

Formatting Key:

Black is the Bill Language

Purple is Governance Statutory Framework Language from the Legislative Report

Green is Funding Statutory Framework Language from the Legislative Report

Rust is Teachers and Personnel Statutory Framework Language from the Legislative Report

Blue is notes

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01 "An Act relating to demonstration state-tribal education compacts; relating to
02 demonstration state-tribal education compact schools; and providing for an effective
03 date."
04 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
05 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
06 to read:
07 LEGISLATIVE INTENT. It is the intent of the legislature that the legislature
08 reevaluate the establishment of demonstration state-tribal education compacts, as provided
09 under this Act, in seven years.

Term of STEC agreement: A TCPS district has up to three years to establish a TCPS and begin operations. The initial pilot phase by the TCPS districts shall be for five years. Subsequent STEC agreements shall be for a term of ten years. There will be an annual STEC compact negotiation between DEED and the STEC Tribes in both the pilot phase and subsequent terms.

10 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:
12 AUTHORIZATION OF DEMONSTRATION STATE-TRIBAL EDUCATION
13 COMPACTS. (a) The commissioner of education and early development is authorized to
14 enter into demonstration state-tribal education compacts with participating tribes.

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01 (b) A demonstration state-tribal education compact must follow a template that
02 contains substantially similar or equivalent terms applicable to each participating tribe and
03 must include provisions regarding
04 (1) the five-year term of the compact;
05 (2) roles and responsibilities of the parties;
06 (3) legal, funding, and accounting compliance requirements;
07 (4) recordkeeping and auditing;
08 (5) notices of violation;
09 (6) compact termination;
10 (7) dispute resolution;
11 (8) express limited waiver of tribal sovereign immunity for the services
12 provided under the compact;
13 (9) limitation of liability;
14 (10) insurance; and

15 (11) mandatory participation in the teachers' retirement system ([AS 14.25](#)), the
16 public employees' retirement system ([AS 39.35](#)), or both.

Retirement Plan: TCPS district employees may choose to enroll in either the Tribe's retirement system or the teacher retirement plan established in AS 14.25. If an employee chooses to participate in the TRS or PERS system, the TCPS district, as the employer, must contribute to the TRS or PERS system as outlined in AS 14.25.009 – 14.25.200 (*Teachers' Defined Benefit Retirement System*). TCPS district employees must adhere to the requirements in AS 14.25.009, *et seq.* for employers of TRS or PERS employees.

17 (c) A demonstration state-tribal education compact authorized by this section must
18 take effect on or before June 30, 2028.

19 (d) In this section, "participating tribe" means the federally recognized tribes and
20 tribal organizations that participated in negotiations under sec. 1, ch. 43, SLA 2022.

21 * **Sec. 3.** The uncoded law of the State of Alaska is amended by adding a new section to
22 read:

23 OPERATION OF DEMONSTRATION STATE-TRIBAL EDUCATION COMPACT

24 SCHOOLS. (a) A demonstration state-tribal education compact school must operate in
25 accordance with the terms of its compact executed under sec. 2 of this Act.

26 (b) A demonstration state-tribal education compact school is exempt from all state
27 statutes and regulations applicable to school districts and school district boards of directors,
28 except those statutes and regulations made applicable under this Act, in a demonstration state-
29 tribal education compact executed under sec. 2 of this Act, or in legislation enacted or
30 regulations adopted after the effective date of this Act.

31 (c) The following provisions apply to the operation and management of a

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01 demonstration state-tribal education compact school as if the school were a school district:

Definitions: AS 14.17.990(2) should be updated to include TCPS school districts in the definition of "district."

02 (1) requirements relating to school district operations:

03 (A) [AS 14.03.016](#) - 14.03.050 (regarding parental rights and
04 compulsory attendance, and defining the school term, day in session, and school
05 holidays);

A parent's right to direct the education of the parent's child: TCPS governing body and TCPS districts will be included in the definition of a "local school board" under AS 14.03.290(3) and "school district" under AS 14.30.350(8). This inclusion means that parents retain the right to direct the education of the parent's child. A TCPS district governing body is subject to meeting requirements of AS 14.03.016 (*A parent's right to direct the education of the parent's child*).

School term: As a local educational agency, the TCPS district governing body has the authority to set up its own school calendar subject to AS 14.03.030.

- 06 (B) [AS 14.03.072](#) (regarding literacy and early reading information);
07 (C) [AS 14.03.083](#), 14.03.090 - 14.03.127, 14.03.135, and 14.03.140
08 (miscellaneous provisions applicable to school district operations);

School and district accountability: A TCPS district will be included in the definition of “district” under AS 14.03.123 (*School and district accountability*).

- 09 (D) [AS 14.09.010](#) - 14.09.030 (relating to transportation of students);

Pupil Transportation: A TCPS governing body will have the authority and associated funding to determine how to spend its pupil transportation dollars under AS 14.09.010 as all other school districts do.

Transportation of students: TCPS districts shall receive the same level of funding in AS 14.09.010 as other districts that is based on the average daily membership defined in AS 14.17.990. A TCPS district must follow AS 14.09.030 (*School Buses*) to meet the required safety training.

- 10 (E) [AS 14.14.050](#) (imposing the requirement of an annual audit

Annual audit: A TCPS district, like other school districts in the state, shall, before October 1 of each year, provide an audit for the school year ending the preceding June 30. The required district financial audit requires contracting with an auditor who has no personal interest, direct or indirect, in connection to the fiscal affairs of the TCPS district. The audit shall comply with AS 14.14.050.

- 11 (F) [AS 14.14.110](#) (authorizing cooperation with other school districts);

Cooperation with other school districts: A TCPS district may cooperate with other school districts or DEED to provide efficient and economical education services per AS 14.14.110. TCPS districts would be eligible to receive a one-time grant per AS 14.14.115 that encourages cooperative arrangements between school districts to provide for more efficient and economical administrative or educational services. TCPS districts will follow sick leave and sick leave transfer to interface with other districts of the state per AS 14.14.107.

- 12 (G) [AS 14.18](#) (prohibiting discrimination based on sex in public
13 education);
14 (H) [AS 14.33.010](#) - 14.33.250 (relating to school safety and
15 discipline);
16 (I) regulations adopted by the state Board of Education and Early
17 Development to implement this paragraph that are applicable to school districts and
18 their schools;
19 (2) requirements relating to the public school funding program and the receipt
20 and expenditure of that funding: [AS 14.17.500](#) - 14.17.910 (relating to student count

21 estimates, relating to school operating fund balances, and setting out the procedure for
22 payment of public school funding and imposing general requirements and limits on money
23 paid);
24 (3) requirements relating to teacher employment and retirement:
25 (A) [AS 14.14.105](#) and 14.14.107 (relating to sick leave);
26 (B) [AS 14.20.010](#) - 14.20.040 (relating to teacher certification), except
27 as provided in (d) of this section;

Teacher Certification Requirement: To be employed at a TCPS, teachers must hold a valid Tribal Compacting (TC) teacher certificate issued by the TCPS district and licensed by DEED.

Recognition of Certification of TC Teachers: DEED shall issue a TC teacher licensure to a person who meets the requirements of this section.

To be certified and licensed, a TCPS teacher must:

- a) Complete or be enrolled in a TC teacher preparation program, or meets the certification requirements approved by the TCPS district with which the applicant is seeking employment;
- b) Hold a valid TC teacher certificate issued by the TCPS district;
- c) Submit fingerprints to DEED to be used for criminal history background check and be found by the department to be suitable for employment as a teacher under AS 14.20.020(f) (*Requirements for issuance of certificate; fingerprints*); and
- d) Pay the fee required by DEED under AS 14.20.020(c).

Requirements for Issuance of Certificate: Before teaching students, a teacher certificated under this section must complete coursework, training, or evaluation requirements established by the TCPS district, or be enrolled in the TC teacher preparation program approved by the Tribe and DEED. Each TC teacher preparation program will provide educational programming and curricula that addresses the knowledge, skills, and dispositions that reflect the highest abilities and qualities of the teaching profession (4 AAC 04.200(a-e)).

Statement of Teacher Preparation Program Certification: Each TCPS district shall file with DEED a statement articulating how the TC teacher preparation program prepares TCPS teachers to educate students to meet the above certification requirements. This statement shall be attached to the STEC agreement for that particular TCPS district.

Evaluation of Training and Experience: In evaluating an applicant for a position in a TCPS district, each district shall give preference to those applicants who demonstrate training or experience that establishes that the applicant is likely to be sensitive to the traditions and cultures of the student population.

Employee Contract: TCPS employees are not state employees and are hired by the entity that operates the TCPS district.

Employee Evaluation: A TCPS district governing body shall adopt an employee evaluation policy and procedure to periodically review TCPS employees. When issuing an employee evaluation, the governing body shall consider information from students, parents, community members, classroom teachers, and administrators.

Duties of the Professional Teaching Practices Commission (PTPC): The PTPC shall consider the TC teaching certification criteria on file with DEED when considering whether to suspend or revoke the certificate of a teaching professional currently employed by a TCPS.

- 28 (C) [AS 14.20.095](#) - 14.20.215 (relating to the employment and tenure
29 of teachers);
30 (D) [AS 14.25](#) (provisions regarding the teachers' retirement system);

Participation by special education services agency employees: An employee of a TCPS may participate in the system under this chapter if the employee possesses or is eligible to possess a teacher certificate under AS 14.20, 20 U.S.C. 1412, and any other applicable state or federal law.

- 31 (E) [AS 23.40.070](#) - 23.40.260 (authorizing collective bargaining by

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- 01 certificated employees), except with regard to teachers who are administrators;
02 (4) requirements relating to students and educational programs:
03 (A) [AS 14.30.180](#) - 14.30.350 (relating to educational services for
04 children with disabilities);
05 (B) [AS 14.30.355](#) and 14.30.356 (relating to sexual abuse and sexual
06 assault awareness and prevention);
07 (C) [AS 14.30.360](#) - 14.30.370 (establishing health education program
08 standards);
09 (D) [AS 14.30.400](#) (relating to bilingual-bicultural education).
10 (d) Upon receipt of a request from a representative of a demonstration state-tribal
11 education compact school in which an applicant for a teacher certificate will be teaching,
12 (1) the state Board of Education and Early Development may waive the
13 requirements of [AS 14.20.020](#)(b) or 14.20.022(b) to allow an individual with specialized
14 knowledge relevant to the tribe to obtain a teacher certificate or subject-matter expert limited
15 teacher certificate; and
16 (2) the Department of Education and Early Development may issue a teacher
17 certificate to a person qualified under [AS 14.20.023](#)(b) or 14.20.025; a teacher certificate
18 issued under this paragraph does not require a request from the school board of the district or
19 regional educational attendance area in which a demonstration state-tribal education compact
20 school is located.
21 (e) A demonstration state-tribal education compact school may not
22 (1) engage in sectarian practices in the school's educational program,
23 admissions, employment policies, or operations;
24 (2) charge tuition; or
25 (3) restrict enrollment or school choice options available under state law.

26 (f) Unless a demonstration state-tribal education compact school is established as a
27 correspondence school, the physical location of the school must be within the boundary of a
28 school district that the state Board of Education and Early Development consulted with under
29 sec. 1(c), ch. 43, SLA 2022.

Correspondence study programs: TCPS districts can operate local and statewide correspondence study programs.

Definitions: The definition in AS 14.60.010(1) should be updated to clarify that TCPS' are a type of "attendance area" beyond the geographic area determination of DEED. A TCPS "attendance area" is based on a Tribe's governmental status and is not tied to a "geographic area" like the existing district models. The definition in AS 14.60.010(6) will be updated to include TCPS governing boards as a "governing body."

30 (g) For purposes of [AS 14.25](#) and participation in the teachers' retirement system,
31 (1) a demonstration state-tribal education compact school is an "employer" as

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01 defined in [AS 14.25.220](#) and 14.25.590; and

Employee Contract: TCPS employees are not state employees and are hired by the entity that operates the TCPS district.

02 (2) a certificated teacher employed by a demonstration state-tribal education
03 compact school is a member of the plan.

04 (h) Unless the context requires otherwise, the provisions of [AS 14](#) made applicable to
05 a federally recognized tribe or tribal organization under this Act or a demonstration state-
06 tribal education compact school apply to

07 (1) the tribe or tribal organization as a "school district" as defined in
08 [AS 14.30.350](#);

Regional resource center: TCPS districts may join together to establish a TCPS regional resource center. TCPS districts may join both a TCPS regional resource center and another existing regional resource center simultaneously. For purposes of AS 14.12.150 – 14.12.180, TCPS districts shall be considered school districts.

TCPS governing body association: TCPS governing bodies may form their own school governing body association. Forming and joining a TCPS governing body association does not preclude TCPS governing bodies from being members of the Association of Alaska School Boards.

Insurance tax education credit and Income tax credit: The definition of school district will be updated to include TCPS districts in AS 21.96.070 and AS 43.20.014.

Alaska Performance Scholarship: Students who attend TCPS will be eligible for the Alaska Performance Scholarship.

Required Training: A TCPS district shall train each teacher, administrator, counselor, and specialist on the needs of individual students who have alcohol or drug-related disabilities. The training must utilize the best available educational technology and include an overview of medical and psychological characteristics associated with alcohol or drug-related disabilities, family issues, and the specific educational needs of students with alcohol or drug-related disabilities. A TCPS district shall provide the training required under this section on a schedule adopted by a school district's governing body. This requirement should not prohibit a TCPS district from utilizing culturally relevant educational resources.

09 (2) a governing body established by the tribe or tribal organization to operate a
10 demonstration state-tribal education compact school as a "governing body" or "school board"
11 as defined in [AS 14.60.010](#); and

Districts - support management and control in general: Each TCPS district shall be operated under the control and management of the TCPS district governing body. Subject to legislative appropriations, DEED will provide the TCPS districts with the funding necessary to maintain and operate TCPS districts.

Powers of a STEC Tribe as related to STEC agreement and TCPS district governing body powers: A tribe may contract with DEED, the Bureau of Indian Affairs, or any other school district advisory or regional board to provide services, facility supplies, and utilities. The Tribe may determine its own fiscal procedures. The Tribe may appoint, compensate, and otherwise control all school employees in accordance with applicable state, tribal, and federal law, including the establishment of salary scales for their employees. The TCPS district governing body may adopt regulations for governing, organization policies, and procedures for the operation of the TCPS. The Tribe, through a negotiated STEC agreement, will create, operate, discontinue, and combine schools with the TCPS district. The Tribe will provide project recommendations to DEED for the construction, rehabilitation, and improvement of schools and education-related facilities. The Tribe may provide teacher housing. The TCPS district will pay the employee member's contribution while the employee is out on unpaid leave as a result of being assaulted on the job and on the job injury under AS 39.35.160. The Tribe will exercise all other functions necessary for properly performing its responsibilities to provide public education through its TCPS.

Duties of the TCPS district governing body: A TCPS district governing body shall provide educational programming for each school-age child enrolled in the district, develop a philosophy of education principles and goals for its schools, submit required reports and audits prescribed for all school districts, maintain school buildings and facilities so that they are clean and safe, select curriculum and instructional materials used in the school, and train staff to meet any of the requirements of a school district described in Title 14 that apply to the TCPS district. A TCPS district shall establish procedures to reduce and prevent truancy. A TCPS district shall provide Special Education and gifted student services necessary to comply with federal and state laws and

regulations. A TCPS shall further comply with bilingual-bicultural education statutory requirements.

School governing body indemnification: A TCPS district shall establish its own school governing body. A TCPS governing body shall insure or indemnify and protect any members of the governing body, or any agent, employee, teacher, student, teacher officer, member of the supervisory, or administrative staff of the school district against financial loss or expense as do other district school boards.

12 (3) a demonstration state-tribal education compact school as a "public school"
13 or "public educational institution" as used in [AS 14](#) and art. VII, sec. 1, Constitution of the
14 State of Alaska.

Compulsory Education: Attendance in a TCPS is open to students as an option to meet the obligation to attend public school within the district where a child resides. Attendance in a TCPS will be added to the list of educational options shown in AS 14.30.010(b).

15 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 FACILITIES. A facility of a demonstration state-tribal education compact school must
18 conform to applicable law concerning public facility access, health, safety, and fire code
19 requirements.

20 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 FUNDING. (a) The legislature may appropriate funds in any manner permitted under
23 [AS 14](#) to a demonstration state-tribal education compact school as if the school were a
24 regional educational attendance area.

Construction, rehabilitation, and improvement of schools and education-related facilities: TCPS districts who elect to apply for grant funding for construction, rehabilitation, and improvement of schools and education-related facilities would be required to contribute two percent as their participation share in grant programs for school construction and major maintenance. TCPS districts may submit grant applications under AS 14.11. A TCPS district must submit the same provisions required of other districts in a grant agreement. A TCPS district assumes the risk and responsibilities of putting together an application and applying for a grant requires a resolution from the TCPS district.

Regional educational attendance area and small municipal school district school fund: TCPS districts will be eligible for state aid for school construction or major maintenance pursuant to requirements in AS 14.11.025 and AS 14.11.030, subject to appropriation.

General provisions construction chapter: TCPS districts will be added to the definition of district for purposes of AS 14.11 (*Construction, Rehabilitation, and Improvement of Schools and Education-Related Facilities*).

25 (b) Subject to appropriation, the Department of Education and Early Development
26 may provide state aid and grant funding in any manner permitted under [AS 14](#) to a
27 demonstration state-tribal education compact school as if the school were a regional
28 educational attendance area.

District cost factors: To calculate a TCPS district-adjusted ADM under AS 14.17.410(b)(1), the district cost factor for a TCPS school shall be the same as the district cost factor of the city, borough, or REAA district that the TCPS school is physically within. For purposes of the foundation formula, AS 14.17.410 (*Public School Funding*), AS 14.17.460 (*District Cost Factor*), and major maintenance and school construction calculations, TCPS districts will use REAA factors and funding sources.

29 (c) For purposes of application for and receipt of federal aid to education, a
30 demonstration state-tribal education compact school constitutes a local educational agency.

Districts of state public school system: TCPS districts are a type of district and part of the Alaska public school system. Each Tribe that enters into a compact agreement with the state is considered a local educational agency and is a school district under Title 14.

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01 demonstration state-tribal education compact school for violation of
02 (1) state law made applicable by this Act; or
03 (2) a provision of the school's compact executed under sec. 2 of this Act.

Withholding state funds: DEED may not pay funds to a TCPS district or TCPS teacher who fails to comply with applicable state laws and regulations adopted by the department.

04 * **Sec. 6.** The uncoded law of the State of Alaska is amended by adding a new section to
05 read:

06 REPORTING. (a) During the duration of a demonstration state-tribal education
07 compact, a participating federally recognized tribe or tribal organization shall report to the
08 commissioner of education and early development

09 (1) student data and enrollment using the same definitions and procedures
10 required under [AS 14.17.600](#); and

11 (2) by November 15 of the year after the data is collected, school performance
12 data and the performance of the school's students under [AS 14.03.120\(d\)](#).

13 (b) The Department of Education and Early Development shall include data obtained
14 under (a) of this section in the department's report to the legislature under [AS 14.03.078](#).

Annual progress reports: DEED shall provide an update on the progress of TCPS as part of the department's annual report to the legislature per AS 14.03.078. The pilot

TCPS annual progress report to the legislature will include a progress report and evaluation from each TCPS district and annual progress summary from DEED.

15 (c) On or before January 31, 2033, the Department of Education and Early
16 Development shall provide a written report to the legislature concerning demonstration state-
17 tribal education compacts. The department shall deliver the report to the senate secretary and
18 the chief clerk of the house of representatives and notify the legislature that the report is
19 available. The report must include a summary of the data compiled for each demonstration
20 state-tribal education compact school from the reports made under (a) of this section from the
21 effective date of this Act through November 15, 2032.

Education and planning reports: A TCPS district's annual report to DEED and the public will include a specific section on how the TCPS school and the STEC process is progressing.

22 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 REGULATIONS. The Department of Education and Early Development and the state
25 Board of Education and Early Development may adopt regulations necessary to implement
26 the changes made by this Act.

27 * **Sec. 8.** Sections 2 - 7 of this Act are repealed July 1, 2036.

28 * **Sec. 9.** This Act takes effect immediately under [AS 01.10.070\(c\)](#).

Fiscal notes:

Pilot TCPS development funding: the TCPS district will receive a one-time start-up grant the first year the school operates. Using the student count period average daily membership (ADM), the TCPS district will receive the standard foundation formula funding amount along with an additional 45 percent base student allocation (BSA) allocation based on the initial year of school enrollment ADM.

Items from the SB 34 Report Not Currently Included in Draft Bill:

Duties and powers of the department: **Pursuant to Senate Bill 34, DEED shall negotiate STEC agreements with up to five tribal partners. DEED will annually conduct STEC negotiations with these tribal partners. Upon successful completion of the pilot program, DEED may open an additional application process for additional tribes to negotiate compacts. *DEED shall make certain payments to a STEC school district as laid out in AS 47.07.063 (Payment for certain services furnished or paid for by a school district).*

**Italicized sections are in the draft bill*

State Board of Education (SBOE): The membership of the SBOE will increase from the existing seven voting members to eight voting board members. No more than five board members may be from the same political party as the governor. The new board member seat will represent TCPS districts. After the TCPS begin operation, the SBOE shall include a STEC update in its report to the legislature. TCPS districts are subject to applicable SBOE regulations, including discrimination policies and graduation requirements.

Education tribal advisory commission: Within two years of passage of compacting legislation, the SBOE shall establish an Education Tribal Advisory Commission.

**Note: The State Board of Education currently has this authority and a law is not needed to empower this action.*

Native Language Education: Update the definition of “native” in AS 14.30.420 to remove a quarter (¼) blood quantum as the determination of native and replace the definition with the definition used in the STEC agreement.

Deposit of publication of research data: The list of district types will be updated to include TCPS districts as eligible entities to deposit relevant publications in the repository listed in AS 14.56.120.

**Note: This was not a high priority in our negotiations. It was included because we were being very thorough and did not want to lose track of items we had discussed when we presented to the legislature.*

Bond Reimbursement and Grant Review Committee: The committee, established by the Commissioner of DEED under AS 14.11.014, will include a representative of a Tribal government.

Pilot TCPS development funding: The TCPS district shall be eligible for a \$1.5 million pilot implementation grant upon signing the TCPS agreement, subject to appropriation. The TCPS district will have up to three fiscal years to spend down this grant. After three fiscal years, any unspent funds revert back to the state.

TCPS pilot fund balance in school operating fund: During the first three fiscal years in which a TCPS district operates schools, the unreserved portion of its year-end fund balance in its school operating fund may be greater than 10 percent of the TCPS district expenditures for that fiscal year. In the second year of operations, the unreserved portion may not exceed 25 percent of its

expenditures for that fiscal year. In the third year of operations, the unreserved portion may not be greater than the amount required under AS 14.17.505(a) (*Fund balance in school operating fund*). AS 14.17.505(b) shall apply to TCPS districts during this time to the extent that it does not conflict with this policy statement.

Professional Teaching Practices Commission (PTPC): The membership of the PTPC shall increase from nine to eleven members. Both new seats shall be appointed according to AS 14.20.390 (*Appointment and qualifications*). A TC certificated employee who fulfills the duties of a principal shall fill one of the newly created seats; a TC certificated head administrator will fill the other.