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FISCAL IMPACT REPORT

SPONSOR Stewart ORIGINAL DATE 02/03/21
 LAST UPDATED 03/05/21 HB _____

SHORT TITLE Diversity Commission SB 148/aSFC

ANALYST Becerra

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate but Minimal	Indeterminate but Minimal	Indeterminate but Minimal		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
 LESC Files

Response Received

Public Education Department (PED)
 Indian Affairs Department (IAD)
 Office of African American Affairs (OAAA)

No Response Received

Early Childhood Education and Care Department (ECECD)
 Albuquerque Public Schools (APS)
 Regional Education Cooperatives (REC)

SUMMARY

Synopsis of SFC Amendments

The Senate Finance Committee (SFC) amendments to Senate Bill 148 (SB148) remove the \$200 thousand appropriation included in the original bill. The amendments add a new subsection “G” that requires the governor, the Speaker of the House of Representatives and the President Pro Tem of the Senate to jointly appoint, by unanimous agreement, the vice chair of the Commission on Diversity, Equity and Excellence in Education, who shall also be one of the four tribal leaders appointed to the commission by July 1, 2021.

The amendments also require the chair of the commission to appoint subcommittees and topical experts who are not members of the commission to serve on those subcommittees by changing the word “may” to “shall” on page 5, line 7, of the original bill. Further, the amendments require the chair appoint members who have expertise in each subcommittee issue area, including

bilingual professionals, Native American education experts, English learner specialists and experts, special education teachers and instructional support providers, and students considered at risk by the *Martinez-Yazzie* lawsuit.

The amendments require the commission to review plans developed by researchers, stakeholders, and the department in response to the lawsuit, in addition to other commission duties as described in the bill. The amendments require the commission make findings and recommendations that provide adequate funding for the public school system, including the funding recommendations to support implementation of other recommendations of the commission, in addition to the other recommendation requirements described in the bill.

Other amendments address punctuation and numbering technicalities of the bill to accommodate the amendments described in the previous paragraphs.

Synopsis of Original Bill

Senate Bill 148 (SB148) creates the 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.

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

SB148 appropriates \$200 thousand from the public education reform fund to the Legislative Education Study Committee (LESC) for expenditure in FY22 through FY25. The bill specifies that any unexpended or unencumbered balance remaining at the end of FY25 shall revert to the public education reform fund.

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 LESC.

The long-term nature of the bill and accompanying appropriation suggests the costs incurred in the provisions of the bill are susceptible to a request for a recurring appropriation from the general fund in subsequent years.

SIGNIFICANT ISSUES

Martinez-Yazzie Consolidated Lawsuit. In response to the 2018 1st Judicial District Court decision that found the public education system as not providing a sufficient education or meeting 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 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.

SB148 establishes the Commission on Diversity, Equity, and Excellence in Education that 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.

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.

Notable Provisions. SB148 specifies 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 as follows:

- 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; and
- Ensuring a coordinated and effective governance structure across multiple state agencies.

The commission is required to hold its first meeting by September 1, 2021. In the years following, 2022 – 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. The commission will be composed of 27 executive-level, legislative, and public members who represent the state’s ethnic, cultural, linguistic and geographical diversity and will be appointed from across the state. 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 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.

The chair may appoint subcommittees and topical experts who are not members of the commission to serve on those subcommittees. The bill 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 Public Education Department (PED), LESC, and LFC would be required to provide staff for the commission.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB148 relates to House Bills 43,52, and 87 and Senate Bill 107 as they relate to the Martinez-Yazzie education sufficiency lawsuit.

MB/al/rl