

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 28

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

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.

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:

"[NEW MATERIAL] 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:

"[NEW MATERIAL] 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;

1 B. ensure maintenance of native languages;

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

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

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

11 "[NEW MATERIAL] DEFINITION.--As used in the Indian  
12 Education Act, "tribe" means an Indian nation, tribe or pueblo  
13 located within the state. "

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

16 "[NEW MATERIAL] INDIAN EDUCATION DIVISION--CREATED.--The  
17 "Indian education division" is created within the department  
18 of education. "

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

21 "[NEW MATERIAL] APPOINTMENT OF DIVISION HEAD.--The state  
22 superintendent shall appoint an assistant for Indian  
23 education. "

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

underscored material = new  
[bracketed material] = delete

1           "[NEW MATERIAL] STATE BOARD-- TRIBES-- RULEMAKING. -- The  
2 state board, in consultation with tribes, may adopt and  
3 promulgate regulations to implement the provisions of the  
4 Indian Education Act. "

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

7           "[NEW MATERIAL] DUTIES AND RESPONSIBILITIES. -- The Indian  
8 education division shall:

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

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

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

22           D. establish an advisory council;

23           E. by January 2005, enter into agreements with  
24 each tribe or authorized tribal educational entity to share  
25 programmatic information and to coordinate technical

. 140293. 1

underscoring material = new  
[bracketed material] = delete

1 assistance for public schools that serve American Indian  
2 students;

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

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

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

- 21 (1) recruitment;  
22 (2) academic transition programs;  
23 (3) academic financial support;  
24 (4) teacher preparation;  
25 (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:

"[NEW MATERIAL] 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.

underscored material = new  
[bracketed material] = delete

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

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

6           "NEW MATERIAL REPORT. --

7           A. The Indian education division in cooperation  
8 with the education division of the bureau of Indian affairs  
9 and other entities that serve American Indian students, shall  
10 submit a statewide American Indian education status report on  
11 an annual basis to all tribes.

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

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

21                   (1) student achievement as measured by a  
22 statewide test approved by the state board;

23                   (2) school safety;

24                   (3) the dropout rate;

25                   (4) attendance;

- 1 (5) parent and community involvement;
- 2 (6) educational programs targeting American
- 3 Indian students;
- 4 (7) financial reports;
- 5 (8) current status of federal Indian policies
- 6 and procedures;
- 7 (9) school district initiatives to decrease
- 8 the number of student dropouts and increase attendance;
- 9 (10) public school use of variable school
- 10 calendars; and
- 11 (11) school district consultations with
- 12 parent advisory committees. "

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

15 "[NEW MATERIAL] FUND CREATED. --The "Indian and higher  
16 education fund" is created in the state treasury. The fund  
17 consists of appropriations, gifts, grants and donations. The  
18 fund shall be administered by the department of education, and  
19 money in the fund, including interest, is appropriated to the  
20 department to distribute awards for the purpose of supporting  
21 the Indian Education Act. The department of education shall  
22 develop procedures and rules for the award of money from the  
23 fund. Disbursement of the fund shall be made by warrant of  
24 the department of finance and administration pursuant to  
25 vouchers signed by the state superintendent. Any unexpended

. 140293. 1

underscored material = new  
[bracketed material] = delete

1 or unencumbered balance remaining in the fund at the end of a  
2 fiscal year shall not revert but shall remain to the credit of  
3 the fund. "

4 Section 11. APPROPRIATION.--Two million four hundred  
5 twenty-six thousand dollars (\$2,426,000) is appropriated from  
6 the general fund to the Indian and higher education fund for  
7 expenditure in fiscal year 2003 to carry out the purposes of  
8 the Indian Education Act. Any unexpended or unencumbered  
9 balance remaining at the end of fiscal year 2003 shall not  
10 revert but shall remain to the credit of the fund.

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