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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**54th Legislature, 1st Session, 2019**

<b>Bill Number</b>	<u>HB159/aSEC</u>	<b>Sponsor</b>	<u>Salazar/Trujillo, C./Lente</u>
<b>Tracking Number</b>	<u>.211759.3</u>	<b>Committee Referrals</b>	<u>HEC/H AFC; SEC/SFC</u>
<b>Short Title</b>	<u>Multicultural Education Framework</u>		
<b>Analyst</b>	<u>Ochoa</u>	<b>Original Date</b>	<u>1/25/19</u>
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**BILL SUMMARY**

Synopsis of SEC Amendment

The Senate Education Committee Amendment to HB159 (HB159/aSEC) strikes legislative findings language regarding bilingual multicultural education and the reference to the *Martinez* and *Yazzie* consolidated lawsuits. The original bill allotted responsibilities to the new divisions and their assistant secretaries, HB159/aSEC returns rulemaking, determination of funding, and general decision-making concerning bilingual multicultural education to the Public Education Department (PED) and the department's secretary.

HB159/aSEC creates staggering terms for the state bilingual multicultural advisory council such that five members are appointed for one-year terms, five for two-year terms, and five for three-year terms.

Many requirements from the original bill have been removed leaving only a framework with guidelines for school districts and charter schools to implement bilingual multicultural education programs and programs for English learners (EL)

Finally, the amendments change the annual reporting requirements. If enacted, HB159/aSEC would require a statewide bilingual multicultural education status report to include information regarding the participation and performance of students in bilingual multicultural education programs and ELs not enrolled in bilingual multicultural education programs; an analysis of the effectiveness of programs; statewide professional development efforts pursuant to the Bilingual Multicultural Education Act and based on the needs of EL students; and recommendations for improvement of programs pursuant to the Act.

Synopsis of Original Bill

House Bill 159 (HB159) would amend the Bilingual Multicultural Education Act, Sections 22-23-1 through 22-23-4 NMSA 1978 and would repeal and replace Section 22-23B-4 of the Hispanic Education Act. HB159 would create two new divisions in the Public Education Department (PED) — the bilingual multicultural education division and the Hispanic education division. The bill has

provisions that would align the duties of the bilingual multicultural education division, the Hispanic education division, and the Indian education division. Additionally, the bill would require accountability and collaboration among the secretaries and advisory councils of each respective division. Finally, the bill would create the Hispanic Education Fund.

**FISCAL IMPACT**

The bill does not contain an appropriation. The House Appropriations and Finance Committee Substitute for HB2 would appropriate \$2.5 million to support bilingual and multicultural education. These funds could be used to implement the provisions of HB159/aSEC that apply to bilingual multicultural education. The bill would also create a new fund, the Hispanic Education Fund to be administered by the Hispanic education division. The fund would be subject to appropriation by the Legislature with the purpose of implementing the provisions of the Hispanic Education Act.

The bill would require two new assistant secretaries, one for the bilingual multicultural education division and one for the Hispanic education division. In current statute, only the Indian education division has an assistant secretary with a designated job code of a division director. According to state personnel reports, the average salary of a PED division director is \$96,159. Currently, the language and culture bureau is led by a division director. It is unclear if a change in title would lead to a change in salary. Currently, there is no division director equivalent for Hispanic education. The bill would require a new FTE for the assistant secretary of the Hispanic education division with a potential salary of \$96,159.

HB159/aSEC would allow public members of the bilingual multicultural education council to be “entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act.” This is another cost that would be incurred upon enactment of HB159/aSEC.

**SUBSTANTIVE ISSUES**

**Program Alignment.** HB159/aSEC would model the Bilingual Multicultural Act and the Hispanic Education Act after the Indian Education Act to facilitate alignment between the implementation of each act. The table below demonstrates how the bill would affect what is currently in statute.

**Program Alignment Under HB159/aSEC**

<b>Indian Education Act</b>	<b>Hispanic Education Act</b>	<b>Bilingual Multicultural Education Act</b>
<ul style="list-style-type: none"> <li>• Indian Education Division</li> <li>• Assistant Secretary of Indian Education</li> <li>• Indian Education Fund</li> <li>• Indian Education Advisory Council</li> </ul>	<ul style="list-style-type: none"> <li>• Hispanic Education Division*</li> <li>• Assistant Secretary of Hispanic Education*</li> <li>• Hispanic Education Fund*</li> <li>• Hispanic Education Advisory Council</li> </ul>	<ul style="list-style-type: none"> <li>• Bilingual Multicultural Education Division*</li> <li>• Assistant Secretary of Bilingual Multicultural Education*</li> <li>• Bilingual Multicultural Education Funding</li> <li>• Bilingual Multicultural Education Advisory Council*</li> </ul>

\*Required under HB159/aSEC

**New Divisions.** HB159/aSEC would create a new bilingual multicultural education division and a new Hispanic education division within PED. The bill indicates the divisions would require an assistant secretary and advisory council, however the bill would not create a Hispanic education advisory council because one already exists in Section 22-23B-5 NMSA 1978. The purpose of the divisions would be to implement the provisions of the Bilingual Multicultural Act and the Hispanic Education Act by ensuring programs are in compliance with federal and state regulations; providing technical assistance for programs; monitoring and approving programs; accepting funds; and conducting research related to bilingual education, Hispanic education, and serving EL students.

**New Assistant Secretaries.** The secretary of public education would be required to consult with the bilingual multicultural education advisory council and the Hispanic education advisory council to appoint an assistant secretary for each respective division. The duties of both assistant secretaries would be to direct the activities and policy of their division.

**Bilingual Multicultural Education Advisory Council.** The bill would create a new bilingual multicultural advisory council to advise the secretary of education, PED staff, the governor, and the Legislature on implementation of the Bilingual Multicultural Education Act. The council would be required to consist of up to 15 members with expertise in bilingual multicultural education and instruction for ELs: three enrolled members of tribes; nine members who are prekindergarten through 12th grade teachers, principals, superintendents, education administrators, and higher education faculty with at least one member with a special education background; three parents of bilingual students including at least one parent of an American Indian student and one parent of a Hispanic student enrolled in a bilingual multicultural program at the elementary or secondary level.

**Accountability.** HB159/aSEC would add a new section to the Bilingual Multicultural Education Act that outlines accountability in implementation of a multicultural education framework that identifies and addresses students' needs; provides guidelines for alignment between the Bilingual Multicultural Education Act, the Indian Education Act, and the Hispanic Education Act and development of culturally responsive curriculum and instructional materials. This new section of the act would require the division to collaborate with the Higher Education Department and PED-approved teacher preparation programs to develop a bilingual multicultural teacher pipeline, develop professional development standards and programs, ensure advisory councils of all three divisions meet semiannually, conduct annual assessments of bilingual students' needs, develop indicators to measure the effectiveness of programs, identify strategies to close the achievement gap for culturally and linguistically diverse students, and issue an annual report on how the provisions of the act were achieved.

## **ADMINISTRATIVE IMPLICATIONS**

**Bilingual Multicultural Education Division.** PED complies with the current provisions of the Bilingual Multicultural Education Act. Currently, the department has a Language and Culture Bureau responsible for implementing the provisions of the Act. The bureau consists of a director, deputy director, three specialists, and one clerical support provider. HB159/aSEC would change this organizational structure by adding the assistant secretary of bilingual multicultural education. Additionally, the bill would require increased collaboration and coordination between assistant secretaries and divisions of bilingual multicultural education, Hispanic education, and Indian education. Currently the State Bilingual Advisory Council exists within the department. In order to comply with HB159/aSEC, a new bilingual multicultural advisory council would be created as the bill outlines the initial council would be required to consist of five members from the

department and other members appointed by the secretary from an applicant pool submitted by the co-chairs after consultation with stakeholders.

**Hispanic Education Division.** PED does not currently have a Hispanic education division. HB159/aSEC would require the department to create the division.

**Annual Report.** HB159/aSEC would require the bilingual multicultural division to issue an annual report produced in collaboration with the Indian education and Hispanic education divisions to outline how the provisions of the Act were met. This would require all three divisions to issue two annual reports because they are already statutorily obligated to submit a report for the provisions in their respective acts.

## **TECHNICAL ISSUES**

HB159/aSEC outlines new bilingual multicultural council members would be “appointed by the secretary with input from serving council members from an applicant pool submitted by the co-chairs after consultation with various stakeholder groups.” The bill does not outline how leadership, or co-chairs, would be selected within the council. The sponsors may wish to provide clarifying language.

HB159/aSEC would allow public members of the bilingual multicultural education council to be “entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act.” Pursuant to Section 22-23B-5 NMSA1978 of the Hispanic Education Act, members of the council cannot receive per diem and mileage or other compensation for their services. Additionally, Section 22-23A-6 NMSA 1978 of the Indian Education Act states members of the Indian education advisory council may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act. The sponsors may wish to ensure the language is consistent across all three acts by amending the aforementioned section of the Hispanic Education Act to allow Hispanic education advisory council members to receive per diem as provided in the Per Diem and Mileage Act.

## **RELATED BILLS**

HB111, Cultural and Linguistic Education Support  
HB120, Bilingual Teacher Preparation Act  
SB632, Additional Ed Dept. Divisions

## **SOURCES OF INFORMATION**

- LESC Files

**AO/mhg**