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## FISCAL IMPACT REPORT

**SPONSOR** Montoya/Moya/Martinez/Block/Terrazas      **LAST UPDATED** \_\_\_\_\_  
**ORIGINAL DATE** 3/8/23  
**BILL**  
**SHORT TITLE** Secondary Ed Use of “Latinx”      **NUMBER** House Bill 386  
**ANALYST** Helms

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Nonrecurring	Public School and Post-Secondary Institution Operating Budgets

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Responses Received From

Public Education Department (PED)  
 Higher Education Department (HED)  
 Department of Health (DOH)  
 New Mexico Independent Community Colleges (NMICC)  
 Santa Fe Community College (SFCC)  
 Central New Mexico Community College (CNM)

## SUMMARY

### Synopsis of House Bill 386

House Bill 386 (HB386) prohibits the use of the terms “Latinx” or “LatinX,” when the term is used as an all-encompassing term in reference to people of Hispanic descent, in any postsecondary classroom setting or postsecondary instructional materials, and in any public school setting or public school classroom materials.

This bill applies beginning in the 2023-2024 school year. This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

## FISCAL IMPLICATIONS

HB386 does not contain an appropriation.

Analysis from HED and PED do not anticipate substantive fiscal impact; however, both agencies note postsecondary institutions, public schools, and public school districts would be required to ensure instructional materials did not use the terms Latinx or LatinX, and replacing these materials could incur a cost.

Central New Mexico Community College (CNM) anticipates needing to alter course materials for at least six courses if HB386 was passed as currently written: Introduction to American Studies, Introduction to Critical Race and Indigenous Studies, Introduction to Southwest Studies, Introduction to Comparative Global and Ethnic Studies, Introduction to Chicana and Chicano Studies, and Introduction to Latin American Studies.

Additionally, Central New Mexico Community College (CNM) notes:

Many of the top funders of Latinx in education, including the Ford Foundation, the Mellon Foundation, and the W. Kellogg Foundation use the term “Latinx” in their calls for proposals and funding opportunities, as do significant federal funding agencies such as the National Science Foundation. CNM’s failure to respond with the use of the inclusive “Latinx” weakens our applications and proposals and could result in the loss of consideration for funding. There would be indeterminate negative impacts on our overall student enrollment and vacancy rates at CNM as limiting the use of “Latinx” would weaken our ability to recruit diverse students and candidates in our job postings, particularly for faculty positions.

## SIGNIFICANT ISSUES

HB386 prohibits the use of terms LatinX in both public secondary and postsecondary settings and instructional materials. More specifically, the bill would prevent use of Latinx or LatinX “when the term is used as an all-encompassing term in reference to people of Hispanic descent.”

Of note, the bill does not prevent the use of the terms “Latina” or “Latino,” only “Latinx.” In comparison with “Latina” and “Latino,” the terms Latinx or LatinX are often preferred terms in academic and professional settings for referencing the Latina and Latino community at large, rather than assume masculine pronouns as the dominant group pronoun. Latinx can also refer to an individual whose gender identity is either nonbinary or unknown (rather than assume a masculine pronoun for an unknown identity).

PED analysis notes a 2021 Gallup poll found when a group of people were asked their preference on the terms Hispanic, Latino, and Latinx, the overwhelming majority, 57 percent, put down, “does not matter.” While some academics strongly support and others object to the use of Latinx, it is overall unclear who would benefit from the removal of the term “Latinx” or LatinX” in classroom settings.

While not an educational entity in the state, the Department of Health offered perspective on the use of the term Latinx as it relates to actual student health and description of student health.

NMDOH is committed to health equity and promotes equal rights for the LGBTQ+

people. In the context of a gender-neutral term, "Latinx" is intended as an intersectional identity term for use by gender nonconforming people. HB386 may affect the ability of students and faculty of public schools and higher education to fully consider issues of health equity and equal rights for the LGBTQ+ people.

## ADMINISTRATIVE IMPLICATIONS

HED analysis notes institutions would need to examine their existing catalog, web pages, and data systems to ensure that Latinx is not being used and to make changes if they did find that term in use.

PED analysis notes

- The Public Education Department Instructional Materials Bureau, public school districts, charters, and higher education intuitions will have to remove instructional materials that reference Latinx or use the term Latinx, many which have already been purchased, to comply with the provisions of HB386.
- PED is required by Section 22-15-8 NMSA 1978 to adopt a multiple list of instructional materials for selection by districts and charter schools. It also requires the department to have a process for reviewing basal (core) instructional materials for alignment with the state academic content standards and benchmarks and the adoption of supplementary materials that are not reviewed. There are thousands of supplementary instructional materials on the adopted multiple lists. It would be very burdensome for the department to review all of the thousands of instructional materials on the adopted multiple lists for mentions of the term "Latinx."
- This bill would severely limit the instructional materials available for districts and charter schools to select from, given publishers generally create their materials for a national market. Given the expense, publishers are not likely to revise their instructional materials to remove one term for the New Mexico market which is comparably very small.
- This bill could add a burden of significant time to districts and schools to review all of their instructional materials for the term "Latinx," including all print and digital instructional materials.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB386 relates to SB340, which would include adding grade-appropriate instruction on ethnic studies related to New Mexico history for kindergarten to ninth grade students.

## TECHNICAL ISSUES

It is difficult to prohibit the use of a term "in any classroom setting," as noted in HB386, without combining disciplinary action, and it is unclear if disciplinary action is appropriate for a widely used academic term. PED analysis notes the bill suggests teachers, professors, administrators, other educators, and students may be barred from even using the term even in conversation or classroom discussion, which would likely invoke First Amendment considerations, in addition to being next to impossible to monitor.

HB386 may create complications with the Higher Learning Commission (HLC) and New Mexico's higher education institutions. The HLC requires, under auspices of Criterion 2: Ethical

and Responsible Conduct, institutions to the committed to academic freedom and freedom of expression, in addition to requirements for policies and procedures that call for responsible acquisition, discovery and application of knowledge by faculty, staff, and students.

## **OTHER SUBSTANTIVE ISSUES**

Santa Fe Community College was concerned about not being able to use the term Latinx within classroom settings, noting

As an institution of higher education, Santa Fe Community College holds a longstanding tradition of valuing and fostering freedom of speech, freedom of expression, as well as academic freedom within the classroom. It is the college's analysis that proposed House Bill 386 in practice would create significant challenges to the college's ability to honor and uphold educational integrity and First Amendment rights. Our college is consistently engaged in topics of ethnic and racial identity, and while it has been determined that a preference for the term "Hispanic" exists for many in our service area, we believe that the community is best served when higher education institutions and their students are able to safely and respectfully explore and debate topics in the time-honored spirit of academic discourse, free from external restriction. The freedom to explore ideas and concepts, including topics of cultural self-identification, is an important aspect of intellectual growth for students. It is crucial students are provided the ability to explore and debate issues without interference or penalty.

SH/rl/hg