

HOUSE BILL REPORT

ESHB 2051

As Passed House:
June 28, 2013

Title: An act relating to implementation of basic education expenditures.

Brief Description: Implementing basic education expenditures.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Lytton, Hunter, Sullivan, Maxwell and Pollet).

Brief History:

Committee Activity:

Appropriations: 4/22/13, 4/23/13 [DPS].

Second Special Session

Floor Activity:

Passed House: 6/28/13, 55-34.

Brief Summary of Engrossed Substitute Bill

- Directs certain revenues from the Real Estate Excise Tax, the Public Utility Tax, and the Solid Waste Collection Tax that are currently deposited in the Public Works Assistance Account to be deposited in the Education Legacy Trust Account through June 30, 2019.
- Repeals a requirement for an annual transfer of \$102 million from the State General Fund to the Education Construction Fund.
- Redefines the Transitional Bilingual Instruction Program to require school districts to make instructional support available for students for up to two years immediately after they exit the program if they need assistance in other academic subjects.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 18 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Carlyle, Cody, Dunshee, Green, Haigh, Hudgins, Hunt, Jinkins, Kagi, Maxwell, Morrell, Pedersen, Pettigrew, Seaquist, Springer and Sullivan.

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.

Minority Report: Do not pass. Signed by 13 members: Representatives Alexander, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Dahlquist, Fagan, Haler, Harris, Parker, Pike, Ross, Schmick and Taylor.

Staff: Jessica Harrell (786-7349) and Barbara McLain (786-7383).

Background:

Under Article IX, section 1 of the Washington 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. Legislation enacted in 2009 and 2010 provided for phased-in implementation of changes in both the Basic Education program and the funding to support it.

One of the programs within the statutory definition of Basic Education and funded by state appropriations for kindergarten through grade 12 (K-12) is the Transitional Bilingual Instruction Program (TBIP). The TBIP provides instructional support for students whose level of English language proficiency is determined to be sufficiently deficient to impair learning. This supplemental instruction is provided only for students who are eligible for and enrolled in the TBIP. Students' English language proficiency is measured using an annual statewide assessment. Once students are tested as proficient, they exit the TBIP.

The Education Legacy Trust Account (ELTA) was established by the Legislature in 2005 to receive dedicated tax revenues to support the K-12 school system, increase higher education enrollments and financial aid, and provide for other educational improvements.

The Public Works Assistance Account (PWAA) was established in 1985 to encourage local government self-reliance in meeting public works needs and assist in financing critical infrastructure projects. Loan repayments and revenues from three tax sources have historically been deposited into the PWAA:

- The Real Estate Excise Tax (REET) is imposed on the sale of real property. From the revenues of the REET, 6.1 percent is deposited in the PWAA and the remainder is deposited in the State General Fund and the City-County Assistance Account. Penalties for late payments of the REET are deposited into the Housing Trust Fund.
- A Public Utility Tax is imposed on a variety of public utilities, including sewers, natural gas, water, and electricity. From the revenues of this tax, 20 percent of the revenue from water utilities and 60 percent from sewer utilities are deposited into the PWAA.
- A Solid Waste Collection Tax is imposed on garbage utilities. Until June 30, 2015, revenues from this tax are deposited into the State General Fund. In fiscal years 2016, 2017, and 2018, the revenues are evenly divided between the State General Fund and the PWAA. Thereafter, all revenues are deposited into the PWAA.

The Education Construction Fund (ECF) was established to provide for state assistance for K-12 and higher education construction projects. From July 1, 2004, to July 1, 2009, all net lottery revenues allocated for education were deposited in the ECF. Legislation enacted in

2010 redirected the deposit of state lottery revenue from the ECF into the Opportunity Pathways Account and required the State Treasurer to transfer \$102 million each year from the State General Fund into the ECF. In recent years, including the current 2011-13 biennium, the transfers from the State General Fund have been suspended.

Summary of Engrossed Substitute Bill:

It is the Legislature's intent to fund a plan to carry out the reforms enacted in 2009 and 2010 legislation regarding Basic Education and to make the statutory changes necessary to support this plan.

The TBIP is expanded to include a requirement that school districts make a program of instructional support available for up to two years immediately after students exit the TBIP on the basis of their performance on the statewide English proficiency assessment, for those students who need assistance in reaching grade-level performance in academic subjects.

Certain revenues currently deposited into the PWAA are deposited into the ELTA through June 30, 2019:

- From July 1, 2013, through June 30, 2019, 2 percent of the REET is deposited into the PWAA, and 4.1 percent is deposited into the ELTA. Thereafter, 6.1 percent is deposited in the PWAA.
- From July 1, 2013, through June 30, 2019, the portion of the Public Utility Tax that is currently deposited into the PWAA is deposited into the ELTA. Thereafter, the Public Utility Tax is deposited into the PWAA.
- As under current law, the Solid Waste Collection Tax is deposited in the State General Fund through June 30, 2015. From July 1, 2015, through June 30, 2018, 50 percent is deposited into the ELTA rather than the PWAA. From July 1, 2018, through June 30, 2019, the Solid Waste Collection Tax is deposited into the ELTA, and thereafter it is deposited into the PWAA.

The requirement that the State Treasurer must annually transfer \$102 million from the State General Fund to the ECF is removed.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after the session in which it was passed, except for sections 2 through 4 relating to expanding the Transitional Bilingual Instruction Program, which contain an emergency clause and take effect September 1, 2013; section 7 relating to the Public Utility Tax, which contains an emergency clause and takes effect June 30, 2013; and section 5 relating to the Education Construction Fund, section 6 relating to the Real Estate Excise Tax, and section 8 relating to the Solid Waste Collection Tax, which contain an emergency clause and take effect immediately.

Staff Summary of Public Testimony:

(In support) Superintendent Dorn strongly supports this proposal and the underlying budget that goes with it as the first step in addressing the McCleary Washington Supreme Court decision. There are additional steps between now and 2017-18 that will need to be taken to reach the promise of fully funding K-12 education, including staffing for grades 4 through 12, salaries, professional development, and other prototypical school staffing. This represents a serious investment in response to the McCleary decision. There are no other bills currently moving that respond to the Washington Supreme Court's (Court) December order. The Legislature is demonstrating a sustained effort to implement House Bill 2261 from 2009 which implemented the 24-credit framework for high school graduation. The development of that framework has been a deliberate effort over many years. The addition of the Task Force on Career Education Opportunities (Task Force) would be helpful, but the State Board of Education (SBE) should be a member of that group. It is very important to have rigor for all, not necessarily four-year college for all. The skills gap and high remediation rates must be addressed, and this bill represents a serious effort to address those issues.

The opportunity for students to earn 24 credits for graduation is an investment in equity. Students such as those who have signed up for the College Bound scholarship will now be given the opportunity to earn the credits they need, not tracked away from college readiness as so often has been the case. This legislation supports postsecondary preparedness, whether that includes college or further training. This is a great bill that is much supported, and the steps taken toward fully funding education are appreciated. This bill partially responds to the Court's demands for a schedule for implementation of full funding. There are several issues that are still missing, including salary allocations for certificated instructional staff and funding for capital facilities. The rebasing of the materials, supplies, and operating costs (MSOC) allocation is a concern. School districts have been under-spending due to budget cuts. The allocation should represent the amount of funds needed to support these costs, not simply what is available for districts to spend.

The Task Force on Career Education Opportunities (Task Force) is very important to career and technical education (CTE) educators. There have been many conversations about the importance of the CTE, and the CTE educators appreciate the opportunity to mitigate some of the concerns that have been raised about the SBE's graduation requirements before they are adopted into rule. This issue has been a top priority for years. Everyone wants an education system that fully prepares all children for career and college. The clarity, specificity, and the phase-in schedule under this bill are all appreciated. In addition, it is time for the Legislature to come through with the necessary funding, instructional time, and support that is needed for students to be college and career ready. This is a tremendous affirmation of all the work that has come before.

The 24-credit graduation requirement will ensure that all students have opportunities to be successful. In particular, requiring students to earn a third credit of science will enable them to be prepared to take advantage of opportunities in a competitive and global economy. This bill funds the infrastructure of public education that has been covered by local taxpayers for years. The Legislature is stepping up to recognize costs for transportation, the MSOC, and salaries.

(Opposed) None.

Persons Testifying: Representative Lytton, prime sponsor; Ken Kanikeberg, Office of the Superintendent of Public Instruction; Connie Fletcher and Deborah Wilds, State Board of Education; Shawn Lewis, Washington Education Association; Tim Knue, Washington Association for Career and Technical Education; Ramona Hattendorf, Washington State Parent Teacher Association; Caroline King, Washington STEM; and Doug Nelson, Public School Employees of Washington.

Persons Signed In To Testify But Not Testifying: None.