved competencies for level one teachers that correspond to the grade level that will be taught.

D. An alternative level one teacher shall participate in the same mentorship and other professional development requirements as other level one teachers.

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

Section 35. A new Section 22-10A-7 NMSA 1978 is enacted to read:

"22-10A-7. STATEWIDE TEACHER MENTORSHIP PROGRAM FOR BEGINNING TEACHERS--PURPOSE--STATE BOARD DUTIES--DEPARTMENT DUTIES.--

A. The purpose of the statewide 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

state board 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 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 district 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 36. A new Section 22-10A-8 NMSA 1978 is enacted to read:

"22-10A-8. 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 three-year level one license or is granted reciprocity as provided by state board rules; demonstrates essential competency required by the state board as verified by the local superintendent through a state-approved evaluation process; and meets other qualifications as required by the state

board.

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

D. Beginning with the 2003-2004 school year, with the adoption by the state board of more stringent competency requirements for level two teachers, the minimum salary for a level two teacher shall be forty thousand dollars (\$40,000) for a standard nine and one-half month contract, with a minimum statutory annualized salary to be determined by the legislature after further study."

Section 37. A new Section 22-10A-9 NMSA 1978 is enacted to read:

"22-10A-9. 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.

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 certification; demonstrates instructional leader competence as required by the state board and

verified by the local superintendent through a state-approved evaluation process; and meets other qualifications for the license.

C. Beginning with the 2004-2005 school year, with the adoption by the state board of more stringent competency requirements for level three-A teachers, the minimum salary for a level three-A teacher shall be fifty thousand dollars (\$50,000) for a standard nine and one-half month contract, with a minimum statutory annualized salary to be determined by the legislature after further study.

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 state board-approved courses in administration and a state board-approved administration apprenticeship program and demonstrates instructional leader competence required by the state board and verified by the local superintendent through a state-approved evaluation process.

F. Beginning with the 2002-2003 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, with a minimum statutory annualized salary to be determined by the legislature after further study;

(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, with a minimum statutory annualized salary to be determined by the legislature after further study;

(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, with a minimum statutory annualized salary to be determined by the legislature after further study;

(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, with a minimum statutory annualized salary to be determined by the legislature after further study;

(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, with a minimum statutory annualized salary to be determined by the legislature after further study; 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, with a minimum statutory annualized salary to be determined by the legislature after further study. "

Section 38. A new Section 22-10A-10 NMSA 1978 is enacted to read:

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

Section 39. A new Section 22-10A-11 NMSA 1978 is enacted to read:

"22-10A-11. CERTIFICATES OF WAIVER. --

A. If a local superintendent or governing authority of a state agency certifies to the department that an emergency exists in the hiring of a qualified person, the

department may issue a certificate of teaching waiver or assignment waiver.

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

C. At the request of a local superintendent, the department may issue a certificate of assignment waiver to a licensed teacher who is assigned to teach outside his teaching endorsement area. A certificate of assignment waiver may be renewed each school year if the teacher earns credit at the rate of nine semester hours each year until he meets the requirements for the endorsement."

Section 40. A new Section 22-10A-12 NMSA 1978 is enacted to read:

"22-10A-12. SUBSTITUTE TEACHER CERTIFICATE. --The state board shall provide by rule for the qualifications for a substitute teacher certificate. A local school board may provide for additional qualifications or requirements it deems necessary."

Section 41. A new Section 22-10A-13 NMSA 1978 is enacted to read:

"22-10A-13. PARENTAL NOTIFICATION. --

A. Effective in the 2002-2003 school year, a local superintendent shall give written notice to the parents of those students who are being taught for longer than thirty days by a person who does not hold a level one, two or three license.

B. The local superintendent shall:

(1) ensure that the notice required by this section is provided not later than the thirtieth consecutive instructional day following the assignment of that person to the classroom;

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

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

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

Section 42. A new Section 22-10A-14 NMSA 1978 is enacted to read:

"22-10A-14. INSTRUCTIONAL SUPPORT PROVIDER LICENSES. --

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

recreational therapists, interpreters for the deaf, diagnosticians and other service providers. The department may provide a professional licensing framework in which licensees can advance in their careers through the demonstration of increased competencies and the undertaking of increased duties.

B. The state board shall provide by rule for the requirements for licensure of types of instructional support providers. If an instructional support provider practices a licensed profession, he shall provide evidence satisfactory to the department that he holds a current, unsuspended license in the profession in which he is applying to provide instructional support services. The instructional support provider shall notify the school district immediately if his license is suspended, revoked or denied."

Section 43. A new Section 22-10A-15 NMSA 1978 is enacted to read:

"22-10A-15. LICENSE OR CERTIFICATE REQUIRED--GENERAL DUTIES.--

A. A person performing the duties of a licensed school employee who does not hold a valid license or certificate or has not submitted a complete application for licensure within the first three months from beginning employment duties shall not thereafter be compensated for services rendered. This section does not apply to practice teachers as defined by rules of the state board.

B. Each licensed school employee shall:

(1) enforce all laws and rules applicable to his public school and school district or to the educational program of the state agency;

(2) if teaching, teach the prescribed courses of instruction;

(3) exercise supervision over students on property belonging to the public school or state agency and while the students are under the control of the public school or state agency; and

(4) furnish reports as required. "

Section 44. A new Section 22-10A-16 NMSA 1978 is enacted to read:

"22-10A-16. SCHOOL PRINCIPALS--DUTIES. --In addition to other duties prescribed by law, a school principal shall:

A. under the general supervision of the local superintendent, assume administrative responsibility and overall instructional leadership for the public school to which he is assigned, including the discipline of students and the planning, operation, supervision and evaluation of the educational program of the school;

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

C. evaluate the performance of school employees and develop professional development plans or job

improvement plans to assist school employees to improve;

D. take disciplinary action against employees;

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

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

Section 45. A new Section 22-10A-17 NMSA 1978 is enacted to read:

"22-10A-17. TEACHERS AND SCHOOL PRINCIPALS--  
ACCOUNTABILITY--EVALUATIONS--PROFESSIONAL DEVELOPMENT--PEER  
INTERVENTION--MENTORING.--

A. The state board shall adopt criteria and minimum statewide performance standards for the annual performance evaluation of licensed school employees. The local superintendent shall adopt policies, guidelines and procedures for the evaluation process. Evaluation by other school employees shall be one component of the evaluation tool for school administrators.

B. As part of the performance evaluation of teachers, the school principal shall observe each teacher's classroom practice to determine the teacher's ability to demonstrate state-adopted competencies.

C. At the beginning of each school year, teachers and school principals shall devise professional development

plans for the coming year, and evaluations shall be based in part on how well the professional development plan was carried out.

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

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

Section 46. Section 22-10-11 NMSA 1978 (being Laws 1967, Chapter 16, Section 113, as amended) is recompiled as Section 22-10A-18 NMSA 1978 and is amended to read:

"22-10A-18. EMPLOYMENT CONTRACTS--DURATION. --

A. All employment contracts between a school district and licensed school employees and between a governing authority of a state agency and licensed school employees shall be in writing on forms approved by the state board. These forms shall contain and specify the term of service, the salary to be paid, the method of payment, the causes for termination of the contract and other provisions

required by rules of the state board.

B. All employment contracts between a school district and licensed school employees and between a governing authority of a state agency and licensed school employees shall be for a period of one school year except:

(1) contracts for less than one school year are permitted to fill personnel vacancies that occur during the school year;

(2) contracts for the remainder of a school year are permitted to staff programs when the availability of funds for the programs is not known until after the beginning of the school year;

(3) contracts for less than one school year are permitted to staff summer school programs and to staff federally funded programs in which the federally approved programs are specified to be conducted for less than one school year;

(4) contracts not to exceed three years are permitted for school administrators in public schools who are engaged in administrative functions for more than one-half of their employment time; and

(5) contracts not to exceed three years are permitted at the discretion of the local superintendent for licensed school employees in public schools who have worked in the school district for three consecutive school years.

C. An employment contract not to exceed five

years is authorized between a local school board and a local superintendent.

D. Persons employed under contracts for periods of less than one school year as provided in Paragraphs (1) and (2) of Subsection B of this section shall be accorded all the duties, rights and privileges of the School Personnel Act.

E. In determination of eligibility for unemployment compensation rights and benefits for licensed school employees where those rights and benefits are claimed to arise from the employment relationship between governing authorities of state agencies or local school districts and licensed school employees, that period of a year not covered by a school year shall not be considered an unemployment period.

F. Except as provided in Section 22-10A-20 NMSA 1978, a person employed by contract pursuant to this section has no legitimate objective expectancy of reemployment, and no contract entered into pursuant to this section shall be construed as an implied promise of continued employment pursuant to a subsequent contract.

G. Employment contracts between school districts and teachers shall include five contract days beyond the instructional year for professional development.

H. School districts and state agencies may pay licensed school employees according to their employment

contracts on evidence of attendance at any professional meeting connected with their profession as educators or associated with the courses of instruction in which they specialize.

I. Licensed school employees shall be paid at least once a month during a school year. The salary may be paid at least once a month during a twelve-month period although services are to be performed during a period less than the twelve months.

J. The provisions of Subsection G of this section shall not operate unless the legislature has funded the additional time."

Section 47. Section 22-10-21 NMSA 1978 (being Laws 1967, Chapter 16, Section 123, as amended) is recompiled as Section 22-10A-19 NMSA 1978 and is amended to read:

"22-10A-19. SUPERVISION AND CORRECTION PROCEDURES. --

A. For the purposes of Sections 22-10A-19 through 22-10A-26 NMSA 1978, "school principal" includes other school district personnel who have the authority to supervise school employees, correct their work performance and recommend termination or discharge.

B. The state board shall prescribe by rule the procedures to be followed by a school principal in supervising and correcting unsatisfactory work performance of school employees before notice of intent to discharge is served upon them. The rules shall provide that written

records shall be kept on all action taken by a school principal to improve a school employee's unsatisfactory work performance and all improvements made in the school employee's work performance. These written records shall be introduced as evidence at any hearing for the school employee conducted by the local superintendent. "

Section 48. A new Section 22-10A-20 NMSA 1978 is enacted to read:

"22-10A-20. NOTICE OF REEMPLOYMENT--TERMINATION. --

A. On or before the last day of the school year of an existing employment contract, each school principal shall recommend to the local superintendent the reemployment or termination of each licensed school employee at his school. The local superintendent, based on the recommendations of the school principal, shall serve written notice of reemployment or termination on each licensed school employee employed by the school district. A notice of reemployment shall be an offer of employment for the ensuing school year. A notice of termination shall be a notice of intention not to reemploy for the ensuing school year.

B. Failure of the local superintendent to serve a written notice of reemployment or termination on a licensed school employee shall be construed to mean that notice of reemployment has been served upon the person for the ensuing school year according to the terms of the existing

employment contract but subject to any additional compensation allowed other licensed school employees of like qualifications and experience employed by the school district.

C. Nothing in this section shall be construed to mean that failure of a local superintendent to serve a written notice of reemployment or termination shall automatically extend a licensed school employee's employment contract for a period in excess of one school year."

Section 49. Section 22-10-13 NMSA 1978 (being Laws 1967, Chapter 16, Section 115, as amended) is recompiled as Section 22-10A-21 NMSA 1978 and is amended to read:

"22-10A-21. REEMPLOYMENT--ACCEPTANCE--REJECTION--  
BINDING CONTRACT.--

A. Each licensed school employee shall deliver to the local superintendent in which the licensed school employee is employed a written acceptance or rejection of reemployment for the ensuing school year within fifteen days from the following:

(1) the date written notice of reemployment is served upon the licensed school employee; or

(2) the last day of the school year when no written notice of reemployment or termination is served upon the licensed school employee on or before the last day of the school year.

B. Delivery of the written acceptance of

reemployment by a licensed school employee creates a binding employment contract between the licensed school employee and the school district until the parties enter into a formal written employment contract. Written employment contracts between local superintendents and licensed school employees shall be executed by the parties not later than ten days before the first day of a school year. "

Section 50. A new Section 22-10A-22 NMSA 1978 is enacted to read:

"22-10A-22. TERMINATION DECISIONS--PRINCIPALS--LOCAL SUPERINTENDENTS--PROCEDURES.--

A. A school principal may recommend the termination of a school employee of his school who has worked for the school district for three full consecutive years or less for any reason he deems sufficient. Based upon this recommendation, the local superintendent may terminate the school employee. Upon request of the school employee, the local superintendent shall provide written reasons for the school principal's decision to recommend termination. The reasons shall be provided within ten working days of the request. The reasons shall not be publicly disclosed by the local superintendent or school principal. The reasons shall not provide a basis for contesting the decision under the School Personnel Act.

B. A local superintendent may not terminate a school employee who has worked at a school district for more

than three full consecutive years without just cause.

C. A school employee who has worked for a school district for more than three full consecutive years and who receives a notice of termination pursuant to either Section 22-10A-20 NMSA 1978 or this section may request an opportunity to make a statement to the local superintendent on the recommendation to terminate him by submitting a written request to the local superintendent within five working days from the date written notice of termination is served upon him. The school employee may also request in writing the reasons for the school principal's recommendation to terminate him. The local superintendent shall request that the school principal provide written reasons for his recommendation to terminate the school employee within five working days from the date the written request for a meeting and the written request for the reasons were received by the local superintendent. Neither the school principal nor local superintendent shall publicly disclose his reasons for termination.

D. The school employee's request pursuant to Subsection C of this section shall be granted if he responds to the school principal's written reasons as provided in that subsection by submitting in writing to the local superintendent a contention that the recommendation and subsequent decision to terminate him was made without just cause. The written contention shall specify the grounds on

which it is contended that the recommendation and subsequent decision was without just cause and shall include a statement of the facts that the school employee believes support his contention. This written statement shall be submitted within ten working days from the date the school employee receives the written reasons from the school principal. The submission of this statement constitutes a representation on the part of the school employee that he can support his contentions and an acknowledgment that the school principal may offer the causes for his recommendation and any relevant data in his possession in rebuttal of the school employee's contentions.

E. A local superintendent shall meet to hear the school employee's statement in no less than five or more than fifteen working days after the local superintendent receives the statement. The hearing shall be conducted informally in accordance with the provisions of the Open Meetings Act. The school employee and the school principal may each be accompanied by a person of his choice. First, the school principal shall present the factual basis for his recommendation that just cause exists for the termination of the school employee, limited to those reasons provided to the school employee pursuant to Subsection C of this section. Then, the school employee shall present his contentions, limited to those grounds specified in Subsection D of this section. The school principal may

offer such rebuttal testimony as he deems relevant. All witnesses may be questioned by the local superintendent, the school employee or his representative and the school principal or his representative. The local superintendent may consider only such evidence as is presented at the hearing and need consider only such evidence as he considers reliable. No record shall be made of the proceeding. The local superintendent shall notify the school employee and the school principal of his decision in writing within five working days from the conclusion of the meeting. "

Section 51. Section 22-10-17 NMSA 1978 (being Laws 1986, Chapter 33, Section 24, as amended) is recompiled as Section 22-10A-23 NMSA 1978 and is amended to read:

"22-10A-23. DISCHARGE HEARING--PROCEDURES.--

A. A local superintendent may discharge a licensed school employee only for just cause according to the following procedure:

(1) the school principal shall serve a written notice of his intent to recommend discharge on the licensed school employee in accordance with the law for service of process in civil actions; and

(2) the school principal shall state in the notice of his intent to recommend discharge the cause for his recommendation and shall advise the licensed school employee of his right to a discharge hearing before the local superintendent as provided in this section.

B. A licensed school employee who receives a notice of intent to recommend discharge pursuant to Subsection A of this section may exercise his right to a hearing before the local superintendent by giving the school principal and local superintendent written notice of that election within five working days of his receipt of the notice to recommend discharge.

C. The local superintendent shall hold a discharge hearing no less than twenty and no more than forty working days after the local superintendent receives the written election from the licensed school employee and shall give the licensed school employee at least ten days written notice of the date, time and place of the discharge hearing.

D. The school principal and the licensed school employee may be accompanied by persons of their choice.

E. The parties shall complete and respond to discovery by deposition and production of documents prior to the discharge hearing.

F. The local superintendent shall have the authority to issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and shall have the power to administer oaths.

G. The school principal shall have the burden of proving by a preponderance of the evidence that, at the time of the notice of intent to recommend discharge, he had just

cause to discharge the licensed school employee.

H. The school principal shall present his evidence first, with the licensed school employee presenting his evidence second. The local superintendent shall permit either party to call, examine and cross-examine witnesses and to introduce documentary evidence.

I. The local superintendent shall render his written decision within twenty days of the conclusion of the discharge hearing. "

Section 52. A new Section 22-10A-24 NMSA 1978 is enacted to read:

"22-10A-24. APPEALS--INDEPENDENT ARBITRATOR--  
QUALIFICATIONS--PROCEDURE--BINDING DECISION.--

A. A school employee who is still aggrieved by a decision of a local superintendent rendered pursuant to Section 22-10A-22 or 22-10A-23 NMSA 1978 may appeal the decision to an independent arbitrator. A written notice of appeal shall be submitted to the local superintendent within five working days from the receipt of his written decision or the refusal of the local superintendent to grant a hearing. The appeal shall be accompanied by a statement of particulars specifying the grounds on which it is contended that the decision was impermissible pursuant to Section 22-10A-22 or 22-10A-23 NMSA 1978 and including a statement of facts supporting the contentions. Failure of the school employee to submit a timely appeal or a statement of

particulars with the appeal shall disqualify him for any appeal and render the local superintendent's decision final.

B. The local superintendent and the school employee shall meet within ten working days from the receipt of the request for an appeal and select an independent arbitrator to conduct the appeal. If the parties fail to agree on an independent arbitrator, they shall request the presiding judge in the judicial district in which the school employee's public school is located to select one. The presiding judge shall select the independent arbitrator within five working days from the date of the parties' request.

C. A qualified independent arbitrator shall be appointed who is versed in employment practices and school procedures and who preferably has experience in the practice of law. No person shall be appointed to serve as the independent arbitrator who has any direct or indirect financial interest in the outcome of the proceeding, has any relationship to any party in the proceeding, is employed by the local school district or is a member of or employed by any professional or labor organization of which the school employee is a member.

D. Appeals from the decision of the local superintendent shall be decided after a de novo hearing before the independent arbitrator. The issue to be decided by the independent arbitrator is whether there was just

cause for the decision of the local superintendent to terminate or discharge the school employee.

E. The de novo hearing shall be held within thirty working days from the selection of the independent arbitrator. The arbitrator shall give written notice of the date, time and place of the hearing, and such notice shall be sent to the employee and the local superintendent.

F. Each party has the right to be represented by counsel at the hearing before the independent arbitrator.

G. Discovery shall be limited to depositions and requests for production of documents on a time schedule to be established by the independent arbitrator.

H. The independent arbitrator may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence and shall have the power to administer oaths. Subpoenas so issued shall be served and enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.

I. The rules of civil procedure shall not apply to the de novo hearing, but it shall be conducted so that both contentions and responses are amply and fairly presented. To this end, the independent arbitrator shall permit either party to call and examine witnesses, cross-examine witnesses and introduce exhibits. The technical rules of evidence shall not apply, but, in ruling on the admissibility of evidence, the independent arbitrator

shall require reasonable substantiation of statements or records tendered, the accuracy or truth of which is in reasonable doubt.

J. The local superintendent has the burden of proof and shall prove by a preponderance of the evidence that, at the time the notice of termination or the notice of intent to discharge was served on the school employee, the local superintendent had just cause to terminate or discharge the school employee. If the local superintendent proves by a preponderance of the evidence that there was just cause for its action, then the burden shifts to the school employee to rebut the evidence presented by the local superintendent.

K. The independent arbitrator shall uphold the local superintendent's decision only if it proves by a preponderance of the evidence that, at the time the notice of termination or intent to discharge was served on the school employee, the local superintendent had just cause to terminate or discharge the school employee. If the local superintendent fails to meet its burden of proof or if the school employee rebuts the proof offered by the local superintendent, the arbitrator shall reverse the decision of the local superintendent.

L. No official record shall be made of the hearing. Either party desiring a record of the arbitration proceedings may, at his own expense, record or otherwise

provide for a transcript of the proceedings; provided, however, that the record so provided shall not be deemed an official transcript of the proceedings nor shall it imply any right of automatic appeal or review.

M. The independent arbitrator shall render a written decision affirming or reversing the action of the local superintendent. The decision shall contain findings of fact and conclusions of law. The parties shall receive actual written notice of the decision of the independent arbitrator within ten working days from the conclusion of the de novo hearing.

N. The sole remedies available under this section shall be reinstatement or payment of compensation reinstated in full but subject to any additional compensation allowed other school employees of like qualifications and experience employed by the school district and including reimbursement for compensation during the entire period for which compensation was terminated, or both, less an offset for any compensation received by the school employee during the period the compensation was terminated.

O. Unless a party can demonstrate prejudice arising from a departure from the procedures established in this section and in Section 22-10A-22 NMSA 1978, such departure shall be presumed to be harmless error.

P. The decision of the independent arbitrator shall be binding on both parties and shall be final and

nonappealable except where the decision was procured by corruption, fraud, deception or collusion, in which case it shall be appealed to the district court in the judicial district in which the public school is located.

Q. Each party shall bear its own costs and expenses. The independent arbitrator's fees and other expenses incurred in the conduct of the arbitration shall be assigned at the discretion of the independent arbitrator.

R. Local school districts shall file a record with the department of all terminations and discharges and all actions arising from terminations and discharges annually. "

Section 53. Section 22-10-16 NMSA 1978 (being Laws 1967, Chapter 16, Section 118, as amended) is recompiled as Section 22-10A-25 NMSA 1978 and is amended to read:

"22-10A-25. EXCEPTED FROM PROVISIONS. -- Sections 22-10A-20 through 22-10A-22 and 22-10A-24 NMSA 1978 do not apply to the following:

A. a licensed school employee employed to fill the position of a licensed school employee entering military service;

B. a person who is employed as a school administrator; or

C. a nonlicensed school employee employed to perform primarily district-wide management functions. "

Section 54. Section 22-10-18 NMSA 1978 (being Laws

1967, Chapter 16, Section 120, as amended) is recompiled as Section 22-10A-26 NMSA 1978 and is amended to read:

"22-10A-26. COMPENSATION PAYMENTS TO DISCHARGED PERSONNEL. --

A. Payment of compensation to a licensed school employee employed by a school district shall terminate as of the date, after a hearing, that a written copy of the decision of the local superintendent to discharge the licensed school employee is served on him. If the compensation of the licensed school employee discharged during the term of a written employment contract is to be paid monthly during a twelve-month period for services to be performed during a period less than twelve months, the licensed school employee shall be entitled to a pro rata share of the compensation payments due for the period during the twelve months in which no services were to be performed.

B. In the event the action of the local superintendent in discharging a licensed school employee is reversed on appeal, payment of compensation to the licensed school employee shall be reinstated in full but subject to any additional compensation allowed other licensed school employees of like qualifications and experience employed by the school district and including reimbursement for compensation during the entire period the compensation was terminated less an offset for any compensation received by the licensed school employee from a school district during

the period the compensation was terminated."

Section 55. A new Section 22-10A-27 NMSA 1978 is enacted to read:

"22-10A-27. LICENSED SCHOOL EMPLOYEES IN STATE AGENCIES. --

A. Licensed school employees in state agencies are subject to the School Personnel Act.

B. Employees of state agencies who are not covered by the Personnel Act and who were covered by the provisions of the School Personnel Act on the effective date of this 2001 act shall continue to be covered by the School Personnel Act."

Section 56. Section 22-10-22 NMSA 1978 (being Laws 1967, Chapter 16, Section 124, as amended) is recompiled as Section 22-10A-28 NMSA 1978 and is amended to read:

"22-10A-28. SUSPENSION AND REVOCATION OF LICENSE-- APPEAL. --

A. The state board may suspend or revoke a department-issued license held by a licensed school employee for incompetency, immorality or any other good and just cause.

B. A license may be suspended or revoked only according to the following procedure:

(1) the state board serves written notice of the suspension or revocation on the licensed school employee in accordance with the law for service of process

in civil actions. The notice of the suspension or revocation shall state the grounds for the suspension or revocation of the license. The notice of the suspension or revocation shall describe the rights of the licensed school employee and include instructions for requesting a hearing before the state board. A hearing shall be requested within thirty days of receipt of the notice of suspension or revocation. If a hearing is requested, the hearing shall be held not more than ninety days from the date of the request for the hearing;

(2) the state board or its designated hearing officer conducts a hearing that provides the licensed school employee, or his attorney, an opportunity to present evidence or arguments on all pertinent issues. A transcript shall be made of the entire hearing conducted by the state board or its designated hearing officer; and

(3) the state board renders a written decision in accordance with the law and based upon evidence presented and admitted at the hearing. The written decision shall include findings of fact and conclusions of law and shall be based upon the findings of fact and the conclusions of law. A written copy of the decision of the state board shall be served upon the licensed school employee within sixty days from the date of the hearing. Service of the written copy of the decision shall be in accordance with the law for service of process in civil actions or by certified

mail to the licensed school employee's address of record.

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

D. Any person aggrieved by a decision of the state board, after a hearing pursuant to this section, may appeal the decision to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978. "

Section 57. Section 22-10-3.2 NMSA 1978 (being Laws 1988, Chapter 48, Section 1, as amended) is recompiled as Section 22-10A-29 NMSA 1978 and is amended to read:

"22-10A-29. LICENSED SCHOOL EMPLOYEES--CHILD ABUSE AND NEGLECT AND SUBSTANCE ABUSE REQUIRED TRAINING PROGRAM --

A. All licensed school employees shall be required to complete training in the detection and reporting of child abuse and neglect and substance abuse. This requirement shall be completed within the licensed school employee's first year of employment by a school district.

B. Pursuant to the policy and rules adopted by the state board, the department shall develop a training

program, including training materials and necessary training staff, to meet the requirement of Subsection A of this section to make the training available in every school district. The department shall coordinate the development of the program with appropriate staff at the human services department and the department of health.

C. The training program developed pursuant to this section shall be made available by the department to the deans of every college of education in New Mexico for use in providing such training to students seeking elementary and secondary education licensure. "

Section 58. Section 22-11-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 126, as amended) is amended to read:

"22-11-2. DEFINITIONS. -- As used in the Educational Retirement Act:

A. "member" means an employee, except for a participant or a retired member, coming within the provisions of the Educational Retirement Act;

B. "regular member" means:

(1) a person regularly employed as a teaching, nursing or administrative employee of a state educational institution, except for:

(a) a participant; or

(b) all employees of a general hospital or outpatient clinics thereof operated by a state

educational institution named in Article 12, Section 11 of the constitution of New Mexico;

(2) a person regularly employed as a teaching, nursing or administrative employee of a junior college or community college created pursuant to Chapter 21, Article 13 NMSA 1978, except for a participant;

(3) a person regularly employed as a teaching, nursing or administrative employee of a technical and vocational institute created pursuant to the Technical and Vocational Institute Act, except for a participant;

(4) a person regularly employed as a teaching, nursing or administrative employee of the New Mexico boys' school, the New Mexico girls' school, the Los Lunas medical center or a school district or as a certified school instructor of a state institution or agency providing an educational program and holding a standard or substandard certificate issued by the state board, except for a participant;

(5) a person regularly employed by the department of education or the board holding a standard or substandard certificate issued by the state board at the time of commencement of such employment;

(6) a member classified as a regular member in accordance with the rules of the board;

(7) a person regularly employed by the New Mexico activities association holding a standard certificate

issued by the state board at the time of commencement of such employment; or

(8) a person regularly employed by a regional education cooperative holding a standard certificate issued by the state board at the time of commencement of such employment;

C. "provisional member" means a person not eligible to be a regular member but who is employed by a local administrative unit designated in Subsection B of this section; provided, however, that employees of a general hospital or outpatient clinics thereof operated by a state educational institution named in Article 12, Section 11 of the constitution of New Mexico are not provisional members;

D. "local administrative unit" means an employing agency however constituted that is directly responsible for the payment of compensation for the employment of members or participants;

E. "beneficiary" means a person having an insurable interest in the life of a member or a participant designated by written instrument duly executed by the member or participant and filed with the director to receive a benefit pursuant to the Educational Retirement Act that may be received by someone other than the member or participant;

F. "employment" means employment by a local administrative unit that qualifies a person to be a member or participant;

G. "service employment" means employment that qualifies a person to be a regular member;

H. "provisional service employment" means employment that qualifies a person to be a provisional member;

I. "prior employment" means employment performed prior to the effective date of the Educational Retirement Act that would be service employment or provisional service employment if performed thereafter;

J. "service credit" means that period of time with which a member is accredited for the purpose of determining his eligibility for and computation of retirement or disability benefits;

K. "earned service credit" means that period of time during which a member was engaged in employment or prior employment with which he is accredited for the purpose of determining his eligibility for retirement or disability benefits;

L. "allowed service credit" means that period of time during which a member has performed certain nonservice employment with which he may be accredited, as provided in the Educational Retirement Act, for the purpose of computing retirement or disability benefits;

M. "retirement benefit" means an annuity paid monthly to members whose employment has been terminated by reason of their age;

N. "disability benefit" means an annuity paid monthly to members whose employment has been terminated by reason of a disability;

O. "board" means the educational retirement board;

P. "fund" means the educational retirement fund;

Q. "director" means the educational retirement director;

R. "medical authority" means a medical doctor within the state or as provided in Subsection D of Section 22-11-36 NMSA 1978 either designated or employed by the board to examine and report on the physical condition of applicants for or recipients of disability benefits;

S. "actuary" means a person trained and regularly engaged in the occupation of calculating present and projected monetary assets and liabilities under annuity or insurance programs;

T. "actuarial equivalent" means a sum paid as a current or deferred benefit that is equal in value to a regular benefit, computed upon the basis of interest rates and mortality tables;

U. "contributory employment" means employment for which contributions have been made by both a member and a local administrative unit pursuant to the Educational Retirement Act;

V. "qualifying state educational institution"

means the university of New Mexico, New Mexico state university, New Mexico institute of mining and technology, New Mexico highlands university, eastern New Mexico university, western New Mexico university, Albuquerque technical-vocational institute, Clovis community college, Luna vocational-technical institute, Mesa technical college, New Mexico junior college, northern New Mexico state school, San Juan college and Santa Fe community college;

W. "participant" means:

(1) a person regularly employed as a faculty or professional employee of the university of New Mexico, New Mexico state university, New Mexico institute of mining and technology, New Mexico highlands university, eastern New Mexico university or western New Mexico university who first becomes employed with such an educational institution on or after July 1, 1991, or a person regularly employed as a faculty or professional employee of the Albuquerque technical-vocational institute, Clovis community college, Luna vocational-technical institute, Mesa technical college, New Mexico junior college, northern New Mexico state school, San Juan college or Santa Fe community college who is first employed by the institution on or after July 1, 1999 and who elects, pursuant to Section 22-11-47 NMSA 1978, to participate in the alternative retirement plan; and

(2) a person regularly employed who

performs research or other services pursuant to a contract between a qualifying state educational institution and the United States government or any of its agencies who elects, pursuant to Section 22-11-47 NMSA 1978, to participate in the alternative retirement plan, provided that the research or other services are performed outside the state;

X. "salary" means the compensation or wages paid to a member or participant by any local administrative unit for services rendered;

Y. "alternative retirement plan" means the retirement plan provided for in Sections 22-11-47 through 22-11-52 NMSA 1978; and

Z. "retired member" means a regular member whose employment has been terminated by reason of age and who is receiving or is eligible to receive retirement benefits."

Section 59. Section 22-11-30 NMSA 1978 (being Laws 1967, Chapter 16, Section 153, as amended) is amended to read:

"22-11-30. RETIREMENT BENEFITS. --

A. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or before June 30, 1967 shall be paid monthly and shall be one-twelfth of a sum equal to one and one-half percent of the first four thousand dollars (\$4,000) of the member's average annual salary and one percent of the remainder of the member's average annual salary multiplied by the number of years of

the member's total service credit.

B. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or after July 1, 1967 but on or before June 30, 1971 shall be paid monthly and shall be one-twelfth of a sum equal to one and one-half percent of the first six thousand six hundred dollars (\$6,600) of the member's average annual salary and one percent of the remainder of the member's average annual salary multiplied by the number of years of the member's total service credit.

C. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or after July 1, 1971 but on or before June 30, 1974 shall be paid monthly and shall be one-twelfth of a sum equal to one and one-half percent of the member's average annual salary multiplied by the number of years of the member's total service credit.

D. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or before June 30, 1974 but returning to employment on or after July 1, 1974 for a cumulation of one or more years shall be computed pursuant to Subsection E of this section. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or before June 30, 1974 but returning to employment on or after July 1, 1974 for a cumulation of less than one year shall be computed pursuant to Subsection A of this section if his date of last retirement was on or before

June 30, 1967 or pursuant to Subsection B of this section if his date of last retirement was on or after July 1, 1967 but not later than June 30, 1971 or pursuant to Subsection C of this section if his date of last retirement was on or after July 1, 1971 but not later than June 30, 1974.

E. Retirement benefits for a member age sixty or over, retired pursuant to the Educational Retirement Act on or after July 1, 1974 but not later than June 30, 1987, shall be paid monthly and shall be one-twelfth of a sum equal to:

(1) one and one-half percent of the member's average annual salary multiplied by the number of years of service credit for:

(a) prior employment; and

(b) allowed service credit for service performed prior to July 1, 1957, except United States military service credit purchased pursuant to Paragraph (3) of Subsection A of Section 22-11-34 NMSA 1978; plus

(2) two percent of the member's average annual salary multiplied by the number of years of service credit for:

(a) contributory employment;

(b) allowed service credit for service performed after July 1, 1957; and

(c) United States military service credit for service performed prior to July 1, 1957 and

purchased pursuant to Paragraph (3) of Subsection A of Section 22-11-34 NMSA 1978.

F. Retirement benefits for a member age sixty or over, retired pursuant to the Educational Retirement Act on or after July 1, 1987 but not later than June 30, 1991, shall be paid monthly and shall be one-twelfth of a sum equal to two and fifteen-hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that this subsection shall not apply to any member who was retired in any of the four quarters ending on June 30, 1987 without having accumulated not less than 1.0 years earned service credit after June 30, 1987.

G. Except as provided in Subsection H of this section, retirement benefits for a member age sixty or over, retired pursuant to the Educational Retirement Act on or after July 1, 1991, shall be paid monthly and shall be one-twelfth of a sum equal to two and thirty-five hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that this subsection shall not apply to any member who was retired in any of the four consecutive quarters ending on June 30, 1991 without having accumulated at least one year earned service credit beginning on or after July 1, 1991.

H. Retirement benefits for a member age sixty or

over, retired pursuant to the Educational Retirement Act on or after July 1, 2004, shall be paid monthly and shall be:

(1) for a member whose total service credit is equal to or greater than twenty-six years but less than twenty-seven years, one-twelfth of a sum equal to two and thirty-eight hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that this subsection shall not apply to any member who was retired in any of the four consecutive quarters ending on June 30, 2004 without having accumulated at least one year earned service credit beginning on or after July 1, 2003;

(2) for a member whose total service credit is equal to or greater than twenty-seven years but less than twenty-eight years, one-twelfth of a sum equal to two and forty-one hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that this subsection shall not apply to any member who was retired in any of the four consecutive quarters ending on June 30, 2004 without having accumulated at least one year earned service credit beginning on or after July 1, 2003;

(3) for a member whose total service credit is equal to or greater than twenty-eight years but less than twenty-nine years, one-twelfth of a sum equal to two and forty-four hundredths percent of the member's average annual

salary multiplied by the number of years of the member's total service credit; provided that this subsection shall not apply to any member who was retired in any of the four consecutive quarters ending on June 30, 2004 without having accumulated at least one year earned service credit beginning on or after July 1, 2003;

(4) for a member whose total service credit is equal to or greater than twenty-nine years but less than thirty years, one-twelfth of a sum equal to two and forty-seven hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that this subsection shall not apply to any member who was retired in any of the four consecutive quarters ending on June 30, 2004 without having accumulated at least one year earned service credit beginning on or after July 1, 2003; or

(5) for a member whose total service credit is thirty years or greater, one-twelfth of a sum equal to two and one-half percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that this subsection shall not apply to any member who was retired in any of the four consecutive quarters ending on June 30, 2004 without having accumulated at least one year earned service credit beginning on or after July 1, 2003.

I. A member's average annual salary, pursuant to

this section, shall be computed on the basis of the last five years for which contribution was made or upon the basis of any consecutive five years for which contribution was made by the member, whichever is higher.

J. Unless otherwise required by the provisions of the Internal Revenue Code of 1986, members shall begin receiving retirement benefits by age seventy and six months, or upon termination of employment, whichever occurs later. "

Section 60. A new section of the Educational Retirement Act is enacted to read:

"RETURN TO EMPLOYMENT--BENEFITS CONTINUED--  
ADMINISTRATIVE UNIT CONTRIBUTIONS. --

A. Beginning January 1, 2002 and continuing until January 1, 2012, a retired member may begin employment at a local administrative unit and shall not be required to suspend retirement benefits if the member has not been employed as an employee or independent contractor by a local administrative unit for at least twelve consecutive months from the date of retirement to the commencement of employment or reemployment with a local administrative unit. If the retired member returns to employment without first completing twelve consecutive months of retirement, the retired member shall remove himself from retirement.

B. A retired member who returns to employment during retirement pursuant to Subsection A of this section is entitled to continue to receive retirement benefits but

is not entitled to acquire service credit or to acquire or purchase service credit in the future for the period of the retired member's reemployment with a local administrative unit.

C. A retired member who returns to employment shall not make contributions to the fund as specified in the Educational Retirement Act; however, the administrative unit's contributions as specified in that act shall be paid to the fund as if the retired member was a non-retired employee. "

Section 61. Section 22-12-3 NMSA 1978 (being Laws 1971, Chapter 238, Section 1, as amended) is amended to read:

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

Section 62. A new Section 22-13C-1 NMSA 1978 is enacted to read:

"22-13C-1. SHORT TITLE. -- Chapter 22, Article 13C NMSA 1978 may be cited as the "Probationary School Intervention

Act". "

Section 63. A new Section 22-13C-2 NMSA 1978 is enacted to read:

"22-13C-2. PURPOSE OF ACT. --The purpose of the Probationary School Intervention Act is to provide financial and other assistance to public schools ranked probationary by the state board. "

Section 64. A new Section 22-13C-3 NMSA 1978 is enacted to read:

"22-13C-3. DEFINITIONS. --As used in the Probationary School Intervention Act:

A. "fund" means the probationary school intervention fund;

B. "probationary school" means a public school or school district that has been ranked as probationary by the state; and

C. "program" means the probationary school intervention program. "

Section 65. A new Section 22-13C-4 NMSA 1978 is enacted to read:

"22-13C-4. PROGRAM CREATED-- ADMINISTRATION-- APPLICATION-- PROGRAM APPROVAL. --

A. The "probationary school intervention program" is created. The program shall be administered by the department. The department shall assign personnel from the central office and regional service centers to serve as

mobile assistance teams to provide administrative, classroom, human resource and other assistance to probationary schools as needed and as provided in applications approved by the department.

B. Within ninety days of being notified that it has been ranked probationary, a public school or school district shall submit an improvement plan to the department. In developing the improvement plan, the local superintendent, the president of the local school board and the school principal of a probationary school shall hold a public meeting to inform parents and the public that a public school or the school district has been ranked as probationary. The meeting shall be used to elicit suggestions from parents and the public on how to improve the probationary school. After the public meeting, the school district shall develop the probationary school's improvement plan, and the local school board shall approve the improvement plan before it is submitted to the department. The improvement plan shall be approved by the department within thirty days of its submission.

C. An improvement plan shall include:

- (1) documentation of performance measures in which the probationary school failed to meet standards;
- (2) measurable objectives to indicate the action that will be taken to address failed measures;
- (3) benchmarks to be used to indicate

progress in meeting standards;

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

(5) any other information the probationary school, the local superintendent, the local school board or the department deems necessary.

D. A probationary school may apply to the program for financial or other assistance pursuant to an improvement plan developed by the probationary school. The probationary school shall make application for assistance to the program substantially in the form required by the department. The department shall evaluate applications for assistance and may recommend changes to an application or to an improvement plan if warranted by the final application. The department shall consider innovative methods to assist each probationary school in meeting its improvement plan.

E. The department may assign an assistance team to the probationary school to help implement the improvement plan, as provided in the application. The department shall assign an assistance team to the probationary school if the school has not met objectives or otherwise improved by the end of the first year.

F. If the state superintendent determines that a probationary school has not met the objectives of the improvement plan for two consecutive years, he may take

direct control of the probationary school pursuant to Section 22-2-14 NMSA 1978. If a probationary school has not met the objectives of the improvement plan by the end of the third year, the state superintendent shall take direct control of the probationary school pursuant to Section 22-2-14 NMSA 1978. "

Section 66. Section 22-22-4 NMSA 1978 (being Laws 1972, Chapter 16, Section 4, as amended) is amended to read:

"22-22-4. VARIABLE SCHOOL CALENDAR--REQUEST. --The local school board may operate a public school or the school district under a variable school calendar. The state board shall develop criteria for the establishment of a variable school calendar in a school district. Those criteria shall include a requirement that the local school board demonstrate substantial community support for implementation of the variable school calendar. "

Section 67. Section 22-22-5 NMSA 1978 (being Laws 1972, Chapter 16, Section 5, as amended by Laws 1993, Chapter 24, Section 2 and also by Laws 1993, Chapter 226, Section 49) is amended to read:

"22-22-5. VARIABLE SCHOOL CALENDAR--ACTION BY STATE BOARD. --The state board may suspend or modify existing rules pertaining to school district operations upon recommendation of the state superintendent when those rules prevent or impede the implementation of the Variable School Calendar Act. "

Section 68. Section 22-22-6 NMSA 1978 (being Laws 1972, Chapter 16, Section 6, as amended) is amended to read:

"22-22-6. VARIABLE SCHOOL CALENDAR--EFFECT OF APPROVAL OF REQUEST.--The calendar for a variable school calendar public school or school district shall be in lieu of any other school calendar provided by law, and all requirements for reporting or operating under existing school calendars shall be suspended for the school or school district upon the initiation of operations under a variable school calendar. The public school or school district shall continue to operate under the approved variable school calendar until the local school board discontinues the variable school calendar."

Section 69. A new section of the Public School Code is enacted to read:

"SHORT TITLE.--Sections 70 through 73 of this act may be cited as the "Family and Youth Resource Act"."

Section 70. A new section of the Public School Code is enacted to read:

"ADVISORY COMMITTEE--MEMBERS--MEETINGS--DUTIES.--

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

(1) the state superintendent or his designee;

(2) the secretary of health or his designee;

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

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

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

(a) one representative each from four different local community-based organizations, including faith-based providers, involved with the provision of health or social services to families; and

(b) one superintendent or his designee from a school district in which there are more than two eligible schools.

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

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

D. A majority of the committee constitutes a quorum.

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

F. The department shall staff the committee.

G. The committee shall:

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

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

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

Section 71. A new section of the Public School Code is enacted to read:

"PROGRAMS--PURPOSE--FUNCTIONS.--

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

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

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

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

(2) make referrals to health care and social service providers;

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

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

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

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

(a) counseling, training and placement for employment;

(b) drug and alcohol abuse counseling;

(c) family crisis counseling; and

(d) mental health counseling;

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

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

Section 72. A new section of the Public School Code is enacted to read:

"FAMILY AND YOUTH RESOURCE PROGRAMS--CENTERS--GRANTS--DEPARTMENT DUTIES.--

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

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

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

(2) goals and expected outcomes of the program;

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

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

(5) a workplan and budget for the program,

including staffing requirements and the expected availability of staff;

(6) hours of operation;

(7) strategies for dissemination of information about the program to potential users;

(8) training and professional development plans;

(9) plans to ensure that program participants are not stigmatized for their use of the program;

(10) a physical description of the place in the school or adjacent to the school in which the program will be located;

(11) letters of endorsement and commitment from community agencies and organizations and local governments; and

(12) any other information the department requires.

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

Section 73. TEMPORARY PROVISION-- SCHOOL PERFORMANCE STANDARDS AND ASSESSMENTS COUNCIL-- MEMBERSHIP-- POWERS AND DUTIES. --

A. The "school performance standards and assessments council" is created as a two-year council to

assist the state board of education with school performance standards and assessments in order to accelerate the ongoing development and testing of content standards, benchmarks, performance measures and assessments and the alignment of curricula with the standards, benchmarks, performance measures and assessments.

B. The governor shall appoint nine members to the school performance standards and assessments council who are acknowledged leaders in the fields of education standards and assessments from lists provided by the state department of public education, school board association, superintendents' association and teachers' organizations. The governor shall appoint the chairman of the council, and the council may appoint other officers it deems necessary. Members of the council may receive per diem and mileage as provided in the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance.

C. Staff for the school performance standards and assessments council shall be provided by the state department of public education. The department may contract with experts to assist the council.

D. If the state board of education refuses to adopt educational standards and assessments recommended by the school performance standards and assessments council, the board shall issue a report specifying why the standards and assessments were not adopted.

E. The educational standards, benchmarks and performance measures shall address:

(1) core academic achievement, which requires every student to develop competency in specified academic disciplines. Academic standards shall be in the following areas:

- (a) language arts;
- (b) mathematics;
- (c) science;
- (d) social studies;
- (e) arts and the humanities;
- (f) health and physical education; and
- (g) world languages; and

(2) competencies that assist students to integrate and use the following skills and resources with the knowledge, information and training provided by and acquired from academic disciplines and through the experiences of their daily lives:

- (a) communication;
- (b) technology;
- (c) reasoning and problem solving;
- (d) citizenship and service;
- (e) multicultural competence; and
- (f) workplace and educational

preparedness.

F. The school performance standards and

assessments council shall assist the state board of education to accelerate the ongoing development of the state's assessment program that measures the actual performance and achievement of students and public schools in the core academic disciplines and evaluates that achievement in other competencies.

Section 74. TEMPORARY PROVISION-- EDUCATION REGULATION REVIEW TASK FORCE CREATED-- MEMBERSHIP-- POWERS AND DUTIES. --

A. The "education regulation review task force" is created. The task force shall function from the date of the appointment of its members until December 31, 2002.

B. The education regulation review task force shall be composed of twelve members appointed as follows:

(1) four members shall be principals, four members shall be teachers from New Mexico public schools, one member shall be a school district support person and one member shall be a school-related paraprofessional. The New Mexico legislative council shall appoint five members, including two principals, two teachers and one school-related paraprofessional, and the governor shall appoint five members, including two principals, two teachers and one school district support person; and

(2) one member shall represent the state department of public education and one member shall represent local superintendents, both of whom shall be appointed by the superintendent of public instruction.

C. A vacancy on the education regulation review task force shall be filled by appointment by the appointing authority of the original member. All members of the task force shall be appointed by July 31, 2001 and shall represent the geographic and cultural diversity of the state.

D. Members of the education regulation review task force shall select a chairman and may select other officers as they deem necessary. The state department of public education shall staff the task force.

E. Members of the education regulation review task force may receive reimbursement pursuant to the Per Diem and Mileage Act and shall receive no other perquisite, compensation or allowance.

F. The education regulation review task force shall conduct a review of the state statutes and rules governing primary and secondary education in New Mexico to identify those statutes and rules that unnecessarily burden administrators and teachers at school sites and that prevent them from effectively performing their roles as instructional leaders and educators.

G. The education regulation review task force shall present its findings and recommendations no later than October 31, 2002 to the state board of education, the governor and the legislative education study committee for further action in eliminating the identified statutes and

rules that are found to be unnecessary and burdensome.

Section 75. TEMPORARY PROVISION--DISTANCE LEARNING CAPABILITY.--The commission on higher education and the state department of public education shall inventory the current distance learning capability of public post-secondary educational institutions and prepare a statewide plan for the delivery by post-secondary educational institutions of distance education courses for teachers and other licensed school employees in reading instruction for kindergarten through third grade and multilingual instruction in elementary and secondary schools. The inventory and plan, including funding recommendations, shall be submitted to the legislative education study committee by October 1, 2002.

Section 76. TEMPORARY PROVISION--INSTRUCTION IN LANGUAGES OTHER THAN ENGLISH--LEGISLATIVE EDUCATION STUDY COMMITTEE AND DEPARTMENT.--The educational initiatives and accountability task force determined that instruction in languages other than English is an important component of elementary and secondary education, and that all students should be given the opportunity to be bilingual or multilingual. The legislative education study committee and the state department of public education shall study the cost of providing instruction in languages other than English at all grade levels and shall make funding recommendations to the second session of the forty-fifth

legislature.

**Section 77. TEMPORARY PROVISION-- PERFORMANCE- BASED BUDGETING-- SCHOOL BUDGETS-- STANDARDS AND TESTING-- REPORTS. --**

A. In conjunction with its ongoing work on performance-based budgeting for the public schools, the legislative finance committee shall study the management techniques of site-based management and determine if public schools should be given greater discretion to shape their individual budgets. The committee shall report its findings to the second session of the forty-fifth legislature.

B. The state department of public education shall keep the legislative education study committee apprised of the status of implementation of the performance-based budgeting process in the public schools.

C. The state department of public education shall report to the legislature by November of each year on the progress of the development and implementation of the standards and performance benchmarks and the progress on the development and implementation of criterion-referenced tests.

**Section 78. TEMPORARY PROVISION-- VOLUNTARY TEACHER INCENTIVE PAY PILOT PROGRAM --**

A. The "voluntary teacher incentive pay pilot program" is created under the state board of education. The program shall operate for the 2001-2002 through 2003-2004 school years. The purpose of the pilot program is to

determine if providing incentive pay to teachers who demonstrate teaching effectiveness or who acquire advanced skills in best teaching practice will improve the academic achievement of students in selected schools. The pilot program is voluntary and shall include a program evaluation component. The teacher incentive pay advisory committee and the state department of public education shall provide periodic reports to the appropriate legislative interim committees and shall provide a final report to the legislature.

B. The governor, the speaker of the house of representatives and the president pro tempore of the senate shall name a "teacher incentive pay advisory committee" to make recommendations to the state board of education on the design and implementation of a voluntary teacher incentive pay pilot program, including a requirement that for a school to participate, at least seventy percent of its teachers must agree to participate. A value-added assessment methodology shall be used to determine teaching effectiveness compared to student academic achievement.

C. If the number of teachers at volunteer schools exceeds the available funding, the state board of education shall select through a lottery process enough participants to use available funding.

D. Voluntary teacher incentive pay shall be provided as follows:

(1) four hundred dollars (\$400) to all teachers in those participating public schools that are in the top ten percent of improving probationary schools as ranked in accordance with the Incentives for School Improvement Act and based on the annual tests of students administered by districts as required by Section 22-1-6 NMSA 1978;

(2) two thousand five hundred dollars (\$2,500) to teachers who meet the teaching effectiveness criteria as assessed by their students' test scores as shown on pre- and post-criterion-referenced or terra nova norm-referenced tests as assessed by the value-added methodology as determined by the teacher incentive pay advisory committee; and

(3) a one-time incentive of three thousand dollars (\$3,000) for teachers who have received national board for professional teaching standards certification or for teachers who otherwise meet standards of best teaching practice as determined by criteria established by the teacher incentive pay advisory committee.

E. Implementation of the pilot program is contingent on funding.

Section 79. TEMPORARY PROVISION--INITIAL REGIONAL SERVICE CENTERS--DEPARTMENT DECENTRALIZATION.--

A. At least three regional service centers shall be operating by July 1, 2005. The superintendent of public

instruction shall create one regional service center in the northwest region of the state and shall convert two existing regional educational cooperatives into regional service centers. The superintendent of public instruction may change the regional boundaries of the converted regional service centers.

B. The state department of public education shall conduct an in-depth analysis of department functions, positions and resources that should be moved to regional service centers and develop a plan, including a time schedule, for the orderly transition of those functions, positions and resources. The department shall provide periodic and annual reports to the legislative education study committee and any other appropriate legislative committee on the development and progress of its decentralization plan, the balance of employees between the department and the regional service centers and information on services provided by the regional service centers.

**Section 80. TEMPORARY PROVISION--TRANSFER OF REGIONAL EDUCATION COOPERATIVES' APPROPRIATIONS, PROPERTY AND AGREEMENTS--DISPOSITION OF REGIONAL CENTER COOPERATIVES' PROPERTY.--**

A. As the superintendent of public instruction converts regional education cooperatives to regional service centers, personnel, appropriations, money, records, furniture, equipment and other property of a regional

education cooperative shall be transferred to the regional service center that replaces the regional education cooperative. Contractual obligations of the regional education cooperative shall be contractual obligations of the regional service center.

B. When the superintendent of public instruction creates a regional service center in a region that has a regional center cooperative, the school districts that participated in the regional center cooperative shall disband the regional center cooperative. The school districts shall provide for the disposition of money, records, furniture, equipment and other property either as provided in the joint powers agreement that created the regional center cooperative or by transferring the property to the state department of public education.

Section 81. TEMPORARY PROVISION--FUNDING CONTINGENCY. -  
-It is the intent of the legislature that the provisions of this act be implemented. If funding is less than that required for full implementation of a provision, the department shall devise a plan to implement the provision in stages until full funding is available.

Section 82. TEMPORARY PROVISION--CRITERION-REFERENCED TESTING.--It is the intent of the legislature that the state department of public education use the most educationally effective and cost-effective criterion-referenced test available. The department shall compare the educational and

fiscal merits of purchasing criterion-referenced tests and customizing them for New Mexico or developing New Mexico-specific tests.

Section 83. RECOMPILATION. --

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

B. Sections 22-10-2, 22-10-3.3, 22-10-3.4, 22-10-4, 22-10-4.1, 22-10-10 and 22-10-23 through 22-10-27 NMSA 1978 (being Laws 1975, Chapter 306, Section 2, Laws 1997, Chapter 238, Sections 1 and 2, Laws 1967, Chapter 16, Section 107, Laws 1997, Chapter 238, Section 6, Laws 1967, Chapter 16, Section 112, Laws 1969, Chapter 116, Sections 1, 3 and 4, Laws 1969, Chapter 119, Section 5 and Laws 1994, Chapter 95, Section 1, as amended) are recompiled as Section 22-10A-2 and Sections 22-10A-30 through 22-10A-39 NMSA 1978.

C. Sections 22A-1-1 through 22A-1-5 NMSA 1978 (being Laws 1989, Chapter 113, Sections 1 through 5) are recompiled as Sections 22-12A-1 through 22-12A-5 NMSA 1978.

Section 84. REPEAL. -- Sections 22-2-7, 22-10-3, 22-10-3.1, 22-10-3.5, 22-10-3.6 and 22-10-5 through 22-10-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 10, Laws 1975, Chapter 306, Section 3, Laws 1986, Chapter 33, Section 18, Laws 1999, Chapter 249, Sections 1 and 2, Laws 1967, Chapter 16, Section 108, Laws 1973, Chapter 135, Section 1

and Laws 1967, Chapter 16, Sections 109 through 111, as amended) are repealed.

Section 85. DELAYED REPEAL. -- Sections 22-2B-1 through 22-2B-6 NMSA 1978 (being Laws 1993, Chapter 232, Sections 1 through 6) are repealed effective July 1, 2007.

Section 86. DELAYED REPEAL. -- Sections 22-10-12, 22-10-14, 22-10-14.1 and 22-10-17.1 NMSA 1978 (being Laws 1967, Chapter 16, Sections 114 and 116 and Laws 1986, Chapter 33, Sections 23 and 25, as amended) are repealed effective April 15, 2002.

Section 87. DELAYED EFFECTIVE DATE. -- The effective date of the provisions of Sections 51 through 56 of this act is April 15, 2002.

Section 88. EMERGENCY. -- It is necessary for the public peace, health and safety that this act take effect immediately. \_\_\_\_\_