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

**Bill Number** HB198      **Sponsor** Lente/Herrera/Allison/Szczepanski/Johnson

**Tracking Number** .223693.1      **Committee Referrals** HEC/HGEIC

**Short Title** Career Tech Funds for Indian Ed Schools

**Analyst** Hathaway      **Original Date** 2/2/23  
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**BILL SUMMARY**

Synopsis of Bill

House Bill 198 (HB198) amends statute that created the Career Technical Education pilot project, and its corresponding fund (the career technical education fund), to include secondary schools funded by the federal Bureau of Indian Education (BIE). The bill would allow secondary schools funded by the BIE to be eligible applicants for the pilot project and for these schools to also be eligible recipients of grants from the career technical education fund.

**FISCAL IMPACT**

HB198 does not contain an appropriation.

The bill would change distributions from the career technical education fund, a nonreverting fund created to administer the Career Technical Education pilot project, which was created by the Legislature in 2019. It would also expand eligibility to participate in the pilot project to secondary schools funded by the federal BIE. Secondary schools funded by the federal BIE would include funds to both tribally controlled schools and BIE-controlled schools.

The House Appropriations and Finance Committee Substitute for House Bills 2 and 3 (HB2/HAFCS) contains \$40 million to be appropriated to the Public Education Department (PED) for career technical education initiatives and equipment.

**SUBSTANTIVE ISSUES**

In New Mexico, there are 23 sovereign Native American governments, a state funded public education system, and a federally funded BIE system. 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.

The Public Education Department (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.

**BIE Secondary Schools in New Mexico.** Secondary schools funded by the federal Bureau of Indian Education (BIE) are operated either by the BIE (BIE-operated) or by tribes under contracts or grants (tribally-controlled). BIE-operated schools are under the direct auspices of the BIE, and tribally controlled schools are run by individual federally recognized tribes with grants or contracts from the BIE. The federal BIE provides funding to nine secondary schools in New Mexico:

1. Alamo Navajo Community School
2. Santa Fe Indian School
3. Wingate High School
4. Kinteel Residential Campus, Inc.
5. Mescalero Apache Schools
6. Navajo Preparatory School
7. Pine Hill Schools
8. Shiprock Northwest Middle/High School
9. TóHajjilee Community School

**Native American Enrollment in New Mexico Public Schools.** Data from PED for FY23 shows Native American students make up 10.3 percent of the total student population in New Mexico’s public schools (33,644 Native American students out of 327,562 total students). It is important to note these figures are only inclusive of Native American students in public schools and HB198 expands eligibility for an existing program to include any secondary school funded by the federal BIE. As noted above, PED reports about 6,000 Native American students attend schools on tribal land funded by the federal BIE.

**How CTE is Funded in New Mexico.** Career Technical Education (CTE) is funded with a mix of state and federal investments. In addition to state and federal funds, schools may also locally fund CTE programs using operational funds through their state equalization guarantee (SEG) allocations as well as private investments, grants, monetary contributions, gifts of equipment and supplies, and in-kind donations.

**State CTE Funding: NextGen CTE Pilot Project.** In 2019, the Legislature created the “Career Technical Education pilot project,” which is known in PED and by schools in New Mexico as the NextGen CTE pilot project. The Legislature also created a corresponding CTE fund—see Laws 2019, Chapter 61 (House Bill 91) and Laws 2019, Chapter 2 (House Bill 44)—which enacted Sections 22-1-12 and 22-1-13 NMSA 1978. The NextGen CTE pilot project is a seven-year pilot project to fund CTE programs at the state level.

The pilot project includes key criteria for effective programs such as rigorous academics, relevant technical instruction, and pathways to postsecondary education, but it does not include opportunities for work-based learning or student supports. Prior to the creation of the pilot project, there was no dedicated state-level funding stream for CTE initiatives. The Legislature appropriated, from the CTE fund, \$4.5 million in FY20, \$5 million in FY21, and \$3 million in FY22. For FY23, the Legislature did not appropriate funding to the specified CTE fund and instead made a \$10 million appropriation to PED for “career technical education initiatives and equipment.” The department used about \$4 million of this funding for NextGen CTE pilot project

awards, but also used another \$4.6 million of the total appropriation to fund a separate initiative (titled Innovation Zones), to reimagine the high school experience.

**NextGen CTE Awards.** In FY23, PED made NextGen CTE pilot project awards to 40 school districts, 17 charter schools, and five regional education cooperatives or other coordinating agencies. The award amounts ranged from \$2,948 (Quemado Independent Schools) to \$1,039,218 (Albuquerque Public Schools).

**Federal Perkins Funding.** In addition to state funding, New Mexico receives federal funding for CTE programs. The Strengthening CTE for the 21<sup>st</sup> Century Act, commonly known as Perkins V, is the federal law that establishes funding for CTE from the federal government to states. In FY23, the state received \$10.1 for its Perkins award.

These funds are distributed as awards to both secondary and postsecondary schools and there is also a set aside for administrative costs and functions. Perkins V ([Section 131\(a\)\(3\)](#)) does require state education agencies to distribute federal Perkins funds “to include local educational agencies without geographical boundaries, such as charter schools and secondary schools funded by the Bureau of Indian Education.”

**State Funding to Secondary Schools Funded by the BIE.** HB198 would expand state funding to secondary schools funded by the federal government via the BIE. While BIE-funded schools have received state capital outlay and general obligation bond funding, as well as funding through state agencies, this would additionally open up a state-funded program to these schools.

## **ADMINISTRATIVE IMPLICATIONS**

PED would have to extend its existing application and award processes for the NextGen CTE pilot project to include secondary schools funded by the BIE. These processes and corresponding staffing to evaluate applicants and make awards already exist so LESC staff expect there would be minimal administrative impact.

## **OTHER SIGNIFICANT ISSUES**

***Martinez-Yazzie Lawsuit.*** 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.

**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.

## **RELATED BILLS**

Relates to House Bill 140, Tribal Education Trust Fund, which would create a tribal education trust fund and include an initial investment of \$50 million from the public education reform fund, with provisions detailing how investment returns on the fund would provide consistent and stable revenue for tribal education departments.

Relates to House Bill 147, 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 House Bill 149, Public Education Department Native American Funding, which establishes an annual revenue for the tribal education trust fund proposed in House Bill 140 (if enacted), or for distribution to federally recognized Indian tribes, nations, and pueblos in New Mexico.

Relates to Senate Bill 108, which creates a career technical education program unit of 0.25 as part of the state equalization guarantee, the state's public education funding formula.

## **SOURCES OF INFORMATION**

- LESC Files
- Public Education Department (PED)
- New Mexico Office of the Attorney General (NMAG)
- Higher Education Department (HED)

**JKH/cf/mb/cf/msb**