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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**53rd Legislature, 1st Session, 2017**

<b>Bill Number</b>	<u>HB248</u>	<b>Sponsor</b>	<u>Trujillo, CH</u>
<b>Tracking Number</b>	<u>.205983.1</u>	<b>Committee Referrals</b>	<u>HEC</u>
<b>Short Title</b>	<u>School Employee Evaluation Standards</u>		
<b>Analyst</b>	<u>Macdonald</u>	<b>Original Date</b>	<u>2/9/17</u>
		<b>Last Updated</b>	<u>3/13/17</u>

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**BILL SUMMARY**

Synopsis of Bill

House Bill 248 (HB248) amends the School Personnel Act to provide requirements for the uniform statewide standards of evaluation for the annual performance evaluation of licensed school employees and eliminates the use of certain evaluation criteria.

**FISCAL IMPACT**

HB248 does not contain an appropriation.

The Senate Finance Committee (SFC) amendment to the House Appropriations and Finance Committee Substitute for House Bills 2 and 3 includes the following appropriations to PED for a teacher and administrator evaluation system: (1) \$4 million in general fund revenue; and (2) \$500 thousand in other state funds, which will be from the educator licensure fund. However, additional language in the SFC amendment includes language authorizing the use of all FY18 “below-the-line” appropriations, except for the regional education cooperatives, K-3 Plus Fund, Public Prekindergarten Fund, and Early Reading Initiative, for emergency support to school districts experiencing shortfalls in FY18 after all other general fund appropriations for emergency support are fully expended.

In a recent interim hearing before the Legislative Education Study Committee (LESC), the Public Education Department (PED) stated requiring teacher attendance on every teacher’s evaluation reduces teacher absences and saves money. Statewide, school districts saved \$3.6 million on substitute teacher costs in the past year, and the time teachers spent in the classroom increased by approximately 400 thousand hours.

**SUBSTANTIVE ISSUES**

The bill states the adopted criteria and evaluation standards shall: provide a balance between structure and flexibility; define common purposes and expectations to guide effective instructional practice; provide flexibility and encourage creativity and individual teacher

initiative; and support the continuous growth and development of each teacher by monitoring, analyzing, and applying pertinent data compiled within a system of meaningful feedback.

HB248 restricts PED from using the following as components in the teacher evaluation system: student test scores or value-added methodology; sick, personal, annual, professional, bereavement, family medical, or other earned or allotted leave; and include a numerical teacher effectiveness rating. Thus only classroom observations and multiple measures, including professionalism, preparation, parent surveys, and student surveys, would make up the entirety of the teacher evaluation system.

On November 4, 2016, PED released a memo updating the teacher evaluation system for the 2016-2017 school year, which clarified teacher attendance and surveys would be required on all teacher evaluations beginning this school year and each would be worth 5 percent of the overall summative evaluation. Additionally, the memo noted that a teacher may utilize a total of 10 personal days throughout the school year and still earn an exemplary summative evaluation rating and an effective rating in the teacher attendance measure. PED stated that the teacher attendance measure is designed to acknowledge that personal days are often needed and to utilize the average number taken by teachers in the majority of school districts, which is 10 days. If all 10 days are used, a teacher can still earn an effective rating in this specific measure.

According to research from Hill et. al., *A Validity Argument Approach to Evaluating Teacher Value-Added Scores*, found results of investigations into the validity of value-added scores are mixed. For example, Schacter and Thum in 2004 found substantively significant correlations between teachers' value-added scores and observational measures of their teaching performance. By contrast, elements of a commonly used observational system, Classroom Assessment Scoring System by research from Pianta, et. al. predicted students' growth trajectories from first through fifth grade only modestly; the authors concluded that the most consistently significant factor, socio-emotional qualities of interactions, "matter somewhat" when predicting student growth.

## **OTHER SIGNIFICANT ISSUES**

**Teacher Attendance.** According to PED's website, teacher attendance scores are based on a calculation of total points available less the number of days a teacher is absent. If total absences reported is less than or equal to three days, then the teacher receives 100 percent of attendance points; however, if total absences reported is greater than three days then the standard formula applies. A school district can submit its own cut scores, but they cannot be more lenient than the state default scores. Leave that is excluded from the attendance calculation includes leave under the federal Family and Medical Leave Act, bereavement, jury duty, military leave, religious leave, professional development, and coaching.

During the 2013-2014 school year, the U.S. Department of Education's Office of Civil Rights estimated that 27 percent of the nation's teachers are absent from school for more than 10 days of regular classes based on self-reported numbers from school districts. In the majority of states, 20 to 29 percent of teachers missed that amount of time. New Mexico school districts reported teacher absenteeism at 21 percent. By contrast, the following states reported the lowest levels of teacher absenteeism: Idaho at 18 percent; South Dakota at 17 percent; and Utah at 16 percent.

**Teacher and School Leader Effectiveness.** 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 to best measure the effectiveness of teachers and school leaders based on specific parameters. Those recommendations led to legislation introduced in the 2012 session, which the Legislature considered but did not pass.

In April 2012, the governor issued a press release directing PED to formulate 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 Elementary and Secondary Act (ESEA) Flexibility Waiver from the federal No Child Left Behind Act, which PED had recently obtained; and the new evaluation system would incorporate many of the measures that were part of the 2012 legislation. In addition, this press release prescribed components of the system; assigned values, or weights, to those components; and presented a timeline for the development and implementation of the new evaluation system. One of the main components of the ESEA Flexibility Waiver was for states to create a system of evaluating teachers and principals that incorporates student achievement as a major factor so that educator evaluation systems move from being competency based to performance based.

In May 2012, PED requested nominations for 18 people to serve two-year terms on the New Mexico Teacher Evaluation Advisory Council in order to develop the details of a new teacher and school leader evaluation system based on student achievement. In June 2012, the council held its first meeting. In July 2012, PED held a public hearing to solicit public comment on draft provisions of the new “Teacher and School Leader Effectiveness” rule. In August 2012, PED published the final version of the “Teacher and School Leader Effectiveness” rule in the New Mexico Register (6.69.8 NMAC). The final rules contained several changes from the original version.

**Teacher Evaluation Lawsuits.** In 2014, the American Federation of Teachers New Mexico, the Albuquerque Teachers Federation, and other plaintiffs filed a lawsuit against PED alleging the teacher evaluation system is based on a fundamentally and irreparably flawed methodology, which is further plagued by consistent and distressing data errors. As a result, the plaintiffs allege teachers are being evaluated, with employment decisions being made, based on a process that is arbitrary and capricious. In December 2015, a preliminary injunction was granted, but allowed the state to proceed with developing and improving its teacher evaluation system; the state is not allowed to make any consequential decisions about teachers using their annual evaluations. The trial is postponed until October 2017.

National Education Association New Mexico also filed a lawsuit against PED in 2014, which claimed the department overstepped its authority in implementing a statewide teacher evaluation process through code in violation of existing state law. In October 2016, the attorney for the union stated he is engaged in settlement negotiations with PED regarding the case. The attorney stated if it is not resolved by the end of the year, it will likely go to trial in spring 2017.

## **RELATED BILLS**

Relates to HB105/HECS, Innovations in Teaching Act, which adds the Innovations in Teaching Act to the Public School Code and establishes the Innovations in Teaching Program to promote the implementation of innovative pedagogical approaches and strategies in the classroom.

Relates to HB124/aHJC, Teacher Competency for Licensure Advancement, which would codify the professional development dossier as the method for advancement within the three tier licensure system.

Conflicts with HB125/aHJC, Teacher & Principal Evaluation System, which requires PED to convene a council to develop a teacher and principal evaluation system.

Relates to HB158, Teacher Evaluation Pilot Project, which creates a new section of the Public School Code to create a teacher evaluation pilot project.

Relates to HB163/HECS, School Grade Test Scores & Unexcused Absences, which creates a new section of the School Personnel Act to control for the potential effect of student attendance on a teacher's evaluation.

Conflicts with HB241/aHEC, Use of Attendance in Teacher Evaluations, which provides that teacher attendance may be considered as part of a teacher's evaluation and a teacher's use of personal leave and up to 10 days of sick leave shall not affect that teacher's evaluation.

Conflicts with HB350, Teacher & Principal Effectiveness Act, which enacts the Teacher and Principal Effectiveness Act in the Public School Code.

Conflicts with SB34, Teacher & Principal Evaluation System, which requires PED to convene a council to develop a teacher and principal evaluation system.

**SOURCES OF INFORMATION**

- LESC Files

**HLM/rab**