

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

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: Date 2/28/19
Original **Amendment** **Bill No:** SB329
Correction **Substitute**

Sponsor: Sen. Linda M. Lopez **Agency Code:** 924
Short Title: OPENING PUBLIC SCHOOLS ON TRIBAL LAND **Person Writing:** Daniel Manzano
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	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

BILL SUMMARY

Synopsis: SB 329 creates new sections to the Public School Code. Section 1 adds new Public Education Department duties to include tribal consultations with Tribal leaders and members and families of students for contemplating closing schools on Tribal lands. Section 2, mandates local school boards to consult with tribal leaders, members and families of students for consideration of opening and closing a public school on tribal land. Section 3, mandates Charter Schools to consult with tribal leaders, members and families of students for proposals to open or close a public school on tribal land. Consultation requirements for all three sections include actions and open meetings of reasons for closing the public school and the efforts the department, local school board, and charters; culturally and linguistically responsive school policies; rigorous and culturally meaningful curricula and instructional materials; sensitivity to tribal calendars; reasons for non-support of additional resources; locations of other public schools to which students will be sent including transportation; new schools receiving students supporting tribal consultation attending the new school; extensive professional development for school personnel; educational outcomes for improvements of students attending another public school; plans for the public school buildings vacated due to closure; and any other matters the department, local school board and charter to provide adequate explanation for opening and closing public schools on tribal lands.

FISCAL IMPLICATIONS

SB329 does not contain an appropriation. Any costs from implementing provisions of this bill would be borne by schools, charters, tribes, other community stakeholders, and PED.

SB329 will require use of existing resources and staff within the PED’s divisions and local schools.

SIGNIFICANT ISSUES

Provisions of the bill impacts the PED divisions/bureaus for additional compliance related to Tribal consultation. PED’s communication and collaboration policy supporting the State-Tribal Collaboration Act defines consultation; however, tribal consultation within the bill includes requirements. The Indian Education Act requires

Tribal consultation shall not only be conducted by the department but must be complied by the local school board and/or charter. PED’s tribal consultation shall include communication and collaboration with the following bureaus: Accountability, Assessment, College and Career

Readiness, Educator Growth and Development, Indian Education Division, Instructional materials, Language and Culture, Licensure, Literacy, Humanities and Early Childhood, Math and Science, Priority Schools, Safe & Healthy Schools, School Budget, Transportation, Special Education and Teacher and Family Outreach.

SB 329 makes consultation a requirement and provides that consultation shall include, among other actions, open meetings in which the department explains the reasons for closing the public school and the efforts the department and the school district or charter school have made in the part to work with the tribe and tribal parents to ensure certain actions were taken. The provisions may clarify further whether the department showing its efforts alone satisfies the provisions of the bill, or whether the provisions contemplate something different.

Provisions in SB 329 reference that when a charter applicant wants to open a school, it shall consult with tribal leaders and members and families of students who will be eligible to attend the public school. The provisions may clarify further whether the applicant showing its efforts alone satisfies the provisions of the bill, or whether the provisions contemplate something different.

PERFORMANCE IMPLICATIONS

SB329 aligns with the Indian Education Act implemented by the department to ensure that parents; tribal departments of education; community-based organizations; the department of education; universities; and tribal, state and local policymakers work together to find ways to improve educational opportunities for American Indian students; ensure that tribes are notified of all curricula development for their approval and support; encourage an agreement regarding the alignment of the bureau of Indian affairs and state assessment programs so that comparable information is provided to parents and tribes. The bill however, does not clearly identify the levels of compliance and monitoring by the department and local school boards and/or charters.

The department, local school board and charters will need to communicate and collaborate when contemplating closing and opening a public school on tribal land for the purposes of Tribal consultation for improved educational outcomes for American Indian students.

ADMINISTRATIVE IMPLICATIONS

Additional support will be required within PED to support Tribal consultation supporting the contemplating closing public schools along with local school boards of transparency of education outcomes for American Indian students. Charters must consult with tribal leaders, members, and families contemplating opening a public school on tribal lands.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill adds three new sections to the current Public School Code.

TECHNICAL ISSUES

SB326 seeks to amend the Public School Code but does not indicate that consultation with Tribal communities has informed the development of the bill. The State Tribal Collaboration Act and PED's Tribal Collaboration and Communication Policy indicate that Tribal consultation will occur for educational matters that impact American Indian students.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS