

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill No: HB 348**

**49th Legislature, 1st Session, 2009**

**Short Title: Require Art & Music Through 6th Grade**

**Sponsor(s): Representative Benjamin H. Rodefer and Others**

**Analyst: James Ball**

**Date: February 15, 2009**

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**Bill Summary:**

HB 348 amends the *Public School Code* to mandate that all kindergarten through sixth grade classes shall provide instruction in art and music at least once per week, and it strikes current language mandating that students in grades 1-3 receive instruction in art and music.

**Fiscal Impact:**

HB 348 makes no appropriation.

Funding for the *Fine Arts Education Act* (FAEA) flows through the State Equalization Guarantee (SEG). The *Public School Finance Act* requires that the number of fine arts program units be determined by multiplying the full-time equivalent MEM in arts programs approved by the Public Education Department (PED) by a cost differential factor of 0.05. (A 1.0 “full-time equivalent MEM” is equal to one full-time student attending school for a minimum of six hours a day.) By FY 07, the FAEA was fully funded in the SEG at \$18.8 million.

**Fiscal Issues:**

In its analysis of HB 348, the Department of Finance and Administration (DFA) points out that districts currently have significant discretion as to how funding for fine arts is spent and how programs are implemented, and that, through the SEG, they currently receive \$150.00 per child participating in arts, music, dance, and theater programs.

According to the *Public School Finance Act*, “The total program cost ... includes the cost of early childhood, special, bilingual multicultural, fine arts and vocational education and other remedial or enrichment programs. It is the responsibility of the local school board or governing body of a charter school to determine its priorities in terms of the needs of the community served by that board. Funds generated under the *Public School Finance Act* are discretionary to local school boards and governing bodies of charter schools, provided that the special program needs as enumerated in this section are met.” The DFA analysis suggests that HB 348 would remove some of that flexibility by mandating that all K-6 classes provide instruction in art and music at least once per week.

**Issues:**

According to PED, HB 348 conflicts with the FAEA because the bill provides for the offering of fine arts activities, including visual arts, music, theater, and dance as specified options, whereas HB 348 requires all K-6 classes specifically to offer art and music once per week.

The PED analysis also raises the related issue of whether the fine arts program units in the *Public School Finance Act* would be available to school districts to finance the mandatory art and music classes because that program unit legislation was enacted to support the FAEA in particular. Given the “indeterminable cost to school districts,” the PED analysis continues, districts would want to avail themselves of those program units.

The sixth grade is frequently situated in middle schools in New Mexico. Middle schools are generally not organized for instruction based on the elementary self-contained classroom model. Requiring that art and music be offered weekly in middle schools would necessitate having highly qualified teachers endorsed in art and music.

**Technical Issues:**

While HB 348 requires instruction in art and music, the FAEA consistently refers to fine arts activities, including visual arts, music, theater, and dance. For alignment with existing statute, the proposed requirement might be changed to require “instruction in the fine arts from among visual arts, music, theater and dance.”

**Background:**

During the 2008 Interim, the Legislative Education Study Committee heard input from school districts regarding legislation to implement a new public school funding formula. During that time, many districts stressed the importance of art and music curriculum, an issue that HB 348 addresses.

**Related Bill:**

HB 331 *Public School Funding Formula*