

# SENATE BILL REPORT

## SB 6104

---

---

As of April 20, 2015

**Title:** An act relating to improving education financing.

**Brief Description:** Improving education financing.

**Sponsors:** Senators Rolfes, Frockt, McAuliffe, Hargrove, Ranker, Nelson, Billig and Conway.

**Brief History:**

**Committee Activity:** Ways & Means: 4/20/15.

---

### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Lorrell Noahr (786-7708)

**Background:** Basic Education. Article IX, section 1 of the state Constitution declares that it is the paramount duty of the state to make ample provision for the education of all children. The state Supreme Court has interpreted this to mean that the Legislature must define an instructional program of basic education and amply fund it from a regular and dependable source.

The *McCleary v. State* lawsuit was initially filed in 2007. In 2012, the Washington Supreme Court issued its opinion in the *McCleary* case. The court held that the state had failed to meet its Article IX duty to amply fund the costs of its basic education program. The court identified salary allocations, student transportation funding, and nonemployee related costs as areas of particular shortfalls. The court noted that the Legislature had recently enacted promising reforms in Engrossed Substitute House Bill 2261(ESHB 2261) – Chapter 548, Laws of 2009, which, if fully funded, would remedy deficiencies in the K–12 funding system. The court retained jurisdiction over the case to help ensure progress by the State to meet its article IX obligations. In 2014, the court ordered the state to submit a complete plan for fully implementing its program of basic education.

In 2009, ESHB 2261 was enacted, which expanded the program of basic education and created a statutory framework for funding public schools based on staffing and non-staffing resources necessary to operate a prototypical school of a particular size. Substitute House Bill 2776 (SHB 2776), adopted in 2010, added funding values for each of the staff and non-staff elements of the prototypical school funding framework, and established timelines for

---

*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.*

implementing funding enhancements for full-day kindergarten, materials, supplies, and operating costs; class size in grades K–3; and student transportation.

Compensation. Salary Allocation Model. The Legislature provides funding for teachers and other certificated instructional staff (CIS) salaries through the state salary allocation model, which uses the individuals' education and years of experience to determine the salary levels. The actual salaries paid to staff are subject to the collective bargaining process, within certain limits set by the Legislature.

*Classified and Administrative Salaries.* There is no state salary allocation schedule for classified or certificated administrative staff. Each school district receives an allocation for these staff based on historical salary allocations adjusted for cost-of-living increases. The actual salaries paid to staff are subject to the collective bargaining process.

*Supplemental Contracts.* Current law permits school districts to enter into a supplemental contract with individual employees for additional time, responsibilities, incentives, or innovations (TRII). There are statutory limitations on TRII contracts, including that the contract must not cause the state to incur any present or future funding obligation; be covered by collective bargaining; be only for one year; if not renewed then it cannot be viewed by the individual as an adverse change in employment; and may not be used to pay individuals for providing the program of basic education.

*Compensation Technical Working Group.* ESHB 2261 in 2009 created the Compensation Technical Working Group to recommend the details of an enhanced salary allocation model that aligns educator certification with the compensation system. The final recommendations of the group were submitted in 2012 and require a comparable wage analysis every four years with salaries adjusted accordingly.

*Initiative 732 (I-732).* I-732, approved by the voters in 2000, provides a cost-of-living salary adjustment to school employees based on the Puget Sound area consumer price index as determined by the U.S. Department of Labor, Bureau of Labor Statistics.

#### Local School District Levies.

*Local School District Levies.* School districts are authorized to raise funds locally for their districts through excess levies. Since 1977, the Legislature has limited the amount school districts may request from their voters and collect through maintenance and operation levies.

*Levy Reduction Funds.* Levy reduction funds are intended to reduce the levy authority of school districts with grandfathered levy authority above the maximum percentages provided for other school districts until the percentages are equal. Levy reduction funds must be specified within the omnibus appropriations act.

Capital Gains Tax (CGT). A CGT is a tax on the profit realized on the sale of non-inventory assets that are purchased at a lower price than the sales price. The most common capital gains are realized from the sale of stocks, bonds, and real estate.

Under the federal tax code, individuals and corporations pay income tax on the net total of all their capital gains just as they do on other sorts of income. The amount of federal CGT depends on both the tax bracket of the individual and the amount of time the capital asset was held before being sold. Short-term capital gains are taxed at the individual's ordinary income tax rate, and are defined as capital assets held for a year or less before being sold. Currently, long-term capital gains are generally taxed at a preferential rate in comparison to ordinary income for federal income tax purposes. The long-term CGT rates for 2014 are 0 percent for taxpayers in the 10 percent or 15 percent marginal income tax brackets; 15 percent for taxpayers in the 25 percent, 28 percent, 33 percent, or 35 percent marginal income tax brackets; and 20 percent for taxpayers in the 39.6 percent top bracket.

In addition to the federal CGT, capital gains are often subject to state income taxes. Most states do not have separate capital gains tax rates. Instead, most states tax capital gains as ordinary income subject to the state's income taxes rate. Washington has neither an income tax nor any specific excise tax on capital gains.

Initiative 1351 (I-1351). Washington State voters approved I-1351 November 4, 2014. I-1351 amended the K–12 basic education prototypical school funding formula to lower class sizes in all grades; provide enhanced class size reductions in high poverty schools; and increase the allocation of school-based and district-wide staff units in all categories. The initiative specified a phase-in schedule for the funding of the new prototypical schools funding formula of 50 percent of the costs in the 2015-17 biennium and full implementation in school year 2018-19.

**Summary of Bill:** Intent. Legislative intent to provide a plan to fully fund basic education as required by the state supreme court's 2014 order is provided. ESHB 2261 is recognized as being part one of a plan for meeting the state's constitutional obligations and that part two of the plan is to provide half of the funding necessary to meet the final 2018 values of SHB 2776. Phase two is intended to include a phase-in plan for compensation and a state revenue source to support the increased state allocations. Intent to implement a process for determining how to reduce reliance on local levies for salaries is also provided.

Compensation. Salary Allocation Model. Legislative intent to phase in a modified version of the Compensation Technical Working Group recommendations for a revised salary allocation model beginning in the 2017-18 school year and completing the phase in by the 2022-23 school year is provided.

A revised statewide salary allocation schedule for certificated instructional staff is established in statute for the 2017-18 school year through the 2022-23 school year. It provides an increase in allocations for an advanced degree relevant to current or future assignments of individual CIS. It recognizes the movement from a residency certificate to a professional certificate. After nine years of experience and obtaining a professional certificate an additional salary increase must be provided. Beginning with the 2023-24 school year, the salary allocations will be specified in the budget and must be adjusted annually for the I-732 cost-of-living increase. The requirement for average school districts salary allocations paid to not exceed the average CIS state salary allocation to the district is removed.

During the phase-in of the revised statewide salary allocation schedule, the amount allocated for each individual CIS must be the greater amount between the 2016-17 salary allocation schedule or the salary allocation schedule for the specified year. For individuals who would not receive a salary increase under the revised salary allocation model in any year of the phase-in, the state must provide an amount sufficient to fund an I-732 cost-of-living increase.

*Classified and Administrative Salaries.* Beginning in the 2017-19 biennium, to eliminate grandfathered salary allocations the Legislature must provide sufficient funds for whichever is greater the average state salary allocations for certificated administrative staff and classified staff on the Legislative Evaluation and Accountability Program document for the 2017-18 school year or the amounts specified. The allocations provided must be enhanced in a linear fashion to provide sufficient state funding to fund specified amounts in the 2022-23 school year. The allocations must be adjusted for I-732 cost-of-living increases as provided in the budget.

*Comparable Wage Analysis.* A comparable wage analysis is required every four years beginning in 2027 by the Office of Superintendent of Public Instruction (OSPI). The first report to the Legislature and Governor is due by July 1, 2028.

*Supplemental Contracts.* School districts are authorized to use local funds for enhancements outside of the program of basic education. The local funding for enhancements are capped an amount that is equal to 10 percent of the school district's basic education allocation received from the state. During the phase-in of the new salaries provided by the state, the school district may provide locally funded enhancement at an amount that is equal to 10 percent of the state basic education at final phase-in in 2023-24. The current statutory limitations on supplemental contracts are retained including that locally funded salaries cannot require the state to incur any present or future funding obligation.

*Local School District Levies. Levy reduction funds.* During the phase-in of the new salary allocation schedule, additional funding provided for the new salary allocations must be considered “levy reduction funds” for districts grandfathered at a higher levy authority than the maximum levy percentage for other school districts.

*Local Levy Reduction Technical Working Group.* The Office of Financial Management with the assistance of OSPI will convene a local levy reduction technical working group (LLRTWG) to develop a phase-in plan for reducing local school district levy authority and eliminating grandfathered levy authority. The working group will provide recommendations for the phase-in of a new, reduced levy authority in coordination with increased basic education revenues provided for in the bill. Recommendations are limited to changes in the levy base calculation, reductions to the levy authority percentages, or a combination of the two. The working group may convene advisory subgroups on specific topics to assure input and participation from an array of diverse stakeholders. The LLRTWG will make recommendations to the Governor and Legislature by October 1, 2016.

The LLRTWG includes representatives from the Department of Revenue (DOR), the Office of the State Treasurer, the Legislative Evaluation and Accountability Program Committee, school districts, educational service districts, Washington Association of School Business Officers, Washington Education Association, Washington Association of School

Administrators, the Association of Washington School Principals, Washington State School Directors' Association, the Public School Employees of Washington, and other interested stakeholders.

CGT. Beginning January 1, 2016, an annual state net CGT is imposed on the sale or other voluntary exchange of capital assets, with some exceptions, by resident individuals, trusts, and estates during the year. The tax rate is 7 percent. The tax rate is applied to the capital gains amount reported on the federal income tax return. For resident individuals, all capital gains are apportioned to the state, regardless of the location of the asset. All revenues from the CGT must be deposited into the education legacy trust account to be spent on the program of basic education.

All taxpayers must file with DOR, a CGT return for each taxable year; however, a person with no tax liability is not required to file a tax return. The due date of the CGT is the due date for the federal income tax return, unless otherwise required by DOR. The first state CGT returns are due in 2017.

For taxpayers filing joint federal tax returns, a \$500,000 deduction is provided. For taxpayers filing other returns, a \$250,000 deduction is allowed. The CGT does not apply to the sale or exchange of: residential real property; retirement accounts; cattle, horses or breeding livestock held for more than 12 months; agricultural or timber land; or timber.

I-1351. The implementation schedule for I-1351 is modified to begin in the 2017-19 biennium with full funding provided in the 2023-24 school year. The funding for I-1351 will be phased-in at one-third of the total cost in the 2017-19 biennium and two-thirds in the 2019-21 biennium. Funding should first be provided to support the cohort of students receiving kindergarten through third grade class size reductions in the prior biennium with added focus on high-poverty schools and districts.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

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