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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/13  
 SPONSOR Jeff LAST UPDATED 02/25/13 HB 342/aHEC  
 SHORT TITLE Indian Education Act Goals SB \_\_\_\_\_  
 ANALYST Roberts

### APPROPRIATION (dollars in thousands)

| Appropriation |           | Recurring<br>or Nonrecurring | Fund<br>Affected |
|---------------|-----------|------------------------------|------------------|
| FY13          | FY14      |                              |                  |
|               | \$1,000.0 | Recurring                    | General Fund     |

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act: Public Education Department, Indian Education Act

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Indian Affairs Department (IAD)  
 Public Education Department (PED)

### SUMMARY

#### Synopsis of HEC Amendment

The House Education Committee amendment to House Bill 342 stipulates that appropriations made from the bill shall be appropriated to the Indian Affairs Department (IAD) instead of the Public Education Department (PED). The amendments also stipulates that use of these funds shall be in 2014 and subsequent fiscal years and that these funds shall not revert to the general fund.

#### Synopsis of Original Bill

House Bill 342 (HB 342) appropriates \$1 million dollars from the general fund to the PED to carry out and achieve the goals of the Indian Education Act, with emphasis on culturally relevant teaching and language maintenance.

## **FISCAL IMPLICATIONS**

The appropriation of \$1 million dollars contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2014 shall not revert to the general fund.

## **SIGNIFICANT ISSUES**

Currently included in HB 2 is \$1.8 million for the Indian Education Act (IEA), through the PED. The PED has been administering funding to support the IEA since fiscal year 2004.

The IEA was passed in the 46<sup>th</sup> Legislature, First Session 2003. The Act created the Indian Education Division (IED) within the PED. It also created the position of Assistant Secretary of IED with prescribed duties and responsibilities, including a working relationship with Indian Nations, Tribes and Pueblos and with federal and state agencies. It created and defined the membership of the Indian Education Advisory Council (IEAC) to assist the PED in evaluating, consolidating and coordinating all activities relating to the education of New Mexico's Indian students. It also created the Indian Education Fund in the state treasury.

Historically, Indian students have scored low on standardized tests and have consistently underachieved in the public schools, a phenomenon attributed primarily to linguistic and cultural differences. This Act addresses these issues and provides mechanisms intended to improve the success rate of Indian students in public schools.

The purpose of the Act is 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 for American Indian students;
- Ensure that the 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 educating students in Navajo communities that arise due to the location of the Navajo Nation in those states;
- Provide the means for a relationship between the state and urban American Indian community members to participate in initiatives an educational decision 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 bureau of Indian affairs and state assessment programs so comparable information is provided to parents and tribes; and
- Encourage and foster parental involvement in the education of Indian students.

The Act also created the Indian Education Fund which is to provide for:

- Training for American Indian teachers in the areas of bilingual education, ESL, special education, reading and administration;
- Scholarships for non-degree American Indian students, including educational assistants, for initial certification and endorsements;
- Professional development for non-Native American, education assistants, teachers and principals that currently serve Indian children;
- Development of curriculum and attendant instructional materials, and
- Identification, assessment and replication of exemplary programs.

The Indian Education Fund was authorized to receive appropriations, gifts, grants and donations as well as interest from investments of the Fund. Any balance in the Fund shall not revert. The original bill did not contain an appropriation; however the General Appropriation Act passed by the House included \$1.7 million for the purposes of the Act. New language was included to clarify that any appropriations to the Indian Education Fund were recurring appropriations and should not revert.

The IAD reports that since 2003 the IEA fund has received the following appropriations through the Legislature. Beginning with fiscal year 2006-2007, the IEA fund also began receiving matching funds for a rural literacy grant awarded to a non-profit agency. The appropriations, matching funds, expenditures, and cash balances for each fiscal year through 2012 are shown below. It should be noted since FY11 the IEA Fund appropriations have been cut and these cuts have continued each fiscal year to date. Also since FY11 there has been specific earmarking (\$700 thousand) of the appropriations by legislators that go to non-Native non-profit organizations to provide rural literacy programs and teacher training programs for schools with high populations of Native American students in the rural district areas of New Mexico.

| Fiscal Year | Appropriation | Other Revenue | Expenditures | Non-reverting amounts | Cash Balances |
|-------------|---------------|---------------|--------------|-----------------------|---------------|
| 2003-2004   | \$2,000,000   | 0             | \$66,500     | \$1,933,500           | \$1,933,500   |
| 2004-2005   | \$2,500,000   | 0             | \$415,000    | \$2,085,000           | \$4,018,500   |
| 2005-2006   | \$2,500,000   | 0             | \$2,590,200  | \$-90,200             | \$3,928,300   |
| 2006-2007   | \$2,497,400   | \$500,000     | \$2,658,500  | \$338,900             | \$4,267,200   |
| 2007-2008   | \$2,500,000   | \$500,000     | \$3,354,900  | \$-354,900            | \$3,912,300   |
| 2008-2009   | \$2,500,000   | \$250,000     | \$3,185,000  | \$-185,000            | \$3,727,300   |
| 2009-2010   | \$2,250,000   | \$500,000     | \$3,329,800  | \$-579,000            | \$3,147,500   |
| 2010-2011   | \$1,924,600   | \$400,000     | \$3,359,700  | \$1,035,100           | \$2,112,400   |
| 2011-2012   | \$1,824,600   | \$300,000     | \$2,728,800  | \$-604,200            | \$1,508,200   |

It should be noted in June 2011, there was a reduction in force at the PED. This reduction affected the staff within the IED. The original staff for the Santa Fe and the Northwest IED offices was 4 Education Administrators, 2 Executive Assistants, 2 Program Managers, and an Assistant Secretary that covered all 89 public school districts with an emphasis on 23 of those 89 public school districts that have significant Native American student enrollment. The current staffing for the Santa Fe and Northwest IED offices is 2 Education Administrators, 2 Executive Assistants, 1 General Manager and an Assistant Secretary. There may be a need to revisit the current staffing within the IED to ensure the goals of the Act are effectively addressed and the funding is expended and encumbered towards meeting the Acts goals.

**PERFORMANCE IMPLICATIONS**

The PED notes that HB 342 supports the Department’s strategic lever #1 smarter return on New Mexico investment; lever #3: ready for success initiatives. This bill also supports the PED’s implementation of the Indian Education Act (22-12A-1 to 22-23A8 NMSA) namely 1) ensures equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for American Indian students enrolled in public schools; and 2) ensures maintenance of native languages.

**ADMINISTRATIVE IMPLICATIONS**

The IAD will be responsible for administering the funds to carry out and achieve the goals of the IEA, with emphasis on culturally relevant teaching and language maintenance

**OTHER SUBSTANTIVE ISSUES**

Specific goals from the Act that emphasize culturally relevant teaching and language maintenance need to be identified. The current earmarking, \$700.0 thousand, of the Indian Education Act funds should be reviewed and clarification is needed as to how those funds are being used to meet the unique educational needs of Native American students in New Mexico.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The IAD reports that without the \$1 million dollar appropriation from this bill, the IEA fund may continue with the current cuts and current earmarking. The reduction in appropriations along with the earmarking of the funds does not allow the division to effectively address the educational needs of Native American students in the public schools.

MIR/blm:svb