

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 482

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

AN ACT

RELATING TO PUBLIC EDUCATION; ENACTING THE STATE-TRIBAL
EDUCATION COMPACT SCHOOLS ACT; PROVIDING AUTHORIZATION TO THE
PUBLIC EDUCATION DEPARTMENT TO ENTER INTO STATE-TRIBAL
EDUCATION COMPACTS; PROVIDING FOR THE APPLICATION PROCESS OF
BECOMING A STATE-TRIBAL EDUCATION COMPACT SCHOOL; PROVIDING
RULEMAKING AUTHORITY; PROVIDING REQUIREMENTS FOR THE OPERATION
OF STATE-TRIBAL EDUCATION COMPACT SCHOOLS; EXEMPTING STATE-
TRIBAL EDUCATION COMPACT SCHOOLS FROM CERTAIN STATE STATUTES
AND RULES; PROVIDING REPORTING REQUIREMENTS; ALLOWING STATE-
TRIBAL EDUCATION COMPACT SCHOOLS TO RECEIVE STATE AND FEDERAL
FUNDING; ALLOWING FOR EMPLOYMENT PREFERENCES AND ADMISSIONS
PRIORITIZATION; INCLUDING STATE-TRIBAL EDUCATION COMPACT
SCHOOLS IN THE PUBLIC SCHOOL CAPITAL OUTLAY ACT.

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

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1 SECTION 1. A new section of the Public School Code is
2 enacted to read:

3 "[NEW MATERIAL] SHORT TITLE.--Sections 1 through 8 of this
4 act may be cited as the "State-Tribal Education Compact Schools
5 Act"."

6 SECTION 2. A new section of the Public School Code is
7 enacted to read:

8 "[NEW MATERIAL] DEFINITION.--As used in the State-Tribal
9 Education Compact Schools Act, "state-tribal education compact"
10 means a compact that has been entered into by the department
11 and an Indian nation, tribe or pueblo located wholly or
12 partially in New Mexico."

13 SECTION 3. A new section of the Public School Code is
14 enacted to read:

15 "[NEW MATERIAL] AUTHORIZATION OF DEPARTMENT TO ENTER INTO
16 STATE-TRIBAL EDUCATION COMPACTS--APPLICATION PROCESS AND
17 CONTENTS--TRIBAL RESOLUTION--STATE-TRIBAL EDUCATION COMPACTS
18 CONTENTS--RULEMAKING AUTHORITY.--

19 A. The department is authorized to enter into
20 state-tribal education compacts for language- and culture-based
21 schools.

22 B. No later than one year after the effective date
23 of the State-Tribal Education Compact Schools Act, the
24 department shall establish an application and approval process,
25 procedures and time lines for the negotiation between the

1 department and the Indian nation, tribe or pueblo and approval
2 or disapproval and execution of state-tribal education
3 compacts.

4 C. The process described in Subsection B of this
5 section may be initiated by submission to the department of a
6 resolution by the governing body of an Indian nation, tribe or
7 pueblo in the state of New Mexico.

8 D. The resolution shall be accompanied by an
9 application to create a state-tribal education compact school
10 that indicates the grade or grades from pre-kindergarten
11 through twelfth grade that will be offered at the state-tribal
12 education compact school and that demonstrates that the school
13 will operate in compliance with all applicable laws, any rules
14 adopted pursuant to the State-Tribal Education Compact Schools
15 Act and the terms and conditions set forth in the application.
16 Both the resolution and the application to create a state-
17 tribal education compact school shall be submitted to the
18 department.

19 E. Within ninety days of receipt of a resolution
20 and application as provided in this section, the department
21 shall convene a government-to-government meeting for the
22 purpose of considering the resolution and application and
23 initiating negotiations between the department and the Indian
24 nation, tribe or pueblo. The department and the Indian nation,
25 tribe or pueblo that is submitting the resolution and

.225724.3

1 application to create a state-tribal education compact school
2 shall determine the terms of the state-tribal education
3 compact.

4 F. State-tribal education compacts shall have a
5 term of five years and shall include the following provisions:

- 6 (1) compliance;
- 7 (2) notices of violation;
- 8 (3) dispute resolution, which may include
9 nonjudicial processes such as mediation;
- 10 (4) recordkeeping and auditing;
- 11 (5) the delineation of the respective roles
12 and responsibilities;
- 13 (6) whether the compact is renewable; and
- 14 (7) compact termination.

15 G. The department shall promulgate rules for the
16 implementation of the State-Tribal Education Compact Schools
17 Act.

18 H. The department shall post each state-tribal
19 education compact to the department's web page."

20 SECTION 4. A new section of the Public School Code is
21 enacted to read:

22 "[NEW MATERIAL] OPERATION OF STATE-TRIBAL EDUCATION
23 COMPACT SCHOOLS--EXEMPTION FROM CERTAIN STATE STATUTES AND
24 RULES--REQUIREMENTS FOR A STATE-TRIBAL EDUCATION COMPACT
25 SCHOOL--PROHIBITION OF SECTARIAN PRACTICES--ENROLLMENT AND

.225724.3

1 SCHOOL CHOICE.--

2 A. A state-tribal education compact school shall
3 operate according to the terms of its compact executed in
4 accordance with Section 3 of the State-Tribal Education Compact
5 Schools Act.

6 B. A state-tribal education compact is exempt from
7 all state statutes and rules applicable to school districts,
8 state-chartered charter schools, local school boards or
9 governing bodies of charter schools regarding the curriculum,
10 assessment and evaluation requirements of a school, except for
11 those statutes and rules made applicable pursuant to the State-
12 Tribal Education Compact Schools Act and in the state-tribal
13 education compact executed pursuant to Section 3 of that act.

14 C. Each state-tribal education compact school
15 shall:

16 (1) create a curriculum and conduct an
17 educational program that is controlled and evaluated by the
18 Indian nation, tribe or pueblo and is language and culture
19 based;

20 (2) employ licensed school employees or
21 language proficient employees, as determined by the Indian
22 nation, tribe or pueblo, who are seeking department licensure;

23 (3) comply with the licensed school employee
24 background check as provided in Section 22-10A-5 NMSA 1978 and
25 comply with the provisions of Section 22-10A-5.2 NMSA 1978 and

.225724.3

1 the termination and notification provisions of Section
2 22-10A-22 NMSA 1978;

3 (4) comply with nondiscrimination laws;

4 (5) adhere to generally accepted accounting
5 principles and be subject to financial examinations and audits
6 as determined by the state auditor, including annual audits for
7 legal and fiscal compliance; and

8 (6) be subject to and comply with legislation
9 enacted after the effective date of the State-Tribal Education
10 Compact Schools Act governing the operation and management of
11 state-tribal education compact schools.

12 D. A state-tribal education compact school shall
13 not engage in sectarian practices in its educational program,
14 admissions or employment policies or operations.

15 E. Nothing in the State-Tribal Education Compact
16 Schools Act may limit or restrict any enrollment or school
17 choice options provided for by law."

18 SECTION 5. A new section of the Public School Code is
19 enacted to read:

20 "[NEW MATERIAL] STATE-TRIBAL EDUCATION COMPACT SCHOOLS--
21 TUITION CHARGE--ADMISSION--EXCEPTIONS TO ADMISSION.--

22 A. A state-tribal education compact school shall
23 not charge tuition but may charge fees for participation in
24 optional extracurricular events and activities.

25 B. A state-tribal education compact school shall

1 not deny admission on any basis other than age group, grade
2 level or capacity and shall otherwise enroll all students who
3 apply.

4 C. If capacity is insufficient to enroll all
5 students who apply, a state-tribal education compact school may
6 prioritize the enrollment of tribal members and siblings of
7 students who are already enrolled at the state-tribal education
8 compact school."

9 SECTION 6. A new section of the Public School Code is
10 enacted to read:

11 "[NEW MATERIAL] REPORTING REQUIREMENTS--SCHOOL FUNDING.--

12 A. A state-tribal education compact school shall
13 report student enrollment to the department. Reporting shall
14 be done in the same manner as reporting for and use the same
15 definitions of enrolled students and annual average full-time-
16 equivalent enrollment as is required of school districts. The
17 reporting requirements in this subsection are required for a
18 school to receive state or federal funding that is allocated
19 based on student enrollment and demographics.

20 B. Funding for a state-tribal education compact
21 school shall be determined by the public school funding formula
22 provided for in the Public School Finance Act. Salary amounts
23 for licensed school employees shall be based on the salary
24 amounts of the school district in which the state-tribal
25 education compact school is located. A state-tribal education

.225724.3

1 compact school shall use the statewide salary minimums pursuant
2 to the School Personnel Act. A state-tribal education compact
3 school is eligible to apply for state grants on the same basis
4 as a school district.

5 C. Money received by a state-tribal education
6 compact school from any source that remains in the school's
7 accounts at the end of any budget year shall remain in the
8 school's accounts for use by the school during subsequent
9 fiscal years."

10 SECTION 7. A new section of the Public School Code is
11 enacted to read:

12 "[NEW MATERIAL] EMPLOYMENT PREFERENCE--ADMISSION
13 PRIORITY.--Nothing in the State-Tribal Education Compact
14 Schools Act prohibits schools established pursuant to that act
15 from:

16 A. implementing a policy of preference to Indians
17 in employment; or

18 B. prioritizing the admission of tribal members
19 when the capacity of the school's programs or facilities is not
20 as large as demand."

21 SECTION 8. A new section of the Public School Code is
22 enacted to read:

23 "[NEW MATERIAL] COMPLIANCE WITH THE OPEN MEETINGS ACT.--
24 All actions, negotiations and business of the department and an
25 Indian nation, tribe or pueblo entering into a state-tribal

1 education compact shall be conducted pursuant to the Open
2 Meetings Act."

3 SECTION 9. Section 22-24-3 NMSA 1978 (being Laws 1975,
4 Chapter 235, Section 3, as amended) is amended to read:

5 "22-24-3. DEFINITIONS.--As used in the Public School
6 Capital Outlay Act:

7 A. "authority" means the public school facilities
8 authority;

9 B. "building system" means a set of interacting
10 parts that makes up a single, nonportable or fixed component of
11 a facility and that, together with other building systems,
12 makes up an entire integrated facility or property, including
13 roofing, electrical distribution, electronic communication,
14 plumbing, lighting, mechanical, fire prevention, facility
15 shell, interior finishes, heating, ventilation and air
16 conditioning systems and school security systems, as defined by
17 the council;

18 C. "constitutional special schools" means the New
19 Mexico school for the blind and visually impaired and the New
20 Mexico school for the deaf;

21 D. "constitutional special schools support spaces"
22 means all facilities necessary to support the constitutional
23 special schools' educational mission that are not included in
24 the constitutional special schools' educational adequacy
25 standards, including performing arts centers, facilities for

.225724.3

1 athletic competition, school district administration and
2 facility and vehicle maintenance;

3 E. "council" means the public school capital outlay
4 council;

5 F. "education technology infrastructure" means the
6 physical hardware and services used to interconnect students,
7 teachers, school districts and school buildings necessary to
8 support broadband connectivity and remote learning as
9 determined by the council;

10 G. "fund" means the public school capital outlay
11 fund;

12 H. "maximum allowable gross square foot per
13 student" means a determination made by applying the established
14 maximum allowable square foot guidelines for educational
15 facilities based on type of school and number of students in
16 the current published New Mexico public school adequacy
17 planning guide to the department's current year certified first
18 reporting date membership;

19 I. "replacement cost per square foot" means the
20 statewide cost per square foot as established by the council;

21 J. "school district" includes state-chartered
22 charter schools, state-tribal education compact schools and the
23 constitutional special schools;

24 K. "school district population density" means the
25 population density on a per square mile basis of a school

1 district as estimated by the authority based on the most
2 current tract level population estimates published by the
3 United States census bureau; ~~and~~

4 L. "school district population density factor"
5 means zero when the school district population density is
6 greater than fifty people per square mile, six-hundredths when
7 the school district population density is greater than fifteen
8 but less than fifty-one persons per square mile and twelve-
9 hundredths when the school district population density is less
10 than sixteen persons per square mile; and

11 M. "state-tribal education compact schools" means
12 schools established pursuant to the State-Tribal Education
13 Compact Schools Act."

14 SECTION 10. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2023.

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