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**PUBLIC EDUCATION DEPARTMENT  
BILL ANALYSIS  
2023 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

Check all that apply:

Original  Amendment   
Correction  Substitute

Date Prepared: 02/21/23

Bill No: [HB483](#)

Sponsor: Trujillo / Szczepanski / Lara /  
Herrera / Sariñana  
Short SCHOOL GIFTED  
Title: EDUCATION

Agency Name  
and Code

Number: PED - 924

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
None	\$1,000.0	Nonrecurring	GF

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
None	None	None	N/A	NFA

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	None	\$442.8	None	\$442.8	N/A	NFA

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: House Bill 483 (HB483) amends [Section 22-13-6.1 NMSA 1978, Gifted Children Determination and Services](#), to increase school districts' accountability to new standards for

gifted teacher preparation and programming. It also increases accountability for school expenditures related to gifted education. Provisions of the bill support more equitable identification of gifted students, requiring school policies that incorporate best practices for identification such as universal screening, reliance on multiple sources of evidence, and collection of evidence in a wider range of areas of aptitude. The bill also addresses the need of underrepresented students with and without gifted identification for access to advanced instruction opportunities such as acceleration and enrichment.

The bill does not provide an effective date. Laws go into effect 90 days after the adjournment of the Legislature enacting them unless a later date is specified. If enacted, this bill would become effective June 16, 2023.

### **FISCAL IMPLICATIONS**

The bill appropriates \$1.0 million from the general fund to PED to help school districts pay for testing as part of universal screening in FY23 and FY24. The bill requires any unexpended or unencumbered balance remaining at the end of FY24 to revert to the general fund.

PED projects a maximum cost of \$982,740 to help school districts test all estimated 16,200 third graders in the state with the following group-administered tests and coordinator training:

- assessments of verbal, quantitative, and nonverbal reasoning ability using the Cognitive Abilities Test (CogAT);
- assessments of creative thinking skills using the Torrance Test of Creative Thinking (TTCT) both Verbal and Figural;
- training two staff members from each school district or charter school in the practice of universal screening and identification with local norms using the Talent and Potential Assessment System (TAPAS).

*Explanation of Estimated Additional Operating Budget Impact.* PED projects a lower cost of supporting districts in universal screening following the recommendations in the equity report to leverage existing achievement data as well as the recommendations of a 2023 paper by Makel, et al., scholars specializing in equitable gifted identification in schools. The authors [recommend](#) that “schools save time and money while also better identifying students” using existing achievement data as the first phase of a two-phase, multiple-criteria identification system based on universal screening with local norms. The following assumptions underlie a projected total cost of \$442,800 for PED to implement the provisions of the bill:

- For reasonable levels of identification sensitivity, as few as 4,860 (30 percent) of the 16,200 students in phase one may be referred for further screening based on existing achievement scores.
- In phase two, 4,860 students would take the CogAT at a cost of about \$170,000.
- With creativity measures in the second phase matched to multiple domains of student potential, as Makel, et al. recommend, schools may administer one or the other of the two group creativity tests or consider other creativity measures matched to areas of identification and service. The cost for each of the 4,860 students to take just one of the two tests of creative thinking would be about \$50,000.
- The cost of training coordinators of gifted education in universal screening with local norms would remain \$112,800, as projected in the equity report.
- The cost of the additional 1.0 FTE PED will need to implement the provisions of the bill would be \$110,000.

## SIGNIFICANT ISSUES

House Memorial 33 ([HM33](#)) 2022, Gifted Education Program Recommendations recognized that gifted education services in New Mexico did not necessarily follow accepted standards and that access to gifted education was grossly inequitable, prompting PED to study the equity of access, participation, and outcomes. PED findings, documented in the department's Fall of 2022 HM33 Report to LESC, concur with decades of well-documented inequity persisting in public school gifted education programs, which may be [attributed to poorly designed identification systems in combination with systemic societal patterns of racial, cultural, socioeconomic, and linguistic discrimination](#).

**Underrepresented Groups in Gifted Education.** According to the HM33 Report, New Mexico data show disproportionate identification of groups by race. White and Asian students are identified at rates higher than their peers. White students make up 22.5 percent of the total student population and account for over 44 percent of the gifted population. Asian students make up less than 1.5 percent of the total student population and account for 4.1 percent of the gifted population. Conversely, Hispanic students make up over 62 percent of the total student population, but account for only 43.4 percent of the total population of identified gifted students. Students that identify as American Indian make up 10 percent of the total student population but account for only 6.5 percent of the gifted population. The report cites the 2019 study by Gentry, et al., who argue that [racial disparities may be caused by implicit racial bias, lack of knowledgeable gifted education teachers and staff, and funding inequities](#) (see, Gentry M., Gray A. M., Whiting G. W., Maeda Y., Pereira N. (2019). *Gifted education in the United States: Laws, access, equity, and missingness across the country by locale, Title I school status, and race*. Gifted Education Research and Resource Institute, Purdue University). Similar disparities are evident in identification of English learners and students who are eligible for free and reduced-price lunch (FRL). The PED HM33 Report recommended annual, universal screening at one grade level, such as Grade 3, to reduce implicit bias.

For gifted programs that fail to show a significant impact on student achievement, the lack of accelerated instruction for students with aptitude for advanced academics has been implicated as a likely cause. The PED reported survey data showing that 23.6 percent of district or charter school respondents offered no gifted programming, and only 6.9 percent used acceleration in services for gifted students. The National Center for Research on Gifted Education (NCRGE) studied achievement data and survey data about the services gifted students received, [finding limited use of gifted education curriculum in the tested subjects and, in those programs, significantly less growth for the gifted students than for others](#) (see, Long, et al., (2019) *National Center for Research on Gifted Education (NCRGE) Brief on Gifted Education Curriculum and Gifted Achievement Growth of Gifted Students in Three States*). HB483 includes several provisions that could align instruction more effectively for identified gifted students as well as expand access to accelerated instruction for all students with aptitude:

- National Association for Gifted Children (NAGC) 2019 [Pre-K through Twelfth Grade Programming Standards](#) would serve as the basis for PED to develop new state standards for gifted education identification and services. These new standards would frame the bill's required program evaluation components.
- NAGC [Gifted Educator Standards](#) would serve as the basis for PED to develop new standards for gifted education teachers who "provide services across educational domains and standards for gifted education and talent development in specific educational domains."
- HB483 adds requirements for school districts to support appropriate education for gifted

and high-ability students, including special supports for disadvantaged and twice-exceptional students (students who are gifted and who also have an identified disability), with acceleration policies and procedures that include a range of options, such as skipping a grade, single-subject acceleration, early enrollment in high school and dual-credit college courses, credit for demonstrated mastery, school-wide enrichment, and other research-based interventions.

- The bill expands the areas of evidence for gifted identification to include “artistry, leadership, and aptitude in specific academic areas.”
- The bill would institute the tracking and auditing of school district expenses related to gifted education with provisions for a new budget code as part of the State Equalization Guarantee (SEG) distribution. This will address issues of funding disparities for gifted education among underrepresented groups.

### **PERFORMANCE IMPLICATIONS**

Improvements in the academic performance of diverse students may result from provision of the bill for improvements in programming and teacher preparation. Periodic evaluation of gifted identification and services as well as increased access to accelerated and enriched instruction for other high-ability students may also contribute to student academic growth. In a 2014 study, Card and Giuliano found that [underachieving, economically disadvantaged, Black, and Hispanic students showed the most](#) growth as a result of access to gifted education (see Card & Giuliano (2014) *Does Gifted Education Work? For Which Students?*). HB483 will support PED strategic plans to close achievement gaps and provide an equitable education for its most underrepresented students.

### **ADMINISTRATIVE IMPLICATIONS**

The bill requires PED develop and promulgate rules for program and teacher preparation standards by which programs may be evaluated. This can be accomplished with existing staff.

The bill requires PED to (1) evaluate the effectiveness of each school district's gifted education programming and the equity of identification statewide, including racial, ethnic, socioeconomic, linguistic, and disability variables, and (2) audit public school and school district use of gifted education funds generated by the state equalization guarantee. The Department would need an additional 1.0 FTE to implement the provisions of the bill, which may be afforded as a component of the bill's appropriation.

The bill also requires accountability reporting to begin to consider equity of gifted participation and statewide advanced performance of students grouped by race, ethnicity, socioeconomic status, language, and disability variables. PED can satisfy this provision with existing administrative capacity.

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

HM33 of the 2022 Regular Session of the 55<sup>th</sup> Legislature, Gifted Education Program Recommendations, recognized that gifted education services in New Mexico did not necessarily follow accepted standards and that access to gifted education was grossly inequitable, prompting PED to study the equity of access, participation, and outcomes.

HB483 requires the PED to promulgate rule and develop standards for gifted education. HB483 also provides the PED with an appropriation for gifted screening. HB483 conflicts with HB285 which moves the rule making authority for gifted education and any funding for gifted education

to the Office of Special Education.

#### **TECHNICAL ISSUES**

None.

#### **OTHER SUBSTANTIVE ISSUES**

HB483 also requires school districts to ensure expedient access to gifted identification for any student who may benefit. This aligns well with stakeholder input to PED to reduce “administrative barriers to providing timely evidence-based supports and [focus] on holistic student success” for the statutorily mandated ([Section 22-13-32 NMSA 1978](#)) response to intervention process. This lead to the current [Multi-Layered System of Support \(MLSS\)](#) as in [6.29.1 NMAC](#), amended in 2020, supported by [developed guidance and tools](#) already available on PED website.

#### **ALTERNATIVES**

None.

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

None.

#### **AMENDMENTS**

The sponsor may wish to reduce ambiguity by referring consistently to “school districts and charter schools” unless the intention is to apply to provisions of the bill only to school districts ad not other Local Education Agencies.