

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 53

51st Legislature, 1st Session, 2013

Tracking Number: .191052.1

Short Title: Teacher Loan Repayment Act

Sponsor(s): Representative Sheryl Williams Stapleton

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Bill Summary:

HB 53 adds a new section to the *Public School Code* to enact the *Teacher Loan Repayment Act* and creates the non-reverting Teacher Loan Repayment Fund in the State Treasury, to be administered by the Higher Education Department (HED).

The purpose of the *Teacher Loan Repayment Act* is to increase the number of teachers in designated high-risk teacher positions in public schools through an educational loan repayment program. The act provides for repayment of the principal and reasonable interest accrued on loans obtained from the federal government for teacher education purposes.

HB 53 also defines three terms that are central to the program:

- **“department”** means the HED;
- **“designated high-risk teacher positions”** means teacher positions in specific public schools that have been designated by the Public Education Department (PED) as schools with a high percentage of students who are not meeting acceptable academic proficiency levels and are located in areas with a high rate of poverty; and
- **“loan”** means a grant of money to defray the costs incidental to a teacher’s education, under a contract between the federal government or a commercial lender and a teacher, requiring repayment of principal and interest.

Among its other provisions, HB 53 describes HED’s authority and duties as well as participant eligibility and qualifications, including:

- provisions for HED to grant an award to repay loans obtained for educational expenses of a teacher upon such terms and conditions as may be imposed by HED;
- a requirement that applicants be licensed New Mexico teachers and citizens and residents of the United States and of New Mexico;
- a condition that applicants declare their intent to practice as teachers in designated high-risk teacher positions in the state; and
- provisions for HED to work with PED to investigate the ability and qualifications of each program applicant and to determine the fitness of a teacher to participate in the educational loan repayment program.

The bill also prescribes award criteria:

- the need for the designated high-risk teacher position, as determined by PED, the applicant's total teacher education indebtedness, and available balances in the Teacher Loan Repayment Fund;
- preference to individuals who have graduated from a New Mexico public postsecondary educational institution;
- recruitment awards to eligible participants who agree to accept a designated high-risk teacher position;
- modification of award amounts based upon available funding or other special circumstances; and
- an award amount not to exceed the total teacher education indebtedness of a participant.

HB 53 further outlines the contract terms and payment, including:

- provisions indicating that the following teacher education debts are not eligible for repayment:
 - amounts incurred as a result of participation in state loan-for-service programs or other state programs whose purpose states that service be provided in exchange for financial assistance;
 - scholarships that have a service component or obligation;
 - loans from a commercial lender;
 - personal loans from friends or relatives; and
 - loans that exceed individual standard school expense levels;
- a condition that the loan repayment award be evidenced by a contract between the teacher and the department acting on behalf of the state;
- provisions stating that the contract between a teacher and the department provide that, if the teacher does not comply with the terms of the contract, the teacher shall reimburse HED for all loan repayments made on the teacher's behalf, plus reasonable interest at a rate to be determined by the HED, unless the HED finds acceptable extenuating circumstances; and
- requirements that:
 - recipients serve a complete school year in order to receive credit for that year;
 - loan repayment awards from the Teacher Loan Repayment Fund go directly to the federal government lender of a teacher who has received the award and be considered a payment on behalf of the teacher pursuant to contract between HED and the teacher;
 - the state or HED is not obligated to the teacher's federal government lender for any other payment and is not considered to create any privity of contract between the state or HED and the lender; and
 - HED, after consulting with PED, adopt rules to implement the provisions of the act.

The bill also prescribes terms for enforcing the contract and procedures for administering the Teacher Loan Repayment Fund. Among its provisions, HB 53 requires that:

- the Teacher Loan Repayment Fund be created in the state treasury;
- all money appropriated for the educational loan repayment program be credited to the fund, and any repayment of awards and interest received by HED to be credited to the fund;
- balances in the fund not revert to any other fund;
- money in the fund is appropriated to HED for making loan repayment awards; and
- all payments for loan repayment awards be made upon vouchers signed by the designated HED representative and upon a warrant issued by the secretary of finance and administration.

Finally, HB 53 prescribes the processes for cancellation and reporting, including:

- a provision for HED to cancel any contract made between it and a teacher for any reasonable cause deemed sufficient by HED; and
- a requirement for HED to make annual reports to the Governor and the Legislature, prior to each regular session, including:
 - its activities;
 - the loan repayment awards granted;
 - the names and addresses of loan repayment award recipients;
 - the names and locations of the positions filled by those teachers and the name of each loan repayment award recipient who is not serving in a designated high-risk teacher position;
 - the reason the person is not serving in a designated high-risk teacher position; and
 - the amount owed and paid on the loan by any loan repayment awards.

Fiscal Impact:

According to the bill analysis, HED reports that it currently has similar programs in place and that while no additional funds will be required; reallocations of the student financial aid appropriation would need to be made to implement HB 53, if enacted.

Fiscal Issues:

According to HED’s bill analysis, if HB 53 is enacted it will be necessary to reallocate approximately \$150,000 of the \$239,700 FY14 request for the Teacher Loan-for-Service program (see “Background,” below).

An analysis by the University of New Mexico (UNM) states that HB 53 may incur hidden costs, particularly as it relates to delinquent loan recovery activities for individuals who sign up for the educational loan repayment program and are not able to meet all of the obligations specified in the educational loan repayment program contract.

According to PED, HB 53, if enacted, would require HED to create rules with PED regarding:

- how eligible postsecondary schools are selected;
- how teacher qualifications are determined; and
- how award amounts are determined.

Substantive Issues:

Currently, in the *Public School Code* there are three definitions related to “licensed New Mexico teachers” in HB 53:

- **“instructional support provider”** means a person who is employed to support the instructional program of a school district, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf, and diagnostician;
- **“licensed school employee”** means teachers, school administrators, and instructional support providers; and
- **“teacher”** means a person who holds a level one, two or three-A license and whose primary duty is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring, or serving as a resource teacher for other teachers.

In 2004, the Legislature removed school librarian from the definition of “instructional support provider” in the *Public School Code*. Therefore, it is not clear whether a librarian seeking to serve in a high-risk area would qualify for the loan repayment program.

According to the UNM bill analysis:

- it is not clear who will be eligible for the educational loan repayment program. While HB 53, if enacted, would require applicants to be “licensed New Mexico teachers,” candidates enrolled in teacher preparation programs typically do not have teaching licenses; and
- HB 53, if enacted, may increase the risk of the state regarding non-payment default; and
- HB 53, if enacted, would put HED into a debtor/creditor relationship if the teacher breaches the contract and/or refuses to reimburse the department for amounts repaid. In this case, HED would have to bring litigation against the teacher, which may require the creation of a loan recovery system and additional departmental resources.

According to New Mexico State University and Eastern New Mexico University, HB 53 could positively impact:

- undergraduate student enrollments in science, math, and education classes; and
- the state’s ability to attract teachers to New Mexico by repaying their student loans.

Background:

In 1981, legislation was enacted to create the New Mexico Educational Assistance Foundation and the New Mexico Student Loan Guarantee Corporation, which is doing business as New Mexico Student Loans. New Mexico Student Loans offers *Teachers for Tomorrow*, a program to address New Mexico’s teacher shortage by offering full-time public school teachers zero percent interest rates on Stafford and/or Grad-PLUS loans.

In 2011, HB 241, *Teacher Loan Repayment Act*, passed the Legislature, but was vetoed by the Governor. In a letter to the House, the Governor explained that “while this legislation is well

intended, it is not practicable during difficult economic times. Invariably, money appropriated from this fund will either be generated through a fee or tax increase, neither of which I support.”

According to the Education Commission of the States (ECS), New Mexico has designated mathematics and science (Grades 7-12) as teacher shortage areas. Teacher shortage areas identified by the US Department of Education (USDE) in the *Teacher Shortage Areas Nationwide List* include:

- pre-K and science (grades 7-12), for school year 2012-2013; and
- bilingual/TESOL, elementary education, language arts (grades 7-12), mathematics (grades 7-12), science (grades 7-12), and special education, for school years 2011-2012 and 2010-2011.

Currently, the financial aid division at HED administers seven loan-for-service programs, with the following one for Pre-K to twelfth grade public school teachers:

- *Teacher Loan-for-Service*, which helps defray expenses for students enrolled in teacher preparation programs or alternative teaching licensure programs. If teaching in a designated shortage area in New Mexico, a portion of the loan is eligible for forgiveness or if the entire service agreement is fulfilled, 100 percent of the loan is eligible for forgiveness.

The USDE offers the Teacher Education Assistance for College and Higher Education (TEACH) Grant, which provides grants of up to \$4,000 a year to students who:

- are completing or plan to complete coursework needed to begin a career in teaching;
- sign a TEACH Grant Agreement to Serve, in which they agree to teach:
 - in a high-need field;
 - at an elementary school, secondary school, or educational service agency that serves students from low-income families; and
 - for at least four complete academic years within eight years after completing (or ceasing enrollment in) the course of study for which they received the grant; and
- complete their service obligation; otherwise the TEACH Grant funds received will be converted to a Direct Unsubsidized Loan, which must be repaid to the USDE with interest.

Two types of loan forgiveness programs for teachers are available from the USDE:

- *Teacher Loan Forgiveness*, which allows a total of \$17,500 in loan forgiveness on Direct Subsidized and Unsubsidized Loans and Subsidized and Unsubsidized Federal Stafford Loans if highly qualified teachers teach full-time for five consecutive academic years in certain elementary and secondary schools and educational service agencies that serve low-income families, and if they meet other qualifications; and
- *Teacher Cancellation*, which allows the release of the obligation to repay a Federal Perkins Loan if individuals teach full-time at a low-income school or if they teach in a high-needs subject area, and meet other requirements. A low-income school is defined as a school in a district that qualifies for federal Title I funds in the year for

which the cancellation is sought and where more than 30 percent of the school's enrollment is eligible for free and reduced-price lunch.

- For school year 2012-2013, there were 854 schools and educational service agencies in New Mexico on the *Perkins and Stanford Loan Cancellation for Service in Low-Income Schools* list. Additionally, all elementary and secondary schools operated by the Bureau of Indian Education (BIE), or operated on Indian reservations by Indian tribal groups under contract with BIE, qualify as schools serving low-income students even though they may not be listed in the *Annual Directory of Designated Low-Income Schools for Teacher Cancellation Benefits*.
- On January 22, 2013, the Governor announced a plan to bring qualified teachers to meet the shortage needs in mathematics and science, including:
 - loan forgiveness for math and science teachers, including those who work at or move to hard-to-staff schools¹;
 - financial support for school districts to attract math and science teachers;
 - funds to attract scientists and engineers to teach in public schools;
 - support for the expansion of Advanced Placement classes in math and science areas; and
 - funding to increase technical training in math and science programs that will better prepare students for the workforce.

Committee Referrals:

HEC/HAFC

Related Bills:

HB 193 *Early Childhood Teacher Retention Project* (Identical to SB 225)

HB 204 *Nurse Educator Higher Degree Funding*

SB 225 *Early Childhood Teacher Retention Project* (Identical to HB 193)

¹ ECS defines hard-to-staff schools as schools in inner-city, rural, low-performing, and high-poverty areas where recruitment and retention of teachers is difficult. ECS also describes hard-to-staff subjects, which are typically in science, technology, engineering, and mathematics (STEM) and special education.