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FISCAL IMPACT REPORT

SPONSOR Salazar ORIGINAL DATE 1/30/2020
LAST UPDATED 2/12/2020 HB 199/aHEC/aHAFC
SHORT TITLE Study Biliteracy Frameworks SB _____
ANALYST Gaussoin

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Memorial 12, House Bills 87, 134, 135, 138, 153, 240, and 241, Senate Bill 89, and the LFC and LESC budget recommendations.

SOURCES OF INFORMATION

LFC Files
Legislative Education Study Committee (LESC) Files

Responses Received From

Higher Education Department (HED)
Indian Affairs Department (IAD)
University of New Mexico (UNM)
New Mexico Independent Community College (NMICC)
Santa Fe Community College (SFCC)
New Mexico School for the Blind and Visually Impaired (NMSBVI)

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to House Bill 199 removes the appropriation and the reporting requirements.

Synopsis of HEC Amendment

The House Education Committee amendment to House Bill 199 extends the group's meeting dates to December 1, 2021, the date its report is due to the Public Education Department, LESC, the governor, and the deans of the colleges of education and presidents of the state universities. This addresses a technical issue identified in this report.

Synopsis of the Original Bill

House Bill 199 appropriates \$400 thousand from the general fund to the Public Education Department to pay for staffing and other expenses related to a to-be-created Biliteracy Framework Working Group, including paying state or national biliteracy experts, in-depth research, and publication of the working group’s report.

There is no effective date of this bill. It is assumed the effective date is 90 days following adjournment of the Legislature.

The Biliteracy Framework Working Group created by HB199 is to include local and national experts on culturally and linguistically responsive instruction, tribal language experts, and educators with experience successfully implementing biliteracy frameworks. The group is to study, among other topics, successful biliteracy models that could be implemented in New Mexico, the best biliteracy frameworks in Spanish and English for kindergarten through 12th grade students, the best practices for frameworks that respect, honor, and promote indigenous languages, successful implementation techniques. The group is to present its finding to PED, LESC, the governor, and the deans of the colleges of education at state universities by December 1, 2021.

HB199 specifies criteria for frameworks to be considered, including alignment with language arts standards, input from tribal communities and language experts, and identification of specific curricula and materials that promote student success.

The bill specifically restricts compensation for non-public employee members of the group to per diem and mileage reimbursement.

FISCAL IMPLICATIONS

The appropriation of \$400 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY21 shall revert to the general fund. **The House Appropriations and Finance Committee Amendment to HB199 removes the appropriation.**

SIGNIFICANT ISSUES

National studies show bilingual and multicultural education helps all students in the classroom, and instruction in a student’s home language teaches the value of their culture, strengthens students’ abilities to manage their thoughts, actions, and emotions, expands career and higher education opportunities, and improves their academic outcomes. Dual-language programs can hold students to high academic standards in both the target language and the student’s home language, improving bilingualism and biliteracy.

However, while the state Bilingual Multicultural Education Act requires research-based bilingual and multicultural education programs, including professional development for teachers and instruction and assessment for students, LESC concludes key components are not fully implemented by school districts and monitored by PED, and students across the state encounter inconsistent bilingual and multicultural learning experiences. LESC reports fewer students participated in BMEP FY20, and LFC notes in *Legislating for Results: Policy and Performance*

Analysis that less than half of all English learners in New Mexico participate in bilingual programs, reporting on bilingual and multicultural program quality is limited and inconsistent, and the state lacks a process for coordinating program human and capital resources effectively.

New Mexico laws addressing bilingual and multicultural education go back more than 40 years: The Bilingual Multicultural Education Act, amended in 2004 and cited as a “national model” by PED, was enacted in 1973; the Hispanic Education Act was enacted in 2010, and the Indian Education Act in 2003. Nevertheless, 2018 court findings in the *Martinez* and *Yazzie* education lawsuit lawsuit noted a lack of access to high-quality language acquisition programs for English learners violated federal and state law and the New Mexico Constitution. The court also cited deficiencies in state funding, support, and oversight of bilingual and multicultural education programs that serve Native American and Hispanic English learners.

Although the effectiveness of New Mexico’s multicultural efforts has been criticized, PED has existing advisory councils on Indian and Hispanic education, a deputy secretary for equity, an Indian Education Division, and a Language and Culture Division with a Bilingual and Multicultural Education Programs (BMEP) section, and the Legislature substantially increased funding for English learners and bilingual and multicultural education for FY20. LESC reports PED is increasing monitoring and improving technical assistance for school districts and charter schools to ensure proper implementation of bilingual and multicultural education programs. The department adopted rule changes to increase bilingual and multicultural education program accountability to ensure academic language proficiency in English and a second language for all student participants.

Notably, New Mexico is among 20 states that explicitly require teachers of English learners to have a special certification, requiring teachers to earn a teaching English to speakers of other languages (TESOL) endorsement. LESC reports New Mexico institutions of higher education offer courses that meet the TESOL requirement, but there is no statewide standardized coursework to earn the endorsement. Instead, institutions offer a broad variety of general courses, rather than applicable training in meeting the needs of English learners, courses that include cultural history, cultural anthropology, linguistics, phonetics, assessment, and parent and community involvement.

IAD notes, from 2016 to 2019, 27 district or state charter school awarded 2,161 state seal of bilingual proficiency. (See chart for the approved seal request on file with the Language and Culture Division:

https://webnew.ped.state.nm.us/wp-content/uploads/2019/08/19-20_Bilingual-Seal-Awarded-Tracking-Log.pdf.) However, IAD says, the bilingual seal does not include criteria on the languages and cultures of New Mexico tribes and pueblos.

The University of New Mexico raises a number of issues:

Issue #1: With the exception of the Navajo language, which is written and implemented in many Navajo bilingual programs, most of the remaining New Mexico Indigenous languages, including the Apache and Pueblo languages, have not fully developed or implemented biliteracy frameworks, or in some cases, may eschew Native literacy as a means for teaching Native languages. The issue of developing and utilizing written forms of a Native language for some Pueblos can be a sensitive and potentially contentious issue that is best addressed by members of a given tribal community rather than an outside entity. Therefore, in order to avoid misunderstanding about the intent of

this bill, it should more clearly state that in the case of NM Indigenous languages, the focus for examining Native literacy will be limited to those languages where its use in school programs have been sanctioned by a given tribe.

Issue #2: The focus of this study includes NM Indigenous languages and assumes that biliteracy frameworks exist for indigenous communities. The study is to be conducted with input from tribal leaders and communities. The state's Tribal Consultation process, however, applicable to all state agencies regarding issues impacting tribes, requires more than input. There should be *substantive consultation with* tribal leaders, as well as *collaboration with* Native language teachers, practitioners, and experts before and as this study is being undertaken.

Issue #3: Given the unique circumstances regarding the recent development and use of Native literacy in some Native language programs, a better defined focus for this study might include: an examination of the present status of Native literacy development and implementation in K-12 Native language programs; the extent to which Native literacy development is supported with existing instructional materials; the extent of professional development in LEAs for Native language teachers in the area of Native literacy instruction; how Native literacy development is addressed in the state's existing K-12 framework and how it is supported by NM PED; and how Native literacy implementation aligns with a specific tribe's goals for language maintenance and/or revitalization.

Issue #4: For New Mexico's Indigenous languages, a final report specific to issues of Native literacy implementation should be addressed including the extent to which Native literacy development is supported by LEAs and through the state's existing K-12 framework with specific recommendations for how LEAs can establish and sustain collaborative support and assistance to tribes who have sanctioned the development of Native literacy as part of their language maintenance/revitalization programs in schools.

Issue #5: The working group's final report of findings and recommendations does not include New Mexico tribal leaders, Native language teachers, or the PED Indian Education. All of these should be included.

PERFORMANCE IMPLICATIONS

The New Mexico School for the Blind notes the bill could help it and other schools improve their efforts to effectively provide culturally and linguistically sensitive instruction to a diverse population of students.

ADMINISTRATIVE IMPLICATIONS

Although providing staff and resources for a workgroup would impact PED, this impact likely can be absorbed by the agency.

NMICC indicates community colleges that participate might need to hire part-time faculty to cover the responsibilities of any representatives. However, it is likely colleges can work with existing staff.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Memorial 12 requests PED convene a working group on best practices for implementing bilingual and multicultural education programs.

House Bill 199/aHEC/aHAFC – Page 5

House Bill 87 creates a 15-member Bilingual Multicultural Advisory Council to advise PED, the governor, and the Legislature on the effective implementation of the Bilingual and Multicultural Education Act.

House Bill 134 appropriates about \$18.5 million to the University of New Mexico, New Mexico State University, and tribal colleges for programs targeting minority students.

House Bill 135 creates native language education program units in the public school funding formula.

House Bill 138 appropriates funds to the Indian Affairs Department for tribal departments of education to develop and implement culturally and linguistically relevant education blueprints and governance structures and other educational structures.

House Bill 153, increases the weight of the existing bilingual multicultural educational program units and appropriates additional funds.

House Bill 240 creates the Bilingual Scholars Act to promote the education of bilingual teachers with scholarships and loan repayment programs.

House Bill 241 increases the weight of the at-risk unit in the public school funding formula and creates a pay differential factor for special education teachers, bilingual and multicultural education teachers, certified Native American and culture teachers, and teachers who mentor beginning teachers.

Senate Bill 89 appropriates \$1 million to bilingual teacher scholarships.

The LFC budget recommendation includes \$7.5 million in a special program appropriation for bilingual and multicultural education programs, compared with the \$1 million special appropriation approved last year. LFC also recommends a pay differential for those who teach English learners, to be built into the funding formula, and specifies \$1.35 million of the appropriation for bilingual and multicultural education be spent on oversight to ensure programs are evidence-based and effective. The LESC recommendation includes \$1 million for bilingual and multicultural education special programs and \$2.2 million for bilingual education.

TECHNICAL ISSUES

On page 2, line 1, the bill states that the working group will meet until December 1, 2020. However, according to language on page 4 line 4, the group's report isn't due until December 1, 2021. Given the detailed purpose of the group, it may be important to keep the group functioning until the 2021 date. A proposed amendment extends the meeting dates to 2021.

UNM recommends the working group's study of Native literacy issues also be provided to tribal leaders and educators during the regular convening of PED government-to-government meetings with New Mexico pueblos and tribes.

OTHER SUBSTANTIVE ISSUES

NMICC and SFCC both express interest in participating in the workgroup, SFCC because it offers TESOL and bilingual endorsement courses and multicultural education program in

Oaxaca, Mexico, and NMICC on behalf of community college teacher preparation programs. From NMICC: “As written, it could be interpreted that representatives from the community colleges would be invited to participate as ‘other education providers.’ Since community colleges always seek to maintain quality relevant curriculum in their teacher education programs, they would appreciate the opportunity to participate in this work.”

HFG/rl/sb/al