

employment preferences and compliance with the Open Meetings Act. SB13 proposes to amend the Public School Capital Outlay Act's (PSCOA) (Section 22-24-3 NMSA 1978) at paragraph J to add "state-tribal education compact schools" to the definition of "school district" and adds a new definition at paragraph M, to define "state-tribal education compact schools" as schools established pursuant to the provisions of the State-Tribal Compact Schools Act.

The effective date of the provisions of the SB13 shall take effect on July 1, 2025.

FISCAL IMPLICATIONS

Adding "state-tribal education compact schools" to the PSCOA, would allow the Public School Capital Outlay Council (PSCOC) to fund facility projects for these schools. However, SB13 does not appropriate funds for the state-tribal education compact schools and the PSCOA requires a local match in order for the PSCOC to fund either a new school or to fund the replacement, renovation or addition to a public school facility. SB13 does not define a mechanism to determine the local share calculation for a state-tribal compact school. Assuming the potential state-tribal education compact schools will be located on tribal land, the schools would not have a definable taxable base. Therefore, the schools may potentially have a 0% local share and be fully financed by the state, much like the Zuni school district. However, State-chartered charter schools are assigned the local share of the school district in which the charter school is geographically located. The same rule that applies to state-chartered charter schools could apply to the state-tribal education compact schools. Further, the state-tribal education compact schools would receive federal funding to operate and/or to fund construction projects, unlike public schools funded by the state. This creates an inequity and complication to determine a mechanism to calculate potential local and state funding for these schools

It is difficult to estimate the potential funding required for the State-tribal compact schools because the number of schools has not been identified. Based on current market conditions construction projects have escalated in cost and this cost escalation may be extremely burdensome on State-tribal compact schools.

SIGNIFICANT ISSUES

The New Mexico Legislature established the PSCOC and the PSFA to implement the PSCOA, as a result of the Zuni Lawsuit. In the Zuni Lawsuit, the litigants challenged the equity of the state capital outlay distribution. The Court ruled in favor of the litigants and held that public school capital outlay funding in New Mexico violated the State Constitution guarantee: establishment and maintenance of a "uniform system of free public schools sufficient for the education of all children of school age." As a result of this ruling, "the PSCOA was adopted to ensure that the "physical condition and capacity, educational suitability and technology infrastructure of all public school facilities in New Mexico meet an adequate level statewide and the design, construction and maintenance of school sites and facilities encourage, promote and minimize safe, functional and durable learning environments in order to for the state to meet its educational responsibilities" (Section 22-24-2 NMSA 1978). Consequently, a state-tribal education compact school would be subject to all of the school district funding requirements of the PSCOC to include requirements such as the Statewide Adequacy Standards (6.27.30 NMAC), which establish the minimum educational space and equipment needs for every school district in New Mexico.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

This bill would include another program for the Public School Facilities Authority to administer.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

State-Tribal Compact Schools will not be authorized.

AMENDMENTS

N/A