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## FISCAL IMPACT REPORT

SPONSOR: SFC DATE TYPED: 3/12/03 HB \_\_\_\_\_

SHORT TITLE: Indian Education Act SB 115/SFCS

ANALYST: L. Baca

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative	Recurring	New-Indian Education Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Identical to HAFCCS/HB 150, Indian Education Act

Relates to SB 116,

Relates to Appropriation for the State Department of Education the General Appropriation Act

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
		See Narrative		New-Indian Education Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Identical to CSHAFC/HB 150

Relates to SB 116, Center for rural and Indian Education Center

### SOURCES OF INFORMATION

LFC files and

Original analysis received from:

State Department of Education (SDE)

Commission on Higher Education (CHE)

## SUMMARY

### Synopsis of Bill

The Senate Finance Committee Substitute for Senate Bill 115 repeals Sections 22-2-11 through 22-2-13 NMSA 1978, and enacts a new section of the Public School Code that creates the Indian Education Division (IED) within the State Department of Education (SDE), creates the position of Assistant Superintendent of the IED, prescribes the duties and responsibilities of the IED, including its working relationship with Indian Nations, tribes and pueblos and with federal and state agencies; creates and defines the membership of Indian Education Advisory Council (IEAC) to assist SDE in evaluating, consolidating and coordinating all activities relating to the education of New Mexico's Indian students; and creates the Indian Education Fund in the state treasury.

### Significant Issues

Historically, Indian students have scored low on standardized tests and have consistently under-achieved in the public schools, a phenomenon attributed primarily to linguistic and cultural differences. This bill addresses that issue and provides mechanisms intended to improve the success rate of Indian students in public schools.

Among the purposes of the bill are the following:

- ensure equitable and culturally relevant learning opportunities and relevant instructional materials for American Indian students;
- ensure maintenance of native languages;
- provide for the study, development & implementation of educational systems that positively affect the educational success for American Indian students;
- ensure the SDE 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 relating to the education of Navajo students;
- provide for formal government-to-government relationship between the State of New Mexico and Tribes and between the State of New Mexico and the BIA that serve American Indian students;
- provide the means for a relationship between state and urban American Indian community members to participate in initiatives and educational decisions related to American Indian students residing in urban areas;
- ensure that tribes are notified of curricula development for their approval and support;
- encourage an agreement regarding the alignment of the Bureau of Indian Affairs and state assessment programs so that comparable information is available to tribes; and
- encourage and foster parental involvement in the education of Indian students.

Some of the activities proposed in the bill to better meet the needs of Indian students:

- create a separate IED within the SDE directed by an Assistant Superintendent for Indian Education;

- create Indian Education Advisory Council with prescribed duties and responsibilities;
- require formal government-to-government agreements between SDE and tribal departments;
- require tribal signature for a school district's Indian Policies and Procedures;
- authorize SDE to establish and seek funding for an IED office in NW New Mexico,
- require state and school district-level status reports on the education of American Indian students for tribes and parents and specifies the information to be reported;
- authorize the IED and the IEAC to seek funds to provide support for recruitment, retention, training, and professional development for those involved in the education of Indian students; and
- ensure that native language biligual programs are part of a school district's professional development plan.

The bill also creates the Indian Education Fund to provide funding for:

training for American Indian teachers in the areas of bilingual education, ESL, special education, reading and administration,

scholarships 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.

## **FISCAL IMPLICATIONS**

The bill creates a new Indian Education Fund authorized to receive appropriations, gifts, grants and donations as well as interest from investments of the Fund.

This bill does not contain an appropriation, but the General Appropriation Act passed by the House includes \$1.7 million for the purposes of this Act.

This bill creates a new fund and provides for continuation appropriations. The LFC objects to including continuation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

## **ADMINISTRATIVE IMPLICATIONS**

The SDE reports that the creation of an office in NW New Mexico would increase the administrative responsibilities of SDE in the areas of contacts and grants management in addition to the oversight responsibilities associated with the creation of a regional office. The SDE further reports that the FTE to carry out these duties is available but not funded.

The budget developed to implement the provisions of the Act is attached.

**OTHER SUBSTANTIVE ISSUES**

The bill specifies that representation on fourteen-member Indian Advisory Council will consist of:

- 4 from the Navajo nation,
- 2 each from the Jicarilla and Mescalero Apache nations,
- 2 members from the northern and southern pueblos, and
- 4 members representing urban areas, the BIA and head start organizations

The SDE reports that this bill is a legislative priority for the state Board of Education and has been endorsed by the Navajo Nation, Jicarilla Apache Nation, the all Indian Pueblo Council and the Commission on Indian Affairs.

**POSSIBLE QUESTIONS**

1. Does the Indian Education Act effectively create a second state department within the existing SDE ?
2. If this bill is enacted, will the entire appropriation be required during the first year of implementation ?
3. Does the funding proposed for scholarships duplicate the lottery scholarship program in any way ?
4. The budget prepared by SDE staff calls for a total of four positions to implement the provisions of the Act. Does the SDE have other personnel whose assignments are devoted to Indian education ?
5. Will staff from the Northwest Indian Education Center be available to assist students from all tribes ?

LRB/sb:njw:yr