

AN ACT

RELATING TO EDUCATION; ENACTING THE INDIAN EDUCATION ACT;  
PRESCRIBING POWERS AND DUTIES; CREATING A FUND; REPEALING  
SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION; DECLARING  
AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Public School Code is enacted to read:

"SHORT TITLE. -- This act may be cited as the "Indian Education Act". "

Section 2. A new section of the Public School Code is enacted to read:

"PURPOSE OF ACT. -- The purpose of the Indian Education Act is to:

A. ensure equitable educational opportunities for American Indian students enrolled in public schools;

B. ensure maintenance of native languages;

C. study, develop and implement educational systems that positively impact the educational success of American Indian students; and

D. structure a formal government-to-government relationship with New Mexico tribes and develop relationships with the education division of the bureau of Indian affairs and other entities that serve American Indian students. "

Section 3. A new section of the Public School Code is enacted to read:

"DEFINITION. --As used in the Indian Education Act, "tribe" means an Indian nation, tribe or pueblo located within the state."

Section 4. A new section of the Public School Code is enacted to read:

"INDIAN EDUCATION DIVISION--CREATED. --The "Indian education division" is created within the department of education."

Section 5. A new section of the Public School Code is enacted to read:

"APPOINTMENT OF DIVISION HEAD.--The state superintendent shall appoint an assistant for Indian education."

Section 6. A new section of the Public School Code is enacted to read:

"STATE BOARD--TRIBES--RULEMAKING.--The state board, in consultation with tribes, may adopt and promulgate regulations to implement the provisions of the Indian Education Act."

Section 7. A new section of the Public School Code is enacted to read:

"DUTIES AND RESPONSIBILITIES.--The Indian education division shall:

A. provide assistance to school districts and tribes to meet the educational needs of American Indian students;

B. provide assistance to school districts and tribes in the planning, development, implementation and evaluation of curricula in native languages, culture and history designed for American Indian students;

C. provide assistance to school districts and tribes to develop curricula and instructional materials in native languages, culture and history in conjunction and by contract with native language practitioners and tribal elders, unless the use of written language is expressly prohibited by the tribe;

D. establish an advisory council;

E. by January 2005, enter into agreements with each tribe or authorized tribal educational entity to share programmatic information and to coordinate technical assistance for public schools that serve American Indian students;

F. seek funds to establish an Indian education office in the northwest corner of the state that shall implement agreements with each tribe or authorized tribal educational entity, monitor the progress of American Indian students and coordinate technical assistance at the public schools that serve American Indian students;

G. require school districts to obtain a signature of approval by the tribal governments or tribal government designees residing within school district boundaries, verifying that the tribes agree to Indian policies and procedures pursuant to federal requirements; and

H. seek funds to establish, develop and implement the following support services for the purposes of increasing the number of American Indian teachers and principals and providing continued professional development for teachers and principals serving American Indian students, in conjunction with an established policy advisory group to the state board and the commission on higher education:

- (1) recruitment;
- (2) academic transition programs;
- (3) academic financial support;
- (4) teacher preparation;
- (5) teacher induction; and
- (6) professional development; and

I. ensure that native language bilingual programs are part of a school district's professional development plan, as provided in Section 22-2-2 NMSA 1978. "

Section 8. A new section of the Public School Code is enacted to read:

"ADVISORY COUNCIL. --

- A. The advisory council established by the Indian

education division shall consist of not more than ten American Indian educators and others needed to assist in evaluating, consolidating and coordinating all activities relating to education of American Indian students.

Representation shall consist of:

- (1) two members representing the pueblos;
- (2) two members representing Navajo agencies;
- (3) two members representing Apache tribes;
- (4) two public school educators; and
- (5) two nonpublic school educators.

B. On a semiannual basis, representatives from all tribes, members of the state board, the governor's office, the New Mexico office of Indian affairs, the legislature, the state superintendent and the advisory council shall meet to assist in evaluating, consolidating and coordinating all activities relating to the education of American Indian students.

C. Members of the council shall receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act. "

Section 9. A new section of the Public School Code is enacted to read:

"REPORT. - -

A. The Indian education division in cooperation

with the education division of the bureau of Indian affairs and other entities that serve American Indian students, shall submit a statewide American Indian education status report on an annual basis to all tribes.

B. A school district with tribal lands located within its boundaries shall provide a district-wide American Indian education status report on an annual basis to all tribes represented within the school district boundaries.

C. The status reports set forth in Subsections A and B of this section shall be written in a brief format and shall include the following information, through which public school performance shall be measured and reported to the tribes:

- (1) student achievement as measured by a statewide test approved by the state board;
- (2) school safety;
- (3) the dropout rate;
- (4) attendance;
- (5) parent and community involvement;
- (6) educational programs targeting American Indian students;
- (7) financial reports;
- (8) current status of federal Indian policies and procedures;

- (9) school district initiatives to decrease

the number of student dropouts and increase attendance;

(10) public school use of variable school calendars; and

(11) school district consultations with parent advisory committees. "

Section 10. A new section of the Public School Code is enacted to read:

"FUND CREATED. --The "Indian and higher education fund" is created in the state treasury. The fund consists of appropriations, gifts, grants and donations. The fund shall be administered by the department of education, and money in the fund, including interest, is appropriated to the department to distribute awards for the purpose of supporting the Indian Education Act. The department of education shall develop procedures and rules for the award of money from the fund. Disbursement of the fund shall be made by warrant of the department of finance and administration pursuant to vouchers signed by the state superintendent. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall not revert but shall remain to the credit of the fund. "

Section 11. APPROPRIATION. --Four hundred thousand dollars (\$400,000) is appropriated from available cash balances of the state department of public education and two hundred fifty thousand dollars (\$250,000) is appropriated

from the general fund to the Indian and higher education fund for expenditure in fiscal years 2002 and 2003 to carry out the purposes of the Indian Education Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2003 shall not revert but shall remain to the credit of the fund.

Section 12. REPEAL. -- Sections 22-2-11 through 22-2-13 NMSA 1978 (being Laws 1975 (1st S.S.), Chapter 8, Sections 1 through 3) are repealed.

"Section 13. EMERGENCY. -- It is necessary for the public peace, health and safety that this act take effect immediately. "

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