

HOUSE BILL REPORT

ESHB 1843

As Passed House:
February 22, 2017

Title: An act relating to fulfilling the state's paramount duty for all children through equitable and responsible investments in the state's basic education program and reductions to local effort contributions.

Brief Description: Fulfilling the state's paramount duty for all children through equitable and responsible investments in the state's basic education program and reductions to local effort contributions.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Sullivan, Lytton, Jinkins, Orwall, Appleton, Springer, Chapman, Tarleton, Tharinger, Goodman, Farrell, Macri, Ormsby, Fitzgibbon, Slatter, Hudgins, Doglio, Fey, Pollet, Ortiz-Self, Santos and McBride).

Brief History:

Committee Activity:

Appropriations: 2/6/17, 2/9/17 [DPS].

Floor Activity:

Passed House: 2/22/17, 50-47.

Brief Summary of Engrossed Substitute Bill

- Replaces the state K-12 salary allocation model with minimum statewide average salaries for each of the three state-funded staffing categories, and specifies the state operating budget bill must specify the basis for regional adjustments, beginning in school year 2017-18 and phased in over three years.
- Increases prototypical school allocations for parent involvement coordinators and guidance counselors, beginning in school year 2018-19 and phased in over two years.
- Increases vocational education funding by reducing class sizes for career and technical education and skills centers, beginning in school year 2018-19 and phased in over two years.
- Increases the state-funded instructional hours for the Learning Assistance, Highly Capable, and Transitional Bilingual Instructional programs, beginning in school year 2018-19 and phased in over two years.

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.

- Delays changes to the formulas for calculating school districts' maximum maintenance and operation levy authority and corresponding local effort assistance.
- Directs the Superintendent of Public Instruction to convene a technical working group to recommend revisions to school district accounting practices.
- Establishes an accountability monitoring and reporting system, requiring districts to annually report and requiring the Office of the Superintendent of Public Instruction to maintain a public dashboard to display the school district reported data.
- Directs the Office of the Superintendent of Public Instruction to convene a work group to review the special education funded percentages and requires a recommendation to the Legislature by January 1, 2018.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Bergquist, Cody, Fitzgibbon, Hansen, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 14 members: Representatives MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Buys, Caldier, Condotta, Haler, Harris, Manweller, Nealey, Schmick, Taylor, Vick, Volz and Wilcox.

Minority Report: Without recommendation. Signed by 1 member: Representative Chandler, Ranking Minority Member.

Staff: Jessica Harrell (786-7349).

Background:

The Washington 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; and that the funding should reflect the actual costs of providing the legislatively defined instructional program of basic education.

Basic Education Funding Formulas: Prototypical School Formula and Categorical Programs. General Apportionment. Legislation enacted in 2009 and 2010 redefined basic education and restructured the K-12 funding formulas. The first of these bills was Engrossed Substitute House Bill 2261 (Chapter 548, Laws of 2009), which expanded the definition of basic education and established the framework for a new K-12 funding allocation formula based on

prototypical schools. The second bill, Substitute House Bill (SHB) 2776 (Chapter 236, Laws of 2010), enacted in statute the new prototypical school allocation formulas at funding levels that represented the 2009-10 school year state spending on basic education. Additionally, SHB 2776 called for phased-in implementation of specified enhancements to the basic education program and the funding to support it. Three of these four enhancements have been fully implemented, as of the 2016-17 school year: (1) specified increases in funding for materials, supplies, and operating costs (MSOC); (2) full funding of the new pupil transportation formula; and (3) statewide implementation of all-day kindergarten. The fourth element, full funding of class size reductions for grades kindergarten through 3 (K-3), is partially implemented as of the 2016-17 school year and is scheduled to be fully implemented by 2017-18.

The prototypical school funding formula for basic education took effect September 1, 2011. The state's public school funding model allocates funding to school districts based on assumed levels of staff and other resources necessary to support a "prototypical" school that serves an assumed number of students at defined elementary, middle, and high schools levels. 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.

The structure of the formula, which appears in statute, provides allocations for classroom teachers at an assumed class size, plus other building-level staff such as principals, teacher-librarians, counselors, and office support. Based on these staffing ratios, the state uses salary assumptions for each of the different staff types to generate state funding allocations, as discussed in more detail below. The allocations to a school district are adjusted to reflect the full-time equivalent enrolled students, in proportion to the prototypical school ratios. The funding provided to school districts through the prototypical school formulas is for allocation purposes only. Districts have discretion over how the money is spent, subject to some limits.

In addition to the school-specific staffing that is allocated through the prototypical school model, the state's funding formulas include per student allocations for MSOC and additional support and instruction time through categorical program funding.

Learning Assistance Program. The Learning Assistance Program (LAP) provides instructional support for students who are performing below grade level in reading, writing, and mathematics. The prototypical school formula allocates funding to support 2.3975 hours per week of supplemental instruction in a class of 15 students. The funding allocation is based on poverty as measured by the percentage of students in the school district who are eligible for free and reduced-price lunch, but school districts must use the LAP allocations to provide supplemental instruction for the students with the greatest academic deficits.

Transitional Bilingual Instructional Program. The Transitional Bilingual Instructional Program (TBIP) provides supplemental instruction and services for students whose primary language is other than English and for additional supports for students to transition out of the program once they have demonstrated language proficiency. The prototypical school funding formula allocates funding to support 4.778 hours per week of supplemental instruction in a class of 15 students for each student eligible for and enrolled in the TBIP. The state also

funds an additional three hours of supplemental instruction for up to two years immediately after the pupil has exited the program.

Highly Capable Program. The Highly Capable Program provides access to accelerated learning and enhanced instruction for school districts' most highly capable students. The state allocates funding for an additional 2.159 hours of supplemental instruction per week, assuming a class size of 15 students. Allocations are based on 2.314 percent of each school district's enrollment.

School District Employee Compensation.

State Allocations. The state allocates funding for certificated instructional staff (CIS) salaries based on a "grid" which provides salary values that increase based on educational credit and years of service. Each district's CIS allocation is based on its "staff mix," that is, the distribution on the state salary grid of the CIS hired by the district. Funding to support salaries for the classified and administrative staff in the prototypical school funding formula is specified as a stated salary rate per state-funded staff person in the omnibus operating appropriations act.

State Restrictions on CIS Salaries. In general, state salary funding is for allocation purposes only, and school districts are not required to hire staff according to the prototypical school staffing formula, nor are they required to pay CIS salaries according to the state CIS salary grid. Instead, actual salaries are determined by each district's collective bargaining agreements.

However, the state places some restrictions on actual salaries districts may pay for CIS. First, a district may not pay CIS less than the lowest salary on the state grid for a bachelor's or master's degree and zero years of service. Second, a district's actual average CIS salary may not exceed the district's actual average salary that is allocated under the state formula. Third, CIS salaries in the basic education program must be consistent with CIS salaries in other programs. Finally, CIS salaries may exceed these limits only by separate contract for additional time, responsibility, incentive, or innovation (TRII). Under the TRII restrictions, districts may not use supplemental contracts to pay for services that are part of the state's program of basic education.

Salary Enhancements. Engrossed Substitute House Bill 2261 expressed intent to enhance allocations for school district employee compensation by 2018. A report issued in 2012 by a Compensation Technical Working Group (Group) recommended that allocations be based on market-rate salaries for comparable occupations, as identified by a study commissioned by the Group.

Initiative 732.

Initiative 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 kindergarten through grade 12 (K-12) teachers and other public school employees, as well as community and technical college academic employees and classified employees at technical colleges. The COLA is based on the Seattle-area Consumer Price Index from the most recently completed calendar year.

Maintenance and Operations Levies and Local Effort Assistance.

Upon voter approval, school districts are authorized to collect levies above the 1 percent constitutional property tax limit. School district voters may approve maintenance and operations (M&O) levies for up to four years, capital levies for up to six years, and bond levies for the life of the bonds. Since passage of the Levy Lid Act of 1977, the Legislature has limited the amount school districts may collect through their M&O levies.

A school district's maximum M&O levy amount is determined by the district's levy base and levy percentage, also referred to as a "lid." Generally speaking, a district's annual levy base is its state and federal funding for the prior school year, adjusted for inflation, and additionally calculated amounts that were added to the levy base in 2010, sometimes referred to as "ghost money." The levy lid is the maximum allowable percentage of the levy base that a school district may collect. Until calendar year 2018, the levy lid for most school districts is 28 percent, which means that each calendar year districts may collect up to 28 percent of their levy base. (Some districts are "grandfathered" at a higher levy percentage.) Beginning in calendar year 2018, the levy lid decreases to 24 percent, or for districts grandfathered at a higher levy percentage, decreases by 4 percentage points. The calculated amounts that were added to the levy base in 2010 will also be eliminated from the base beginning in calendar year 2018.

The Local Effort Assistance program (LEA), also known as levy equalization, was created in 1987. Under the state's LEA program, the state provides additional funding to school districts that are at a relative disadvantage in raising M&O levies due to relatively low property values. School districts are eligible for LEA if they have a higher than average levy rate and if the district has certified a local excess levy. Levies are equalized up to 14 percent of the levy base, which is half of the 28 percent levy lid that is applied to the majority of districts. Equalization is set to reduce to 12 percent beginning in 2018, maintaining the current one-half policy.

Local Effort Assistance is expressly not part of the state's program of basic education. In calendar year 2016, 217 districts were eligible to receive LEA, of which 212 districts received the assistance.

School District Accounting.

School district accounting requirements organize and operate on a fund basis. Under current law, school districts must establish the following funds:

- a general fund for the M&O of the district, which includes both moneys received from the state and from other local revenues such as M&O levies;
- 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 moneys generated through the programs and activities of any associated student body organization.

Summary of Engrossed Substitute Bill:

Findings and Intent.

Numerous legislative findings and declarations of intent are made regarding the state's duty to provide its children with access to a uniform, equitable, and amply funded program of basic education.

Basic Education Funding Formulas: Prototypical School Formula and Categorical Programs.

Enhancements are made to specific elements of the prototypical school funding model and to specific categorical programs as follows:

- Career and technical education (CTE) and skill centers: The CTE class sizes are reduced to 19 students, and skill center class sizes are reduced to 16 students.
- Parent Involvement Coordinators: For each level of prototypical school, funding for Parent Involvement Coordinators is increased from 0.0825 staff (as funded in the 2015-17 Operating Budget) to 1.0825 staff.
- Guidance counselors: For middle schools, funding is increased to 2.26 staff. For high schools, funding is increased to 3.539 staff.
- Learning Assistance Program: The funded instructional hours are increased to 3.4 hours.
- Transitional Bilingual Instruction Program: For students in middle and high school, the funded instructional hours are increased to 6.778 hours.
- Highly Capable Program: The funded instructional hours are increased to 3.2 hours.
- The enhancements are implemented in equal annual increments, with the first increment funded in the 2019-20 school year and full implementation in the 2020-21 school year and thereafter.

Additionally, funding allocations for smaller class sizes in grades K-3 are limited to the actual demonstrated class sizes in each school district, unless capital facility needs in the district prevent the district from reducing class sizes, in which case the district may use the funding for classroom-based staff.

School District Employee Compensation.

The staffing ratios of the prototypical school funding model and the categorical programs are retained as the basis for allocation of state K-12 funding to school districts. However, the method for allocating state salary funding is revised.

Beginning with the 2017-18 school year, the state will cease using the state salary schedule, also known as "the grid," to allocate CIS salaries for school districts. State CIS salary allocations to districts will no longer be based on a district's "staff mix" of CIS education and years of experience.

Instead, the state will allocate salary funding to school districts based on minimum statewide average salaries for each of the three school staffing categories. Beginning with the 2017-18 school year, the minimum CIS salary used in state allocations is increased in equal annual increments to provide a statewide average CIS salary allocation of \$70,824 in the 2019-20 school year, as further adjusted for inflation under the Seattle Consumer Price Index (CPI), which is the same adjustment used for the I-732 cost-of-living adjustment (COLA). Over the same period of time and subject to the same inflationary adjustment, the state must increase the average salary allocation for certificated administrative staff (CAS) to \$117,159 and the average salary for classified staff (CLS) to \$54,084.

Beginning in the 2019-20 school year, the minimum actual salary that a school district may pay CIS is increased to \$45,500 for a beginning teacher and \$50,500 for a teacher with five years' experience. Beginning with the 2020-21 school year, each of these minimum salaries is increased by the I-732 COLA.

Four additional requirements are established for state salary allocations, and each of these requirements is declared part of the funding the state deems necessary to comply with the Article IX basic education duty. First, the state must provide phased-in allocations for professional learning days for CIS, CAS, and CLS, beginning with one day for the 2017-18 school year and increasing to a total of 10 days by the 2022-23 school year.

Second, beginning in the 2019-20 school year, the state must adjust school district salary allocations for regional differences in the cost of hiring staff. The operating budget must specify the basis for regional adjustments. Under a hold-harmless requirement, no school district will receive less state salary funding from one year to the next as a result of the regional adjustment.

Third, beginning in the 2020-21 school year, the state must annually apply the I-732 COLA to each of these minimum average salary allocations and minimum salary requirements. (For school years 2017-18 through 2019-20, the COLA is built into the incremental phase-in of the specified minimum average salaries.)

Fourth, the state must rebase its school district salary allocations every six years. Beginning with the 2025-26 school year, the Office of Financial Management must use a comparable wage analysis conducted by the Employment Security Division to calculate a new statewide average base salary for CIS, CAS, and CLS. The Governor must use the new average base salaries for the state salary allocations in his or her biennial budget request, and when considering the Governor's request to fund school salary allocations, the Legislature must approve or reject the request as a whole.

Maintenance and Operations Levies and Local Effort Assistance.

The "lids" for M&O levies are revised, and corresponding changes are made to Local Effort Assistance.

For calendar year 2018, the "levy cliff" is delayed in that each district's lid remains the same as for 2017, which for most districts is 28 percent. (Through operation of the underlying "levy cliff" law, the levy base is revised, because the defined base excludes "ghost money" and other calculated amounts.) The lid is decreased over time as follows:

- 2019—27 percent;
- 2020—26 percent; and
- 2021 and thereafter—24 percent.

For "grandfathered" districts with lids above 28 percent in 2017, the grandfathered lids are decreased over time to 24 percent in the same proportion, and beginning in 2021 the grandfathered lids are eliminated.

Local Effort Assistance allocations are adjusted to correspond with the new levy lids, with the LEA statutory percentage continuing to equal half the rate of the levy lid. Calculation of

LEA funding is based on whether a district has a levy rate that exceeds the statewide average based on a phased-in statutory percentage as follows:

- 2018—14 percent. (same as 2017);
- 2019—13.5 percent;
- 2020—13 percent; and
- 2021 and thereafter—12 percent.

School District Accounting, Reporting, and Transparency.

The Superintendent of Public Instruction (SPI) must convene a technical work group to recommend revisions to school district accounting practices to improve transparency and establish separate accounting for school district expenditures for the state's program of basic education and those made as locally determined enrichments. The work group must report to the appropriate legislative committees by December 15, 2017.

School districts must annually report to the SPI about all types of supplemental contracts for time, responsibility, incentive, or innovation. The SPI must summarize this information and provide a report to the education committees of the Legislature.

An accountability monitoring and reporting system is established, requiring districts to annually report data regarding the percentage of students demonstrating readiness for kindergarten, the percentage of students meeting standard on the third grade reading assessment, the percentage of students meeting standard on the eighth grade math assessment, and the percentage of four-year cohort graduation rates. The Office of the Superintendent of Public Instruction must develop and maintain a public dashboard to display the school district reported data.

The Office of the Superintendent of Public Instruction must convene a work group to determine whether the funded enrollment percent for special education programs should be adjusted and requires a recommendation to the Legislature by January 1, 2018.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The job at the OSPI is to make sure that Washington gets better results from the services it provides to its students. Looking at a study completed by the Education Law Center at Rutgers University, Washington does better on some metrics than others. House Bill 1843 would help move Washington in the right direction with respect to those metrics. Continued work is needed to make sure that sufficient funding and support is provided to high poverty and rural school districts to make sure that actual progress is made in closing the achievement gap. Additionally, it's vital that Washington make improvements on where it stands with regard to K-12 compensation. There is a real shortage of teachers and compensation is a big component of correcting that problem.

This bill provides competitive compensation for educators that can be bargained locally without strings. It brings forth a professional compensation system that honors the teachers that have gotten their rigorous National Board for Professional Teaching Standards certification and provides additional professional development that could be used to make further improvements. Currently, special education teachers and staff associates are receiving cold calls offering higher pay. These are positions that are in high demand but there is a shortage of supply. When there is a shortage of teachers, students can't access the services that they need which means they can't access classes for which they qualify because there is not enough staff support to enable their participation. Vocational education teachers often come from their respective industries. It is difficult to recruit these types of staff if the wages aren't competitive. The higher salaries and smaller vocational education class sizes will help to attract vocational teachers.

The simplified state salary allocation model is an improvement to the existing system but there should be some bumpers placed on the additional pay contracts to protect the state from future lawsuits. The gradual reduction in local maintenance and operation levy limits is a good approach to addressing the need for a change in the local levies without creating drastic funding reductions for school districts. The bill does a good job of addressing the actual costs of providing pupil transportation and special education services. Additionally, the plan for accountability and transparency seems reasonable.

The state needs something that's solid, long term and equitable, but also includes guidance for the school districts for how they may spend their funding. While the increased funding for competitive salaries is an improvement, it would be helpful to have a salary schedule to guide districts in the bargaining process. A clear salary schedule helps districts in the bargaining process.

This bill helps to serve the state's most vulnerable students with the funding increases for the Learning Assistance, Transitional Bilingual Instruction and vocational education programs. The investment in professional development will also help close the achievement gap. Putting more money into the system is not enough to improve outcomes, but this bill makes positive steps toward closing the achievement gap.

The prototypical school funding model is a transparent model that is based on research and evidence. It represents a clear articulation of what is being funded and at what level. A statewide salary schedule is important to maintain equity and accountability for districts across the state. The proposal would be improved by including a condensed salary schedule.

Principals applaud the addition of support staff in the bill. This addition is critical to closing the opportunity gap. Additionally, the investment in professional development recognizes the critical role of continued training. The bill could be improved by including a salary schedule similar to that recommended by the Compensation Technical Working Group.

(Opposed) In 2009 the Legislature promised it would fully fund the prototype by 2018. The same promise has been made to the Supreme Court in recent years. Studies by the OSPI and others have indicated that the cost to fully fund the program would be \$6 billion per

biennium, anything short of that is not fully funding basic education. Schools need to be fully funded and the Legislature needs to stop kicking the can down the road.

(Other) It is a good bill but a salary allocation model is needed. If every salary schedule needs to be negotiated in each of the 295 districts, it would be very difficult for school district administrators. An improvement would be the provision of some structure to the salary allocations. The lack of a salary allocation model is concerning because it could lead to a potential flight of veteran teachers to other districts that are paying their veteran teachers high salaries. It doesn't appear that there are sufficient sideboards around bargaining. Those sideboards are needed to prevent the state from being subject of another lawsuit in the future.

The provision of professional development dollars and the maintenance of the prototype and the enhancements to the prototype are both positive components of House Bill 1843. Additionally, the simplification of the salary model is an improvement over the existing system. With that being said, the regional cost of living should take into account locations that are hard to staff, not just locations that are expensive to live in.

The bill doesn't sufficiently address the needs of special education students. A large portion of special education students spend their instructional time with paraeducators that have not received sufficient training. Additionally, the bill doesn't make any adjustments to how students can access special education and there are limitations on the number of students that may be funded without a rational reason. The Centers for Disease Control found that there is a 15.4 percent prevalence of students with special needs. Currently, there is over \$300 million of local levy dollars supporting special education costs in the 2015-17 biennium. The current funding formulas for special education are outdated and inadequate. The bill does not sufficiently fund special education or the paraeducators that are needed to support students with disabilities. Currently, special education students are receiving different levels of service that are dependent on what parents are able to provide outside of the K-12 public school system. The K-12 public school funding solution should make sure that all students have access to a complete special education system.

It is imperative that the state have good teachers in its schools. Businesses indicate regularly that the skills they are looking for come from vocational classes. Effective and efficient funding to prepare Washington's next generation for employment is critical.

About 25 percent of the state budget funds about 15 percent of the state's population. The state should get a better return on its investment, particularly for students of color. There should be improvements in closing the achievement gap.

School directors have a foundational belief in local control. There should be laws, regulations and policies that facilitate effective and efficient local control. The professional development components of the bill are a step in the correct direction. A salary structure that recognizes disparities across regions and puts constraints around local bargaining should be included in the K-12 funding solution. Additionally, there should be constraints on additional salaries.

Persons Testifying: (In support) Chris Reykdal, Office of Superintendent of Public Instruction; Justin Fox-Bailey, Snohomish Education Association; Adam Aguilera; Shannon

McCann; Frank Hewins, Franklin Pierce School District; Jeff Moore, Everett Public Schools; Tom Siegel, Bethel School District; Sharon Taubel; Samantha Fogg; David Powell, Stand for Children; Pam Kruse; Kailani Tibayan; Julie Salvi, Washington Education Association; Gary Kipp, Association of Washington School Principals; Mitch Denning, Alliance of Education Associations; JoLynn Berge, Seattle Public Schools; Hillary Shawn; Sarah Reyneveld, Washington's Paramount Duty; Jennifer Priddy, Olympia School District; Charlie Brown, Schools Alliance; and Ben Rarick, State Board of Education.

(Opposed) David Spring, Coalition to Protect our Public Schools.

(Other) Gene Sementi, West Valley School District; Kyle Rydell, Liberty School District; Jim Kowalkowski, Davenport School District; Ramona Hattendorf; Mary Griffin; Amy Anderson, Association of Washington Business; Dan Steele, Washington Association of School Administrators and Washington Association of School Business Officials; Deb Blakeslee; Jessica Vavrus, Washington State School Directors' Association; Dan Zorn, Longview Public Schools; Marguerite Friedlander; John Campbell, North Mason School District and Washington State School Directors Association; and Jennifer Ogle, Washington State PTA.

Persons Signed In To Testify But Not Testifying: None.