

LESC bill analyses are available on the New Mexico Legislature website ([www.nmlegis.gov](http://www.nmlegis.gov)). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**56th Legislature, 1st Session, 2023**

**Bill Number** HJM3                      **Sponsor** Lente/Gurrola/Herrera/Sariñana/Trujillo  
**Tracking Number** .224338.1                      **Committee Referrals** HEC  
**Short Title** “Year of Bilingual Multicultural Education”  
**Analyst** Andrews    **Original Date** 2/3/2023  
**Last Updated** \_\_\_\_\_

---

---

**BILL SUMMARY**

Synopsis of Bill

House Joint Memorial 3 (HJM3) requests the Governor to proclaim 2023 as “The Year of Bilingual Multicultural Education” to recognize the 50th anniversary of the Bilingual Multicultural Education Act, in addition several requests related to the implementation of bilingual multicultural education programs (BMEP). HJM3 requests include but are not limited to requesting the Public Education Department (PED) to:

- Provide a report to the Legislature on how the requirements of the Bilingual Multicultural Education Act are or are not being fulfilled;
- To address, in consultation with the Bilingual Multicultural Education Advisory Council, the [Legislative Finance Committee \(LFC\) Program Evaluation: Bilingual and Multicultural Education Programs Report Findings and Recommendations](#) and any community concerns; and
- Fully comply, address, and fund the linguistic rights of New Mexico’s bilingual multicultural students as provided for in Article XII, Section 8 of the Constitution of New Mexico, the court rulings of *Serna v. Portales*, *Lau v. Nichols*, *Castañeda v. Pickard*, and *Martinez/Yazzie v. State of New Mexico*, the Bilingual Multicultural Education Act and the federal Native American Languages Act.

**FISCAL IMPACT**

Legislative memorials do not carry appropriations.

The Legislative Education Study Committee (LESC) and LFC budgets include \$5 million from the public education reform fund for the Bilingual Multicultural Education Act.

**SUBSTANTIVE ISSUES**

HJM3 makes twenty-one requests, including:

- PED provide a report to the Legislature on how the requirements of the Bilingual Multicultural Education Act are or are not being fulfilled;

- PED and school districts ensure curricula, assessments, and instructional materials be developed and selected through the lens of bilingual multicultural needs;
- Bilingual multicultural education and Indigenous language experts be consulted in the areas of curriculum, instruction, assessment, teacher preparation, teacher evaluation, professional development, and licensure;
- Funds be made available to revise and update the Spanish proficiency endorsement exam;
- Funding for professional development, time, and resources for educators to develop a scope and sequence for BMEPs;
- Encourage higher education institutions to create degree programs to increase the number of bilingual teachers;
- The Bilingual Multicultural Advisory Council provide a report of findings from the assessment, program priorities, and funding recommendations;
- All school administrators receive training on implementation of the Bilingual Multicultural Education Act;
- Current and emergent bilingual students with exceptionalities be recognized as vibrant participants and contributors to bilingual multicultural education programs;
- Students identified in the consolidated *Martinez* and *Yazzie* lawsuit be represented with greater equity and consistency in gifted and BMEPs;
- PED provide additional remuneration to K-12 bilingual educators, administrators, and professors;
- Use bilingual multicultural education resources that are inclusive of local and regional perspectives in teacher preparation and educational leadership programs;
- PED provide resources and expertise to assist Native American language teachers, coordinators, and tribes in New Mexico to develop appropriate tools for assessing Native language learning and evaluation programs;
- Students who graduate with the State Seal of Bilingualism-Biliteracy be granted college credit;
- PED review the need for scholarships for New Mexico higher education students to pursue bilingual multicultural education teaching degrees;
- PED adopt and use culturally relevant materials and textbooks in multiple languages for bilingual multicultural education students and the school libraries that serve these students;
- PED provide resources to develop local instructional materials appropriate for both oral-based languages and those providing Native literacy;
- Multiculturalism be encouraged in K-12 education programs;
- PED create an instructional guidance document to support effective implementation of BMEPs;
- PED, in consultation with the Bilingual Multicultural Education Advisory Council, convene a task force to address the [Legislative Finance Committee Program Evaluation: Bilingual and Multicultural Education Programs Report Findings and Recommendations](#) and any community concerns; and
- PED fully comply, address, and fund the linguistic rights of New Mexico's bilingual multicultural students as provided for in Article XII, Section 8 of the Constitution of New Mexico, the court rulings of *Serna v. Portales*, *Lau v. Nichols*, *Castañeda v. Pickard*, and *Martinez/Yazzie v. State of New Mexico*, the Bilingual Multicultural Education Act and the federal Native American Languages Act.

Copies of HMJ3 are to be sent to the Governor, the secretary of PED and the secretary of HED.

**Bilingual Multicultural Education Act.** Bilingual education benefits all students, and [research shows](#) English learners (ELs) receiving bilingual instruction perform better on measures of English reading proficiency than ELs receiving English-only instruction at both the elementary and secondary levels. In the consolidated *Martinez-Yazzie* education sufficiency lawsuit, the 1st Judicial District Court found New Mexico is not meeting its state and federal requirements to assist students who are not proficient in English. While per student funding for BMEPs has increased since FY13, student participation in BMEPs has decreased. In FY21, the most recent data available, 306,504 students participated in BMEPs, compared with 337,056 students in FY17, a nine percent decrease.

The Bilingual Multicultural Education Act recognizes both the value of and the barriers to BMEPs. The Act establishes the goal for all students to become bilingual and biliterate in English and a second language. The Act also recognizes the funding and administrative barriers to bilingual and multicultural education, stating that school districts do not fully understand how to properly assess, place, and monitor students in BMEPs so that students may become academically successful. While there are measures in place to oversee BMEPs, for example PED review of program applications by the Language and Culture Division, school districts and charter schools may benefit from additional oversight and technical assistance.

### **ADMINISTRATIVE IMPLICATIONS**

The Higher Education Department (HED) notes HJM3 could have administrative implications for PED. Administrative issues that are left undetermined by the memorial include how PED will staff the initiatives and/or if additional staff will be necessary.

### **OTHER SIGNIFICANT ISSUES**

In 2019, the 1st Judicial Court issued a final judgement and order on the consolidated *Martinez-Yazzie* education sufficiency lawsuit, finding New Mexico's public education system failed to provide a constitutionally sufficient and adequate education for at-risk students, defined as English learners, Native American students, students with disabilities, and students from low-income families. The court pointed to high school graduation rates, student test proficiencies, and college remediation rates as indicators of how the state is not meeting its constitutional obligation to ensure all students are college, career, and civics ready. The court's findings suggested overall public school funding levels, financing methods, and PED oversight were deficient. As such, the court enjoined the state to provide sufficient resources, including instructional materials, properly trained staff, and curricular offerings, necessary for providing the opportunity for a sufficient education for all at-risk students. Additionally, the court noted the state would need a system of accountability to measure whether the programs and services actually provided the opportunity for a sound basic education and to assure that local school districts spent funds provided in a way that efficiently and effectively met the needs of at-risk students. However, the court stopped short of prescribing specific remedies and deferred decisions on how to achieve education sufficiency to the legislative and executive branch instead.

### **RELATED BILLS**

Related to HB152, Prueba de Español para la Certificación, which makes an appropriation to update the Spanish proficiency endorsement exam.

## **HJM3 – Page 4**

Related to SJM6, Year of Bilingual Multicultural Education, which duplicates HJM3 except does not request the Bilingual Multicultural Education Advisory Committee to provide a report of findings from the assessment, program priorities, and funding recommendations.

### **SOURCES OF INFORMATION**

- LESC Files
- Higher Education Department

**MCA/de/cf/mb**