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SENATE BILL 293

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

INTRODUCED BY

Vernon D. Asbill

AN ACT

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

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

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

"[NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Teacher and School Leader Effectiveness Act"."

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

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

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

4           B. "school district" includes charter schools;

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

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

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

12           "[NEW MATERIAL] RULES IMPLEMENTATION.--

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

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

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

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

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1 Effectiveness Act; and

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

6 B. The department shall adopt:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (a) exemplary, meets competency;

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

25 Q. Feedback on classroom observations shall be

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

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

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

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

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

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

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

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

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

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

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1 NMSA 1978.

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

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

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

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

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

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

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

25 I. The local superintendent shall notify the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 The assessments may include:

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

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

4 (3) industry certification examinations; and

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

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

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

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

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