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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 1st Session, 2019

Bill Number	<u>*HB212/aHEC</u>	Sponsor	<u>Stapleton</u>
Tracking Number	<u>.211818.3</u>	Committee Referrals	<u>HSEIC/HEC;SPAC/SEC</u>
Short Title	<u>Teacher and Principal Evaluation Act</u>		
Analyst	<u>Sena</u>	Original Date	<u>1/21/19</u>
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BILL SUMMARY

Synopsis of HEC Amendment

The House Education Committee Amendment to *HB212 (*HB212/aHEC) strikes the endorsement from the Legislative Education Study Committee (LESC). The bill was not endorsed by LESC, and the endorsement was added because of a drafting error.

Synopsis of Original Bill

House Bill 212 (*HB212) establishes a new section of the Public School Code, the “Teacher and Principal Evaluation Act” that provides the framework for a new teacher and principal evaluation system and directs the Public Education Department (PED) to appoint a committee made up of department staff, the Legislative Education Study Committee (LESC), school districts, charter schools, teacher representatives, school principals, and the public to adopt or create a uniform, highly objective, research-based, easily measurable evaluation system that includes frameworks, standards, rubrics, and evaluation instruments for teacher and principal evaluations.

*HB212 includes a statement of legislative purpose on page 1, lines 24-25, and on page 2, lines 1-18, which indicates the purpose of the act is to promote student learning and growth, ensure teacher and principal accountability and professionalism, establish a rigorous and comprehensive evaluation process, measure and support professional practice, ensure proficient teaching and leadership competency, make personnel decisions consistent with the School Personnel Act, and provide a record of facts and assessments for personnel decisions. The inclusion of the purpose may create a duty and obligation to fulfill those statements as part of a sufficient education under the New Mexico Constitution. In her Decision and Order for the *Martinez* and *Yazzie* consolidated lawsuit, Judge Sarah Singleton relied on statements of legislative purpose, finding that such statements created an actionable obligation. Judge Singleton retains jurisdiction in the lawsuit; language that may create an additional legal obligation may arise in future hearings on the progress of the lawsuit, requiring further action on the part of the Legislature.

*HB212 also amends Section 22-10A-19 NMSA 1978 of the School Personnel Act, striking Teachers and School Principals from the title and replacing it with Licensed School Employees.

The bill defines licensed school employee to mean any licensed school employee other than teachers or school principals and removes any references to teachers and replaces them with licensed school employees.

The bill outlines the process by which teachers and principals would establish professional goals and benchmarks, as well the formative and summative evaluation processes to determine teachers' and principals' performance in meeting those goals and benchmarks. Teachers would be evaluated on instructional quality, student feedback, student learning growth, and professional responsibility. Ratings for teachers would include distinguished, proficient, basic, or unsatisfactory. Principals would be evaluated on management quality, leadership quality, teacher and staff feedback, family and community feedback, and progress on the school's educational plan for student success. Ratings for principal would be distinguished, accomplished, proficient, developing, and not demonstrated.

The bill also specifies the implementation of improvement plans or intensive improvement plans for teachers who are rated basic or unsatisfactory and for principals who are rated developing or not demonstrated. A teacher or school principal may be recommended for termination by an evaluator if they fail to demonstrate proficient performance and competency by the end of an assigned improvement period.

This bill has an emergency clause.

FISCAL IMPACT

The bill does not contain an appropriation.

SUBSTANTIVE ISSUES

Statute does not currently dictate specific provisions about the framework or execution of teacher or principal evaluations. The New Mexico Court of Appeals ruled in 2015 the secretary of education has discretion over developing the structure for teacher evaluations as long as that structure meets statutory requirements to be highly objective and uniform statewide. *HB212/aHEC, while providing a more detailed structure for evaluations, would eliminate some of the department's autonomy and flexibility in developing an evaluation system.

Evaluation Cycles. The bill provides that every teacher and school principal shall execute a formative evaluation every year. Summative evaluations would be conducted annually for all level 1 teachers and school principals serving their first two years in a school district, as well as for all teachers rated unsatisfactory or basic and for school principals rated as not demonstrated or developing. Summative evaluations would be conducted every three years for level 2 or level 3 teachers rated as proficient or distinguished and for principals rated as proficient, accomplished, or distinguished.

Multiple Measures. Criticism of the NMTeach performance evaluation system has centered on the system's use of student achievement as one of the dominant factors in teachers' ratings. Recently, Governor Michelle Lujan Grisham issued Executive Order 2019-002 directing PED to transition away from the Partnership for Assessment of Readiness for College and Career (PARCC) assessment and develop a new teacher evaluation system that includes new measures for teacher performance.

*HB212/aHEC includes four multiple measures by which teachers would be evaluated and assigns weights to each; instructional quality (50 percent), student feedback (15 percent), student learning growth (15 percent), and professional responsibility (20 percent). The bill also includes five multiple measures by which principals would be evaluated and assigns weights to each; management quality (25 percent), leadership quality (25 percent), teacher and staff feedback (20 percent), family and community feedback (15 percent), and school progress (15 percent). The bill fails to define many of the multiple measures.

Ratings. Section 4 of the bill details how teacher ratings are determined by the various degrees to which a teacher’s performance meets performance requirements for each of the four ratings. It is unclear, however, what those requirements are or who is responsible for determining those requirements. The section also includes qualifying language that is not defined and could be subject to interpretation. For instance, a “proficient” rating means the teacher’s performance “fully” and “consistently” meets the requirements of a performance standard or overall summative evaluation. The terms “fully” and “consistently” are not defined. Performance standards for principals are not defined, nor is it clear who would determine those standards. An “accomplished” rating means the school principal exceeds proficient on a performance standard or overall summative evaluation “most of the time.” It is unclear what “most of the time” means. The sponsor might consider defining terms used in determining teacher ratings.

Teacher Performance Ratings (Section 4)

Distinguished	The teacher's performance consistently and significantly exceeds the requirements of a performance standard or overall summative evaluation.
Proficient	The teacher's performance fully and consistently meets the requirements of a performance standard or overall summative evaluation.
Basic	The teacher's performance on a performance standard or overall summative evaluation is at the novice level or, for an experience teacher, means the teacher's performance is below the requirements of a performance standard or overall summative evaluation but, while not considered to be unsatisfactory at the time of the evaluation, does indicate that improvement is necessary and expected to occur
Unsatisfactory	The teacher's performance on an evaluation standard or overall has not significantly improved following a rating of basic or unsatisfactory or the teacher's performance is consistently below the requirements of a performance standard or overall summative evaluation and is considered inadequate, or both.

Principal Performance Ratings (Section 4)

Distinguished	The school principal consistently and significantly exceeds proficient on performance standards or overall.
Accomplished	The school principal exceeds proficient on a performance standard or overall summative evaluation most of the time.
Proficient	The school principal demonstrates basic competence on a performance standard or overall.
Developing	The school principal's performance on a performance standard or overall summative evaluation is at a novice level or, for an experienced principal, means the principal's performance is below the requirement of a performance standard or overall summative evaluation but, while not considered to be not demonstrated at the time of evaluation, indicates that improvement is necessary and expected to occur.
Not Demonstrated	The school principal demonstrates unsatisfactory performance on a performance standard or overall summative evaluation and is considered inadequate, or both.

Improvement Plans. The bill defines an improvement plan to mean the growth or improvement actions identified by the evaluator as needed to improve a level 2 or level 3 teacher’s or school

principal's performance. There is no time frame in definition of an improvement plan, though the bill does later specify a period of at least 30 school days and no more than 90 school days. The sponsor might consider aligning the definition of an improvement plan with the provisions of the bill.

The bill defines an experienced teacher as being a level 2 or level 3 teacher. The sponsor might consider defining "teachers" to include teachers with a level 1 license and specifically outline improvement plans for level 1 teachers.

Committee Purpose. The bill calls for the department to appoint a committee to adopt or create a uniform, highly objective, research-based, easily measureable evaluation system that includes frameworks, standards, rubrics, and evaluation instruments for teacher and principal evaluations.

Based on the specificity of provisions within *HB212/aHEC – i.e. measure weights, teacher and principal ratings, and evaluation cycle – a committee might lack the autonomy to create a new system or find it difficult to adopt an existing system that meets the requirements of the proposed act.

Licensed School Employees. Amendments to Section 22-10A-19 NMSA 1978 effectively create requirements for the evaluation of all licensed school employees. The section previously included only teachers and administrators.

ADMINISTRATIVE IMPLICATIONS

PED would be required to appoint a committee to adopt or create a new teacher evaluation system. The department is also required to promulgate rules regarding the teacher and principal evaluation system and provide appropriate training and related materials.

Local superintendents are required to adopt policies, guidelines, and procedures for the performance evaluation process.

TECHNICAL ISSUES

The bill indicates an endorsement from the LESC but did not receive an endorsement. The sponsor should consider an amendment removing the endorsement.

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.

OTHER SIGNIFICANT ISSUES

Senate Bill 247 (*SB247), the Teacher Evaluation Act, also creates a teacher evaluation system. It does not address principal evaluations. Many of the provisions of *SB247 are similar to *HB212/aHEC, including the use of instructional quality, student feedback, student learning growth, and professional responsibility to evaluate teachers. *SB247, however, does not assign weights to each of the categories, with the exception of instructional quality, which would count for at least 50 percent of a teacher's summative evaluation.

RELATED BILLS

*SB247, Teacher Evaluation Act

SOURCES OF INFORMATION

- LESC Files

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