

**WASHINGTON STATE
WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD
MEETING NO. 180
June 26, 2014**

K-12 EDUCATION & HIGH SKILLS HIGH WAGES

The Workforce Board, at the May 8, 2014 meeting, requested information on the most recent changes and initiatives in K-12 Education as they pertain to *High Skills High Wages*. A brief summary about the factors influencing K-12 education has been prepared by staff and is included in this tab. Additionally, the board will hear presentations from OSPI staff on the following requested topics:

- Office of Superintendent of Public Instruction strategic legislative plan for the 2015-17 biennium.
- Collection and analysis of youth poverty data.
- An update on Career Guidance Washington.

Board Action Required: For discussion only.

Factors Influencing Washington K-12 Education Financing: A Primer

The McCleary Decision

The Washington State Supreme Court's McCleary Decision in 2012 is the most recent in a decades-long series of high profile court decisions that pertain to Washington's constitutionally defined Paramount Duty "to make ample provision for the education of all children" in this state "without distinction or preference on account of race, color, caste, or sex." The case was first filed in King County Superior Court in 2007 with Judge John Erlick ruling in February 2010 that state funding for education is not ample, is not stable, and is not dependable.

The state appealed Erlick's decision to the State Supreme Court, where Justice Debra Stephens upheld the lower court decision. Indeed, even before Justice Stephens penned the January 2012 ruling, the Legislature had begun a series of reforms to the program of basic education and the formulas that fund it. The Supreme Court has retained jurisdiction over the McCleary case to monitor the state's progress in meeting its constitutional obligation to fully fund basic education and implement reforms under E2SHB 2261 (2009) and SHB 2776 (2010).

The Supreme Court rejected the state's invitation for the court to defer to the Legislature's implementation plan as outlined in E2SHB 2261 (2009). The court has retained jurisdiction to foster dialogue and cooperation between the judicial and legislative branches of government toward addressing the constitutionally required reforms. A minority opinion, supported by two Supreme Court justices, dissented from the decision to retain jurisdiction, noting that the majority failed to define the desired outcomes or to provide criteria or benchmarks against which the court could measure legislative compliance.

To facilitate communication with the Supreme Court, the Legislature established a joint select committee to address school funding with the passage of HCR 4410 (2012). The purpose of this committee is to "facilitate communication with the Washington State Supreme Court on school funding legislation and other actions of the Legislature related to the duty set forth in Article IX of Washington's Constitution; to advise and provide direction to the attorneys who represent the Legislature before the Washington State Supreme Court with respect to the McCleary litigation; and to apprise legislators and the Legislature on communications from the Washington State Supreme Court with respect to the McCleary litigation." Since its formation, the Article IX Litigation committee has submitted three reports to the Supreme Court, with the most recent submitted on April 29, 2014. The report was criticized in many quarters because it indicated lawmakers couldn't reach an agreement on how best to finance K-12 education. The report followed a January 2014 order from the high court that criticized legislators for making slow progress and demanded an action plan. Although legislators lacked consensus on crafting this plan, they did budget an additional \$57.8 million towards the necessary enhancements to the program of Basic Education during the recent 60-day session. This sets the stage for McCleary to be a centerpiece of the 2015 legislative session. Recent analysis by non-partisan legislative staff estimate that an additional \$3.4 billion will be needed by 2018-19 school year to fully fund the program of Basic Education as outlined by E2SHB 2261 (2009) and SHB 2776 (2010). Other

education stakeholders have different analysis of the amount of additional enhancements necessary to satisfy the McCleary ruling ranging between \$3.2 billion to \$6 billion.

Basic Education Requirements

The state's definition of Basic Education is outlined in RCW 28A.150.210. A definition for Basic Education was first introduced into statute with the Basic Education Act of 1977. This act was in direct response to initial trial court findings, in the case commonly known as School Funding I, in which the state was found in violation of its Article IX obligation. The Basic Education Act of 1977 put in statute a definition of basic education and a funding formula based on ratios of staff to students. The Basic Education Act included in its definition of basic education a 180-day school year, minimal instructional hours for particular grades, instructional content for each grade, and funded ratios of staff to students.

Further judicial proceedings, often referred to as School Funding II in 1983, expanded the definition of basic education by not limiting it to the elements outlined in the Basic Education Act of 1977. This court case further clarified that the definition and funding formula for basic education are not cast in constitutional concrete and are subject to change as the needs of Washington students change over time.

Additional judicial proceedings provided greater clarity on:

- The state's responsibility to provide educational programs for special education students.
- The state's responsibility for students under the care of the Department of Corrections.
- Teacher cost-of-living-adjustments (they are not part of Basic Education).
- Learning improvement days (they also are not part of Basic Education).

In 2009, E2SHB 2261 (2009) amended that the state's definition of Basic Education includes:

- The Instructional Program of Basic Education provided by public schools.
- The program for students in residential schools and juvenile detention facilities.
- The program for individuals under age 18 who are in adult correctional facilities.
- Transportation and transportation services to and from school for eligible students.

In addition, E2SHB 2261 (2009) established minimum Basic Education instructional program requirements that include:

- 180 school days per school year, with 180 half days for kindergarten, (which is increased to 180 full days beginning with schools with the highest percentages of low income students).
- A district-wide average of 1,000 instructional hours across all grade levels, to be increased according to an implementation schedule adopted by the Legislature to 1,080 hours in grades 7-12 and 1,000 instructional hours in grades 1 through 6.
- 450 instructional hours in kindergarten, to be increased to 1,000 hours as full-day kindergarten is phased in.

The instructional hour requirements were later amended when the Legislature adopted a 24-credit career and college ready diploma (E2SSB 6552, 2014). Under E2SSB 6552, beginning with the 2015-2016 school year, school districts must offer a minimum of 1,000 hours for grades one through eight and 1,080 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.

Prototypical School Funding

The state general fund is the largest single fund within the state budget. It is the principal fund supporting the operation of state government. Because the purposes are similar and fund transfers between the two are common, the education legacy trust account is often discussed in combination with the state general fund; together, they are referred to as the state near-general fund. In the 2013-2015 biennium (fiscal years 2014 and 2015), the Legislature appropriated \$15.2 billion, or 45 percent, of the state near-general fund for the support and operation of K-12 public schools.

The amount of state near-general funds spent for K-12 public schools has increased from \$10.2 billion to \$15.2 billion per biennium since 2001. This represents approximately a 51 percent increase in state support. State near-general fund expenditures for K-12 public schools as a percent of the statewide total has varied over the biennia, with a low of approximately 39 percent in 2005-07 to a high of approximately 45 percent today. Increases in the share for K-12 funding can be related to increased K-12 funding, decreased funding for other programs, or both.

The prototypical school funding formula provides the statutory framework for the state's allocation of funds to support the instructional program of Basic Education, including allocations for such programs as the Learning Assistance Program (LAP), the Transitional Bilingual Instruction Program (TBIP), and other categorical programs. The model was developed in the 2009-11 biennium with the passage of E2SHB 2261.

The formula includes allocations for various categories of staff, based on an assumed school grade level and size, district-wide staff, and administration. For most categorical programs (such as Learning Assistance, Highly Capable, Transitional Bilingual), the allocation is based on assumed hours of supplemental instruction per week.

Two major pieces of legislation enacted in 2009 and 2010 provided for phased-in implementation of changes in both the instructional program of Basic Education and the funding to support it. Class size reductions for grades K-3 and statewide implementation of all-day kindergarten are to be completed by the 2017-2018 school year. A new pupil transportation funding formula is scheduled to be fully implemented in the 2013-2015 biennium. Specified increases to support materials, supplies, and operating costs are to be achieved by the 2015-2016 school year. In its 2012 ruling and subsequent proceeding, the Supreme Court has directed the Legislature to provide a plan for funding the 2009 and 2010 changes to Basic Education.

The first was ESHB 2261 (2009), which added programs to the definition of Basic Education – including the program for highly capable students and phasing in full-day kindergarten. It increased the number of instructional hours, increased the minimum number of credits for high school graduation, and changed the system for funding student transportation. The bill also created the framework for a new K-12 funding allocation formula based on prototypical schools. Changes took effect September 1, 2011, and most enhancements are to be phased in by 2018 on a schedule set by the Legislature.

The second bill, SHB 2776 (2010), enacted in statute the funding formulas for the new prototypical schools format at levels that represented what the state was spending on basic education at the time. It set targets for class size reduction in the lower grades and established a timeline for phasing in certain enhancements to the program of Basic Education and the new funding levels. Those enhancements included state funded all-day kindergarten, K-3 class size reduction, state funding for pupil transportation, and state funding for Material, Supplies, and Operating Costs (MSOCs). The new funding model is intended to provide greater understanding about how the state allocates K-12 funding to local school districts, and improve accountability.