

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR
SENATE BILLS 308, 373 & 485

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

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 RETIREES;
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,

1 Chapter 16, Section 1, as amended) is amended to read:

2 "22-1-1. PUBLIC SCHOOL CODE. -- Chapter [~~77-NMSA-1953~~] 22
3 NMSA 1978 may be cited as the "Public School Code". "

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

6 "22-1-1.2. [NEW MATERIAL] LEGISLATIVE FINDINGS AND
7 PURPOSE. --

8 A. The legislature finds that no education system
9 can be sufficient for the education of all children unless it
10 is founded on the sound principle that every child can learn
11 and succeed, and the system must meet the needs of all children
12 by recognizing that student success for every child is the
13 fundamental goal.

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

21 C. The legislature finds further that the teacher
22 shortage in this country has affected the ability of New Mexico
23 to compete for the best teachers, and that unless the state and
24 school districts find ways to mentor beginning teachers,
25

1 intervene with teachers while they still show promise, improve
2 the job satisfaction of quality teachers and elevate the
3 teaching profession by shifting to a professional educator
4 licensing and salary system, schools will be unable to recruit
5 and retain the highest quality teachers in the teaching
6 profession in New Mexico.

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

11 (1) students who do not meet or exceed
12 expectations will be given individual attention and assistance
13 through extended learning programs and individualized tutoring;

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

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

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

22 F. The legislature finds further that the public
23 school governance structure needs to change to provide
24 accountability from the bottom up instead of from the top down.

1 Each school principal, with the help of school councils made up
2 of parents and teachers, must be the instructional leader in
3 the school, motivating and holding accountable both teachers
4 and students. Each local superintendent must function as the
5 school district's chief executive officer and have
6 responsibility for the day-to-day operations of the school
7 district, including personnel and student disciplinary
8 decisions. Local school boards, which do not serve full time,
9 need to focus on educational policy for the school district and
10 need to be relieved of personnel and student disciplinary
11 decisions. Many department of education duties need to devolve
12 to regional service centers so that state technical assistance
13 and some accountability functions may be closer to the school
14 districts, thus offering more immediate help in improving
15 performance and efficiency.

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

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

22 "22-1-2. [NEW MATERIAL] DEFINITIONS. --As used in the
23 Public School Code:

24 A. "commercial advertiser" means a person who
25

1 advertises a product or service for profit or not for profit
2 and has a permitted advertisement;

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

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

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

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

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

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

25 . 138154. 2

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

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

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

9 K. "public school" means that part of a school
10 district that is a single attendance center where instruction
11 is offered by one or more teachers and is discernible as a
12 building or group of buildings generally recognized as either
13 an elementary, middle, junior high or high school or any
14 combination of those;

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

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

21 N. "school-age person" means a person who is at
22 least five years of age prior to 12:01 a.m. on September 1 of
23 the school year and who has not received a high school diploma
24 or its equivalent. A maximum age of twenty-one shall be used
25

1 for a person who is classified as special education membership
2 as defined in Section 22-8-2 NMSA 1978 or as a resident of a
3 state institution;

4 O. "school building" means a public school, an
5 administration building and related school structures or
6 facilities, including teacher housing, that is owned, acquired
7 or constructed by the school district as necessary to carry out
8 the functions of the school district;

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

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

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

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

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

23 U. "state agency" or "state institution" means the
24 New Mexico military institute, New Mexico school for the
25

1 visually handicapped, New Mexico school for the deaf, New
2 Mexico boys' school, girls' welfare home, New Mexico youth
3 diagnostic and development center, Sequoyah adolescent
4 treatment center, Carrie Tingley crippled children's hospital,
5 Las Vegas medical center and any other state agency responsible
6 for educating resident children;

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

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

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

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

16 Z. "teacher" means a person who holds a level one,
17 two or three-A license and whose primary duty is classroom
18 instruction or the supervision, below the school principal
19 level, of an instructional program;

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

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

24 CC. "consolidated school district" means a school
25

1 district created by order of the state board through the
2 consolidation of one or more existing school districts; and

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

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

9 "22-1-6. TESTS AND ASSESSMENTS--ANNUAL SCHOOL DISTRICT
10 ACCOUNTABILITY REPORT REQUIRED.--

11 A. School districts [~~shall be~~] are required to
12 publish an annual school district accountability report to
13 provide district-wide data for the previous school year. The
14 state board shall establish the format for the accountability
15 reports and ensure that the relevant data is provided annually
16 to parents, students, educators, policymakers, legislators, the
17 governor and business and economic development organizations.
18 The department [~~of education~~] shall establish the following
19 [~~five~~] six indices through which public school performance
20 shall be measured and reported to school districts:

21 (1) student achievement as measured by a
22 nationally norm-referenced test approved by the department [~~of~~
23 ~~education or~~] and a criterion-referenced test and through a
24 performance-based instrument to measure proficiency;

25 . 138154. 2

- 1 (2) school safety;
- 2 (3) the dropout rate;
- 3 (4) the graduation rate;
- 4 [~~4~~] (5) attendance; and
- 5 [~~5~~] (6) parent and community involvement.

6 The department [~~of education~~] shall establish the
7 methodology for measuring each of the [~~five~~] six indices.

8 B. [~~Effective July 1, 1999~~] School districts shall
9 annually administer a developmentally appropriate nationally
10 norm-referenced test, criterion-referenced test or [a
11 ~~standards-based~~] performance-based assessment to all students
12 enrolled in [a] public [~~school in grades three through nine.~~
13 ~~only~~] schools. Students with disabilities deemed incapable of
14 taking the test as determined on their individual educational
15 [~~program~~] programs shall [~~be exempted from this requirement~~]
16 participate in the state's alternate assessment.

17 [~~Additionally~~] Students who have been assessed as non-English
18 or [~~limited English proficient~~] English language learner using
19 state-approved language assessments and meeting required
20 thresholds shall be exempted from this test and provided an
21 alternative norm-referenced test, criterion-referenced test or
22 [~~standards-based~~] performance-based assessment in their primary
23 language. School districts shall report the following to the
24 department [~~of education~~]:

1 (1) the results of the norm-referenced test,
 2 criterion-referenced test or [~~standards-based~~] performance-
 3 based assessment;

4 (2) the results of the writing assessment;

5 [~~(2)~~] (3) the number of enrolled students who
 6 did not take the test, the school in which they are enrolled
 7 and the reason for [~~the exemption from~~] not participating
 8 in the test; and

9 [~~(3)~~] (4) separately and as part of the
 10 aggregate report, the results of assessments of students
 11 enrolled in special education class A, B, C and D programs who
 12 took the test and the school in which they are enrolled, except
 13 in cases where the number of students being reported is less
 14 than ten.

15 C. School districts shall set two-, four- and six-
 16 year benchmarks in each of the [~~five~~] six indices for each
 17 public school. Local school boards may establish additional
 18 indices, if reviewed by the department [~~of education~~], through
 19 which to measure the school district's performance in other
 20 areas.

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

25 . 138154. 2

- 1 (1) algebra 1;
- 2 (2) geometry;
- 3 (3) English 10;
- 4 (4) United States history; and
- 5 (5) biology.

6 ~~[D.]~~ E. The annual accountability report shall also
7 include the results of a survey of parents' views of the
8 quality of their children's school. The survey shall be
9 conducted each year in time to include the results in the
10 annual accountability report. The survey shall compile the
11 results of a written questionnaire that shall be sent home with
12 the students to be given to their parents. The survey may be
13 completed anonymously. The survey shall be no more than one
14 page, shall be clearly and concisely written and shall include
15 not more than twenty questions that shall be answered with
16 options of a simple sliding scale ranging from "strongly agree"
17 to "strongly disagree" and shall include the optional response
18 "don't know". The survey shall also include a request for
19 optional written comments, which may be written on the back of
20 the questionnaire form. The questionnaire shall include
21 questions in the following areas:

- 22 (1) parent-teacher-school relationship and
23 communication;
- 24 (2) quality of educational and extracurricular

underscoring material = new
[bracketed material] = delete

1 programs;

2 (3) instructional practices and techniques;

3 (4) resources;

4 (5) school personnel, including the school
5 principal; and

6 (6) parents' view of teaching staff
7 expectations for the students.

8 F. The state board shall develop no more than ten
9 of the survey questions, which shall be reviewed by the
10 legislative education study committee prior to implementation.
11 No more than five survey questions shall be developed by the
12 local school board, and no more than five survey questions
13 shall be developed by the staffs of each [~~individual~~] public
14 school [~~site~~]; provided that at least [~~half~~] one-half of those
15 questions [~~are~~] shall be developed by teachers rather than
16 school administrators, in order to gather information that is
17 specific to the particular community surveyed. The
18 questionnaires shall indicate the public school site and shall
19 be tabulated by the department [~~of education~~] within thirty
20 days of receipt and shall be returned to the respective schools
21 to be disseminated to all parents.

22 [~~E.-~~] G. The annual accountability report for each
23 school district shall be adopted by the local school board, may
24 be published no later than November 15 of each year and may be
25

. 138154. 2

1 published at least once each school year in a newspaper of
2 general circulation in the county where the school district is
3 located. In publication, the report shall be titled "The
4 School District Report Card" and disseminated in accordance
5 with guidelines established by the state board to ensure
6 effective communication with parents, students, educators,
7 local policymakers and business and community organizations.

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

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

14 [~~F.~~] J. The department [~~of education~~] shall create
15 an accountability data system through which data from each
16 public school and each school district may be compiled and
17 reviewed. The department [~~of education~~] shall provide the
18 resources to train school district personnel in the use of the
19 accountability data system.

20 [~~G.~~] K. The department [~~of education~~] shall verify
21 data submitted by the school districts.

22 [~~H.~~] L. The state board shall measure the
23 performance of every public school in New Mexico. Public
24 schools achieving the highest level of performance shall be
25

1 eligible for supplemental incentive funding. The state board
 2 shall establish the corrective actions and interventions
 3 necessary for public schools whose performance level is low.

4 ~~[I. Appropriation is contingent upon inclusion of~~
 5 ~~one million four hundred thirty-three thousand dollars~~
 6 ~~(\$1,433,000) in the general appropriation act to meet the~~
 7 ~~provisions of this act.]~~

8 M At the end of fiscal year 2003, after the budget
 9 approval cycle, the department shall produce a report to the
 10 legislature that shows for all districts using performance-
 11 based program budgeting the relationship between that portion
 12 of a school district's program cost generated by each public
 13 school in the school district and the budgeted expenditures for
 14 each public school in the school district as reported in the
 15 district's performance-based program budget. At the end of
 16 fiscal year 2004 and subsequent fiscal years, after the budget
 17 approval cycle, the department shall report on this
 18 relationship in all public schools in all school districts in
 19 the state.

20 N. When all schools are participating in
 21 performance-based budgeting, the department shall recommend
 22 annually to the legislature for inclusion in the general
 23 appropriation act the maximum percentage of appropriations that
 24 may be expended in each school district for central office
 25

. 138154. 2

1 administration."

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

4 "22-1-7. PUBLIC SCHOOLS-- VIOLENCE-- VANDALISM-- REPORTING. -

5 -
6 A. ~~[Any public]~~ A school administrator, teacher or
7 other school employee ~~[of a local school board]~~ who observes or
8 has direct knowledge from a participant or victim of an act of
9 violence upon a ~~[public]~~ school administrator, teacher or other
10 school employee of a local school board in the lawful discharge
11 of his duties or vandalism to public school property shall file
12 a report with the local superintendent describing the incident
13 pursuant to procedures established by the ~~[state]~~ department
14 ~~[of public education]~~.

15 B. ~~[Any]~~ A person who files an incident report
16 pursuant to this section shall not be discriminated against in
17 any manner or discharged by a local ~~[school board]~~
18 superintendent because he has filed that report.

19 C. The ~~[state]~~ department ~~[of public education]~~
20 shall establish uniform reporting procedures for incidents of
21 violence or vandalism described in Subsection A of this
22 section. The procedures shall include requirements for:

23 (1) incidents to be reported, incident
24 description and report on action taken in response to the
25

1 reported incident;

2 (2) annual reports by local [~~school~~]
3 superintendents of all reported incidents [~~to local school~~
4 ~~boards~~];

5 (3) annual reports by local school boards of
6 all reported incidents to the state superintendent [~~of public~~
7 ~~instruction~~]; and

8 (4) annual reports by the state superintendent
9 [~~of public instruction~~] of all reported incidents to the state
10 board [~~of education~~]. The report filed with [~~that~~] the state
11 board shall be summarized and submitted to an appropriate
12 interim committee of the legislature with recommendations to
13 decrease the incidence of violence and vandalism in the public
14 schools. "

15 Section 6. A new section of Chapter 22, Article 1 NMSA
16 1978 is enacted to read:

17 "[NEW MATERIAL] ADVISORY SCHOOL COUNCILS-- CREATION--
18 DUTIES. --

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

23 B. A school council shall be created and its
24 membership elected for in accordance with local school board

25 . 138154. 2

underscored material = new
[bracketed material] = del ete

1 rule. School council membership shall reflect an equitable
2 balance between school employees and parents and community
3 members. At least one community member shall represent the
4 business community, if such person is available. The school
5 principal may serve as chairman. The school principal shall be
6 an active member of the school council.

7 C. The school council shall:

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

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

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

18 (4) serve as the champion for students in
19 building community support for schools and encouraging greater
20 community participation in the public schools. "

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

23 "22-2-2. STATE BOARD--DUTIES. --Without limiting those
24 powers granted to the state board pursuant to Section 22-2-1
25

1 NMSA 1978, the state board shall perform the following duties:

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

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

10 C. appoint a state superintendent;

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

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

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

20 G. determine the qualifications for and issue a
21 ~~[certificate]~~ license to ~~[any person teaching, assisting~~
22 ~~teachers, supervising an instructional program, counseling,~~
23 ~~providing special instructional services or administering in~~
24 ~~public schools]~~ teachers, instructional support providers and
25

1 school administrators according to law and according to a
2 system of classification adopted and published by the state
3 board;

4 H. suspend or revoke a [~~certificate held by a~~
5 ~~certified school instructor or certified school administrator~~]
6 license according to law for incompetency, immorality or any
7 other good and just cause;

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

10 J. prescribe courses of instruction, requirements
11 for graduation and standards for all public schools, for
12 private schools seeking state accreditation and for the
13 educational programs conducted in state institutions other than
14 the New Mexico military institute;

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

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

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

23 N. require [~~any~~] a public school under its
24 jurisdiction that sponsors athletic programs [~~involving sports~~]

1 to mandate that the participating student obtain catastrophic
 2 health and accident insurance coverage, such coverage to be
 3 offered through the school and issued by an insurance company
 4 duly licensed pursuant to the laws of New Mexico;

5 O. require all accrediting agencies for public
 6 schools in the state to act with its approval;

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

11 Q. require prior approval for [~~any~~] an educational
 12 program in a public school that is to be conducted, sponsored,
 13 carried on or caused to be carried on by a private organization
 14 or agency;

15 R. approve or disapprove all rules promulgated by
 16 [~~any~~] an association or organization attempting to regulate
 17 [~~any~~] a public school activity and invalidate any rule in
 18 conflict with [~~any~~] a rule promulgated by the state board. The
 19 state board shall require [~~any~~] an association or organization
 20 attempting to regulate [~~any~~] a public school activity to comply
 21 with the provisions of the Open Meetings Act and be subject to
 22 the inspection of the Public Records Act. The state board may
 23 require performance and financial audits of [~~any~~] an
 24 association or organization attempting to regulate [~~any~~] a
 25

. 138154. 2

1 public school activity. The state board shall have no power or
2 control over the rules or the bylaws governing the
3 administration of the internal organization of the association
4 or organization;

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

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

12 ~~[U. establish and maintain regional centers at its~~
13 ~~discretion, for conducting cooperative services between public~~
14 ~~schools and school districts within and among those regions and~~
15 ~~to facilitate regulation and evaluation of school programs;~~

16 V.] U. assess and evaluate public schools for
17 accreditation purposes ~~[at least one third of all public~~
18 ~~schools each year through visits by department of education~~
19 ~~personnel to investigate] to determine the adequacy of [pupit]
20 student gain in standard required subject matter, adequacy of
21 [pupit] student activities, functional feasibility of public
22 school and school district organization, adequacy of staff
23 preparation and other matters bearing upon the education of the
24 students;~~

1 ~~[W.]~~ V. provide for management and other necessary
 2 personnel to operate ~~[any]~~ a public school or school district
 3 that has failed to meet requirements of law, state board
 4 standards or state board rules; provided that the operation of
 5 the public school or school district shall not include any
 6 consolidation ~~[or reorganization]~~ without the approval of the
 7 local school board ~~[of that school district]~~. Until such time
 8 as requirements of law, standards or rules have been met and
 9 compliance is assured, the powers and duties of the local
 10 school board shall be suspended;

11 ~~[X.]~~ W. establish and implement a plan that
 12 provides for technical assistance to local school boards
 13 through workshops and other in-service training methods;
 14 ~~[provided, however, that no plan shall require mandatory~~
 15 ~~attendance by any member of a local school board;~~

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

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

23 ~~[AA.]~~ Z. develop a systemic framework for
 24 professional development that provides training to ensure
 25

1 quality teachers and school principals and that improves and
2 enhances student achievement. The state board shall work with
3 [~~public~~] school [~~educators~~] employees, the commission on higher
4 education and institutions of higher education to establish the
5 framework. The framework shall include:

6 (1) the criteria for school districts to apply
7 for professional development funds, including an evaluation
8 component that will be used by the department [~~of education~~] in
9 approving local school district professional development plans;
10 and

11 (2) guidelines for developing extensive
12 professional development activities for school districts,
13 including teaching strategies, curriculum materials, distance
14 learning networks and web sites, to ensure that the state
15 board's rules pertaining to content standards and benchmarks
16 are used by New Mexico teachers. "

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

19 "22-2-6. DEPARTMENT [~~OF EDUCATION~~]- - DUTIES. - - Subject to
20 the policies of the state board and the supervision and
21 direction of the state superintendent, the department [~~of~~
22 ~~education~~] shall have the following duties:

23 A. supervise all schools and school officials
24 coming under the jurisdiction of the state board, including
25

1 taking over the control and management of a public school or
2 school district that has failed to meet requirements of law or
3 state board rules or standards;

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

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

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

12 E. keep accurate records of all money received by
13 the state superintendent or the department [~~of education~~];

14 F. publish and distribute copies of the Public
15 School Code and [~~regulations~~] rules promulgated by the state
16 board to local school boards in the state;

17 G. confer with local school boards and [~~certified~~
18 ~~school personnel~~] licensed school employees on matters
19 concerning education in the state;

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

22 I. evaluate all educational programs in state
23 institutions under the authority of the secretary of [~~the~~
24 health [~~and environment department~~]. "

25 . 138154. 2

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

3 "22-2-6.11. READING INITIATIVE--DESIGN.--

4 A. The [state] department [~~of public education~~]
5 shall design and implement a statewide reading initiative to
6 improve reading proficiency in the state. The design of the
7 reading initiative shall be based [~~upon~~] on quality, research-
8 based reading programs shown to improve reading proficiency and
9 shall include the following:

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

12 (2) appropriate professional staff development
13 to assist [~~classroom-certified instructional staff~~] licensed
14 school employees in the instruction of reading [~~programs~~];

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

17 (4) rewards provided to [~~certified school~~]
18 [~~instructors~~] teachers and other applicable licensed school
19 employees in schools that improve student reading proficiency.

20 B. The [state] department [~~of public education~~]
21 shall use national experts to work with [~~the department~~] it to
22 develop an immediate reading initiative and a long-term plan
23 for sustained reading improvement.

24 C. The [state] department [~~of public education~~]
25

1 shall involve [~~local~~] school district personnel, especially
2 [~~certified~~] licensed elementary reading specialists, parents
3 and other interested persons in the design of the reading
4 initiative. "

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

7 "22-2-8. EDUCATIONAL CONTENT AND PERFORMANCE STANDARDS. --

8 The state board shall prescribe minimum educational content and
9 performance standards for all public schools in the state. A
10 copy of these [~~educational~~] standards shall be furnished by the
11 department [~~of education~~] to each local school board, local
12 superintendent and school principal. The [~~educational~~]
13 standards shall include minimum standards for the following
14 areas:

- 15 A. curriculum, including content standards and
16 benchmarks;
- 17 B. organization and administration of education;
- 18 C. the keeping of records, other than financial
19 records prescribed by the [~~chief~~] state superintendent;
- 20 D. membership accounting;
- 21 E. teacher preparation;
- 22 F. the physical condition of public school
23 buildings and grounds; and
- 24 G. educational facilities of public schools,
- 25

1 including laboratories and libraries. "

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

4 "22-2-8.2. STAFFING PATTERNS-- CLASS LOAD-- TEACHING
5 LOAD. --

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

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

17 C. [~~Effective with the 1994-95 school year~~] The
18 average class load for an elementary school teacher at an
19 individual school shall not exceed twenty-four students when
20 averaged among grades four, five and six.

21 D. The daily teaching load per teacher for grades
22 seven through twelve shall not exceed one hundred sixty
23 students, except the daily teaching load for teachers of
24 required English courses in grades seven and eight shall not
25

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

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

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

20 [~~F-~~] G. The state superintendent may waive the
21 individual school class load requirements established in this
22 section. Waivers shall be applied for annually and a waiver
23 shall not be granted for more than two consecutive years.
24 Waivers may only be granted if a school district demonstrates:
25

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

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

21 [~~H-~~] I. Each school district shall report to the
22 department [~~of education~~] the size and composition of classes
23 subsequent to the fortieth day and the December 1 count.
24 Failure to meet class load requirements within two years shall
25

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

3 ~~[F.]~~ J. The department ~~[of education]~~ shall report
4 to the legislative education study committee by November 30 of
5 each year regarding each school district's ability to meet
6 class load requirements imposed by law.

7 ~~[J.]~~ K. Notwithstanding the provisions of
8 Subsection ~~[F]~~ G of this section, the state board may waive the
9 individual class load and teaching load requirements
10 established in this section upon a demonstration of a viable
11 alternative curricular plan and a finding by the state ~~[board]~~
12 superintendent that the plan is in the best interest of the
13 school district and that, on an annual basis, the plan has been
14 presented to and is supported by the affected ~~[teaching staff]~~
15 teachers. The department ~~[of education]~~ shall evaluate the
16 impact of each alternative curricular plan annually. Annual
17 reports shall be made to the legislative education study
18 committee.

19 ~~[K. Effective with the 1987-88 school year,~~
20 ~~certified school instructors]~~

21 L. Teachers shall not be required to perform
22 noninstructional duties except in emergency situations as
23 defined by the state board. For purposes of this subsection,
24 "noninstructional duties" means noon hall duty, noon ground
25

1 duty and noon cafeteria duty."

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

4 "22-2-8.3. SUBJECT AREAS--MINIMUM INSTRUCTIONAL AREAS
5 REQUIRED--ACCREDITATION.--

6 A. The state board shall require [~~instruction~~]
7 public schools to address state board-approved content
8 standards, benchmarks and performance standards when
9 instructing in specific state board-required subject areas as
10 provided in Subsections B through [~~F~~] E of this section. [~~Any~~]
11 A public school or school district failing to meet these
12 minimum requirements shall not be accredited by the state
13 board.

14 B. All first, [~~and~~] second and third grade classes
15 shall provide daily instruction in language arts skills,
16 including [~~phonics~~] phonemic and phonological skills and
17 mathematics.

18 [~~C. All third grade classes shall provide daily~~
19 ~~instruction in language arts skills and mathematics.~~

20 [~~D. All fourth, fifth and sixth grade classes shall~~
21 ~~provide instruction in language arts skills, with an emphasis~~
22 ~~on writing and editing; mathematics; science; and social~~
23 ~~studies, including geography. The following subject areas~~
24 ~~shall be offered in the remaining instructional time: art;~~
25

1 ~~music; physical education; health; and computer literacy,~~
2 ~~including a general familiarization with computers and support~~
3 ~~in the areas of mathematics and writing through word~~
4 ~~processing.~~

5 ~~E. All seventh grade classes shall provide~~
6 ~~instruction in English, with an emphasis on grammar and~~
7 ~~writing; communication skills or science; New Mexico history~~
8 ~~and geography; mathematics; and physical fitness. Remaining~~
9 ~~instructional time may be used for electives listed in~~
10 ~~Subsection G of this section.~~

11 ~~F. All eighth grade classes shall provide~~
12 ~~instruction in English, mathematics, United States history, and~~
13 ~~science. Remaining instructional time may be used for~~
14 ~~electives listed in Subsection G of this section.~~

15 ~~G. The electives authorized in Subsections E and F~~
16 ~~of this section are art, industrial arts, chorus, band, home~~
17 ~~economics, typing, creative writing, speech, drama, Spanish,~~
18 ~~computer literacy, American sign language and other electives~~
19 ~~approved by the state board.]~~

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

23 D. In fourth through eighth grades, instruction
24 that meets content standards, benchmarks and performance
25

1 standards shall be provided in the following subject areas:

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

5 (2) mathematics;

6 (3) language other than English;

7 (4) communication skills;

8 (5) science;

9 (6) art;

10 (7) music;

11 (8) social studies;

12 (9) New Mexico history;

13 (10) United States history;

14 (11) geography; and

15 (12) physical fitness.

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

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

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

23 A. At the end of the eighth grade or during the
24 ninth grade, each student shall prepare an individual program

1 of study for grades nine through twelve. The program of study
2 shall be signed by a student's parent [~~or guardian~~].

3 B. [~~Beginning with students entering the ninth~~
4 ~~grade in the 1986-87 school year~~] Successful completion of a
5 minimum of twenty-three units shall be required for graduation.
6 These units shall be as follows:

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

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

11 (3) two units in science, one of which shall
12 have a laboratory component; provided, however, that with
13 students entering the ninth grade beginning in the 2001-2002
14 school year, three units in science shall be required, one of
15 which shall have a laboratory component;

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

19 (5) one unit in physical fitness;

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

23 (7) nine elective units [~~Only the following~~
24 ~~elective units shall be counted toward meeting the requirements~~
25

1 ~~for graduation: fine arts, i. e. music, band, chorus and art;~~
2 ~~practical arts; physical education; languages other than~~
3 ~~English; speech; drama; vocational education; mathematics;~~
4 ~~science; English; R. O. T. C.; social science; computer science;~~
5 ~~health education; American sign language; and other electives~~
6 ~~approved by the state board], and eight elective units for~~
7 ~~students entering the ninth grade in the 2001-2002 school year~~
8 ~~that meet state board content standards, benchmarks and~~
9 ~~performance standards. Student service learning shall be~~
10 ~~offered as an elective.~~ With the approval of the local school
11 board, participation on an athletic team or in an athletic
12 sport during the school day may count toward fulfillment of the
13 physical education required unit.

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

16 D. [~~Beginning with students entering the ninth~~
17 ~~grade in the 1986-87 school year, no]~~ A student shall not
18 receive a high school diploma [~~who~~] if he has not passed a
19 state competency examination in the subject areas of [~~reading~~]
20 language arts, writing, English, [math] mathematics, science
21 and social science [~~Beginning with the 1996-97 school year~~].
22 The state competency [~~examinations~~] examination on social
23 science shall include a section on the constitution of the
24 United States and the constitution of New Mexico. If a student
25

1 exits from the school system at the end of grade twelve without
 2 having passed a state competency examination, he shall receive
 3 an appropriate state certificate indicating the number of
 4 credits earned and the grade completed. If within five years
 5 after a student exits from the school system he takes and
 6 passes the state competency examination, he may receive a high
 7 school diploma.

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

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

13 "22-2-8.5. [~~ADDITIONAL STATEWIDE~~] READING ASSESSMENTS AND
 14 WRITING PRODUCTION TESTING--WRITING PORTFOLIO. --

15 A. The state board shall expand the program of
 16 educational accountability established through its educational
 17 standards by adding reading assessments and writing production
 18 tests to its existing uniform statewide system of assessment to
 19 determine [~~pupit~~] student status, progress and degree of
 20 achievement of basic skills and of essential educational
 21 competencies.

22 B. The department [~~of education~~] shall involve
 23 [~~local~~] school district personnel, especially [~~certified~~]
 24 licensed elementary reading specialists, in the development of
 25

underscored material = new
 [bracketed material] = delete

1 methods on a statewide basis to measure student reading
2 performance in order to assist school districts in the
3 assessment of student problem areas in the first and second
4 grades.

5 C. The department [~~of education~~] shall involve
6 [~~local~~] school district personnel, especially [~~certified school~~
7 ~~instructors~~] teachers, in the [~~fourth and sixth grades, in the~~]
8 development or selection of a uniform statewide on-demand
9 writing production test for school districts, which shall be
10 administered in grades four, [~~and~~] six, eight and ten to
11 measure student writing performance in order to assist school
12 districts in the assessment of student problem areas.

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

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

21 "22-2-14. [~~EDUCATION REQUIREMENTS - ENFORCEMENT~~] LOCAL
22 SCHOOL BOARDS--PUBLIC SCHOOLS--SUSPENSION--PROCEDURES. --

23 A. Money budgeted by a school district shall be
24 spent first to attain and maintain the requirements for a
25

1 school district as prescribed by law and by standards and
 2 [~~regulations~~] rules as prescribed by the state board. The
 3 state superintendent shall give written notification to a local
 4 school board, the local superintendent and a school principal,
 5 if applicable, of any failure to meet requirements by any part
 6 of the school district under the control of the local school
 7 board. The notice shall specify the deficiency. Instructional
 8 units or administrative functions may be disapproved for such
 9 deficiencies. The state superintendent shall disapprove
 10 instructional units or administrative functions [~~which~~] that he
 11 determines to be detrimental to the educational process.

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

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

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

20 C. The state board shall suspend from authority and
 21 responsibility [~~any~~] a local school board [~~which~~], local
 22 superintendent or school principal that has had notice of
 23 disapproval and fails to comply with procedures of Subsection B
 24 of this section. The state superintendent shall act in lieu of
 25

1 the suspended local school board, local superintendent or
2 school principal until the state board removes the suspension.

3 D. To suspend a local school board, local
4 superintendent or school principal, the state board shall
5 deliver to the local school board an alternative order of
6 suspension, stating the cause for the suspension and the
7 effective date and time the suspension will begin. The
8 alternative order shall also contain notice of a time, date and
9 place for a public hearing, prior to the beginning of
10 suspension, to be held by the state board, at which the local
11 school board, local superintendent or school principal may
12 appear and show cause why ~~[it should not be suspended]~~
13 suspension should not be put into effect. Within five days
14 after the hearing, the state board shall make permanent, modify
15 or withdraw the alternative order.

16 E. The state superintendent may suspend a local
17 school board, local superintendent or school principal pending
18 a hearing before the state board when the local school board,
19 local superintendent or school principal has been notified of
20 disapproval and when the state superintendent has sufficient
21 reason to believe that the educational process in the school
22 district or public school has been severely impaired or halted
23 as a result of deficiencies so severe as to warrant disapproved
24 status before the question of suspension can be presented to
25

underscored material = new
[bracketed material] = del etc

1 the state board for a hearing.

2 F. The state superintendent, while acting in lieu
 3 of a suspended local school board, local superintendent or
 4 school principal, shall execute all the legal authority of the
 5 local school board, local superintendent or school principal
 6 and assume all the responsibilities of [~~that board~~] the local
 7 school board, local superintendent or school principal.

8 G. The provisions of this section shall be invoked
 9 at any time the state superintendent finds the school district
 10 or public school has failed to attain and maintain the
 11 requirements of law or state board standards and [~~regulations~~]
 12 rules. "

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

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

17 A. Within ten days after suspension, or within a
 18 reasonable time as the suspended local school board, local
 19 superintendent or school principal may request, the state board
 20 shall give a hearing to the local school board, local
 21 superintendent or school principal. At this hearing, the local
 22 school board, local superintendent or school principal may
 23 appear and show cause why the suspension should not be
 24 continued. The [~~state board~~] department employees who

25 . 138154. 2

underscored material = new
 [bracketed material] = delete

1 conducted the evaluations upon which the suspension was based
2 shall appear and give testimony.

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

6 C. [~~Any~~] A local school board, local superintendent
7 or school principal aggrieved by the decision of the state
8 board may appeal to the district court pursuant to the
9 provisions of Section 39-3-1.1 NMSA 1978. "

10 Section 17. Section 22-2-19 NMSA 1978 (being Laws 2000,
11 Chapter 107, Section 3) is amended to read:

12 "22-2-19. FULL-DAY KINDERGARTEN PROGRAMS. --

13 A. The state board shall adopt rules for the
14 development and implementation of child-centered and
15 developmentally appropriate full-day kindergarten programs.
16 [~~Establishment of full-day kindergarten programs shall be~~
17 ~~voluntary on the part of school districts and]~~ Student
18 participation in full-day kindergarten shall be voluntary on
19 the part of parents.

20 B. The department [~~of education~~] shall require
21 schools with full-day kindergarten programs to conduct age-
22 appropriate assessments to determine the placement of students
23 at instructional level and the effectiveness of child-centered,
24 developmentally appropriate kindergarten.
25

1 C. The department [~~of education~~] shall monitor
 2 full-day kindergarten programs and ensure that they serve the
 3 children most in need based upon indicators in the at-risk
 4 [~~factor~~] index. If the department [~~of education~~] determines
 5 that a program is not meeting the benchmarks necessary to
 6 ensure the progress of students in the program, the department
 7 [~~of education~~] shall notify the school district that failure to
 8 meet the benchmarks shall result in the cessation of funding
 9 for the following school year. The department [~~of education~~]
 10 shall compile the program results submitted by the school
 11 districts and make an annual report to the legislative
 12 education study committee and the legislature.

13 D. Full-day kindergarten programs shall be phased
 14 in over a [~~five-year~~] three-year period as follows [~~with~~
 15 ~~priority given to those districts that serve children in~~
 16 ~~schools with the highest proportion of students most in need~~
 17 ~~based upon indicators in the at-risk factor~~]:

18 (1) effective with the 2000-2001 school year,
 19 [~~one-fifth~~] twenty percent of New Mexico's kindergarten classes
 20 may be full day;

21 (2) effective with the 2001-2002 school year,
 22 [~~two-fifths of New Mexico's~~] fifty percent of kindergarten
 23 classes may be full day;

24 (3) effective with the 2002-2003 school year,
 25

1 ~~[three-fifths of New Mexico's]~~ seventy-five percent of
2 kindergarten classes may be full day; and

3 (4) effective with the 2003-2004 school year,
4 ~~[four-fifths of New Mexico's]~~ all kindergarten classes ~~[may]~~
5 shall be full day ~~[and~~

6 ~~(5) effective with the 2004-2005 school year,~~
7 ~~all of New Mexico's kindergarten classes may be full day].~~

8 E. A school district may apply to the department
9 for a waiver of accelerated full-day kindergarten if it can
10 demonstrate that it does not have adequate and appropriate
11 facilities or qualified teachers; provided, however, that
12 wavers shall not extend beyond the 2003-2004 school year.

13 ~~[E.]~~ F. During the phase-in period, school
14 districts shall apply to the department [of education] to
15 receive funding for full-day kindergarten programs. In
16 granting approval for funding of full-day kindergarten
17 programs, the department [of education] shall ensure that full-
18 day kindergarten programs are first implemented in schools that
19 have the highest proportion of students most in need based upon
20 the at-risk index and [to] in schools with available classroom
21 space. "

22 Section 18. A new Section 22-2C-1 NMSA 1978 is enacted to
23 read:

24 "22-2C-1. [NEW MATERIAL] SHORT TITLE. -- Chapter 22,

1 Article 2C NMSA 1978 may be cited as the "Regional Service
2 Center Act". "

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

5 "22-2C-2. [NEW MATERIAL] FINDINGS AND PURPOSE. --The
6 purpose of the Regional Service Center Act is to decentralize
7 certain functions of the department and to centralize at the
8 regional level functions of school districts that may be
9 offered more efficiently, economically and effectively by a
10 single entity. Further, the purpose of that act is to move
11 most accountability, regulatory functions, technical assistance
12 and other services of the department to regional service
13 centers, thereby providing more immediate assistance to local
14 school districts to ensure that all school districts in the
15 state will meet or exceed state performance standards. "

16 Section 20. A new Section 22-2C-3 NMSA 1978 is enacted to
17 read:

18 "22-2C-3. [NEW MATERIAL] DEFINITIONS. --As used in the
19 Regional Service Center Act:

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

25 . 138154. 2

1 Section 21. A new Section 22-2C-4 NMSA 1978 is enacted to
2 read:

3 "22-2C-4. [NEW MATERIAL] REGIONAL SERVICE CENTERS
4 CREATED-- COORDINATING COUNCIL CREATED-- DIRECTOR. --

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

16 B. The state superintendent shall appoint an
17 advisory "coordinating council" made up of the local
18 superintendents from each school district in the region. The
19 coordinating council shall advise the director and the state
20 superintendent on services to be provided by the center and on
21 other matters as requested. The coordinating council shall
22 meet annually to evaluate and review how well the center is
23 satisfying the needs of the school districts and their
24 communities, to discuss new program development and to make
25

1 recommendations on services to be provided. The coordinating
2 council may meet more often as requested by the director or the
3 state superintendent.

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

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

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

17 "22-2C-5. [NEW MATERIAL] CENTERS-- POWERS AND DUTIES. --

18 A. A center shall:

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

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

25 . 138154. 2

underscored material = new
[bracketed material] = del ete

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

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

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

10 (c) monitoring educational plans for
11 student success;

12 (d) performing departmental
13 accreditation services; and

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

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

19 B. A center may:

20 (1) develop and conduct professional
21 development and other education training courses for school
22 personnel and district administrators;

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

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

4 (4) provide technology support services;

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

8 (6) provide special education and other
9 educational services;

10 (7) assist schools with peer intervention;

11 (8) provide grant research and writing
12 services;

13 (9) provide truancy prevention support; and

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

17 Section 23. Section 22-5-4 NMSA 1978 (being Laws 1967,
18 Chapter 16, Section 28, as amended) is amended to read:

19 "22-5-4. LOCAL SCHOOL BOARDS--POWERS--DUTIES.--A local
20 school board shall have the following powers or duties:

21 A. subject to the [~~regulations~~] rules of the state
22 board, [~~supervise and control all public schools within the~~
23 ~~school district and all property belonging to or in the~~
24 ~~possession of the school district~~] develop educational policies
25

underscored material = new
[bracketed material] = delete

1 for the school district;

2 B. employ a local superintendent of schools for the
3 school district and fix his salary;

4 [~~C. delegate administrative and supervisory~~
5 ~~functions of the local school board to the superintendent of~~
6 ~~schools;~~

7 ~~D. subject to the provisions of law, approve or~~
8 ~~disapprove the employment, termination or discharge of all~~
9 ~~employees and certified school personnel of the school district~~
10 ~~upon a recommendation of employment, termination or discharge~~
11 ~~by the superintendent of schools; provided that any employment~~
12 ~~relationship shall continue until final decision of the board.~~
13 ~~Any employment, termination or discharge without the prior~~
14 ~~recommendation of the superintendent is void;~~

15 ~~E. apply to the state board for a waiver of certain~~
16 ~~provisions of the Public School Code relating to length of~~
17 ~~school day, staffing patterns, subject area or the purchase of~~
18 ~~instructional materials for the purpose of implementing a~~
19 ~~collaborative school improvement program for an individual~~
20 ~~school;~~

21 ~~F. fix the salaries of all employees and certified~~
22 ~~school personnel of the school district;~~

23 ~~G. contract, lease, purchase and sell for the~~
24 ~~school district;]~~

1 C. review and approve the school district budget;

2 [~~H.~~] D. acquire, lease and dispose of property;

3 [~~F.~~] E. have the capacity to sue and be sued;

4 [~~J.~~] F. acquire property by eminent domain [~~as~~]

5 pursuant to the procedures provided in the Eminent Domain Code;

6 [~~K.~~] G. issue general obligation bonds of the
7 school district;

8 [~~L.~~] H. provide for the repair and [~~maintain~~]
9 maintenance of all property belonging to the school district;

10 [~~M.~~] I. for good cause and upon order of the
11 district court, subpoena witnesses and documents in connection
12 with a hearing concerning any powers or duties of the local
13 school boards;

14 [~~N.~~] J. except for expenditures for salaries,
15 contract for the expenditure of money according to the
16 provisions of the Procurement Code;

17 [~~O.~~] K. adopt [~~regulations~~] rules pertaining to the
18 administration of all powers or duties of the local school
19 board;

20 [~~P.~~] L. accept or reject any charitable gift,
21 grant, devise or bequest. The particular gift, grant, devise
22 or bequest accepted shall be considered an asset of the school
23 district or the public school to which it is given; and

24 [~~Q.~~] M. offer and, upon compliance with the
25

1 conditions of such offer, pay rewards for information leading
2 to the arrest and conviction or other appropriate disciplinary
3 disposition by the courts or juvenile authorities of offenders
4 in case of theft, defacement or destruction of school district
5 property. All such rewards shall be paid from school district
6 funds in accordance with ~~[regulations that shall be]~~ rules
7 promulgated by the ~~[department of education]~~ state board."

8 Section 24. A new Section 22-5-4.1 NMSA 1978 is enacted
9 to read:

10 "22-5-4.1. [NEW MATERIAL] LOCAL SUPERINTENDENT-- POWERS
11 AND DUTIES. --

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

14 B. The local superintendent shall:

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

17 (2) administer and supervise the school
18 district;

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

21 (4) prepare the school district budget based
22 on public schools' recommendations for review and approval by
23 the local school board and the department. The local

24 superintendent shall tell each principal the approximate amount
25

1 of money that may be available for his school and provide a
2 school budget template to use in making school budget
3 recommendations; and

4 (5) perform other duties as required by law,
5 the department or the local school board.

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

12 Section 25. Section 22-5-4.6 NMSA 1978 (being Laws 1990,
13 Chapter 52, Section 3, as amended) is amended to read:

14 "22-5-4.6. COLLABORATIVE SCHOOL IMPROVEMENT PROGRAMS. --

15 A. A local [~~school board~~] superintendent may
16 approve an individual school's plan to implement a
17 collaborative school improvement program upon a finding that
18 the plan is in the best interest of the school and is supported
19 by the participating teaching staff.

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

24 C. If necessary for the implementation of a
25

1 collaborative school improvement program, the local [~~school~~
2 ~~board~~] superintendent may apply to the state board for a waiver
3 of Public School Code provisions relating to length of school
4 day, staffing patterns, subject areas or purchase of
5 instructional material. The state board may approve a request
6 for a waiver upon a finding that the local [~~school-board~~]
7 superintendent has demonstrated accountability for student
8 learning through alternative planning and that the
9 participating teaching staff supports the implementation of a
10 collaborative school improvement program. The local [~~school-~~
11 ~~board~~] superintendent shall provide the state board with a
12 program budget that shows the type and number of students
13 served, the type and number of personnel involved and all
14 expenditures of the waiver.

15 D. A teacher participating in the development and
16 implementation of a collaborative school improvement program
17 may contact the state board to comment on the local [~~school-~~
18 ~~board's~~] superintendent's waiver request if [~~he~~] the teacher
19 communicated his opinion in writing to the local [~~school-board~~]
20 superintendent at the time the local [~~school-board~~]
21 superintendent approved implementation of the program. "

22 Section 26. A new Section 22-5-5.1 NMSA 1978 is enacted
23 to read:

24 "22-5-5.1. [NEW MATERIAL] LOCAL SCHOOL BOARD TRAINING. --
25

1 The department shall develop a mandatory training course for
 2 local school board members that explains state board rules,
 3 department policies and procedures, statutory powers and duties
 4 of local school boards, legal concepts pertaining to public
 5 schools, finance and budget and other matters deemed relevant
 6 by the department. The department shall notify local school
 7 board members of the dates of the training course, the last of
 8 which shall not be later than three months after a school board
 9 election. "

10 Section 27. Section 22-5-6 NMSA 1978 (being Laws 1971,
 11 Chapter 199, Section 1, as amended) is amended to read:

12 "22-5-6. NEPOTISM PROHIBITED. --

13 A. ~~[No local school board]~~ A local superintendent
 14 shall not initially employ or approve the initial employment in
 15 any capacity of a person who is the spouse, father, father-in-
 16 law, mother, mother-in-law, son, son-in-law, daughter or
 17 daughter-in-law of a member of ~~[such]~~ the local school board or
 18 the local superintendent. The local school board may waive the
 19 nepotism rule for family members of a local superintendent.

20 B. Nothing in this section shall prohibit the
 21 continued employment of a person employed on or before March 1,
 22 ~~[1981]~~ 2001. "

23 Section 28. Section 22-5-11 NMSA 1978 (being Laws 1986,
 24 Chapter 33, Section 12, as amended) is amended to read:

25 . 138154. 2

1 "22-5-11. [~~LOCAL SCHOOL BOARDS~~] SCHOOL DISTRICT SALARY
2 [~~SCHEDULE~~] SYSTEM --

3 A. Prior to the beginning of each school year, each
4 local [~~school board~~] superintendent shall file with the
5 department [~~of education~~] a district salary [~~schedule~~] system,
6 which salary [~~schedule~~] system shall incorporate any salary
7 increases or compensation measures specifically mandated by the
8 legislature. Salaries for teachers and school administrators
9 shall be aligned with the licensure framework provided for in
10 Chapter 22, Article 10A NMSA 1978.

11 B. [~~No~~] A local [~~school board~~] superintendent shall
12 not reduce the district salary [~~schedule~~] system established
13 pursuant to Subsection A of this section without the prior
14 written approval of the state superintendent. The state
15 superintendent shall give written notice to the legislative
16 finance committee, the legislative education study committee
17 and the department of finance and administration of any
18 approved reduction of any school district's salary [~~schedule~~]
19 system, including the reasons for the request for reduction and
20 the grounds for approval. "

21 Section 29. Section 22-8-1 NMSA 1978 (being Laws 1967,
22 Chapter 16, Section 55) is amended to read:

23 "22-8-1. SHORT TITLE. -- [~~Sections 77-6-1 through 77-6-46~~
24 ~~New Mexico Statutes Annotated, 1953 Compilation~~] Chapter 22,
25

1 Article 8 NMSA 1978 may be cited as the "Public School Finance
2 Act". "

3 Section 30. Section 22-8-9 NMSA 1978 (being Laws 1967,
4 Chapter 16, Section 63, as amended) is amended to read:

5 "22-8-9. BUDGETS--MINIMUM REQUIREMENTS. --

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

8 (1) beginning with the 2001-2002 school year,
9 a school year consisting of at least one hundred eighty-six
10 days, including one hundred eighty full instructional days or
11 the equivalent thereof [~~exclusive of any release time for in-~~
12 ~~service training~~] and six days for professional development and
13 other staff purposes for teachers; provided, however, that the
14 additional days are contingent on appropriation by the
15 legislature to implement the requirement; or

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

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

23 B. The state board shall, by [~~regulation~~] rule,
24 establish the requirements for [~~a teaching~~] an instructional

25 . 138154. 2

1 day, the standards for an instructional hour and the standards
2 for a full-time [~~certified classroom instructor~~] teacher and
3 for the equivalent thereof.

4 [~~C. The local school board shall submit a plan for~~
5 ~~the implementation of an alternate school year to the state~~
6 ~~superintendent for his approval.~~

7 ~~D. The provisions of Subsection C and Paragraph (2)~~
8 ~~of Subsection A of this section shall apply to school districts~~
9 ~~with a MEM of one thousand or fewer]. "~~

10 Section 31. Section 22-10-1 NMSA 1978 (being Laws 1975,
11 Chapter 306, Section 1, as amended) is recompiled as Section
12 22-10A-1 NMSA 1978 and is amended to read:

13 "22-10A-1. SHORT TITLE. -- Chapter 22, Article [40] 10A
14 NMSA 1978 may be cited as the "School Personnel Act". "

15 Section 32. Section 22-2-8.7 NMSA 1978 (being Laws 1986,
16 Chapter 33, Section 8, as amended) is recompiled as Section 22-
17 10A-3 NMSA 1978 and is amended to read:

18 "22-10A-3. [~~CERTIFICATION~~] LICENSURE REQUIREMENTS. --

19 A. The state board shall require [~~any~~] a person
20 seeking [~~certification~~] licensure or reciprocity in elementary
21 [~~and~~] or secondary education to complete the following minimum
22 requirements in the college of arts and sciences:

- 23 (1) twelve hours in English;
24 (2) twelve hours in history, including
25

1 American history and western civilization;

2 (3) six hours in mathematics;

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

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

7 (6) six hours in fine arts.

8 B. The state board shall require, prior to
9 ~~[certification]~~ licensure, no less than fourteen weeks of
10 student teaching, a portion of which shall occur in the first
11 thirty credit hours taken in the college of education and shall
12 be under the direct supervision of a ~~[certified school~~
13 ~~instructor]~~ teacher and a portion of which shall occur in the
14 student's senior year with the student teacher being directly
15 responsible for the classroom

16 C. Nothing in this section shall preclude the state
17 board from establishing or accepting equivalent requirements
18 for purposes of reciprocal ~~[certification]~~ licensure or minimum
19 requirements for alternative ~~[certification]~~ licensure.

20 ~~[D. The requirements in Subsections A and B of this~~
21 ~~section shall apply to students first entering a college or~~
22 ~~university beginning in the fall of 1986.]~~

23 ~~E.]~~ D. Vocational teacher preparatory programs may
24 be exempt from Subsections A and B of this section upon a

1 determination by the state board that other licensure or
2 certification requirements are more appropriate for vocational
3 teacher preparatory programs. "

4 Section 33. A new Section 22-10A-4 NMSA 1978 is enacted
5 to read:

6 "22-10A-4. [NEW MATERIAL] TEACHERS AND SCHOOL
7 ADMINISTRATORS-- PROFESSIONAL STATUS-- LICENSURE LEVELS-- SALARY
8 ALIGNMENT. --

9 A. Teaching and school administration are
10 recognized as professions, with all the rights,
11 responsibilities and privileges accorded professions, having
12 their first responsibility to the public they serve. The
13 primary responsibilities of the teaching and school
14 administration professions are to educate the children of this
15 state and to improve the professional practices and ethical
16 conduct of their members.

17 B. The New Mexico licensure framework for teachers
18 and school administrators is a progressive career system in
19 which licensees are required to demonstrate increased
20 competencies and undertake increased duties as they progress
21 through the licensure levels. The minimum salary provided as
22 part of the career system shall not take effect until the state
23 board has adopted increased competencies for the particular
24 level of licensure.

1 C. A level one license is a provisional license
2 issued for the first three years of teaching that gives a
3 beginning teacher the opportunity, through a formal mentorship
4 program, for additional preparation to be a quality teacher. A
5 level two license is given to a teacher who is a fully
6 qualified professional who is primarily responsible for
7 ensuring that students meet and exceed state board-adopted
8 standards and benchmarks; a teacher may choose to remain at
9 level two for the remainder of his career. A level three-A
10 license is the highest level of teaching licensure for those
11 teachers who choose to advance as instructional leaders in the
12 teaching profession and undertake greater responsibilities such
13 as curriculum development, peer intervention and mentoring. A
14 level three-B license is for teachers who commence a new career
15 path in school administration by becoming school
16 administrators.

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

20 E. All teachers and school administrators who hold
21 level two or three certificates on the effective date of this
22 2001 act shall meet the requirements for their level of
23 licensure by September 1, 2004 and shall be issued licenses.
24 Level two and three licenses issued pursuant to this subsection
25

. 138154. 2

1 shall be for nine years. "

2 Section 34. A new Section 22-10A-5 NMSA 1978 is enacted
3 to read:

4 "22-10A-5. [NEW MATERIAL] LEVEL ONE LICENSURE- - MINIMUM
5 SALARY. - -

6 A. A level one license is a provisional three-year
7 license for beginning teachers that requires as a condition of
8 licensure that the licensee undergo a formal mentorship program
9 and an annual intensive evaluation by the school administrator
10 for three full school years before applying for a level two
11 license.

12 B. Each school district, in accordance with state
13 board rules, shall provide for the mentorship and evaluation of
14 level one teachers. At the end of each year and at the end of
15 the license period, the level one teacher shall be evaluated
16 for competency. If the teacher fails to demonstrate
17 satisfactory progress and competence annually, the teacher may
18 be terminated as provided in Section 22-10A-22 NMSA 1978. If
19 the teacher has not demonstrated satisfactory progress and
20 competence by the end of the three-year period, he shall not be
21 granted a level two license.

22 C. Except in exigent circumstances defined by state
23 board rule, a level one license shall not be extended beyond
24 the initial period.

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

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

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

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

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

14 E. The department shall issue an alternative level
15 license to an applicant who meets the requirements of Section
16 22-10A-6 NMSA 1978.

17 F. The department shall establish competencies and
18 qualifications for specific grade levels, types and subject
19 areas of level one licensure, including early childhood,
20 elementary, middle school, secondary, special education and
21 vocational teaching.

22 G. Beginning with the 2002-2003 school year, with
23 the adoption by the state board of more stringent competency
24 requirements for level one teachers, the minimum salary for a
25

1 level one teacher shall be thirty thousand dollars (\$30,000)
2 for a standard nine and one-half month contract, increased
3 proportionately for additional service up to a minimum
4 annualized salary of thirty-seven thousand eight hundred
5 ninety-five dollars (\$37,895).

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

10 Section 35. A new Section 22-10A-6 NMSA 1978 is enacted
11 to read:

12 "22-10A-6. [NEW MATERIAL] ALTERNATIVE LEVEL ONE LICENSE. -

13 -

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

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

22 (2) completed a master's degree at an
23 accredited institution of higher education, including
24 completion of a minimum of twelve graduate credit hours in the
25

1 subject area of instruction for which he is applying for a
2 license; or

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

5 (4) passed the New Mexico teacher assessments
6 examination.

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

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

13 (1) complete a minimum of twelve semester
14 hours of instruction in teaching principles in a program
15 approved by the department; or

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

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

24 E. A school district or state agency shall not
25

1 discriminate against a teacher on the basis that he holds an
2 alternative level one license. "

3 Section 36. A new Section 22-10A-7 NMSA 1978 is enacted
4 to read:

5 "22-10A-7. [NEW MATERIAL] STATEWIDE TEACHER MENTORSHIP
6 PROGRAM FOR BEGINNING TEACHERS--PURPOSE--STATE BOARD DUTIES--
7 DEPARTMENT DUTIES.--

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

15 B. The department shall develop a framework for a
16 teacher mentorship program for all level one teachers. The
17 state board shall work with licensed school employees,
18 representatives from teacher preparation programs and the
19 commission on higher education to establish the framework.

20 C. The framework shall include:

- 21 (1) individual support and assistance for each
22 beginning teacher from a designated mentor;
23 (2) structured training for mentors;
24 (3) an ongoing, formative evaluation that is
25

1 used for the improvement of teaching practice;

2 (4) procedures for a summative evaluation of
3 beginning teachers' performance during the first three years of
4 teaching, including annual assessment of suitability for
5 license renewal, and for final assessment of beginning teachers
6 seeking level two licensure;

7 (5) support from local school boards, school
8 district administrators and other school district personnel;
9 and

10 (6) regular review and evaluation of the
11 teacher mentorship program.

12 D. The department shall:

13 (1) require submission and approval of each
14 school district's teacher mentorship program;

15 (2) provide technical assistance to school
16 districts that do not have a well-developed teacher mentorship
17 program in place; and

18 (3) encourage school districts to collaborate
19 with teacher preparation program administrators at institutions
20 of higher education, career educators, educational
21 organizations, regional service centers and other state and
22 community leaders in the teacher mentorship program. "

23 Section 37. A new Section 22-10A-8 NMSA 1978 is enacted
24 to read:

25 . 138154. 2

1 "22- 10A- 8. [NEW MATERIAL] LEVEL TWO LICENSURE. --

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

12 B. The department shall issue a level two license
13 to an applicant who successfully completes the three-year level
14 one license or is granted reciprocity as provided by state
15 board rules; demonstrates essential competency required by the
16 state board as verified by the local superintendent through a
17 state-approved evaluation process; and meets other
18 qualifications as required by the state board.

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

23 D. Beginning with the 2003-2004 school year, with
24 the adoption by the state board of more stringent competency
25

1 requirements for level two teachers, the minimum salary for a
2 level two teacher shall be forty thousand dollars (\$40,000) for
3 a standard nine and one-half month contract, increased
4 proportionately for additional service up to a minimum
5 annualized salary of fifty thousand five hundred twenty-six
6 dollars (\$50,526)."

7 Section 38. A new Section 22-10A-9 NMSA 1978 is enacted
8 to read:

9 "22-10A-9. [NEW MATERIAL] LEVEL THREE LICENSURE--TRACKS
10 FOR TEACHERS AND SCHOOL ADMINISTRATORS.--

11 A. A level three-A license is a nine-year license
12 granted to a teacher who meets the qualifications for that
13 level and who annually demonstrates instructional leader
14 competencies.

15 B. The department shall grant a level three-A
16 license to an applicant who has been a level two teacher for at
17 least three years and holds a post-baccalaureate degree or
18 national board certification; demonstrates instructional leader
19 competence as required by the state board and verified by the
20 local superintendent through a state-approved evaluation
21 process; and meets other qualifications for the license.

22 C. Beginning with the 2003-2004 school year, with
23 the adoption by the state board of more stringent competency
24 requirements for level three-A teachers, the minimum salary for
25

1 a level three-A teacher shall be fifty thousand dollars
2 (\$50,000) for a standard nine and one-half month contract,
3 increased proportionately for additional service up to a
4 minimum annualized salary of sixty-three thousand one hundred
5 fifty-eight dollars (\$63,158).

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

11 E. The department shall grant a level three-B
12 license to an applicant who has been a level three-A
13 instructional leader for at least one year, has satisfactorily
14 completed state board-approved courses in administration and a
15 state board-approved administration apprenticeship program and
16 demonstrates instructional leader competence required by the
17 state board and verified by the local superintendent through a
18 state-approved evaluation process.

19 F. Beginning with the 2002-2003 school year, the
20 standard contract and minimum annual salary for a level three-B
21 school principal shall be based on the size of the school in
22 which the school principal is employed, as follows:

23 (1) for school principals of schools with two
24 hundred or fewer students, a minimum salary of fifty-eight
25

1 thousand dollars (\$58,000) for a standard ten-month contract,
2 increased proportionately for additional service up to a
3 minimum annualized salary of sixty-nine thousand six hundred
4 dollars (\$69,600);

5 (2) for school principals of schools with two
6 hundred one to four hundred students, a minimum salary of sixty
7 thousand dollars (\$60,000) for a standard ten-month contract,
8 increased proportionately for additional service up to a
9 minimum annualized salary of seventy-two thousand dollars
10 (\$72,000);

11 (3) for school principals of schools with four
12 hundred one to six hundred students, a minimum salary of sixty-
13 two thousand dollars (\$62,000) for a standard ten-month
14 contract, increased proportionately for additional service up
15 to a minimum annualized salary of seventy-four thousand four
16 hundred dollars (\$74,400);

17 (4) for school principals of schools with six
18 hundred one to eight hundred students, a minimum salary of
19 sixty-four thousand dollars (\$64,000) for a standard ten-month
20 contract, increased proportionately for additional service up
21 to a minimum annualized salary of seventy-six thousand eight
22 hundred dollars (\$76,800);

23 (5) for school principals of schools with
24 eight hundred one to one thousand students, a minimum salary of
25

1 sixty-six thousand dollars (\$66,000) for a standard ten-month
2 contract, increased proportionately for additional service up
3 to a minimum annualized salary of seventy-nine thousand two
4 hundred dollars (\$79,200); and

5 (6) for school principals of schools with more
6 than one thousand students, a minimum salary of sixty-eight
7 thousand dollars (\$68,000) for a standard ten-month contract,
8 increased proportionately for additional service up to a
9 minimum annualized salary of eighty-one thousand six hundred
10 dollars (\$81,600). "

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

13 "22-10A-10. [NEW MATERIAL] LIMITED RECIPROCITY. -- A
14 teacher or school principal licensed in another state may be
15 granted a level two or level three license if he has teaching
16 experience, demonstrates the required competencies and meets
17 other requirements and qualifications for the license for which
18 he applies, including clearance of the required background
19 check. The local superintendent may require a mentorship
20 period for the licensee if he deems it necessary. A teacher
21 who holds an out-of-state license may apply for a lower level
22 license if he does not meet the requirements for the higher
23 level. "

24 Section 40. A new Section 22-10A-11 NMSA 1978 is enacted
25

1 to read:

2 "22- 10A- 11. [NEW MATERIAL] CERTIFICATES OF WAIVER. --

3 A. If a local superintendent or governing authority
4 of a state agency certifies to the department that an emergency
5 exists in the hiring of a qualified person, the department may
6 issue a certificate of teaching waiver or assignment waiver.

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

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

21 Section 41. A new Section 22- 10A- 12 NMSA 1978 is enacted
22 to read:

23 "22- 10A- 12. [NEW MATERIAL] SUBSTITUTE TEACHER
24 CERTIFICATE. -- The state board shall provide by rule for the

25 . 138154. 2

underscored material = new
[bracketed material] = del etc

1 qualifications for a substitute teacher certificate. A local
2 school board may provide for additional qualifications or
3 requirements it deems necessary. "

4 Section 42. A new Section 22-10A-13 NMSA 1978 is enacted
5 to read:

6 "22-10A-13. [NEW MATERIAL] PARENTAL NOTIFICATION. --

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

12 B. The local superintendent shall:

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

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

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

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

24 Section 43. A new Section 22-10A-14 NMSA 1978 is enacted
25

1 to read:

2 "22- 10A- 14. [NEW MATERIAL] INSTRUCTIONAL SUPPORT PROVIDER
3 LICENSES. --

4 A. The department shall license instructional
5 support providers, including educational assistants,
6 librarians, school counselors, school social workers, school
7 nurses, speech-language pathologists, psychologists, physical
8 therapists, physical therapy assistants, occupational
9 therapists, occupational therapy assistants, recreational
10 therapists, interpreters for the deaf, diagnosticians and other
11 service providers. The department may provide a professional
12 licensing framework in which licensees can advance in their
13 careers through the demonstration of increased competencies and
14 the undertaking of increased duties.

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

24 Section 44. A new Section 22- 10A- 15 NMSA 1978 is enacted

25

. 138154. 2

underscored material = new
[bracketed material] = delete

1 to read:

2 "22- 10A- 15. [NEW MATERIAL] LICENSE OR CERTIFICATE
3 REQUIRED-- GENERAL DUTIES. --

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

11 B. Each licensed school employee shall:

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

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

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

21 (4) furnish reports as required. "

22 Section 45. A new Section 22- 10A- 16 NMSA 1978 is enacted
23 to read:

24 "22- 10A- 16. [NEW MATERIAL] SCHOOL PRINCIPALS-- DUTIES. -- In
25

1 addition to other duties prescribed by law, a school principal
2 shall:

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

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

12 C. evaluate the performance of school employees and
13 develop professional development plans or job improvement plans
14 to assist school employees to improve;

15 D. take disciplinary action against employees;

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

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

22 Section 46. A new Section 22-10A-17 NMSA 1978 is enacted
23 to read:

24 "22-10A-17. [NEW MATERIAL] TEACHERS AND SCHOOL
25

. 138154. 2

1 PRINCIPALS-- ACCOUNTABILITY-- EVALUATIONS-- PROFESSIONAL
2 DEVELOPMENT-- PEER INTERVENTION-- MENTORING. --

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

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

14 C. At the beginning of each school year, teachers
15 and school principals shall devise professional development
16 plans for the coming year, and evaluations shall be based in
17 part on how well the professional development plan was carried
18 out.

19 D. If a level two or three-A teacher's evaluation
20 indicates less than satisfactory performance and competency,
21 the school principal may require the teacher to undergo peer
22 intervention, including mentoring, for a period the school
23 principal deems necessary. If the teacher is unable to
24 demonstrate satisfactory performance and competency by the end
25

1 of the period, the peer interveners may recommend termination
2 of the teacher.

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

7 Section 47. Section 22-10-11 NMSA 1978 (being Laws 1967,
8 Chapter 16, Section 113, as amended) is recompiled as Section
9 22-10A-18 NMSA 1978 and is amended to read:

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

11 A. All employment contracts between [~~local~~] a
12 school [~~boards~~] district and [~~certified school personnel~~]
13 licensed school employees and between a governing [~~authorities~~
14 ~~of~~] authority of a state [~~agencies~~] agency and [~~certified~~
15 ~~school instructors~~] licensed school employees shall be in
16 writing on forms approved by the state board. These forms
17 shall contain and specify the term of service, the salary to be
18 paid, the method of payment, the causes for termination of the
19 contract and other provisions required by [~~the regulations~~]
20 rules of the state board.

21 B. All employment contracts between [~~local~~] a
22 school [~~boards~~] district and [~~certified school personnel~~]
23 licensed school employees and between a governing [~~authorities~~]
24 authority of a state [~~agencies~~] agency and [~~certified school~~

1 ~~instructors]~~ licensed school employees shall be for a period of
2 one school year except:

3 (1) contracts for less than one school year
4 are permitted to fill personnel vacancies [~~which~~] that occur
5 during the school year;

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

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

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

19 (5) contracts not to exceed three years are
20 permitted at the discretion of the local [~~school board~~]
21 superintendent for [~~certified school instructors~~] licensed
22 school employees in public schools who have [~~been employed~~]
23 worked in the school district for three consecutive school
24 years.
25

1 C. An employment contract not to exceed five years
2 is authorized between a local school board and a local
3 superintendent.

4 [~~C.~~] D. Persons employed under contracts for
5 periods of less than one school year as provided in Paragraphs
6 (1) and (2) of Subsection B of this section shall be accorded
7 all the duties, rights and privileges of the [~~Certified~~] School
8 Personnel Act.

9 [~~D.~~] E. In determination of eligibility for
10 unemployment compensation rights and benefits for [~~certified~~
11 ~~school instructors~~] licensed school employees where those
12 rights and benefits are claimed to arise from the employment
13 relationship between governing authorities of state agencies or
14 local school [~~boards~~] districts and [~~certified school~~
15 ~~instructors~~] licensed school employees, that period of a year
16 not covered by a school year shall not be considered an
17 unemployment period.

18 [~~E.~~] F. Except as provided in Section [~~22-10-12~~]
19 22-10A-20 NMSA 1978, a person employed by contract pursuant to
20 this section has no legitimate objective expectancy of
21 reemployment, and no contract entered into pursuant to this
22 section shall be construed as an implied promise of continued
23 employment pursuant to a subsequent contract.

24 G. Employment contracts between school districts
25

underscored material = new
[bracketed material] = del etc

1 and teachers shall include six contract days beyond the
2 instructional year for professional development.

3 H. School districts and state agencies may pay
4 licensed school employees according to their employment
5 contracts on evidence of attendance at any professional meeting
6 connected with their profession as educators or associated with
7 the courses of instruction in which they specialize.

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

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

16 Section 48. Section 22-10-21 NMSA 1978 (being Laws 1967,
17 Chapter 16, Section 123, as amended) is recompiled as Section
18 22-10A-19 NMSA 1978 and is amended to read:

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

20 A. For the purposes of Sections 22-10A-19 through
21 22-10A-26 NMSA 1978, "school principal" includes other school
22 district personnel who have the authority to supervise school
23 employees, correct their work performance and recommend
24 termination or discharge.

1 B. The state board shall prescribe by [~~regulations~~]
2 rule the procedures to be followed by a [~~local~~] school [~~board~~
3 ~~or the governing authority of a state agency~~] principal in
4 supervising and correcting unsatisfactory work performance of
5 [~~certified school personnel~~] school employees before notice of
6 intent to discharge is served upon them [~~and by the governing~~
7 ~~authority of a state agency in supervising and correcting~~
8 ~~unsatisfactory work performance of certified school instructors~~
9 ~~before notice of intent to discharge is served upon them~~—
10 ~~These regulations~~]. The rules shall provide that written
11 records shall be kept on all action taken by a [~~local~~] school
12 [~~board or the governing authority of a state agency~~] principal
13 to improve [~~any person's~~] a school employee's unsatisfactory
14 work performance and all improvements made in the [~~person's~~]
15 school employee's work performance. These written records
16 shall be introduced as evidence at any hearing for the [~~person~~]
17 school employee conducted by the local [~~school board or the~~
18 ~~governing authority of the state agency~~] superintendent. "

19 Section 49. A new Section 22-10A-20 NMSA 1978 is enacted
20 to read:

21 "22-10A-20. [NEW MATERIAL] NOTICE OF REEMPLOYMENT--
22 TERMINATION. --

23 A. On or before the last day of the school year of
24 an existing employment contract, each school principal shall

underscored material = new
[bracketed material] = del etc

1 recommend to the local superintendent the reemployment or
2 termination of each licensed school employee at his school.
3 The local superintendent, based on the recommendations of the
4 school principal, shall serve written notice of reemployment or
5 termination on each licensed school employee employed by the
6 school district. A notice of reemployment shall be an offer of
7 employment for the ensuing school year. A notice of
8 termination shall be a notice of intention not to reemploy for
9 the ensuing school year.

10 B. Failure of the local superintendent to serve a
11 written notice of reemployment or termination on a licensed
12 school employee shall be construed to mean that notice of
13 reemployment has been served upon the person for the ensuing
14 school year according to the terms of the existing employment
15 contract but subject to any additional compensation allowed
16 other licensed school employees of like qualifications and
17 experience employed by the school district.

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

23 Section 50. Section 22-10-13 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 115, as amended) is recompiled as Section
25

1 22-10A-21 NMSA 1978 and is amended to read:

2 "22-10A-21. REEMPLOYMENT--ACCEPTANCE--REJECTION--BINDING
3 CONTRACT.--

4 A. Each [~~certified school instructor~~] licensed
5 school employee shall deliver to the local [~~school board of the~~
6 ~~school district or to the governing authority of the state~~
7 ~~agency~~] superintendent in which the [~~person~~] licensed school
8 employee is employed a written acceptance or rejection of
9 reemployment for the ensuing school year within fifteen days
10 from the following:

11 (1) the date written notice of reemployment is
12 served upon the [~~person~~] licensed school employee; or

13 (2) the last day of the school year when no
14 written notice of reemployment or termination is served upon
15 the [~~person~~] licensed school employee on or before the last day
16 of the school year.

17 B. Delivery of the written acceptance of
18 reemployment by a [~~certified school instructor~~] licensed school
19 employee creates a binding employment contract between the
20 [~~certified school instructor~~] licensed school employee and the
21 [~~local school board or the governing authority of the state~~
22 ~~agency~~] school district until the parties enter into a formal
23 written employment contract. Written employment contracts
24 between local [~~school boards or governing authorities of state~~
25

. 138154. 2

1 agencies] superintendents and [~~certified school instructors~~
2 licensed school employees shall be executed by the parties not
3 later than ten days before the first day of a school year. "

4 Section 51. A new Section 22-10A-22 NMSA 1978 is enacted
5 to read:

6 "22-10A-22. [NEW MATERIAL] TERMINATION DECISIONS--
7 PRINCIPALS--LOCAL SUPERINTENDENTS--PROCEDURES. --

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

21 B. A local superintendent may not terminate a
22 school employee who has worked at a school district for more
23 than three full consecutive years without just cause.

24 C. A school employee who has worked for a school
25

1 district for more than three full consecutive years and who
 2 receives a notice of termination pursuant to either Section
 3 22-10A-20 NMSA 1978 or this section may request an opportunity
 4 to make a statement to the local superintendent on the
 5 recommendation to terminate him by submitting a written request
 6 to the local superintendent within five working days from the
 7 date written notice of termination is served upon him. The
 8 school employee may also request in writing the reasons for the
 9 school principal's recommendation to terminate him. The local
 10 superintendent shall request that the school principal provide
 11 written reasons for his recommendation to terminate the school
 12 employee within five working days from the date the written
 13 request for a meeting and the written request for the reasons
 14 were received by the local superintendent. Neither the school
 15 principal nor local superintendent shall publicly disclose his
 16 reasons for termination.

17 D. The school employee's request pursuant to
 18 Subsection C of this section shall be granted if he responds to
 19 the school principal's written reasons as provided in that
 20 subsection by submitting in writing to the local superintendent
 21 a contention that the recommendation and subsequent decision to
 22 terminate him was made without just cause. The written
 23 contention shall specify the grounds on which it is contended
 24 that the recommendation and subsequent decision was without
 25

. 138154. 2

1 just cause and shall include a statement of the facts that the
2 school employee believes support his contention. This written
3 statement shall be submitted within ten working days from the
4 date the school employee receives the written reasons from the
5 school principal. The submission of this statement constitutes
6 a representation on the part of the school employee that he can
7 support his contentions and an acknowledgment that the school
8 principal may offer the causes for his recommendation and any
9 relevant data in his possession in rebuttal of the school
10 employee's contentions.

11 E. A local superintendent shall meet to hear the
12 school employee's statement in no less than five or more than
13 fifteen working days after the local superintendent receives
14 the statement. The hearing shall be conducted informally in
15 accordance with the provisions of the Open Meetings Act. The
16 school employee and the school principal may each be
17 accompanied by a person of his choice. First, the school
18 principal shall present the factual basis for his
19 recommendation that just cause exists for the termination of
20 the school employee, limited to those reasons provided to the
21 school employee pursuant to Subsection C of this section.
22 Then, the school employee shall present his contentions,
23 limited to those grounds specified in Subsection D of this
24 section. The school principal may offer such rebuttal
25

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

11 Section 52. Section 22-10-17 NMSA 1978 (being Laws 1986,
12 Chapter 33, Section 24, as amended) is recompiled as Section
13 22-10A-23 NMSA 1978 and is amended to read:

14 "22-10A-23. DISCHARGE HEARING--PROCEDURES. --

15 A. A local [~~school board or the governing authority~~
16 ~~of a state agency~~] superintendent may discharge a [~~certified~~]
17 licensed school employee only for just cause according to the
18 following procedure:

19 (1) the [~~superintendent~~] school principal
20 shall serve a written notice of his intent to recommend
21 discharge on the [~~certified~~] licensed school employee in
22 accordance with the law for service of process in civil
23 actions; and

24 (2) the [~~superintendent~~] school principal
25

1 shall state in the notice of his intent to recommend discharge
2 the cause for his recommendation and shall advise the
3 [~~certified~~] licensed school employee of his right to a
4 discharge hearing before the local [~~school board or governing~~
5 ~~authority~~] superintendent as provided in this section.

6 B. A [~~certified~~] licensed school employee who
7 receives a notice of intent to recommend discharge pursuant to
8 Subsection A of this section may exercise his right to a
9 hearing before the local [~~school board or governing authority~~]
10 superintendent by giving the school principal and local
11 superintendent [~~or administrator~~] written notice of that
12 election within five working days of his receipt of the notice
13 to recommend discharge.

14 C. The local [~~school board or governing authority~~]
15 superintendent shall hold a discharge hearing no less than
16 twenty and no more than forty working days after the local
17 superintendent [~~or administrator~~] receives the written election
18 from the [~~certified~~] licensed school employee and shall give
19 the [~~certified~~] licensed school employee at least ten days
20 written notice of the date, time and place of the discharge
21 hearing.

22 D. [~~Each party~~] The [~~local superintendent or~~
23 ~~administrator~~] school principal and the [~~certified~~] licensed
24 school employee may be accompanied by [~~a person~~] persons of
25

1 ~~his~~ their choice.

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

5 F. The local ~~[school board or governing authority]~~
6 superintendent shall have the authority to issue subpoenas for
7 the attendance of witnesses and to produce books, records,
8 documents and other evidence at the request of either party and
9 shall have the power to administer oaths.

10 G. The ~~[local superintendent or administrator]~~
11 school principal shall have the burden of proving by a
12 preponderance of the evidence that, at the time of the notice
13 of intent to recommend discharge, he had just cause to
14 discharge the ~~[certified]~~ licensed school employee.

15 H. The ~~[local superintendent or administrator]~~
16 school principal shall present his evidence first, with the
17 ~~[certified]~~ licensed school employee presenting his evidence
18 ~~[thereafter]~~ second. The local ~~[school board or governing~~
19 ~~authority]~~ superintendent shall permit either party to call,
20 examine and cross-examine witnesses and to introduce
21 documentary evidence.

22 ~~[I. An official record shall be made of the~~
23 ~~hearing. Either party may have one copy of the record at the~~
24 ~~expense of the local school board or governing authority.]~~

1 J.] I. The local [~~school board~~] superintendent
2 shall render [~~its~~] his written decision within twenty days of
3 the conclusion of the discharge hearing. "

4 Section 53. A new Section 22-10A-24 NMSA 1978 is enacted
5 to read:

6 "22-10A-24. [NEW MATERIAL] APPEALS--INDEPENDENT
7 ARBITRATOR--QUALIFICATIONS--PROCEDURE--BINDING DECISION.--

8 A. A school employee who is still aggrieved by a
9 decision of a local superintendent rendered pursuant to Section
10 22-10A-22 or 22-10A-23 NMSA 1978 may appeal the decision to an
11 independent arbitrator. A written notice of appeal shall be
12 submitted to the local superintendent within five working days
13 from the receipt of his written decision or the refusal of the
14 local superintendent to grant a hearing. The appeal shall be
15 accompanied by a statement of particulars specifying the
16 grounds on which it is contended that the decision was
17 impermissible pursuant to Section 22-10A-22 or 22-10A-23 NMSA
18 1978 and including a statement of facts supporting the
19 contentions. Failure of the school employee to submit a timely
20 appeal or a statement of particulars with the appeal shall
21 disqualify him for any appeal and render the local
22 superintendent's decision final.

23 B. The local superintendent and the school employee
24 shall meet within ten working days from the receipt of the
25

1 request for an appeal and select an independent arbitrator to
2 conduct the appeal. If the parties fail to agree on an
3 independent arbitrator, they shall request the presiding judge
4 in the judicial district in which the school employee's public
5 school is located to select one. The presiding judge shall
6 select the independent arbitrator within five working days from
7 the date of the parties' request.

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

17 D. Appeals from the decision of the local
18 superintendent shall be decided after a de novo hearing before
19 the independent arbitrator. The issue to be decided by the
20 independent arbitrator is whether there was just cause for the
21 decision of the local superintendent to terminate or discharge
22 the school employee.

23 E. The de novo hearing shall be held within thirty
24 working days from the selection of the independent arbitrator.

1 The arbitrator shall give written notice of the date, time and
2 place of the hearing, and such notice shall be sent to the
3 employee and the local superintendent.

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

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

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

15 I. The rules of civil procedure shall not apply to
16 the de novo hearing, but it shall be conducted so that both
17 contentions and responses are amply and fairly presented. To
18 this end, the independent arbitrator shall permit either party
19 to call and examine witnesses, cross-examine witnesses and
20 introduce exhibits. The technical rules of evidence shall not
21 apply, but, in ruling on the admissibility of evidence, the
22 independent arbitrator shall require reasonable substantiation
23 of statements or records tendered, the accuracy or truth of
24 which is in reasonable doubt.

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

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

20 L. No official record shall be made of the hearing.
21 Either party desiring a record of the arbitration proceedings
22 may, at his own expense, record or otherwise provide for a
23 transcript of the proceedings; provided, however, that the
24 record so provided shall not be deemed an official transcript
25

1 of the proceedings nor shall it imply any right of automatic
2 appeal or review.

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

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

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

23 P. The decision of the independent arbitrator shall
24 be binding on both parties and shall be final and nonappealable
25

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

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

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

12 Section 54. Section 22-10-16 NMSA 1978 (being Laws 1967,
13 Chapter 16, Section 118, as amended) is recompiled as Section
14 22-10A-25 NMSA 1978 and is amended to read:

15 "22-10A-25. EXCEPTED FROM PROVISIONS. -- Sections [~~22-10-12~~
16 ~~through 22-10-14.1~~] 22-10A-20 through 22-10A-22 and 22-10A-24
17 NMSA 1978 do not apply to the following:

18 A. a [~~certified school instructor~~] licensed school
19 employee employed to fill the position of a [~~certified school~~
20 ~~instructor~~] licensed school employee entering military service;

21 B. a person who is employed as a [~~certified~~] school
22 administrator; or

23 C. a [~~non-certified~~] nonlicensed school employee
24 employed to perform primarily district-wide management
25

underscored material = new
[bracketed material] = delete

1 functions. "

2 Section 55. Section 22-10-18 NMSA 1978 (being Laws 1967,
3 Chapter 16, Section 120, as amended) is recompiled as Section
4 22-10A-26 NMSA 1978 and is amended to read:

5 "22-10A-26. COMPENSATION PAYMENTS TO DISCHARGED
6 PERSONNEL. --

7 A. Payment of compensation to [~~any certified school~~
8 ~~instructor~~] a licensed school employee employed by a [~~local~~
9 ~~school board or by the governing authority of a state agency~~
10 ~~and payment of compensation to any certified school~~
11 ~~administrator employed by a local school board~~] school district
12 shall terminate as of the date, after a hearing, that a written
13 copy of the decision of the local [~~school board or the~~
14 ~~governing authority of the state agency~~] superintendent to
15 discharge the [~~person~~] licensed school employee is served on
16 [~~the person~~] him. If the compensation of the [~~person~~] licensed
17 school employee discharged during the term of a written
18 employment contract is to be paid monthly during a twelve-month
19 period for services to be performed during a period less than
20 twelve months, the [~~person~~] licensed school employee shall be
21 entitled to a pro rata share of the compensation payments due
22 for the period during the twelve months in which no services
23 were to be performed.

24 B. In the event the action of the local [~~school~~
25

1 ~~board] superintendent in discharging a [certified school~~
 2 ~~instructor or administrator or the action of the governing~~
 3 ~~authority of a state agency in discharging a certified school~~
 4 ~~instructor] licensed school employee~~ is reversed on appeal,
 5 payment of compensation to the [person] licensed school
 6 employee shall be reinstated in full but subject to any
 7 additional compensation allowed other ~~[certified school~~
 8 ~~instructor or administrator]~~ licensed school employees of like
 9 qualifications and experience employed by the school district
 10 ~~[or state agency]~~ and including reimbursement for compensation
 11 during the entire period the compensation was terminated less
 12 an offset for any compensation received by the [person]
 13 licensed school employee from a school district ~~[or state~~
 14 ~~agency]~~ during the period the compensation was terminated. "

15 Section 56. A new Section 22-10A-27 NMSA 1978 is enacted
 16 to read:

17 "22-10A-27. [NEW MATERIAL] LICENSED SCHOOL EMPLOYEES IN
 18 STATE AGENCIES. --

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

21 B. Employees of state agencies who are not covered
 22 by the Personnel Act and who were covered by the provisions of
 23 the School Personnel Act on the effective date of this 2001 act
 24 shall continue to be covered by the School Personnel Act. "
 25

underscored material = new
 [bracketed material] = delete

1 Section 57. Section 22-10-22 NMSA 1978 (being Laws 1967,
2 Chapter 16, Section 124, as amended) is recompiled as Section
3 22-10A-28 NMSA 1978 and is amended to read:

4 "22-10A-28. SUSPENSION AND REVOCATION OF [~~CERTIFICATES~~]
5 LICENSE- - APPEAL. - -

6 A. The state board may suspend or revoke a
7 [~~certificate~~] department-issued license held by a [~~certified~~
8 ~~school instructor or administrator~~] licensed school employee
9 for incompetency, immorality or any other good and just cause.

10 B. A [~~certificate~~] license may be suspended or
11 revoked only according to the following procedure:

12 (1) the state board [~~serving~~] serves written
13 notice of the suspension or revocation on the [~~person holding~~
14 ~~the certificate~~] licensed school employee in accordance with
15 the law for service of process in civil actions. The notice of
16 the suspension or revocation shall state the grounds for the
17 suspension or revocation of the [~~certificate~~] license. The
18 notice of the suspension or revocation shall describe the
19 rights of the [~~person holding the certificate~~] licensed school
20 employee and include instructions for requesting a hearing
21 before the state board. A hearing shall be requested within
22 thirty days of receipt of the notice of suspension or
23 revocation. If a hearing is requested, the hearing shall be
24 held not more than ninety days from the date of the request for
25

1 the hearing;

2 (2) the state board or its designated hearing
3 officer [~~conducting~~] conducts a hearing that provides the
4 [~~person holding the certificate~~] licensed school employee, or
5 his attorney, an opportunity to present evidence or arguments
6 on all pertinent issues. A transcript shall be made of the
7 entire hearing conducted by the state board or its designated
8 hearing officer; and

9 (3) the state board [~~rendering~~] renders a
10 written decision in accordance with the law and based upon
11 evidence presented and admitted at the hearing. The written
12 decision shall include findings of fact and conclusions of law
13 and shall be based upon the findings of fact and the
14 conclusions of law. A written copy of the decision of the
15 state board shall be served upon the [~~person holding the~~
16 ~~certificate~~] licensed school employee within sixty days from
17 the date of the hearing. Service of the written copy of the
18 decision shall be in accordance with the law for service of
19 process in civil actions or by certified mail to the [~~person's~~]
20 licensed school employee's address of record.

21 C. The secretary of the state board, with the
22 approval of the state board or its designated hearing officer,
23 may subpoena witnesses, require their attendance and giving of
24 testimony and require the production of books, papers and
25

1 records in connection with a hearing held pursuant to the
2 provisions of Subsection B of this section. Also, the state
3 board may apply to the district court for the issuance of
4 subpoenas and subpoenas duces tecum in the name of and on
5 behalf of the state board.

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

10 Section 58. Section 22-10-3.2 NMSA 1978 (being Laws 1988,
11 Chapter 48, Section 1, as amended) is recompiled as Section 22-
12 10A-29 NMSA 1978 and is amended to read:

13 "22-10A-29. [~~CERTIFIED SCHOOL PERSONNEL AND SCHOOL~~
14 ~~NURSES~~] LICENSED SCHOOL EMPLOYEES--CHILD ABUSE AND NEGLECT AND
15 SUBSTANCE ABUSE REQUIRED TRAINING PROGRAM --

16 A. All [~~certified school personnel and school~~
17 ~~nurses~~] licensed school employees shall be required to complete
18 training in the detection and reporting of child abuse and
19 neglect and substance abuse. This requirement shall be
20 completed within the [~~person's~~] licensed school employee's
21 first year of employment by a school district [~~in the state~~].

22 B. Pursuant to the policy and [~~regulations~~] rules
23 adopted by the state board, the department [~~of education~~] shall
24 develop a training program, including training materials and
25

1 necessary training staff, to meet the requirement of Subsection
2 A of this section to make the training available in every
3 school district [~~in the state~~]. The department [~~of education~~]
4 shall coordinate the development of the program with
5 appropriate staff at the human services department and the
6 department of health.

7 C. The training program developed pursuant to this
8 section shall be made available by the department [~~of~~
9 ~~education~~] to the deans of every college of education in
10 New Mexico for use in providing such training to students
11 seeking elementary and secondary education [~~certification~~]
12 licensure."

13 Section 59. Section 22-11-2 NMSA 1978 (being Laws 1967,
14 Chapter 16, Section 126, as amended) is amended to read:

15 "22-11-2. DEFINITIONS. -- As used in the Educational
16 Retirement Act:

17 A. "member" means [~~any~~] an employee, except for a
18 participant or a retired member, coming within the provisions
19 of the Educational Retirement Act;

20 B. "regular member" means:

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

24 (a) a participant; or
25

underscored material = new
[bracketed material] = del etc

1 (b) all employees of a general hospital
2 or outpatient clinics thereof operated by a state educational
3 institution named in Article 12, Section 11 of the constitution
4 of New Mexico;

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

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

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

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

24 (6) a member classified as a regular member in
25

1 accordance with the [~~regulations~~] rules of the board;

2 (7) a person regularly employed by the New
3 Mexico activities association holding a standard certificate
4 issued by the state board at the time of commencement of such
5 employment; or

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

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

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

20 E. "beneficiary" means a person having an insurable
21 interest in the life of a member or a participant designated by
22 written instrument duly executed by the member or participant
23 and filed with the director to receive a benefit pursuant to
24 the Educational Retirement Act that may be received by someone
25

1 other than the member or participant;

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

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

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

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

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

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

22 L. "allowed service credit" means that period of
23 time during which a member has performed certain nonservice
24 employment with which he may be accredited, as provided in the
25

1 Educational Retirement Act, for the purpose of computing
2 retirement or disability benefits;

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

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

9 O. "board" means the educational retirement board;

10 P. "fund" means the educational retirement fund;

11 Q. "director" means the educational retirement
12 director;

13 R. "medical authority" means a medical doctor
14 within the state or as provided in Subsection D of Section
15 22-11-36 NMSA 1978 either designated or employed by the board
16 to examine and report on the physical condition of applicants
17 for or recipients of disability benefits;

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

22 T. "actuarial equivalent" means a sum paid as a
23 current or deferred benefit that is equal in value to a regular
24 benefit, computed upon the basis of interest rates and
25

1 mortality tables;

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

5 V. "qualifying state educational institution" means
6 the university of New Mexico, New Mexico state university, New
7 Mexico institute of mining and technology, New Mexico highlands
8 university, eastern New Mexico university, western New Mexico
9 university, Albuquerque technical-vocational institute, Clovis
10 community college, Luna vocational-technical institute, Mesa
11 technical college, New Mexico junior college, northern New
12 Mexico state school, San Juan college and Santa Fe community
13 college;

14 W. "participant" means:

15 (1) a person regularly employed as a faculty
16 or professional employee of the university of New Mexico, New
17 Mexico state university, New Mexico institute of mining and
18 technology, New Mexico highlands university, eastern New Mexico
19 university or western New Mexico university who first becomes
20 employed with such an educational institution on or after July
21 1, 1991, or a person regularly employed as a faculty or
22 professional employee of the Albuquerque technical-vocational
23 institute, Clovis community college, Luna vocational-technical
24 institute, Mesa technical college, New Mexico junior college,
25

1 northern New Mexico state school, San Juan college or Santa Fe
2 community college who is first employed by the institution on
3 or after July 1, 1999 and who elects, pursuant to Section 22-
4 11-47 NMSA 1978, to participate in the alternative retirement
5 plan; and

6 (2) a person regularly employed who performs
7 research or other services pursuant to a contract between a
8 qualifying state educational institution and the United States
9 government or any of its agencies who elects, pursuant to
10 Section 22-11-47 NMSA 1978, to participate in the alternative
11 retirement plan, provided that the research or other services
12 are performed outside the state;

13 X. "salary" means the compensation or wages paid to
14 a member or participant by any local administrative unit for
15 services rendered; [~~and~~]

16 Y. "alternative retirement plan" means the
17 retirement plan provided for in Sections 22-11-47 through
18 22-11-52 NMSA 1978; and

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

22 Section 60. Section 22-11-30 NMSA 1978 (being Laws 1967,
23 Chapter 16, Section 153, as amended) is amended to read:

24 "22-11-30. RETIREMENT BENEFITS. --
25

1 A. Retirement benefits for a member retired
2 pursuant to the Educational Retirement Act on or before June
3 30, 1967 shall be paid monthly and shall be one-twelfth of a
4 sum equal to one and one-half percent of the first four
5 thousand dollars (\$4,000) of the member's average annual salary
6 and one percent of the remainder of the member's average annual
7 salary multiplied by the number of years of the member's total
8 service credit.

9 B. Retirement benefits for a member retired
10 pursuant to the Educational Retirement Act on or after July 1,
11 1967 but on or before June 30, 1971 shall be paid monthly and
12 shall be one-twelfth of a sum equal to one and one-half percent
13 of the first six thousand six hundred dollars (\$6,600) of the
14 member's average annual salary and one percent of the remainder
15 of the member's average annual salary multiplied by the number
16 of years of the member's total service credit.

17 C. Retirement benefits for a member retired
18 pursuant to the Educational Retirement Act on or after July 1,
19 1971 but on or before June 30, 1974 shall be paid monthly and
20 shall be one-twelfth of a sum equal to one and one-half percent
21 of the member's average annual salary multiplied by the number
22 of years of the member's total service credit.

23 D. Retirement benefits for a member retired
24 pursuant to the Educational Retirement Act on or before June
25

underscored material = new
[bracketed material] = delete

1 30, 1974 but returning to employment on or after July 1, 1974
 2 for a cumulation of one or more years shall be computed
 3 pursuant to Subsection E of this section. Retirement benefits
 4 for a member retired pursuant to the Educational Retirement Act
 5 on or before June 30, 1974 but returning to employment on or
 6 after July 1, 1974 for a cumulation of less than one year shall
 7 be computed pursuant to Subsection A of this section if his
 8 date of last retirement was on or before June 30, 1967 or
 9 pursuant to Subsection B of this section if his date of last
 10 retirement was on or after July 1, 1967 but not later than June
 11 30, 1971 or pursuant to Subsection C of this section if his
 12 date of last retirement was on or after July 1, 1971 but not
 13 later than June 30, 1974.

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

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

- 21 (a) prior employment; and
 22 (b) allowed service credit for service
 23 performed prior to July 1, 1957, except United States military
 24 service credit purchased pursuant to Paragraph (3) of
 25

1 Subsection A of Section 22-11-34 NMSA 1978; plus

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

4 (a) contributory employment;

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

7 (c) United States military service
8 credit for service performed prior to July 1, 1957 and
9 purchased pursuant to Paragraph (3) of Subsection A of Section
10 22-11-34 NMSA 1978.

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

21 G. Except as provided in Subsection H of this
22 section, retirement benefits for a member age sixty or over,
23 retired pursuant to the Educational Retirement Act on or after
24 July 1, 1991, shall be paid monthly and shall be one-twelfth of
25

1 a sum equal to two and thirty-five hundredths percent of the
 2 member's average annual salary multiplied by the number of
 3 years of the member's total service credit; provided that this
 4 subsection shall not apply to any member who was retired in any
 5 of the four consecutive quarters ending on June 30, 1991
 6 without having accumulated at least one year earned service
 7 credit beginning on or after July 1, 1991.

8 H. Retirement benefits for a member age sixty or
 9 over, retired pursuant to the Educational Retirement Act on or
 10 after July 1, 2004, shall be paid monthly and shall be:

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

20 (2) for a member whose total service credit is
 21 equal to or greater than twenty-seven years but less than
 22 twenty-eight years, one-twelfth of a sum equal to two and
 23 forty-one hundredths percent of the member's average annual
 24 salary multiplied by the number of years of the member's total
 25

1 service credit; provided that this subsection shall not apply
2 to any member who was retired in any of the four consecutive
3 quarters ending on June 30, 2004 without having accumulated at
4 least one year earned service credit beginning on or after July
5 1, 2003;

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

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

24 or
25

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

9 [H-] I. A member's average annual salary, pursuant
10 to this section, shall be computed on the basis of the last
11 five years for which contribution was made or upon the basis of
12 any consecutive five years for which contribution was made by
13 the member, whichever is higher.

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

18 Section 61. A new section of the Educational Retirement
19 Act is enacted to read:

20 "NEW MATERIAL RETURN TO EMPLOYMENT--BENEFITS CONTINUED--
21 ADMINISTRATIVE UNIT CONTRIBUTIONS.--

22 A. Effective January 1, 2002, a retired member may
23 begin employment at a local administrative unit and shall not
24 be required to suspend retirement benefits if the member has
25

underscored material = new
[bracketed material] = delete

1 not been employed as an employee or independent contractor by a
2 local administrative unit for at least twelve consecutive
3 months from the date of retirement to the commencement of
4 employment or reemployment with a local administrative unit.
5 If the retired member returns to employment without first
6 completing twelve consecutive months of retirement, the retired
7 member shall remove himself from retirement.

8 B. A retired member who returns to employment
9 during retirement pursuant to Subsection A of this section is
10 entitled to continue to receive retirement benefits but is not
11 entitled to acquire service credit or to acquire or purchase
12 service credit in the future for the period of the retired
13 member's reemployment with a local administrative unit.

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

19 Section 62. Section 22-12-3 NMSA 1978 (being Laws 1971,
20 Chapter 238, Section 1, as amended) is amended to read:

21 "22-12-3. RELIGIOUS INSTRUCTION EXCUSAL. -- Any student
22 may, subject to the approval of the [~~local~~] school [~~board~~]
23 principal, be excused from school to participate in religious
24 instruction for not more than one class period each school day
25

1 with the written consent of his parents at a time period not in
2 conflict with the academic program of the school. The local
3 school board and its school employees shall not assume
4 responsibility for the religious instruction or permit it to be
5 conducted on school property. "

6 Section 63. A new Section 22-13C-1 NMSA 1978 is enacted
7 to read:

8 "22-13C-1. [NEW MATERIAL] SHORT TITLE. -- Chapter 22,
9 Article 13C NMSA 1978 may be cited as the "Probationary School
10 Intervention Act". "

11 Section 64. A new Section 22-13C-2 NMSA 1978 is enacted
12 to read:

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

17 Section 65. A new Section 22-13C-3 NMSA 1978 is enacted
18 to read:

19 "22-13C-3. [NEW MATERIAL] DEFINITIONS. -- As used in the
20 Probationary School Intervention Act:

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

23 B. "probationary school" means a public school or
24 school district that has been ranked as probationary by the
25

1 state; and

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

4 Section 66. A new Section 22-13C-4 NMSA 1978 is enacted
5 to read:

6 "22-13C-4. [NEW MATERIAL] PROGRAM CREATED--
7 ADMINISTRATION--APPLICATION--PROGRAM APPROVAL. --

8 A. The "probationary school intervention program"
9 is created. The program shall be administered by the
10 department. The department shall assign personnel from the
11 central office and regional service centers to serve as mobile
12 assistance teams to provide administrative, classroom, human
13 resource and other assistance to probationary schools as needed
14 and as provided in applications approved by the department.

15 B. Within ninety days of being notified that it has
16 been ranked probationary, a public school or school district
17 shall submit an improvement plan to the department. In
18 developing the improvement plan, the local superintendent, the
19 president of the local school board and the school principal of
20 a probationary school shall hold a public meeting to inform
21 parents and the public that a public school or the school
22 district has been ranked as probationary. The meeting shall be
23 used to elicit suggestions from parents and the public on how
24 to improve the probationary school. After the public meeting,
25

1 the school district shall develop the probationary school's
2 improvement plan, and the local school board shall approve the
3 improvement plan before it is submitted to the department. The
4 improvement plan shall be approved by the department within
5 thirty days of its submission.

6 C. An improvement plan shall include:

7 (1) documentation of performance measures in
8 which the probationary school failed to meet standards;

9 (2) measurable objectives to indicate the
10 action that will be taken to address failed measures;

11 (3) benchmarks to be used to indicate progress
12 in meeting standards;

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

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

18 D. A probationary school may apply to the program
19 for financial or other assistance pursuant to an improvement
20 plan developed by the probationary school. The probationary
21 school shall make application for assistance to the program
22 substantially in the form required by the department. The
23 department shall evaluate applications for assistance and may
24 recommend changes to an application or to an improvement plan
25

1 if warranted by the final application. The department shall
2 consider innovative methods to assist each probationary school
3 in meeting its improvement plan.

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

10 F. If the state superintendent determines that a
11 probationary school has not met the objectives of the
12 improvement plan for two consecutive years, he may take direct
13 control of the probationary school pursuant to Section 22-2-14
14 NMSA 1978. If a probationary school has not met the objectives
15 of the improvement plan by the end of the third year, the state
16 superintendent shall take direct control of the probationary
17 school pursuant to Section 22-2-14 NMSA 1978. "

18 Section 67. Section 22-22-4 NMSA 1978 (being Laws 1972,
19 Chapter 16, Section 4, as amended) is amended to read:

20 "22-22-4. VARIABLE SCHOOL CALENDAR--REQUEST.--The local
21 school board [~~of any school district may adopt by resolution a~~
22 ~~request to the state board for approval to~~] may operate a
23 public school or the school district under a variable school
24 calendar. The state board shall develop criteria for the

1 establishment of a variable school calendar in a school
 2 district. Those criteria shall include a requirement that the
 3 local school board demonstrate substantial community support
 4 for implementation of the variable school calendar. [~~The state
 5 board shall consider the request for approval at an open public
 6 hearing held in the school district making the request.~~]"

7 Section 68. Section 22-22-5 NMSA 1978 (being Laws 1972,
 8 Chapter 16, Section 5, as amended by Laws 1993, Chapter 24,
 9 Section 2 and also by Laws 1993, Chapter 226, Section 49) is
 10 amended to read:

11 "22-22-5. VARIABLE SCHOOL CALENDAR-- ACTION BY [~~DEPARTMENT~~
 12 ~~AND~~] STATE BOARD. -- [A. ~~The state board shall make rules and
 13 regulations pursuant to the Variable School Calendar Act
 14 necessary to establish procedures for making application,
 15 requiring reports and maintaining supervision of operations of
 16 a district under a variable school calendar. In addition, the
 17 state board may make rules and regulations necessary to
 18 implement the provisions of the Variable School Calendar Act.~~

19 B.] The state board may suspend or modify existing
 20 rules [~~and regulations~~] pertaining to school district
 21 operations upon recommendation of the state superintendent when
 22 those rules [~~and regulations~~] prevent or impede the
 23 implementation of the Variable School Calendar Act. "

24 Section 69. Section 22-22-6 NMSA 1978 (being Laws 1972,
 25

underscored material = new
 [bracketed material] = delete

1 Chapter 16, Section 6, as amended) is amended to read:

2 "22-22-6. VARIABLE SCHOOL CALENDAR--EFFECT OF APPROVAL OF
3 REQUEST. -- ~~[Upon approval of the state board of the request of a~~
4 ~~local school board for operation under a variable school~~
5 ~~calendar, such]~~ The calendar for [~~that~~] a variable school
6 calendar public school or school district shall be in lieu of
7 any other school calendar provided by law, and all requirements
8 for reporting or operating under existing school calendars
9 shall be suspended for the school or school district upon the
10 initiation of operations under a variable school calendar [~~and~~
11 ~~the rules and regulations made pursuant thereto~~]. The public
12 school or school district shall continue to operate under the
13 approved variable school calendar until the local school board
14 [~~requests the state board by resolution for approval of the~~
15 ~~discontinuance of the variable school calendar and the request~~
16 ~~is approved by the state board]~~ discontinues the variable
17 school calendar. "

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

20 "[NEW MATERIAL] SHORT TITLE. -- Sections 70 through 73 of
21 this act may be cited as the "Family and Youth Resource Act". "

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

24 "[NEW MATERIAL] ADVISORY COMMITTEE-- MEMBERS-- MEETINGS--
25

1 DUTIES. --

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

4 (1) the state superintendent or his designee;
5 (2) the secretary of health or his designee;
6 (3) the secretary of human services or his
7 designee;

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

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

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

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

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

21 C. The committee shall meet as frequently as it
22 deems appropriate or necessary, but at least once a year. The
23 chairman may call special meetings as he deems necessary and
24 shall convene special meetings at the request of a majority of
25

1 the members.

2 D. A majority of the committee constitutes a
3 quorum.

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

7 F. The department shall staff the committee.

8 G. The committee shall:

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

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

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

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

20 " NEW MATERIAL PROGRAMS-- PURPOSE-- FUNCTIONS. --

21 A. A "family and youth resources program" may be
22 created in any public school in the state. The department
23 shall accept applications for grants from public schools in
24 which eighty percent of the students are eligible for the free
25

1 or reduced lunch program to fund their program.

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

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

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

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

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

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

24 (5) establish partnerships between the school
25

. 138154. 2

1 and community organizations such as civic, business and
2 professional groups and organizations; and recreational, social
3 and after-school programs such as boys and girls clubs and boy
4 and girl scouts;

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

7 (a) counseling, training and placement
8 for employment;

9 (b) drug and alcohol abuse counseling;

10 (c) family crisis counseling; and

11 (d) mental health counseling;

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

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

17 Section 73. A new section of the Public School Code is
18 enacted to read:

19 " [NEW MATERIAL] FAMILY AND YOUTH RESOURCE PROGRAMS--
20 CENTERS-- GRANTS-- DEPARTMENT DUTIES. --

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

24 B. Applications for grants shall be in the form
25

1 prescribed by the department and shall include the following
2 information:

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

6 (2) goals and expected outcomes of the
7 program;

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

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

13 (5) a workplan and budget for the program,
14 including staffing requirements and the expected availability
15 of staff;

16 (6) hours of operation;

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

19 (8) training and professional development
20 plans;

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

23 (10) a physical description of the place in
24 the school or adjacent to the school in which the program will
25

. 138154. 2

1 be located;

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

5 (12) any other information the department
6 requires.

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

10 Section 74. TEMPORARY PROVISION--SCHOOL PERFORMANCE
11 STANDARDS AND ASSESSMENTS COUNCIL--MEMBERSHIP--POWERS AND
12 DUTIES. --

13 A. The "school performance standards and
14 assessments council" is created as a two-year council to assist
15 the state board of education with school performance standards
16 and assessments in order to accelerate the ongoing development
17 and testing of content standards, benchmarks, performance
18 measures and assessments and the alignment of curricula with
19 the standards, benchmarks, performance measures and
20 assessments.

21 B. The governor shall appoint nine members to the
22 school performance standards and assessments council who are
23 acknowledged leaders in the fields of education standards and
24 assessments from lists provided by the state department of
25

underscored material = new
[bracketed material] = delete

1 public education, school board association, superintendents'
 2 association and teachers' organizations. The governor shall
 3 appoint the chairman of the council, and the council may
 4 appoint other officers it deems necessary. Members of the
 5 council may receive per diem and mileage as provided in the Per
 6 Diem and Mileage Act, but shall receive no other compensation,
 7 perquisite or allowance.

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

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

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

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

- 23 (a) language arts;
- 24 (b) mathematics;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- 1 (c) science;
- 2 (d) social studies;
- 3 (e) arts and the humanities;
- 4 (f) health and physical education; and
- 5 (g) world languages; and

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

- 11 (a) communication;
- 12 (b) technology;
- 13 (c) reasoning and problem solving;
- 14 (d) citizenship and service;
- 15 (e) multicultural competence; and
- 16 (f) workplace and educational

17 preparedness.

18 F. The school performance standards and assessments
19 council shall assist the state board of education to accelerate
20 the ongoing development of the state's assessment program that
21 measures the actual performance and achievement of students and
22 public schools in the core academic disciplines and evaluates
23 that achievement in other competencies.

24 Section 75. TEMPORARY PROVISION-- EDUCATION REGULATION

1 REVIEW TASK FORCE CREATED-- MEMBERSHIP-- POWERS AND DUTIES. --

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

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

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

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

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

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

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

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

15 G. The education regulation review task force shall
16 present its findings and recommendations no later than October
17 31, 2002 to the state board of education, the governor and the
18 legislative education study committee for further action in
19 eliminating the identified statutes and rules that are found to
20 be unnecessary and burdensome.

21 Section 76. TEMPORARY PROVISION--DISTANCE LEARNING
22 CAPABILITY.--The commission on higher education and the state
23 department of public education shall inventory the current
24 distance learning capability of public post-secondary
25

underscoring material = new
[bracketed material] = del etc

1 educational institutions and prepare a statewide plan for the
 2 delivery by post-secondary educational institutions of distance
 3 education courses for teachers and other licensed school
 4 employees in reading instruction for kindergarten through third
 5 grade and multilingual instruction in elementary and secondary
 6 schools. The inventory and plan, including funding
 7 recommendations, shall be submitted to the legislative
 8 education study committee by October 1, 2002.

9 Section 77. TEMPORARY PROVISION--INSTRUCTION IN LANGUAGES
 10 OTHER THAN ENGLISH--LEGISLATIVE EDUCATION STUDY COMMITTEE AND
 11 DEPARTMENT.--The educational initiatives and accountability
 12 task force determined that instruction in languages other than
 13 English is an important component of elementary and secondary
 14 education, and that all students should be given the
 15 opportunity to be bilingual or multilingual. The legislative
 16 education study committee and the state department of public
 17 education shall study the cost of providing instruction in
 18 languages other than English at all grade levels and shall make
 19 funding recommendations to the second session of the forty-
 20 fifth legislature.

21 Section 78. TEMPORARY PROVISION--PERFORMANCE-BASED
 22 BUDGETING--SCHOOL BUDGETS--STANDARDS AND TESTING--REPORTS.--

23 A. In conjunction with its ongoing work on
 24 performance-based budgeting for the public schools, the
 25

1 legislative finance committee shall study the management
2 techniques of site-based management and determine if public
3 schools should be given greater discretion to shape their
4 individual budgets. The committee shall report its findings to
5 the second session of the forty-fifth legislature.

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

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

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

17 A. At least three regional service centers shall be
18 operating by July 1, 2005. The superintendent of public
19 instruction shall create one regional service center in the
20 northwest region of the state and shall convert two existing
21 regional educational cooperatives into regional service
22 centers. The superintendent of public instruction may change
23 the regional boundaries of the converted regional service
24 centers.

underscored material = new
[bracketed material] = delete

1 B. The state department of public education shall
2 conduct an in-depth analysis of department functions, positions
3 and resources that should be moved to regional services centers
4 and develop a plan, including a time schedule, for the orderly
5 transition of those functions, positions and resources. The
6 department shall provide periodic reports to the legislative
7 education study committee and any other appropriate legislative
8 committee on the development and progress of its
9 decentralization plan.

10 Section 80. TEMPORARY PROVISION--TRANSFER OF REGIONAL
11 EDUCATION COOPERATIVES' APPROPRIATIONS, PROPERTY AND
12 AGREEMENTS--DISPOSITION OF REGIONAL CENTER COOPERATIVES'
13 PROPERTY. --

14 A. As the superintendent of public instruction
15 converts regional education cooperatives to regional service
16 centers, personnel, appropriations, money, records, furniture,
17 equipment and other property of a regional education
18 cooperative shall be transferred to the regional service center
19 that replaces the regional education cooperative. Contractual
20 obligations of the regional education cooperative shall be
21 contractual obligations of the regional service center.

22 B. When the superintendent of public instruction
23 creates a regional service center in a region that has a
24 regional center cooperative, the school districts that
25

1 participated in the regional center cooperative shall disband
2 the regional center cooperative. The school districts shall
3 provide for the disposition of money, records, furniture,
4 equipment and other property either as provided in the joint
5 powers agreement that created the regional center cooperative
6 or by transferring the property to the state department of
7 public education.

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

14 Section 82. RECOMPILATION.--

15 A. Sections 22-2-6.1 through 22-2-6.10 NMSA 1978
16 (being Laws 1986, Chapter 94, Sections 1 through 9 and Laws
17 1989, Chapter 373, Section 5, as amended) are recompiled as
18 Sections 22-11A-1 through 22-11A-10 NMSA 1978.

19 B. Sections 22-10-2, 22-10-3.3, 22-10-3.4, 22-10-4,
20 22-10-4.1, 22-10-10 and 22-10-23 through 22-10-27 NMSA 1978
21 (being Laws 1975, Chapter 306, Section 2, Laws 1997, Chapter
22 238, Sections 1 and 2, Laws 1967, Chapter 16, Section 107, Laws
23 1997, Chapter 238, Section 6, Laws 1967, Chapter 16, Section
24 112, Laws 1969, Chapter 116, Sections 1, 3 and 4, Laws 1969,

1 Chapter 119, Section 5 and Laws 1994, Chapter 95, Section 1, as
2 amended) are recompiled as Section 22-10A-2 and Sections 22-
3 10A-30 through 22-10A-39 NMSA 1978.

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

7 Section 83. REPEAL. -- Sections 22-2-7, 22-10-3, 22-10-3.1,
8 22-10-3.5, 22-10-3.6 and 22-10-5 through 22-10-9 NMSA 1978
9 (being Laws 1967, Chapter 16, Section 10, Laws 1975, Chapter
10 306, Section 3, Laws 1986, Chapter 33, Section 18, Laws 1999,
11 Chapter 249, Sections 1 and 2, Laws 1967, Chapter 16, Section
12 108, Laws 1973, Chapter 135, Section 1 and Laws 1967, Chapter
13 16, Sections 109 through 111, as amended) are repealed.

14 Section 84. DELAYED REPEAL. -- Sections 22-2B-1 through
15 22-2B-6 NMSA 1978 (being Laws 1993, Chapter 232, Sections 1
16 through 6) are repealed effective July 1, 2007.

17 Section 85. DELAYED REPEAL. -- Sections 22-10-12, 22-10-14,
18 22-10-14.1 and 22-10-17.1 NMSA 1978 (being Laws 1967, Chapter
19 16, Sections 114 and 116 and Laws 1986, Chapter 33, Sections 23
20 and 25, as amended) are repealed effective April 15, 2002.

21 Section 86. DELAYED EFFECTIVE DATE. -- The effective date
22 of the provisions of Sections 51 through 56 of this act is
23 April 15, 2002.

24 Section 87. EMERGENCY. -- It is necessary for the public
25

1 peace, health and safety that this act take effect immediately.

2 - 138 -

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

underscored material = new
[bracketed material] = delete