

SENATE BILL NO. 136

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY SENATOR STEVENS

Introduced: 1/21/20

Referred: Education, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act providing for the establishment of public schools through state-tribal**
2 **compacts."**

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14 (5) [REPEALED]

* **Sec. 2.** AS 14.16 is amended by adding new sections to read:

Article 3. State-Tribal Education Compact Schools.

Sec. 14.16.300. State-tribal education compacts. (a) The commissioner may enter into compacts with federally recognized tribes in the state for the establishment of state-tribal education compact schools. The commissioner shall prescribe an application procedure for the approval of compacts consistent with AS 14.16.300 - 14.16.340.

(b) To initiate the application procedure described in (a) of this section, a governing body of a federally recognized tribe in the state must submit to the commissioner a resolution and an application in a form approved by the commissioner that

(1) indicates the grade or grades from kindergarten through grade 12 that the school will offer; and

(2) demonstrates that operation of the school will comply with all applicable laws and regulations and the terms and conditions prescribed by the commissioner.

(c) Within 90 days after receiving a resolution and application described in (b) of this section, the commissioner shall convene a meeting with the governing body of the applicant tribe for the purpose of considering the resolution and application and initiating negotiations.

(d) A compact entered into under this section must include provisions relating to

- (1) compliance;
- (2) notices of violation;
- (3) dispute resolution, which may include nonjudicial processes such as mediation;
- (4) recordkeeping and auditing;
- (5) the delineation of roles and responsibilities;
- (6) the term of the compact and whether the compact is renewable; and
- (7) termination of the compact.

Sec. 14.16.310. Applicability of education laws. A state-tribal education

compact school is a public school of the state. The following provisions apply with respect to the operation and management of a state-tribal education compact school as if the school were a school district:

(1) requirements relating to school district operations:

(A) AS 14.03.030 - 14.03.050 (defining the school term, day in session, and school holidays);

(B) AS 14.03.083 - 14.03.140 (miscellaneous provisions applicable to school district operations);

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

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

(E) AS 14.14.050 (imposing the requirement of an annual audit);

(F) AS 14.14.110 (authorizing cooperation with other school districts);

(G) AS 14.14.140(b) (establishing a prohibition on employment of a relative of the chief school administrator);

(H) AS 14.18 (prohibiting discrimination based on sex or race in public education);

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

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

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

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

(3) requirements relating to teacher employment and retirement:

(A) AS 14.14.105 and 14.14.107 (relating to sick leave);

(B) AS 14.20.095 - 14.20.215 (relating to the employment and tenure of teachers);

(C) AS 14.20.220 (relating to the salaries of teachers employed);

(D) AS 14.20.280 - 14.20.350 (relating to sabbatical leave provisions for teachers);

(E) AS 23.40.070 - 23.40.260 (authorizing collective bargaining by certificated employees), except with regard to teachers who are administrators and except that the board may delegate some or all of its responsibilities under those statutes;

(F) AS 14.25 (provisions regarding the teachers' retirement system);

(4) requirements relating to students and educational programs:

(A) AS 14.30.180 - 14.30.350 (relating to educational services for children with disabilities);

(B) AS 14.30.360 - 14.30.370 (establishing health education program standards);

(C) AS 14.30.400 - 14.30.410 (relating to bilingual and bicultural education).

Sec. 14.16.320. Admission. (a) A state-tribal education compact school may not charge tuition, except to the extent that a school district may charge tuition with respect to a person over school age under AS 14.03.080(b), but may charge fees for participation in optional extracurricular activities.

(b) A state-tribal education compact school may not limit admission on a basis other than age group, grade level, or capacity and shall otherwise enroll all eligible students who submit a timely application. If capacity is insufficient to enroll all eligible students who submit a timely application, a state-tribal education compact school may prioritize the enrollment of members of the tribe party to the compact and siblings of students already enrolled in the school.

Sec. 14.16.330. Financial provisions applicable to a state-tribal education compact school. (a) AS 14.17.445 applies to the calculation of public school funding

1 payable for operation of a state-tribal education compact school.

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

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

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

9 (e) For purposes of application for and receipt of federal aid to education, a
10 state-tribal education compact school constitutes a local educational agency.

11 **Sec. 14.16.340. Employment.** (a) The employees of a state-tribal education
12 compact school are state employees.

13 (b) A state-tribal education compact school may adopt a policy that gives
14 employment preference to members of federally recognized tribes.

15 * **Sec. 3.** AS 14.17.300(a) 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 correspondence study
20 under this chapter; and

21 (2) transportation of pupils under AS 14.09.010.

22 * **Sec. 4.** 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. 5.** AS 14.17 is amended by adding a new section to read:

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

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

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

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

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

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

* **Sec. 6.** AS 14.18.110 is amended by adding a new subsection to read:

(b) Nothing in this chapter prohibits state-tribal education compact schools established under AS 14.16.300 from prioritizing the employment of members of federally recognized tribes or the admission of members of the tribe party to the compact if capacity is insufficient to enroll all eligible students who submit a timely application.

* **Sec. 7.** AS 14.30.010(b) 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

- 1 school;
- 2 (2) attends a school operated by the federal government;
- 3 (3) has a physical or mental condition that a competent medical
4 authority determines will make attendance impractical;
- 5 (4) is in the custody of a court or law enforcement authorities;
- 6 (5) is temporarily ill or injured;
- 7 (6) has been suspended or expelled under AS 14.03.160 or suspended
8 or denied admittance under AS 14.30.045;
- 9 (7) resides more than two miles from either a public school or a route
10 on which transportation is provided by the school authorities, except that this
11 paragraph does not apply if the child resides within two miles of a federal or private
12 school that the child is eligible and able to attend;
- 13 (8) is excused by action of the school board of the district at a regular
14 meeting or by the district superintendent subject to approval by the school board of the
15 district at the next regular meeting;
- 16 (9) has completed the 12th grade;
- 17 (10) is enrolled in
- 18 (A) a state boarding school established under **AS 14.16.010;**
19 [AS 14.16; OR]
- 20 (B) a full-time program of correspondence study approved by
21 the department; in those school districts providing an approved correspondence
22 study program, a student may be enrolled either in the district correspondence
23 program or in the centralized correspondence study program; **or**
- 24 **(C) a state-tribal education compact school established**
25 **under AS 14.16.300;**
- 26 (11) is equally well-served by an educational experience approved by
27 the school board as serving the child's educational interests despite an absence from
28 school, and the request for excuse is made in writing by the child's parents or guardian
29 and approved by the principal or administrator of the school that the child attends;
- 30 (12) is being educated in the child's home by a parent or legal
31 guardian.

1 * **Sec. 8.** AS 14.30.186(a) is amended to read:

2 (a) Special education and related services shall be provided by

3 (1) a borough or city school district for a child with a disability
4 residing within the district;

5 (2) the board of a regional educational attendance area operating a
6 school in the area for a child with a disability residing in the area served by the school;

7 (3) the borough, city school district, or regional educational attendance
8 area in which a treatment facility or a correctional or youth detention facility is located
9 for a child with a disability placed at the facility;

10 (4) a state boarding school established under AS 14.16.010 [AS 14.16]
11 for a child with a disability enrolled at a state boarding school; [OR]

12 (5) a school district that provides a statewide correspondence study
13 program for a child with a disability who is enrolled in the program; or

14 (6) a state-tribal education compact school established under
15 AS 14.16.300 for a child with a disability enrolled at a state-tribal education
16 compact school.

17 * **Sec. 9.** AS 14.30.350(8) is amended to read:

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

21 * **Sec. 10.** AS 14.43.849(5) is amended to read:

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

25 * **Sec. 11.** AS 14.43.915(f)(2) is amended to read:

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

29 * **Sec. 12.** AS 21.96.070(g)(1) is amended to read:

30 (1) "school district" means a borough school district, a city school
31 district, a regional educational attendance area, a state-tribal education compact

1 school, or a state boarding school;

2 * **Sec. 13.** AS 23.40.200(c) is amended to read:

3 (c) The class in (a)(2) of this section is composed of public utility, snow
 4 removal, sanitation, and educational institution employees other than employees of a
 5 school district, a regional educational attendance area, a state-tribal education
 6 compact school, or a state boarding school. Employees in this class may engage in a
 7 strike after mediation, subject to the voting requirement of (d) of this section, for a
 8 limited time. The limit is determined by the interests of the health, safety, or welfare
 9 of the public. The public employer or the labor relations agency may apply to the
 10 superior court in the judicial district in which the strike is occurring for an order
 11 enjoining the strike. A strike may not be enjoined unless it can be shown that it has
 12 begun to threaten the health, safety, or welfare of the public. A court, in deciding
 13 whether or not to enjoin the strike, shall consider the total equities in the particular
 14 class. "Total equities" includes not only the effect of a strike on the public but also the
 15 extent to which employee organizations and public employers have met their statutory
 16 obligations. If an impasse or deadlock still exists after the issuance of an injunction,
 17 the parties shall submit to arbitration to be carried out under AS 09.43.030 or
 18 09.43.480 to the extent permitted by AS 09.43.010 and 09.43.300.

19 * **Sec. 14.** AS 23.40.200(g) is amended to read:

20 (g) Under the provisions of (d) of this section, if an impasse or deadlock is
 21 reached in collective bargaining negotiations between a municipal school district, a
 22 regional educational attendance area, a state-tribal education compact school, or a
 23 state boarding school and its employees,

24 (1) the parties shall submit to advisory arbitration before the
 25 employees may vote to engage in a strike; the arbitrator shall

26 (A) be a member of the American Arbitration Association,
 27 Panel of Labor Arbitrators, or the Federal Mediation and Conciliation Service;

28 (B) have knowledge of and recent experience in the local
 29 conditions in the school district, regional educational attendance area, state-
 30 tribal education compact school, or state boarding school; and

31 (C) be determined from a list containing at least five nominees

1 who meet the qualifications of this subsection; this list shall be considered a
2 complete list for the purpose of striking names and selecting the arbitrator;

3 (2) if, under (1) of this subsection, advisory arbitration fails, a strike
4 may not begin until at least 72 hours after notice of the strike is given to the other
5 party; in any event, a strike may not begin on or after the first day of the school term,
6 as that term is described in AS 14.03.030, unless at least one day in session with
7 students in attendance has passed after notice of the strike is given by the employees to
8 the other party.

9 * **Sec. 15.** AS 39.35.160(c) is amended to read:

10 (c) An employee who has made an election under AS 39.35.300(c) or
11 39.35.310(c) to have the employee's years of service as a noncertificated employee of
12 a state boarding school, of a state-tribal education compact school, of a school
13 district or regional educational attendance area, of the special education service
14 agency, or of the Alaska Vocational Technical Center determined by reference to
15 AS 14.25.220 shall pay a contribution surcharge for that service. The amount of the
16 surcharge is the difference between the amount the employer would have had to
17 contribute under AS 39.35.255 - 39.35.290 for the employee when treating the
18 employee's credited service as service earned under AS 39.35.300(c) or 39.35.310(c)
19 less the amount the employer would have had to contribute under AS 39.35.255 -
20 39.35.290 without treating the employee's credited service as service earned under
21 AS 39.35.300(c) or 39.35.310(c).

22 * **Sec. 16.** AS 39.35.160(d) is amended to read:

23 (d) The employer of a member who is employed by a school district, a
24 regional educational attendance area, a state-tribal education compact school, or a
25 state boarding school who is assaulted while on the job and who, as a result of a
26 physical injury from the assault, is placed on unpaid leave of absence or is receiving
27 benefits under AS 23.30, shall pay the member's contributions under this section while
28 the member is, as a result of the on-the-job injury, on unpaid leave or receiving the
29 benefits under AS 23.30.

30 * **Sec. 17.** AS 39.35.300(c) is amended to read:

31 (c) A noncertificated employee of the Alaska Vocational Technical Center, a

1 state-tribal education compact school, or a state boarding school who first becomes
 2 a member of the plan on or after July 1, 1999, may, within 90 days after the employee
 3 first joins the plan, make an election under this subsection to have the years of service
 4 that the employee earns as a noncertificated employee determined using the table for
 5 service on or after July 1, 1969, that is set out in the definition of "year of service" in
 6 AS 14.25.220. A noncertificated employee of the Alaska Vocational Technical Center,
 7 a state-tribal education compact school, or a state boarding school who is an active
 8 member of the plan on July 1, 1999, may, within 180 days after July 1, 1999, make the
 9 election. A member of the plan who is an inactive member on July 1, 1999, and who is
 10 later employed as a noncertificated employee of the Alaska Vocational Technical
 11 Center, a state-tribal education compact school, or a state boarding school may,
 12 within 90 days after beginning the subsequent employment, make the election. An
 13 election under this subsection is irrevocable except as provided in (d) of this section
 14 and shall be made in writing on a form provided by the administrator. The election
 15 applies to the employee's service earned for the school year in which the election is
 16 accepted by the administrator and applies to all subsequent employment as a
 17 noncertificated employee of a state boarding school, a state-tribal education
 18 compact school, a school district or regional educational attendance area, the special
 19 education service agency, or the Alaska Vocational Technical Center. An employee
 20 who makes an election under this subsection shall pay the contribution surcharge as
 21 set out in AS 39.35.160(c).

22 * **Sec. 18.** AS 39.35.310(c) is amended to read:

23 (c) A noncertificated employee of a school district, a regional educational
 24 attendance area, or the special education service agency who first becomes a member
 25 of the plan on or after July 1, 1999, may, within 90 days after the employee first joins
 26 the plan, make an election under this subsection to have the years of service that the
 27 employee earns as a noncertificated employee determined using the table for service
 28 on or after July 1, 1969, that is set out in the definition of "year of service" in
 29 AS 14.25.220. A noncertificated employee of a school district, a regional educational
 30 attendance area, or the special education service agency who is an active member of
 31 the plan on July 1, 1999, may, within 180 days after July 1, 1999, make the election. A

member of the plan who is an inactive member on July 1, 1999, and who later is employed as a noncertificated employee of a school district, a regional educational attendance area, or the special education service agency may, within 90 days after beginning the subsequent employment, make the election. An election under this subsection is irrevocable except as provided in (d) of this section and shall be made in writing on a form provided by the administrator. The election applies to the employee's service earned for the school year in which the election is accepted by the administrator and applies to all subsequent employment as a noncertificated employee of a state boarding school, **a state-tribal education compact school**, a school district or regional educational attendance area, the special education service agency, or the Alaska Vocational Technical Center. An employee who makes an election under this subsection shall pay the contribution surcharge as set out in AS 39.35.160(c).

* **Sec. 19.** AS 39.35.330(d) is amended to read:

(d) An employee of a school district, a regional educational attendance area, **a state-tribal education compact school**, or a state boarding school who is assaulted while on the job and who, as a result of a physical injury from the assault, is placed on leave without pay, whether or not the employee receives workers' compensation benefits under AS 23.30 for the injury, is entitled to accrue credited service while the employee, because of the injury, is on leave-without-pay status or is receiving the benefits under AS 23.30. Entitlement to credited service under this subsection ends when the employee is eligible to receive benefits under AS 39.35.370(a) or 39.35.410(a).

* **Sec. 20.** AS 43.20.014(g)(3) is amended to read:

(3) "school district" means a borough school district, a city school district, a regional educational attendance area, **a state-tribal education compact school**, or a state boarding school;

* **Sec. 21.** AS 47.07.063(d)(3) is amended to read:

(3) "school district" has the meaning given the term "district" in AS 14.17.990, but includes a state boarding school established under AS 14.16.010 **and a state-tribal education compact school established under AS 14.16.300.**

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

1 read:

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

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