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FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/20

SPONSOR Trujillo, Ch **LAST UPDATED** _____ **HB** 153

SHORT TITLE Bilingual Multicultural Education Program **SB** _____

ANALYST Liu

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		
	\$36,000.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB87, HB125, HB135, HB199, HB221, HB224, HB241, HM12, SB74, SB96

SOURCES OF INFORMATION

LFC Files

No Response Received

Public Education Department (PED)

SUMMARY

Synopsis of Bill

House Bill 153 appropriates \$36 million from the general fund to the state equalization guarantee (SEG) distribution, also known as the public school funding formula, to increase the bilingual multicultural education program (BMEP) formula weight from 0.5 to 1.0 on July 1, 2020.

FISCAL IMPLICATIONS

The appropriation of \$36 million contained in this bill is a recurring expense to the general fund. The current BMEP factor in the funding formula is 0.5, which is multiplied by the number of students participating in approved programs and the program intensity (i.e. instructional time).

Preliminary data indicates 46.8 thousand students participated in BMEPs in the 2018-2019 school year, generating 8,084 program units in the FY20 public school funding formula. At the FY20 preliminary unit value of \$4,565.41 per program unit, the current cost of BMEPs in the formula is \$36.9 million.

This bill would effectively double the BMEP factor, effectively shifting the equivalent of \$36.9 million in formula funds to schools with BMEPs in FY21. The \$36 million appropriation in this bill would offset the majority of budget impacts from this redistribution of formula funding; however, this would also depend on BMEP participation in the 2019-2020 school year. In the 2017-2018 school year, nearly 48.5 thousand students participated in 546 BMEPs statewide. This number dropped to 46.8 thousand students, or 3.5 percent, in the 2018-2019 school year, following a consistent trend of declining participation. An increase in the BMEP factor, however, may encourage schools to enroll more students in BMEPs to generate additional funding.

According to PED first reporting date (40th day) student membership counts, statewide enrollment declined from 325.5 thousand students in 2018 to 323 thousand students in 2019, a decrease of 2,480 students or 0.76 percent. Because the funding formula is based on prior year student membership and 40th day counts are highly predictive of the second (80th) and third (120th) reporting date counts, total student membership will likely decrease at a similar rate for the FY21 funding formula and place downward pressure on BMEP enrollment.

SIGNIFICANT ISSUES

The public school funding formula currently generates funding for districts operating BMEPs by accounting for the number of students enrolled in the program and the hours they participate. BMEPs generate 0.5 program units in the funding formula for each student receiving BMEP instruction, adjusted based on the intensity of the program (i.e. number of BMEP instructional hours). Because formula funding is unrestricted, however, schools are not required to spend additional funding generated from the BMEP factor on BMEPs.

The Legislature has not changed the 0.5 factor for BMEPs in the funding formula since 1994. A 2004 LFC evaluation on BMEPs found minimal oversight of BMEPs by PED and insufficient reporting of BMEP expenditure data by school districts, suggesting little is known about the actual costs of programming and programming quality has remained inconsistent. Between FY08 and FY14, school districts reported state BMEP operational expenditures exceeded revenues generated in the formula. However, this self-reported data does not consistently account for BMEP expenditures in a way that allows for meaningful comparison, and simply increasing formula funding for BMEPs will not create stronger accountability for program quality.

In New Mexico's consolidated education sufficiency lawsuit, the 1st Judicial District Court ruled the lack of access to high-quality language acquisition programs for English language learners (ELLs) violated federal and state law and the New Mexico Constitution. The court also found significant variation in the quality of BMEP implementation statewide, with few BMEPs applying evidence-based practices or programs. Since the court decision, the Legislature has significantly increased funding for at-risk students (which includes ELLs) and BMEPs. However, less than half of all ELLs participate in BMEPs, reporting on BMEP quality is limited and inconsistent, and the state lacks a process for coordinating human and capital resources for BMEPs effectively.

In response to the court's decision, the Legislature boosted operational funding for at-risk students during the 2019 legislative session by increasing the at-risk index in the public school funding formula from 0.13 to 0.25. The at-risk index allocates money to schools based on the number of students that are identified as ELLs, low-income, or highly transient. Operational funding for at-risk students increased by 255 percent, or \$186 million dollars, between FY11 and FY20. At-risk funding increased by 45 percent in FY19 and doubled in FY20. The ELL component of the at-risk factor followed a similar trend, generating \$16 million of funding in FY18, \$23 million in FY19, and a projected \$50 million in FY20.

For FY20, the Legislature further appropriated \$7 million to the state equalization guarantee (SEG) distribution for BMEPs to increase the number of units generated for new programs. However, because the appropriation was not tied to an increase in the BMEP formula factor, the funding may have only resulted in a general unit value increase. In addition to the SEG increase, the Legislature also appropriated \$2.5 million to PED for BMEP support in FY20.

In FY18, 484 New Mexico schools, or 56 percent, operated a BMEP – a 7.5 percent decrease from the 523 schools in FY13. Similarly, the total number of students in BMEPs fell from 58 thousand in FY13 to 50 thousand in FY18. Hispanic students (38,147) represent the largest ethnic group participating in BMEPs, followed by Native American students (7,394) and other students (3,786). Of the 48 thousand ELLs identified statewide in FY18, only 43 percent participated in BMEPs.

All BMEPs must provide one hour of home or heritage language arts instruction and another hour of English language development instruction for ELLs taught by a teacher endorsed in bilingual education or Teaching English to Speakers of Other Languages (TESOL). Approximately 20 percent of New Mexico teachers have a TESOL certification, 4 percent have a bilingual certification, and 7 percent have both certifications. PED notes many of these teachers may not be participating in BMEPs, and court findings in the education sufficiency lawsuit case indicate BMEP quality is generally inconsistent statewide and often not aligned to best practices.

PERFORMANCE IMPLICATIONS

Provisions of this bill may encourage schools to expand dual language immersion programs. Dual language immersion (DLI) programs offer academic instruction in two languages and enroll roughly equal proportions of native speakers of two languages. A 2017 RAND Corporation study found DLI programs had a positive effect on reading test scores and ELL English proficiency rates. Students randomly assigned to DLI outperformed peers on state reading tests by 0.13 standard deviations in fifth grade and 0.22 standard deviation in eighth grade (roughly seven additional months of learning in fifth grade and nine additional months in eighth grade). ELLs randomly assigned to DLI were 3 percentage points more likely to reach English proficiency by sixth grade. The findings were consistent with other research suggesting DLI helps ELLs become proficient in English at higher rates.

New Mexico provides a framework and funding for schools operating dual language programs; however, the state also provides funding to districts operating four other approved BMEP models: enrichment, maintenance, transitional, and heritage programs. New Mexico has not evaluated the impacts of each program model or why overall program participation has declined in recent years.

ADMINISTRATIVE IMPLICATIONS

PED's current oversight of spending for BMEPs is limited. The department will need to develop accounting codes to track school-level spending on items related to BMEPs for future budget oversight functions. Current statute requires school districts and charter schools to report specific information on services related to BMEPs, beginning in FY21.

RELATIONSHIP

This bill is related to House Bill 87, which establishes a bilingual multicultural advisory council; House Bill 125, which appropriates funding for a bilingual STEM experience; House Bill 135, which creates a Native American language formula factor; House Bill 199, which convenes a working group to study bi-literacy frameworks; House Bill 221, which makes an appropriation to regional education cooperatives to provide technical assistance; House Bill 224, which establishes a statewide literacy program; House Bill 241, which creates a BMEP teacher pay differential; House Memorial 12, which convenes a working group to share best practices on BMEPs; Senate Bill 74, which creates an early reading development program; and Senate Bill 96, which requires schools to report on BMEPs.

OTHER SUBSTANTIVE ISSUES

Bilingual education gained national prominence through Title VI of the Civil Rights Act of 1964. The act required states to provide guidance, monitoring, and oversight to school districts to ensure ELLs receive evidence-based programs that produce successful results. The 1974 Equal Educational Opportunities Act compelled educational agencies to promote equal participation in instructional programs by supporting students in overcoming language barriers. And Title III of the Every Student Succeeds Act in 2015 guaranteed assistance for all ELLs in attaining English proficiency and high academic achievement.

New Mexico's Bilingual Multicultural Education Act of 1973 (BMEA) was the first of its kind in the country. The Legislature expanded BMEA in 2004 to provide funding for districts that developed and implemented BMEPs. In 2003, the Legislature created the Indian Education Act, which guaranteed the maintenance of Native languages in schools, required notification to tribes for support and approval of curricula development, and required districts, tribes, and PED to develop, implement, and evaluate relevant curricula together. In 2010, the Legislature created the Hispanic Education Act to provide for the study, development, and implementation of educational systems that affected Hispanic students. The act also created mechanisms for stakeholders to work together to close the achievement gap, increase graduation rates, and increase post-secondary enrollment, retention, and completion rates of Hispanic students.

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