

1 SENATE BILL 234

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Shannon D. Pinto and Martha Garcia

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10 AN ACT

11 RELATING TO PUBLIC EDUCATION; CREATING THE TRIBAL EDUCATION
12 TRUST FUND; PROVIDING REPORTING REQUIREMENTS; CREATING THE
13 TRIBAL EDUCATION TRUST FUND DISBURSEMENT FORMULA TASK FORCE;
14 MAKING APPROPRIATIONS.

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

17 SECTION 1. [NEW MATERIAL] TRIBAL EDUCATION TRUST FUND--
18 CREATED--PURPOSE--DISTRIBUTION--REPORTING REQUIREMENTS--PUBLIC
19 EDUCATION DEPARTMENT DUTIES--APPROPRIATION.--

20 A. The "tribal education trust fund" is created as
21 a nonreverting fund in the state treasury. The tribal
22 education trust fund shall be used for any purpose enumerated
23 in Section 22-23A-2 NMSA 1978 or in an intergovernmental
24 agreement between a New Mexico tribe and the public education
25 department. The fund consists of distributions,

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1 appropriations, gifts, grants and donations. Income from
2 investment of the fund shall be credited to the fund. Money in
3 the fund shall be expended only as provided in this section.

4 B. The state investment officer shall invest money
5 in the tribal education trust fund:

6 (1) in accordance with the prudent investor
7 rule set forth in the Uniform Prudent Investor Act; and

8 (2) in consultation with the tribal education
9 trust fund disbursement formula task force created pursuant to
10 Section 2 of this 2025 act.

11 C. The state investment officer shall report
12 quarterly to the legislative education study committee and the
13 state investment council on the investments made pursuant to
14 this section. Beginning in fiscal year 2026, a report shall be
15 submitted no later than October 1 each year to the legislative
16 education study committee and any other appropriate interim
17 committees.

18 D. Beginning in fiscal year 2027, a distribution
19 shall be made from the tribal education trust fund to the
20 public education department on July 1 of each year in which
21 adequate money is available in the tribal education trust fund
22 in an amount equal to the greater of twelve million five
23 hundred thousand dollars (\$12,500,000) or five percent of the
24 average of the year-end market values of the tribal education
25 trust fund for the preceding five calendar years; provided that

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1 the public education department shall distribute funding
2 received pursuant to this subsection according to the formula
3 developed pursuant to Section 2 of this 2025 act.

4 E. In addition to the distribution pursuant to
5 Subsection D of this section, money in the tribal education
6 trust fund may be expended in the event that general fund
7 balances, including all authorized revenues and transfers to
8 the general fund and balances in the general fund operating
9 reserve, the appropriation contingency fund, the state-support
10 reserve fund and the tax stabilization reserve, will not meet
11 the level of appropriations authorized from the general fund
12 for a fiscal year. In that event, to avoid an unconstitutional
13 deficit, the legislature may appropriate from the tribal
14 education trust fund to the general fund only in the amount
15 necessary to meet general fund appropriations for that fiscal
16 year and only if the legislature has authorized transfers from
17 the appropriation contingency fund, the general fund operating
18 reserve and the tax stabilization reserve that exhaust those
19 fund balances.

20 F. The public education department shall enter into
21 intergovernmental agreements with New Mexico tribes prior to
22 the disbursement of funds pursuant to Subsection G of this
23 section.

24 G. Beginning in fiscal year 2027, on July 15 of
25 each year, the public education department shall disburse money

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1 received pursuant to Subsection D of this section to each New
2 Mexico tribe that has entered into an intergovernmental
3 agreement with the department. Money disbursed to a New Mexico
4 tribe shall not revert and shall carry over to the next fiscal
5 year for continued use by the New Mexico tribe. Money
6 disbursed pursuant to this subsection shall be disbursed on
7 warrants signed by the secretary of finance and administration
8 pursuant to vouchers signed by the secretary of public
9 education or the secretary's designee.

10 H. The public education department shall create a
11 disbursement formula, in consultation with the tribal education
12 trust fund disbursement formula task force created pursuant to
13 Section 2 of this 2025 act, that ensures that a New Mexico
14 tribe receives nonreverting disbursements each year on July 15
15 that the New Mexico tribe may use to carry out the purposes of
16 the Indian Education Act.

17 I. Prior to April 15 of each year, each New Mexico
18 tribe shall submit to the public education department a summary
19 of its operating budget and plan for the ensuing fiscal year
20 based on tribally determined goals and needs. This summary
21 shall include a brief narrative describing how the budget and
22 plan will contribute to meeting the purposes of the Indian
23 Education Act.

24 J. Prior to October 15 of each year, each New
25 Mexico tribe shall submit to the public education department a

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1 spending report and an assessment of program impact, student
2 engagement and student outcomes based on tribally determined
3 criteria.

4 K. The public education department shall report to
5 the legislative education study committee, any other
6 appropriate interim committee and the New Mexico tribes no
7 later than November 15 of each year the total disbursements
8 made pursuant to Subsection G of this section for the previous
9 fiscal year, a summary of tribal reports received and a
10 projection of available disbursements pursuant to Subsection G
11 of this section in the following fiscal year.

12 L. The public education department may:

13 (1) establish procedures and adopt rules,
14 after formal consultation with the New Mexico tribes, as
15 required to administer and disburse money pursuant to
16 Subsection G of this section; and

17 (2) solicit, receive and report on tribal
18 education budgets, plans and reports pursuant to this section.

19 M. Nothing in this section shall interfere with the
20 sovereignty of federally recognized New Mexico tribes.

21 N. Beginning in fiscal year 2026 and in each
22 subsequent fiscal year, the lesser of one percent of the tribal
23 education trust fund or one hundred thousand dollars (\$100,000)
24 is appropriated from the tribal education trust fund to the
25 public education department for expenditure in the fiscal year

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1 in which it is appropriated to administer the tribal education
2 trust fund. Administrative costs include staff salaries and
3 expenses related to administration of the tribal education
4 trust fund. Any unexpended or unencumbered balance remaining
5 at the end of a fiscal year shall revert to the tribal
6 education trust fund.

7 O. As used in this section, "New Mexico tribe"
8 means an Indian nation, tribe or pueblo located wholly or
9 partially in New Mexico in which Native American students are
10 being educated in New Mexico.

11 SECTION 2. TEMPORARY PROVISION--TRIBAL EDUCATION TRUST
12 FUND DISBURSEMENT FORMULA TASK FORCE--CREATION--MEMBERSHIP--
13 DUTIES--REPORTING REQUIREMENTS.--

14 A. The "tribal education trust fund disbursement
15 formula task force" is created within the public education
16 department. The task force shall function from the date of its
17 appointment, which shall be no later than December 1, 2025,
18 until July 1, 2032. The assistant secretary of Indian
19 education of the public education department shall serve on the
20 task force in an advisory function. The task force shall be
21 supported by the public education department. The task force
22 consists of the following nine members:

23 (1) three representatives from the Navajo
24 Nation nominated by the leadership of New Mexico's Indian
25 nations, tribes and pueblos and appointed by the public

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1 education department's assistant secretary of Indian education;

2 (2) two representatives, one from the
3 Mescalero Apache Tribe and one from the Jicarilla Apache
4 Nation, nominated by the leadership of New Mexico's Indian
5 nations, tribes and pueblos and appointed by the public
6 education department's assistant secretary of Indian education;

7 (3) three representatives, one from the
8 southern pueblos, one from the northern pueblos and one from
9 the western pueblos, nominated by the leadership of New
10 Mexico's Indian nations, tribes and pueblos and appointed by
11 the public education department's assistant secretary of Indian
12 education; and

13 (4) the chair of the Indian education advisory
14 council.

15 B. The task force shall develop a disbursement
16 formula that the public education department shall use for the
17 disbursement of funds from the tribal education trust fund.
18 The task force shall ensure that the disbursement formula is
19 equitable for each Indian nation, tribe and pueblo located
20 wholly or in part in the state. The task force shall consider
21 tribal needs and tribal size, including both a base and student
22 count elements, for the disbursement formula.

23 C. The task force shall report its recommendations
24 for a disbursement formula to the governor, the legislature and
25 the secretary of public education prior to July 1, 2026.

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1 D. The task force shall reconvene on July 1, 2031
2 to review and assess the equity and functionality of the
3 disbursement formula and provide additional recommendations, if
4 necessary, to the governor, the legislature and the secretary
5 of public education prior to July 1, 2032.

6 E. Members of the task force may receive per diem
7 and mileage as provided for nonsalaried public officers in the
8 Per Diem and Mileage Act and shall receive no other
9 compensation, perquisite or allowance.

10 SECTION 3. APPROPRIATION.--One hundred million dollars
11 (\$100,000,000) is appropriated from the general fund to the
12 tribal education trust fund for expenditure in fiscal year 2026
13 and subsequent fiscal years to carry out the purpose of the
14 tribal education trust fund. Any unexpended or unencumbered
15 balance remaining at the end of a fiscal year shall not revert
16 to the general fund.

17 SECTION 4. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2025.

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