

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov).

FISCAL IMPACT REPORT

ORIGINAL DATE 2/1/22

SPONSOR Lente LAST UPDATED 2/14/22 HB 60/aHAFC/aSEC

SHORT TITLE Native American Language Certificate Salaries SB _____

ANALYST Liu/Taylor Garcia

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$618.1 - \$4,033.6	\$1,868.1 - \$5,283.6	\$2,486.3 - \$9,317.2	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB87, HB88, HB90, HM12, SB1, SB132, SM12
 Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

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

Other Responses

Zuni Public Schools (ZPS)

SUMMARY

Synopsis of SEC Amendment

The Senate Education Committee amendment to House Bill 60 requires PED to issue a 520 certificate to a person meeting Native American language and culture proficiency criteria established through a memoranda of agreement between a tribe or pueblo and PED. The amendment further makes the minimum salary for 520 licensees the same as level 1 (rather than level 2) teachers, provided the licensee works full time in an instructional capacity.

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to House Bill 60 strikes the \$1.25 million appropriation from the bill.

Synopsis of Original Bill

House Bill 60 appropriates \$1.25 million from the general fund to PED for the purpose of paying Native American language and culture (also known as 520 certificate) teachers a level 2 teacher license salary. The bill also requires tribes or pueblos, rather than PED, to establish proficiency criteria for the 520 certificate and develop renewal procedures in conjunction with PED. There is no effective date of this bill. It is assumed the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The HAFC Substitute for House Bill 2 includes \$1.25 million from the public education reform fund for purposes outlined in this bill. Additionally, the budget includes \$10 million to the state equalization guarantee (SEG) distribution to help schools target compensation for hard-to-staff instructional positions. Coupled with nearly \$1.5 billion in federal relief funds for school operations, the impacts of this bill are likely minimal for FY23 and FY24.

According to PED, there are 99 Native American language and culture (520 certificate) teachers currently employed in New Mexico public schools. PED estimates it could cost approximately \$2.6 million to increase their salaries to the proposed level 2 teacher salary of \$60 thousand, including benefits. PED notes 12 individuals also hold a 520 certificate but are not currently teaching. If all 111 Native American language and culture teachers worked during FY23, the total cost to achieve salary parity, including benefits, could be \$3.5 million.

However, October 2021 PED data reports show 280 teachers hold a 520 certificate, including 124 teachers reportedly teaching in classrooms during that period. The fiscal impact of this bill includes a potential upper estimated cost assuming all 280 teachers return to the classroom in response to increased salaries, including the new proposed minimum of \$50 thousand for level 1 teachers currently provided in the HAFC Substitute for HB2. The lower range assumes the existing 99 teachers receive a \$50 thousand minimum salary as proposed.

IAD notes the Gallup McKinley School District provides a minimum of \$34.6 thousand for 520 certificate teachers. The highest salaried 520 positions make \$40.7 thousand. ZPS provides an average of \$31.3 thousand for its 520 certificate teachers, with the lowest paid position receiving a base salary of \$18.3 thousand and the highest position receiving \$45.5 thousand. Assuming most 520 certificate teachers statewide earn a base salary of about \$35 thousand, the total potential fiscal impact of raising all 280 registered 520 certificate holders to \$50 thousand could be upwards of \$5.3 million, assuming a fringe benefit rate of 25.8 percent.

SIGNIFICANT ISSUES

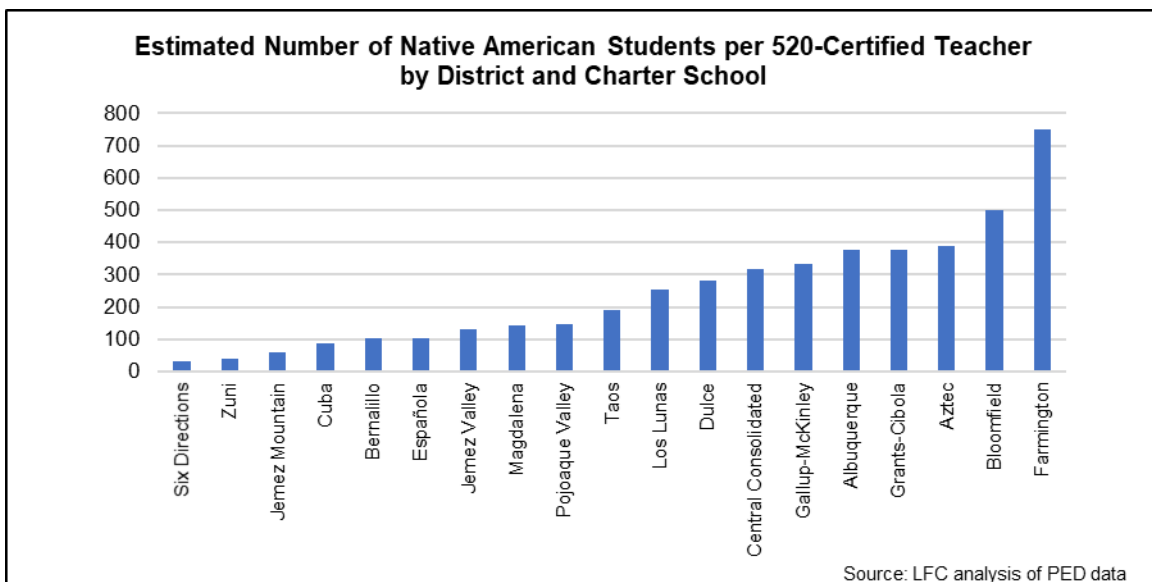
The state offers a specialized Native American language and culture teaching certificate for tribal members to teach in public schools, but employment of persons with these certificates varies locally. The Native language and culture certificate, also known as the 520 certificate, authorizes tribal members to teach their native language and culture in public schools in prekindergarten through high school. Each tribe develops the standards and criteria needed for teaching certification in their Native American language and culture.

Teachers certified under the 520 program may, but are not required, to be licensed teachers and are not subject to the same requirements as other public school teachers unless they already hold

another state teaching license. School districts and charter schools may employ certified, non-degreed individuals to teach native language and cultures through a formal agreement between a tribe or pueblo and PED.

In 2019, there were 131 Native language and culture teachers teaching in 19 New Mexico public school districts and charter schools through agreements with 14 tribal governments. The extent to which different districts and charters employed persons with 520 teaching certificates varied, ranging from five teachers in Farmington to 32 teachers in Zuni.

Structured LFC interviews with tribal education leaders indicate that in some cases, instruction may be provided by individuals with knowledge of tribal culture and traditions, but who lack formal teacher training. Providing 520-certified teachers with additional access to professional development in classroom management and instructional practices could further enhance the incorporation of culturally and linguistically relevant education into Native-serving districts.



PED notes the bill sets the salary for all 520 certificate holders at a level 2 teacher salary. However, 520 certificate holders advance from a level 1 to a level 2 certificate based on years of experience. The bill would not differentiate salaries based on experience.

The Indian Education Act requires the Indian Education Division, in collaboration with the Indian Education Advisory Council, to “seek funds to establish, develop and implement culturally relevant support services” to increase the number of Native American teachers and public school administrators.”

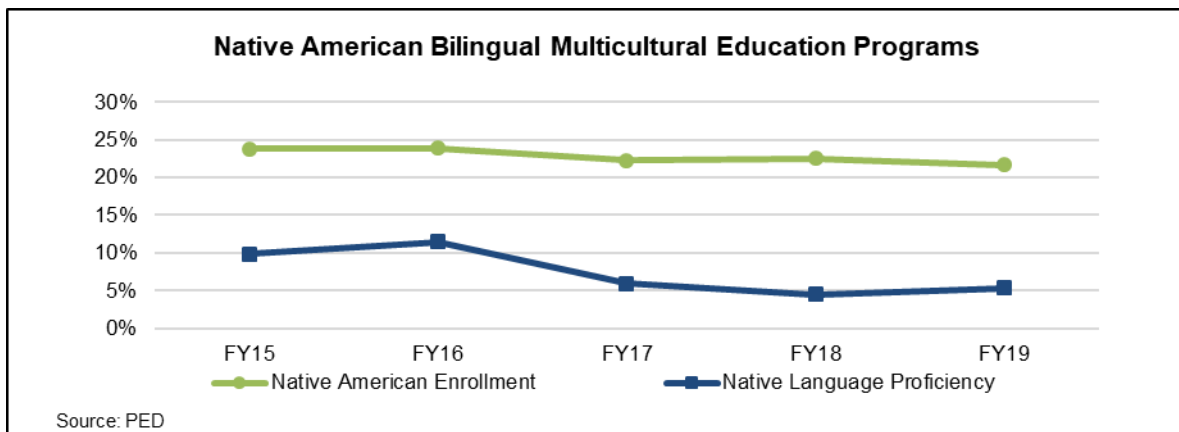
A 2020 publication from the Learning Policy Institute, a public education research organization, reports that 3 percent of teachers and 10 percent of public school students in New Mexico identify as Native American. That same report notes enrollment in teacher preparation programs declined 76 percent between 2011 and 2018, while increasing numbers of teachers are entering through alternative certification programs. According to the 2020 state Educator Accountability Reporting System Report (published in March 2020), 5 percent of the 1,500 students enrolled in state educator preparation programs in SY18 identified as Native American.

PERFORMANCE IMPLICATIONS

A 2021 LFC evaluation on implementation of the Indian Education Act found Native American students continue to perform well below peers on state and national measures of achievement, despite the availability of nearly \$147 million in state and federal funds at public schools and institutions of higher education for purposes aligned to the act. The report noted a history of understaffing at PED’s Indian Education Division, difficulties with funding utilization, challenges with local collaboration, and a lack of specific, targeted outcomes have resulted in a system that has not served Native American students in a comprehensive and coordinated manner.

The LFC evaluation found Native American student enrollment in public schools fell to 32.4 thousand students in FY19, an 8.5 percent decrease over the prior 5 years. Four-year high school graduation rates for Native American students increased to 69 percent in FY19, an 11 percentage point improvement over the prior 5 years, but still 6 percentage points lower than the statewide average of 75 percent. Similarly, Native American student reading and math proficiency rates improved marginally over the same period but remained below statewide averages. The evaluation noted, however, changes in high school graduation requirements (allowing alternative demonstrations of competency) likely contributed to increased graduation rates and changes to statewide standardize assessments complicated measures of progress in these areas.

Findings in the *Martinez* and *Yazzie* lawsuit highlighted the lack of culturally relevant instructional materials and programming for students, particularly for English language learners (ELL) and Native American students. The court found students lacked access to appropriate interventions, like dual-language immersion programs, and educators lacked training and resources to provide culturally responsive instruction for at-risk students. Additionally, the court noted the state failed to monitor or evaluate programs to improve outcomes for Native American students and engage in government-to-government collaboration with tribes on the education of Native American students.



According to PED’s Bilingual Multicultural Education Annual Report, the number of students participating in Native American language programs has decreased in recent years, although the total number of participants increased slightly to 6,968 students in FY20. While the number of students demonstrating limited proficiency has increased, the percent of students that are rated fluent remains very low – at 5 percent. Improving the recruitment of Native language educators may improve the capacity of schools to provide language instruction for more students.

ADMINISTRATIVE IMPLICATIONS

The bill modifies who will establish the criteria for a Native American language and culture certificate by removing the “state board” and replacing that entity with “tribe or pueblo.” Additionally, the bill requires PED to establish procedures for the 520 certificate “based on the agreement made with the tribe or pueblo.” According to PED, this adjustment reflects current practices and would have minimal or no administrative implications.

Costs of providing salary raises for Native American language and culture certificate teachers would fall on school district and charter school operating budgets; however, the \$1.25 million in this bill is appropriated to PED. As such, the department would need to identify all certified Native American language and culture educators who are currently teaching a tribal language in a public school, provide a distribution of funding for each affected district or charter, and ensure each 520 teacher receive a level 2 teacher minimum salary through the department’s budget approval process for school districts and charter schools.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The HAFC Substitute for House Bill 2 includes \$1.25 million from the public education reform fund to cover provisions of this bill.

This bill relates to House Bill 87, which creates a formula for Indian education fund distributions to tribes beginning in FY24; House Bill 88, which earmarks Indian education fund allocations for tribes; House Bill 90, which makes appropriations for Native American initiatives at higher education institutions; House Memorial 12 and Senate Memorial 12, which request PED to develop a plan to address the needs of *Martinez-Yazzie* at-risk student groups; Senate Bill 1, which increases teacher and principal minimum salary levels; and Senate Bill 132, which raises the educational assistant minimum salary level to \$20 thousand.

OTHER SUBSTANTIVE ISSUES

According to PED, New Mexico is one of at least 16 states that offer certification for Native American language teachers in the public school system. The state has provided this pathway for tribal language instructors to become certified in the state since 2002. Overall, there are at least eight tribal languages in the state. Of those, seven – Diné (Navajo), Jicarilla (Apache), Keres, Tewa, Tiwa, Towa, and Zuni – are taught by certified Native American language and culture teachers in the public schools. According to the FY21 Tribal Education Status Report, 7,270 students were enrolled in Native American language programs across the state. There were 98 Native American language and culture teachers who taught those seven tribal languages during that same timeframe.

In FY20, PED awarded three grants totaling almost \$175 thousand from the Indian education fund to Native language teacher preparation programs to support educational opportunities in New Mexico districts and schools. Awards in FY21 for the same purpose grew fourfold to over \$750 thousand. Activities include funding the first 15-teacher cohort of the Diné Language Teacher Institute at the University of New Mexico and the development of a five-year strategic plan and Native language teacher preparation program at Santo Domingo Pueblo. Additionally, several districts and tribes receiving Indian education fund grants use their awards for professional development for teachers and administrators.