

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 214

50th Legislature, 2nd Session, 2012

Tracking Number: .194940.5

Short Title: Teacher Evaluation System & Council

Sponsor(s): Senator John M. Sapien

Analyst: LaNysha Adams

Date: February 6, 2014

Bill Summary:

SB 214 makes an appropriation to the State Equalization Guarantee (SEG) distribution to increase the Level 1 teacher salary and amends the *Public School Code* to establish a teacher and administrator evaluation to:

- include differential performance levels;
- establish an Educator Preparation and Effectiveness Council to advise and oversee promulgation of rules for the new system; and
- establish an effective teaching portfolio within the three-tiered licensure system.

Timeline

SB 214 adds a new section to the act, “Educator Preparation and Effectiveness Council – Student Learning Growth System,” that among its provisions requires adherence to the following timeline when developing the educator preparation and effectiveness council:

- by July 1, 2014, the Public Education Department (PED) to establish and convene the council to provide recommendations to PED for its rulemaking process for teacher and administrator competencies;
- by July 1, 2015, the council to complete the teacher and administrator evaluation system and provide its recommendations to PED, the Legislative Education Study Committee (LESC), and the Legislative Finance Committee (LFC); and
- by November 1, 2015, voids all prior PED rules pertaining to teacher and administrator evaluation and teacher and administrator licensure levels.

Council Membership

SB 214 establishes a 13-member council membership ensuring for geographic diversity, to include:

- two licensed teacher members, nominated by the American Federation of Teachers New Mexico;
- two licensed teacher members, nominated by the National Education Association-New Mexico;
- two licensed teacher members and two other members, selected by PED’s secretary;

- two licensed administrator members, nominated by the New Mexico Education Partners;
- one licensed administrator member, nominated by the New Mexico Coalition for Charter Schools; and
- two deans of colleges of education, nominated by the New Mexico American Association of Colleges for Teacher Education Deans and Directors Group.

Teacher & Administrator Effectiveness Evaluation System Implementation

As part of the establishment and implementation of the teacher and administrator effectiveness evaluation system, SB 214 requires PED to:

- develop, as one component of evaluating teacher and administrator effectiveness, a system using data and indicators of student learning growth on approved assessments;
- annually calculate student learning growth scores for teachers and administrators using student performance data collected over at least three years and a composite of simple and complex statistical models;
- annually publish a technical manual describing the process used to compute student learning growth scores;
- use student learning growth scores for teachers to determine percentile rankings annually;
- provide student learning growth scores to teachers and administrators and their school districts and charter schools for inclusion in a teacher's or administrator's personnel file; and
- upon request, provide to the staffs of LESC and LFC student learning growth scores for teachers for evaluation purposes and to validate accuracy of computations provided that individual teacher and administrator student learning growth scores remain confidential.

Additionally, PED must promulgate rules regarding:

- the measurement of teacher and administrator qualifications related to expected student performance growth targets;
- teacher and administrator preparation program approval, including national accreditation or a state-level approval process, including but not limited to:
 - demonstration of content and pedagogical knowledge;
 - clinical partnerships and practice;
 - candidate quality, recruitment, and selectivity;
 - program impact based upon outcome data such as student performance, satisfaction of employers, and satisfaction of graduates; and
 - preparation program quality assurance and continuous improvement; and
- minimum licensure examination requirements, including:
 - identifying required licensure exams for each licensure type;
 - establishing minimum passing scores for each licensure exam; and
 - requiring demonstration of equivalent licensure standards for candidates seeking reciprocity.

Licensure Advancement & Renewal

For Level 2 licensure, SB 214:

- requires teachers:
 - to demonstrate essential competency and effectiveness to teach;
 - whose performance evaluation indicates a level below “effective” to complete a performance improvement plan during the following school year;
 - whose performance evaluation indicates a level below “effective,” school districts may choose not to renew their contract and may take other personnel action in accordance with existing due process law or may terminate employment as provided in Section 22-10A-24 NMSA 1978; and
- allows PED to issue Level 2 licenses to applicants who:
 - successfully completes the Level 1 license or reciprocity as provided by PED rules, demonstrates essential competency and effectiveness required by PED’s effective teaching portfolio as verified by the local superintendent and meets other qualifications as required by PED; or
 - has been a Level 1 teacher for at least three years and has achieved a student learning growth score for the most recent school year in the top one-half of all Level 2 licensed teachers in the state, in lieu of an effective teaching portfolio.

SB 214 also prescribes that Level 2 licensure renewal be based upon a satisfactory summative evaluation for the most recent three-year period.

For Level 3-A licensure, SB 214:

- requires teachers:
 - whose performance evaluation indicates a level below “effective” to complete a performance improvement plan during the following school year;
 - whose performance evaluation indicates a level below “effective,” school districts may choose not to renew their contract and may take other personnel action in accordance with existing due process law or may terminate employment as provided in Section 22-10A-24 NMSA 1978; and
- allows PED to issue Level 3-A licenses to applicants who:
 - has been a Level 2 teacher for at least three years, holds a post-baccalaureate degree or National Board for Professional Teaching Standards certification and demonstrates instructional leader competence as required by PED and verified by the local superintendent through PED’s effective teaching portfolio; or
 - has been a Level 2 teacher for at least three years and has achieved a student learning growth score for the most recent school year in the top one-half of all Level 3-A licensed teachers in the state in lieu of an effective teaching portfolio.

SB 214 also requires that:

- Level 3-A licensure renewal is based upon a satisfactory summative evaluation for the most recent three-year period; and
- PED adopts criteria for the annual and summative performance evaluation of administrators that include data sources linked to student achievement and educational plan for student success progress.

Evaluation Measures

SB 214 requires the following annual and summative performance evaluation ratings for licensed school employees:

- exemplary;
- highly effective;
- effective;
- minimally effective; and
- ineffective.

The bill also includes provisions to remove the highly objective uniform statewide standard of evaluation for teachers and replaces it with a teacher's demonstration of competency and effectiveness, which requires:

- observation of classroom practice by the school principal; and
- input from school employees and students, which must be components of the annual teaching performance evaluation.

Professional Development Plans

Among its provisions, the bill requires:

- professional development plans that use student achievement data from PED-approved assessments to establish performance goals for the current school year by the first reporting date of each school year; and
- annual and summative evaluation that are based in part on how well the professional development plan was carried out.

SB 214 also requires PED to develop criteria for performance improvement plans.

Effective Teaching Portfolio

SB 214 requires PED to establish:

- an effective teaching portfolio for licensure advancement aligned to the basic competencies and effectiveness indicators, including:

- additional evidence to demonstrate effective teaching practices, professional development, and student learning;
 - the most recent summative evaluation and certification by the local superintendent that the portfolio was completed by the applicant; and
 - student achievement counting for at least 30 percent of the overall score; and
- the process for independent reviewers to assess the portfolio and provide ratings on whether the applicant exceeds, meets, or does not meet the standards.

Finally, SB 214 allows:

- the council to convene work groups, including non-council members with appropriate expertise, and consultations with state, regional, and national experts; and
- PED, if there are sufficient funds, to reimburse members of the council and any work groups for travel expenses pursuant to the *Per Diem and Mileage Act*.

Fiscal Impact:

\$4,537,000 is appropriated from the General Fund to PED for distribution through the SEG for expenditure in FY 15 to increase the Level 1 teaching salary. Any unexpended or unencumbered balance remaining at the end of FY 15 will revert to the General Fund.

Substantive Issues:

Throughout the 2012 and 2013 interims, the LESC received testimony regarding challenges of the new teacher and principal evaluation system.

Legislative Action

In 2011, the Legislature considered, but did not pass, legislation that would have implemented a new system for evaluating teachers and principals. Through executive order in the 2011 interim, the Governor created the New Mexico Effective Teaching Task Force, whose charge was to provide recommendations to the Governor regarding how best to measure the effectiveness of teachers and school leaders based on specific parameters.

In 2012, the Legislature considered, but did not pass, legislation that would have implemented a new teacher and principal evaluation system with requirements promised to the US Department of Education (USDE) in PED's amended *Elementary and Secondary Education Act* (ESEA) Flexibility Waiver application.

In 2013, the following bills related to teacher evaluation were introduced during the legislative session; however only one joint memorial and one bill passed and the bill was vetoed by the Governor. The provisions of those bills are highlighted below:

- HJM 30, *Study Uses of Standardized Test Scores*, requests that the LESC convene a work group to study the validity of using standardized test scores for purposes other than those for which the test was designed – principally for teacher and school administrator effectiveness and school grading – and report to the LESC by October 1, 2013. **(Passed)**;

- SB 588aaa, *Teacher & Principal Evaluation System Council*, proposed to add a new section of the *School Personnel Act* to require PED to convene a 31-member council from June 1, 2013 to December 31, 2017 to develop a teacher and principal evaluation system, in accordance with the highly objective uniform statewide standards and other evaluation criteria prescribed by the *School Personnel Act*. **(Vetoed)**
- HB 276, *Teacher Licensing & Performance Ratings*, would have amended the *School Personnel Act* to link tiered licensure of teachers to annual objective performance evaluation ratings and provide an improvement plan process for teachers that do not demonstrate effectiveness. [Identical to SB 316] **(Did Not Pass)**
- HB 589, *School Teacher & Principal Evaluation System*, would have added a new section of the *School Personnel Act* to: require PED to convene a 31-member council from July 1, 2013 to December 31, 2017 to develop a teacher and principal evaluation system. [Similar to SB 588aaa] **(Did Not Pass)**
- SB 316, *Teacher Licensing & Performance Ratings*, would have amended the *School Personnel Act* to link tiered licensure of teachers to annual objective performance evaluation ratings and provide an improvement plan process for teachers that do not demonstrate effectiveness. [Identical to HB 276] **(Did Not Pass)**

PED Rule: Teacher and School Leader Effectiveness

In April 2012, the Governor issued a press release directing PED to promulgate rule for a new teacher and principal evaluation system. According to the press release, the development of a framework for a new evaluation system was one of the conditions for the ESEA Flexibility Waiver and the new evaluation system would incorporate many of the measures that were part of the 2012 legislation that did not pass.

As a result of the Governor's directive:

- in May 2012, PED requested nominations for 18 people to serve two-year terms on the New Mexico Teacher Evaluation Advisory Council (NMTEACH) in order to develop the details of a new teacher and school leader evaluation system based on student achievement;
- in June 2012, NMTEACH held its first meeting;
- in July 2012, PED held a public hearing to solicit public comment on draft provisions of the "Teacher and School Leader Effectiveness" rule;
- in August 2012, PED published a finalized draft of the "Teacher and School Leader Effectiveness" rule in the *New Mexico Register* and the final rules contained several changes from the original version;
- NMTEACH met several times throughout 2012 and 2013 to finalize the components of the teacher and principal evaluation system;
- in July 2013, PED held a public hearing to solicit public comments on revised provisions of the "Teacher and School Leader Effectiveness" rule; and
- in September 2013, PED published the final version of the "Teacher and School Leader Effectiveness" rule in the *New Mexico Register* and the final rule contained specific details about observers in the effectiveness evaluation system.

Technical Issues:

Appropriations intended for the public school funding formula should be made to the SEG or the Public School Fund, not to PED or to any other agency.

Background:

Current Law

Among its provisions, in Section 22-10A-19, the *School Personnel Act* requires:

- PED to adopt criteria and minimum highly objective uniform statewide standards of evaluation for the annual performance evaluation of licensed school employees;
- the professional development plan for teachers to include documentation on how a teacher who receives professional development that has been required or offered by the state or a school district or charter school incorporates the results of that professional development in the classroom;
- the local superintendent to adopt policies, guidelines, and procedures for the performance evaluation process;
- evaluation by other school employees to be one component of the evaluation tool for school administrators;
- the school principal to observe each teacher's classroom practice to determine the teacher's ability to demonstrate state-adopted competencies, as part of the highly objective uniform statewide standard of evaluation for teachers;
- at the beginning of each school year, teachers and school principals to devise professional development plans for the coming year;
- to base performance evaluations, in part, on how well the professional development plan was carried out;
- if a Level 2 or Level 3-A teacher's performance evaluation indicates less than satisfactory performance and competency, the school principal to require the teacher to undergo peer intervention, including mentoring, for a period the school principal deems necessary. If the teacher is unable to demonstrate satisfactory performance and competency by the end of the period, the peer interveners may recommend termination of the teacher; and
- at least every two years, school principals to attend a training program approved by PED to improve their evaluation, administrative and instructional leadership skills.

USDE Flexibility

On February 12, 2012, when the USDE approved the state's revised application, New Mexico became the 11th state to be granted an ESEA Flexibility Waiver from certain requirements of the *No Child Left Behind Act of 2001*. To gain USDE's approval, each state was required to commit to four key principles:

- Principle 1, College- and Career-ready Expectations for All Students;
- Principle 2, State-developed Systems of Differentiated Recognition, Accountability, and Support;
- Principle 3, Supporting Effective Instruction and Leadership; and
- Principle 4, Reducing Duplication and Unnecessary Burden.

One of the main components of Principle 3 is a system of evaluating teachers and principals that incorporates student achievement as a major factor. In the amended waiver application, to meet Principle 3, PED stated that New Mexico was in the process of finalizing legislation, based on the recommendations of the Effective Teaching Task Force, that would create a redesigned teacher and school leader evaluation system, and that this system would align with the requirements of the flexibility waiver principles. Ultimately, this legislation did not pass in the 2012 legislative session; however, PED established a redesigned teacher and principal evaluation system by PED rule.

In a letter addressed to Chief State School Officers on June 18, 2013, USDE Secretary Arne Duncan allowed states that received a Race to the Top grant or the ESEA Flexibility Waiver to “delay any personnel consequences, tied in part to the use of student growth data, until no later than 2016-2017.” In the letter, USDE Secretary Duncan also acknowledges that “for many states, it will not make sense to request flexibility because they are already well ahead in successfully implementing these changes or have requirements in state law.”

PED Rule: Performance Evaluation System Requirements for Teachers

To advance through licensure levels, PED rules promulgated in 2003, specify the Professional Development Dossier (PDD) as the central requirement in the process (6.69.4 NMAC). PED defines the PDD as a “focused, compact collection of documentation” compiled by the teacher and the school district. The PDD:

- includes classroom data such as lesson descriptions, student work, and video and audio recordings, with explanations written by the teacher and verification of the work and recommendation for advancement completed by the superintendent; and
- is organized into five strands:
 - the first three of which – Instruction, Student Learning, and Professional Learning – incorporate the nine teacher competencies specified in PED rule and are completed by the teacher; and
 - two other strands, which, respectively, verify the teacher’s work in the dossier and recommend the teacher for licensure advancement based on the annual evaluations are completed by a district-level administrator.

Committee Referrals:

SCC/SEC/SFC

Related Bills:

HB 276 *Teacher Licensure Advancement*
HB 289 *Teacher Competency for Advancement*
SB 104 *Streamline Teacher Administrative Licensure*
SB 105 *Teacher Licensure & Advancement*
*SB 197 *School Teacher Evaluation Moratorium*