

LESC bill analyses are available on the New Mexico Legislature website (www.nmlegis.gov). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

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

Bill Number	<u>HB350</u>	Sponsor	<u>Youngblood & Gallegos, DM</u>
Tracking Number	<u>.206647.1</u>	Committee Referrals	<u>HEC/HJC</u>
Short Title	<u>Teacher & Principal Effectiveness Act</u>		
Analyst	<u>Macdonald</u>	Original Date	<u>2/10/17</u>
		Last Updated	<u>3/13/17</u>

BILL SUMMARY

Synopsis of Bill

House Bill 350 (HB350) enacts the Teacher and Principal Effectiveness Act (Act) in the Public School Code. The bill places in statute a framework that is similar to the Public Education Department's (PED) current teacher and school leader evaluation system established by rule. The evaluation procedures for teachers are based on: student academic growth, achievement, and improvement; other measures, including student and parent surveys, work attendance, professionalism, and professional development; and classroom observations that differentiate among a minimum of five performance levels. The bill requires a written report of evaluation results to be provided to all evaluated employees and establishes supports and corrective action procedures for minimally effective and ineffective teachers.

The bill establishes evaluation procedures for school principals based on: the school's student academic growth and achievement, including growth measured by PED in accordance with the A-B-C-D-F Schools Rating Act; instructional leadership skill; teacher, other school staff, and parent surveys; a measure of the principal's effectiveness in implementing the Act and skill in supporting teachers whose evaluation performance needs improvement; and the results of the highly objective uniform statewide standard of evaluation.

Finally, HB350 requires the PED secretary to promulgate rules necessary to implement the provisions of the Act. The teacher and principal evaluation systems will begin with the 2017-2018 school year.

FISCAL IMPACT

HB350 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.

While the bill appears to impose significant duties on PED, school districts, and charter schools, the department has already enacted many of the requirements of the bill through regulations. The bill changes the percentages of some of the components of the evaluation system currently implemented by PED. While the bill may not significantly change evaluation procedures as adopted by PED, current evaluation requirements are having a significant impact on school district and charter school operations, including administrator time allocated to annual evaluations. Additionally, local resources are being allocated to ensure evaluations are completed and to provide support to educators rated minimally effective and ineffective.

School districts and charter schools will bear the cost of providing intervention and assistance to teachers with minimally effective or ineffective ratings.

SUBSTANTIVE ISSUES

Under HB350, a teacher’s evaluation would be based on the following proportions: student academic growth and achievement, which includes student academic improvement measured over multiple years and teachers’ contributions to that improvement – 40 percent; in-classroom observations – 35 percent; professionalism and professional development – 15 percent; student and parent surveys – 5 percent; and work attendance – 5 percent.

In addition, the bill requires a principal’s evaluation to be based on the following proportions: the school’s student academic growth and achievement, including growth measured by PED in accordance with the A-B-C-D-F Schools Rating Act – 40 percent. The remaining 60 percent is based on the following: instructional leadership skill; teacher, other school staff, and parent surveys; a measure of the principal’s effectiveness in implementing the Act and skill in supporting teachers whose evaluation performance needs improvement; and the results of the highly objective uniform statewide standard of evaluation. However, there is no specific break down given for the remaining 60 percent of the principal’s evaluation.

The bill requires the evaluator to submit a written report on the evaluation to the teacher or principal, and to the head of the school district. If a teacher is rated minimally effective or ineffective, the report is required to include the reasons for the rating, and the teacher may submit a written response to the report, all of which is required to become a permanent part of the teacher’s personnel file. In addition, the evaluator who conducted the evaluation is required to conduct a post-evaluation conference with the teacher in which the evaluator makes recommendations for improving in areas of unsatisfactory performance and for professional growth. The evaluator is required to provide intervention and assistance to implement an individual professional growth plan for the teacher, and the principal or supervisor is required to use the results of the evaluation to develop a plan of strategic support for the teacher. Lastly, a school district may establish a peer assistance program to improve instruction and learning and to assist teachers who were rated minimally effective and ineffective.

The bill does not establish supports and corrective action procedures for minimally effective or ineffective principals.

PED's analysis of a similar bill from the 2015 legislative session noted the department implemented the NMTEACH teacher evaluation system for all teachers and principals in FY14. The evaluation system replaced a system that ranked educators as meeting competence or not meeting competence with a system that recognizes different levels of effectiveness, allowing struggling teachers to be identified so they can receive additional support and improve their practice.

TECHNICAL ISSUES

On page 7, lines 6-8, only the evaluation component of the principal's evaluation is assigned a percentage for the overall evaluation score. The sponsors may wish to address how much percentage should be assigned for the other three components of the principal's evaluation.

ADMINISTRATIVE IMPLICATIONS

Under HB350, PED is required to promulgate rules necessary to implement the teacher and principal evaluation systems. Since the bill places the current teacher and school leader evaluation system in statute with minor changes from what is currently in regulations, including the weight of each component of annual evaluations, additional administrative implications are minimal.

OTHER SIGNIFICANT ISSUES

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.

Relates to 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 HB248, School Employee Evaluation Standards, which amends the School Personnel Act to provide requirements for the uniform statewide standards of evaluation for the annual performance evaluation of licensed school employees.

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