

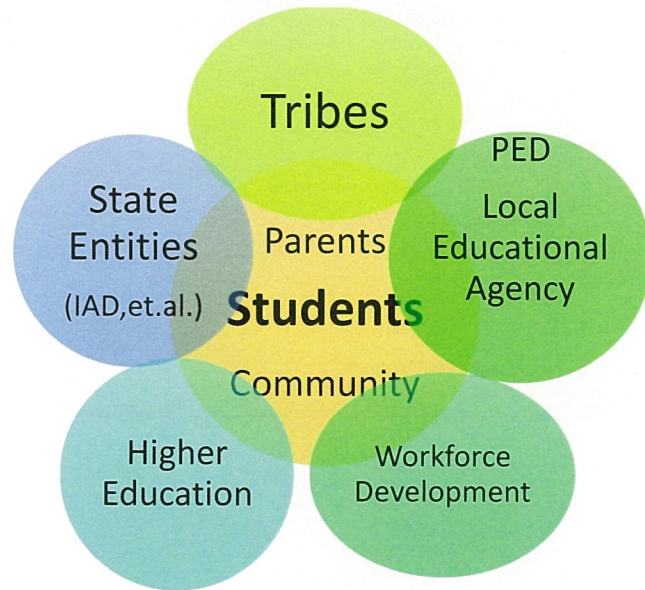
NEW MEXICO TRIBAL YAZZIE/MARTINEZ REMEDY FRAMEWORK

WORKING GOVERNMENT TO GOVERNMENT

2019-2020

EDUCATIONAL AND FUNDING PRIORITIES IN RESPONSE TO THE *YAZZIE/MARTINEZ V. STATE OF NEW MEXICO EDUCATION CASE* JOINTLY DEVELOPED BY THE SOVEREIGN NATIONS OF NEW MEXICO: NAVAJO NATION, MESCALERO APACHE TRIBE, JICARILLA NATION, ALL PUEBLO COUNCIL OF GOVERNORS INCLUDING PUEBLOS OF ACOMA, COCHITI, ISLETA, JEMEZ, LAGUNA, NAMBE, OHKAY OWINGEH, PICURIS, POJOAQUE, SAN FELIPE, SAN ILDEFONSO, SANDIA, SANTA ANA, SANTA CLARA, SANTO DOMINGO, TAOS, TESUQUE, ZIA, AND ZUNI.

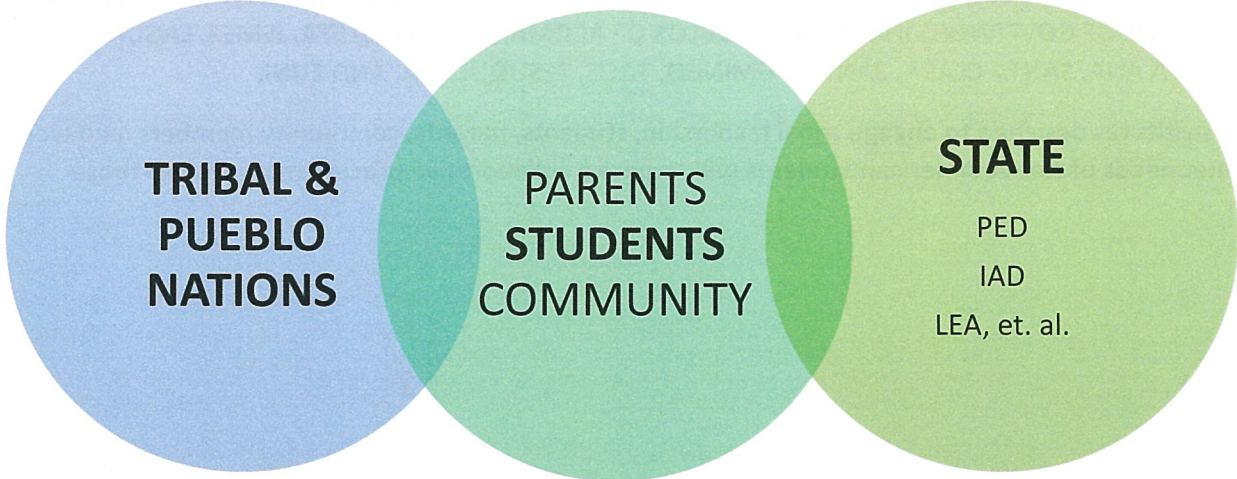
These educational and funding priorities are a result of a year-long process of Community Institutes designed to engage tribal leadership, students, parents, community members, and were developed collaboratively with State/Tribal educational stakeholders. To address the unmet needs of Native American Students will require a collaborative process that involves those entities listed on the graphic below.



1 Educational & Funding Priorities Response to *Yazzie/Martinez*
November 2019

These priorities are supported by State and Federal law, are in compliance with the Indian Education Act, are in accordance with the findings of the *Yazzie/Martinez* case, and are consistent with the PED Operating Commitments and Guiding Philosophy (See *Identity, Equity, and Transformation PED Memorandum*, September 16, 2019 and *NMPED: Developing the Navajo Education Blueprint: A response to the Yazzie/Martinez*, October 17, 2019).

Working government-to-government:



SIGNIFICANT EDUCATIONAL CHALLENGES

NM Indian Education Act	Yazzie Findings (Citing Findings of Facts and Conclusions of Law)	Tribal Recommendations	Remedies/ Appropriations	Accountability & Compliance	Educational Sovereignty: Tribal Laws/ Resolutions
<p>Equitable, culturally relevant learning environment for Indian Students. IEA 22-23A-2(A).</p>	<p>Only 2 percent of all teachers in the state are Native American. <i>Yazzie at Yazzie at ¶ 326.</i></p> <p>Defendants do not allocate sufficient funding to the twenty-three Indian Education districts for the purpose of implementing the New Mexico Indian Education Act...According to the Assistant Secretary of the Indian Education Division and to several witnesses, PED allocates \$25 thousand, based on grant approval, to each school district that serves a significant Native American student enrollment, for purposes of implementing the New Mexico Indian Education Act. This is an insufficient amount for purposes of fully complying with the NMIEA. <i>Yazzie at ¶¶ 622-626.</i></p> <p>Schools must provide Native American students, including Native American English learners, the same quality of education that is provided to non-Native American students by incorporating into the</p>	<ul style="list-style-type: none"> • Provide funding for Regional Education Cooperatives (RECs) to contract with local/tribal experts to provide culturally and linguistically appropriate teacher training, health, behavioral and mental health and social services to Native American Students and Native students and Native Student with special needs. • Funding for the Native American Students Program in the College Arts and Sciences to Support to support indigenous leadership; indigenous studies development; a master’s program and high school curriculum development. • Navajo Culture and Curriculum Materials Development and Education Center (\$800,000.00 Navajo Tech. Univ. Recurring) • Navajo Language and Culture Curriculum Materials Development Center (\$2.5M Nonrecurring) 	<p>HB 516</p> <p>HB 516</p> <p>HB 516 HB 670</p>	<p><u>NM STATE LAW</u> NM Constitution Const. Art. 12, § 1, NM CONST Art. 12, § 1 -Education Clause, describing education rights of students in NM public schools.</p> <p>NM Indian Education Act (2003) NMSA 1978, § 22-23A-2 -Education rights for Native American students in public schools.</p> <p>Bilingual/Multicultural Act (2004) NMSA 1978, § 22-23-1 -The right to include and celebrate multilingualism and multiculturalism in public school curriculum.</p> <p>Intergovernmental Agreements (1990) NMSA 1978, § 22-23-1</p> <p>State Tribal Collaboration Act (2009) NMSA 1978, § 11-18-3</p>	<p>All Pueblo Council of Governors: Resolution No. APCG 2019-25, <i>Supporting the Education Institute Yazzie Remedy Recommendations for the 2020 Legislative Session.</i> Adopted and Approved on 08/22/19.</p> <p>Mescalero Apache Tribe: Resolution No. 19-127, Adopted and Approved on 11/4/2019.</p> <p>Navajo Nation Laws: Sovereignty in Education Act of 2005 (Title 10) and the Dine School Accountability Plan</p> <p>Jicarilla Apache Nation: Resolution No. 2019-R-288-11, <i>An Action Relating to Native American Education; Supporting the Claims Brought by the Plaintiffs in the Yazzie et. al. v. State of New</i></p>

	classroom culturally relevant curriculum that contains the historical contributions made by indigenous people. <i>Yazzie</i> at ¶ 475.			-Requirements of state government to consult and collaborate with Indian tribes on state policy matters.	<u>Mexico</u> . Adopted and Approved on 11/6/2019. Zuni Pueblo: Pending
Maintenance of Native Language. IEA,22-23A-2(B). [Native American Language Teacher Development and Certification]	Language is necessary for the continuation of the culture and traditions of indigenous tribes; there is no substitute. Suina, 06/26/17-PM, at 71:14-72:18. <i>Yazzie</i> at ¶ 484. New Mexico's system of education does not provide Native American students the necessary programs and services that meet their unique cultural and linguistic needs. ¶ 523.	<ul style="list-style-type: none"> • Native Languages unit value • Funding for American Indian language, research, and teacher training. • Funding for professional development for language teachers • Funding for professional development of Language Coordinators and Tribal Directors • Navajo Culture and Curriculum Materials Development and Education Center (\$800,000.00 Navajo Tech. Univ. Recurring) • Navajo Language and Culture Curriculum Materials Development Center (\$2.5M Nonrecurring) 	HB 516 (New Legislation, amendments to existing statutes) HB 670	<p>HB 250 amended the Indian Education Act (2018) NA Student Needs Assessment</p> <p>-The requirement of all NM school districts to conduct an educational needs assessment for all NA students.</p> <p>PED/Operating Commitments/ Guiding Philosophy (October, 2019)</p> <p>-Holistic and inclusive approach to Indian education curriculum in NM public schools.</p> <p>PED Memo (September, 2019)</p> <p>- Memo to Tribal Leadership et al., regarding the Implementation of the Indian Education Act</p>	
Development of Systems that Positively Affect Academic Success of Indian Students. IEA, 22-23A-2(C)	New Mexico's system of education does not provide Native American students the necessary programs and services that meet their unique cultural and linguistic needs. <i>Yazzie</i> at ¶ 523.	<ul style="list-style-type: none"> • Establish an American Indian Education Institute to improve American Indian education student recruitment and retention. (UNM) 	HB 516 HB 250	<p>FEDERAL LAW Johnson-O'Malley Act (1934) S. 943</p> <p>-Supplemental federal funding for state schools with Native</p>	

	<p>Defendants admit that PED has not developed any educational systems that are specifically targeted at improving the success of Native American students. <i>Yazzie</i> at ¶ 560. Defendants do not staff the IED in a way that would enable it to study, develop, and provide guidance on effective systems of education for Native American students. <i>Yazzie</i> at ¶ 598.</p>	<ul style="list-style-type: none"> • At-Risk Provisions for Navajo Community Based Programs (<i>requires amendment to Community Schools Act to include explicit language for Tribes and Pueblos to develop wrap around service models</i>). • Funding to American Indian Student Services for: student recruitment and retention; summer bridge programs; academic, cultural, and financial advisement. ^(SEP)UNM – \$946,230 (HB 516 – 2019 Session). • Funding for American Indian Student Support Services, to provide student support, academic and financial advisement, and student retention and internships. ^(SEP)NMHU – \$250,000 (HB 516). • Funding for the College of Education’s American Indian programs. NMSU – \$250,000 (HB 516 – 2019 Session). 		<p>American students, which has gravely decreased over the years.</p> <p>Esther Martinez Act (2006) P.L. 109-394 -Federal funding provided for the development and implementation of Native American language revitalization and preservation programs.</p> <p>Every Student Succeeds Act (2015) -Federal grant funding for Native American language immersion programs.</p> <p>Indian Policies & Procedures (1990) P.L. 95-561 - Developed to ensure School districts with children residing on Indian lands meet certain Federal Rules and Regulation requirements, i.e., equal participation of Indian children in the LEAs programs and activities; Involvement of Parents & Tribal officials in planning and developing</p>	
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<p>School Governance. IEA, 22-23-2(D).</p>	<p>The State admitted at trial that the system of education is broken for Native American children, and that it has not complied with the IEA. (148) The State does no evaluation or oversight of efforts made to improve academic performance of Native American children ¶ 524</p> <p>Witnesses from districts located on or near tribal lands, where Native American students' culture and language is most prevalent, testified that an institutionalized, culturally-relevant program for Native American students, as required by the NM Indian Education Act, is nonexistent or piecemeal at best. <i>Yazzie</i> at ¶ 630.</p> <p>Zuni Public School students are in need of native instructional and non-instructional staff, including teachers, administrators, superintendents, principals, and educational assistants. <i>Yazzie</i> at ¶ 634.</p>	<ul style="list-style-type: none"> • Funding for the American Indian education specialist and administrative licensure programs to increase the number of American Indian school administrators.(UNM) • PED should develop a funding formula that provides a means to sustain schools located in tribal communities and that authorizes funds for tribal community-based activities tailored to Native American students. [§ 630] <p>Navajo Education Department (\$500,000 Recurring)</p> <ul style="list-style-type: none"> • Development of Education Blueprint • Development of Governance Template • Monitoring and Evaluation • Professional Development • Early Childhood Education and Care Program Development 	<p>HB 516, HB 250</p>	<p>educational programs and activities.</p> <p><u>INTERNATIONAL LAW</u> UNDRIP UN General Assembly, <i>United Nations Declaration on the Rights of Indigenous Peoples : resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295, Art. 14, 15, 17</i> - Articles relating to the education systems of Indigenous people.</p>	
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<p>Cooperation among Navajo tribes across AZ, UT, NM. IEA, 22-23-2(E).</p>	<p>Defendants have not provided a means for formal government-to-government relationship between the Tribes and the State. <i>Yazzie</i> at ¶ 3083.</p>	<ul style="list-style-type: none"> • Funding for the Southwest Indian Law Clinic at the School of Law (SILC) to expand and include Indian education policies and laws and provide legal and technical support to Pueblos and Tribes in the development of policy protocols, tribal and university agreements, and memoranda of understanding. (UNM) • PED must consult and collaborate with Pueblos, Tribes, and Nations in the development of a needs assessment and accountability tool in to meet the amendments to the Indian Education Act^(SEP) • Navajo Technical University, establish a new Regional Education Cooperative Center within current REC state framework - Navajo REC , NTU (Recurring) 	<p>HB 516</p> <p>HB 250</p> <p>HB 516 HB 670</p>		
<p>Formal Government to Government Relations IEA, 22-23A-2(F).</p>	<p>Defendants have not fulfilled their duty to provide a means for formal government-to-government relationship between the Tribes and the State. <i>Yazzie</i> at ¶ 588.</p>	<ul style="list-style-type: none"> • Every LEAs with a high number of Native American students should negotiate and implement a Memorandum of Agreement with each tribe to cover issues such as communication, truancy, Family Education Rights and 	<p>HB 250</p>		

		<p>Privacy Act (FERPA 20 U.S.C. § 1232g), funding, programming, and services specific to Native American students.</p> <ul style="list-style-type: none"> • All LEAs must fully comply with the Indian Policies and Procedures (PL-561) and with HB 250 for an annual assessment, development with priorities to guide resource investment in collaboration with Tribes in full compliance with provisions outlined in HB 250. 	HB 250		
Relations with Urban Indian Community IEA, 22-23A-2(G)	--	<ul style="list-style-type: none"> • Tribal leaders desire to have all <i>Yazzie/Martinez</i> recommendations fully applied to Urban Indian Students and utilize the government-to-government framework to strengthen the response of LEAs to meet the needs of Urban Students, parents, and community. 	HB 250 HB 516		
Collaboration: Schools, Tribes, Higher Education. IEA 22-23A-2(H).	Native American students enrolled in public schools are not receiving adequate academic engagement, rigor, and necessary for them to experience the same levels of success as non-Native American students;	<ul style="list-style-type: none"> • PED, LEAs must work collaboratively with Tribes to fulfill the provisions under the IEA and fully comply with the <i>Yazzie/Martinez</i> findings. • LEAs and Tribes must work cooperatively, collaboratively, 	HB 516 HB 250 HB 516		

	and the public school curriculum and staffing do not reflect Native American student culture and identity. As a result, Native American students who graduate from a public high school in New Mexico and enter a post-secondary institution are in great need of remediation courses and linguistic support; and, similarly, Native American students who enter the workforce often lack writing, public speaking and computation skills. <i>Yazzie</i> at ¶ 667.	and strategically aligning student interest with school programs aligned with higher education programs and workforce development strategies. <ul style="list-style-type: none"> • Tribes have developed recommendations for recurring operational budgets at the tribal school district levels and higher education to comprehensively respond to the glaring absence of programs to respond to these challenges 	New Legislation (College Readiness, Internship programs, Educational leadership programs, Operation Graduation, and Trauma Informed Schools)		
Tribes Notified of Curricula Development for Approval/Support. IEA, 22-23A-2(I).	Textbooks, [] continue to marginalize Native Americans and the economic, political and historical contributions made by indigenous people to New Mexico are absent or minimal resulting in students developing a limited perception about the role that Native Americans play in State and Federal government. <i>Yazzie</i> at ¶ 463	<ul style="list-style-type: none"> • Establish curriculum and materials development centers (UNM, NTU/A:shiwi) • Fully fund curriculum of materials development center programs • Fully comply with IEA, <i>Yazzie/Martinez</i> findings, and STCA 	HB 516 HB 670		
Agreement regarding alignment of BIA and state assessment programs. 22-23A-2(J)	--	<ul style="list-style-type: none"> • Develop formal agreements to develop a comprehensive alignment of all school systems and their assessment of academic performance to align responses for increasing 	HB 250		

		the success of all Native American students.			
Parental Involvement (IEA, 22-23A-2(K).	Schools must provide Native American students, including Native American English learners, the same quality of education that is provided to non-Native American students by incorporating into the classroom a culturally relevant curriculum that contains the historical contributions made by indigenous people; opportunities for cross-cultural experiences, where Native American and non-Native American students can interact meaningfully; <i>and opportunities for Native American parents to engage in their child's education.</i> Yazzie at ¶ 475.	<ul style="list-style-type: none"> • PED, LEAs, and Tribes must actively engage in developing innovative strategies to address the long history of policies and laws that have disengaged parents involvement in the education of their children. 	HB 516 Proposal to establish a Parent Institute to support PED, LEAs and Tribes		
College Readiness 22-23A-4.1	<p>“Defendants have failed to provide at-risk students with programs and services necessary to make them college or career ready.” Yazzie at ¶ 3187.</p> <p>Native American students enrolled in public schools are not receiving adequate academic engagement, rigor, and the necessary for them to experience the same levels of success as</p>	<ul style="list-style-type: none"> • Make tribal departments of education eligible to receive resources for the development of community based education programs to provide after-school and summer school student services. • Legislative initiatives and appropriations to fund an innovative College Readiness program designed for Native American 	New Legislation (College Horizons Framework, Leadership Institute Internship Framework, Expand Dual-Credit Programs)		

	<p>non-Native American students; and the public school curriculum and staffing do not reflect Native American student culture and identity. As a result, Native American students who graduate from a public high school in New Mexico and enter a post-secondary institution are in great need of remediation courses and linguistic support; and, similarly, Native American students who enter the workforce often lack writing, public speaking and computation skills. <i>Yazzie</i> at ¶ 667.</p>	<p>students. (Replicate College Horizons framework)</p> <ul style="list-style-type: none"> • Establish internships for career exploration for high school students and college students (Replicate Leadership Institute Internship framework) • Align student, parent, community, tribal, school, higher education, workforce development, and apprenticeship programs. 			
	<p>At-Risk: At risk students – low income, Native Americans, English language learners, and children with disabilities – face the greatest educational disparities due to the State’s failure to provide a sufficient education.</p> <p>All students – even those who are at risk – can learn if provided with adequately funded programs that have been shown to enhance academic achievement. This potential was demonstrated by testimony from State officials. <i>Yazzie</i> (Dec. 20, 2018 Order) at ¶ 2.</p>	<ul style="list-style-type: none"> • Establish tribal community-based programs for after-school and summer school extended student services • Amend current statute to make Tribes eligible to receive recurring dollars to fully implement community-based education programs. • PED, LEAs, Higher Education, Program providers, and Tribes must develop a comprehensive approach to respond to the social, behavioral/mental health challenges that Native American Students face and fund school and community-based programs (using 	<p>Amendments to At-Risk Statutes</p> <p>New Legislation (recurring dollars to Tribes)</p> <p>HB 250 HB 516</p>		

		<p>Community Schools wrap-around service framework)</p> <ul style="list-style-type: none"> • PED, LEAs and Tribes must develop culturally relevant practices such as Restorative Justice and Peacemaking in dealing with discipline issues, truancy, and dropouts to disrupt Native American Students pushed out of school and into the prison pipeline. 			
	<p>Technology Access: Given certain geographical challenges, including rural isolation factors, NAEL students in New Mexico may not have ample opportunities to interact with different kinds of English because their school locations often lack access to technology and instructional materials. <i>Yazzie</i> at ¶ 325.</p>	<ul style="list-style-type: none"> • Appropriations must be provided to invest in the infrastructure to address the glaring need for technology access in tribal communities and schools as a high priority to address the magnitude of the digital divide. • The State must invest in the development of education resources centers/libraries as a conduit for technology access for students and community members. 	<p>HB 670 HB 516</p>		

	<p>Special Ed: The Individuals with Disabilities Education Improvement Act (IDEIA), part B and the Elementary and Secondary Education Act (Every Child Succeeds Act) (ESEA) apply to school age children with disabilities. Under IDEIA each child with a disability is entitled to a free and appropriate public education. <i>Yazzie</i> at ¶¶ 2321, 2327.</p> <p>Dr. Margaret McLaughlin, a leading expert in special education policy, testified that the special education funding system in New Mexico is overly complex and lacks the flexibility and predictability that allows districts to implement new programs or adjust individual IEPs as student needs change. <i>Yazzie</i> at ¶ 2327.</p> <p>Having tutoring opportunities is important for special education students but there is no funding in New Mexico to provide tutoring to special education students. Special education funding in New Mexico is not sufficient to meet the needs of special education students. <i>Yazzie</i> at ¶¶ 2348-2349.</p>	<ul style="list-style-type: none"> • Legislation must be introduced to establish a taskforce to examine the scope of challenges associated with Native American students with disabilities and develop a comprehensive response addressing policy, program, budgets, and statutory changes where necessary or new legislation as called for. Recent examples of the treatment endured by students with disabilities and their parents compel us to address these issues. • PED, LEAs, and Tribes on behalf of the students with disabilities must work to develop strategies to strengthen the relationship between teachers and schools with parents and tribal education advocates utilizing protocols, MOUs, MOAs, and/or School/Tribal Agreements in support of students with disabilities to address their unique needs. 	<p>New Proposed Legislation</p> <p>HB 250</p>		
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	<p>Social Workers: Defendants have failed to provide sufficient resources for counselors, social workers, and other non-instructional staff that all students, especially at-risk students need to succeed. <i>Yazzie</i> at ¶ 266.</p> <p>Access to counseling and social workers in schools helps low-income children be successful. Having social workers and counselors in schools is necessary to address any out-of-school issues that Native American children may face. <i>Yazzie</i> at ¶ 271.</p>	<ul style="list-style-type: none"> • The State must fully fund the identified programs in HB 516 to enhance the opportunities for recruitment, retention, and certification of Native American Social Workers, Counselors, and non-instructional staff to address the underrepresentation of these professionals as reflected in the findings. • In the spirit of educational sovereignty and affirming our tribal core values, the State and Tribal social services and behavioral health workers must work collaboratively to create, enhance, and implement, culturally, and linguistically relevant services to ensure effective student educational success and racial equity. July 24, 2019 Education Institute. 	<p>HB 516</p>		
	<p>Counselors: Student counseling, mentoring, and monitoring programs have been shown to reduce high school dropout rates and increase graduation rates to produce fiscal benefits that greatly exceed program costs. <i>Yazzie</i> at ¶ 270.</p>	<ul style="list-style-type: none"> • The State must fully fund programs to produce certified culturally competent Counselors as recommended in HB 516 to address the lack of this capacity. 			
	<p>Health:</p>	<ul style="list-style-type: none"> • There is a need to build a tribal agenda that: (i) holds 	<p>HB 516</p>		

		<p>the State accountable to meet requirements and mandates of existing laws (e.g., Indian Education Act, HB 250, State-Tribal Collaboration Act, other applicable state and federal laws); (ii) addresses basic needs of Native families (e.g., food, shelter, safety); (iii) provides professional development and culturally competent training for persons serving Native American students (e.g., counselors, social workers, nurses, etc.); and (iv) addresses the need for comprehensive social services and behavioral health blueprints in collaboration with tribal leaders, school employees, Indian students and families, social service providers, and community and civic organizations.</p> <ul style="list-style-type: none"> • Provide comprehensive social services: Provide access to nurses, counselors, and social workers in all schools, ensuring culturally and linguistically responsive services. 	<p>New Legislation Establishing a Taskforce to Identify Best Practices for Health, Behavioral/Mental Health currently funded through grants that can be replicated and institutionalized like Circles of Care and Systems of Care, Youth Suicide Prevention, Advancing Wellness & Resiliency in Education, and the Butterfly Healing Center.</p>		
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		<ul style="list-style-type: none"> • Funding to the Community Behavioral Health Division of the College of Medicine for Native American suicide prevention; clinical and community-based prevention, intervention and research and technical assistance to public schools and tribal communities. 			
	<p>Extended Learning: Superintendent Space testified that Grants-Cibola offers after school activities, including tutoring, to all students, but the programs are only accessible to students with personal transportation. Often the district's Native American children who live on the reservation lack access to these programs because they have to find personal transportation. Space, 6/29/17 at 158:14-22. Yazzie at ¶ 198.</p>	<ul style="list-style-type: none"> • Funding for infrastructure development by tribal libraries to establish tribal-based after school and summer school programs to ensure Native Students have access to extended learning time and support, including K-12, credit recovery, and internship programs. • Provide adequate and sufficient funding to LEAs for permanent programs such as afterschool and extended summer learning, with sufficient and consistent staff who are provided development and training to deliver the best services that builds trust for Native American parents to enroll their children. 	<p>HB 670</p> <p>Amendments to existing statutes. Amendment to current statute to authorize and mandate funding to LEAs to be contacted with tribal education departments for tribal-based after school and summer school programs to ensure Native Students have access to extended learning time and support, including K-12, credit recovery, and internship programs.</p>		

