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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/18  
 SPONSOR Lente LAST UPDATED 2/07/18 HB 151/aHEC  
 SHORT TITLE Indian Student Needs Assessments SB \_\_\_\_\_  
 ANALYST Liu

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Indeterminate				

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files  
 Legislative Education Study Committee (LESC) Files

#### Responses Received From

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

### SUMMARY

#### Synopsis of HEC Amendment

The House Education Committee amendment to House Bill 151 makes the following adjustments to the original bill:

- Makes the requirement for schools to apply for state, federal, and private grants optional, rather than mandatory;
- Requires the use of student-centered data to inform “culturally and linguistically responsive policies” rather than “teaching strategies and schoolwide efforts” to close the achievement gap between Indian students and all other student demographic groups; and
- Changes “culturally relevant activities” to “culturally and linguistically responsive policies” for systemic framework elements and requires programs within this framework to be “culturally and linguistically” innovative and relevant.

#### Synopsis of Original Bill

House Bill 151 creates new sections in the Indian Education Act, requiring historically-defined Indian impacted school districts and charter schools to:

- conduct needs assessments for enrolled American Indian (AI) students:

- at home, or in the community to help them succeed in school, graduate and help them to prepare for post-secondary education and the workforce,
- prioritize budgets based on the needs assessed of AI students, and
- develop systemic frameworks for improving AI student educational outcomes, which may include some or all of the following elements:
  - academic and innovative programs;
  - high-quality professional development for educators;
  - identification of early childhood education programs;
  - educational, remedial, or enrichment programs that raise student achievement;
  - bilingual, bicultural, or culturally-responsive programs;
  - college and career preparation programs;
  - special compensatory, graduation, or dropout prevention programs;
  - early intervention and after-school programs;
  - guidance, counseling, and intervention services;
  - family literacy and parental engagement services; and
  - violence, suicide, and substance abuse prevention programs.

Schools district and charter schools must convene a public meeting at least twice a year with members of the AI students' tribal leaders, parents and the Indian Education Division of the PED to provide information on the needs assessment and progress made on addressing needs.

## **FISCAL IMPLICATIONS**

The bill does not contain an appropriation. Any costs from implementing provisions of this bill would be borne by schools, tribes, other community stakeholders, and PED. Most school districts and charter schools report implementing at least one of the listed elements within the systemic framework outlined in the bill; however, it cannot be determined at this time if these elements are executed at a level that will meet the future assessed need. According to PED, these costs can be mitigated by current funding sources available through the struggling schools provisions of Every Student Succeeds Act, but these funds are awarded competitively and will not be awarded to every school or local education agency. As such, the extent of fiscal impacts on this bill are indeterminate.

The bill does not allocate funding for every historically-defined Indian impacted public school statewide to support the needs assessment process or the development of a systemic framework and accountability tool for improving education outcomes for AI students. As such, costs of implementing the provisions of this bill will fall on schools and PED.

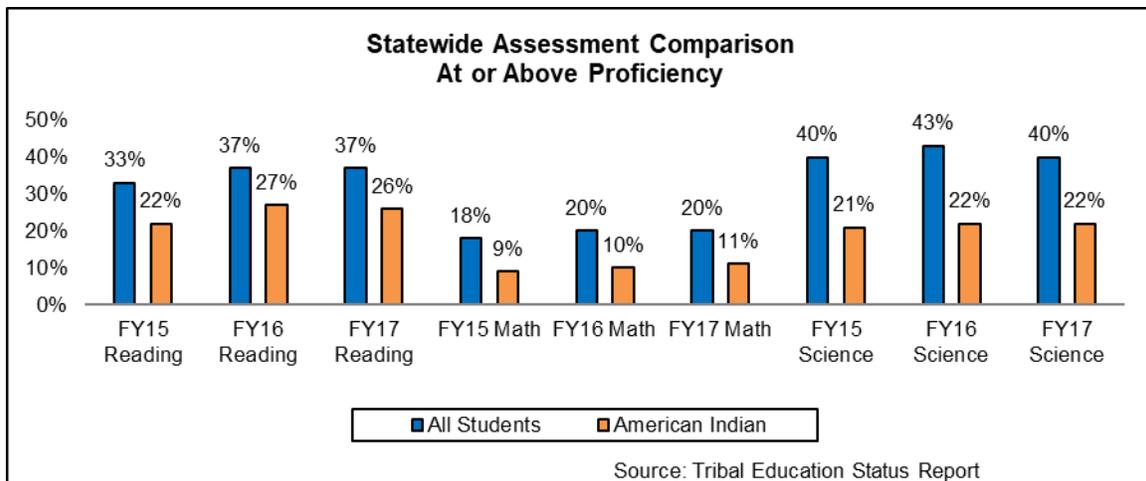
According to the Tribal Education Status Report for the 2016-2017 school year, 23 school districts and four charter schools received over \$36.7 million in funding related to AI students, or an average of \$1,067 per student (see Attachment). This is a \$5.2 million, or \$117 per student, increase from the 2015-2016 school year. Most of these funds have been used to provide services and resources at school districts with consultation from local tribal governments, and many eligible uses are aligned with provisions of this bill. Additionally, language in the General Appropriation Act has typically included a \$400 thousand general fund appropriation from the Indian Education fund for a nonprofit organization that recruits recent college graduates and professionals who have demonstrated a record of achievement to teach in low income urban and rural public schools to provide teaching support in schools with a high proportion of AI students. PED requested a total of \$2.5 million for Indian education in FY19. Balances in the fund have

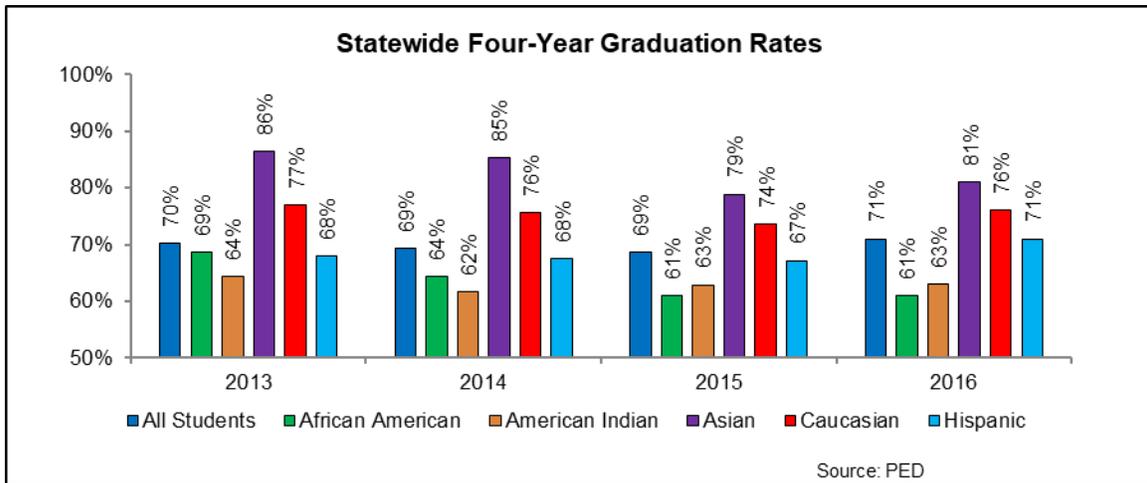
been used annually for several years for a number of recurring initiatives; however, limited outcome data is provided to assess effectiveness of allocations. In FY18, PED submitted a budget adjustment request (BAR) for the Indian Education Division (IED), increasing the FY18 budget by \$1.7 million to spend down the estimated Indian education fund balance of \$3.3 million. The BAR included \$1.5 million to pilot 14 different programs at various schools, tribes, and consulting organizations that PED indicated were nonrecurring. The FY19 PED request, executive recommendation, and LFC recommendation include a general fund appropriation of \$1.8 million and authorize the use of \$675.4 thousand from Indian education fund balances for FY19.

**SIGNIFICANT ISSUES**

Provisions of the bill require every “historically defined Indian impacted” school district and charter school to conduct a needs assessment, consult with tribes on matters related to the needs assessment, and develop an accountability tool to measure the success and failures of public school efforts. Currently, 23 school districts and six charter schools located on or near tribal land are required to provide local data for PED’s Tribal Education Status Report and are eligible for school district Indian Education Act grants. Statewide, about 34.4 thousand AI students attend public schools, about 6,000 attend Bureau of Indian Education-operated and tribally-controlled schools, and 3 percent of statewide district staff identified as AI. The bill makes PED responsible for assisting local education agencies (LEA) on developing systemic frameworks and for considering whether each LEA’s budget prioritizes the needs identified in the needs assessment.

Based on all statewide assessments, about 26 percent of AI students are proficient in reading, 11 percent in math, and 22 percent in science in the 2016-2017 school year. The average proficiency rate of AI students in the 2016–2017 school year has increased slightly from the 2014–2015 school year. Proficiency rates for AI students are considerably lower than other ethnicity students. Additionally, AI students show consistently lower graduation rates than most other ethnicities in New Mexico.





### PERFORMANCE IMPLICATIONS

Addressing academic, social, emotional, and health needs for AI student may improve education- and health-related performance measures, given historically poor performance from this demographic group. PED notes the bill aligns with the Indian Education Division’s 2016 Consultation Report, strategic plan, and mission to increase AI student academic and cultural achievement through culturally-relevant pedagogy, native language, and collaborative partnerships.

### ADMINISTRATIVE IMPLICATIONS

The bill outlines responsibilities for PED to support LEAs in the needs assessment and systemic framework development and to monitor LEA budgets to determine prioritization of funding for activities and programs that will close the achievement gap. The bill requires every historically defined Indian impacted school district and charter school to conduct a needs assessment.

The bill requires IED to assist, as needed, school districts and charter schools during the development and implementation of the proposed systemic framework. In addition, the IED would meet with each school district and charter school at least twice a year to hear a report on the needs assessment.

### TECHNICAL ISSUES

PED recommends the definition of “historically defined Indian impacted school districts” be defined and include at least four components: school districts that have tribal or federal trust lands within its district boundaries; school districts that have boundaries congruent to tribal or federal trust lands; school districts that have a Bureau of Indian Education-operated or tribally-controlled school that feeds into a school district public school; and school districts with a high density (25 percent or greater) of AI student population as defined by the Federal Office of Indian Education; schools that are created with a specific mission to serve AI students.

### OTHER SUBSTANTIVE ISSUES

Districts that claim federally identified AI students residing on Indian lands for Title VIII Impact Aid funding are required to develop and implement policies and procedures in consultation with

tribal officials and parents. The New Mexico Indian Education Act requires school districts to obtain a signature of approval by the New Mexico tribal governments or their designees residing within school district boundaries, verifying that New Mexico tribes agree to Indian education policies and procedures (IPP) pursuant to federal Title VIII Impact Aid funding requirements. In FY17, 18 school districts received federal Indian Education Title VIII Impact Aid funds.

In FY16, 23 school districts and one charter school provided the development and submission of their annual IPP, and 72 percent of established IPPs were used to ensure equitable services and resources at the school districts. At least 71 percent of districts reported meeting quarterly with tribal educational service entities for AI students, and 86 percent of districts offered public hearings to consult with parents, community members, and tribal entities on how to improve educational opportunities for AI students.

The Johnson-O'Malley Act of 1934 authorizes contracts for the education of eligible Indian students enrolled in public schools and previously private schools. This local program is operated under an educational plan, approved by the Bureau of Indian Education (BIE), which contains educational objectives to address the needs of the eligible AI students. Johnson-O'Malley programs offered vary by each Indian Education Committee, which are established and include members elected from among parents of AI students, and may include such programs as culture, language, academics and dropout prevention. In FY16, nine school districts received Johnson-O'Malley Act funds totaling \$759.2 thousand.

IED provides \$25 thousand to 22 of 23 New Mexico school districts and one charter school (\$575 thousand total) that have a significant AI student enrollment to implement one of the following six purposes contained within the Indian Education Act:

- Ensure equitable and culturally relevant educational opportunities, instructional material, and learning environments;
- Ensure maintenance of native language;
- Provide for the study, development, and implementation of education systems that positively affect the educational success of American Indian students;
- Encourage parental involvement;
- Ensure that parents, community-based organizations, tribal departments of education, the U.S. Department of Education, universities, and policymakers work together to improve educational opportunities for AI students; or
- Develop collaborative partnerships with school districts, BIE, urban AI organizations, and tribal governments.

IAD finds areas with a significant AI population often struggle with parental involvement. Parents are less likely to attend meetings and actively participate in school activities, despite local tribal community initiatives and efforts. The agency notes there is a strong correlation between poor parent engagement and lower academic achievement.

HED notes services related to college and career preparation programs for AI students are primarily related to dual credit programs. A dual credit program allows high school students to enroll in post-secondary courses and earn credits toward both high school graduation and a post-secondary credential. Eligible high school students may include students from a school district, charter school, state-supported school, Bureau of Indian Education school, private school or home school, offering any of grades nine through 12 or their equivalent. New Mexico has four

tribal colleges that are eligible to administer dual credit courses. Public and tribal higher education institutions (HEIs) that participate in New Mexico's dual credit program waive tuition and all general fees for dual credit courses for students. An appropriation is made to the tribal HEIs of New Mexico to help defray the cost of offering dual credit courses. The appropriation is to be used only to compensate tribal colleges for the tuition and fees waived to allow high school students to attend classes on the college campus or electronically as set out in Section 21-1-27.10 NMSA 1978.

The State-Tribal Collaboration Act (Sections 11-18-1 through 11-18-5 NMSA 1978) provides a framework for collaboration with the Indian nations, tribes, and pueblos in the development and implementation of policies, agreements, and programs. In 2017, IAD noted this process could be time-consuming and resource-draining to properly administer in accordance with the law. School districts could utilize the State-Tribal Collaboration Act's legal framework as the basis for their meetings with local tribes to prioritize the needs of AI students and determine ways to address the needs. The State-Tribal Collaboration Act also requires an annual state-tribal summit in which the governor of the state meets with the leaders of the Indian nations, tribes and pueblos in a state-tribal summit to address issues of mutual concern. For the past several state-tribal summits, education of Indian students has been a major topic of discussion.

SL/jle/sb

## District Funding 2016-2017: Funds Generated by American Indian (AI) Students

Districts	Total Enrollment (N)	AI Enrollment (N)	AI (%)	Fund 25184	Fund 25147	Fund 25131	Fund 27150	Total AI Programs	Amt. per student
				Indian Ed Formula Grant Title VII	Impact Aid Indian Education Title VIII	Johnson-O'Malley	NM Indian Education Act		
Albuquerque	91,112	4,906	5.4%	\$ 1,051,910	\$ 6,781	\$ 159,051	\$ 25,000	\$ 1,242,742	\$ 253
Aztec	3,187	485	15.2%	\$ 86,382		\$ 27,487	\$ 25,000	\$ 138,869	\$ 286
Bernalillo	3,189	1,369	42.9%	\$ 250,404	\$ 1,313,512		\$ 25,000	\$ 1,588,916	\$ 1,161
Bloomfield	2,963	1,130	38.1%	\$ 196,391	\$ 169,581	\$ 66,792	\$ 25,000	\$ 457,764	\$ 405
Central	6,177	5,536	89.6%	\$ 966,101	\$ 5,154,643	\$ 318,537	\$ 25,000	\$ 6,464,281	\$ 1,168
Cuba	567	365	64.4%	\$ 66,817	\$ 255,096	\$ 31,714	\$ 25,000	\$ 378,627	\$ 1,037
DEAP	22	22	100.0%					\$ -	\$ -
Dream Dine	25	25	100.0%					\$ -	\$ -
Dulce	777	732	94.2%		\$ 10,782,998		\$ 25,000	\$ 10,807,998	\$ 14,765
Espanola	3,771	209	5.5%	\$ 76,232	\$ 74,451		\$ 25,000	\$ 175,683	\$ 841
Farmington	11,613	3,769	32.5%				\$ 25,000	\$ 25,000	\$ 7
Gallup	11,659	9,200	78.9%	\$ 1,729,448	\$ 9,597,728		\$ 25,000	\$ 11,352,176	\$ 1,234
Grants	3,825	1,791	46.8%		\$ 632,996		\$ 25,000	\$ 657,996	\$ 367
Jemez Mountain	251	75	29.9%	\$ 6,058		\$ 4,640	\$ 25,000	\$ 35,698	\$ 476
Jemez Valley	402	284	70.6%		\$ 222,904		\$ 25,000	\$ 247,904	\$ 873
Los Lunas	8,509	600	7.1%	\$ 82,875	\$ 66,500		\$ 25,000	\$ 174,375	\$ 291
Magdalena	345	148	42.9%	\$ 30,271	\$ 89,434	\$ 10,954	\$ 25,000	\$ 155,659	\$ 1,052
Penasco	349	31	8.9%	\$ 5,168	\$ 12,154			\$ 17,322	\$ 559
Pojoaque	1,920	287	14.9%	\$ 61,140	\$ 370,661		\$ 25,000	\$ 456,801	\$ 1,592
Rio Rancho	17,058	834	4.9%	\$ 32,616			\$ 25,000	\$ 57,616	\$ 69
Ruidoso	2,007	336	16.7%	\$ 33,011	\$ 96,832		\$ 25,000	\$ 154,843	\$ 461
Santa Fe	13,224	327	2.5%			\$ 21,315	\$ 25,000	\$ 46,315	\$ 142
Six Directions	50	48	96.0%					\$ -	\$ -
Taos	3,843	221	5.8%	\$ 47,437	\$ 18,062		\$ 25,000	\$ 90,499	\$ 409
Tularosa	870	268	30.8%	\$ 43,376	\$ 176,668		\$ 25,000	\$ 245,044	\$ 914
Walatowa	57	53	93.0%				\$ 25,000	\$ 25,000	\$ 472
Zuni	1,432	1,369	95.6%	\$ 24,866	\$ 1,546,345	\$ 118,704	\$ 25,000	\$ 1,714,915	\$ 1,253
<b>TOTAL</b>	<b>189,204</b>	<b>34,420</b>	<b>18.2%</b>	<b>\$ 4,790,503</b>	<b>\$ 30,587,346</b>	<b>\$ 759,194</b>	<b>\$ 575,000</b>	<b>\$ 36,712,043</b>	<b>\$ 1,067</b>

Source: Tribal Education Status Report SY2016-2017