Public Education Department

Audit of Bilingual Multicultural Education Program
January 19, 2004

Report to
the LEGISLATIVE FINANCE COMMITTEE

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DAVID ABBEY
DIRECTOR

January 19, 2004

Dr. Veronica C. Garcia
Secretary Designee
300 Don Gaspar
Santa Fe, New Mexico 87501-2786

Dear Dr. Garcia

On behalf of the Legislative Finance Committee (Committee), we are pleased to transmit our audit of Bilingual Multicultural Education.

The audit team interviewed key personnel, examined documents, analyzed Accountability Data System (ADS) program data, visited select school districts to validate sample ADS data and surveyed all school districts regarding the program. The contents of this report were discussed with you and your staff. This report will be presented to the Committee on January 19, 2004.

We appreciate the Public Education Department's cooperation and assistance. As always it has been a pleasure working with your staff.

Sincerely,

David Abbey
Director

DA/gcc

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EXECUTIVE SUMMARY

Executive Summary

Over the last three fiscal years program funding has increased while funded membership has decreased.

The objectives of this audit were to determine:

- Requirements for program funding,
- Distribution of program funds,
- Use of funding,
- Compliance with state and federal regulation, and
- Measurable program outcomes.

State bilingual education program funding increased 3 percent from school year (SY) 01 to SY03 while the funded membership in the bilingual education program decreased 9 percent. The increase in program funding is due to the increase in the unit value of the state equalization guarantee (SEG) funding formula.

Funding Received for English as a Second
Language and Bilingual Education Programs

Fiscal Year	Funded Membership	State Funding	Federal Funding
FY03	65,243	$37,077,592	$4,184,968
FY02	67,530	$37,806,852	$2,791,822
FY01	71,502	$35,954,077	$5,277,756

Source: Public Education Department

Throughout this report the following key acronyms and terms will be used. Other acronyms are defined in the glossary appendices:

LEP/ELL = limited English proficient student preferred term is English language learner (ELL) whose first language is not English and who are unable to speak, read, write and understand English at a level comparable to their grade-level English proficient peers;

Non-LEP = fluent English proficient (FEP) student who has a primary language other than English, is able to speak, read, write and understand the English language at levels comparable to grade level English proficient peers and English native speakers; and

Bilingual education student/population = bilingual education student enrollment comprised of LEP/ELL, FEP and native English speaking students.

Based on the Public Education Department's (department) Accountability Data System (ADS) 120th-day data reported for SY01 to SY03, the number of students whose home language is not English has increased 20 percent, from 92,989 to 111,668, while the number of students classified as having limited English proficiency (LEP) has decreased 4 percent from 67,179 to 64,777.

According to *Overview of Public Elementary and Secondary Schools and Districts*, the National Center for Education Statistics (NCES) report for the 2001-2002 school year and the most recent available, New Mexico was serving 20.6 percent (66,035) of its statewide student population through LEP services. The only state serving a higher percentage of LEP students was California, which serves 24.6 percent (1,510,859) of its statewide student population through LEP services. Analysis of ADS raised concerns regarding reporting accuracy.

According to an October 30, 2003, article in *Education Week* on bilingual education, the original objectives of bilingual education were to ensure that students who did not speak English would not fall behind academically and would gradually learn English. The article stated that "attempts to compare the effectiveness of English immersion to bilingual education have been controversial and inconclusive."

It is unclear whether the law was enacted to provide services pursuant to the state constitution.

The state bilingual education program has become convoluted and confusing to administer. It conflicts with the state Constitution and may not satisfy the requirements of the federal No Child Left Behind Act, which requires students to take academic assessments in English within three years of attending a U.S. school and show adequate yearly progress. Article XII, Section 8, of the New Mexico Constitution states, "The legislature shall provide…Spanish speaking students…proper means and methods to facilitate the teaching of the English language and other branches of learning to such pupils and students."

The state bilingual program does not have the same goals as the federal Title III program. The main goal of Title III is for LEP students to attain English proficiency. The state bilingual education program goal is to develop literacy skills in English and the home or primary language.

The law does not define "language capabilities."

Program financial support is not determined in accordance with the state Bilingual Multicultural Education Act. The act requires the department fund programs for students in grades kindergarten through three for whom there is an identifiable need to improve language capabilities before funding programs at higher grade levels. However, the law is unclear regarding whether "language capabilities" comprises English or the native language or both.

The following graph based on SY03 120th-day data identifies the total number of kindergarten through third grade students identified as LEP and non-LEP and enrolled in bilingual education. In SY03, there were 22,904 LEP students in kindergarten through third grade. As the data indicates, 17,240 LEP students were enrolled in the bilingual education program and 5,664 may not be receiving services through other

programs designed to develop their acquisition of the English language. However, the program appears to help non-LEP students acquire other languages.

Breakdown of K-3 in Bilingual Education Students by LEP and non-LEP Status: SY03
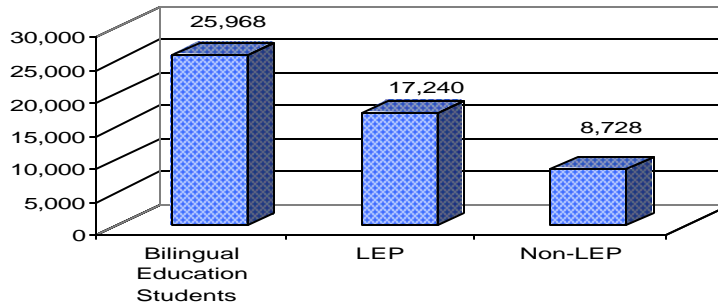
Data Source: ADS 120th-Day report date.

Expenditure data reported to the department by school districts do not provide the detail necessary to determine the cost of bilingual education. The data also do not show how much of the SEG funding generated for bilingual education is actually spent on the program, as reported by the LFC in the *Audit of School District Accountability* dated October 16, 2003.

The statutorily broad program purpose and State Board of Education (SBE) regulation allow school districts to choose from five models, which should correspond to the hours of instruction required. The following table provides the state bilingual education program goals and processes implemented in SY04. Exhibit 4 provides more detailed information regarding program models and their purpose.

Expenditure of bilingual education funding cannot be determined.

Current program design will significantly increase funding needs.

Program outcomes for New Mexico students:

•become English proficient
•become bilingual
•revitalize native tongue (Spanish and Native American)

Table 1. State Bilingual Education Program Design

Goals	Ensure that linguistically and culturally different students, including Native American and other students who may wish to participate, • Develop literacy skills in English and in the home or primary language and • Receive sequential curriculum and instruction in the history and culture of New Mexico.
Assessment	Language proficiency in English and home language through annual language proficiency assessment.
Program Design	Districts may elect one or more of the following program models but the model must be based on scientifically based research: • Dual language immersion – three hours per day for LEP, FEP, and English native speakers; • Maintenance – two to three hours per day for LEP; • Enrichment – one or two hours per day for FEP and English native speakers; • Indigenous language or language revitalization – one to three hour per day for LEP, FEP and English native speakers; • Transitional – two to three hours per day for LEP.

Source: State Bilingual Multicultural Education Program Technical Assistance Manual

Students assessed as LEP with English as primary language might have academic deficiencies unrelated to English language proficiency.

The department does not provide guidance to school districts on how to use language assessments to place students in the appropriate model with the appropriate number of hours of service. School districts experienced difficulty in providing an adequate bilingual education program prior to SY04 program changes and report they are still experiencing difficulty.

It is apparent that school districts do not fully understand how to properly assess, place, and monitor students so that they may become academically successful. Testing of a sample of school district data identified Caucasian, Hispanic, and Native American students whose home language survey identified English as the primary language, but who were identified as having limited English proficiency. There was no evidence of the teacher survey required to trigger a language assessment. Several of these students were placed in special education as specific learning disabled. Therefore, it is unclear whether the academic deficiencies of these students is a result of an English language deficiency, a learning disability, or poor basic academic skills, which might be better served through remedial classes.

In its *2001 annual report to Congress, the Office of Special Education Programs of the U.S. Department of Education* discusses identification and assessment of LEP students with disabilities. The report states, "Assessment is particularly important for LEP students, since research suggests that it is extremely difficult to distinguish between a genuine disability and a student's lack of understanding of the majority culture and language." It is difficult to differentiate between a disability and limited English proficiency.

Survey responses from school districts that do not apply for or receive state bilingual education funding indicate they lack an understanding of Office of Civil Rights (OCR) requirements. Several school districts believe that assessing students' language proficiency satisfies OCR requirements. However, school districts must provide English language learners with alternative language services and school districts must define education goals for these students.

Analysis and validation of ADS data for SY03 indicate that the data are unreliable because the department and school districts have not:

- Implemented adequate internal and quality controls to ensure data integrity,
- Understood the link between program information and ADS data, and
- Developed adequate data analysis processes.

A main purpose of ADS is to ensure reliability of the data on student membership in general education and categorically funded programs for determination of state equalization guarantee (SEG) funding distribution. Membership in bilingual education is determined by prorating the cost differential of 0.5 to the hours of service provided – one, two, or three hours. A sample of 372 student records for SY03 was selected based on analysis of the ADS database. Seventeen schools in eight school districts were visited. Although ADS has improved student data reporting, the following are examples of misreported program data, based on the sample tested:

- 10 percent of students reported as enrolled were not enrolled,
- 5 percent of students reported as not enrolled were enrolled,
- 19 percent of assessment dates were incorrect,
- 9 percent of students were incorrectly reported as LEP,
- 9 percent of students were incorrectly reported as Non-LEP, and
- 16 percent of assessment dates were not reported.

Inaccurate reporting of student membership in bilingual education has a direct impact on state and federal funding; school, district, and state performance; school and district program performance results; and statistics reported to NCES, which are used for national comparison.

LEP students perform better on Spanish assessment than on English assessment.

Assessment results are also of concern. In SY03, LEP students scored significantly below the 40th percentile on the Terra Nova (English) assessment in most grades and subjects. However, LEP students scored significantly above the 40th percentile on the SUPERA (Spanish) assessment. These results indicate that programs designed to improve students' English proficiency should receive funding priority rather than those designed to make students become bilingual or revitalize heritage languages.

Conclusion

The bilingual education program is in transition as a result of No Child Left Behind, amendments to the Public Education Act, and department initiatives. Internal policies and procedures did not and still do not exist. However, to be in compliance with federal and state requirements the department has strengthened the program application, approval and monitoring process by:

- Implementing the focused monitoring concept to replace program review through the accreditation process,

- Establishing program indicators to identify school districts in need of monitoring visits,
- Requiring school districts to provide biannual reports indicating outcomes of the program, and
- Incorporating review of ADS data into the program approval and monitoring system.

The department has also developed the following for school districts:

- A technical assistance manual,
- English Language Development (ELD) standards,
- Heritage Language Revitalization Handbook,
- ELL assessment accommodations (instructions, frequently answered questions and checklists), and
- Several bilingual education brochures.

It is too early to determine if the department's efforts will improve program implementation and success.

As stated in an article titled *What's Wrong with Our Schools* that appeared in the September 2003 issue of *State Legislatures,* states could pay for efforts to improve education by ending the dozens of "categorical" programs that have accumulated. Schools have used these programs to fix one problem after another instead of addressing the core issue – delivering the highest quality instruction to those most in need of it. The article goes on to say that each student generates a basic amount of revenue for the school he or she attends. But that basic amount is supplemented if a child is poor or is not fluent in English or is learning disabled, conditions that make them more difficult and more expensive to educate.

There is no documented evidence to indicate the program is making a difference on student achievement because the department has not complied with its own regulation for program funding.

SEG provides a cost differential for bilingual education that provides more funding for students enrolled in this program. If the department complied with its own regulation, school districts would be required to modify their programs, with the assistance of department staff, to ensure that students most in need are receiving appropriate services to improve their academic achievement.

No Child Left Behind requires students to take assessments in English within three years.

The increasing population of LEP students makes it critical to New Mexico's future that the needs of these students be addressed if the state wants to improve its economic future and comply with No Child Left Behind. Academic achievement under No Child Left Behind requires annual assessments in the English language, math, and reading or language arts after the third consecutive year of attendance in a U.S.

school. This requirement will also apply to science in SY06. How will New Mexico meet this requirement if program funding is not serving the students most in need and demonstrate adequate yearly progress?

Recommendations

Amend Bilingual Multicultural Education Act to clarify its purpose.

The Legislature should consider a review of the Bilingual Multicultural Education Act to clarify its intent. In relation to education reform the legislature and the department should work together to amend the Bilingual Multicultural Education Act to clarify program purpose and provide direction on program priorities.

The department should:

- Comply with statutory and regulatory program requirements for program funding and outcomes;

- Establish and implement adequate internal controls for ADS data to improve the accuracy and reliability of the data. Continue to train department and school district personnel on the importance of ADS data accuracy and how errors affect funding, program compliance, and program outcomes;

- Require school districts to correct ADS data by comparing them to pertinent documents. Develop a plan to encourage and hold districts responsible for reporting accurate data in ADS; and

- Ensure school districts are providing adequate services to all LEP students and are properly identifying and classifying students.

Implement an adequate chart of accounts to allow for expenditure analysis by program and relate program outcomes to costs.

REVIEW INFORMATION

Background. In 1911, the state constitution acknowledged the rights of children of Spanish descent. Article XII, section 8 requires that the Legislature provide for training of teachers in the normal schools or otherwise so that they may become proficient in both English and Spanish languages to qualify them to teach Spanish-speaking students. This section also requires that the Legislature provide proper means and methods to facilitate the teaching of English and other branches of learning to such students. Section 10 requires that students of Spanish descent never be housed in separate schools and that these students forever enjoy perfect equality with other children in the public schools and education institutions of the state. The Legislature was required to provide penalties for violation of this section.

The purpose of the Bilingual Multicultural Education Act, Sections 22-23-1 through 22-23-6 NMSA 1978, is to ensure equal educational opportunities for students in New Mexico and encourage cognitive and effective development of the students in New Mexico by:

- Using the cultural and linguistic backgrounds of students in the curriculum,
- Providing students with opportunities to expand their conceptual and linguistic abilities and potentials in a successful and positive manner, and
- Teaching students to appreciate the value and beauty of different languages and cultures.

The act requires the state board of education and Public Education Department (department) to develop guidelines for development and implementation of the program, to administer and enforce provisions of the act, and to assist school boards in developing and evaluating programs. To be eligible for state financial support, the law requires each program to:

> (1) Provide for education needs of linguistically and culturally different students, including Native American children and other students who may wish to participate, in grades kindergarten through 12, with priority to be given to programs in grades kindergarten through three, in any public school or any combination of public schools in the school district;
> (2) Fund programs for culturally and linguistically different students in the state in grades kindergarten through three for which there is an identifiable need to improve the language capabilities of students before funding programs at higher grade levels;
> (3) Use two languages for instruction for any part or all of the curriculum of the grade levels within the program;
> (4) Use teachers who have specialized in elementary or secondary education and who have received special training in bilingual education conducted through the use of two languages; and
> (5) Emphasize the history and cultures associated with the students' mother tongue.

Section 22-8-22 NMSA 1978, Bilingual Multicultural Education Program Units, states that the number of bilingual multicultural education program units is determined by multiplying the full-time equivalent membership in programs implemented in accordance with the provisions of the Bilingual Multicultural Education Act by the cost differential factor of 0.5. The cost differential is applied to the number of hours students receive program instruction as follows: one hour is one-sixth of the 0.5; two hours is one-third of the 0.5; and three hours is one-half of the 0.5.

Authority for Review. The Legislative Finance Committee (LFC) has the statutory authority under Section 2-5-3 NMSA 1978 to examine laws governing the finances and operations of departments, agencies, and institutions of New Mexico and all of its political subdivisions and the effects of laws on the proper functioning of the government, its policies and costs. LFC is also authorized to make recommendations for change to the Legislature. In the furtherance of its statutory responsibility, LFC may conduct inquires into specific transactions affecting the operating policies and cost of governmental units and their compliance with state law.

Objectives. The objectives of this review are to determine:

- Requirements for program funding,
- Distribution of program funds,
- Compliance with state and federal regulation,
- Use of funding, and
- Measurable outcomes of the program.

Procedures.
Review laws and regulations,
Review reports issued by other agencies,
Interview department bilingual education unit staff,
Analyze the ADS database,
Review bilingual education program and administrative budget expenditures,
Review compliance investigation reports and corrective action,
Review school district applications for state and federal bilingual education program funding,
Validate a sample of ADS data, and
Survey all school districts participating and not participating in the program.

Scope. The following data and documentation were reviewed:

- ADS data SY01 through SY03,
- Program funding for SY01 through SY03,
- Parity and growth data SY01 through SY03,
- School district applications for bilingual education program funding SY03, and
- Sample school district ADS 120th-day data for SY03.

Audit Team Members.
Manu Patel, Deputy Director of Audit
G. Christine Chavez, Performance Audit Manager
Renada Peery, Performance Auditor
Scott Roybal, Performance Auditor
Ronald Sissel, Performance Auditor
Susan Fleischman, Performance Auditor

Exit Conference. An exit conference was held on January 6, 2004, those in attendance included:

Dr. Veronica Garcia, Department Secretary; Don Moya, Assistant Secretary; Phyllis Martinez, Education Administrator, Bilingual Mulitcultural Education Unit; Bill Blair; Deputy Director, Accountability and Information Services; Tom Lewis, Education Administrator; Dr. Peter Winograd, Director, Office of Education Accountability; Manu Patel, LFC Deputy Director for Performance Audit; G. Christine Chavez, LFC Audit Manager, Renada Peery, LFC Performance Auditor and Ron Segura, LFC Senior Fiscal Analyst.

Report Distribution. This report is intended for the information of the Public Education Department, Office of the Governor, Office of the State Auditor, Department of Finance and Administration, Legislative Education Study Committee, and the Legislative Finance Committee. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Manu Patel
Deputy for Performance Audit

**FINDINGS, RECOMMENDATIONS, AND
DEPARTMENT RESPONSES**

COST OF BILINGUAL EDUCATION

Over the last three years, state funding for bilingual education increased by 3 percent while program-funded membership decreased by 8.75 percent. Federal funding fluctuated over the same time period. Federal funding in FY01 and FY02 was received through Title VII; in FY03, funding is under Title III. Combined federal and state funding increased 0.08 percent over the last three fiscal years. Bilingual education program funding is 2.1 percent of the general fund appropriation for public school support (In 2002, the general fund appropriation for public school support was $1.8 billion). The state funds 100 percent of the bilingual education program. Federal funding covers English as a Second Language (ESL) programs only.

Funding Received for English as a Second Language and Bilingual Education Programs

Fiscal Year	Funded Membership	State Funding	Federal Funding	Total Funding
FY03	65,243.32	$37,077,592	$4,184,968	$41,264,481
FY02	67,529.70	$37,806,852	$2,791,822	$40,598,674
FY01	71,501.68	$35,954,077	$5,277,756	$41,231,833

Source: Public Education Department

School districts generate bilingual education program funding through the state equalization guarantee (SEG) funding formula based on average prior-year membership in one-, two- and three-hour programs. Student enrollment in specific program hours should correspond with the program model offered based on student language assessments. The cost differential of 0.5 is prorated according to the number of hours offered. For instance, a one-hour program equates to one-sixth of the 0.5; a two-hour program is one-third of the 0.5; and a three-hour program is one-half of the 0.5. School districts with a low enrollment in bilingual education can generate more funding if the majority of students are enrolled in a three-hour program.

Table 1 provides an example of how the funding formula works for FY04 bilingual education membership. The state-provided funding amount of $35,380,582 did not reconcile with the Public Education Department's (department) total of $35,785,292 from the preliminary 2003-04 figures. The funding totals could not be reconciled for the following reasons:

- Membership in charter schools was not included in the department-provided data;
- Membership data were missing for Rio Grande High School in Albuquerque public school district. Membership numbers were manually entered for funding purposes, but the incorrect membership numbers were never corrected in the Accountability Data System (ADS); and
- The Taos school district submitted incorrect membership numbers. New membership numbers were entered into ADS. However, due to lack of internal control there is no documentation as to why the numbers were changed or who approved the change.

For SY04, 48 percent of the projected membership is in three hours of instruction, which generates 63 percent of the program funding.

Table 1: FY04 SEG-Generated Funding for Bilingual Education Based on Hours of Service

Program Hours	Membership (MEM)	Percent of Membership	Funding Units	Percent of Funding Units	SEG Generated by Unit Value of 2,977.23
One Hour	10,644.33	17.24%	887.030	7.46%	$2,640,892
Two Hours	21,281.67	34.48%	3,546.945	29.85%	$10,631,010
Three Hours	29,799.00	48.28%	7,449.750	62.69%	$22,328,614
Total Membership	61,725.00	100.00%	11,883.725	100.00%	$35,380,582

Data source: SY03 ADS average 40th-, 80th-, and 120th–day reports.

Table 2 lists the top six school districts for number of bilingual education and LEP students and associated funding amounts for SY03. These six districts account for 50 percent of statewide program funding. Exhibit 1 provide the percent of LEP and bilingual students to total LEP and bilingual students statewide by district along with the percent of bilingual education SEG received by school district to total bilingual education SEG funding statewide in SY03. Exhibits 2A and 2B provide the number of bilingual and LEP students, and projected funding by school district for SY03. This information was taken from revenue data provided by the department.

Table 2: Top Six Schools Districts with Highest State Equalization Guarantee (SEG), Number of Bilingual Student Population and LEP

School District	Bilingual Education Funding	Number of Bilingual Students	Number of LEP
Albuquerque	$9,094,325	13,791	12,406
Gadsden	$3,348,255	4,814	8,079
Santa Fe	$1,683,606	3,771	3,699
Espanola	$2,312,475	3,342	2,265
Central Consolidated	$1,383,535	3,298	3,782
Gallup-McKinley	$783,088	1,106	5,206

Data source: Department SY03 SEG data and ADS 120th report date.

As identified in a previous audit of school district administrative accountability, issued October 16, 2003, by the Legislative Finance Committee (LFC) performance audit unit, the department has not required or established account codes to identify expenditures by program. Therefore, expenditure of state appropriations for the bilingual education program could not be determined. State statute pertaining to the funding formula states that SEG funding is discretionary once distributed to school districts. As a result school districts are not required to spend funds categorically unless the department finds that they are not delivering the required program services. School districts participating in the state bilingual education program report that only 35 percent track expenditures. Table 3 summarizes school districts' responses about how bilingual education funding should be treated, as reported in the bilingual education survey conducted as part of this review.

Table 3: Survey Results of School District Responses on How Bilingual Education Funding Should Be Treated

	Non-Participating School districts	Participating School districts
Categorical	21%	54%
Discretionary	68%	42%

Data source: Bilingual education survey of school districts.

Recommendations.

Develop and implement adequate written internal control procedures to ensure that ADS data is reliable and complete for generating the state equalization guarantee funding and program monitoring. Internal controls should consist of:

- a written request by the school district's superintendent,
- documentation of review of the request by all parties involved,
- documentation on resolution to the request, and
- documentation that the person changing ADS data had approval from a supervisor.

A form should be developed to track the department's internal approval process. Research and review adjustments made to Albuquerque Public School – Rio Grand High School and Taos school districts membership for SY04 as soon as possible to determine who authorized the changes and resolve the issues with Taos membership numbers.

Adopt the National Center for Education Statistics (NCES) chart for accounts that provides for program codes to determine program cost and compare costs with associated results.

Department Responses.

- The Bilingual Multicultural Education Unit (BMEU) has already implemented a new process to validate the information from Accountability Data System (ADS), applications and School Budget Unit. This new process will allow the BMEU to ensure that districts will be funded appropriately, based on real numbers of students served and reported in the applications and in the ADS.

- BMEU will start discussions with the School Budget Unit to develop an expenditure report that will allow districts to report how much of the money has been used in the Bilingual Education programs. Both units will review the NCES chart for account models to develop our own chart which will allow the PED to correlate program costs with program outcomes.

- The Public Education Department (PED) will develop an internal procedure to ensure that all units involved in the program (BMEU, School Budget, ADS) will participate in any decision that will affect changes in the funding, allocations to districts or in the numbers reported in the ADS. Also, this internal process will require maintaining official records of the action(s) taken by the PED and districts.

PROGRAM FUNDING COMPLIANCE.

Determining program compliance was difficult because legislative intent for the program is unclear.

- English language proficiency is not specifically contemplated by the Bilingual Multicultural Education Act as it is in the state constitution.

- Amendments made to the Public Education Act in 2003 were not incorporated into the bilingual education program.

Program funding has been awarded without adherence to state law, requirements established by the State Board of Education (SBE) regulation and the Bilingual Multicultural Education Guidelines for Compliance with Existing Federal and State Law. There is no documented evidence that programs for culturally and linguistically different students in grades kindergarten through three, who have an identifiable need for improved language capabilities, are funded before programs at higher grade levels are funded. The department has not administered and enforced statutory provisions or assisted school boards in developing and evaluating programs as required by state law and SBE regulation.

The constitution states the Legislature shall provide proper means and methods to facilitate teaching of the English language and other branches of learning to Spanish-speaking pupils. However, the Bilingual Multicultural Education Act does not specifically state that its purpose is to improve English-language proficiency. The purpose of the act is to ensure equal education opportunities and to encourage cognitive and effective development of the students in New Mexico by:

- Using the cultural and linguistic backgrounds of students in the curriculum,
- Providing students with opportunities to expand their conceptual and linguistic abilities and potentials in a successful and positive manner, and
- Teaching students to appreciate the value and beauty of different languages and cultures.

Table 4 compares the federal No Child Left Behind Title III program and the state bilingual education program implemented in SY04.

Table 4: Comparison of Federal Title III to State Bilingual Multicultural Education Program

	No Child Left Behind Act Title III	State Bilingual Education Regulation
Goals	Ensure that LEP and immigrant students - Attain English proficiency, - Develop high levels of academic attainment in core academic subjects, and - Meet the same challenging state academic standards all children are expected to meet.	Ensure that linguistically and culturally different students, including Native American and other students who may wish to participate, - Develop literacy skills in English and in the home or primary language, and - Receive sequential curriculum and instruction in the history and culture of New Mexico.
Assessment	Language proficiency through annual English-language assessment	Language proficiency in English and home language through annual language proficiency assessment
Program Design	School districts may select one or more methods of instruction consistent with the requirements of state law. Language instruction must be tied to scientifically based research on teaching ELL/LEP students, and language instruction curriculum must demonstrate effectiveness.	Districts may elect one or more of the following but the program must be based on scientifically based research. - Two-way dual language immersion, - Maintenance, - Enrichment, - Indigenous language or language revitalization, - Transitional.

Source: Technical Assistance Manual – Bilingual Multicultural Education Unit SY04.

The following graph identifies the number of LEP students in kindergarten through third grade who were not enrolled in the bilingual education program for the last three years. However, non-LEP students in kindergarten through third grade were enrolled in the bilingual education program with almost 50 percent participating in the three-hour bilingual program. According to department staff the three-hour program was designed to target LEP students under the old guidelines.

LEP Students Participation in Bilingual Education K-3
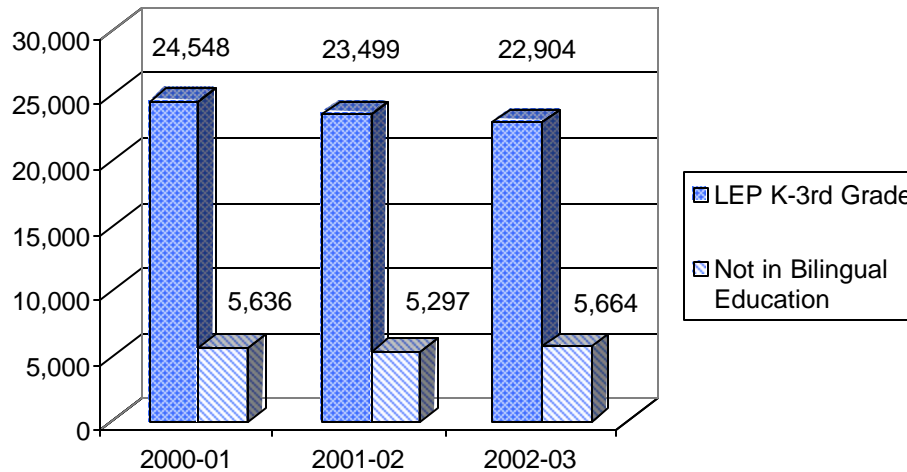
Source: ADS 120th-day report.

The following graph shows the number of program hours LEP students in kindergarten through grade three are receiving in bilingual education. Six hour programs are no longer funded by the department.

LEP Students with Hours in Bilingual Education K-3
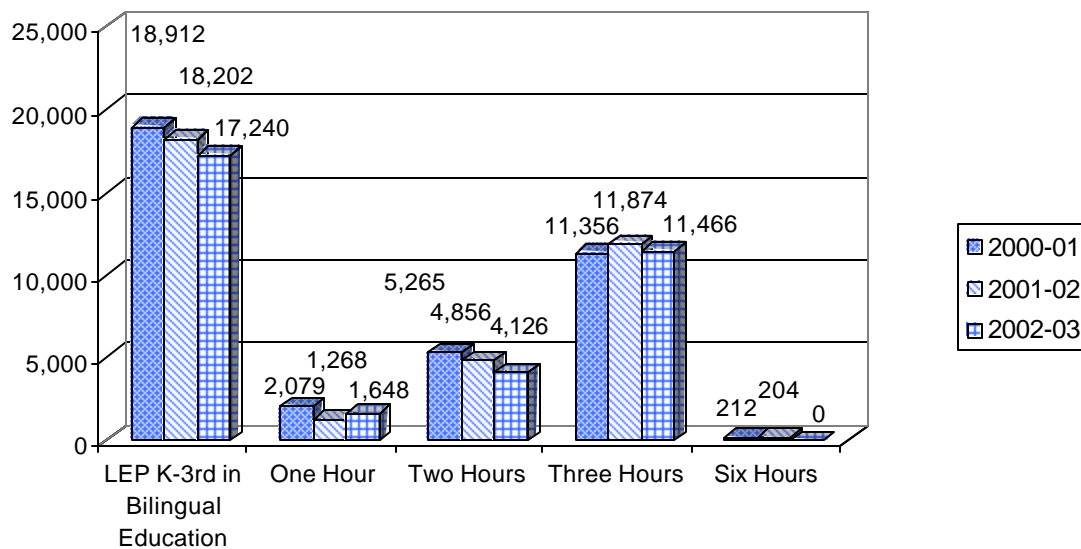
Source: ADS 120th-day report.

In addition, for grades four to 12 in SY03, 41,873 LEP students and 11,303 non-LEP students were enrolled in bilingual education. The majority of non-LEP students were receiving two hours of services. According to the state's bilingual education guidelines, a school district may withdraw a student from a formal alternative language program upon receipt of a written instruction from a parent. Nevertheless, the school district is still obligated to use appropriate informal means to ensure that the student's English-language and academic needs are met.

The act requires the state board and department to provide guidelines for development and implementation of the program, to administer and enforce provisions of the act, and to assist school boards in developing and evaluating programs. To be eligible for state financial support the law states each program is required to:

(1) Provide for the education needs of linguistically and culturally different students, including Native American children and other students who might wish to participate, in grades kindergarten through 12, with priority to be given to programs in grades kindergarten through three, in any public school or any combination of public schools in the school district;
(2) Fund programs for culturally and linguistically different students in grades kindergarten through three for which there is an identifiable need to improve the language capabilities before funding programs at higher grade levels;
(3) Use two languages for instruction for any part or all of the curriculum of the grade levels within the program;
(4) Use teachers who have specialized in elementary or secondary education and who have received special training in bilingual education conducted through the use of two languages; and
(5) Emphasize the history and cultures associated with the students' mother tongue.

Exhibit 4 provides the various program model designs for the state bilingual education program implemented for SY04. School districts under Title III at a minimum must offer English as a Second Language (ESL) programs. The department does not list ESL as a program model option, which has created confusion for the school districts that receive Title III funding. The state bilingual education program does not fund ESL only programs.

The Bilingual Multicultural Education Act defines "culturally and linguistically different students" as those persons who are of a different cultural background than the majority culture of the state and whose native tongue is a language other than the language of the majority culture within the state.

Non-adherence to SBE regulation and bilingual education guidelines violates state law, gives preference to non-LEP students and places LEP students at an academic disadvantage by not providing them with a free, appropriate education. There is no evidence that the department followed its own guidance concerning the following practices:

- Applications for state funding for bilingual programs serving LEP students in grades kindergarten through third grade should be funded before programs serving LEP students in grades four through 12,
- Programs serving LEP students should be funded prior to non-LEP programs for FEP students,

- A program must be evaluated before funding is continued, and
- A program must be assessed to determine it supports the Educational Plan for Student Success.

The Bilingual Multicultural Education Guidelines describe what is required to meet SBE Regulation 75-19:

- Department personnel should assist school districts in development, implementation, and evaluation of bilingual programs;
- Programs are to be implemented as per state board guidelines;
- The department will review the school district's evaluation data on students; and
- Student achievement through English and home language should be assessed to determine program implementation quality.

The statement of purpose in the guidelines in effect during the review period state, "All state bilingual multicultural education programs must support the school district's Educational Plan for Student Success (EPSS)."

The old guidelines provide the evaluation design, which must include the following components:

- Documentation that the program is achieving objectives established to effectively meet the needs of LEP students,
- Maintenance of accurate and complete data to measure LEP students' timely progress in English to ensure their meaningful participation in the regular educational program,
- Maintenance of accurate and complete data on students' progress in the home language objectives of the program, and
- Provision for necessary modification of the program when it does not accomplish its objectives.

The financial support and program approval section of the guidelines states, "Under Civil Rights law and policy, school districts that receive federal financial assistance have an obligation to identify and serve all LEP students. The New Mexico Bilingual Multicultural Education Act provides funding for bilingual education to meet these needs." To be eligible for state funding, school districts must implement a program that meets the requirements outlined in the guide. This section of the guidelines states that the program shall:

1. Include a process for identification of the linguistic and educational needs of students;
2. Provide for the instructional needs of students with priority given to students in kindergarten through third grade;
3. Implement bilingual program models described in the guide, ensuring equal education opportunity for qualifying culturally and linguistically different students as determined by the needs assessment;
4. Use qualified staff as described in the guide;
5. Evaluate and monitor the progress of the student's achievement through English and the home language as well as the effectiveness of the program;
6. Implement the approved plan submitted to the department; and
7. Meet time requirements.

Effect of 2003 Legislation. One of the purposes of the Indian Education Act, created in 2003, is to ensure maintenance of native languages. The department received an appropriation of $2 million to carry out the program through the Indian Education Division. According to department staff, no funds have been distributed from this appropriation. The new bilingual education regulation and technical assistance manual, which became effective July 1, 2003, introduced a new program model designed to support and revitalize a student's home or heritage language and culture through oral and written language instruction. However, the Bilingual Multicultural Education Act was not amended to incorporate indigenous language and language recovery/language revitalization programs. Laws 2003 also require that a language other than English shall be taught from grades one through eight.

Bilingual education has become a convoluted program that provides overlapping services. The program incorporates various aspects of other programs: Title I, Title III, and the Indian Education Act. Funding programs for students whose native tongue is English has diverted funds from programs for students whose native tongue is a minority language. The dual language model is designed to make LEP and non-LEP students both bilingual and bi-literate. A student whose native language is English can enroll in the program to become bilingual. The indigenous heritage/language revitalization model is designed to provide services to LEP and non-LEP students who want to learn their heritage tongues. These models affect the program as follows:

- The models conflict with the intent of the state constitution by not providing proper means and methods to facilitate teaching English,
- Bilingual education funding will be used to provide programs funded through the Indian Education Act,
- Bilingual education funding needs will increase,
- Ensuring priority of funding for students with linguistic needs in kindergarten through grade three will become more important,
- Questions regarding school district program funding will continue, and
- The program will be difficult to administer and implement because school districts are confused.

Ideally, the bilingual education application process was designed to determine if school districts can demonstrate that program funds are improving student academic performance based on the design of the program.

Recommendations.

The Legislature should consider a review of the Bilingual Multicultural Education Act in relation to education reform and amend the Bilingual Multicultural Education Act to clarify program purpose and provide direction on program priorities. Clarify whether the program's priority is to make students English proficient, make students bilingual or revitalize heritage\home languages of the students.

The department should:

- Comply with and enforce state statute and regulation regarding funding priority of students in kindergarten through third grade,

- Perform analyses using available ADS data to determine the difference in the numbers of bilingual students and LEP students by school district in order to assess areas of need and ensure LEP students receive services for compliance with Office of Civil Rights (OCR) requirements and that LEP students make adequate yearly progress on English assessments as required under the No Child Left Behind Act.

- Incorporate federal Title III program design into the program matrix included in the technical assistance manual, and

- Coordinate with Indian education for funding of programs related to Native American languages and English as a second language.

Department Responses.

- **BMEU does <u>not</u> consider the Act to be in need of revision for the following reasons:**
  - New Mexico's Legislature has been a consistent leader in the country in the development of Bilingual Education programs. This Act is one example of this leadership- it was the first state Bilingual Education Act in the U.S. Exhibit 5 provides a clear outline of this commitment.

  - The founders of the New Mexico Constitution believed in the diversity of the State's population and the importance of maintaining this diversity. The Act reinforces the Constitution's stand to maintain and enrich cultures, languages, and uniqueness of New Mexico students. The Act guarantees that LEP students' needs will be served, while it ensures that native New Mexicans' languages and cultures are not lost.

  - One of the Bilingual Multicultural Education Act requirements for districts to receive financial support is to use *two languages* as the medium of instruction for any part or all of the curriculum. This requirement does not contradict Section XII of the Constitution regarding student English language proficiency, since the Act is referring to English and the home language.

  - Research has confirmed that one of the most important predictors for English Language Learners or Limited English Proficiency students to succeed in a second language is the students' level of proficiency in their home language. This premise has been in place since the inception of Bilingual Education programs in the New Mexico Public Schools.

  - Many native New Mexican students fit into the newly-identified category of "the invisible ELL/LEP student." This student has inherited a limited English language proficiency from the home environment, although the family does not speak a language other than English. Research studies strongly recommend that educators cannot assume that this kind of student is fully proficient in English without testing. Bilingual education programs as stated in the Act serve this population in developing English language proficiency and additionally, Home language proficiency.

o The new Bilingual Education Regulation NMAC 6.32.2 was developed to require program accountability while aligning with the Act. The regulation (effective July 2003) sets requirements for student eligibility, program accountability, assessment, instruction, evaluation and professional development for all district personnel. Districts will be accountable to meet the requirements of the regulation, which does <u>not</u> contradict but expands and reaffirms the goal of the Bilingual Multicultural Education Act and the New Mexico State Constitution in serving LEP students.

o The Bilingual Multicultural Education Act is not prescriptive regarding program models. The Act delegates the role to the PED to issue guidelines for the development and implementation of the program, which includes program models among other components.

o The first goal of four of the five program models included in the new SBE Bilingual Education Regulation and the corresponding technical assistance manual is to assist LEP students to become proficient in English, as stated in Section XII of the Constitution. These program models are research-based; they not only assist in the development of English literacy skills (remedial approach), but also in the development of literacy skills in the home language (enrichment approach).

- Through the applications, BMEU will require districts to serve ELL students first with a priority on K-3 grades, before serving FEP students and any other students in the program. This requirement is going to be enforced in the district applications starting in 2004-05, according to the new SBE Bilingual Education Regulation, Section 6.32.2.14 A-(4)- (a).

ANALYSIS OF ADS DATA

Analysis of ADS bilingual education data for SY01, SY02, and SY03 indicates the data as submitted by school districts are unreliable and misleading when used for bilingual education funding, program evaluation, and reporting to various oversight agencies. Analysis of ADS data raised the following concerns regarding data reliability and program compliance:

- Students with a home language other than English were not being assessed to determine if they were LEP;
- LEP students were not being assessed on an annual basis. In some cases, the assessment date was 1993;
- Non-LEP students were reported enrolled in three-hour programs designed for LEP students;
- LEP students were reported enrolled in one-hour programs designed for non-LEP or students reclassified from LEP to fluent English proficient (FEP); and
- LEP students were reported not enrolled in bilingual education but were enrolled in special education.

Results of Sample Data Validation. Because of such exceptions, a sample of 372 student records from 17 schools within eight school districts was selected to validate the data. The objective for testing the

sample was to determine if the school district data were erroneous or if there is noncompliance with program requirements. Data reported for the 120th day in SY03 were validated against school student files. Data validation results indicate that in numerous cases the data reported in ADS are incorrect. In some cases, neither the school nor the school district files provided evidence to determine if students were enrolled in bilingual education or the number of hours the students received services. From the sample of 372 records, identified errors included the following:

- 10 percent of students reported as enrolled were not enrolled in the program;
- 5 percent of students reported as not enrolled were enrolled in the program;
- 19 percent of assessment dates were incorrect;
- 9 percent of the students were incorrectly reported as LEP;
- 9 percent of students were incorrectly reported as non-LEP; and
- 16 percent of students were assessed, but assessment dates were not reported.

For all data elements tested, 318 errors were identified in the sample. Other types of errors: students reported who were no longer enrolled in the school or district; underreporting of special education students; incorrect student demographic information; missing assessments and assessments not performed annually for some LEP students.

Another area of concern relates to misidentified LEP students resulting from administration of the language assessment. The home language survey for three Caucasian students in the sample indicated that English is the home language. They were administered the language assessment and were identified and reported in ADS as LEP. These students did not receive bilingual education because the school did not offer the program; however, they were enrolled in special education as specific learning disabled. In several instances Hispanic and Native American students indicated that their home language was English, and they too were administered the language assessment and identified as LEP. In both instances, there was no evidence that a teacher observation form was used indicating the student should be assessed because learning deficiencies may be attributed to command of the English language. Language assessments may be identifying deficiencies in basic reading and writing skills that might more appropriately be addressed through remedial classes rather than bilingual education.

Although ADS data submission has improved, data errors still exist. Many school districts have assigned the responsibility of entering ADS data to secretaries dealing with multiple responsibilities. Often these secretaries receive little or no training on ADS. The department's internal audit unit eliminated bilingual education from its membership audits. This has contributed to the number of errors in the data and unreliable student counts used for program funding. In addition, school districts have not implemented adequate internal control procedures for ADS data collection and reporting.

Another factor that contributes to inaccuracy and unreliability of ADS data is the level of analysis performed. The department and most school districts do not have the resources necessary to perform in-depth analysis of ADS data. The unit staff uses ADS and ADS reports to verify the data school districts submit. The unit staff has requested, at a cost, updated ADS data fields and reports. Each request requires the ADS contractor to write a software program at a significant cost to the department. Changes to the data fields create costs for some school districts to update the software that works in conjunction with ADS. Rather than paying for additional reports, funds would be more wisely spent

providing formal data base analysis training or hiring a data base analyst. This would improve the level of data analysis.

Statistics Derived from ADS Data. Despite identification of numerous errors in the ADS data examined, these data are used to drive, administer, and fund bilingual education. The following tables and graphs reflect ADS data outcomes:

- Over- or under-funding a school district on bilingual education,
- Misrepresentation of students' LEP status,
- Misrepresentation of students' annual yearly progress, and
- The risk of LEP students being overlooked and not receiving the services they need to achieve academically.

The following graph provides the statewide ethnic makeup of the bilingual education program compared with the ethnic makeup of the entire student population, along with LEP by ethnicity, for SY03. Hispanic students make up 79 percent of the program, with 72 percent identified as LEP.

Ethnicity Breakdown of All Students, Bilingual Education Students and LEP Students for SY03
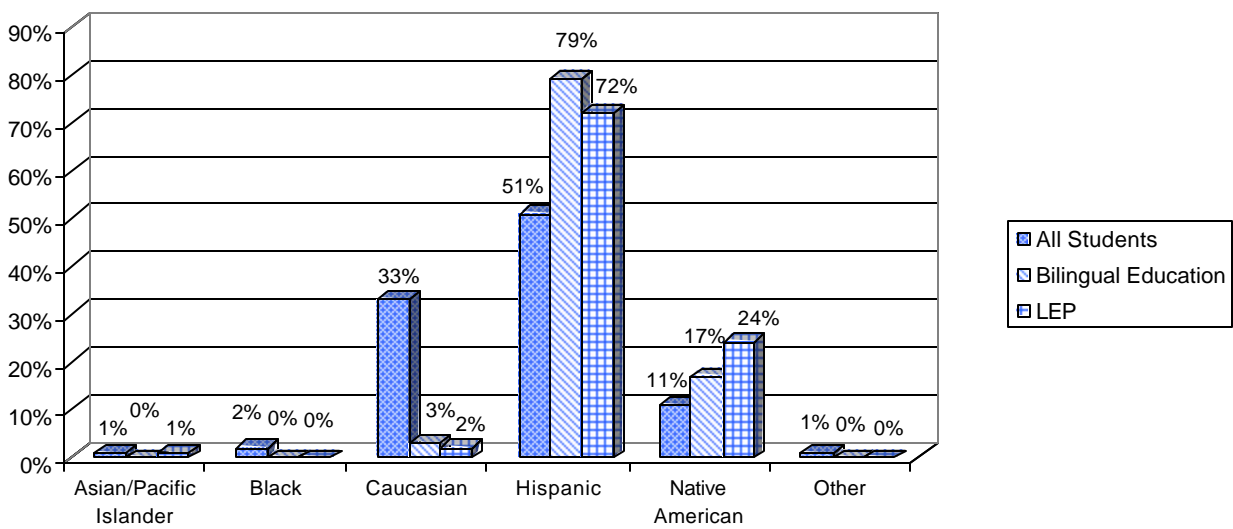
Source: ADS 120th-day report.

Exhibit 3 provides ethnic breakdowns of LEP and bilingual education students by school districts.

Table 5 provides statewide bilingual education program student population and how that population is served in the hourly segments offered for the last three years. Approximately 50 percent of the students are reported as enrolled in a three-hour bilingual program, which generates higher SEG funding. Six-hour programs are no longer funded through SEG.

Table 5: Bilingual Education Students and Program Hours

School Year	Students	One Hour	Two Hours	Three Hours	Six Hours
2002-03	60,821	10,499	21,218	29,104	0
2001-02	64,013	9,514	21,845	32,396	258
2000-01	67,982	10,704	24,314	32,458	504

Source: ADS 120th-day report.

In the bilingual education survey, nonparticipating school districts responded with multiple reasons for not participating in bilingual education. The following are major reasons given for not participating in bilingual education:

- 50 percent – small number of LEP students,
- 39 percent – paperwork is a hassle,
- 39 percent – no LEP students in the school district, and
- 39 percent – funding would not cover program costs.

Table 6 summarizes school districts that had the highest percent of bilingual students to total student body for SY03.

Table 6: School Districts with Highest Percent of Bilingual Education Students to Total Student Body

2002-03	All Students	Bilingual Students	% of Bilingual to All Students
WAGON MOUND	177	176	99.44%
PECOS	871	833	95.64%
JEMEZ MOUNTAIN	377	354	93.90%
PEÑASCO	639	593	92.80%
SANTA ROSA	724	663	91.57%
LAS VEGAS WEST	2,051	1,863	90.83%
VAUGHN	93	82	88.17%
BERNALILLO	3,456	2,870	83.04%
MESA VISTA	532	423	79.51%
ZUNI	1,769	1,373	77.61%

Source: ADS 120th-day report

Analysis of students exiting the bilingual education program could not be performed because ADS does not have an exit field for bilingual education. However, based on the acceptable models used in New Mexico, it is possible for a student to remain in bilingual education from kindergarten through grade 12. Guidelines in effect during the audit period indicate students exit the program if assessed as FEP for two consecutive years unless the FEP student is participating in the enrichment model. However, the current technical assistance manual does not make this differentiation. No Child Left Behind and the Office of Civil Rights encourage the practice of exiting students from models designed to improve their English language proficiency. The new SBE regulation allows FEP students to also participate in the dual language and indigenous/heritage language revitalization model. ADS should track the number of students moving in and out of bilingual education. Also, ADS should document the reasons for exiting the program, such as reassessment, test score, student moved, etc.

An attempt was made to determine if the 23,987 LEP students not enrolled in bilingual education in SY03 were receiving services through other programs funded locally or by the federal government. The three programs that may be providing some type of services to these students are federal Title I, Title VII/Title III grant funds and special education programs. Title I requires tightening of annual yearly progress (AYP) requirements by specifying a minimally accepted rate of progress to ensure all groups of students disaggregated by poverty, race and ethnicity, disability, and limited English proficiency – reach proficiency within 12 years. Of the 17 schools visited, the majority received funding from Title I and state bilingual education. One school visited did not receive Title I or state bilingual education funding, but LEP students were reported in special education. Only five school districts received Title VII funds, and 48 school districts received Title III funds in the SY03. According to the bilingual education survey, nonparticipating school districts responded they use multiple ways to meet the needs of LEP students:

- 61 percent – bilingual aide/instructional assistant,
- 54 percent – individualized instruction programs,
- 39 percent – staff fluent in English and student's home language,
- 36 percent – tutors/high school students, and
- 36 percent – daily intervention.

Table 7 identifies the number of LEP students not receiving bilingual education services. Approximately one-third of students identified as LEP are not enrolled in bilingual education.

Table 7: LEP Students Served and Not Served by Bilingual Education

| School Year | LEP | LEP in Bilingual Education by Program Hours | | | | | No Bilingual Education |
		One Hour	Two Hours	Three Hours	Six Hours	Total	
2002-03	64,777	5,635	12,736	22,419	0	40,790	23,987
2001-02	64,630	4,617	13,262	25,358	227	43,464	21,166
2000-01	67,179	5,996	13,331	25,019	369	44,715	22,464

Source: ADS 120th-day report.

Of the LEP students enrolled in bilingual education, 33 percent are enrolled in a two-hour program, and over 50 percent are enrolled in a three-hour program. Based on ADS data, 46 school districts have LEP students in one-hour programs. It appears that school districts do not understand the requirements of placing LEP students in two or three bilingual program hours. As explained by department staff, one-hour programs are designed for enrichment and are intended for English native speakers and FEP students. One-hour programs do not provide the service levels that LEP students require. The bilingual education guidelines in place during the review period state the enrichment model does not satisfy Office of Civil Rights requirements for LEP students.

Tables 8 and 9 provide evidence that bilingual education is not specifically designed to meet just the needs of LEP students because not all LEP students are in the program and many non-LEP students are. The program can be designed to meet school district requirements and philosophical beliefs. For example, some districts use the program to revitalize home languages (Spanish or Native American), to maintain and create a truly bilingual student whose native tongue is English, or to teach the state culture and history. Four school districts participating in bilingual education stated in the bilingual

education survey that their entire student bodies, with the exception of students with parental waivers, are in bilingual education and do not exit the program.

Table 8: School Districts with Larger LEP Population than Bilingual Education Student Population SY03

School District	LEP	Bilingual
ALAMOGORDO	228	79
BELEN	318	202
BLOOMFIELD	510	241
CLOVIS	535	257
DEXTER	217	104
GADSDEN	8,079	4,814
GALLUP-McKINLEY	5,206	1,106
GRANTS	924	607
HOBBS	1,090	189
LAKE ARTHUR	64	18
LOVINGTON	602	335
RIO RANCHO	617	84
ROSWELL	825	575
SILVER CITY CONS.	490	236
TEXICO	27	14

Source: ADS 120th-day report.

Exhibit 1 provides the percent of bilingual SEG funding, percent of bilingual students and percent of LEP students by school district to statewide totals.

School districts with high numbers of bilingual education students and low number of LEP students enrolled in the program suggest that bilingual funding is not need-based. A cursory review of school district applications for SY03 showing a high percent of the student body in bilingual education was performed to distinguish programs offered by the school districts. The one element that all these school districts have in common is enrichment programs, such as mariachis and programs on the history and culture of New Mexico. Under the new program guidelines, a student with a home or native language of English may participate in a two- and three-hour program under one of three of the program model.

Table 9: School Districts with Larger Bilingual Education Student Population than LEP Population SY03

School District	Bilingual	LEP
ARTESIA	795	233
BERNALILLO	2,870	1,854
CARLSBAD	641	240
CIMARRON	35	22
CORONA	36	22
HONDO	73	16
LAS VEGAS CITY	1,205	596

School District	Bilingual	LEP
MESA VISTA	423	101
MORA	482	41
PECOS	833	530
QUESTA	410	221
SOCORRO	411	209
TAOS	386	234
VAUGHN	82	21
WAGON MOUND	176	48

Source: ADS 120th-day report.

Table 10 indicates that, over the last three school years, approximately 33.2 percent of non-LEP students are enrolled in three-hour programs specifically designed for LEP students. However, new program models allow non-LEP to participate in three-hour dual language and indigenous/heritage language revitalization program models.

Table 10: Non-LEP Students in Bilingual Education

School Year	Non-LEP	One Hour	Two Hours	Three Hours	Six Hours
2002-03	20,031	4,864	8,482	6,685	0
2001-02	20,549	4,897	8,583	7,038	31
2000-01	23,267	4,708	10,985	7,439	135

Source: ADS 120th-day report.

Table 11 lists school districts with the highest numbers of LEP Native American students not enrolled in bilingual education in SY03.

Table 11: School Districts with Highest Population of Native American Students Not Enrolled in Bilingual Education: SY03

School District	Native American LEP	Students Not Enrolled in Bilingual Education	Students Enrolled in Bilingual Education	One Hour	Two Hours	Three Hours
Gallup-McKinley	4,874	3,826	1,048	0	488	560
Central	3,735	475	3,260	1,757	1,256	247
Albuquerque	644	453	191	58	86	47
Grants	410	184	226	0	158	68

Source: ADS 120th-day report.

There is no way to determine through ADS if any LEP students did not participate in the bilingual education program because of a waiver. However, 38 districts participating in bilingual education indicated they have had parents who have signed waivers to remove an LEP student from bilingual education. One school district not participating in bilingual education reports that restrictions imposed by the department on the school district were not workable. The school district's issue is with the Navajo language, and school district staff believes, inaccurately, bilingual education only allows them to teach Spanish.

The student population for which English is not the home language is significant. Assessment dates were not provided in ADS for a good portion of these students. This raised concerns regarding compliance with OCR requirements. One reason this field may be blank is that ADS requires school districts to report only assessment dates regarding a student's LEP status. However, the incidence of school districts declining to participate in bilingual education is also a concern. Out of 28 nonparticipating school districts surveyed, eight did not respond to questions regarding the most recent dates of English language assessments and students' home language assessments. Also, three school districts reported English and students' home language assessment dates that indicate annual assessments are not being conducted as required. Compliance with OCR and state law is also a concern because the bilingual education unit does not monitor these school districts to ensure they assess and provide adequate services to the students. If the data are not validated and site visits are not performed at nonparticipating schools, no assurance exists that these school districts are providing required services. The following graph shows the growth between SY01 and SY03 in the number of students whose home language is not English.

Comparison of Students with Home Language Not English and LEP Students: SY01, SY02 and SY03
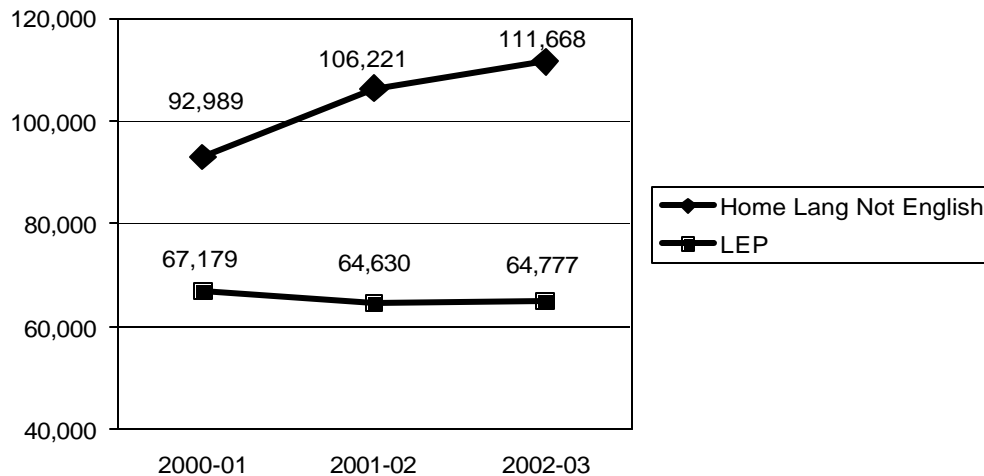
Source: ADS 120th-day report.

The following graph displays the breakdown of students with a home language other than English over the past three school years. The students are assigned by ADS reported language to the following ethnic categories:

- Asian – Vietnamese, Hmong, Cantonese, Cambodian, Korean, Tagalog, Laotian and Japanese;
- Hispanic – Spanish and Portuguese;
- Native American – Navajo; and
- Other – Russian, Creole/French, Arabic and Other.

The only Native American language listed in the 120th-day ADS report is Navajo even though the following languages are options in ADS: Towa, Mescalero Apache, Tiwa, Keres, Zuni, Tewa, and

Jicarilla Apache. The large increase in the other category over the last three years might explain where other Native American languages are being classified in ADS.

Growth in Home Language Not English by Ethnicity: SY01, SY02 and SY03
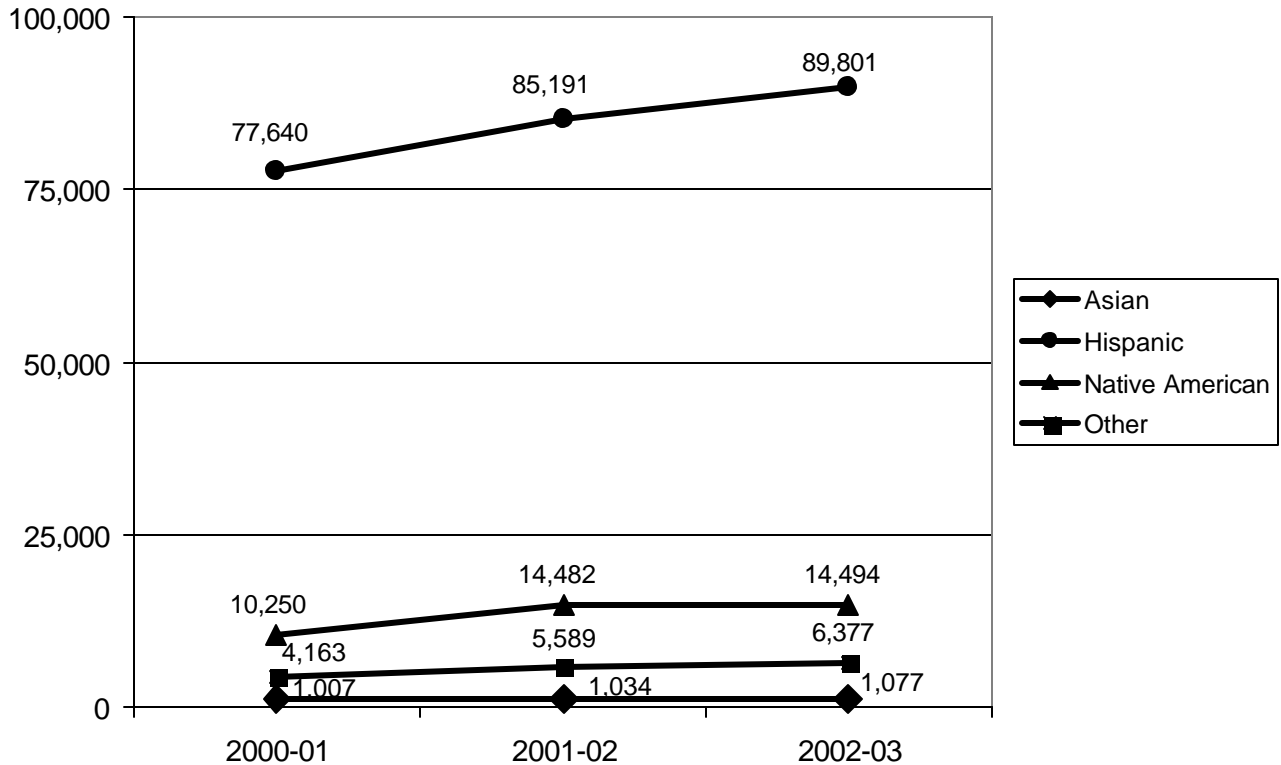
In its *2001 annual report to Congress, the U.S. Department of Education* states assessments are particularly important for LEP students because research suggests it is difficult to distinguish between a disability and a student's lack of understanding of the majority culture and language. Assessments are influenced by the sociopolitical, cultural, and linguistic context within which they take place. Cultural background will affect every aspect of the assessment process.

For the period reviewed, the old bilingual education guidelines, updated December 2001, provides step-by-step procedures for identification and assessment of LEP students. The guidelines state that bilingual programs must be established to meet the identified educational and linguistic needs of students, with a priority for students for whom English is the second language. The instructional program must be directed toward these needs. This is also the main goal in the current manual. The steps are as follows:

English Language Assessment Process

Step	Process	Result
1	Identification of primary home language through home language survey, teacher language observation or student language survey – A student shall be identified as having a primary or home language other than English (PHLOTE) when any single response to the home language survey or teacher language observation form indicates a language other than English.	Language other than English
2	Assessment of language proficiency – Every PHLOTE student should be tested for English language proficiency when initially identified. Assessments shall be done in four areas of language: understanding, speaking, reading and writing. This is to ensure that identified language needs are addressed through the school district's bilingual education program. Oral assessment of English language proficiency is sufficient for PHLOTE students in kindergarten and first grade. Any PHOLOTE student in grade two and above who is orally proficient in English but who scores below the FEP standard established on the proficiency test for reading or writing should be identified as LEP.	Determination of level of English proficiency based on assessment results in all four English language skills. Students qualify for the program if they are: • Monolingual in a language other than English (NEP) • Partial speakers of English (LEP) • Bilingual students with academic needs (LEP and FEP) • Bilingual students who are achieving in the curriculum (FEP)
3	Program placement – select alternative program to be provided, assessment of proficiency will determine appropriate placement in the home language component and will provide a measure of progress and literacy development in languages that are written. It provides a relative measure of the language of strength for instruction.	Placement
4	Student Evaluation – assess student progress annually for possible reclassification. Assessment of the achievement of culturally and linguistically different students provides important information for program content and design. Students who are monolingual or partial speakers of English should be tested in their home language. Culturally and linguistically different students who are FEP on the proficiency measure may qualify for the program as bilingual students with academic need. This indicator is academic achievement that falls below the 40th national percentile rank or 45 NCE on the composite subtest of the Iowa Test of Basic Skills (ITBS). Those above the cutoff may participate in an enrichment design.	Continues or exits program; two year follow-up of former LEP student.
5	Program Evaluation. The process requires annual evaluation of longitudinal data, achievement, dropout rates, retention rates, graduation, honors and awards.	Program is modified and continually refined; students are succeeding.

Source: Department Bilingual, Multicultural Education Guidelines

The department is concerned with the quality and reliability of the ADS data and has been conducting training and updating the technical assistance manual to address misreporting and assessments Workshops will be conducted throughout the state to reinforce program requirements.

Recommendations.

Provide school district staff guidance on development and implementation of adequate internal controls procedures to ensure ADS data reliability. Guidance should include developing written procedures, maintaining and retaining underlying records, and providing supervisory review. Train all school district staff, including school secretaries and bilingual directors, importance of data accuracy in relation to program analysis and funding. Provide extensive training to school district staff on when and how language assessments should be administered.

To ensure ADS data integrity requires school districts to review and correct ADS data as soon as possible by comparing the data to all pertinent documentation in relation to:

- the bilingual program regarding LEP, non-LEP classification,
- assessment dates,
- the number of program hours, and
- ensure the assessment date field reflects the most recent English assessment.

Either provide database analysis training to department staff or hire a database analyst to perform data verification, validation and reconciliation. Use ADS data to assist in analyzing program performance. An analyst can be utilized to assist in obtaining and analyzing data associated with focused monitoring and Title III federal requirements. Analyze ADS data on a regular basis for compliance with program laws and regulations for items such as:

- Number of LEP students not receiving services,
- Past due assessments for LEP students,
- Non-LEP students enrolled in three hour bilingual programs,
- LEP students enrolled in one hour bilingual programs,
- LEP students not in bilingual education, but enrolled in special education, and
- Assessment of students with home language other then English who are not enrolled in the bilingual education program.

Rewrite the ADS field to differentiate between reclassification and exit. Also, clarify student bilingual classification for LEP, FEP and non-LEP to enable the department to ensure students with a home language other than English are being assessed and provide data for the OCR requirement regarding exit criteria.

Request the department's internal audit resume membership audits on bilingual education and incorporate ADS validation into the newly implemented focused monitoring.

Ensure that students with a home language survey stating English-only are not assessed without other documentation, such as the teacher's observation survey or student survey, and ensure districts with a

high number of LEP students not in bilingual education are documenting the number of LEP students being waived out of the program by parents and appropriately identifying those students as receiving other pertinent services.

Require school districts to work collaboratively between the state bilingual education program, Title III, Title I, and special education to ensure that all LEP students are receiving services to address English language proficiency and receiving the appropriate services.

Work with Indian education programs onto indigenous language and language revitalization services for Native American students.

Assign a bilingual education consultant to nonparticipating school districts to ensure these school districts are addressing LEP students' needs in compliance with the OCR requirements, and require bilingual education consultants to offer technical assistance to school districts in regards to students with a less common home language other than English, such as Arabic, Russian, Korean, etc.

Department Responses.

- As a point of clarification students do not have to be exited out of bilingual programs upon achieving FEP status. They are exited from ESL instruction. FEP students may also be served through the enrichment model. This guidance is clearly available in the technical assistance manual.

- BMEU will continue with its commitment to provide training and technical assistance to district personnel in conjunction with the ADS Unit, according to the State Board of Education Regulation 6.32.2.12 NMAC - N, 07-01-03 (Program Element: Professional Development). However, it is important to clarify that the data the state receives from the districts is subject to the accuracy and consistency of the districts submitting this data. All of the first group of bulleted items on page 19 and other "ADS-related" pages are first and foremost programmatic issues from district-submitted data. They serve merely to demonstrate a common lack of communication about the program. BMEU is currently working with districts to ensure that these issues are resolved.

- BMEU will continue to work closely with districts to create a mechanism that ensures accurate communication between Bilingual Directors, ADS Coordinators and PED units.

- BMEU will request a consultant position to monitor non-participating districts and Office for Civil Rights Compliance.

- BMEU continues to implement a data validation process using information from the applications, ADS and School Budget Unit.

- BMEU will continue to review and analyze ADS reports and data as evidenced by application reviews, preparation for district technical assistance and monitoring visits, and the creation of official PED BMEU reports.

- BMEU will continue to request, if necessary, that new reports be added to the ADS Bilingual repertoire. We are aware of the possible charges that can be incurred for placing new reports on the ADS. Additionally, we are aware that PED ADS personnel are in the process of becoming more adept in the creation of requested reports, thereby avoiding any additional cost by an outside source. BMEU is currently exercising this new option. PED and BMEU will encourage districts to make assurances that the maintenance contracts that are made with software companies include necessary updates to the software without incurring extra charges.

- BMEU continues to change/amend inherited flaws regarding certain ADS fields, such as the one which allowed for a 10-year time frame for submitting language proficiency assessment dates, or the lack of a field that may assist in identifying appropriate student placement.

- "Reclassified" and "Exited" are two different categories. Exited students are those who achieve FEP status and do not require ESL instruction or who are out of program because of parent request. Reclassified students are those who change proficiency status from FEP to LEP or vice versa.

- Internal Audit is conducting Bilingual Ed. Program audits in selected districts. Data validation from ADS will be incorporated in the Internal Audit.

- The two procedures will be incorporated into the 2004-2005 application and student records, and will be validated on the technical assistance and monitoring visits.

- BMEU will continue to work closely with other PED units including the Indian Education Division.

- BMEU will attempt to further clarify student participation in a Dual Language program by means of ADS data.

PROGRAM OUTCOMES

Academic assessments raise concerns regarding LEP students' ability to take the assessment in English and make adequate yearly progress, as required by No Child Left Behind.

Table 12 provides Terra Nova (English) and SUPERA (Spanish) assessment results for LEP students in SY02 and SY03. LEP students' performance on the Terra Nova is improving. However, LEP students are scoring significantly below the 40th percentile on the Terra Nova in most grades and subjects. LEP students are performing significantly above the 40th percentile in all grades and subjects on the SUPERA.

**Table 12. Terra Nova and SUPERA (Median Percentile Ranking) Test Results for
LEP Students in SY02 and SY03**

Grade-Year	Reading		Language		Math	
	Terra Nova	SUPERA	Terra Nova	SUPERA	Terra Nova	SUPERA
03-2003	27.3	56.6	31.5	59.4	35.2	60.1
03-2002	24.9	57.9	27.0	60.5	30.6	60.9
04-2003	31.9	71.1	32.2	69.5	30.0	63.4
04-2002	31.5	66.9	29.4	66.2	26.5	65.8
05-2003	29.6	69.9	31.5	67.0	27.6	67.6
05-2002	28.3	67.5	28.9	65.3	22.6	69.1
06-2003	28.5	66.1	30.7	65.5	25.1	67.9
06-2002	28.5	59.1	30.3	56.1	25.6	61.8
07-2003	27.5	66.0	35.0	51.3	26.8	64.0
07-2002	23.8	66.5	29.6	53.4	19.8	62.8
08-2003	28.9	57.4	27.5	63.6	27.5	64.8
08-2002	27.6	61.7	25.9	67.1	24.1	67.4
09-2003	30.9	56.8	33.0	59.6	27.6	56.6
09-2002	25.1	52.7	25.8	52.3	18.7	53.8

Source: State Public Education Department's Assessment Unit.

Attempts were made to analyze disaggregated data on median percentile ratings by school districts for LEP students. However, it appears the data is not comparable among school districts due to the lack of data for SY02 and significant increases in LEP sample size from SY02 to SY03. New Mexico did not collect data regarding LEP students prior to the No Child Left Behind Act of 2001. The department was to review the school district's evaluation data on the student's achievement through English and the home language to determine program implementation quality. The old Guidelines for Compliance with Existing Federal and State Law states program evaluation of LEP and former LEP students are performed to determine "ability to keep up with their non-LEP peers in the regular education environment."

The difference in performance for Terra Nova and SUPERA assessment can be attributed to the type of LEP student. Students taking the SUPERA speak, read, and write only Spanish. Students taking the Terra Nova have a mixture of English and Spanish. For example, an LEP student who speaks Spanish, but reads and writes in English would take the Terra Nova. A staff member from the assessment unit reported that LEP students taking the Terra Nova often are not proficient in English or Spanish unlike their counterparts taking the SUPERA who are proficient in Spanish.

In its *2001 annual report to Congress, the U.S. Department of Education Office of Special Education* states standardized assessments often prove to be inaccurate predictors of an LEP student's academic potential. The presence of a language or learning disability can only be determined after documenting problems in the primary language and English and eliminating extrinsic variables. Differences in learning, behavior, culture, and language, separately or in combination, might make the educational problems caused by disabilities more severe. Some researchers believe that culturally and linguistically diverse students might be at a disadvantage in the assessment and evaluation process.

Recent reports issued by New Mexico colleges and universities indicate that 67 percent of recent high school graduates at the community colleges and 49 percent of recent high school graduates at the universities are in remedial courses. In addition, according to two reports, *Condition of Higher*

Education in New Mexico 2002, issued by the New Mexico Commission on Higher Education, and *College Completion: Additional Efforts Could Help Education with Its Completion Goals*, issued by the U.S. General Accounting Office in May 2003, only 18.2 percent (weighted average) of Native American students and 32.1 percent (weighted average) of Hispanics are completing a six-year bachelor degree compared with 35.9 percent (weighted average) of all New Mexico students.

Recommendation.

Ensure that bilingual education programs are providing services to improve LEP students' academic achievement and evaluate program outcomes to provide technical assistance to school districts to modify programs if students are not making adequate yearly progress. The department should stop funding programs that do not make adequate yearly progress after four years.

Department Responses.

- BMEU will continue to collect data to ensure that program effectiveness is monitored and evaluated. As required by the NCLB and SBE Bilingual Regulation, districts are required to provide annual language proficiency assessment data in both the applications and the ADS. This language proficiency data, along with student academic performance data, serves as the basis for assessing the district's progress as stated in the Biennial Report. The BMEU has been collecting LEP data since 1991 and has complied with federal requirements regarding data dissemination. Title VII required USDE to review evaluation data for LEPs.

- BMEU will enforce the SBE Bilingual Regulation (6.32.2.14-15) requirements regarding program evaluation and renewal. Applications for funding require districts to establish Annual Measurable Achievement Objectives – AMAOs. The current Bilingual Multicultural Education Guidelines (6.32.2) require that a student progress report for language proficiency and academic achievement is part of the Biennial Report. 6.32.2 has also established procedures for rescinding funding if a school fails to meet their goals. The guidelines were developed to revise and update State Bilingual Education programs for accountability and alignment with Federal programs, especially Title III. This enables districts to provide a progress report to be used for both State and Title III funding.

- For many years, the BMEU has conducted verification visits to districts as part of the regular accreditation protocol. Since the regular accreditation program is not being implemented this year, the BMEU is independently providing technical assistance and monitoring visits to verify that districts implement their application plans. The technical assistance and monitoring visit sites will be selected from a review of all districts, including those which are not currently participating in a Bilingual Education program.

- A statewide English Language Proficiency Assessment will be required of all schools to use by Spring 2005. This will provide greater uniformity in English language proficiency testing. Development of a statewide language proficiency assessment for Spanish and other native languages will be pursued by the BMEU after implementation of the English assessment.

STATE BILINGUAL EDUCATION FUNDING APPLICATION PROCESS

There appears to be a large disconnect between the application process and the funding process. It could not be determined from review of SY03 applications that data submitted by school districts through ADS for bilingual education enrollment was verified against information in the applications. Comparing ADS program enrollment data with applications would help ensure the following:

- Programs are in compliance with laws and regulations for funding programs for students in kindergarten through third grade where there is an identifiable need to improve language capabilities,
- School districts that did not receive program approval are not receiving funding,
- The number of students reported in ADS in the bilingual education program agrees with the number approved for funding, and
- Funded programs are receiving funding.

The department assigns one of three classifications after an application is reviewed:

- Approved as submitted,
- Approved upon amendment (some revisions needed), or
- Not approved as submitted (major changes needed).

Generally, amendments were received well after funding distributions were made to school districts. In addition, school districts often resubmitted an entire application with amendments. Second and third drafts of the entire application often had checklists attached, so it appears the department reviewed the entire application multiple times. Reviewing entire resubmitted applications is a waste of resources, and resubmitted applications create a burdensome amount of paperwork for school districts and the department. The bilingual education unit staff members spend a majority of their time on application review, preventing them from spending more time providing technical assistance, program compliance, and training.

Applications were reviewed for SY03 to determine what type of documentation was provided and the level of review the department performed for approval. Applications were submitted in various formats. The written applications often were difficult to read. Most applications had a checklist attached showing whether all necessary information was provided. Department staff was questioned several times to determine if requirements established in regulation and in the guidelines were enforced. However, there is no documented evidence of the following to suggest in-depth analysis of the applications:

- Compliance with laws and regulations,
- Information provided in the applications is verified against ADS,
- Program outcomes and student achievement resulting from the program had never been obtained or requested by the bilingual unit, and
- Comparison of applications to school districts' Educational Plan for Student Success (EPSS) to determine if they supported overall school district goals.

Applications for five school districts were reviewed at random to verify when they were submitted; the date they were reviewed by the department; the date amendments were received, if applicable; and when revisions were approved by the department. With the exception of one elementary school, all the applications reviewed were checked approved by the department upon amendment. Review of the applications revealed the following:

- Funding was distributed to these schools for bilingual education, even though amendments had not been received and approved by the department in time for the new funding cycle beginning July 1, 2003. Amendments were not received by the department until August, September, or October;
- Currently, the department does not provide school districts with the type of data they need to monitor and drive bilingual education. The application asks schools and districts what data they collect and how the data are collected for the program;
- Applications for bilingual education funding are submitted by school, but budget breakdowns are submitted by school district. The various ways of reporting budgets and breakdowns by school district rather than by school makes it difficult to assess how bilingual education funding is budgeted at the school level; and
- Some school districts provided actual dollar amounts, some listed job positions to fund and materials to purchase, and some submitted no documentation of a budget breakdown. Some school districts submitted budget breakdowns over several years when the application requests a budget breakdown for only one school year.

According to the bilingual multicultural education program Guidelines for Compliance with Existing Federal and State Law in effect for 2002-2003, "All state bilingual multicultural education programs must support the district's Educational Plan for Student Success (EPSS)." District EPSS goals are part of the department's Standards for Excellence (6.30.2 NMAC). For the schools visited, program goals per application were compared with district EPSS goals to determine if bilingual unit staff verifies that the goals are properly aligned.

Although the goals were aligned in some cases, evidence indicates that unit staff does not verify goal alignment as part of the application review and approval process. Unit staff relies on representations contained in the applications. EPSS goals are more detailed with measures and targets where as the EPSS goals in the application are general. In addition, application goals for one school district did not agree with those in the EPSS.

The department developed a new application for SY04 incorporating many components of Title III requirements as a way of simplifying the application process by combining the federal and state application in the future. The changes:

- Shortened the new application by 10 pages,
- Removed explanations on program models,
- Removed the noncompliance portion,
- Incorporated concise charts to gather information, and
- Do not specify the data required for program evaluation.

Table 13 summarizes 47 school districts' comments regarding the new bilingual education application. Twenty-six percent believe the new application is confusing and complicated.

Table 13: Participating School Districts' Comments and Suggestions
Regarding New Bilingual Education Application

	Total	Percentage
Problems matching ADS data/repetitive putting ADS data in application	9	19%
Confusing/complicated/difficult/time consuming	12	26%
Application needs to be simplified/streamlined	5	11%
Need training for bilingual director and ADS staff/more technical assistance	6	13%
New application easier/improvement	8	17%
Department helpful with technical assistance/support in completing application	4	9%

Source: Bilingual education survey of school districts.

No instructional manual was developed to accompany the new application. Instead, the department refers school districts to the Bilingual Education Technical Assistance Manual. The manual addresses bilingual education, Title III, No Child Left Behind, information on program compliance, the history of bilingual education, and the laws and court cases pertaining to bilingual education. The manual does not provide specific instructions for completing the new bilingual education application. Recently the department assigned bilingual consultants to school districts to provide technical assistance and consistency with the application review process.

The department is unable to fully utilize the information available in ADS for program and application evaluation. The department generates reports on misreported hours, bilingual FTE, ELL reports, demographics, licensure information and pending language assessments. The reports are generally used to compare with data submitted by the school districts. However, there is no in-depth analysis of ADS regarding the bilingual education program, such cross-tabulations, pivot tables and longitudinal statistical data analysis. Currently there is no one on staff with database analysis or statistical experience. The bilingual unit indicated that they would be requesting additional reports from ADS. Before additional reports are requested all current reports and data fields in ADS should be analyzed to ensure reports assist in determining that program goals are met and are not repetitive in the data supplied.

Recommendations.

The department has begun to implement some of the following recommendations in the application review and approval process based on discussions of these concerns:

- Incorporate review and analysis of ADS data into the review of applications to ensure appropriate funding in regards to compliance with laws and regulations. Establish data collection criteria for the school districts in regards to monitoring and directing the bilingual program, and provide training on bilingual education data fields to school district staff responsible for entering the data;

- Require school districts to provide documentation on program outcomes and student achievement regarding bilingual education and verify that the goals school districts establish for bilingual education are in alignment with the EPSS goals;

- Establish a new simplified district-wide application similar to the one used for special education funding that
    - lists schools participating in the program,
    - does not require school districts to report data already submitted to ADS,
    - standardizes the bilingual education budget format included in the application to break down the budget by school participating in the program, use line items similar to the school district budget, and provide dollar amounts associated with the categories;

- Develop an instructional manual for the new application and provide training for bilingual directors and assign each school district a bilingual consultant that is responsible for technical assistance and review of applications;

- Monitor assessment results to comply with federal and state requirements, offer assistance to school districts for program modification if students are not making adequate yearly progress, and determine if funding should continue;

- Develop standard guidelines for all bilingual education staff to ensure consistency among staff regarding the application review and approval process, either approve or disapprove applications, require documentation for only those portions of the application that do not meet standards, and coordinate with the school budget and finance unit to ensure funding is not distributed until the application is approved; and

- Develop a web-based application to improve efficiency, reduce the amount of paper required, and ensure all relevant documents are adequately maintained and available for future review.

Department Responses.

- SBE 6.32.2 Bilingual Education Regulation (July 03) and Title III (January 02) require the PED to collect and analyze district data regarding student progress in the program. Based on this data, districts will provide evaluation reports after the second year of implementation.

- BMEU has and will continue to ensure that the district and school EPSS aligns and supports the school bilingual education program goals by verification of district submitted documentation.

- BMEU will develop an instruction manual to help complete the Bilingual applications. The manual will include the review checklists used to review the applications.

- BMEU will continue to conduct mandatory regional trainings to help districts complete their Bilingual applications.

- BMEU will enforce deadlines to submit and amend Bilingual Education applications.

- The Bilingual Education application is currently under regular annual review and available for public input. Standard guidelines for reviewing Bilingual applications have been established. The revised application will be more user-friendly and will only request information and data that is not available at the PED.

- A district-wide state application would decrease accountability for the programs. Each school has different students with different needs. However, the recommendation regarding school budget reporting will be included.

- BMEU staff will continue to validate data comparing between information submitted to ADS and the approved Bilingual Application.

- BMEU has assigned Bilingual consultants to school districts in order to provide technical assistance and consistency with the application review process.

- BMEU will analyze the financial feasibility for districts to submit a web-based application. The application form is currently available online.

ACCREDITATION REVIEWS

Analysis of accreditation reports issued in 2002-2003 indicates school districts are not providing the approved program. However, no documented evidence indicates follow-up, adjustment of the funding formula, elimination of discretionary spending for nonperformance as required by law, assistance from the department to help districts establish an adequate program, or termination of program funding.

A review of noncompliance issues relating to bilingual education for nine school districts' accreditation reports for 74 schools found:

- 45 percent were not delivering the approved program,
- 11 percent were not serving the approved number of students,
- 55 percent had no scope and sequence for delivery of bilingual or English as a second language (ESL) instruction,
- 43 percent did not have qualified bilingual or ESL teachers,
- 51 percent were not using assessments to drive the program,
- 27 percent did not have a system in place to track student progress,
- 41 percent were not delivering ESL instruction, and
- 47 percent had no instruction in the home language.

Other issues noted from review of the accreditation reports:

- School district responses could not be located for three of the nine school districts visited;
- Formal notifications of the accreditation visits for seven school districts were not available in the files;

- One school district was visited in November 2001; however, the formal notification to the school district was dated April 2003;
- One school district submitted a response; however, there is no evidence the department reviewed and approved it;
- One accreditation report did not provide information indicating compliance with the number of students served, as stated in the application; and
- There was no evidence the department accepted, verified, or denied the responses received from some school districts that provided documentation or information to resolve or refute findings.

Attempts to determine if these noncompliance issues were identified in previous accreditation reports were unsuccessful.

In one instance, a school district responded that it did not have room for bilingual education, did not have bilingual teachers, and could not teach in the Native American home language. The department rejected the school district's response. School districts are required to provide responses to accreditation findings with their application for bilingual education funding. The school district's application for SY03 funds contained the same rejected response. Funds were distributed to the school district at the beginning of the year even though the application was approved September 30, 2002. The file contains no evidence to determine why the application was approved when it was evident the school district could not provide the approved program.

School districts are given 30 days from notification of the accreditation results to provide responses. The accreditation reports sampled contained no evidence the department verifies that school districts spend bilingual education money in accordance with budget breakdowns submitted with their bilingual education applications. According to department staff, verification of bilingual education expenditures is difficult because school districts are not required to record expenditures by program.

Section 22-8-18 B, NMSA 1978 states, "Funds generated under the Public School Act … are discretionary to local school boards, provided that the special program needs as enumerated in this section are met." One of the program needs listed in this section is bilingual multicultural education.

The department has implemented focused monitoring as a replacement to accreditation visits. Rather than visiting one-third of the school districts each year, school districts will be selected based on variances from key indicators.

Recommendations.

Develop a process for implementation of focused monitoring, follow and/or improve the process by:

- Establishing adequate and relevant key indicators with acceptable statewide averages using ADS data;

- Developing and implementing a focused monitoring manual that includes step-by-step processes, including review of school district applications for funding, helpful templates and examples;

- Establishing teams consisting of teachers, parents and bilingual education specialists, to assist in the visits;

- Providing training to the teams on how to perform focused monitoring visit that includes obtaining adequate supporting evidence, adequate documentation of what was observed, report writing, development of corrective action plans, and follow-up on corrective action plans;

- Developing a process for report format, report review, ensuring visit documentation is available and supports the report and report approval;

- Establishing timelines for implementation of the corrective action plans; and

- Establishing stricter sanctions for continued noncompliance.

Department Responses.

- PED no longer follows an accreditation cycle; therefore, the BMEU developed a technical assistance and focused monitoring plan that will allow the BMEU to monitor participating and non-participating districts.

- BMEU, with input from the districts, developed a Technical Assistance and Monitoring Visit Documentation packet for Bilingual Multicultural Education and Title III Programs.

- BMEU developed a flow chart indicating a step-by-step process that will be followed.

- BMEU developed key indicators that reflect student demographic information, student performance data, program information and other relevant concerns.

- Districts were informed as to how the selection process would occur and that individual districts/schools could request a Technical Assistance/Monitoring visit.

- BMEU streamlined the data collection instruments to gather information from classrooms, schools and districts.

- BMEU will utilize a team approach to the monitoring process which will include teachers, parents and community members.

- BMEU will enforce timelines required for Bilingual Education program revisions and implementation of improvement plans. This will include possible sanctions for areas of non-compliance.

FEDERAL TITLE VII AND TITLE III.

The following are areas of concern in regards to implementation of No Child Left Behind Title III grant requirements:

- Compliance with OCR requirements by participating and nonparticipating school districts to provide services to non-English-speaking students,
- Compliance with regulations for multiple English language assessment instruments,
- Establishment of criteria for rescinding program approval if objectives have not been achieved for four consecutive years,
- Compliance with duties of the state advisory committee as outlined in the consolidated state application for federal funding,
- Funding under Title III based on Census data versus state data on LEP students,
- Failure of school districts with LEP students to take advantage of Title III funding, and
- Failure of school districts relating staff development to measurable goals as required by Title III.

With the enactment of No Child Left Behind Act of 2001 Title VII-Federal Bilingual Program changed to Title III-English Language Acquisition. Under Title VII the federal government dealt directly with school districts in awarding grants and monitoring programs. Under Title III, the state is responsible for program implementation and review.

Title III requires the department to apply for a state grant and then to award subgrants to school districts. Program monitoring is based on biannual evaluations the school districts must submit to the department reporting achievement of measurable program goals. A school district that does not reach its measurable goals for two consecutive years is put on probation. If a school district fails to reach program objectives for four consecutive years, then funding can be rescinded by the department. No site visits are required for monitoring Title III.

Table 14 shows the main effects of No Child Left Behind on participating and nonparticipating school districts in the state bilingual education program, based on school district responses to the bilingual education survey.

Table 14: School Districts Responses to the Main Effects of No Child Left Behind

	Non-Participating School districts	Participating School districts
Applying for bilingual education funding	7%	NA
Applying for Title III funding	14%	67%
Offering bilingual education classes	7%	44%
Offering ESL classes	4%	46%
Expanding Services	32%	19%
Other	46%	27%

Source: Bilingual education survey of school districts

Table 15 demonstrates the multiple ways a student's level of English proficiency is tested in New Mexico. The assessment information was collected from school districts using the bilingual education

survey. The assessment scores are both numeric and alphabetic, making it impossible to compare the results of the following English language assessments.

Table 15: Reported English Proficiency Assessments

	Non-Participating School Districts	Participating School Districts
Woodcock-Munoz	50%	44%
Individualized Development English Activities (IDEA)/ Oral Language Proficiency Test (IPT)	29%	21%
Language Assessment Scales/Oral LAS	18%	40%
Instrument for home language other than Spanish	7%	8%
Other	21%	13%

Source: Bilingual education survey of school districts.

The department is not complying with federal requirements regarding multiple English language assessment instruments. The U.S. Department of Education website has a section addressing questions regarding assessment of English language proficiency under Title III and No Child Left Behind. Under Title III/No Child Left Behind, states are allowed to use multiple English language proficiency assessments. However, if multiple English language assessments are used, the state should:

- Establish technical criteria for assessment;
- Ensure that assessments are equivalent in content, difficulty, and quality;
- Review and approve each assessment; and
- Ensure the data from all assessments can be aggregated for comparison and reporting purposes, as well as disaggregated by English language proficiency levels and grade levels.

The department has not established criteria for placing LEP students based on language assessment results even though in the federal consolidated application the department states students will be placed in the program based on assessments.

Many school districts that do not participate in the state bilingual education program contend administration of the home language surveys satisfies OCR requirements, indicating they lack programs for LEP students. There is concern that school districts are not servicing LEP students' needs based on OCR requirements.

One school district participating in the state bilingual program reports servicing students through a newcomer center, which is a form of segregation and may violate OCR regulations pertaining to segregating LEP students.

The state Constitution required the Legislature establish a penalty for violation of the provision that prohibits housing students of Spanish decent in separate schools and requires "perfect equality" with other children in the public schools and education institutions of the state. However, statutory research of the Public School Act did not identify any such penalty.

OCR policy interprets the Civil Rights Act of 1964. The policy requires school districts to ensure they identify all LEP students so as to provide such students equal and meaningful access to educational programs. Under civil rights laws and policy, school districts must provide English-language learners (ELL) alternative language services, and school districts must define education goals for ELL students. Four school districts have agreements with OCR. Several other school districts in New Mexico are currently under OCR review.

Table 16 reflects responses to the bilingual education survey on how school districts comply with OCR requirements.

Table 16: School Districts Reponses on Required OCR-Services for LEP Students

	Non-Participating School districts	Participating School districts
Home language surveys	89%	98%
Student language proficiency assessments	57%	98%
Student placement in a specialized language instruction program	36%	77%
Monitoring student progress in language proficiency and academic achievement	71%	92%
Program evaluation	29%	75%

Source: Bilingual education survey of school districts.

New Mexico's consolidated state application for federal funding states an advisory group will be established to review the Title III portion of No Child Left Behind and will work throughout the school year to review and refine the grant process. To meet the requirements of Title III a state advisory group was formed to develop grant criteria that requires subgrantees to:

- Examine research on English-language acquisition programs;
- Examine evaluations and data analyses on English-language acquisition programs;
- Evaluate programs for detail and clarity to provide for replication or to build a program based on research findings;
- Conduct needs assessments of student populations to determine appropriate program design;
- Design English-language acquisition programs for schools with LEP student populations;
- Include goals, objectives, and baseline data for evaluation;
- Annually assess student progress towards English-language proficiency;
- Determine progress indicators for redesignation of student language status and exiting program after FEP status is reached;
- Monitor student progress after exit for two years; and
- Comply with all program assurances.

Review of the bilingual advisory committee minutes from the October 28, 2002, February 25, 2003, and June 6, 2003, meetings indicates that very little work has been done on developing grant criteria as described in the consolidated application. The committee did address accommodations for bilingual students and alternative assessments. In addition, the department met with committee members from higher education to seek input for the English language development (ELD) standards.

For the first two years following the enactment of the No Child Left Behind Act, Title III funding for all states was determined by the number of LEP children using U.S. Census 2000 data. For subsequent years, starting with SY04, the act states that the number of LEP students in a state and in all states will be determined by using the more accurate of the American Community Survey or the number of children being assessed for English proficiency in a state. The U.S. Department of Education has decided to continue using data provided by the census due to problems with the American Community Survey and the majority of states not having accurate data on LEP students. The U. S. Department of Education plans to start using accurate state reported data on LEP students in SY06. New Mexico received funding for Title III in SY03 based on the 38,436 LEP students reported by the census; however, ADS reported 64,777 LEP students.

Because of the format of the Student Count of English Language Learners (ELL) report, a determination cannot be made about the accuracy of the data because it is unclear as to whether this data incorporates bilingual education students who are not LEP and Title VII students. The report shows:

- 64,616 LEP students statewide,
- 39,427 LEP students receiving instruction in students' native language, and
- 25,189 LEP students receiving instruction that does not incorporate students' native language.

Also, NCES reported in the *Overview of Public Elementary and Secondary Schools* for SY02 that New Mexico is serving 20.6 percent (66,035) of its statewide student population through LEP services. The only state that serves a higher percentage of LEP students is California, which serves 24.6 percent (1,510,859) of its statewide student population. According to department staff the number of LEP served in the state was taken from ADS. As indicated previously, state bilingual education program participation includes both LEP and non-LEP students. Therefore, this data maybe inaccurately reported. Attempts to validate through ADS the number reported to NCES were unsuccessful.

Based on the census-reported number of LEP students, 69 school districts were eligible for Title III funding. The department posted the Title III application on its Internet website along with the monetary amounts that eligible school districts could receive from Title III. Forty-eight school districts applied for and received Title III funding for SY04. Five school districts not participating in the state bilingual education program reported receiving Title III or Title VII funding in SY03.

Twenty-two school districts received Title VII funding in SY02. Of those 22 school districts, four did not apply for Title III funding. Of the four school districts that did not apply, three are required by Title III regulations to form a consortium to receive funding. This is because Title III does not fund in amounts less than $10,000.

Review of the document *Title VII: Improving America's Schools Act, New Mexico Programs Project Activities 2000-01* indicates that the majority of Title VII funding is directed toward teacher training. Very few of the school districts discuss students' academic achievement as a project outcome.

One school district noted that a goal in the Title III application was staff development training, specifically for ESL; however, the school district did not tie ESL development training to measurable goals. Title III requires that school districts meet all annual measurable goals. Annual measurable goals at minimum require:

- Increases in the number or percentage of children making progress in learning English,
- Increases in the number or percentage of children attaining English proficiency by the end of each school year, and
- Adequate yearly progress for LEP children.

Recommendations.

Develop and implement a statewide English-language assessment or comply with the federal requirements on English-language proficiency assessments and provide guidance to school districts on how to place students in the appropriate model and program service hours based on assessment scores to ensure LEP students are receiving the appropriate services.

Ensure school districts (participating and not participating in the state program) are knowledgeable about OCR requirements for serving LEP students and verify that nonparticipating school districts with LEP students are offering these students specialized language instruction programs.

Visit the newcomer center to ensure that the program is operated within OCR segregation requirements.

Ensure the state advisory board for Title III and state bilingual education is functioning in its designated capacity of developing grant criteria as defined in New Mexico's consolidated state application for federal funding.

Require that school districts applying for Title III program funding associate program design to require annual measurable goals and establish and enforce criteria for rescinding Title III funding if a school district fails to meet those measurable goals for four consecutive years.

Define what data are required from school districts under Title III and require school districts to report these data through ADS for department analysis and maintenance.

Department Responses.

- NM has three State-approved English Language Proficiency Assessments which include 3 to 5 numerical levels of proficiency. To be able to make use of the data, the State has requested that test publishers provide a comparison of language proficiency indexes. The comparison being implemented to establish consistency of test ranges is from *Woodcock Muñoz Language Survey. Normative Update Comprehensive Manual.* Riverside Publishing, 2001:

Comparison of Language Proficiency Levels			
Level	Woodcock Muñoz LS	IDEA- IPT	LAS
3	5- Advanced 4- Fluent	Fluent English Speaking	Fluent English Speaker
2	3 – Limited 2- Very Limited	Limited English Speaking	Limited English Speaker
1	1- Negligible	Non-English Speaking	Non-English Speaker

- The three assessments will only be used one more year. New Mexico is part of the Mountain West Consortium with 8 other states that received a Federal grant to develop a statewide English Language Proficiency instrument.

- BMEU has provided Chart 8, "Required Procedures for Identification, Assessment, Program Placement and Evaluation of ELL Students" in the technical assistance manual along with Exhibit 4 of this report, "Bilingual Education Title III Program Models and Instructional Time," to guide districts in program placement.

- BMEU will continue to work with the PED Assessment Unit to conduct training regarding assessing and placing ELL students and other students in Bilingual Education programs, in compliance with OCR and Federal requirements.

- BMEU has developed a Q&A sheet and other guidance for districts regarding assessing and accommodating English Language Learners. These are available electronically and in hard copy.

- BMEU will ensure that State Bilingual Advisory Committee (SBAC) meetings address Title III program requirements**.**

- Applications for funding require districts to establish Annual Measurable Achievement Objectives – AMAOs. The current Bilingual Multicultural Education Guidelines – 6.32.2 require that a student progress report for language proficiency and academic achievement is part of the Biennial Report.

- 6.32.2 has also established procedures for rescinding funding if a school fails to meet their goals. The guidelines were developed to revise and update state bilingual education programs for accountability and alignment with Federal programs, especially Title III. This enables districts to provide a progress report to be used for both state and Title III funding.

- New ADS fields include only those required for Title III and state programs. These will enable districts to submit data in ADS rather than with a hard copy.

- BMEU will continue to work to persuade OELA to fund LEPs based on ADS numbers and not on Census numbers which are less accurate.

- BMEU staff will conduct technical assistance and monitoring visits to ensure that all programs which appear to segregate students comply with OCR and state laws and regulations.

SUPPLY OF BILINGUAL EDUCATION AND ESL TEACHERS

In SY03, department records show 538 "teaching English to students of other languages" (TESOL) teachers with 77 not fully certified, 1,269 bilingual teachers with 409 not fully certified, and 1,800 ESL teachers. The ADS report on licensure used by the bilingual multicultural education unit (unit) only has totals; it is unclear how the unit determined whether teachers listed in applications were certified. Table 17 shows a breakdown of bilingual and TESOL waivers in comparison to statewide waivers.

Table 17: Bilingual and TESOL Waivers Compared to Statewide Waivers

	2000-01	2001-02	2002-03
Bilingual/TESOL waivers	393	323	371
Percent change in bilingual/TESOL waivers	N/A	-17.8%	14.9%
Statewide waivers	590	518	569
Percent bilingual/TESOL waivers of statewide waivers	66.6%	62.4%	65.2%

Source: State Public Education Department Licensure Unit

One of the requirements for funding listed in Section 22-23-6 A NMSA 1978 provides that each program shall use teachers who have specialized in elementary or secondary education and who have received special training in bilingual education conducted through the use of two languages.

The department's new and old regulations state that personnel should be endorsed in bilingual education or certified in native language and culture. The state superintendent (replaced by secretary of education) may authorize other personnel to implement programs if qualified personnel are not available by the submission date of an approved program design that addresses recruitment, professional development, and staffing patterns. Section 22-10A-14 NMSA 1978 Certificates of Waiver states if a local superintendent certifies to the department that an emergency exits in the hiring of a qualified person, the department may issue a certificate of teaching waiver or assignment waiver.

The unit e-mailed the bilingual directors and stated, "Be advised that all teachers working with LEP students must be properly endorsed." The unit stated this was a result of clarification from the licensure unit that "persons teaching and/or providing direct services to students must be licensed and/or endorsed for what he/she is teaching." In the e-mail, the unit went on to state that kindergarten through grade eight bilingual-endorsed teachers may deliver the ESL/ELD component without the TESOL endorsement. Department regulations allow brief placement of individuals with substandard licenses in an emergency situation, including when qualified applicants are unavailable.

Title III/No Child Left Behind requires "high-quality language instruction educational programs." The SBE regulation defines "highly qualified" teacher as an individual of core academic subjects who has had no certification or licensure requirements waived on an emergency basis. The U.S. Department of Education reports Title III does not require endorsement for bilingual education teachers. The only requirement is that the teacher has a state license and be able to speak in English and the students' home language.

Participating and nonparticipating school districts in bilingual education state that No Child Left Behind makes it difficult for them to hire quality teachers. In the survey, 87 percent of school districts participating in bilingual education reported the need for more bilingual/TESOL-endorsed teachers.

Because it is difficult to hire bilingual endorsed teachers, some districts might be using strategies that are assisting LEP students to become English proficient as may be evidenced in the school districts Terra Nova assessment results. There is confusion among school districts regarding the requirements for highly qualified teachers in Title III and what is required in the state bilingual education program. If a school district is providing services as required under Title III only, which are ESL services, then a certificate of endorsement as a bilingual education teacher is not necessary based on federal requirements.

An article titled "What's Wrong with Our Schools," featured in the September 2003 issue of *State Legislatures*, provides excerpts from "Condition of Education, 2003" that indicates students in high minority school are nearly 50 percent more likely to have young, inexperienced teachers, according to NCES data. The article also states that a recent *Chicago Sun-Times* analysis of staffing patterns in Chicago public schools found that classes with the most minority students were five times as likely to be taught by teachers who failed the basic skills test required for licensure. The article indicates that schools have found ways to effect results. One of two initiatives mentioned proposes using federal funds to hire highly skilled coaches to help teachers learn to use the curriculum. In the past, that money paid primarily for instructional aides, themselves poorly educated, to act as tutors. The second initiative proposes organizing the school day so that groups of teachers can meet to craft ways to address needs of individual students. If educators do not like their schools being identified in the newspaper or by the state as "needs improvement," they should analyze test score data to determine the source of their weakness.

Currently, New Mexico has 828 new teacher applicants who have one-year licenses issued while they complete required teacher assessments. A recent press release from the department's licensure unit reports 92 percent of New Mexico's teachers are fully licensed by the state for the classes they teach. However, some teachers still need additional content area expertise to be classified highly qualified. This accounts for New Mexico having 77 percent of teachers classified highly qualified. In high poverty schools, the percentage of highly qualified teachers is 71 percent.

Recommendation.

Consider amending criteria on bilingual and TESOL endorsement for small rural districts where attracting qualified teachers becomes a burden because Title III does not require endorsements for bilingual teachers. Evidence that LEP students are achieving at 40th percentile or higher and adequate yearly progress would be evidence for relaxing regulations.

Department Responses.

- Teacher licensure is verified against the NM PED AS400 database. TESOL &ESL teachers are licensed through one endorsement- TESOL.

- While the *NCLB Title III English Language Acquisition Act* is not specific regarding endorsements, it exists as a part of NCLB and not a stand alone act. Thus NCLB requirements include all sections of the act. Section 9101(23) "Highly Qualified", it requires that: "(A) (i) the teacher has obtained full State certification as a teacher…" and additionally in (C) "(ii) demonstrates competence in all the academic subjects in which the teacher teaches based on a high objective uniform State standard of evaluation that….: I-VII". This requires that the teacher must meet the state standard for licensure in the level and for the subject areas they teach.

- ESL instruction is a specialized subject area that requires intensive training to ensure that teachers use appropriate strategies to ensure student progress in English proficiency.

- State standards require endorsements for any subject areas that a teacher teaches.

- The PED will continue to support Spanish Language Summer Immersion Institutes to ensure opportunities are available for teachers to become endorsed in Bilingual Education.

- Continue to assist districts to implement the Native American Language and Culture certificate.

- Continue to work with IHEs to increase/improve teaching certification programs.

- Continue to implement the MOUs with Spain and Mexico.

DEPARTMENT RESOURCES FOR ADMINISTRATION OF BILINGUAL EDUCATION

Policies and procedures for department operations and administration of the bilingual education program have not been developed and implemented. Also, the training budget for the unit staff is minimal.

In the last two years, staff turnover appears to be low. Personnel tables of organizational listing (TOOL) reports for the unit were obtained for August FY02, FY03, and FY04 to verify the unit-provided information. However, it was impossible to reconcile the TOOL to the documentation provided by the unit. In SY01, the unit comprised two individuals. The following year, the unit had eight filled staff positions.

The unit has not developed written policies and procedures for operation and proper administration of the bilingual education program. Current staff had no guidance on program administration and has had to develop procedures as the need arises. As a result, each education administrator analyzed and reviewed school district applications differently. This created inefficiency and frustration for school district staff when applications are initially reviewed by one staff member and revisions are reviewed by another staff member, who might request additional revisions. In addition, school district staff reported that answers to questions can vary depending on the person contacted at the bilingual education unit.

The unit receives state and federal funding (Title VII, Title III and Foreign Language Assistance Program). Between FY01 and FY02, the unit's budget increased 35 percent. Between the FY02 and

FY03, it increased 16 percent. The increase in budget is due to the transition from Title VII to Title III and contracting with the federal government for the Foreign Language Assistance Program (FLAP). The funding increases are sustained by a program change and a contractual program that is providing temporary additional funds. State funding for the unit has averaged $230,000.

The unit's travel budget increased 84 percent between FY01 and FY02 (from $13,700 to $25,200). The increase was mainly due to a federal travel budget increase. Unit staff states that the increase occurred because of how the federal budget breakdown was created. Department documentation showed that $6,114 was spent on travel in FY02. With the FY03 state travel budget of $8,600, the unit should have been able to complete around 25 compliance trips. The computation is based on a 500-mile round trip (32 cents per mile for mileage and a three days/two night stay at a maximum per diem of $65/day), which results in a cost of $335 per trip. Thirteen accreditation visits were conducted in SY03.

A minimal general fund appropriation is allocated to the unit's training budget. The unit received only $1,500 in SY02 in state funding for employee training. The employee training budget is insufficient. The bilingual unit staff must keep abreast and be knowledgeable of federal and state laws and current trends, and database analysis to provide adequate guidance and monitoring to the school districts.

Recommendations.

Develop and implement a written policy and procedure manual that provides step-by-step guidance on how to operate and administer the bilingual education unit and program because a manual is essential for administration continuity and functions as a tool in times of high staff turnover.

Allocate adequate funding to the unit's travel budget to ensure sufficient funds are available to perform focused monitoring and technical assistance visits.

Increase employee training budget to ensure staff maintain the skills necessary to administer the state and federal program including analysis of ADS data in relation to school district program implementation.

Department Responses.

- BMEU staff developed the current manual for districts outlining the procedures required for identifying, assessing, placing, serving and evaluating the progress of students in state and federal bilingual education programs as noted on p. 6 of this audit report. The manual evolved from the previous BMEU administration guidelines handbook. The previous administration was also responsible for initiating ADS fields required for data collection at that time.

- Current staff would like to recognize the legacy left by the previous BMEU administration in supporting and expanding bilingual education programs inclusive of language and culture for all New Mexico's children.

- Internal procedures on administering and evaluating district programs has been developed and used by BMEU staff. Additionally BMEU is developing a handbook to ensure consistency in implementation of policies and procedures by BMEU staff and by district staff.

- BMEU staff will continue the commitment to increase knowledge as life long learners and continue to refine the processes developed for administering state and federal programs.

- BMEU will request funding increases for:
  - ✓ Additional staff for data analysis and monitoring visits.
  - ✓ Staff development.
  - ✓ Technical assistance/Monitoring visits.

APPENDIX

GLOSSARY

Accommodation	Adapting language (spoken or written) to make it more understandable to second language learners. In assessment, accommodations may be made to the presentation, response method, setting, or timing/scheduling of the assessment (Rivera & Stansfield, 2000).
ADS	Accountability Data System.
BICS	Acronym for Basic Interpersonal Communication Skills, part of a theory of language proficiency developed by Jim Cummins (1984), which distinguishes BICS from **CALP** (Cognitive Academic Language Proficiency). BICS is often referred to as "playground English" or "survival English." It is the basic language ability required for face-to-face communication where linguistic interactions are embedded in a situational context.
Bicultural	Identifying with the cultures of two different language groups. To be bicultural is not necessarily the same as being bilingual, and vice-versa.
Bilingual Education Endorsement	Endorsement issued by the State Department of Education. to any licensed Elementary or Secondary qualifying teacher to teach in a bilingual program.
Bilingual Multicultural Education	Provides instruction in, and the study of, English and the home language of the students. It is also the delivery of the content areas in the home language and English and includes the cultural heritage of the child in specific aspects of the curriculum.
Bilingualism	Term that describes equal facility and proficiency in two languages, commensurate with age and proficiency level of student.
Biliteracy	The ability to effectively communicate or understand thoughts and ideas through two languages' grammatical systems and vocabulary, using their written symbols (Hargett, 1998).
CALP	Developed by Jim Cummins (1984), Cognitive/Academic Language Proficiency (CALP) is the language ability required for academic achievement in a context-reduced environment. Examples of context-reduced environments include classroom lectures and textbook reading assignments. CALP is distinguished from Basic Interpersonal Communication Skills (**BICS**).
Content Areas	All subject matter areas of the curriculum of the school, as defined in the *New Mexico Standards for Excellence*, NMAC 6.3.210-17, *Content Standards and Benchmarks*.
CRT	Criterion-Referenced Test.
Culture	The total shared way of a given people. This comprises modes of thinking, acting, law, language, art and customs and also material products such as houses, clothes and tools.

Dual Language	Educational program which enables students to develop fluency and literacy in two languages, high academic achievement in both languages, understanding and appreciation of their own and other cultures, and positive self-esteem. This program is designed to serve both the language minority and language majority student. Goals of the program are for both groups to become biliterate.
ELD (English Language Development)	English language development (ELD) means instruction designed specifically for LEP/ELL students to further develop their listening, speaking, reading, and writing skills in English.
ELL (English Language Learner)	English Language Learners (ELLs) are students whose first language is not English and who are unable to speak, read, write, and understand English at a level comparable to their grade-level English proficient peers as determined by objective measures of proficiency normed for language minority students.
Enrichment Bilingual Education	Program of bilingual education that further develops the home language and teaches the cultures of the state of New Mexico to FEP students.
Entry Criteria	A set of criteria for designation of students as limited English proficient (LEP) and placement in bilingual education, ESL, or other language support services. Criteria usually include a home language survey and performance on an English language proficiency test.
EPSS	Educational Plan for Student Success. Long range plan for improvement that is developed by individual schools and districts.
ESL (English as a Second Language)	English as a Second Language (ESL) is an educational approach in which limited English proficient students are instructed in the use of the English language. Instruction is based on a special curriculum that typically involves little or no use of the native language, focuses on language (as opposed to content) and is usually taught during specific school periods. For the rest of the school day, students may be placed in mainstream classrooms, an immersion program, or a bilingual classroom.
ESL Endorsement (English as a Second Language)	See TESOL endorsement.
Exit Criteria	Information gathered through several means to decide whether the student is ready to continue in an ESL/ELD program, or go into an enrichment program, or an all English curriculum.
FEP (Fluent English Proficient)	Primary or home language other than English (PHLOTE) students who are able to speak, read, write, and understand the English language at levels comparable to their grade-level English proficient peers as determined by objective measures of proficiency normed for language minority students.
Heritage Language (Home Language)	The language a person regards as his/her native, home, and/or ancestral language.

Home or Primary Language (L_1)	The language, other than English, spoken at home (These terms are interchangeable: first language (L_1), native language, primary language, mother tongue, home language).
Immigrant Children and Youth	Individuals who are aged 3 through 21; were not born in any US state; and have not been attending one or more schools in any one or more US states for more than 3 full academic years.
L1	First Language (also native language).
L2	Second Language.
Language Acquisition	The process of acquiring a first or second language.
Language-majority	A person or language community that is associated with the dominant language of the country.
Language-minority	A person or language community that is different from the dominant language of the country.
Language Proficiency	Measure of how well an individual can speak, read, write and comprehend a language, comparable to the standard expected for native speakers of the language. Language proficiency is composed of oral (listening and speaking) and written (reading and writing) components, as well as academic and non-academic language and comprehension of said language.
LEA	Local Education Agency.
LEP (Limited English Proficient)	Term used by the federal government, most states and local school districts to identify those students who have insufficient English to succeed in English-only classrooms. The preferred term is English Language Learner.
Maintenance Bilingual Education	Program of bilingual education for ELL students that has as its goal the maintenance and further development of all aspects of the home language and English.
Native Language	The language a person acquires first in life or identifies with as a member of an ethnic group.
Native Language Instruction	The use of a child's home language (generally by a classroom teacher) to provide lessons in academic subjects.
NEP (Non English Proficient)	PHLOTE students who do not have skills to speak, read, write, and understand the English language.
NMPED	New Mexico Public Education Department
NMSBE	New Mexico State Board of Education (also SBE)
NMSDE	New Mexico State Department of Education (also SDE)
NRT	Norm-Referenced Test.
OCR	The Office for Civil Rights (OCR), U.S. Department of Education, has responsibility for enforcing Title VI of the Civil Rights Act of 1964.

Paraprofessional	Individual who is employed in a preschool, elementary school, or secondary school under the supervision of a certified or licensed teacher, including individuals employed in language instruction educational programs, special education, and migrant education.
PHLOTE(Primary or Home Language Other Than English)	Term used by the Office for Civil Rights to identify a student with a primary (i.e., first-learned) or home language that is not English.
SBE	see NMSBE
SDE	see NMSDE
SEA	State Educational Agency.
Second Language (L_2)	Term is used in several ways and can refer to: 1) the second language learned chronologically, 2) a language other than the native language, 3) the weaker language, or 4) the less- frequently used language. Second language may also be used to refer to third and further learned languages (Harris & Hodges, 1995).
TESOL **(and endorsement)**	Teachers of English to Speakers of Other Languages (TESOL) is a professional association of teachers, administrators, researchers and others concerned with promoting scholarship, the dissemination of information, and strengthening of instruction and research in the teaching of English to speakers of other languages. This term also refers to an endorsement given to Elementary and Secondary licensed teachers qualified to teach English as a Second Language classes.
Transitional Bilingual Education	Program of Bilingual Education for English Language Learners that has as its goal the transfer of students from Home Language instruction to an all-English curriculum.
Two-Way Bilingual Programs	See Dual Language.

EXHIBITS

EXHIBIT 1

Percent of District to Statewide Population of LEP and Bilingual Education Students, and Percent of School District Bilingual Funding to Total Bilingual SEG SY03

2003	% of District LEP Students to LEP Statewide Population	% of District Bilingual Students to Bilingual Statewide Population	% of District Funding to Total SEG Funding
ALAMOGORDO	0.35%	0.13%	0.19%
ALBUQUERQUE	19.15%	22.68%	24.64%
ANIMAS	0.03%	0.00%	0.00%
ARTESIA	0.36%	1.31%	0.71%
AZTEC	0.11%	0.00%	0.00%
BELEN	0.49%	0.33%	0.29%
BERNALILLO	2.86%	4.72%	3.76%
BLOOMFIELD	0.79%	0.40%	0.28%
CAPITAN	0.00%	0.00%	0.00%
CARLSBAD	0.37%	1.05%	0.66%
CARRIZOZO	0.00%	0.00%	0.00%
CENTRAL CONS.	5.84%	5.42%	3.75%
CHAMA VALLEY	0.50%	0.41%	0.17%
CIMARRON	0.03%	0.06%	0.04%
CLAYTON	0.00%	0.00%	0.00%
CLOVIS	0.83%	0.42%	0.45%
COBRE CONS.	1.37%	1.76%	1.98%
CORONA	0.03%	0.06%	0.04%
COUDCROFT	0.02%	0.00%	0.00%
CUBA	1.07%	1.06%	0.73%
DEMING	2.38%	2.53%	3.11%
DES MOINES	0.00%	0.00%	0.00%
DEXTER	0.34%	0.17%	0.14%
DORA	0.04%	0.00%	0.00%
DULCE	0.82%	0.00%	0.00%
ELIDA	0.00%	0.00%	0.00%
ESPAÑOLA	3.50%	5.49%	6.27%
ESTANCIA	0.00%	0.00%	0.00%
EUNICE	0.06%	0.06%	0.04%
FARMINGTON	3.98%	4.06%	3.31%
FLOYD	0.08%	0.09%	0.07%
FT. SUMNER	0.00%	0.00%	0.00%
GADSDEN	12.47%	7.92%	9.07%
GALLUP-McKINLEY	8.04%	1.82%	2.12%
GRADY	0.00%	0.00%	0.00%
GRANTS	1.43%	1.00%	1.30%
HAGERMAN	0.13%	0.14%	0.30%
HATCH	1.49%	1.57%	1.84%
HOBBS	1.68%	0.31%	0.23%
HONDO	0.02%	0.12%	0.05%
HOUSE	0.00%	0.00%	0.00%
JAL	0.02%	0.00%	0.00%
JEMEZ MOUNTAIN	0.42%	0.58%	0.53%
JEMEZ VALLEY	0.28%	0.23%	0.13%

Percent of District to Statewide Population of LEP and Bilingual Education Students, and Percent of School District Bilingual Funding to Total Bilingual SEG SY03

2003	% of District LEP Students to LEP Statewide Population	% of District Bilingual Students to Bilingual Statewide Population	% of District Funding to Total SEG Funding
LAKE ARTHUR	0.10%	0.03%	0.02%
LAS CRUCES	4.08%	4.45%	4.29%
LAS VEGAS CITY	0.92%	1.98%	1.69%
LAS VEGAS WEST	2.13%	3.06%	2.92%
LOGAN	0.00%	0.00%	0.00%
LORDSBURG	0.08%	0.00%	0.00%
LOS ALAMOS	0.07%	0.00%	0.00%
LOS LUNAS	2.06%	1.63%	3.17%
LOVING	0.44%	0.61%	0.37%
LOVINGTON	0.93%	0.55%	0.43%
MAGDALENA	0.08%	0.00%	0.00%
MAXWELL	0.00%	0.00%	0.00%
MELROSE	0.00%	0.00%	0.00%
MESA VISTA	0.16%	0.70%	0.83%
MORA	0.06%	0.79%	0.67%
MORIARTY	0.46%	0.44%	0.32%
MOSQUERO	0.00%	0.00%	0.00%
MOUNTAINAIR	0.00%	0.00%	0.00%
PECOS	0.82%	1.37%	1.30%
PEÑASCO	0.62%	0.98%	1.10%
POJOAQUE	1.14%	1.79%	1.95%
PORTALES	0.17%	0.18%	0.41%
QUEMADO	0.00%	0.00%	0.00%
QUESTA	0.34%	0.67%	0.85%
RATON	0.38%	0.56%	0.32%
RESERVE	0.00%	0.00%	0.00%
RIO RANCHO	0.95%	0.14%	0.09%
ROSWELL	1.27%	0.95%	1.23%
ROY	0.00%	0.00%	0.00%
RUIDOSO	0.58%	0.61%	0.70%
SAN JON	0.00%	0.00%	0.00%
SANTA FE	5.71%	6.20%	4.56%
SANTA ROSA	0.86%	1.09%	1.23%
SILVER CONS.	0.76%	0.39%	0.17%
SOCORRO	0.32%	0.68%	0.14%
SPRINGER	0.00%	0.00%	0.00%
TAOS	0.36%	0.63%	1.46%
TATUM	0.06%	0.00%	0.00%
TEXICO	0.04%	0.02%	0.01%
TRUTH OR CONSEQ.	0.80%	0.86%	0.91%
TUCUMCARI	0.06%	0.05%	0.05%
TULAROSA	0.15%	0.00%	0.00%
VAUGHN	0.03%	0.13%	0.11%
WAGON MOUND	0.07%	0.29%	0.11%
ZUNI	1.55%	2.26%	2.39%

Data Source: ADS 120th report date.
Note: Data does not include juvenile correctional facilities or special state supported schools (example: Visually Handicapped).

Bilingual Education Program Funding by School District Sorted by Number of Bilingual Education Students: SY03

2002-03	Projected Unit Value	Bilingual Students
ALBUQUERQUE	$9,094,325	13,791
GADSDEN	$3,348,255	4,814
SANTA FE	$1,683,607	3,771
ESPAÑOLA	$2,312,476	3,342
CENTRAL CONS.	$1,383,535	3,298
BERNALILLO	$1,387,306	2,870
LAS CRUCES	$1,584,946	2,706
FARMINGTON	$1,219,765	2,470
LAS VEGAS WEST	$1,078,810	1,863
DEMING	$1,146,073	1,541
ZUNI	$880,448	1,373
LAS VEGAS CITY	$621,890	1,205
GALLUP-McKINLEY	$783,088	1,106
POJOAQUE	$720,869	1,088
COBRE CONS.	$731,804	1,072
LOS LUNAS	$1,171,619	992
HATCH	$678,402	957
PECOS	$478,436	833
ARTESIA	$261,853	795
SANTA ROSA	$453,149	663
CUBA	$269,237	646
CARLSBAD	$244,355	641
GRANTS	$478,768	607
PEÑASCO	$407,561	593
ROSWELL	$452,340	575
TRUTH OR CONSEQ.	$335,704	521
MORA	$247,086	482
MESA VISTA	$305,375	423
SOCORRO	$51,223	411
QUESTA	$313,799	410
TAOS	$539,774	386
RUIDOSO	$258,732	373
LOVING	$135,420	373
JEMEZ MOUNTAIN	$196,354	354
RATON	$118,731	342
LOVINGTON	$159,190	335
MORIARTY	$119,049	270
CLOVIS	$165,533	257
CHAMA VALLEY	$61,974	250
BLOOMFIELD	$104,195	241
SILVER CITY CONS.	$62,219	236
BELEN	$108,689	202
HOBBS	$86,466	189
WAGON MOUND	$41,831	176

Bilingual Education Program Funding by School District Sorted by Number of Bilingual Education Students: SY03

2002-03	Projected Unit Value	Bilingual Students
JEMEZ VALLEY	$46,961	139
PORTALES	$150,520	107
DEXTER	$53,058	104
HAGERMAN	$109,570	87
RIO RANCHO	$33,234	84
VAUGHN	$39,172	82
ALAMOGORDO	$68,881	79
HONDO	$17,903	73
FLOYD	$25,041	54
EUNICE	$14,291	36
CORONA	$13,250	36
CIMARRON	$15,649	35
TUCUMCARI	$19,348	29
LAKE ARTHUR	$5,939	18
TEXICO	$5,114	14
DULCE	$0	0
TULAROSA	$0	0
AZTEC	$0	0
MAGDALENA	$0	0
LORDSBURG	$0	0
LOS ALAMOS	$0	0
TATUM	$0	0
DORA	$0	0
ANIMAS	$0	0
JAL	$0	0
COUDCROFT	$0	0
ESTANCIA	$0	0
GRADY	$0	0
CAPITAN	$0	0
CARRIZOZO	$0	0
CLAYTON	$0	0
DES MOINES	$0	0
ELIDA	$0	0
FT. SUMNER	$0	0
HOUSE	$0	0
LOGAN	$0	0
MAXWELL	$0	0
MELROSE	$0	0
MOSQUERO	$0	0
MOUNTAINAIR	$0	0
QUEMADO	$0	0
RESERVE	$0	0
ROY	$0	0
SAN JON	$0	0
SPRINGER	$0	0
STATEWIDE	$36,902,186	60,820

Data Source: ADS 120th report date.
Note: Data does not include juvenile correctional facilities or special state supported charter schools (example: Visually Handicapped)..

Bilingual Education Program Funding by School District Sorted by Number of Limited English Proficient Students: SY03

2002-03	Projected Unit Value	LEP Students
ALBUQUERQUE	$9,094,325	12,406
GADSDEN	$3,348,255	8,079
GALLUP-McKINLEY	$783,088	5,206
CENTRAL CONS.	$1,383,535	3,782
SANTA FE	$1,683,607	3,699
LAS CRUCES	$1,584,946	2,642
FARMINGTON	$1,219,765	2,576
ESPAÑOLA	$2,312,476	2,265
BERNALILLO	$1,387,306	1,854
DEMING	$1,146,073	1,541
LAS VEGAS WEST	$1,078,810	1,381
LOS LUNAS	$1,171,619	1,337
HOBBS	$86,466	1,090
ZUNI	$880,448	1,003
HATCH	$678,402	966
GRANTS	$478,768	924
COBRE CONS.	$731,804	886
ROSWELL	$452,340	825
POJOAQUE	$720,869	741
CUBA	$269,237	692
RIO RANCHO	$33,234	617
LOVINGTON	$159,190	602
LAS VEGAS CITY	$621,890	596
SANTA ROSA	$453,149	555
CLOVIS	$165,533	535
DULCE	$0	532
PECOS	$478,436	530
TRUTH OR CONSEQ.	$335,704	521
BLOOMFIELD	$104,195	510
SILVER CITY CONS.	$62,219	490
PEÑASCO	$407,561	401
RUIDOSO	$258,732	373
CHAMA VALLEY	$61,974	321
BELEN	$108,689	318
MORIARTY	$119,049	295
LOVING	$135,420	286
JEMEZ MOUNTAIN	$196,354	273
RATON	$118,731	248
CARLSBAD	$244,355	240
TAOS	$539,774	234
ARTESIA	$261,853	233
ALAMOGORDO	$68,881	228
QUESTA	$313,799	221
DEXTER	$53,058	217

Bilingual Education Program Funding by School District Sorted by Number of Limited English Proficient Students: SY03

2002-03	Projected Unit Value	LEP Students
SOCORRO	$51,223	209
JEMEZ VALLEY	$46,961	183
PORTALES	$150,520	109
MESA VISTA	$305,375	101
TULAROSA	$0	95
HAGERMAN	$109,570	85
AZTEC	$0	71
LAKE ARTHUR	$5,939	64
FLOYD	$25,041	54
MAGDALENA	$0	52
LORDSBURG	$0	49
LOS ALAMOS	$0	48
WAGON MOUND	$41,831	48
MORA	$247,086	41
TATUM	$0	37
TUCUMCARI	$19,348	37
EUNICE	$14,291	36
DORA	$0	27
TEXICO	$5,114	27
CIMARRON	$15,649	22
CORONA	$13,250	22
ANIMAS	$0	21
VAUGHN	$39,172	21
HONDO	$17,903	16
JAL	$0	14
COUDCROFT	$0	10
ESTANCIA	$0	3
GRADY	$0	2
CAPITAN	$0	0
CARRIZOZO	$0	0
CLAYTON	$0	0
DES MOINES	$0	0
ELIDA	$0	0
FT. SUMNER	$0	0
HOUSE	$0	0
LOGAN	$0	0
MAXWELL	$0	0
MELROSE	$0	0
MOSQUERO	$0	0
MOUNTAINAIR	$0	0
QUEMADO	$0	0
RESERVE	$0	0
ROY	$0	0
SAN JON	$0	0
SPRINGER	$0	0
STATEWIDE	$36,902,186	64,775

Data Source: ADS 120th report date.
Note: Data does not include juvenile correctional facilities or special state supported charter schools (example: Visually Handicapped)..

EXHIBIT 3

Ethnicity Breakdown of All Students, LEP Students and Bilingual Education Students: SY03

District	Asian/Pacific Islander			Black			Caucasian			Hispanic			Native American		
	Total Students	LEP	Bilingual	Total Students	LEP	Bilingual	Total Students	LEP	Bilingual	Total Students	LEP	Bilingual	Total Students	LEP	Bilingual
ALAMOGORDO	173	10	0	482	1	0	3,801	35	7	2,165	166	72	75	2	0
ALBUQUERQUE	1,761	476	19	3,325	91	111	32,367	363	621	45,129	10,655	12,818	4,085	644	191
ANIMAS	0	0	0	0	0	0	171	0	0	116	21	0	0	0	0
ARTESIA	3	0	0	47	1	7	1,638	14	59	1,902	218	728	11	0	1
AZTEC	16	0	0	8	0	0	2,102	0	0	649	33	0	375	38	0
BELEN	16	1	0	75	0	0	1,308	4	0	3,208	312	202	68	1	0
BERNALILLO	4	0	0	16	3	4	310	26	90	1,641	850	1,401	1,482	972	1,372
BLOOMFIELD	7	0	1	9	0	0	1,148	1	6	908	169	140	1,042	340	94
CAPITAN	0	0	0	2	0	0	458	0	0	121	0	0	10	0	0
CARLSBAD	29	1	1	100	1	2	3,043	7	12	2,893	226	623	39	1	2
CARRIZOZO	0	0	0	7	0	0	94	0	0	118	0	0	1	0	0
CENTRAL CONS.	5	0	0	11	0	0	622	1	0	140	46	38	6,281	3,735	3,260
CHAMA VALLEY	3	1	0	5	0	0	69	11	7	410	303	237	5	3	3
CIMARRON	2	0	0	2	0	0	321	5	7	202	17	28	1	0	0
CLAYTON	2	0	0	4	0	0	314	0	0	290	0	0	3	0	0
CLOVIS	137	9	1	807	3	0	3,646	13	0	3,376	507	256	82	2	0
COBRE CONS.	2	0	0	7	0	0	234	4	5	1,380	879	1,062	18	1	1
CORONA	0	0	0	0	0	0	49	0	5	32	22	31	0	0	0
CLOUDCROFT	1	0	0	2	0	0	383	0	0	46	10	0	13	0	0
CUBA	0	0	0	1	1	1	49	28	21	226	184	166	581	476	455
DEMING	11	0	0	46	1	1	978	11	11	4,164	1,525	1,525	15	2	2
DES MOINES	2	0	0	1	0	0	96	0	0	46	0	0	4	0	0
DEXTER	0	0	0	5	0	0	288	2	1	811	215	103	1	0	0
DORA	0	0	0	0	0	0	180	0	0	56	24	0	0	0	0
DULCE	0	0	0	2	1	0	8	4	0	50	33	0	589	476	0
ELIDA	2	0	0	2	0	0	88	0	0	28	0	0	0	0	0
ESPAÑOLA	7	1	4	16	6	10	160	46	88	4,230	2,073	2,994	347	131	231
ESTANCIA	7	0	0	13	0	0	369	0	0	464	3	0	14	0	0
EUNICE	1	0	0	5	0	0	326	0	0	291	36	36	0	0	0
FARMINGTON	93	22	3	106	8	8	4,837	66	61	2,107	930	905	2,858	1,550	1,493
FLOYD	0	0	0	7	0	0	159	0	0	119	54	54	4	0	0
FT. SUMNER	0	0	0	0	0	0	191	0	0	142	0	0	0	0	0
GADSDEN	22	2	1	45	8	2	707	34	18	12,498	8,032	4,792	19	2	1
GALLUP-McKINLEY	51	7	0	47	2	2	965	10	1	1,500	295	55	10,951	4,874	1,048
GRADY	0	0	0	0	0	0	114	0	0	5	2	0	0	0	0
GRANTS	15	1	0	31	1	0	787	31	20	1,474	480	360	1,338	410	226
HAGERMAN	1	0	0	1	0	0	146	0	0	332	85	87	2	0	0
HATCH	0	0	0	1	0	0	154	3	3	1,337	963	954	0	0	0
HOBBS	46	9	0	463	7	0	3,070	16	1	3,921	1,058	188	23	0	0
HONDO	0	0	0	0	0	0	7	0	5	125	16	68	0	0	0
HOUSE	0	0	0	0	0	0	116	0	0	51	0	0	0	0	0
JAL	0	0	0	0	0	0	170	2	0	261	12	0	0	0	0
JEMEZ MOUNTAIN	0	0	0	0	0	0	44	5	27	263	204	261	62	62	62
JEMEZ VALLEY	0	0	0	1	0	0	58	0	1	126	17	31	301	166	107
LAKE ARTHUR	2	0	0	2	0	0	57	4	0	136	60	18	1	0	0
LAS CRUCES	215	13	11	545	5	5	6,437	73	43	15,320	2,543	2,646	181	8	1

Ethnicity Breakdown of All Students, LEP Students and Bilingual Education Students: SY03

District	Asian/Pacific Islander			Black			Caucasian			Hispanic			Native American		
	Total Students	LEP	Bilingual	Total Students	LEP	Bilingual	Total Students	LEP	Bilingual	Total Students	LEP	Bilingual	Total Students	LEP	Bilingual
LAS VEGAS CITY	26	0	5	18	4	11	222	39	84	1,961	551	1,101	10	2	4
LAS VEGAS WEST	1	0	1	10	7	9	100	63	83	1,929	1,303	1,762	6	5	5
LOGAN	0	0	0	1	0	0	195	0	0	55	0	0	4	0	0
LORDSBURG	3	0	0	2	0	0	112	0	0	659	49	0	0	0	0
LOS ALAMOS	151	18	0	18	0	0	2,744	13	0	616	12	0	22	0	0
LOS LUNAS	36	4	0	81	1	2	2,371	52	13	4,974	1,173	966	612	98	7
LOVING	0	0	0	0	0	0	126	0	1	441	286	372	0	0	0
LOVINGTON	8	3	0	89	0	0	1,033	19	5	1,621	579	330	7	1	0
MAGDALENA	0	0	0	0	0	0	90	1	0	131	2	0	159	49	0
MAXWELL	0	0	0	0	0	0	63	0	0	56	0	0	0	0	0
MELROSE	0	0	0	0	0	0	201	0	0	27	0	0	0	0	0
MESA VISTA	0	0	0	7	0	2	59	3	9	441	95	401	20	2	8
MORA	0	0	0	0	0	0	19	0	16	655	41	465	1	0	0
MORIARTY	15	0	0	52	2	0	2,716	53	35	1,296	226	230	67	13	1
MOSQUERO	0	0	0	0	0	0	24	0	0	29	0	0	0	0	0
MOUNTAINAIR	0	0	0	9	0	0	102	0	0	247	0	0	8	0	0
PECOS	0	0	0	9	2	7	75	4	54	775	523	761	9	1	8
PENASCO	0	0	0	2	0	0	40	5	15	563	374	544	33	22	33
POJOAQUE	3	0	0	7	1	1	164	13	30	1,401	558	832	350	169	222
PORTALES	9	0	0	43	0	0	1,315	0	0	1,365	107	105	18	0	0
QUEMADO	0	0	0	0	0	0	134	0	0	25	0	0	23	0	0
QUESTA	1	0	0	0	0	0	87	10	38	472	210	365	2	0	1
RATON	4	0	0	2	0	0	527	36	58	932	211	283	1	0	0
RESERVE	1	0	0	1	0	0	148	0	0	60	0	0	1	0	0
RIO RANCHO	213	24	5	411	9	0	6,230	61	3	3,839	475	74	462	43	0
ROSWELL	49	3	0	268	1	0	3,417	10	3	5,470	809	571	45	0	0
ROY	0	0	0	0	0	0	74	0	0	34	0	0	0	0	0
RUIDOSO	5	0	0	20	0	0	1,134	0	0	778	236	236	345	136	136
SAN JON	0	0	0	0	0	0	122	0	0	54	0	0	2	0	0
SANTA FE	146	21	20	78	7	7	3,213	161	169	9,125	3,325	3,385	395	51	53
SANTA ROSA	5	0	0	0	0	0	35	0	2	680	555	661	1	0	0
SILVER CITY CONS.	19	2	0	45	1	0	1,552	16	7	1,674	469	229	26	2	0
SOCORRO	21	1	5	21	0	2	542	6	96	1,341	191	257	55	7	17
SPRINGER	0	0	0	1	0	0	85	0	0	164	0	0	1	0	0
TAOS	16	0	7	12	0	1	722	7	69	2,293	210	287	191	14	15
TATUM	0	0	0	4	0	0	154	0	0	148	37	0	0	0	0
TEXICO	0	0	0	22	0	0	333	1	1	175	26	13	0	0	0
TRUTH OR CONSEQ.	3	0	0	10	0	0	875	25	25	738	492	492	15	0	0
TUCUMCARI	15	0	0	18	0	0	369	1	1	718	36	28	5	0	0
TULAROSA	5	0	0	8	0	0	316	6	0	488	68	0	207	21	0
VAUGHN	0	0	0	0	0	0	9	0	9	75	21	66	2	0	2
WAGON MOUND	0	0	0	1	0	1	40	1	39	123	47	123	13	0	13
ZUNI	1	0	0	0	0	0	13	1	1	2	0	0	1,753	1,002	1,372
STATEWIDE	3,388	629	84	7,519	175	196	104,541	1,426	1,986	163,459	46,575	47,818	35,753	15,534	10,447

Data Source: ADS 120th report date.
Note: Other and None categories for ethnicity are not reported here.

EXHIBIT 4

BILINGUAL EDUCATION/TITLE III PROGRAM MODELS AND INSTRUCTIONAL TIME

A program model is the method (and services) that the district will use to ensure that all students are placed appropriately in Bilingual Education/Title III programs, i.e., receiving proper instruction. The *model* serves as the foundation for determination of *the number of hours* a student is placed in. The five program models that are funded by the state are: Dual Language, Maintenance, Enrichment, Indigenous/Heritage Language Revitalization and Transitional. A school may use more than one model to serve the individual needs of its students.

Program Models

Dual Language	Maintenance	Enrichment	Indigenous/ Heritage Language Revitalization	Transitional
ELL/FEP/ English native speakers students	ELL students	FEP/ English native speakers students	ELL/FEP/ English native speakers students	ELL students
Instructional Time: 3 hours per day in each language.	Instructional Time: 2 to 3 hours per day.	Instructional Time: 1 to 2 hours per day.	Instructional Time: 1 to 3 hours per day.	Instructional Time: 2 to 3 hours per day.
Required Courses: Minimum of 3 hrs. in the Home language (Language Arts and Content area) and 3 hrs. in English, including ESL for ELL students.	Required Courses: 1 hr. of Home language and 1 hr. of ESL.	Required Course: 1 hr. of Home language.	Required Courses: 1 hr. of Heritage language and 1 hr. of ESL for ELL students	Required Courses: 1 hr. of Home language and 1 hr. of ESL/ELD
	Optional/Additional Courses: May have 1 additional hr. of Bilingual in a Content Area (Math, Social Studies, Science or Fine Arts).	Optional/Additional Courses: May have 1 additional hr. of Bilingual in a Content Area (Math, Social Studies, Science or Fine Arts).	Optional/Additional Courses: May have 1 additional hr. of Bilingual in a Content Area (Math, Social Studies, Science or Fine Arts).	Optional/Additional Courses: May have 1 additional hr. of Bilingual in a Content Area (Math, Social Studies, Science or Fine Arts).
Purpose: All students will be bilingual and biliterate in English and the home/2nd language (best model, according to Research).	Purpose: ELL students will become bilingual and biliterate in English and the home language.	Purpose: All FEP and English native speakers will become fluent in the home/2nd language.	Purpose: All students will become bilingual and biliterate in English and the Heritage lang.	Purpose: All ELL students will become proficient in English.

For Title III Programs: Districts are autonomous to select and use a model(s) that uses only English as language of instruction and which must be tied to scientifically-based research.

EXHIBIT 5

STATE INITIATIVES AND POLICIES SUPPORTING NEW MEXICO BILINGUAL AND MULTICULTURAL EDUCATION PROGRAMS	
1911	Constitutional provisions that maintain a bilingual citizenry.
1941	Senate Bill 3: Spanish shall be taught in all public schools.
1943	Senate Bill 129: To establish a position of supervisor of Spanish in the Department of Education to improve instruction in that
1968	State Board of Education (SBE) Policy on Bilingual Education is the first SBE policy on Bilingual Education in the nation.
1969	Senate Bill 270 (first bilingual law in the nation) is passed to maintain the language and culture of the children of the state and to add richness to the curriculum.
1971	House Bill 270 (second law) added $100,000 funding with priority for K-3to develop greater competence in English, to become more proficient in using two languages, and to profit from increased educational opportunity. Qualifying students are only those with great limitations in English.
1973	Senate Bill 421(present law) contains the best of both previous laws: • $700,000 appropriated • Equal education opportunity for limited English proficient students • Program of English language acquisition • Concept development in core areas - home language • Language and cultural enrichment to children in school • Linguistic and cultural backgrounds for students included in the curriculum • Expand linguistic and conceptual potentials • Teach value and beauty of different languages and cultures
1975	State Board Regulation 75-19: Guidelines include requirements to teach language arts daily in the home language of students.
1975	State Department of Education endorsement for teaching English as a second language (first in nation).
1978	State Department of Education endorsement in Bilingual Education (first in nation).

Source: Public Education Department

STATE INITIATIVES AND POLICIES SUPPORTING NEW MEXICO BILINGUAL AND MULTICULTURAL EDUCATION PROGRAMS	
1986	SDE licensure for Navajo language: Navajo language competencies for teacher licensure to teach Navajo in public schools.
1987	Expansion of the bilingual law to the twelfth grade with a phase-in from 1988 to 1991.
1990	Pueblo language endorsement established by the State Department of Education.
1992	SBE CITE initiative: Competency in two languages, one of which is English, for all students in New Mexico's schools.
1997	SDE pilots two-way dual language immersion programs in five state public schools. SBE approves Modern, Classical and Native Language Content Standards with Benchmarks.
1999	Legislation appropriates funding for pilot schools to implement dual language immersion programs. Ten new schools begin to implement two-way dual language immersion.
2001	SBE New Mexico Standards for Excellence (6 NMAC 3.2) sets expectations for proficiency in English, an understanding of other cultures, and competence in at least one language in addition to English for all students in the schools of the state.
2002	SBE approves a new State Bilingual Education Regulation, which extends services to all students in New Mexico Public Schools who choose to become bilingual and biliterate in two languages, one of which is English. This includes Language Revitalization programs. NM State Legislature passes the Native American Language and Culture License for teachers.
2003	SBE approves Technical Assistance Manual on April 8, 2003 and the regulation becomes effective on July 1st, 2003.

Source: Public Education Department