

<b>LFC Requester:</b>	<b>Liu</b>
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**AGENCY BILL ANALYSIS  
2021 REGULAR SESSION**

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply:  
**Original**     **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Date** 1/26/2021  
**Bill No:** HB52

**Sponsor:** Rep. Natalie Figueroa  
BILINGUAL  
**Short Title:** MULTICULTURAL ED  
ADVISORY COUNCIL

**Agency Name and Code Number:** PED - 924  
**Person Writing:** John Sena  
**Phone:** 505-570-7816 **Email:** John.Sena@state.nm.us

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		
NFI	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
N/A	N/A	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

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

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

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB6, State Equalization Guarantee Distributions; HB131, Asst. Secretary of Hispanic Education; and SB131, Discretionary Program Units

Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: House Bill 52 (HB52) creates a new section of the Bilingual Multicultural Education Act (BMEA) that would establish the Bilingual Multicultural Education Advisory Council (BMEAC or council), along with its membership composition and required duties, and amends the definition section of the BMEA to include “bilingual learner.”

**FISCAL IMPLICATIONS**

HB52 does not include an appropriation. Under HB52, BMEAC members may be eligible to receive per diem and mileage as provided for non-salaried public officers in the Per Diem and Mileage Act. PED would also be responsible for additional data collection and reporting requirements. PED would be required to cover the costs related to the provisions of the bill without any funding designated for this purpose. For example, current Bilingual Multicultural Education Advisory Council (current council was previously referred to as the State Bilingual Advisory Council) members may receive per diem if traveling, with an option to request reimbursements for their time committed to the advisory council based on approval by the Department of Finance and Administration. As such, only three advisory council members requested reimbursement in FY20 for a total of approximately seven hundred dollars (\$700). The costs could have been higher if more advisory members had chosen to seek reimbursement for per diem or hotels. On the higher end of associated costs, for example, the Indian Education Advisory Council (IEAC), which has about the same number of council members as the BMEAC under the proposed language of HB52, received almost 11 thousand dollars (\$11,000) in reimbursements for per diem, mileage, and hotels for all meetings attended in FY20.

**SIGNIFICANT ISSUES**

Specifically, HB52 would create the BMEAC to advise the Public Education Department (PED) secretary, PED staff, and the governor on the effective implementation of the BMEA and the support of all bilingual multicultural education students, including bilingual learners and English language learners (ELLs), to have equitable access to instruction and learning. PED is required to appoint 15 members who have technical knowledge of and expertise in bilingual multicultural education and teaching English to ELLs, including:

- three members appointed or designated by the Indian nations, tribes, and pueblos they represent;
- nine members who represent pre-kindergarten through grade 12 teachers, principals, superintendents, other education administrators, and higher education faculty who are from different geographic areas of the state and at least one of whom has a special education background; and
- three parents of bilingual students, including one parent of a Native American student and one parent of a Hispanic student, whose students are enrolled in bilingual multicultural education programs.

Under HB52, PED would be required to appoint BMEAC members from a list generated and approved by both PED and the BMEAC co-chairs that is representative of various stakeholder groups. Among its membership, the BMEAC would be required to elect two members to serve as co-chairs of the council. BMEAC members would begin to serve their appointments on July 1, 2021 for a term of three years. All BMEAC members may serve two consecutive terms, and co-chairs may serve one additional year to assist with transition.

Additionally, BMEAC is required to study issues of bilingual multicultural education for all students, including the needs of bilingual learners and ELLs; and advise PED in the areas of curriculum, instruction, assessment, teacher preparation, teacher evaluation, professional development, licensure, and student and family services to:

- strengthen the quality and effectiveness of bilingual multicultural education programs (BMEPs);
- promote rigorous culturally and linguistically responsive instruction in BMEPs;
- support effective classroom teaching for participating BMEP students, including bilingual learners and ELLs who may or may not be part of standalone federal language acquisition;
- recruit, develop, and train effective bilingual multicultural education teachers and teachers of bilingual learners and ELLs;
- identify professional development best suited and appropriate for the language being taught to teachers, educational assistants, and other licensed employees to work effectively with BMEP students;
- promote professional development opportunities to build capacity of public education administrators to effectively lead BMEPs and become knowledgeable regarding second language acquisition research, theory, and pedagogy;
- develop solutions for streamlining and strengthening program management, implementation, and monitoring of BMEPs at the state, district, and school level;
- develop family and community partnerships representative of the languages and cultures of all students in BMEPs, to assist and advise in the development, implementation, and evaluation of the BMEP; and
- support bilingual learners and ELLs to achieve programmatic goals.

Under HB52, the definition of “bilingual learner” would be added, and defined as follows: “a student whose bilingualism is emerging through the development of English and a language other than English.”

HB52 proposes to create the BMEAC, which would replace the existing Bilingual Multicultural Education Advisory Council, which currently advises PED on matters related to bilingual multicultural education. Under HB52, the BMEAC would not only advise PED, but would also

advise the governor. If the proposed bill is enacted, this would create an inconsistency related to whom an advisory council attached to PED advises directly. For example, the Hispanic Education Advisory Council and the IEAC only advise the PED secretary and not the governor directly.

**BMEPs: District, School, and Student Participation**

According to the Bilingual Multicultural Education Annual Report from the 2018-2019 school year, 54 percent of school districts and 24 percent of state chartered charter schools implemented BMEPs, which includes a total of 534 state-funded BMEPs within 420 schools across the state. Many schools offer more than one model to best meet the needs of its BMEP students.

BMEPs in New Mexico public schools are committed to providing quality services to a diverse student population from different ethnic and cultural backgrounds. The total number of students participating in NMEPs in the 2018-2019 school year total 46,225 students, which represents 14 percent of the overall student population in the state. Table 1, below, details the number of students participating in BMEPs over the last five school years.

**Table 1: Student Participation in BMEPs by Ethnicity from SY14-15 to SY18-19**

Year	Total Number of Hispanic Students		Total Number of Native American Students		Total Number of African American, Asian, and Caucasian Students	
	In BMEPs	Not in BMEPs	In BMEPs	Not in BMEPs	In BMEPs	Not in BMEPs
<b>SY14-15</b>	40,656	166,337	8,453	27,014	3,936	96,205
<b>SY15-16</b>	40,033	167,419	8,302	26,394	4,030	92,430
<b>SY16-17</b>	39,301	167,495	7,295	27,136	3,251	92,578
<b>SY17-18</b>	38,147	169,339	7,394	26,536	3,786	91,753
<b>SY18-19</b>	35,783	163,757	7,025	25,414	3,417	87,380

Source: STARS, 80<sup>th</sup> Day, 2018-2019, BEP and Student Snapshot Queries

There remain gaps in academic achievement rates between BMEP students and non-BMEP students in the state. For example, Tables 2, 3 and 4, below, shows data indicating some differences in academic performance between BMEP students and non-BMEP students.

**Table 2: Average Statewide Proficiency of BMEP and Non-BMEP on Reading from SY17-18 to SY18-19**

Year	Number of Students Tested	Grade 9		Grade 10		Grade 11	
		Non-BMEPs	BMEPs	Non-BMEPs	BMEPs	Non-BMEPs	BMEPs
<b>SY17-18</b>	72,684	29.6%	20.4%	34%	26.4%	42%	36.9%
<b>SY18-19</b>	75,440	35%	22.2%	41.1%	30.2%	43.7%	34%

Source: 2018-2019 Bilingual Multicultural Education Annual Report

**Table 3: Average Statewide Proficiency of BMEP and Non-BMEP on Math from SY17-18 to SY18-19**

Year	Number of Students Tested	Grade 9		Grade 10		Grade 11	
		Non-BMEPs	BMEPs	Non-BMEPs	BMEPs	Non-BMEPs	BMEPs
<b>SY17-18</b>	65,242	20.4%	10.4%	16.2%	8.4%	10.1%	5%
<b>SY18-19</b>	64,995	22%	10.3%	17.6%	8.3%	13.3%	6%

Source: 2018-2019 Bilingual Multicultural Education Annual Report

**Table 4: Average Statewide Proficiency of BMEP and Non-BMEP on Science from SY17-18 to SY18-19**

Year	Number of Students Tested	Grade 4		Grade 7		Grade 9	
		Non-BMEPs	BMEPs	Non-BMEPs	BMEPs	Non-BMEPs	BMEPs
<b>SY17-18</b>	84,322	49.3%	35.2%	45.4%	24.7%	28%	20.9%
<b>SY18-19</b>	83,940	49%	31.5%	47.7%	29%	31.9%	17.1%

Source: 2018-2019 Bilingual Multicultural Education Annual Report

**PERFORMANCE IMPLICATIONS**

N/A

**ADMINISTRATIVE IMPLICATIONS**

Under HB52, the PED secretary and staff would be required to provide biannual reports to the BMEAC regarding progress on yearly advisements.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB52 relates to HB6, State Equalization Guarantee Distributions; HB131, Asst. Secretary of Hispanic Education; and SB131, Discretionary Program Units.

**TECHNICAL ISSUES**

HB52 includes language that would extend the BMEAC role beyond the BMEA. On lines 21-25 of page 1 and on lines 1-5 on page two, the sponsor may wish to amend HB52 as follows:

- A. The "bilingual multicultural education advisory council" is created and shall advise the secretary, ~~department staff and the governor~~ on the effective implementation of the Bilingual Multicultural Education Act ~~and the support of all bilingual multicultural education students, including bilingual learners and English language learners, to have equitable access to instruction and learning as required by state and~~

~~federal education and civil rights laws.~~ The secretary and department staff shall provide biannual reports to the council regarding progress on yearly advisements.

Amending HB52 to reflect the above changes would ensure the BMEAC has purview over the statutory authority of the BMEA exclusively.

It is unclear what a “bilingual multicultural education student” is, and the sponsor may wish to define this term. Specifically, ELLs are protected under Title IV of the federal Civil Rights Act and must be provided an ELL program, which could be, but does not have to be, a BMEP.

Additionally, under HB52, PED would be required to appoint BMEAC members. Typically under other education acts related to specific racial or ethnic subgroups, such as the Indian Education Act, the PED secretary is charged with appointing the members of the IEAC. To be in line with these other education acts, the sponsor may wish to explicitly require the PED secretary to appoint the members, as opposed to “PED” itself.

### **OTHER SUBSTANTIVE ISSUES**

N/A

### **ALTERNATIVES**

N/A

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

PED’s Language and Culture Division will continue to ensure that the existing Bilingual Multicultural Advisory Council is engaged in the implementation of the BMEA, its administrative code (6.32.2 NMAC), and the work specifically within the Identity, Equity, and Transformation Division of PED.

### **AMENDMENTS**

N/A