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## FISCAL IMPACT REPORT

SPONSOR Stapleton ORIGINAL DATE 01/25/21  
LAST UPDATED 03/15/21 HB 43/aHAFC/aSFI#1  
SHORT TITLE Black Education Act SB \_\_\_\_\_  
ANALYST Becerra

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Higher Education Department (HED)  
Office of African American Affairs (OAAA)  
Public Education Department (PED)

#### No Response Received

Martin Luther King Jr. Commission (MLKC)

### SUMMARY

#### Synopsis of SFI#1 Amendment

The Senate floor #1 amendment to House Bill 43 (HB43) amends the membership structure of the Black Education Advisory Council to specify the number of members that represent each population or entity that should be included, so that the council is comprised of the following:

- Three current teachers or school administrators of public schools;
- Three current teachers or school administrators of charter schools;
- Two representatives of post-secondary education, including one representative of teacher preparation programs, appointed in collaboration with the Higher Education Department;
- Three parents of currently enrolled students in public schools, appointed in collaboration with the office on African American affairs;
- Three students currently attending a public secondary school, appointed in collaboration with the office on African American affairs;
- One representative of the Higher Education Department;

- One representative of the Office on African American Affairs;
- One representative of the Developmental Disabilities Planning Council; and,
- Representatives of Black cultural, community and business organizations, other community and business organizations and other interested persons.

The Senate floor amendment also amends the duties of the Black education liaison to include, in addition to the current duties, providing links to a statewide hotline, subject to funding, and implementing activities that are recommended and prioritized by the council within available funding.

The amendment removes the current Black education statewide status report requirements and replaces them with the following data requirements, in addition to the data required pursuant to Section 22-2C-11 NMSA 1978 :

- Ethnicity by grade by school;
- The number and type of bilingual and multicultural programs in each school district and charter school;
- Student achievement by ethnicity at all grades measured by a statewide test or other measure of proficiency approved by the department;
- Attendance and truancy for all grades by ethnicity;
- Diploma seals and distinctions earned by ethnicity; and,
- Licensed school employees by ethnicity by school.

The amendment requires every school district and every charter school to provide links to the statewide hotline to report racially charged incidents or racialized aggression, instead of requiring every school and charter school to have their own hotline.

The amendment adds in-person anti-racism, racial awareness and sensitivity training or professional development in addition to the current on-line requirement.

Other changes include technical corrections and restructuring section, subsection, numbering, and lettering to accommodate for the changes made in the amendment.

#### Synopsis of HAFC Amendment

The House Appropriation and Finance Committee (HAFC) amendment to House Bill 43 (HB43) removes the \$200 thousand appropriation included in the original bill.

HB2/HAFC includes \$200 thousand for the purposes of the Black Education Act.

#### Synopsis of Original Bill

House Bill 43 (HB43) appropriates \$200 thousand from the general fund to the public education department for expenditure in fiscal years 2022 and 2023 to carry out the purposes of the Black Education Act.

HB43 enacts the Black Education Act. It creates a New Mexico Public Education Department (PED) Black Education Liaison and a Black Education Advisory Council, and provides the

powers and duties of these. It creates new sections in the Public School Code requiring racial sensitivity and anti-racism training or professional development for school personnel. It requires PED and the New Mexico Higher Education Department (HED) to cooperate in developing programs, curricula and instructional materials that recognize and teach Black culture and anti-racism. HB43 requires that PED in collaboration with HED submit an annual preschool through post-secondary statewide Black education status report and seeks to improve job opportunities for Black people in public and higher education.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

### **FISCAL IMPLICATIONS**

The appropriation of \$200 thousand contained in HB43 is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2023 shall revert to the general fund.

### **SIGNIFICANT ISSUES**

HB43 includes an appropriation to carry out the purposes of the Black Education Act, The appropriation will support the Black Education Liaison – a position whose required responsibilities are recurring both within PED and with the council. Although it is specified that members of the council shall not receive compensation, it is also specified that they are entitled to per diem and mileage, a recurring expense.

HB43 requires extensive responsibilities of the Black Education Liaison and of the Black Education Advisory Council.

The duties of the Black Education Liaison as specified by HB43 are to: advise the secretary and the council on the development and implementation of public policy regarding the education of Black students; 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 Black student education; assist to improve elementary, secondary and post-secondary educational outcomes for Black students; maintain and update information on the department's website or a separate website that includes links to school district and charter school hotlines for reporting racially charged incidents, links to the department's Black education white papers as well as other pertinent research, information on and links to historically Black colleges and universities; 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 Black students enrolled in public schools; support and consult with the council; support school districts and charter schools to recruit parents on site-based and school district committees that represent the ethnic diversity of the community.

The duties of the 23 member Black Education Advisory council as specified by HB43 are to: advise the secretary, school districts and charter schools on matters related to improving public school education for Black students, increasing parent involvement and community engagement in the education of Black students and increasing the number of Black high school graduates who succeed in post-secondary academic, professional or vocational education.

HB43 specifies that the Black Education Liaison and the Black Education Advisory Council work together to study and prepare white papers on current research on methods and practices

that will improve educational outcomes and school experiences for Black students and develop or recommend anti-racism and cultural sensitivity training and professional development programs for all school personnel.

The Office of African American Affairs responded to HB43 stating that:

The position of Black education liaison and Black advisory council are in alignment with resources that have been created through the Hispanic Education Act and the Indian Education Act. In contrast the mandates of this bill are put onto one position. It duplicates the existing work of the Identity, Equity, and Transformation Bureau. This duplication is a necessity because Black students are in need of these resources and their needs have not been highlighted and/or prioritized to the level of necessary impact. The Black education liaison needs to be a team of positions that can move forward the improvement of educational attainment for Black students.

### **PERFORMANCE IMPLICATIONS**

HB43 requires increased performance measures for PED and HED, but specific measures related to collaborations between PED and HED are not included.

### **ADMINISTRATIVE IMPLICATIONS**

HB43 requires activities that would be more efficiently completed by a team of individuals

### **TECHNICAL ISSUES**

The Office of African American Affairs responded to HB43 asking for clarification regarding the use of the word “commission” to refer to an entity:

When “Commission” is mentioned does that refer to the Black advisory council or to the Public Education Commission?

### **OTHER SUBSTANTIVE ISSUES**

The Office of African American Affairs responded to HB43 stating that:

Notably missing from the bill is attention to the increased suspension and punishment rate of Black students in schools. The Black education status report shall include data specific to the suspension and punishment rates by race. Additionally, the call for policies from schools should include anti-discrimination and disparate treatment of students of color in suspension and punishment.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The Office of African American Affairs responded to HB43 stating that:

If legislative action is not taken for the improvement of Black student attainment, the gaps and disparities in learning will continue. Without intentional implementation of resources and supports that are suggested in this bill New Mexico schools will not rise to

the level of equitable and culturally responsive learning environments they could be that improve Black student access and success.

MB/sb/rl/al