

The Washington State Board of Education

Governance | Accountability | Achievement | Oversight | Career & College Readiness

| | | |
|---|--|--|
| Title: | Joint Task Force on Education Funding - Update | |
| As Related To: | <input type="checkbox"/> Goal One: Effective and accountable P-13 governance. <input type="checkbox"/> Goal Two: Comprehensive statewide K-12 accountability. <input type="checkbox"/> Goal Three: Closing achievement gap. | <input checked="" type="checkbox"/> Goal Four: Strategic oversight of the K-12 system. <input type="checkbox"/> Goal Five: Career and college readiness for all students. <input type="checkbox"/> Other |
| Relevant To Board Roles: | <input checked="" type="checkbox"/> Policy Leadership <input checked="" type="checkbox"/> System Oversight <input type="checkbox"/> Advocacy | <input type="checkbox"/> Communication <input type="checkbox"/> Convening and Facilitating |
| Policy Considerations / Key Questions: | The Board will consider its final list of legislative priorities for the 2013 Legislative Session | |
| Possible Board Action: | <input checked="" type="checkbox"/> Review <input type="checkbox"/> Adopt <input type="checkbox"/> Approve <input type="checkbox"/> Other | |
| Materials Included in Packet: | <input checked="" type="checkbox"/> Memo <input type="checkbox"/> Graphs / Graphics <input type="checkbox"/> Third-Party Materials <input type="checkbox"/> PowerPoint | |
| Synopsis: | <p>The Board will hear an update of the proceedings and Final Report of the Joint Task Force on Basic Education Funding.</p> <p>The Task Force Report is not complete as of the publication date of this Board packet. A report will be made available upon publication.</p> <p>Included in the packet is a copy of the Supreme Court's December 20th order, declaring that "The state's first report (of progress on responding to <i>McCleary</i>) falls short"</p> | |

Joint Task Force on Education Funding - Update

Policy Consideration

At its final meeting December 17th, Joint Task Force on Education Funding concluded its scheduled public meetings. At this meeting, the Task Force voted 6-2 on a “spending plan,” as well as a “revenue plan,” the details of which are included below.

As of today’s date, The Task Force’s Final Report has not yet been published, but is scheduled to be available prior to the Board’s January meeting in Tumwater. The Final Report will be sent separately as it becomes available.

At its January meeting, the Board will be asked to consider a legislative priorities statement supporting continued implementation of basic education programs, as required by the *McCleary* Supreme Court decision. The Task Force was charged with developing a revenue system to support phased-in implementation of those programs.

Summary

Spending plan

The spending plan, reflecting a 2017-19 biennial commitment of nearly \$4.5 billion, was represented as follows:

K-12 Enhancements* Dollars in Millions

| | 2013-15 | 2015-17 | 2017-19 |
|---|------------------|------------------|------------------|
| HB 2776 Enhancement: | | | |
| Transportation | \$141.6 | \$225.1 | \$232.8 |
| Materials, Supplies & Operating Costs | 597.1 | 1,410.9 | 1,554.7 |
| K-3 Class Size | 219.2 | 662.8 | 1,150.6 |
| Full-Day Kindergarten | 89.3 | 227.4 | 348.7 |
| Career & College Ready, 80 hours/24 credits  | 140.4 | 327.6 | 473.4 |
| Classified and administrative salary allocation | 169.8 | 450.2 | 681.5 |
| Accountability, evaluation and common core systems | 66.5 | 44.5 | 42.0 |
| Total | \$1,423.9 | \$3,348.5 | \$4,483.7 |

*Amounts may vary depending on the phase-in of the components

It is noteworthy that the Task Force included \$140.4 million in the 2013-15 biennium – the budget the current legislature is writing -- for a category they called “Career and College Readiness” (see arrow indication). This included funding both for the additional 80 hours of instructional required for grades 7-12 in ESHB 2261, as well as additional funding for counselors to support implementation of the Career and College-Ready Graduation Requirements adopted by the State Board of Education.

Jeff Vincent, *Chair* † Randy Dorn, *Superintendent of Public Instruction*
 Dr. Bernal Baca † Amy Bragdon † Kevin Laverty † Phyllis Bunker Frank † Elias Ulmer
 Bob Hughes † Dr. Kristina Mayer † Matthew Spencer † Cynthia McMullen
 Mary Jean Ryan † Tre' Maxie † Connie Fletcher † Judy Jennings
 Ben Rarick, *Executive Director*

(360) 725-6025 † TTY (360) 664-3631 † FAX (360) 586-2357 † Email: sbe@k12.wa.us † www.sbe.wa.gov

One issue of contention among Task Force members in consideration of this proposal was which of these programs were within the purview of the Task Force's statutory assignment. Representatives Gary Alexander and Kathy Dahlquist argued that salary enhancements, accountability, Common core, and career and college-ready funding fell outside of the specific requirements of the Task Force's statutory charge. Instead, they argued that the Task Force should limit itself to the four primary enhancements listed at the top of the chart: Pupil Transportation, K-3 class size, Maintenance, Supplies, and Operating Costs (MSOC), and Full Day Kindergarten.

Revenue plan

The revenue plan could be described as a series of revenue options. The list included a wide range of revenue alternatives, ranging from variations of the 'property tax swap' idea originally offered by Representative Ross Hunter and Senator Joe Zarelli, to the retention of certain existing taxes (including the beer tax and Business/Occupation Surtax), as well as the addition of new taxes, such as an excise tax on capital gains, and use of the transportation budget (and associated, dedicated revenue sources) to cover K-12 pupil transportation.

On the requirement of identifying a reliable and dependable revenue source for basic education, House Bill 2824 required that the Task Force "recommend one preferred alternative, including an outline of necessary implementing legislation." It is unclear how the various options voted on at the final meeting will produce a preferred alternative in the final Report.

| K-12 Revenue Options | |
|---|--------------------------------------|
| <i>\$ in millions</i> | |
| <i>(All Funds Dedicated To Education Legacy Trust Account)</i> | |
| | Estimated Biennial Impact |
| Use Rainy Day Fund | \$250 - 300 |
| Retain existing taxes set to expire | \$650-\$800 |
| Additional budget efficiencies and savings | \$300 |
| Eliminate tax exemptions | \$250 |
| Transfer all or part of transportation costs to the transportation budget with revenue increase to cover costs | \$143-\$930 |
| Excise Tax on Capital Gains- excludes first \$10,000, residence, and retirement distributions, retains same exclusions in federal law for mortgage derived gains; 5% rate; possible circuit breaker | \$650-\$1,400 |
| Property Tax Options: | |
| Revise State School Levy Growth Factor | \$43-\$600 |
| Increase State School Levy | \$200 - \$2,350 |
| Use State School Levy to replace local levies | \$1,735-\$2,680 |

Republican members of the Committee declined to vote for the list of revenue options list supported by the Democrats on the Committee. Instead, they offered a separate proposal, outlining a spending plan that would be supported without new taxes. The central premise of the proposal was

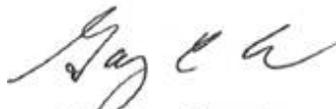
to fund K-3 class size and full day kindergarten first in the sequence of program enhancements required by House Bill 2776, and also to “Fund Education First” – funding the public schools budget fully prior to providing funding for any other program or service in the state budget.

The text of the correspondence is included below:

Our proposed alternative is to fund education first – and fund it fully, including the provisions of House Bill 2261 and House Bill 2776, beginning in Fiscal Year 2014 and completing in Fiscal Year 2019.

Our proposed alternative would prioritize the enhancements by fully funding all-day kindergarten (\$349 million) and one-half of K-3 class-size enhancements (\$575 million) in the upcoming 2013-15 biennium. The 2015-17 biennium would include funding for the remainder of the K-3 class-size enhancements (\$576 million) and one-half of MSOC (\$777 million). The remaining one-half of MSOC enhancements (\$778 million), all pupil-transportation enhancements (\$232 million) and the additional 80 hours for grades 7 through 12 (\$211 million) would be funded in the 2017-2019 biennium.

This funding would be incorporated in a separate budget, along with existing K-12 education programs for each of the three upcoming biennia, and an accompanying bill that would be the first call on existing projected Near General Fund revenues.



Rep. Gary Alexander
20th Legislative District



Rep. Susan Fagan
9th Legislative District



Rep. Cathy Dahlquist
31st Legislative District

Action

As part of final consideration of legislative priorities for the 2013 legislative session, the Board will consider motion language supporting continued implementation of basic education programs, as required by the McCleary Supreme Court decision.

Joint Task Force on Education Funding

Update on Deliberations & Final Report

January, 2013

Ben Rarick, Executive Director

JTFEF Final Report

- Two Major Components
 - Adopted a spending plan
 - Adopted a list of revenue options

- SBE Initiatives Discussed:
 - Career and College-Ready Graduation Requirements
 - School accountability issues

Task Force – Adopted Spending Plan

- Supports Class of 2018 Graduation Requirements (H.S. hours start in 2014-15)
- Supports state school improvement efforts (Phase II of 6696)

Table 1: Spending Plan

dollars in millions

| | 2013-15 Biennium | 2015-17 Biennium | 2017-19 Biennium |
|--|---------------------|---------------------|---------------------|
| Fully fund revised transportation formula | \$141.6 | \$225.1 | \$232.8 |
| Materials, Supplies, & Operating Costs (MSOC) | 597.1 | 1,410.9 | 1,554.7 |
| Reduce K-3 class sizes to 17 pupils/teacher | 219.2 | 662.8 | 1,150.6 |
| Implement full-day kindergarten statewide | 89.3 | 227.4 | 348.7 |
| Implement Career & College Ready plan | 140.4 | 327.6 | 473.4 |
| Classified & administrative salary allocations | 169.8 | 450.2 | 681.5 |
| Accountability, Evaluation, & Common Core | 66.5 | 44.5 | 42.0 |
| Total | \$1,423.9 | \$3,348.5 | \$4,483.7 |

Note: Amounts may vary depending on the phase-in of the components.

Accountability, Evaluation, & Common Core

Proposal Details

- State Accountability line – \$15 million of which is state school improvement dollars.
- Currently we rely on federal funding; as federal funding shrinks, so too does our commitment to helping struggling schools.

| Proposed Accountability Enhancements | | | | | | |
|---|-------------------------|-----------------------|-------------------------|-----------------------|-------------------------|-----------------------|
| Biennium | <u>2013-2015</u> | | <u>2015-2017</u> | | <u>2017-2019</u> | |
| Fiscal Year | <u>FY 2014</u> | <u>FY 2015</u> | <u>FY 2016</u> | <u>FY 2017</u> | <u>FY 2018</u> | <u>FY 2019</u> |
| State Accountability* | 17 | 18 | 20 | 15 | 15 | 15 |
| Teacher and Principal Evaluation | 25 | 5 | 5 | 5 | 5 | 5 |
| Common Core Implementation | 1 | 1 | 1 | 1 | 1 | 1 |
| Total Proposed K-12 Spending | 43 | 24 | 26 | 21 | 21 | 21 |
| <i>Biennial Total</i> | | <i>67</i> | | <i>47</i> | | <i>42</i> |

*Includes resources to assist schools in using data to improve student achievement

No Preferred Revenue Option Was Identified

Included was a list of funding options, with wide ranges

| Table 2: Funding Options dollars in millions | Estimated Biennial Impact | |
|---|---------------------------|--|
| Use Rainy Day Fund | \$250 - \$300 | |
| Retain existing taxes set to expire | \$650 - \$800 | Gregoire included 1) B/O surtax 2) Beer tax |
| Additional budget efficiencies and savings | \$300 | |
| Eliminate tax exemptions | \$250 | |
| Transfer all or part of K-12 transportation to transportation budget (with new revenue) | \$143 - \$930 | Gregoire included Net effect: Increase in the fuel tax |
| Excise Tax on capital gains* | \$650 - \$1,400 | |
| <i>Property Tax Options:</i> | | |
| • Revise state school levy growth factor | \$43 - \$600 | |
| • Increase state school levy | \$200 - \$2,350 | |
| • Use state school levy to replace local levies | \$1,735 - \$2,680 | |

All new revenues are dedicated to the Education Legacy Trust Account

Comparing the JTFEF Report to the Statutory Charge

The Task Force's Duty, Per Report

The legislation further states the JTFEF may recommend multiple options but must recommend one preferred alternative and provide an outline of necessary implementing legislation. If the preferred alternative is to fully fund the program of basic education with no new revenues, the Task Force must identify what areas already in the state budget would be eliminated or reduced.

The Task Force's Recommendations, Per Report

Adopted Funding Options

The Task Force adopted, by a vote of six to two, a list of funding options for the Legislature to consider. The JTFEF does not recommend a preferred option for funding the adopted spending plan nor does the JTFEF recommend enacting all components.

JTFEF Discussions & Report

Some Key Takeaways for the SBE

“Career & College Ready” package discussed by the Task Force was more than just 24 credits.

- Additional 80 hours of instruction at the high school Level
- Additional counseling support
- LAP, bilingual & parent engagement

Class of 2018 are freshmen in 2014-15, which means this biennial budget.

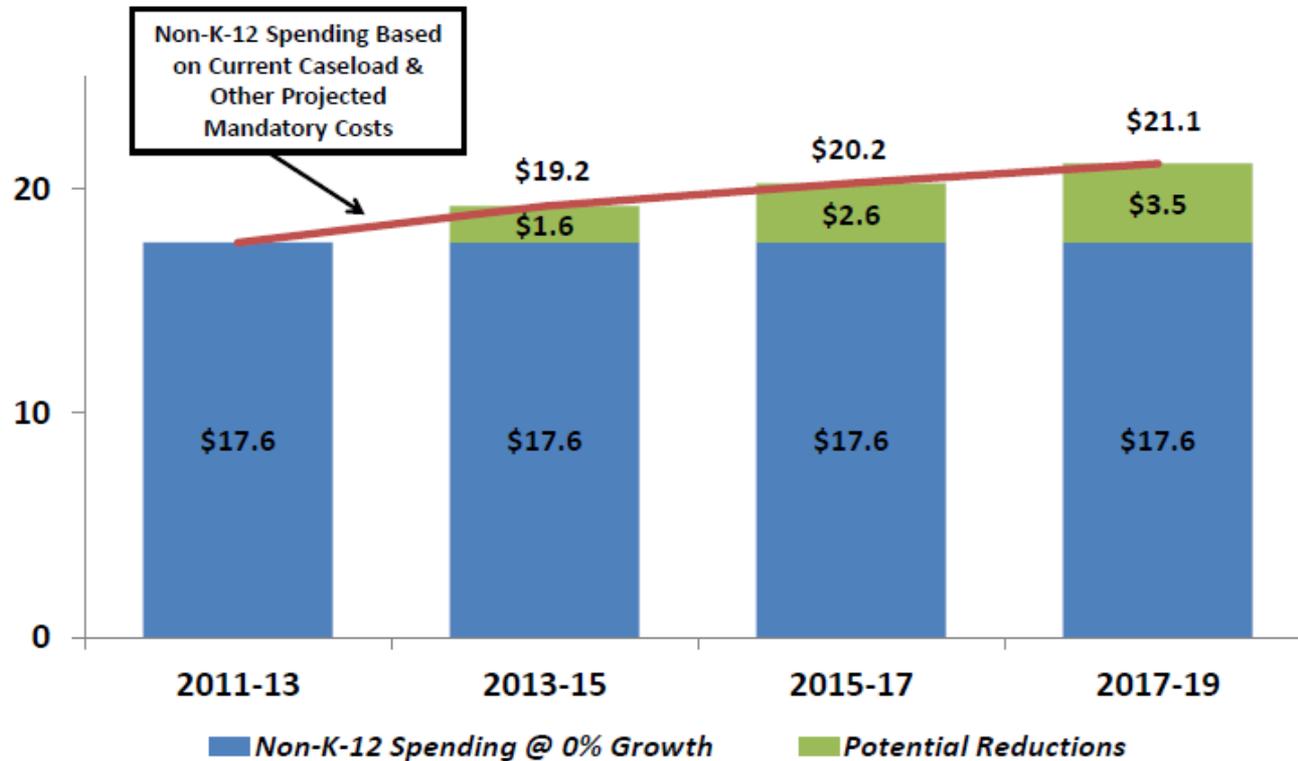
Significant interest in state accountability systems among JTFEF members of both parties. Issue this session?

Plans to “grow our way out” of our school funding problem are difficult to conceptualize.

Can we grow our way out?

Keeping non-K12 *programs* flat over time (and dedicating revenue growth to K-12) doesn't mean non-K12 spending stays flat.

To hold non-K 12 spending growth to zero percent would require \$1.6 billion to \$3.5 billion in reductions over the next three biennia



Upshot? "It costs a lot to stand still"

Source: JTFEF workpapers/presentation; prepared by legislative fiscal staff

THE SUPREME COURT OF WASHINGTON

MATHEW and STEPHANIE McCLEARY,)
et al.,)
Respondent/Cross-Appellant,)
v.)
STATE OF WASHINGTON,)
Appellant/Cross-Respondent.)

ORDER
Supreme Court No.
84362-7
King County No.
07-2-02323-2 SEA

FILED
SUPERIOR COURT
ST. PETER
2012 DEC 20 A 11:42
BY RONALD D. SAMPER CENTER

This matter came before the court on its December 6, 2012, en banc conference following the parties' submissions in response to this court's July 18, 2012 order. See Report to the Washington State Supreme Court by the Joint Select Committee on Article IX Litigation; Pl./Resp'ts' 2012 Post-Budget Filing. The question before us is whether, in remedying the constitutional violation of the State's paramount duty under article IX, section 1, current actions "demonstrate steady progress according to the schedule anticipated by the enactment of the program of reforms in ESHB 2261." Wash. Supreme Court Order (July 18, 2012) at 3 (Order). Consistent with ESHB 2261, 61st Leg., Reg. Sess. (Wash. 2009), such progress must be both "real and measurable" and must be designed to achieve "full compliance with article IX, section 1 by 2018." *Id.*

The State's first report falls short. The report details some of the same history set out in this court's opinion, *McCleary v. State*, 173 Wn.2d 477, 269 P.3d 227 (2012), and it identifies committees in place and the funding task force's assignment. But, the report does not

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sufficiently indicate how full compliance with article IX, section 1 will be achieved. Indeed, since the passage of ESHB 2261 in 2009, significant cuts to education funding have been made. Some of these cuts have been partially restored, but the overall level of funding remains below the levels that have been declared constitutionally inadequate.

Steady progress requires forward movement. Slowing the pace of funding cuts is necessary, but it does not equate to forward progress; constitutional compliance will never be achieved by making modest funding restorations to spending cuts.

It continues to be the court's intention to foster cooperation and defer to the legislature's chosen plan to achieve constitutional compliance. *See McCleary*, 173 Wn.2d at 541-42, 546. But, there must in fact be a plan. Each day there is a delay risks another school year in which Washington children are denied the constitutionally adequate education that is the State's paramount duty to provide.

Year 2018 remains a firm deadline for full constitutional compliance. Whether this is achieved by getting on track with the implementation schedule anticipated in ESHB 2261 or whether it is achieved by equivalent measures, it is incumbent upon the State to lay out a detailed plan and then adhere to it. The upcoming legislative session provides the opportunity for the State to do so. While the State's first report to the court identified the standing committees that have been formed and the additional studies that have been undertaken, the second report must identify the fruits of these labors.

Accordingly, by majority, it is hereby ordered: the report submitted at the conclusion of the 2013 legislative session must set out the State's plan in sufficient detail to allow progress to be measured according to periodic benchmarks between now and 2018. It should indicate the

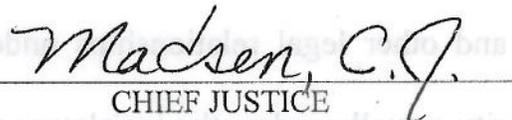
phase-in plan for achieving the State's mandate to fully fund basic education and demonstrate that its budget meets its plan. The phase-in plan should address all areas of K-12 education identified in ESHB 2261, including transportation, MSOCs (Materials, Supplies, Other Operating Costs), full time kindergarten, and class size reduction. Given the scale of the task at hand, 2018 is only a moment away—and by the time the 2013 legislature convenes a full year will have passed since the court issued its opinion in this case.¹

In education, student progress is measured by yearly benchmarks according to essential academic goals and requirements. The State should expect no less of itself than of its students. Requiring the legislature to meet periodic benchmarks does not interfere with its prerogative to enact the reforms it believes best serve Washington's education system. To the contrary, legislative benchmarks help guide judicial review. We cannot wait until "graduation" in 2018 to determine if the State has met minimum constitutional standards.

IT IS SO ORDERED.

DATED at Olympia, Washington this 20th day of December, 2012.

For the Court,


CHIEF JUSTICE

¹ On a minor point, the State's 2013 postbudget report and any response should be filed as a pleading with the court. This case remains open and it is important that all communications between the parties and the court be part of the open court file.

No. 84362-7

J.M. JOHNSON, J. (dissenting)—Today’s order clearly violates two important provisions of our constitution: the separation of powers and the explicit delegation of education to the legislature. This order purports to control the Washington State Legislature and its funding for education until 2018. The order ultimately impairs the implementation of newly designed best available education techniques for our school children. I dissent.

SEPARATION OF POWERS

This case was originally brought as a declaratory action alleging that the State was violating the Washington State Constitution by failing to adequately fund the K-12 school system.¹ RCW 7.24.010 authorizes Washington courts to declare rights, status, and other legal relationships under declaratory judgment actions. Here, the majority actually orders the legislature to take certain specific actions by

¹ *McCleary v. State*, 173 Wn.2d 477, 269 P.3d 227 (2012).

a specified date, which sounds more in mandamus than declaratory judgment. It also disregards the multitudinal facets of a budget.

A writ of mandamus is used “to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled” RCW 7.16.160. Although this court has limited authority to issue writs of mandamus, it seldom controls state officers, much less the legislature. Furthermore, “such a court order must be justified as an extraordinary remedy.” *SEIU Healthcare 775NW v. Gregoire*, 168 Wn.2d 593, 598-99, 229 P.3d 774 (2010) (denying mandamus).

As the remedy lies in equity, courts must exercise judicial discretion to issue the writ. *Id.* at 601. “[W]hen directing a writ to the Legislature or its officers, a coordinate, equal branch of government, the judiciary should be especially careful not to infringe on the historical and constitutional rights of that branch.” *Brown v. Owen*, 165 Wn.2d 706, 718, 206 P.3d 310 (2009) (quoting *Walker v. Munro*, 124 Wn.2d 402, 407, 879 P.2d 920 (1994)).

Here, the court is issuing what appears to be a writ of mandamus without calling it by its proper name or justifying it as an extraordinary remedy. Further, writs of mandamus must be directed at an “inferior tribunal, corporation, board or

person.” RCW 7.16.160. The legislature is separate and equal, not an “inferior . . . board.” *Id.*

The majority’s order directs the legislature to create a specific educational plan by the end of the 2013 legislative session with further steps to 2018. Considering that the new legislators have not yet been sworn in, and the body to which we are issuing this direction is consequently not even in existence, the order is improper. At the least, the new legislature should be allowed to consider the issue, in good faith, without this court’s orders held to its head.

The Washington State Constitution does not express its separation of powers. “Nonetheless, the very division of our government into different branches has been presumed throughout our state’s history to give rise to a vital separation of powers doctrine.” *Brown*, 165 Wn.2d at 718 (quoting *Carrick v. Locke*, 125 Wn.2d 129, 135, 882 P.2d 173 (1994)). The separation of powers doctrine exists “to ensure that the fundamental functions of each branch remain inviolate.” *Carrick*, 125 Wn.2d at 135.

We have recognized that “[t]he spirit of reciprocity and interdependence requires that if checks by one branch undermine the operation of another branch or undermine the rule of law which all branches are committed to maintain, those checks are improper and destructive exercises of the authority.” *In re Salary of*

Juvenile Director, 87 Wn.2d 232, 243, 552 P.2d 163 (1976). Today's order is precisely that—a destructive exercise of authority. Effects on other state funded programs, such as those for the needy, are disregarded. The extensive history of educational studies and reform described in *McCleary v. State*, 173 Wn.2d 477, 269 P.3d 227 (2012), illustrates the legislature's comparative advantage at identifying policy goals and implementing them.² Although the majority in *McCleary* claimed that this court would not “dictat[e] the precise means by which the State must discharge its duty,”³ today's order no doubt contemplates this court's future assessment of the merits of the legislature's benchmarks, as well as the contents of its plan.⁴ Because we are isolated from the legislative mechanisms

² Examples of such studies and reforms include the Washington Basic Education Act of 1977 (LAWS OF 1977, 1st Ex. Sess., ch. 359), the Levy Lid Act of 1977 (LAWS OF 1977, 1st Ex. Sess., ch. 325), the Remediation Assistance Act (LAWS OF 1979, ch. 149), the Transitional Bilingual Instruction Act of 1979 (LAWS OF 1979, ch. 95), the Education for All Act of 1971 (LAWS OF 1971, 1st Ex. Sess., ch. 66), the Governor's Council on Education Reform and Funding, the Commission on Student Learning, ESHB 1209, the development of EALRs and the Washington Assessment of Student Learning, the Washington Learns study, E2SSB 5841, the Transportation Funding study, the Basic Education Finance Task Force, E2SSB 5627, the creation of the Quality Education Council, and SHB 2776. *McCleary*, 173 Wn.2d at 486-510. A recent example of how educational reforms are constantly evolving is the announcement of Washington State Superintendent of Public Instruction Randy Dorn's proposal to reduce five required testing areas down to three. Press Release, State of Washington Office of Superintendent of Public Instruction, Dorn Proposes Changes in State Assessment System (Dec. 13, 2012), <http://www.k12.wa.us/Communications/PressReleases2012/DornProposesChanges-Assessment.aspx> (last visited Dec. 18, 2012).

³ 173 Wn.2d at 541.

⁴ The order appears to be predicated on the misinformation that more funding is the solution to all problems in education. American students' recent scores on 12th grade National Assessment of Educational Progress (NAEP) tests highlight the mediocrity in K-12 schools. Matthew Ladner et

for gathering public input, such as hearings and committees, courts are undeniably unsuited to decide these policy judgments.

WASHINGTON STATE CONSTITUTION ARTICLE IX, SECTION 2

The constitution enshrines in article IX, section 2 that “[t]he legislature shall provide for a general and uniform system of public schools.” This is supported both by statewide representation in the legislature and by the legislature’s control over the budget. Today’s order is a clear usurpation of the legislature’s constitutionally mandated duty.

Judges sometimes have delusions of grandeur. Our decision-making deals with thousands of criminal and civil cases through one model. Our state constitution allows other major problems to be resolved through elected representatives from the entire state. This includes the committee process, two houses, a governor, and the use of initiatives and referenda as pros.

The United States Supreme Court has long recognized “that judicial inquiries into legislative or executive motivation represent a substantial intrusion

al., *Report Card on American Education* 4 (16th ed. 2010). For example, only 23 percent of 12th graders scored ““Proficient”” in math (39 percent scored ““below Basic””). *Id.* Similarly, only 35 percent of 12th graders scored “Proficient” in reading. *Id.* Nationally, per student annual expenditures have increased from \$4,060 in 1970 to \$9,266 in 2006 (in constant 2007 dollars). *Id.* at 8. Meanwhile, NAEP scores have remained fairly constant and high school graduation rates have dropped slightly. *Id.* What this means is that United States taxpayers are paying more than double per student than they were 40 years ago without seeing any measurable increases in educational outcomes.

into the workings of other branches of government.” *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 268 n.18, 97 S. Ct. 555, 50 L. Ed. 2d 450 (1977). We should accordingly presume that legislators act in good faith in discharging their constitutional duties. In *McCleary*, the majority clarified the legislature’s duty under article IX, section 1 of the Washington State Constitution and expressed that we expect to see full implementation of educational reforms. 173 Wn.2d at 547. Because I would continue to presume that the legislature will act in good faith in implementing these reforms, this order oversteps the bounds of proper judicial action.

I agree with and signed Chief Justice Madsen’s concurrence/dissent in *McCleary*, in which she expressed that “[w]e have done our job; now we must defer to the legislature for implementation.” *Id.* at 548 (Madsen, C.J., concurring/dissenting). For this reason, I respectfully dissent.

into the workings of other branches of government." *Vill. of Arlington Heights v. Metro. Home Dev. Corp.*, 429 U.S. 252, 268 n.18, 97 S. Ct. 552, 50 L. Ed. 2d 450 (1977). The majority assumed that legislators act in good faith in discharging their constitutional duties. In *McCleary*, the majority clarified the legislature's duty under article IX, section 1 of the Washington State Constitution and expressed that we expect to see full implementation of educational reforms. 173 Wn.2d at 247. Because I would continue to presume that the legislature will act in good faith in implementing these reforms, this order oversteps the bounds of proper judicial action.

I agree with and signed Chief Justice Madsen's concurrence/dissent in *McCleary*, in which she expressed that "[w]e have done our job; now we must defer to the legislature for implementation." *Id.* at 248 (Madsen, C.J., concurring/dissenting). For this reason, I respectfully dissent.