

LFC Requester:	Helms
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**PUBLIC EDUCATION DEPARTMENT
BILL ANALYSIS
2023 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

Check all that apply:

Original X **Amendment**
Correction **Substitute**

Date Prepared: 02/17/23
Bill No: HB386

Sponsor: Montoya
Short Title: SECONDARY ED USE OF
 'LATINX'

Agency Name and Code
Number: PED - 924
Person Writing Gregory Frostad
Phone: (505) 470-5752 **Email:** gregory.frostad@ped.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
None	None	N/A	NFA

(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
Total	None	None	None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 386 (HB386) prohibits the use of the term “Latinx” in any school settings, including postsecondary institutions, as well as after-school programs offered by the school district, when the term is used as an all-encompassing reference to people of Hispanic descent.

The bill prohibits public schools from using or purchasing any instructional materials, for use in the classroom, that contain the same term.

FISCAL IMPLICATIONS

HB386 does not contain an appropriation.

SIGNIFICANT ISSUES

While there's no one group or individual responsible for coining the term 'Latinx,' its popularity has increased in tandem with conversations around gender and gender neutrality. The term Latinx emerged in the early 21st century, reportedly first used online in 2004. Latinx is the gender-neutral alternative to Latina or Latino. It is a term used to describe a very diverse group of people who have roots in Latin America and may or may not speak Spanish. According to the [Pew Research Center](#), a thimble-sized portion of people with Latin American ancestry use the term Latinx. In August 2020, Pew reported that 3 percent of respondents viewed it favorably; a year later, a [Gallup poll](#) increased that to about 4 percent. However, the term is not 'forced' on an unwilling community according to both reports.

The terms Latinx, LatinX, and Latine are often the preferred terms in academic and professional settings for referencing the community at large to account for the multiplicity of gender, when referring to an individual whose gender identity is unknown or non-binary, and as a descriptive term. Previous terminology forced the speaker to identify as male or female (Latino or Latina), while Latinx gives both speaker and listener the ability to opt out of the gender binary. "Latinx" and "Latine" are not intended to, and do not replace the terms "Latina" and "Latino" when those are the appropriate terms. The use of these terms is widely understood to indicate an awareness of the multiplicity of gender and the effort to move away from masculine forms as default in the Spanish language. The term "Latinx" is commonly used in academic discourse throughout Latin America, and it is not a term created by a dominant majority and "forced" on the Latine/x community (such as the term Hispanic). The conscientiousness of Latinx contrasts with its predecessor term, "Hispanic." Popularized under the Nixon administration when it first appeared on the 1970 United States Census, and the first time the Latinx population was seen as a separate entity by the U.S. government, the term "Hispanic" was the result of an ad-hoc committee convened by the [U.S. Census Bureau](#) to group all people from Latin America together under one mother tongue, "Hispanic" is an arbitrary designation, one that erases indigenous languages and puts a linguistic belonging and a sort of limitation on something that is not so easily confined. Additionally, the 2021 Gallup poll (referenced previously) notes that when a group of people were asked their preference on the terms Hispanic, Latino, and Latinx, the overwhelming majority, 57 percent, put down, 'does not matter.'

Higher education institutions often use Latinx, which can be attributed to the fact that college students are leading the national discussions on gender, and that the population of Latinx college students is on the rise. In 2020, the [Postsecondary National Policy Institute](#) reported that at 21.8 percent, Latinx students were the second-largest ethnic group of college enrollees.

The language prohibiting the use of "Latinx" is rather broad and very prescriptive: a postsecondary institution or public school "shall not allow the use of the term "Latinx" or "LatinX" to be used in *any classroom setting*". While this matter has not yet been addressed by the courts, this suggests that teachers, professors, administrators, other educators, and students may be barred from even using the term even in conversation or classroom discussion, which would likely invoke First Amendment considerations, in addition to being next to impossible to

monitor, as a practical matter.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

The Public Education Department Instructional Materials Bureau, public school districts, charters, and higher education institutions will have to remove instructional materials which reference Latinx or use the term Latinx, many which have already been purchased, to comply with the provisions of HB386.

- The PED is required by Section 22-15-8 NMSA 1978 to adopt a multiple list of instructional materials for selection by districts and charter schools. It also requires the department to have a process for reviewing basal (core) instructional materials for alignment with the state academic content standards and benchmarks and the adoption of supplementary materials that are not reviewed. There are thousands of supplementary instructional materials on the adopted multiple lists. It would be very burdensome for the department to review all of the thousands of instructional materials on the adopted multiple lists for mentions of the term “Latinx.”
- This bill would severely limit the instructional materials available for districts and charter schools to select from, given publishers generally create their materials for a national market. Given the expense, publishers are not likely to revise their instructional materials to remove one term for the New Mexico market which is comparably very small.
- This bill could add a burden of significant time to districts and schools to review all of their instructional materials for the term “Latinx”, including all print and digital instructional materials.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS

None.