

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** \*CS/CS/SB 502a

**50th Legislature, 1st Session, 2011**

**Tracking Number:** .186159.2

**Short Title:** School Teacher & Principal Evaluation

**Sponsor(s):** Senators Cynthia Nava and Sue Wilson Beffort

**Analyst:** Pamela Herman

**Date:** March 18, 2011

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**SENATE FINANCE COMMITTEE SUBSTITUTE  
FOR SENATE EDUCATION COMMITTEE SUBSTITUTE  
FOR SENATE BILL 502**

**AS AMENDED**

**The House Labor and Human Resources Committee amendments:**

- **delay by one year the deadlines established in the bill to *no later than* the following:**
  - **August 2012 for the report from the work group;**
  - **December 1, 2012 for the report from the Public Education Department (PED); and**
  - **2014-2015 for PED to commence the outside independent evaluation of the framework;**
- **establish July 1, 2012 as the effective date of the provisions of the bill related to changes to the *School Personnel Act* that address the three-tiered licensure system and employment conditions (Sections 2 through 17);**
- **insert language throughout that describes the statewide evaluation framework for teachers or statewide evaluation system for principals as the “highly objective uniform” statewide evaluation (HOUSE) framework and system;**
- **strike the assessment requirements for teachers in various grades and subjects, and substitute a uniform requirement that 50 percent of evaluations shall be based on a value-added model that:**
  - **reflects student academic growth as demonstrated on appropriate subject-matter assessments that are:**
    - ✓ **administered at the beginning and end of the instructional year; and**
    - ✓ **determined to be valid and reliable for measuring academic growth by a panel of external assessment experts; and**
  - **is codified in rules of the department;**
- **require that the HOUSE system for principals include a factor for the school’s achievement on the state accountability system, but strike language making the school’s achievement the sole factor in principal evaluation;**

- provide that a principal who earns the lowest ranking on the HOUSE system for three consecutive years be terminated, rather than base the termination on the school's ranking;
- require PED to conduct *seven*, not three, public hearings on the proposed evaluation framework across the state;
- require that, if PED's recommendations differ from those of the work group, the PED report must detail the differences and the reasons for the differences;
- specify that the work group shall include *at least four* representatives of public elementary, middle, and high school teachers and principals;
- strike language requiring termination of a teacher who earns the lowest effectiveness rating on a district's evaluation scale for three consecutive years;
- strike a requirement that the work group develop a recognition program to reward effective teachers and school principals, subject to availability of funds;
- strike language mandating a performance-based compensation system in the three-tiered licensure system and in district salary systems;
- restore the requirement in current law that a Level 3-A teacher demonstrate instructional leadership in addition to teaching effectiveness; and
- strike a section that makes the bill applicable to contracts signed for the 2012-2013 and subsequent school years, and for termination and discharge actions occurring after July 1, 2012.

**Original Bill Summary:**

CS/CS/SB 502, **with emergency clause**, amends the *School Personnel Act* to:

- create a new section to require school districts and charter schools to establish teacher and principal evaluation programs and performance-based compensation systems; and
- modify existing sections regarding the three-tiered licensure system and licensed school employee contract length, termination, and discharge.

Section 1 of CS/CS/SB 502 sets out requirements for school district and charter school teacher and principal evaluation programs:

- By school year 2012-2013, each district<sup>1</sup> shall adopt and have in operation its own Public Education Department (PED)-approved evaluation program for teachers and principals based on a statewide framework to be developed by a PED work group, to measure teacher effectiveness and improve student achievement.
- In school year 2013-2014, PED shall commence an independent outside evaluation to gauge positive and negative consequences of implementing the framework and evaluation programs.
- Each teacher evaluation program shall:
  - use multiple rigorous, fair, and transparent methods, with results communicated in a timely way to the teacher;
  - include four levels of effectiveness;

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<sup>1</sup> CS/CS/SB 502 defines "school district" to include charter school and "school principal" or "local superintendent" to include the head administrator of a charter school.

- identify teachers who are most effective at helping students succeed;
  - provide targeted assistance and professional development opportunities for teachers to improve;
  - inform the match between teacher assignments and student and school needs;
  - inform incentives for effective teachers; and
  - document evaluations and use them to tailor professional development for teachers.
- Teacher evaluations shall be based on student academic growth, measured as follows:
    - for teachers in grades and courses with required statewide standards-based assessments:
      - ✓ at least 40 percent on academic growth in reading and mathematics on standards-based assessments;
      - ✓ 10 percent on other assessments recommended by the work group and approved by PED; and
      - ✓ student growth shall be defined by the work group; and
    - for other teachers:
      - ✓ at least half based on designated school district assessments showing students are improving at a rate that will allow them to perform at or above grade level within two years; or
      - ✓ if no such assessments apply, at least half by teacher-developed assessments approved by the superintendent.
- The remainder of teacher evaluations shall include:
    - classroom observations at least once annually using a research-based or district-developed protocol; and
    - other district-developed measures of effectiveness that may include student and parent surveys; peer observations and reviews; teacher performance portfolios; video classroom observations with teacher reflection; and other evidence-based measures.
- Principal evaluations shall be based on the school's achievement in the state accountability system; and shall inform incentives for effective school principals. The highly objective uniform statewide standard of evaluation for principals shall be aligned with the principal evaluation system.
- By April 2011, PED shall convene a work group to develop and make recommendations by August 2011 for the statewide teacher and principal evaluation framework and performance-based compensation system, and must hold three public hearings across the state to gather public input. The membership must reflect the geographic and cultural diversity of the state, and comprise:
    - the Secretary of Public Education or designee, who shall chair;
    - the Director of the Legislative Education Study Committee (LESC);
    - the Director of the Legislative Finance Committee (LFC); and
    - other representatives appointed by the Secretary and nominated by the following:

- ✓ an organization of school administrators;
  - ✓ each public school teacher organization;
  - ✓ a public school parent association;
  - ✓ charter schools;
  - ✓ two from the business community;
  - ✓ the New Mexico School Boards Association;
  - ✓ the Hispanic Education Advisory Council;
  - ✓ the Indian Education Advisory Council;
  - ✓ public elementary, middle, and high school teachers or principals;
  - ✓ an expert on teacher evaluation models; and
  - ✓ an expert on value-added models.
- PED and school districts shall adhere to the following timeline:
    - by August 2011, the Secretary of Public Education shall report to the Governor on the statewide framework;
    - between April and August 2011, districts shall identify and approve assessments, inform staff of evaluation models, and approve training for principals and evaluators;
    - by December 2011, the Secretary shall present a final report with recommendations for necessary legislation to the LESC and LFC;
    - during school year 2011-2012, districts shall adopt evaluation programs and use them to determine teacher and principal effectiveness to create a performance baseline; and
    - beginning in school year 2012-2013, district teacher and principal evaluation systems shall be operational.
  - As of school year 2012-2013:
    - a teacher who:
      - ✓ earns a low rating must be provided additional professional development by the district;
      - ✓ earns the lowest rating for two consecutive years must be placed on a professional growth plan;
      - ✓ earns the lowest rating for a third year must be terminated unless the teacher is able to show that the data relied upon were inaccurate or misrepresented; and
    - a principal whose school earns the lowest ranking on the state's accountability system for three consecutive years must be terminated unless able to demonstrate through an appeals process that the data relied on was inaccurate or misrepresented;
    - a principal whose school earns the lowest ranking for two consecutive years must be placed on a professional growth plan; and
    - if a school district with a collective bargaining agreement must make a reduction in force, the district and bargaining agent must demonstrate to PED that they considered individual teacher effectiveness as shown on evaluations and the programmatic needs of the public school when determining whom to terminate.
  - The work group shall develop a recognition program to reward effective teachers and principals with financial awards subject to availability of funds.

Section 2 through Section 18 of CS/CS/SB 502 amends other provisions of the *School Personnel Act* applicable to school districts, charter schools, and state agencies, effective July 1, 2012, as follows:

- The three-tiered licensure system is amended to require that:
  - all teacher and school administrator salary systems must be aligned with the professional licensure system and a performance-based compensation system;
  - at Level 1, Level 2, and Level 3-A, references to “competencies” are replaced by “effectiveness” or “teacher effectiveness”;
  - as of school year 2012-2013, teachers at each licensure level must be evaluated and retained pursuant to the district teacher evaluation system and compensated pursuant to the performance-based compensation system;
  - movement from Level 1 to Level 2 and Level 2 to Level 3-A must depend on demonstrated effectiveness on the district’s teacher evaluation system; the PED highly objective statewide standard of evaluation shall apply only to licensed non-teachers;
  - Level 3-A teachers must demonstrate effectiveness in teaching, not instructional leader competencies; and
  - as of school year 2012-13, school principals shall be evaluated solely on the school’s achievement based on the state accountability system.
- Employment conditions for licensed school employees, starting in the 2012-2013 contract year, are amended as follows:
  - employment contracts are limited to one year (or less under certain circumstances), except for no more than three years in the case of school administrators engaged in administrative duties more than one-half time or teachers employed by the district for three consecutive years;
  - school principals shall recommend to the superintendent the reemployment or termination of the licensed employees they supervise, and the superintendent shall serve a written notice of reemployment or termination on each employee;
  - a school principal may recommend termination of a school employee who has worked for the district for less than three consecutive years for any reason the principal deems sufficient, and based on that recommendation the superintendent may terminate the employee by serving written notice;
  - a school employee who has been employed by the district for three consecutive years shall not be terminated without just cause, among which for teachers includes earning low effectiveness ratings; and
  - the bill maintains provisions in current law for hearings before the local school board on termination and discharge decisions, with a right to appeal to an independent arbitrator for a binding final determination on the school board’s decision.
- The effective date of Section 2 through Section 19 of CS/CS/SB 502, which address three-tiered licensure and employment contracts, is July 1, 2012; it applies to school year 2012-2013 and later school years, and to terminations and discharge actions occurring after July 1, 2012.

\*CS/CS/SB 502 contains an emergency clause.

### **Fiscal Impact:**

CS/CS/SB 502 does not contain an appropriation.

### **Revised Fiscal Issues:**

**The House Labor and Human Resources Committee amendments strike the requirements that:**

- **school districts and charter schools develop and implement a performance-based compensation system; and**
- **PED develop a recognition system for effective teachers and principals.**

### **Original Fiscal Issues:**

CS/CS/SB 502 requires school districts and charter schools to develop and implement a performance-based compensation system, in addition to meeting the minimum salary requirements of the three-tiered licensure system enacted in 2003 and fully implemented by FY 08. No estimate is available of the potential cost of such a system among districts and charter schools statewide.

The bill also requires PED to develop a recognition system to “incentivize” effective teachers and principals, subject to the availability of funds.

The LFC’s Fiscal Impact Report (FIR) states that a mandatory performance-based compensation system without an appropriation to support it is effectively an unfunded mandate that could adversely affect school district and charter school operating budgets. The bill also requires professional development opportunities for teachers and principals based on evaluation results, which will require targeting of existing professional development resources by school districts.

### **Substantive Issues:**

- CS/CS/SB 502 eliminates references to the highly objective statewide system of evaluation for teachers. A “high, objective uniform statewide system of evaluation” is a requirement of the requirement for highly qualified teachers under the federal *No Child Left Behind Act of 2001* (NCLB).
- There is only one administration of state standards-based assessments in high school, in spring of grade 11, so no growth data will be available based on those assessments for high school teachers.
- The bill, if enacted, would make school principal evaluation dependent entirely on a school’s achievement in the state accountability system. If HB 355, *Enact “A-B-C-D-F” Schools Rating Act* or SB 427a, *A-B-C-D-F Schools Rating System* should pass, the state would have two school accountability systems, the new graded system and the pre-existing one based on the federal system established under NCLB. CS/CS/SB 502 is not clear as to which accountability system should serve for purposes of school principal evaluation, including termination.

## *Linking Student Achievement to Teacher Evaluation*

- In 2003, LESC-endorsed legislation was enacted to implement comprehensive education reforms, including improvement of recruitment and retention of a high-quality teacher work force. To that end, the law established a progressive career ladder, or three-tiered licensure system, that links teachers' license status to a highly objective statewide system of evaluation and minimum salary system.
- In 2007, a joint evaluation of the system by the LESC, the LFC, and the Office of Education Accountability, observed that policymakers and educational researchers across the country had been advocating for the identification of direct ways to link teachers to student achievement and then use that information to evaluate and strengthen teacher effectiveness. The evaluation stated that, at that time, there existed no clear and uncontroversial methodology to do so.
- The evaluation noted that student achievement is one component of the three-tiered system in New Mexico, although the system currently focuses more on documenting student achievement than providing direct consequences for teachers.
- In 2009, the US Department of Education (USDE) announced the federal Race to the Top (RttT) program, to make grants to states on a competitive basis to implement systemic reform that would improve teaching and learning in public schools. One requirement of the competition was that state applications include a plan to revise teacher evaluation, compensation, and retention policies to encourage and reward effectiveness.
- New Mexico submitted unsuccessful applications in both rounds of the RttT competition. PED stated that, based on discussions and agreements with teacher organizations and others, in its 2010 RttT application the state would:
  - strengthen the link between teacher and principal evaluation and student growth, making it a “significant factor” in the annual evaluation process under the existing three-tiered licensure system;
  - not use student growth as the only factor in teacher and principal evaluation;
  - pending development of a new statewide standards-based assessment system by the multi-state “Smarter Balance” consortium, *not* use the current standards-based assessments as a tool to measure student growth;
  - include practitioners (teachers and principals) and other stakeholders (parents, community, school boards, legislators, and others) in design of the evaluation system;
  - include practitioners in design of student assessments; and
  - remain committed to a transition to multiple measures of student growth and teacher impact, including:
    - ✓ assessments conducted at multiple points in time;
    - ✓ formative assessments;
    - ✓ summative assessments; and
    - ✓ actual student work;
  - over a period of 18 to 36 months, adopt and implement new academic standards, aligned assessments, and changes to the three-tiered teacher evaluation system; and

- seek funds in its RttT application for professional and leadership development to implement the new system.

### *Merit Pay*

- The Education Commission of the States (ECS) states that merit pay programs for educators – sometimes referred to as “pay for performance” – that attempt to tie a teacher’s compensation to his or her performance in the classroom, are being implemented in a growing number of districts around the country, thanks in part to the USDE Teacher Incentive Fund.
- In 2010, ECS summarized the results of four studies of merit pay systems:
  - a review of the Iowa Pay for Performance Pilot Program by Learning Points Associates in 2010 found that there was insufficient student test data to determine the real impact of the program on student achievement;
  - a study of the Texas Governor’s Educator Excellence Grants by Mathematica Policy Research found no evidence that it fostered student achievement gains, although the program did show some positive results especially in teacher retention;
  - a study of the Chicago Teacher Advancement Program by Mathematica found no evidence that the program raised student test scores, nor did it impact teacher retention; and
  - a study of the Denver Professional Compensation for Teachers program conducted by the ProComp Evaluation Team at the University of Chicago found no solid evidence that teachers in the program had improved student achievement over those who did not participate in the program.

### **Background:**

- By 2010, according to ECS, several states, prompted at least in part by RttT, had enacted legislation to amend teacher evaluation policies to use student achievement data, particularly student academic growth as calculated by educational data systems, to gauge the degree to which teachers are helping students make academic progress.
- ECS says that policies among states vary as to whether use of student achievement data is optional or mandatory, and how much that data must weigh. As of June 2010:
  - three states—Colorado, Louisiana, and Tennessee—had enacted laws requiring development of systems that required student achievement data to count for 50 percent or more of a teacher’s evaluation;
  - one state—Arizona—requires student achievement data to count for 33 to 50 percent of an evaluation;
  - two states—Connecticut and Michigan—require student achievement data for evaluation but do not specify how much it should count; and
  - three states—California, Maine, and Nevada—allow use of student achievement data.

### **Related Bills:**

\*SB 503 *School Personnel Evaluation System*  
 SB 567 *Teacher Choice Compensation Fund*