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## FISCAL IMPACT REPORT

ORIGINAL DATE 03/03/13

SPONSOR Lopez LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE School Personnel Record Confidentiality SB 581

ANALYST Daly

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

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General’s Office (AGO)  
Public Education Department (PED)

### SUMMARY

#### Synopsis of Bill

House Bill 581 alphabetizes the definitions to the School Personnel Act and adds two new definitions: “personal information” and “personnel records”. Using the new definition of personnel records, it clarifies the term “records” in existing law to refer to personnel records, and also clarifies existing law that these records are confidential.

The bill also adds a new subsection to the existing section addressing evaluations of teachers and principals to limit use of those evaluations to licensure and employment decisions, and prevent their disclosure to parties not directly involved in licensure or employment decisions affecting the teacher or principal, while allowing for aggregation of data from evaluation results when the data contains no personal information.

Additionally, new language is added to the section governing the educator accountability report prohibiting the inclusion of any personal information in that report.

### FISCAL IMPLICATIONS

No fiscal impact to the State is anticipated.

## **SIGNIFICANT ISSUES**

The PED's comments focus on the new provision in subsection F of Section 3 governing the limited use of the results of an evaluation of a teacher or principal. The Department raises these points:

- This language may limit the ability of a district to collect and calculate data that is part of the total evaluation of teachers and principals.
- The inability to disclose information that is part of the evaluation may limit the ability for data sharing for the purpose of analysis of data.
- Because a portion of the principal's evaluation is on the school grade, a portion of the principal's evaluation would be publicly available.
- This language allows for total evaluation information to remain confidential and only between the teacher and the district and licensing agency.

To the extent that that subsection declares "part of" an evaluation of a teacher or principal confidential and limits disclosure only to persons directly involved in licensing or employment decisions affecting the teacher or principal being evaluated, it may not be clear enough to determine what is subject to the new confidentiality provision and what is not. Is it simply the information that may be aggregated under that subsection and which does not contain any personal information, or is it intended to refer to other information or opinion in the evaluation?

In addition, the definition of "personnel records" in Section 1(D) which are then declared confidential in Section 2(B) includes information such as salary, benefits and contracts of employment, and may be broader than the two exceptions in the Inspection of Public Records Act (IPRA) that appear to relate to these matters: (1) letters of reference concerning employment, licensing or permits; and (2) letters or memoranda that are matters of opinion in personnel files. See Section 14-2-1(A)(1) and (2), NMSA 1978. However, should SB 581 become law, the exception "as otherwise provided by law" in (A)(8) would provide an exception to disclosure of those records under IPRA.

## **ALTERNATIVES**

The PED suggests drafting specific language that allows for data sharing and analysis between districts and agencies and that specifies the parameters of disclosure between and within agencies.

## **AMENDMENTS**

Language clarifying the meaning "part of" in Section 3(F) would better convey the intent of that confidentiality provision.

MD/blm