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SENATE BILL 482

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

INTRODUCED BY

Benny Shendo, Jr.

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 MOST 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.

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

SECTION 1. A new section of the Public School Code is

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1 enacted to read:

2 "[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
3 "State-Tribal Education Compact Schools Act"."

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

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

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

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

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

20 B. No later than six months after the effective
21 date of the State-Tribal Education Compact Schools Act, the
22 department shall establish an application and approval process,
23 procedures and time lines for the negotiation between the
24 department and the Indian nation, tribe or pueblo, approval or
25 disapproval and execution of state-tribal education compacts.

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1 C. The process described in Subsection B of this
2 section may be initiated by submission to the department of a
3 resolution by:

4 (1) the governing body of an Indian nation,
5 tribe or pueblo in the state of New Mexico; or

6 (2) the governing body of any of the schools
7 in New Mexico that are currently funded by the federal bureau
8 of Indian affairs, whether directly or through a contract or
9 compact with an Indian nation, tribe or pueblo or a tribal
10 consortium.

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

22 E. Within ninety days of receipt of a resolution
23 and application as provided in this section, the department
24 shall convene a government-to-government meeting for the
25 purpose of considering the resolution and application and

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1 initiating negotiations between the department and the Indian
2 nation, tribe or pueblo. The department and the Indian nation,
3 tribe or pueblo that is submitting the resolution and
4 application to create a state-tribal education compact school
5 shall determine the terms of the state-tribal education
6 compact.

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

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

18 G. The department shall promulgate rules for the
19 implementation of the State-Tribal Education Compact Schools
20 Act.

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

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

25 "[NEW MATERIAL] OPERATION OF STATE-TRIBAL EDUCATION
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1 COMPACT SCHOOLS--EXEMPTION FROM STATE STATUTES AND RULES--
2 REQUIREMENTS FOR A STATE-TRIBAL EDUCATION COMPACT SCHOOL--
3 PROHIBITION OF SECTARIAN PRACTICES--ENROLLMENT AND SCHOOL
4 CHOICE.--

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

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

16 C. Each state-tribal education compact school
17 shall:

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

22 (2) employ licensed school employees;

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
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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

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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. Nothing in this section

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1 requires a state-tribal education compact school to use the
2 statewide salary minimums pursuant to the School Personnel Act.
3 A state-tribal education compact school is eligible to apply
4 for state grants on the same basis 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 are
20 not as large as demand."

21 SECTION 8. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2023.