

HOUSE BILL 159

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO PUBLIC EDUCATION IMPROVEMENTS; CREATING DIVISIONS IN THE PUBLIC EDUCATION DEPARTMENT TO FOCUS ON BILINGUAL MULTICULTURAL EDUCATION AND HISPANIC STUDENTS; PROVIDING POWERS AND DUTIES; ALIGNING THE BILINGUAL MULTICULTURAL EDUCATION, INDIAN EDUCATION AND HISPANIC EDUCATION DIVISIONS' DUTIES; CREATING ADVISORY BODIES; CREATING A FRAMEWORK; REQUIRING ACCOUNTABILITY AND ADEQUATE FUNDING.

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

SEC → ~~SECTION 1. Section 22-23-1.1 NMSA 1978 (being Laws~~

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~~2004, Chapter 32, Section 2) is amended to read:~~

~~"22-23-1.1. LEGISLATIVE FINDINGS.--The legislature finds that:~~

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

~~A. the court, in *Yazzie/Martinez v. State of New Mexico*, determined that the state was not meeting its constitutional duty to provide a sufficient education for all students, including at-risk students, culturally and linguistically diverse students, English language learners, American Indian students and students with disabilities. To address that ruling, the legislature finds that the department needs to provide school districts and charter schools a multicultural education framework that focuses on those student populations and provide sufficient resources to school districts and charter schools to help those students have an adequate opportunity to prepare for college and careers;~~

~~B. the state's bilingual multicultural education program goals are for all students, including English language learners, to:~~

~~(1) become bilingual and biliterate in English~~

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~~and a second language, including Spanish, [a Native] an
American Indian language, [where] if a written form exists and
there is tribal approval, or another language; and~~

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

~~C. school districts and charter schools do not
fully understand how to properly assess, place and monitor
students in bilingual multicultural education programs so that
the students may become academically successful;~~

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

~~E. the federal [No Child Left Behind Act of 2001]
Every Student Succeeds Act does not preclude using state funds
for bilingual multicultural education programs;~~

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

~~G. professional development is needed for school
district and charter school employees, including teachers,
[teacher] educational assistants, principals, head
administrators, bilingual directors or coordinators, directors~~

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~~of curriculum and instruction, associate superintendents,
superintendents and financial officers, in the areas of:~~

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

~~(2) best practices [of] for English as a
second language, English language development and bilingual
multicultural education programs; and~~

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

~~H. parents in conjunction with teachers and other
school district and charter school employees shall be empowered
to decide what type of bilingual multicultural education
program works best for their [children] students and their
community. School districts and charter schools shall also
provide parents with information on appropriate training [in
for English [or in the home or heritage] language learners or
bilingual students to help their [children] students succeed in
school;~~

~~I. because research has shown that it takes five to
seven years to acquire academic proficiency in a second
language, priority [should] shall be given to programs that
adequately support a [child's] student's linguistic
development. The state shall, therefore, fund bilingual
multicultural education programs for students in [grades]~~

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~~kindergarten through [three] third grade before funding
bilingual multicultural education programs at higher grade
levels;~~

~~J. a standardized curriculum, including
instructional materials with scope and sequence that are
culturally and linguistically responsive to New Mexico public
school students, is necessary to ensure that the bilingual
multicultural education program is consistent and building on
the language skills the students have previously learned. The
instructional materials for [Native] American Indian bilingual
multicultural education programs shall be written, when
permitted by the Indian nation, tribe or pueblo, and if written
materials are not available, an oral standardized curriculum
shall be implemented;~~

~~K. equitable and culturally relevant learning
environments, educational opportunities and culturally relevant
instructional materials for all students participating in the
program. For [Native] American Indian students enrolled in
public schools, equitable and culturally relevant learning
environments, educational opportunities and culturally relevant
instructional materials are required to satisfy a goal of the
Indian Education Act; and~~

~~L. the Bilingual Multicultural Education Act will
ensure equal education opportunities for students in New~~

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~~Mexico. Cognitive and affective development of the students is encouraged by:~~

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

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

~~(3) teaching students to appreciate the value and beauty of different languages and cultures."~~←SEC

SECTION SEC→2. 1.←SEC Section 22-23-2 NMSA 1978 (being Laws 1973, Chapter 285, Section 2, as amended) is amended to read:

"22-23-2. DEFINITIONS.--As used in the Bilingual Multicultural Education Act:

A. "assistant secretary" means the assistant secretary of bilingual multicultural education;

~~[A.]~~ B. "bilingual multicultural education program" means a program using two languages, including English and the home or heritage language, as a medium of instruction in the teaching and learning process;

C. "council" means the state bilingual multicultural advisory council;

~~[B.]~~ D. "culturally and linguistically [different] diverse" means students who are of a different cultural

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background than mainstream United States culture and whose home or heritage language, inherited from the student's family, tribe or country of origin, is a language other than English;

~~[G. "district" means a public school, or any combination of public schools in a district;]~~

E. "division" means the bilingual multicultural education division of the department;

~~[D.]~~ F. "English language learner" means a student whose first or heritage language is not English and who is unable to read, write, speak or understand English at a level comparable to grade level English proficient peers and native English speakers;

~~[E.]~~ G. "heritage language" means a language other than English that is inherited from a family, tribe, community or country of origin;

~~[F.]~~ H. "home language" means a language other than English that is the primary or heritage language spoken at home or in the community; ~~and~~

~~G.]~~ I. "standardized curriculum" means a school district curriculum that is aligned with the state academic content standards, benchmarks and performance standards;

J. "tribal language" means the indigenous language spoken by an Indian tribe that is allowed by the tribe to be taught outside the tribe, but which language might not be written; and

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K. "tribe" means a New Mexico Indian nation, tribe or pueblo."

SECTION SEC→~~3.~~ **2.**←SEC A new section of the Bilingual Multicultural Education Act is enacted to read:

"[NEW MATERIAL] BILINGUAL MULTICULTURAL EDUCATION DIVISION--CREATED--ASSISTANT SECRETARY--DUTIES.--

A. The "bilingual multicultural education division" is created in the department to:

(1) achieve the purposes of the Bilingual Multicultural Education Act;

(2) ensure that bilingual multicultural education programs are in compliance with the Bilingual Multicultural Education Act;

(3) ensure that English language learner programs are in compliance with relevant state and federal requirements;

(4) provide technical assistance and support to SEC→~~all~~←SEC school districts and charter schools in achieving the goals of the Bilingual Multicultural Education Act;

(5) coordinate and collaborate with the assistant secretaries of Indian education and Hispanic education to ensure that public schools have SEC→~~sufficient~~←SEC resources, including the expertise, to provide students with a bilingual multicultural education;

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(6) review and approve applications for bilingual multicultural education programs and related funding;

(7) monitor and assess the effectiveness of bilingual multicultural education programs;

(8) accept gifts, grants and donations to be used for bilingual multicultural education;

(9) enforce rules for the administration of the Bilingual Multicultural Education Act;

(10) conduct research and compile statistics relating to the education of bilingual and English language learner students;

(11) coordinate with the Indian education division, including the assistant secretary and the Indian education advisory council, for the provision and assessment of bilingual multicultural education and English language learner programs and services for American Indian students enrolled in public schools; and

(12) collaborate with the Indian education and Hispanic education divisions and their advisory councils for the provision of quality bilingual multicultural education programs and English language learner programs and services.

B. The secretary, with SEC→input advice←SEC from the council, shall appoint an "assistant secretary of bilingual multicultural education", who shall direct the activities of the division and advise the secretary on development of policy

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regarding bilingual multicultural and English language learner education.

C. The SEC→assistant←SEC secretary shall

SEC→~~coordinate with appropriate administrators from all units in the department to ensure that department administrators from all units of the department make implementation of the Bilingual Multicultural Education Act central to and embedded in their educational priorities.~~ ensure the duties prescribed in the Bilingual Multicultural Education Act are carried out and that each division within the department is collaborating to fulfill its responsibilities to bilingual and multicultural students."←SEC

SEC→~~D. In accordance with the rules of the department and after consulting with the council, the assistant secretary shall:~~

~~(1) provide assistance, including advice on allocation of resources to school districts and charter schools, to improve language services to meet the educational needs of bilingual education and English language learner students;~~

~~(2) provide assistance and school expertise to school districts, charter schools and tribes in the planning, development, implementation and evaluation of a bilingual multicultural education curricula;~~

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~~(3) develop or select for implementation a challenging, sequential, culturally and linguistically relevant standardized curriculum and curriculum models to provide instruction to students in pre-kindergarten through twelfth grade;~~

~~(4) provide technical assistance and support to school districts, public schools and local school boards to develop culturally relevant standardized curricula and instructional materials; and~~

~~(5) ensure that bilingual multicultural programs are part of a school district's or charter school's professional development plan."~~←SEC

SECTION SEC→~~4.~~ **3.**←SEC A new section of the Bilingual Multicultural Education Act is enacted to read:

"[NEW MATERIAL] STATE BILINGUAL MULTICULTURAL ADVISORY COUNCIL--MEMBERSHIP SEC→~~--DUTIES~~←SEC.--

A. The "state bilingual multicultural advisory council" is created to advise the secretary, department staff, the governor and the legislature through its interim and standing committees on the SEC→**effective effectiveness of the**←SEC implementation of the Bilingual Multicultural Education Act and the support of SEC→**all**←SEC English language learners to have equitable access to instruction and learning as required by state and federal education and civil rights laws.

B. The council consists of no more than fifteen

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members who have technical knowledge of and expertise in bilingual multicultural education and teaching English to English language learners as follows:

- (1) three enrolled members of tribes;
- (2) nine members who are pre-kindergarten through twelfth grade teachers, principals, superintendents, other education administrators or higher education faculty who are from different geographical areas of the state and at least one of whom has a special education background; and
- (3) three parents of bilingual students, including one parent of an American Indian student and one parent of a Hispanic student, whose students are enrolled in bilingual multicultural education programs at the elementary or secondary level.

C. For the initial term of the council, the members shall include a minimum of five members from the department-created state bilingual advisory group; other council members shall be appointed by the secretary with input from the serving council members from an applicant pool submitted by the co-chairs after consultation with various stakeholder groups.

D. Members of the council shall begin to serve their appointment on July 1, 2019 for a maximum of two terms with each term being no longer than three years. The secretary SEC → ~~may stagger terms on the council.~~ shall stagger terms on the council such that five members are appointed to an initial

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one-year term, five members are appointed to an initial two-year term and five members are appointed to an initial three-year term."←SEC

SEC→~~E. The council shall:~~

~~(1) study issues of bilingual multicultural education for all students, including the needs of English language learners, and provide advice to the department in the areas of curriculum, instruction, assessment, teacher preparation, teacher evaluation, professional development, licensure and student and family services to:~~

~~(a) strengthen the quality of bilingual multicultural education programs;~~

~~(b) promote rigorous culturally and linguistically responsive instruction in bilingual multicultural education programs; and~~

~~(c) support effective classroom teaching for participating bilingual multicultural education program students, including English language learners who may or may not be part of stand-alone federal Title 3 programs; and~~

~~(2) advise the division on issues such as:~~

~~(a) identifying current professional development best practices to support teachers to work effectively with English language learners, regardless of whether students are placed in bilingual multicultural~~

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~~education programs;~~

~~(b) developing and training effective
bilingual multicultural teachers and teachers of English
language learners;~~

~~(c) creating professional development
opportunities to build the capacity of public education
administrators to effectively lead bilingual multicultural
education programs and become knowledgeable regarding current
second language acquisition research, theory and pedagogy,
including culturally and linguistically responsive teaching
practices, whether students are placed in bilingual
multicultural education programs or not;~~

~~(d) developing and training teachers,
educational assistants and other licensed employees to support
and fulfill the language and learning needs of English language
learners and linguistically or culturally different students;~~

~~(e) developing solutions for
streamlining and strengthening program management,
implementation and monitoring of bilingual multicultural
education programs at the state, school district and school
site levels; and~~

~~(f) achieving programmatic goals,
including academic achievement in two languages and bilingual
biliteracy growth as demonstrated and measured by language~~

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~~proficiency in targeted bilingual multicultural education programs, based on data for all students placed in bilingual multicultural programs, including English language learners.~~←SEC

F. Public members of the council are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act."

SECTION SEC→5. 4.←SEC A new section of the Bilingual Multicultural Education Act is enacted to read:

"[NEW MATERIAL] MULTICULTURAL EDUCATION FRAMEWORK--ASSESSMENT--PLANNING--ACCOUNTABILITY.--

A. The division, in collaboration with the council, the Indian education and Hispanic education divisions and councils SEC→~~and outside experts as needed~~←SEC, shall develop a multicultural education framework for the full implementation of the Bilingual Multicultural Education Act, the Indian Education Act and the Hispanic Education Act in SEC→all←SEC public elementary and secondary schools in the state.

B. The multicultural education framework shall SEC→include provision that←SEC:

(1) identify the needs of school districts and charter schools for technical assistance and support to implement a multicultural education for SEC→all←SEC students;

(2) SEC→~~require that~~ provide guidelines for school districts and charter schools on how to align their←SEC

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educational programs and services provided to students SEC→by
~~school districts and charter schools be aligned~~←SEC with the
purpose, goals and provisions of the Bilingual Multicultural
Education Act SEC→, ~~the Indian Education Act and the Hispanic
Education Act~~←SEC; SEC→and←SEC

(3) SEC→~~require that~~ provide guidelines for
school districts and charter schools related to←SEC the
development of curriculum, instructional materials and other
learning tools and resources SEC→~~provided by school districts
and charter schools be~~ that are←SEC relevant and responsive to
the cultures and languages of their students SEC→; .←SEC

SEC→~~(4) require the assistant secretary and
the assistant secretaries of Indian education and Hispanic
education and their divisions to work collaboratively with
school districts, charter schools, tribes and community
partners; and~~

~~(5) require the assistant secretary and the
assistant secretaries of Indian education and Hispanic
education and their divisions to work in coordination with the
secretary and all other units of the department to make the
Bilingual Multicultural Education Act, the Indian Education Act
and the Hispanic Education Act priorities of the
department.~~←SEC

C. The division shall:

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(1) work with the higher education department and SEC→~~the colleges of education at state institutions of higher education~~ public education department-approved teacher preparation programs←SEC to develop a comprehensive bilingual multicultural teacher pipeline for students in secondary education and students at public post-secondary educational institutions in the state who want to major in bilingual multicultural education in undergraduate or graduate school and who intend to teach in New Mexico's public schools;

(2) develop professional development standards, including training in culturally and linguistically responsive instruction, and related support services for bilingual multicultural education, Indian education and Hispanic education teachers, educational assistants and other public school personnel SEC→~~that need such professional development to make them more proficient at their jobs~~←SEC;

(3) set up semiannual meetings among the SEC→~~advisory councils of the three divisions~~ state bilingual multicultural advisory council, the Indian education advisory council and the Hispanic education advisory council←SEC;

(4) conduct an annual assessment of student needs in bilingual multicultural education programs and multicultural education SEC→~~for all students~~←SEC;

(5) develop indicators to measure the effect of the multicultural education framework on the academic

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progress of students statewide;

(6) identify strategies to close the academic achievement gap for culturally and linguistically diverse students; SEC→and←SEC

SEC→~~(7) monitor all money allocated to the department, divisions, school districts and charter schools that is earmarked to implement the provisions of the Bilingual Multicultural Education Act, the Indian Education Act and the Hispanic Education Act;~~

~~(8) monitor and ensure that school districts and charter schools have sufficient funding and resources to fully implement the Bilingual Multicultural Education Act, the Indian Education Act and the Hispanic Education Act;~~

~~(9) ensure that the expenditures of state funds are aligned with the provisions of the Bilingual Multicultural Education Act, the Indian Education Act and the Hispanic Education Act; and~~←SEC

SEC→(10) (7)←SEC issue an annual
SEC→statewide bilingual multicultural education status←SEC
report SEC→no later than November 15←SEC that is produced through collaboration and coordination with the Indian education and Hispanic education divisions SEC→.←SEC SEC→that
~~sets forth if and how the provisions of this subsection were accomplished during the past year, including meetings,~~

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~~assessments, monitoring, professional development and collaboration among units of the department and between the department and school districts and charter schools, and describe plans for the coming year to ensure the educational success of culturally and linguistically diverse students."~~ The status report shall include detailed information about the participation and performance of students in bilingual multicultural education programs, those English language learners not in bilingual programs and an analysis of the effectiveness of the department's, school districts' and charter schools' services for English language learners, including implementation of the Bilingual Multicultural Education Act, statewide professional development efforts related to English language learners, use of funds specific to that act and recommendations for improving English language learner services and bilingual multicultural education programs."←SEC

SECTION SEC→6. 5.←SEC Section 22-23-4 NMSA 1978 (being Laws 1973, Chapter 285, Section 4, as amended) is amended to read:

"22-23-4. DIVISION AND DEPARTMENT--POWERS--DUTIES.--

A. The SEC→~~division shall write rules for the department [shall] to issue~~ department, in consultation with the division, shall promulgate←SEC [rules] SEC→rules←SEC for

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the development and implementation of bilingual multicultural education programs.

B. The [~~department~~] SEC→department ~~division~~←SEC shall administer and enforce the provisions of the Bilingual Multicultural Education Act.

C. The [~~department~~] SEC→department ~~division~~←SEC shall assist local school boards and charter schools in developing and evaluating bilingual multicultural education programs.

D. In the development, implementation and administration of [~~the~~] bilingual multicultural education programs, [~~the department~~] SEC→the department local superintendents and head administrators of charter schools←SEC shall give preference to New Mexico residents who have received specialized training in bilingual multicultural education when hiring personnel."

SECTION SEC→7. 6.←SEC Section 22-23B-1 NMSA 1978 (being Laws 2010, Chapter 108, Section 1 and Laws 2010, Chapter 114, Section 1) is amended to read:

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

SECTION SEC→8. 7.←SEC Section 22-23B-3 NMSA 1978 (being Laws 2010, Chapter 108, Section 3 and Laws 2010, Chapter 114, Section 3) is amended to read:

"22-23B-3. [~~DEFINITION~~] DEFINITIONS.--As used in the .211759.3

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Hispanic Education Act:

A. "assistant secretary" means the assistant secretary for Hispanic education;

B. "council" means the Hispanic education advisory council;

C. "division" means the Hispanic education division of the department; SEC→and←SEC

~~SEC→D. "Hispanic liaison" means [the] a Hispanic education liaison who is an employee of the department who works in a school district with a high concentration of Hispanic students; and←SEC~~

SEC→E. D.←SEC "tribe" means a New Mexico Indian nation, tribe or pueblo."

SECTION SEC→9. 8.←SEC Section 22-23B-4 NMSA 1978 (being Laws 2010, Chapter 108, Section 4 and Laws 2010, Chapter 114, Section 4) is amended to read:

"22-23B-4. HISPANIC EDUCATION [~~LIAISON~~] DIVISION--
CREATED--DUTIES.--

A. The "Hispanic education [~~liaison~~] division" is created in the department

~~[B. The liaison shall:~~

~~(1) focus on issues related to Hispanic education and advise the secretary on the development and implementation of policy regarding the education of Hispanic students;~~

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~~(2) advise the department and the commission on the development and implementation of the five-year strategic plan for public elementary and secondary education in the state as the plan relates to Hispanic student education;~~

~~(3) assist and be assisted by other staff in the department to improve elementary, secondary and post-secondary educational outcomes for Hispanic students;~~

~~(4) serve as a resource to enable school districts and charter schools to provide equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for Hispanic students enrolled in public schools;~~

~~(5) support and consult with the Hispanic education advisory council; and~~

~~(6) support school districts and charter schools to recruit parents on site-based and school district committees that represent the ethnic diversity of the community] to:~~

(1) achieve the purposes of the Hispanic Education Act;

(2) provide technical assistance and support to SEC→all←SEC public schools in achieving the goals of the Hispanic Education Act;

(3) coordinate and collaborate with the bilingual multicultural education and Indian education

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divisions SEC→~~to ensure that public schools have sufficient resources, including expertise, to provide Hispanic students a culturally and linguistically relevant education;~~ regarding the implementation of the Bilingual Multicultural Education Act, the Indian Education Act and the Hispanic Education Act;←SEC

(4) review and approve applications for Hispanic education-related programs and services;

(5) accept gifts, grants and donations to be used for the implementation of the Hispanic Education Act, including money to develop and implement culturally and linguistically relevant education programs, professional development and instructional materials and money to hire Hispanic liaisons;

(6) enforce rules for the administration of the Hispanic Education Act;

(7) conduct research and compile statistics relating to the education of Hispanic students; and

(8) consult and collaborate with the council for guidance on the provision of quality culturally and linguistically relevant and responsive education for Hispanic students and English language learning programs and services for Spanish-speaking students.

B. The secretary, with SEC→~~input and recommendation~~ advice←SEC from the council, shall appoint an "assistant secretary for Hispanic education", who shall direct the

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activities of the division and advise the secretary on development of policy regarding Hispanic education.

C. The assistant secretary shall coordinate with appropriate administrators and SEC→appropriate←SEC divisions to ensure that department administrators make implementation of the Hispanic Education Act a priority. SEC→”←SEC

~~SEC→D. In accordance with rules of the department, and after consulting with the council, the assistant secretary shall:~~

~~(1) provide assistance, including advice on allocation of resources, to public schools to improve services to meet the educational needs of Hispanic students;~~

~~(2) provide assistance to public schools and school districts in the planning, development, implementation and evaluation of Hispanic education curricula;~~

~~(3) develop or select for implementation challenging, sequential, culturally relevant curricula standards and models to provide instruction to Hispanic students in pre-kindergarten through twelfth grade;~~

~~(4) provide assistance to public schools, school districts, local school boards and governing bodies to develop culturally relevant curricula and instructional materials for Hispanic education;~~

~~(5) within budget limitations, hire Hispanic~~

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liaisons;

~~(6) within budget limitations, develop and implement culturally relevant support services, including continuing professional development, to increase the number of Hispanic teachers, instructional support providers, principals and other school administrators in New Mexico public schools; and~~

~~(7) develop a plan to educate New Mexico Hispanic parents about the Education Trust Act, which allows parents or others to open investment accounts to save for a child's higher education through the education trust board."~~←SEC

SECTION SEC→10. 9.←SEC A new section of the Hispanic Education Act is enacted to read:

"[NEW MATERIAL] HISPANIC EDUCATION FUND--CREATED-- PURPOSES.--

A. The "Hispanic education fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants and donations and income from investment of the fund. The fund shall be administered by the division. Money in the fund is subject to appropriation by the legislature for the distribution of awards to implement the provisions of the Hispanic Education Act. Disbursements from the fund shall be made by warrant of the secretary of finance and administration on vouchers signed by the secretary of

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public education or the secretary's designated representative.

B. The SEC→~~division~~ department←SEC shall ensure that money disbursed from the Hispanic education fund shall be used for the purposes stated in the Hispanic Education Act.

C. The SEC→~~division~~ department←SEC, in consultation with the SEC→~~department~~ division←SEC, shall develop procedures and rules for the award of money from the fund."

SECTION SEC→~~11.~~ 10.←SEC REPEAL.--Laws 2010, Chapter 108, Section 4 is repealed.