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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
55th Legislature, 1st Session, 2021

Bill Number	<u>HM26</u>	Sponsor	<u>Lente</u>
Tracking Number	<u>.220661.2</u>	Committee Referrals	<u>HEC</u>
Short Title	<u>Develop Education Plan for Yazzie Lawsuit</u>		
Analyst	<u>Juliani</u>	Original Date	<u>3/14/2021</u>
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BILL SUMMARY

Synopsis of Memorial

House Memorial 26 (HM26) requests that the Public Education Department (PED) develop a comprehensive education plan jointly in consultation with the *Martinez-Yazzie* plaintiffs by no later than September 30, 2021 to address the systemic education inequities and deficiencies identified by the court in the consolidated *Martinez-Yazzie* education sufficiency lawsuit and to come into compliance with the state's constitutional duty to provide all students with a sufficient education. HM26 also requests PED provide the Legislature with an annual report on the state's implementation of the comprehensive education plan and constitutional compliance to provide at-risk students with a uniform and sufficient education.

FISCAL IMPACT

HM26 does not contain an appropriation. PED would likely incur minimal costs related to developing a comprehensive education plan and an annual report on the state's implementation of the plan, which may be able to be absorbed by the department's operating budget.

PED analysis is not included here because the department has not provided one.

SUBSTANTIVE ISSUES

HM26 calls for PED to develop a comprehensive education plan to address the systemic education inequities and deficiencies identified by the court in the consolidated *Martinez-Yazzie* lawsuit that includes short- and long-term goals and action steps, time frames, staffing, accountability measures and the projected funding amounts required to meet students' education needs. In addition, HM26 requests PED provide the Legislature, the Legislative Finance Committee (LFC) and the Legislative Education Study Committee (LESC) with an annual report on the state's implementation of the comprehensive education plan and compliance with the constitution of New Mexico to provide at-risk students with a uniform and sufficient education.

Martinez-Yazzie Lawsuit. In the consolidated *Martinez-Yazzie* education sufficiency lawsuit, the 1st Judicial District Court ruled the state failed to provide quality programs targeted to meet the specific needs of at-risk students, defined as economically disadvantaged students, English learners, Native American students, and students with disabilities. The court found at-risk students were not attaining proficiency at the rate of non-at-risk students and PED programs were not changing these student groups' historically poor outcomes, whether measured by test scores, graduation rates, or the need for college-level remedial courses. The judge ruled the state failed to provide at-risk students, especially minority students from low-income backgrounds, with the programs and services needed to prepare them to be ready for college and career, including culturally and linguistically relevant education. The court also noted, in order for the state to provide students with services needed to improve outcomes, it would need to ensure compliance with the Indian Education Act, the Hispanic Education Act, and the Bilingual Multicultural Education Act, provide programs to increase student learning time, and increase funding for services for at-risk students.

Legislative Response to *Martinez-Yazzie* Findings. In response to the court's decision, in FY21 the Legislature enhanced funding for the at-risk index by \$185.9 million to be used for evidence-based academic or nonacademic interventions for at-risk students, created a new optional Extended Learning Time program, expanded access to the K-3 Plus extended school year program to all elementary school students, and required school districts and charter schools to submit additional information to PED to ensure local investments are evidence-based and targeted to close the achievement gap. In addition to the \$5.25 million for the Indian education fund, the Legislature provided targeted funding for bilingual and multicultural programs to implement culturally and linguistically responsive instruction for Native American students and English learners. Additionally, the Legislature allocated funds to support professional development to train teachers in culturally and linguistically responsive practices and appropriated \$9 million from the public education reform fund for culturally and linguistically responsive instructional materials.

PED Initiatives in Response to *Martinez-Yazzie* Ruling. PED has implemented a pair of primary initiatives in an attempt to address the shortcomings noted in the court's ruling in the consolidated *Martinez-Yazzie* lawsuit. These steps include requiring school districts and charter schools to create an equity council and implement a culturally and linguistically responsive framework.

Equity Councils. In 2019, PED began mandating each school district and charter school create an equity council to promote policies to comply with the court's order in the *Martinez-Yazzie* lawsuit. Each local equity council must develop an equity plan based on a local readiness assessment specific to the needs of at-risk students, develop a culturally and linguistically responsive framework, and advise the school district superintendent or charter school head administrator on services and programs for at-risk students.

However, school districts and charter schools have reported the following primary challenges in implementing equity councils:

- Orienting new council members;
- Increasing knowledge of culturally and linguistically responsive practices, including how to facilitate conversations around culture, race, and power dynamics; and
- Determining how the council should make decisions around funding.

PED has supported school districts and charter schools by offering regional trainings and individual assistance on developing and supporting equity councils, including providing resources from Teacher Tolerance, National Equity Project, and Rethinking Schools and other national equity-focused organizations. However, PED was not able to complete its analysis of the initial readiness assessments required from each local equity council for the 2019-2020 school year until late 2020, after the department hired a contractor to do so.

Culturally and Linguistically Responsive Framework. In 2019 PED directed all school districts and charter schools to implement a culturally and linguistically responsive framework to guide the allocation of resources. Additionally, PED required school districts and charter schools to complete a culturally and linguistically responsive inventory to determine focus areas. However, PED did not finish reviewing the culturally and linguistically relevant education inventories from the 2019-2020 school year until the end of 2020. PED's delays in completing its analyses of the state's two critical tools to assist implementation of culturally and linguistically responsive practices bring into question the department's capacity to work with individual school districts and charter schools to implement measures designed to achieve greater equity.

During FY21, PED has been able to continue to provide on-line training to school districts and charter schools on guiding the work of local equity councils and implementing a culturally and linguistically responsive framework, but it is unclear how meaningful or how effective local implementation of these initiatives has been. These basic steps notwithstanding, PED has never released an individual plan explicitly outlining in a detailed manner how the department intended to address the findings from the court in the consolidated *Martinez-Yazzie* lawsuit.

Tribal Recommendations to Address *Martinez-Yazzie* Findings. HM26 requests PED develop the comprehensive education plan to address the systemic education inequities and deficiencies identified in the consolidated *Martinez-Yazzie* lawsuit. This is to be done jointly in consultation with the *Yazzie* and *Martinez* plaintiffs and build on existing plans and recommendations developed by education and tribal community stakeholders and researchers.

Tribes, nations, and pueblos within New Mexico developed a plan, known as the *Tribal Remedy Framework*, with input from tribal members, educators, and researchers that offers a series of policy steps and specific funding proposals representing tribal perspectives and priorities in addressing the shortcomings identified in the court's ruling. This comprehensive implementation plan provides a roadmap toward a systematic transformation of the education system to redress the historical injustices noted by the court and help bring about equitable outcomes for Native American students.

The *Tribal Remedy Framework's* proposals encompass wide-ranging needs from enhancing support for tribal departments of education and ensuring their collaboration with school districts and establishing a pipeline for Native American teachers, to funding the development of culturally and linguistically relevant early childhood curricula and support for tribal libraries' out-of-school time community-based programs. Collectively, the individual proposals can be organized around three primary underlying themes:

- Shared Responsibility and Increased Tribal Control;
- Community-Based Education; and
- Balanced, Culturally and Linguistically Relevant Education.

The *Tribal Remedy Framework* advocates for a relationship based on more shared power between the state and tribes and represents a declaration of tribal sovereignty and a reflection of culturally responsive and relevant education in practice. It calls for a shift in the school model to one centered upon an indigenous worldview, where the knowledge and values of Native American children and communities serve as cornerstones to school design and student learning. However, while enactment of the ideas in the *Tribal Remedy Framework* could assist in building educational infrastructure in tribal communities to support academic achievement for Native American students, much of the funding proposals would be directed toward tribal education departments, making it unclear how much the funds would impact Native American students in public schools.

ADMINISTRATIVE IMPLICATIONS

HM26 would have administrative implications for PED related to developing a comprehensive education plan by September 30, 2021 and an annual report on the state's implementation of the plan. However, it is unclear how many years PED would be expected to issue this annual report.

OTHER SIGNIFICANT ISSUES

Culturally and Linguistically Responsive Instruction. Culturally and linguistically responsive pedagogy is grounded in a belief that making content relevant to students' lives, allowing for greater student ownership of learning, and providing multiple opportunities for meaningful student interaction will improve academic, social, and emotional outcomes. The move toward culturally responsive teaching has been seen as a way to better serve minority students by acknowledging and addressing inequities built into various aspects of education, such as curriculum design, classroom discipline, and student-teacher relationships. Researchers cite these inequities as contributing factors in the long-standing achievement gap between racial or ethnic minority students and their white peers. A January 2021 LFC report found emerging evidence for the efficacy of culturally and linguistically responsive education to increase student engagement and outcomes but noted quantitative research on such teaching practices remained limited.

RELATED BILLS

Relates to HB84, Native Language Education Program Unit, which adds Native language education to the list of itemized program units in statute

Relates to HB85, Yazzie Lawsuit Response Funding, which appropriates funding to the Indian Affairs Department to support tribal departments of education

Relates to HB86, Native American Library, Internet, Education, which appropriates funding to the Indian Affairs Department to support tribal libraries, expanding broadband Internet access, and educational resource center projects on Indian lands

Relates to HB87, Yazzie Lawsuit Higher Ed Funding, which appropriates funding to institutes of higher education and tribal colleges to support programs to improve educational outcomes for Native American students

Relates to HB131, which creates an assistant secretary of Hispanic education position at the Higher Education Department (HED) and the Public Education Department (PED) and amends the Hispanic Education Act to provide for assessment and accountability of equitable and effective

educational systems, foster family and community engagement, and provide culturally sustaining pedagogy and culturally relevant instruction

Relates to HB219, Biliteracy Development Framework Task Force, which convenes a working group, comprising experts in culturally and linguistically responsive instruction and tribal language development, to study a biliteracy and oral language development framework

Relates to HB52, Bilingual Multicultural Ed Advisory Council, which elevates the state's *ad hoc* bilingual advisory committee to statutory level, similar to the status accorded to the advisory councils for Indian education and Hispanic education

SOURCES OF INFORMATION

- LESC Files

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