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September 12, 2006

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** Sharon S. Caballero

**RE: STAFF BRIEF: INDIAN EDUCATION: INDIAN EDUCATION ACT AND  
OTHER INDIAN EDUCATION ISSUES**

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The 2006 Interim Workplan for the Legislative Education Study Committee (LESC) includes a progress report on the implementation by the Public Education Department (PED) of the *Indian Education Act of 2003* (IEA) and an overview of the findings of the Legislative Finance Committee (LFC) audit and PED response, and other Indian education issues.

**Issues:**

- Native American students constitute the second largest student minority group, after Caucasian non-Hispanic students, at approximately 11 percent of New Mexico public school enrollment, according to PED.
- In 2003, the LESL endorsed legislation that enacted the IEA as a means to address the unique cultural and educational needs of Native American students statewide. The act created the non-reverting Indian Education Fund to be administered by PED to make awards to implement its provisions.
- Since the inception of the IEA, the LESL has requested presentations from PED on its progress in implementing and ensuring that Native American children are benefiting from this act. PED has reported in each interim since 2003 on its appropriations to the fund and its activities related to the IEA.

- For FY 04 through FY 06, the Legislature appropriated a total of \$7.0 million to the Indian Education Fund (\$2.0 million in FY 04; \$2.5 million in FY 05; and \$2.5 million in FY 06). During the 2005 interim, PED staff indicated that approximately \$4.9 million was expended or encumbered and the remaining \$2.1 million was uncommitted.
- According to the Department of Finance and Administration (DFA), as of June 30, 2006, approximately \$1.6 million of the \$7.0 million remain uncommitted. PED indicates that it is currently awaiting DFA approval to budget \$344,000 from the uncommitted funds for expenditure in FY 07.
- For FY 07, the Legislature appropriated an additional \$2,497.4 million (after sanding) to the Indian Education Fund. The *General Appropriation Act of 2006* includes language specifying that \$1.0 million from this appropriation be used for a rural literacy initiative for K-8 students in schools with a high proportion of Native American students, contingent upon receipt of \$500,000 in matching funds from sources other than the state. According to PED, the purpose of this initiative is to support new after-school and summer literacy block programs for students.
- PED reports that a literacy contract has been awarded to the Save the Children Federation, Inc. The project plan, according to PED, is to select 11 school sites through an invitation/application grant process by the contractor. Potential schools will be selected based on the criteria of the grant that each rural site be comprised of at least 67 percent Native American population.
- The IEA also requires an annual Indian Education Status Report to be made to tribes. The act outlines in its requirements that the report be collaboratively prepared by PED's Indian Education Division, the Division of the Bureau of Indian Affairs and other entities that serve Native American students. (See p.7 for an outline of requirements).
- PED made its first Indian Education Status Report in April 2006 basing its data from school year 2004-2005 which also was the first full year of implementation of the New Mexico Standards Based Assessment. The New Mexico Standards Based Assessment was administered to grades 3-9 in reading, math, and science; for grade 11 the test was only administered for reading and math. School year 2004-2005 was also the first full year of IEA implementation.
- As required in IEA, the status report includes the following findings:
  1. Of New Mexico's 89 school districts, 23 have a high proportion of Native American student enrollment which comprises 35,245 or 97 percent of the total state Native American student enrollment of 36,326.
  2. Statewide Native American students, in grades 3-9 and 11, scored lower in proficiency levels in reading, math, and science compared to all other ethnic groups in the New Mexico Standards Based Assessment. (PED reported in August 2006 that Native American students continue to lag behind all other groups in AYP measures).

3. The dropout rate for the 23 school districts indicates that:
    - a. Native American students in grades 7-8 had a dropout rate of 1.26 percent, ranking them third compared to other ethnic groups.
    - b. Native American students in grades 9-12 had a dropout rate of 6.69 percent ranking them second compared to other ethnic groups.
    - c. Of the 23 school districts, 21 met the AYP attendance requirement of 92 percent or higher for elementary and middle school attendance.
  4. Of the 21 school districts receiving Impact Aid funding for students who reside on Indian reservations who developed Indian Policies and Procedures (IPPs) in consultation with tribes, 12 had school board approved IPPs with signatures by current tribal governments or designees. Of the other nine, five districts had IPPs with tribal signatures that were not current and four districts had IPPs with no tribal signatures.
  5. Fifteen school districts incorporate important local tribal activities into the school district calendar, so that Native American students may participate in such events.
- In March 2006, at the request of the LFC and pursuant to that committee's statutory authority, the LFC staff conducted an audit of the effectiveness of the implementation of the IEA by the PED and the progress in closing the Native American achievement gap. The LFC audit contains a variety of findings related to such matters as pattern of expenditures, government to government collaborations, PED leadership and interventions, culturally relevant standards, Native language development, and the status of the Indian Education Division.
  - Among its findings, the LFC audit report indicates that implementation of the IEA was initially complex and slow due to the requirement of government to government procedures of the 22 tribes/pueblos/nations as indicated by the pattern of expenditures of the IEA education fund from FY 04 to FY 06. Other findings indicate that:
    - PED has shown a lack of leadership as evidenced by a lack of focused programs and resources; development of culturally inappropriate content standards; a shift of curriculum responsibility from PED to school districts and outside contractors; and, not devising a strategy and working relationship to develop the capacity of tribes/pueblos/nations' education departments with coordinated efforts.
    - Native languages have not been part of the PED bilingual education program nor has an effective alliance between school districts and university teacher preparation programs been facilitated to meet Native language and culturally based education teacher supply needs.
    - The New Mexico Indian Education Summit held in December 2005 for New Mexico tribes/pueblos/nations did not formally identify priorities, targets or actions. At the Summit, the Governor's announcement of his request for a \$500,000 (subsequently reduced to \$250,000) study on the status of Indian Education in New Mexico does not appear likely to add to existing research based practices and approaches that should be implemented under the act.

- According to PED’s response included in the audit report, the department found little agreement with the audit. Among its major disagreements, PED notes:
  - The organizational change from the State Department of Education to PED and the necessary change in policy and procedures slowed the implementation of the IEA.
  - Review of the organizational structure is currently underway to improve coordination efforts with tribes, pueblos, nations as well as school districts and schools.
  - Content standards must remain the same for all New Mexico children, but there is a recognition that their teaching must be respectful of values, language and learning styles; but suggested that the Educational Plan for Student Success (EPSS) holds schools and districts accountable for closing the achievement gap among Native American children.
  - PED has developed collaborative relationships with outside agencies, tribes, and schools as required by the IEA, but PED believes that local control over how standards are implemented is through the local boards, particularly when the Indian nation enacts educational laws that impact state law and local school districts.
  - PED is developing a five-year strategic plan that will address among other issues the responsibility for curriculum, research on culturally based education, and collaborations between school districts and higher education to provide teacher preparation programs that meet language and culturally based education teacher supply needs.
- The LFC report includes the following seven major recommendations for improving the IEA by requiring that:
  - New Mexico content standards and tests include language and cultural competencies relevant to Native American students for the purposes of determining adequate yearly progress under the federal *No Child Left Behind Act of 2001* (NCLB).
  - The Funding Formula Task Force review at-risk unit values to determine if funding is adequate to assist high poverty Native American impacted school districts in meeting the purposes of the act.
  - PED’s capacity to provide technical assistance and interventions to tribal education departments, school districts and schools be expanded to implement culturally based education by redirecting existing funding to hire additional staff with expertise in tribal/pueblo/nation language, culture, and education.
  - Tribal/pueblo, nations’ education departments be made Local Education Agencies (LEA’s) eligible for state funding as a step to increase tribal capacity, involvement and control over the education of their students.
  - A culturally based education model identified in the research be used as a blueprint and guide for the development of a set of accountability measures for implementation of the act.

- PED develop and disseminate an Indian education K-12 curricula binder, scope and sequence curriculum, model lessons, supplemental resource materials and resource guide and hold districts accountable for their use with targets and timelines for improving Native American student retention, achievement, and graduation rates.
- An Indian education teacher corps be established to increase the supply of highly qualified teachers trained in culturally based education by providing accelerated teacher training, certification, endorsement, and professional development programs customized to fit the needs of each tribe/pueblo/nation in the Rural Education Cooperatives and PED regional quality centers.
- PED agreed with two of the seven recommendations: a Funding Formula Task Force review is necessary to determine if adequate funding is available to implement the IEA and PED must have the ability to redirect existing funding to implement parts of the ACT and hire staff.
- Some of PED's other responses to the recommendations included:
  - A clarification that the PED makes Joint Powers of Agreement (JPA) with tribal, pueblo, and nation education departments and that it is the responsibility of the Funding Formula Task Force to study and make recommendations regarding the eligibility of tribes/pueblos for state resources.
  - PED has established multiple partnerships with higher education and other agencies to address the need for culturally based education in teacher preparation programs.

**Background:**

***The Indian Education Act***

The *Indian Education Act* has among its purposes to ensure equitable and culturally relevant learning environments, educational opportunities and culturally relevant instructional materials for Native American students enrolled in public schools. The act creates the Indian Education Fund to be administered by PED to support its provisions, which are as follows:

Expand the scope and responsibilities of the Indian Education Division and elevate the status of its director to Assistant Secretary.

Require the Indian Education Division to:

- assist school districts and tribes in planning, developing, implementing and evaluating curricula in native languages, culture and history designed for Native American students;
- assist school districts in developing curricula and instructional materials in native languages in conjunction and by contract with native language practitioners and tribal elders;
- seek funds to establish an Indian education office in the northwest corner of New Mexico;

- require school districts to obtain a signature of approval by tribal governments verifying that the tribes agree to Indian education policies and procedures pursuant to federal requirements;
- seek funds to implement a variety of support services for Native American educators;
- develop curricula for tribal history and government and develop plans to include these subjects in history and government courses in school districts throughout the state;
- ensure that school districts professional development plans include native language bilingual programs; and
- develop a plan to establish a postsecondary investment system for Indian students to which parents, tribes, and the state may contribute.

Create a 14-member Indian Education Advisory Council that is to meet semiannually with other appropriate state and tribal representatives, the Legislature, and PED to assist in evaluating, consolidating and coordinating all activities relating to the education of Native American students.

- Prescribe the contents of Native American education status reports to be submitted annually to tribes by the Indian Education Division, in collaboration with the Bureau of Indian Affairs and other entities, and by school districts that include tribal lands within their boundaries. The report requires PED to include the following information:
  - student achievement as measured by a statewide test approved by the state board, with results disaggregated by ethnicity;
  - school safety;
  - the drop out rate;
  - attendance;
  - parent and community involvement;
  - educational programs targeting Native American students;
  - financial reports;
  - current status of federal Indian education policies and procedures;
  - school district initiatives to decrease the number of student dropouts and increase attendance;
  - public school use of variable school calendars; and
  - school district consultations with parent advisory committees.
- In 2005, the LESC endorsed and legislation was enacted to amend the IEA to require the Indian Education Division to develop or select for implementation a challenging, sequential, culturally relevant curriculum for Native American students in grades K through 6 to prepare students for Pre-AP (Advanced Placement) and AP coursework in grades 7 through 12.

**Presenters:**

For this presentation, Dr. Nancy Martine-Alonzo, Assistant Secretary, Indian Education Division, PED, will provide an update on the IEA and progress report on the implementation of the IEA and address any related concerns.

Dr. Larry W. Emerson, Chair, New Mexico Indian Education Advisory Council, will describe the perspective, priorities and activities of the council in its statutory role of advising PED regarding the education of American Indian students.

**Questions the committee may wish to consider:**

1. What results to date has the Indian Education Division achieved to in addressing the purposes of the IEA?
2. What projects and programs has the Indian Education Division undertaken that is supported by legislative appropriations to the Indian Education Fund? What projects does the Indian Education Division plan to undertake?
3. How does Indian Education Division intend to implement the school curriculum to prepare students for Pre-AP and AP coursework?
4. How much has the number of highly qualified Native American teachers in New Mexico increased since the enactment of the IEA?
5. How many tribes/pueblos/nations currently have native language instruction in their schools?
6. What barriers exist for Indian Education Division in realizing final implementation of the IEA?