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HOUSE BILL 1034

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

PATSY G. TRUJILLO

AN ACT

RELATING TO PUBLIC EDUCATION; ENACTING THE EDUCATOR PRACTICES AND STANDARDS ACT; PROVIDING FOR TEACHER CERTIFICATION; CREATING A BOARD; PRESCRIBING POWERS AND DUTIES; CREATING A FUND; PROVIDING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING APPROPRIATIONS.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 14 of this act may be cited as the "Educator Practices and Standards Act".

Section 2. [NEW MATERIAL] DEFINITIONS. -- As used in the Educator Practices and Standards Act:

A. "alternative license" means a license given a person who does not meet all standards and requirements of the board for licensure of professional educators and who, due to

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1 compelling public interest, is working in a position normally  
2 requiring a standard license, and who is making demonstrated  
3 progress toward achieving a standard license;

4 B. "board" means the educator practices and  
5 standards board;

6 C. "department" means the state department of public  
7 education;

8 D. "executive director" means the executive director  
9 of the board;

10 E. "professional educator" means a person teaching,  
11 supervising an instructional program, counseling, supervising  
12 library services, providing medical services to students, or  
13 providing special instructional services in a public school or  
14 state agency and any person administering in a public school or  
15 state agency;

16 F. "special instructional services" means services  
17 of a professional educator which enhance instruction or assist  
18 in the delivery of instruction to students with special needs in  
19 a public school;

20 G. "standard license" means the license given a  
21 professional educator who meets all standards and requirements  
22 of the board for licensure;

23 H. "substandard license" means the temporary license  
24 given a person who does not meet all standards and requirements  
25 of the board for licensure of professional educators; and

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1 I. "substitute license" means a license given a  
2 person who does not meet all standards and requirements of the  
3 board for licensure of professional educators and who is working  
4 in a position normally requiring a standard license in the place  
5 of a licensed professional educator for a definite period of  
6 time less than a full school year.

7 Section 3. [NEW MATERIAL] LICENSE REQUIRED. - -

8 A. A professional educator employed by a public  
9 school or state agency shall hold a license issued by the board  
10 authorizing the person to perform that function.

11 B. All licenses issued by the board shall be  
12 standard licenses, except that the board may issue substandard  
13 and substitute licenses under certain circumstances. If a local  
14 school board or the governing authority of a state agency  
15 certifies to the board that an emergency exists in the hiring of  
16 a qualified person, the board may issue a substandard license to  
17 a person not meeting the requirements for a standard license.  
18 The board may also issue a substitute license to a person not  
19 meeting the requirements for a standard license to enable the  
20 person to perform the functions of a substitute teacher pursuant  
21 to the regulations of the board. All substandard and substitute  
22 licenses issued shall be effective for only one school year. No  
23 person under the age of eighteen years shall hold a license,  
24 whether standard, substandard or substitute.

25 C. A professional educator employed in a public

1 school without a license after the first three months of the  
2 school year shall thereafter forfeit all claim to compensation  
3 for services rendered.

4 D. This section shall not apply to a person  
5 performing the functions of a practice teacher as defined in the  
6 regulations of the board.

7 E. A school nurse licensed by the board shall also  
8 be licensed by the board of nursing.

9 F. A person seeking licensure as an administrator  
10 shall be required to serve a one-year apprenticeship. The board  
11 shall develop criteria and regulations to implement the  
12 provisions of this subsection.

13 G. It is unlawful for a person not licensed pursuant  
14 to the Educator Practices and Standards Act or whose license has  
15 been denied, suspended or revoked in this or another state to  
16 hold himself out as a licensed professional educator or to use  
17 words or titles containing licensed teacher, school  
18 administrator, school counselor, school librarian or other words  
19 that would indicate or imply that the person is licensed as a  
20 professional educator.

21 Section 4. [NEW MATERIAL] LICENSE REQUIREMENTS. --

22 A. The board shall require a person seeking  
23 licensure as an elementary or secondary education teacher to  
24 complete the following minimum requirements in a college of arts  
25 and sciences:

- 1 (1) twelve hours in English;
- 2 (2) twelve hours in history, including American  
3 history and western civilization;
- 4 (3) six hours in mathematics;
- 5 (4) six hours in government, economics or  
6 sociology;
- 7 (5) twelve hours in science, including biology,  
8 chemistry, physics, geology, zoology and botany; and
- 9 (6) six hours in fine arts.

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

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

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

25 Section 5. [NEW MATERIAL] BOARD CREATED. --

1           A. The "educator practices and standards board" is  
2 created.

3           B. The board shall consist of eleven members  
4 appointed by the governor subject to confirmation by the senate.  
5 The board shall elect a chairman and other officers.

6           C. Nine members shall be licensed professional  
7 educators, one member shall be a faculty member from a state  
8 teacher education institution accredited by the national council  
9 for the accreditation of teacher education and one member shall  
10 be from the general public. Among the nine licensed  
11 professional educators appointed to the board, each of the  
12 following specialties and levels of education shall be  
13 represented:

- 14                   (1) elementary teachers;
- 15                   (2) secondary teachers;
- 16                   (3) special education teachers;
- 17                   (4) counseling;
- 18                   (5) school librarians;
- 19                   (6) school nurses; and
- 20                   (7) school administrators.

21           D. Seven of the licensed professional educators  
22 appointed to the board shall be non-administrative professionals  
23 and two of the members shall be administrators. The governor  
24 shall select the non-administrative members of the board from a  
25 list of nominated professionals submitted by the national

1 education association-New Mexico and the New Mexico federation  
2 of teachers. The governor shall select the administrator  
3 members from a list of nominees submitted by the school  
4 administrator organization in which a majority of school  
5 administrators hold membership. The governor shall select the  
6 education faculty member from a list of nominees submitted by  
7 the council of college education deans. The governor shall  
8 appoint a public member who shall not be an education  
9 professional.

10 E. Appointments shall be made for staggered terms of  
11 four years. Five members shall be appointed to terms beginning  
12 on July 1, 1998 and ending on July 1, 2002. Six members shall  
13 be appointed to terms beginning on July 1, 1998 and ending on  
14 July 1, 2000. No member shall serve for more than two  
15 consecutive terms. A member may be removed from office for  
16 cause by the governor. Any member failing to attend three  
17 consecutive meetings, unless excused by the chairman is  
18 automatically removed from the board.

19 F. The board shall be administratively attached to  
20 the department.

21 G. Each member shall hold office until the  
22 expiration of the term for which appointed or until a successor  
23 has been appointed and qualified. Vacancies shall be filled for  
24 the balance of the unexpired term within ninety days of the  
25 vacancy by appointment by the governor.

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1           H. Members of the board shall be reimbursed for per  
2 diem and travel expenses pursuant to the Per Diem and Mileage  
3 Act and shall receive no other compensation, perquisite or  
4 allowance.

5           I. A simple majority of the board shall constitute a  
6 quorum for the conduct of business. The board shall meet at the  
7 call of the chairman or at the request of a majority of the  
8 members.

9           Section 6. [NEW MATERIAL] BOARD-- POWERS AND DUTIES. --The  
10 board shall:

11           A. establish and maintain standards for all  
12 professional educators employed by public schools;

13           B. adopt, amend, repeal and promulgate rules and  
14 regulations to carry out the provisions of the Educator  
15 Practices and Standards Act;

16           C. approve or disapprove professional educator  
17 education programs according to standards established by the  
18 board;

19           D. determine the qualifications for and issue or  
20 deny a license to a professional educator in public schools  
21 pursuant to the Educator Practices and Standards Act and  
22 according to a system of classification adopted and published by  
23 the board;

24           E. suspend or revoke a license held by a licensed  
25 professional educator, pursuant to the Educator Practices and



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1 Standards Act, for incompetency, immorality or any other good  
2 and just cause;

3 F. establish standards for professional educator  
4 licensing;

5 G. enter into agreements with other states for  
6 reciprocity of professional educator licensing;

7 H. establish reasonable fees for the cost of  
8 administering the provisions of the Educator Practices and  
9 Standards Act;

10 I. reprimand, suspend, place on probation or revoke  
11 licenses of professional educators for violations of standards  
12 pursuant to the Educator Practices and Standards Act;

13 J. sanction schools or school districts for  
14 employing unlicensed personnel in violation of the Educator  
15 Practices and Standards Act;

16 K. promote the improvement of professional educator  
17 training and professional development and attract qualified  
18 educators and student educators to service in the state,  
19 including those from minority and under-represented groups; and

20 L. employ an executive director for the  
21 administration of the board.

22 Section 7. [NEW MATERIAL] TRANSITION. -- Professional  
23 educators who currently hold certification or licensure pursuant  
24 to Section 22-2-2 NMSA 1978 are licensed pursuant to the  
25 provisions of the Educator Practices and Standards Act.

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1 Regulations of the state board of education regarding  
2 professional certification or licensure, professional educator  
3 training and teacher education programs shall be the regulations  
4 of the educator practices and standards board on the effective  
5 date of that act. The director of the professional licensure  
6 unit of the state department of public education shall be the  
7 executive director of the educator practices and standards  
8 board.

9 Section 8. [NEW MATERIAL] ADDITIONAL BOARD POWERS--  
10 LICENSED SCHOOL ADMINISTRATORS--EVALUATION--IMPROVEMENT  
11 TRAINING. --

12 A. The board shall adopt criteria and minimum  
13 statewide performance standards for the evaluation of all school  
14 administrators. Evaluation by the staff shall be one component  
15 of any evaluation tool developed.

16 B. School administrators shall attend a training  
17 program approved by the board to improve their administrative  
18 skills and instructional leadership at least every two years.

19 Section 9. [NEW MATERIAL] SCHOOL PERSONNEL AND SCHOOL  
20 NURSES--REQUIRED TRAINING PROGRAM --

21 A. All licensed professional educators and school  
22 nurses shall be required to complete training in the detection  
23 and reporting of child abuse and neglect and substance abuse.  
24 This requirement shall be completed within the person's first  
25 year of employment by a school district in the state.

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1           B. Pursuant to the policy and regulations adopted by  
2 the board, the department shall develop a training program,  
3 including training materials and necessary training staff, to  
4 meet the requirement of Subsection A of this section. The  
5 department shall coordinate the development of the program with  
6 appropriate staff at the human services department and the  
7 department of health.

8           C. The training program developed pursuant to this  
9 section shall be made available by the department to the deans  
10 of every college of education in New Mexico for use in providing  
11 the training to students that will be seeking elementary and  
12 secondary education licensing.

13           Section 10. [NEW MATERIAL] FEES. --

14           A. The board shall establish a schedule of  
15 reasonable fees for applications, licenses and renewal of  
16 licenses. Fees shall be established based on processing  
17 requirements for each category.

18           B. The application fee shall be set in an amount not  
19 to exceed fifty dollars (\$50.00).

20           C. The initial license fee shall be set in an amount  
21 not to exceed one hundred fifty dollars (\$150).

22           D. A license renewal fee shall be established in an  
23 amount not to exceed seventy-five dollars (\$75.00) per year.

24           E. A license reinstatement fee shall be established  
25 in an amount not to exceed fifty dollars (\$50.00).

1           Section 11.   [NEW MATERIAL]   FUND CREATED-- APPROPRIATION. --

2           A.   The "educator practices and standards fund" is  
3   created in the state treasury, to be administered by the  
4   department under the supervision of the board.

5           B.   All money received or collected by the board or  
6   the department pursuant to the Educator Practices and Standards  
7   Act shall be deposited with the state treasurer and credited to  
8   the fund, and all interest earned from investments of the fund  
9   shall be retained in the fund.  No balance remaining in the fund  
10   at the end of any fiscal year shall revert to the general fund.

11          C.   Money in the fund is appropriated to the board  
12   for the purpose of implementing and administering the provisions  
13   of the Educator Practices and Standards Act.

14          D.   Payments out of the fund shall be on vouchers  
15   issued and signed by the executive director upon warrants drawn  
16   by the secretary of finance and administration.

17           Section 12.   [NEW MATERIAL]   LICENSE DENIAL, SUSPENSION OR  
18   REVOCATION. --

19          A.   The board may issue or renew or may deny, suspend  
20   or revoke any license held or applied for pursuant to the  
21   Educator Practices and Standards Act in accordance with the  
22   procedures set forth in the Uniform Licensing Act upon grounds  
23   that the licensee or applicant:

24                   (1)  is guilty of fraud or misrepresentation in  
25   the procurement of a license under the Educator Practices and

1 Standards Act;

2 (2) is subject to the imposition of any  
3 disciplinary action by an agency of another state that regulates  
4 teachers or other professional educators, but not to exceed the  
5 period or extent of that action;

6 (3) is convicted of a crime other than a  
7 misdemeanor, and the record of conviction or a certified copy of  
8 it shall be conclusive evidence of the conviction;

9 (4) is grossly negligent or incompetent in his  
10 practice;

11 (5) has failed to meet competencies required by  
12 the board;

13 (6) has violated or aided or abetted any person  
14 to violate any of the provisions of the Educator Practices and  
15 Standards Act or any rule or regulation adopted pursuant to that  
16 act; or

17 (7) has engaged in unethical or unprofessional  
18 conduct as defined in the code of ethics adopted by the board.

19 B. One year from the date of revocation of a license  
20 under the Educator Practices and Standards Act, application may  
21 be made to the board for reinstatement of the license. The  
22 board shall provide by regulation for the criteria governing  
23 application and examination for reinstatement of a revoked  
24 license.

25 Section 13. [NEW MATERIAL] PENALTY. --

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1           A. Violation of a provision of the Educator  
2 Practices and Standards Act is a misdemeanor.

3           B. The board may bring civil action in any district  
4 court to enforce any of the provisions of the Educator Practices  
5 and Standards Act.

6           Section 14. [NEW MATERIAL] TERMINATION OF AGENCY LIFE--  
7 DELAYED REPEAL.--The board is terminated on July 1, 2007  
8 pursuant to the Sunset Act. The board shall continue to operate  
9 according to the provisions of the Educator Practices and  
10 Standards Act until July 1, 2008. Effective July 1, 2008, the  
11 Educator Practices and Standards Act is repealed.

12           Section 15. Section 22-2-2 NMSA 1978 (being Laws 1967,  
13 Chapter 16, Section 5, as amended) is amended to read:

14           "22-2-2. STATE BOARD--DUTIES.--Without limiting those  
15 powers granted to the state board pursuant to Section 22-2-1  
16 NMSA 1978, the state board shall perform the following duties:

17           A. properly and uniformly enforce the provisions of  
18 the Public School Code;

19           B. determine policy for the operation of all public  
20 schools and vocational education programs in the state;

21           C. appoint a state superintendent;

22           D. purchase and loan instructional material to  
23 students pursuant to the Instructional Material Law and adopt  
24 regulations relating to the use and operation of instructional  
25 material depositories in the instructional material distribution

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1 process;

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

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

6 ~~[G. determine the qualifications for and issue a~~  
7 ~~certificate to any person teaching, assisting teachers,~~  
8 ~~supervising an instructional program, counseling, providing~~  
9 ~~special instructional services or administering in public~~  
10 ~~schools, according to law and according to a system of~~  
11 ~~classification adopted and published by the state board;~~

12 ~~H. suspend or revoke a certificate held by a~~  
13 ~~certified school instructor or certified school administrator,~~  
14 ~~according to law, for incompetency, immorality or for any other~~  
15 ~~good and just cause;~~

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

18 [J.] H. prescribe courses of instruction,  
19 requirements for graduation and standards for all public schools  
20 and for private schools seeking state accreditation; and for the  
21 educational programs conducted in state institutions other than  
22 New Mexico military institute;

23 [K.] I. adopt regulations for the administration of  
24 all public schools and bylaws for its own administration;

25 [L.] J. require periodic reports on forms prescribed

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1 by it from all public schools and attendance reports from  
2 private schools;

3 [M-] K. authorize adult educational programs to be  
4 conducted in schools under its jurisdiction and promulgate and  
5 publish regulations governing all such adult educational  
6 programs;

7 [N-] L. require any school under its jurisdiction  
8 that sponsors athletic programs involving sports to mandate that  
9 the participating student obtain catastrophic health and  
10 accident insurance coverage, such coverage to be offered through  
11 the school and issued by an insurance company duly licensed  
12 pursuant to the laws of New Mexico;

13 [O-] M. require all accrediting agencies for public  
14 schools in the state to act with its approval;

15 [P-] N. accept and receive all grants of money from  
16 the federal government or any other agency for public school  
17 purposes and disburse the money in the manner and for the  
18 purpose specified in the grant;

19 [Q-] O. require prior approval for any educational  
20 program in a public school that is to be conducted, sponsored,  
21 carried on or caused to be carried on by a private organization  
22 or agency;

23 [R-] P. approve or disapprove all rules or  
24 regulations promulgated by any association or organization  
25 attempting to regulate any public school activity and invalidate



1 any rule or regulation in conflict with any regulation  
2 promulgated by the state board. The state board may require  
3 performance and financial audits of any association or  
4 organization attempting to regulate any public school activity.  
5 The state board shall have no power or control over the rules or  
6 regulations or the bylaws governing the administration of the  
7 internal organization of the association or organization;

8 [S-] Q. review decisions made by the governing board  
9 or officials of any organization or association regulating any  
10 public school activity, and any decision of the state board  
11 shall be final in respect thereto;

12 [T-] R. accept or reject any charitable gift, grant,  
13 devise or bequest. The particular gift, grant, devise or  
14 bequest accepted shall be considered an asset of the state;

15 [U-] S. establish and maintain regional centers, at  
16 its discretion, for conducting cooperative services between  
17 public schools and school districts within and among those  
18 regions and to facilitate regulation and evaluation of school  
19 programs;

20 [V-] T. assess and evaluate for accreditation  
21 purposes at least one-third of all public schools each year  
22 through visits by department of education personnel to  
23 investigate the adequacy of pupil gain in standard required  
24 subject matter, adequacy of pupil activities, functional  
25 feasibility of public school and school district organization,

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1 adequacy of staff preparation and other matters bearing upon the  
2 education of the students;

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

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

18 [Y.] W. submit a plan applying for funds available  
19 under Public Law 94-142 and disburse these funds in the manner  
20 and for the purposes specified in the plan; and

21 [Z.] X. enforce requirements for home schools. Upon  
22 finding that a home school is not in compliance with law, the  
23 state board shall have authority to order that a student attend  
24 a public school or a private school."

25 Section 16. Section 22-2-8 NMSA 1978 (being Laws 1967,

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1 Chapter 16, Section 11) is amended to read:

2 "22-2-8. EDUCATIONAL STANDARDS.--The state board shall  
3 prescribe minimum educational standards for all public schools  
4 in the state. A copy of these educational standards shall be  
5 furnished by the department of education to each local school  
6 board. The educational standards shall include minimum  
7 standards for the following areas:

8 A. curriculum;

9 B. organization and administration of education;

10 C. the keeping of records, other than financial  
11 records prescribed by the [chief] superintendent;

12 D. membership accounting;

13 [~~E.~~ ~~teacher preparation~~;

14 ~~F.~~ E. the physical condition of public school  
15 buildings and grounds; and

16 [~~G.~~ F. educational facilities of public schools  
17 including laboratories and libraries. "

18 Section 17. APPROPRIATION.--Two hundred thousand dollars  
19 (\$200,000) is appropriated from the general fund to the  
20 education practices and standards board for expenditure in  
21 fiscal year 1998 for the purpose of implementing the provisions  
22 of this act. Any unexpended or unencumbered balance remaining  
23 at the end of fiscal year 1998 shall not revert to the general  
24 fund.

25 Section 18. REPEAL.--Sections 22-2-8.7, 22-10-3 through

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1 22-10-3.2, 22-10-9 and 22-10-22 NMSA 1978 (being Laws 1986,  
2 Chapter 33, Section 8, Laws 1993, Chapter 222, Section 2, Laws  
3 1986, Chapter 33, Section 18, Laws 1988, Chapter 48, Section 1,  
4 Laws 1967, Chapter 16, Section 111 and Laws 1967, Chapter 16,  
5 Section 124, as amended) are repealed.

6 Section 19. EFFECTIVE DATE. --The effective date of the  
7 provisions of this act is July 1, 1997.

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