

LFC Requester:

Liu



**PUBLIC EDUCATION DEPARTMENT  
BILL ANALYSIS  
2023 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

Check all that apply:

Original  Amendment   
Correction  Substitute

Date Prepared: 02/20/23

Bill No: [SB482](#)

Agency Name  
and Code

Number: PED - 924

Sponsor: Shendo

Short STATE-TRIBAL

Person Writing Gregory Frostad

Title: EDUCATION COMPACT

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
None	None	N/A	NFA

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
None	None	None	N/A	NFA

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	None	None	None	N/A	N/A	NFA

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: Senate Bill 482 (SB482) creates the State-Tribal Education Compact Schools Act

(Act), which authorizes the Public Education Department (PED) to create state-tribal education compact schools – defined as schools that have been created by PED and an Indian nation, tribe, or pueblo located wholly or partially in New Mexico.

Per SB482, state-tribal education compacts are exempt from state statutes and rules applicable to school districts, state-chartered charter schools, local school boards or governing bodies of charter schools, except for statutes and rules made applicable to the Act and in the state-tribal education compacts created pursuant to the Act (see “Significant Issues” below).

The bill requires the state-tribal education compacts to have a term of five years.

The effective date of the bill is July 1, 2023.

### **FISCAL IMPLICATIONS**

The bill does not contain an appropriation.

### **SIGNIFICANT ISSUES**

There is ambiguity in the bill between the compacts and the compact schools that the compacts create. For example, Section 3(A) of the proposed bill states:

- The department is authorized to enter into state-tribal education compacts **for** language- and culture-based schools.

Above, the preposition ‘for’ is not clear enough to convey that the compacts have the power and purpose to create schools. It might better be written:

- The department is authorized to enter into state-tribal education compacts [to create jointly] language- and culture-based schools.

Also, there is ambiguity in the application of the minimum teacher salaries for compact schools. The proposed bill requires they meet at least the salary for the state school district in which a compact school would be located. At the same time the bill establishes the inapplicability of the School Personnel Act (SPA) (which sets minimum salaries) to compact schools, essentially excepting only teacher salaries. That provision reads:

- Salary amounts for licensed school employees shall be based on the salary amounts of the school district in which the state-tribal education compact school is located. Nothing in this section requires a state-tribal education compact school to use the statewide salary minimums pursuant to the School Personnel Act.

In addition to this ambiguity, it is unclear why the bill would want to exempt compact schools from the School Personnel Act. It could have negative consequences regarding the pay, recruitment, and retention of compact school personnel. An alternative might be to consider these salary matters subject to the compact negotiations, with a minimum applicable standard for all compact school personnel salaries.

Relatedly, it should be emphasized that Section 4 of the bill exempts compact schools from *all state statutes and rules* applicable to local school districts, state-chartered charter schools, local school boards and governing bodies of charter, except for those explicitly made applicable to compact schools in the act and in the individually executed compacts. This is an extremely broad immunity, including curricular and assessment standards, laws and rules regulating charter schools, and attendance laws, just to name a very few. Without application of curricular

standards and benchmarks and graduation requirements, it will be difficult to ensure that students attending these compact schools will be adequately prepared for college, career, and civic life. It may also impact student eligibility for other programs, such as dual credit or sports programs.

A final consideration here is the relatively short period of the state-tribal compacts, stated in Section 3(F) to be no more than five years. Does this mean that the state-tribal compact school resulting from the compact will only last five years, or have to be renewed every five years? Such a short period will foreseeably create significant uncertainty for the students, the tribal nations, and PED, in addition to incurring significant administrative and political burdens as the compacts near the end of their five year period.

## **PERFORMANCE IMPLICATIONS**

None.

## **ADMINISTRATIVE IMPLICATIONS**

The bill requires PED:

- no later than December 1, 2023, to establish an application process, including procedures and timelines, for PED and the Indian nation, tribe, or pueblo to negotiate the approval or disapproval and execution of state-tribal education compacts;
- within 90 days of receipt of a resolution and application, to convene a government-to-government meeting for the purpose of considering the resolution and application and initiating negotiations between PED and the Indian nation, tribe, or pueblo;
- promulgate rules for the implementation of the Act; and
- post each state-tribal education compact to PED's webpage.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to [HB140, Tribal Education Trust Fund](#), which would create the "tribal education trust fund" to be managed by the State Investment Council that will make annual distributions to PED for allocations to tribes.

Relates to [HB147, Indian Education Fund Distributions](#), which would establish requirements and parameters for distributions from the Indian Education Fund.

Relates to [HB149, Public Ed. Dept Native American Funding](#), which would establish annual revenue sources for the Tribal Education Trust Fund.

Relates to [HB280, American Indian Ed Tech Assistance Centers](#), which requires the Higher Education Department to establish two American Indian Education Technical Assistance centers to support tribal education departments and tribal communities.

## **TECHNICAL ISSUES**

Page 8 line 5, C. "Money received by a state-tribal education compact school from any source that remains in the school's accounts at the end of any budget year shall remain in the school's accounts for use by the school during subsequent fiscal years." Federal and State grants have their own guidelines regarding the term limits of funding.

## **OTHER SUBSTANTIVE ISSUES**

None.

**ALTERNATIVES**

None.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

None.

**AMENDMENTS**

None.