

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** HB 276

**51st Legislature, 1st Session, 2013**

**Tracking Number:** .191008.1

**Short Title:** Teacher Licensing & Performance Ratings

**Sponsor(s):** Representative Dennis Roch and Others

**Analyst:** LaNysha Adams

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**Bill Summary:**

HB 276 amends the *School Personnel Act* of the *Public School Code* to require that:

- “effectiveness” be defined according to five performance evaluation rating levels of:
  - exemplary;
  - highly effective;
  - effective;
  - minimally effective; or
  - ineffective;
- “improvement plan” be defined as a written plan for the teacher that:
  - identifies the areas in which the teacher needs improvement;
  - provides for professional development, training, support, or other opportunities aligned with the areas in which the teacher needs improvement; and
  - states the expectation that the teacher demonstrate improvement in certain areas within 90 working days of receiving the improvement plan;
- the tiered licensure of teachers be linked to annual objective performance evaluation ratings; and
- an improvement plan process be provided for teachers that do not demonstrate effectiveness.

For Level 1 licensure, provisions in HB 276:

- change the requirement:
  - to apply for a Level 2 license from teaching for a minimum of three years to provisions specified in the Public Education Department (PED) rules;
  - from an annual evaluation of competency to an annual evaluation of effectiveness;
- state that if the teacher receives minimally effective or ineffective performance evaluation ratings, the teacher is required to receive an improvement plan from a school administrator or mentor,

- after completion of the improvement plan, the teacher shall:
  - continue to teach with a Level 1 license if improvement is demonstrated; and
  - be terminated as provided in Section 22-10A-24 NMSA if no improvement is demonstrated; and
- remove the following provisions:
  - if the teacher fails to demonstrate satisfactory progress and competence annually, the teacher may be terminated as provided in Section 22-10A-24 NMSA 1978; and
  - if the teacher has not demonstrated satisfactory progress and competence by the end of the five-year period, the teacher shall not be granted a Level 2 license.

For Level 2 licensure, provisions in HB 276:

- change:
  - the duration of a Level 2 license to five years; and
  - the annual demonstration of competency to the annual demonstration of effectiveness; and
- state that if the teacher does not demonstrate effectiveness, the school district shall provide the teacher with an improvement plan during the next school year, and if
  - by the end of that school year the teacher fails to demonstrate effectiveness, a school district may choose not to contract with the teacher.

For Level 3-A licensure, provisions in HB 276:

- change:
  - the duration of a Level 3-A license to five years; and
  - the annual demonstration of competency to the annual demonstration of effectiveness;
- state that if the teacher does not demonstrate effectiveness, the school district shall provide the teacher with an improvement plan during the next school year, and if
  - by the end of that school year the teacher fails to demonstrate effectiveness, a school district may choose not to contract with the teacher; and
- remove the requirement that an applicant must:
  - teach at Level 2 for at least three years; and
  - hold a post-baccalaureate degree or National Board for Professional Teaching Standards (NBPTS) certification.

For Level 3-B licensure, provisions in HB 276:

- change:
  - the duration of a Level 3-B license to five years; and
  - the annual demonstration of instructional leader and administrative competency to the annual demonstration of effectiveness; and
- remove the requirement that an applicant must:
  - hold a Level 2 license and meet the requirements for a level 3-A license; or hold a Level 2 license and hold the highest-ranked counselor license for at least four years;
  - hold a post-baccalaureate degree or NBPTS certification;
  - satisfactorily complete PED-approved courses in administration and a PED-approved administration apprenticeship program; and
  - demonstrate instructional leader competence required by PED and verified by the local superintendent through the highly objective uniform statewide standard of evaluation.

Additional provisions in HB 276 allow PED to issue:

- A Level 2 license to an applicant who has:
  - completed at least two years of teaching with a Level 1 license and has received an objective performance evaluation rating of exemplary or highly effective for each of the immediately preceding two years; or
  - completed at least five years of teaching with a Level 1 license and has not received an objective performance evaluation rating of minimally effective or ineffective in the immediately preceding three-year period; or
  - been granted reciprocity as provided by PED rules.
- A Level 3-A license to an applicant who has:
  - completed at least two years of teaching with a Level 2 license and has received an objective performance evaluation rating of exemplary or highly effective for each of the immediately preceding two years; or
  - completed at least five years of teaching with a Level 2 license and has not received an objective performance evaluation rating of minimally effective or ineffective in the immediately preceding three-year period.
- A Level 3-B license to an applicant who has:
  - submitted to PED written approval from a superintendent or the superintendent's designee to enter into an administrator preparation program; and
  - completed at least three years of teaching with a Level 2 license and has received an objective performance evaluation rating of exemplary or highly effective for each of the immediately preceding three years; or
  - completed at least two years of teaching with a Level 3-A license and has received an objective performance evaluation rating of exemplary or highly effective or effective for each of the immediately preceding two years.

### **Fiscal Impact:**

HB 276 makes no appropriation.

### **Fiscal Issues:**

The FY14 Executive Recommendation includes approximately \$11.3 million to PED for rewarding highly effective teachers and principals.

According to the *Executive Budget Recommendation* for FY 14, an appropriation of \$11.3 million would provide:

- \$7,500 to 675 exemplary teachers, equaling \$5,062,500;
- \$5,000 to 1,125 highly effective teachers, equaling \$5,625,000;
- \$10,000 to 50 exemplary principals, equaling \$500,000; and
- \$7,500 to 50 highly effective principals, equaling \$375,000.

It is indeterminate as to why the grand total of the Executive funding recommendation to reward highly effective teachers and principals equals \$11,562,500 and does not match the \$11.3 million request.

According to the PED bill analysis:

- approximately 1,100 teachers annually advance from tier to tier, which is estimated to cost districts and charter schools approximately \$11.0 million;
- beginning in FY 16, HB 276, if enacted, might decrease the annual movement of teachers from tier to tier and reduce operational costs for school districts and charter schools; and
- the Legislative Finance Committee's (LFC) recommendations to change the Training and Experience (T&E) Index would save \$52.0 million during the first year of implementing HB 276, if enacted (see "Background," below).

### **Substantive Issues:**

According to the University of New Mexico bill analysis, HB 276, if enacted:

- would not address how aspects of the three-tiered licensure system may interrelate with other bills seeking to amend sections of the *Public School Code* regarding the school funding formula, such as the T&E Index, which impacts how funds are distributed through the State Equalization Guarantee (SEG);
- may conflict with current provisions in the *Public School Finance Act* in Section 22-8-24 NMSA 1978 (see "Background," below); and
- would allow teachers and school administrators to advance throughout the three-tiered licensure system without any requirements to attain advanced coursework through postsecondary education.

According to the PED bill analysis, HB 276, if enacted:

- the Professional Development Dossier (PDD) would be retained for the first two years of implementation. Keeping the PDD for at least two years would allow a transition phase

for teachers that have met the requirements that were set under the previous guidelines (see “Background,” below);

- would reduce the burden of support that PED must provide in the implementation of the PDD process because the “Effective Teachers and School Leaders Bureau spends ninety percent of their efforts on supporting the PDD, impacting between 1,100 and 1,300 teachers per year and with minimal, if any, effect on student achievement”;
- would align the three-tiered licensure system to the actual classroom performance of teachers, which would create a system that is student-centered;
- would allow the most effective teachers to advance throughout the licensure system faster than current law allows; and
- would remove additional burden and costs on teachers in the advancement process.

According to a licensure fee memo posted on PED’s website, current fees for licensure renewal and for advancement throughout the licensure levels include:

- \$125 for initial and additional licensure applications for teachers, administrators, and instructional support providers;
- \$35 for initial and additional licensure applications for educational assistants, substitute teachers, health assistants, and coaches;
- \$95 for continuing licensure applications for teachers at the same licensure level, administrators, and instructional support providers;
- \$35 for continuing licensure applications for educational assistants, substitute teachers, health assistances, and athletic coaches;
- \$320 for teacher advancement through the PDD process;
- \$110 for resubmitting one strand for teacher advancement through the PDD process;
- \$220 for resubmitting two strands for teacher advancement through the PDD process;
- \$320 for resubmitting three strands for teacher advancement through the PDD process; and
- \$95 for adding an endorsement to a teaching license.

## **Background:**

### ***PED Rule***

The details for advancement throughout the three-tiered teacher licensure system are a completely regulatory process overseen by PED and are published in the *New Mexico Administrative Code*, which are highly subject to change at the discretion of PED.

To advance through licensure levels, PED rules specify the PDD as the central requirement in the process. 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 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.

***Current Law***

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

- post-baccalaureate degrees or National Board for Professional Teaching Standards certification before teachers may obtain Level 3-A or Level 3-B licenses;
- 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.

For the purpose of calculating the instructional staff training and experience index, provisions in the *School Finance Act* in the *Public School Code* currently require:

- the number of instructional staff to be counted in calculating the instructional staff training and experience index is the actual number of full-time equivalent instructional staff on the October payroll;
- the number of years of experience to be used in calculating the instructional staff training and experience index is that number of years of experience allowed for salary increment purposes on the salary schedule of the school district; and
- the academic degree and additional credit hours to be used in calculating the instructional staff training and experience index is the degree and additional semester credit hours allowed for salary increment purposes on the salary schedule of the school district.

## *Reports on Teacher Effectiveness*

In 2010, the Economic Policy Institute (EPI) published *Problems with the Use of Student Test Scores to Evaluate Teachers*, a briefing paper which concluded that:

- student test scores “should be only one element among many considered in teacher profiles. Some states are now considering plans that would give as much as 50 percent of the weight in teacher evaluation and compensation decisions to scores on existing poor-quality tests of basic skills in math and reading. Based on the evidence we have reviewed above, we consider this unwise. If the quality, coverage, and design of standardized tests were to improve, some concerns would be addressed, but the serious problems of attribution and nonrandom assignment of students, as well as the practical problems described above, would still argue for serious limits on the use of test scores for teacher evaluation”; and
- standards-based evaluations of teaching practice have been implemented in some districts and have provided more useful evidence about teaching practice. Furthermore, research indicates associations of standards-based evaluations for teachers with student achievement gains.

In January 2013, the Bill and Melinda Gates Foundation released the results of their three-year-long study on teacher effectiveness; the Measures of Effective Teaching (MET) Project. For the final report, *Have We Identified Effective Teachers? Validating Measures of Effective Teaching Using Random Assignment*, the MET Project:

- used the data collected during school year 2009-2010 to build a composite measure of teaching effectiveness, combining the following three measures to predict a teacher’s impact on another group of students:
  - student surveys;
  - classroom observations; and
  - a teacher’s track record of student achievement gains on state tests;
- randomly assigned a classroom of students to each teacher and tracked his or her students’ achievement during school year 2010-2011; and
- compared the predicted student outcomes to the actual differences that emerged by the end of school year 2010-2011.

Findings from the MET Project’s final report include:

- the measures of effectiveness from school year 2009-2010 identified teachers who produced higher average student achievement following random assignment;
- as a group, the teachers identified as more effective produced greater student achievement growth than other teachers in the same school, grade, and subject;
- even though the three measures used to evaluate teacher effectiveness were collected before random assignment, these measures generated predictions of teachers’ impact on students after random assignment;
- when a teacher was predicted to improve student achievement on state tests by one standard deviation, his or her students’ performance on the supplemental assessments increased by .7 standard deviations on average. His or her students were also .84 standard deviations more likely to self-report that they enjoyed being in the class; and

- reliable measures to identify effective teachers can be developed and that “a more balanced approach – which incorporates the student survey data and classroom observations – has two important advantages: ratings are less likely to fluctuate from year to year, and the combination is more likely to identify teachers with better outcomes on assessments other than the state tests.”

Finally, the MET Foundation cautions:

- a prediction can be correct on average but still be subject to prediction error;
- anyone using these measures for high-stakes decisions should be cognizant of the possibility of error for individual teachers;
- that they did not randomly assign students or teachers to a different school; therefore, the findings should not be used for gauging differences across schools because the process of student sorting across schools could be different than sorting between classrooms in the same school; and
- that evidence from the study should not be used to inform between-school comparisons in any way.

**Committee Referrals:**

HLC/HEC

**Related Bills:**

HB 158 *School Performance-Based Budgeting*

HB 192 *School Program Units for Certain Personnel*

SB 316 *Teacher Licensing & Performance Ratings* (Identical)