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HOUSE BILL 97

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Ray Begaye

AN ACT

RELATING TO EDUCATION; AMENDING THE INDIAN EDUCATION ACT;  
CLARIFYING THE DUTIES OF THE PUBLIC EDUCATION DEPARTMENT TO  
CONSULT WITH INDIAN TRIBES; CHANGING THE COMPOSITION OF THE  
INDIAN EDUCATION ADVISORY COUNCIL.

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

Section 1. A new section of the Indian Education Act is  
enacted to read:

"[NEW MATERIAL] POST-SECONDARY EDUCATION.--The department  
shall collaborate and coordinate efforts with the higher  
education department and institutions of higher education,  
including tribal colleges and teacher education institutions  
and tribal education departments, to facilitate the successful  
and seamless transition of American Indian students into post-  
secondary education and training."

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1           Section 2. Section 22-23A-3 NMSA 1978 (being Laws 2003,  
2 Chapter 151, Section 3) is amended to read:

3           "22-23A-3. ~~[DEFINITION]~~ DEFINITIONS.--As used in the  
4 Indian Education Act:

5           A. "assistant secretary" means the assistant  
6 secretary for Indian education;

7           B. "government-to-government" means the  
8 relationship between a tribal and a state government;

9           C. "indigenous" means native or tribal groups of  
10 the Americas that maintain a cultural identity separate from  
11 the surrounding dominant cultures;

12           D. "tribal" means pertaining to an Indian nation,  
13 tribe or pueblo located within New Mexico;

14           E. "tribe" means an Indian nation, tribe or pueblo  
15 located within New Mexico; and

16           F. "urban Indian" means a tribal member who lives  
17 in an off-reservation urban area."

18           Section 3. Section 22-23A-4 NMSA 1978 (being Laws 2003,  
19 Chapter 151, Section 4) is amended to read:

20           "22-23A-4. ~~[STATE BOARD--TRIBES]~~ RULEMAKING.--~~[The state~~  
21 ~~board, in consultation with tribes, may adopt and promulgate~~  
22 ~~rules to implement the provisions of the Indian Education Act.]~~

23           A. The secretary shall ensure that the duties  
24 prescribed in the Indian Education Act are carried out and that  
25 each division within the department is collaborating to fulfill

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1 its responsibilities to tribal students.

2 B. The secretary shall consult on proposed rules  
3 implementing the Indian Education Act with the Indian education  
4 advisory council and shall present rules for approval at the  
5 next semiannual government-to-government meeting pursuant to  
6 Section 22-23A-5 NMSA 1978."

7 Section 4. Section 22-23A-5 NMSA 1978 (being Laws 2003,  
8 Chapter 151, Section 5, as amended) is amended to read:

9 "22-23A-5. INDIAN EDUCATION DIVISION--CREATED--ASSISTANT  
10 [~~SUPERINTENDENT~~] SECRETARY--DUTIES.--

11 A. The "Indian education division" is created  
12 within the department. The secretary shall appoint an  
13 assistant secretary for Indian education, who shall direct the  
14 activities of the division and advise the secretary on  
15 development of policy regarding the education of tribal  
16 students. The assistant secretary shall also coordinate  
17 transition efforts for tribal students with the secretary of  
18 higher education.

19 B. The assistant secretary shall coordinate with  
20 appropriate administrators and divisions to ensure that the  
21 department makes implementation of the Indian Education Act a  
22 priority.

23 C. The secretary and the assistant secretary, in  
24 cooperation with the Indian education advisory council, shall  
25 collaborate with state and federal departments and agencies and

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1 tribal governments to identify ways such entities can assist  
2 the department in the implementation of the Indian Education  
3 Act.

4 D. The secretary and assistant secretary shall  
5 convene semiannual government-to-government meetings for the  
6 express purpose of receiving tribal input on education of  
7 tribal students.

8 ~~[B.]~~ E. In accordance with the rules of the  
9 department and after consulting with the Indian education  
10 advisory council and determining the resources available within  
11 the department, the ~~[Indian education division]~~ assistant  
12 secretary shall:

13 (1) provide assistance, including advice on  
14 allocation of resources, to school districts and tribes to  
15 improve services to meet the educational needs of ~~[American~~  
16 ~~Indian]~~ tribal students based on indigenous best practices in  
17 education;

18 (2) provide assistance to school districts and  
19 tribes in the planning, development, implementation and  
20 evaluation of curricula in native languages, culture and  
21 history designed for ~~[American Indian]~~ tribal and nontribal  
22 students as approved by tribes;

23 (3) develop or select for implementation a  
24 challenging, sequential, culturally relevant curriculum to  
25 provide instruction to ~~[American Indian]~~ tribal students in

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1     ~~[kindergarten]~~ pre-kindergarten through sixth grade to prepare  
2     them for pre-advanced placement and advanced placement  
3     coursework in grades seven through twelve;

4                     (4) provide assistance to school districts and  
5     tribes to develop curricula and instructional materials in  
6     native languages, culture and history in conjunction and by  
7     contract with native language practitioners and tribal elders,  
8     unless the use of written language is expressly prohibited by  
9     the tribe;

10                    (5) conduct indigenous research and  
11     evaluation, using state-issued student identifiers, that  
12     provides the department and tribal entities and communities  
13     with appropriate methods, including the short-cycle assessment,  
14     to determine the effectiveness of curricula, instructional  
15     materials and strategies to enhance the success of programs and  
16     services for tribal students;

17                    (6) collaborate with the department to provide  
18     distance learning;

19                    ~~[(5)]~~ (7) establish, support and maintain an  
20     Indian education advisory council;

21                    ~~[(6) by January 2006]~~ (8) enter into  
22     agreements with each tribe or authorized tribal educational  
23     entity to share programmatic information and to coordinate  
24     technical assistance for public schools that serve ~~[American~~  
25     ~~Indian]~~ tribal students;

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1                    [~~(7)~~] (9) seek funds to establish and maintain  
2 an Indian education office in the northwest corner of the state  
3 or other geographical location to implement agreements with  
4 each tribe or authorized tribal educational entity, monitor the  
5 progress of [~~American Indian~~] tribal students and coordinate  
6 technical assistance at the public pre-kindergarten to post-  
7 secondary schools that serve [~~American Indian~~] tribal students;

8                    [~~(8)~~] (10) require school districts to obtain  
9 a signature of approval by the tribal governments or tribal  
10 government designees residing within school district  
11 boundaries, verifying that the tribes agree to Indian education  
12 policies and procedures pursuant to federal requirements;

13                    [~~(9)~~] (11) seek funds to establish, develop  
14 and implement [~~the following~~] culturally relevant support  
15 services for the purposes of increasing the number of [~~American~~  
16 ~~Indian~~] tribal teachers, administrators and principals and  
17 providing continued professional development for educational  
18 assistants, teachers and principals serving [~~American Indian~~]  
19 tribal students, in conjunction with the Indian education  
20 advisory council:

21                                    (a) recruitment and retention of highly  
22 qualified teachers and administrators;

23                                    (b) academic transition programs;

24                                    (c) academic financial support;

25                                    (d) teacher preparation;

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- 1 (e) teacher induction; ~~and~~
- 2 (f) professional development; and
- 3 (g) student and community wellness and
- 4 mental health training;

5 [~~(10)~~] (12) develop curricula to provide  
6 instruction in tribal history and government and develop plans  
7 to implement these subjects into history and government courses  
8 in school districts throughout the state;

9 [~~(11)~~] (13) ensure that native language  
10 bilingual programs are part of a school district's professional  
11 development plan, as provided in Section 22-10A-19.1 NMSA 1978;  
12 and

13 [~~(12)~~] (14) develop a plan to establish a  
14 post-secondary investment system for [~~Indian~~] tribal students  
15 to which parents, tribes and the state may contribute."

16 Section 5. Section 22-23A-6 NMSA 1978 (being Laws 2003,  
17 Chapter 151, Section 6) is amended to read:

18 "22-23A-6. ADVISORY COUNCIL.--

19 A. The "Indian education advisory council" is  
20 created and shall [consist] advise the secretary and assistant  
21 secretary on implementation of the provisions of the Indian  
22 Education Act. The council consists of [fourteen] seventeen  
23 members as follows:

- 24 (1) four representatives from the Navajo
- 25 Nation;

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1 (2) two representatives, one from the  
2 Mescalero Apache Tribe and one from the Jicarilla Apache  
3 Nation;

4 (3) four representatives, two from the  
5 southern pueblos and two from the northern pueblos; ~~[and]~~

6 (4) four ~~[members]~~ urban Indians representing  
7 urban areas, ~~[the]~~ including Albuquerque, Gallup and  
8 Farmington; and

9 (5) three at-large representatives, one from  
10 the federal bureau of Indian affairs, one from a head start  
11 [organizations] organization and one from the general public,  
12 at least one of whom shall be [non-Indian] nontribal, but all  
13 of whom shall have knowledge of and involvement in the  
14 education of [Indian] tribal students.

15 B. Members shall be appointed for staggered terms  
16 so that the terms of the at-large members and of one-half of  
17 each of the tribal representatives and the urban Indian  
18 organization representatives end on December 31, 2009 and the  
19 terms of the remaining members end on December 31, 2011.  
20 Thereafter, appointments shall be for terms of four years. The  
21 terms of existing members shall expire on the effective date of  
22 this 2007 act.

23 C. A majority of the members of the Indian  
24 education advisory council constitutes a quorum. The advisory  
25 council shall elect a chair from its membership.

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1           ~~[B-]~~ D. On a semiannual basis, representatives from  
2 all tribes, members of the ~~[state board]~~ commission, the  
3 ~~[governor's]~~ office of the governor, the ~~[New Mexico office of]~~  
4 Indian affairs department, the legislature, the ~~[state~~  
5 ~~superintendent]~~ secretary, the assistant secretary and the  
6 Indian education advisory council shall meet to assist in  
7 evaluating, consolidating and coordinating all activities  
8 relating to the education of ~~[American Indian]~~ tribal students.

9           ~~[G-]~~ E. Members of the Indian education advisory  
10 council may receive per diem and mileage as provided for  
11 nonsalaried public officers in the Per Diem and Mileage Act."

12           Section 6. Section 22-23A-7 NMSA 1978 (being Laws 2003,  
13 Chapter 151, Section 7) is amended to read:

14           "22-23A-7. REPORT.--

15           A. The Indian education division in collaboration  
16 with the education division of the federal bureau of Indian  
17 affairs and other entities that serve ~~[American Indian]~~ tribal  
18 students shall submit an annual statewide ~~[American Indian]~~  
19 tribal education status report no later than November 15 to all  
20 tribes. The division shall submit the report whether or not  
21 entities outside state government collaborate as requested.

22           B. A school district with tribal lands located  
23 within its boundaries shall provide a districtwide ~~[American~~  
24 ~~Indian]~~ tribal education status report to all tribes  
25 represented within the school district boundaries.

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1 C. The status reports shall be written in a brief  
2 format and shall include the following information, through  
3 which public school performance is measured and reported to the  
4 tribes and disseminated at the semiannual government-to-  
5 government meetings held pursuant to Section 22-23A-5 NMSA  
6 1978:

- 7 (1) student achievement as measured by a
- 8 statewide test approved by the [~~state board~~] department, with
- 9 results disaggregated by ethnicity;
- 10 (2) school safety;
- 11 (3) the [~~dropout~~] graduation rate;
- 12 (4) attendance;
- 13 (5) parent and community involvement;
- 14 (6) educational programs targeting [~~American~~
- 15 ~~Indian~~] tribal students;
- 16 (7) financial reports;
- 17 (8) current status of federal Indian education
- 18 policies and procedures;
- 19 (9) school district initiatives to decrease
- 20 the number of student dropouts and increase attendance;
- 21 (10) public school use of variable school
- 22 calendars; [~~and~~]
- 23 (11) school district consultations with
- 24 [~~parent advisory committees~~] district Indian education
- 25 committees, school-site parent advisory councils and tribal,

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1 municipal and Indian organizations;

2 (12) tribal student wellness and tribal mental  
3 health status as collected by the school; and

4 (13) indigenous research and evaluation  
5 measures and results."

6 Section 7. Section 22-23A-8 NMSA 1978 (being Laws 2003,  
7 Chapter 151, Section 8) is amended to read:

8 "22-23A-8. FUND CREATED.--

9 A. The "Indian education fund" is created in the  
10 state treasury. The fund consists of appropriations, gifts,  
11 grants and donations and income from investment of the fund.  
12 Money in the fund shall not revert [~~to any other fund at the~~  
13 ~~end of a fiscal year~~]. The fund shall be administered by the  
14 department [~~of education~~], and money in the fund is  
15 appropriated to the department to distribute awards to support  
16 the Indian Education Act.

17 B. The department shall ensure that money from the  
18 fund is used to supplement, not supplant, services that are  
19 provided to tribal students and schools from other divisions  
20 within the department or other services.

21 [~~B.~~] C. The department [~~of education~~] shall develop  
22 procedures and rules for the award of money from the fund.  
23 Disbursement of the fund shall be made by warrant of the  
24 department of finance and administration pursuant to vouchers  
25 signed by the [~~state superintendent~~] secretary of public

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