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FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/21

SPONSOR Lopez LAST UPDATED _____ HB _____

SHORT TITLE Student Bill of Rights SB 233

ANALYST Becerra

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Significant but Indeterminate					

(Parenthesis () Indicate Expenditure Decreases)

Relates to:

HB4, NM Civil Rights Act
 HB29, No School Discrimination for Hair
 SB80, No School Discrimination for Hair
 HB93, Limit Out-of-School Suspensions
 SB319, School Use of Restraint
 SB210, Ethnic Studies Education
 HB227, Ethnic Studies Definition

SOURCES OF INFORMATION

LFC Files
 LESC Files

Responses Received From

Indian Affairs Department (IAD)
 Office of African American Affairs (OAAA)

No Response Received

Public Education Department (PED)
 Regional Education Cooperatives (REC)
 Albuquerque Public Schools (APS)

SUMMARY

Synopsis of Bill

Senate Bill 233 (SB233) amends the Public School Code to include the student bill of rights that ensures students have the right to a safe and supportive learning environment and access to

particular resources, programs and information. SB233 also encourages schools to become sanctuary schools and ensure the safety of undocumented communities and to seek out restorative justice or alternative practices instead of punitive punishments.

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

FISCAL IMPLICATIONS

SB233 does not include an appropriation.

The provision within SB233 that specifies students' right to "small" class sizes, buildings, technology, and materials in "good" condition, and "fully funded" schools can incur significant costs to the state, school districts, and charter schools in personnel, infrastructure, and operational funds. The cost of inspection of each individual school site and its related resources to ensure compliance with SB233 can become an incurred cost to the state. A negative school site inspection determination could lead to litigation costs. Because SB233 does not specify what constitutes "small" class sizes, "good" condition or the process, if any, to inspect and deem these as such, it is difficult to determine the fiscal impact of this provision but it can be foreseen as significant but indeterminate.

School districts and charter schools may incur costs to ensure the delivery and provision of the information, programs and services outlined in the student bill of rights, if these services are not already available and provided. It is not foreseen that compliance with the provisions of SB233 would require incurred costs related to appropriate staff training.

PED may incur costs related to additional staffing to ensure the provisions of SB233 are being followed potentially leading to a request for additional staff and/or funding in subsequent years.

SIGNIFICANT ISSUES

Student Bill of Rights

Provisions. The provisions within the student bill of rights extended to all students in all public schools to be enacted by SB233 require that students have the right to:

- A learning environment in which discrimination in all forms;
- The means to participate in anti-racism, cultural sensitivity and tolerance training;
- Access to resources that ensure students and their families feel safe and comfortable to include:
 - Translation and interpretation services,
 - Access to the gender assigned bathrooms they feel most comfortable using,
 - Be addressed by the gender pronouns and name that is self-indicated;
- Teachers/school personnel that follow special plans that affect their educational settings;
- Extracurricular and after-school programs, the means and support to access those programs and the right to request the formation of new clubs that fit their interests;
- Information, resources and support to prepare them for post-secondary opportunities;
- Equitable school and classroom environments, to include:
 - Small classroom sizes,

- Buildings, technology and materials that are current and in good condition,
- Creative approaches to teaching,
- Respect and open communication,
- The building of strong intergenerational relationships,
- Fully-funded public schools;
- Affordable, nutritious and culturally appropriate food;
- Bilingual education and bilingual after-school programs and to integrated multilingual classrooms and public schools;
- A learning environment that is free of cruel and unusual punishment, to include:
 - The use of excessive force,
 - Freedom from over-policing in school,
 - Freedom of speech and of the press,
 - The right to petition and peacefully assemble with the purpose of improving the school, classroom and learning environments;
- Due process and to be considered innocent until proven guilty;
- Transparency within the discipline process;
- Freedom from searches of personal property without reasonable cause;
- Alternatives to a police presence;
- Free of immigration enforcement;
- Free from the criminalization of youth;
- Alternatives to suspension and expulsion policies;
- Access to gang and violence prevention;
- The opportunity to organize themselves and be represented by their peers in important school decision-making processes;
- Self-representation in school district or charter school meetings;
- Notification of school district or charter school and school personnel meeting times and places and to organize collectively when issues arise that affect students and their families;
- Adequate access to mental health services;
- Engage in conversations with school personnel; and,
- Access a copy of the school district's or charter school's student bill of rights and to seek public school- or school-district-specific changes to those rights.

Additionally, SB233 encourages schools to become sanctuary schools and ensure the safety of undocumented communities and to seek out restorative justice or alternative practices instead of punitive punishments.

Current Efforts. As reported by the Legislative Education Study Committee, some of the rights within SB233 are already rights accorded to students as residents of the United States Constitution and have been adjudicated, including freedom of speech, freedom of the press, freedom from unreasonable searches and seizures, and the right to petition and peacefully assemble. Additionally, the federal Individuals with Disabilities Education Act (IDEA) law requires teachers and other school personnel to follow instructional and behavioral plans for students identified as special education.

Relation to Martinez-Yazzie. Though, the student bill of rights extends rights to all students and does not explicitly name any sub-groups of students, the bill does include rights applicable to student groups that may be considered at-risk or particularly vulnerable, such as transgender and undocumented students. The bill's support for students' rights to culturally relevant curriculum,

bilingual education, and ethnic studies, as well as the provisions in support of principles of equity, are clearly related to the court's findings in the consolidated Martinez-Yazzie lawsuit.

Impacts on Student Outcomes. The provisions within SB233 aim for a safer, more supportive school environment for students. A 2016 study by Concordia University found that students who felt they were in a safe school environment were more attentive and efficient in the classroom. These students also reported fewer symptoms of depression, such as feeling unhappy and having difficulty enjoying themselves. Making sure that students are engaged and attentive in the classroom can contribute to long-term success above and beyond intellectual capacities such as reading or math skills.

ADMINISTRATIVE IMPLICATIONS

It can be deduced that the public education department (PED) would likely oversee the compliance of the student bill of rights and potentially see the need to establish a set of rules to ensure the provisions of SB233 are followed. Consequently, PED may incur costs related to additional staffing. PED did not respond to the request for analysis of SB233.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to HB4 (NM Civil Rights Act) which permits an individual to bring a claim against a public body for a violation against the individual's civil rights.

Relates to HB29 (No School Discrimination for Hair) which prohibits school districts and charter schools from imposing discipline, discrimination or disparate treatment against a student based on race, culture or religion or due to a student's use of protective hairstyle or cultural or religious headdresses.

Relates to SB80 (No School Discrimination for Hair) which prohibits school districts and charter schools from imposing discipline, discrimination or disparate treatment against a student based on race or culture or due to a student's use of protective hairstyle or cultural headdresses.

Relates to HB93 (Limit Out-of-School Suspensions) which requires school boards and governing bodies of charter schools to provide in their disciplinary sanctions the exhaustion of all interventions, such as restorative justice practices, before resorting to suspending or expelling a student from school.

Relates to SB319 (School Use of Restraint) which prohibits the use of seclusion in schools and creates requirements for schools to be able to use restraint.

Relates to SB210 (Ethnic Studies Education) which requires ethnic studies instruction for kindergarten through 12th grade students.

Relates to HB227 (Ethnic Studies Definition) which requires ethnic studies instruction for kindergarten through 12th grade students.

TECHNICAL ISSUES

SB233 does not provide a definition or guidelines as to what constitutes a “small” class size and buildings, technology, and materials in “good” condition. The lack of specificity may become problematic when ensuring compliance with these provisions, if enacted.

SB233 leaves unclear what process, if any, should be followed for inspecting physical structures and related physical resources (i.e. technology) and how these will be deemed appropriate/sufficient or inappropriate/insufficient. It is also unclear who is responsible for ensuring these inspections take place and what timeline, if any, should be followed. The lack of guidance may become problematic when ensuring compliance with these provisions, if enacted.

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