

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2023 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment** _____
Correction _____ **Substitute** _____

Date 01/24/2023
Bill No: HB 140

Sponsor: Rep. Derrick J. Lente
Short Title: Tribal Education Trust Fund

Agency Name and Code 305–Office of the Attorney General
Number: _____
Person Writing Delilah Tenorio, AAG
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General Opinion nor an Attorney General Advisory Letter. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the Office of the Attorney General.

BILL SUMMARY

Synopsis: HB 140 proposes to establish a Tribal Education Trust Fund, a non-reverting fund, in the state treasury, which would be used for any of the purposes outlined under NMSA 1978, Section 22-23A-2 or in an intergovernmental agreement between the public education department and an Indian nation, tribe or pueblo. The fund is funded by distributions, appropriations, grants, gifts and donations.

The state investment officer is required to invest money as required under the Uniform Prudent Investor Act and provide quarterly reports to the legislative education study committee and the state investment council regarding any investments that were made. Additionally, the state investment officer is required to provide an annual report to the legislative education study committee by October 1 of each year.

Beginning in 2025, the greater of \$2.5 Million or 5% of the average of the year-end market value of the fund will be distributed to the public education department who then distribute the funds as required under Subsection E. Under Subsection E, on August 1 the public education department will distribute 90%, in equal amounts to each New Mexico tribe and 10% distributed in an amount proportional to the total number of New Mexico students served by each New Mexico tribe. The money disbursed will be on warrants signed by the secretary of finance and administration. Finally, the at least \$100,000 is appropriated to the public education department to administer the tribal education fund and any unexpended or unencumbered balance will revert to the tribal education fund.

Under section 2, tribal education departments are required to submit a summary of its operating budget and plan to the public education department by April 15 of each year. On October 15 of each year, each tribal education department is also required to submit a spending report and an assessment of program impact. Additionally, the public education department shall report to the legislative education study committee the amount of the total disbursements as well as a summary of the tribal reports received and projection of available disbursements.

Section 2 also outlines the duties of the Public Education Department, which include establishing procedures and adopting rules after consultation of the New Mexico tribe to administer the tribal education fund, enter into intergovernmental agreements, and solicit, receive and report on tribal education budgets, plans and reports. A New Mexico tribe is defined as an Indian nation, tribe or pueblo located wholly or partially in New Mexico in which Native American students are being educated in New Mexico.

Section 3 appropriates \$50 Million from the public education reform to the tribal education trust fund in 2024 and continuing to subsequent years to carry out the purpose of the fund.

Section 4 sets an effective date of July 1, 2023.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

None noted.

PERFORMANCE IMPLICATIONS

None to this office.

ADMINISTRATIVE IMPLICATIONS

None to this office.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to House Bill 147, which also addresses tribal education funding.

Relates to House Bill 149, which also addresses tribal education funding.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A.