

SENATE BILL REPORT

SB 5919

As of April 14, 2011

Title: An act relating to education funding.

Brief Description: Regarding education funding.

Sponsors: Senators Murray and Zarelli.

Brief History:

Committee Activity: Ways & Means: 4/06/11.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Elise Greef (786-7708)

Background: Basic Education and K-12 Funding Formulas. Under Article IX, section 1 of the Washington State Constitution, "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders" The courts have interpreted this to mean that the state must define a program of basic education and amply fund it.

In the 2009-11 biennium, two pieces of legislation were enacted to redefine basic education and restructure the K-12 funding formulas. The first was Engrossed Substitute House Bill 2261 (ESHB 2261), Chapter 548, Laws of 2009, which expands the definition of basic education by adding the programs for highly capable students and student transportation to and from school. A new transportation funding formula was adopted to predict pupil transportation costs based on regression analysis. Additionally, the all-day kindergarten programs that had been phased in since 2007 are to become part of basic education with the continued phase in of the highest poverty schools first. Increases in the number of instructional hours and the minimum number of credits for high school graduation are to be phased in on a schedule set by the Legislature. The framework for a new K-12 funding allocation formula based on prototypical schools was created. These changes are to take effect September 1, 2011.

Three working groups were created to make recommendations to the Legislature: the Funding Formula Technical Working Group; the Local Funding Technical Working Group; and the Compensation Technical Working Group. The Funding Formula Technical Working Group submitted recommendations on the details of the new prototypical schools funding

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formula and a phase in of increases in program and funding December 1, 2009. The Local Funding Technical Working Group is to develop options for a new system of supplemental school funding through local levies and levy equalization and recommend a phase in, with a report due by June 30, 2011. The Compensation Technical Working Group is to begin July 1, 2011, to develop recommendations for an enhanced salary allocation model that is collaboratively designed and recommend details of such a model that aligns educator development and certification with compensation. The initial report is due by June 30, 2012, and must include recommendations for whether additional work is necessary.

The second bill, Substitute House Bill 2776, Chapter 236, Laws of 2010, enacted in statute that the new prototypical school allocation formulas at funding levels which represent the 2009-10 school year state spending on basic education. The bill also established a timeline, effective September 1, 2011, for phasing in enhancements to the program of basic education and certain funding levels as follows: During the 2011-13 biennium,

- enhanced funding for transportation must begin to be phased in to be completed by the 2013-15 biennium;
- and beginning with the schools with the highest poverty students, the K-3 class size must be reduced to 17 students per teacher by 2017;
- the minimum allocation for maintenance, supplies, and operating costs (MSOC) must be increased as specified in the Omnibus Appropriations Act until specific amounts are provided in the 2015-16 school year; and
- funding for all-day kindergarten must continue to be phased in each year until full statewide implementation is achieved in the 2017-18 school year.

Initiative 728 (I-728). I-728, approved by the voters in November 2000, created the Student Achievement Fund and dedicated certain state revenues to support various school reform activities in public schools. The allowable uses for I-728 funding include:

- reductions in K-4 class size;
- selected class size reduction in grades 5-12;
- extended learning opportunities for students;
- investments in educators and their professional development;
- early assistance for children who need pre-kindergarten support; and
- providing improvement or additions to facilities to support class size reductions and extended learning opportunities.

Allocations to school districts are based on the average number of full-time equivalent (FTE) students in the school district in the previous school year. The amount is designated in statute as \$450 per-student FTE in school year 2007-08, to be adjusted for inflation by the Implicit Price Deflator (IPD) annually thereafter. In Chapter 541, Laws of 2009 the Legislature amended the statute to allow the value of the per-student allocation to be set in the Omnibus Appropriations Act for school years 2009-10 and 2010-11.

The funding sources for the Student Achievement Program have been modified several times by the Legislature. In 2009 the Legislature enacted Engrossed Substitute Senate Bill 5073, consolidating a number of near General Fund State accounts into the General Fund, including the Student Achievement Fund. Statute currently provides that I-728 distributions be made from the General Fund State.

The history of Student Achievement Program per-student allocations, by school year, is as follows:

- 2001-02, \$190.19;
- 2002-03, \$219.84;
- 2003-04, \$211.67;
- 2004-05, \$254.00;
- 2005-06, \$300.00;
- 2006-07, \$375.00;
- 2007-08, \$450.00;
- 2008-09, \$458.10;
- 2009-10, \$131.16*; and
- 2010-11, zero.

*In school year 2009-10, I-728 allocations were funded with a combination of General Fund State dollars and one-time federal fiscal stabilization funds available under the American Recovery and Reinvestment Act of 2009 (ARRA).

Allocations to school districts are estimated to total \$860.2 million for the upcoming 2011-13 biennium, which represents allocation rates of \$476.55 per-student FTE for school year 2011-12 and \$484.45 for school year 2012-13.

Initiative 732 (I-732) Cost-of-Living Adjustment (COLA). I-732 was approved by voters in the November 2000 general election. It required the state to provide an annual COLA for K-12 teachers and other public-school employees, as well as community college and technical college academic employees and classified employees at technical colleges. The COLA is based on the Seattle-Area Consumer Price Index from the most recently completed calendar year. The increases apply to school years (September 1 through August 31) for K-12 employees and to fiscal years (July 1 through June 30) for community and technical college districts.

In 2003 the Washington Supreme Court's ruling in *McGowan v State* regarding interpretation of the state's funding obligation, the Legislature amended the statute to specify that the state must provide funding for cost-of-living increases for K-12 state-funded formula staff units only.

Legislation was enacted to suspend I-732 for the 2003-05 biennium. However, a salary adjustment was provided that biennium for state-formula certificated instructional staff in their first seven years of service. Initiative 732 COLA adjustments were again suspended during the 2009-11 biennium. An amendment to I-732 statutes made in 2009 further provides that COLAs suspended in the 2009-11 biennium will be caught up in the ensuing biennia. During the 2011-13 and 2013-15 biennia, in addition to regular I-732 COLAs, funding will be allocated in additional equal increments such that base salaries or average salaries used in state allocation formulas are, at a minimum, what they would have otherwise been by the end of the 2014-15 school or academic year if COLAs had not been suspended during the 2009-11 biennium.

National Board Bonus Program. K-12 certificated instructional staff (CIS) who attain certification from the National Board for Professional Teaching Standards (NBPTS) receive

an annual bonus. The amount of the bonus is identified in statute as \$5,000 in the 2007-08 school year, to be increased by inflation annually. The annual inflation adjustment was suspended for the 2009-10 and 2010-11 school years. For the current school year (2010-11), the amount of the annual bonus is \$5,090.

In addition to the regular bonus, a \$5,000 annual bonus is provided to CIS who have attained certification and teach in a challenging school; that is, a school in which at least 70 percent of the students qualify for free and reduced-price lunch.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Intent. The stated intent of the Legislature is to gather the recommendations of all technical working groups established in ESHB 2261, when they have completed their work, and use the comprehensive set of recommendations to identify common priorities and develop an implementation plan that uses all information available, not just early information. It is the further intent of the Legislature to establish a sustainable, long-term financial plan to fund the comprehensive implementation schedule. The financial plan must take into account I-728 by integrating the funding for that initiative with the implementation of the prototypical school model, as recommended by the Funding Formula Technical Working Group. The financial plan must also consider upcoming findings of the Compensation Working Group and review that group's recommendations regarding I-732 and the state's larger education reform plan.

Basic Education and K-12 Funding Formulas. All start and end dates for phasing in the basic education expanded definition and funding enhancements are removed and additional language is provided that the phase in will be according to an implementation schedule adopted by the Legislature. The Compensation Working Group must include a recommendation as to whether I-732 should be removed as separate funding but folded into the basic education allocations.

It is clarified that the number of instructional hours and the minimum number of credits for high school graduation will be increased no sooner than the 2014-15 school year.

The pupil transportation funding formula, scheduled to go into effect September 1, 2011, is adjusted as follows:

- The new formula includes statistically significant factors only.
- The indirect-cost rate added to the final prior year expenditures is specified as the federal restricted indirect rate.
- The growth in salaries and benefits in the allowable prior year expenditures will not exceed the growth provided for in the budget.
- During the transition to full implementation, the funding will include budgeted increases provided in the Omnibus Appropriations Act for salaries or fringe benefits.
- Clarifies that, during the transition to full implementation, in-lieu bus depreciation payments to contracting districts are not included in the reported prior year expenditures.

The Quality Education Council (QEC). The QEC must synthesize all the workgroup recommendations by January 1, 2013, and develop a concurrent phase-in schedule for the

Legislature to fully implement the changes to the instructional program of basic education and the enhancements of the funding formulas. The workgroups and reports are:

- Funding Formula Technical Working Group;
- Local Funding Technical Working Group;
- Compensation Technical Working Group;
- Highly Capable Program Technical Working Group;
- Learning Assistance Program Technical Working Group;
- Transitional Bilingual Instruction Program Technical Working Group;
- high school graduation proposal of the State Board of Education; and
- capacity report of the Office of Superintendent of Public Instruction.

The QEC is encouraged to also consider other major policy changes that schools and districts are being required to implement, such as the new common core standards, the new assessments of the common core, the new high school graduation requirements, and the new teacher and principal evaluation pilots.

I-728. I-728 is eliminated, effective September 1, 2011.

References to the Student Achievement Program or Student Achievement Fund are removed from the following statutes:

- High School Completion Pilot Program (RCW 28A.600.405);
- Education Construction Fund (RCW 43.135.045);
- lottery revenue distribution (RCW 67.70.340); and
- Education Legacy Trust Account (RCW 83.100.230).

I-732. The I-732 COLAs are suspended for K-12 public-school employees for the 2011-12 through 2014-15 school years, and the I-732 COLAs are suspended for community and technical college employees for the 2011-12 and 2014-15 fiscal years. The I-732 catch-up provisions are also eliminated in both cases.

National Board Bonus Program. For school years 2011-12 and 2012-13, both the regular and challenging-school NBPTS annual bonuses are subject to the availability of amounts appropriated for the purpose and subject to such conditions as are established in the Omnibus Appropriations Act.

Appropriation: None.

Fiscal Note: Requested on April 5, 2011.

Committee/Commission/Task Force Created: None.

Effective Date: The bill contains an emergency clause and takes effect immediately, except for sections 3-9, 13, and 16-19, basic education, K-12 funding formulas, and I-728, which take effect September 1, 2011.

Staff Summary of Public Testimony: CON: Judge Erlich's decision in the Superior Court ruling said the state cannot avoid its Constitutional duty to fully fund basic education by stating an intent to comply at some point in the future. This bill is realizing Judge Erlich's

prediction. I hope you're uncomfortable and embarrassed. We've done a lot of great work in recent years putting the new system in place, and this bill allows you to bail. I understand this is an uncomfortable conversation to have every year when you don't have the money to follow through on a lot of these efforts but it's your paramount duty to have the conversation and keep the focus on basic education. This bill has good intentions but good intentions are not good enough. The bill strips all the dates. The Legislature is making dreadful decisions this year, but the dates should not be removed because they provide a backstop. Learning Achievement and English Language Learners programs are already part of basic education. They should not be removed. We understand the I-728 needs to be suspended, but don't eliminate it altogether. The four-year suspension of I-732 is too long, and the lost COLA should be brought forward. The school directors' first priority is keeping HB 2261 and HB 2776 moving forward. You could look at the House budget to see a way to manage the funding. Put just a little bit into these programs in the next biennium. If you don't have timelines, it won't happen. You can afford it because you can at least give a dollar. In the transportation section, there are four amendments; the fourth is good.

Persons Testifying: CON: Chad Magendanz, Marnie Maraldo, Issaquah School Board; Lucinda Young, Washington Education Association; Marie Sullivan, Washington State School Directors' Association; Mitch Demming, Alliance of Educational Associations.