

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 288a

50th Legislature, 1st Session, 2011

Tracking Number: .184392.1

Short Title: Teachers Income Tax Deduction on Indian Land

Sponsor(s): Representative Sandra Jeff and Others

Analyst: Eilani Gerstner

Date: March 15, 2011

AS AMENDED

The House Taxation and Revenue Committee amendments:

- **require that teachers may deduct from net income 50 percent, rather than all, of the income earned from teaching and living on tribal land;**
- **require a school to certify on a Taxation and Revenue Department form that the teacher works and lives full-time on tribal land;**
- **add a charter school to the definition of public school; and**
- **remove from the definition of “teacher” a person who supervises an instructional program or whose duties include curriculum development, peer intervention, peer coaching, or mentoring, or serving as a resource teacher for other teachers.**

Original Bill Summary:

HB 288 adds a new section to the *Income Tax Act* to allow a teacher living and teaching full-time on tribal land to deduct from state income taxes the income earned from teaching at a school located on tribal land.

The provisions in the bill apply to teachers teaching at a Bureau of Indian Education school, public school, or tribal school:

- who hold a Level 1, Level 2, or Level 3 teaching license or a Native American language and culture certificate;
- whose primary duty is:
 - classroom instruction; or
 - the supervision, below the school principal level, of an instructional program; or
- whose duties include:
 - curriculum development, peer intervention, peer coaching, or mentoring; or
 - serving as a resource teacher for other teachers.

Fiscal Impact:

HB 288 does not contain an appropriation.

Fiscal Issues:

The Public Education Department (PED) notes in the analysis of HB 288 that:

There is insufficient data to conclude how many teachers are currently working AND living on Indian lands in New Mexico, thus the actual current fiscal impact to the state of this proposed tax deduction is unknown. Under statute, teachers earn at least \$30,000 per school year at a level one license, \$40,000 for a level two license, or \$50,000 for a level three license. HB 288 will allow these teachers to deduct all of their teaching income from their state income taxes.

Substantive Issues:

According to the analysis of HB 288 by PED,

The tax deduction created by HB 288 would only apply to non-Indian teachers living and working on Indian lands in New Mexico, since Indians living and working on their own reservation, pueblo, or other Indian lands are already exempt from paying state income tax on pay earned on tribal lands. See section 7-2-5.5 NMSA 1978.

HB 288 provides an incentive for licensed teachers to teach and live on Indian lands to take advantage of the tax deduction. However, since HB 288 requires a teacher to both work and live full time on Indian land to take advantage of the tax deduction, this bill may be a greater advantage to tribes and pueblos with greater housing opportunities for teachers and to schools that can provide teacher housing on Indian land.

Related Bills:

None as of March 13, 2011.