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SENATE BILL 471

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

INTRODUCED BY

Leonard Tsosie

AN ACT

RELATING TO EDUCATION; PROVIDING FOR ACCOUNTABILITY IN  
BILINGUAL MULTICULTURAL EDUCATION PROGRAMS; SPECIFYING THE  
PERMISSIBLE USES OF BILINGUAL MULTICULTURAL EDUCATION PROGRAM  
FUNDS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA  
1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-23-1 NMSA 1978 (being Laws 1973,  
Chapter 285, Section 1) is amended to read:

"22-23-1. SHORT TITLE.--~~[This act]~~ Chapter 22, Article 23  
NMSA 1978 may be cited as the "Bilingual Multicultural  
Education Act"."

Section 2. A new section of the Bilingual Multicultural  
Education Act, Section 22-23-1.1 NMSA 1978, is enacted to read:

"22-23-1.1. [NEW MATERIAL] LEGISLATIVE FINDINGS.--The  
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1 legislature finds that:

2           A. while state and federal combined funding for New  
3 Mexico's bilingual multicultural education programs was  
4 forty-one million dollars (\$41,000,000) in 2003, the funds do  
5 not directly support bilingual multicultural education program  
6 instruction;

7           B. the state's bilingual multicultural education  
8 program goals are for all students to:

9                   (1) become bilingual and biliterate in English  
10 and a second language, including Spanish, a native language or  
11 another language; and

12                   (2) meet state academic content standards and  
13 benchmarks in all subject areas;

14           C. districts do not fully understand how to  
15 properly assess, place and monitor students in bilingual  
16 multicultural education programs so that the students may  
17 become academically successful;

18           D. because inaccurate reporting on student  
19 participation in bilingual multicultural education programs has  
20 a direct impact on state and federal funding, accountability  
21 measures are necessary to track bilingual multicultural  
22 education program funds;

23           E. the federal No Child Left Behind Act of 2001  
24 does not preclude using state funds for bilingual multicultural  
25 education programs;

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1 F. Article 12, Section 8 of the constitution of New  
2 Mexico recognizes the value of bilingualism as an educational  
3 tool;

4 G. professional development is needed for district  
5 employees, including teachers, teacher assistants, principals,  
6 bilingual directors or coordinators, associate superintendents,  
7 superintendents and financial officers in the areas of:

8 (1) research-based bilingual multicultural  
9 education programs and implications for instruction;

10 (2) best practices of English as a second  
11 language, English language development and bilingual  
12 multicultural education programs; and

13 (3) classroom assessments that support  
14 academic and language development;

15 H. parents in conjunction with teachers and other  
16 district employees shall be empowered to decide what type of  
17 bilingual multicultural education program works best for their  
18 children and their community. Districts shall also provide  
19 parents with appropriate training in English or in the home  
20 language to help their children succeed in school;

21 I. because grades kindergarten through three  
22 provide the foundation for learning languages, bilingual  
23 multicultural education programs are most beneficial when  
24 taught to students during those key years. The state shall,  
25 therefore, fund bilingual multicultural education programs for

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1 students in grades kindergarten through three before funding  
2 bilingual multicultural education programs at higher grade  
3 levels;

4 J. a standardized curriculum, including  
5 instructional materials with scope and sequence, is necessary  
6 to ensure that the bilingual multicultural education program is  
7 consistent and building on the language skills the students  
8 have previously learned. The instructional materials for  
9 Native American bilingual multicultural education programs  
10 shall be written, when permitted by the Indian nation, tribe or  
11 pueblo, and if written materials are not available, an oral  
12 standardized curriculum shall be implemented;

13 K. equitable and culturally relevant learning  
14 environments, educational opportunities and culturally relevant  
15 instructional materials for Native American students enrolled  
16 in public schools are necessary to satisfy a goal of the Indian  
17 Education Act; and

18 L. cognitive and affective development of the  
19 students is encouraged by:

20 (1) using the cultural and linguistic  
21 backgrounds of the students in a bilingual multicultural  
22 education program;

23 (2) providing students with opportunities to  
24 expand their conceptual and linguistic abilities and potentials  
25 in a successful and positive manner; and

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1 (3) teaching students to appreciate the value  
2 and beauty of different languages and cultures."

3 Section 3. Section 22-23-2 NMSA 1978 (being Laws 1973,  
4 Chapter 285, Section 2) is repealed and a new Section 22-23-2  
5 NMSA 1978 is enacted to read:

6 "22-23-2. [NEW MATERIAL] DEFINITIONS.--As used in the  
7 Bilingual Multicultural Education Act:

8 A. "bilingual multicultural education program"  
9 means a program using two languages, one of which is English,  
10 as a medium of instruction in the teaching and learning  
11 process;

12 B. "culturally and linguistically different" means  
13 students who are of a different cultural background than  
14 mainstream United States culture and whose home or heritage  
15 language, inherited from the student's family, tribe or country  
16 of origin, is a language other than English;

17 C. "department" means the public education  
18 department;

19 D. "district" means a public school or any  
20 combination of public schools in a district;

21 E. "English language learner" means a student whose  
22 first language is not English and who is unable to read, write  
23 and understand English at a level comparable to grade level  
24 English proficient peers and native English speakers;

25 F. "home language" means a language other than

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1 English that is the primary language spoken at home;

2 G. "school board" means a local school board; and

3 H. "standardized curriculum" means a curriculum  
4 that is aligned with the state academic content standards and  
5 benchmarks."

6 Section 4. Section 22-23-4 NMSA 1978 (being Laws 1973,  
7 Chapter 285, Section 4) is amended to read:

8 "22-23-4. [~~STATE BOARD AND~~] DEPARTMENT--POWERS--DUTIES.--

9 A. The [~~state board~~] department shall issue  
10 [~~guidelines~~] rules for the development and implementation of  
11 bilingual multicultural education programs.

12 B. The department shall administer and enforce the  
13 provisions of the Bilingual Multicultural Education Act.

14 C. The department shall assist school boards in  
15 developing and evaluating bilingual multicultural education  
16 programs.

17 D. In the development, implementation and  
18 administration of [~~this program~~] the bilingual multicultural  
19 education programs, the [~~state board and the~~] department shall  
20 give preference to New Mexico residents who have received  
21 specialized training in bilingual education when hiring  
22 personnel."

23 Section 5. Section 22-23-5 NMSA 1978 (being Laws 1973,  
24 Chapter 285, Section 5, as amended) is amended to read:

25 "22-23-5. BILINGUAL MULTICULTURAL EDUCATION PROGRAM

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1 PLAN--~~[AND]~~ EVALUATION.--

2 A. The school board may prepare and submit to the  
3 department a bilingual multicultural education program plan in  
4 accordance with ~~[guidelines]~~ rules issued by the ~~[state board]~~  
5 department.

6 B. At regular intervals, ~~[the school board]~~ the  
7 department and a parent advisory committee from the district  
8 shall review the goals and priorities of the plan and make  
9 appropriate recommendations to the ~~[state board]~~ department.

10 C. Bilingual multicultural education programs shall  
11 be located in ~~[the regular public schools of]~~ the district and  
12 delivered as part of the regular academic program. Involvement  
13 of students in ~~[any programs]~~ a bilingual multicultural  
14 education program shall not have the effect of segregating  
15 students by ethnic group, color or national origin.

16 D. Each district shall maintain academic  
17 achievement and language proficiency data and update the data  
18 annually to evaluate bilingual multicultural education program  
19 effectiveness and use of funds. The department shall annually  
20 compile and report this data to the appropriate interim  
21 legislative committee.

22 E. Districts shall provide professional development  
23 to district employees, including teachers, teacher assistants,  
24 principals, bilingual directors or coordinators, associate  
25 superintendents, superintendents and financial officers in the

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1 areas of:

2 (1) research-based bilingual multicultural  
3 education programs and implications for instruction;

4 (2) best practices of English as a second  
5 language, English language development and bilingual  
6 multicultural education programs; and

7 (3) classroom assessments that support  
8 academic and language development.

9 F. Bilingual multicultural education programs shall  
10 be part of the district's professional development plan.

11 Bilingual educators, including teachers, teacher assistants,  
12 instructional support personnel, principals and program  
13 administrators, shall participate in professional development  
14 and training."

15 Section 6. Section 22-23-6 NMSA 1978 (being Laws 1973,  
16 Chapter 285, Section 6, as amended) is amended to read:

17 "22-23-6. BILINGUAL [~~INSTRUCTION~~] MULTICULTURAL EDUCATION  
18 PROGRAMS--ELIGIBILITY FOR STATE FINANCIAL SUPPORT.--

19 A. To be eligible for state financial support, each  
20 bilingual multicultural education program shall:

21 (1) provide for the educational needs of  
22 linguistically and culturally different students, including  
23 Native American children and other students who may wish to  
24 participate, in grades kindergarten through twelve, with  
25 priority to be given to programs in grades kindergarten through

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1 three, in [~~any public school or any combination of public~~  
2 ~~schools in~~] a district;

3 (2) fund programs for culturally and  
4 linguistically different students in the state in grades  
5 kindergarten through three for which there is an identifiable  
6 need to improve the language capabilities of both English and  
7 the home language of these students before funding programs at  
8 higher grade levels;

9 (3) use two languages as mediums of  
10 instruction for any part or all of the curriculum of the grade  
11 levels within the program;

12 (4) use teachers who have specialized in  
13 elementary or secondary education and who have received  
14 [~~special~~] specialized training in bilingual education conducted  
15 through the use of two languages. These teachers shall  
16 administer language proficiency assessments in both English and  
17 in the home language until proficiency in each language is  
18 achieved; [~~and~~]

19 (5) emphasize the history and cultures  
20 associated with the students' [~~mother tongue~~] home language;

21 (6) establish a parent advisory committee,  
22 representative of the language and culture of the students, to  
23 assist and advise in the development, implementation and  
24 evaluation of the bilingual multicultural education program;  
25 and

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1                   (7) provide procedures to ensure that parental  
2 notification is given prior to bilingual multicultural  
3 education program placement.

4                   B. Each bilingual multicultural education program  
5 ~~[must]~~ shall meet each requirement of Subsection A of this  
6 section and be approved by the department ~~[the state~~  
7 ~~superintendent or his representative]~~ to be eligible for state  
8 financial support.

9                   ~~[G. The provisions in Paragraph (1) of Subsection A~~  
10 ~~of this section relating to grades seven through twelve shall~~  
11 ~~be phased in as follows:~~

12                                 ~~(1) grades seven and eight in the 1988-89~~  
13 ~~school year;~~

14                                 ~~(2) grades nine and ten in the 1989-90 school~~  
15 ~~year; and~~

16                                 ~~(3) grades eleven and twelve in the 1990-91~~  
17 ~~school year.]"~~

18                   Section 7. A new section of the Bilingual Multicultural  
19 Education Act, Section 22-23-7.1 NMSA 1978, is enacted to read:

20                   "22-23-7.1. [NEW MATERIAL] BILINGUAL MULTICULTURAL  
21 EDUCATION PROGRAMS--USE OF FUNDS.--Bilingual multicultural  
22 education program funds shall not supplant a district's  
23 responsibility for providing teachers, instructional materials  
24 and other services designed to help students reach their full  
25 academic potential. Districts shall only use bilingual

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1 multicultural education program funds for expenses directly  
2 related to:

3 A. providing students with opportunities to expand  
4 their conceptual and linguistic abilities and potentials in a  
5 successful and positive manner;

6 B. teaching students to appreciate the value and  
7 beauty of different languages and cultures;

8 C. using the cultural and linguistic backgrounds of  
9 students in the bilingual multicultural education program;

10 D. serving the cultural and linguistic needs of  
11 students participating in the bilingual multicultural education  
12 program;

13 E. helping English language learners achieve the  
14 same level of academic success as their English fluent peers;

15 F. providing professional development for district  
16 employees, including teachers, teacher assistants, principals,  
17 bilingual directors and coordinators, associate  
18 superintendents, superintendents and financial officers;

19 G. ensuring that English language learners are not  
20 enrolled in special education solely because of language  
21 barriers; and

22 H. supporting parental involvement in bilingual  
23 multicultural program education."

24 Section 8. REPEAL.--Section 22-23-3 NMSA 1978 (being Laws  
25 1973, Chapter 285, Section 3) is repealed.

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