FINAL BILL REPORT
E2SSB 6362

PARTIAL VETO
C 266 L 18
Synopsis as Enacted

Brief Description: Modifying basic education funding provisions.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Wellman, Rolfes and Billig; by request of Superintendent of Public Instruction).

Senate Committee on Early Learning & K-12 Education
Senate Committee on Ways & Means
House Committee on Appropriations

Background: Engrossed House Bill 2242 (EHB 2242). In the third special session of 2017, the Legislature enacted EHB 2242. This legislation increased and revised state allocations for K-12 basic education salaries, professional development days, and the prototypical school funding model. It created a new state property tax for common schools at a total rate of $2.70 per $1,000 of assessed value when combined with the existing state property tax; revised local effort assistance up to $1,500 per student; capped school district levies at the lesser of $2,500 per student or $1.50 per $1,000 of assessed property value; and limited use of these levies for enrichment outside of the state's basic education program.

Basic Education. The Washington State 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.

Since 2012, when the court found that the state had failed to meet its state constitutional paramount duty to amply fund a program of basic education and retained jurisdiction, the Legislature has annually reported to the court on legislative progress towards amply funding a program of basic education. The July 2017 report to the court included summary information on EHB 2242. In the November 2017 court order, the court declared it was satisfied that the new salary model established by EHB 2242 provides for full state funding of basic education salaries sufficient to recruit and retain competent teachers, administrators, and staff. However, only half of the state salary increase under the new model was provided for the 2018-19 school year, deferring full funding until the 2019-20 school year. The court determined that the phase-in of the state salary allocations did not comply with the court's requirement to complete full implementation of the state's program of basic education by the

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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.

2018-19 school year. For that reason, the court found that the state had failed to fully comply with the court's order, and it continued to retain jurisdiction.

School District Salaries. In 2017, through the enactment of EHB 2242, the Legislature phased-in increased state salary allocations for certificated instructional staff (CIS), certificated administrative staff (CAS), and classified staff (CLS) with 50 percent of the state funded increase implemented in the 2018-19 school year and 100 percent in school year 2019-20. Additionally, the Legislature reformed how school district staff salaries are established and adjusted in the future. These changes take effect with the 2018-19 school year.

Before EHB 2242. Through school year 2017-18 the state allocated funding for certificated instructional staff (CIS) salaries based on a grid which provides salary values that increase based on educational credit and years of experience. 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 staff (CLS) and administrative staff (CAS) is specified in the budget bill as a salary rate per state-funded staff person. 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.

After EHB 2242. Under EHB 2242, beginning in school year 2018-19, the state will cease using the state salary schedule to allocate CIS salaries for school districts, thus eliminating use of a district's staff mix. 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 in school year 2018-19, the minimum allocated salaries must be increased in equal increments to the following amounts for school year 2019-20, adjusted for inflation from the 2017-18 school. In school year 2018-19 salaries are phased in at 50 percent:

- CIS—an average salary of $64,000;
- CAS—an average salary of $95,000; and
- CLS—an average salary of $45,912.

Additional requirements are established for CIS salaries. Districts may not pay CIS less than $40,000, or more than $90,000, and salaries for CIS with five years' experience must be at least 10 percent more than the minimum salary. These restrictions apply to salaries for the basic education program, and exclude supplemental contracts. Districts may exceed the caps for specified hard-to-staff positions. Each of the minimum and maximum salaries is adjusted by inflation and by a district's regionalization factor.

Salary Regionalization. Under EHB 2242, beginning with the 2018-19 school year, the state must further adjust its salary allocations to reflect regional differences in the cost of hiring staff. The regionalization factor for each school district is based on differences in the median residential value of each school district and its nearby districts, with adjustments of 6, 12, or 18 percent. An additional adjustment equal to 6 percent is identified in the budget bill and must be reduced on a specified schedule through the 2022-23 school year. For districts with a total adjustment of 24 percent, the additional 6 percent adjustment is completely eliminated by the 2022-23 school year. The additional 6 percent adjustment is reduced by 3 percentage points by the 2022-23 school year for other school districts receiving the additional adjustment.

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, and incentives, also known as TRI. In accordance with EHB 2242, the rate the district pays under a supplemental contract may not exceed the hourly rate of the employee under the employee's basic education salary.

Temporary Limits on Salary Increases. EHB 2242 imposed temporary salary limits for the 2018-19 school year only—if a school district's collective bargaining agreement was modified after July 6, 2017, and in effect for the 2018-19 school year, then school districts are restricted from providing a percentage increase to total salary, including supplemental contracts, for CIS, CAS, and CLS above inflation as measured by the Consumer Price Index (CPI). The CPI is described as the current base compiled by the Bureau of Labor Statistics, U.S. Department of Labor, for the city of Seattle. These provisions expire August 31, 2019.

Paid Sick Leave. Initiative 1433 was approved by voters in 2016. Among other things, it requires every employer to provide one hour of paid sick leave for every forty hours worked by each of its employees.

Inflation Measures. According to EHB 2242, except for the temporary restrictions on salary increases for the 2018-19 school year only, state salary allocations must provide an inflationary adjustment based on the Implicit Price Deflator (IPD), rather than the CPI. The IPD is described as the inflationary measure compiled by the Bureau of Labor Statistics, U.S. Department of Labor for the State of Washington. The inflation adjustment provided for enrichment levies and local effort assistance (LEA), is based on the IPD. This IPD is described as compiled by the Bureau of Economic Analysis of the U.S. Department of Commerce.

Local School District Levies and LEA. In 2017, the Legislature reformed the maximum amount school districts may collect through their local district levies (enrichment levies) through the enactment of EHB 2242. EHB 2242 also substantially modifies state funding for the LEA program, which provides support for school districts with high local tax rates due to low assessed values. These changes take effect in calendar year 2019.

Before EHB 2242. Through calendar year 2019, a school district's maximum enrichment 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 the total of its state and federal funding for the prior school year, adjusted for inflation, and including additional 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. 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. The 28 percent lid extends through calendar year 2018.

Through calendar year 2019, a school district is eligible for LEA funding if the school district has a higher than average levy rate and if the district has certified a local enrichment levy.

Levies are equalized up to 14 percent of the levy base, half of the 28 percent levy lid that is applied to the majority of districts.

After EHB 2242. Beginning with calendar year 2019, school districts may collect enrichment levies based on a new levy lid. A district's maximum enrichment levy is the lesser of $2,500 per pupil or a rate of $1.50 per $1,000 of assessed value.

To qualify for LEA funding, a school district must have a maximum local levy that generates less than a state LEA threshold of $1,500 per pupil. LEA funding is provided on a per-pupil allocation basis so that the sum of enrichment levy funding and LEA funding for a qualifying district levying the maximum $1.50 tax rate is $1,500 per pupil. State LEA allocations are provided in proportion to the ratio of a school district's actual enrichment levy compared to its maximum levy.

Both the per-pupil local levy lid and LEA threshold amount are adjusted annually for inflation beginning in calendar year 2020.

<u>Enrichment Levy Restrictions.</u> EHB 2242 changed maintenance and operation levies and transportation vehicle levies to enrichment levies. Beginning 2019-20 school year, school districts may use local enrichment levies solely for documented and demonstrated enrichment and not for basic education. Use of local levies for supplemental contracts must also meet this requirement. School districts must receive pre-ballot approval from the Office of the Superintendent of Public Instruction (OSPI) of an expenditure plan for enrichment levies, before submitting the levy to voters.

Before EHB 2242. The state Constitution limits regular property tax levies to a maximum of 1 percent of the property's value—$10 per $1,000 of assessed value (AV). The state levies a regular property tax for common schools with a statutory maximum rate of $3.60 per $1,000 AV. In addition to the 1 percent constitutional rate cap, regular property taxes are subject to a statutory revenue growth limit based on the lesser of inflation or 1 percent. Under the 1 percent growth restriction, the estimated state property tax for calendar year 2018 is $1.80 per $1,000 AV.

After EHB 2242. An additional state property tax is levied for the support of the common schools. For taxes levied for collection in calendar year 2018 through 2022, the 1 percent revenue growth limit is suspended and the aggregate combined rate for both the current state levy and the new state levy is $2.70 per $1,000 AV. Beginning in calendar year 2022, the 1 percent revenue growth limit is reinstated. The new state tax is deposited in the State General Fund.

<u>Accounting.</u> EHB 2242 required that, by the 2019-20 school year, school districts must establish a local revenue subfund. Money deposited into the subfund must include, but is not limited to, proceeds from enrichment levies, and LEA funding from the state. Additionally, school districts must provide separate accounting of state, federal, and local revenues and expenditures, and must provide any supplemental expenditure schedules required by OSPI or the state auditor. By 2019-20, OSPI must have rules that require school districts to provide the separate accounting of state and local revenues to expenditures.

Prototypical School Allocation Model. The Legislature uses a funding allocation model based on prototypical schools to allocate state funds to support the statutory definition of the instructional program of basic education. The stated intent of the model is to illustrate the level of resources, using commonly understood terms such as class size, specified staff positions, and materials and supplies, needed to operate a school of a particular size for a minimum of 180 school days per school year. The Legislature adjusts the actual funding allocations from the school prototypes based on the actual number of students in each grade level at each school in the school district. Additionally, a small schools factor provides the smallest schools and school districts additional teachers. The model also allocates state funding for supplemental instruction, services or resources. School districts are not required to expend the state funds provided under the model in conformance with how the funds were allocated.

K-3 Class Size. Under EHB 2242, beginning 2018-19 school year, districts receive the K-3 class size funding for a 17:1 student to teacher ratio only to the extent of, and proportionate to, the district's actual demonstrated class size, up to the funded class size.

The Learning Assistance Program (LAP). This program provides supplemental instruction and services to assist students in grades K-12 who are not meeting academic standards and to reduce disruptive behaviors in the classroom. The state allocation for LAP is based on the number of K-12 students enrolled in the school district who are eligible for free- or reduced-price meals (FRPMs) in the prior school year, but students do not have to be eligible for FRPMs to be served in the LAP.

In EHB 2242, the Legislature created an additional allocation that is a high-poverty, school-based LAP allocation for schools with at least 50 percent of the enrolled students eligible for FRPMs. School districts must distribute this allocation to the school buildings that generated the allocation. This funding provides a statewide average of 1.1 hours in additional instruction.

Program for Highly Capable Students. School districts must use multiple, objective criteria to identify those students who are the most highly capable and eligible to receive accelerated learning and enhanced instruction in the program for highly capable students.

Special Education. The Legislature funds a program for students with disabilities who require special education due to a disability. The state funding is based on the additional excess costs of educating students with a disability. There are two primary sources of revenue to support the special education program: (1) the basic education or general apportionment allocation, and (2) the special education excess cost funding. School districts receive a basic education allocation for each student with a disability, age five through 21 enrolled in the district up to a specified percentage of the student enrollment in the district. EHB 2242 increased this percentage from 12.7 percent to 13.5 percent. The excess cost funding provides an additional amount that is 0.93 percent of the district's average per-student basic education allocation.

Beyond these state basic education allocations for special education, OSPI may provide special education safety net funding if a district has one or more high-cost students, or a district is in a community that draws a larger number of families with children in need of special education, such as a community with group homes or military bases. Under EHB 2242, the Legislature directed OSPI to review the safety net process and make recommendations to the Legislature by November 1, 2018, to improve the safety net process; and to revise the safety net rules by September 1, 2018 to fully implement the safety net process.

School Day. There is no statutory definition of a school day, although there is a minimum required number of instructional hours and a minimum number of days that school districts must offer students, with some exceptions. Both the State Board of Education and OSPI have rules that defines a school day as each day of the school year on which pupils enrolled in the common schools of a school district are engaged in academic and career and technical instruction planned by and under the direction of the school.

Professional Learning Days (PLDs). Under EHB 2242, the state must phase in funding for three PLDs by the 2020-21 school year. This does not entitle any individual teacher to any particular number of PLDs. The phase in schedule is one PLD in the 2018-19 school year, two PLDs in the 2019-20 school year, and three PLDs in the 2020-21 school year.

Hold-Harmless Provisions. The 2017-19 budget funded two hold harmless provisions.
- Net revenue hold harmless—$5 million provided for districts expected to receive a net funding reduction (state and local) with the funding formulas under EHB 2242. This provision was funded but not explicit in EHB 2242 nor the operating budget bill; and
- Salary hold harmless—for the 2018-19 school year, districts receive the greater of the new minimum salary allocations plus regionalization; or the salary allocations for the 2017-18 school year, that used staff mix, increased by 2.3 percent.

Summary: School District Salaries. The phase-in of increased state salary allocations for CIS, CAS, and CLS is eliminated and instead the increased state salary allocations are funded in school year 2018-19 instead of 2018-19 and 2019-20.

The timeline for rebasing salaries is changed from every six years to every four years. The review conducted when rebasing the salaries must include which inflationary measure is the most representative of the actual market experience for school districts.

Obsolete statutes addressing staff mix and the state salary schedule are repealed.

Salary Regionalization. The salaries of charter schools, tribal compact schools, the state School for the Blind, and the state School for the Deaf are adjusted by the regionalization factor that applies to the school district in which the school is geographically located.

If a school district shares a boundary with any school district with a regionalization factor more than one tercile higher, then the regionalization factor for the district with the lower regionalization factor must be increased by 6 percentage points, if the lower district is located west of the crest of the Cascade Mountains.

Supplemental Contracts. For time-based supplemental contracts the requirement that the rate the district pays under a supplemental contract may not exceed the hourly rate of the employee under the employee's basic education salary is maintained. For supplemental contracts that are not time-based the contract must document the additional duties, responsibilities, or incentives that are being funded in the contract.

Temporary Limits on Salary Increases. Exceptions are added to the temporary limit to CPI for salary increases in the 2018-19 school year only. The exceptions include increases for annual experience and education salary step increases; if the district is below the average total salary by staff group then the district may provide increases up to the statewide average allocation; salary changes for staffing increases due to enrollment growth or state-funded increases; and salary changes to provide professional learning or National Board bonuses.

Paid Sick Leave. The Legislature intends to provide funding in the Operating Budget to support school districts with the additional costs of paid sick leave under Initiative 1433.

Inflation Measures. Except for the inflation measure used for the temporary limits on salary increases during the 2018-19 school year, the inflation measure for salaries is the IPD compiled by the Bureau of Economic Analysis, U.S. Department of Commerce. The inflation measure for increasing the enrichment levies and LEA is changed to CPI as compiled for the Seattle area by the Bureau of Labor Statistics, U.S. Department of Labor.

Local School District Levies and Local Effort Assistance. The use of local levies for administrator's salaries attributable to the administration of enrichment programs may not exceed 25 percent of the total district expenditures for administrator salaries.

A high school district's maximum levy amount and LEA is reduced by the non-high payment due to the high school district when a high school student living in a non-high district transfers to the high school district. School districts participating in an innovation academy cooperative receive a proportional share of the student enrollments under a levy.

Enrichment Levy Restrictions. References to transportation vehicle enrichment levies are removed. Levies for transportation vehicles do not require OSPI approval of a levy expenditure plan. Levies for transportation vehicles and construction levies are not subject to the maximum levy limits of $1.50 and the $2,500.

Accounting. The requirement that OSPI must have rules that require school districts to provide the separate accounting of state and local revenues to expenditures is moved up from the 2019-20 school year to the 2018-19 school year. The date for districts to begin using the subfund for local revenues and LEA proceeds and for districts to report revenue to expenditures is also moved up from the 2019-20 school year, to the 2018-19 school year. The local revenues from transportation vehicle levies must be deposited in the local revenue subfund.

Prototypical School Allocation Model. The category of "other supplies and library materials" is separated into two categories but the level of funding is not changed. Schools that develop curricula that links student learning with engagement in seasonal or nonseasonal outdoor-based activities meeting specified requirements may ask OSPI to approve those activities for the purposes of providing the minimum 180 school days in a school year.

K-3 Class Size. The requirement to demonstrate actual class size in order to receive the state funding to achieve a 17:1 student to teacher ratio for grades K-3 is delayed until 2019-20.

LAP. The high-poverty, school-based LAP allocation is modified to provide the allocation to a qualifying school not school building. A qualifying school is a school in which the three-year rolling average of the prior year total annual average enrollment that qualifies for free or reduced-price meals equals or exceeds fifty percent or more of its total annual average enrollment.

Program for Highly Capable Students. OSPI must require school districts to have clearly stated procedures that meet specified criteria to identify students who are among the most highly capable students. OSPI must disseminate evidence-based guidance on the referral, screening, assessment, selection, and placement best practices for highly capable student programs.

Special Education. The three PLDs are included as part of the special education base allocation. The special education excess cost multiplier is increased from 0.9309 percent to 0.9609 percent. The date for OSPI to review and revise the rules to administer the special education funding safety net process is advanced from September 1, 2019 to September 1, 2018. Additionally, OSPI is directed to revise the rules to provide easier access by districts to the safety net funds by reducing the required annual threshold that must be exceeded for high cost students and adding flexibility to access community impact awards.

School Day. OSPI must convene a stakeholders work group to recommend how to define the duties and responsibilities that entail a school day under the state's statutory program of basic education. OSPI must report the recommendations to the education and operating budget committees of the Legislature by January 14, 2019.

PLDs. The start date of the phase-in of the three PLDs is changed from the 2018-19 school year to the 2019-20 school year. A calculation for funding PLDs is specified. The state auditor must audit the use of state funds provided for this purpose.

Hold-Harmless Provisions. For the 2018-19 and 2019-20 school years, a school district qualifies for a hold harmless payment, if the total state allocation, enrichment levies, and LEA is less than what the district would have received under laws as of January 1, 2017. An appropriation of $12 million is provided for an additional hold harmless payment, prioritized for districts that would receive less than half in local levies and LEA than they would have received under law as it existed on January 1, 2017 and that have an adjusted assessed property value in the district of greater than $20 billion. Additionally, the voters of these school districts must approve an enrichment levy for the district to be eligible for the hold harmless payment.

Votes on Final Passage:

Senate	25	22	
House	50	48	(House amended)
Senate	25	23	(Senate concurred)

Effective: June 7, 2018
January 1, 2019 (Sections 303 and 307)

Partial Veto Summary: Provisions were removed that:
- Delayed the start date of the phase-in of three PLDs to begin in the 2019-20 school year instead of the 2018-19 school year.
- Moved up from the 2019-20 school year to the 2018-19 school year, the requirement for OSPI to adopt rules requiring school districts to provide separate accounting of state and local revenues to expenditures.