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FISCAL IMPACT REPORT

ORIGINAL DATE 3/1/19
LAST UPDATED 3/8/19 **HB** _____

SPONSOR Stewart

SHORT TITLE Commission on Equity & Excellence in Ed **SB** 522/aSRC/aSEC

ANALYST Liu

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
(\$100.0)		Nonrecurring	General Fund
	\$100.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$0.0 - \$5.0	\$4.2 - \$105.0	\$4.2 - \$110.0	Norecurring	Various Operating Budgets

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 5, HB 25, HB 77, HB 159, HB 250, HB 394, SB 1, SB 288, SB 298, SB 420, SB 615, SB 632

SOURCES OF INFORMATION

LFC Files
 Legislative Education Study Committee (LESC) Files

Responses Received From

Public Education Department (PED)
 Higher Education Department (HED)
 Children, Youth and Families Department (CYFD)
 Department of Workforce Solutions (WSD)

SUMMARY

Synopsis of SEC Amendment

The Senate Education Committee Amendment to Senate Bill 522 extends a nonrecurring, special appropriation from the General Appropriation Act (GAA) of 2018 (Laws 2018, Chapter 73,

Section 5, Item 3) to LESC for use in FY20 to pay the costs of the commission on equity and excellence in education. Any unexpended or unencumbered balances from this appropriation remaining at the end of FY20 would revert to the general fund.

Synopsis of SRC Amendment

The Senate Rules Committee Amendment to Senate Bill 522 includes the lieutenant governor as a member of commission.

Synopsis of Original Bill

Senate Bill 522 would create a temporary commission on equity and excellence in education to address issues of educational equity in New Mexico public schools. This executive-legislative commission would be chaired by the lieutenant governor and include members from LFC, LESC, PED, HED, CYFD, WSD, and 21 stakeholders from various education and public groups. The commission would sunset on June 20, 2023.

FISCAL IMPLICATIONS

The bill does not make an appropriation, but requires PED, LESC, and LFC to provide staff for the commission. **The SEC amendment** reauthorizes a \$100 thousand appropriation from the GAA of 2018 for the commission in FY20. LESC notes this \$100 thousand appropriation, which was originally earmarked for an education gap analysis and benchmarking study in FY19, has not been expended to date. Any unexpended or unencumbered balances from this appropriation remaining at the end of FY20 would revert to the general fund.

Public members of the commission will be entitled to per diem and mileage at the same rate as public employees pursuant to the Per Diem and Mileage Act. Given that membership of the commission is likely to be geographically diverse, costs for member per diem and mileage could be significant. HED estimates the additional budget impact for per diem and travel would be an additional \$5,000 cost for the department.

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, English language learner (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.

On December 20, 2018, the 1st Judicial District Court filed a 608-page report documenting the court's findings of fact and conclusions of law and order regarding the *Yazzie* and *Martinez* case. The findings largely mirrored the court's preliminary judgment filed five months prior. On February 14, 2019, the court issued a final judgment and order, which declared that New Mexico violated the due process, equal protection, and education clauses of the state constitution and

found programs for at-risk students, funding for districts, and PED oversight functions were insufficient.

The court enjoined the state to take immediate steps by April 15, 2019, to ensure New Mexico schools had the resources necessary to provide at-risk students with educational opportunities that would prepare them for college and career. Specifically, the order noted that “as soon as practicable every public school in New Mexico would have the resources, including instructional materials, properly trained staff, and curricular offerings, necessary for providing the opportunity for a sufficient education for all at-risk students” and the state could not “conserve financial resources at the expense of...constitutional resources.” The order further required “a system of accountability to measure whether the programs and services actually provide the opportunity for a sound basic education and to assure that the local districts are spending the funds provided in a way that efficiently and effectively meets the needs of at-risk students.”

Provisions of this bill require the commission to review the decision and order, findings of fact and conclusions of law, and final judgment issued by the 1st Judicial District Court in the *Yazzie* and *Martinez* case, study high-performing education systems nationally and internationally, and study how PED and New Mexico schools are using annual appropriations to close the achievement gap and improve student learning. The commission will hold its first meeting by September 1, 2019. On or before September 1 of each year, the commission will provide a preliminary report of its findings and recommendations to the governor, LESC, and LFC. On or before June 30, 2023, the commission will provide its final report.

ADMINISTRATIVE IMPLICATIONS

The bill requires PED, LESC, and LFC to provide staff for the commission. These agencies would need to coordinate meetings, provide analysis, and address fiscal matters relating to member per diem and mileage.

RELATIONSHIP

This bill relates to House Bills 5, 25, 77, 159, 250, and 394 and Senate Bills 1, 288, 298, 420, 615, and 632, which create new reporting and monitoring requirements or studies relating to the public education system.

OTHER SUBSTANTIVE ISSUES

CYFD recommends including additional membership of early childhood representatives from the early learning system or sector. The department also suggests inclusion of the New Mexico School for the Deaf and New Mexico School for the Blind and Visually Impaired on the commission.

PED notes there are multiple groups in New Mexico focused on supporting systemic transformation of public education. A 2018 report by the New Mexico School Superintendent Association (NMSSA) recommends the creation of a state-level education vision taskforce as the starting point in developing an aligned and transformed education system. The proposed education vision taskforce includes similar membership and goals as outlined in this bill. NMSSA also recommends the creation of an ongoing education practitioner advisory council that would collect information, provide feedback, and ultimately ensure decisions are made to equitably distribute human and financial resources.

PED notes the Transform Education NM coalition is advocating for the creation of a public education system that is responsive to findings in the *Yazzie* and *Martinez* court decision and:

- Embraces, reflects, and incorporates the cultural and linguistic heritage of diverse communities;
- Provides extended learning opportunities like summer school and more time in the classroom;
- Values teachers and educators and puts them in a position to succeed in New Mexico;
- Allows all children to access early learning and prekindergarten programs;
- Offers services such as counseling and health clinics that promote learning; and
- Ensures schools receive financial resources required to meet the needs of all children.

PED notes the New Mexico SUN Project, initiated in 2014 by the Borderlands Center for Educational Studies at New Mexico State University, resulted in a stakeholder-driven, long-range comprehensive plan for education in New Mexico. The project included a wide variety of individuals (students, educators spanning prekindergarten through post-secondary programs, parents, non-profit representatives, elected officials, etc.) who developed a next step plan and draft visioning documents based on research conducted in New Mexico as well as international and national best practices.

LESC notes 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. 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. The commission was also tasked with making recommendations on legislation and policy initiatives to enhance the availability of innovative educational opportunities and to enhance the adequacy and equity of state funding for prekindergarten through grade 12 public education. The commission asked the National Center on Education and the Economy (NCEE) to perform a gap analysis that compared Maryland's performance with that of successful education systems from around the world. The commission also used the NCEE's *9 Building Blocks for a World Class Education* report as a guide for how to align Maryland's education practices with those of successful countries. The Maryland process began in August of 2016 and is ongoing.

WSD employs a statewide youth engagement coordinator, tasked with ensuring compliance with state and federal statute, regulation and policy requirements for the implementation of workforce services and programs specifically designed for youth. This position provides ongoing technical assistance and training to the local workforce development boards and their Workforce Innovation and Opportunity Act (WIOA)-funded youth program staff on best and promising practices in youth engagement, strategies for strengthening coordination with youth agencies and organizations. The trainings include a focus on secondary and post-secondary schools and programs in an effort to promote statewide awareness of the unique workforce needs of youth and provide general awareness and utilization of tools and resources available through WSD for youth workforce development. Ongoing coordination and technical assistance is provided to charter and public schools, as requested, to assist with implementation of workforce development activities, tools and resources available to enhance youth career readiness and exploration.

HED notes the commission will be discussing public business and would be subject to the New Mexico Opening Meetings Act.

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