

# SENATE BILL REPORT

## SB 6397

As of January 22, 2018

**Title:** An act relating to public schools.

**Brief Description:** Concerning public schools.

**Sponsors:** Senators Hunt, Wellman, Kuderer, Lias, Chase, Conway, Keiser and Saldaña.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/22/18.

### Brief Summary of Bill

- Modifies salary and regionalization provisions.
- Creates a technical working group and a School Employee Salary Council to recommend changes to the basic education salary allocations to ensure they are aligned with the costs.
- Revises the references to two inflation measures: the implicit price deflator (IPD) and the consumer price index.
- Exempts specified additional compensation from the temporary limitations on salary increases.
- Eliminates the \$2,500 maximum per pupil limit for local levies for small school districts.
- Increases the \$2,500 maximum per pupil limit for local levies to \$3,000 per pupil for districts subject to the limit.
- Modifies the year-to-year inflation adjustment to both the maximum per pupil limit for local school levies and the state LEA threshold.
- Authorizes a new state LEA threshold for small school districts.
- Eliminates the reinstatement of the 1 percent revenue limit for the state property tax.
- Removes the requirement that future collective bargaining agreements must comply with EHB 2242 from 2017.
- Amends the prototypical schools funding statute to provide allocations sufficient to provide for paid sick leave.
- Eliminates the list of permissible activities for local levies—instead, local levies can be used for enrichment beyond state funding for the basic education components and supplemental contracts.

*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.*

- Requires that enhanced staff levels for all school and district staff other than teachers must be phased in starting in the 2021-23 biennium and fully funded in the 2023-25 biennium.
- Changes the high-poverty, school-based Learning Assistance Program (LAP) allocation.
- Directs that school districts demonstrating a lack of capital capacity must be funded at a 17 students to one teacher ratio.
- Alters the apportionment schedule.

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

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

**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 has 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, 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.

Also in the November 2017 court order, the Court found that the prototypical school funding model is not designed to dictate reimbursements to school districts for their actual expenditures on the components of basic education. Rather, the prototypical school is a prospective allocation model encompassing evidence-based formulas that take into account the actual costs of supporting the program of basic education.

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 allocates 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 year. 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. The minimum and maximum salaries are adjusted by inflation and by a district's regionalization factor.

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 the Consumer Price Inflation (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.

Salary Realignment and Rebasing. Under EHB 2242, beginning with the 2023-24 school year, the state average salary allocations and regionalization factors must be reviewed and rebased every six years by the Legislature in order to continue to align with the basic education staffing costs.

To assist with the regionalization rebasing, the Department of Revenue (DOR) must determine the median single-family home residential values of each school district.

Temporary Limitations on Salary Increases. EHB 2242 required for the 2018-19 school year only, that 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 the CPI, including supplemental contracts. These provisions expire August 31, 2019.

Sick Leave. Initiative 1433 (I-1433), which was approved by voters in 2016, increases the state minimum wage to \$13.50 per hour over a period of four years, and requires every employer provide one hour of paid sick leave for every 40 hours worked to each of its employees.

Local School District Levies and Local Effort Assistance (LEA). Through the enactment of EHB 2244, the 2017 Legislature reformed the maximum amount school districts may collect through their local district levies (enrichment levies). 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.

Enrichment Levy Restrictions. Beginning in the 2019-20 school year, school districts may use local levies, including transportation vehicle levies, solely for documented and demonstrated enrichment and not for the basic program education. Supplemental contracts must also be for only documented and demonstrated enrichment. A non-exhaustive list of enrichment activities for which local levies may be used is provided. Local levies may only be used for administrator salaries for the portion of the salary that is attributable to the administration of enrichment programs. The rate of pay for supplemental contracts may not exceed the hourly rate provided to the individual CIS.

State Property Taxes. The Legislature increased the state property tax and temporarily eliminated the 1 percent revenue limit through the enactment of EHB 2242 in 2017.

*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.

Staffing Levels. EHB 2242 repealed the provisions of Initiative 1351, but placed the enriched staffing values in a separate section from the prototypical school funding statute. If the budget funds the enriched staffing with specific reference to this section then the enriched staffing become part of basic education. The Office of the Superintendent of Public Instruction (OSPI) must convene a workgroup of stakeholders to recommend by December 1, 2019, a possible phase-in plan of the staffing enrichments based on specified criteria.

LAP. This program assists students who are not meeting academic standards and reduces disruptive behaviors in the classroom. School districts must focus first on students in grades K-4 who are deficient in reading or reading readiness skills.

In EHB 2242, the Legislature created a high-poverty, school-based LAP allocation for school buildings with at least 50 percent of the enrolled students eligible for free or reduced-priced meals (FRPM). School districts must distribute this allocation to the school buildings that generated the allocation. The funding must supplement and not supplant the district's expenditures for LAP for these buildings. Funding provided on a statewide average provides 1.1 hours in additional instruction.

K-3 Class Size. Under EHB 2242, beginning in the 2018-19 school year, districts receive the K-3 class size funding for 17 students to one teacher only to the extent of, and proportionate to, the district's actual demonstrated class size.

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.

Apportionment Schedule. 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. EHB 2242 modified the apportionment schedule by moving 2.5 percent of the apportionment allocations that would occur between September through June into the July apportionment amount.

**Summary of Bill:** School District Salaries & Regionalization. This bill eliminates the requirement that 50 percent of the staff salary increases in EHB 2242 are phased in beginning in school year 2018-19.

Beginning in school year 2018-19, an additional 8 percent state salary allocation is provided for school districts where the total CIS median experience and average ratio of bachelor's degrees to advanced degrees for the district exceeds statewide averages.

The salary hold harmless is extended into future years.

Beginning in school year 2018-19, an additional regionalization factor is provided for a school district sharing a boundary with another school district receiving a higher

regionalization factor. The additional regionalization factor is one-half of the difference in regionalization between the two districts.

For districts receiving the additional 6 percent adjustment for a total salary adjustment of 24 percent, the 6 percent adjustment is reduced by one percentage point per year through school year 2022-23 as opposed to being entirely eliminated.

Salary Realignment and Rebasing. Beginning in July 2022, and every six years thereafter, the Office of Financial Management must convene a technical working group of specified agency and educational organization staff to recommend, based on a list of requirements, changes to the basic education salary allocations to ensure it aligns with the basic education staffing costs. A School Employee Salary Council is created to review the work of the technical working group and make recommendations to the Governor and Legislature. The recommendations shall take effect in the next biennial period, subject to legislative modifications and final legislative approval.

Inflation measures. The IPD definition is revised to mean the annual percentage change for personal consumption expenditures for the United States as published by the Bureau of Economic Analysis, US Department of Commerce. The CPI definition is revised to mean compiled by the Bureau of Labor Statistics, United States Department of Labor, including all items, covering the greatest number of people in Washington, and covering areas exclusively within the boundaries of the state.

Temporary Limitations on Salary Increases. For the 2018-19 school year, individuals may receive additional compensation for specified purposes, including additional days or hours of service, additional responsibilities, step increases, and expansions of academic programs. The restrictions are removed for salary increases for a specified list, including course loads, class size overload, overtime payments, and additional responsibilities. These provisions are null and void, if the salary increases by September 1, 2018 are not provided.

The temporary limitations on salary increases do not apply to collective bargaining agreements (CBA) modified after July 6, 2017, if the changes to the CBA was for assuring that the original intent of the CBA was not impaired or altered. The August 31, 2019, expiration date is maintained, but repeals the temporary limitations on salary increases July 1, 2018. The repeal is null and void, if the salary increases by September 1, 2018 are not provided.

Removes the requirement that future CBAs must comply with EHB 2242.

Sick Leave. Adds intent that under I-1433 employers must provide paid sick leave and this contributes to meeting the Supreme Court's requirement for K-12 funding formulas to "provide for actual costs of operating the state's program of basic education." The prototypical school funding formula is amended to provide that the allocations are sufficient to provide for the minimum requirements of paid sick leave.

Local School District Levies and LEA. The maximum \$2,500 per pupil property tax limit for enrichment levies is increased to \$3,000.

School districts with under 1,000 students enrolled may impose a \$1.50 tax rate regardless of whether the district's per pupil property tax amount exceeds the new \$3,000 per pupil property tax limit.

The inflation calculation is changed from IPD to a three-year average annual change in statewide assessed property valuations. The inflation adjustment will start in calendar year 2018 as opposed to calendar year 2020. This change will also apply to the state LEA threshold of \$1,500 per pupil.

The maximum per pupil limit calculation will include an additional increase equal to the percentage increase in state basic education funding per student from the prior year. Therefore, the year-to-year change in the maximum per pupil limit for enrichment levies will be inflation plus the basic education per pupil adjustment. A similar change is provided for the state LEA threshold of \$1,500 per pupil.

A separate state LEA threshold is provided for school districts with a student enrollment below 1000 students. This small school LEA threshold is based on the statewide average per pupil rate at a \$1.50 tax rate for these districts.

For school districts levying the maximum enrichment funding levy rate of a \$1.50, the additional tax must be set forth in terms of the dollar rate on the ballot proposition submitted to voters.

Enrichment Levy Restrictions. Transportation vehicle enrichment levies are removed from local enrichment levy restrictions and reporting. The non-exhaustive list of enrichment activities for which local levies may be used is eliminated. Instead local revenues may be used for enrichment beyond state funding provided for basic education components, including staffing levels, minimum instructional hours, LAP, transitional bilingual instruction program, the Highly Capable Student Program, Special Education, and student transportation to and from school. The restriction that local levies may only be used for administrator salaries for the portion of the salary that is attributable to the administration of enrichment programs is removed. Supplemental contracts are removed from the restriction that local levies must only be used for documented and demonstrated enrichment and not for basic education. School districts are not prohibited from providing overtime for work outside the employee's normal schedule.

It is specified that the hourly rate applies only to a time-based supplemental contracts.

State Property Taxes. The reinstatement of the 1 percent revenue limit in calendar year 2022 is eliminated. Therefore, the total state property tax rate of \$2.70 will continue in calendar year 2022 and thereafter.

Staffing Levels. The enriched non-basic education staffing levels for all school and district staff other than teachers are enhanced. The allocations must be phased in with 50 percent funded in the 2021-23 biennium, prioritizing high-poverty school districts; and 100 percent funded in the 2023-2025 biennium.



LAP. The high-poverty allocation is based on student enrollment at a school with student participation greater than 50 percent FRPM and removes the term buildings. If a school district receives the high-poverty LAP allocation one year but does not qualify in the next year then the allocation to the district is phased out over three years. The high poverty allocation must provide 1.1 hours of instruction for each level of the prototypical schools, not on a statewide average.

K-3 Class Size. School districts demonstrating a lack of capital capacity to provide a class size of 17 students to one teacher must be funded at the 17 to 1 ratio.

Hold-Harmless Provisions. OSPI must provide funding to adversely impacted school districts under EHB 2242. OSPI must annually calculate and publish a comparison of state and local revenues in the 2018-19 school year and before EHB 2242.

Apportionment Schedule. The schedule from 2011 is reestablished. It takes effect September 1, 2018, and expires September 1, 2019. The changes made to the schedule under EHB 2242 have an effective date of September 1, 2019. OSPI must provide funding to adversely impacted school districts under EHB 2242.

**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.