

LESC bill analyses are available on the New Mexico Legislature website (www.nmlegis.gov). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number	<u>HB125/aHJC</u>	Sponsor	<u>Williams Stapleton</u>
Tracking Number	<u>.205745.1</u>	Committee Referrals	<u>HEC/HJC</u>
Short Title	<u>Teacher & Principal Evaluation System</u>		
Analyst	<u>Macdonald</u>	Original Date	<u>2/7/17</u>
		Last Updated	<u>3/13/17</u>

BILL SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 125 (HB125/aHJC) changes the date to August 1, 2017 by which the Public Education Department (PED) is required to convene a council to develop a teacher and principal evaluation system and the length of time the council is required to complete its work. Additionally, the amendment increases the number of representatives of a public school parent organization from two to four, which increases the council to a minimum of 33 members. Finally, the amendment fixes technical errors changing “licensor system” to “licensure system.”

Synopsis of Original Bill

House Bill 125 (HB125) creates a new section of the School Personnel Act to require PED to convene a 31-member council from June 1, 2017 to December 31, 2021 to develop a teacher and principal evaluation system, in accordance with the highly objective uniform state standards and other evaluation criteria prescribed by law (Section 22-10A-19 NMSA 1978).

Eighty percent or more of the teacher evaluation system developed by the council will be based on decisions pursuant to each school district’s collective bargaining agreements, such as: (1) formative classroom observations, (2) summative classroom observations, (3) student learning measured by student learning objectives, (4) student feedback compiled from student surveys from research-based surveys, and (5) school progress on the educational plan for student success; and 20 percent or less will be based on student achievement from multiple measures of student learning, growth, and achievement. The system will be fully implemented by the 2018-2019 school year.

By March 1, 2020 and again by March 1, 2021, the council and PED are required to prepare draft reports on the implementation of the state teacher and principal evaluation system and distribute to all school districts, charter schools, and public postsecondary institutions for comments. By July 31, 2020 and again by July 31, 2021, the council and PED are required to provide to the

governor and the Legislative Education Study Committee (LESC) copies of the draft and final reports.

FISCAL IMPACT

The bill does not contain an appropriation.

The Senate Finance Committee (SFC) amendment to the House Appropriations and Finance Committee Substitute for House Bills 2 and 3 includes the following appropriations to PED for a teacher and administrator evaluation system: (1) \$4 million in general fund revenue; and (2) \$500 thousand in other state funds, which will be from the educator licensure fund. However, additional language in the SFC amendment includes language authorizing the use of all FY18 “below-the-line” appropriations, except for the regional education cooperatives, K-3 Plus Fund, Public Prekindergarten Fund, and Early Reading Initiative, for emergency support to school districts experiencing shortfalls in FY18 after all other general fund appropriations for emergency support are fully expended.

HB125/aHJC states that if there are sufficient funds in PED’s budget, members of the established council can be reimbursed for travel expenses pursuant to the Per Diem Mileage Act. According to the LFC analysis, PED’s FY18 request for in-state travel and board member costs associated with mileage and fares totaled \$162.6 thousand. Costs will vary depending on the frequency of in-person council meetings and PED’s available travel budget. Future PED budget requests may also increase as a result of the council’s recommendations.

SUBSTANTIVE ISSUES

HB125/aHJC requires the council to include: the PED secretary or secretary’s designee; two members selected by the National Education Association; two members selected by the American Federation of Teachers New Mexico; 16 full-time teachers, including two level 2 and two level 3 teachers from elementary, middle, and high schools, four level 2 and level 3 charter school teachers, and no fewer than three and no more than five must be special education, bilingual, or English learner classroom teachers; six principals, two each from the elementary, middle, and high school; two head administrators; and four representatives of a public school parent organization.

HB125/aHJC directs that by August 15, 2019, PED adopts the teacher and principal evaluation system and the council’s recommendations, promulgates rules, and provides appropriate training for the implementation of the evaluation systems. The bill directs the council and PED to complete a final report on the implementation of the state teacher and principal evaluation systems, including the number of teachers and principals at each rating; summaries of feedback from teachers, staff, and principals; and recommendations for modifications to the evaluation systems by July 31, 2020 and again by July 31, 2021.

For a comparison chart between the current NMTEACH teacher and principal evaluation systems and the evaluation systems proposed in the bill, see **Attachment 1** and **Attachment 2**.

ADMINISTRATIVE IMPLICATIONS

PED is required to convene the council by August 1, 2017, provide staff assistance to the council upon request, and the PED secretary is required to appoint the council members. Additionally,

PED is required to adopt the teacher and principal evaluation systems and the council's recommendations, promulgate rules for the evaluation systems, and provide training for implementation of the evaluation systems.

TECHNICAL ISSUES

On page 2, section C, the sponsor may wish to clarify “appointed” and “selected.” The PED secretary, based on the language in section C, appoints the members of the council; however, the council members are selected by teacher unions and education partners. If the members are selected by their respective entities and the secretary has the final appointment power, it is unclear if the teacher unions and education partners have the power to select members within this design.

The sponsor may wish to ensure that the dates for implementation are consistent. On page 10, line 18, the teacher evaluation system will begin with the 2018-2019 school year; however, on page 4, line 4, is the date, August 15, 2019, by which PED is required to promulgate regulations for the teacher evaluation system. The dates do not align.

The sponsor may wish to define “best practices” in HB125/aHJC, as this is a subjective and generic term that could be interpreted in many ways.

The sponsor may consider including membership from the colleges of education on the council as they prepare the majority of the state's teacher candidates.

It is unclear how conducting evaluations appropriate for levels of licensure remains uniform. Additionally, HB125/aHJC does not define how evaluations differ based on teacher's level of licensure with the existing three-tiered licensure system.

According to the Higher Education Department analysis on an identical bill, the legislation does not specify any governance, policies, or procedures for the council.

OTHER SIGNIFICANT ISSUES

According to Kini and Podolsky in 2016, teaching experience is positively associated with student achievement gains throughout a teacher's career. Gains in teacher effectiveness associated with experience are most pronounced at the beginning of a teacher's career, but continue to be significant as teachers reach the second, and often third, decades of their careers. As teachers gain experience, their students not only learn more, as measured by standardized tests, they are also more likely to do better on other measures of success, such as school attendance.

Teacher Evaluation Lawsuits. In 2014, the American Federation of Teachers New Mexico, the Albuquerque Teachers Federation, and other plaintiffs filed a lawsuit against PED alleging the teacher evaluation system is based on a fundamentally and irreparably flawed methodology, which is further plagued by consistent and distressing data errors. As a result, the plaintiffs allege teachers are being evaluated, with employment decisions being made, based on a process that is arbitrary and capricious. In December 2015, a preliminary injunction was granted, but allowed the state to proceed with developing and improving its teacher evaluation system; the state is not allowed to make any consequential decisions about teachers using their annual evaluations. The trial is postponed until October 2017.

National Education Association New Mexico also filed a lawsuit against PED in 2014, which claimed the department overstepped its authority in implementing a statewide teacher evaluation process through code in violation of existing state law. In October 2016, the attorney for the union stated he is engaged in settlement negotiations with PED regarding the case. The attorney stated if it is not resolved by the end of the year, it will likely go to trial in spring 2017.

Teacher and School Leader Effectiveness. In 2011, the Legislature considered, but did not pass, legislation that would have implemented a new system for evaluating teachers and principals. Through executive order in the 2011 interim, the governor created the New Mexico Effective Teaching Task Force, whose charge was to provide recommendations to the governor regarding how to best measure the effectiveness of teachers and school leaders based on specific parameters. Those recommendations led to legislation introduced in the 2012 session, which the Legislature considered but did not pass.

In April 2012, the Governor issued a press release directing PED to formulate a new teacher and principal evaluation system. According to the press release, the development of a framework for a new evaluation system was one of the conditions for the Elementary and Secondary Act (ESEA) Flexibility Waiver from the federal No Child Left Behind Act, which PED had recently obtained; and the new evaluation system would incorporate many of the measures that were part of the 2012 legislation. In addition, this press release prescribed components of the system; assigned values, or weights, to those components; and presented a timeline for the development and implementation of the new evaluation system. One of the main components of the ESEA Flexibility Waiver was for states to create a system of evaluating teachers and principals that incorporates student achievement as a major factor so that educator evaluation systems move from being competency based to performance based.

In May 2012, PED requested nominations for 18 people to serve two-year terms on the New Mexico Teacher Evaluation Advisory Council (NMTEACH) in order to develop the details of a new teacher and school leader evaluation system based on student achievement. In June 2012, the council held its first meeting. In July 2012, PED held a public hearing to solicit public comment on draft provisions of the new “Teacher and School Leader Effectiveness” rule. In August 2012, PED published the final version of the “Teacher and School Leader Effectiveness” rule in the New Mexico Register (6.69.8 NMAC). The final rules contained several changes from the original version.

RELATED BILLS

Relates to HB105/HECS, Innovations in Teaching Act, which adds the Innovations in Teaching Act to the Public School Code and establishes the Innovations in Teaching Program to promote the implementation of innovative pedagogical approaches and strategies in the classroom.

Relates to HB124/aHJC, Teacher Competency for Licensure Advancement, which would codify the professional development dossier as the method for advancement within the three tier licensure system.

Relates to HB158, Teacher Evaluation Pilot Project, which creates a new section of the Public School Code to create a teacher evaluation pilot project.

Relates to HB163/HECS, School Grade Test Scores & Unexcused Absences, which creates a new section of the School Personnel Act to control for the potential effect of student attendance on a teacher's evaluation.

Relates to HB241/aHEC, Use of Attendance in Teacher Evaluations, which provides that teacher attendance may be considered as part of a teacher's evaluation and a teacher's use of personal leave and up to 10 days of sick leave shall not affect that teacher's evaluation.

Relates to HB248, School Employee Evaluation Standards, which amends the School Personnel Act to provide requirements for the uniform statewide standards of evaluation for the annual performance evaluation of licensed school employees.

Relates to HB350, Teacher & Principal Effectiveness Act, which enacts the Teacher and Principal Effectiveness Act in the Public School Code.

Duplicates SB34, Teacher & Principal Evaluation System, which requires PED to convene a council to develop a teacher and principal evaluation system.

SOURCES OF INFORMATION

- LESC Files
- LFC Files

HLM/rab

Comparison of Teacher Evaluation Systems

<p>Current NMTEACH Teacher Evaluation System</p>	<p>Teacher Evaluation System under HB125/aHJC</p>
<p><u>Evaluation Criteria</u> NMTEACH for the teacher evaluation system is based on three primary components: (1) student achievement; (2) classroom observations; and (3) multiple measures.</p> <p>The following represents the weighting of each component when student achievement is set at its maximum weight: (1) student achievement growth – 50 percent; (2) classroom observations – 25 percent; and (3) multiple measures – 25 percent.</p>	<p><u>Evaluation Criteria</u> PED is required to base the evaluation of teachers on the following: (1) according to clear and objective standards appropriate for the teacher’s level of licensure; (2) using observation instruments, rubrics, or other research-based tools to compile evidence, specific to each licensure level, of teacher competence; (3) using student learning data compiled from multiple sources; and (4) based on standards of practice that take into account the complexities of teaching.</p> <p>The following represents the weighting of each component: (1) multiple measures – 80 percent or more; and (2) student achievement – no more than 20 percent.</p>
<p><u>Student Achievement</u> Student achievement is worth 50 percent only if a teacher has three years’ worth of student data available. If a teacher does not have three years’ worth of data, the student achievement portion of his or her evaluation is weighted less and redistributed to the observation portion of the evaluation. Student achievement is measured only by growth, never absolute proficiency.</p>	<p><u>Student Achievement</u> PED is required to base student achievement on student learning, growth, and achievement based on assessments that have a valid and reliable connection to teacher effectiveness.</p>
<p><u>Multiple Measures</u> These include areas such as: (1) professionalism; (2) preparation; (3) teacher attendance; and (4) parent and student surveys.</p>	<p><u>Multiple Measures</u> PED is required to base multiple measures on: (1) formative classroom observations; (2) summative classroom observations; (3) student learning measured by student learning objectives; (4) student feedback compiled from research-based student surveys; and (5) school progress on the educational plan for student success.</p>

<p><u>Summative Ratings</u> All of the evaluation criteria are combined for a final summative rating for each teacher.</p> <p>Based off a 200-point total scale, a teacher may receive a summative rating of exemplary, highly effective, effective, minimally effective, or ineffective.</p>	<p><u>Summative Ratings</u> All of the evaluation criteria are combined for a final summative rating for each teacher.</p> <p>A teacher may receive a summative rating of distinguished, proficient, basic, unsatisfactory, or another rating developed by the council for PED's adoption.</p>
<p><u>Appeals Process</u> PED has an established appeals process for teacher evaluations.</p>	<p><u>Appeals Process</u> Teacher evaluation system is required to delineate the process by which a teacher may appeal a performance rating.</p>
<p><u>Personally Identifiable Data</u> PED shares personally identifiable data with only authorized school district and charter school personnel. The summative evaluation is part of the teacher's personnel file and is treated with the same privacy protections as all other contents of the personnel file.</p> <p>Aggregate school, school district, and state level data may be released, but this data will be subject to FERPA-like rules that do not allow for a teacher to be personally identified unless a confidentiality agreement has been signed.</p>	<p><u>Personally Identifiable Data</u> PED is required to establish procedures for maintaining the confidentiality of personally identifiable student information in performing principal evaluations, evaluation feedback, and ratings and exempting all documents related to principal evaluations from the Inspection of Public Records Act.</p>
<p><u>Support and Training</u> PED provides ongoing support and training for school administrators regarding the implementation and updates on the teacher evaluation system.</p>	<p><u>Support and Training</u> PED is required to provide the necessary support for school districts and charter schools to implement the teacher evaluation system, including ongoing training in the implementation and use of the system for teachers and certified observers.</p>

Source: LESC Files

Comparison of Principal Evaluation Systems

<p>Current NMTEACH Principal Evaluation System</p>	<p>Principal Evaluation System under HB125/aHJC</p>
<p><u>Evaluation Criteria</u> NMTEACH for the principal evaluation system is based on three primary components: (1) improved student achievement; (2) observations; and (3) multiple measures.</p> <p>The following represents the weighting of each component when student achievement is set at its maximum weight: (1) student achievement growth – 50 percent; (2) classroom observations – 25 percent; and (3) multiple measures – 25 percent.</p>	<p><u>Evaluation Criteria</u> PED is required to base the evaluation of principals on the following: (1) according to clear and objective standards; and (2) using evaluation instruments, rubrics, or other research-based tools to compile evidence of school leadership and student learning from multiple sources in a fair, transparent, rigorous, and valid way and with enough frequency to justify the effectiveness in school leadership rating.</p> <p>The following represents the weighting of each component: (1) multiple measures – 80 percent or more; and (2) student achievement – no more than 20 percent.</p>
<p><u>Improved Student Achievement</u> Improved student achievement includes school growth, Q3 growth (growth of highest performing 75 percent of students), and Q1 growth (growth of lowest performing 25 percent of students).</p> <p>The points for each measure within the improve student achievement category are taken directly from the school grade report card.</p>	<p><u>Student Achievement</u> PED is required to base student achievement on multiple measures of student learning, growth, and achievement.</p>
<p><u>Multiple Measures</u> Multiple measures include a highly objective uniform statewide standard of evaluation (HOUSSE) measure and teacher survey points.</p> <p>HOUSSE points awarded are based on the superintendent’s discretion using the NMTEACH HOUSSE Form D guidance document. Teacher survey points are awarded from questions that reflect on four principal competencies.</p>	<p><u>Multiple Measures</u> PED is required to base multiple measures on: (1) the operations of the school; (2) the principal’s performance of teacher evaluations; (3) the principal’s provision of support for improved teacher performance, as aligned with state standards for each grade level and subject area; (4) teacher and staff feedback compiled from research-based surveys and consideration of</p>

	<p>and responsiveness to teacher and staff feedback in the management of the school;</p> <p>(5) parent feedback compiled from research-based surveys;</p> <p>(6) school climate and culture;</p> <p>(7) the principal’s management of school personnel and school site; and</p> <p>(8) school progress on the educational plan for student success.</p>
<p><u>Summative Ratings</u></p> <p>All of the evaluation criteria are combined for a final summative rating for each school leader.</p> <p>Based off a 200-point total scale, a principal may receive a summative rating of exemplary, highly effective, effective, minimally effective, or ineffective.</p>	<p><u>Summative Ratings</u></p> <p>All of the evaluation criteria are combined for a final summative rating for each school leader.</p> <p>A principal may receive a summative rating of highly effective, effective, improvement necessary, does not meet standards, or another rating developed by the council for PED’s adoption.</p>
<p><u>Appeals Process</u></p> <p>PED has an established appeals process for principal evaluations.</p>	<p><u>Appeals Process</u></p> <p>Principal evaluation system is required to delineate the process by which a principal may appeal a performance rating.</p>
<p><u>Personally Identifiable Data</u></p> <p>PED shares personally identifiable data with only authorized school district and charter school personnel. The summative evaluation is part of the principal’s personnel file and is treated with the same privacy protections as all other contents of the personnel file.</p>	<p><u>Personally Identifiable Data</u></p> <p>PED is required to establish the necessary procedures for maintaining the confidentiality of personally identifiable student information in performing principal evaluations, evaluation feedback, and ratings and exempting all documents related to principal evaluations from the Inspection of Public Records Act.</p>
<p><u>Support and Training</u></p> <p>PED provides ongoing support and training for school administrators regarding the implementation and updates on the principal evaluation system.</p>	<p><u>Support and Training</u></p> <p>PED is required to provide the necessary support for school districts and charter schools to implement the principal evaluation system, including ongoing training in the implementation and use of the system for principals and certified observers.</p>

Source: LESC Files