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

Bill Number	<u>HB148</u>	Sponsor	<u>Lente</u>
Tracking Number	<u>.223604.2</u>	Committee Referrals	<u>HGEIC/HEC</u>
Short Title	<u>Early Childhood Dept. Tribal Agreements</u>		
Analyst	<u>Andrews</u>	Original Date	<u>1/30/2023</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

House Bill 148 (HB148) amends the duties of the Early Childhood Education and Care Department (ECECD) to require the department to enter into intergovernmental agreements (IGAs) with Indian nations, tribes, pueblos, or tribal organizations to plan, conduct, disburse funding to, and administer early childhood education and care programs using their own culturally and linguistically relevant standards, assessments, and evaluations.

The effective date of this bill is July 1, 2023.

FISCAL IMPACT

HB148 does not contain an appropriation.

According to ECECD, the department already completes IGAs as described in HB148 based on available funding appropriated by the Legislature and under its current statutory powers to administer its programming. ECECD notes the department has requested an additional \$7.5 million in FY24 for a total of \$22.9 million for early childhood tribal investments. However, ECECD notes completing IGAs is limited based on available funding, and HB148 does not contain an appropriation.

SUBSTANTIVE ISSUES

According to ECECD, the work proposed by HB148 is currently happening – ECECD enters into IGAs with Indian nations, tribes, and pueblos and has inherent authority to do so. However, ECECD notes HB148 creates a mandate for ECECD to fund IGAs, but does not provide for an appropriation to do so.

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 "community-based education, created by and centered within tribal communities" as the second 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." HB148 is in alignment with these strategic solutions presented by TEA by ensuring tribes can develop and deliver early childhood education and care programs using their own culturally and linguistically relevant standards, assessments, and evaluations.

TEA notes that HB148 [strengthens tribal self-determination in early childhood education](#) and is part of the tribal remedy framework.

State-Tribal Collaboration. The Indian Affairs Department (IAD) notes the [State-Tribal Collaboration Act](#) reflects the commitment of New Mexico state organizations to work with tribal leaders on a government-to-government basis and provide guidance to advance and support early childhood systems across Indigenous communities. The State-Tribal Collaboration Act signifies a milestone achievement that New Mexico and 23 sovereign nations, tribes, and pueblos accomplished together and will pave the way for future benefit and longevity of cooperative and productive State-Tribal relationships.

IAD also cited the University of New Mexico Native American Budget & Policy Institute report [Native American Perspectives Regarding a Needs Assessment for the New Mexico Early Childhood Education and Care Department](#), which found a greater need for direct partnerships with tribes at a government-to-government level, "One of the dominant themes that emerged from discussions with Native American participants across the state is the need for enhanced trust between Tribal nations and the state government, with an emphasis on enhancing the recognition and respect of Tribal sovereignty. In fact, many folks specifically mentioned the State Tribal Collaboration Act in their concerns about government-to-government relationships."

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 weighed statutory formula.

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.

SOURCES OF INFORMATION

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

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