

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: CS/CS/HB 249 & CS/HB 251

50th Legislature, 2nd Session, 2012

Tracking Number: .189779.3

Short Title: Teacher & School Leader Effectiveness Act

Sponsor(s): Representatives Dennis J. Roch and Rick Miera and Others

Analyst: Phil Baca

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**HOUSE LABOR AND HUMAN RESOURCES COMMITTEE SUBSTITUTE
FOR HOUSE EDUCATION COMMITTEE SUBSTITUTE
FOR HOUSE BILL 249 AND
HOUSE EDUCATION COMMITTEE SUBSTITUTE
FOR HOUSE BILL 251**

Bill Summary:

CS/CS/HB 249 & CS/HB 251 adds a new section to the *Public School Code* to create the *Teacher and School Principal Effectiveness Act (act)*.

Definitions

CS/CS/HB 249 & CS/HB 251 defines a number of terms, including:

- “**council**” means the effectiveness evaluations council;
- “**principal**” includes assistant principals and head administrators of charter schools; and
- “**school district**” includes charter schools.

Timeline

The bill requires adherence to the following timeline when developing the teacher and principal effectiveness evaluation system:

- by September 1, 2012, the council must report evaluation system recommendations to the Public Education Department (PED);
- by January 1, 2013, PED must promulgate final rules for the evaluation system;
- by May 1, 2013 and May 1 of subsequent years school districts must submit their teacher and principal evaluation measures to PED for approval;
- from February 1 through August 31, 2013, PED will conduct training for principals and other evaluators;
- beginning with the school year 2013-2014 the evaluation system must be evaluated in every public school; and
- the school year 2013-2014 shall be used to determine evaluation system baseline data.

Council Membership

The bill establishes the council membership ensuring for geographic, demographic, and small, mid-size, and large district representation, to include:

- 4 teachers, specific to the following levels, nominated by teacher organizations, to include:
 - one Level 2 or Level 3 elementary;
 - one Level 2 or Level 3 middle school;
 - one Level 2 or Level 3 high school; and
 - one Level 2 or Level 3 teaching multiple grades.
- 4 teachers, appointed by PED from applications, one of which must teach in a charter school, specific to the following levels:
 - one Level 2 or Level 3 elementary;
 - one Level 2 or Level 3 middle school;
 - one Level 2 or Level 3 high school; and
 - one Level 2 or Level 3 teaching multiple grades.
- four school principals, two nominated by an organization of school administrators and two appointed by PED from applications;
- one member from the Hispanic Education Advisory Council;
- one member from the Indian Education Advisory Council;
- one member from the business community, appointed by PED from applications; and
- one parent, appointed by PED from applications.

Council Recommendations

The bill requires the council recommendations submitted to PED by September 1, 2012, to consider New Mexico's unique geographic and demographic composition, diversity of cultures and languages, as well as alignment to transition of common core standards, and to provide:

- a system that integrates teacher evaluation and principal evaluation to best serve student learning, to include;
 - effective instruction and student growth achievement with results used to inform district-level and school-level improvement;
 - instruments, procedures, and criteria for improving teacher and principal effectiveness;
 - methods to examine effectiveness data from multiple sources, including parent and student input;
 - methods and criteria to evaluate principals; and
 - criteria for teacher and principal professional development and evaluator training;
- training materials and guidelines for performing teacher and principal evaluations;
- alignment of the evaluation system with current licensure and compensation systems; and

- if necessary, proposed changes to PED rule or law when evaluation system results are used in making personnel decisions in compensation, promotion, retention, termination, and professional development.

Evaluation Measures

The bill ensures that the evaluation for teachers includes the following multiple measures:

- valid and reliable measures of student growth and achievement that have a valid and reliable connection to teacher effectiveness, to include student growth over multiple years and measures of teachers' contributions to student growth achievement;
- multiple sources of information related to teacher effectiveness, to include student surveys, teacher professional development plans reflecting teachers' professional growth, and other measures recommended by council supported by their research;
- frequent teacher practice observations; and
- one formal observation by principal using research-based protocols and providing useful feedback to improve teacher performance.

The bill ensures that the evaluation for principals includes measures of student growth achievement and school growth, to include:

- measures relating to instructional leadership;
- feedback from teachers, staff, and parents;
- the principal's fidelity to the state evaluation system for evaluating teachers and supporting teachers in need of improvement; and
- other measures recommended by the council and supported by their research.

Evaluation Percentages

The bill requires certain percentages to be used in the evaluation of each licensed teacher and principal:

for each licensed teacher:

- 50 percent on valid and reliable measures of student growth and achievement that have a valid and reliable connection to teacher effectiveness; and
- 50 percent on the recommendation of the council and based on:
 - multiple sources of information related to teacher effectiveness, to include student surveys, teacher professional development plans reflecting teachers' professional growth, and other measures recommended by council supported by their research; and
 - frequent teacher practice observations and one formal observation by principal using research-based protocols and providing useful feedback to improve teacher performance.

for each principal:

- 50 percent on valid and reliable measures of student growth achievement and school growth that has a valid and reliable connection to effective instructional leadership.

Performance Ratings & Post Evaluation

The bill requires the following evaluation performance ratings for each licensed teacher and principal:

- exemplary, meets competency;
- highly effective, meets competency;
- effective, meets competency;
- minimally effective, does not meet competency; and
- ineffective, does not meet competency.

The bill requires certain post-evaluation activities, including:

- a written report presented to each teacher, including notice of unsatisfactory work performance and an individual professional growth plan for any teacher rated minimally effective or ineffective;
- a post-evaluation conference with each teacher no later than 10 days after the evaluation is completed;
- period of time determined by principal or other supervisor to correct or improve minimally effective or ineffective performance;
- discharge or termination procedures for uncorrected unsatisfactory work performance following existing statute, including, however, exemptions for extraordinary circumstances as determined by PED; and
- school district notification to PED of any licensed school employee who receives two consecutive minimally effective or ineffective evaluations, as well as all discharges or terminations.

Finally, provisions of the act further require:

- PED to implement a formula based on individual student achievement growth on the state accountability system, by January 1, 2013, based on the recommendations by the council; and
- beginning with the school year 2013-2014, each school district shall use the PED adopted student achievement growth measures to measure the growth on achievement of each student.

Fiscal Impact:

CS/CS/HB 249 & CS/HB 251 make no appropriation.

CS/HB 2a, et al., the *General Appropriation Act* of 2012 (before executive action) includes a \$1.0 million non-recurring special appropriation to PED to support the implementation of a new teacher evaluation system based on student achievement growth.

Related language in the appropriation bill:

The secretary of public education, in collaboration with the department of finance and administration, shall ensure all teachers have been evaluated under the tiered licensure evaluation system and have the professional competencies of the appropriate level. The

secretary of public education shall withhold from the state equalization guarantee distribution funding for the minimum salary of any teacher who has not been evaluated. [p. 72]

The secretary of public education, in collaboration with the department of finance and administration, shall ensure all principals and assistant principals have been evaluated under the highly objective uniform statewide standards of evaluation and have the professional competencies to serve as a principal or assistant principal. The secretary of public education shall withhold from the state equalization guarantee distribution funding for the minimum salary of any principal or assistant principal that has not been evaluated. [p. 172]

Pursuant to Article 12, Section 6 of the New Mexico Constitution, the secretary of the public education department has administrative and regulatory powers and duties, including all functions relating to the distribution of school funds and financial accounting for the public schools to be performed as provided by law. To administer effective spending priorities when approving programs, school district and charter school budgets, budget adjustment requests, and in setting the unit value, the secretary shall verify and audit student membership and program units. The secretary of public education shall work with and assist superintendents and school boards and head administrators and governing bodies of charter schools to ensure efficient spending practices that membership and program units are correctly calculated, and school district and charter school operating budgets are implemented in a manner that will minimize adverse impacts to instructional programs and student achievement. The secretary shall ensure that the number of instructional days will not be reduced. [pp. 173-174]

Fiscal Issues:

The FY 13 Executive recommendations include two appropriations to PED:

- a \$2.5 million recurring appropriation to, according to PED, reward highly effective teachers and implement a new teacher evaluation system; and
- a \$3.0 million nonrecurring appropriation to, according to PED, transition to teacher effectiveness in FY 12, FY 13, and FY 14.

According to the Fiscal Impact Report of the Legislative Finance Committee of the original bill, the PED analysis does not provide a fiscal impact to either the department or school districts and charter schools.

According to an analysis by PED:

- there are no fiscal implications; and
- the Executive recommendation has requested funds to support districts as they develop various aspects of the new evaluation system (i.e., assessments for teachers in non-tested grades and subjects and multiple measures) and provide training on the new system.

Substantive Issues:

CS/CS/HB 249 & CS/HB 251 amends current provisions in the *School Personnel Act* to require teachers to be evaluated for effectiveness in teaching rather than on competencies.

Technical Issues:

The bill states that 50 percent of the principal evaluation is based on valid and reliable measures of student growth achievement and school growth that has a valid and reliable connection to effective instructional leadership. The bill does not state what the basis of the remaining 50 percent of the principal evaluation will be.

Background:

Current Law

Provisions in the *School Personnel Act* in the *Public School Code* currently require:

- 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;
- a local superintendent to adopt policies, guidelines, and procedures for the performance evaluation process;
- an evaluation by other school employees to be one component of the evaluation tool for school administrators;
- as part of the highly objective uniform statewide standard of evaluation for teachers, a school principal to observe each teacher's classroom practice to determine the teacher's ability to demonstrate state-adopted competencies;
- at the beginning of each school year, teachers and school principals to devise professional development plans for the coming year, and performance evaluations to be based 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, a school principal to require a 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 the department to improve their evaluation, administrative, and instructional leadership skills.

New Mexico Effective Teaching Task Force

In 2011, the Legislature considered, but did not pass, SB 502, *School Teacher and Principal Evaluation System*. Among its provisions, the bill would have required PED to convene a work group to develop and make recommendations for a highly objective uniform statewide evaluation framework for school district and charter school teacher evaluation models and school principal

evaluations, and to propose a performance-based compensation system to provide incentives for effective teachers and school principals.

Through Executive Order 2011-024, the Governor created the New Mexico Effective Teaching Task Force, comprising 15 members (including the directors of the LESC and LFC) appointed by and serving at the pleasure of the Governor. The task force was charged with providing recommendations to the Governor regarding how best to measure the effectiveness of teachers and school leaders based on specific parameters, including:

- student achievement — representing at least 50 percent of the teacher evaluation;
- demonstrated best practices of effective teachers and teaching;
- the weights assigned to these measures; and
- the transition to a performance-based compensation system acknowledging student growth and progress.

During the fall interim, LESC staff testified that the task force heard presentations from education professionals specializing in value-added modeling, student assessment, and teacher quality. Subsequent meetings featured more presenters from organizations that included the Southern Regional Education Board, the New Mexico School Leadership Institute, and the New Mexico Business Roundtable. The Secretary-designate of Public Education also testified that the task force would accept public input prior to completing its report and recommendations to be delivered to the Governor in August 2011.

In August, the Secretary-designate reported that the task force had met 10 times and formed four work groups organized around the following topic areas:

- Teacher and School Leader Evaluation;
- Professional Development;
- Recruitment and Retention; and
- Compensation and Advancement.

Testimony from LESC and PED staff during the October LESC hearing explained that, on August 26, PED presented the Governor with *New Mexico Effective Teaching Task Force: Final Report and Recommendations*. The report made 38 recommendations, all but two of which (regarding the use and phase-in of a value-added model) were unanimously approved by the 15-member group. However, LESC members expressed a number of concerns, including the need to continue with the three-tier licensure process and to improve the professional development dossier and professional development plan processes.

Related Bills:

CS/SB 293 *Teacher & School Leader Effectiveness Act*
CS/SB 315 *Teacher Evaluation Framework*