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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 1/20/19  
**LAST UPDATED** 1/31/19     **HB** 250

**SPONSOR** Lente

**SHORT TITLE** Native American Student Needs Assessments     **SB** \_\_\_\_\_

**ANALYST** Liu

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

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See Fiscal Implications				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 111, HB 159, HB 394, HB 395, SB 329

### SOURCES OF INFORMATION

LFC Files  
 Legislative Education Study Committee (LESC) Files

#### Responses Received From

Indian Affairs Department (IAD)  
 Public Education Department (PED)  
 Regional Education Cooperatives (REC)

### SUMMARY

#### Synopsis of Bill

House Bill 250 creates new sections in the Indian Education Act, requiring historically-defined Indian impacted school districts and charter schools to:

- conduct needs assessments for enrolled Indian students:
  - at home, or in the community to help them succeed in school, graduate and help them to prepare for post-secondary education and the workforce,
- prioritize budgets based on the needs assessed of Indian students, and
- develop systemic frameworks for improving Indian student educational outcomes, which may include some or all of the following elements:
  - academic and innovative programs;
  - high-quality professional development for educators;
  - identification of early childhood education programs;
  - educational, remedial, or enrichment programs that raise student achievement;

- bilingual, bicultural, language-restoration, or culturally-responsive programs;
  - college and career preparation programs;
  - special education, adult-basic education, or dropout re-entry programs;
  - early intervention and after-school programs;
  - guidance, counseling, and intervention services;
  - social-, health-, and nutrition-related services;
  - family literacy and parental engagement services; and
  - violence, suicide, and substance abuse prevention programs.
- develop an accountability tool that measures public school efforts on the aforementioned interventions and supports.

Schools district and charter schools must convene a public meeting at least twice a year with members of the Indian students' tribal leaders, parents and the Indian Education Division of the PED to provide information on the needs assessment and progress made on addressing needs.

### **FISCAL IMPLICATIONS**

The bill does not contain an appropriation. Any costs from implementing provisions of this bill would be borne by schools, tribes, other community stakeholders, and PED. Most school districts and charter schools report implementing at least one of the listed elements within the systemic framework outlined in the bill; however, it cannot be determined at this time if these elements are executed at a level that will meet the future assessed need. PED notes these costs can be mitigated by current funding sources available through the Every Student Succeeds Act state plan, but are not a guaranteed funding source over time. As such, the extent of fiscal impacts on this bill are indeterminate.

The bill does not allocate funding for every historically-defined Indian impacted public school statewide to support the needs assessment process or the development of a systemic framework and accountability tool for improving education outcomes for Indian students. As such, costs of implementing the provisions of this bill will fall on schools and PED.

According to the Tribal Education Status Report for the 2016-2017 school year, 23 school districts and four charter schools received over \$26.7 million in funding related to Indian students, or an average of \$776 per student (see Attachment). PED notes two additional charter schools are located on or near tribal lands currently and are eligible for Indian Education Act grants. Most of these funds have been used to provide services and resources at school districts with consultation from local tribal governments, and many eligible uses are aligned with provisions of this bill.

Additionally, language in the General Appropriation Act has typically included a \$400 thousand general fund appropriation from the Indian education fund for a nonprofit organization that recruits recent college graduates and professionals who have demonstrated a record of achievement to teach in low income urban and rural public schools to provide teaching support in schools with a high proportion of Native American students.

PED was appropriated a total of \$2.5 million for the Indian education fund in FY19. Balances in the fund have been used annually for several years for a number of recurring initiatives; however, limited outcome data is provided to assess effectiveness of allocations. In FY18, PED submitted a budget adjustment request (BAR) for the Indian Education Division (IED),

increasing the FY18 budget by \$1.7 million to spend down the estimated Indian education fund balance of \$3.3 million. The BAR included \$1.5 million to pilot 14 different programs at various schools, tribes, and consulting organizations that PED indicated were nonrecurring. Similarly, in FY19, PED submitted a BAR to spend \$965 thousand from the Indian education fund with little detail on expenditures. It remains unclear if funding used from the Indian education fund is being used effectively to improve outcomes for Indian students.

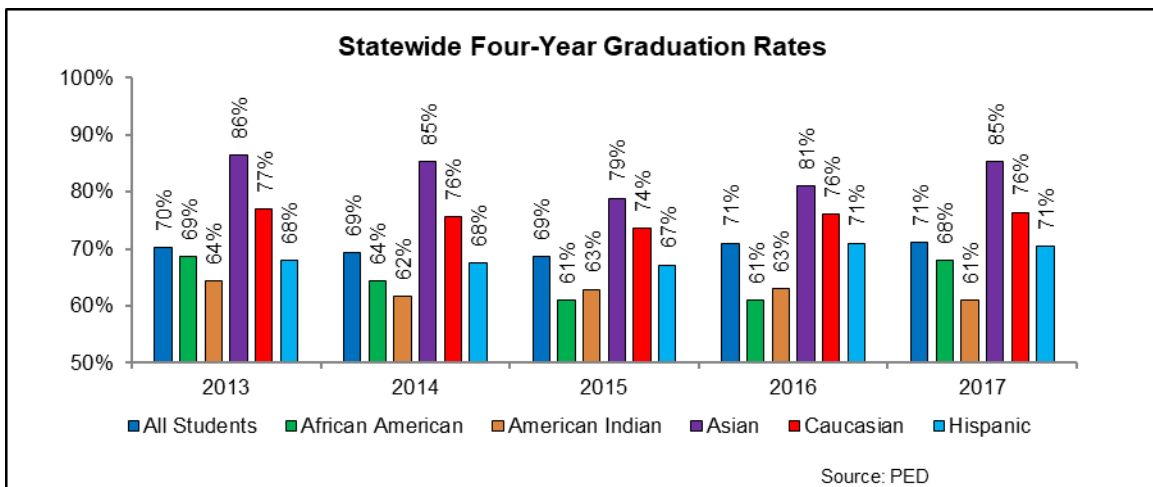
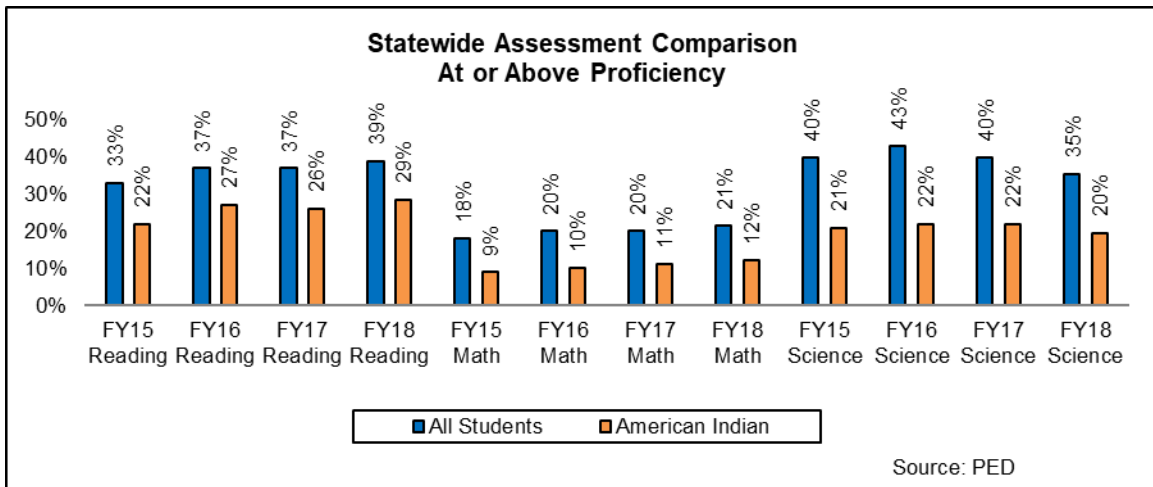
## **SIGNIFICANT ISSUES**

On July 20, 2018, the 1st Judicial District Court issued an initial decision and order on the consolidated *Yazzie v. New Mexico* and *Martinez v. New Mexico* education sufficiency lawsuits, which found New Mexico’s public education system failed to provide a sufficient education for at-risk, English language learner (ELL), Native American, and special education students. On December 20, 2018, the court issued its final findings and conclusions of law in the consolidated lawsuits. In both the initial decision and final findings, the court cited evidence highlighting areas where funding levels, financing methods, and department oversight were deficient. However, the court stopped short of prescribing specific remedies and deferred decisions on how to achieve education sufficiency to the legislative and executive branch instead.

Provisions of this bill address issues mentioned in the court ruling, including the development of government-to-government relationships between the state and tribes. The bill requires every “historically defined Indian impacted” school district and charter school to conduct a needs assessment, consult with tribes on matters related to the needs assessment, and develop an accountability tool to measure the success and failures of public school efforts. Currently, 23 school districts and six charter schools located on or near tribal land are required to provide local data for PED’s Tribal Education Status Report and are eligible for school district Indian Education Act grants.

Statewide, about 34 thousand Indian students attend public schools, about 6,000 attend Bureau of Indian Education-operated and tribally-controlled schools, and 2.5 percent of statewide district staff identified as Indian. The bill makes PED responsible for assisting local education agencies (LEA) on developing systemic frameworks and for considering whether each LEA’s budget prioritizes the needs identified in the needs assessment.

Based on all statewide assessments, about 29 percent of Indian students are proficient in reading, 12 percent in math, and 20 percent in science in the 2017-2018 school year. Reading and math scores for Indian students have improved significantly in recent years, particularly on the PARCC test. In the 2017-2018 school year, 718 pre-kindergarten Indian students were assessed through the Early Childhood Observation Tool (ECOT), a tool measuring 29 essential indicators of child development. Of those tested, 14 percent were successful. Of the New Mexico students enrolled in higher education in the state, 8.4 percent were Indian. The higher education graduation rate of Indian students in the 2017-2018 school year was 7.4 percent. Proficiency rates for Indian students are considerably lower than other ethnicity students. Additionally, Indian students show consistently lower graduation rates than most other ethnicities in New Mexico.



**PERFORMANCE IMPLICATIONS**

Addressing academic, social, emotional, and health needs for Indian student may improve education- and health-related performance measures, given historically poor performance.

**ADMINISTRATIVE IMPLICATIONS**

The bill outlines responsibilities for PED to support LEAs in the needs assessment and systemic framework development and to monitor LEA budgets to determine prioritization of funding for activities and programs that will close the achievement gap. The bill requires every historically defined Indian impacted school district and charter school to conduct a needs assessment.

The bill requires IED to assist, as needed, school districts and charter schools during the development and implementation of the proposed systemic framework. In addition, the IED would meet with each school district and charter school at least twice a year to hear a report on the needs assessment.

**RELATIONSHIP**

This bill relates to House Bill 111, House Bill 159, and House Bill 394, which establish a framework and support for multicultural, culturally-responsive, and linguistically-responsive

education. The bill also relates to House Bill 395, which appropriates funding to develop an Acoma-Keres language dictionary and curriculum for schools, and Senate Bill 329, which requires consultation with tribes when opening a public school on tribal lands.

## **OTHER SUBSTANTIVE ISSUES**

Districts that claim federally-identified Indian students residing on Indian lands for federal Title VIII Impact Aid funding are required to develop and implement policies and procedures in consultation with tribal officials and parents. The New Mexico Indian Education Act requires school districts to obtain a signature of approval by the New Mexico tribal governments or their designees residing within school district boundaries, verifying that New Mexico tribes agree to Indian education policies and procedures (IPP) pursuant to federal Impact Aid funding requirements. In FY17, 18 school districts received federal Indian Education Title VIII Impact Aid funds totaling \$30.6 million.

In FY16, 23 school districts and one charter school provided the development and submission of their annual IPP, and 72 percent of established IPPs were used to provide equitable services and resources at the school districts. At least 71 percent of districts reported meeting quarterly with tribal educational service entities for Indian students, and 86 percent of districts offered public hearings to consult with parents, community members, and tribal entities on how to improve educational opportunities for Indian students.

The Johnson-O'Malley Act of 1934 authorizes contracts for the education of eligible Indian students enrolled in public schools and previously private schools. This local program is operated under an educational plan, approved by the Bureau of Indian Education (BIE), which contains educational objectives to address the needs of the eligible Indian students. Johnson-O'Malley programs offered vary by each Indian Education Committee, which are established and include members elected from among parents of Indian students, and may include such programs as culture, language, academics and dropout prevention. In FY17, nine school districts received Johnson-O'Malley Act funds totaling \$759.2 thousand.

In FY17, IED provided \$25 thousand to 22 New Mexico school districts and one charter school (\$575 thousand total) that have a significant Indian student enrollment to implement one of the following six purposes contained within the Indian Education Act:

- Ensure equitable and culturally relevant educational opportunities, instructional material, and learning environments;
- Ensure maintenance of native language;
- Provide for the study, development, and implementation of education systems that positively affect the educational success of Indian students;
- Encourage parental involvement;
- Ensure that parents, community-based organizations, tribal departments of education, the U.S. Department of Education, universities, and policymakers work together to improve educational opportunities for Indian students; or
- Develop collaborative partnerships with school districts, BIE, urban Indian organizations, and tribal governments.

IAD finds areas with a significant Indian population often struggle with parental involvement. Parents are less likely to attend meetings and actively participate in school activities, despite

local tribal community initiatives and efforts. The agency notes there is a strong correlation between poor parent engagement and lower academic achievement. Additionally, IAD notes the needs of American Indian and Alaska Natives are greater than that of other demographic groups. Indian communities have overall lower health status and rank at, or near, the bottom of other social, educational, and economic indicators. Indian individuals have a life expectancy that is four years less than the overall U.S. population.

In a prior analysis, the Higher Education Department noted services related to college and career preparation programs for Indian students were primarily related to dual credit programs. A dual credit program allows high school students to enroll in post-secondary courses and earn credits toward both high school graduation and a post-secondary credential. Eligible high school students may include students from a school district, charter school, state-supported school, Bureau of Indian Education school, private school or home school, offering any of grades nine through 12 or their equivalent. New Mexico has four tribal colleges that are eligible to administer dual credit courses. Public and tribal higher education institutions (HEIs) that participate in New Mexico's dual credit program waive tuition and all general fees for dual credit courses for students. An appropriation is made to the tribal HEIs of New Mexico to help defray the cost of offering dual credit courses. The appropriation is to be used only to compensate tribal colleges for the tuition and fees waived to allow high school students to attend classes on the college campus or electronically as set out in Section 21-1-27.10 NMSA 1978.

The State-Tribal Collaboration Act (Sections 11-18-1 through 11-18-5 NMSA 1978) provides a framework for collaboration with the Indian nations, tribes, and pueblos in the development and implementation of policies, agreements, and programs. In 2017, IAD noted this process could be time-consuming and resource-draining to properly administer in accordance with the law. School districts could utilize the State-Tribal Collaboration Act's legal framework as the basis for their meetings with local tribes to prioritize the needs of AI students and determine ways to address the needs. The State-Tribal Collaboration Act also requires an annual state-tribal summit in which the governor of the state meets with the leaders of the Indian nations, tribes and pueblos in a state-tribal summit to address issues of mutual concern. For the past several state-tribal summits, education of Indian students has been a major topic of discussion.

PED notes the bill aligns with the Indian Education Division's 2016 Consultation Report, strategic plan, and mission to increase American Indian student academic and cultural achievement through culturally-relevant pedagogy, native language and collaborative partnerships.

SL/sb/gb

## District Funding 2016-2017: Funds Generated by American Indian (AI) Students

Districts	Total Enrollment (N)	AI Enrollment (N)	AI (%)	Fund 25184	Fund 25147	Fund 25131	Fund 27150	Total AI Programs	Amt. per student
				Indian Ed Formula Grant Title VII	Impact Aid Indian Education Title VIII	Johnson-O'Malley	NM Indian Education Act		
Albuquerque	91,112	4,906	5.4%	\$ 1,051,910	\$ 6,781	\$ 159,051	\$ 25,000	\$ 1,242,742	\$ 253
Aztec	3,187	485	15.2%	\$ 86,382		\$ 27,487	\$ 25,000	\$ 138,869	\$ 286
Bernalillo	3,189	1,369	42.9%	\$ 250,404	\$ 1,313,512		\$ 25,000	\$ 1,588,916	\$ 1,161
Bloomfield	2,963	1,130	38.1%	\$ 196,391	\$ 169,581	\$ 66,792	\$ 25,000	\$ 457,764	\$ 405
Central	6,177	5,536	89.6%	\$ 966,101	\$ 5,154,643	\$ 318,537	\$ 25,000	\$ 6,464,281	\$ 1,168
Cuba	567	365	64.4%	\$ 66,817	\$ 255,096	\$ 31,714	\$ 25,000	\$ 378,627	\$ 1,037
DEAP	22	22	100.0%					\$ -	\$ -
Dream Dine	25	25	100.0%					\$ -	\$ -
Dulce	777	732	94.2%		\$ 10,782,998		\$ 25,000	\$ 10,807,998	\$ 14,765
Espanola	3,771	209	5.5%	\$ 76,232	\$ 74,451		\$ 25,000	\$ 175,683	\$ 841
Farmington	11,613	3,769	32.5%				\$ 25,000	\$ 25,000	\$ 7
Gallup	11,659	9,200	78.9%	\$ 1,729,448	\$ 9,597,728		\$ 25,000	\$ 11,352,176	\$ 1,234
Grants	3,825	1,791	46.8%		\$ 632,996		\$ 25,000	\$ 657,996	\$ 367
Jemez Mountain	251	75	29.9%	\$ 6,058		\$ 4,640	\$ 25,000	\$ 35,698	\$ 476
Jemez Valley	402	284	70.6%		\$ 222,904		\$ 25,000	\$ 247,904	\$ 873
Los Lunas	8,509	600	7.1%	\$ 82,875	\$ 66,500		\$ 25,000	\$ 174,375	\$ 291
Magdalena	345	148	42.9%	\$ 30,271	\$ 89,434	\$ 10,954	\$ 25,000	\$ 155,659	\$ 1,052
Penasco	349	31	8.9%	\$ 5,168	\$ 12,154			\$ 17,322	\$ 559
Pojoaque	1,920	287	14.9%	\$ 61,140	\$ 370,661		\$ 25,000	\$ 456,801	\$ 1,592
Rio Rancho	17,058	834	4.9%	\$ 32,616			\$ 25,000	\$ 57,616	\$ 69
Ruidoso	2,007	336	16.7%	\$ 33,011	\$ 96,832		\$ 25,000	\$ 154,843	\$ 461
Santa Fe	13,224	327	2.5%			\$ 21,315	\$ 25,000	\$ 46,315	\$ 142
Six Directions	50	48	96.0%					\$ -	\$ -
Taos	3,843	221	5.8%	\$ 47,437	\$ 18,062		\$ 25,000	\$ 90,499	\$ 409
Tularosa	870	268	30.8%	\$ 43,376	\$ 176,668		\$ 25,000	\$ 245,044	\$ 914
Walatowa	57	53	93.0%				\$ 25,000	\$ 25,000	\$ 472
Zuni	1,432	1,369	95.6%	\$ 24,866	\$ 1,546,345	\$ 118,704	\$ 25,000	\$ 1,714,915	\$ 1,253
<b>TOTAL</b>	<b>189,204</b>	<b>34,420</b>	<b>18.2%</b>	<b>\$ 4,790,503</b>	<b>\$ 30,587,346</b>	<b>\$ 759,194</b>	<b>\$ 575,000</b>	<b>\$ 36,712,043</b>	<b>\$ 1,067</b>

Source: Tribal Education Status Report SY2017-2018