HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR
HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR
HOUSE BILL 144

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO SCHOOL PERSONNEL; ENACTING THE TEACHER AND SCHOOL LEADER EFFECTIVENESS ACT; PROVIDING FOR EFFECTIVENESS EVALUATIONS FOR TEACHERS AND SCHOOL LEADERS; PROVIDING FOR SYSTEMS, PROCEDURES, CRITERIA AND MONITORING; PROVIDING ASSESSMENT COMPONENTS; REQUIRING POST-EVALUATION ACTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Teacher and School Leader Effectiveness Act"."

SECTION 2. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Teacher and

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School Leader Effectiveness Act:

A. "certified observer" means an individual who:

(1) is assigned by the local superintendent to conduct an observation;

(2) holds an active level three-B license or an active teaching license;

(3) is employed by a school district or charter school as an administrator or a teacher;

(4) completes the department's teacher observation training and passes the department's assessment of the adopted observation protocol; and

(5) following satisfaction of the requirement in Paragraph (4) of this subsection, each year before August 1, completes follow-up training and passes the department's assessment of the adopted observation protocol in any location in the state;

B. "evaluation" means a final summative rating that is composed of measures that include growth in student achievement, observations and locally selected multiple measures;

C. "local superintendent" includes a head administrator of a charter school;

D. "post-evaluation conference" means the final review of all components of the teacher evaluation at the end of the school year;

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E. "school district" includes a charter school;

F. "school principal" includes an assistant principal; and

G. "teacher" includes instructional support providers who provide services at one or more public schools in the school district."

SECTION 3. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] RULES IMPLEMENTATION.--

A. The department shall promulgate rules to carry out the provisions of the Teacher and School Leader Effectiveness Act, including rules that establish uniform procedures for:

(1) the submission, review and approval of school district procedures for the annual effectiveness evaluation of teachers and school principals;

(2) the standards for each effectiveness level required pursuant to Section 4 of the Teacher and School Leader Effectiveness Act; and

(3) the measurement of student achievement growth and associated implementation procedures required pursuant to Section 6 of the Teacher and School Leader Effectiveness Act.

B. The department shall adopt:

(1) a list of approved assessments to measure

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student achievement growth; and

(2) a list of approved measures of teacher and school principal effectiveness for the multiple measures component of the teacher and school principal effectiveness evaluations.

C. In the 2015-2016 school year and in subsequent school years, each school district shall continue to implement its department-approved teacher and school principal effectiveness evaluation system, and employment decisions pertaining to effectiveness evaluations, promotions, terminations and discharges shall be made pursuant to the Teacher and School Leader Effectiveness Act and as otherwise provided by law."

SECTION 4. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] EFFECTIVENESS EVALUATION PROCEDURES AND CRITERIA.--

A. For the purpose of increasing student achievement by improving the quality of instruction, school administration and supervision in the public schools of the state, every school district shall establish procedures for evaluating the performance of duties and responsibilities of all teachers and school principals in the school district. Each school district shall report annually to the department the results of its effectiveness evaluations of those

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employees.

B. The department shall approve each school district's teacher and school principal effectiveness evaluation system and shall monitor each school district's implementation of the system.

C. A teacher and school principal effectiveness evaluation system shall:

(1) be designed to support effective instruction and student achievement, with the results used to inform school district- and school-level improvement plans;

(2) provide appropriate instruments, procedures and criteria and continuous quality improvement of professional skills, with the results used to inform the professional development of teachers and school principals;

(3) include a mechanism to examine effectiveness data from multiple sources, which may include giving parents and students opportunities to provide input into effectiveness evaluations when appropriate;

(4) identify those teaching fields, including special education and English as a second language, for which special evaluation procedures and criteria may be developed;

(5) include measures of student achievement growth, except as otherwise provided in the Teacher and School Leader Effectiveness Act, observations and multiple measures; and

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(6) differentiate among at least five levels of performance, which include the following:

(a) exemplary, meets competency;

(b) highly effective, meets competency;

(c) effective, meets competency;

(d) minimally effective, does not meet competency; and

(e) ineffective, does not meet competency.

D. A teacher effectiveness evaluation shall be conducted for each teacher at least once a year. Each evaluation shall be based on sound educational principles and contemporary research in effective educational practices. The student achievement growth component of a teacher's effectiveness evaluation shall be based on valid and reliable data and indicators of student achievement growth assessed annually for the students assigned to the teacher for each year, as certified by the school district. Student achievement growth shall be based on a department-approved, standards-based assessment. For subjects and grade levels not measured by state assessments, a school district shall develop assessments pursuant to the provisions of Subsection I of this section or select assessments from a list of options approved by the department.

E. A school district shall use the department-

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adopted measures of student achievement growth calculated by the department for all courses associated with state assessments or district-created, department-approved assessments and shall select comparable measures of student achievement growth for other grades and subjects as provided in Section 6 of the Teacher and School Leader Effectiveness Act.

F. The student achievement growth component of the teacher effectiveness evaluation shall constitute, for classroom teachers with:

(1) no student achievement growth data, no part of the evaluation;

(2) one or two years of student achievement growth data, twenty-five percent of the evaluation; and

(3) three or more years of student achievement growth data, forty percent of the evaluation.

G. For school principals, the student achievement growth component of the effectiveness evaluation shall include student achievement growth data for students enrolled in the public school for no fewer than the three most recent years. The student achievement growth component of the effectiveness evaluation shall be based on the student growth components of the school's A through F letter grade and shall constitute forty percent of the school principal effectiveness evaluation.

H. If a school district develops an assessment that measures student achievement growth for classroom teachers who

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do not teach in a standards-based assessment grade or subject, the school district shall submit the assessment to the department for approval.

I. Forty percent of the teacher effectiveness evaluation shall be based on data and indicators of instructional practice for teachers, except as otherwise provided in the Teacher and School Leader Effectiveness Act. A certified observer shall observe those practices using a common research-based observational protocol approved by the department, with a demonstrated correlation to improved student achievement.

J. Regardless of that teacher's ratings on other components of the effectiveness evaluation, a teacher whose students' average growth per year for all years measured and factored into the student achievement growth component of the evaluation is one year of expected growth or more shall be deemed as meeting competency in that component of the evaluation and shall not, based on all evaluation components, be rated minimally effective or ineffective.

K. Feedback on classroom observations shall be given to classroom teachers within ten school days after each formal observation is completed.

L. For school principals, effectiveness evaluation criteria shall include indicators based on each of the leadership standards adopted by the department. Forty percent

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of the school principal effectiveness evaluation shall be based on observations conducted by the superintendent and using a highly objective uniform statewide standard evaluation.

M. Multiple measures approved by the department shall be twenty percent of the school district's teacher and school principal effectiveness evaluation system, except as otherwise provided in the Teacher and School Leader Effectiveness Act. The multiple measures shall be aligned with improved student achievement. Each school district shall adopt at least one multiple measure.

N. The school administrator responsible for supervising a teacher or school principal shall evaluate the teacher's or school principal's performance. The school district's teacher and school principal effectiveness evaluation system may provide for the supervisor to consider input from other trained evaluators and observers."

SECTION 5. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] EVALUATION--WRITTEN REPORT--POST-EVALUATION CONFERENCE--NOTIFICATION OF MINIMALLY EFFECTIVE OR INEFFECTIVE PERFORMANCE--RESULTS OF EVALUATION--CORRECTIVE ACTION--LICENSE REVOCATION.--

A. At the request of a school principal, the department or an independent evaluator selected by the department may conduct a review of the results of the overall

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effectiveness evaluation, the multiple measures component or the student achievement growth data component of:

(1) a teacher who is rated exemplary or highly effective on components other than the student achievement growth component and who is rated minimally effective or ineffective on the student achievement growth component of the evaluation; and

(2) a teacher who is rated minimally effective or ineffective on components other than the student achievement growth component and who is rated exemplary or highly effective on the student achievement growth component of the evaluation.

B. A local superintendent may appeal to the department concerning the advancement or license revocation or renewal of a teacher whose effectiveness evaluation ratings are as described in Paragraph (1) or (2) of Subsection A of this section.

C. Every evaluator shall submit a written report on the effectiveness evaluation of each teacher or school principal to that teacher or school principal and to the local superintendent. Once each component of an effectiveness evaluation is completed, the evaluator shall not change that component. A teacher or school principal who is rated, based on all evaluation components, minimally effective or ineffective may provide a written response to the effectiveness evaluation, and the response shall become a permanent

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attachment to the teacher's or school principal's personnel file.

D. For a teacher evaluated as minimally effective or ineffective, the written report shall describe the minimally effective or ineffective performance and include notice of the procedural requirements of this section. The notice shall constitute notice of uncorrected unsatisfactory work performance pursuant to Section 22-10A-30 NMSA 1978.

E. After all components of the evaluation are complete, the evaluator shall arrange a post-evaluation conference with each teacher or school principal who, based on all evaluation components, is evaluated as minimally effective or ineffective. At the conference, the evaluator shall make recommendations with respect to specific areas of unsatisfactory performance and provide other useful feedback that provides the initial framework for an individual performance growth plan.

F. School principals and other supervisors shall use the results of the teacher and school principal effectiveness evaluations to develop strategic support for teachers and school principals who are rated minimally effective or ineffective, which support shall align with best practices identified by the department. The evaluator shall provide assistance in helping to correct unsatisfactory performance.

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G. If the teacher has an employment contract, the teacher shall be placed on a performance growth plan and be governed by the provisions of this section pertaining to the demonstration of corrective action for ninety school days following the receipt of the notice of minimally effective or ineffective performance; provided that weekends, school holidays and school vacation periods are not counted when calculating the ninety-day period. During the ninety-day period, the teacher shall be observed and evaluated periodically and shall be apprised of progress. The evaluator shall provide assistance and notification of in-service training opportunities to help correct the performance deficiencies noted.

H. Within five school days after the allowed ninety-day period, the evaluator shall evaluate whether the performance deficiencies have been corrected and forward a recommendation to the local superintendent. Within ten school days after receiving the evaluator's recommendation, the local superintendent shall notify in writing the teacher or school principal who has an employment contract whether the performance deficiencies have been satisfactorily corrected. If satisfactory progress has not been made, the local superintendent shall determine whether to discharge the employee in compliance with Section 22-10A-27 NMSA 1978 or, if at the end of a school year, to terminate the employment of the

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employee in compliance with Section 22-10A-24 NMSA 1978.

I. An exemption to the provisions of this section may be provided for upon appeal for extraordinary circumstances as determined by the department.

J. The local superintendent shall notify the department of a teacher who receives two consecutive minimally effective or ineffective evaluations and who has been given written notice by the school district that the employee is being discharged or terminated.

K. For a teacher whose license is expiring in the year in which the teacher is rated, based on all evaluation components, minimally effective or ineffective, the local superintendent may appeal to the department for an extension of the teacher's license.

L. This section does not grant a probationary employee a right to continued employment beyond the term of the probationary employee's contract."

SECTION 6. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] MEASUREMENT OF STUDENT ACHIEVEMENT GROWTH IN LEARNING.--

A. By July 15, 2015, the department shall propose a formula to measure individual student achievement growth on the state standardized assessments used for school accountability. The formula shall take into account each student's prior

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performance, grade level and subject. The formula shall not set different expectations for student achievement growth based on gender, race, ethnicity or socioeconomic status. The department shall adopt the formula by rule by September 1, 2015.

B. Beginning with the 2015-2016 school year, each school district shall use the department-adopted instrument to measure the growth in achievement of each student.

C. For classroom teachers who are assigned to courses not associated with state assessments, a school district may request, through the effectiveness evaluation system approval process, to include achievement growth demonstrated on state assessments as a percentage of the overall effectiveness evaluation. Achievement growth of the state assessment shall be based on the students assigned to the teacher. The achievement growth of the teacher's assigned content area, as measured by the district-selected, department-approved assessment, shall be the greater percentage."

SECTION 7. Section 22-10A-19 NMSA 1978 (being Laws 2003, Chapter 153, Section 50, as amended) is amended to read:

"22-10A-19. TEACHERS AND SCHOOL PRINCIPALS--[~~ACCOUNTABILITY~~] OTHER LICENSED SCHOOL EMPLOYEES--EVALUATIONS--[~~PROFESSIONAL DEVELOPMENT--PEER INTERVENTION--MENTORING~~] TRAINING.--

A. [~~The department shall adopt criteria and minimum~~

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~~highly objective uniform statewide standards of evaluation for the annual performance evaluation of licensed school employees. The professional development plan for teachers shall include documentation on how a teacher who receives professional development that has been required or offered by the state or a school district or charter school incorporates the results of that professional development in the classroom.~~] Teachers and school principals shall be evaluated in accordance with the Teacher and School Leader Effectiveness Act.

B. The local superintendent shall adopt policies, guidelines and procedures for the performance evaluation [~~process. Evaluation by other school employees shall be one component of the evaluation tool for school administrators~~] of licensed school employees who are not teachers or school principals.

[~~C. As part of the highly objective uniform statewide standard of evaluation for teachers, the school principal shall observe each teacher's classroom practice to determine the teacher's ability to demonstrate state-adopted competencies.~~

~~D. At the beginning of each school year, teachers and school principals shall devise professional development plans for the coming year, and performance evaluations shall be based in part on how well the professional development plan was carried out.~~

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~~E. If a level two or three-A teacher's performance evaluation indicates less than satisfactory performance and competency, the school principal may require the teacher to undergo peer intervention, including mentoring, for a period the school principal deems necessary. If the teacher is unable to demonstrate satisfactory performance and competency by the end of the period, the peer interveners may recommend termination of the teacher.~~

~~F.~~] C. At least every two years, school principals shall attend a training program approved by the department to improve their evaluation, administrative and instructional leadership skills."

SECTION 8. SEVERABILITY.--If any part or application of the Teacher and School Leader Effectiveness Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS

Bill Number: CS/CS/HB 144 **52nd Legislature, 1st Session, 2015**

Tracking Number: .200605.2

Short Title: Teacher & School Leader Effectiveness Act

Sponsor(s): Representatives James E. Smith and Dennis J. Roch, and Senator Sander Rue

Analyst: Heidi L. Macdonald **Date:** February 25, 2015

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR
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HOUSE BILL 144

Bill Summary:

CS/CS/HB 144 amends the *Public School Code* to outline the systems, procedures, and criteria relating to effectiveness evaluations of teachers and school principals by:

- creating the *Teacher & School Leader Effectiveness Act*; and
- amending the *School Personnel Act*.

Definitions

CS/CS/HB 144 defines a number of terms, among them:

- "certified observer" is an individual who:

  1. is assigned by the local superintendent to conduct an observation;
  2. holds an active level three-B license or an active teaching license;
  3. is employed by a school district or charter school as an administrator or teacher;
  4. completes the teacher observation training provided by the Public Education Department (PED) and passes PED's assessment of the adopted observation protocol; and
  5. following satisfaction the requirement number three, each year before August 1, completes follow-up training and passes PED's assessment of the adopted observation protocol in any location in the state;

- "evaluation" is a final summative rating that is composed of multiple measures that include growth in student achievement, observations, and locally selected multiple measures;
- "local superintendent" includes the head administrator of a charter school; and
- "school district" includes charter schools.

Evaluation Regulations

Among its other provisions, CS/CS/HB 144:

- requires PED to promulgate rules for the act, including for:
  - submission, review, and approval of school district procedures for the annual effectiveness evaluation of teachers and school principals;
  - standards for each effectiveness level required pursuant to Section 4 of the act; and
  - measurement of student achievement growth and associated implementation procedure required pursuant to Section 6 of the act;
- requires PED to adopt:
  - a list of approved assessments to measure student achievement growth; and
  - a list of approved measures of teacher and school principal effectiveness for the multiple measures component of the teacher and school principal effectiveness evaluations; and
- beginning in school year 2015-2016 and in subsequent school years, requires each school district to:
  - implement its PED-approved teacher and school principal effectiveness evaluation system; and
  - employment decisions pertaining to effectiveness evaluations, promotions, terminations, and discharges shall be made pursuant to the act and as otherwise provided by law.

Evaluation Requirements

CS/CS/HB 144 requires the teacher and school principal effectiveness evaluation system to:

- be used to inform school district- and school-level improvement plans and professional development of teachers and school principals;
- include a mechanism to examine effectiveness from multiple sources with the option of giving parents and students the opportunities to provide input when appropriate;
- identify those teaching fields for which special evaluation procedures may be developed;
- include measures of student achievement growth, observations, and multiple measures; and
- differentiate among at least five levels of performance, which include:
  - exemplary, meets competency;
  - highly effective, meets competency;
  - effective, meets competency;
  - minimally effective, does not meet competency; and
  - ineffective, does not meet competency.

In addition, each teacher must be evaluated at least once a year.

Student Achievement Component

Every school district is required to use PED-adopted measures of student achievement growth calculated by PED for all courses associated with state assessments or district-created, PED-approved assessments and is also required to select comparable measures of student achievement growth for other grades and subjects.

By July 15, 2015, PED is required to propose a formula to measure individual student achievement growth on the state standardized assessments used for school accountability. The formula shall take into account each student's prior performance, grade level, and subject. PED is required to adopt the formula in regulations by September 1, 2015.

For Teachers

CS/CS/HB 144 provides a graduated application of the student achievement component of the evaluation, so that for teachers with:

- no student achievement growth data, student achievement will play **no part** in the teacher's evaluation;
- with one or two years of student achievement growth data, that component will account for **25 percent** of the teacher's evaluation; and
- three or more years of student achievement growth data, **40 percent** of the teacher's evaluation will be based on student achievement.

However, for teachers who do not teach in a standards-based assessment grade or subject, the school district is required to submit the assessment to PED for approval.

For School Principals

Alternatively, for school principals, the student achievement growth component of the school principal evaluation is required to:

- include student achievement growth data for students enrolled in the public school for no fewer than the three most recent years; and
- the student achievement growth component is based on the student growth component's of the schools A through F letter grade and constitutes **40 percent** of the school principal's evaluation.

Observation Component

For Teachers

Regarding the observation component of the teacher evaluation, **40 percent** is required to be based on data and indicators of instructional practice for teachers. Feedback on classroom observations must be given to classroom teachers within 10 school days after the observation is completed.

For School Principals

School principal evaluations are required to include indicators based on each of the leadership standards adopted by the PED. **40 percent** of the school principal evaluation shall be based on observations conducted by the superintendent and using a highly objective uniform statewide standard evaluation.

Finally, regarding the multiple measures component of the evaluation system, CS/HB 144 requires that:

- multiple measures approved by PED shall be **20 percent** of the school principal and teacher evaluations;
- the measures be aligned with improved student achievement; and
- each school district adopt at least one multiple measure.

Results of Evaluation

Regardless of a teacher's ratings on other components of the effectiveness evaluation, a teacher whose students' average growth per year for all years measured and factored into the student achievement growth component of the evaluation is one year of expected growth or more shall be deemed as meeting competency in that component of the evaluation and shall not, based on all evaluation components, be rated minimally effective or ineffective.

Post-Evaluation

The act requires evaluators to submit a written report on the effectiveness evaluation of each teacher or school principal to the teacher or school principal and the local superintendent. If an employee is rated as minimally effective or ineffective, he or she may provide a written response to the evaluation, which will become a permanent attachment to the employee's personnel file.

The evaluator is required to arrange a post-evaluation conference with each teacher or school principal who is rated as minimally effective or ineffective. At the conference, the evaluator is required to make recommendations to correct the unsatisfactory performance.

If the teacher rated as minimally effective or ineffective has an employment contract, he or she will be placed on a performance growth plan.

In addition, within 90 days following receipt of the notice of minimally effective or ineffective, the teacher must be observed and evaluated periodically and be apprised of progress. Within five days of the allowed 90-day period, the evaluator is required to evaluate whether the performance deficiencies have been corrected. Within 10 days, the local superintendent must notify the employee in writing whether the performance deficiencies have been satisfactorily corrected. Lastly, if corrective action has not been made, the local superintendent is required to determine whether to discharge or terminate the employee.

Finally, the local superintendent is required to notify PED if a teacher who receives two consecutive minimally effective or ineffective evaluations and who has been given written notice by the school district that the employee is being discharged or terminated. For a teacher whose license is expiring in the year in which the teacher is rated, based on all evaluation components,

minimally effective or ineffective, the local superintendent ***may appeal*** to PED for an extension of the teacher's license.

Review of Evaluations

At the request of a school principal, PED or an independent evaluator selected by PED may conduct a review of the results of the evaluation, multiple measures component, or the student achievement growth data component of:

- a teacher who is rated exemplary or highly effective on components other than the student achievement growth component and who is rated minimally effective or ineffective on the student achievement growth component; and
- a teacher who is rated minimally effective or ineffective on components other than the student achievement growth component and who is rated exemplary or highly effective on the student achievement growth component.

Additionally, a local superintendent ***may appeal*** to PED concerning the advancement, license revocation, or renewal of a teacher whose effectiveness evaluation ratings bulleted previously.

Other Licensed School Employees

The local superintendent is required to adopt policies, guidelines, and procedures for the performance evaluation of licensed school employees who are not teachers or school principals.

Fiscal Impact:

CS/CS/HB 144 does not contain an appropriation.

According to the analysis by PED, fiscal implications would be minimal as systems are already in place at PED and school districts to support the measures established by the bill.

Technical Issues:

In Section I, page 13, CS/CS/HB 144 allows exemptions to be granted upon appeal for "extraordinary circumstances as determined by the department." The sponsors may wish to consider indicating or suggesting the nature of these extraordinary circumstances.

In Section 5, page 9-10, CS/CS/HB 144 allows, at the request of a school principal, PED or an independent evaluator to conduct a review of the results of the overall effectiveness evaluation, the multiple measures component, or the student achievement growth data component. However, the observation component is not included under the listing for components as an option to review. If the observation component is supposed to be included within the language of overall effectiveness evaluation that is an option for review, then adding multiple measures and student achievement growth data is duplicative.

In Section B, page 10, CS/CS/HB 144 allows a superintendent the opportunity to appeal to PED if a teacher is seeking advancement, license revocation, or renewal based on the following circumstances:

- a teacher who is rated exemplary or highly effective on components other than the student achievement growth component and who is rated minimally effective or ineffective on the student achievement growth component; or
- a teacher who is rated minimally effective or ineffective on components other than the student achievement growth component and who is rated exemplary or highly effective on the student achievement growth component.

However, there is no language included in the bill describing the appeal process. The sponsors may wish to consider indicating or suggesting the nature of the appeal process.

Additionally, in Section K, page 13, there is not an appeal process described for superintendents wishing to appeal to PED for an extension of a teacher's license for teachers who are rated minimally effective or ineffective. As mentioned above, the sponsors may wish to consider indicating or suggesting the nature of the appeal process.

There are instances where principals are removed in certain provisions. This can be problematic in the situations where they should have been included and were mistakenly left out. For example, principals were removed from the following provisions:

- Section D, page 11;
- Section G, page 12; and
- Section J, page 13.

The bill allows local superintendents the discretion on which policies, guidelines, and procedures to adopt when supervising other licensed school personnel who are not teachers or principals. The effect of this provision in CS/CS/HB 144 allows for policies, guidelines, and procedures that are not uniform throughout the state. The provision does not define which licensed school personnel will be effected.

For teachers who have two years or less of student achievement growth data, the overall summative evaluation rating does not equal 100 percent. The sponsor may wish to indicate what other components will be included in the evaluations of these teachers.

Substantive Issues:

One question that CS/CS/HB 144 raises is what effect, if any, the waiver provisions related to teacher evaluation will have upon the state's waiver from the requirements of the federal *No Child Left Behind Act* (see "Background," below).

According to the PED analysis of the original HB 144, the bill is misaligned with the state's federal waiver from the federal *Elementary and Secondary Education Act* (ESEA). In New Mexico's approved waiver, the state articulates it will implement an evaluation system using the following categories and proportions: student achievement – 50 percent; teacher observations – 25 percent; and PED-approved multiple measures – 25 percent.

Regarding the different appeal processes, there are inconsistencies within CS/CS/HB 144. One appeal process allows the superintendent to appeal directly to PED, while the other appeal process allows the superintendent to make the decision at the local level. The sponsor may wish to clarify which appeal process is the correct action to follow.

Background:

During the 2014 interim, the Legislative Education Study Committee (LESC) heard extensive testimony on the current teacher and principal evaluation system, which was implemented through PED rule. CS/CS/HB 144 would replace this rule-based system with a different evaluation system prescribed in law.

Adopted in August 2012 and amended in September 2013, the PED rule, *Teacher and School Leader Effectiveness*, implements an evaluation program for public school teachers and administrators called the Effectiveness Evaluation System (EES), sometimes also called the NMTEACH Effectiveness Evaluation System. Under this system, districts have the option of using the plan developed by PED or submitting a custom plan to PED for department approval.

In general, 50 percent of a teacher's evaluation is based on student achievement measures, whether derived from the state standards-based assessments or some other student assessment. Details vary, however, depending upon whether a teacher is a member of Group A, Group B, or Group C:

- Group A teachers teach subjects tested by the standards-based assessments in those grades in which the assessments are administered;
- Group B teachers teach either non-tested subjects or tested subjects in grades in which the standards-based assessments are not administered; and
- Group C teachers teach in grades K-2.

The student achievement growth component of the evaluation shall be based on the following:

- for public school teachers who teach in a grade or subject that has a standards-based assessment, the component consists of:
  - valid and reliable data and indicators of student achievement growth assessed annually through a combination of 35 percent standards-based assessment; and
  - 15 percent additional PED-approved assessments, for a total of 50 percent; and
- for public school teachers who teach in a grade or subject that does not have a standards-based assessment, the component consist of:
  - valid and reliable data and indicators of student achievement growth assessed annually on district-selected and PED-approved assessments, for a total of 50 percent.

Briefly, the rule requires that:

- school districts use a department-adopted student achievement growth measure or, with department permission, use a combination of PED-approved growth measures and, for non-tested subjects or grades, a PED-approved alternative measure;
- whenever possible, the performance rating include three years or more of student achievement growth data; and
- if a school district has not implemented appropriate course assessments or adopted a comparable measure, student achievement growth be measured by:

- the growth achievement of the classroom teacher's students on state assessments;
- the school's A through F letter grade for courses in which enrolled students do not take the state assessment, provided that a school district may assign instructional team student achievement growth to classroom teachers in lieu of using the school grade growth calculation; or
- state-developed end-of-course examinations or other PED-recommended options.

Upon request by the school district, the rule allows the rating for teachers who are assigned to courses not associated with state assessments to include achievement growth that is demonstrated on state assessments as a percentage of the overall evaluation. In addition, student achievement growth is measured through a value-added model (VAM), which, according to PED, accounts for the individual student's background by using three years' worth of data.[1] Those years of data produce a teacher's overall value-added score (VAS).

For the remainder of a teacher's evaluation, LESC staff testimony continued:

- 25 percent is based on teaching observations by one of two types of observers – either "approved" or "certified" – using the NMTEACH rubric or protocol; and
- 25 percent is based on "multiple measures," which vary, again, according to the group to which the teacher belongs.

Turning to the evaluation of administrators, the EES requires that every school leader have an annual effectiveness evaluation, which must be conducted by a qualified person approved by PED. For the administrator EES rating itself:

- 50 percent is based on the change in the school's letter grade;
- 25 percent is based on the school's multiple measures; and
- 25 percent is based on "documented fidelity observations of the school leader."

According to the PED business rules, unlike teachers, administrators are categorized into two groups:

- Group A Principals/School Administrators are those who:
  - hold Level 3-B administrative licenses;
  - serve as principal/director, assistant principal, dean of students, or athletic directors; and
  - supervise and evaluate certified teachers.
- Group B School Administrators are district-level administrators, athletic directors, and deans of students who do not have Level 3-B licenses.

On November 14, 2014, the United States Department of Education granted New Mexico's request for an extension of ESEA flexibility through the end of school year 2014-2015.

[1] VAM uses statistical models to predict student test performance, controlling for potential variables that could affect performance such as student, teacher, or school characteristics. The difference between the predicted and actual scores, if any, is assumed to be due to the performance of the teacher, rather than to the student's natural ability or socioeconomic circumstances.

New Mexico's ESEA flexibility application includes sections that discuss three distinct principles:

1. college- and career-ready expectations for all students;
2. state-developed differentiated recognition, accountability, and support; and
3. supporting effective instruction and leadership.

Committee Referrals:

HEC

Related Bills:

FL/HB 76a *Teacher Licensure Levels & Advancement*
SB 91 *Teacher Licensure Levels & Advancement*
SB 138 *Repeal A-B-C-D-F School Rating Act*
SB 202 *Public Education Data Advisory Council*
SB 205 *Delay Use of Certain Test in Teacher Evals*
SB 378 *Teacher & Admin Differential Performance*
SB 497 *Quantifiable Data in Teacher Evaluations*
SB 558 *Use of Leave & Teacher Evaluations*
SB 562 *Teacher Evaluation Use of Data*