

SENATE BILL REPORT

SB 6195

As Reported by Senate Committee On:
Early Learning & K-12 Education, January 28, 2016
Ways & Means, February 9, 2016

Title: An act relating to basic education obligations.

Brief Description: Concerning basic education obligations.

Sponsors: Senators Rivers, Rolfes, Litzow and Billig.

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/18/16, 1/28/16 [DPS-WM, DNP].
Ways & Means: 2/03/16, 2/09/16 [DP2S, DNP].

Brief Summary of Second Substitute Bill

- Creates the Education Funding Task Force to continue the work of the Governor's informal work group on implementing the program of basic education.
- Directs the Washington State Institute for Public Policy to contract for independent professional consulting services.
- Directs the Legislature to take legislative action by 2018 to reform school district levies, including addressing the scheduled reductions in school district levy authority percentages, the levy base due to the scheduled elimination of certain non-basic education revenues that the school districts did not actually receive, and local effort assistance due to the reductions in levy authority and the levy base.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 6195 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Litzow, Chair; Dammeier, Vice Chair; Fain, Hill and Rivers.

Minority Report: Do not pass.

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.

Signed by Senators McAuliffe, Ranking Member; Billig, Mullet and Rolfes.

Staff: Susan Mielke (786-7422)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6195 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Hill, Chair; Braun, Vice Chair; Dammeier, Vice Chair; Honeyford, Vice Chair, Capital Budget Chair; Bailey, Becker, Brown, Hewitt, O'Ban, Padden, Parlette, Schoesler and Warnick.

Minority Report: Do not pass.

Signed by Senators Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Ranking Minority Member, Operating; Billig, Conway, Darnelle, Hasegawa, Nelson, Pedersen and Rolfes.

Staff: Lorrell Noahr (786-7708)

Background: Basic Education. The Washington State Constitution (Constitution) provides: “It is the paramount duty of the state to make ample provision for the education of all children residing within its borders. . .” The Washington Supreme Court (Court) has interpreted this to mean that the Legislature must define an instructional program of basic education for public schools and amply fund it from a regular and dependable source.

In 2009, the Legislature adopted a revised basic education funding allocation model for public schools based on prototypical schools. The use of prototypical schools is intended to illustrate the level of resources needed to operate a school of a particular size using commonly understood terms such as class size, hours of instruction, and specified staff positions. In 2010, the Legislature set targets and a timeline for phasing in specified funding enhancements to the basic education program by 2018, including enhancements to student transportation; materials, supplies, and operating costs (MSOC); statewide, full-day kindergarten; and a reduction in kindergarten through grade three (K-3) class size.

The 2015-17 omnibus appropriations act included sufficient funding to fully implement the enhancements to student transportation, MSOC, and statewide full-day kindergarten. The 2015-17 appropriations also continued the phase-in of K-3 class size reductions. The four-year balanced budget outlook includes the remaining step to implement the enhancement to reduce the K-3 class size to 17 students.

In 2012 the Court issued its opinion in the *McCleary v State* lawsuit. The Court found that the State had failed to meet its paramount constitutional duty to amply fund the costs of its basic education program using the pre-2009 funding model. The Court provided that state funding should reflect the actual costs of providing the legislatively defined instructional program of basic education. The Court identified state salary allocations as one area of shortfall. The Court noted that some of the difference between actual salaries and state allocations represented permissible incentive pay that went toward non-basic education related tasks. However, districts pay for some salaries that are likely a basic education

responsibility using local levy funds. The Court reaffirmed that reliance on local school district levies for funding basic education is unconstitutional because local levies are not a regular and dependable funding source since levies are temporary, subject to approval by the voters, and highly variable. Local levies can be used by school districts for enrichment purposes.

The Court retained jurisdiction to help ensure progress by the State in meeting its constitutional obligation. In subsequent orders, the Court has directed the State to provide the Court with a plan for full funding of all aspects of basic education. In 2014, the Court declared that the state's failure to submit a plan constituted contempt of court, and in 2015 the Court imposed a fine of \$100,000 per day until the Legislature adopts a complete plan for complying with its constitutional duty by the 2018 school year.

Educator Compensation. The Legislature allocates money to each school district for state-funded school employee salaries. The actual salaries paid to certificated instructional staff and classified staff are subject to the collective bargaining process, within certain limits set by the Legislature.

Certificated Instructional Staff (CIS). State funding for teachers and other certificated instructional staff salaries is provided through the state salary allocation model, which uses education and years of experience to vary the salary levels. The salary allocation is increased for each additional year of experience, up to 16 years, and for additional education, up to a Ph.D. School districts must pay at least the minimum salary on the state salary allocation model and cannot exceed the average salary calculated on the state salary allocation model.

Certificated Administrative Staff (CAS) and Classified Staff (CLS). There is no state salary allocation model for certificated administrative staff or classified staff such as bus drivers, food service workers, custodial staff, and class room aides. Each school district receives an allocation for these staff based on historical salary allocations, adjusted for cost-of-living increases.

Supplemental Contracts School districts may provide additional salary to CIS beyond that provided by the State. The additional salary is provided using supplemental contracts and must be for additional time, responsibilities, incentives and innovations, also known as “TRII”. Local levy revenue is used for most supplemental contracts. State law provides that supplemental contracts must not be used for basic education and must not create any present or future funding obligation for the State.

Local School District Levies. School districts are authorized to raise funds locally for their districts through excess levies. Since 1977 the Legislature has limited the amount school districts may request from their voters and collect through maintenance and operation (M&O) levies. The maximum amount that may be raised is based on the state and federal funding received by the district in the prior year. The amount that may be raised is typically referred to as the district's levy authority.

The levy lid is the limit on school districts' levy authority. Under current law, 205 of the 295 school districts have a levy lid of 28 percent of the district's state and federal funding, which was temporarily increased in the 2010 legislative session from 24 percent. This means that

school districts may request voter approval and collect \$0.28 for each \$1 of state and federal revenue the district receives. The other 90 school districts have a levy lid ranging from 28.01 percent to 37.90 percent.

Additionally, in the 2010 legislative session, the Legislature increased a school district's levy base to include certain non-basic education revenues formerly allocated by the State in addition to the revenues the district actually receives from state and federal sources. Effective with the levies for calendar year 2018, the levy lid will revert to 24 percent and the increases will be removed from the levy base.

Local Effort Assistance. The Local Effort Assistance program (LEA), or levy equalization, was created in 1987 to mitigate the effect that above-average property tax rates might have on the ability of a school district to raise local revenues through voter-approved levies. The LEA is expressly not part of basic education. The amount is calculated based on equalizing tax rates to a statewide average for a certain equalization rate. The current LEA equalization rate is 14 percent. In calendar year 2018, the LEA equalization rate will decrease to 12 percent.

Four-year balanced budget outlook. In 2012, the Legislature enacted a law requiring the state operating budget to be balanced for the two-year biennium in which it is offered and the projected state operating budget to be balanced for the following two-year period based on current estimates for state revenues and the projected cost of maintaining the current level of state programs and services. Together, these two requirements are often referred to as the "Four-Year Balanced Budget Outlook."

Professional Educator Standards Board (PESB) Report. The PESB Brief Addressing Recurring Teacher Shortages includes data, analyses, and recommendations for the Legislature that include:

- funding and requiring public higher education institutions to develop priority production area recruitment and enrollment plans, including recruiting strategies;
- increasing the funding for alternative routes for teacher certification and educator retooling programs;
- centralizing and funding marketing and recruitment;
- establishing competitive beginning teacher pay and aligning salary increases with teacher certification;
- funding statewide beginning teacher induction and mentoring; and
- providing forecasting tools for school district hiring needs.

Summary of Bill (Recommended Second Substitute): Findings and Intent. It is noted that the Legislature has demonstrated its commitment to funding its program of basic education including student transportation, MSOC, full-day kindergarten, and K-3 class size reductions. Legislative intent to complete the scheduled phase-in of the K-3 class size reduction in accordance with the four-year balanced budget outlook; to provide state funding for competitive salaries and benefits that are sufficient to hire and retain competent certificated instructional staff, administrators, and classified staff; and to minimize any disruptive impact to school districts and taxpayers is provided. Legislative findings that the lack of transparency regarding school districts' use of local levy funds limits the Legislature's ability to make informed decisions about educator compensation are made. The Legislature declares that data

and analysis on the source of compensation funding, duties, uses or categories for which compensation is paid above the state's allocation is necessary to inform the Legislature's decisions.

Education Funding Task Force Established. The Education Funding Task Force (EFTF) is created to continue the work of the Governor's informal work group on implementing the program of basic education. The task force consists of eight legislators, two members from each of the two largest caucuses of the House of Representatives and the Senate; and the governor or his designee as a non-voting member to serve as a facilitator. Recommendations of the EFTF require an affirmative vote of five of its members and must be submitted to the Legislature by January 9, 2017. Staff support is provided by the Office of Program Research, Senate Committee Services, and the Office of Financial Management. EFTF meetings are open to the public and must include the solicitation of input from the public.

The EFTF must review compensation and labor market data and analysis provided by a contracted consultant, previous studies provided to the Legislature and the PESB's report on teacher shortages. The EFTF must make recommendations regarding the following:

- compensation that is sufficient to hire and retain the staff funded under the statutory prototypical model and an associated salary allocation model;
- whether future salary adjustments should be incorporated into the salary allocation model and if so, the method for providing adjustment;
- whether a local labor market adjustment formula should be incorporated and, if so, the method for adjustment, including considerations for rural and remote districts and districts with economic distressing factors that affect recruitment and retention;
- improving or expanding existing educator recruitment and retention programs;
- local M&O levies and local effort assistance;
- local school district collective bargaining;
- clarification of the distinction between services provided as part of the state's statutory program of basic education and services that may be provided as local enrichment;
- the provision and funding method for school employee health benefits; and
- sources of state revenue to support the state's statutory program of basic education.

Independent Professional Consulting Service. The Washington State Institute for Public Policy, in consultation with the EFTF, must contract for independent professional consulting services to collect and analyze K-12 public school staff compensation and labor market data. SPI must collect the data from school districts with sufficient time for the consultant to accomplish the work required. The consultant must provide an interim report by September 1, 2016, and a final report by November 15, 2016.

School District Accounting and Reporting. By June 1, 2016, OSPI must create a working group with representatives of the state auditor, legislative evaluation and accountability program committee, the school district accounting advisory committee, and other education stakeholders to recommendations on how to implement improved accounting procedures and practices, including requiring school districts to provide separate accounting of state, federal, and local revenue expenditures and also separate accounting of basic education and nonbasic education expenditures.

By June 1, 2016, the state auditor shall review its internal audit practices, review recent school district audits of a representative sample of school districts and make recommendations to the task force on how adjustments can be made to the internal practices of both the auditor and the school districts to ensure that school districts are not using local levy funds for basic education. These reviews shall not constitute a finding by the auditor against any of the school districts that are reviewed.

Supplemental Contracts. For supplemental contracts bargained after July 1, 2016, additional salary and benefits for certificated instructional staff are limited to duties performed for new programs outside the state-funded school day, time-based activities, and additional time for staff development outside the state-funded school day. These limitations will not result in a salary reduction from school year 2015-16.

Legislative Action. The Legislature must take legislative action by December 31, 2017 session to reform school district levies.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Second Substitute): By June 1, 2016, OSPI must create a working group with representatives of the state auditor, legislative evaluation and accountability program committee, the school district accounting advisory committee, and other education stakeholders to recommendations on how to implement improved accounting procedures and practices, including requiring school districts to provide separate accounting of state, federal, and local revenue expenditures and also separate accounting of basic education and nonbasic education expenditures.

By June 1, 2016, the state auditor shall review its internal audit practices, review recent school district audits of a representative sample of school districts and make recommendations to the task force on how adjustments can be made to the internal practices of both the auditor and the school districts to ensure that school districts are not using local levy funds for basic education. These reviews shall not constitute a finding by the auditor against any of the school districts that are reviewed.

For supplemental contracts bargained after July 1, 2016, additional salary and benefits for certificated instructional staff are limited to duties performed for new programs outside the state-funded school day, time-based activities, and additional time for staff development outside the state-funded school day. These limitations will not result in a salary reduction from school year 2015-16.

The date for which the legislature must take action to reform school district levies is changed to December 31, 2017. The appropriation section was removed.

EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (Recommended Substitute): The requirement that the legislative task force must review certain information and make recommendations on how to achieve sufficient classroom facilities to fully accommodate K-3 class size reduction, while maintaining the existing shared responsibility of local districts and the state to fund school construction, is removed. The number of affirmative task force votes that are necessary for a recommendation is changed from five to six. The direction for legislative action is changed

to require legislative action by 2018 to reform school district levies, including addressing the scheduled reductions in school district levy authority percentages, the levy base due to the scheduled elimination of certain non-basic education revenues that the school districts did not actually receive, and local effort assistance due to the reductions in levy authority and the levy base.

Appropriation: An appropriation in the amount of \$500,000 for the 2015-17 biennium is made to the Evergreen State College to fund the Washington State Institute for Public Policy to contract with independent professional consulting services.

Fiscal Note: Available.

Committee/Commission/Task Force Created: Yes.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill (Early Learning & K-12 Education): PRO: These are thorny issues that need to be addressed with a sense of urgency by a bi-partisan group using a thorough and thoughtful process on a reasonable timeline and this bill seems to do that. The funding streams need be tied to student outcomes. Every day that goes by the use of local levies by school districts are creating greater disparate salaries across the state. You need expertise from the K-12 funding field to help with finding a solution that works.

CON: This is a plan for a plan, which is not adequate action. You are ignoring the needs of over one million students in public schools. This bill creates the appearance of action but it does not provide full funding of basic education. The problem is not a lack of data; it is a lack of leadership. There is no sign that the Legislature feels any urgency to end the dependency of local levies to fund basic education. You can meaningfully impact the students in schools by acting this session and not waiting until later to do so.

OTHER: We appreciate that there will be open public meetings but are disappointed and concerned because the state must invest new revenue that is dedicated to fully fund basic education and no funding is provided in this bill. You must do more this session for our over one million students. While we do support finding a final solution to fully fund basic education, this bill continues to delay real action on these hard decisions and merely adds another task force. You need to repeal tax breaks and pass additional taxes to provide a real solution. When students do their homework they have to face the consequences; the same should apply to legislators and when you do not act it is still the students that must face the consequences of your inactions. The Supreme Court understands what is needed to fund basic education and that is funding and not research. If research is done then it needs to be focused on finding new revenue that can be supported in a bi-partisan, collaborative approach. The timeframe is very tight for the Legislature to act and still give sufficient time to school districts to be able to implement the solution. In addition to addressing compensation, special education, LAP, and ELL funding should be increased to provide sufficient assistance to these students who need more help. Please think about the student outcomes you want from the K-12 education system as you determine how you will pay for

it. There needs to be a careful transition as the State provides more state dollars remove district reliance on local levies to fund basic education.

Persons Testifying on Original Bill (Early Learning & K-12 Education): PRO: Jene (Jenna) Jones, League of Education Voters; Alan Burke, WSSDA; Amy Anderson, AWB.

CON: Melissa Westbrook, Seattle Schools Community Forum blog; Dan Grimm, Superintendent of Public Instruction; Ben Rarick, SBE.

OTHER: Eden Mack, Washington State PTA; Dan Steele, WA Assn of School Administrators; Summer Stinson, Washington's Paramount Duty; Asher Ravona, Third Grader (9 years old); Michael Muto, Father of public school students; Shawn Lewis, Spokane Public Schools; Julie Salvi, Washington Education Association; Neil Strege, WA Roundtable; Mitch Denning, Alliance of Educational Associations.

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

Staff Summary of Public Testimony on First Substitute (Ways & Means): CON: This bill does not constitute a complete plan. The problem is not a lack of data, it is a lack of political will. Every time we delay this constitutional priority, we continue the inequitable taxes across the state. With the extended date, would passing this bill even make a difference? I urge you not to pass this bill, but instead pass a more robust response. The time is now to fully fund education, not to delay this. Parents should not have to volunteer teaching time at their children's schools due to the lack of state funding. The PTA organization has provided \$35,000 of basic education services such as early elementary reading interventions and laptops, which the state should be fully funding. The original bill was underwhelming, and this substitute has not improved the bill. The McCleary workgroup had a pragmatic solution with a solid commitment by a certain date. The original bill language should be restored in section 4. This will allow the bill to move forward and be approved in the other body.

OTHER: This bill demonstrates a lack of urgency by the Legislature. The Legislature should direct their time and energy to address the needs of students and other school funding inadequacies, instead of re-reviewing prior workgroups and studies. While the substitute bill deadline does align with the court deadline, it does not align with the biennial budget process. There is concern that this plan will be caught up in adult issues, instead of where the focus should be on the interests of children's education. The removal of the capital funding considerations is problematic and a step back. The Legislature should lean on school districts to help craft a plan to make us ready as a state. The language in the substitute bill necessitates this committee's review of the levy cliff issues. The substitute moves levy considerations to 2018, after the current levy cliff. The Legislature should also consider moving the levy cliff deadline out. Addressing the levy cliff will help districts with their budget planning.

Persons Testifying on First Substitute (Ways & Means): CON: Ken Kanikeberg, Superintendent of Public Instruction; J.C. Mitchell, Reverend of Bellevue Christian & Highline PTA Council; Care Maree Harper, President, Endeavour Elementary School PTSA; Taya Montgomery, Advocacy Chair, Endeavour Elementary School PTSA; Ben Rarick, State Board of Education; Dan Steele, WA Association of School Administrators.

OTHER: Julie Salvi, Washington Education Association; Shawn Lewis, Spokane Public Schools; Jene Jones, League of Education Voters; Charlie Brown, Puget Sound Schools Alliance.

Persons Signed In To Testify But Not Testifying on First Substitute: CON: Angela Cough, Schmitz Park PTA; Samantha Silva, Student - Schmitz Park PTA.