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AN ACT

RELATING TO EDUCATION; CLARIFYING THE DUTIES OF THE PUBLIC
EDUCATION DEPARTMENT TO CONSULT WITH INDIAN TRIBES; CHANGING
THE COMPOSITION OF THE INDIAN EDUCATION ADVISORY COUNCIL;
AMENDING THE INDIAN EDUCATION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Indian Education Act is
enacted to read:

"POST-SECONDARY EDUCATION.--The department shall
collaborate and coordinate efforts with the higher education
department and institutions of higher education, including
tribal colleges and teacher education institutions and tribal
education departments, to facilitate the successful and
seamless transition of American Indian students into
post-secondary education and training."

Section 2. Section 22-23A-3 NMSA 1978 (being Laws 2003,
Chapter 151, Section 3) is amended to read:

"22-23A-3. DEFINITIONS.--As used in the Indian
Education Act:

A. "assistant secretary" means the assistant
secretary for Indian education;

B. "government-to-government" means the
relationship between a New Mexico tribe and a state
government;

1 C. "indigenous" means native or tribal groups of
2 the Americas that maintain a cultural identity separate from
3 the surrounding dominant cultures;

4 D. "tribal" means pertaining to urban Indians who
5 are residents of New Mexico or to an Indian nation, tribe or
6 pueblo located within New Mexico;

7 E. "New Mexico tribe" means an Indian nation,
8 tribe or pueblo located within New Mexico; and

9 F. "urban Indian" means a member of a federally
10 recognized tribe or an Alaska native who lives in an
11 off-reservation urban area and is a New Mexico resident."

12 Section 3. Section 22-23A-4 NMSA 1978 (being Laws 2003,
13 Chapter 151, Section 4) is amended to read:

14 "22-23A-4. RULEMAKING.--

15 A. The secretary shall ensure that the duties
16 prescribed in the Indian Education Act are carried out and
17 that each division within the department is collaborating to
18 fulfill its responsibilities to tribal students.

19 B. The secretary shall consult on proposed rules
20 implementing the Indian Education Act with the Indian
21 education advisory council and shall present rules for review
22 and comment at the next semiannual government-to-government
23 meeting pursuant to Section 22-23A-5 NMSA 1978."

24 Section 4. Section 22-23A-5 NMSA 1978 (being Laws 2003,
25 Chapter 151, Section 5, as amended) is amended to read:

1 "22-23A-5. INDIAN EDUCATION DIVISION--CREATED--
2 ASSISTANT SECRETARY--DUTIES.--

3 A. The "Indian education division" is created
4 within the department. The secretary shall appoint an
5 assistant secretary for Indian education, who shall direct
6 the activities of the division and advise the secretary on
7 development of policy regarding the education of tribal
8 students. The assistant secretary shall also coordinate
9 transition efforts for tribal students in public schools with
10 the higher education department and work to expand
11 appropriate Indian education for tribal students in preschool
12 through grade twenty.

13 B. The assistant secretary shall coordinate with
14 appropriate administrators and divisions to ensure that
15 department administrators make implementation of the Indian
16 Education Act a priority.

17 C. The secretary and the assistant secretary, in
18 cooperation with the Indian education advisory council, shall
19 collaborate with state and federal departments and agencies
20 and tribal governments to identify ways such entities can
21 assist the department in the implementation of the Indian
22 Education Act.

23 D. The secretary and assistant secretary shall
24 convene semiannual government-to-government meetings for the
25 express purpose of receiving input on education of tribal

1 students.

2 E. In accordance with the rules of the department
3 and after consulting with the Indian education advisory
4 council and determining the resources available within the
5 department, the assistant secretary shall:

6 (1) provide assistance, including advice on
7 allocation of resources, to school districts and tribes to
8 improve services to meet the educational needs of tribal
9 students based on current published indigenous best practices
10 in education;

11 (2) provide assistance to school districts
12 and New Mexico tribes in the planning, development,
13 implementation and evaluation of curricula in native
14 languages, culture and history designed for tribal and
15 nontribal students as approved by New Mexico tribes;

16 (3) develop or select for implementation a
17 challenging, sequential, culturally relevant curriculum to
18 provide instruction to tribal students in pre-kindergarten
19 through sixth grade to prepare them for pre-advanced
20 placement and advanced placement coursework in grades seven
21 through twelve;

22 (4) provide assistance to school districts,
23 public post-secondary schools and New Mexico tribes to
24 develop curricula and instructional materials in native
25 languages, culture and history in conjunction and by contract

1 with native language practitioners and tribal elders, unless
2 the use of written language is expressly prohibited by the
3 tribe;

4 (5) conduct indigenous research and
5 evaluation for effective curricula for tribal students;

6 (6) collaborate with the department to
7 provide distance learning for tribal students in public
8 schools to the maximum limits of the department's abilities;

9 (7) establish, support and maintain an
10 Indian education advisory council;

11 (8) enter into agreements with each New
12 Mexico tribe or its authorized educational entity to share
13 programmatic information and to coordinate technical
14 assistance for public schools that serve tribal students;

15 (9) seek funds to establish and maintain an
16 Indian education office in the northwest corner of the state
17 or other geographical location to implement agreements with
18 each New Mexico tribe or its authorized educational entity,
19 monitor the progress of tribal students and coordinate
20 technical assistance at the public pre-kindergarten to
21 post-secondary schools that serve tribal students;

22 (10) require school districts to obtain a
23 signature of approval by the New Mexico tribal governments or
24 their government designees residing within school district
25 boundaries, verifying that the New Mexico tribes agree to

1 Indian education policies and procedures pursuant to federal
2 requirements;

3 (11) seek funds to establish, develop and
4 implement culturally relevant support services for the
5 purposes of increasing the number of tribal teachers,
6 administrators and principals and providing continued
7 professional development for educational assistants, teachers
8 and principals serving tribal students, in conjunction with
9 the Indian education advisory council:

10 (a) recruitment and retention of highly
11 qualified teachers and administrators;

12 (b) academic transition programs;

13 (c) academic financial support;

14 (d) teacher preparation;

15 (e) teacher induction; and

16 (f) professional development;

17 (12) develop curricula to provide
18 instruction in tribal history and government and develop
19 plans to implement these subjects into history and government
20 courses in school districts throughout the state;

21 (13) ensure that native language bilingual
22 programs are part of a school district's professional
23 development plan, as provided in Section 22-10A-19.1 NMSA
24 1978; and

25 (14) develop a plan to establish a

1 post-secondary investment system for tribal students to which
2 parents, tribes and the state may contribute."

3 Section 5. Section 22-23A-6 NMSA 1978 (being Laws 2003,
4 Chapter 151, Section 6) is amended to read:

5 "22-23A-6. ADVISORY COUNCIL.--

6 A. The "Indian education advisory council" is
7 created and shall advise the secretary and assistant
8 secretary on implementation of the provisions of the Indian
9 Education Act. The council consists of sixteen members as
10 follows:

11 (1) four representatives from the Navajo
12 Nation;

13 (2) two representatives, one from the
14 Mescalero Apache Tribe and one from the Jicarilla Apache
15 Nation;

16 (3) four representatives, two from the
17 southern pueblos and two from the northern pueblos;

18 (4) three urban Indians representing urban
19 areas, including Albuquerque, Gallup and Farmington; and

20 (5) three at-large representatives, one from
21 the federal bureau of Indian affairs, one from a head start
22 organization and one from the general public, at least one of
23 whom shall be nontribal, but all of whom shall have knowledge
24 of and involvement in the education of tribal students.

25 B. Members shall be appointed by the secretary

1 with input from New Mexico tribes and organizations involved
2 in the education of tribal students for staggered terms so
3 that the terms of the at-large members and of one-half of
4 each of the tribal representatives end on December 31, 2009
5 and the terms of the remaining members end on December 31,
6 2011. Thereafter, appointments shall be for terms of four
7 years. The terms of existing members shall expire on the
8 effective date of this 2007 act.

9 C. A majority of the members of the Indian
10 education advisory council constitutes a quorum. The
11 advisory council shall elect a chair from its membership.

12 D. On a semiannual basis, representatives from all
13 New Mexico tribes, members of the commission, the office of
14 the governor, the Indian affairs department, the legislature,
15 the secretary, the assistant secretary and the Indian
16 education advisory council shall meet to assist in
17 evaluating, consolidating and coordinating all activities
18 relating to the education of tribal students.

19 E. Members of the Indian education advisory
20 council may receive per diem and mileage as provided for
21 nonsalaried public officers in the Per Diem and Mileage Act."

22 Section 6. Section 22-23A-7 NMSA 1978 (being Laws 2003,
23 Chapter 151, Section 7) is amended to read:

24 "22-23A-7. REPORT.--

25 A. The Indian education division in collaboration

1 with the education division of the federal bureau of Indian
2 affairs and other entities that serve tribal students shall
3 submit an annual statewide tribal education status report no
4 later than November 15 to all New Mexico tribes. The
5 division shall submit the report whether or not entities
6 outside state government collaborate as requested.

7 B. A school district with tribal lands located
8 within its boundaries shall provide a districtwide tribal
9 education status report to all New Mexico tribes represented
10 within the school district boundaries.

11 C. The status reports shall be written in a brief
12 format and shall include the following information, through
13 which public school performance is measured and reported to
14 the tribes and disseminated at the semiannual
15 government-to-government meetings held pursuant to Section
16 22-23A-5 NMSA 1978:

17 (1) student achievement as measured by a
18 statewide test approved by the department, with results
19 disaggregated by ethnicity;

20 (2) school safety;

21 (3) the graduation rate;

22 (4) attendance;

23 (5) parent and community involvement;

24 (6) educational programs targeting tribal

25 students;

- 1 (7) financial reports;
- 2 (8) current status of federal Indian
3 education policies and procedures;
- 4 (9) school district initiatives to decrease
5 the number of student dropouts and increase attendance;
- 6 (10) public school use of variable school
7 calendars;
- 8 (11) school district consultations with
9 district Indian education committees, school-site parent
10 advisory councils and tribal, municipal and Indian
11 organizations; and
- 12 (12) indigenous research and evaluation
13 measures and results for effective curricula for tribal
14 students."

15 Section 7. Section 22-23A-8 NMSA 1978 (being Laws 2003,
16 Chapter 151, Section 8) is amended to read:

17 "22-23A-8. FUND CREATED.--

18 A. The "Indian education fund" is created in the
19 state treasury. The fund consists of appropriations, gifts,
20 grants and donations and income from investment of the fund.
21 Money in the fund shall not revert. The fund shall be
22 administered by the department, and money in the fund is
23 appropriated to the department to distribute awards to
24 support the Indian Education Act.

25 B. The department shall ensure that funds

1 appropriated from the Indian education fund shall be used for
2 the purposes stated in the Indian Education Act and shall not
3 be used to correct for previous reductions of program
4 services.

5 C. The department shall develop procedures and
6 rules for the award of money from the fund. Disbursement of
7 the fund shall be made by warrant of the department of finance
8 and administration pursuant to vouchers signed by the
9 secretary of public education."

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