

HOUSE BILL NO. 351

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE ZULKOSKY

Introduced: 2/22/22

Referred: Education, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act providing for the establishment of public schools through state-tribal**
2 **compacts; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 14.07.165(a) is amended to read:

5 (a) The board shall adopt

6 (1) statewide goals and require each governing body to adopt written
7 goals that are consistent with local needs;

8 (2) regulations regarding the application for and award of grants under
9 AS 14.03.125;

10 (3) regulations implementing provisions of AS 14.11.014(b);

11 (4) regulations requiring approval by the board before a charter school,
12 state boarding school, **state-tribal education compact school**, or a public school may
13 provide domiciliary services;

14 (5) [REPEALED]

1 * **Sec. 2.** AS 14.07.165(a), as amended by sec. 1 of this Act, is amended to read:

2 (a) The board shall adopt

3 (1) statewide goals and require each governing body to adopt written
4 goals that are consistent with local needs;

5 (2) regulations regarding the application for and award of grants under
6 AS 14.03.125;

7 (3) regulations implementing provisions of AS 14.11.014(b);

8 (4) regulations requiring approval by the board before a charter school,
9 state boarding school, [STATE-TRIBAL EDUCATION COMPACT SCHOOL,] or a
10 public school may provide domiciliary services;

11 (5) [REPEALED]

12 * **Sec. 3.** AS 14.16 is amended by adding new sections to read:

13 **Article 3. State-Tribal Education Compact Schools.**

14 **Sec. 14.16.300. State-tribal education compacts.** (a) The commissioner may
15 enter into compacts with federally recognized tribes or tribal organizations in the state
16 for the establishment of state-tribal education compact schools. The commissioner
17 shall prescribe an application procedure for the approval of compacts consistent with
18 AS 14.16.300 - 14.16.350.

19 (b) A compact entered into under this section may include provisions relating
20 to

21 (1) compliance;

22 (2) notices of violation;

23 (3) dispute resolution, which may include nonjudicial processes such
24 as mediation;

25 (4) recordkeeping and auditing;

26 (5) the delineation of roles and responsibilities;

27 (6) the term of the compact and whether the compact is renewable; and

28 (7) termination of the compact.

29 **Sec. 14.16.310. Applicability of education laws.** A state-tribal education
30 compact school is a public school of the state. The following provisions apply with
31 respect to the operation and management of a state-tribal education compact school as

1 if the school were a school district:

2 (1) requirements relating to school district operations:

3 (A) regulations adopted by the board under authority of
4 AS 14.07.020(a) that are applicable to school districts and their schools, unless
5 the board specifically exempts state-tribal education compact schools from
6 compliance with a regulation;

7 (B) AS 14.12.150 (authorizing school districts to establish and
8 participate in the services of a regional resource center);

9 (C) AS 14.14.050 (imposing the requirement of an annual
10 audit);

11 (D) AS 14.14.110 (authorizing cooperation with other school
12 districts);

13 (E) AS 14.14.140(b) (establishing a prohibition on employment
14 of a relative of the chief school administrator), except that members of the
15 immediate family of a chief school administrator may only be employed by the
16 chief school administrator upon written approval of the commissioner;

17 (F) AS 14.18 (prohibiting discrimination based on sex or race
18 in public education);

19 (2) requirements relating to the public school funding program and the
20 receipt and expenditure of that funding:

21 (A) AS 14.17.500 (relating to student count estimates);

22 (B) AS 14.17.505 (relating to school operating fund balances);

23 (C) AS 14.17.600 - 14.17.910 (setting out the procedure for
24 payment of public school funding and imposing general requirements and
25 limits on money paid).

26 **Sec. 14.16.320. Admission.** (a) A state-tribal education compact school may
27 not charge tuition to attend the compact school, except with respect to a person over
28 school age under AS 14.03.080(b).

29 (b) A state-tribal education compact school may not limit admission on a basis
30 other than age group, grade level, or capacity and shall otherwise enroll all eligible
31 students who apply for admission. If capacity is insufficient to enroll all eligible

1 students who apply for admission, a state-tribal education compact school may
2 prioritize the enrollment of members of the tribe that is a party to the compact and
3 siblings of students already enrolled in the school.

4 **Sec. 14.16.330. Financial provisions applicable to a state-tribal education**
5 **compact school.** (a) AS 14.17.445 applies to the calculation of public school funding
6 payable for operation of a state-tribal education compact school.

7 (b) In the transmittals required by AS 37.07.060 and 37.07.062, the governor
8 shall request amounts for the expenses of construction, rehabilitation, and
9 improvement of the facilities of a state-tribal education compact school.

10 (c) Unless specified otherwise in any appropriation bill, AS 37.25.010 does
11 not apply to an appropriation made for the purposes of (a) of this section.

12 (d) AS 37.25.020 applies to money appropriated for the purposes of (b) of this
13 section.

14 (e) For purposes of application for and receipt of federal aid to education, a
15 state-tribal education compact school constitutes a local educational agency. A
16 compact school may accept federal funds through federal programs. Nothing in this
17 section prohibits the department from receiving federal funds for state-based functions
18 that support the provisions of AS 14.16.300 - 14.16.350.

19 **Sec. 14.16.340. Employment.** A state-tribal education compact school may
20 adopt a policy that gives employment preference to members of federally recognized
21 tribes or tribal organizations.

22 **Sec. 14.16.350. Annual report.** The commissioner, after consultation with the
23 state-tribal education compact schools with which the commissioner has compacted,
24 shall annually complete a report relating to state-tribal education compact schools. The
25 commissioner shall submit the report to the senate secretary and the chief clerk of the
26 house of representatives and notify the legislature that the report is available. The
27 report must provide

- 28 (1) the number of state-tribal education compact schools;
29 (2) a description of each compact entered into under AS 14.16.300;
30 (3) information on the attendance and performance of students enrolled
31 in each compact school, including information on standards-based assessments or tests

1 required by the state or federal government;

2 (4) information on standards-based assessments developed by the
3 compact school;

4 (5) recommendations for effective administration of standards-based
5 assessments; and

6 (6) recommendations for modifying, continuing, or discontinuing
7 compacts under the provision of AS 14.16.300 - 14.16.350.

8 * **Sec. 4.** AS 14.17.300(a) is amended to read:

9 (a) The public education fund is established. The fund consists of
10 appropriations for

11 (1) distribution to school districts, to the state boarding school, to a
12 state-tribal education compact school, and for centralized correspondence study
13 under this chapter; and

14 (2) transportation of pupils under AS 14.09.010.

15 * **Sec. 5.** AS 14.17.300(a), as amended by sec. 4 of this Act, is amended to read:

16 (a) The public education fund is established. The fund consists of
17 appropriations for

18 (1) distribution to school districts, to the state boarding school, [TO A
19 STATE-TRIBAL EDUCATION COMPACT SCHOOL,] and for centralized
20 correspondence study under this chapter; and

21 (2) transportation of pupils under AS 14.09.010.

22 * **Sec. 6.** AS 14.17.400(b) is amended to read:

23 (b) If the amount appropriated to the public education fund for purposes of
24 this chapter is insufficient to meet the amounts authorized under (a) of this section for
25 a fiscal year, the department shall reduce pro rata each district's basic need by the
26 necessary percentage as determined by the department. If the basic need of each
27 district is reduced under this subsection, the department shall also reduce state funding
28 for centralized correspondence study, [AND] the state boarding school, and state-
29 tribal education compact schools by the same percentage.

30 * **Sec. 7.** AS 14.17.400(b), as amended by sec. 6 of this Act, is amended to read:

31 (b) If the amount appropriated to the public education fund for purposes of

1 this chapter is insufficient to meet the amounts authorized under (a) of this section for
 2 a fiscal year, the department shall reduce pro rata each district's basic need by the
 3 necessary percentage as determined by the department. If the basic need of each
 4 district is reduced under this subsection, the department shall also reduce state funding
 5 for centralized correspondence study and [,] the state boarding school [, AND
 6 STATE-TRIBAL EDUCATION COMPACT SCHOOLS] by the same percentage.

7 * **Sec. 8.** AS 14.17 is amended by adding a new section to read:

8 **Sec. 14.17.445. State funding for state-tribal education compact schools.**

9 (a) Except as provided in AS 14.17.400(b), funding for state-tribal education compact
 10 schools established under AS 14.16.300 includes an allocation from the public
 11 education fund in an amount calculated by

12 (1) determining the ADM of state-tribal education compact schools by
 13 applying the school size factor to the student count as described in AS 14.17.450;

14 (2) multiplying the number obtained under (1) of this subsection by the
 15 special needs factor in AS 14.17.420(a)(1) and the secondary school vocational and
 16 technical instruction funding factor set out in AS 14.17.420(a)(3) and multiplying that
 17 product by the base student allocation; and

18 (3) multiplying the product determined under (2) of this subsection by
 19 the district cost factor that is applicable to calculation of the state aid for the adjacent
 20 school district under AS 14.17.460.

21 (b) In addition to the funding calculated under (a) of this section, state-tribal
 22 education compact schools are eligible for intensive services funding under
 23 AS 14.17.420(a)(2).

24 * **Sec. 9.** AS 14.18.110 is amended by adding a new subsection to read:

25 (b) Nothing in this chapter prohibits state-tribal education compact schools
 26 established under AS 14.16.300 from prioritizing the employment of members of
 27 federally recognized tribes or the admission of members of the tribe that is a party to
 28 the compact if capacity is insufficient to enroll all eligible students who apply for
 29 admission.

30 * **Sec. 10.** AS 14.30.010(b) is amended to read:

31 (b) This section does not apply if a child

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; or

(C) attendance at an educational program operated in compliance with AS 14.45.100 - 14.45.200 by a religious or other private school;

(2) attends a school operated by the federal government;

(3) has a physical or mental condition that a competent medical authority determines will make attendance impractical;

(4) is in the custody of a court or law enforcement authorities;

(5) is temporarily ill or injured;

(6) has been suspended or expelled under AS 14.03.160 or suspended or denied admittance under AS 14.30.045;

(7) resides more than two miles from either a public school or a route on which transportation is provided by the school authorities, except that this paragraph does not apply if the child resides within two miles of a federal or private school that the child is eligible and able to attend;

(8) is excused by action of the school board of the district at a regular meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting;

(9) has completed the 12th grade;

(10) is enrolled in

(A) a state boarding school established under **AS 14.16.010;**
[AS 14.16; OR]

(B) a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program; **or**

(C) a state-tribal education compact school established under AS 14.16.300;

(11) is equally well-served by an educational experience approved by the school board as serving the child's educational interests despite an absence from school, and the request for excuse is made in writing by the child's parents or guardian and approved by the principal or administrator of the school that the child attends;

(12) is being educated in the child's home by a parent or legal guardian.

* **Sec. 11.** AS 14.30.010(b), as amended by sec. 10 of this Act, is amended to read:

(b) This section does not apply if a child

(1) is provided an academic education comparable to that offered by the public schools in the area, either by

(A) attendance at a private school in which the teachers are certificated according to AS 14.20.020;

(B) tutoring by personnel certificated according to AS 14.20.020; or

(C) attendance at an educational program operated in compliance with AS 14.45.100 - 14.45.200 by a religious or other private school;

(2) attends a school operated by the federal government;

(3) has a physical or mental condition that a competent medical authority determines will make attendance impractical;

(4) is in the custody of a court or law enforcement authorities;

(5) is temporarily ill or injured;

(6) has been suspended or expelled under AS 14.03.160 or suspended or denied admittance under AS 14.30.045;

(7) resides more than two miles from either a public school or a route on which transportation is provided by the school authorities, except that this paragraph does not apply if the child resides within two miles of a federal or private school that the child is eligible and able to attend;

(8) is excused by action of the school board of the district at a regular

meeting or by the district superintendent subject to approval by the school board of the district at the next regular meeting;

(9) has completed the 12th grade;

(10) is enrolled in

(A) a state boarding school established under **AS 14.16; or**
[AS 14.16.010;]

(B) a full-time program of correspondence study approved by the department; in those school districts providing an approved correspondence study program, a student may be enrolled either in the district correspondence program or in the centralized correspondence study program; [OR

(C) A STATE-TRIBAL EDUCATION COMPACT SCHOOL
ESTABLISHED UNDER AS 14.16.300;]

(11) is equally well-served by an educational experience approved by the school board as serving the child's educational interests despite an absence from school, and the request for excuse is made in writing by the child's parents or guardian and approved by the principal or administrator of the school that the child attends;

(12) is being educated in the child's home by a parent or legal guardian.

* **Sec. 12.** AS 14.30.350(8) is amended to read:

(8) "school district" means a borough school district, a city school district, a regional educational attendance area, a state boarding school, **a state-tribal education compact school**, and the state centralized correspondence study program;

* **Sec. 13.** AS 14.30.350(8), as amended by sec. 12 of this Act, is amended to read:

(8) "school district" means a borough school district, a city school district, a regional educational attendance area, a state boarding school, [A STATE-TRIBAL EDUCATION COMPACT SCHOOL,] and the state centralized correspondence study program;

* **Sec. 14.** AS 14.43.849(5) is amended to read:

(5) "school district" means a borough school district, a city school district, a regional educational attendance area, **a state-tribal education compact school**, and a state boarding school.

1 * **Sec. 15.** AS 14.43.849(5), as amended by sec. 14 of this Act, is amended to read:

2 (5) "school district" means a borough school district, a city school
3 district, a regional educational attendance area, [A STATE-TRIBAL EDUCATION
4 COMPACT SCHOOL,] and a state boarding school.

5 * **Sec. 16.** AS 14.43.915(f)(2) is amended to read:

6 (2) "district" has the meaning given in AS 14.17.990, but also includes
7 a state boarding school under AS 14.16.010 and a state-tribal education compact
8 school under AS 14.16.300 [AS 14.16].

9 * **Sec. 17.** AS 14.43.915(f)(2), as amended by sec. 16 of this Act, is amended to read:

10 (2) "district" has the meaning given in AS 14.17.990, but also includes
11 a state boarding school under AS 14.16 [AS 14.16.010 AND A STATE-TRIBAL
12 EDUCATION COMPACT SCHOOL UNDER AS 14.16.300].

13 * **Sec. 18.** AS 21.96.070(f)(1) is amended to read:

14 (1) "school district" means a borough school district, a city school
15 district, a regional educational attendance area, a state-tribal education compact
16 school, or a state boarding school;

17 * **Sec. 19.** AS 14.16.300, 14.16.310, 14.16.320, 14.16.330, 14.16.340, 14.16.350,
18 AS 14.17.445, and AS 14.18.110(b) are repealed.

19 * **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to
20 read:

21 TRANSITION. (a) The Department of Education and Early Development and the state
22 Board of Education and Early Development may adopt regulations necessary to implement
23 the changes made by this Act. The regulations take effect under AS 44.62 (Administrative
24 Procedure Act), but a regulation may not take effect before the effective date of the relevant
25 provision of this Act implemented by the regulation.

26 (b) Not later than one year after the effective date of this Act, the commissioner of
27 education and early development shall establish an application and approval process and
28 timelines for the negotiation, approval or disapproval, and execution of state-tribal education
29 compacts.

30 * **Sec. 21.** Sections 2, 5, 7, 11, 13, 15, 17, and 19 of this Act take effect June 30, 2028.