

# SENATE BILL REPORT

## SB 6210

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As Passed Senate, February 7, 2018

**Title:** An act relating to the terms under which tribal schools may participate in the state retirement systems as part of a state-tribal education compact.

**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:** Senators Conway, Schoesler, McCoy, Hobbs, Rolfes and Hunt; by request of Select Committee on Pension Policy.

**Brief History:**

**Committee Activity:** Ways & Means: 1/23/18, 1/25/18, 1/29/18 [DP, DNP, w/oRec].

**Floor Activity:**

Passed Senate: 2/07/18, 43-5.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Creates a framework for tribal compact schools to choose to participate in the state's retirement plans.</li></ul>
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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Braun, Ranking Member; Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Mullet, Pedersen, Ranker, Schoesler and Van De Wege.

**Minority Report:** Do not pass.

Signed by Senators Becker and Warnick.

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

Signed by Senators Honeyford, Assistant Ranking Member; Bailey, Brown, Rivers and Wagoner.

**Staff:** Amanda Cecil (786-7460)

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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:** School Employee Retirement Systems. School district employees are generally divided into the Teachers' Retirement System (TRS) or the School Employees' Retirement System (SERS). TRS covers employees who are certificated by the Office of the Superintendent of Public Instruction (OSPI) to teach and are employed by a public school, educational service district, or the state in an instructional, administrative, or supervisory capacity. SERS covers non-certificated school district employees.

Internal Revenue Code Plan Qualifications. Section 401(a) of the Internal Revenue Code (IRC) 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.

Tribal Compact Schools. In 2013, E2SHB 1134 was enacted, authorizing OSPI to enter into state-tribal education 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, must comply with certain state requirements, such as staffing qualifications and reporting. How these requirements are met are outlined in the compacts, which are negotiated between the governing body of the tribe and SPI. State funding for compact school are apportioned in the same way as public schools.

There are 29 federally-recognized tribes in Washington. Eight currently operate tribal schools; five of those are tribal compact schools, and there is a pending application for a sixth. One of the tribal compact schools, Quileute Tribal School, is currently participating in TRS.

Select Committee on Pension Interim Review. In 2016, the Select Committee on Pension Policy convened a staff level workgroup to review legal and practical implications of expanding the state's retirement plans to include tribal schools. Key areas of consideration were related to IRC compliance and tribal sovereignty. Workgroup participation included the Office of the State Actuary, Department of Retirement Systems (DRS), and OSPI including representation from the Office of Native Education.

**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 DRS available to OSPI. Unlike other TRS and SERS employers, a tribal compact school may choose to withdraw from TRS and SERS participation.

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.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: The Select Committee on Pension Policy went through an extensive stakeholder process before advancing this bill to the legislature. Tribal compact schools have a government to government relationship with the state. This will allow tribal compact schools to compete with public schools by providing retirement options that are portable. This would allow for seamless transitions for teachers working at public schools and tribal schools. Tribal compact schools will be able to recruit and retain the best qualified teachers by providing them access to the same retirement benefits.

**Persons Testifying:** PRO: Senator Steve Conway, Prime Sponsor; Dylan Doty, Muckleshoot Indian Tribe; Joseph Martin, Muckleshoot Indian Tribe/Tribal Education Officer; Victoria Hildebrand, Muckleshoot Tribal School/High School History Teacher; Amy McFarland, Chief Leschi Schools (Puyallup Tribe of Indians); Dierk Meierbachtol, OSPI.

**Persons Signed In To Testify But Not Testifying:** No one.