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## 2015 Report to the Washington State Supreme Court by the Joint Select Committee on Article IX Litigation

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## Washington State Legislature

July 27, 2015

Washington State Supreme Court  
Temple of Justice  
Olympia, WA 98504

Dear Chief Justice Madsen and Honorable Members of the Washington State Supreme Court

Per this Court's orders of July 18, 2012, and June 8, 2015, in *McCleary v. State*, No. 84362-7, please find attached the 2015 report of the legislative Joint Select Committee on Article IX Litigation. This report was adopted by the Committee at its meeting on July 21, 2015. The Committee looks forward to continued dialogue and cooperation with this Court.

Respectfully,

Senator David Frockt, Co-Chair  
46<sup>th</sup> Legislative District

Representative Chad Magendanz, Co-Chair  
5<sup>th</sup> Legislative District

Senator Joe Fain, 47<sup>th</sup> Legislative District  
Representative Ross Hunter, 48<sup>th</sup> Legislative District  
Senator Steve Litzow, 41<sup>st</sup> Legislative District  
Representative Kevin Parker, 6<sup>th</sup> Legislative District  
Senator Christine Rolfes, 23<sup>rd</sup> Legislative District  
Representative Pat Sullivan, 47<sup>th</sup> Legislative District

Enclosures

# **2015 Report to the Washington State Supreme Court by the Joint Select Committee on Article IX Litigation**

## **Part I: Introduction and Background**

### **A. The Reporting and Oversight Process**

In its original ruling in *McCleary v. State* on January 5, 2012, the Washington State Supreme Court (Court) held that the State failed to meet its paramount constitutional duty by “consistently providing school districts with a level of resources that falls short of the actual costs of the basic education program.” *McCleary v. State*, 173 Wn.2d 477, 537 (2012). At the same time, the Court acknowledged that the 2009 Legislature had enacted Engrossed Substitute House Bill 2261 (ESHB 2261), education financing reforms “which if fully funded, will remedy deficiencies in the K-12 funding system.” *Id.* at 545-46. The Court deferred to the Legislature’s chosen means of discharging its constitutional duty but retained jurisdiction to help facilitate progress in the State’s plan to fully implement the reforms by 2018. To communicate with the Court under this retained jurisdiction, the Legislature established the Joint Select Committee on Article IX Litigation (Committee). House Concurrent

Resolution 4410 (2012). In its order of July 18, 2012, the Court declared that its oversight would be in the form of annual reports from the State, with the reports filed directly by the Committee or through counsel. The Court directed the State to report annually following enactment of each operating budget with a summary of legislative actions taken to implement the reforms and achieve compliance with article IX of the state constitution.<sup>1</sup>

**B. Developments Since the Committee’s 2014 Report**

Much has happened since the Committee last reported to the Court in April of 2014. After a hearing on September 3, 2014, the Court held the State in contempt due to the Legislature’s failure to enact or otherwise provide the Court with a “complete plan for fully implementing its program of basic education for each school year between now and the 2017-18 school year.”<sup>2</sup> The Court held sanctions and other remedial measures in abeyance to allow the State the opportunity to comply with the order. It directed the State to provide briefing at the close of the 2015 legislative session to explain, if contempt was not purged, why sanctions

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<sup>1</sup> Order establishing terms of retained jurisdiction, at 2, *McCleary v. State*, No. 84362-7 (Wash. July 18, 2012).

<sup>2</sup> Order finding contempt, at 4, *McCleary v. State*, No. 84362-7 (Wash. Sept. 11, 2014).

should not be imposed.<sup>3</sup> Due to the ongoing work of the Legislature in three special sessions, the Court ultimately ordered the State to file its yearly progress report by the earlier of 15 days after adjournment of the final special session or July 27, 2015.<sup>4</sup> The Legislature adjourned its last session on July 10, 2015.

### **C. The Committee's 2015 Report**

This 2015 Report is the fourth such report submitted to the Court by the Committee and is submitted pursuant to the expedited due date established in the Court's order of June 8, 2015. The report contains a summary of budget and education funding legislation enacted during the 2015 legislative session, and a summary of proposed legislation and the legislative consensus-building process as the Legislature moves toward implementing remaining education funding reforms necessary to achieve full constitutional compliance.

As described in more detail in the remainder of this report, the 2015 Legislature enacted appropriations that fulfill the State's obligations under ESHB 2261 and SHB 2776<sup>5</sup>—and, significantly, they do so by the deadline established in that legislation. As the Committee's 2014 report

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<sup>3</sup> *Id.* at 5.

<sup>4</sup> Order scheduling report, at 2, *McCleary v. State*, No. 84362-7 (Wash. June 8, 2015).

<sup>5</sup> Laws of 2010, ch. 236.

explained, “the pace of implementation must increase,” and the 2015 legislative session was the “most critical year” for legislative progress toward implementation of ESHB 2261, SHB 2776, and the article IX obligation.<sup>6</sup> The 2015 Legislature responded by meeting its statutory implementation obligations en route to full constitutional compliance. Appropriations enacted by the 2015 Legislature fund SHB 2776 according to that bill’s statutory timetable. The operating budget fully funds the enhanced statutory formula for materials, supplies, and operating costs (MSOC) in the 2015-16 school year, as scheduled in RCW 28A.150.260(8). It funds full implementation of all-day kindergarten in the 2016-17 school year, one year ahead of the statutory schedule in RCW 28A.150.315(1). It makes steady and substantial progress toward funding for K-3 class size reduction in the 2015-16 and 2016-17 school years, hitting the statutory target of a class size of 17 in grades K-1 in high poverty schools, a year ahead of the statutory schedule in RCW 28A.150.260(4)(b), with the remaining increment to be funded in the next biennial budget by the statutory due date of the 2017-18 school year. Under the state four-year balanced budget requirement and the Budget Outlook process, the remaining K-3 increment becomes part of the

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<sup>6</sup> Joint Select Committee on Article IX Litigation, *2014 Report to the Washington State Supreme Court*, at 32-33.

maintenance funding level for the 2017-19 fiscal biennium. RCW 43.88.055; RCW 82.33.060.

The Legislature also added funding to other education programs that support and complement the basic education enhancements described above. And, in addition to funding the School Construction Assistance Program, the Legislature has established a new school construction grant program that provides state assistance to construct classrooms for the implementation of K-3 class size reduction and all-day kindergarten.

The Committee acknowledges that the 2015 Legislature did not enact or otherwise provide the Court with a document that could be characterized as the “plan” ordered by the Court. Instead, as described in further detail below, the enactments of the 64th Legislature in 2015 demonstrate that the State has implemented SHB 2776, its preexisting statutory plan (which the Court cited approvingly in its 2012 *McCleary* decision), in compliance with that plan’s statutory deadlines. Further, as also described in more detail below, the Legislature continues to engage in the policy review and consensus-building necessary to enact further basic education funding enhancements related to compensation and levy reliance, the final part of the State’s duty identified in the 2012 *McCleary* decision.

## **Part II: Summary of Enacted Budget Items**

### **A. 2015-17 Biennial Budget**

The 2015-17 operating budget increases funding for K-12 Public Education by \$2.9 billion, including \$1.3 billion in enhancements to the program of basic education and \$618 million for state-funded compensation increases. The remainder of the increase comprises continuation of prior enhancements to the program of basic education, funding for increased enrollment and workload changes, legislation, and adjustments for inflation. As compared with the 2013-15 estimated expenditures, the State's spending for K-12 public education increased by 19 percent. The table below shows the breakdown described above.

<b>State Funding Increases for K-12 Public Schools</b>	
<i>Dollars in Thousands</i>	
<i>Estimated 2013-15 Expenditures for K-12 Public Schools</i>	<i>15,261,910</i>
<b>General K-12 Items</b>	
Continuation of 2013-15 Education Increases*	621,880
Enrollment & Workload changes	233,409
Completed Phase-in of Materials, Supplies, and Operating Costs	741,458
Continued Phase-in of K-3 Class Size Reductions	350,193
Completed Phase-in of All-Day Kindergarten	179,813
All Other K-12 Increases	149,388
<b>K-12 Compensation Items</b>	
Pension Increases	210,217
I-732 Cost of Living Adjustment	230,973
Additional Salary Increase	152,329
Increased Health Benefit Allocation	24,434
<i>Education increases above 2013-15</i>	<i>2,894,094</i>
<b>2015-17 Appropriations for K-12 Public Schools</b>	<b>18,156,004</b>

*\*Includes continued funding for basic education increases from the prior biennium, including: full funding of the pupil transportation funding formula; full funding of the increased high school instructional hours and graduation requirements; and continued phase-in of all-day kindergarten, K-3 class size reductions, and Materials, Supplies, and Operating Costs.*

Since the Court's order of December 20, 2012, state funding for K-12 has increased from \$13.4 billion for the 2011-13 biennium to \$18.2 billion for the 2015-17 biennium, an increase of \$4.8 billion or 36 percent. These figures are illustrated in the graphs provided in the Appendix.

As explained in the following sections, the 2015-17 biennial budget provides funding to address the four elements specifically mentioned in the Court's order of December 20, 2012: all-day kindergarten; early elementary class size reductions; pupil transportation;

and materials, supplies, and operating costs (MSOC). Also, funding is provided to address compensation increases in the areas of salary allocations, pensions, and health benefits.

**B. Full Implementation of the Materials, Supplies, and Operating Costs**

Funding totaling \$741.5 million for the biennium is provided to complete implementation of the enhancement to the MSOC component of the prototypical school funding formula. The allocation per full-time equivalent student (FTE) is increased from \$848.04 in school year 2014-15 to \$1,210.05 in school year 2015-16, fully funding the statutory requirement specified in RCW 28A.150.260, including required inflationary adjustments. In school year 2016-17 the allocation is increased for estimated inflation to \$1,230.62 per FTE. Since the Court's order of December 20, 2012, the per pupil funding has been increased from \$546.37 per student in school year 2011-12 to \$1,210.05 in school year 2015-16, an increase of 121 percent.

**C. Full Implementation of All-Day Kindergarten**

SHB 2776 requires full implementation of statewide funding for voluntary all-day kindergarten by school year 2017-18. RCW 28A.150.315. The 2015-17 budget provides new funding in the amount of \$179.8 million to fully implement statewide state-funded all-

day kindergarten classes in the 2016-17 school year, one year ahead of the statutory requirement.

In school year 2014-15, allocations for state-funded voluntary all-day kindergarten were sufficient to fund approximately 44 percent of kindergarten enrollment. The percentage of state-funded all-day kindergarten is increased to approximately 72 percent in the 2015-16 school year. As in prior years, new recipients of the allocations for the 2015-16 school year are determined by school poverty levels. The Legislature fully funds all-day kindergarten at 100 percent of kindergarten enrollment beginning in school year 2016-17, one year ahead of schedule.

**D. Continued Phase-In of Early Elementary Class Size Reduction**

Under the schedule the Legislature established in SHB 2776, the class size in grades K-3 must be reduced beginning with highest poverty schools, until the average state-funded class size is no more than 17 FTE per teacher beginning in the 2017-18 school year. RCW 28A.150.260. When the Court issued its decision in 2012, the average state-funded class size in K-3 was 24.1 FTE in high poverty schools and 25.3 FTE in other schools. In the 2013-15 operating budget, the Legislature reduced K-1 class sizes in high poverty schools to 20.3 FTE. In the 2015-17 operating budget, the Legislature adds \$350.2 million for continued phase-in of early elementary class size reductions with a phase-in schedule that prioritizes

both high poverty schools and the lower grades first, where research shows the greatest return on investment.<sup>7</sup> By the 2016-17 school year funding is provided to reduce class sizes in general education kindergarten to 19 FTE. First grade is reduced to 21 FTE. Second and third grades are reduced to 22 FTE. In high poverty schools kindergarten and first grade are reduced to a class size of 17 FTE, one year ahead of schedule. Second grade is reduced to a class size of 18 FTE and third grade is reduced to a class size of 21 FTE.

**E. Continued Funding for the Fully Implemented Expected Cost Pupil Transportation Funding Model**

The Legislature fully funded and implemented the expected cost pupil transportation funding model beginning with the 2014-15 school year, as required by RCW 28A.160.192 (SHB 2776). School districts continue to receive state allocations as calculated under the Student Transportation Allocating Reports System (STARS). The Legislature increased funding for the formula in both the 2015 supplemental omnibus appropriations act and the 2015-17 biennial omnibus appropriations act to meet updated cost estimates provided by the Office of the Superintendent

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<sup>7</sup> See Washington State Institute for Public Policy, *K-12 Class Size Reductions and Student Outcomes: A Review of the Evidence and Benefit-Cost Analysis* (2013), [http://www.wsipp.wa.gov/ReportFile/1122/Wsipp\\_K-12-Class-Size-Reductions-and-Student-Outcomes-A-Review-of-the-Evidence-and-Benefit-Cost-Analysis\\_Full-Report.pdf](http://www.wsipp.wa.gov/ReportFile/1122/Wsipp_K-12-Class-Size-Reductions-and-Student-Outcomes-A-Review-of-the-Evidence-and-Benefit-Cost-Analysis_Full-Report.pdf).

of Public Instruction, which were based on updated and improved data supplied to the State by school districts.

**F. State-Funded K-12 Compensation Increases**

Funding totaling \$618 million is provided to fully fund the Initiative 732 Cost of Living Adjustment (I-732 COLA), a one-biennium salary increase, increased health benefit allocations, and to address pension rate increases. Of that total, \$231 million is provided for I-732 COLA increases for K-12 employees, which are funded at 1.8 percent for school year 2015-16 and 1.2 percent for school year 2016-17. \$152.3 million is provided for an additional one-biennium salary increase while the State continues to review and revise state-funded salary allocations. *See* Laws of 2015, 3d Sp. Sess., ch. 4, § 504. With the one-biennium additional salary increase, the total salary increase for school year 2015-16 is 3 percent and for school year 2016-17 is 1.8 percent.

Funding in the amount of \$210 million is provided to pay for pension rate increases from 18.68 percent to 21.42 percent for certificated staff and from 20.95 percent to 22.72 percent for classified staff. Funding also is provided to pay for annual increases in health benefit rates of \$144 for certificated staff and \$166 for classified staff, at a total cost of \$24.4 million.

**G. Non-Basic Education Support for the Implementation of ESHB 2261 and SHB 2776**

Additional funding is provided beyond the basic education formulas to support implementation of class size reductions and all-day kindergarten. The Legislature expects an increase in hiring beginning teachers as a result of the increased funding for all-day kindergarten and K-3 class size reductions. For this reason, funding for Beginning Educator Support Team (BEST) is increased from \$6 million to \$11 million to provide grants to school districts for an enhanced level of support and professional development for new teachers.

In conjunction with the expansion of state-funded all-day kindergarten, funding is increased from \$3.5 million to \$5.6 million for the support of the expansion of the Washington Kindergarten Inventory and Development Skills (WaKIDS) program. This inventory of skills, knowledge, and characteristics of kindergarten students is offered at the beginning of the school year in order to support social-emotional, physical, and cognitive growth and development of individual children; support early learning provider and parent involvement; and inform instruction.

Further, the 2015 Legislature provided \$158.7 million in new funding for early learning programs and services. Research demonstrates

that investments in pre-K education are associated with improved K-12 outcomes.

Additionally, \$200 million is provided in the 2015-17 capital appropriations act for the K-3 Class Size Reduction Grant Pilot Program to help school districts expand the number of classrooms in support of the K-3 class-size reduction and all-day kindergarten expansion.

### **Part III: Compensation and Levy Proposals**

In addition to the funding provided to implement ESHB 2261 and SHB 2776, the Legislature held numerous legislative work sessions on compensation, local school district levies, and other topics that affect the Legislature's article IX constitutional duty. There were several proposals formally introduced and there was much discussion of evolving and emerging proposals throughout the 2015 legislative session.

#### **A. Senate Work Sessions and Proposed Legislation**

##### **1. Senate Work Sessions**

###### *Overview of K-12 Funding – Senate Committee on Ways and Means, January 19, 2015<sup>8</sup>*

This work session provided an overview of the recent K-12 reforms and past court decisions regarding public school funding, K-12

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<sup>8</sup> See [http://www.tvw.org/index.php?option=com\\_tvwplayer&eventID=2015011079](http://www.tvw.org/index.php?option=com_tvwplayer&eventID=2015011079).

expenditures and funding trends, and statutory deadlines for the requirements of ESHB 2261 and SHB 2776. A panel of stakeholders was invited for a public discussion with senators about the policy implications and concerns and issues with the implementation of ESHB 2261 and SHB 2776.

***K-12 Capital – Senate Committee on Ways and Means, January 29, 2015<sup>9</sup>***

The work session provided an overview of the State’s construction assistance program, funding trends, and capital capacity needs for the implementation of SHB 2776.

***Washington’s Property Taxes – Senate Committee on Ways and Means, February 11, 2015<sup>10</sup>***

The Committee was presented an overview of the state property tax for the common schools and local school district property taxes. Information and graphs were provided showing how the current levy statutes have been modified over time and the impact those changes have had on local levy authority and local effort assistance. The presentation compared specific districts with differing enrollments, property values,

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<sup>9</sup> See [http://www.tvw.org/index.php?option=com\\_tvwplayer&eventID=2015010199](http://www.tvw.org/index.php?option=com_tvwplayer&eventID=2015010199).

<sup>10</sup> See [http://www.tvw.org/index.php?option=com\\_tvwplayer&eventID=2015020136](http://www.tvw.org/index.php?option=com_tvwplayer&eventID=2015020136).

voter approved levy rates, and local effort assistance funding to show how local levy funding affects school districts across the state differently.

*Local Levies Part II – Senate Committee on Ways and Means, March 18, 2015*<sup>11</sup>

Following up on the February 11, 2015, work session, the focus of this work session was to take a deeper look into local school district property taxes and the connection this funding has on K-12 employee compensation. Graphics showed the share of school district property taxes as compared to all other property taxes collected statewide. OSPI recently created a new analysis of expenditure categories of levy and local effort assistance (LEA) funding showing 55 percent of levies and LEA are expended for salaries and additional staffing. However, it is not known what portion of this spending is for enhancements outside the program of basic education, such as additional staff days outside the 180 instructional days.

An overview of the impacts to school districts was provided for the statutory reduction in levy authority effective January 1, 2018. Local school districts presented their differing levy situations and explained how

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<sup>11</sup> See [http://www.tvw.org/index.php?option=com\\_tvwplayer&eventID=2015030158](http://www.tvw.org/index.php?option=com_tvwplayer&eventID=2015030158).

expected changes in local levy policy would differentially affect their respective districts.

***Teacher Production – Senate Committee on Ways and Means, March 18, 2015<sup>12</sup>***

A presentation of staff analysis of the needed teachers for the class size reductions in all-day Kindergarten and K-3 was provided. The analysis showed an estimated deficit of the expected supply of elementary teachers already employed and funded from local sources, moving from out of state, returning to the workforce, or newly receiving a teaching endorsement will not meet the demand of new elementary teachers needed. The analysis showed about 7,200 elementary teachers will be needed for all-day kindergarten and K-3 class size reductions by school year 2017-18. Current elementary teacher production and assumptions estimate 3,300 available teachers. After the estimated attrition rates, it is estimated there will be a shortage of approximately 4,000 elementary teachers by school year 2017-18. Representatives from the Office of Public Instruction and the Professional Educator Standards Board provided similar information and data.

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<sup>12</sup> *See id.*

***K-12 Compensation – Senate Committee on Ways and Means, March 18, 2015<sup>13</sup>***

This work session provided an overview of previous compensation workgroup recommendations, state K-12 salary allocations, statutory cost-of-living adjustments, K-12 employee salary trends (local, state, and national), supplemental pay differences across the state, and K-12 health benefits costs. Local school district representatives presented information about supplemental compensation in their districts.

**2. Summaries of Senate Proposed Legislation**

There were several bills introduced in the Senate to clarify the difference between basic education and enrichment beyond basic education, address school employee compensation, reduce local school district reliance on local levy revenue for school employee compensation, and revise other basic education and non-basic education policies. Each of the bills summarized below had a public hearing with public testimony in the Senate Committee on Ways and Means. Significantly, Senate Bill 6130 is sponsored by a bipartisan group of senators and contains portions of Senate Bills 6103, 6104, and 6109, combined with other policy proposals.

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<sup>13</sup> *See id.*

***Senate Bill 6103 (Providing basic education funding)***

SB 6103 addresses local school districts' reliance on local levy revenue for school employee compensation. It declares an intent to implement a plan to phase in a compensation system for K-12 staff by the 2021-22 school year in order to attract and retain high quality educators, administrators, and classified staff to Washington schools through full funding of competitive salaries with state resources. Additionally, the bill reduces each school district's maximum levy revenue by the prior school year allocations for K-12 salary until the school district's levy rate reaches \$1.00 per \$1,000 of assessed valuation within the school district.

***Senate Bill 6104 (Improving education financing)***

SB 6104 declares an intent to: (1) implement a plan to phase in a modified version of the Compensation Technical Working Group recommendations for a revised compensation system for all staff in order to attract and retain high quality educators through full funding of competitive salaries with state resources; (2) ensure that K-12 salary allocations keep pace with the wages of comparable occupations by requiring a comparable wage analysis be conducted every four years; (3) reduce school district reliance on local levies; and (4) support local levy authority as an important component of the overall finance system

for public schools while also ensuring local levy funds are not being used for the state's basic education obligations.

Additionally, the bill requires a local levy reduction technical working group to develop a phase-in plan for reducing the local authority for school districts and eliminating grandfathered levy authority.

It also imposes a tax on all individuals, beginning January 1, 2016, for the privilege of selling or exchanging long-term capital assets or receiving Washington capital gains. A business and occupation tax deduction is provided against a person's gross income of the business to the extent necessary to avoid taxing the same capital assets or gains. The revenue collected must be deposited in the education legacy trust account which must only be spent on the program of basic education.

SB 6104 also establishes a phase-in plan for meeting basic education obligations to reduce class sizes throughout the K-12 system.

***Senate Bill 6109 (Concerning compliance with constitutional basic education requirements)***

SB 6109 declares an intent to: (1) assume full responsibility for providing sufficient funds to attract and retain competent teachers funded by the state common school levy and by modifying the state salary allocation model; (2) phase in competitive wages for certificated instructional staff with an allocation model that recognizes career

progression and educator certification; (3) create a rational basis for the salary levels for educators based on comparable occupations; (4) maintain comparable wages for educators with periodic wage analyses and cost-of-living adjustments; and (5) reduce the over-reliance on local school district levies by decreasing levy authority, enforcing greater accountability on the expenditure of local funds, and requiring detailed reviews of local expenditures through state audits.

This bill transitions the state salary allocations for certificated instructional staff to a new salary allocation model tied to professional certification and experience level.

- As the revised statewide salary schedule is phased in, individual teachers who would have received a higher state salary allocation under the old salary allocation model continue to receive that higher salary. Certificated administrative and classified staff state allocation increases are also phased in and provided a hold harmless assurance.
- The district-wide total compensation for certificated administrative and classified staff cannot exceed the total state allocation.
- All staffing categories are provided a localization factor that provides regional enhancements by school district to the state salary allocation. The Employment Security Department (ESD)

will provide a comparable wage analysis of comparable occupations. This analysis will be the basis of the K-12 state salary allocations provided statewide.

- Additionally, ESD will provide an analysis of the comparable wage analysis by metropolitan statistical areas annually, which will be the basis for a statewide localization factor. ESD will provide a wage analysis every six years to ensure the K-12 salaries are keeping pace with other comparable occupations.
- The authorization for supplemental contracts for additional time, responsibility, or incentive is modified. Instead, school districts are authorized to use local funds for enhancements outside of the program of basic education, which may include providing an enhanced salary or benefit for certificated instructional staff that exceeds the state-provided salary. The use of local funds must meet limitations and conditions provided in the bill.
- A state-level school employee benefits board is created following a similar model as the Public Employees Benefit Board. The Health Care Authority duties are expanded to include administering health care benefit programs for school employees. School districts must participate in the program.

- School districts must establish a local revenue fund for the purpose of accounting expenses paid from local revenue.
- The state property tax is increased beginning in 2018 to fund the additional salary allocations. The bill reduces each school district's maximum levy revenue by the prior school year allocations for K-12 salary until the school district's levy rate reaches \$1.25 per \$1,000 of assessed valuation within the school district.

***Senate Bill 6130 (Concerning the State's constitutional basic education obligation, including reducing over-reliance on local levies)***

SB 6130 more specifically defines basic education to include statewide salary allocations for school employees that are competitive, market-based, and informed by periodic wage analyses of comparable wage occupations.

- Salaries for certificated administrative staff must be based on a 220-day base contract.
- Existing basic education statutes, except for those addressing categorical programs, are re-codified into a single chapter.
- The bill identifies legislative intent to assume full responsibility for funding basic education salaries. The plan includes phasing in a modified version of the Compensation Working Group's recommendations including compressing the salary allocation

model and structuring it according to the stages of the career continuum for educators, increasing the state allocation for base salaries, and conducting a comparable wage analysis every four years to ensure that the K-12 salaries keep pace with the wages of comparable occupations.

- The bill provides a localization factor to school districts in metropolitan statistical areas with wages for comparable occupations that are higher than other parts of the state.
- A hold harmless provision ensures that individuals do not receive less than the current state salary allocation model with a salary maintenance contract.
- Any increases in certificated instructional staff salaries using supplemental contracts during the phase-in of the salary allocation model must be for new time or duties performed.
- Certificated administrative and classified staff salaries for basic education provided at the district level must not exceed the state allocation provided.
- The bill modifies the authorization for time, responsibility, incentive, and innovation contracts. School districts may use local funds for enhancements outside of the program of basic education, which may include using supplemental contracts to provide an

enhanced salary for certificated instructional staff and certificated administrative staff that exceeds the state-provided basic education salary. A supplemental contract is for additional time or duties assigned and performed and not for the professional duties associated with basic education. Time-based supplemental contracts may not pay more than the hourly rate provided to the employee for basic education activities.

- Supplemental contracts may be used to provide staffing levels in excess of the prototypical school funding formula or professional development beyond that provided by the State. Supplemental contracts must not create less responsibility for certificated instruction staff.
- The bill reduces local school district excess levy authority as additional state allocations are provided for salary. School districts' levy authority is transitioned to a two-tier levy authority cap. School districts levying \$1.00 per \$1,000 of assessed valuation that would receive levy revenues of \$1,500 per pupil or more are capped at a rate of \$1.00 per \$1,000 of assessed valuation. School districts that would receive less than \$1,500 per pupil will have levy rates that are capped at \$1.50 per \$1,000 of assessed valuation.

- Beginning in calendar year 2019, a school district's actual levy collections will be reduced by the budgeted amount of any new K-12 salary enhancements received after August 1, 2018. School districts with compensation maintenance contracts that exceed 50 percent of the two-tier levy capacities may request from OSPI additional levy authority. After January 1, 2024, the additional levy authority that may be granted by OSPI is reduced by 10 percent of the two-tier levy capacities in each year. By January 1, 2027, the additional levy authority is fully phased out.
- Levy funds may be used only for enhancements outside of the program of basic education. The State Auditor must report to OSPI, DOR, and the Legislature regarding any school district non-compliance issues with this provision. School district accounting procedures must include the tracking of local levy expenditures separate from general fund expenditures and a four-year outlook of district expenses and expected revenues.
- The bill creates the Education Funding Council (EFC) to monitor the implementation of the act, make recommendations to avoid any unintended consequences, and may develop and recommend a different plan to meet the State's constitutional basic education obligation.

- The provisions addressing compensation only take effect if a revenue source or combination of revenue sources are enacted and take effect by January 1, 2018, that generate enough additional state revenue to fully fund the increased salary allocations. The act also provides that the Legislature recognizes that to accomplish all of the actions laid out in the plan under the act requires additional sources of revenue and should not be accomplished through reductions to other parts of the budget.

## **B. House Work Sessions and Proposed Legislation**

### **1. House Work Sessions**

#### *Overview of Basic Education Policies and the McCleary Decision – House Education Committee, January 13, 2015<sup>14</sup>*

This work session included discussion of state versus local responsibility and control, the relationship between local control and allocation of funds through the prototypical school model formulas, the use of local levies to supplement staff compensation and limits on local levies, and the reforms and timelines adopted in ESHB 2261 and SHB 2776.

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<sup>14</sup> See [http://www.tvw.org/index.php?option=com\\_tvwplayer&eventID=2015010080](http://www.tvw.org/index.php?option=com_tvwplayer&eventID=2015010080).

***Challenges Facing Small School Districts – House Education Committee, January 19, 2015<sup>15</sup>***

The work session heard from a panel describing experiences of small school districts, including their dependence on levy equalization funds and their problems with staff retention.

***Overview of K-12 Organization, Financing, and Expenditure – House Appropriations Committee, January 21, 2015<sup>16</sup>***

The Committee was presented an overview of the K-12 education system in Washington, the relationship between local control and allocation of funds through the prototypical school model formulas, the sources of funding, historical patterns of state and local expenditures for public schools, and the history of local excess property tax levies and local effort assistance (also called levy equalization). It also reviewed the progress in implementing the State’s program of basic education required by ESHB 2261 and SHB 2776, and issues related to compensation.

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<sup>15</sup> See [http://www.tvw.org/index.php?option=com\\_tvwplayer&eventID=2015011076](http://www.tvw.org/index.php?option=com_tvwplayer&eventID=2015011076).

<sup>16</sup> See [http://www.tvw.org/index.php?option=com\\_tvwplayer&eventID=2015011116](http://www.tvw.org/index.php?option=com_tvwplayer&eventID=2015011116).

***Recommendations of the Compensation Technical Working Group – House Education Committee, March 3, 2015<sup>17</sup>***

The Committee held this work session to review the final report of the Compensation Technical Working Group, which was established in ESHB 2261 to develop a recommended enhanced salary allocation model.

***Compensation and Levy Issues Related to K-12 Public Schools – House Appropriations Committee, April 30, 2015<sup>18</sup>***

The work session agenda included a staff presentation of three Senate proposals that had each been introduced as bills and heard in the Senate Ways and Means Committee, a new House proposal, and five panels of members and stakeholders discussing the merits of the proposals and other areas of consideration with regard to compensation and levy issues. The first panel consisted of a bipartisan, bicameral group of legislators, four of whom had been the lead sponsors of the proposals that were presented to the committee for discussion during the work session. The other four panels included representatives of the Office of the Superintendent of Public Instruction, the State Board of Education, the Washington Education Association, the League of Education Voters, the

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<sup>17</sup> See [http://www.tvw.org/index.php?option=com\\_tvwplayer&eventID=2015030058](http://www.tvw.org/index.php?option=com_tvwplayer&eventID=2015030058).

<sup>18</sup> See [http://www.tvw.org/index.php?option=com\\_tvwplayer&eventID=2015040186](http://www.tvw.org/index.php?option=com_tvwplayer&eventID=2015040186).

Washington State Parent Teacher Association, and urban and rural school districts. Each of the five panels agreed that the various proposals had merit, but also identified potential problems and unintended consequences that would need additional work before adoption of a single proposal could be supported.

The work session included a discussion of a new proposal (referred to as the “Hunter Proposal”), which addressed the state allocation for K-12 compensation, local maintenance and operation levies, and the state property tax levy. The main features of the proposal are as follows:

- Increases state funding for compensation to equal the estimated market-rate cost to hire and retain certificated instructional, certificated administrative, and classified staff in each school district in the state.
- Makes adjustments to state allocations for regional cost differences.
- Establishes a technical workgroup to: identify and make recommendations regarding market rates, including a regionalization factor; make recommendations regarding the state salary allocation grid for certificated instructional staff; and make recommendations about limiting the use of school district levies or

other local revenues for enhancements outside the program of basic education.

- Increases the state property levy to fund the new state compensation allocation.
- Reduces school district local levies beginning in calendar year 2018 by the amount that the districts are budgeted to receive for the new compensation allocations. To address the varying school, calendar and state fiscal years, calendar year 2018 is treated as a transitional year and a one-time allocation is made to school districts to supplant the reduction to the local maintenance and operation levy that occurs prior to the new compensation allocation.
- Beginning in calendar year 2019, school districts' local maintenance and operation levy collections are limited to a rate of \$2,500 per pupil, except in districts with fewer than 40 FTE resident students, in which case the levy limit is \$100,000. School districts may only use maintenance and operation levy revenues for expenditures that are an enrichment to the program of basic education.

## **2. Summaries of House Proposed Legislation**

In the House, bills were introduced to set out steps to resolve issues associated with compensation and reliance on local levies and to address the state salary schedule for certificated instructional staff.

### ***House Bill 1854 (Creating a new salary model for certificated instructional staff)***

HB 1854 addresses the state salary schedule for certificated instructional staff.

- Establishes a new salary allocation system for new certificated instructional staff, in which already employed staff may choose to participate. Provides annual cost of living adjustments.
- Requires the Legislature to establish a new salary schedule beginning with the 2017-18 school year for certificated instructional staff, based on three tiers of demonstrated performance and years of service up to 10 years.
- Classroom teachers employed in defined hard-to-staff positions or in a low income school are eligible for a bonus of \$2,000 during the first three years of such employment.
- Awards bonuses of \$5,000 to certificated instructional staff in the top three small, medium, and large schools demonstrating the most improvement on the Washington Achievement Index.

- Imposes statutory restrictions on salaries for certificated instructional staff, and establishes parameters and reporting requirements for using supplemental contracts.
- Expands the educator support program statewide beginning in the 2017-18 school year, subject to funds appropriated.

***House Bill 2239 (Basic education article IX plan)***

***Findings and Intent***

- The Legislature acknowledges both the Court’s *McCleary* ruling on salary allocations and the Court’s call for an implementation plan.
- The Legislature explains that both the House of Representatives and Senate budget proposals for 2015-17 meet statutory requirements by fully funding MSOC in the 2015-16 school year, by fully funding all-day kindergarten one year ahead of schedule, and by continuing to phase in funding for K-3 class size reduction, with full implementation planned for the 2017-18 school year.
- The Legislature declares that increased state salary allocations are a necessary part of a constitutional solution, but not a complete solution. As a starting point for reviewing salary allocation, the Legislature finds that the review process should begin with an assumption that a minimum of 90 percent of total statewide school

district salary expenditures for state-funded employees represents the minimum salary cost of the State's program.

- The Legislature requires further deliberation and analysis, as well as sufficient lead time to align any property tax-based solution with the state budget.
- The Legislature declares that there is a need for further study of:
  - time, responsibility, and incentive contracts;
  - state salary allocations, including regionalization and the possible simplification or elimination of the state salary grid;
  - the “enrichments” that may be funded with local levies; the role of LEA;
  - the appropriate amount of school district levies; and the relation of school district levies to the state property tax.

***Washington Education Funding Council is Established***

- The Washington Education Funding Council (WEFC) is created to advise the Legislature as the Legislature moves toward full implementation of ESHB 2261 by September 1, 2018. Under the specified timeline, the WEFC must provide the Legislature with recommended changes to state salary allocation formulas, school

district levies, LEA and state property tax laws or other state tax laws.

***Timeline for WEFC Recommendations and Actions of the Legislature***

- A timeline is established for research, recommendations, and legislation to implement ESHB 2261 by September 1, 2018. Due dates are prescribed for the WEFC recommendations and for enactments of the Legislature.
- By the completion of the work of the WEFC and the Legislature, the Legislature must enact laws that: provide a new salary allocation model and appropriate funding under the new model for the 2018-19 school year; make any necessary state and local tax law revisions; establish school district levies for 2018 and thereafter; establish LEA formulas and appropriates for those formulas; and appropriate funds for health benefits that are based on the rate the state appropriates for state employees.

***Quality Education Council***

- The Quality Education Council is eliminated and statutory references to it are repealed.

## **Part IV: School Construction**

### **A. Capital Budget, Second Engrossed House Bill 1115 (2015)**

Funding for school construction is appropriated in the State's capital budget bill and is outside the State's statutory program of basic education. The capital budget provides \$611 million in state appropriations for the School Construction Assistance Program (SCAP), under which the state allocates matching funds to school districts. In addition, as described below, the capital budget provides an additional \$200 million for grants targeted to K-3 class size reduction and all-day kindergarten.

### **B. Second Engrossed Substitute Senate Bill 6080 (2015)**

#### ***K-3 Class Size Reduction Construction Grant Pilot Program***

To help school districts expand the number of classrooms in support of the K-3 class-size reduction objective, the bill creates a K-3 class size reduction construction grant pilot program. The pilot program will be administered by Office of the Superintendent of Public Instruction (OSPI).

The K-3 class-size reduction grants are determined by a four-step process:

- A verified count of necessary added classrooms in a district must be completed by the Washington State University extension energy office;
- If the number of needed classrooms is 12 or more, it is assumed that the added classrooms are provided by constructing a new school. If fewer than 12 classrooms are needed, it is assumed that the additional classrooms are provided with modular classroom additions;
- The state grant amount must be calculated. If a new school is required, the cost is calculated at \$615,083 per added classroom. If modular classroom additions are required, the cost is estimated at \$210,000 per classroom. These amounts are in 2014 dollars and are inflated based on inflation rates assumed in the SCAP budget. The state match rate is the SCAP match rate plus 20 percent of the district's rate of free and reduced school lunch students; and
- The school district must be ready to proceed, and the Office of Financial Management (OFM) must confirm the grant calculations prepared by OSPI before K-3 class-size reduction grants can be awarded.

Prioritization criteria are provided if applications for additional classrooms exceed the funding available for the pilot program. The OSPI

must annually report to OFM and appropriate legislative committees information about the grants, grantees, project statuses, and class size reductions due to the new classrooms. The pilot program expires July 1, 2017.

***Development of K-3 Class Size Reduction Construction Grant Program***

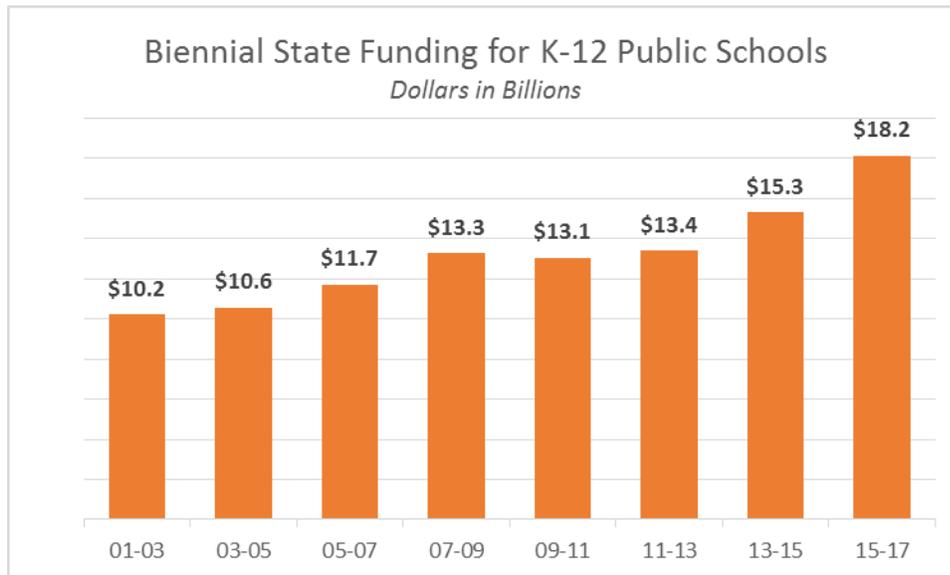
The OSPI, in consultation with stakeholders, OFM, and the Legislature, will recommend an improved funding formula for calculating future K-3 class size reduction grants by December 1, 2015, a process for creating a single prioritized list for future K-3 class size reduction grants, and statutory and rule changes to ensure appropriate coordination between the K-3 class size reduction grants and SCAP. These recommendations will be provided to OFM and appropriate legislative committees.

**Part V: Deferral of I-1351**

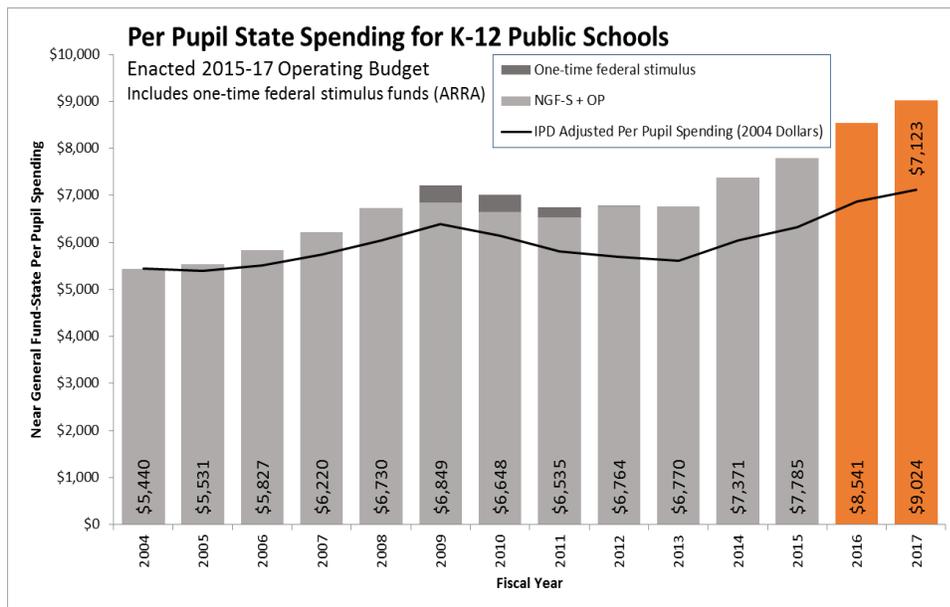
At the 2014 general election, the voters approved Initiative Measure No. 1351, which changed staffing ratios in the State's education funding formulas, requiring the State to allocate additional funding for class size reduction and for other school district staff. The initiative required partial funding in the 2015-17 fiscal biennium, with full implementation due in the 2018-19 school year. In the 2015 session, the Legislature enacted EHB 2266, which deferred implementation of the initiative for four years.

# Appendix

**Chart A**



**Chart B**



**Chart C**

