

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: HB 137a

49th Legislature, 1st Session, 2009

Short Title: Educational Assistant Minimum Salaries

Sponsor(s): Representative Rick Miera and Others

Analyst: Kathleen Forrer

Date: March 10, 2009

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AS AMENDED

The House Appropriations and Finance Committee (HAFC) amendment strikes the appropriation.

The House Education Committee (HEC) amendment redirects the appropriation from the Public Education Department (PED) to the Public School Fund for distribution through the State Equalization Guarantee.

HAFC Amended Fiscal Impact:

HB 137, as twice amended, makes no appropriation.

\$2.6 million is included in the State Equalization Guarantee appropriation in CS/HB 2, *et al.*, as of March 9, 2009.

HEC Amended Fiscal Impact:

The HEC amendment ensures that the \$2.613 million appropriated by HB 137 is distributed through the Public School Funding Formula rather than as categorical funding outside the formula. This procedure is consistent with the language in HB 3a.

Any unexpended or unencumbered balance remaining at the end of FY 10 reverts to the General Fund.

Original Bill Summary:

HB 137 amends the *School Personnel Act* to raise the minimum salary for educational assistants (EAs) from \$12,000 to \$13,000 beginning in school year 2009-2010 and makes an appropriation to implement the increase.

Original Fiscal Impact:

\$2.613 million is appropriated from the General Fund to the Public Education Department (PED) for expenditure in FY 10.

Any unexpended or unencumbered balance remaining at the end of FY 10 reverts to the General Fund.

Fiscal Issues:

Both the Legislative Education Study Committee (LESC) staff and the Legislative Finance Committee (LFC) staff concur that, based on data provided by PED from the Student Teacher Accountability Reporting System (STARS) and the licensure database, the appropriation in HB 137 is sufficient to implement a \$13,000 minimum salary for educational assistants in FY 10.

As introduced, HB 3 includes sufficient funds in the appropriation to the State Equalization Guarantee (SEG) distribution “to increase the minimum annual salary for educational assistants to thirteen thousand dollars (\$13,000), contingent on the enactment of enabling legislation” by the Legislature.

Since 2005, the Legislature has made the following appropriations in order to increase salaries for EAs:

- \$1.9 million for school year 2005-2006 to raise the minimum annual salary for educational assistants to \$12,000;
- \$7.9 million for school year 2006-2007 to provide an average 9.5 percent salary increase for educational assistants;
- an average 5.0 percent salary increase for all school personnel, including educational assistants, for school year 2007-2008; and
- \$3.3 million to provide an additional 1.0 percent average salary increase for educational assistants and other low paid school personnel for school year 2008-2009. This increase was in addition to an average 2.0 percent salary increase appropriated for all school personnel.

Issues:

The federal *No Child Left Behind Act of 2001* (NCLB) requires that all EAs have at least a high school diploma and that EAs serving in schools that receive Title I funds meet one of the following qualifications (upon hire after January 8, 2002, or by January 8, 2006, if already working as an educational assistant):

- complete at least two years of postsecondary study; or
- earn an associate or higher degree; or
- meet a rigorous standard of quality and demonstrate, through a formal state or local academic assessment, knowledge of and the ability to assist in the instruction of reading, writing, and mathematics.

Although NCLB increased the training requirements for educational assistants, salaries for these individuals remained low. Data from PED showed that for school year 2003-2004, the weighted average salary for educational assistants in New Mexico was \$12,679. However, as noted in “Fiscal Issues” above, the Legislature has made a concerted effort since 2005 to raise salaries for educational assistants, resulting in a weighted average salary for school year 2008-2009 of \$16,172.

In its analysis, PED states that enactment of HB 137 “could help ensure that New Mexico’s schools have a larger pool of qualified educational assistants.”

The analysis from the Department of Finance and Administration (DFA) notes that the current \$12,000 minimum salary for EAs is below the federal poverty level of \$14,000 for a two-person household and that the proposed \$13,000 minimum in HB 137 is also below the federal poverty level.

Technical Issues:

Categorical appropriations for operational expenditures may circumvent the Public School Funding Formula, which provides operational funds for all school districts, and may compromise the equity of the formula.

The sponsor may wish to consider an amendment to appropriate the funds to the Public School Fund for distribution through the SEG.

Background:

As a consequence of the increased requirements of NCLB, coupled with the low levels of compensation for educational assistants, the LESC endorsed and the 2003 Legislature passed House Joint Memorial (HJM) 35, which requested that PED, in cooperation with the Commission on Higher Education (now the Higher Education Department), study the needs and resources related to improving the knowledge, skills, and status of educational assistants and substitute teachers. In response to the memorial, LESC staff established the HJM 35 Work Group, which recommended a four-level licensure and salary framework for educational assistants to be phased in over a four-year period. All of the licensure levels in this framework were designed to meet the paraprofessional requirements in NCLB.

In January 2004, the LESC endorsed legislation based upon the final recommendations of the HJM 35 Work Group. Subsequently, the 2004 Legislature enacted a career advancement initiative for educational assistants that:

- required PED to institute a licensure system through rules for educational assistants;
- established a \$12,000 minimum annual salary for licensed educational assistants beginning in FY 05, but authorized the Secretary of Public Education to adjust the minimum salary in accordance with appropriations for that purpose in each school year; and
- required school districts in FY 05 to initiate the implementation of a career salary framework that supports the licensure system in PED rules. (PED rule 6-63-9 NMAC establishes a three-tiered licensure system for educational assistants.)

Related Bills:

HB 136 *Educational Assistant Licensing & Salaries*

HB 356 *Educational Assistant Licensing & Salaries* (As introduced, HB 136 and HB 356 differ only with regard to the minimum salaries for educational assistants in levels 2, 3, and 4.)