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FISCAL IMPACT REPORT

SPONSOR Stewart DATE TYPED 02/18/05 HB 83/aHEC

SHORT TITLE Educational Support Provider Licensure SB _____

ANALYST Chabot

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Public Education Department (PED)

Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of HEC Amendment

The House Education Committee amendment requires PED to determine the licensure level for instructional support providers to adopt rules that consider verified related employment in a clinical or parallel setting as experience to be counted in fulfilling the time requirements for the levels of licensure. It also changes the requirement for level 2 licensure from meeting both the three-year level one license and other qualification of PED to meeting either of the qualifications by changing the word “and” to “or”. Lastly it requires PED to consult with professional licensing boards and professional organizations in developing the three-level licensure system for instructional support providers.

PED assess the amendment allows “flexibility in rule-making by PED when placing an instructional support provider in the appropriate licensure level.”

Synopsis of Original Bill

House Bill 83 deletes the examples for instructional support providers found in Section 22-10A-

17A NMSA 1978. Instructional support providers are defined in Section 22-1-2 NMSA (attached). The bill adds paragraph C which provides if an instructional support provider practices a licensed profession requiring a bachelor's or higher degree, the individual will be licensed by PED under a three-tiered licensure system (defined in the bill). Licensure requirements for providers who do not hold a bachelor's degree will be established by PED. By the 2007-08 school year and upon adoption of highly objective performance evaluation for professional instruction providers by PED, minimum salaries for level one providers will be \$30 thousand, level two will be \$40 thousand and level three will be \$50 thousand. PED is to consult with professional licensing boards and professional organizations in the development of the competencies for the evaluation system.

Significant Issues

School districts are inconsistent as to where instructional support providers, many who are licensed teachers, receive minimum salaries under three-tiered teacher licensure. Albuquerque Public Schools has the most instructional support providers and does not include them under three-tiered minimum salaries. This bill would require all districts to pay minimum salary requirements for licensed instructional support providers.

PED states this bill creates a single license type: the Instructional Support Provider License with endorsements for specific areas of practice. This would replace the current array of stand-alone licenses for each profession. This bill also requires providers work at levels one and two for three full school years before advancement to the next level of licensure. PED states there is no effective date for the minimum salaries only the requirement the evaluation system must be in place by the 2007-08 school year. It adds "the language cited here would clearly pressure the PED into adopting an evaluation system as soon as possible so that the minimum would become effective earlier than that.

LFC assess the amount of effort for PED to determine a licensure structure, how professional licensure relates to the 3-tier, and develop an evaluation system will be extensive. Working with DFA, it was determined there are at least 16 categories of instruction support providers and approximately 2,600 individuals currently that would be affected by this bill.

FISCAL IMPLICATIONS

This bill could result in increased costs for salaries of instructional support providers. It will also have an impact on the work of the PED Educator Quality Division which will have to develop the licensure system, evaluation system and review applications from the instructional support providers. PED estimates this cost at \$281 thousand.

The out-year cost for this bill is difficult to estimate. There is no easy method to correlate the existing employment groups to the level of licensure they would receive under this bill and how it would relate to a minimum salary requirement. In addition, it is difficult to estimate what the employees will be in 2007 when the salary structure will take effect.

LFC and DFA estimated a cost of implementation of \$6 to \$10 million by taking the average salaries by group and moving that average to the next level minimum salary. For example, if the average salary was \$35,000, the calculation was based upon a minimum of \$40,000. Average salaries below \$30,000 were calculated at \$30,000, salaries between \$30,000 to 40,000 were cal-

culated at \$40,000, and salaries above \$40,000 were calculated at \$50,000. This method was used to provide an order of magnitude of the cost of this bill. Actual implementation cost could be considerably higher or lower.

However, the sponsor stated there would be no fiscal impact as some positions are optional and many of the other specialists are earning more than the minimum salaries. Several of the instructional support provider positions are supported by the Public School Funding Formula (Section 22-8-21 NMSA 1978 (Special Education Program Units)) and earn more units than the minimum salary requirements by proposed level of licensure.

Increased costs to the Educational Retirement Board may result because the increased salaries some individuals receive will result in higher benefits based upon average salary calculations.

ADMINISTRATIVE IMPLICATIONS

PED will have to design an evaluation system and have it in place before the 2007-08 school year so individuals can be qualified for minimum salary requirements. PED suggests working through outside contractors as the best way to approach the task.

TECHNICAL ISSUES

PED recommends the following amendments to the bill:

1. Add to page 3, at the end of line 4: The Public Education Department may establish in rules the requirements for a person to meet the qualifications for a level two instructional support provider license without first holding a level one license if that person, at a minimum, holds a master's degree or higher.
2. Page 7, line 16 insert: TEMPORARY PROVISION—LICENSE TRANSITION—The public education department shall promulgate rules to transition from the license system in effective on June 30, 2005 to the license system provided in Section 2 of this act.
3. Page 7, lines 16-17 strike and replace with: EMERGENCY—It is necessary for the public peace, health and safety that this act take place immediately.

OTHER SUBSTANTIVE ISSUES

PED recommends the emergency clause to allow instructional support providers approximately three months after enactment to advance to level three licensure with no criteria in place other than the superintendent's recommendation. The bill requires three years of experience at each level before advancing to the next level. This provision would go into effect immediately upon the Governor's signature and would prevent a rush to advance to the highest licensure level before the deadline. This amendment would correspond to action taken by the legislature on teacher licensure when the Public School Reforms act was passed in 2003.

PED raises the issue of whether a Level 2 teacher making \$40 thousand minimum salary would have to take a pay cut to take a position as a Level 1 instructional support provider. The LFC assessment is, since the bill establishes minimum salary levels, districts would not have to reduce the individual's salary as a result of taking a new position. However, it would be a negotiable issue with the district.

ALTERNATIVES

Use the current method and have instruction support providers negotiate with districts on salary level upon being hired. Many of these personnel will command higher salaries than the minimum based on the available work force and average wage.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Minimum salaries of instructional support providers will be determined by the school districts.

POSSIBLE QUESTIONS

1. How many school employees are instructional support providers?
2. Will minimum salaries be phased in as was done with teacher salaries?
3. Will instructional support providers not holding a bachelor's or higher degree have minimum salary levels established by statute?
4. Is PED's estimated cost of \$281 thousand a realistic estimate of cost to put all required rules, regulation and evaluation system in effect before the 2007 school year?

GAC/lg
Attachment

Attachment

22-1-2. Definitions. (2004)

As used in the Public School Code:

F. "instructional support provider" means a person who is employed to support the instructional program of a school district, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, interpreter for the deaf and diagnostician;

GC/sb