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## Appropriations Committee

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### HB 2490

**Brief Description:** Addressing the terms under which tribal schools may participate in the state retirement systems as part of a state-tribal education compact.

**Sponsors:** Representatives Santos, Harris, Muri, Wylie and Johnson; by request of Superintendent of Public Instruction.

#### Brief Summary of Bill

- Permits tribal compact schools to choose participation in the Teachers' Retirement System and the School Employees' Retirement System.
- Requires participating tribal compact schools to submit to Washington state law for reporting, contributions, auditing requirements, and dispute resolutions.

**Hearing Date:** 1/29/18

**Staff:** David Pringle (786-7310).

#### Background:

In 2013 the Legislature enacted the State-Tribal Compact Authority, authorizing the Office of the Superintendent of Public Instruction (OSPI) to enter into state-tribal education compacts (compacts) with the governing body of any federally recognized tribe in Washington. Compact schools generally are exempt from state statutes and rules applicable to school districts and school boards; however, they must comply with certain state requirements, such as staffing qualifications and reporting. How these requirements are met is outlined in the compacts, which are negotiated between the governing body of the tribe and the Superintendent of Public Instruction. State funding for compact schools is apportioned in the same way as public schools.

School district employees are generally divided into the Teachers' Retirement System (TRS) or the School Employees' Retirement System (SERS). The TRS covers employees who are certificated by the OSPI to teach and are employed by a public school, educational service district, or the state in an instructional, administrative, or supervisory capacity. The SERS covers

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non-certificated school district employees. The Washington State Retirement Systems, including SERS and TRS, are operated consistent with Section 401(a) of the Internal Revenue Code (IRC). This section, and associated sections, of federal law outlines the requirements that a governmental retirement plan must meet in order for pension contribution and interest earnings to be on a pre-tax basis. Determination letters can be requested from the Internal Revenue Service (IRS) to ensure that plan changes do not conflict with IRC requirements. Many of the same federal tax rules that apply to state governmental employee retirement plans also apply to tribal government employee retirement plans.

There are 29 federally-recognized tribes in Washington, and currently eight tribal schools in Washington. Five are compact schools (an application for a sixth is currently pending). One compact school, Quileute Tribal School, is participating in TRS and SERS; however, according to the Department of Retirement Systems, legislation is required in order to allow compact schools to continue participating.

**Summary of Bill:**

The state-tribal education compact for a tribal school opting to participate in TRS or SERS must include provisions that allow the tribal compact school to be treated similarly to public schools for the purpose of administering the retirement benefits. Similarly to other TRS and SERS employers, tribal compact schools are required to adhere to reporting, contribution, and auditing requirements as well as consent to the jurisdiction of Washington State courts for the purposes of enforcing these requirements. The tribal compact school must also agree to make information that is provided to the DRS available to the OSPI. Unlike other TRS and SERS employers, a tribal compact school may choose to withdraw from TRS and SERS participation. The provisions of a compact related to TRS and SERS participation must memorialize the expectations and duties of the parties upon the decision by a tribal school to no longer participate in TRS and SERS.

If the IRS determines that the provisions of this law conflict with IRC plan qualification requirements, the bill is considered null and void.

**Appropriation:** None.

**Fiscal Note:** Available.

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