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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 2/10/19  
**LAST UPDATED** 2/15/19     **HB** 394/aHEC

**SPONSOR** Salazar

**SHORT TITLE** Cultural & Linguistic Appropriate Education     **SB** \_\_\_\_\_

**ANALYST** Liu

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

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See Fiscal Implications				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 111, HB 182, HB 250, SB 420  
 Companion to HB 159

### SOURCES OF INFORMATION

LFC Files  
 Legislative Education Study Committee (LESC) Files

#### Responses Received From

Public Education Department (PED)  
 Indian Affairs Department (IAD)  
 Regional Education Cooperatives (REC)  
 New Mexico Independent Community Colleges (NMICC)

### SUMMARY

#### Synopsis of HEC Amendment

The House Education Committee amendment requires school principals and assistant principals to participate in culturally and linguistically responsive instruction professional development (PD) and changes the 2 day PD requirement to a 10 hour PD requirement. The amendment clarifies the 10 hour PD requirement as part of the regular PD plan for teachers and principals rather than additional PD. Additionally, the amendment strikes requirements for level 2 teachers to obtain a bilingual or teaching English to speakers of other languages (TESOL) endorsement to advance to level 3-A licensure.

The amendment adds a temporary provision requiring the PED secretary to convene a working group to develop criteria for evaluating bilingual, multicultural, and TESOL PD courses for approval and review and update TESOL endorsement rules. The group will include the PED

assistant secretary overseeing bilingual multicultural education programs; New Mexico public colleges of education faculty who teach TESOL courses; endorsed elementary and secondary teachers; experts in language acquisition, culture and language, and TESOL; and members of a state bilingual advisory council, Indian education advisory council, and Hispanic education advisory council.

### Synopsis of Original Bill

House Bill 394 establishes criteria for English language learner (ELL) educational programs, requires teachers to complete two days of PD in culturally and linguistically responsive instruction every year, and requires schools to report on this PD to PED. Beginning in FY23, the bill requires level 2 teachers to obtain a bilingual or TESOL endorsement before advancing to level 3-A licensure, and beginning in FY24, applicants for level 1 licensure must have a bilingual or TESOL endorsement.

### **FISCAL IMPLICATIONS**

The bill does not make an appropriation; however, PED notes Title IV of the Civil Rights Act and accompanying Office of Civil Rights requirements as well as the Every Student Succeeds Act, requires that districts, their schools, and charter schools have English learner programs for all English learners.

The executive and LFC FY20 budget recommendations for public schools includes \$2.5 million to PED for bilingual and multicultural education program support, which could be used to provide culturally and linguistically responsive instruction PD. Additionally, both recommendations include \$113 million to increase the at-risk index, which allocates additional funding through the formula to ELL students. The executive recommendation further includes \$7 million to increase the bilingual and multicultural education program factor in the formula.

### **SIGNIFICANT ISSUES**

On July 20, 2018, the 1st Judicial District Court issued an initial decision and order on the consolidated *Yazzie v. New Mexico* and *Martinez v. New Mexico* education sufficiency lawsuits, which found New Mexico's public education system failed to provide a sufficient education for at-risk, ELL, Native American, and special education students. On December 20, 2018, the court issued its final findings and conclusions of law in the consolidated lawsuits. In both the initial decision and final findings, the court cited evidence highlighting areas where funding levels, financing methods, and department oversight were deficient. 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.

The court ruling in the *Yazzie* and *Martinez* case found New Mexico failed to meet constitutional, state and federal requirements for educating ELL students. The court noted the importance and severe shortage of teachers qualified to teach Native American and Hispanic ELL students, as well as the failure by school districts to provide English learner students a program that complied with federal standards. However, the court opined that simply placing ELL students in a classroom with a TESOL-endorsed teacher did not constitute a sufficient program, noting adequate materials, curriculum, and specific strategies provided in a consistent manner were necessary to achieve the strongest gains. The court found many school districts

lacked adequate understanding about second language learning processes and Native American ELLs were often misidentified as requiring special education services.

PED notes the bill does not require administrators to participate in the culturally and linguistically responsive instruction PD or obtain bilingual or TESOL endorsement. The department recommends including administrators in the bill's requirements to ensure they can support and evaluate teachers. **The HEC amendment addresses this issue.** The bill also does not require current level 3-A teachers to obtain bilingual or TESOL endorsements.

According to PED, 14 percent of students in New Mexico are classified as ELL and 10 thousand teachers with an active teaching license have TESOL endorsements for FY18; however, only 5,497 teachers with an active teaching license and a TESOL endorsement are actually employed in New Mexico school districts and charter schools.

IAD notes the bill requires ELL educational programs to be recognized as sound by experts in the field or considered a legitimate experimental strategy. Since programs designed for ELLs include Native languages, IAD notes that experts must include native language speakers that are recognized by their tribal communities, school districts, or tribal leadership. Additionally, the Indian education advisory council could provide effective evaluation and advice in meeting the criteria for ELL educational programs established in the bill.

According to IAD, effectively implementing ELL educational programs should allow for every student to have access to adequate instructional materials at school and allow for students to take these instructional materials home. Additionally, technology resources and high quality teachers should be considered. IAD notes two days of PED in culturally and linguistically responsive instruction every year should be a minimum; however, in tribal communities, language and cultural instruction is a dynamic and evolving process and requires more than two days of instruction a year.

LESC notes courses that meet the TESOL requirement vary and can include any foreign language, methods for TESOL, cultural history, cultural anthropology, linguistics, phonetics, assessment, and parent and community involvement. The coursework requirements are considerably general that a large variety of courses can count toward fulfillment of the endorsement without applicable instruction in meeting the needs of EL students. If teachers are required to obtain a TESOL endorsement to teach students in New Mexico, the training and requirements must be further standardized to ensure teachers are well-prepared to serve ELs rather than simply meeting a requirement for compliance. Additionally, the level of rigor in the preparation of TESOL teachers must be heightened if New Mexico EL students are to be nationally competitive.

### **ADMINISTRATIVE IMPLICATIONS**

PED notes no assessment is currently aligned to the bilingual endorsement competencies to support the development of language in ELL programs, which would need to be developed.

### **COMPANIONSHIP, RELATIONSHIP**

The HEC amendment refers to members of a state bilingual advisory council, Indian education advisory council, and Hispanic education advisory council, which are created in House Bill 159.

As such, this bill is a companion to House Bill 159.

This bill relates to House Bill 111, which makes an appropriation to REC 6 to provide culturally and linguistically responsive education PD; House Bill 159, which creates a multicultural education framework and establishes new councils and PED personnel to oversee new multicultural requirements; House Bill 182, which expands the reading initiative to include culturally and linguistically relevant reading, writing, and spelling; and House Bill 250 and Senate Bill 420, which require annual needs assessments for Native American students.

### **TECHNICAL ISSUES**

The sponsor may want to consider changing the term “English language learners” to “English learners” to align the category with current federal language.

### **OTHER SUBSTANTIVE ISSUES**

REC notes that requiring districts to provide two days of PD in culturally and linguistically responsive instruction to all teachers each year may reduce the amount of PD provided in other areas. Integrating PD in culturally and linguistically responsive instruction into other areas of PD may improve the quality of PD while allowing districts to determine PD needs at the local level.

According to NMICC, some community colleges could provide the PD or resources required in this bill. Given the decline in teacher enrollments in preparation programs statewide and nationwide, NMICC notes concern about making bilingual and TESOL endorsements mandatory.

According to the Education Commission of the States, over 30 states do not require EL training for general education classroom teachers beyond the federal requirements. Approximately 20 states explicitly require EL teachers to have a special certification.

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