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Republican Proposal

At 8/20/2013

Report to the Washington State Supreme Court by the Joint Select Committee on Article IX Litigation

Executive Summary

The Joint Select Committee on Article IX Litigation (Committee) has prepared this report as requested by the Washington State Supreme Court (Court) in the Court's exercise of continuing jurisdiction over the landmark *McCleary v. State* school funding case. This is the second report by the Committee, and it follows up on the Committee's report of September 17, 2012. The Court's order of December 20, 2012, concluded that the Committee's first report failed to demonstrate adequate progress as to how the state will achieve full compliance with the Article IX duty.

Since the Court's December order the Legislature has enacted the 2013-15 operating budget, which makes substantial investments in K-12 education spending. This report provides specific information on the K-12 funding enhancements appropriated in the operating budget.

The 2013-15 operating budget contains over \$1 billion in policy enhancements to K-12 spending, \$982.0 million of which consists of enhancements to the program of basic education. These investments represent an increase of 11.4 percent over the estimated 2011-13 expenditure level and an increase in state-funded per-pupil expenditures of 13.6 percent.

On the four elements specifically mentioned in the Court's order of December 20, 2012, the Legislature has made tangible and substantial progress:

- Full-day kindergarten: \$89.8 million, increasing the percentage of funded enrollment from 22 percent to 43.75 percent.
- Pupil transportation: \$131.7 million, fully funding the expected cost model.
- Materials, supplies, and operating costs (MSOC): \$374.0 million.
- Early elementary class size reduction: \$103.6 million, to reduce K-1 funded class size to 20.3 students.

In addition, the Legislature has continued to review and revise basic education formulas, investing \$143.1 million in enhancements to the Learning Assistance Program, \$24.1 million in formula enhancements for counselors and parent involvement coordinators, and \$97 million in an increase to student instructional hours.

2012 Report of Joint Select Committee on Article IX Litigation

The Joint Select Committee on Article IX Litigation was established in the 2012 legislative session by House Concurrent Resolution 4410. In HCR 4410, the Legislature acknowledged the unique circumstances that led to the Court's 2012 *McCleary* opinion, and it declared its intent to establish a structure and process for the interbranch dialogue requested by the Court in its ruling.

The purposes of the Committee are threefold:

- to provide a point of contact for the Legislature to communicate with the Court, as indicated by the request for a dialogue in this Court's decision to retain jurisdiction;
- to assist and advise the lawyers who represent the State and the Legislature before the judicial branch in the ongoing *McCleary* proceedings; and
- to inform legislators and the legislative institutions of this Court's communications with the legislative branch.

The Committee consists of the following legislators:

Senator David Frockt, co-chair
Representative Gary Alexander, co-chair
Senator Joe Fain
Senator Steve Litzow
Senator Christine Rolfes
Representative Susan Fagan
Representative Jamie Pedersen
Representative Pat Sullivan

In its order of July 18, 2012, the Court agreed to exercise its continuing jurisdiction in the form of a report from the Committee within 60 days after the operating budget is signed into law. The Committee filed its first report with the Court on September 17, 2012. The full text of the report is available at: <http://www.leg.wa.gov/jointcommittees/AIXLJSC/Pages/default.aspx> . As the Committee explained in its report, the Legislature did not make changes to basic education funding during the 2012 legislative session, so it provided a baseline description of the K-12 budget and information on recent legislative activities in order to provide context for future reports.

The 2013 Legislative Session: K-12 Appropriations

Increased Funding for the Program of Basic Education

The 2013-15 operating budget provides appropriations for \$1.03 billion in policy enhancements. This funding level represents an increase of 11.4 percent over the estimated 2011-13 expenditure level. As compared with the 12-13 school year, the increased funding results in policy-level increases to per-pupil funding of 8.2 percent for the 13-14 school year and 13.6 percent for the 14-15 school year.

The bulk of this funding (\$982.0 million) is appropriated for enhancements to basic education allocation formulas. Funding is provided to address the four elements specifically mentioned in the Court's order of December 20, 2012: Full-day kindergarten; early primary class size reduction; pupil transportation; and materials, supplies, and operating costs (MSOC). In addition, the Legislature, in the exercise of its authority to review and revise the program of basic education, funded additional enhancements to basic education formulas and programs: an increase in the Learning Assistance (LAP) allocation; a new program for students exiting from the Transitional Bilingual Instructional Program (TBIP); and new funding formula allocations for parent involvement coordinators and middle school and high school guidance counselors.

Enhancements to State Funded Program of Basic Education

| Basic Education Program | Maint. Level | SY 2013-14 Policy Level | SY 2014-15 Policy Level | 2013-15 State Appropriation |
|---|-----------------|-------------------------------|--------------------------------|-----------------------------|
| State Funded Full Day Kindergarten (% of Enrollment) | 22.0% | 43.75% | 43.75% | \$89.8 M |
| Early Elementary Class Size (High Poverty Schools - Students/FTE) | 24.10 | Gr K-1-20.85 Gr 2-3 - 24.1 | Gr K-1 - 20.3 Gr 2-3 - 24.1 | \$103.6 M |
| Pupil Transportation* (SY Funding Expected Cost Model & % of Total Est.) | \$2.8 M 2.6% | \$43.9 M 40.0% | \$109.7 M 100% | \$131.7 M |
| Materials, Supplies & Op. Costs (\$/FTE Student & % of Target) | \$560.67 | \$737.02 28% | \$781.72 33% | \$374.0 M |
| Learning Assistance Program (Hours of Additional Instruction) | 1.5156 hrs | 2.3975 hrs | 2.3975 hrs | \$143.1 M |
| Bilingual Instruction – Exited Student (Hours of Additional Instruction) | N/A | 3.0 hrs | 3.0 hrs | \$18.9 M |
| Parent Involvement Coordinators (FTE/Prototypical Elementary School) | 0.00 | 0.0825 | 0.0825 | \$11.9 M |
| Guidance Counselor (FTE/Prototypical Middle & High Schools) | 1.116 1.909 | 1.216 2.009 | 1.216 2.009 | \$12.2 M |
| Instructional Hours (Hours of Additional Instruction per Week) | 0.00 hrs | 2.2222 hrs | 2.2222 hrs | \$97.0 M |

*Note the school year appropriations differ from the state fiscal year appropriations for pupil transportation due to the difference in the fiscal years. The state's fiscal year begins July 1 while the school fiscal year begins September 1.

Increased Funding for Materials, Supplies and Operating Costs

Funding totaling \$374.0 million is provided to continue implementation of the enhancement to the Materials, Supplies and Operating Costs component of the prototypical school funding formula. The allocation per full-time equivalent student is increased from \$560.67 to \$737.02 in school year 2013-14 and \$781.72 in school year 2014-15. The school year 2013-14 and 2014-15 allocations achieve approximately 28 percent and 33 percent of the additional total funding required to achieve full implementation, as required by RCW 28A.150.260(8)(b).

Full Implementation of the Expected Cost Pupil Transportation Funding Model

Funding in the amount of \$131.7 million is provided to complete implementation of the expected cost pupil transportation funding model. Allocations are phased in such that funding in school year 2013-14 is sufficient to achieve approximately 39 percent of full implementation and funding in school year 2014-15 is sufficient to achieve full implementation, as required by RCW 28A.160.192. Upon full implementation in school year 2014-15, districts will receive state

allocations as calculated under the Student Transportation Allocating Reporting System (STARS).

Increased Funding for Early Elementary Class Size Reduction

Funding is provided to continue implementation of reduced early elementary class sizes, as required by RCW 28A.150.260(4)(b). Kindergarten and first grade class sizes in high-poverty schools are reduced to 20.85 full-time equivalent students in school year 2013-14 and 20.30 full-time equivalent students in school year 2014-15. According to research of the Washington State Institute for Public Policy, class size reduction has the greatest likelihood of a favorable outcome in kindergarten and first grade.¹ Allocations for the reduced class size in school year 2014-15 is provided to the extent, and proportionate to, the eligible school's demonstrated actual average class size. Funding for this enhancement to the program of basic education, totaling \$103.6 million, includes an assumption that all eligible schools will demonstrate the reduced, funded class size of 20.30 full-time equivalent students.

Funding for Expansion of Full-Day Kindergarten

Funding in the amount of \$89.8 million is provided to expand the percentage of state funded full-day kindergarten classes. In school year 2012-13, allocations for statewide voluntary full-day kindergarten was 22 percent of kindergarten enrollment. In school years 2013-14 and 2014-15, statewide voluntary full-day kindergarten is increased to 43.75 percent of kindergarten enrollment. New recipients of the allocations are determined by school high poverty levels. RCW 28A.150.315 requires full implementation of statewide funding for voluntary full-day kindergarten by 2018.

Increase State-Funded Instructional Hours

Beginning with fiscal year 2015, funding totaling \$97.0 million is provided, which is sufficient to increase student instructional hours from a district-wide average of 1,000 hours to 1,080 hours in each of grades seven through twelve, as provided in RCW 28A.150.220(2)(a). The prototypical formula for public schools is revised to provide an additional 2.2222 hours of instruction per week for students in grades 7 through 12, beginning September 1, 2014.

Increased Funding for Instructional Support in Learning Assistance Program

Funding in the amount of \$143.1 million is provided to increase the number of state-funded instructional hours in the Learning Assistance Program from 1.5156 hours per week per full-time equivalent student to 2.3975 hours per week. In addition, Chapter 18, Laws of 2013, 2nd sp.s., Partial Veto (ESSB 5946) broadens the permitted uses of Learning Assistance Program by school districts. Additional policy changes were made to the LAP program and are described in greater detail in the "Additional Policy Changes" section.

¹ Washington State Institute for Public Policy, *K-12 Class Size Reductions and Student Outcomes: A Review of the Evidence and Benefit-Cost Analysis*, January, 2013.

Enhancement to the Prototypical School Funding Formula for Counseling and Coordinators

Funding is provided to support an enhancement to the prototypical school model, increasing the Parent Involvement Coordinator allocation by 0.1 full-time equivalent staff for each prototypical elementary school, and increasing the Guidance Counselor allocations for the prototypical middle and high schools by 0.1 full-time equivalent staff. In total, \$24.1 million is provided, of which \$11.9 million supports the increase in the Parent Involvement Coordinator formula change and \$12.2 million supports the Guidance Counselor revision to the prototypical formula.

New Program of Supplemental Instruction for Students Who Exit the Transitional Bilingual Program

Funding in the amount of \$18.9 million is provided to add state-funded supplemental instruction following a student's exit from the transitional bilingual program. The additional hours of instruction are phased in over a two-year period. In the 2013-14 school year, 3.0 hours per week are provided for each student who has exited the transitional bilingual program in the immediate prior year. The exited student supplemental instruction is fully implemented in the 2014-15 school year with 3.0 additional hours of instruction per week for each student that exited the transitional bilingual program in the immediate prior two years, as provided in Chapter 9, Laws of 2013 (ESHB 2051).

DRAFT--FOR DISCUSSION

Revisions to Prototypical School Funded Ratios

These enhancements to basic education funding resulted in new funding ratios for the prototypical school formula.

Revisions to the Prototypical School Ratios: 2013-15 Biennium

| <u>Elementary School</u> | | <u>Middle School</u> | | <u>High School</u> | |
|---|-------------------|---|-------------|---|-------------|
| 400 FTE students | | 432 FTE students | | 600 FTE students | |
| <i>SY 2013-14 K-1 class size*</i> | <i>25.2/20.85</i> | Class size in grades 7-8 | 28.5 | Class size in grades 9-12* | 28.7 |
| <i>SY 2014-15 K-1 class size*</i> | <i>25.2/20.30</i> | | | | |
| Class size in grades 4-6 | 27.0 | | | | |
| Librarians | 0.66 | Librarians | 0.52 | Librarians | 0.52 |
| Guidance Counselors | 0.49 | <i>Guidance Counselors</i> | 1.22 | <i>Guidance Counselors</i> | 2.01 |
| <i>Parent Involvement Coordinators</i> | 0.0825 | | | | |
| Health/Social Services (Nurses/Social Workers) | 0.14 | Health/Social Services (Nurses/Social Workers) | 0.07 | Health/Social Services (Nurses/Social Workers) | 0.12 |
| Administrative Staff (Principals/Vice Principals) | 1.25 | Administrative Staff (Principals/Vice Principals) | 1.35 | Administrative Staff (Principals/Vice Principals) | 1.88 |
| Non-Instructional Classified Staff (Office Aids, Custodians, Security Guards, etc.) | 3.75 | Non-Instructional Classified Staff (Office Aids, Custodians, Security Guards, etc.) | 4.36 | Non-Instructional Classified Staff (Office Aids, Custodians, Security Guards, etc.) | 6.37 |
| Instructional Aides (Non-certified Classroom Aides) | 0.93 | Instructional Aides (Non-certified Classroom Aides) | 0.70 | Instructional Aides (Non-certified Classroom Aides) | 0.65 |

*Smaller class sizes are funded by the state for the Vocational & Skills Centers and high poverty schools. Grades 2 and 3 each continue to be reduced to 24.1 FTE students in high poverty schools. Staff ratios are expressed as an FTE per prototypical school

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Revisions to the Prototypical School Ratios: 2013-15 Biennium

| <u>Additional Time</u> <i>(Additional hours of supplemental instruction per week)</i> | | <u>Materials, Supplies & Operating Costs</u> | | <u>Additional Support</u> <i>(BEA Funding Enhancement)</i> | |
|---|----------|---|----------|--|--|
| | | <i>Technology</i> | \$77.46 | \$82.16 | Special Education 93.09% |
| <i>Learning Assistance (LAP)</i> | 2.40 hrs | <i>Utilities & Insurance</i> | \$210.46 | \$223.23 | <u>Central Office & Other Support</u> |
| Transitional Bilingual (TBIP) | 4.78 hrs | <i>Curriculum & Textbooks</i> | \$83.17 | \$88.21 | Central Office (% of school staff units) 5.3% |
| <i>TBIP Exited Students (NEW)</i> | 3.00 hrs | <i>Other Supplies & Library Materials</i> | \$176.56 | \$187.27 | <u>District Wide Support</u> <i>(Per 1,000 Students)</i> |
| <i>Instructional hrs grades 7-12 (NEW)</i> | 2.22 hrs | <i>Professional Development</i> | \$12.86 | \$13.64 | Technology Support Staff 0.63 |
| Highly Capable | 2.16 hrs | <i>Facilities Maintenance</i> | \$104.27 | \$110.59 | Facilities, Maintenance & Grounds 0.34 |
| | | <i>Security & Central Office</i> | \$72.24 | \$76.62 | Warehouse, Laborers, & Mechanics 1.80 |
| | | <i>School Year Totals:</i> | \$737.02 | \$781.72 | |

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Educational Policy Reforms

The Washington Supreme Court in the McCleary decision reaffirmed previous Court rulings that, "The program of basic education is not etched in constitutional stone. The Legislature has an obligation to review the basic education program as the needs of students and the demands of society evolve."

Reforms solely to the finance system to ensure the effective and efficient use of public resources and to provide ample funding for education is not sufficient for the Legislature to meet the changing needs of students and the increasing demands of society. Clearly the Legislature must continue to enact major policy reforms to both basic education and non-basic education programs to meet the State's constitutional duty.

In addition to the increased funding for the program of basic education and other funding enhancements provided by the Legislature in the 2013-15 operating budget, the Legislature enacted policy reforms to the basic education program and to other educational policies that support the basic education program.

ESHB 2051 (2013) Implementing Basic Education Expenditures

The Transitional Bilingual Instruction Program is redefined to require school districts to make instructional support available for students for up to two years immediately after they exit the program. Certain revenues are re-directed.

E2SSB 5329 (2013): Transforming Persistently Failing Schools

The Office of Superintendent of Public Instruction (OSPI) must design a system of support, assistance, and intervention for schools in need of improvement, which includes persistently lowest-achieving schools. A school district with a school identified as a persistently lowest-achieving school is designated as a Required Action District (RAD) and must use an OSPI-approved school improvement model. A RAD that has not demonstrated sufficient improvement after at least three years may be required to develop a new school improvement plan or may be assigned to a new Level II RAD process, which requires a new plan that is binding on the school district. The 2013-15 operating budget provided \$10 million for implementation of the bill.

ESSB 5491 (2013): Establishing Statewide Indicators of Educational Health

Six statewide indicators of educational system health are established as kindergarten readiness, fourth grade reading achievement, eighth grade mathematics achievement, the high school on-time graduation rate, employment rates, and college remediation rates. The State Board of Education, with other state educational agencies, must establish a process for identifying system-wide goals for each indicator and subgroup of students. Each indicator goal must be set biennially. The state educational agencies must jointly report on the status of each indicator and recommended performance goals each even-numbered year. If the state is not on target to meet a goal on an indicator, then recommendations for improvements must be made. The performance goals must be compared with national data to determine if Washington student achievement is in the top 10 percent nationally. If not, the biennial report must identify and recommend evidence-based reforms targeted at addressing the indicator.

ESSB 5946 (2013): Strengthening Student Educational Outcomes

This bill incorporated several policy bills, which were originally introduced separately addressing several policy changes including the following:

Learning Assistance Program (LAP)

The LAP program was expanded to include parent and family engagement coordinators and Readiness to Learn activities. School districts are required to focus LAP funds first on reading

improvement for K-4 students. The state-approved LAP plans are replaced with annual reports on student academic growth and progress. The Office of the Superintendent of Public Instruction must convene a panel of experts to develop state menus of best practices for K-4 reading improvement and use of LAP funds. School districts are required to use the practices from the menus under certain circumstances.

Reading and Early Literacy

The responsibilities the Office of the Superintendent of Public Instruction (OSPI) and school districts regarding reading skills in grades K-4 are specified. Professional development in reading instruction for K-4 teachers is targeted. Grades K-4 student report cards must include whether the student is reading on grade level. School districts must discuss appropriate grade placement and provide intensive reading improvement strategies for students reading below grade level.

Student Discipline

Unlimited student suspensions and expulsions were eliminated. Student suspensions or expulsions may not exceed one year unless authorized by the district superintendent based on rules adopted by the OSPI. School districts to create an individually tailored reentry and reengagement plan for long-term suspended or expelled students.

Alternative Learning Experiences

Alternative Learning Experiences (ALE) are defined by type of course rather than by type of program, including definitions based on the amount of weekly in-person instructional contact. The funding for ALE courses is allocated using the statewide average basic education rate for high school students. Provisions of the school choice laws regarding transfer of students between resident and nonresident districts to enroll in online courses are adjusted.

2014 Anticipated Reforms

One educational policy area that requires additional reforms is the evaluation system for teachers and principals, as demonstrated by Washington being placed on “high risk status” by the federal Department of Education. This “high risk” status designation endangers Washington's waiver of certain provisions of the federal No Child Left Behind Act.

Teacher quality matters. In fact, it is the most important school-related factor influencing student achievement. Therefore the Article IX Litigation Committee supports further education policy reforms in addition to a continued increase in funding for basic education.