

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

**ORIGINAL DATE** 1/26/19  
**LAST UPDATED** 2/27/19      **HB** 111/aHAFC

**SPONSOR** Salazar/Trujillo, L.

**SHORT TITLE** Cultural and Linguistic Education Support      **SB** \_\_\_\_\_

**ANALYST** Liu

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See Fiscal Implications				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 159, HB 182, HB 250, HB 394, HB 449, SB 420  
 Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regional Education Cooperatives (REC)  
 Public Education Department (PED)  
 Indian Affairs Department (IAD)

### SUMMARY

#### Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment strikes the \$1.9 million appropriation from the bill.

#### Synopsis of Original Bill

House Bill 111 appropriates \$1.9 million to PED and creates a new section of the Regional Cooperative Education Act that authorizes RECs to jointly apply for the funding to provide technical assistance and professional development on culturally and linguistically responsive education. The bill requires one REC to administer the funding to all other participating RECs and establishes guidelines for the technical assistance and professional development.

## FISCAL IMPLICATIONS

The appropriation of \$1.9 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY20 shall revert to the general fund. **The H AFC amendment strikes out this appropriation.** The executive and LFC FY20 budget recommendations for public schools include \$113 million for at-risk students through the state equalization guarantee, which will provide school districts and charter schools additional funds to provide culturally and linguistically responsive supports for low-income, English-learning, and highly-mobile students. Additionally, the LFC and executive recommendations include \$10.9 million and \$29.5 million, respectively, for various professional development-related appropriations that could include training on culturally and linguistically responsive pedagogy.

If all 10 RECs jointly apply for the funding and receive an even distribution of the appropriation, each REC would receive \$199 thousand to provide culturally and linguistically diverse professional development and technical assistance to all schools in each region. **The H AFC amendment strikes out this appropriation.** While RECs only provide services to about 25 percent of New Mexico’s students, the bill authorizes RECs (with council approval) to charge a course fee to non-REC school districts and charter schools seeking professional development services.

In FY17, intergovernmental agreements between PED and REC 9 to provide training for the NMTeach evaluation system included nearly \$500 thousand of indirect service costs from subcontracting services. Indirect service costs accrued from three layers of procurement: PED contracting with REC 9, REC 9 subcontracting with the Southern Regional Education Board (SREB), and SREB subcontracting with multiple consultants for various services. SREB’s consultants included former PED and REC 9 employees, who received consulting rates between \$1,000 per day to \$3,000 per day, with several earning over \$170 thousand in total for their services in FY17. Although a 2016 LFC evaluation noted REC procurements must follow provisions of the Procurement Code, their exemption from oversight by the General Services Department might be creating a less transparent – and potentially costly – method of procuring services.

## SIGNIFICANT ISSUES

On July 20, 2018, the 1st Judicial District Court issued an initial decision and order on the consolidated *Yazzie v. New Mexico* and *Martinez v. New Mexico* education sufficiency lawsuits, which found New Mexico’s public education system failed to provide a sufficient education for at-risk, English language learner (ELL), Native American, and special education students. On December 20, 2018, the court issued its final findings and conclusions of law in the consolidated lawsuits. In both the initial decision and final findings, the court cited evidence highlighting areas where funding levels, financing methods, and department oversight were deficient. However, the court stopped short of prescribing specific remedies and deferred decisions on how to achieve education sufficiency to the legislative and executive branch instead.

The court ruling in the *Yazzie* and *Martinez* case acknowledged that a rigorous and well-designed culturally relevant curriculum has a positive impact on students. The court indicated that “culturally relevant” describes a condition where programs or services are planned, designed, implemented, and evaluated respecting and accounting for the client’s cultural and linguistic

values and heritage. Additionally, the court noted that schools must engage in teacher development for culturally responsive pedagogy and sustain professional development that involves workshops and classroom coaching.

While the court found that most teachers are familiar with the concept of culturally responsive pedagogy, nearly half of teachers report the limited training they do receive has little or no effect on their instruction. Most of the professional development in culturally responsive pedagogy in New Mexico focuses on language issues and takes the form of one-time workshops with no follow-up. Additionally, the court found PED did not provide districts with sufficient technical assistance, guidance, or oversight on issues relating to ELL, Native American, Hispanic, bilingual, and multicultural education. The court noted the lack of teachers that share cultural and linguistic backgrounds with their students (particularly for Native American students) was problematic.

RECs provide various education-related services including technical assistance, staff development, cooperative purchasing, fiscal management, and the administration of federal programs, among others. PED is authorized to approve the existence and operation of RECs, which are considered individual state agencies administratively attached to the PED and exempt from the provisions of the State Personnel Act. Each REC is governed by a regional education coordinating council composed of the superintendents or chief administrative officers of each local school district or state-supported institution participating in the cooperative. At present, nine RECs are authorized statewide, and one REC is currently awaiting authorization to operate in the Four Corners region of the state.

RECs note the bill allows the cooperatives to provide professional development to teachers, educational assistants and other instructional support staff who teach or otherwise interact with culturally and linguistically diverse student populations. By utilizing RECs, professional development will be consistent across the state, which supports equity for students in each region.

RECs assert that as regional distribution centers, they can assist PED with effectively transmitting information, keeping contact lists current, and providing training at the local level, which has historically been difficult for PED to manage with chronically low staffing levels. Additionally, RECs seek support to coordinate services from other agencies such as the Children, Youth and Families Department, Higher Education Department, and institutions of higher education, and to provide technical assistance in support of programs.

## **ADMINISTRATIVE IMPLICATIONS**

PED notes the bill requires administrative services related to the development and monitoring of contract services with RECs. The bill will also require that one PED employee provide oversight of the professional development to ensure it aligns to and supports districts and charters with their current efforts, as well as coordination with several PED bureaus and divisions.

## **RELATIONSHIP**

This bill relates to House Bill 159, which creates a multicultural education framework for students; House Bill 182, which establishes literacy and biliteracy requirements in statute; House Bill 250 and Senate Bill 420, which formalize an annual process for assessing Native American

student needs; House Bill 394, which establishes criteria for ELL programs; and House Bill 449, which appropriates funding to the Northeast REC to develop a five-year literacy initiative.

The bill also relates to multiple appropriations in the General Appropriation Act that provide professional development services for educators.

#### **OTHER SUBSTANTIVE ISSUES**

RECs generate most of their revenue from federal grants and state-directed reimbursements and receive a general fund appropriation, which is typically used to fund an executive director position. REC revenues from all sources have grown since 2009, when the Legislature added revenue-generating provisions for RECs in Section 22-2B-5 NMSA 1978. A 2007 LFC evaluation noted the nine RECs requested a total of \$2.7 million in FY08 (about \$300 thousand per REC) to cover costs for executive directors, business managers and program coordinators, auditing, and upkeep of facilities.

Reimbursable programs constitute approximately 75 percent to 85 percent of all REC funding. RECs generate most of this revenue from special education services (including federal grants), certain federal funds for low-income students, and state-directed activities. RECs also contract with other educational institutions and organizations to offer a wide range of specialized services for each individual region, providing 72 districts and six state institutions with ancillary staffing, financial management, professional development, and similar services. RECs contend the reimbursement basis for services required by the federal Cash Management Improvement Act of 1990 necessitates cash balances to pay for upfront programmatic costs until reimbursements are paid. Additionally, other funds from state and federal sources are typically restricted to specified uses and thus prohibited for operational expenditures.

SL/sb/al