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

Bill Number	<u>SB13/aHAFC</u>	Sponsor	<u>Shendo</u>
Tracking Number	<u>.229399.1</u>	Committee Referrals	<u>SEC/SJC/SFC;HEC/HAFC</u>
Short Title	<u>State-Tribal Education Compact Schools Act</u>		
Analyst	<u>Davalos</u>	Original Date	<u>1/22/2025</u>
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BILL SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to Senate Bill 13 (SB13/aHAFC) adds language authorizing the Public Education Department (PED) to enter into up to five pilot State-Tribal Education Compacts (STEC) for language- and culture-based schools.

The amendment outlines eligibility requirements for STEC applications, specifying that each application would prioritize the distinct language groups of New Mexico's Native American languages, including Tiwa, Tewa, Towa, Keresan, Apache, Zuni, and Diné.

Additionally, the amendment enhances reporting requirements by mandating each STEC school submit an annual status and progress report to the LESC and the Legislative Finance Committee (LFC) by November 1.

Synopsis of Original Bill

Senate Bill 13 (SB13) creates the State-Tribal Education Compact Schools Act and authorizes the Public Education Department (PED) to enter into state-tribal education compacts with Indian nations, tribes, or pueblos in New Mexico to establish language- and culture-based schools.

SB13 requires PED to establish an application and approval process for state-tribal education compact schools by July 1, 2026. The governing body of an Indian nation, tribe, or pueblo may initiate the process by submitting a resolution and application to PED. Within 90 days of receiving a resolution and application, PED must convene a government-to-government negotiation process to determine the terms of the state-tribal education compact. SB13 specifies requirements for state-tribal education compact provisions, requiring PED to promulgate rules for the implementation of the State-Tribal Education Compact Schools Act, and requires PED to post each state-tribal education compact to its website.

SB13 also specifies the terms of operating a state-tribal education compact school, including creating a curriculum; conducting an educational program controlled and evaluated by the Indian

nation, tribe, or pueblo; and being language- and culture-based. SB13 exempts state-tribal education compacts from all state statutes and rules regarding the curriculum, assessment, and evaluation of a school except for Section 22-10A-5 NMSA 1978 (licensed school employee background checks), Section 22-10A-5.2 NMSA 1978 (applications for school employment), Section 22-10A-22 NMSA 1978 (termination and notifications provisions), nondiscrimination laws, audits by the Office of the State Auditor, and statutes and rules made applicable pursuant to the State-Tribal Education Compact Schools Act. The bill would make state-tribal education compact schools tuition free and would provide for the prioritization of tribal members and siblings of students already enrolled at the school when capacity is insufficient to enroll all who apply.

SB13 requires state-tribal education compact schools to report student enrollment to PED to receive state or federal funding. SB13 specifies funding for state-tribal education compact schools would be determined by the state equalization guarantee (SEG), the public school funding formula, and that funding cannot revert. Finally, SB13 allows state-tribal education compact schools to implement a policy of preference to tribal members in employment and to prioritize the admission of tribal members when capacity of the school's programs or facilities are not as large as demand.

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

FISCAL IMPACT

This bill does not contain an appropriation.

However, SB13/aHAFC would make proposed STECs eligible for state funding through the state equalization guarantee (SEG), the state's public school funding formula. This could create fiscal impacts for school districts and charter schools if enrollment in proposed STEC schools shifts enrollment away from current school districts and charter schools. It could also impact the overall SEG distribution if statewide school enrollment increases. However, the exact cost is currently indeterminate as it is unknown exactly how many students might transfer into proposed STEC schools.

The Public School Facilities Authority (PSFA), the agency responsible for staffing the Public School Capital Outlay Council (PSCOC), notes adding STEC schools to the Public School Capital Outlay Act would allow the PSCOC to fund facility projects for these schools. However, SB13/aHAFC does not allocate funding or establish a method for determining the local share requirement for these schools. PSFA notes because these schools may be located on tribal land without a taxable base, these schools might qualify for a 0 percent local share, with the state covering the full cost, similar to the Zuni School District. Alternatively, local share rules applied to state-chartered charter schools could be used, which would be the local share of the school district in which the charter school is geographically located. PSFA further explained that federal funding available to these schools for operations or construction adds complexity and potentially inequities in funding calculations. Additionally, PSFA reports estimating funding needs is challenging due to rising construction costs and the undefined number of possible schools.

PED notes SB13/aHAFC may impose additional responsibilities on the agency, potentially requiring additional FTE positions within the Indian Education Division. The House Appropriations and Finance Committee Substitute for House Bills 2 and 3 (HB2/HAFC3) does not include dedicated funding specifically for STEC schools.

HB2/HAFCS includes a \$20 million proposed appropriation from the general fund to the Indian Education Fund. Of this proposed appropriation, \$4.6 million is to be used to support tribal education departments. Additionally, HB2/HAFCS includes a \$30 million proposed appropriation to PED for New Mexico pueblos, tribes and nations for expenditure in FY26 through FY28 to support activities pursuant to the Indian Education Act.

SUBSTANTIVE ISSUES

[Research](#) suggests incorporating Native American languages and cultures into academic settings can improve educational engagement and outcomes, including improved retention, graduation rates, college attendance rates, and standardized test scores. SB13/aHAFC would require STEC applications to prioritize the distinct language groups of New Mexico's Native American languages, including Tiwa, Tewa, Towa, Keresan, Apache, Zuni, and Diné.

State-Tribal Education Compacts in Other States. According to the National Conference of State Legislatures (NCSL), Alaska and Washington both have STECs. Washington's STEC was created [through legislation](#) passed in 2013. The compact brings the Office of the Superintendent of Public Instruction and tribes, or already existing federal Bureau of Indian Education (BIE) schools, into an agreement that authorizes tribes to serve as proxy education agencies or school districts. There are currently eight tribes operating STEC schools in Washington; all [compact agreements](#) are available on Washington's Office of the Superintendent of Public Instructions website. In 2018, Evergreen State College completed a [case study](#) of three STEC schools and how the compacts improved outcomes for Native American students.

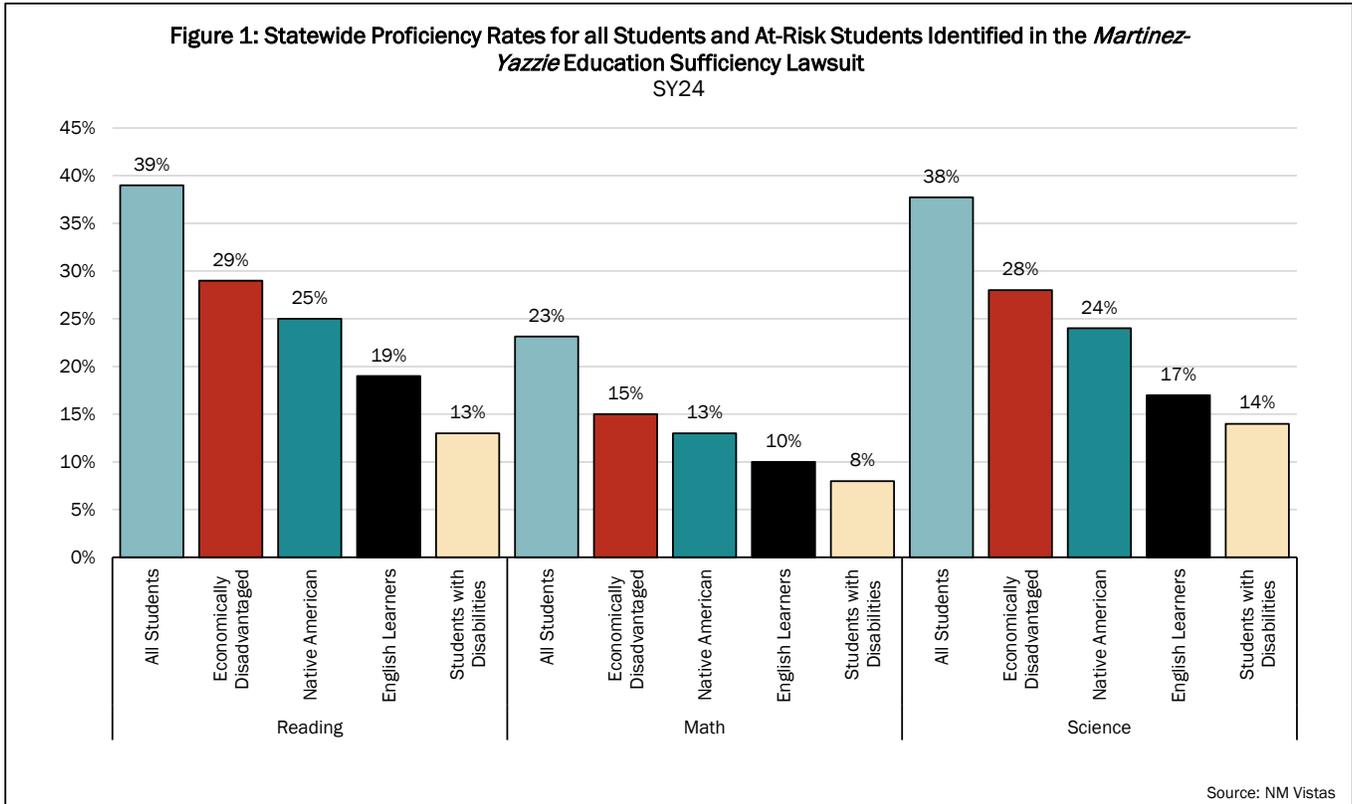
Funding for Compact Schools in Other States. In Alaska and Washington, similar funding mechanisms exist as those proposed by SB13/aHAFC, with Alaska currently considering financing its STEC schools using the state's foundation formula, and Washington already funding its STEC schools through its standard school funding formula.

- **Alaska:** In 2022, Alaska passed [legislation](#) authorizing its State Board of Education (SBOE) to negotiate with five tribal partners to establish demonstration STEC schools. In March 2023, the Alaska SBOE awarded \$100 thousand grants to each of the five tribal partners to carry out these negotiations, which began in April 2023 and concluded in [December 2023](#), addressing governance, funding, and staffing. The funding proposal emphasized the need for start-up funds and specified compact schools would be financed through the state's foundation formula, using the same calculation methods as other school districts without local contributions. In response to these findings, Alaska lawmakers are currently considering [proposed legislation](#) seeking authorization for STEC schools, including provisions for state aid and grants.
- **Washington:** As directed in state law in Washington, the Superintendent of Public Instruction (SPI) must allocate state [funding](#) for its STEC schools using the state's [general statutory school funding formula](#). Construction assistance is also provided to these schools through Washington's Small Districts and Tribal Compact Modernization grant with SPI approval.

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***

and *Yazzie Education Sufficiency Lawsuit*, located on the next page, 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

Public Education Department. PED noted that SB13/aHAFC may provide additional duties to PED that would require additional FTE for the Indian Education division. PED would be required to establish an application process that includes approval or disapproval of STECs and procedures and timelines for negotiations between the department and an Indian nation, tribe, or pueblo.

Government-to-Government. PED currently holds semiannual government-to-government meetings pursuant to subsection D of Section 22-23A-5 NMSA 1978. SB13/aHAFC would require the department to conduct government-to-government meetings within 90 days of receiving a resolution and application for a STEC school.

State-Tribal Education Compact Schools. SB13/aHAFC would require each STEC school to submit an annual status and progress report to LESC and to LFC by November 1.

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 proficiencies, and high college remediation rates as indicators of how the state is not meeting its constitutional obligation to ensure all students are college, career, and civics ready. The court’s findings suggested overall public school funding levels, financing methods, and PED oversight were deficient. As such, the court enjoined the state to provide sufficient resources, including instructional materials, properly trained staff, and curricular offerings, necessary for providing the opportunity for 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 the opportunity for a sound basic education and to assure that local school districts spent funds provided 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 branch instead. SB13/aHAFC could present an opportunity to help the state in fully responding to the *Martinez-Yazzie* lawsuit by allocating targeted funding, fostering culturally sustaining learning environments, and aligning teacher demographics with those of their students.

The *Zuni* Lawsuit: History and Current Status. In 1999, the 11th Judicial District Court issued its initial ruling in the *Zuni* lawsuit, finding New Mexico did not have an equalized system of public school capital outlay funding, especially for school districts with significant amounts of federal Indian reservation land, such as the plaintiffs, Zuni Public Schools and Gallup McKinley County Schools. The court found the lack of equity in capital revenues violated the New Mexico Constitution, which requires a “uniform system of public schools sufficient for the education of all school age.”

Between 1999 and 2004, the state designed a system of public school capital outlay based on “adequacy,” such that schools in the worst condition in the state would be eligible for funding through a standards-based process. This system has been revised since 2004 but is still primarily based on the values of equity, uniformity, sufficiency, and adequacy. Between 2004 and 2013, no filings were made in the *Zuni* lawsuit, and the case was administratively dismissed.

The plaintiffs reopened the *Zuni* lawsuit shortly after it was closed, and a trial to hear new evidence began in 2016. However, the plaintiffs never concluded their case-in-chief and the trial was put on hold for nearly three years. The trial finally concluded in May 2019, with proposed Findings of Fact and Conclusions of Law filed by both parties in October 2019. The 11th Judicial District Court’s Decision and Order was issued more than a year later in December 2020.

The court’s six-page verdict did not cite specific facts on which it was based, and did not address recent actions the state had taken to account for historic inequities in the state’s capital outlay funding system. These actions included a host of awards for the plaintiff school districts as a result of the standards- and systems-based awards process, as well as direct legislative appropriations for “outside of adequacy” spaces and teacher housing. Following the ruling, the legislature also eliminated the long-standing Impact Aid credit, returning more than \$80 million in annual revenue to Indian-impacted school districts.

The state filed a motion for the 11th Judicial District Court to reconsider its ruling given the new evidence in the case. The Court denied this motion. In July 2021, the state appealed the district court’s ruling to the New Mexico Supreme Court. The opening brief for the appeal was filed in August 2022. The [case](#) was remanded to the 6th Judicial District Court on December 2, 2024 with

“instructions to consider the constitutionality of the current statutory scheme, should the School Boards decide to pursue such litigation.”

SOURCES OF INFORMATION

- LESC Files
- Department of Health (DOH)
- Department of Justice (DOJ)
- High Education Department (HED)
- Indian Affairs Department (IAD)
- Public Education Department (PED)
- Public School Facilities Authority (PSFA)

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