

# SENATE BILL REPORT

## SB 5444

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As of February 3, 2009

**Title:** An act relating to creating a comprehensive system of public education programs, finance, and accountability.

**Brief Description:** Creating a comprehensive system of public education programs, finance, and accountability.

**Sponsors:** Senators Jarrett, Pflug, Tom, Ranker, Oemig, McAuliffe, Eide, Fairley, Shin, Hobbs, Rockefeller, Kline, McDermott, Haugen and Kohl-Welles.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/26/09, 1/28/09.

**Brief Summary of Bill**

- Beginning with the 2011-12 school year, the recommendations of the Basic Education Finance Task Force are phased-in over a six-year period re-defining the instructional program and funding of basic education; revising teacher certification, evaluation, mentoring, and compensation provisions; and developing a state accountability system.
- A steering committee and five work groups are created to assist and oversee the phased-in implementation.

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

**Staff:** Susan Mielke (786-7422) and Elise Greef (786-7708)

**Background:** Paramount Duty of the State. Under article IX, section 1 of the Washington State Constitution, "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders . . .". The courts have interpreted this to mean that the state must define a program of basic education and amply fund it from a regular and dependable source. The courts have found that local levies are not regular or dependable and may only be used for enrichment programs beyond basic education. The courts have concluded that once the Legislature has established full funding for the program of basic education it may not reduce such funding, even in periods of fiscal crisis. However, the Legislature is required to review, evaluate, and revise the program of education and its

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funding in order to meet the current needs of the children in the state. The state must also provide a general and uniform system of public schools under article IX, section 2 of the Constitution.

Definition and Instructional Program of Basic Education. In order to carry out its constitutional responsibility and in response to court decisions, the Legislature passed the Basic Education Act of 1977 (BEA), defining a basic education by establishing goals, minimum program hours, teacher-student contact hours, and a mix of course offerings for school districts to provide. The courts have found that a basic education also includes the education program for students with disabilities who need specialized instruction due to the disability; the Learning Assistance Program (LAP), which provides assistance to underachieving students; the Transitional Bilingual Instruction Program (TBIP), which assists students to achieve competency in English when they are from homes where the primary language is other than English; the educational program for students in residential schools and detention facilities and students under the age of 18 incarcerated in adult correctional facilities; and portions of the student transportation program.

State Funding Allocation for Basic Education. The funding allocation for the basic education instructional program is based on instructional, administrative, and classified staff per student ratios, staff compensation factors, and nonemployee related costs. The court has also noted that under a quantitative input system of funding, salaries are the most significant factor of basic education funding, and the Legislature must provide salaries necessary to enable school districts to hire and retain competent staff.

Early Learning. State and federally-supported preschool programs are overseen by the Department of Early Learning (DEL). The Legislature provides funding to support the Early Childhood Education and Assistance Program (ECEAP), which is similar to the federally-funded Head Start program. The programs are delivered under contract with DEL, and providers include school districts, Educational Service Districts (ESDs), community colleges, and non-profit community organizations. The level of funding and programmatic requirements differ between the two programs. In 2008 DEL was directed to propose a Washington Head Start program to align the eligibility criteria, program requirements, and funding for early learning programs in the state, but work on the report was suspended for financial reasons. Early learning is not currently considered to be part of the basic education program.

Local Control. While it is the state's constitutional duty to fund basic education and to provide a general and uniform system of public schools, the delivery of public education is and historically has been a local function with power vested in the local school boards. The state funding formula allocates state funds to each school district, but does not mandate a specific use or spending pattern for the majority of basic education funds received by school districts, except that the funds provided for the categorical programs of special education, LAP, TBIP, and some of the student transportation program must be expended on the program for which it was allocated.

Teacher Preparation and Certification. The Professional Educator Standards Board (PESB), created by the Legislature in 2000, is responsible for the policy and oversight of Washington's system of educator preparation and certification. There are currently two

levels of teacher certification: residency and professional. To receive a residency certificate, teachers must complete an approved teacher preparation program. Approved programs must require the candidates to demonstrate competencies based on standards adopted by PESB, including evidence of positive impact on student learning. Candidates must also pass a state-administered basic skills and content knowledge test. A residency certificate is valid until the holder has completed two years of successful teaching in Washington and may be renewed once with a five-year expiration date.

To obtain a professional certificate, teachers may enroll in an approved ProCert program or earn a certificate from the National Board for Professional Teaching Standards (NBPTS). Professional certificates can be renewed every five years based on continuing education credits. In 2007 the Legislature directed the PESB to implement a uniform and externally-administered assessment of teaching skill for professional certification by 2010.

Future Teachers Conditional Scholarship and Loan Repayment Program. Selection priority into the program is provided to individuals seeking certification or an additional endorsement in math, science, technology education, agricultural education, business and marketing education, family and consumer science education, or special education.

Mentoring. Mentoring support is provided in the operating budget for beginning teachers through the Teacher Assistance Program (TAP), which is administered by the Office of the Superintendent of Public Instruction (OSPI). TAP provides funding for stipends for beginning teachers and experienced teachers to be mentors who are assigned by the school district. Participation is optional. OSPI has also provided training for the mentors through TAP. Mentoring and teacher assistance programs are currently not considered to be part of the basic education program.

#### Salaries.

- *Salary Schedule.* The Legislature allocates money to each district for state-funded employee salaries and associated fringe benefits. In the case of certificated instructional staff (CIS) – teachers, counselors, librarians, and other instructional staff requiring certification – the state funding is provided based on a state-salary allocation schedule. An individual’s education level and teaching experience determines the allocation for base salary. Additional funds (a 1- to 3-percent increase) are provided for each additional year of experience up to 16 years. Additional funds (a 3- to 20-percent increase) are also provided for each additional 15 credits of approved education acquired up to a Ph.D. The state does not require school districts to pay certificated instructional staff in accordance with the state-salary allocation schedule. However, most school districts have adopted a salary schedule the same as, or similar to, the state allocation schedule. Some of the state’s 295 school districts receive higher salary allocations for certificated instructional staff.

The primary reason for this higher allocation is that these districts were paying their certificated instructional staff higher salaries when the Legislature took on responsibility for fully funding basic education programs in the late 1970s. In the 2007-09 budget, the Legislature took steps that reduces the number of grandfathered salary districts from 23 to 13. The Legislature limits a school district’s authority to

establish salaries for certificated instructional staff by setting a minimum and an average salary level. The state funding provided to school districts for certificated instructional staff salaries is subject to collective bargaining within the state limitations.

- *Supplemental Contracts.* School districts may provide one-year supplemental contracts for CIS for additional time, responsibilities, and incentives (TRI). TRI contracts are not part of basic education and cannot be considered for provision of basic education services. The funding for these contracts is typically from local revenues. TRI contracts must not cause the state to incur any future funding obligation.
- *Bonuses.* The Legislature provides an annual \$5,000 salary bonus (adjusted for inflation) for teachers who receive national certification from the NBPTS for the life of the ten-year certificate. A NBPTS certified teacher can receive a second annual \$5,000 salary bonus for each year that the teacher teaches in a school with 70 percent or more of the students eligible for free and reduced price lunch (FRL). Bonuses are currently not considered to be part of the basic education program.
- *Learning Improvement Days (LID).* Since 1993, the Legislature has provided funding for LID. Currently, the appropriations act requires school districts to add the LID to the 180-day contract year to be eligible for the funds. Uses of LID are limited to specific activities identified in a school improvement plan. The 2007-09 appropriations act contains two LID and a disclaimer that LID are not considered part of basic education.
- *Administrator and Classified Staff.* There is not a state salary allocation schedule for administrators or classified staff. Each school district receives an allocation from the state based on historical salary allocations adjusted for cost of living increases. Actual salary levels are determined through the local collective bargaining process.

Employment Evaluation. OSPI must establish minimum criteria for the performance evaluations of CIS that are conducted by principals. Some of the criteria for evaluation of classroom teachers are specified in statute. After a teacher has four years of satisfactory evaluations then the principal may use a short-form evaluation. During the first two years teachers are considered provisional employees and, therefore, are subject to nonrenewal of employment contracts without a finding of probable cause for the first two years of employment.

Accountability. The State Board of Education (SBE) has responsibility for implementing a statewide accountability system that includes identification of successful schools and districts, those in need of assistance, and those in which state intervention measures are needed. Intervention strategies may be implemented only after authorization by the Legislature, which has not occurred.

For the past two years SBE has been working on an accountability system and on January 15, 2009, they adopted a resolution to:

- develop an accountability index to identify schools and districts based on student achievement;
- work to build the capacity of districts to help their schools improve, including an Innovation Zone program to provide improvement assistance;
- establish a process for placing schools and districts on Academic Watch if no significant improvement occurs, which would include a binding performance contract between the state and the district; and
- continue to refine the details of the accountability system.

Formative Assessments. The Legislature has repeatedly directed OSPI to make diagnostic/formative assessments available to school districts, but generally it has not provided funding to do so.

Education Data. Since 2002 OSPI has been developing a data system that assigns each student a unique student identification number and collects demographic and other information to comply with the federal No Child Left Behind Act (NCLB). In 2007 the Legislature directed OSPI to establish standards for school data systems and a reporting format for school districts to provide student, teacher, course, assessment, facility, and financial data.

Local Levies, the Levy Lid, and Local Effort Assistance (LEA). The Washington State Constitution gives school districts the authority to collect property tax revenues in excess of 1 percent of the assessed value of county property for transportation, capital or operating purposes, and to assume excess debt when voters approve a levy or bond issue. These school levy dollars are retained by the school district and do not go into the state general fund. Local levy funds may only be used for enrichment programs and not for basic education obligations.

In 1977 along with the BEA, the Legislature also enacted the Levy Lid Act (Act) in response to a court decision. The Act limits the amount of total school revenue that a school district can raise through its maintenance and operation levies. Precipitating the initial school funding court cases, local levy revenues for some districts were as high as 32 percent of the school district revenues. The original 1977 Levy Lid Act placed a cap of 10 percent on school district levies but grandfathered some districts with higher levies at their higher level. The lid has been adjusted upward by the Legislature a number of times, but grandfathering has not been eliminated. Currently 205 of the 295 districts have a levy lid of 24 percent. The other 90 districts have levy lids ranging from 24.01 percent to 33.9 percent based on what the districts levy had been in 1977.

In 1987 a program of state-provided levy equalization or LEA was created by statute to mitigate the effect that above-average property tax rates might have on the ability of a school district to raise local revenues to supplement the state's basic program of education. Districts are eligible for levy equalization if they have passed a local maintenance and operations levy, and their 12 percent levy rate is higher than the statewide average. LEA funds are not part of a district's basic education allocation.

Highly Capable. The courts have declined to include supplemental instruction for highly capable (gifted) students under the basic education. The statutes for the Highly Capable

Program say that state funds, if provided, are to be based on a per-student amount not to exceed 3 percent of a district's full-time equivalent (FTE) student enrollment. The 2007-09 appropriations act allocates funding at 2.314 percent of FTE enrollment.

Initiative 728. Initiative 728, enacted in 2000, established the Student Achievement Fund (SAF). Under the SAF process, the state distributes a portion of state property tax revenues to school districts on a per-student basis. This funding is not basic education funding. School districts may use SAF funds for a number of purposes, including class size reductions, extended learning opportunities, teacher professional development, pre-K, and related facilities improvements. SAF allocations increase annually by inflation.

Basic Education Finance Task Force. In 2007 the Legislature created the task force to review the definition of basic education, review all current basic education funding formulas, develop options for a new funding structure and all the necessary formulas, propose a new definition of basic education, and make recommendations to the Legislature by December 1, 2008.

**Summary of Bill:** Beginning with the 2011-12 school year, the recommendations of the Basic Education Finance Task Force are phased-in over a six-year period re-defining the instructional program and funding of basic education; revising teacher certification, evaluation, mentoring, and compensation provisions; and developing a state accountability system.

Paramount Duty of the State. The Legislature's intent is to fulfill its obligation under the state Constitution to define and fund a program of basic education and to establish a general and uniform system of public schools. For practical and educational reasons, wholesale change cannot occur instantaneously. The Legislature intends to adopt a schedule beginning in the 2011-12 school year and phased in over a six-year period to implement the redefined program of basic education and the resources necessary to support it. The Legislature's intent is not to revise or delay this implementation other than for educational reasons. However, the Legislature may make revisions to the formulas and schedules for technical purposes and consistency.

Steering Committee. A Basic Education Steering Committee (steering committee) is created to monitor and oversee implementation of the changes made in this Act. Members include eight legislators and representatives of the Governor's Office, SBE, OSPI, PESB, and DEL. The steering committee monitors the work of five technical work groups. The steering committee receives progress reports from the groups by November 15, 2009. The steering committee reports to the Legislature by January 1, 2010, and annually by November 15 thereafter. The steering committee's authority expires June 30, 2017.

Definition and Instructional Program of Basic Education. The program of basic education that complies with the state Constitution is:

- the instructional program of basic education provided by public schools;
- the program of early learning for at-risk children as defined in the bill;
- the educational program for students in residential schools, juvenile detention facilities, and for individuals under age 18 who are in adult correctional facilities; and
- transportation and transportation services to and from school for eligible students.

School districts must provide instruction of sufficient quantity and quality and give students the opportunity to complete graduation requirements intended to prepare them for postsecondary education, gainful employment, lifelong learning, and citizenship. Instruction must include the Essential Academic Learning Requirements; an opportunity to complete 24 credits for high school graduation, subject to a phase-in of course and credit requirements by SBE; supplemental instruction through LAP and TBIP; and special education for students with disabilities. The minimum instruction offered by school districts must be:

- 180 school days per school year (with 180 half-days for kindergarten, which is increased by 2016-17 to 180 full days);
- a district-wide average of 1,000 instructional hours across all grade levels, changed by 2016-17 to 1,080 hours in grades seven through 12, and 1,000 instructional hours in grades one through six;
- 450 instructional hours in kindergarten, increased to 1,000 hours by 2016-17, phased-in beginning with schools with the highest percentages of low-income students; and
- 1,320 instructional hours in residential schools by 2016-17.

SBE is authorized to grant waivers of the 180-day school year for a one-year period, but only if the minimum instructional hour requirement is maintained. Waivers cannot affect more than 2 percent of the statewide student population and cannot be used for professional development. Current laws pertaining to SBE waivers are repealed.

SBE must forward any proposed changes to minimum high school graduation requirements to the legislative education committees, and the Legislature must be provided an opportunity to act before changes are adopted. Changes with a fiscal impact on school districts take effect only if formally authorized by the Legislature.

State Funding Allocation for Basic Education. The Legislature deems the program of basic education that complies with the state Constitution is to be the full funding of the definition and the instructional program, including salary allocations for school staff. The allocation for the instructional program of basic education is based on minimum staffing and non-staff costs to support prototypical schools as defined in the bill. The prototypes are used to illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs. Allocations to school districts will be adjusted from the prototypes based on actual FTE student enrollment in each school in the district, adjusted for small schools and to reflect other factors in the appropriations act.

The school prototypes are defined as:

- high school: 600 FTE students in grades nine through 12;
- middle school: 432 FTE students in grades seven and eight; and
- elementary school: 400 FTE students in grades kindergarten through six.

By the 2016-17, for each school prototype, the core allocation consists of four parts:

1. *Class Size.* An allocation based on the number of FTE teachers calculated using the following factors: the minimum instructional hours required for the grade span, one teacher planning period per day, and average specified class sizes. The allocation is enhanced for the LAP, TBIP, special education program, lab science, advanced

- placement and International Baccalaureate courses, and certain career and technical education courses.
2. *Other Building Staff*: An allocation based on numbers of FTE staff, for principals, teacher-librarians, student health services, guidance counselors, professional development coaches, office support, custodians, and student/staff safety.
  3. *Maintenance, Supplies, and Operating Costs (MSOC)*. A per-FTE student allocation with numeric amounts specified for student technology, utilities, curriculum, instructional professional development, other building costs, and central office administration. The numeric amounts are based on the 2007-08 school year, to be adjusted for inflation. The amounts are enhanced for student enrollment in LAP, TBIP, special education program, lab science for grades nine through 12, and certain career and technical education courses.
  4. *Central Office Administrative Staff*. A staffing allocation calculated as a percentage of the allocations for teachers and other building staff for all schools in the district, with the percentage specified in the appropriations act.

Allocations for middle and high schools that are based on the number of low-income students are adjusted to reflect underreporting of eligibility for FRL among these students.

The funding enhancements provided for the instructional program are categorical allocations as follows:

- *Learning Assistance Program*. An enhancement based on the percent of FRL students in each school based on a specified class size and specified additional instructional hours, plus an allocation for MSOC. Numeric amounts are as of the 2016-17 school year;
- *Transitional Bilingual Instruction Program*. An enhancement for students eligible for and enrolled in the TBIP based on a specified proportion of the school day in supplemental instruction at a specified class size, plus an allocation for MSOC. Numeric amounts are as of the 2016-17 school year;
- *Special Education*. An enhancement made on an excess cost basis that is a specified percentage (1.15 percent for students aged birth through five and 0.9309 for students in grades kindergarten through 12) of the core allocation for classroom teachers, other building staff, and MSOC, plus the allocation for LAP and TBIP. The excess cost allocation is based on district-wide enrollment not to exceed 12.7 percent of total FTE enrollment in grades kindergarten through 12. The special education Safety Net is placed into statute, where funds are made available for safety net awards for school districts with demonstrated needs for special education funding beyond the amounts provided through the excess cost allocation; and
- *Teacher Mentoring*. Beginning in 2012-13, there is a categorical allocation based on the number of teachers with five or fewer years of experience to support the teacher mentoring program.

Early Learning. The Legislature intends to establish a voluntary program of early learning (PEL) for at-risk children beginning in 2011-12, to be included as part of the program of basic education. The basis for PEL is the statewide Washington Head Start program. The intent is that PEL, in combination with federal Head Start, replaces ECEAP for eligible at-risk children. Services included in PEL are described. At-risk children are those aged three,



four, and five who are not eligible for kindergarten and have a family income at or below 130 percent of the federal poverty level.

OSPI and DEL must convene a work group to develop PEL. The group must develop a proposal for a statewide Head Start program. The office of the Attorney General must assist the work group to examine the implications to include early learning for at-risk children as part of basic education. The work group must submit reports to the steering committee by November 15, 2009, and September 1, 2010.

Beginning in 2011-12 the Legislature appropriates funds for at-risk children enrolled in the PEL based on the per-student amounts provided for the federal Head Start program and annually adjusted for inflation. School districts may provide the program or contract with public or private nonsectarian organizations. All programs must be approved by DEL.

Implementation. Priorities for a six-year phasing-in for full implementation of the funding formulas are provided. The Office of Financial Management (OFM) must convene a technical work group to consider specified issues and develop the financial model and funding formulas. The work group must submit reports to the steering committee by November 15, 2009, and September 1, 2010. OSPI and the Governor must use the new funding formulas in developing their 2011-13 biennial budget request and budget.

Local Control. School districts may enrich the basic education instructional program by offering additional subjects, programs, services, or activities. Instructional hours are based on the district's annual average and no particular number of hours per day is required. The funding allocations for the instructional program does not require a particular teacher-to-student ratio, the use of allocated funds to pay for particular types or classifications of staff, or a particular structure or size of schools; nor is any individual teacher entitled to a particular teacher planning period. The funds provided for the categorical programs of special education, LAP, TBIP, and the student transportation program must continue to be expended on the program for which it was allocated. This act is not intended to affect existing collective bargaining agreements but does apply to agreements ratified after enactment of the act.

Teacher Preparation and Certification. By January 1, 2010, PESB must adopt standards for effective teaching focused on classroom preparation and practice; adopt calibrated minimum performance expectations for residency, professional, and continuing certification; and submit a proposal for a system to evaluate teacher competency with specified components, including peer evaluations with a standardized process. The system is administered through ESDs. If funds are appropriated, then PESB must develop the system through the 2011-12 school year.

Approved educator preparation programs offering residency teaching certificates are required to demonstrate how the program is aligned with the standards for effective teaching. Beginning September 1, 2012, to receive a residency teaching certificate, a teacher candidate must complete an approved certification program and meet the minimum level of performance on the new performance evaluation. The residency certificate is valid for up to five years. To continue teaching the teacher must obtain a professional teaching certificate, which requires a minimum of two years of successful teaching and meeting the minimum

level of performance for the professional certificate on the evaluation. Beginning September 1, 2012, in order to continue professional certification a teacher must meet the minimum standards but is not required to obtain additional education credits.

PESB must define master teacher as NBPTS certified. By January 1, 2011, PESB must adopt definitions and criteria for master-level certification of ESAs and submit them to the Legislature for review before final adoption.

Future Teachers Conditional Scholarship and Loan Repayment Program. Bilingual education or English as a second language instruction are added and agricultural education, business and marketing education, and family and consumer science education are removed from the selection priority for the program.

Mentoring. By January 1, 2010, OSPI with PESB must submit to the Legislature and others a proposal for a mentoring system for new teachers, which is focused on effective teaching standards and includes graduated support for up to five years. The proposal must include standards and a training program to certify the mentors. Districts may select and assign mentors, but teachers will not permanently assume a role of full-time mentor. If funds are appropriated, then OSPI will develop the system through 2011-12. Beginning in 2012, first-year teachers must participate in the mentoring program.

Salaries. OFM must convene a work group to develop options for a new salary allocation model (SAM) and bonuses for certified mentors and evaluators. DOP must conduct a preliminary comparative labor market survey for the work group. The work group must submit reports to the steering committee by November 15, 2009, and September 1, 2010. OSPI and the Governor must use the new SAM when developing a 2011-13 biennial budget, with implementation in 2012-13.

- *New Salary Schedule.* Beginning in 2012, the Legislature must establish a new salary schedule for CIS in the operating budget using the prototypical school as defined in the bill, the district's average salary for all district CIS, and a three-tiered salary schedule aligned with the three levels of teacher certification: residency, professional, and master. The schedule does not provide salary increases based on credits or degrees. The schedule applies only to CIS first employed in the 2012-13 school year or thereafter, or who have transferred to the new SAM. Beginning September 1, 2012, school districts are limited under the new salary schedule by the current minimum, maximum, and district average requirements established in statute. By 2017 the schedule will include ten LID as part of basic education. CIS first employed before the 2012-13 school year have the option for irrevocable transfer to the new SAM by notifying the school district employer by November 15. The transfer will take effect in the next subsequent school year. CIS not transferred by November 15, 2021, are automatically transferred September 1, 2022.
- *Old Salary Schedule.* Beginning September 2011 salary allocations are distributed using the prototypical school model. By the 2016-17 school year the schedule includes ten LID. Beginning with the 2012-13 school year the old salary schedule applies only to CIS first employed before 2012-13 and who have not transferred to new SAM.
- *Supplemental Contracts.* Supplemental contracts are limited to solely additional "time" worked outside the regular school day or year. The supplemental contracts

must specify the time required and its purpose. Districts must annually submit disaggregated information about the contracts to OSPI.

- *LID*. School districts are eligible to receive basic education funds for LID through either salary schedule only if days have been added to the 180-day contract. LID are limited to specific activities identified in the school improvement plan.
- *Administrator and Classified Staff*. Beginning with the 2011-12 school year, the Legislature establishes in the operating budget salary allocations to distribute funds under the prototypical school model for principals and other building administrators and classified staff. The allocations are based on actual statewide average salaries for these positions in the 2008-09 school year and increased by any across-the-board increases authorized by Legislature.
- *Regional Wage Adjustment*. OFM must develop a regional wage adjustment schedule for salary allocations based on a Department of Personnel labor market analysis, which DOP must conduct every four years beginning June 30, 2010. Districts must distribute the allocation based on district salary schedules and collective bargaining agreements. OFM must submit an initial recommended adjustment by August 1, 2010, and updates every four years.
- *Bonuses*. Beginning in 2012-13, CIS first employed before 2012-13 who have not transferred to the new compensation system but are NBPTS-certified teachers who become principals, continue to receive the annual bonus as long as they maintain the certification. The definition of "low income school" for receiving the NBPTS bonus is changed to be the same as for the new NBPTS bonus (high schools at least 50 percent, middle schools at least 60 percent, elementary schools at least 70 percent). Beginning in the 2012-13 school year, a one-time bonus of \$1,000 is provide for CIS who attain professional-level certification. These bonuses expire August 31, 2022. Beginning with the 2012-13 school year, CIS first employed in 2012-13 or thereafter, or who have transferred to the new SAM and are state-certified mentors or evaluators, will receive a bonus, specified in the operating budget.

Employment Evaluation. The current minimum criteria established by OSPI for evaluation of CIS must be modified by OSPI with PESB based on PESB standards and scoring rubric for effective teaching. Short-form evaluations may be used after five years of satisfactory evaluations, rather than four. All evaluations of a teacher must include an evaluation of effective teaching. Beginning September 1, 2012, a teacher is a provisional employee until the next school year after the employee attains professional-level certification.

Accountability. The authority of SBE is revised to include the following accountability system responsibilities, and the prohibition on state intervention in a school or school district is repealed:

- *Accountability Index*. SBE must adopt an accountability index, based on multiple outcomes and indicators, used to identify schools and districts for recognition, support, assistance, and intervention. OSPI annually calculates index results and posts the results of its website. OSPI must seek approval from the federal Department of Education to use the accountability index for purposes of accountability under the federal NCLB.
- *Team-based Recognition Bonus*. Based on the accountability index and other criteria, OSPI recommends to SBE exemplary schools whose level of achievement and/or improvement warrant special recognition. To the extent funds are

appropriated, each employee in a designated school is eligible for a bonus in an amount specified in the operating budget. By December 1, 2009, SBE submits a proposal for the bonus program to the Governor and the Legislature. Beginning November 1, 2010, SBE prepares an annual list of schools qualifying for the bonus.

- *Support and Assistance/Innovation Zone.* Beginning in the fall of 2011, OSPI, in consultation with SBE, must implement a comprehensive system of support and assistance for school districts that is based on the results of the accountability index and other criteria and includes general support, targeted support, and intensive support. OSPI must annually recommend to SBE struggling schools or districts whose lack of improvement warrants priority designation. Subject to funds being appropriated, OSPI must develop and implement an innovation zone program for priority schools and districts that voluntarily apply. The innovation program must include a two-year performance contract with SBE to implement strategies to improve student achievement. To the extent funds are appropriated, OSPI provides supplemental resources to implement the contracts. Priority schools and districts that do not apply must be offered strategic planning assistance for school improvement.
- *Academic Watch.* Beginning in the fall of 2011, OSPI must recommend that SBE place priority schools or districts on academic watch if they have not demonstrated sufficient improvement after two years in priority status or two years of participation in the innovation zone program. Under academic watch, OSPI conducts an academic performance audit using peer review teams and recommends specific corrective actions. The school district, with assistance from OSPI, must develop an academic watch plan to implement the corrective actions. SBE reviews the plan and may recommend changes. OSPI then develops and SBE approves the final plan, which is binding upon the school district. If SBE determines that resources are not sufficient then SBE must not approve the plan. Possible binding conditions are provided in the bill. Binding conditions may not impact an existing bargaining agreement unless the agreement is modified. To the extent funds are appropriated, OSPI provides resources and assistance to implement the plan. If OSPI determines an academic watch plan has achieved its intended results, then OSPI recommends that SBE removes the school or district from academic watch.

Formative Assessments. OSPI must issue a Request for Proposals for a system of formative assessments of student performance to form the basis of a statewide system of monitoring student progress, measuring effective teaching, and school and district performance. OSPI must recommend assessments and estimate costs for implementing the assessments by November 15, 2010, and implement the assessments in the 2011-12 school year. To the extent funds are appropriated, schools administer the assessments and report results beginning in the 2011-12 school year.

Education Data. The Legislature intends to establish comprehensive data accountability systems for financial, student, and educator data. The long-term goal is that all districts use a common software and data platform provided by the state to support the data systems; however, until the goal is fully implemented districts may choose software and programs so long as required information and functionality is assured. OSPI must convene a technical work group to propose a design and implementation time frame for the data systems. The work group must submit reports to the steering committee by November 15, 2009, and September 1, 2010.

Local Levies, Levy Lid, and LEA. The Legislature finds that there is a need for some diversity in the public school system outside of the basic education program provided for by the state. The opportunity for school districts to use levies to fund experimentation with enriched programs can inform the Legislature's long-term evolution of the definition of basic education. However, the value of permitting local must be balanced with the value of equity and fairness to students and taxpayers. Therefore, LEA, while outside of the state's obligation for basic education is another component of school finance.

OFM must convene a technical work group to develop options for a new system of supplemental school funding through local levies and the LEA, to be implemented in 2012. The work group submits reports to the steering committee by November 15, 2009, and September 1, 2010. Effective January 1, 2012, the levy lid law is revised so that no school districts are grandfathered above a 24 percent lid and the current LEA program is repealed.

Highly Capable. It is the Legislature's intent to provide a per-student allocation to provide services to highly capable students, calculated based on prototypical schools, specified class size and specified additional instructional hours, plus an allocation for MSOC. However, the funding and program are not considered part of basic education.

Initiative 728. The SAF is repealed as of September 1, 2011.

Technical and Internal Corrections. Corrections are made to align current law with the changes made to implement the program of basic education and the changes to teacher certification, evaluation, mentoring, compensation, and accountability.

**Appropriation:** None.

**Fiscal Note:** Requested on January 22, 2009.

**Committee/Commission/Task Force Created:** Yes.

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

**Staff Summary of Public Testimony:** PRO: This is landmark legislation that provides a solid framework to address the systemic problems in education and moves the state towards achieving full funding and fulfilling the state's paramount duty. How basic education is defined is the foundation of K-12 policy and funding. It must be defined by our societal, community, and parental aspirations that we have for our children and provide the knowledge and skills to be successful. This is a comprehensive investment in and modernization of our education system that provides enhancements to help all students achieve, builds capacity and flexibility for school districts, demands more effective teaching while paying our educators better, develops a stronger system of accountability, and creates a more transparent funding system based on prototypical/model schools. There is strength in the whole, coherent package although some details may need to be perfected. There are mechanisms in the bill to adjust as we go along. Areas that have been neglected are included in basic education funding, such as early learning, technology, and library collections to address the gaps that exist across our state. It is important to include high quality early learning

programs because it will improve our high school graduation rates, which will reduce the delinquency and incarceration of our children, improve the odds of success for our students, and help those students who now start school behind.

CON: This bill distracts us from the real discussion about schools being underfunded. The focus needs to be on getting critical funding to schools to stop failing our students. The bill does not provide any funding and merely promises to do so in the future. This delay is not constitutional. We cannot embrace the changes in the bill without the resources. The bill is not a complete package and contemplates much additional work. The new program requirements and increased funding need to be better aligned to avoid unfunded mandates. The state is not held accountable for providing the necessary funding under this bill. The Legislature should not pass this legislation, but instead consider the Full Funding Coalition's proposal. We ask for changes to ensure that the system does not create unforeseen and unintended disparities that will adversely impact our children. The primary goals of the tribe are to help develop compassionate people who respect their elders and work to build their communities' well-being. CORE 24 and the Early Learning Program will be detrimental to our tribal students. The Early Learning Program should address the social and emotional welfare of our children. Elimination of the levy equalization punishes districts with higher levels of poor students and will increase the current inequities. The regional wage adjustment will provide the lowest level of compensation where teacher turnover is the highest and levy approval is the lowest.

OTHER: You need to be practical about implementing the early learning standards. The bill needs to include the recommendations of the five academic achievement projects that were recently completed by the ethnic commissions, including greater parent and community outreach, an increase in culturally competent teachers and support staff to make the school an inclusive experience, and a comprehensive student data system. The steering committee members should include those appointed by each of the ethnic commissions. We are concerned with the capacity of schools to adequately provide for students meeting the CORE 24 requirements for high school and the need for bilingual/bicultural teachers and counselors to assist our students. The PESB supports evaluation of teacher effectiveness in the classroom, but instead of deploying evaluators to observe each pre-service candidate, we suggest using videotape, artifacts of students work, and other sources of evidence to peer evaluators who review the materials online or at a centralized site. The bill's development of an assessment at the professional certificate level conflicts with the current direction from the Legislature for the PESB to develop an assessment at the professional certificate level, which the PESB is currently doing. We are concerned that the bill's third level of teacher certification, the master level, requires National Board certification since such certification is not yet available to all teaching areas and the achievement is not evenly obtained. Additionally, we urge caution in establishing a third-tier certification for all Educational Staff Associates (ESAs) since the issue of comparability with the National Board certification is neither necessary nor relevant to the effectiveness on many ESAs. Washington's certification requirements for ESAs is aligned with the national accrediting bodies in the fields of ESAs. We have phase-in concerns. Please think about addressing the capital issues that will arise with full-day kindergarten. A single data system is not necessary and will not be successful. There needs to be Washington School Information Processing Cooperative (WSIPC) and data professionals representation across the state on the work group. Gifted and highly capable students should be included as basic education. The bill needs to do more for the

students that drop out. Removing the advance degrees from the salary schedule is a disincentive because teachers need to be lifelong learners. Representatives from higher education should be part of the data work group. There needs to be greater collaboration between accreditation process and the evaluation process to be successful. It is premature to build a system on CORE 24 and the SBE accountability proposal because neither of these things have been brought to fruition by the board. There is still work to be done.

**Persons Testifying:** PRO: Mary Jean Ryan, SBE; Laura Wells, Sheriff Dan Kimbell, Fight Crime: Invest in Kids; Ruth Lipscomb, Byron Shutz, Brooke Valentine, Connie Fletcher, Steve Miller, League of Education Voters; Mary Bannister, Washington Library Media Association; Kursten Holarbird, SEIU; Clifford Traisman, Seattle Public Schools; Art Jarvis, Superintendent, Tacoma Public Schools; Chip Kimball, Superintendent, Lake Washington Public Schools; Sue Walker, Superintendent, Shoreline Public Schools; Judy Turpin, American Association of University Women; Jeff Donley, Mukilteo School District; Pat Montgomery, Connie Gerlitz, Maggie Johnson, Kerry Cooley-Stroum, Carol Porkka, Susan McBurney, Leigh Stokes, Corinne Patten, Rudy Taylor, Denette Hill, Sherry Krainick, Pamela Rauch, Judy Merin, John Stokes, Chad Magendanz, Deborah Parsons, Jennifer Boutell, Eric Blumhagen, parents; Mark Finstrom, Highline School District; Jon Gould, Children's Alliance and Early Learning Action Alliance; Cecilia Mahre, Yakima Public Schools; Janice DeGuchi, Education Center; Doreen Cato, First Place; Melissa Purcell, Orca PTSA; Frank Morrison, community volunteer; Elizabeth Herres Miller, parent/grandparent; Jennifer Wallace, Professional Educator Standards Board; Jane Harvey, community member; Emma Margrat, foster parent; Wes Pruitt, Workforce Training and Education Coordinating Board; Larry Ehl, Partnership for Learning, Bob Cooper, Washington Association of Colleges for Teacher Education.

CON: Mary Lindquist, WEA; David Spring, parent; Dan Steele, WSSDA; Neal Kirby; Doug Nelson, Public School Employees of Washington; Karen Condon, Colville Tribes.

OTHER: Kursten Holarbird, SEIU; Rodrigo Barron, teacher; Thelma Jackson, Christine Katayama, Jennifer Wallace, PESB; Marcia Holland, Washington Coalition for Gifted Education; Kim Howard, Washington State PTA; Mitch Denning, Alliance of Education Associations; Allen Miedema, Northshore School District; Julie Sucharek, The Evergreen State College; Christy Perkins, Washington State Special Education Coalition; Barbara Mertens, WASA; Jerry Bender, AWSP.