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HOUSE BILL 26

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Ray Begaye

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO HIGHER EDUCATION; ENACTING THE AMERICAN INDIAN  
POST-SECONDARY EDUCATION ACT; CREATING A DIVISION IN THE HIGHER  
EDUCATION DEPARTMENT; PROVIDING DUTIES; ALLOWING FOR JOINT  
POWERS AGREEMENTS AND MEMORANDA OF UNDERSTANDING; CREATING A  
FUND; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--This act may be cited as the  
"American Indian Post-Secondary Education Act".

Section 2. PURPOSE OF ACT.--The purpose of the American  
Indian Post-Secondary Education Act is to:

A. assist in the development of culturally relevant  
learning environments and post-secondary educational  
opportunities for American Indian students;

B. foster maintenance of native languages and

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1 cultures;

2 C. provide for the study, development and  
3 implementation of post-secondary educational programs that have  
4 a positive impact on the educational success of American Indian  
5 students;

6 D. establish a framework for a formal relationship  
7 between the department and tribal colleges and develop  
8 relationships with the education division of the bureau of  
9 Indian affairs and other entities that serve American Indian  
10 students; and

11 E. provide a mechanism for tribal colleges and  
12 other tribal educational agencies; the department; post-  
13 secondary educational institutions; students and parents;  
14 community-based organizations; the public education department;  
15 and tribal, state and local policymakers to work together to  
16 improve post-secondary educational opportunities for American  
17 Indian students.

18 Section 3. DEFINITIONS.--As used in the American Indian  
19 Post-Secondary Education Act:

20 A. "department" means the higher education  
21 department;

22 B. "division" means the American Indian post-  
23 secondary education division of the department;

24 C. "post-secondary educational institutions" means  
25 public and tribal post-secondary educational institutions

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1 located in New Mexico;

2 D. "secretary" means the secretary of higher  
3 education;

4 E. "tribal college" means a tribally, federally or  
5 congressionally chartered post-secondary educational  
6 institution located in New Mexico that is accredited by the  
7 north central association of colleges and schools; and

8 F. "tribe" means an Indian nation, tribe or pueblo  
9 located within New Mexico.

10 Section 4. DEPARTMENT--RULES--JOINT POWERS AGREEMENTS AND  
11 MEMORANDA OF UNDERSTANDING.--

12 A. The department, in consultation with tribes, may  
13 adopt and promulgate rules to implement the provisions of the  
14 American Indian Post-Secondary Education Act.

15 B. The secretary may enter into joint powers  
16 agreements with tribal colleges and tribes, and into memoranda  
17 of understanding with New Mexico higher education entities and  
18 institutions, for data collection and data sharing and for  
19 other matters necessary to carry out the provisions of the  
20 American Indian Post-Secondary Education Act.

21 Section 5. AMERICAN INDIAN POST-SECONDARY EDUCATION  
22 DIVISION--CREATED--DUTIES.--

23 A. The "American Indian post-secondary education  
24 division" is created within the department. The secretary  
25 shall appoint a director of American Indian post-secondary

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1 education, who shall direct the activities of the division.

2 B. The division shall:

3 (1) provide assistance to post-secondary  
4 educational institutions to meet the higher education needs of  
5 American Indian students;

6 (2) provide assistance to post-secondary  
7 educational institutions in the planning, development,  
8 implementation and evaluation of recruitment and retention  
9 strategies designed for American Indian college students;

10 (3) seek funds to establish, develop and  
11 implement services to increase the enrollment, retention and  
12 graduation rates of American Indians in post-secondary  
13 educational institutions, including programs to improve:

14 (a) recruitment;  
15 (b) retention;  
16 (c) academic support and transition; and  
17 (d) financial aid available to American  
18 Indian students;

19 (4) develop a system for consistent data  
20 collection and sharing on the enrollment, retention and  
21 graduation rates of American Indian students at post-secondary  
22 educational institutions;

23 (5) collaborate with the public education  
24 department on initiatives related to pre-kindergarten through  
25 grade twenty, higher education grants and teacher education to

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1 promote an integrated seamless educational system for American  
2 Indian students;

3 (6) at least semiannually, hold a public  
4 meeting for representatives of New Mexico higher education  
5 entities and institutions, tribes, post-secondary educational  
6 institutions, American Indian students, the governor's office,  
7 the Indian affairs department, the public education department,  
8 the legislature and other interested persons to discuss  
9 American Indian higher education issues, including ways to  
10 foster attendance and graduation of American Indian students  
11 from post-secondary educational institutions; and

12 (7) coordinate with the public education  
13 department to encourage appointment of members of the Indian  
14 education advisory council who also represent institutions of  
15 higher education.

16 Section 6. STATUS REPORT.--

17 A. Each public post-secondary educational  
18 institution shall submit a biannual American Indian post-  
19 secondary education status report to the division as provided  
20 in this section. The division shall encourage post-secondary  
21 educational institutions and other entities that serve American  
22 Indian college students to submit a status report.

23 B. The division shall compile the information  
24 received into a single American Indian post-secondary education  
25 status report.

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1 C. The status report provided by each post-  
2 secondary educational institution shall be written in a brief  
3 format and shall include the following information by which the  
4 institution's performance is measured and aligned with the  
5 department's strategic priorities:

- 6 (1) student recruitment;
- 7 (2) student retention;
- 8 (3) student attrition;
- 9 (4) student remediation programs;
- 10 (5) graduation rates;
- 11 (6) annual goals and objectives of American  
12 Indian education programs;
- 13 (7) financial aid reports; and
- 14 (8) other issues identified by the division or  
15 recommended by the biannual public meetings.

16 Section 7. AMERICAN INDIAN POST-SECONDARY EDUCATION FUND  
17 CREATED--GRANTS--APPLICATION AND AWARD PROCESS.--

18 A. The "American Indian post-secondary education  
19 fund" is created in the state treasury. The fund consists of  
20 appropriations, gifts, grants, donations and income from  
21 investment of the fund. Balances in the fund at the end of a  
22 fiscal year shall not revert or be transferred to any other  
23 fund. The fund shall be administered by the department, and  
24 money in the fund is appropriated to the department to award  
25 grants in support of the American Indian Post-Secondary

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1 Education Act. Disbursements from the fund shall be by warrant  
2 of the secretary of finance and administration on vouchers  
3 signed by the secretary of higher education or the secretary's  
4 authorized representative.

5 B. Grants may be awarded for special projects  
6 related to recruitment, retention and graduation of American  
7 Indian students, including student conferences, cultural  
8 awareness training for faculty and staff at post-secondary  
9 educational institutions, academic support and transition  
10 programs and other projects approved by the division.

11 C. Applications for grants from the fund shall be  
12 in the form prescribed by the division. The division, with the  
13 secretary's approval, shall promulgate rules governing the  
14 application and award process, setting forth requirements for  
15 eligibility, the process for ranking applications and awarding  
16 grants; accounting, financial reporting and evaluation  
17 requirements for grantees; reporting requirements on the use of  
18 grants and the outcomes of projects funded; and any other  
19 information deemed necessary by the division.

20 D. The department shall require that all projects  
21 supported by grants from the fund be evaluated annually; shall  
22 monitor the implementation of the projects; and shall  
23 discontinue funding a project after three years if the project  
24 is not achieving the measurable objectives stated in its grant  
25 application. The department shall allow no more than three

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1 percent of grant funds awarded for a project to be used for an  
2 external project evaluation of the project.

3 Section 8. APPROPRIATION.--

4 A. Nine hundred thousand dollars (\$900,000) is  
5 appropriated from the general fund to the American Indian post-  
6 secondary education fund for expenditure in fiscal year 2009  
7 and subsequent fiscal years to make grants for projects funded  
8 in accordance with the American Indian Post-Secondary Education  
9 Act. Any unexpended or unencumbered balance remaining at the  
10 end of a fiscal year shall not revert to the general fund.

11 B. One hundred thousand dollars (\$100,000) is  
12 appropriated from the general fund to the higher education  
13 department for expenditure in fiscal year 2009 for operational  
14 expenses associated with the American Indian post-secondary  
15 education division; the conduct of the first semiannual meeting  
16 as provided in Section 5 of the American Indian Post-Secondary  
17 Education Act; and the development of a data collection and  
18 data sharing system for post-secondary educational institutions  
19 as provided in that act. Any unexpended or unencumbered  
20 balance remaining at the end of fiscal year 2009 shall revert  
21 to the general fund.