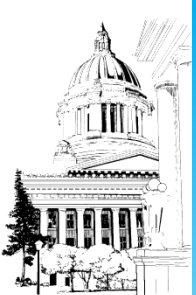


# **Update on *McCleary* K-12 Funding Litigation**

**Kristen Fraser  
Jessica Harrell**

**Committee Staff  
Appropriations Committee  
February 4, 2014**



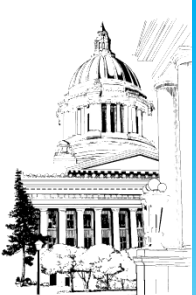
# Before *McCleary* and 2261: Background Article IX legal principles

- ▶ Court interprets, legislature implements
- ▶ Positive right
- ▶ State obligation
- ▶ Regular and dependable
- ▶ Levies = enhancement only
- ▶ Recruit and retain
- ▶ “Constitutional concrete”



# Enhancements to the Program of Basic Education: Requirements of ESHB 2261 and SHB 2776

Enhancement Area	Policy Change	Required by...
Pupil Transportation	Move to expected cost model from unit cost model	2013-15 Biennium
Materials, Supplies & Operating Costs	Specifies minimum allocation value	2015-16 School Year
Full Day Kindergarten (FDK)	Provide state funded FDK beginning with highest poverty schools	2017-18 School Year
Early Elementary Class Size	Reduce to 17.0 FTE students per teacher beginning with highest poverty schools	2017-18 School Year
Increase Instructional Hours	Increase to 1,080 in each of grades 7 <sup>th</sup> – 12 <sup>th</sup> and 1,000 in each of grades 1 <sup>st</sup> – 6 <sup>th</sup>	Schedule to be adopted by the Legislature
Opportunity for 24 Credits	Increase opportunity for credits to graduate from 20 credits to 24 credits	Schedule to be adopted by the Legislature
Compensation	Establishes a technical workgroup to make recommendations	No required date or target specified



# *McCleary:*

## Original ruling, January 2012

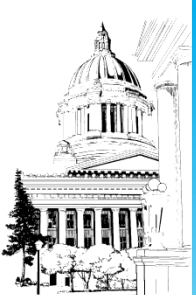
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- ▶ Old funding formula no longer aligned with cost of providing opportunity to achieve the basic education goals.
- ▶ Old formula resulted in reliance on local levies to cover actual costs:
  - MSOCs
  - Transportation
  - Salaries
- ▶ In ESHB 2261, Legislature has enacted a “promising reform program,” which, if fully funded, will remedy deficiencies.



# McCleary: Retained jurisdiction and the 4410 Committee

- ▶ Decision to retain jurisdiction unprecedented at state court level.
- ▶ Legislature passed HCR 4410, establishing Joint Select Committee on Article IX Litigation.
- ▶ July 2012: Jurisdiction initially retained at Washington Supreme Court.
  - Oversight in form of annual report from Article IX Committee after budget enacted; response from plaintiffs.
  - Court will review to decide whether to ask for additional information, refer to trial court, etc.



# Comparison of Basic Education Policy Enhancements: Majority and Minority Recommendations of the Joint Task Force on Education Funding

Enhancement Area	JTFEF Majority	JTFEF Minority
Pupil Transportation	Equal annual increments	Revise required implementation date. Fully fund in 2017-19
Materials, Supplies & Operating Costs	Equal annual increments	Revise required implementation date. Fund 50% in 2015-17 and remainder in 2017-19
Full Day Kindergarten	Equal annual increments	Full implementation in the 2013-14 School Year
Early Elementary Class Size	Equal annual increments	Fund 50% of the target in 2013-15 and fully implement the remainder in 2015-17
Increase Instructional Hours	Equal annual increments	Implement in 2015-17
Opportunity for 24 Credits	Career & College Ready plan in equal annual increments	Implement with the instructional hours
Compensation	Eliminate salary grandfathering for Administrative and Classified staff in equal annual increments	Not specified.



## Comparison of the JTFEF Majority and Minority Recommendations: \$ Enhancements to the Program of Basic Education

House  
Ways &  
Means  
Committee

Enhancement	2013-15 JTFEF Majority Recommendation	2013-15 JTFEF Minority Recommendation
Pupil Transportation	\$141.6	\$0
Materials, Supplies, & Operating Costs	\$597.1	\$0
Full Day Kindergarten	\$89.3	\$349.0
Reduce K-3 class sizes to 17 pupils/teacher	\$219.2	\$575.0
Increase Instructional Hours & Opportunity for 24 Credits	\$140.4	\$0
Learning Assistance Program	\$0	\$0
Classified & administrative salary allocations	\$169.8	\$0
Other Enhancements to Basic Ed	\$0	\$0
<b>Total</b>	<b>\$1,357.4</b>	<b>\$924.0</b>

The cost estimates for the Joint Task Force majority and minority recommendations were provided in report submitted to the Legislature in December 2012 and were based on the most current enrollment, staffing and inflation estimates available at that time.





# *McCleary: The Court's December 2012 Order*

- ▶ Actions by the state in 2012 did not show steady or forward progress.
- ▶ 2018 is a firm deadline for constitutional compliance.
- ▶ The state's 2013 report must set out a plan in sufficient detail to allow measurement of progress according to periodic benchmarks.
- ▶ Plan must address all areas identified in ESHB 2261, including the four SHB 2776 elements.

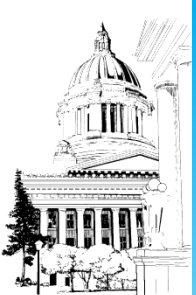




## Overview of Basic Education Enhancements Included in the 2013-15 Enacted Budget

Enhancement	2013-15 Enacted Budget
Pupil Transportation	\$131.7
Materials, Supplies, & Operating Costs	\$374.0
Full Day Kindergarten	\$89.8
Reduce K-3 class sizes to 17 pupils/teacher	\$103.6
Increase Instructional Hours & Opportunity for 24 Credits	\$97.0
Learning Assistance Program	\$143.1
Classified & administrative salary allocations	\$0.0
Other Enhancements to Basic Ed	\$43.0
<b>Total</b>	<b><u>\$982.2</u></b>

In addition to the figure presented above, the 2013-15 enacted budget included enhancements and reductions to non-basic education programs within K-12 Public Education.



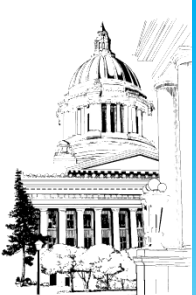
# *McCleary January 2014 Order:* **Court's Requirements**

- ▶ Report showed “meaningful steps” but fell short.
- ▶ January 2014 order repeats requirement for a complete year-by-year plan for implementation.
- ▶ Plan must address all areas of ESHB 2261 as well as SHB 2776.
- ▶ Plan due by April 30, 2014.



# *McCleary* January 2014 order: Court's Additional Points

- ▶ Court makes numerous statements indicating it expects action in 2014.
- ▶ 2014 session is opportunity to “take a significant step forward.”
- ▶ State must demonstrate progress through “immediate, concrete action.”



# *McCleary* January 2014 order: Court's Statements on Specific Topics

- ▶ Transportation: concerned that 13-15 funded levels fell short of earlier QEC and JTFFEF estimates.
- ▶ MSOCs: too large a gap remains. MSOC is program requiring greatest increase in funding.
- ▶ Compensation: state failed to address personnel costs, a significant area of state underfunding.
- ▶ COLAs: court questioned suspension of I-732 COLAs in light of compensation underfunding.
- ▶ Capital construction: court raises issue of adequacy of construction funding.