

HOUSE BILL 140

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO EDUCATION; CREATING THE TRIBAL EDUCATION TRUST
FUND; PROVIDING DISTRIBUTIONS TO THE PUBLIC EDUCATION
DEPARTMENT; PROVIDING ACCOUNTABILITY MEASURES; PROVIDING
REPORTING REQUIREMENTS; MAKING APPROPRIATIONS.

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

SECTION 1. [NEW MATERIAL] TRIBAL EDUCATION TRUST FUND--
CREATED--PURPOSE--DISTRIBUTIONS--APPROPRIATION.--

A. The "tribal education trust fund" is created as
a nonreverting fund in the state treasury. The tribal
education trust fund shall be used for any purpose enumerated
in Section 22-23A-2 NMSA 1978 or in an intergovernmental
agreement between an Indian nation, tribe or pueblo and the
public education department. The fund consists of
distributions, appropriations, gifts, grants and donations.

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1 Income from investment of the fund shall be credited to the
2 fund. Money in the fund shall be expended only as provided in
3 this section.

4 B. The state investment officer shall invest money
5 in the tribal education trust fund in accordance with the
6 prudent investor rule set forth in the Uniform Prudent Investor
7 Act.

8 C. The state investment officer shall report
9 quarterly to the legislative education study committee and the
10 state investment council on the investments made pursuant to
11 this section. Annually, a report shall be submitted no later
12 than October 1 each year to the legislative education study
13 committee and any other appropriate interim committees.

14 D. Beginning in fiscal year 2025, distributions
15 from the tribal education trust fund shall be made to the
16 public education department on July 1 of each year in which
17 adequate money is available in the tribal education trust fund
18 in an amount equal to the greater of two million five hundred
19 thousand dollars (\$2,500,000) or five percent of the average of
20 the year-end market values of the tribal education trust fund
21 for the preceding five calendar years; provided that the public
22 education department shall distribute funding received pursuant
23 to this subsection as provided by Subsection E of this section.

24 E. Beginning in fiscal year 2025, on August 1 of
25 each year the public education department shall disburse money

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1 received pursuant to Subsection D of this section to each New
2 Mexico tribe as follows:

3 (1) ninety percent of the total amount of the
4 distribution made pursuant to Subsection D of this section
5 shall be provided in equal amounts to each New Mexico tribe;
6 and

7 (2) ten percent of the total amount of the
8 distribution made pursuant to Subsection D of this section
9 shall be provided to each New Mexico tribe in an amount
10 proportional to the total number of New Mexico students served
11 by that New Mexico tribe.

12 F. Money disbursed pursuant to Subsection E of this
13 section shall be disbursed on warrants signed by the secretary
14 of finance and administration pursuant to vouchers signed by
15 the secretary of public education or the secretary's designee.

16 G. Beginning in fiscal year 2025 and in each
17 subsequent fiscal year, the lesser of one percent of the tribal
18 education trust fund or one hundred thousand dollars (\$100,000)
19 is appropriated from the tribal education trust fund to the
20 public education department for expenditure in the fiscal year
21 in which it is appropriated to administer the tribal education
22 trust fund. Administrative costs include staff salaries and
23 expenses related to administration of the tribal education
24 trust fund. Any unexpended or unencumbered balance remaining
25 at the end of any fiscal year shall revert to the tribal

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1 education trust fund.

2 H. In addition to the distribution pursuant to
3 Subsection D of this section, money in the tribal education
4 trust fund may be expended in the event that general fund
5 balances, including all authorized revenues and transfers to
6 the general fund and balances in the general fund operating
7 reserve, the appropriation contingency fund, the tobacco
8 settlement permanent fund, the state-support reserve fund and
9 the tax stabilization reserve, will not meet the level of
10 appropriations authorized from the general fund for a fiscal
11 year. In that event, to avoid an unconstitutional deficit, the
12 legislature may appropriate from the tribal education trust
13 fund to the general fund only in the amount necessary to meet
14 general fund appropriations for that fiscal year and only if
15 the legislature has authorized transfers from the appropriation
16 contingency fund, the general fund operating reserve, the tax
17 stabilization reserve and the tobacco settlement permanent fund
18 that exhaust those fund balances.

19 I. As used in this section, "New Mexico tribe"
20 means an Indian nation, tribe or pueblo located wholly or
21 partially in New Mexico in which Native American students are
22 being educated in New Mexico.

23 SECTION 2. [NEW MATERIAL] TRIBAL EDUCATION TRUST FUND
24 ACCOUNTABILITY MEASURES--REPORTING REQUIREMENTS--PUBLIC
25 EDUCATION DEPARTMENT DUTIES.--

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1 A. Prior to April 15 of each year, each tribal
2 education department shall submit to the public education
3 department a summary of its operating budget and plan for the
4 ensuing fiscal year based on tribally determined goals and
5 needs. This summary shall include a brief narrative describing
6 how the budget and plan will contribute to meeting the purposes
7 of the tribal education trust fund enumerated in Section 1 of
8 this 2023 act.

9 B. Prior to October 15 of each year, each tribal
10 education department shall submit to the public education
11 department a spending report and an assessment of program
12 impact, student engagement and student outcomes based on
13 tribally determined criteria.

14 C. The public education department shall report to
15 the legislative education study committee, any other
16 appropriate interim committee and the New Mexico tribes no
17 later than November 15 of each year the total disbursements
18 made pursuant to Subsection E of Section 1 of this 2023 act for
19 the previous fiscal year, a summary of tribal reports received
20 and a projection of available disbursements pursuant to
21 Subsection E of Section 1 of this 2023 act in the following
22 fiscal year.

23 D. Nothing in this section shall interfere with the
24 sovereignty of federally recognized New Mexico tribes.

25 E. The public education department may:

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- 1 (1) establish procedures and adopt rules,
- 2 after formal consultation with the New Mexico tribes, as
- 3 required to administer and disburse money pursuant to
- 4 Subsection E of Section 1 of this 2023 act;
- 5 (2) enter into intergovernmental agreements
- 6 with the New Mexico tribes to disburse funding pursuant to
- 7 Subsection E of Section 1 of this 2023 act; and
- 8 (3) solicit, receive and report on tribal
- 9 education budgets, plans and reports pursuant to this section.

10 F. As used in this section, "New Mexico tribe"

11 means an Indian nation, tribe or pueblo located wholly or

12 partially in New Mexico in which Native American students are

13 being educated in New Mexico.

14 **SECTION 3. APPROPRIATION.**--Fifty million dollars

15 (\$50,000,000) is appropriated from the public education reform

16 fund to the tribal education trust fund for expenditure in

17 fiscal year 2024 and subsequent fiscal years to carry out the

18 purpose of that fund. Any unexpended or unencumbered balance

19 remaining at the end of a fiscal year shall not revert to the

20 public education reform fund.

21 **SECTION 4. EFFECTIVE DATE.**--The effective date of the

22 provisions of this act is July 1, 2023.