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FISCAL IMPACT REPORT

ORIGINAL DATE 2/5/2020

SPONSOR Salazar LAST UPDATED _____ HB 221

SHORT TITLE Cultural & Linguistic Education Support SB _____

ANALYST Liu/Bachechi

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		
	\$2,600.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB87, HB138, HB153, HB199, HB241, HB281, SB93, SB171, SB193
 Relates to Appropriations in HAFC Substitute for HB2 and 3

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Public Education Department (PED)

No Response Received
 Regional Education Cooperatives (REC)

SUMMARY

House Bill 221 appropriates \$2.6 million from the general fund to PED for the purpose of supporting RECs that provide technical assistance and professional development on culturally and linguistically responsive instruction.

FISCAL IMPLICATIONS

The appropriation of \$2.6 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY21 shall revert to the general fund.

Laws 2019, Chapter 200 (House Bill 111) created a new section in the Regional Cooperative Education Act authorizing RECs to jointly apply for funding to provide technical assistance and professional development for teachers, educational assistants, and other instructional support staff that are focused on the educational needs of culturally and linguistically diverse students. This bill provides funding for the provision of these services.

The General Appropriation Act of 2019 included \$2.5 million for PED to support English learners and bilingual and multicultural education program instruction, meet statutory requirements pursuant to the Bilingual Multicultural Education Act, and provide local professional learning opportunities and resources for students, parents and school personnel on culturally and linguistically responsive instruction. PED has not provided details on the use of this appropriation.

In FY20, RECs requested \$2.5 million for FY21 to provide technical assistance and professional development on culturally and linguistically responsive instruction pursuant to provisions in Section 22-2B-7 NMSA 1978. The request included funding for 23 FTE positions (technical experts, regional coaches, and a program manager), travel, materials, and training (See attachment).

The HAFC substitute for House Bills 2 and 3 includes \$5.5 million for indigenous, multilingual, multicultural, and special education initiatives, which could be used for the purposes described in this bill.

SIGNIFICANT ISSUES

On February 14, 2019, the 1st Judicial District Court issued a final judgment and order on the consolidated *Martinez v. New Mexico* and *Yazzie v. New Mexico* education sufficiency lawsuits, and found that New Mexico's public education system failed to provide a constitutionally sufficient education for at-risk, English language learner (ELL), Native American, and special education students. The court's findings suggested overall public school funding levels, financing methods, and PED oversight were deficient. As such, the court enjoined the state to provide sufficient resources, including instructional materials, properly trained staff, and curricular offerings, necessary for providing the opportunity for a sufficient education for all at-risk students. 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.

Additionally, the court noted the state would need a system of accountability to measure whether the programs and services actually provided the opportunity for a sound basic education and to assure that local districts spent funds provided in a way that efficiently and effectively met the needs of at-risk students.

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.

PERFORMANCE IMPLICATIONS

Culturally responsive teaching is an approach that encourages the use of teaching strategies, content, and materials that are relevant to students' diverse cultural, ethnic, and linguistic backgrounds. The approach is described in a 2017 article from the Institute of Education sciences as “a pedagogy that empowers students intellectually, socially, emotionally, and politically by using cultural references to impart knowledge, skills, and attitudes.” Culturally responsive instruction can help educators address barriers that cause disparities in student achievement and design instruction to be mindful of those barriers, in order to mitigate the effects of negative cultural stereotypes on student performance.

Research on culturally responsive teaching is inconclusive, with a lack of experimental or quasi-experimental research. While a number of studies have examined the approach, only two looked at the impact on student outcomes, and neither established a conclusive relationship. However, this does not mean that culturally responsive teaching is not valuable – only that it has not been adequately evaluated yet.

ADMINISTRATIVE IMPLICATIONS

PED notes the bill will have administrative implications related to the development and monitoring of contract services with RECs. It could also require that one PED staff provide oversight of the professional development to ensure it aligns to and supports school districts and charter schools with their current efforts as well as coordination with several PED bureaus and divisions.

RELATIONSHIP

This bill relates to the indigenous, multilingual, multicultural, and special education initiatives appropriation to PED in the HAFC Substitute for House Bills 2 and 3. The bill also relates to House Bill 87, which establishes a bilingual multicultural advisory council; House Bill 135, which creates a formula factor for Native language program units; House Bill 138, which appropriates funding to tribes, nations and pueblos to develop culturally and linguistically responsive curricula and plans; House Bill 153, which increases the bilingual multicultural education factor in the formula; House Bill 199, which requests a study of biliteracy frameworks; House Bill 241 and Senate Bill 171, which create a bilingual multicultural education teacher factor in the formula; House Bill 281, which requires evidence-based supports for ELLs; Senate Bill 93, which requires ethnic studies within public school curricula; and Senate Bill 193, which creates bilingual and multicultural education divisions within PED.

OTHER SUBSTANTIVE ISSUES

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, 10 RECs are authorized statewide.

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 in existence at the time 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.

RECs note the current statute 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 could be consistently delivered 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.

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