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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
57th Legislature, 1st Session, 2025

Bill Number	<u>SB234</u>	Sponsor	<u>Pinto</u>
Tracking Number	<u>.228977.1</u>	Committee Referrals	<u>SIRC/SFC</u>
Short Title	<u>Tribal Education Trust Fund</u>		
Analyst	<u>Davalos</u>	Original Date	<u>2/10/2025</u>
		Last Updated	<u>2/27/2025</u>

BILL SUMMARY

Synopsis of Bill

Senate Bill 234 (SB234) would appropriate \$100 million to create a tribal education trust fund that would make annual distributions to each New Mexico tribe, nation, or pueblo to use for any purpose outlined in Section 22-23A-2 NMSA 1978 of the Indian Education Act, or in an intergovernmental agreement (IGA) between a tribe, nation, or pueblo and the Public Education Department (PED).

SB234 would also create a Tribal Education Trust Fund Disbursement Formula Task Force within PED that would consult with the department to create an equitable disbursement formula that PED would use for the disbursement of the tribal education trust fund. SB234 would require the task force to be composed of nine members, including eight representatives from New Mexico's Indian tribes, nations, and pueblos, and the PED assistant secretary of Indian education who would serve on the task force in an advisory function. PED would be required to support the task force.

The tribal education trust fund would support New Mexico tribes, nations, and pueblos in sharing responsibility for the public education of Native American students in a manner compatible with tribal sovereignty.

The effective date of this bill is July 1, 2025.

FISCAL IMPACT

SB234 appropriates \$100 million from the general fund to the tribal education trust fund for expenditure in FY26 and subsequent fiscal years. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund. The House Appropriations and Finance Committee Substitute for House Bills 2 and 3 (HB2/HAFCS) does not allocate funding specifically for the proposed the tribal education trust fund.

The first distributions from the tribal education trust fund would be made to PED beginning in FY27 and would be the greater of \$12.5 million, or 5 percent of the fund's five-year average market

value. PED would distribute these funds to New Mexico tribes, nations, and pueblos through the equitable distribution formula developed in consultation with the Tribal Education Trust Fund Disbursement Formula Task Force with consideration to tribal needs and tribal size, including both a base and student count element for the disbursement formula.

SB234 would also allocate an annual administrative fee of the lesser of 1 percent of the tribal education trust fund or \$100 thousand to PED beginning in FY26 for the department to administer the tribal education trust fund. For these funds to PED, any unexpended or unencumbered balance remaining at the end of a fiscal year shall revert to the tribal education trust fund.

SB234 also contains provisions that “money in the tribal education trust fund may be expended in the event that general fund balances, including all authorized revenues and transfers to the general fund and balances in the general fund operating reserve, the appropriation contingency fund, the state-support reserve fund and the tax stabilization reserve, will not meet the level of appropriations authorized from the general fund for a fiscal year.” Only in that event, to avoid an unconstitutional deficit, SB234 notes the Legislature may appropriate from the tribal education trust fund to the general fund, but only in the amount necessary to meet general fund appropriations and only if the Legislature has also authorized transfers from the appropriation contingency fund, the general fund operating reserve, and the tax stabilization reserve that exhaust those fund balances.

SUBSTANTIVE ISSUES

Beginning in FY27, SB234 would require PED to disburse \$12.5 million or 5 percent of the tribal education trust funds on July 15 each year to each New Mexico tribe that has entered into an IGA with the department. To ensure each New Mexico tribe receives nonreverting disbursements on July 15 each year, PED, in consultation with the Tribal Education Trust Fund Disbursement Formula Task Force, would create an equitable disbursement formula with consideration to tribal needs and tribal size, including both a base and student count element for the disbursement formula. SB234 would require the task force to report its recommendations for a disbursement formula to the governor, the Legislature, and the PED secretary prior to July 1, 2026. SB235 would also require the task force to reconvene on July 1, 2031 to review and assess the equity and functionality of the disbursement formula and provide additional recommendations, if necessary, to the governor, the Legislature, and the PED secretary.

The bill could contribute to addressing issues raised in the consolidated *Martinez-Yazzie* education sufficiency lawsuit—which found that New Mexico’s public education system failed to provide a sufficient education for at-risk students, including English learners, Native American students, economically disadvantaged students, and students with disabilities—and noted the state had consistently failed to comply with the provisions of the Indian Education Act. Since the court’s findings, the Legislature has significantly increased appropriations to the Indian education fund, which rose from \$1.8 million in FY19 to \$20 million in FY24 and FY25. However, tribal education leaders have expressed concerns about the distribution and timing of Indian education funds. SB234 would create a trust fund and disbursement process for consistent funding to increase the role New Mexico’s tribes, nations, and pueblos have in the education of Native American students.

LESC presented a policy brief on [Understanding Tribal Education Sovereignty](#) in June 2024 to examine the concept of tribal education sovereignty. The objective was to enhance understanding and broaden perspectives regarding potential remedies to the *Martinez-Yazzie* education sufficiency lawsuit. The report highlighted supporting practices of tribal education sovereignty could lead to improved academic outcomes as [research](#) has shown the educational benefits of

culturally based education. SB234 would allocate targeted funding for Indian education and support initiatives that promote tribal education sovereignty.

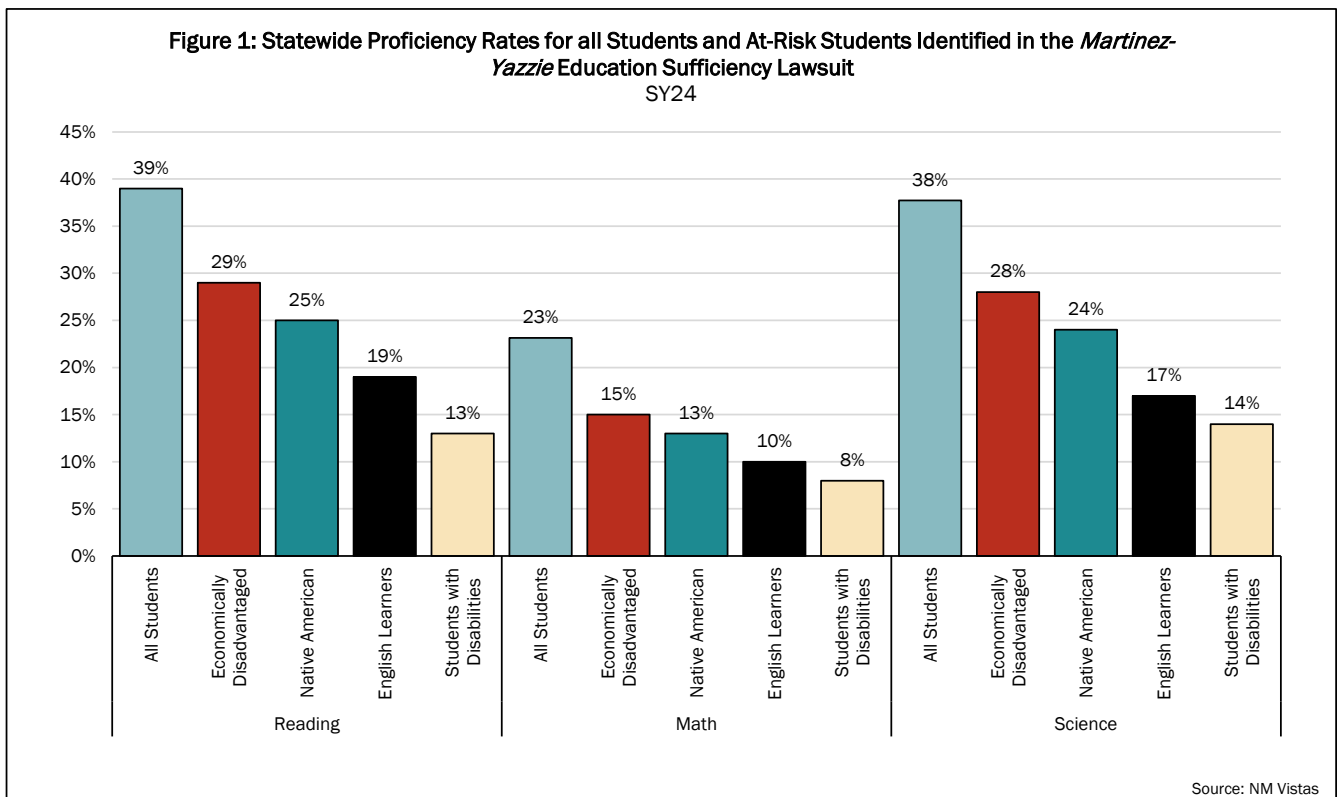
Tribal Education Trust Fund Disbursement Formula Task Force. SB234 creates a Tribal Education Trust Fund Disbursement Formula Task Force that would function from no later than December 1, 2025, until July 1, 2032. The task force would consist of the following members:

- PED assistant secretary of Indian education in an advisory role;
- Three representatives from the Navajo Nation;
- One representative from the Mescalero Apache Tribe;
- One representative from the Jicarilla Apache Nation;
- One representative from the southern pueblos;
- One representative from the northern pueblos;
- One representative from the western pueblos; and
- The chair from the Indian education advisory council.

Per SB234, members of the task force would receive per diem and mileage benefits, and no other compensation.

Achievement Outcomes for Native American Students. Historically, educational outcomes for Native American students have been consistently below their non-Native peers. **Figure 1: Statewide Proficiency Rates for all Students and At-Risk Students Identified in the *Martinez-Yazzie* Education Sufficiency Lawsuit** shows in school year 2023-2024 (SY24) proficiency rates for Native American students were as follows:

- In reading, 25 percent of Native American students scored proficient;
- In math, 13 percent of Native American students scored proficient; and
- In science, 24 percent of Native American students scored proficient.



ADMINISTRATIVE IMPLICATIONS

SB234 would require reporting between agencies from the following:

- **State Investment Council.** SB234 would require the state investment officer to report quarterly each year to LESC, the State Investment Council (SIC), and any other appropriate interim committees on the investments made using the tribal education trust fund.
- **New Mexico Tribes, Nations, and Pueblos.** New Mexico's tribes, nations, and pueblos would submit to PED a summary of their operating budget and plan for the fiscal year based on tribally determined goals and needs, including how they would contribute to meeting the purposes of the Indian Education Act. The bill would also require each New Mexico tribe to submit to PED a spending report and an assessment of program impact, student engagement, and student outcomes based on tribally determined criteria.
- **Public Education Department.** PED would report to LESC; any other appropriate interim committee; and New Mexico tribes, nations, and pueblos the total disbursements made from the tribal education trust fund for the previous fiscal year, a summary of tribal reports received, and a projection of available disbursements pursuant to the tribal education trust fund.
- **The Tribal Education Trust Fund Disbursement Formula Task Force.** The Tribal Education Trust Fund Disbursement Formula Task Force would report its recommendations to the governor, the Legislature, and the secretary of PED by July 1, 2026. SB234 would also mandate the task force to reconvene in 2031 to review and assess the equity and functionality of the disbursement formula and provide additional recommendations if necessary.

OTHER SIGNIFICANT ISSUES

The Consolidated *Martinez-Yazzie* Education Sufficiency Lawsuit. In 2019, the 1st Judicial Court issued a final judgement and order in the consolidated *Martinez-Yazzie* education sufficiency lawsuit, finding New Mexico's public education system failed to provide a constitutionally sufficient and adequate education for at-risk students, defined as English learners, Native American students, students with disabilities, and students from low-income families. The court pointed to low high school graduation rates, low student test scores, and high college remediation rates as indicators of how the state failed to meet its constitutional obligation to ensure all students are college, career, and civic ready. The court's findings suggested overall public school funding levels, financing methods, and PED oversight were deficient. As such, the court urged the state to provide sufficient resources, including instructional materials, properly trained staff, and curricular offerings necessary for providing a sufficient education for all at-risk students. Additionally, the court noted the state would need a system of accountability to measure whether the programs and services actually provided a sound basic education and to make certain local school districts spent funds provided by the state in a way that efficiently and effectively met the needs of at-risk students. However, the court stopped short of prescribing specific remedies and deferred decisions on how to achieve education sufficiency to the legislative and executive branches. SB234 would allocate targeted funding for Indian education and support initiatives that promote cultural sustaining education and tribal education sovereignty.

RELATED BILLS

Relates to House Bill 194, Cultural Expression at Graduation Ceremonies, which creates a new section under the Public School Code prohibiting public, private, and charter schools from

restricting Native American students from the right to wear culturally significant items during graduation or promotion ceremonies.

Relates to Senate Bill 13, State-Tribal Education Compact Schools Act, which creates the State-Tribal Education Compact Schools Act and authorizes PED to enter into state-tribal education compacts with Indian nations, tribes, or pueblos in New Mexico to establish language- and culture-based schools.

Relates to Senate Bill 163, Tribal Regalia at School Events, that would amend Section 22-5-4.3 NMSA 1978 to include prohibiting local school boards and governing bodies of charter schools from restricting Native American students from the right to wearing tribal regalia or objects of cultural significance.

SOURCES OF INFORMATION

- LESC Files
- New Mexico Indian Affairs Department (IAD)
- New Mexico Public Education Department (PED)
- New Mexico Regional Education Cooperatives Association (NMRECA)
- New Mexico State Investment Council (SIC)

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