State Government & Tribal Affairs Committee

SB 5382

Brief Description: Authorizing record checks for employees and applicants for employment at bureau of Indian affairs-funded schools.

Sponsors: Senators Kauffman, Prentice, McAuliffe, Marr, Hobbs, Rasmussen, Regala, Franklin, Keiser, Shin and Kohl-Welles.

Brief Summary of Bill

- Allows Bureau of Indian Affairs-funded schools to request record checks through the Washington State Patrol on employees and applicants for employment using the same processes as school districts and Educational Service Districts.

Hearing Date: 3/21/07

Staff: Colleen Kerr (786-7168).

Background:

Washington State Patrol Background Checks

Public and private schools are allowed access to employee and applicant criminal records under the Criminal Records Privacy Act and the Child and Adult Abuse Information Act. These statutes authorize the Washington State Patrol to release criminal history information to non-criminal justice entities.

Under the Criminal Records Privacy Act, any person may request a record of convictions. These records are released without restriction and without notice to the subject of the record . The records released include all Washington convictions, and any arrests within the past year, if the disposition of the arrest is still pending.

Under the Child and Adult Abuse Information Act, only certain entities may request information. These agencies include:

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- businesses or organizations licensed in the state of Washington;
- state agencies; and,
- any other government entities that, among other things, educate children under 16 years of age.

The records released under the Child and Adult Abuse Information Act are broader than those released to the general public and include criminal convictions as well as:
- Department of Health disciplinary decisions regarding physical or sexual abuse of a child; and,
- civil adjudications of child abuse.

Background Check Requirements for Tribally Controlled Schools
In 1990, Congress passed the Federal Indian Child Protection and Family Violence Prevention Act (Act) to protect children on Indian reservations. Under the Act, every tribally controlled school that receives federal funding must conduct background investigations of each employee or volunteer who has regular contact with or control over Indian children. The background investigation must cover the preceding five year period. Further, every tribal school employee who has regular contact with or control over Indian children must be reinvestigated every five years.

The tribal school must deny employment or dismiss any employee with control over or contact with children if the employee has been found guilty of or entered a plea of guilty or nolo contendere to any federal, state, or tribal offense involving a crime of: (1) violence, (2) sexual assault, (3) sexual molestation, (4) child exploitation, (5) sexual contact, (6) prostitution, or (7) crimes against persons.

Under the Act, tribal schools may conduct their own investigations, contract with a private firm, or request that the U.S. Office of Personnel Management conduct the investigation. Washington tribal schools check records of prospective employees in various ways: some contract with local public school districts to run the tribal school's checks, while others have asked the Office of the Superintendent of Public Instruction.

Summary of Bill:

Washington State Patrol record checks are authorized for Bureau of Indian Affairs-funded school employees and applicants for employment using the same processes as used by school districts and Educational Service Districts. The costs of running such checks will be paid for by the requesting school.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.