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## F I S C A L   I M P A C T   R E P O R T

SPONSOR	Griggs	ORIGINAL DATE	2/20/17	LAST UPDATED		HB	
SHORT TITLE	Adjunct Secondary Instructors Act					SB	440
						ANALYST	Fernandez

### **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From (on file – 2016)

Public Education Department (PED)  
Department of Public Safety (DPS)  
Public School Insurance Authority (PSIA)  
Education Retirement Board (ERB)

### SUMMARY

#### Synopsis of Bill

Senate Bill 440 enacts the Adjunct Secondary Instructors Act, allowing the licensure and contracting of adjunct secondary instructors. The act limits the contract for adjunct secondary instructor services to students in grades seven through twelve. Also, a local school board shall not have more than 10 percent of any school's classes taught by adjunct secondary instructors. The act requires background checks for instructors under Section 22-10A-5 NMSA 1978 of the School Personnel Act and requires participation in the performance evaluation process similar to licensed school employees pursuant to Section 22-10A-19 NMSA 1978. The bill also includes a section that states the provisions of the School Personnel Act shall apply to adjunct secondary instructors.

### FISCAL IMPLICATIONS

This bill does not contain an appropriation. However, PED will be required to administer this new initiative. The bill may have significant fiscal implications for the department and school districts depending on the number of applications received and reviewed. Staffing levels may need to be increased in the future to accommodate these new duties and may result in future

requests for general fund appropriations.

PED notes in a similar bill analysis from 2016, that the bill may lead to increased revenue through application fees. New applications for licenses would be determined by the department and be used to pay for the review of application materials. The revenue could only be used for administrative costs associated with reviewing the application.

In 2016, DPS reported it grossed \$44 per fingerprint background check. Of this, \$14.25 is paid to the FBI for the Federal criminal history check and \$29.75 covered the processing and administrative costs associated with the management of fingerprint background checks. The net fiscal impact for revenue and expenses is difficult to assess as the number of background checks that will result from the passing of this bill is unknown, however it should result in a net neutral impact.

## **SIGNIFICANT ISSUES**

The department may license a person as an adjunct secondary instructor a person who: 1) has a bachelor's degree; 2) has a minimum of three years' experience in the area of expertise in which the instructor will teach; 3) the instructor must pass the New Mexico teacher assessments in each area of expertise in which the adjunct secondary instructor will teach; 4) must complete a department-approved pedagogy course provided by the department, a New Mexico public post-secondary educational institution, a school district or a regional education cooperative in conjunction with a New Mexico public post-secondary educational institution, or another provider provided by the department; and 5) meets other requirements established by rule by the department, including participation in the same mentorship program, evaluation and other professional development requirements as level I teachers.

An adjunct secondary teacher's license will be valid for 2 years, and shall either expire or be converted into a level I, II, or III alternative license or a level I, II, or III teacher's license according to provisions of the School Personnel Act and an endorsement in the subject area taught, according to department rule.

In a similar bill analysis last year, PED noted the bill would provide flexibility for districts to recruit professionals from their community with content expertise to teach courses relevant to their professional degrees or background. This flexibility will allow districts to hire local content experts to teach secondary courses that may only require one or two sections, fill vacant positions, or replace teachers in certain classes that are unequipped to teach the subject area content of the class. For example, PED noted districts often struggle to recruit and retain teachers in science, technology, engineering and mathematics (STEM). The state has high levels of professional expertise in STEM fields. This bill would allow districts to leverage that local expertise to fill vacancies.

In 2016, PED cited research from Teachers College at Columbia University which showed that over one-third of high school teachers and over one-fourth of middle school teachers do not feel well-prepared to teach grade level content standards to their students (Schmidt and McKnight, Teachers College Press, 2012).

Last year PSIA noted that the Affordable Care Act (ACA) may require the school district or charter school to offer health plan benefits to the adjunct secondary instructor if the instructor

averages at least 30 hours of service per week during an initial measurement period. The contract language specifying the instructor is ineligible for health plan benefits could result in a financial penalty by the IRS as defined in the ACA if the school district/charter school does not offer medical coverage to the instructor (if it is determined the instructor averaged at least 30 hours of service during an initial measurement period).

In 2016, ERB noted that a bill such as this may have the potential to negatively impact the ERB retirement trust fund. Such an impact would occur if adjunct instructors, who are ineligible to make ERB contributions, fill positions which would otherwise be occupied by contributing ERB members. The extent of the impact cannot be measured without knowing how many individuals would be involved. The retirement fund currently receives employee and employer contributions significantly in excess of the retirement plan's "normal cost." A plan's "normal cost" is the percentage of salary needed to fund a member's benefits from date of hire until ultimate termination, death, disability, or retirement. As of June 30, 2015, ERB's actuary has determined the normal cost to be 12.98 percent. Per statute, for employees earning in excess of \$20,000, ERB receives combined employee and employer contributions totaling 24.6 percent. For employees earning \$20 thousand or less, ERB receives combined employee and employer contributions totaling 21.8 percent. All contributions received by ERB in excess of the normal cost are used to reduce the retirement fund's unfunded actuarial accrued liability (UAAL). The UAAL stands at \$6.5 billion as of June 30, 2015. In short, having fewer contributing members means it will take the ERB longer to reduce and ultimately eliminate its UAAL.

## **ADMINISTRATIVE IMPLICATIONS**

A local school board may enter into a contract for services with an adjunct secondary instructor if the local superintendent provides the local school board with a signed statement stating that a fully licensed instructor was sought through the same procedures that the district uses to recruit teacher vacancies and one was unavailable.

There may be additional administrative expenses in hiring and performing background checks for adjunct secondary instructors. The bill currently does not include fee requirements for adjunct secondary instructors to obtain and maintain certification. The educator licensure bureau collects license renewal fees, currently \$95 for teaching, administrative and instructional support providers. However, no such fee is included for adjunct secondary instructors to help defray the administrative costs of implementing the new initiative. The department should consider implementing a fee to cover increased workload caused by the bill.

CTF/jle