

# SENATE BILL REPORT

## E2SHB 1134

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As Reported by Senate Committee On:  
Early Learning & K-12 Education, March 27, 2013  
Ways & Means, April 9, 2013

**Title:** An act relating to state-tribal education compact schools.

**Brief Description:** Authorizing state-tribal education compact schools.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives McCoy, Santos, Appleton, Lytton, Ryu, Stanford, Roberts, Jinkins, Haigh, Freeman and Hunt).

**Brief History:** Passed House: 3/08/13, 85-12.

**Committee Activity:** Early Learning & K-12 Education: 3/20/13, 3/27/13 [DP-WM].  
Ways & Means: 4/08/13, 4/09/13 [DPA, DNP, w/oRec].

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Litzow, Chair; Dammeier, Vice Chair; McAuliffe, Ranking Member; Rolfes, Assistant Ranking Member; Billig, Brown, Cleveland, Fain, Hill, Mullet and Rivers.

**Staff:** Eric Wolf (786-7405)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Hargrove, Ranking Member; Nelson, Assistant Ranking Member; Bailey, Braun, Conway, Dammeier, Fraser, Hasegawa, Hatfield, Hewitt, Keiser, Kohl-Welles, Murray, Ranker, Rivers and Schoesler.

**Minority Report:** Do not pass.

Signed by Senators Honeyford, Capital Budget Chair; Padden.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Becker and Parlette.

**Staff:** Elise Greef (786-7708)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:** Under the state constitution, the Legislature must provide for a general and uniform system of public schools. The Superintendent of Public Instruction (SPI) has the duty to oversee all matters necessary to maintain a basic education program for common schools from kindergarten through high school at public expense. The basic education program generally refers to all the resources necessary to provide the opportunity to meet the state high school graduation requirements. Major components of the basic education program include instructional programming, special education, and transportation services.

Local School Districts. SPI distributes annual appropriations to local school districts to fund the basic education program. Each school district elects a board of directors to manage and operate its schools. School boards are governed by state law covering areas such as board composition and scope of authority, curriculum development, attendance policies, and employment practices.

Levy Authority. State law determines the maximum amounts school districts may collect through local maintenance and operation (M&O) levies. Most districts may raise 28 percent of the district's levy base. Some districts are grandfathered at higher percentages. An M&O levy may last up to four years.

Levy Base. The maximum levy a school district may collect is determined by the district's levy base. The levy base includes most state and federal revenues received by the district in the prior school year. For example, the calendar year 2013 M&O levy collections are based on school year 2012-13's funding level. Additionally, the Legislature included in the levy base certain amounts that the district did not receive through apportionment payments. These items include the amounts districts would have received under Initiative 728, Initiative 732, and enhanced allocations for additional staffing in K-4 classrooms.

Tribal Schools. There are currently seven tribal schools operating in the state that are not directly part of the public school system. Each of these schools was created by a tribal government body or entity and operates with grant funding from the United States Department of Interior' Bureau of Indian Affairs. Each tribal government or entity operating these schools entered into an interlocal agreement with a local school board to fund educational services for children in the school district. The interlocal agreements require compliance with certain school district policies and procedures including personnel, curriculum development, record inspection, and audits.

The Department of Early Learning (DEL). DEL oversees early learning policies and programs, including the Early Childhood Education and Assistance Program and the Early Support for Infants and Toddlers program. DEL also partners with SPI to oversee the Kindergarten Inventory of Developing Skills Program, which focuses on enhancing the transition from early learning programming to kindergarten.

**Summary of Bill (Recommended Amendments):** State-Tribal Education Compacts. SPI is authorized to enter into a state-tribal education compact with the governing body of any tribe or the governing body of any school currently receiving funding from the Bureau of Indian Affairs. SPI must convene a government-to-government meeting to initiate negotiations with any tribe or school that applies for an education compact.

A state-tribal education compact must address certain provisions, including compliance, notices of violation, dispute resolution, recordkeeping and auditing, delineation of respective responsibilities, term length, and termination.

Compact schools generally are exempt from state statutes and rules applicable to school districts and school boards, except as provided by law or by the terms of the compact. Compact schools, however, must comply with the following state requirements:

- provide a curriculum and conduct a basic education program;
- employ certified instructional staff, except in certain exceptional cases;
- comply with employee record check requirements and mandatory termination and notifications;
- comply with nondiscrimination laws;
- comply with future legislation governing compact schools; and
- adhere to generally accepted accounting principles and be subject to audits by the state Auditor.

In addition, no compact school may engage in sectarian practices in its operations, education program, admissions, or employment practices. A tribal-state education compact may not limit or restrict enrollment or school choice options available in the public school system.

Compact schools are not prohibited from implementing a policy of Indian preference in employment. Compact schools may prioritize the enrollment of tribal members and siblings of enrolled students if enrollment demand exceeds the capacity of the school.

SPI must apportion funding for a compact school according to the general statutory school funding formula. Allocations for certified instructional staff must be based on the average staff mix ratio of the school under the statewide salary allocation schedule. Allocations for classified staff and certified administrative staff must be based on the salary allocations of the school district in which the compact school is located. The funding allocation mechanism does not require compact schools to use the statewide salary allocation schedule. The funds allocated for a compact school must still be included in the tax levy base of a school district that formerly provided funding to the compact school through an interlocal agreement.

Compact schools must report enrollment in the same manner as is required of school districts. The compact must establish the school's projected first year enrollment for purposes of determining amounts payable for that year. SPI must reconcile the amount paid in the first year with the actual student enrollment and make adjustments in allocation for the second year.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Amendments):** Eliminates the workgroup that was to be convened by DEL, and the associated fiscal impacts.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony (Early Learning & K-12 Education):** PRO: Tribes in Washington are looking for a consistent way of interfacing their schools with the state education system. Tribes are not forced to negotiate an educational compact, but the bill gives them flexibility to do so. This bill will provide more support and structure to help tribal schools improve their educational quality.

**Persons Testifying (Early Learning & K-12 Education):** PRO: Representative McCoy, prime sponsor; Sally Brownfield, Squaxin Island Tribe; Helen Fenrich, the Tulalip Tribes; Joe Davalos, Tribal Leaders Congress, Suquamish Tribe; Amy Blondin, DEL; Leonard Forsman, Suquamish Tribe; Lynn Palmanteer-Holder, Confederated Tribes of the Colville Reservation; Andrea Cobb, OSPI.

**Staff Summary of Public Testimony on Engrossed Second Substitute House Bill (Ways & Means):** PRO: The bill takes us in the right direction building the government-to-government relations between the state and the tribes, and eliminates some bureaucracy.

**Persons Testifying (Ways & Means):** PRO: Miguel Perez-Gibson, Colville Tribes.