

LESC bill analyses are available on the New Mexico Legislature website (www.nmlegis.gov). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
56th Legislature, 1st Session, 2023

Bill Number	<u>HB280/aHAFC</u>	Sponsor	<u>Lente</u>
Tracking Number	<u>.223837.3SA</u>	Committee Referrals	<u>HEC/HAFC</u>
Short Title	<u>American Indian Ed Tech Assistance Centers</u>		
Analyst	<u>Andrews</u>	Original Date	<u>2/14/2023</u>
		Last Updated	<u>3/10/2023</u>

BILL SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to HB280 (HB280/aHAFC) removes the appropriation from the original bill.

Synopsis of Original Bill

House Bill 280 (HB280) requires the Higher Education Department (HED) to establish two American Indian education technical assistance centers in geographically distinct regions of the state to serve all American Indian students and federally recognized Indian nations, tribes, and pueblos in New Mexico.

The American Indian education technical assistance centers would support tribal education departments and tribal communities, and also work in partnership with HED, the Public Education Department (PED), and the Early Childhood Education and Care Department (ECECD) to support the development of culturally and linguistically relevant instructional materials; career pathways for American Indian educators; professional development in culturally and linguistically relevant pedagogy; education policy developments and capacity building for tribal communities; collaboration with state education agencies on tribal-related programs; collaboration with institutions serving American Indian students, including school districts, charter schools, early childhood centers and programs, Bureau of Indian Education (BIE) schools, and public and tribal Institutions of Higher Education (IHE); and additional responsibilities related to American Indian education as determined by consultation among various stakeholders.

HB280 requires HED to seek tribal input and feedback from PED and ECECD for the preparation of a Request for Proposals (RFP) to operate a center. HB280 specifies HED's RFP must prioritize applications from tribal colleges and universities in New Mexico, American Indian programs at New Mexico public IHEs, and entities with demonstrated experience and knowledge of working with American Indian students and federally recognized Indian nations, tribes, and pueblos in New Mexico. Finally, HB280 specifies HED's RFP must include criteria about how a center is expected to operate, for example, to provide annual reports or to set goals, objectives, and benchmarks.

FISCAL IMPACT

HB280 does not contain an appropriation.

SUBSTANTIVE ISSUES

In New Mexico, there are 23 sovereign Native American governments, a state funded public education system, and a federally funded BIE system. Data from PED for FY23 shows Native American students make up 10.3 percent of the total public school student population (33,644 Native American students out of 327,562 total students). Of the 23 Native American tribes located in New Mexico, there are 19 Pueblos, three Apache tribes, and the Navajo Nation. Each tribe has a separate and unique relationship with the state public education system and the federal BIE system.

PED reports about 6,000 Native American students in New Mexico attend schools on tribal land funded by the federal BIE. In New Mexico. The BIE system consists of 44 schools, which includes 22 tribally controlled schools and 22 schools operated directly by BIE. Students living on tribal land may have access to both BIE and state-supported public schools at various points in their schooling.

According to HED, HB280/aHAFC is a legislative priority of the department. HED notes the department has been in regular communications with tribal leaders, PED, and ECECD on being responsive to tribal leaders' requests and needs pertaining to Indian education. The Government-to-Government session in December 2022 provided the state education agencies with formal feedback from tribal leaders and stakeholders on the points of capacity building for tribal communities, Native American teacher pipelines, culturally and linguistically relevant curricula and materials development, and tribal education policy development, each of which would be a focus of the technical assistance centers.

Tribal Remedy Framework. The report [Pathways to Education Sovereignty: Taking a Stand for Native Children](#) presented by the Tribal Education Alliance (TEA), which builds upon the [Tribal Remedy Framework](#) by taking the recommendations made by tribal leaders and community members in response to the *Martinez* and *Yazzie* court ruling and describes how New Mexico's tribes, nations, and pueblos can reclaim education of their children, proposes “shared responsibility and increased tribal control over the schooling of Native children” as the first of three strategic solutions to address historical injustices and ensure equitable outcomes for Native American students. The report also proposes the third strategic solution: “a balanced, culturally and linguistically relevant education that revitalizes and sustains the strengths of children and their communities.” HB280 is in alignment with these strategic solutions presented by TEA by providing technical assistance to schools, tribal education departments, tribes, and BIE schools to address the needs of Native students with a focus on supporting culturally and linguistically relevant education.

TEA [notes](#) that Native American technical assistance centers have long been part of the tribal remedy framework proposal. However, HB280/aHAFC was produced in negotiation with HED and the Governor's office.

Outcomes for Native American Students. Historically, educational outcomes for Native American students have been consistently below their non-Native peers. According to the 2021-

2022 Tribal Education Status Report, proficiency rates for Native American students were considerably lower than those of students of other ethnicities:

- In reading, half as many proficient Native American students were proficient compared to the percentage of proficient Asian American students;
- In math, one-fifth of Native American students were proficient; and
- In science, just under one-third of Native American students were proficient.

Research suggests that incorporating Native American languages and cultures into academic settings can improve educational engagement and outcomes, including improved retention, graduation rates, college attendance rates, and standardized test scores.

ADMINISTRATIVE IMPLICATIONS

According to ECECD, HB280/aHAFC aligns with the goal in ECECD’s Five-Year Strategic Plan to “expand and deepen government-to-government relationships and agreements with all tribes, pueblos, and nations with a focus on consultation, culture, language, data sharing, and facility improvements for Native American families and young children.” ECECD says the technical assistance centers proposed in HB280/aHAFC will be a great resource and partner for ECECD in achieving their objectives and improving their performance in serving Native American families and young children. ECECD reports the Assistant Secretary for Native American Early Education, Native American Policy Analyst, and Tribal Grants Coordinator at ECECD will work closely with HED and the technical assistance centers and provide feedback and assistance with no need to hire additional staff.

PED notes the agency would be required to collaborate with HED, ECECD, and other state agencies on tribally related programs to help agencies with outreach, recommendations, and participate in funding applications to support the technical assistance centers and other statewide indigenous education efforts.

HED notes HB280/aHAFC requires an RFP process to be conducted by their department. HED will administer these funds involving receipt, disbursement, and tracking. HED will also receive annual reports, contracting, and financial reports and information developed by the technical assistance centers. The annual reports are to be made available to HED, which will then distribute these to the appropriate state agencies, Governor's office, and the Legislature.

OTHER SIGNIFICANT ISSUES

In 2019, the 1st Judicial Court issued a final judgement and order on the consolidated *Martinez-Yazzie* education sufficiency lawsuit, finding New Mexico’s public education system failed to provide a constitutionally sufficient and adequate education for at-risk students, defined as English learners, Native American students, students with disabilities, and students from low-income families. The court pointed to high school graduation rates, student test proficiencies, and college remediation rates as indicators of how the state is not meeting its constitutional obligation to ensure all students are college, career, and civics ready. The court’s findings suggested overall public school funding levels, financing methods, and PED oversight were deficient. As such, the court enjoined the state to provide sufficient resources, including instructional materials, properly trained staff, and curricular offerings, necessary for providing the opportunity for a sufficient education for all at-risk students. Additionally, the court noted the state would need a system of accountability to measure whether the programs and services actually provided the opportunity for a sound basic education and to assure that local school districts spent funds provided in a way that

efficiently and effectively met the needs of at-risk students. 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.

RELATED BILLS

Relates to HB140, Tribal Education Trust Fund, which creates a tribal education trust fund and provides a \$50 million initial investment with provisions detailing how investment returns on the fund would provide stable and consistent revenue for tribal education departments.

Relates to HB147, Indian Education Fund Distributions, which amends the Indian Education Act to designate 50 percent of funding from the Indian education fund to New Mexico tribes distributed via a weighted statutory formula.

Relates to HB148, Early Childhood Dept. Tribal Agreements, which requires the Early Childhood Education and Care Department to enter into intergovernmental agreements with Indian nations, tribes, pueblos, or tribal organizations to administer early childhood education and care programs using their own culturally and linguistically relevant standards, assessments, and evaluations.

Relates to HB149, Public Ed Dept. Native American Funding, which establishes a regular funding stream for tribal education which would flow into the tribal education trust fund.

Relates to HB198, Career Tech Funds for Indian Ed Schools, which would allow federal Bureau of Indian Education secondary schools to apply for and receive funding from the career technical education pilot.

SOURCES OF INFORMATION

- LESC Files
- Early Childhood Education and Care Department
- Indian Affairs Department
- Public Education Department
- Higher Education Department

MCA/jkh/cf/msb