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

Bill Number	<u>SB 148/aSFC</u>	Sponsor	<u>Stewart</u>
Tracking Number	<u>.218634.4</u>	Committee Referrals	<u>SEC/SFC</u>
Short Title	<u>Diversity Commission</u>		
Analyst	<u>Canada</u>	Original Date	<u>2/02/2021</u>
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FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

BILL SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee Amendment to SB148 (SB148/aSFC) omits the appropriation from the bill. SB148/aSFC adds a vice chair appointment to the commission. This position will be filled by one of the four tribal leaders appointed to the commission. SB148/aSFC requires subcommittee participation as a part of the commission. Subcommittees must include participation from bilingual professionals, Indian education experts, English language learner specialists and experts, special education teachers and instructional support providers, and students considered at risk by the *Martinez* and *Yazzie* consolidated lawsuit. As a part of the commission process, SB148/aSFC requires the commission to review plans developed by researchers, stakeholders, and the Public Education Department (PED) in response to the lawsuit. SB148/aSFC also requires the commission to develop recommendations to provide adequate funding for the public school system and funding recommendations to support the recommendations of the commission.

Synopsis of Bill

Senate Bill 148 (SB148) creates a Commission on Diversity, Equity, and Excellence in Education composed of 27 executive-level, legislative, and public members who will meet between 2021 and 2025 to develop a long-term plan to transform public education in New Mexico.

FISCAL IMPACT

The bill does not include an appropriation.

The bill creates a new commission on diversity, equity, and excellence in education fund as a nonreverting fund in the state treasury with funds to be appropriated to the Legislative Education Study Committee.

The House Appropriations and Finance Committee substitute for House Bills 2 and 3 currently does not include an appropriation to the PED for this purpose.

SUBSTANTIVE ISSUES

Martinez-Yazzie Consolidated Lawsuit. In response to the 2018 1st Judicial District Court decision that found the public education system is insufficient to meet the needs of at-risk students in the state, plaintiffs requested the court order the state to create a statewide plan and timetable that includes details on more robust program and service offerings, how the state will comply with the Indian Education Act, and whether the state has a sufficient number of properly trained and qualified teachers. The court found the state has failed to provide at-risk students with programs and services necessary to make them college or career ready. The court found funding was not sufficient for all school districts to provide the programs and services required by the constitution. The court also found PED has failed to meet its supervisory and audit functions to assure that money is spent efficiently to provide at-risk students with the programs and services needed for them to obtain an adequate education. The ruling instructs the state to address shortcomings in the current system by ensuring every public school has resources to provide a sufficient education for at-risk students, such as instructional materials, properly trained staff, and curriculum offerings.

Collective Ownership for a Long-term Plan. The Commission on Diversity, Equity, and Excellence in Education would be responsible for developing a long-term plan with associated goals, action steps, and accountability metrics that are student-centered with specific steps for the Legislature, the executive, school districts, public schools, and colleges of education to ensure public education students are prepared to meet the challenges of a changing national and global economy, prepared for postsecondary education and the workforce, and prepared to be successful, civic-minded citizens in the 21st century. Comprehensive, interconnected policy changes to address all of the challenges addressed in the lawsuit have the best chance of success with a long-term plan agreed on among all necessary stakeholders. Several states like California, Kentucky, and Massachusetts convened similar working groups made up of both public and private members to remedy court-identified problems and make other large-scale systemic changes. The Learning Policy Institute, an education policy organization at Stanford University, reports these groups have been successful, and New Mexico should engage in similar work with a broad, diverse group of stakeholders. Research from the Learning Policy Institute finds other states, such as Arkansas, Kansas, and Ohio, which were engaged in similar education lawsuits did not undertake a comprehensive approach and consequently wasted time and millions of dollars in ongoing court fights. Piecemeal policy changes without an assessment of current funding, efficiency of programs offered, and evidence-based programs that work to meet the needs identified have proven insufficient to meet the needs of New Mexico students.

The bill aims to allow the Legislature, executive agencies, and other stakeholders to review the education system in the state as a whole and creates a forum for collective decision-making. The Learning Policy Institute reports shared ownership over a plan is key because the plan is protected from political changes and potential “competing plans” that emerge from special interest groups over time.

Other Plans. PED’s analysis notes, during the past year, the department has worked with over 50 education stakeholders from across the state to create a strategic plan that focuses on (1) creating a robust educator ecosystem, (2) closing the opportunity gap, (3) providing a whole child education, and (4) aligning pathways for student success. PED states the outcomes of the commission are in line with this specific work. According to the department, the commission can

sustain guiding education priorities that typically shift with changes in administration. SB148/aSFC requires the commission to review plans developed by researchers, stakeholders, and PED in response to the lawsuit as a part of the commission's work.

The Indian Affairs Department (IAD) shares, following the *Martinez* and *Yazzie* consolidated lawsuit, New Mexico's nations, tribes, and pueblos have worked to formulate and construct remedies for the identified gaps in the state's education system, as well as for gaps in achievement and opportunity. IAD states the remedies tribal partners have developed include strategies to (1) develop culturally and linguistically relevant education resources, (2) develop a culturally competent and supported educator workforce, and (3) address tribal infrastructure challenges. IAD's analysis also highlights the challenges Native American students had prior to the public health emergency were exacerbated by Covid-19 mitigation strategies. For example, many students were required to participate in remote learning but did not have reliable Internet connections at home.

Commission Duties. The commission would be required to review the decision, findings, final judgment, and pleadings filed after the February 2019 order issued by the 1st Judicial Court in the *Martinez* and *Yazzie* consolidated lawsuit; study high-performing education systems nationally and internationally; and study how PED and public school systems are using annual appropriations to close the achievement gap and improve student learning for all students.

The commission would be required to issue findings and recommendations that align with international best practices and that address the findings in the *Martinez* and *Yazzie* consolidated lawsuit. The National Center on Education and the Economy (NCEE) has spent over 20 years conducting research on the distinguishing features of the world's best school systems and helping states change their educational systems. NCEE has identified nine building blocks for a world-class education system: (1) a focus on early child supports, (2) supports for at-risk students, (3) high-quality curriculum and instruction, (4) college and career readiness, (5) a supply of highly qualified teachers, (6) professional incentives and support for teachers, (7) a comprehensive system of career and technical education, (8) a system for developing school leaders, and (9) a governance system capable of implementing powerful policies at scale.

The commission would be required to make findings and recommendations regarding the following:

- Equitable access to high-quality curriculum, instruction, and resources;
- Ensuring a diverse, culturally competent educator workforce;
- Providing for the whole child with supports such as high-quality early childhood programs and wraparound services;
- Ensuring a coordinated and effective governance structure across multiple state agencies; and
- Providing adequate funding for the public school system, including recommendations to support the implementation of the recommendations of the commission.

The commission is required to hold its first meeting by September 1, 2021. In 2022, 2023, 2024, and 2025, the commission is required to provide preliminary reports of its findings and recommendations to the governor, the Legislative Education Study Committee (LESC), the Legislative Finance Committee (LFC), and the Legislative Council Service. The commission would be required to present a final report with these elements on or before June 30, 2025.

ADMINISTRATIVE IMPLICATIONS

Membership. Twenty-seven executive-level, legislative, and public members who represent the state’s ethnic, cultural, linguistic and geographical diversity will be appointed from across the state. The six legislative members of the commission will be appointed by legislative leadership in the House and Senate by both parties to ensure politically diverse membership. Two legislative members will be appointed by the president pro tem of the Senate and one member will be appointed by the minority leader of the Senate. Two legislative members will be appointed by the Speaker of the House of Representatives and one member will be appointed by the minority floor leader of the House of Representatives.

Three executive-level secretaries or their designees will be on the commission, including the secretaries of public education, early childhood education and care, and workforce solutions. Seventeen public members will be appointed who represent teachers, principals, school board members, superintendents, charter leaders, school business officials, teacher preparation practitioners, higher education, the business community, tribal leaders, and education advocates.

The Office of African American Affairs noted in its analysis the commission does not include representation from the Black community in New Mexico. According to the analysis, there is also currently a gap between these students and their peers in access and achievement in the public education system. The office suggests adding representation from this community to the commission.

The chair and vice chair of the commission will be jointly appointed by the governor, the Speaker of the House of Representatives, and the president pro tem of the Senate with unanimous support. If the appointment is not made by July 1, 2021, the House Speaker and the president pro tem of the Senate shall make the appointment. SB148/aSFC requires the vice chair appointment to be one of the four tribal leaders appointed to the commission.

The chair must appoint subcommittees and topical experts who are not members of the commission to serve on those subcommittees. SB148/aSFC requires subcommittee work to include participation from bilingual professionals, Indian education experts, English language learner specialists and experts, special education teachers and instructional support providers, and students considered at risk by the *Martinez* and *Yazzie* consolidated lawsuit. The bill also requires the commission to hear from plaintiffs of the *Martinez* and *Yazzie* consolidated lawsuit, advocacy organizations, charter school representatives, not-for-profit entities that provide educational opportunities, the business community, education experts, education advocates and the public. The PED, LESC, and LFC would be required to provide staff for the commission.

OTHER SIGNIFICANT ISSUES

Maryland Commission. Other states have taken similar steps to study and improve their educational systems. Maryland, for example, established a Commission on Innovation and Excellence in Education in 2016 that concluded at the end of 2019. The commission was charged with reviewing the findings of an adequacy study, reviewing the state’s funding formula, determining how the federal Every Student Succeeds Act would affect primary and secondary education in the state, determining how the state can help students become college and career ready, and reviewing how local school districts spent education funds. To implement these policy changes, the commission created a 10-year plan that would begin in FY21. The plan includes implementation details, such as who would need to enact policy changes, a timeframe for each

policy change, costs associated with the changes, and cost savings by streamlining policies. In the last few weeks, the Maryland General Assembly overrode the governor's veto of legislation passed during the 2020 legislative session to implement the recommendations from the commission. The legislation not only implements commission policy recommendations and includes funding for these recommendations, it also creates an Accountability and Implementation Board to oversee implementation.

SOURCES OF INFORMATION

- LESC Files
- PED
- IAD
- Office of African American Affairs

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