

# HOUSE BILL REPORT

## ESHB 2140

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### As Passed Legislature

**Title:** An act relating to K-12 education funding.

**Brief Description:** Concerning K-12 education funding.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Sullivan, Dolan and Thai).

**Brief History:**

**Committee Activity:**

Appropriations: 4/1/19, 4/6/19 [DPS].

**Floor Activity:**

Passed House: 4/26/19, 54-42.

Senate Amended.

Passed Senate: 4/28/19, 34-15.

House Refused to Concur.

Senate Insists on its Position.

House Concurred.

Passed House: 4/28/19, 66-32.

Passed Legislature.

### Brief Summary of Engrossed Substitute Bill

- Directs all the second state property tax levy collected in fiscal year 2019 to be deposited into the Education Legacy Trust Account.
- Delays participation of non-represented Educational Service District (ESD) employees in the School Employees' Benefits Board (SEBB) until January 1, 2024.
- Requires the Health Care Authority to study ESD health benefits and the impact of ESD participation in SEBB.
- Allows ESDs to enroll non-represented employees in Public Employees' Benefits until December 31, 2023.
- Amends the Career Connected Learning (CCL) Grant Program created in E2SHB 2158 to require that sufficient funding be provided from the program to the Office of the Superintendent of Public Instruction for employees at ESDs to support the expansion of career connected learning opportunities.

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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.*

- Revises school district hold harmless calculations.

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## 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; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Cody, Dolan, Fitzgibbon, Hansen, Hudgins, Jinkins, Macri, Pollet, Ryu, Senn, Springer, Stanford, Sullivan, Tarleton and Tharinger.

**Minority Report:** Do not pass. Signed by 12 members: Representatives Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Caldier, Chandler, Dye, Hoff, Kraft, Schmick, Steele, Sutherland, Volz and Ybarra.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Rude, Assistant Ranking Minority Member; Mosbrucker.

**Staff:** James Mackison (786-7104).

### **Background:**

Public schools in the state are funded by state, local and federal revenue sources. State funding is provided to support the program of basic education, as defined by the Legislature. To determine how much funding is provided for public schools, the state uses a prototypical school formula defined in statute, which reflects the costs of providing basic education.

#### School District Enrichment Levies.

In addition to state funding, local school districts may collect excess levies, including enrichment levies. Enrichment levies must be used only for enrichment beyond the state's program of basic education. The Legislature limits the amount school districts may collect through their enrichment levies. New limits on enrichment levy collections took effect in 2019, limiting districts to the lesser of \$1.50 per \$1,000 of assessed property value in the district or \$2,500 per pupil. Enrichment levy rates per student vary by district. The per-pupil enrichment levy limit is adjusted annually for inflation.

Prior to 2019, levy limits were determined by the district's levy base and levy percentage, also referred to as a "lid." The district's annual levy base was the total of its state and federal funding for the prior school year, adjusted for inflation, and additionally calculated amounts that were added to the levy base, sometimes referred to as "ghost money." The levy lid for most school districts was 28 percent, with some districts "grandfathered" at a higher levy percentage.

#### Local Effort Assistance.

Local Effort Assistance (LEA) allocations, also known as levy equalization, are provided in proportion to the ratio of a school district's actual enrichment levy compared to the maximum enrichment levy. To qualify for LEA, a school district must have a maximum enrichment

levy that is less than \$1,500 per pupil. Local Effort Assistance is provided on a per-pupil allocation basis so that the sum of levy funding and LEA for a qualifying district levying the maximum rate is \$1,500 per-pupil. Local Effort Assistance is not part of the state's program of basic education. The maximum LEA per pupil rate is adjusted annually for inflation.

Prior to 2019, school districts were eligible for LEA if they had a higher than average levy rate and if the district had certified a local excess levy. Levies were equalized up to 14 percent of the levy base, half of the 28 percent levy lid that applied to the majority of districts.

#### Special Education.

The state allocates funding for a program of special education for students with disabilities. Special education is funded on an excess cost formula for up to 13.5 percent of a district's students, which multiplies the district's base allocation for students enrolled in special education by an excess cost multiplier of 0.9609. Beyond these allocations, the Superintendent of Public Instruction may provide safety net funding if a district has one or more high-cost students, or if 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.

#### Paraeducators.

A paraeducator is a classified school district employee who works under the supervision of a certificated or licensed staff member to support and assist in providing instructional services to students and their families. Paraeducators are not considered certificated instructional staff.

*Fundamental Course of Study.* School districts must provide a four-day fundamental course of study on the state standards of practice to paraeducators who have not completed the course. School districts must use best efforts to provide the fundamental course of study before the paraeducator begins to work with students and their families, and at a minimum by the specified deadlines. However, school districts must only provide the course in school years for which state funding is appropriated specifically for this purpose and only for the number of days that are funded by the appropriation.

*General Courses.* Paraeducators may become eligible for a General Paraeducator Certificate by completing the four-day fundamental course of study and an additional 10 days of general courses on the state paraeducator standards of practice. Paraeducators are not required to meet the General Paraeducator Certificate requirements unless state funding is provided for the fundamental and general courses.

#### Free and Reduced-Price Meals.

The United States Department of Agriculture subsidizes several child nutrition programs, including free and reduced-priced meals to students. In order for students to qualify for free meals, their family's income must be at or below 130 percent of the federal poverty level. Students whose families have an income between 130 percent and 185 percent of the federal poverty level are eligible for reduced-price meals. Eligibility for some state funding for schools, including the Learning Assistance Program, is determined by free and reduced-price meals enrollments.

### State Property Tax Levies.

All real property is subject to a tax each year based on the highest and best use, unless a specific exemption is provided by law. The annual growth of all regular property tax levy revenue other than the state levies is limited as follows:

- For jurisdictions with a population of less than 10,000, revenue growth is limited to 1 percent.
- For jurisdictions with a population of 10,000 or more, revenue growth is limited to the lesser of inflation or 1 percent plus the value of new construction.

The state collects two regular property tax levies for common schools. The original state levy was first imposed when Washington achieved statehood in 1889. In 2017 the Legislature adopted Engrossed House Bill 2242, which created a second state levy. For taxes levied for collection in calendar years 2018, 2020, and 2021, the combined rate for both state levies is \$2.70 per \$1,000 of assessed value (AV), with 2019 at a \$2.40 rate. The revenue growth limit does not apply to the state levies during this time. Beginning with taxes levied for collection in calendar year 2022 and thereafter, the revenue growth limit applies to both levies. The revenue generated by both state levies is deposited into the State General Fund.

### Education Legacy Trust Account.

The Education Legacy Trust Account is an appropriated account that may only be used for the support of the common schools and for expanding access to higher education through funding for new enrollments, financial aid, and other improvement efforts.

### School Employees' Benefits Board.

In 2017 the Legislature created the nine-member School Employees' Benefits Board (SEBB). Beginning January 1, 2020, all school districts, educational service districts, and charter schools must provide health care and related benefits to employees through the SEBB program, administered by the Health Care Authority (HCA).

Under the SEBB, collective bargaining for school employee health benefits is consolidated to a single agreement negotiated between the Governor (or designee) and representatives of all school employee labor organizations the results of which are subject to approval by the Legislature. This is a change from the prior bargaining process, where through the end of 2019 each district purchases health benefits separately and bargains locally with its employees regarding the specific benefits package. Under the prior system, employee and employer contributions vary by district, and by bargaining units within districts.

### Educational Service Districts.

There are nine regional educational service districts (ESDs) in the state, which are required to participate in the SEBB beginning in 2020. Each is governed by a board consisting of seven to nine members elected by the school directors of the ESD. The ESDs' responsibilities include:

- providing cooperative, administrative, and informational services to and on behalf of local school districts; and
- assisting the Superintendent of Public Instruction and the State Board of Education in the performance of their duties.

The ESDs provide a variety of services, which are funded by several revenue sources. Services include back office administrative support, fiscal support, technology services, special education, early childhood education, professional development, and other instructional and non-instructional programs. Revenue is provided to the ESDs through fees paid by school districts and others for fee for service and co-operative programs, state and federal grants, and direct state allocations. The ESDs have reported that they employ approximately 2,000 staff, an estimated 270 of which are represented by a union. The state allocates funding for approximately 100 staff directly to the ESDs.

#### State Funding Formulas for School Health Benefits.

Based on prototypical school formulas, the state allocates funding to each school district for employee health benefits and for the cost to districts of covering retiree health care for state-funded kindergarten through grade 12 (K-12) staff units. Staff types for which the state allocates benefits funding include: instructional staff, administrative staff, classified staff, district-wide support staff, and central office staff. Formulas for special education, bilingual, and other categorical programs also include health benefits in the calculation. State funding for staff directly allocated by the state to the ESDs also includes health benefits allocations.

#### Career Connected Learning Grant Program Created in Engrossed Second Substitute Senate Bill 2158.

Career Connected Learning (CCL) Grant Program. House Bill 2158 establishes the CCL grant program to support regional CCL networks in rural and urban areas and to support CCL program intermediaries.

#### **Summary of Engrossed Substitute Bill:**

##### Educational Service District Health Benefits.

Participation in the SEBB by non-represented ESD employees is delayed from January 1, 2020 to January 1, 2024. Educational service districts may enroll non-represented employees in Public Employees' Benefits until December 31, 2023. The HCA, in consultation with the Office of the Superintendent of Public Instruction, the Office of Financial Management, and the ESDs, is required to study ESD health benefits and the impact of ESD participation in the SEBB. The study must analyze ESD and SEBB health benefits and costs, and ESD revenue sources' ability to support SEBB rates. The HCA must report findings to legislative fiscal committees by December 31, 2020.

##### Career Connected Learning Grant Program.

Within amounts appropriated for the program, the Employment Security Department must provide sufficient funding to OSPI for employees at ESDs to support the expansion of career connected learning opportunities.

##### State Property Tax.

Directs all the second state property tax levy collected in fiscal year 2019 to be deposited into the Education Legacy Trust Account.

##### Hold Harmless.

Revises the hold harmless calculation established in Engrossed Second Substitute Senate Bill 6362 to base payments for the current school year on levies collected during that school year, rather than levies collected during the previous calendar year.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 1 and 2, relating to state property tax deposits and hold harmless payments which contain an emergency clause and take effect immediately, and section 9, relating to Career Connected Learning funding, which takes effect only if ESSHB 2158 is enacted.

**Staff Summary of Public Testimony:**

(In support) Enrichment levies provide real help to districts. They have helped districts increase graduation rates. These funds give a step up to students. The Legislature needs to restore the levy authority that districts had prior to 2019. Many districts lost significant local levy revenue as the result of the new system in Engrossed House Bill 2242. Levies help districts provide additional funding for counselors, nurses, investments for low-income students through targeted support, and more. In some cases, districts rely on local levies to fund special education beyond what the state provides. Districts have cut expenses and are now facing staff reductions. The Legislature should fix the levy policy to provide more flexibility to districts. The bill would allow some districts to collect their full voter-approved levies. More funding is needed to bring districts up to the levels approved in Initiative 1351, but additional levies help in the meantime. The McCleary decision was not about local levies, and the current levy limits can be changed. Districts would choose different levy options. The language needs to be clear so districts understand the implication of the "lesser of \$3,000 or \$1.50" option. The 20 percent levy would reduce the necessity of a reduction in staff for some districts. It will not make districts whole, but it will help decrease the funding gap. The Legislature should adopt provisions and language regarding the hold harmless policy. There is support for lifting levy limits, but some districts would prefer a model that provides Local Effort Assistance (LEA) on an equal per pupil basis. There is still some inequality in that some districts are eligible for up to \$3,000 in per pupil levies while others are not.

Funding for special education is inadequate, with estimated gaps of \$235 million to \$400 million. Students cannot stay in their home districts to receive services. Any additional funding to support special education will help districts. The Legislature should consider increasing the multiplier to at least one, hopefully 1.07. The state cannot continue to fund special education the same way it has been doing for years. Ninety percent of special education students are at or above average in intellectual functioning, but only 55 percent are in general education classrooms more than 80 percent of the time. Now is the time for the Legislature to fund special education by using tiered multipliers that are based on student need. The Legislature should also consider eliminating federal funding from the safety net so that more districts can access safety net dollars.

(Opposed) Do not solve the special education problem with local levies. A higher special education multiplier is needed. Paraeducators should be fully funded. Paraeducators are the difference between exclusions and inclusion of special education students.

(Other) Good levy policy for one district is not necessarily good policy for another district in the state. This bill shifts funding issues from one district to another, so please move forward with caution as the Legislature tries to fix this levy policy. There should be a hold harmless provision for districts so that no district loses LEA and districts receiving LEA can stay competitive in the state. If the Legislature increases levy capacity, then there should be clear language to protect that money so that it does not get pushed out the back door. Districts are struggling to maintain programs, and have lost teachers and staff. Initiative 1351 is still not fully funded. Districts cannot support these positions without going into a budget deficit. For some districts, increasing levies to 20 percent is not realistic. Do not change the system behind closed doors; districts are willing to help. There is support for fixing the problems created by Engrossed House Bill 2242 (EHB 2242). There is also some support for a percentage based system. The levy limits in ESB 2242 were supposed to reduce educational funding inequities across the state. This bill would reintroduce those inequities. The bill also reduces trust in voters, which would also undermine support for school districts. This bill is a property tax increase.

The support for special education in the bill is appreciated, but a higher multiplier is needed. The documented shortfall is much higher, up to \$400 million. More state special education funding relieves pressure for additional local levy dollars.

Paraeducators should be fully funded, with no reduction in paraeducator standards. Paraeducators provide 21 million hours of teaching in this state. This change in policy extends the timeline from five years to eight years for paraeducators to become trained, which is too long. A well-trained paraeducator significantly changes the lives of students. The Professional Educator Standards Board requested \$52 million for paraeducators in the 2019 – 2021 budget to provide four days of training each year, and the House of Representatives' budget provided \$12 million.

**Persons Testifying:** (In support) Joy Standford, Washington Paramount Duty; Sara Betnel; Krestin Bahr, Eatonville School District; Debra Clemens, North Thurston Public Schools; Bryon Bahr, Rainier School District; Melissa Gombosky, Evergreen, Vancouver, and Spokane Public Schools; Kate Davis, Highline Public Schools; Dave Mastin, Office of Superintendent of Public Instruction; Charlie Brown, Tacoma School District; Jerry Lewis and Alan Reitz, White Salmon Valley School District; Patti Hyatt and Wandah Messinger, Naches Valley School District; and April Shine, Foundation for Tacoma Students.

(Opposed) Ramona Hattendorf, The Arc of King County.

(Other) Travis Hanson, Deer Park School District; Kyle Rydell, Liberty School District; Jim Kowalkowski, Davenport School District; Doug Nelson, Public School Employees - Service Employees International Union 1948; Lorrell Noahr, Washington Education Association; Dan Steele, Washington Association of School Administrators and Washington Association of School Business Officials; Liv Finne, Washington Policy Center; and Jessica Vavrus, Washington State School Directors' Association.

**Persons Signed In To Testify But Not Testifying: None.**