

# SENATE BILL REPORT

## SB 6362

As of February 5, 2018

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

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

**Sponsors:** Senators Wellman, Rolfes and Billig; by request of Superintendent of Public Instruction.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/22/18, 1/25/18 [DPS-WM, w/oRec].

Ways & Means: 2/01/18.

### Brief Summary of First Substitute Bill

- Adds a net revenue hold-harmless.
- States that the average salaries will not be adjusted by the regionalization factors in charter schools and tribal compact schools.
- Reduces or eliminates the reporting of the per-pupil allocation.
- Specifies that salary inflationary measure is the Consumer Price Index.
- Removes transportation vehicle levies from the requirement that levies must only be used for demonstrated enrichment and not the basic education program.
- Expands the additional compensation individual staff may receive under the temporary limitations on salary increases.
- Delays until the 2019-20 school year, the requirement to demonstrate the actual K-3 class size in order to receive funding proportional to 17 students to one teacher.
- Modifies the high-poverty Learning Assistance Program allocation.
- Provides a calculation for the professional learning days.
- Allows districts to carry over certain funds to the following year.
- Declares legislative intent to take action on levy and local effort assistance policies in the 2018 legislative session.

*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.*

- Increases the special education multiplier.
- Expresses the intent of the Legislature to provide funding to support schools with paid sick leave costs.

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## SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** That Substitute Senate Bill No. 6362 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Rolfes, Vice Chair; Billig, Hunt, Mullet and Pedersen.

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

Signed by Senators Zeiger, Ranking Member; Hawkins, Padden and Rivers.

**Staff:** Jeff Mitchell (786-7438), Susan Mielke (786-7422).

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Sarian Scott (786-7729)

**Background:** Engrossed House Bill 2242. In the third special session of 2017, the Legislature enacted EHB 2242. This legislation increased and revised state allocations for K-12 basic education salaries, professional development days, and the prototypical school funding model; and limited use of school district levies for enrichment outside of the basic education program. It created a School Employees Benefits Board to procure health care and other benefits for school district employees statewide. A new state property tax for common schools was established at a total rate of \$2.70 per \$1,000 of assessed value when combined with the existing state property tax; capped school district levies at the lesser of \$2,500 per student or \$1.50 per \$1,000 of assessed property value; and revised local effort assistance up to \$1,500 per student.

Since 2012, when the Washington Supreme Court found that the state had failed to meet its paramount duty to amply fund a program of basic education and retained jurisdiction, the Legislature has annually reported to the court on legislative progress towards amply funding a program of basic education. The July 2017 report to the court included summary information on EHB 2242.

In the November 2017 court order, the court concluded that the state had met its constitutional duty to fully fund basic education with regards to materials, supplies and operating costs; student transportation; categorical programs of basic education, including Special Education, the Highly Capable student program, Transitional Bilingual Instructional Program, the Learning Assistance Program (LAP); and the new salary allocation model under EHB 2242. However, the court found that the state remains out of full compliance with its constitutional duty because the salaries are not fully implemented by September 1, 2018. The court declared if the state is not in compliance by the end of the regular 2018 legislative

session on March 8, 2018, the court will immediately address the need to impose additional remedial measures.

School District Salaries & Regionalization. In 2017, the Legislature reformed state allocations for school district staff salaries, including how school district staff salaries are established and adjusted in the future, through the enactment of EHB 2242. These changes take effect with the 2018-19 school year.

*Before EHB 2242.* Through school year 2017-18 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. Each district's CIS allocation is based on its staff mix, that is, the distribution on the state salary grid of the CIS hired by the district. Funding to support salaries for the classified staff (CLS) and administrative staff (CAS) is specified in the budget bill as a salary rate per state-funded staff person. In general, state salary funding is for allocation purposes only, and school districts are not required to hire staff according to the prototypical school staffing formula, nor are they required to pay CIS salaries according to the state CIS salary grid. Instead, actual salaries are determined by each district's collective bargaining agreements.

*After EHB 2242.* Under EHB 2242, beginning in school year 2018-19, the state will cease using the state salary schedule to allocate CIS salaries for school districts, thus eliminating use of a district's staff mix of CIS education and years of experience. Instead, the state will allocate salary funding to school districts 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. In school year 2018-19 salaries are phased in at 50 percent:

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

Beginning with the 2018-19 school year, the state must further adjust its salary allocations to reflect regional differences in the cost of hiring staff. The regionalization factor for each school district is based on differences in the median residential value of each school district and its nearby districts, with adjustments of 6, 12, or 18 percent. An additional adjustment equal to 6 percent is identified in the budget bill and must be reduced on a specified schedule through the 2022-23 school year. For districts with a total adjustment of 24 percent, the additional 6 percent adjustment is completely eliminated by the 2022-23 school year. The additional 6 percent adjustment is reduced by 3 percentage points by the 2022-23 school year for other school districts receiving the additional adjustment.

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. Districts may exceed the caps for specified hard-to-staff positions. Each of the minimum and maximum salaries is adjusted by inflation and by a district's regionalization factor.

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 Seattle Consumer Price Index (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.

Inflation Measures. Under EHB 2242, except for the temporary restrictions on salary increases, state salary allocations must provide an inflationary adjustment based on the IPD, rather than the CPI. The IPD was described as the inflationary measure compiled by the Bureau of Labor Statistics, United States Department of Labor for the State of Washington. The CPI was described as the inflationary measure compiled by the Bureau of Labor Statistics, United States Department of Labor, for the city of Seattle.

Temporary Limitations on Salary Increases. EHB 2242 required for the 2018-19 school year, if a school district's collective bargaining agreement was modified after July 6, 2017, and in effect for the 2018-19 school year, then school districts are restricted from providing a percentage increase to total salary for CIS, CAS, and CLS above inflation as measured by CPI, including supplemental contracts. These provisions expire August 31, 2019.

Local School District Levies and Local Effort Assistance (LEA). In 2017, the Legislature reformed the maximum amount school districts may collect through their local district levies (enrichment levies) through the enactment of EHB 2242. EHB 2242 also substantially modifies state funding for the state Local Effort Assistance (LEA) program, which currently provides support for school districts with high local tax rates due to low assessed values. These changes take effect in calendar year 2019.

*Before EHB 2242.* Through calendar year 2019, a school district's maximum enrichment levy amount is determined by the district's levy base and levy percentage, also referred to as a lid. Generally speaking, a district's annual levy base is the total of its state and federal funding for the prior school year, adjusted for inflation, and including additional amounts that were added to the levy base in 2010, sometimes referred to as ghost money. The levy lid is the maximum allowable percentage of the levy base that a school district may collect. The levy lid for most school districts is 28 percent, which means that each calendar year, districts may collect up to 28 percent of their levy base. Some districts are grandfathered at a higher levy percentage. The 28 percent lid extends through calendar year 2018.

Through calendar year 2019, a school district is eligible for LEA funding if the school district has a higher than average levy rate and if the district has certified a local enrichment levy. Levies are equalized up to 14 percent of the levy base, half of the 28 percent levy lid that is applied to the majority of districts.

*After EHB 2242.* Beginning with calendar year 2019, 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.

To qualify for LEA funding, a school district must have a maximum local levy that generates less than a state LEA threshold of \$1,500 per pupil. LEA funding is provided on a per-pupil

allocation basis so that the sum of enrichment levy funding and LEA funding for a qualifying district levying the maximum \$1.50 tax rate is \$1,500 per pupil. State LEA allocations are provided in proportion to the ratio of a school district's actual enrichment levy compared to its maximum levy.

Both the per-pupil local levy lid and LEA threshold amount are adjusted annually for inflation beginning in calendar year 2020. The per pupil calculations are based on the average annual resident full-time equivalent students.

Pre-Ballot Approval of Enrichment Levy Expenditure Plans. EHB 2242 required districts to receive pre-ballot approval by the Office of the Superintendent of Public Instruction (OSPI) for an expenditure plan for enrichment levies, before submitting the levy to voters.

Enrichment Levy Restrictions. EHB 2242 changed maintenance and operation levies and transportation vehicle levies to enrichment levies. Beginning 2019-20 school year, school districts may use local levies, including transportation vehicle levies solely for documented and demonstrated enrichment and not for basic education. Use of local levies for supplemental contracts must be for only documented and demonstrated enrichment.

*Before EHB 2242.* 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 state property tax for calendar year 2018 is \$1.80 per \$1,000 AV.

*After EHB 2242.* An additional state property tax is levied for the support of the common schools. For taxes levied for collection in calendar year 2018 through 2022, the 1 percent revenue growth limit is suspended and the aggregate combined rate for both the current state levy and the new state levy is \$2.70 per \$1,000 AV. Beginning in calendar year 2022, the 1 percent revenue growth limit is reinstated. The new state tax is deposited in the State General Fund.

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.

The Learning Assistance Program (LAP). This program provides supplemental instruction and services to assist students in grades K-12 who are not meeting academic standards and to reduce disruptive behaviors in the classroom. The state allocation for LAP is based on the number of K-12 students enrolled in the school district who are eligible for free- or reduced-price meals (FRPMs) in the prior school year, but students do not have to be eligible for FRPMs to be served in the LAP.

In 2017, the Legislature created an additional allocation that is a high-poverty, school-based LAP allocation for schools with at least 50 percent of the enrolled students eligible for FRPMs. School districts must distribute this allocation to the school buildings that generated

the allocation. This funding provides a statewide average of 1.1 hours in additional instruction.

Carry Over. The 2017-19 budget allows school districts to carry over up to 10 percent of the funds for the special education program for students with disabilities and the LAP to use the following year.

Hold-Harmless Provisions. The 2017-19 budget funded two hold harmless provisions.

- Net revenue hold harmless—\$5 million provided for districts expected to receive a net funding reduction (state and local) with the funding formulas under EHB 2242. This provision was funded but not explicit in EHB 2242 nor the operating budget bill; and
- Salary hold harmless—for the 2018-19 school year, districts receive the greater of the new minimum salary allocations plus regionalization; or the salary allocations for the 2017-18 school year, that used staff mix, increased by 2.3 percent.

The Governor's budget includes similar language, but payment is for 2018-19 and 2019-20 school years.

Per-Pupil Allocation Reporting. Under EHB 2242, OSPI must report per-pupil allocations for general apportionment by school district and by grade-level; and also to report per-pupil allocations by categorical programs by school district. The Legislature must report per-pupil allocations for general apportionment and categorical programs by the statewide average.

Professional Learning Days. Under EHB 2242, the state must phase in funding for three professional learning days by the 2020-21 school year. This does not entitle any individual teacher to any particular number of professional learning days. The phase in schedule is one day in the 2018-19 school year, two days in the 2019-20 school year, and three days in the 2020-21 school year. The 2017-19 operating budget salary allocations included funding for one day of professional learning for each funded full-time equivalent certificated instructional staff in the 2018-19 school year.

**Summary of Bill (First Substitute):** 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 under laws as of January 1, 2017, which is before EHB 2242 was passed by the Legislature.

Per-Pupil Allocation Reporting. Changes OSPI reporting requirement from per-pupil allocations to per-pupil expenditures and removes the requirement to report by grade level. Eliminates the requirement for the Legislature to report the statewide per pupil allocations for general apportionment and categorical programs.

K-3 Class Size. The requirement to demonstrate actual class size in order to receive K-3 class size funding sufficient to fund 17 students to one classroom teacher is delayed until the 2019-20 school year.

The Learning Assistance Program (LAP). A school may continue to receive the high-poverty LAP funding for one year after it no longer meets the definition of high-poverty. A

definition of qualifying school is added, which is based on a three-year rolling average of the prior year's enrollment that qualifies for FRPM is equal or exceeds 50 percent or more of its total annual average enrollment.

The special education multiplier is increased from 0.9309 percent of a school district's average per student general apportionment allocation to 0.9609.

Carry Over. School districts may carry over up to 20 percent of their categorical funding in the LAP, Transitional Bilingual Instruction Program, and the program for highly capable students to use the next year in the same categorical program.

Transportation Vehicle Enrichment Levies. Transportation vehicle enrichment levies are removed from the local revenue definition, pre-ballot approval requirement, local enrichment levy restrictions, and local revenue accounting requirements.

School District Salaries and Regionalization. The restriction that local levies may be used only for administrator's salaries attributable to the administration of enrichment programs is modified so that use of local revenues for administrator salaries may not exceed 25 percent of the district's local revenues.

The statutes are updated governing charter schools and tribal compact schools to remove references to staff mix to align with the elimination of the salary grid in 2017. The average salaries will not be adjusted by the regionalization factors in charter schools and tribal compact schools.

Professional Learning Days. Specifies the calculation for funding professional learning days. A school district is not required to provide professional learning days in excess of the state allocations.

Salary Inflation Measures. The salary inflation measure is changed from the IPD to the CPI compiled by the Bureau of Labor Statistics, a branch of the United States Department of Labor, for the state of Washington. If the Bureau of Labor Statistics develops more than one CPI for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items must be used for the salary inflationary adjustment index.

Temporary Limitations on Salary Increases. This restriction is modified to limit total salary increases to CPI, during the 2018-2019 school year only, for each staff category: CIS, CAS, and CLS. Individuals may receive additional compensation for additional days or hours of service, additional responsibilities, step increases, and expansions of academic programs. The August 31, 2019 expiration date is maintained.

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.

Supplemental Contracts. School districts are not prohibited from providing overtime for work outside the employee's normal schedule. The hourly rate applies only to a time-based supplemental contract.

Local School District Levies and Local Effort Assistance. It is the intent of the Legislature to take action to reform school district levy and local effort assistance policies in the 2018 legislative session.

**EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (First Substitute):**

- Retains the provisions in the original bill that addressed per pupil allocations reporting, K-3 class size, transportation vehicle enrichment levies, professional learning days calculation, staff mix, temporary limitations on salary increases for 2018-19 SY only, and LAP high poverty allocation.
- Removes the definition of resident student. Reinstates the pre-ballot approval process.
- Amends the provisions addressing the restrictions on use of local levies for administrator salaries, supplemental contracts, inflation measure for salaries, levy and local effort assistance, salary regionalization, special education multiplier, and paid sick leave.
- Adds a provisions addressing carryover of funds to the next year.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony on Original Bill (Early Learning & K-12 Education):** *The committee recommended a different version of the bill than what was heard.* PRO: Between all of the four bills you are hearing today, you have several options to improve on the bipartisan work and progress that the Legislature made last year. The entire levy implementation needs to be delayed so the Legislature and stakeholders can have time to figure out how to create a sustainable system that works for everyone. This year is a stop-gap year so that school districts do not continue to spiral into a hole. You have options you can choose from: look at a different model that is more mathematical, delay a year, or flip to the "greater of" and going to \$25,000.

We support the removal of the OSPI pre-ballot approval for a levy expenditure plan because the state should not second-guess the locally elected school directors and the school district voters. Some districts already have approved levies and now in February they are going back to the voters to roll back the amount that was previously approved before 2242. The rollback of levies needs to be slowed down or delayed. If the Legislature raises the maximum per-pupil limit on local levies as this bill does then it will provide a significant amount of resources for school districts to continue enrichment programs that the districts are currently



operating with local levies. We support returning to a rate per thousand or a percentage. Clearly local levies cannot be used for basic education but restricting the amount that can be raised by local levies was not something that the court required. There are already safeguards on the use of the levies with the new accounting requirements, audits, and the Legislature's definition of enrichment, so why restrict the amount raised?

The definition of resident student for the purposes of levies needs to be fixed. It does not appropriately address transferring students for the purposes of levies. The definition will negatively impact school districts that have a high number of choice and ALE students.

The Legislature lifted the percentage of enrollment for which schools receive special education excess costs from 12.7 to 13.5, but funding gaps still exist and there are new limits on local levy use for special education. Please increase the multiplier from 93 percent to cover the shortfall.

The transportation funding formula is also underfunded, and should be reviewed and revised.

Without a sufficient number of classrooms many districts will continue to struggle to meet the ratio of 17:1. This results in those districts being penalized and not receiving the funding.

We support the hold harmless, but it needs to work for all school districts. The hold harmless is expanded, but only for two years and that is not enough for school districts running their levies in 2019. We prefer an ongoing unlimited hold harmless.

A salary allocation schedule with staff mix or experience factor needs to be added back to ensure consistency, conformity, and equity across the state. We support removing the limitation for using levies to pay for administrative salaries because it is unfair and makes it very complicated to implement.

CON: This bill does not go far enough in fixing technical, policy, and funding issues. The levy policy will create a levy cliff between two neighboring districts. The bill cuts the professional learning allocation. The changes made in section 12 and 13—the restrictions on salary increases for 2018-19 school year—have could the potential result of a hiring freeze.

OTHER: The Legislature just reorganized the structure of public education funding in response to the *McCleary* court decision. This infused a historical increase into the system.

The school districts are adjusting to the changes. It has only been seven months since these decisions were made. This bill undoes some of the components of last year's bill. The provisions in last year's bill are very interconnected and you need to keep stability by keeping these provisions in place.

This bill does not expand support or inclusion of parents in the system. The treatment of charter schools is not equitable under this bill.

Any changes made to EHB 2242 should focus on increasing equity and transparency, in the distribution of teachers and resources, a fair levy system that does not create a reliance on

local levies for basic education, nor create a two-tiered system where there is a different per-pupil amount based on the district.

**Persons Testifying (Early Learning & K-12 Education):** PRO: Dan Steele, Washington Association of School Administrators & Washington Association of School Business Officials; Gene Sementi, West Valley School District, Spokane; Randy Russell, Freeman School District; Dave Smith, Newport School District; Brian Talbot, Nine Mile Falls School District; Nancy Chamberlain, Washington State PTA; Heidi Bennett, Washington State PTA; JoLynn Berge, Assistant Superintendent, Finance & Business, Seattle Public Schools; Gary Cohn, Everett Public Schools; Jeff Moore, Everett School District; Krestin Bahr, Eatonville School District; Melissa Gombosky, Evergreen and Vancouver Public Schools; Roger Andrascik, Eatonville School Board Director; Frank Wilson, Olympia School District Board President; Chris Reykdal, OSPI; Jessica Vavrus, Washington State School Directors' Association; Chris Reykdal, OSPI.

CON: Lorrell Noahr, Washington Education Association.

OTHER: Dave Powell, Stand for Children; Liv Finne, Washington Policy Center; Daniel Zavala, League of Education Voters.

**Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education):**  
No one.

**Staff Summary of Public Testimony on First Substitute (Ways & Means):** PRO: Support the intent, and recommend inclusion of full salary funding in the 2018-19 school year, as included in 6352. Important salary regionalization and experience mix are needed. A salary allocation schedule with experience mix factor needs to be added to ensure consistency, conformity, and equity across the state.

This bill adds funding to special education. Consider increasing the multiplier beyond the 0.96 percent proposed.

Without a sufficient number of classrooms and lack of capital, many districts will continue to struggle to meet the ratio of 17 to 1.

We support the hold harmless, but it needs to work for all school districts. The hold harmless is expanded, but only for two years and that is not enough for school districts running their levies in 2019. We prefer an ongoing unlimited hold harmless.

Support modifications to the underlying levy policy. The definition of resident student for the purposes of levies needs to be included. It does not appropriately address transferring students for the purposes of levies. The definition will negatively impact school districts that have a high number of choice and ALE students.

Would like the LAP to see an adjustment to 40 percent as the poverty rate percent, dropping it from 50 percent.

OTHER: Regionalization opportunity gaps are very challenging for districts and adjustments are requested. Teachers are looking for new jobs due to other districts receiving higher salary regionalization.

This bill has no specifics on levy change. Do no more harm, and do not cut voter approved levies so districts have a buffer. Levy is the last flexible money we have.

Concerns with K-3 compliance due to rapidly growing school districts and capital challenges. Potential hiring freeze concern at the same time as districts are working to hire more staff to comply with K-3 class size ratios.

**Persons Testifying (Ways & Means):** PRO: Dan Steele, Washington Association of School Administrators, Washington Association of School Business Officials; Jim Kowalkowski, Superintendent, Davenport School District, Executive Director, Rural Education Center; Jessica Vavrus, Washington State School Directors' Association; Aaron Millstein, School Alliance; Sally McLean, Federal Way School District; Tom Seigel, Bethel School District; Charlie Brown, Tacoma Public Schools; Monty Sabin, North Thurston Public Schools; Chris Reykdal, OSPI; Lisa Dawn-Fisher, OSPI.

OTHER: Stephen Miller, Vice President, Washington Education Association; Lorrell Noahr, Washington Education Association; Nancy Chamberlain, Washington State PTA; Heidi Bennett, Washington State PTA; Gene Sementi, West Valley School District; Marie Sullivan, Richland School District, Pasco; Doug Nelson, PSE/SEIU 1948; Dana Rosenbach, North Mason School District; John Campbell, citizen; Jennifer Lewis, North Mason School District; Cindy Smethers, North Mason School District; Katie Patti, Belfair Elementary PTA.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.