

# SENATE BILL REPORT

## SB 6377

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As Reported by Senate Committee On:  
Ways & Means, February 7, 2012

**Title:** An act relating to improving budget sustainability by modifying education funding mandates.

**Brief Description:** Improving budget sustainability by modifying education funding mandates.

**Sponsors:** Senator Zarelli.

**Brief History:**

**Committee Activity:** Ways & Means: 2/07/12 [DPF, DPF].

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Elise Greef (786-7708)

**Background:** Initiative 732 (I-732). I-732 was approved by voters in the November 2000 general election. It required the state to provide an annual Cost-of-Living Adjustment (COLA) for K-12 teachers and other public school employees, as well as community college and technical college academic employees and classified employees at technical colleges. The COLA is based on the Seattle-area Consumer Price Index (CPI) from the most recently completed calendar year.

In 2003 after the Washington Supreme Court ruled in *McGowan v. State* regarding interpretation of the state's funding obligation, the statute was enacted to specify that the state must provide funding for cost-of-living increases for K-12 state-funded formula staff units only.

Legislation was enacted to suspend I-732 for the 2003-05 biennium. Therefore, no COLAs were provided for the 2003-04 or 2004-05 school years. However, a salary adjustment was provided that biennium for state formula certificated instructional staff in their first seven years of service.

Legislation again suspended I-732 for the 2009-11 biennium. In addition, Chapter 573, Laws of 2009 (Substitute House Bill 2363) specified that the suspended COLAs in the 2009-11 biennium would be made up in the ensuing biennia. Specifically, statute required that salary rates must be adjusted such that, by the end of the 2014-15 school year, base salaries used in

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state allocation formulas would be, at a minimum, what they would have otherwise been if COLAs had not been suspended during the 2009-11 biennium.

In the 2011 session, legislation again suspended I-732 for the 2011-13 biennium. In addition, Chapter 18, Laws of 2011 (Second Substitute House Bill 1132) eliminated the catch-up provision that would have required 2009-11 biennium's suspended COLAs to be made up by the end of the 2014-15 school year.

In the coming 2013-15 biennium, it is expected the I-732 COLAs for state-funded K-12 employees only will total \$216 million, assuming Seattle CPI rates of 1.8 percent and 1.6 percent. In 2015-17, it is estimated they will total \$601 million, assuming Seattle CPI rates of 2.0 percent and 2.2 percent. (Note: In the 2013-15 biennium, the first fiscal year contains only 80 percent of the cost of the first school year, so the total fiscal impact lags by the months of July 2013 and August 2013 - the final two months of school year 2012-13.)

Initiative 728 (I-728). I-728 was approved by the voters in November 2000, created the Student Achievement Fund and dedicated certain state revenues to support various school reform activities in public schools. The allowable uses for I-728 funding include:

- reductions of class size in grades K-4;
- selected class size reduction in grades 5-12;
- extended learning opportunities for students;
- investments in educators and their professional development;
- early assistance for children who need pre-kindergarten support; and
- providing improvement or additions to facilities to support class size reductions.

The funding sources for the Student Achievement Fund have been modified several times by the Legislature. Beginning in 2001 portions of state property tax and state lottery revenues were dedicated to the Student Achievement Fund. Beginning in 2004 I-728 directed that the state property tax contribution to the Student Achievement Fund was to increase to \$450 per student full-time equivalent (FTE) and that lottery revenues would be deposited in the School Construction Fund. The 2003 Legislature revised the property tax per student contributed to the Student Achievement Fund to \$254 for 2004, \$300 for 2005, \$375 for 2006, \$450 for 2007, and an amount adjusted annually for inflation thereafter. By law, \$278 of the per pupil allocations must be supported with state property tax revenues, with the remainder supported by the Education Legacy Trust Account, which is supported by cigarette taxes and the estate tax.

During the 2009 legislative session, the Student Achievement Fund was consolidated into the state General Fund and the per-student allocations were renamed the Student Achievement Program. The 2009-11 base budget included a \$131 per student allocation in the 2009-10 school year, which was funded by \$200 million in federal funding from the American Recovery and Reinvestment Act. No funding was provided in the 2010-11 school year.

In the 2011 session, legislation provided that per-student allocations for the Student Achievement Program in 2011-13 would be subject to appropriations in the operating budget. No funding was provided for the 2011-12 or 2012-13 school years.

In the coming 2013-15 biennium, it is expected the I-728 per-pupil allocations will cost a total of \$919 million, assuming per-pupil allocations of \$496.02 and \$505.20. In 2015-17, it is estimated the allocations will total \$1.084 billion, assuming per-pupil allocations of \$515.30 and \$525.45.

Lottery Funds and Education. As a result of the passage of I-728 in 2000, all lottery revenues were dedicated for educational purposes (with the exception of about 10 percent, which was dedicated by previous legislation for debt service on the stadium in Seattle). For fiscal years 2001-2004, a portion of lottery revenues were distributed to school districts for Student Achievement Program purposes. The remainder was deposited into the Education Construction Account, which is used to fund a portion of the state matching funds for K-12 public school and higher education construction. For fiscal years 2005 through 2009, all lottery revenues were deposited into the Education Construction Account. In 2009 the Legislature redirected lottery dollars to the state General Fund to support a range of state programs, including education, for fiscal year 2010. K-12 school construction costs were covered with additional general obligation bonds for the 2009-11 biennium. Also in 2009, the Legislature approved the sale of the multi-state game Powerball. While the education construction fund has been the lottery's largest beneficiary, the lottery has been directed by the Legislature to make contributions to stadium funding and problem gambling prevention and treatment.

While I-728 dedicated lottery revenues to educational purposes, the Legislature passed legislation in 2002 that authorized a new lottery game not subject to the distribution for educational purposes. The legislation authorized participating in a multi-state lottery – now named Mega Millions – with the profits from the game going to the state General Fund. The legislation had provisions addressing the concern that some people might play the new multi-state lottery rather than the existing lottery games and, therefore, diminish the base revenues for educational purposes. For this reason, the legislation required \$102 million in annual transfers to make the educational-related accounts whole before distributing any excess profits to the General Fund. In other words, it was intended that the educational-related activities would receive as much money as they would have without the multi-state lottery.

In 2010 the Legislature created the Washington Opportunity Pathways Account. Beginning in fiscal year 2011, all net revenues from in-state lottery games not otherwise dedicated to debt service on Safeco Stadium and Qwest Field and Exhibition Center were dedicated to the new account. All net income from the multi-state lottery games, other than those dedicated to the Problem Gambling Account, are now deposited into the Washington Opportunity Pathways Account rather than into the state General Fund and are used for specified early-learning, higher-education, and economic-development programs. A provision of the legislation creating the Washington Opportunity Pathways Account requires a transfer of \$102 million per year from the state General Fund to the Education Construction Account to maintain the same level of support for education construction. In the 2011 session, the \$102 million per year transfer was suspended for the 2011-13 biennium and K-12 school construction costs that would have been funded with the transfer were covered with additional general obligation bonds for the biennium.

**Summary of Bill:** I-732 education employee COLAs is repealed. The I-728 per-pupil allocations for the Student Achievement Program are made subject to appropriation in the

omnibus appropriations act and the requirement that \$102 million per year be transferred from the General Fund to the education construction fund is eliminated.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Section 1 takes effect July 1, 2012. The remainder takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:** CON: The two initiatives, I-728 and I-732, were the voters speaking strongly that they want smaller class sizes and appreciate education employees getting Cost-of-Living Adjustments. We understand the severe economic straits of the state but do not believe it's necessary to give up hope that, at some point, these will become regular occurrences again. No mechanism has been put into law to ensure that these continue if they're taken off the books. If you're going to look at repealing any initiative, all should be on the table. For example, Initiative 1053, which, we believe, ties the Legislature's hands and prevents you from doing your Constitutional duty.

**Persons Testifying:** CON: Lucinda Young, WA Education Assn.