SENATE BILL REPORT
SB 6130

As of June 25, 2015

Title: An act relating to the state's constitutional basic education obligation, including reducing overreliance on local levies.

Brief Description: Concerning the state's constitutional basic education obligation, including reducing overreliance on local levies.

Sponsors: Senators Dammeier, Rolfes, Rivers and Hargrove.

Brief History:
Committee Activity: Ways & Means: 6/11/15.

Brief Summary of Bill

- Specifies that the legislative definition of basic education includes statewide salary allocations that are competitive and market based.
- Re-codifies existing statutes addressing basic education in a single chapter.
- Creates accounting and accountability procedures for monitoring the use of local funds and supplemental contracts.
- Phases in new salaries for all school staff and implements a revised salary allocation model for teachers and other instructional certificated staff.
- Requires a comparable wage analysis every four years to maintain competitive salaries.
- Changes the local school district levy and local effort assistance processes.
- Establishes the Education Funding Council to monitor the implementation of the act, to make recommendations to avoid any unintended consequences, and which may develop and recommend a different plan to meet the State's constitutional basic education obligation.
- Conditions the effective date of the provisions addressing compensation, supplemental contracts, and levies on a revenue source or sources being enacted and generating enough additional state revenue to fully fund the provisions.

SENATE COMMITTEE ON WAYS & MEANS

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.

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Background: Basic Education. The Washington State Constitution (Constitution) provides: "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders. . ." The Washington Supreme Court (Court) has interpreted this to mean that the Legislature must define an instructional program of basic education for public schools and amply fund it from a regular and dependable source.

The Court has acknowledged that the Legislature has provided a definition of basic education in statute. Many, but not all, of these statutes are codified in one chapter of Title 28A RCW.

In 2009 the Legislature adopted a revised basic education funding allocation model for public schools based on prototypical schools. The use of prototypical schools is intended to illustrate the level of resources needed to operate a school of a particular size using commonly understood terms such as class size, hours of instruction, and specified staff positions. Actual funding allocations are adjusted from the school prototypes based on the actual number of students in each grade level at each school in the school district. Additionally, funding is adjusted by a small schools factor to provide the smallest schools and school districts additional teachers.

The Court has provided that state funding should reflect the actual costs of providing the legislatively defined instructional program of basic education and that in terms of "quantitative inputs," staffing ratios and salaries are the most significant factors in determining that cost. The Court recently reaffirmed that reliance on local school district levies for funding basic education is unconstitutional because local levies are not a regular and dependable funding source since levies are temporary, subject to approval by the voters, and highly variable. The Court has directed that local levy funds may only be used for enrichment outside of the definition of basic education.

In 2012 the Court issued its opinion in the *McCleary v State* lawsuit. The Court found that the State had failed to meet its paramount constitutional duty to amply fund the costs of its basic education program. The Court identified state salary allocations as an area of shortfall. The Court retained jurisdiction to help ensure progress by the State to meet its constitutional obligation. In 2014 the Court ordered the Legislature to submit a complete plan for fully funding basic education. The Court subsequently found the State in contempt for failing to submit the plan to the Court and directed the State to purge contempt by providing a plan by the final adjournment of the 2015 legislative session.

School District Data. The Office of Superintendent of Public Instruction (OSPI) must maintain an internet-based portal showing how each school district expends state funds for staff and other resources.

Accounting. School district accounting requirements are organized and operated on a fund basis. Under current law, school districts must establish the following funds:

- a general fund for the maintenance and operation of the district;
- a capital projects fund for major capital purposes;
- a debt service fund for the retirement of bonds; and

- an associated student body fund for all monies generated through the programs and activities of any associated student body organization.

Budget Process. Each school district develops and adopts its own budget prior to the beginning of each school year. Each district must publish a notice when the budget is completed and provide copies upon request.

Financial Health. OSPI, with the Educational Service Districts, created a tool to provide a snapshot of a school district's overall financial health that includes the fund balance to revenue ratio, expenditures to revenues ratio, and the number of days of cash on hand. Each of these financial indicators are calculated, weighted, and added together to determine a district's financial indicator score.

State Auditor. The State Auditor's Office is established in the Constitution as part of the executive branch of state government. The State Auditor has the statutory authority to conduct financial audits on all governments in the State, including school districts.

Compensation. The Legislature allocates money to each school district for state-funded school employee salaries. The actual salaries paid to certificated instructional staff and classified staff are subject to the collective bargaining process, within certain limits set by the Legislature.

Certificated Instructional Staff (CIS). State funding for teachers and other certificated instructional staff salaries is provided through the state salary allocation model, which uses education and years of experience to vary the salary levels. The salary allocation is increased for each additional year of experience, up to 16 years, and for additional education, up to a Ph.D. School district’s must pay at least the minimum salary on the state salary allocation model and cannot exceed the average salary calculated on the state salary allocation model.

Certificated Administrative Staff (CAS) and Classified Staff (CLS). There is no state salary allocation model for certificated administrative staff or classified staff such as bus drivers, food service workers, custodial staff, and class room aides. Each school district receives an allocation for these staff based on historical salary allocations, adjusted for cost-of-living increases.

Compensation Technical Working Group (CTWG). In 2009 the Legislature created the CTWG to recommend an enhanced salary allocation model that aligns the compensation system with educator certification. The final report was submitted June 20, 2012. The CTWG recommendations include increasing the beginning teacher salaries; providing K–12 employees a state salary allocation level comparable to occupations with similar knowledge, skills, abilities, education, and training requirements; conducting a comparable wage analysis every four years to ensure that the K–12 salaries keep pace with the wages of comparable occupations; compressing the salary allocation model and structuring it according to the stages of the career continuum for educators; and providing the higher salary allocation from either the new or the old model as the new model is phased-in.

Inflation factors. The Puget Sound area Consumer Price Index (CPI) as determined by the U.S. Department of Labor, Bureau of Labor Statistics, and the Implicit Price Deflator (IPD), as determined by the United States Department of Commerce, are two commonly used measures of inflation. Initiative 732, approved by the voters in 2000, requires a cost-of-living salary adjustment (COLA) to school employees based on the CPI. The Legislature has suspended the COLA requirement since 2010.

Supplemental contracts. School districts may provide additional salary to CIS beyond that provided by the State. The additional salary is provided using supplemental contracts and must be for additional time, responsibilities, incentives and innovations, also known as "TRII". Local levy revenue is used for most supplemental contracts. State law provides that supplemental contracts must not be used for basic education and must not create any present or future funding obligation for the State.

Contract Clause. Article I, section 10 of the United States Constitution prohibits the enactment of state laws that have a retroactive effect to impair the obligations and rights arising under contracts entered into prior to the enactment of such state laws.

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 (M&O) levies. The maximum amount that may be raised is based on the state and federal funding received by the district in the prior year. The amount that may be raised is typically referred to as the district's levy authority.

The levy lid is the limit on school districts' levy authority. Under current law, 205 of the 295 school districts have a levy lid of 28 percent of the district's state and federal funding, which was temporarily increased in the 2010 legislative session from 24 percent. This means that school districts may request voter approval and collect $0.28 for each $1 of state and federal revenue the district receives. The other 90 school districts have a levy lid ranging from 28.01 percent to 37.90 percent.

Additionally, in the 2010 legislative session, the Legislature increased a school district's levy base to include certain non-basic education revenues formerly allocated by the State in addition to the revenues the district actually receives from state and federal sources. Effective with the levies for calendar year 2018, the levy lid will revert to 24 percent and the increases will be removed from the levy base.

Local Effort Assistance. The Local Effort Assistance program (LEA) or levy equalization was created in 1987 to mitigate the effect that above-average property tax rates might have on the ability of a school district to raise local revenues through voter-approved levies. The LEA is expressly not part of basic education. The amount is calculated based on equalizing tax rates to a statewide average for a certain equalization rate. The current LEA equalization rate is 14 percent. In calendar year 2018, the LEA equalization rate will decrease to 12 percent.

Quality Education Council (QEC). QEC was created in statute in 2009 to, among other things, inform the ongoing implementation by the Legislature of a program and funding of basic education. Eight legislators, four educational agency representatives (OSPI, State

Board of Education, Professional Educator Standards Board, and Department of Early Learning), and a representative from the Office of the Governor serve on the QEC.

Joint Legislative Audit and Review Committee (JLARC). JLARC conducts performance audits, program evaluations, sunset reviews, and other analyses and studies directed by the Legislature. Eight legislators serve on JLARC.

Caseload Forecast Council (CFC). CFC is charged with forecasting the entitlement caseloads for Washington. CFC meets several times a year to adopt official forecasts that are the basis of the Governor's budget document and utilized by the Legislature in the development of the omnibus biennial appropriations act.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed First Substitute): Basic Education. The Legislature's definition of basic education is changed to explicitly include statewide salary allocations for school employees that are competitive, market-based, and informed by periodic wage analyses of comparable wage occupations. Salaries for certificated administrative staff must be based on a 220-day base contract. Existing basic education statutes, except for those addressing categorical programs, are re-codified into a single chapter.

School District Data. The school district information on the OSPI internet-based portal must include how local levy and other funds are expended to enhance the state-provided staffing levels and prototypical school funding elements.

Accounting.School districts must establish a local revenue fund. Money deposited into the local revenue fund must include, but is not be limited to, proceeds from maintenance and operations levies and local effort assistance payments from the State. By the 2016-17 school year, school districts must provide separate accounting of state, federal, and local revenues and expenditures, and a separate accounting of basic education and non-basic education expenditures.

Budget Process. As part of their annual budget process, school districts must develop a four-year budget outlook that includes a projection for student enrollment. The information must be posted online and copies made available upon request. Districts are encouraged to use the information to inform the district's instructional priorities and program offerings and to communicate this information to the local community.

Financial Health. OSPI must consider the school district four-year budget outlook and enrollment projection when ranking the financial health of districts. OSPI must present information to the Legislature regarding districts trending towards financial difficulty, insolvency, or binding conditions.

State Auditor. The State Auditor must conduct regular financial audits of school districts, including a review of expenditures of local levy funds and supplemental contracts to ensure local funds are not being expended for basic education, except as permitted during the phase in of the revised salary allocations. The State Auditor, with the Department of Revenue

(DOR) must report to OSPI and the Legislature any findings of local school district noncompliance with the levy provisions.

Compensation. Legislative intent to assume full responsibility for funding basic education salaries is provided. The plan includes phasing in a modified version of the Compensation Working Group's recommendations including compressing the salary allocation model and structuring it according to the stages of the career continuum for educators, increasing the state allocation for base salaries, and conducting a comparable wage analysis every four years to ensure that the K–12 salaries keep pace with the wages of comparable occupations.

Except for the provisions addressing the comparable wage analysis, the provisions addressing compensation only take effect if a revenue source or combination of revenue sources are enacted and take effect by January 1, 2018, that generate enough additional state revenue to fully fund the increased salary allocations.

All Staff. By July 1, 2022, and every four years thereafter, OFM must convene a technical working group on school employee wages. The working group consists of staff members from specified state agencies and must conduct or contract for a comparable wage analysis for school employees. OFM must report to the School Employee Wages Council (Council), the workgroup's recommendations for increases to K-12 salaries based on the comparable wage analysis. The Council's members include legislators, the Superintendent of Public Instruction, and the Director of the DOR. Recommendations by the Council to the Governor and Legislature requires an affirmative vote of at least four of the six council members. The recommendations of the Council are effective in the next biennial period, subject to legislative modifications. If the comparable wage recommendations are adopted by the Legislature then the cost-of-living index used for inflation of salaries is the IPD.

By July 1, 2017, the technical working group on school employee wages will use data on comparable occupations and wages by metropolitan statistical areas for each state-funded K-12 job category and data from the statewide housing affordability index to make recommendations for a K-12 salary localization factor. OFM must report the working group's recommendations to the Council. Recommendations of the Council to the Governor and Legislature require an affirmative vote of at least four of the six council members.

CIS. A revised statewide salary allocation model for CIS is established in statute for the 2018-19 school year through the 2021-22 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 teaching certificate to a professional teaching certificate. After nine years of experience and obtaining a professional certificate an additional salary increase must be provided. A localization factor must also be applied to the base salary. Beginning with the 2022-23 school year, the salary allocations will be specified in the budget. During the phase in, districts are allocated either the salary under the revised salary allocation model or the salary allocation from the 2017-18 school year, whichever is greater. If the 2017-18 allocation for an individual CIS is less than the revised salary allocation model amount, then the amount allocated to the district must include a cost-of-living increase using the Seattle CPI. As the revised salary allocation model is phased in or until the state basic education allocation reaches the locally provided salary level provided in the 2014-15 school year, if districts are paying more than the comparable wage in the local area, then the district may preserve the level of locally provided salaries through a compensation maintenance contract. Any increases in salary using supplemental contracts during the phase in of the salary allocation model must be for new time or duties performed.

CAS and CLS. Beginning in the 2018-19 school year, school districts must be provided the greater of the increased statewide salary allocation for school year 2018-19 or a specified salary allocation. The allocation must be enhanced in a linear fashion so that a specified allocation is provided in the 2021-22 school year. The allocations must be adjusted for cost-of-living increases using the Seattle CPI and a localization factor. The aggregated amount of that provided by school districts for CAS and CLS must not exceed the aggregate amount of the state allocation, including the localization factor.

Supplemental Contracts. The authorization for TRII contracts is modified. School districts may use local funds for enhancements outside of the program of basic education, which may include using a supplemental contract to provide an enhanced salary for CIS and CAS that exceeds the state provided basic education salary. A supplemental contract is for additional time or duties assigned and performed and not for the professional duties associated with basic education. Time-based supplemental contracts may not pay more than the hourly rate provided to the employee for basic education activities. Supplemental contracts may be used to provide staffing levels in excess of the prototypical school funding formula or professional development beyond that provided by the State. Supplemental contracts must not create less responsibility for a CIS. These provisions only take effect if a revenue source or combination of revenue sources are enacted and take effect by January 1, 2018, and generate enough additional state revenue to fully fund the increased salary allocations.

<u>Contract Clause.</u> A declaration that current collective bargaining agreements are not impaired and future collective bargaining agreements must be consistent with the act is provided. These provisions only take effect if a revenue source or combination of revenue sources are enacted and take effect by January 1, 2018, that generate enough additional state revenue to fully fund the increased salary allocations.

<u>School District Levies and LEA.</u> For calendar years 2016 through 2022, basic education enhancements provided after August 30, 2015, are excluded from school district levy bases, except for additional funding provided for the I-732 cost-of-living adjustment and for additional basic education staffing units in the prototypical funding model.

For calendar year 2018, the maximum levy authority percentage is increased from 24 percent to 26 percent. Local effort assistance is matched at 13 percent.

Beginning in calendar year 2019, a school district's actual levy collections will be reduced by the budgeted amount of any new K–12 salary enhancements received after August 1, 2018. In calendar year 2020, the reduction must be made using the actual K–12 salary enhancements received after August 1, 2018. However, the school district’s levy rate per $1,000 of assessed value will not be reduced below either $1.00 or $1.50. School districts levy authority will be based on a two-tier system. School districts levying $1.00 per $1,000 of assessed valuation that would receive levy revenues of $1,500 per pupil or more are capped at a rate of $1.00 per $1,000 of assessed valuation. School districts that would receive less than $1,500 per pupil will have levy rates that are capped at $1.50 per $1,000 of assessed valuation.

Beginning in calendar year 2023, the local maximum levy authority for all districts is set on a two-tier system. School districts levying $1.00 per $1,000 of assessed valuation that would receive levy revenues of $1,500 per pupil or more are capped at a rate of $1.00 per $1,000 of assessed valuation. School districts that would receive less than $1,500 per pupil will have levy rates that are capped at $1.50 per $1,000 of assessed valuation.

School districts with compensation maintenance contracts that exceed 50 percent of the two-tier levy capacities may request from OSPI additional levy authority. After January 1, 2024, the additional levy authority that may be granted by OSPI is reduced by 10 percent of the two-tier levy capacities in each year. By January 1, 2027, the additional levy authority is fully phased-out.

For calendar years 2019 through 2022, LEA payments will remain at calendar year 2018 levels and will not be reduced as a result of decreases in levy collections related to K–12 salary enhancements. Beginning in calendar year 2023, LEA will be based on equalizing school districts that levy $1.50 per $1,000 of assessed value to a statewide average per pupil value.

The act further clarifies that levy funds may only be used for enhancements outside of the program of basic education. The State Auditor must report to OSPI, DOR, and the Legislature regarding any school district non-compliance issues with this provision.

Education Funding Council (EFC). The EFC is created to monitor the implementation of the act, make recommendations to avoid any unintended consequences, and may develop and recommend a different plan to meet the State's constitutional basic education obligation. EFC must make recommendations on how to transition to the new salary allocation model and the new school district levy laws. By September 1, 2016, and every September until 2023, EFC must submit reports to the Governor and Legislature detailing its recommendations. Each annual report must include a determination of whether the level of state revenue is sufficient to the level of expenditures necessary to implement the act. Eight legislators are voting members on EFC. Additional nonvoting members are the Governor, Superintendent of Public Instruction, and the Director of the DOR, or their designees. The Council expires September 1, 2024.

Quality Education Council. QEC is repealed.

Joint Legislative Audit and Review Committee. JLARC must review the small schools funding factor used to provide additional teachers to small schools to identify options for break points and determine whether actual staffing patterns and non-staff related costs reflect the small schools factor funding assumptions. A final report to the Governor, EFC, and Legislature is due by December 1, 2016.

Caseload Forecast Council (CFC). CFC must determine the feasibility of developing a generic model for school districts to forecast student enrollment and report by June 30 2016.

Tax/Revenue. The act also provides that the Legislature recognizes that to accomplish all of the actions laid out in the plan under the act requires additional sources of revenue and should not be accomplished through reductions to other parts of the budget.

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.

Staff Summary of Public Testimony: PRO: This bill represents a years' worth of bicameral/bipartisan work. There is a problem with the overreliance on local levies which pushes the state's responsibility for basic education onto school district's local taxpayers, which is unconstitutional and inequitable. It is important that this bill is public, so that the Legislature can receive input on the complex policies in this bill. The Legislature could have approached this issue with just a taskforce or take a stab at it by coming up with a recommendation; this bill makes a recommendation. Collective bargaining can still happen at the local level. The remaining levy funds can still be used for local supplemental pay that enhances the program of basic education, which is current law. There is no revenue in this bill, since we have not come to full conclusion on that.

Levy and compensation reform is needed for all students no matter their address. The state must compensate teachers fully instead of the current system of unequal pay pitting district against district. This bill holds harmless teachers who are currently paid more by their school districts. Property taxes cannot pay for this plan alone. All children regardless of background can be prepared for college. The current system provides a disparate impact for the opportunities of students. This is a historic year in education funding – more funding is expected than has been provided in 30 years. There is concern that the timeframes in the bill are too slow. This bill is a comprehensive approach for dealing with the issue that makes an effort to fix what is fundamentally wrong with the education system. It gives provision to do no harm. The proposed COLAs will increase costs by 30 percent if they roll out. This bill, instead, attempts to address the compensation issues. The term outside basic education should be replaced with beyond basic education. There is concern about the local levy fund because of the need for interfund transfers through the county treasurer creating an undue administrative burden. This accounting can be done in a different way with the same outcomes. Overreliance on local levies is unconstitutional. The current levy and compensation system is an ossified mess with many inequities baked into it. This is the third legislative session since the McCleary ruling and the same political roadblocks are preventing a solution. Enact a ban on the use of local levies for basic education staring in the 2017-18 school year. Levy reform should be revenue neutral.

CON: Under this bill, pay for many educators will remain flat for several decades. As compared to comparable wages and competitive educator pay in other regions and states, Washington's educators are underpaid. Educators are mostly women; this feels like a continued effort to not pay a comparable wage for similar occupations. Changing the share of teacher salaries from state to local funding sources is not increasing teacher pay and will not comply with the Court finding that the state needs to provide a sufficient wage to attract and retain quality educators. Since I-732 was enacted, the state has failed to provide an annual COLA. Recent polling shows voters support an annual COLA and educator pay increases. It is unclear if the state can make the proposed constitutionally required basic education obligation salary allocations contingent upon finding a revenue source. Over time educators have lost ground compared to average wage earners during the recession when no COLAs were provided. This bill will freeze salaries before the promised COLAs are provided. The more restricted language will limit school district's local interests and priorities. Regional pay will create border issues and does not provide additional salary to rural school districts.

OTHER: Critical services should not be impacted negatively to fully fund education. Adequately funding K-12 is important. There is a strong link between family economic hardships and poor student outcomes. Fully funding all needs of a child are important. Revenue for education needs to be fair, accountable, shared, stable, and consistent. Investments in education should not come at the direct expense of other equally important budget priorities. Capital gains tax is sufficient to raise the funds for this bill while improving the fairness of Washington's tax system. This bill includes classified employee salary limitations which were attempted many years ago and abandoned by the Legislature. Limitations for collective bargaining shouldn't only be for basic education staff, since it will add to additional complexities in the system. The property tax swap could be a revenue source for this bill. The Education Funding Council should take a look at the over staffing of classified workers in basic education. Further clarification is needed to understand which positions in the school are basic education. Further clarification is needed for administrative staffing, since many of the administrators in schools are classified, not certificated. There needs to be improvement on the equity and control over local levies. Efforts to distinguish between basic education and non-basic education time based activities and safeguards to ensure compliance are supported. Stretching out the full phase-in of the salaries to 2022 is too far out. There are current issues today with the expected COLA which will exacerbate the salary problem. Local accounting due dates are too soon. We appreciate that you have addressed the concerns made in public hearings from other similar bills. The Legislature has not addressed improving the staffing units from the prototypical funding model, which put school districts at financial risk since they are paying local levy funds for this enhancement. This bill does not go far enough to put strong controls on local levy spending and bargaining, which will create inequities within the system. The time for studies is over; the time for action is here. Professional development should be included in the definition of basic education.

Persons Testifying: PRO: Senator Dammeier, prime sponsor; Senators Rolfes, Hargrove, Rivers, co-sponsors; Cary Evans, Stand for Children; Jene Jones, League of Education Voters; Timothy Yeomans, Superintendent; Nancy Moffatt, WA Association of School Business Officials; Jerry Bender, Association of Washington School Principals; Dan Steele, WA Association of School Administrators; Lisa Macfarlane, Democrats for Education Reform; Amber Carter, AWB, Government Relations LLC; Charlie Brown, The Schools Alliance.

CON: Julie Salvi, Washington Education Association; Chris Fraser, North Kitsap Education Association; Pam Kruse, Franklin Pierce Education Association.

OTHER: Laurie Lippold, Partners for Our Children; Nick Federici, WA United for Fair Revenue; Ken Kanikeberg, OSPI; Doug Nelson, PSE/SEIU 1948; Ben Rarick, State Board of Education; Deb Merle, Washington State School Directors' Association.

Persons Signed in to Testify But Not Testifying: No one.