

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HJM 21

51st Legislature, 2nd Session, 2014

Tracking Number: .195714.1

Short Title: Indian Education Subcommittee

Sponsor(s): Representative Sandra Jeff

Analyst: Mark Murphy

Date: February 15, 2014

Bill Summary:

HJM 21 requests that the New Mexico Legislative Council create an Indian Education Subcommittee during the 2014 interim composed of members of the Legislative Education Study Committee (LESC) and the appropriate legislative committee that studies Indian affairs.

Among its other provisions, the memorial requests:

- that the Indian Education Subcommittee:
 - consider alternatives to the way that Impact Aid is implemented in order to provide education in the state in a more equitable way; and
 - develop a statewide comprehensive education plan for Native American students; and
- that copies of this memorial be transmitted to:
 - the Chair of the Legislative Education Study Committee;
 - the Director of the Legislative Council Service;
 - the Secretary of Public Education; and
 - the Secretary of Higher Education.

Fiscal Impact:

Legislative memorials do not carry appropriations.

Fiscal Issues:

According to the fiscal impact report (FIR) provided by the Legislative Finance Committee (LFC), the requested activities would be carried out with existing resources.

Substantive Issues:

HJM 21 requests the Indian Education Subcommittee to “develop a statewide comprehensive education plan for Native American students.” It is unclear, however, how this comprehensive plan will relate to the provisions and requirements of the *Indian Education Act*, which is described in greater detail in the “Background” section of this bill analysis.

The sponsor may wish to consider clarifying whether the Indian Education Subcommittee’s comprehensive plan should include a review of the *Indian Education Act*.

Background:

The following two topics related to this memorial are described in this section:

- Impact Aid; and
- the *Indian Education Act*.

Impact Aid

The federal Impact Aid law (originally known as PL 874) was signed into law by President Harry S. Truman in 1950 to provide assistance to school districts that experience an adverse financial impact due to federal activity or presence. This impact is usually caused by the federal ownership of non-taxable land, or the burden of providing an equal education to a district’s “federally connected” children. The three types of federally connected children are:

- children residing on Indian lands;
- military children; and
- children residing in federal low-rent housing projects.

Federally connected students can reduce a school district’s taxable financial base if their parents or guardians:

- pay no income taxes or vehicle license fees;
- live on non-taxable federal property;
- shop at stores that do not generate taxes; or
- work on non-taxable federal land.

Impact Aid provides a payment to school districts in lieu of these lost taxes. Impact Aid is one of the only federal education programs in which discretionary funds go directly into a school district’s general operating fund to be used as the local school board sees fit.

According to provisions in the federal *Elementary and Secondary Education Act (ESEA)* pertaining to Impact Aid:

- funds are provided directly to school districts on the basis of statutory criteria provided in grant applications submitted to the US Department of Education (USDE);
- payments under the program are made for:
 - federal acquisition of real property located within the school district;
 - membership and attendance counts of federally connected children; and
 - construction, repairs, maintenance, and modernization of facilities to eligible local educational agencies (LEAs); and
- payments made under the program are considered general aid, and may be employed at the discretion of the LEA, except for those funds awarded for:

- federally connected children with disabilities; and
- facility construction, repairs, and modernization.

According to provisions within the New Mexico *Public School Finance Act*, current law:

- defines “federal revenue” in the State Equalization Guarantee (SEG) distribution as receipts to the school district derived from the following:
 - 75 percent of the school district’s share of forest reserve funds; and
 - 75 percent of grants from the federal government as “PL 874 funds” or “impact aid”; and
- requires the calculation to determine the final SEG distribution for school districts to deduct the federal revenue from the total program cost of a school district.

Indian Education Act

In 2003, the New Mexico Legislature first enacted the *Indian Education Act*. The purposes of the *Indian Education Act* as specified in current law are to:

- ensure equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for American Indian students enrolled in public schools;
- ensure maintenance of native languages;
- provide for the study, development and implementation of educational systems that positively affect the educational success of American Indian students;
- ensure that the Public Education Department (PED) partners with tribes to increase tribal involvement and control over schools and the education of students located in tribal communities;
- encourage cooperation among the educational leadership of Arizona, Utah, New Mexico and the Navajo Nation to address the unique issues of education students in Navajo communities that arise due to the location of the Navajo Nation in those states;
- provide the means for a formal government-to-government relationship between the state and New Mexico tribes and the development of relationships with the education division of the Bureau of Indian Affairs (BIA) and other entities that serve American Indian students;
- provide the means for a relationship between the state and urban American Indian community members to participate in initiatives and educational decisions related to American Indian students residing in urban areas;
- ensure that parents, tribal departments of education, community-based organizations, the PED, universities, and tribal, state and local policymakers work together to find ways to improve educational opportunities for American Indian students;
- ensure that tribes are notified of all curricula development for their approval and support;
- encourage an agreement regarding the alignment of the BIA and state assessment programs so that comparable information is provided to parents and tribes; and
- encourage and foster parental involvement in the education of Indian students.

To accomplish the purposes stated above, the *Indian Education Act*:

- establishes the Indian Education Division of the PED and specifies particular duties and responsibilities;
- establishes the Indian Education Advisory Council to advise on the implementation of the provisions of the *Indian Education Act*;
- requires “tribal education status reports” to be submitted to New Mexico tribes;
- establishes the Indian Education Fund as a non-reverting fund administered by the PED; and
- requires that PED collaborate and coordinate with the Higher Education Department and institutions of higher education to facilitate the successful and seamless transition of American Indian students into postsecondary education and training.

Committee Referrals:

HEC

Related Bills:

HB 13a *School Equalization Guarantee “Local Revenue”*

HB 37 *Equalization Guarantee to Certain Schools*

HB 61 *Native American Youth Suicide Prevention*

HB 62 *NMSU Indian Resource Development Program*

HB 256 *Tribal Land Charter School*

HB 345 *School Finance “Local Revenue”*

HJM 16 *Higher Ed Faculty Underrepresentation*

HM 37 *Tribal College Lottery Scholarship Exclusion*

SB 3 *Tribal College Dual Credit Program Fund*

SB 139 *Tribal College Dual Credit Program*

SB 258 *School Transportation & Tribal Leaders*

SB 278 *School Transportation Boundary Agreements*

SB 294 *NM Robotics Camp*

SB 320 *School Transportation Boundary Agreements*

CS/SB 330 *School Transportation Boundary Agreement*

SM 23 *Tribal College Lottery Scholarship Exclusion*