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

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)

*{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** 2/4/2021  
**Bill No:** SB148

**Sponsor:** Sen. Mimi Stewart  
**Short**    DIVERSITY COMMISSION  
**Title:**    \_\_\_\_\_

**Agency Name and Code**    PED - 924  
**Number:** \_\_\_\_\_  
**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           | \$200.0 | Nonrecurring              | Public Education Reform Fund |
|               |         |                           |                              |

(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<br/>Total Cost</b> | <b>Recurring or<br/>Nonrecurring</b> | <b>Fund<br/>Affected</b> |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| <b>Total</b> | N/A         | N/A         | N/A         | N/A                          | N/A                                  | N/A                      |

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB43, Black Education Act; HB131, Asst. Secretary of Hispanic Education; HB135, School Opportunity and Equity Index; SB193, Rural Equity Ombudsman; and SB230, Institutional Racism in State Agencies.  
Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: Senate Bill 148 (SB148) would create the commission on diversity, equity, and excellence in education (“Commission”) charged with developing a long-term plan to transform public education in New Mexico. SB148 would also create the Commission on diversity, equity, and excellence in education fund.

SB148 contains a sunset provision, which terminates the Commission on July 1, 2025. However, the Commission shall continue to operate until July 1, 2026.

**FISCAL IMPLICATIONS**

SB148 would appropriate \$200,000 from the Public Education Reform Fund (PERF) to the Commission for expenditure in FY22 through FY25 to pay per diem and mileage expenses of the Commission. The Commission may also pay for expert witnesses and other necessary expenses approved by the Commission.

Any unexpended or unencumbered balance remaining at the end of FY25 shall revert to the PERF.

**SIGNIFICANT ISSUES**

**Commission Members**

SB148 would create the 27-person Commission, including: six legislators; the secretaries of public education, early childhood education, and workforce solutions; and an additional 18 members who represent the ethnic, cultural, linguistic, and geographical diversity of the state.

The additional 18 members include the following:

- one representative of the National Education Association New Mexico who is a current teacher, appointed by the president of that association;
- one representative of the American Federation of Teachers New Mexico who is a current teacher, appointed by the president of that federation;
- one school principal, appointed by the chair and vice chair of the Legislative Education Study Committee (LESC);

- one local school board member, appointed by the New Mexico School Boards Association;
- one local superintendent, appointed by the New Mexico School Superintendents' Association;
- one school business official, appointed by the New Mexico Association of School Business Officials;
- one representative from the oil and gas business sector located in the state, appointed by the minority floor leader of the House of Representatives;
- one representative from the business community, appointed by the New Mexico Chamber of Commerce;
- one chief executive or owner of a business located in the state, appointed by the minority floor leader of the Senate;
- a president of a public post-secondary educational institution, appointed by the secretary of higher education;
- one representative from a traditional Public Education Department (PED)-approved teacher preparation program, appointed by the New Mexico Association of Colleges of Teacher Education;
- one representative from an alternative PED-approved teacher preparation program, appointed by the New Mexico Association of Colleges of Teacher Education;
- four tribal leaders, appointed by the secretary of Indian affairs in consultation with the PED's assistant secretary for Indian education, the assistant secretary for Native American early education and care of the Early Childhood Education and Care Department and the director of the American Indian post-secondary education division of the Higher Education Department;
- one parent of a student who attends a public school in the state, appointed by the New Mexico Parent Teacher Association; and
- one representative of Transform Education New Mexico, appointed by that organization.

The Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate would jointly appoint a chair for the Commission by unanimous agreement. If the chair is not appointed by July 1, 2021, the Speaker and the President Pro Tempore would make the appointment.

### **Commission Duties**

The Commission would be required to review the Decision and Order, the Findings of Fact and Conclusions of Law, and the Final Judgment issued by the First 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, address institutional racism, and improve student learning for all students.

Additionally, the Commission would be required to hear from plaintiffs in the Martinez and Yazzie consolidated lawsuit, advocacy organizations, charter school representatives, nonprofit organizations that provide education opportunities, the business community, educational experts, education advocates, and the public. The Commission may work with philanthropic and nonprofit organizations to accomplish its statutory purpose.

The Commission would be required to make findings and recommendations that ensure equitable access to high-quality curriculum, instructional time, instruction, and resources; ensure a diverse,

culturally competent educator workforce; provide for culturally and linguistically relevant whole child supports such as high-quality early childhood programs and wraparound services; and ensure a coordinated and effective governance structure across multiple state agencies, local school boards and charter school governing bodies, public schools, the Public Education Commission, tribal governments, tribally controlled schools and Bureau of Indian Education Schools, the business sector, and post-secondary educational institutions.

The Commission would be required to report to the Governor, LESC, and Legislative Finance Committee (LFC) on or before September 1, 2022 and the first day of September of each succeeding year. The commission would be required to present a final report on or before June 30, 2025.

### **Commission Fund**

SB148 would create the Commission on diversity, equity, and excellence in education fund. The fund would be administered by the LESC.

### **PERFORMANCE IMPLICATIONS**

N/A

### **ADMINISTRATIVE IMPLICATIONS**

The LESC, LFC, and PED would be required to provide staff for the Commission.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB43, Black Education Act; HB131, Asst. Secretary of Hispanic Education; HB135, School Opportunity and Equity Index; SB193, Rural Equity Ombudsman; and SB230, Institutional Racism in State Agencies.

### **TECHNICAL ISSUES**

N/A

### **OTHER SUBSTANTIVE ISSUES**

#### **PED Strategic Plan**

Over the last year, the PED gathered nearly 50 education stakeholders from across the state in order to inform a comprehensive strategic plan that addresses the department's four major priority areas: creating a robust educator ecosystem, closing the opportunity gap, providing a whole child education, and aligning pathways for student success. The proposed duties and outcomes of the Commission are very much in line with the work of the department.

Because the PED is an executive agency and leadership is determined by governor appointment, sustainability of education initiatives and priorities can shift dramatically between administrations. The proposed Commission, made up of a more stable set of members, could provide stability in recommending and guiding education priorities in New Mexico.

#### **Maryland Commission**

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 (Maryland Commission). The Maryland 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 Maryland 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 Maryland 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 Maryland Commission also used the NCEE's *9 Building Blocks for a World Class Education* 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.

Creating such a Commission in New Mexico would allow stakeholders to review actions taken by the legislature, as well as policies and practices already in place, to address Judge Sarah Singleton's Findings of Fact and Conclusions of Law in the consolidated Martinez and Yazzie consolidated lawsuit that New Mexico is providing an inadequate education for at-risk students.

#### **ALTERNATIVES**

N/A

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

N/A

#### **AMENDMENTS**

N/A