

# HOUSE BILL REPORT

## E2SSB 6362

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**As Passed House - Amended:**  
March 8, 2018

**Title:** An act relating to modifying basic education funding provisions.

**Brief Description:** Modifying basic education funding provisions.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Wellman, Rolfes and Billig; by request of Superintendent of Public Instruction).

**Brief History:**

**Committee Activity:**

Appropriations: 2/24/18, 2/26/18 [DPA].

**Floor Activity:**

Passed House - Amended: 3/8/18, 50-48.

**Brief Summary of Engrossed Second Substitute Bill  
(As Amended by House)**

- Moves ahead the schedule for full funding of the increased state salary allocations for school employees to the 2018-19 school year, rather than phasing in over two school years, and revises limitations on salary increases in the 2018-19 school year.
- Increases regional salary adjustments for districts west of the Cascade Mountains adjacent to a district with a regionalization factor more than one tercile higher.
- Adds an experience factor adjustment for school districts with above-average education and experience for Certificated Instructional Staff, beginning in the 2019-20 school year.
- Increases the special education excess cost multiplier from 0.9309 to 0.9609, and requires the Special Education State Oversight Committee to consider the high-cost needs of students enrolled in special education served by institutions.
- Bases the high-poverty Learning Assistance Program allocation on the three-year rolling average of enrollments in free and reduced-price meal programs in a school.

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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.*

- Specifies criteria for identifying highly capable students.
- Creates a transportation alternate funding grant program.
- Delays the requirement that districts meet kindergarten through grade 3 class size ratios until the 2019-20 school year.
- Indicates legislative intent to provide funding to support schools with paid sick leave costs.
- Changes the inflationary increase for the Local Effort Assistance (LEA) threshold and the maximum per pupil limit on local enrichment levies.
- Removes references to "resident" students in levy LEA calculations.
- Makes changes to enrichment levy restrictions, including removing references to transportation vehicle enrichment levies and excluding revenues collected from transportation and facility levies from maximum levy amounts.
- Delays the implementation of the state allocation for professional learning days by one year.
- Provides a hold-harmless payment to districts for the 2018-19 and 2019-20 school years meeting specified criteria, and appropriates \$12 million for hold harmless payments.
- Establishes a work group to make recommendations for defining duties performed in a "school day."
- Authorizes curricula to engage students in seasonal or nonseasonal outdoor-based activities.
- Requires that hourly rates in time-based supplemental contracts not exceed the hourly rates provided for basic education salaries, and that non-time based supplemental contracts document additional duties.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass as amended. Signed by 18 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan and Tharinger.

**Minority Report:** Do not pass. Signed by 15 members: Representatives Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Graves, Haler, Harris, Manweller, Schmick, Taylor, Vick, Volz and Wilcox.

**Staff:** James Mackison (786-7104).

### **Background:**

To allocate state funding for basic education, the prototypical school funding model allocates general apportionment funding to school districts based on assumed levels of staff and other

resources necessary to support "prototypical" elementary, middle, and high schools. The state generates funding allocations for each school district through salary assumptions for different staff types, as well as for nonstaff costs known as materials, supplies, and operating costs (MSOC). The funding provided to school districts through the prototypical school formulas is for allocation purposes only, and districts have discretion over how the money is spent to implement the state program, subject to some limits. In addition to the staffing levels and compensation allocated in general apportionment through the prototypical school model, the state's funding formulas also include allocations for additional support and instruction time through funding for specialized services often referred to as "categorical" programs, including Special Education, Vocational Education, the Transitional Bilingual Instructional Program, the Learning Assistance Program, and the Highly Capable Program. State law provides an apportionment schedule indicating the proportional share of the total amount due to districts each month. The school district fiscal year is from September 1 through August 31, whereas the state fiscal year is July 1 through June 30.

In the 2012 *McCleary* decision, the state Supreme Court ruled that insufficient state funding for basic education unconstitutionally caused districts to rely on local levy funding to support the costs of implementing the state's program. Since the *McCleary* decision, the Legislature has funded a number of specified enhancements to the basic education program, including transportation; all-day kindergarten; full funding of MSOC; and kindergarten through grade 3 (K-3) class size reductions.

Engrossed House Bill (EHB) 2242, enacted in 2017, made a number of changes to state funding allocations. It expanded state funding for staff compensation to be phased in over the 2018-19 and 2019-20 school years; it revised basic education funding formulas and categorical programs; and it adjusted rates for state taxes and local levies collected by school districts. In November 2017 the Supreme Court upheld the elements of EHB 2242 but declared that the salary allocation phase-in did not comply with the constitutional deadline of 2018.

#### School District Employee Compensation.

Prior to EHB 2242, to fund staff units in the prototypical school formula, the state allocated funding for certificated instructional staff (CIS) salaries based on a "grid" which provides salary values that increase based on educational credit and years of service, which was used to calculate a "staff mix." Funding to support salaries for the classified staff (CLS) and administrative staff (CAS) in the prototypical school funding formula is specified in the biennial operating budget bill as a salary rate per state-funded staff person. Engrossed House Bill 2242 established new salary allocations in the prototypical school model and categorical programs to replace the "staff mix," based on minimum statewide average salaries for each of the three school staffing categories. Beginning in school year 2018-19, the minimum allocated salaries must be increased in equal increments to the following amounts for school year 2019-20, adjusted for inflation from the 2017-18 school year:

- CIS—An average salary of \$64,000.
- CAS—An average salary of \$95,000.
- CLS—An average salary of \$45,912.

Under EHB 2242 the minimum allocated salaries are regionalized to reflect regional differences in the cost to recruit and retain staff and are annually adjusted for inflation, based

on the Implicit Price Deflator (IPD), rather than a cost-of-living adjustment based on the Seattle Consumer Price Index (CPI). Additional requirements are established for CIS salaries. Districts may not pay CIS less than \$40,000, or more than \$90,000, and salaries for CIS with five years' experience must be at least 10 percent more than the minimum salary. These restrictions apply to salaries for the basic education program, and exclude supplemental contracts.

Engrossed House Bill 2242 placed restrictions on school districts' collective bargaining agreements with CIS or CLS. During the 2018-19 transitional period for the new salary allocations, a school district's collective bargaining agreement with CIS or CLS may not provide for a total salary increase, including supplemental contracts, with a percentage increase that exceeds the CPI. This restriction applies to collective bargaining agreements that are in effect for the 2018-19 school year and that are entered into or modified after the restriction becomes law. A similar limit applies to salaries for CAS.

*Supplemental Contracts.* Districts may pay CIS salaries that exceed the specified amounts only by separate contract for additional time, responsibility, or incentive. Beginning with the 2019-20 school year, a district may enter supplemental contracts only for activities that meet the new definition of enrichment, and the hourly rate under a supplemental contract may not exceed the CIS employee's hourly basic education salary.

*Professional Learning.* Beginning with the 2018-19 school year, the state must phase in allocations for a total of three Professional Learning Days (learning days) for CIS. The learning days must meet the definitions and standards for professional learning, and do not create an entitlement for an individual CIS to receive any particular number of learning days. Beginning in the 2019-20 school year, late start and early release days are limited to no more than seven days during the 180-day school year, with an exception for unforeseen events.

#### Special Education.

The state allocates funding for a program of special education for students with disabilities. Special education is funded on an excess cost formula for up to 13.5 percent of a district's students, which multiplies the district's base allocation for students enrolled in special education by an excess cost multiplier of 0.9309. Beyond these allocations, the Superintendent of Public Instruction (SPI) may provide safety net funding if a district has one or more high-cost students, or if a district is in a community that draws a larger number of families with children in need of special education, such as a community with group homes or military bases.

#### State Property Tax, Enrichment Levies, and Local Effort Assistance.

*State Property Tax.* The state Constitution limits regular property tax levies to a maximum of 1 percent of the property's value (\$10 per \$1,000 of assessed value [AV]). The state levies a regular property tax for common schools with a statutory maximum rate of \$3.60 per \$1,000 AV. In addition to the 1 percent constitutional rate cap, regular property taxes are subject to a statutory revenue growth limit based on the lesser of inflation or 1 percent. Under the 1 percent growth restriction, the estimated effective rate of the state property tax for calendar year 2018 is \$1.76 per \$1,000 AV.

Under EHB 2242, a new state property tax is levied for the support of the common schools. For taxes levied for collection in calendar year 2018 through 2021, the aggregate rate for both the current state levy and the new state levy is \$2.70 per \$1,000 AV. The new tax is deposited in the State General Fund. The revenue growth limit does not apply to the state levies during this time. Beginning with taxes levied for collection in calendar year 2022 and thereafter, the revenue growth limit applies to both state levies. Participants in the senior citizen property tax exemption program are fully exempt from the new state levy.

*Enrichment Levies.* Upon voter approval, school districts are authorized to collect excess levies above the 1 percent constitutional property tax limit. School district voters may approve maintenance and operations (M&O) levies for up to four years, transportation vehicle levies for up to two years, capital levies for up to six years, and bond levies for the life of the bonds. The Legislature limits the amount school districts may collect through their M&O levies. A school district's maximum M&O levy amount is determined by the district's levy base and levy percentage, also referred to as a "lid." Beginning with calendar year 2019, M&O levies are renamed "enrichment levies," and school districts may collect enrichment levies based on a new levy lid. A district's maximum enrichment levy is the lesser of \$2,500 per pupil or a rate of \$1.50 per \$1,000 of assessed value. Effective with taxes levied for collection in calendar year 2020, new limitations on enrichment expenditures apply to enrichment levies.

*Local Effort Assistance.* Local Effort Assistance (LEA) allocations, also known as levy equalization, are provided in proportion to the ratio of a school district's actual enrichment levy compared to the maximum enrichment levy. To qualify for LEA, a school district must have a maximum enrichment levy that is less than \$1,500 per pupil. Local Effort Assistance is provided on a per-pupil allocation basis so that the sum of levy funding and LEA for a qualifying district levying the maximum rate is \$1,500 per pupil. Effective with the 2019-20 school year, new limitations on enrichment apply to districts' LEA expenditures. Both the per-pupil enrichment levy lid and LEA are adjusted annually for inflation.

*Enrichment Limitations.* Beginning with the 2019-20 school year, districts may spend enrichment levies (including transportation vehicle enrichment levies), LEA, and other local revenues only for documented and demonstrated enrichment of the state's program of basic education. To constitute enrichment, a school district expenditure must supplement state minimum instructional offerings, staffing ratios, program components, or professional learning allocations. Permitted forms of enrichment consist of extracurricular activities, extended school days or school years, additional course offerings, early learning, administration of enrichment activities, and additional activities approved by the SPI through the pre-ballot review process. The SPI may report to the Legislature on expanding the list of specifically permitted enrichment activities. There are also limitations on the portion of CAS salaries that can be funded by enrichment levies.

Beginning with enrichment levies for collection in calendar year 2020, a district must receive approval by the Office of the Superintendent of Public Instruction (OSPI) of an enrichment expenditure plan before it may submit an enrichment levy proposition to the voters. Processes are established for the OSPI pre-ballot review of proposed enrichment expenditures, including limitations on changes to pre-approved uses.

The 2017-19 Operating Budget also provided \$5 million for districts expected to receive less in state allocations, enrichment levies, and LEA under EHB 2242 than they would have received for that year under laws as of January 1, 2017.

#### Other Engrossed House Bill 2242 Changes.

Engrossed House Bill 2242 made a variety of enhancements to specific elements of the prototypical school funding model and to categorical programs. Among those changes:

- *K-3 Class Size.* Beginning in the 2018-19 school year, districts receive the K-3 class size funding sufficient to fund 17 students to one classroom teacher, only to the extent of, and proportionate to, the district's actual demonstrated class size.
- *Learning Assistance Program.* A new Learning Assistance Program (LAP) allocation is provided to fund an additional 1.1 hours of instruction per week for students in high-poverty schools, which is required to be expended for school buildings that generate the allocation. In addition, EHB 2242 enhanced LAP instructional hours currently funded in the budget.
- *School Employees' Benefits Board.* Beginning January 1, 2020, all school districts must participate in the School Employees' Benefits Board (SEBB) program including districts and employees currently participating in the for Public Employees' Benefits Board (PEBB) program, and health benefits for all school district and educational service district employees are merged into a single, community-rated risk pool separate from the risk pool for the PEBB health benefits.

#### Additional Background.

- *Transportation Funding Grant Program.* In the 2017-19 Operating Budget, up to \$10 million was provided for fiscal years 2018-19 for a transportation funding grant program.
- *Running Start.* School districts may keep 7 percent of the state basic education allocation under the prototypical school funding statute that is received for students who participate in the Running Start program. The rest of the state allocation must be transmitted by the school district to the institution of higher education attended by the Running Start student.
- *Highly Capable Program.* The Highly Capable Program provides access to accelerated learning and enhanced instruction for school districts' most highly capable students. The state allocates funding for supplemental instruction based on 5 percent of each school district's enrollment.

#### **Summary of Amended Bill:**

##### School District Salaries.

The increased state salary allocations for CIS, CAS, and CLS provided in EHB 2242 are fully funded in school year 2018-19 instead of phased in over the 2018-19 and 2019-20 school years. The review conducted when rebasing salaries every four years must include the inflationary measure that is the most representative of the actual market experience for school districts. The period for the annual inflationary salary adjustment using the IPD for teachers and other school employees is moved ahead to the 2019-20 school year from the 2020-21 school year.

##### Salary Regionalization.

If a school district shares a boundary with any school district with a regionalization factor more than one tercile higher, then the regionalization factor for the district with the lower regionalization factor must be increased by 6 percentage points, if the lower district is located west of the crest of the Cascade Mountains. Beginning in the 2019-20 school year, a school district is provided a 4 percent experience factor adjustment if its median experience for CIS is above the statewide average CIS experience and its ratio of CIS advanced degrees to bachelor degrees is above the statewide ratio.

The salaries of charter schools, tribal compact schools, the State School for the Blind and the Washington State Center for Childhood Deafness and Hearing Loss will be adjusted by the regionalization factor that applies to the school district in which the school is geographically located. References to staff mix in charter school and tribal school statutes are removed.

#### Temporary Limits on Salary Increases.

In addition to inflationary increases based on the CPI, exceptions are added to the limits on salary increases in the 2018-19 school year. The exceptions include: increases for annual experience and education salary step increases; if the district is below the average total salary by staff group then the district may provide increases up to the statewide average allocation; salary changes for staffing increases due to enrollment growth or state-funded increases; and CIS salary changes to provide professional learning, National Board for Professional Teaching Standards bonuses, or hire new staff in the 2018-19 school year.

#### Paid Sick Leave.

The Legislature intends to provide funding in the omnibus appropriations act to support school districts with the additional costs of paid sick leave under Initiative 1433.

#### Local School District Levies and Local Effort Assistance.

The inflation measure used to increase the LEA threshold (\$1,500 per student) and the maximum per pupil limit (\$2,500 per student) is changed to the CPI from the IPD. A high school district's maximum levy amount and LEA is reduced by the non-high payment due to the high school district when a high school student living in a non-high district transfers to the high school district.

References to "resident" students are removed from definitions related to local enrichment levies and LEA. School districts participating in an innovation academy cooperative receive a proportional share of the student enrollments. Language describing the calculation of the maximum LEA is revised.

#### Enrichment Levy Restrictions.

The use of local levies for administrator salaries must not exceed 25 percent of the total district expenditures for administrator salaries. References to transportation vehicle enrichment levies are removed. Revenues collected from levies for transportation vehicles and school facilities are excluded from some restrictions on enrichment levies, including the calculation of maximum levy amounts.

#### Special Education.

The special education excess cost multiplier is increased from 0.9309 to 0.9609. Professional learning days are included as part of the special education base allocation. The Special

Education State Oversight Committee is required to consider the extraordinary high-cost needs of special education students served in institutional settings for safety net awards. The OSPI is required to revise rules to provide flexible access to community impact awards.

#### Learning Assistance Program.

The high-poverty, school-based LAP allocation is modified to send the allocation to qualifying schools rather than school buildings. A qualifying school is a school in which the three-year rolling average of the prior year total annual average enrollment that qualifies for free or reduced-price meals equals or exceeds 50 percent or more of its total annual average enrollment.

#### Transportation Grants.

A transportation alternate funding grant program is created, subject to the availability of amounts appropriated for this specific purpose. As part of the award process for the grants, the OSPI must review the school district's efficiency rating, key performance indicators, and local school district characteristics, such as, unique geographic constraints, low enrollment, geographic density of students, the percentage of homeless students served under the McKinney-Vento Homeless Assistance Act from outside the district, or whether a district is a non-high district.

#### Professional Learning Days.

The beginning of the phase-in of three learning days is delayed from 2018-19 to 2019-20. A school district is not required to provide learning days in excess of the state allocations. The State Auditor must audit the use of the state funds. A calculation for funding professional learning days is specified.

#### Hold-Harmless Provisions.

For the 2018-19 and 2019-20 school years, a school district qualifies for a hold-harmless payment if the total state allocation, enrichment levies, and LEA is less than what the district would have received based on local levies collected in 2017. An appropriation of \$12 million is provided for hold harmless payments, prioritized for districts that would receive less than half in local levies and Local Effort Assistance than they would have received under law as it existed on January 1, 2017 and that have an adjusted assessed property value in the district of greater than \$20 billion.

#### Highly Capable Program.

School districts must have identification procedures for highly capable students based on specified criteria. Also, the SPI must disseminate guidance for highly capable programs.

#### School Day Workgroup.

The OSPI is required to convene a work group to make recommendations for defining duties performed in a "school day," considering duties outside of school instructional time that are covered by state salary allocations.

#### Time-based Supplemental Contracts.

For time-based supplemental contracts, the hourly rate the district pays may not exceed the hourly rate provided to that same instructional staff for services under the basic education salary. For a supplemental contract, or portion of a supplemental contract that is not time-

based, the contract must document the additional duties, responsibilities, or incentives that are being funded in the contract.

Outdoor-based Curricula.

Public schools are authorized to develop curricula that links student learning with engagement in seasonal or nonseasonal outdoor-based activities, is aligned with the essential academic learning requirements, and includes locally administered competency based assessments that align with the Washington State Learning Standards. Schools may request authorization from the SPI to consider student participation in the activities as instructional days for the purposes of specified basic education requirements. The OSPI directs the SPI to adopt related rules and, subject to conformity with application or other requirements adopted by rule, to approve requests by public schools to consider student participation in seasonal or nonseasonal outdoor-based activities as instructional days for the purposes specified basic education requirements.

Kindergarten Through Grade 3 Class Size Compliance.

The bill delays the requirement to meet the 17:1 class size ratio for K-3 to receive funding at that ratio until September 1, 2019.

Library Supplies.

Within the prototypical funding formula, the allocation for "library materials" is split out from "other supplies and library materials."

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 28, 2018.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 303, relating to Local Effort Assistance, and section 307, relating to enrichment levies, which take effect January 1, 2019.

**Staff Summary of Public Testimony:**

(In support) School districts are supportive of the increase in the special education multiplier, which is a step in the right direction. Increasing the multiplier further would help reduce the gap that local districts use local levies to fill. There is support for the efforts of the Senate bill to address issues in implementing EHB 2242. The delay in K-3 compliance, the extension of the hold harmless for two years, and the flexibility in LAP funding are other issues that have support. The salary safety net addresses staff mix issues but does not go far enough and creates a process for districts to access funding. There are concerns about removing the \$90,000 salary limit, which is needed to provide salary structure for bargaining.

Allowing local levies to go up to the \$2,500 per pupil limit will offset losses in local school district revenue. Levy and LEA policies still need to be addressed, as the current policy will disproportionately affect small districts. Staff mix and experience mix should be addressed as well. The preference is for a statewide fix for regionalization, rather than just focusing on the west side of the state. Resident student language regarding online students is a concern

for Federal Way. Transportation funding provisions are also important to the Bethel School District. Concerns exist about the delay in implementing professional learning days and the restrictions on early release and late starts.

(Opposed) None.

(Other) The bill started out with stakeholders working together on technical changes needed for the *McCleary* solution in the 2017 Legislative Session. The bill is an improvement and many concerns have been addressed. There is support for the early phase-in of salaries, special education investments, paid sick leave, and smoothing the high-poverty LAP allocation.

Regionalization factors as implemented have created inequities between school districts. Little is done in the bill for regionalization for eastern districts in the state. An experience factor should be considered. Many districts have experienced teachers, and the salary safety net may be difficult to access. School districts need protections to make sure that additional funding in 2018-19 is not given away at the bargaining table. There should be limitations on what can be negotiated for those salaries, but salary changes for classified staffing increases should not be limited to enrollment.

Running Start is a successful and long-running program that provides an affordable introduction to college for over 26,000 students. There are strong concerns about the cap on Running Start reimbursements to higher education institutions. This bill freezes Running Start rates while basic education funding increases. Community and technical colleges could provide better services and more options with the funding. Other students subsidize Running Start students and new basic education funding brought parity between the two groups.

The bill does not provide a levy and LEA solution. East of the Cascade Mountains, levies have been used for enrichment purposes, and those districts have lost a significant portion of their local levy authority. Changes were made in the original bill to define resident student, but definitions should be based on all enrolled students. Buying a bus to transport students is not enrichment, and transportation levies should be treated like construction levies and not subject to enrichment restrictions.

The comparison for hold-harmless funding should be without the levy cliff included. Other areas of concern are the continuation of the K-3 compliance schedule and the reduction in the special education safety net. The bill also accelerates the accountability and transparency measures in school districts too quickly. The bill lacks middle school guidance counselors to implement High School and Beyond Plans, which the Legislature required in a bill last session.

**Persons Testifying:** (In support) Charlie Brown, Tacoma, Federal Way, Bethel, and Franklin Pierce School Districts; Melissa Gomboskhy, Spokane, Evergreen, and Vancouver Public Schools; Amber McPhee-Millard, Educational Service District 105; and Jessica Vavrus, Washington State School Directors' Association.

(Other) Lorrell Noahr, Washington Education Association; Marie Sullivan, Richland School District, Pasco School District, and Eastern Washington Quality Schools Coalition; Doug

Nelson, Public School Employees–Service Employees International Union 1948; Arlen Harris and John Boesenberg, State Board for Community and Technical Colleges; Timothy Stokes, South Sound Community College; Dan Steele, Washington Association of School Administrators and Washington Association of School Business Officials; Ken Kanikeberg, Washington Association for Pupil Transportation; and Dave Mastin, Office of the Superintendent of Public Instruction.

**Persons Signed In To Testify But Not Testifying:** None.