

HOUSE BILL REPORT

SSB 6474

As Passed House - Amended:

March 1, 2018

Title: An act relating to creating a pilot project for tribal compact schools that accommodates cultural and agricultural events in school attendance requirements.

Brief Description: Creating a pilot project for tribal compact schools.

Sponsors: Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators McCoy, Sheldon, Chase, Conway, Frockt, Hasegawa, Hunt, Kuderer, Palumbo, Rolfes, Saldaña and Van De Wege).

Brief History:

Committee Activity:

Education: 2/19/18, 2/22/18 [DPA].

Floor Activity:

Passed House - Amended: 3/1/18, 86-11.

Brief Summary of Substitute Bill (As Amended by House)

- Directs the Office of the Superintendent of Public Instruction to establish a pilot project for one or more state-tribal education compact schools to implement modifications to requirements governing school attendance, school year length, and assessments.
- Decouples high school graduation requirements from assessments for students participating in the pilot project by exempting these students from the obligation to earn a Certificate of Academic Achievement or a Certificate of Individual Achievement as a prerequisite to graduating from a public school.
- Requires the Office of Native Education to collaborate with each school participating in the pilot project.
- Establishes reporting requirements and expiration provisions for the pilot project.

HOUSE COMMITTEE ON EDUCATION

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.

Majority Report: Do pass as amended. Signed by 15 members: Representatives Santos, Chair; Dolan, Vice Chair; Stonier, Vice Chair; Harris, Ranking Minority Member; Muri, Assistant Ranking Minority Member; Bergquist, Johnson, Kilduff, Lovick, Ortiz-Self, Senn, Slatter, Steele, Stokesbary and Valdez.

Minority Report: Do not pass. Signed by 3 members: Representatives Caldier, Hargrove and McCaslin.

Staff: Ethan Moreno (786-7386).

Background:

State-Tribal Education Compacts.

Legislation adopted in 2013 authorized the Superintendent of Public Instruction (SPI) to enter into state-tribal education compacts. In accordance with the legislation, the SPI was granted authority to receive applications for state-tribal compacts, approve or disapprove compacts, and execute compacts.

Five schools or school systems in Washington operate according to the terms of a state-tribal education compact:

- Chief Kitsap Academy;
- Lummi Nation Schools;
- Muckleshoot Tribal School;
- Quileute Tribal School; and
- Wa He Lut Indian School.

State-tribal education compacts must satisfy certain content requirements, including provisions regarding:

- the delineation of the respective roles and responsibilities;
- compliance;
- dispute resolution, which may include nonjudicial processes such as mediation;
- the term or length of the contract and whether or not it is renewable; and
- termination of the compact.

A school that is the subject of a state-tribal education compact must operate according to the terms of its compact. These schools are generally exempt from all state statutes and rules applicable to school districts and school district boards of directors. This exemption does not apply to statutes and rules made applicable in the compact or to specifically delineated statutory requirements that, for example, require compliance with provisions obligating:

- delivery of the state's program of basic education, including providing instruction in the state's essential academic learning requirements (EALRs);
- compulsory coursework provisions; and
- the employment of certificated instructional staff.

State-tribal education compacts approved by the SPI also require the schools to, among other educational program obligations, participate in statewide student assessments required under state and federal law.

Legislative actions may affect the functioning of schools that are the subject of a state-tribal education compact, as the schools are subject to and must comply with enacted legislation that governs their operation and management.

Office of Native Education.

In 2011 the Legislature created the Office of Native Education (ONE) within the Office of the Superintendent of Public Instruction (OSPI). Subject to the availability of funding, the ONE is tasked with numerous duties, including:

- providing assistance to school districts in meeting the educational needs of American Indian and Alaska Native students;
- facilitating the development and implementation of curricula and instructional materials in native languages, culture and history, and the concept of tribal sovereignty;
- facilitating the inclusion of native language programs in school districts' curricula; and
- preparing annual reports to the Governor, the Legislature, and the Governor's Office of Indian Affairs regarding the state of Indian education and the implementation of state laws regarding Indian education.

Basic Education.

The Legislature establishes the minimum instructional program of basic education that must be offered by school districts. Among other requirements, the state's program of basic education obligates school districts to:

- provide instruction in the EALRs, the grade-level learning standards developed by the OSPI that are adopted by the OSPI as the Washington State Learning Standards; and
- have their educational program accessible to all students who are at least 5 and less than 21 years of age for a minimum of 180 days per school year.

In accordance with the state's program of basic education, school districts are also required to provide a specified minimum number of instructional hours per year, which are defined as those hours during which students are provided the opportunity to engage in educational activity planned by, and under the direction of, school district staff.

School districts may enrich the instructional program of basic education through additional services, programs, or activities that the district determines to be appropriate for the education of the school district's students.

Waivers.

School districts may seek waivers for certain laws and rules under prescribed circumstances. For example, the State Board of Education (SBE) may grant waivers from requirements of the state's program of basic education, including minimum instruction hours and the length of the school year, if the waivers are necessary to implement "a local plan to provide for all students in the district an effective education system that is designed to enhance the educational program for each student."

The SBE is also authorized to grant waivers from the 180-day school year requirement to districts that "propose to operate one or more schools on a flexible calendar for purposes of

economy and efficiency." This waiver is limited to five or fewer districts, and eligible districts may not have more than 500 students.

Mandatory School Attendance and Excused Absences.

In general, the parents or guardians of any child who is at least 8 years old and under the age of 18 must compel the child to attend the applicable public school, and the child has the responsibility to attend for the full time when school is in session. Numerous exceptions exist for this requirement, examples of which include:

- the child is attending a private school or is receiving home-based instruction;
- the child is physically or mentally unable to attend school;
- the child is temporarily excused at the request of his or her parents or guardians for purposes agreed upon by the school authorities and the parent; and
- the parents approve of the absence, for up to two days per school year, for a reason of faith or conscience, or an organized activity conducted under the auspices of a religious denomination, church, or religious organization.

Statewide Student Assessment System.

The SPI, in consultation with the SBE, is authorized to maintain and revise a statewide academic assessment system to measure student knowledge and skills on state learning standards and to use it for purposes of state and federal accountability. The state assessment system must cover the content areas of reading, writing, mathematics, and science for elementary, middle, and high school years.

The federal Every Student Succeeds Act (ESSA) requires states to assess students based on state learning standards in reading and mathematics in each of grades 3 through 8 and one high school grade, as well as in science in at least one grade in elementary, middle, and high school. The ESSA also requires that each state administer high-quality annual assessments to at least 95 percent of all students in reading or language arts, mathematics, and science.

In Washington, the earning of a Certificate of Academic Achievement (CAA) or a Certificate of Individual Achievement (CIA) is one of the requirements for graduation from a public high school. To obtain a CAA, a student must either meet state standards on required statewide assessments or demonstrate proficiencies through alternative options approved by the Legislature, provided the student has taken the applicable assessment at least once. Students requiring special education who are not appropriately assessed by the state assessment system, even with accommodations, may earn a CIA through a variety of ways to demonstrate skills and abilities commensurate with their individual education programs.

Summary of Amended Bill:

Establishment and Operation of Pilot Project.

The OSPI is directed establish a pilot project for one or more schools that are the subject of a state-tribal education compact, schools known as "tribal compact schools," to implement modifications to requirements governing school attendance, school year length, and assessments. Tribal compact schools that apply to participate in the pilot project must be included in the pilot project. The pilot project expires on August 1, 2023, and provisions establishing and governing the pilot project expire on September 1, 2023.

The purpose of the pilot project is to grant participating schools flexibility regarding:

- accommodating cultural, fisheries, and agricultural events and practices; and
- replacing, to the maximum extent permitted by state and federal law, statewide student assessments with locally-developed assessments that are culturally relevant, based on community standards, and aligned with the Washington State Learning Standards.

The OSPI, in establishing the pilot project, is directed to explore and pursue options for granting flexibility to participating schools from state and federal requirements, including requirements related to assessments, to further the stated purpose of the pilot project.

Schools participating in the pilot project may:

- request a waiver to the requirement for a 180-day school year. The waiver may be for allowing additional instructional days, including an allowance for year-round instruction;
- develop curricula that links student learning with engagement in cultural, fisheries, and agricultural programs, and aligns with the Washington State Learning Standards;
- request authorization to consider student participation in cultural, fisheries, or agricultural programs as instructional days for purposes of specified basic education requirements;
- replace, to the maximum extent permitted by state and federal law, statewide student assessments with locally-developed assessments that are culturally relevant, based on community standards, and aligned with the Washington State Learning Standards; and
- consider and implement, to the maximum extent permitted by state and federal law, other modifications to requirements as determined by each participating school.

The SPI must, upon receipt of an application from a school that is participating in the pilot project:

- grant a waiver from the requirements for a 180-day school year; and
- authorize the school to consider student participation in cultural, fisheries, or agricultural programs as instructional days for purposes of specified basic education requirements.

The ONE must collaborate with each tribal compact school participating in the pilot project, including providing technical support and assistance, and review any terms of the compact that relate to the school's implementation of the pilot project.

If requested by a tribal compact school participating or intending to participate in the pilot project, the SPI must convene a government-to-government meeting with the tribal compact school for the purpose of revising the compact to reflect the terms of the pilot project. The SPI may also convene a government-to-government meeting on his or her own accord.

Exemptions from Assessment-Based Graduation Requirements and Other Provisions.

Students in a school that is participating in the pilot project are exempt from the obligation to earn a CAA or a CIA as a prerequisite for graduating from a public high school.

Additionally, the statewide high school assessments in English language arts and mathematics that are administered may not be used to determine whether the student has met

the requirements for graduating from a public high school, or for assessing the student's career and college readiness. Participating schools are also exempted from a provision that requires standardized high school transcripts to include a notation of whether the student has earned a CAA or CIA.

Reporting Requirements.

Each tribal compact school participating in the pilot project must submit a report every two years to the appropriate committees of the House of Representatives, the Senate, and the OSPI, with the first report submitted no later than August 1, 2021. The reports must include:

- information about student performance on assessments required for state and federal accountability purposes and locally-developed assessments of participating schools authorized in the pilot project, including differences in student performance between the statewide and locally-developed assessments; and
- recommendations for lessening or removing barriers that may affect either student performance on assessments, the effective administration of assessments, or both.

The final report of each participating school must include a recommendation of whether the pilot project should be modified, continued, expanded, or discontinued.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This legislation is the result of a conversation at an Educational Opportunity Gap Oversight and Accountability Committee meeting. The conversation focused on what a school would look like if it were given additional flexibility for a year-around school, to accommodate agricultural events, and if the testing were based upon what was being taught to the students. Tribal compact schools emerged as logical schools to test this concept. In some communities, cultural events are important and the students participate in them. Participation in these events should not be considered unexcused absences when the students are learning. Tribal compact schools support the legislation.

State agency personnel have worked with tribal compact schools. There are now five tribal compact schools, but two more may be established. The bill supports culturally relevant learning and the recognition of local events; these practices would be unique and innovative. State agency stakeholders are looking forward to implementing the bill if it is passed into law.

(Opposed) None.

Persons Testifying: Senator McCoy, prime sponsor; and Gayle Pauley, Office of the Superintendent of Public Instruction.

Persons Signed In To Testify But Not Testifying: None.