



THE WASHINGTON STATE BOARD OF EDUCATION

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

Title:	Legislative 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 checked="" type="checkbox"/> Goal Three: Closing achievement gap.	<input checked="" type="checkbox"/> Goal Four: Strategic oversight of the K-12 system. <input checked="" 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 type="checkbox"/> System Oversight <input checked="" type="checkbox"/> Advocacy	<input type="checkbox"/> Communication <input type="checkbox"/> Convening and Facilitating
Policy Considerations / Key Questions:	<ul style="list-style-type: none"> • What will next steps be if the 24 credit framework is authorized? • How will legislative outcomes impact the Board's work for the rest of the year and frame the Board's legislative priorities for the 2015 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 type="checkbox"/> Memo <input type="checkbox"/> Graphs / Graphics <input type="checkbox"/> Third-Party Materials <input type="checkbox"/> PowerPoint	
Synopsis:	<p>This section includes an overview of the legislative conversations and progress around our legislative priorities, as well as other bills that impact the SBE's work. The packet includes a copy of E2SSB 6552 and the accompanying bill report. Copies of the other priority bills that are still alive and working their way through the opposite house at the time of this drafting are included in the online version. Also included is a summary of the recent McCleary court order asserting that the Legislature did not make adequate progress towards fully funding basic education.</p> <p>Please Note: These materials will change as the events of the Legislature unfold leading to our March meeting and will be updated in additional materials. At the meeting we hope to be able to review budget proposal information and updated bill status.</p>	



LEGISLATIVE PRIORITY POLICY DISCUSSION: 2014 LEGISLATIVE SESSION

Ample Provision

Priority: Make ample provision for K-12 education programs.

Budget negotiations had not taken place at the time of this drafting. The Governor's proposed 2014 supplemental budget appropriates an additional \$200 million for basic education.

The issue of full funding was discussed frequently in testimony on graduation requirements and the reinstatement of teacher salary cost-of-living adjustments. Much of the testimony asserted that program reforms should be deferred until the educational system is fully funded, though no definition or measurement of full funding was offered.

The Legislature proposed a few bills addressing local funding, including altering how federal forest land revenues are accounted for in a district's basic education allocation, and creating a task force to examine local levy funding.

Career and College Ready

Priority: Authorization of a 24-credit career and college ready graduation requirement framework.

There were six bills that addressed graduation requirements this session, four of which referenced the SBE framework.

Much of the testimony on 24 credits included comments on funding, preparing students for postsecondary opportunities, flexibility for students that wish to take CTE courses, and support for underserved students to meet the requirements. There was significant support for the work that the SBE has done during the last year to increase the flexibility of the framework and emphasize all postsecondary pathways, rather than creating a default, four-year degree pathway.

- HB 1656, which differed significantly from the SBE framework, was reworked to align with the SBE framework, but was not reported out of committee.
- HB 2242 and SB 6337 both implemented recommendations from the Quality Education Council, including the authorization of the SBE framework, but neither were reported out of committee.
- HB 2181 aligned with the SBE framework, but was not reported out of committee.
- SB 6092 authorized 24 credits, but did not reference the SBE framework and was not reported out of committee.
- SB 6552 combined the authorization of the SBE 24-credit framework with course-equivalency standardization in math and science, changes to the instructional hour increase, and a redistribution of the funding allocated for instructional hours to other uses in support of 24 credits. This bill was the result of a bipartisan, bicameral effort and

addressed legislation and concerns heard in the education committees of both chambers. This bill passed the Senate scheduled for a hearing in the House Education Committee on February 24 at the time of drafting.

Math and Science Equivalencies

Priority: Expansion of math and science course equivalencies for vocational programs.

There were three bills that addressed the expansion of course equivalencies in math and science. All three required OSPI to develop the equivalencies and curricula for the equivalent courses and for SBE to hold public hearings on and approve the list of equivalencies.

This legislation received resounding support from legislators, the governor, and stakeholders. Comments of support centered on the flexibility this afforded students who wished to pursue CTE coursework to still meet graduation requirements and the benefits of streamlining equivalencies across the state so that all students have access.

- HB 2540 initially included an ambiguous section on districts providing access to course equivalencies and a waiver provision for districts under 2,000 students. The bill was amended to clarify that districts must provide access to at least one math and one science course equivalency. The bill passed the House and was awaiting a hearing in the Senate at the time of this drafting.
- SB 6044 also included the ambiguous section on districts providing access to equivalencies and the waiver provision. It was not reported out of committee.
- SB 6552 includes a provision on establishing course equivalencies, but clarifies that the equivalencies are only required if a district already offers the course, and that a district is not required to offer new courses as a result of the legislation. There is also no waiver provision. This bill passed the Senate and was scheduled for a hearing in the House Education Committee on February 24 at the time of drafting.

Professional Development

Priority: Support restoration of professional learning improvement days.

There were four bills addressing state funded professional development days, none of which received public hearings in committee. One bill made professional learning part of the definition of basic education, while another explicitly stated that it was not. Three of the bills allowed the state to determine the content of the state funded days, such as Common Core and TPEP.

There was a fifth bill, HB 2358, that put into statute a definition of professional learning, but did not address state funded professional learning days. It was not reported out of committee.

Summer Learning Loss

Priority: Support efforts to combat summer learning loss.

There were three bills that addressed the issue of summer learning loss through expanded learning opportunities and one that provided for an extended school year. All four of the bills received significant support during public testimony, particularly as a way to address the opportunity gap.

- HB 2317 created a grant program to support partnerships between districts and community-based organizations. The bill was reported out of the Education Committee, but not out of Appropriations.
- SB 6209 created an expanded learning council to determine best practices in creating expanded learning opportunities to support learning loss. It was amended to include the SBE as a council member. This bill was ultimately incorporated in SB 6163.
- SB 6336 was the companion to HB 2317 and created a grant program for expanded learning opportunity partnerships. It was reported out of Senate Early Learning & K12 Education, but not out of Senate Ways and Means.
- SB 6163 created a pilot program to extend the school year by 20 days to address summer learning loss. It was amended to remove the pilot program and incorporate the expanded learning council from SB 6209. The expanded learning council is now charged with developing an action plan for a pilot program to extend the school year and examine other calendar modifications, such as a balanced calendar. SB 6163 was passed by the Senate and was heard the House Education Committee on February 19, and scheduled for executive session on February 26.

Other Legislation that Impacts the State Board

Option 2 Waivers

There were two bills, one in the House, one in the Senate, that addressed the Economy and Efficiency Waivers (Option 2). The House version expanded the program to all districts with no limit, but was amended to apply to districts with fewer than 2,000 students. The Senate version kept that cap at five schools, but removed the split between schools with enrollments of under 150 and those with 150-500 students, so that any district under 500 may be eligible for one of the five waivers. Public testimony was supportive of both of these bills. The Senate version passed and is scheduled for a hearing in the House Education Committee.

Instructional Hours

There were multiple bills that addressed the increase in instructional hours. Every bill delayed its implementation. None of the bills that addressed only instructional hours made it out of their respective policy committees. SB 6552 includes provisions on instructional hours, including changing the requirements to an average of 1000 hours for grades 1-8 and 1080 for grades 9-12, allowing averaging across grades in the district, resulting in a districtwide average 1027 hour requirement. It also allows non-instructional activities for seniors in the final five days of the school year to count as instructional time. SB 6552 passed the Senate and is awaiting a hearing in the House. Stakeholders have been overwhelmingly supportive of changes to the instructional hours requirements, with many saying they would prefer to use the funds to implement 24 credits, and that an increase of a few minutes in class will not impact student achievement.

High School and Beyond Plan

HB 2383 asks the State Board to examine the High School and Beyond plan as part of a larger report on career and college readiness being convened by the Washington Student Achievement Council. The SBE would make recommendation on how it could be made more rigorous and meaningful for students.

Teacher Evaluations

There were three bills in the Senate that would have required state assessments to be used in student growth calculations for teacher evaluations. Two of the bills did not get reported out of

committee. The third, SSB 5246 was voted down on the Senate floor with 19 yeas and 28 nays. All except one of the yea votes are members of the Majority Coalition Caucus (MCC). The nay votes included all but one of the members of the Democratic caucus and six members of the MCC. This potentially impacts the state's eligibility for a waiver from the federal Elementary and Secondary Education Act.

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6552

State of Washington

63rd Legislature

2014 Regular Session

By Senate Ways & Means (originally sponsored by Senators Rolfes, Dammeier, Litzow, Rivers, Tom, Fain, Hill, Kohl-Welles, Mullet, McAuliffe, and Cleveland)

READ FIRST TIME 02/11/14.

AN ACT Relating to improving student success by modifying instructional hour and graduation requirements; amending RCW 28A.700.070, 28A.230.097, 28A.150.220, 28A.230.090, and 28A.150.260; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1 The legislature recognizes that preparing students to be successful in postsecondary education, gainful employment, and citizenship requires increased rigor and achievement, including attaining a meaningful high school diploma with the opportunity to earn twenty-four credits. The legislature finds that an investment was made in the 2013-2015 omnibus appropriations act to implement an increase in instructional hours in the 2014-2015 school year. School districts informed the legislature that the funding as provided in the 2013-2015 omnibus appropriations act would result in only a few minutes being added onto each class period and would not result in a meaningful increase in instruction that would have the positive impact on student learning that the legislature expects. The school districts suggested that it would be a better educational policy to use the funds to implement the requirement of twenty-four credits for high school graduation, which will result in a meaningful increase of instructional hours. Based on input from school districts across the state, the legislature recognizes the need to provide flexibility for school districts to implement the increase in instructional hours while still moving towards an increase in the high school graduation requirements. Therefore, the legislature intends to shift the focus and intent of the investments from compliance with the minimum instructional hours offering to assisting school districts to provide an opportunity for students to earn twenty-four credits for high school graduation and obtain a meaningful diploma, beginning with the graduating class of 2019.

PART I
CAREER AND TECHNICAL EQUIVALENCIES

Sec. 101 RCW 28A.700.070 and 2008 c 170 s 201 are each amended to read as follows:

- (1) The office of the superintendent of public instruction shall support school district efforts under RCW 28A.230.097 to adopt course equivalencies for career and technical courses by:
 - (a) Recommending career and technical curriculum suitable for course equivalencies;

(b) Publicizing best practices for high schools and school districts in developing and adopting course equivalencies; and

(c) In consultation with the Washington association for career and technical education, providing professional development, technical assistance, and guidance for school districts seeking to expand their lists of equivalent courses.

(2) The office of the superintendent of public instruction shall provide professional development, technical assistance, and guidance for school districts to develop career and technical course equivalencies that also qualify as advanced placement courses.

(3) The office of the superintendent of public instruction, in consultation with one or more technical working groups convened for this purpose, shall develop curriculum frameworks for a selected list of career and technical courses that may be offered by high schools or skill centers whose content in science, technology, engineering, and mathematics is considered equivalent in full or in part to science or mathematics courses that meet high school graduation requirements. The content of the courses must be aligned with state essential academic learning requirements in mathematics as adopted by the superintendent of public instruction in July 2011 and the essential academic learning requirements in science as adopted in October 2013, and industry standards. The office shall submit the list of equivalent career and technical courses and their curriculum frameworks to the state board of education for review, an opportunity for public comment, and approval. The first list of courses under this subsection must be developed and approved before the 2015-16 school year. Thereafter, the office may periodically update or revise the list of courses using the process in this subsection.

(4) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall allocate grant funds to school districts to increase the integration and rigor of academic instruction in career and technical courses. Grant recipients are encouraged to use grant funds to support teams of academic and technical teachers using a research-based professional development model supported by the national research center for career and technical education. The office of the superintendent of public instruction may require that grant recipients provide matching resources using federal Carl Perkins funds or other fund sources.

Sec. 102 RCW 28A.230.097 and 2013 c 241 s 2 are each amended to read as follows:

(1) Each high school or school district board of directors shall adopt course equivalencies for career and technical high school courses offered to students in high schools and skill centers. A career and technical course equivalency may be for whole or partial credit. Each school district board of directors shall develop a course equivalency approval procedure. Boards of directors must approve AP computer science courses as equivalent to high school mathematics or science, and must denote on a student's transcript that AP computer science qualifies as a math-based quantitative course for students who take the course in their senior year. In order for a board to approve AP computer science as equivalent to high school mathematics, the student must be concurrently enrolled in or have successfully completed algebra II. Beginning no later than the 2015-16 school year, a school district board of directors must, at a minimum, grant academic course equivalency in mathematics or science for a high school career and technical course, if the course is offered, from the list of courses approved by the state board of education under RCW 28A.700.070, but is not limited to the courses on the list. If the list of courses is revised after the 2015-16 school year, the school district board of directors must grant academic course equivalency based on the revised list beginning with the school year immediately following the revision.

(2) Career and technical courses determined to be equivalent to academic core courses, in full or in part, by the high school or school district shall be accepted as meeting core requirements, including graduation requirements, if the courses are recorded on the student's transcript using the equivalent academic high school department designation and title. Full or partial credit shall be recorded as appropriate. The high school or school district shall also issue and keep record of course completion certificates that demonstrate that the career and technical courses were successfully completed as needed for industry certification, college credit, or preapprenticeship, as applicable. The certificate shall be either part of the student's high school and beyond plan or the student's culminating project, as determined by the student. The office of the superintendent of public instruction shall develop and make available electronic samples of certificates of course completion.

PART II INSTRUCTIONAL HOURS AND HIGH SCHOOL GRADUATION CREDIT REQUIREMENTS

Sec. 201 RCW 28A.150.220 and 2013 2nd sp.s. c 9 s 2 are each amended to read as follows:

(1) In order for students to have the opportunity to develop the basic education knowledge and skills under RCW 28A.150.210, school districts must provide instruction of sufficient quantity and quality and give students the opportunity to complete graduation requirements that are intended to prepare them for postsecondary education, gainful employment, and citizenship. The program established under this section shall be the minimum instructional program of basic education offered by school districts.

(2) Each school district shall make available to students the following minimum instructional offering each school year:

(a) For students enrolled in grades one through twelve, at least a district-wide annual average of one thousand hours, which shall be increased beginning in the 2015-16 school year to at least one thousand eighty instructional hours for students enrolled in ~~((each of))~~ grades ~~((seven))~~ nine through twelve and at least one thousand instructional hours for students in ~~((each of))~~ grades one through ~~((six according to an implementation schedule adopted by the legislature, but not before the 2014-15 school year))~~ eight, all of which may be calculated by a school district using a district-wide annual average of instructional hours over grades one through twelve; and

(b) For students enrolled in kindergarten, at least four hundred fifty instructional hours, which shall be increased to at least one thousand instructional hours according to the implementation schedule under RCW 28A.150.315.

(3) The instructional program of basic education provided by each school district shall include:

(a) Instruction in the essential academic learning requirements under RCW 28A.655.070;

(b) Instruction that provides students the opportunity to complete twenty-four credits for high school graduation, ~~((subject to a phased-in implementation of the twenty-four credits as established by the legislature))~~ beginning with the graduating class of 2019. Course distribution requirements may be established by the state board of education under RCW 28A.230.090;

(c) If the essential academic learning requirements include a requirement of languages other than English, the requirement may be met by students receiving instruction in one or more American Indian languages;

(d) Supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065;

- (e) Supplemental instruction and services for eligible and enrolled students and exited students whose primary language is other than English through the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080;
- (f) The opportunity for an appropriate education at public expense as defined by RCW 28A.155.020 for all eligible students with disabilities as defined in RCW 28A.155.020; and
- (g) Programs for highly capable students under RCW 28A.185.010 through 28A.185.030.
- (4) Nothing contained in this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.
- (5)(a) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten, to be increased to a minimum of one hundred eighty school days per school year according to the implementation schedule under RCW 28A.150.315. ~~((However,))~~
- (b) Schools administering the Washington kindergarten inventory of developing skills may use up to three school days at the beginning of the school year to meet with parents and families as required in the parent involvement component of the inventory. ~~((In addition, effective May 1, 1979,))~~
- (c) In the case of students who are graduating from high school, a school district may schedule the last five school days of the one hundred ~~((and))~~ eighty day school year for noninstructional purposes ~~((in the case of students who are graduating from high school,))~~ including, but not limited to, the observance of graduation and early release from school upon the request of a student~~((, and))~~. All such students may be claimed as a full-time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260. Any hours scheduled by a school district for noninstructional purposes during the last five school days for such students shall count toward the instructional hours requirement in subsection (2)(a) of this section.
- (6) Nothing in this section precludes a school district from enriching the instructional program of basic education, such as offering additional instruction or providing additional services, programs, or activities that the school district determines to be appropriate for the education of the school district's students.
- (7) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish.

Sec. 202 RCW 28A.230.090 and 2011 c 203 s 2 are each amended to read as follows:

- (1) The state board of education shall establish high school graduation requirements or equivalencies for students, except as provided in RCW 28A.230.122 and except those equivalencies established by local high schools or school districts under RCW 28A.230.097. The purpose of a high school diploma is to declare that a student is ready for success in postsecondary education, gainful employment, and citizenship, and is equipped with the skills to be a lifelong learner.
- (a) Any course in Washington state history and government used to fulfill high school graduation requirements shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

(b) The certificate of academic achievement requirements under RCW 28A.655.061 or the certificate of individual achievement requirements under RCW 28A.155.045 are required for graduation from a public high school but are not the only requirements for graduation.

(c) Any decision on whether a student has met the state board's high school graduation requirements for a high school and beyond plan shall remain at the local level.

(d) The state board of education shall adopt rules to implement the career and college ready graduation requirement proposal adopted under board resolution on November 10, 2010, and revised on January 9, 2014, which includes authorization for a school district to waive up to two credits on an individual student basis in accordance with the rules established by the state board of education to take effect beginning with the graduating class of 2019.

(2)(a) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(b) The state board shall reevaluate the graduation requirements for students enrolled in vocationally intensive and rigorous career and technical education programs, particularly those programs that lead to a certificate or credential that is state or nationally recognized. The purpose of the evaluation is to ensure that students enrolled in these programs have sufficient opportunity to earn a certificate of academic achievement, complete the program and earn the program's certificate or credential, and complete other state and local graduation requirements.

(c) The state board shall forward any proposed changes to the high school graduation requirements to the education committees of the legislature for review and to the quality education council established under RCW 28A.290.010. The legislature shall have the opportunity to act during a regular legislative session before the changes are adopted through administrative rule by the state board. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized and funded by the legislature through the omnibus appropriations act or other enacted legislation.

(3) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

(4) If requested by the student and his or her family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional

competency examination or perform any other additional assignment to receive credit.

(6) At the college or university level, five quarter or three semester hours equals one high school credit.

Sec. 203 RCW 28A.150.260 and 2011 1st sp.s. c 27 s 2 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

(4)(a)(i) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

General education average class size	
Grades K-3	25.23
Grade 4	27.00
Grades 5-6	27.00
Grades 7-8	28.53
Grades 9-12	28.74

(ii) The minimum class size allocation for each prototypical high school shall be enhanced to provide funding for two laboratory science courses per full-time equivalent student to be completed within grades nine through twelve, calculated as follows: The number of total full-time equivalent students enrolled in grades nine through twelve multiplied by the laboratory science course factor of 0.0833, by the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220, providing at least one teacher planning period per school day, and based on the laboratory science average class size of 19.98 full-time equivalent students per teacher.

<u>Laboratory science average class size</u>	
<u>Grades 9-12</u>	<u>19.98</u>

(b) During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year.

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

Career and technical education average class size	
Approved career and technical education offered at the middle school and high school level	26.57
Skill center programs meeting the standards established by the office of the superintendent of public instruction	22.76

(d) In addition, the omnibus appropriations act shall at a minimum specify:

- (i) A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and
- (ii) A specialty average class size for ~~((laboratory science,))~~ advanced placement~~((,))~~ and international baccalaureate courses.

(5) The minimum allocation for each level of prototypical school shall include allocations for the

following types of staff in addition to classroom teachers:

	Elementary School	Middle School	High School
Principals, assistant principals, and other certificated building-level administrators	1.253	1.353	1.880
Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs	0.663	0.519	0.523
Health and social services:			
School nurses	0.076	0.060	0.096
Social workers	0.042	0.006	0.015
Psychologists	0.017	0.002	0.007
Guidance counselors, a function that includes parent outreach and graduation advising	0.493	1.116	((1.909)) <u>2.539</u>
Teaching assistance, including any aspect of educational instructional services provided by classified employees	0.936	0.700	0.652
Office support and other noninstructional aides	2.012	2.325	3.269
Custodians	1.657	1.942	2.965
Classified staff providing student and staff safety	0.079	0.092	0.141
Parent involvement coordinators	0.00	0.00	0.00

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

Staff per 1,000	
K-12 students	
Technology	0.628
Facilities, maintenance, and grounds	1.813
Warehouse, laborers, and mechanics	0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as

specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) and (c) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year:

Per annual average
full-time equivalent student
in grades K-12
Technology \$54.43
Utilities and insurance \$147.90
Curriculum and textbooks \$58.44
Other supplies and library materials \$124.07
Instructional professional development for certified and
classified staff \$9.04
Facilities maintenance \$73.27
Security and central office \$50.76

(b) During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

Per annual average
full-time equivalent student
in grades K-12
Technology \$113.80
Utilities and insurance \$309.21
Curriculum and textbooks \$122.17
Other supplies and library materials \$259.39
Instructional professional development for certificated and
classified staff \$18.89
Facilities maintenance \$153.18
Security and central office administration \$106.12

(c) In addition to the amounts provided in (a) and (b) of this subsection, beginning in the 2014-15 school year, the omnibus appropriations act shall provide the following minimum allocation for each annual average full-time equivalent student in grades nine through twelve for the following materials, supplies, and operating costs, to be adjusted annually for inflation:

Per annual average
full-time equivalent student
in grades 9-12
Technology \$36.35
Curriculum and textbooks \$39.02

Other supplies and library materials \$82.84
Instructional professional development for certificated and
classified staff \$6.04

(9) In addition to the amounts provided in subsection (8) of this section, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

- (a) Exploratory career and technical education courses for students in grades seven through twelve;
- (b) ~~(Laboratory science courses for students in grades nine through twelve;~~
- ~~(e))~~ (c) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and
- ~~((d))~~ (c) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

- (a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program shall provide for each level of prototypical school resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.
- (b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher. Notwithstanding other provisions of this subsection (10), the actual per-student allocation may be scaled to provide a larger allocation for students needing more intensive intervention and a commensurate reduced allocation for students needing less intensive intervention, as detailed in the omnibus appropriations act.
- (c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a) and (b), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting

of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

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SENATE BILL REPORT

E2SSB 6552

As Passed Senate, February 13, 2014

Title: An act relating to improving student success by modifying instructional hour and graduation requirements.

Brief Description: Improving student success by modifying instructional hour and graduation requirements.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Rolfes, Dammeier, Litzow, Rivers, Tom, Fain, Hill, Kohl-Welles, Mullet, McAuliffe and Cleveland).

Brief History:

Committee Activity: Early Learning & K-12 Education: 2/05/14, 2/06/14 [DPS-WM].

Ways & Means: 2/10/14, 2/11/14 [DP2S, DNP].

Passed Senate: 2/13/14, 45-4.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 6552 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Litzow, Chair; Dammeier, Vice Chair; McAuliffe, Ranking Member; Rolfes, Assistant Ranking Member; Billig, Brown, Cleveland, Fain, Hill, Mullet and Rivers.

Staff: Susan Mielke (786-7422)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6552 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Hill, Chair; Baumgartner, Vice Chair; Honeyford, Capital Budget Chair; Hargrove, Ranking Member; Keiser, Assistant Ranking Member on the Capital Budget; Ranker, Assistant Ranking Member on the Operating Budget; Bailey, Becker, Billig, Braun, Conway, Dammeier, Frockt, Hatfield, Hewitt, Kohl-Welles, Padden, Parlette, Rivers, Schoesler and Tom.

Minority Report: Do not pass.

Signed by Senator Hasegawa.

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.

Staff: Lorrell Noahr (786-7708)

Background: Career and Technical Education (CTE) Equivalencies. Under current law, school districts are directed to examine their credit-granting policies and award academic credit for CTE courses that they determine to be equivalent to an academic course. If a student is granted equivalency credit, the student's transcript reflects the academic course number and description.

The Office of Superintendent of Public Instruction (OSPI) is directed to provide professional development, technical assistance, and guidance for school districts to accomplish this equivalency crediting. OSPI developed a Course Equivalency Toolkit to assist districts in making these determinations. Although OSPI has a list of CTE courses that school districts consider equivalent, there is no data about the number of such credits actually granted. All decisions about granting equivalency credit are made by local school districts.

Instructional Hours. Revisions to the legislative definition of the Program of Basic Education adopted in 2009 require school districts to provide students with an increase in minimum instructional hours from a district-wide average of 1000 hours across all grades, to 1000 hours in each of grades one through six and 1080 hours in each of grades seven through 12. Initially this increase was to be implemented according to a schedule adopted by the Legislature. In 2011 the Legislature specified that the increase would not occur before the 2014-15 school year.

School districts may schedule the last five school days of the 180-day school year for non-instructional purposes for students graduating from high school.

High School Graduation Requirements. The State Board of Education (SBE) is statutorily authorized to establish the state minimum requirements for high school graduation through administrative rules. The current state requirements are to earn a minimum of 20 high school course credits; pass the state assessments or approved alternative assessments; complete a culminating project; and complete a high school and beyond plan (HSBP). The current credit requirements for the class of 2014 are three credits in English and mathematics, two and one-half credits in social studies, two credits in science with one of the credits a lab science, two credits in health and fitness, one credit in the arts and occupational education, and five and one-half credits in electives.

In 2009 the Legislature redefined the Program of Basic Education to provide students with the opportunity to complete 24 credits for high school graduation, subject to a phase-in implementation established by the Legislature. The course distribution requirements may be established by SBE. Changes in graduation requirements proposed by SBE must be submitted to the legislative education committees and the Quality Education Council for review before they are adopted. Changes that are found to have a fiscal impact on school districts take effect only if formally authorized and funded by the Legislature.

In 2010 SBE approved, but did not implement, a 24-credit high school graduation framework. In 2011 SBE implemented a phase-in of changes within the existing required 20 credits that were estimated to have no cost to school districts to take effect with the graduating class of 2016, although districts may seek a two-year extension to implement the

requirements. The changes require an additional credit in English for a total of four, an additional one-half credit in social studies for a total of three, and one and one-half fewer credits in elective courses for a total of four. Additionally, SBE adopted a two-for-one policy that enables students taking a CTE course that is equivalent to an academic course to satisfy two graduation requirements while earning one credit.

In 2014 SBE adopted revisions to its 24-credit graduation requirement framework originally adopted in 2010. The current proposal differs from the requirements for the class of 2016 by requiring an additional credit in lab science and the arts, and two additional credits in world languages. One of the arts credits and both world languages credits may be substituted with personal pathway requirements. Personalized pathway requirements are credits that can be substituted if associated with a student's post-secondary pathway, as provided in the student's HSBP.

While the issue has not been addressed in the Washington State courts, federal and other state courts have generally found that when high school graduation requirements are increased, sufficient notice must be provided to entering students so the students know what is required to earn a diploma and graduate from high school. Freshman students entering high school next year in the 2014-15 school year will be in the graduating class of 2018 if they graduate in four years.

2013-15 Omnibus Appropriation Act. The 2013-15 Omnibus Appropriations Act provides \$97 million to implement the increase in instructional hours for students enrolled in grades seven through 12, beginning with the 2014-15 school year. The amount provided is calculated based on the cost of 2.222 additional hours of instruction per week. Additional funding is also provided to increase the allocation of guidance counselors from 1.909 to 2.009 for each prototypical high school in the 2013-15 Omnibus Appropriations Act.

Summary of Engrossed Second Substitute Bill: The Legislature intends to address flexibility for increasing instructional hours and implementing 24 credits for high school graduation. The intent includes the educational policy reason for shifting the focus and intent of the funding provided for the 2014-15 school year, from compliance with the minimum instructional hours offering to assisting school districts to provide an opportunity for students to earn 24 credits for high school graduation and obtain a meaningful diploma.

CTE Equivalencies. OSPI, in consultation with one or more technical working groups, must develop curriculum frameworks for a selected list of CTE courses whose content in science, technology, engineering, and mathematics is considered equivalent, in full or in part, to science or mathematics courses that meet high school graduation requirements. The course content must be aligned with the state essential academic learning requirements and industry standards. OSPI must submit the course list and curriculum frameworks to SBE for review, public comment, and approval before the 2015-16 school year. The list may be periodically updated thereafter.

Beginning no later than the 2015-16 school year, if the course is offered, school districts must grant academic credit in science or mathematics for the CTE courses on the OSPI list; however, they are not limited to the courses on the list.

Instructional Hours. Beginning with the 2015-16 school year, school districts must offer the minimum of 1000 hours for grades one through eight and 1080 hours for grades nine through 12. Current law allowing districts to use a district-wide average to meet the instructional hours requirement is maintained instead of changing to requiring the minimum number of hours to be provided in each grade level.

Hours scheduled for non-instructional purposes during the last five days of the school year for graduating seniors must count toward the minimum instructional hour requirement.

High School Graduation Requirements. SBE must adopt rules to implement the 24-credit requirement for high school graduation based on the career and college framework to take effect beginning with the graduating class of 2019. School districts must provide students instruction that provides the opportunity to complete 24 credits for high school graduation, beginning with the graduating class of 2019.

Prototypical Funding Formula. A minimum lab science class size enhancement is provided to fund two laboratory science courses per full-time equivalent student to be completed within grades nine through 12. The enhancement is provided at an average class size of 19.98 full-time equivalent students. An additional allocation of \$164.25 for maintenance, supplies, and operating costs are provided to students in grades nine through 12 above the current allocation. High school guidance counselors are increased from 1.909 to 2.539 for each prototypical high school.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute as Heard in Committee (Early Learning & K-12 Education): PRO: These are complicated issues that need to be addressed. We are pleased with the progress that has been made on these issues. We like the time to prepare and phase in these new requirements and the flexibility provided in the bill to delay and restructure the increase in instructional hours, including the five-day senior fix, allowing for a district-wide average. We think SBE's framework is very flexible for the 24 credits, and the CTE equivalency provisions in this bill help with that flexibility. We are taking a leap of faith regarding how the instructional hour appropriation will be repurposed for the 24-credit requirement since that is not specified in the bill. By defining a meaningful diploma with the 24 credits, it provides structure and conditions that will allow schools to implement the requirements well because of the flexibility. The Legislature first directed SBE to start looking at the diploma requirements in 2006 and half a million students have graduated since then, so it is time to ramp up to 24 credits. Our students are in an increasingly competitive environment for jobs, so having a meaningful diploma will assist Washington students to be better prepared. We suggest that the requirement for 24 credits be implemented beginning with the class of 2021, after basic education is fully funded. We request a fix for an unintended consequence by being clear that the district only grants

equivalencies if the course is offered. We ask that you clearly specify the SBE framework on 24 credits to be used is the one adopted on January 2014, and we encourage a default enrollment in courses that meet the college entrance requirements and the high school diploma requirements but allow students to opt out if they have a parent signature.

OTHER: We support the 24-credit requirement but we are concerned that it will be implemented unfairly, especially for students who want to take CTE courses at a skill center. A key point of flexibility is the CTE equivalencies for the 24 credits and putting both in the same bill connects the 24-credit requirement in a meaningful way. We do not agree that the 24 credits should not be based on the SBE framework. There needs to be additional flexibility to implement the increased credit requirements for students who want to attend a skill center for a block of time. Additionally, the flexibility in the 24-credit framework is difficult to understand and to be navigated by some students. There is a difference between moving toward flexibility and a redefinition of basic education. We do not understand the direction of requiring hours by grade and then averaging across the district or how that would be enforced by SBE.

Persons Testifying (Early Learning & K-12 Education): PRO: Senator Rolfes, prime sponsor; Dan Steele, WA Assn. of School Administrators; Frank Ordway, League of Education Voters; Jerry Bender, Assn. of WA School Principals; Dave Powell, Stand for Children, Executive Director; Charlie Brown, School Alliance; Anne Heavey, WA Roundtable & Partnership for Learning, Policy Manager; Marie Sullivan, WA State School Directors Assn.

OTHER: Wendy Rader-Konofalski, WA Education Assn.; Justin Montermini, Workforce Board; Tim Knue, WA Assn. of CTE; Ben Rarick, SBE.

Staff Summary of Public Testimony on Substitute as Passed Early Learning & K-12 Education (Ways & Means): PRO: The 24-credit diploma would put our state on par with the other global challenge states, and ensure that students are graduating with a meaningful high school diploma. Washington has some of the highest remediation rates for students attending community colleges in the country. This bill assures that all students are given an equal and fair opportunity to attain the promise of the paramount duty.

Many students applying for jobs out of high school do not meet basic skills in mathematics and English. Students coming out of high school should be career and college ready.

This bill provides a fair solution. It provides flexibility for the calculation of instructional hours, while still preserving the outcome of improved post-secondary preparation and a meaningful high school diploma. Students need some form of post-secondary education to access for living-wage jobs. The 24-credit diploma prepares students for these opportunities. This should not be delayed past the graduation class of 2019.

OTHER: The repurposing of funding is supported, but it may not be enough. There is concern that the implementation date for the 24-credit high school diploma may be too soon. If full funding of basic education does occur on the *McCleary* timeline, then the first graduation class under 24 credits should be 2021.

Persons Testifying (Ways & Means): PRO: Frank Ordway, League of Education Voters; Neil Strege, WA Roundtable; Julia Suliman, SBE; Mitch Denning, Alliance of Educational Assns.

OTHER: Wendy Rader-Konofalski, WA Education Assn.

SECOND SUBSTITUTE SENATE BILL 6163

State of Washington

63rd Legislature

2014 Regular Session

By Senate Ways & Means (originally sponsored by Senators Billig, Litzow, Frockt, Dammeier, McAuliffe, Rolfes, King, Tom, Kohl-Welles, and Keiser)

READ FIRST TIME 02/11/14.

AN ACT Relating to expanded learning opportunities; adding a new chapter to Title 28A RCW; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1 (1) The legislature finds that studies have documented that many students experience learning losses when they do not engage in educational activities during the summer. The legislature further finds that research shows that summer learning loss contributes to the educational opportunity gaps between students in Washington's schools and that falling behind in academics can be a predictor of whether a student will drop out of school. The legislature recognizes that such academic regression has a disproportionate impact on low-income students. The legislature acknowledges that access to quality expanded learning opportunities during the school year and summer helps mitigate summer learning loss and improves academic performance, attendance, on-time grade advancement, and classroom behaviors.

(2) The legislature intends to increase expanded learning opportunities by identifying ten schools to participate in a pilot program to combat summer learning loss and provide an opportunity to evaluate the effectiveness of an extended school year to improve student achievement, close the educational opportunity gap, and provide successful models for other districts to follow. The pilot schools may participate with a community-based organization to provide the expanded learning opportunities. The legislature further intends to build capacity, identify best practices, leverage local resources, and promote a sustainable expanded learning opportunities system for students in early elementary through secondary schools by providing an ongoing work group and infrastructure that helps coordinate expanded learning opportunity efforts throughout the state.

NEW SECTION. Sec. 2 As used in this chapter, "expanded learning opportunities" means:

- (1) Culturally responsive enrichment and learning activities, which may focus on academic and nonacademic areas; arts; civic engagement; service-learning and science; technology, engineering, and mathematics; and competencies for college and career readiness;
- (2) School-based programs that provide extended learning and enriching experiences for students

beyond the traditional school day, week, or calendar; and

(3) Structured, intentional, and creative learning environments outside the traditional school day that build partnerships with schools, align in-school and out-of-school learning, and create enriching experiences for youth using activities that complement classroom-based instruction. The opportunities may be provided before or after school, during the summer, or as extended day, week, or year programs.

NEW SECTION. Sec. 3 (1) The expanded learning opportunities council is established to advise the governor, state legislature, and the superintendent of public instruction regarding an expanded learning opportunities system with particular attention paid to solutions to summer learning loss.

(2) The council shall also provide a vision, guidance, assistance, and advice related to potential improvement and expansion of summer learning opportunities, school-year calendar modifications that will help reduce summer learning loss, and support of an expanded learning opportunities system, as well as other current or proposed programs and initiatives across the spectrum of early elementary through secondary education so that the needs and demands for a statewide coordinated system of expanded learning opportunities are identified and an expanded learning opportunities system is developed.

(3) The council shall identify fiscal, resource, and partnership opportunities, coordinate policy development, set quality standards, and develop a comprehensive expanded learning opportunities action plan designed to implement expanded learning opportunities, address summer learning loss, provide academic supports, build strong school-community-based organization partnerships, and track performance of expanded learning opportunities in closing the opportunity gap, so that students receive maximum and direct benefit.

(4) When making recommendations regarding best practices, the council shall consider the best practices on the state menus developed in accordance with RCW 28A.165.035 and 28A.655.235.

(5) The governor's office, in consultation with the superintendent of public instruction, shall convene the expanded learning opportunities council. The members of the council must have experience in expanded learning opportunities, and include groups and agencies representing diverse student interests and geographical locations across the state. Up to fifteen participants, agencies, organizations, or individuals may be invited to participate in the expanded learning opportunities council but the membership shall include the following:

(a) Three representatives from nonprofit community-based organizations;

(b) One representative from regional work force development councils;

(c) One representative from each of the following organizations or agencies:

(i) The Washington state school directors' association;

(ii) The state-level association of school administrators;

(iii) The state-level association of school principals;

(iv) The state board of education;

(v) The statewide association representing certificated classroom teachers and educational staff associates;

(vi) The office of the superintendent of public instruction;

(vii) The state-level parent-teacher association;

(viii) Higher education; and

(ix) A nonprofit organization with statewide experience in expanded learning opportunities frameworks.

(6) Staff support for the expanded learning opportunity council shall be provided by the superintendent of public instruction and other state agencies as necessary. Appointees of the council shall be selected by May 30, 2014. The council shall hold its first meeting before August 1, 2014. At the first meeting, the council shall determine regularly scheduled meeting times and locations. The council shall provide a report to the governor and the legislature by December 1, 2014, and by December 1st annually thereafter.

(7) The first report submitted by December 1, 2014, shall include recommendations for a framework and action plan for a pilot program, including identification of ten potential pilot schools, for the legislature to consider implementing in the 2015-2017 biennium. The pilot program shall provide state funding for three years for twenty additional student learning days for up to ten schools. The intent of the pilot program is to combat summer learning loss; provide an opportunity to evaluate the effectiveness of additional time outside the regular school calendar to improve student achievement and close educational opportunity gaps; and provide successful models for other districts to follow. An eligible school is one that includes at least any two grade levels within kindergarten through grade five, and where seventy-five percent or more of the students qualify for the free and reduced-price lunch program. School districts must solicit input on the design of the plan from staff at the school, parents, and the community, including at an open meeting, and may subsequently adopt a plan for the additional twenty days at a public hearing. The pilot schools may participate with a community-based organization to provide the expanded learning opportunities. The pilot program must include an evaluation of the effectiveness of the program, an examination of student academic progress, and a recommendation of whether twenty days is the optimal number of days to be provided as additional support.

(8) The council shall encourage any school district, including one identified in subsection (7) of this section, to implement a pilot program such as the one described in subsection (7) of this section on a faster timeline using local or grant funds.

NEW SECTION. Sec. 4 Sections 1 through 3 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. Sec. 5 This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2540

State of Washington

63rd Legislature

2014 Regular Session

By House Appropriations Subcommittee on Education (originally sponsored by Representatives Stonier, Morrell, Magendanz, Fey, Bergquist, Haigh, Freeman, and Lytton; by request of Governor Inslee)

READ FIRST TIME 02/11/14.

AN ACT Relating to establishing career and technical course equivalencies in science and mathematics; amending RCW 28A.700.070, 28A.230.097, and 28A.230.010; adding a new section to chapter 28A.305 RCW; creating new sections; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Sec. 1 (1) The legislature finds that an increasing number of career opportunities in high-demand fields will require solid knowledge and skills in science, technology, engineering, and mathematics, including opportunities at all levels of postsecondary education from apprenticeship to industry certification to postbaccalaureate degrees.

(2) The legislature further finds that career and technical courses can be designed to offer rigorous academic content through applied learning that is relevant and engaging for students. However, although there is a requirement that school districts adopt policies regarding granting academic credit for equivalent career and technical courses, in practice these policies are not applied in a consistent fashion across the state.

(3) Therefore, in order to offer high school students increased flexibility and expanded opportunities to gain critical knowledge and skills and meet high school graduation requirements in mathematics and science, the legislature intends to require establishment of a standardized set of career and technical course equivalents through a process that assures the courses are both rigorous and relevant for students. Further, the legislature intends to offer high school students the opportunity to access career and technical education course equivalencies for mathematics and science.

Sec. 2 RCW 28A.700.070 and 2008 c 170 s 201 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall support school district efforts under RCW 28A.230.097 to adopt course equivalencies for career and technical courses by:

(a) Recommending career and technical curriculum suitable for course equivalencies;
(b) Publicizing best practices for high schools and school districts in developing and adopting course equivalencies; and

(c) In consultation with the Washington association for career and technical education, providing professional development, technical assistance, and guidance for school districts seeking to

expand their lists of equivalent courses.

(2) The office of the superintendent of public instruction shall provide professional development, technical assistance, and guidance for school districts to develop career and technical course equivalencies that also qualify as advanced placement courses.

(3) The office of the superintendent of public instruction, in consultation with one or more technical working groups convened for this purpose, shall develop curriculum frameworks for a selected list of career and technical courses that may be offered by high schools or skill centers whose content in science, technology, engineering, and mathematics is considered equivalent in full or in part to science or mathematics courses that meet high school graduation requirements. The content of the courses must be aligned with state essential academic learning requirements to reflect the common core state standards in mathematics and the next generation science standards and industry standards. The office shall submit the list of equivalent career and technical courses and their curriculum frameworks to the state board of education for review, an opportunity for public comment, and approval. The first list of courses under this subsection must be developed and approved before the 2015-16 school year. Thereafter, the office may periodically update or revise the list of courses using the process in this subsection.

(4) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall allocate grant funds to school districts to increase the integration and rigor of academic instruction in career and technical courses. Grant recipients are encouraged to use grant funds to support teams of academic and technical teachers using a research-based professional development model supported by the national research center for career and technical education. The office of the superintendent of public instruction may require that grant recipients provide matching resources using federal Carl Perkins funds or other fund sources.

Sec. 3 RCW 28A.230.097 and 2013 c 241 s 2 are each amended to read as follows:

(1) Each high school or school district board of directors shall adopt course equivalencies for career and technical high school courses offered to students in high schools and skill centers. A career and technical course equivalency may be for whole or partial credit. Each school district board of directors shall develop a course equivalency approval procedure. Boards of directors must approve AP computer science courses as equivalent to high school mathematics or science, and must denote on a student's transcript that AP computer science qualifies as a math-based quantitative course for students who take the course in their senior year. In order for a board to approve AP computer science as equivalent to high school mathematics, the student must be concurrently enrolled in or have successfully completed algebra II. Beginning no later than the 2015-16 school year, a school district board of directors must, at a minimum, grant academic course equivalency in mathematics or science for a high school career and technical course from the list of courses approved by the state board of education under RCW 28A.700.070, but is not limited to the courses on the list. If the list of courses is revised after the 2015-16 school year, the school district board of directors must grant academic course equivalency based on the revised list beginning with the school year immediately following the revision.

(2) Career and technical courses determined to be equivalent to academic core courses, in full or in part, by the high school or school district shall be accepted as meeting core requirements, including graduation requirements, if the courses are recorded on the student's transcript using the equivalent academic high school department designation and title. Full or partial credit shall be recorded as appropriate. The high school or school district shall also issue and keep record of course completion certificates that demonstrate that the career and technical courses were

successfully completed as needed for industry certification, college credit, or preapprenticeship, as applicable. The certificate shall be either part of the student's high school and beyond plan or the student's culminating project, as determined by the student. The office of the superintendent of public instruction shall develop and make available electronic samples of certificates of course completion.

Sec. 4 RCW 28A.230.010 and 2003 c 49 s 1 are each amended to read as follows:

(1) School district boards of directors shall identify and offer courses with content that meet or exceed: ~~((1))~~ (a) The basic education skills identified in RCW 28A.150.210; ~~((2))~~ (b) the graduation requirements under RCW 28A.230.090; ~~((3))~~ (c) the courses required to meet the minimum college entrance requirements under RCW 28A.230.130; and ~~((4))~~ (d) the course options for career development under RCW 28A.230.130. Such courses may be applied or theoretical, academic, or vocational.

(2) School district boards of directors must provide high school students with the opportunity to access at least one career and technical education course that is considered equivalent to a mathematics course or at least one career and technical education course that is considered equivalent to a science course as determined by the office of the superintendent of public instruction and the state board of education in RCW 28A.700.070. Students may access such courses at high schools, interdistrict cooperatives, skill centers or branch or satellite skill centers, or through online learning or applicable running start vocational courses.

(3) School district boards of directors of school districts with fewer than two thousand students may apply to the state board of education for a waiver from the provisions of subsection (2) of this section.

NEW SECTION. Sec. 5 A new section is added to chapter 28A.305 RCW to read as follows: The state board of education may grant a waiver from the provisions of RCW 28A.230.010(2) based on an application from a board of directors of a school district with fewer than two thousand students.

NEW SECTION. Sec. 6 Sections 4 and 5 of this act take effect September 1, 2015.

NEW SECTION. Sec. 7 If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2014, in the omnibus appropriations act, this act is null and void.

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ENGROSSED SUBSTITUTE SENATE BILL 6242

State of Washington

63rd Legislature

2014 Regular Session

By Senate Early Learning & K-12 Education (originally sponsored by Senators King, Rolfe, Litzow, Billig, Fain, Chase, and McAuliffe)

READ FIRST TIME 02/07/14.

AN ACT Relating to waivers from the one hundred eighty-day school year requirement; and amending RCW 28A.305.141.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1 RCW 28A.305.141 and 2009 c 543 s 2 are each amended to read as follows:

- (1) In addition to waivers authorized under RCW 28A.305.140 and 28A.655.180, the state board of education may grant waivers from the requirement for a one hundred eighty-day school year under RCW 28A.150.220 (~~and 28A.150.250~~) to school districts that propose to operate one or more schools on a flexible calendar for purposes of economy and efficiency as provided in this section. The requirement under RCW 28A.150.220 that school districts offer an annual average instructional hour offering (~~of at least one thousand hours~~) shall not be waived.
- (2) A school district seeking a waiver under this section must submit an application that includes:
- (a) A proposed calendar for the school day and school year that demonstrates how the instructional hour requirement will be maintained;
 - (b) An explanation and estimate of the economies and efficiencies to be gained from compressing the instructional hours into fewer than one hundred eighty days;
 - (c) An explanation of how monetary savings from the proposal will be redirected to support student learning;
 - (d) A summary of comments received at one or more public hearings on the proposal and how concerns will be addressed;
 - (e) An explanation of the impact on students who rely upon free and reduced-price school child nutrition services and the impact on the ability of the child nutrition program to operate an economically independent program;
 - (f) An explanation of the impact on the ability to recruit and retain employees in education support positions;
 - (g) An explanation of the impact on students whose parents work during the missed school day; and
 - (h) Other information that the state board of education may request to assure that the proposed flexible calendar will not adversely affect student learning.
- (3) The state board of education shall adopt criteria to evaluate waiver requests. No more than five school districts with fewer than five hundred full-time equivalent students on October 1st of

the school year in which the request is made may be granted waivers. Waivers may be granted for up to three years. After each school year, the state board of education shall analyze empirical evidence to determine whether the reduction is affecting student learning. If the state board of education determines that student learning is adversely affected, the school district shall discontinue the flexible calendar as soon as possible but not later than the beginning of the next school year after the determination has been made. ~~((All waivers expire August 31, 2014.~~

~~(a) Two of the five waivers granted under this subsection shall be granted to school districts with student populations of less than one hundred fifty students.~~

~~(b) Three of the five waivers granted under this subsection shall be granted to school districts with student populations of between one hundred fifty one and five hundred students.))~~

(4) The state board of education shall examine the waivers granted under this section and make a recommendation to the education committees of the legislature by December 15, 2013, regarding whether the waiver program should be continued, modified, or allowed to terminate. This recommendation should focus on whether the program resulted in improved student learning as demonstrated by empirical evidence. Such evidence includes, but is not limited to: Improved scores on the ~~((Washington))~~ statewide student assessment ~~((of student learning))~~, results of the dynamic indicators of basic early literacy skills, student grades, and attendance.

~~((5) This section expires August 31, 2014.))~~

--- END ---



OVERVIEW OF SUPREME COURT ORDER ON *McCleary et al. v. STATE OF WASHINGTON*

The *McCleary* Ruling:

In January 2012, the Supreme Court ruled in the case *McCleary et al. v. State of Washington* that the state was not meeting its constitutional obligation to fully fund the program of basic education. The Court ordered that the Legislature fully fund basic education by 2018, according to the program of basic education established by ESHB 2261 and SHB 2776. The Court retained jurisdiction in the case, and the Legislature must submit annual reports to the Court demonstrating measurable progress made during each legislative session.

The *McCleary* Order:

On January 9, 2014 the Supreme Court of Washington issued an order to the Legislature stating that the actions taken during the 2013 legislative session were not sufficient progress towards meeting the Court’s requirement of full-funding by 2018. The court order references the Joint Task Force on Education Funding (JTFEF) report and the Quality Education Council (QEC) recommendations as the measures the Legislature, and thus the Court, is using to assess funding progress. The Court finds that the Legislature did not fund components of basic education, such as transportation and materials, supplies, and other costs (MSOC) at the rates outlined in the JTFEF report. The Court also finds that the restoration of previous salary cuts did not offset the state’s lack of a cost-of-living increase for teachers, and that no consideration was made for the capital needs and costs resulting from reductions in class-size and increases in full-day kindergarten enrollment. It should be noted that neither cost-of-living increases nor capital costs are part of the current definition of basic education. However, the Court asserts that they are necessary components for the delivery of the program of basic education¹.

Comparison of JTFEF Final Report and 2013-2015 Budget Passed by Legislature in 2013 (as cited in court order)

Table with 3 columns: Category, JTFEF 2013-2015 (millions), Budget 2013-2015 (millions). Rows include Transportation, MSOC, Full-day K, and K-3 Class Size.

As a result of its finding that sufficient progress was not made during the most recent budget cycle, and the Legislature is not on track, based on the JTFEF and QEC recommendations, to

¹ Teacher salaries are part of the funding formula (through a staff mix factor) that determines each district’s allocations. In the original *McCleary* ruling, the Court found that the current salary schedule did not reflect actual costs and was insufficient.

fully funding basic education by 2018, the Court is requiring a plan and timetable to be submitted by the Legislature by April 30, 2014.

The *McCleary* Order Dissent:

Justice Johnson wrote a dissenting opinion to the January 2014 court order, arguing that the Court does not have the mechanisms, nor the authority, to address budgetary matters, and thus cannot make a determination of whether the Legislature's progress is "adequate." The state budget is the responsibility of the Legislature. The dissent also asserts that the Court cannot bind elected officials that were not in office at the time of the original court ruling and calls into question how the Court could constitutionally enforce its ruling.

THE SUPREME COURT OF WASHINGTON

BY RONALD R. CARPENTER

CLERK

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

ORDER

Supreme Court No. 84362-7

King County No. 07-2-02323-2 SEA

"It is the paramount duty of the state to make ample provision for the education of all children residing within its borders." WASH. CONST. art. IX, § 1. This is the only "paramount duty" our founders inscribed in our constitution. ROBERT F. UTTER & HUGH D. SPITZER, THE WASHINGTON STATE CONSTITUTION, A REFERENCE GUIDE 169 (2d ed. 2013). Two years ago, this court held unanimously that the State is not meeting its paramount duty. McCleary v. State, 173 Wn.2d 477, 269 P.3d 227 (2012). Recognizing that the legislature had enacted a promising set of reforms, the court deferred to its efforts but retained jurisdiction over this case to ensure timely and full compliance with the mandate to amply fund education. Last year, we recognized that the 2013 legislative session would provide the first full opportunity for the State to "lay out a detailed plan and then adhere to it." Order, McCleary v. State, No. 84362-7, at 2 (Wash. Dec. 20, 2012). Our order dated December 20, 2012 directed the State to set out its plan for implementing education reforms in "sufficient detail to allow progress to be measured according to periodic benchmarks

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between now and 2018” and reiterated that “[y]ear 2018 remains a firm deadline for constitutional compliance.” *Id.*

Today, this matter is before the court following the State’s filing of the 2013 “Report to the Washington State Supreme Court by the Joint Select Committee on Article IX Litigation” (hereinafter Report) and the plaintiffs’ response. The Report summarizes steps taken in 2013, using the 2012 flat level of basic education funding as the baseline for measurement. Report at 5.¹ The Report also continues to rely on the reports of the Quality Education Council (QEC) and the Joint Task Force on Education Funding (JTFEF), which made recommendations to the legislature on how to implement the reforms enacted in 2009 in ESHB 2261 and 2010 in SHB 2776. Report at 7. By the State’s calculation, the 2013-15 operating budget achieves an 11.4 percent increase in basic education funding over 2011-13 estimated expenditures. Report at 2. Measured against maintenance level funding, the \$982 million allocated to K-12 basic education for the 2013-15 biennium translates into a 6.7 percent increase over the constitutionally inadequate level of funding. *Id.* The State also indicates that it has enhanced funding for programs beyond the elements specified in SHB 2776 and continues to “review, revise, and enhance other components within the basic education formulas.” Report at 3.

One thing is obvious from the State’s Report: unlike in 2012, meaningful steps were taken in the 2013 legislative session to address the constitutional imperative of amply providing for basic

¹ The Report acknowledges that the legislature made no changes to basic education funding during the 2012 session. Report at 5. Thus, it describes its 2012 report as establishing a “baseline description of the K-12 budget” and offering information about legislative activities in order to “provide context for future reports.” *Id.*

education. Recognizing there is debate over whether the State can claim a total of \$982 million in enhancements to the program of basic education,² the 2013-15 operating budget is undeniably an improvement over the last biennial budget. Moreover, implementing education reform has become a higher priority for the State, as even a casual observer of the 2013 legislative session could not fail to appreciate.

What is not clear, however, is how the State is measuring success when it asks us to “find that the State is making progress toward implementing the reforms initiated in ESHB 2261 and achieving full compliance with article IX, section 1 by 2018.” State of Washington’s Resp. to the Court’s Orders dated July 18, 2012 and December 20, 2012: The Legislature’s 2013 Post-Budget Report at 5. Looking at the gross numbers, the overall increased investment in basic education is only a modest 6.7 percent above current funding levels that violate the constitution, and there are not even two full budget cycles left to make up the sizable gap before the school year ending in 2018. The Report confirms that the State remains committed to ESHB 2261 and SHB 2776 and intends to fully fund its reforms, consistent with the reports of the QEC and JTFFEF. At the same time, the Report claims substantial progress and even “full implementation” of transportation funding by relying on cost figures that are lower than the projections of its own committee and task force, as well as the Office of the Superintendent of Public Instruction (OSPI). *See* Report at 12-13.

Transportation, for example, is funded at \$131.7 million for the 2013-15 biennium, with a phase in plan that leaves \$109.7 million for the 2014-15 school year. Report at 12-13, 21. As we

² The plaintiffs identify education funding shifts and cuts, such as striking K-12 staff cost-of-living increases in the amount of \$295.5 million, and claim the actual biennial education budget increase was only \$649 million. Pls./Resp’ts’ 2013 Post-Budget Filing (Pls.’ Resp.) at 14 & n.41.

noted in our opinion in this case, the 2010 QEC report estimated that state funding of transportation would *fall short* by nearly this amount during the 2009-10 school year. *McCleary*, 173 Wn.2d at 509. Moreover, the December 2012 JTFFEF Final Report indicated that \$141.6 million would be needed in 2013-15 to stay on target toward full transportation funding, with substantial increases again in 2015-17. JTFFEF Final Report at 3. The plaintiffs' rightly complain that the State appears to have revised the cost estimates based on a formula that its own analysis shows falls short. Pls./Resp'ts' 2013 Post-Budget Filing (Pls.' Resp.) at 23-24 & nn.74, 75 (discussing RCW 28A.160.192 and 2013 OSPI Transportation Update). We cautioned in 2012 that revised funding formulas cannot be used to declare "full funding," when the actual costs of meeting the education rights of Washington students remain unfunded. *See McCleary*, 173 Wn.2d at 532.

Even more troubling is the apparent lack of progress toward fully funding essential materials, supplies and operation costs (MSOCs). The JTFFEF identified MSOCs as the area requiring the greatest increase in state funding, estimating a need for \$597.1 million in 2013-15, followed by \$1.410.9 billion in 2015-17 and \$1.554.7 billion in 2017-19. JTFFEF Final Report at 3. The State's 2013-15 operating budget includes \$374 million for MSOCs. Report at 12. By its own estimates, this leaves a gap of about \$857 million to make up in the 2015-17 biennium, *id.*, and the JTFFEF figures suggest the gap is even wider, JTFFEF Final Report at 3. We agree with the plaintiffs that "[e]stimating the size of the shortfall in the next biennium is not a plan." Pls.' Resp. at 28 n.85. Underfunding MSOCs places an unsustainable burden on school districts. That burden is exacerbated when at the same time nonemployee related costs are underfunded, the State funds instructional and class-size reduction programs that incur additional costs to local districts. Consider,

for example, full-day kindergarten and early elementary class-size reduction. The 2013-15 education budget invests \$89.8 million in full-day kindergarten, anticipating an increase in enrollment from 22 percent to 43.75 percent. Report at 2, 14. It also provides \$103.6 million for K-3 class-size reduction in high poverty schools, with a goal of reducing class size to about 20 students in the 2014-15 school year. *Id.* at 13-14.³ The plaintiffs cite OSPI's 2013 Facilities Capacity Report to note that school districts are strapped for the physical space to meet these goals. Pls.' Resp. at 32, 36. OSPI estimates that additional capital expenditures are required of approximately \$105 million for full-day kindergarten and \$599 million for K-3 class-size reduction by 2017-18. *Id.* Make no mistake, enhanced funding for full-day kindergarten and class-size reduction is essential, but the State must account for the actual cost to schools of providing these components of basic education. We recognized long ago that the paramount duty to amply fund education under article IX, section 1 must be borne by the State, not local school districts. *See generally Seattle Sch. Dist. No. 1 v. State*, 90 Wn.2d 476, 536-37, 585 P.2d 71 (1978).

Another area in which the State's Report falls short concerns personnel costs. Quality educators and administrators are the heart of Washington's education system. The Report outlines increased state funding for instructional hours, the learning assistance program, and some counseling programs. Report at 15-16. But it skims over the fact that state funding of educator

³ The State acknowledges that the estimated cost of reaching full implementation of the reduced class-size law by the 2017-18 school year is \$1.096 billion for the 2017-19 biennium. Report at 14. The JTFEF had recommended spending \$219.2 million in the 2013-15 biennium to stay on target to reaching this goal. JTFEF Final Report at 3. A minority alternative proposal to the JTFEF Final Report would have put an immediate priority on K-3 class-size reduction, investing \$575 million to fund the first half in 2013-15 and another \$576 million in 2015-17. *Id.* at App. E-3.

and administrative staff salaries remains constitutionally inadequate. Our decision in this case identified salaries as a significant area of underfunding by the State, noting OSPI data suggesting that sizable salary gaps remain to be filled at the district level. *McCleary*, 173 Wn.2d at 536; *see also Fed. Way Sch. Dist. No. 210 v. State*, 167 Wn.2d 514, 522 & n.11, 219 P.3d 941 (2009) (noting with respect to state pay for administrator salaries that “[t]hese figures have no correlation to the real cost of hiring administrators”). The State notes that its 2013-15 budget restores previous temporary salary reductions (1.9 percent for certificated instructional and classified staff and 3 percent for administrators), but at the same time it suspends the cost-of-living increases imposed by Initiative 732, which totaled \$295.5 million. Report at 10, 17. The Report identifies this salary cut as part of “savings and reductions in non-basic education,” Report at 10, but nothing could be more basic than adequate pay. The inescapable fact is that salaries for educators in Washington are no better now than when this case went to trial. This despite the report of the ESHB 2261 compensation work group concluding that the State needs to invest at least a billion dollars a year—above inflationary adjustments—to bring salary funding in line with actual costs. *See* 2012 Compensation Technical Working Group Final Report (June 30, 2012) at 47. It is deeply troubling that the State’s Report does not address this component of ESHB 2261 or offer any plan for meeting its goals.

Overall, the State’s Report demonstrates that it understands what progress looks like, and unlike in 2012, it has taken some steps toward fulfilling its constitutional mandate. But, it cannot realistically claim to have made significant progress when its own analysis shows that it is not on target to implement ESHB 2261 and SHB 2776 by the 2017-18 school year. A rough comparison

of the funding levels for core areas identified in the JTFEF Final Report and provided in the 2013-15 biennial budget suggests the need for a greater immediate investment. Broken down by category, the JTFEF Final Report proposed a spending plan for implementing SHB 2776 that would require the 2013-15 budget to include \$141.6 million for transportation, \$597.1 million for MSOCs, \$219.2 million for K-3 class-size reduction, and \$89.3 million for full-day kindergarten. The 2013-15 biennial budget provides \$131.7 million for transportation, \$374 million for MSOCs, \$103.6 million for class-size reduction, and \$89.8 million for full-day kindergarten.⁴ Thus, the current level of funding falls short of the JTFEF plan in every category except full-day kindergarten, and, as noted, the funding for that category does not account for the additional capital investment needed to implement full-day kindergarten. Moreover, the JTFEF spending plan projects a steep upward curve in funding levels in the next two biennia, requiring \$3.35 billion in 2015-17 and \$4.48 billion in 2017-19. In order for the court to find the legislature is making progress toward full compliance with its constitutional responsibility, the State must address each of these core areas of basic education and provide a timetable for funding its plan.

⁴ The JTFEF spending plan also includes \$66.5 million for accountability, evaluation and common core, and \$169.8 million for classified and administrative salary allocations, neither of which is specifically identified as an enhancement in ESHB 2261 or SHB 2776, as well as \$140.4 million for the career and college ready plan. And, the 2013-15 budget includes funding for several other enhancement programs. Our comparison of the core categories identified in the *McCleary* decision and our 2012 order should not be interpreted as suggesting that funding in these other areas is unimportant to fulfilling the State's constitutional mandate. Nor does our reference to the funding recommendations in the JTFEF Final Report suggest that it provides the only constitutionally viable plan. Rather, these figures illustrate at a minimum the budgeting priorities that would demonstrate real and measurable progress designed to achieve full compliance with article IX, section 1 by 2018.

One reason we retained jurisdiction over this case is to foster dialogue and cooperation in reaching a goal shared by all Washingtonians. The legislature is embarking on a short session in 2014, where it has an opportunity to take a significant step forward. We are aware that OSPI has submitted a supplemental budget request of approximately \$544 million, with \$461 million addressing basic education funding. The need for immediate action could not be more apparent. Conversely, failing to act would send a strong message about the State's good faith commitment toward fulfilling its constitutional promise. This court also made a promise to the school children of Washington: We will not "idly stand by as the legislature makes unfulfilled promises for reform." *McCleary*, 173 Wn.2d at 545. Our decision in this case remains fully subject to judicial enforcement.

We have no wish to be forced into entering specific funding directives to the State, or, as some state high courts have done, holding the legislature in contempt of court. But, it is incumbent upon the State to demonstrate, through immediate, concrete action, that it is making real and measurable progress, not simply promises. Toward that end, it is hereby ordered: the State shall submit, no later than April 30, 2014, a complete plan for fully implementing its program of basic education for each school year between now and the 2017-18 school year. This plan must address each of the areas of K-12 education identified in ESHB 2261, as well as the implementation plan called for by SHB 2776, and must include a phase-in schedule for fully funding each of the components of basic education. We recognize that the April 30, 2014 deadline shortens the time for the State's report, but it is clear that the pace of progress must quicken. In order to facilitate

judicial oversight, this court may also require more periodic reports detailing the State's strategy for fully meeting the mandate of article IX, section 1.

IT IS SO ORDERED.

DATED at Olympia, Washington this 9th day of January, 2014.

Madsen, C. J.
CHIEF JUSTICE

WE CONCUR:

Johnson

Parsons

Fainhurst, J.

Stephens, J.

Wiggin, J.

Cornález, J.

Geel McLeod, J.

Dissent to Order: Under the constitution, only the legislature is empowered to define and fund basic education.

No. 84362-7

J.M. JOHNSON, J. (dissenting)—It is the sworn duty of each member of this court to “take and subscribe an oath that he will support the Constitution of the United States and the Constitution of the State of Washington.” WASH. CONST. art. IV, § 28. Although not specifically required by state statutory or constitutional provisions, legislators take a similar oath. *See* RCW 43.01.020. Pursuant to this oath, the legislature holds a constitutionally delegated duty specific to the funding of education. The judiciary does not.

I write separately to express concern over the impropriety—indeed unconstitutionality—of the court’s expanding exercise of continuing jurisdiction over the school system, which requires control of both the legislative and executive branches.

Such unwarranted extension of judicial authority violates both the constitutional separation of powers and the explicit delegation of definitions and funding for education to the legislature. That delegation is set forth in such explicit

language of Washington Constitution article IX, section 2, that one need not be a lawyer to understand¹:

The legislature shall provide for a general and uniform system of public schools. The public school system shall include common schools, and such high schools, normal schools, and technical schools as may hereafter be established. But the entire revenue derived from the common school fund and the state tax for common schools shall be exclusively applied to the support of the common schools.

I earlier noted in my dissent to this court's previous December 2012 order that "[t]he spirit of reciprocity and interdependence [in our constitution] 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." Order, *McCleary v. State*, No. 84362-7, at 3-4 (Wash. Dec. 20, 2012) (J.M. Johnson, J., dissenting) (first alteration in original) (quoting *In re Salary of Juvenile Director*, 87 Wn.2d 232, 243, 552 P.2d 163 (1976)).

¹ Indeed, less than one-third of the Washington Constitution delegates were lawyers. Only 23 delegates out of 75 were lawyers. See Charles K. Wiggins, *The Twenty-Three Lawyer-Delegates to the Constitutional Convention*, WASH. ST. B. NEWS, Nov. 1989, at 9-14; WASH. SEC'Y OF STATE, WASHINGTON HISTORY: THE WASHINGTON STATE CONSTITUTION—1889, <http://www.sos.wa.gov/history/constitution.aspx> (last visited Jan. 10, 2014). Twice as many of these lawyer-delegates received their legal education by reading law in a law office as by attending law school. Wiggins, *supra*, at 9. Not one delegate ever suggested that the constitution's educational funding mechanism would be insufficient, requiring courts to step in and oversee this legislative function.

This court's expanding control of the legislature's funding of education continues to be a violation of the state's constitution. I, once again, direct this court to article IX, section 2 of our state constitution, which requires that "[t]he legislature shall provide for a general and uniform system of public schools." (Emphasis added.) This court's exercise of continuing jurisdiction in this case usurps what is intended to be and what expressly is a legislative function and duty. It is particularly illogical that the court purports to bind legislators—and a governor—who were not even elected at the time of the earlier order. This January 2014 order was specifically chosen to predate the newest terms of office. Order, *McCleary v. State*, No. 84362-7 (Wash. Jan. 9, 2014).

The legislature—not any court—is the body capable of gathering relevant information regarding competing state budget interests and funding each according to available resources provided from the economy and tax resources. Given this court's total lack of record concerning such other budgetary matters, it is improper that a court would retain jurisdiction in this case to control this one portion. Budgetary matters are the province of the legislature, which is equipped with mechanisms for gathering public input through elected representation and may even raise or lower funding sources. This court is not constitutionally delegated to perform such information-gathering process.

Such exercise of continuing jurisdiction would be of grave concern to the authors of the constitution given that this court's decision-making procedures are not nearly as transparent as those of the legislature. In these ongoing proceedings, there will be no public trial with an easily accessible record.² We have held, for example, that the Public Records Act, chapter 42.56 RCW, does not generally apply to the judiciary. *City of Federal Way v. Koenig*, 167 Wn.2d 341, 343, 217 P.3d 1172 (2009); *accord Nast v. Michels*, 107 Wn.2d 300, 730 P.2d 54 (1986). Today's order undermines our state's separation of powers doctrine, which exists "to ensure that the fundamental functions of each branch remain inviolate." *Carrick v. Locke*, 125 Wn.2d 129, 135, 882 P.2d 173 (1994).

That today's actions are a violation of the separation of powers is further illustrated by the majority's difficulty in evaluating the progress made by the legislature. We simply do not have enough information to know whether the legislature's outlined progress is adequate. The workings of a state involve many interconnected parts. It is unhelpful to view one piece in isolation, when other state matters have evolved. Washington's economy is an ever-changing entity, with new

² Article I, section 10 of the Washington State Constitution requires that justice be administered openly. However, this court often conducts its affairs behind closed doors, not subject to the eyes of public scrutiny.

issues (such as Boeing's recently concluded union contract) transforming our economic calculus near daily. The state of plaintiffs' schools has undoubtedly vastly changed since the case went to trial in August 2009. Several cycles of budgets and test scores have likewise come and gone.

For example, when this case went to trial, Carter McCleary was a 10-year-old 5th grader at Chimacum Elementary School. Clerk's Papers at 2651. During the 2009-2010 school year, 84% of 5th graders at Chimacum Elementary met the standard in reading, 42% met the standard in math, and 30.9% met the standard in science.³ During the 2012-2013 school year, 65.6% of 5th graders at Chimacum Elementary met the standard in reading, 65.6% met the standard in math, and 76.6% met the standard in science.⁴ Clearly these scores have changed dramatically, both for better and for worse. This illustrates two points. First, the state of educational opportunities in various areas is ever-changing, comprising many moving parts. The legislature is best-suited to conduct hearings to understand and analyze the changes in such budgetary matters over time. Second, the legislature, with its committee

³ OFFICE OF SUPERINTENDENT OF PUB. INSTRUCTION, WASHINGTON STATE REPORT CARD, <http://reportcard.ospi.k12.wa.us/summary.aspx?groupLevel=District&schoolId=934&reportLevel=School&orgLinkId=934&yrs=2009-10&year=2009-10> (last visited Jan. 10, 2014).

⁴ OFFICE OF SUPERINTENDENT OF PUB. INSTRUCTION, WASHINGTON STATE REPORT CARD, <http://reportcard.ospi.k12.wa.us/summary.aspx?groupLevel=District&schoolId=934&reportLevel=School&orgLinkId=934&yrs=2012-13&year=2012-13> (last visited Jan. 10, 2014).

process, is best-suited to consider such fluctuations in test scores and determine if its new funding model is resulting in better educational opportunities and outcomes.⁵

Even if we were to determine that the legislature is in temporary violation of full funding, the founders presciently left us without a tool to punish such a short term violation. It has been suggested in filings that we may hold the legislature in contempt for taking too few steps toward full funding. Such action would be untenable. Because we would be fashioning a tool that has not been constitutionally delegated to us, we are left with far too many unanswered questions concerning this makeshift authority. It is unclear if we should hold specific legislators in contempt or the legislative body as a whole. The governor, who prepares the entire budget, and the superintendent of public instruction, who administers education, are other suggested targets. Because the body of legislators changes over time, and indeed has changed since the first opinion, it is uncertain which legislators and which time frame should be held accountable. Finally, it is unclear what the appropriate punishment would be for elected officials working in good faith to discharge their constitutional duty. Should we fine or imprison them?

⁵ I continue to object to the idea that more money thrown at a potentially broken system will result in better student opportunities and outcomes. *See Order, supra*, at 4 n.4 (J.M. Johnson, J., dissenting).

It has also been suggested that we could order the legislature to withhold all educational funding (or all funding) until the system is fully funded. This severe remedy would be inimical to the legislature fulfilling its paramount duty. Washingtonians would starve and go without necessary services. The children (and schools) with the fewest resources would be hurt the most by such an aggressive approach. Like holding the legislature in contempt, ordering the withholding of funds is clearly impossible as an enforcement mechanism. These uncertainties undoubtedly indicate that we are in territory far unsuitable for the judicial hand as defined in our constitution under article IV.

As a wiser court did in *Seattle School Dist. No. 1 of King County v. State*, 90 Wn.2d 476, 484, 585 P.2d 71 (1978), we should have declined to retain jurisdiction in this case. In *Seattle School District*, we did so because we were “confident the Legislature [would] comply fully with its constitutionally mandated duty.” *Id.* at 484. I continue to be confident in both the good faith of the legislators and our system of separation of powers.

I also agree with Chief Justice Madsen’s expression in this case that “[w]e have done our job; now we must defer to the legislature for implementation.” *McCleary v. State*, 173 Wn.2d 477, 548, 269 P.3d 227 (2012) (Madsen, C.J., concurring/dissenting). Today’s order illustrates that continuing jurisdiction is an

ill-fitting method of managing this state's educational funding. Even in light of the legislature's improved educational funding, we are unqualified to assess the progress made or the legislature's chances of achieving full funding by 2018. Put simply, the founders did not intend for this court to act in such a role and, more importantly, prohibited exercise of such self-granted power. With zero information regarding other financial constraints and plans for future budgets, it is impossible for us to evaluate the legislature's progress. We are not—and should not be acting as—managers of the state coffers.

McCleary v. State, No. 84362-7 (Johnson, J.M., J.)
Dissent to Order

A handwritten signature in black ink, reading "J.M. Johnson", is written over a horizontal line. The signature is cursive and stylized, with the first letter of each name being a large, prominent capital letter.