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FISCAL IMPACT REPORT

ORIGINAL DATE 02/18/14
LAST UPDATED _____

SPONSOR HF1 **HB** 67/HFIS

SHORT TITLE Phased Minimum Teacher Salary Increases **SB** _____

ANALYST Gudgel

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		
	(\$1,500.0)	(\$1,500.0)	Recurring	Legislative Retirement Fund
	\$1,000.0	\$1,000.0	Recurring	State Equalization Guarantee Distribution
	\$500.0	\$500.0	Recurring	Public Education Department

(Parenthesis () Indicate Revenue Decreases)

Relates to Appropriations in the Public School Support section of the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Employee Retirement Board (PERA)

Public Education Department

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Floor substitute for House Bill 67 amends and enacts a new section of the Tax Administration Act and amends the School Personnel Act. Changes to the Tax Administration Act include reducing the monthly distribution from the tax administration suspense fund to the legislative retirement fund from \$200 thousand dollars to \$75 thousand dollars, and redistributing those revenues in monthly allocations of \$83.3 thousand to the state equalization guarantee (SEG) distribution to increase the minimum salary of level one teachers, and \$41.7 thousand to the Public Education Department to provide training to licensed school employees in the detection and reporting of child abuse and neglect, and to provide training to public school employees in school firearm violence prevention and school firearm violence security. The bill also increases the statutory minimum salary of level one teachers from \$30 thousand to \$33 thousand.

FISCAL IMPLICATIONS

Level One Salary Increase

PED estimated the cost of increasing the minimum salary of level one teachers to \$33 thousand at \$6.5 million dollars to increase the salary of approximately 2,000 level one teachers. Senate Bill 313 (the General Appropriation Act of 2014) includes \$10 million to increase the minimum salary of level one, two, and three teachers and administrators by \$2 thousand each, to \$32 thousand, \$42 thousand, and \$52 thousand respectively. It is unclear if the \$1 million allocation from the Tax Administration Suspense Fund is sufficient to cover the increase in level one salary from \$32 thousand assumed in SB313 to \$33 thousand required in this bill. If it is insufficient, school districts will be required to budget existing operating budget dollars to meet the increased minimum salary requirements.

Distributions from the Tax Suspense Fund to the Legislative Retirement Fund

Statute requires a distribution to the Legislative Retirement Fund from the Tax Administration Suspense Fund in the greater of:

- \$2.4 million annually; or
- The amount needed to cover retirement benefits due under State Legislator Member Coverage Plan 2 and Paragraph (2) of Subsection C of Section 10-11-41 NMSA (Legislative Retirement Plan).

Currently, approximately \$700 thousand is needed annually to cover Legislative Retirement Plans; therefore, distributions made from the Tax Administration Suspense Fund total \$2.4 million. A reduction of \$1.5 million in the distribution leaves sufficient transfers into the Legislative Retirement Fund to cover legislator retirement benefits (\$900 thousand transferred in annually). If future retirement benefits exceed the \$900 thousand that will be transferred into the Legislative Retirement Fund pursuant to this bill, an additional amount will be distributed from the Tax Administration Suspense Fund, having a negative fiscal impact on the fund.

SIGNIFICANT ISSUES

Increase Beginning Teacher Salaries

Both the Legislative Finance Committee and the executive recommended increasing the minimum salary of level one teachers. Research clearly demonstrates the importance of teachers in student learning. A study cited by PED indicates the quality of an education system cannot exceed the quality of its teachers and the only way to improve outcomes is to improve instruction. The study noted achieving universally high outcomes is only possible by putting in place mechanisms to ensure that schools deliver high-quality instruction to every child. While the state is currently implementing education reforms that have the capacity to improve teaching and student outcomes, PED notes that getting the best teacher in the classroom continues to present challenges. Additionally, PED states, in spite of focusing on securing the best teachers available, New Mexico continues to see a decline in the number of candidates entering our schools of education with a focus on hard to staff content areas or in science, technology, engineering, and mathematics (STEM) fields. Compounding this is the competition for the best college graduates from private and public employers statewide. Many universities cite low salaries for beginning teachers as one of the roadblocks in recruiting candidates into teacher preparation programs. Many superintendents and human resource managers echo these concerns as beginning teachers can earn higher salaries outside of the teaching profession.

Tax Administration Suspense Fund Distributions

PERA’s analysis notes the following:

The substitute may conflict with Senate Bill 304, pension solvency legislation which provides for temporary monthly distributions to the Magistrate Retirement Fund and Judicial Retirement Fund for 36 consecutive months, subject to certain conditions. House Floor Substitute for HB 67 provides for a permanent diversion from the legislative retirement fund.

House Floor Substitute for HB 67 diverts \$1.5 million annually from the legislative retirement fund; conversely, SB 304 temporarily diverts \$1.2 million annually for the purpose of pension solvency over a period of 36 months. No actuarial study has been conducted on House Floor Substitute for HB 67. PERA notes that if House Floor Substitute for HB 67 and SB 304 both pass and are signed into law, all funding for the legislative retirement fund will be eliminated for the next 36 months and thereafter, will be significantly depleted.

School Safety Appropriations

PED notes the department collaborated with the Children, Youth and Families Department (CYFD), Department of Health (DOH), and New Mexico State University (NMSU) to develop an e-learning for school personnel and health providers on the reporting of child abuse and neglect. The training is available at <http://swrtc.nmsu.edu/> and is inclusive of sexual abuse detection. PED indicates the additional appropriation provided in the committee substitute would allow the department to build upon the existing e-learning training available through a statewide, evidence-based training opportunity inclusive of experts from PED, CYFD, DOH, and NMSU. The department also notes the appropriation for the provision of PED training to public school employees in school firearm violence prevention and school firearm violence security would be utilized to build upon PED’s requirement of site-specific school-level safety plans within each public and charter school (6.12.6.8 NMAC, Wellness Policy). Currently, public schools and charter schools are provided PED’s Safe Schools Guidance Document.

RELATIONSHIP

- HB 33, IPOC-Endorsed Pension Solvency Legislation for the Judicial Retirement Fund.
- HB 216, IPOC-endorsed Pension Solvency Legislation for the Magistrate Retirement Fund
- SB 266, Increasing Legislative Retirement Contributions
- HB 160, Pension Solvency Legislation for the Magistrate Retirement Fund
- HB 276 Teacher Licensure Advancement
- SB 105 Teacher Licensure & Advancement
- SB 214 Teacher Evaluation System & Council

TECHNICAL ISSUES

Article IV, Section 15 of the New Mexico Constitution states, “No law shall be passed except by bill, and **no bill shall be so altered or amended on its passage through either house as to change its original purpose.**” The courts generally do not look behind an enacted law to ensure the Legislature complies with constitutional rules regarding bill enactments. The New Mexico Supreme Court concluded “the only interpretation which is consistent with the equality and independence of the three department of government is that such constitutional provisions are

directed to them severally, and that upon the department to which the provision is directed rests the responsibility and duty of interpreting and complying therewith.” This ruling vests the authority in the Legislature to uphold this constitutional provision. The purpose of the committee substitute has been significantly changed from the purpose of the original bill and may not comply with the above mentioned constitutional provision. **The Legislature may wish to refer the committee substitute to House Judiciary Committee for a ruling on the constitutionality of the substitute.**

Section 2 of the committee substitute creates a distribution from the tax administration suspense fund to the state equalization guarantee (SEG) distribution to be distributed pursuant to Section 22-8-25 NMSA 1978. The methodology for considering the \$83,333 distribution to the SEG is unclear. **The Legislature may wish to make this distribution to the public school fund and specify that it is for distribution through the SEG.**

Section 22-8-14 NMSA 1978

- A. The "public school fund" is created.
- B. The public school fund shall be distributed to school districts and state-chartered charter schools in the following parts:
 - (1) state equalization guarantee distribution;
 - (2) transportation distribution; and
 - (3) supplemental distributions:
 - (a) out-of-state tuition to school districts;
 - (b) emergency; and
 - (c) program enrichment.
- C. The distributions of the public school fund shall be made by the department within limits established by law. The balance remaining in the public school fund at the end of each fiscal year shall revert to the general fund, unless otherwise provided by law.

OTHER SUBSTANTIVE ISSUES

In 2003, the Legislature passed comprehensive education reform, including the establishment of the three-tiered system and corresponding new minimum salaries. New Mexico introduced the three-tiered system to increase the recruitment and retention of quality teachers to improve student achievement. The system created a three-level career ladder for teachers to ascend based on experience, leadership, and skills. Movement up a level results in pay increases of \$10 thousand.

The minimum salaries established in law were phased in between 2003 and 2008:

- Level One, Provisional Teacher: \$30,000 in SY04;
- Level Two, Professional Teacher: \$35,000 in SY05 and \$40,000 in SY06; and
- Level Three-A, Master Teacher: \$45,000 in SY07 and \$50,000 in SY08.

Previous evaluations of the three-tiered system confirmed the system decreasing widespread teacher shortages, reducing unqualified teachers, and improving teacher pay. Student performance, however, has not improved with taxpayer investments in teacher pay. 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; however, those recommendations have not been implemented. Since that time, nearly 6,000 teachers advanced to new license levels, receiving \$59 million in mandatory salary increases.

Since that 2009 evaluation, the LFC has completed two more studies related to teaching and the three-tiered licensure system (“Public Education Department Teacher and Administrator Preparation in New Mexico December 5, 2012” and “Public Education Department Promoting Effective Teaching in New Mexico November 15, 2012”). These reports noted that despite investments in the state’s three-tiered licensure system, colleges of education continue to attract and admit academically average candidates and student performance within teacher licensure levels and between licensure levels suggests the local and state evaluation systems are not screening teachers for their effectiveness in the classroom. New Mexico colleges of education are preparing 50 percent of New Mexico teachers, and the report suggested more stringent entrance requirements could improve prospective teacher effectiveness.

Staff recommended coupling increases in level one beginning teacher salaries with increasing beginning teacher licensure standards. The report highlights the importance of carefully selecting candidates for teacher and administrator preparation programs, raising licensure standards for educators, and actively monitoring the performance of preparation programs.

Given one of the primary purposes of the three tiered system is to ensure student success, the report noted it is appropriate to explore the connections between advanced licensure levels and increases in student performance. The three-tiered system continues to offer a solid framework to align resources to performance, but student achievement must be better incorporated into the process. If modified, the report noted student achievement could be a data-driven concern for all teachers and serve as a way to reward the state’s best teachers and intervene for struggling teachers.

The full reports are available at:

<http://www.nmlegis.gov/lcs/lfc/lfcdocs/perfaudit/Public%20Education%20Department%20-%20Teacher%20and%20Administrator%20Preparation%20in%20New%20Mexico.pdf>

and

<http://www.nmlegis.gov/lcs/lfc/lfcdocs/perfaudit/Public%20Education%20Department%20%E2%80%93%20Promoting%20Effective%20Teaching%20in%20New%20Mexico.pdf>

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Teacher salaries will increase but expectations remain the same.

RSG/svb:ds:jl