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FISCAL IMPACT REPORT

SPONSOR <u>Thomson</u>	LAST UPDATED <u>2/22/23</u>
SHORT TITLE <u>Dual-Licensed Instructional Support Providers</u>	ORIGINAL DATE <u>1/24/23</u>
	BILL NUMBER <u>House Bill 39/aHCEDC</u>
	ANALYST <u>Helms</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$3,113.5 - \$6,491.4	\$3,113.5 - \$6,491.4	\$6,227 - \$12,982.8	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files
 Legislative Education Study Committee (LESC) Files

Responses Received From
 Public Education Department (PED)
 New Mexico State University (NMSU)
 Educational Retirement Board (ERB)
 Public Schools Insurance Authority (PSIA)

SUMMARY

Synopsis of HCEDC Amendment to House Bill 39

The House Commerce and Economic Development Committee (HCEDC) amendment to House Bill 39 (HB39/aHCEDC) changes language in Section 1(A) to add the word “providers.” This clarifies dually licensed instructional support providers are being referred to in this section of the bill.

Synopsis of Original Bill

House Bill 39 amends the School Personnel Act to integrate dual-licensed instructional support providers and dual-licensed instructional support program administrators to the state’s existing three-tier licensure system, which is currently limited to public school teachers and administrators. HB39 defines dual-licensed providers to include 10 additional existing positions such as psychologists, social workers, and occupational therapists. The amended language would move dual-licensed providers and dual-licensed administrators into the same pathways as public school teachers and administrators, including a required mentorship for their first year holding a

license and ongoing evaluations. Integration to the three-tiered licensure system includes matching minimum base salaries at \$50 thousand, \$60 thousand, and \$70 thousand for Level 1, 2, and 3 teaching licenses, respectively. The effective date is July 1, 2023 and subsequent school years.

FISCAL IMPLICATIONS

The bill does not make an appropriation but sets an effective date beginning in FY24. Provisions of this bill would create a recurring general fund liability for future fiscal years. PED preliminary FY23 data on school personnel salaries suggests the estimated fiscal impact of this bill is at least \$3.1 million annually for over 3,600 current positions at 0.75 FTE up to full FTE. An upper range of nearly \$6.5 million in increased salary costs could be possible if PED's chosen guidelines for reassigning current instructional support providers into Level 2 or Level 3 licenses, which apply to those with more than five years of experience, ended up including the majority of providers.

This analysis accounts for LFC's FY24 budget recommendation of a 5 percent salary increase for public school personnel. If salary increases are not appropriated for FY24, the estimated fiscal impact of this bill would increase for FY24.

LESC analysis notes the data set used only includes school employees who are at least partially paid through a school district's or charter school's operational fund. Instructional support providers may be paid using another funding source, such as federal funds under the Individuals with Disabilities Education Act, which could lead to an understatement of total cost.

SIGNIFICANT ISSUES

According to PED's most recent FY23 salary data, approximately 63 percent of dual-licensed instructional support providers affected by HB39 already make above the Level 3 licensure threshold of \$70 thousand. Of the positions making below \$70 thousand, the bill does not define how PED would integrate these positions existing outside of the three-tier licensure system into Level 1, Level 2, or Level 3 licensure positions. Most recent PED data did not offer years of experience, which could potentially help locate where these positions would fall in the three-tier licensure scale, complicating preliminary fiscal analysis and potential implementation.

PED analysis estimates a cost of \$4 million for this bill and also indicates most school districts and charter schools already pay related service providers more than the three-tier minimum salaries. PED analysis indicates school districts are funded 25 times the unit value for special education related service providers, which covers the increased costs to school districts.

While licensure advancement and subsequent salary increases could improve recruitment and retention of dual-licensed instructional support providers and program administrators, PED would be tasked with reclassifying 10 existing positions into a three-tiered licensure system. Prior LFC and LESAC analyses have not investigated if the qualifications, potential clinical or other mentorship experiences required for state licenses in their field, career paths, or typical salary schedules of all 10 relevant positions included in this bill are commensurate with the progression for teachers and administrators set forth in the three-tier schedule.

In addition to new minimum salaries for each licensure level, in adding dual-licensed instructional support providers to the three-tiered licensure system, this bill will require a school year of mentorship for the first year of licensure and require a dual-licensed instructional support provider to hold both a baccalaureate degree or higher and a state license to practice in one of the following occupational licensing professions: audiologist, interpreter for the deaf, speech-language pathologist, diagnostician, psychologist, social worker, nurse, counselor, physical therapist, occupational therapist, or any other profession that meets educational licensure and other qualifications to be a dual-licensed instructional support provider. In addition to mentorship and degree requirements, the bill would require dual-licensed instructional providers to be evaluated and meet defined competencies to advance to another license level (“a highly objective uniform statewide standard of evaluation”). PED would also have to decide how to treat the current instructional support provider licenses who are not listed in HB39 and do not qualify to be included, which is provided for in an amendment to Section 22-10A-17 NMSA 1978.

Court findings in the *Martinez-Yazzie* education sufficiency lawsuit found schools that lacked access to instructional support providers, like diagnosticians, were unable to adequately identify and provide special education services to students with special needs. Although the court did not specify the incorporation of instructional support providers into the three-tiered licensure system as a means to remedy this issue, the court noted the funding formula did not factor the costs of teacher licensure advancement into the instructional staff training and experience index. In FY19, the Legislature began phasing in a teacher cost index into the funding formula to address this finding. Provisions of this bill do not revise the teacher cost index to include additional program units for dual-licensed instructional providers.

Analysis from New Mexico State University notes this proposal can increase interest in New Mexico residents seeking dual-licensure support and administrator credentials because of potentially higher compensation.

PERFORMANCE IMPLICATIONS

The relationship between license level and teaching or administrative quality has not been clear for current teachers and administrators. A 2009 LFC evaluation using one year of performance data confirmed small differences in performance despite large differences in pay among teachers and offered solutions for improvement. A subsequent 2012 LFC evaluation indicated local and state evaluation systems were not screening teachers for their effectiveness in the classroom. The difference in performance between teachers of each of the three levels was small. For example, 50 percent of students taught by level 1 teachers achieved a year’s worth of growth in math in 2012, compared to 52 percent of students of level 3 teachers. Furthermore, each licensure level had high and low performing teachers; in 2012, nearly 30 percent of the lowest performing reading and math teachers in the state had a level 3 license. The evaluation noted the state allowed low-performing teachers to keep their license level because the state did not have a rigorous license renewal process.

ADMINISTRATIVE IMPLICATIONS

HB39 will require PED to reclassify 10 of the 14 instructional support providers currently licensed by the department as dual-licensed instructional providers within the three-tiered

licensure system. Additionally, PED will need to monitor mentorship programming for Level 1 instructional support providers.

LESC analysis notes school districts and charter schools would need to adjust their salary schedules for dual-licensed instructional support providers for FY24, PED would likely need to promulgate rule creating a department-approved dual-licensed instructional support program administrator preparation program, and PED would need to create a data system that distinguishes between different classes of dual-licensed employees.

RELATIONSHIP

This bill relates to House Bill 24, House Bill 32, and Senate Bill 31, which establish requirements on the number of nurses in schools statewide; House Bill 128, which requires additional monitoring and reporting of public school employee background checks and disclosures; and House Bill 171, which expands National Board program units to other applicable licensed school employees.

LESC notes the bill will now require level 1 dual-licensed instructional providers to undergo a formal mentorship program. State funding for teacher mentorship programs have fluctuated over the years; as of FY23, the Legislature provided school districts and charter schools \$21 million within the state equalization guarantee (SEG) to support these programs.

TECHNICAL ISSUES

In addressing proposed definitions in HB39 of dual-licensed instructional support providers and administrators as compared to teachers, PED notes dual-licensed instructional support providers and administrators are not referred to as “professions.”

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