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**SUPREME COURT OF THE STATE OF WASHINGTON**

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The State of Washington; CHRISTINE O. GREGOIRE, in her capacity as Governor of the State of Washington; TERRY BERGESON, in her capacity as Superintendent of Public Instruction; BRAD OWEN, in his capacity as President of the Senate and principal legislative authority of the State of Washington; FRANK CHOPP, in his capacity as Speaker of the House of Representatives and principal legislative authority of the State of Washington,

Appellants,

v.

Federal Way School District No. 210, a municipal corp.; ED BARNEY; CYNTHIA BLACK; EVELYN CASTELLAR; GINGER CORNWELL; CHARLES HOFF; DAVID LARSON; individually and as guardian for ANDREW LARSON; THOMAS MADDEN, individually and as guardian for BRYCE MADDEN; SHANNON RASMUSSEN; SANDRA RENGSTORFF; individually and as guardian for TAYLOR RENGSTORFF and KALI RENSTORFF,

Respondents.

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**BRIEF OF APPELLANTS**

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## I. NATURE OF THE CASE

This case concerns the Legislature's implementation of the school employee salary allocation components of the State's school funding system. The question before this Court is not whether the Legislature has satisfied its obligation to provide ample funding for basic education. The trial court correctly concluded that the Legislature has met that obligation, and the Plaintiffs presented no evidence to the contrary. CP 423. Rather, the overarching question is: Where the Legislature has met its obligation to provide ample funding for basic education, is the Legislature also constitutionally compelled to currently equalize state allocations to school districts for school employee salaries that historically varied widely among districts?

As the evidence before the trial court demonstrated, the Legislature has significantly reduced variation among district employee salary allocations over time, and presently, relatively few districts receive higher salary allocations than others. The State respectfully submits that the Legislature has the constitutional latitude to address the remaining variation, as it has in the past, as part of the political calculus of weighing competing priorities for finite public resources. The trial court erred in ruling otherwise.

## II. ASSIGNMENTS OF ERROR AND ISSUES RELATING TO ASSIGNMENT OF ERROR

### A. Assignments of Error

The King County Superior Court erred in

(1) Entering a Summary Judgment Order, dated November 2, 2007, declaring the State's formulas allocating funds to school districts for teachers, administrators and classified personnel violate article IX, section 2, of the Washington constitution;

(2) Failing to dismiss the claims of the individual Plaintiffs in this case challenging the Legislature's salary allocation formula to Federal Way School District as those claims are not justiciable; and

(3) Declaring that the Legislature's salary allocation formula violates the equal protection rights of the individual Plaintiffs as reflected in article I, section 12 of the state constitution.

### B. Issues Pertaining to Assignment of Error

1. **Where the Legislature Has Made Ample Provision For Basic Education, Does Article IX, Section 2 of the State Constitution, Which Provides, "[t]he legislature shall provide for a general and uniform system of public schools", Require the Legislature also to Currently Equalize State Allocations to School Districts, for School Employee Salaries?**
2. **Do Individual Plaintiffs, Nine Students, Teachers, and Taxpayers Meet Standing and Other Justiciability Requirements to Challenge the Legislature's Salary Allocation Formulas to School Districts?**

**3. Do the Legislature's Salary Allocation Schedules Incorporated into the 2007 Appropriations Act Violate the Equal Protection Rights of the Individual Student, Teacher, and Taxpayer Plaintiffs Under the State Privileges and Immunities Clause, Article I, Section 12?**

**III. STATEMENT OF THE CASE**

This is not an “ample funding” case. Although, in their complaint, the Plaintiffs alleged that unequal allocations of state dollars implicated article IX, section 1,<sup>1</sup> they provided no evidence that the allocation of funds at issue did not provide the constitutionally required “basic education.” The Superior Court so held (CP 423),<sup>2</sup> and we do not expect the Respondents to raise that issue further.<sup>3</sup> Rather, this case is about current state funding for education whereby some districts receive higher funding allocations than other districts. Nevertheless, some background discussion of the relevant constitutional provisions, their interpretation by this Court, and their implementation by the Legislature is important.

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<sup>1</sup> Article IX, section 1, of the Washington Constitution states: “It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.”

<sup>2</sup> Attached as Appendix A to this brief are copies of the relevant constitutional and appropriations act provisions. Attached as Appendix B is a copy of the written opinion of the Superior Court. CP 418-426.

<sup>3</sup> The factually more complex issue of whether the State is meeting its constitutional obligation to provide an ample education is being litigated elsewhere. *McCleary, et.al, v. State of Wash.*, 07-2-02323-2-SEA (King County Superior Court) (filed January 11, 2007); *School Districts' Alliance for Adequate Funding of Special Education*, 36294-5-II (Court of Appeals Division II).

**A. Overview of Basic Education Funding**

*Seattle School Dist. No. 1 v. State*, 90 Wn.2d 476, 585 P.2d 71 (1978), is the starting point for understanding the scope of the State's obligation to fund public education and the funding system created by the Legislature. Article IX, section 1, imposes a paramount duty on the state to amply provide for the education of all children residing within the state's borders. Children have a correlative right to have the State amply provide for a basic education. *Seattle School Dist.*, 90 Wn.2d at 511—13. The Legislature must define a "basic education" and amply fund the basic education from dependable and regular tax sources. *Id.* at 520.

While *Seattle School Dist.* was pending, the Legislature passed the Basic Education Act of 1977.<sup>4</sup> Codified at RCW 28A.150, the Act contains three basic elements: (1) educational system goals; (2) educational program requirements; and (3) the staff unit allocation system consisting of required staff to student ratios and funding allocation formulas, including a formula to allocate state funding for school employee salaries. RCW 28A.150.200. This case concerns one aspect of

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<sup>4</sup> Although the court did not consider the Act in its decision, in his concurring opinion, Justice Utter characterized the Act as "a detailed definition of the educational program to be offered students." *Seattle Sch. Dist. v. State*, 90 Wn.2d at 547-48 (concurring opinion).

the third basic element, funding for teacher, administrator and classified staff employee salaries.<sup>5</sup>

**B. Relevant History of the Basic Education Allocation**

At the time of the phase-in period of the Basic Education Act, there were wide discrepancies in salary levels among school districts. The Legislature grappled with various ways to implement a state school employee salary formula without upsetting legal, economic and contractual expectations in school districts that were paying higher salaries. Another concern was to provide appropriate local flexibility and control over salary administration and pay practices. Still another was to preserve local collective bargaining. Dan F. Reff, *Ample Provision for Education: A Study of School Finance Reform in Washington State*, (1982), CP 329—384.

Prior to the Basic Education Act, state support for education was allotted on the basis of a weighted student formula, in which a minimum guarantee per student was enhanced by various weighting factors instead of the “staff unit” basis that we see today. That staff unit allocation basis was developed by the Joint Committee of the Legislature on Education,

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<sup>5</sup> The three classes of employees are: (1) certificated instructional staff (this group includes teachers, counselors, librarians and other non-supervisory certificated staff). For simplicity, they are referred to as “teachers” in this brief; (2) certificated administrative staff (administrators) and (3) classified staff. Until 1987, there were only two classes of employees recognized by salary schedules: certificated staff and classified staff. Administrators were included with certificated staff. For the time period 1977-1987, the term “certificated staff” will be used for this combined group.

formed in 1971. Reff, CP 30.<sup>6</sup> The concept was developed further in a 1975 legislative study<sup>7</sup> and proposed formally in 1976 by a group called Citizens for Fair School Funding. Reff, CP 318. In enacting the Basic Education Act, the 1977 Legislature adopted ideas from all three sources and implemented the staff unit formula for the 1978—79 year. Reff, CP 318—319.<sup>8</sup>

### 1. Selecting a Salary Multiplier

After determining that the formula would include ratios of certificated staff and classified staff units per 1,000 students, the Legislature needed to determine how to arrive at the salary multiplier for each group of employees.<sup>9</sup> At that time, actual employee salary amounts were unique to each district. Reff, CP 329. The Legislature considered whether to simply impose a uniform statewide salary schedule. However, this would have eliminated local control over salary setting. Also, setting a statewide standard would have effectively lowered salaries

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<sup>6</sup> The staff unit basis means that the allocation is determined by the number of staff units required by student to staff ratios and multiplying the number of staff by a salary multiplier to determine the total allocation to a district. *See infra* p. 13.

<sup>7</sup> In 1975 the Legislature contracted with Wallace G. Miller & Associates to study school finance. The resulting *Miller Report* pulled together a number of finance concepts that had been in circulation. Reff, CP 317-318.

<sup>8</sup> Initially, full state funding under the new formula was to be phased in over three years, reaching 100 percent by the 1980-81 school year. In fact, full state funding was attained by the 1979-80 school year. Reff, CP 321.

<sup>9</sup> This decision and its aftermath proved to be the most complex, controversial, and “politically explosive issue” in developing and revising the formula. Reff, CP 329, 346, and 379.

in many districts, disrupting economic and legal expectations in those districts, or conversely provided windfalls to other districts, or both.

Ultimately, in 1977 the Legislature adopted then existing average salaries paid by the districts as the salary multiplier for the allocation. This policy choice maintained local autonomy over salary bargaining and pay practices and, more important and of consequence to the present litigation, had the advantage of equalizing buying power among the districts since the existing average presumably reflected what it took to hire the same number of staff per thousand FTE students in each district's market. Reff, CP 330. In other words, it was intended to reflect, at least in a rough way, the economics of hiring staff at the time.

Therefore, in 1977, the average salary allocations varied widely due to a number of factors such as local district authority, philosophy, pay practices, collective bargaining practices, staff experience levels, and variations on local levies. Reff, CP 330—31.<sup>10</sup> However, looking ahead, the Legislature determined that a narrowing of the salary allocation variations among districts over time would be a desirable policy goal. Accordingly, over the first ten years of implementing the new funding system, the Legislature initiated a series of weighted salary

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<sup>10</sup> Average salaries in the highest paying districts were more than two and a half times the average salaries paid in the lowest paying districts. Average certificated salaries ranged from \$7,200 in the lowest paid districts to \$18,300 in the highest paid. Classified salaries ranged from just over \$5,000 to \$12,509. Reff, CP 330.

increases while imposing salary controls on higher salary districts. Reff, CP 332—33; *1996 Organization and Financing of School Districts* (1996 Manual), CP 200—205.

## 2. Increased Allocations and Reduced Gaps

For the 1977—79 biennium, the Legislature authorized and funded salary increases for all staff in a manner designed to reduce the differentials in average salary allocations.<sup>11</sup> In the 1979—81 budget, the Legislature again tried to control salary increases through budget language that proved to be legally ineffective. Reff, CP 340; *Washington Education Ass'n v. State*, 93 Wn.2d 37, 604 P.2d 950 (1980).<sup>12</sup> In the 1981, 1983, 1985, and 1987 biennia, the Legislature continued to increase allocations. In all but the 1983 biennium, it also reduced the salary allocation gaps with various degrees of success.

After trying for ten years, the 1987 Legislature enacted an effective salary control to ensure average teacher salaries stayed within the basic education allocation for each year in each district.

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<sup>11</sup> For 1977-78 and 78-79, the Legislature set a “maximum control level” that was intended to limit allocation increases for the districts with the highest average salaries. Laws of 1977, 1<sup>st</sup> Ex. Sess., ch. 339, §§ 96-97. Unfortunately, the early plans for achieving equalization within ten or twenty years were substantially hindered in the earlier years by many school districts that granted their employees salary increases in excess of the legislative controls. Several times the Legislature simply recognized the salaries actually paid by the districts in the subsequent budget. Reff, CP 333, 340, 344; 1996 Manual, CP 201-04.

<sup>12</sup> The Legislature violated const. article II, section 37, by amending substantive statute giving districts the authority to set salaries with appropriations language.

RCW 28A.400.200. The Legislature made further substantial efforts at reducing base salary gaps, leaving 34 school districts “grandfathered” at higher teacher derived base salary allocation levels. 1996 Manual, CP 204—05.<sup>13</sup>

Thus, by 1989, the Legislature had taken significant action both to reduce the gaps in salary allocations among districts and to reduce the number of districts whose allocations were higher than the rest. At the same time, the Legislature protected somewhat the local control and longstanding economic expectations in the higher paying districts.

In 1989 and again in 1991, the Legislature shifted its focus to boost teacher salaries overall, driving increases to the lowest paid teachers and to those with masters degrees. It also provided uniform increases to all staff. 1996 Manual, CP 207. Though it granted no increases in 1993 (and even reduced administrator salaries), the Legislature increased all salary allocations to districts uniformly for all three classes in the next three biennia. *2006 Organization and Financing of School Districts* (2006 Manual), CP 190—191. In 1999 the Legislature once again focused on raising beginning teacher salaries. It

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<sup>13</sup> The 1987 Legislature also divided the certificated staff into two groups, creating the certificated administrative staff and certificated instructional staff (teachers). The initial figures for average administrator salary allocation were based on actual average salaries as reported by the school districts. Laws of 1987, 1<sup>st</sup> Ex. Sess., ch. 7, § 504(2)(a)(ii), CP 94; CP 281.

authorized and funded a 12.05 percent increase to districts for teachers with 0 years of service with lower increases for years 6 through 15. (2006 Manual), CP 190—191.

In 2000 the voters passed I—732 mandating yearly cost of living increases uniformly to school districts without regard to variation between the highest and lowest districts on the salary allocation schedules for any of the three classes of employees. RCW 28A.400.205. In 2003 and 2004, the Legislature focused again on closing gaps between the lowest paid teachers and those with more experience. 2006 Manual, CP 191.

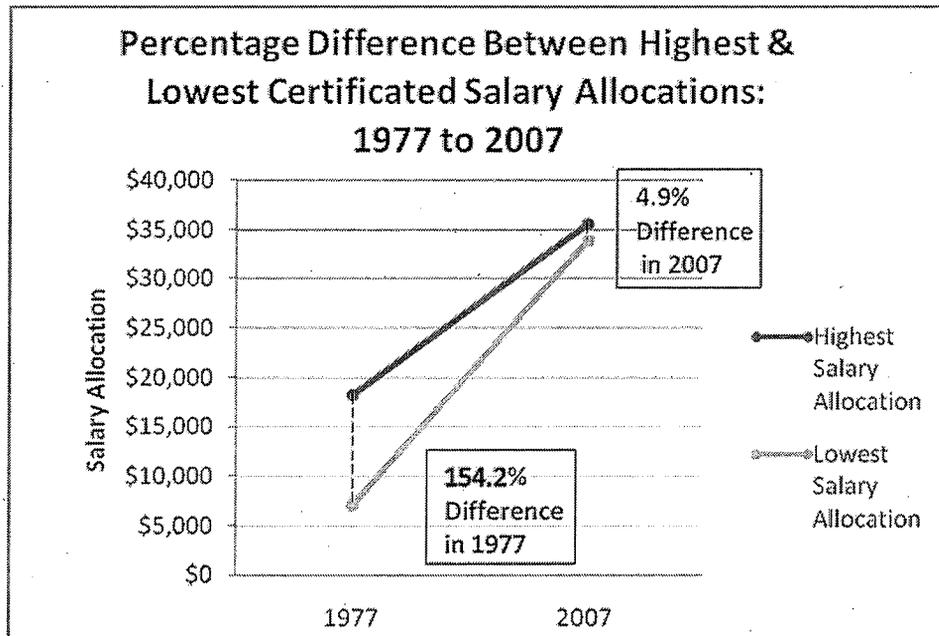
In the 2005 biennium, the Legislature granted uniform increases. CP 192. In the 2007 biennial budget, the Legislature appropriated \$510,779,000 for school employee compensation adjustments, including approximately \$64 million solely to further reduce the gaps in the salary allocation schedules among school districts. Laws of 2007, ch. 522, § 503; 2007 Legislative Budget Notes, CP 389—390. The gap reduction money was in addition to uniform I-732 cost of living increases for all three classes of employees.<sup>14</sup>

So, by 2009 the gaps that existed in 1977, and that were recognized by the Legislature as being reflective of the economics of that

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<sup>14</sup> The 2008 Legislature added an extra .5 percent cost of living adjustment for all school employees. Laws of 2008, chapter 329, § 504(1)(b).

time, were narrowed substantially. In 1977 the lowest average salary on the teacher scale was \$7,200 and the highest was \$18,300. Reff, CP 330. This is a differential greater than 150 percent. The 2007 appropriations act provided that by 2008—09 year, the lowest teacher base salary would be \$33,898, with a high of \$35,581— a 4.9 percent gap. LEAP Document 2<sup>15</sup>, CP 266—73; 2007 Budget Notes, CP 389—90.<sup>16</sup> Figure 1 below illustrates the numbers recited above.<sup>17</sup>



<sup>15</sup> LEAP Document 2 is described fully *infra* p. 12.

<sup>16</sup> Subsequently, the Legislature boosted the base salary for non-grandfathered districts to \$34,426 in the 2008 supplemental budget. Laws of 2008, ch. 329, § 503(4)(a).

<sup>17</sup> The 1977 figures constitute the low and high average salaries. Thus, there were lower lows and higher highs. The base salary concept was adopted the following year. 2007 reflects the high and low derived base salaries as shown on the LEAP Document 2.

Perhaps more significantly, for 2008—09, 283 of the 295 districts listed will have the same teacher allocation.<sup>18</sup> 2007 Legislative Budget Notes, CP 389; Laws of 2008, ch. 329, § 504(1)(c). The money to close the salary gaps was part of a \$1.8 billion increase in K-12 education funding for the biennium. Salvi Decl. ¶ 15, CP 258.

The Legislature's work on education funding continues. In 2007 the Legislature created the Joint Task Force on Basic Education Finance to follow up on the work previously completed by Washington Learns. See Salvi Decl. ¶ 20, CP 258—59. The Task Force is charged with reviewing the definition of basic education and all current basic education funding formulas and developing options for a new funding structure and all necessary formulas for presentation to the Legislature before the 2009 session. Laws of 2007, ch. 399, CP 275—79. In the most recent session, the Legislature directed the task force to specifically consider the issues related to equalizing school employee funding allocations in its recommendations for a revised funding model. Laws of 2008, ch. 177.

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<sup>18</sup> The gaps for the other types of employees have closed as well, though perhaps not as dramatically. For classified staff, 225 districts will have the same allocation. In 1977, the lowest average salary for classified staff was \$5,000 and the highest at \$12,509. Reff, CP 330. The 2007 LEAP 2 provides the lowest salary will be \$31,376 with the highest at \$34,673 (for one district), a 15 percent gap for 2008-09. LEAP 2; 2007 Budget Notes. CP 389-90. For administrators, 89 districts will have the same allocation for 2008-09. The gap for the administrators remains wider. Average administrator salaries for 1987 are not in the record.

### C. Current Funding Allocation Formulas

The current funding allocation formulas, containing salary multipliers, are found on a tabular schedule known as the LEAP Document 2 (LEAP 2).<sup>19</sup> The multipliers on the LEAP 2 are the culmination of all the salary increases and gap reduction measures described in the previous section. They are applied as follows.

For funding allocation purposes, the Legislature has prescribed minimum school staff to student ratios, including the following:

- 49 certificated instructional staff per 1,000 students in grades kindergarten to 3
- 46 certificated instructional staff to 1,000 students in grades four through twelve
- 4 certificated administrative staff per 1,000 students in grades K-12
- 16.67 classified personnel per 1,000 students in K-12

See RCW 28A.150.260.

Using the prescribed ratios, the number of annual average full-time students enrolled in a school district drives the number of staff units allocated to the district. The Legislature then uses the salary multiplier figures found on the LEAP 2 to determine the allocation attributable to

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<sup>19</sup> The LEAP 2 is prepared by the Legislative Evaluation and Accountability Program (LEAP) Committee. LEAP was created by the Legislature in 1977 to be the Legislature's independent source of information and technology for developing budgets, communicating budget decisions, tracking budget and revenue activity, consulting with legislative committees, and providing analysis on special issues in support of legislative needs. See RCW 44.48. The most recent 2008 LEAP 2 may be found at the LEAP website, at <http://leap.leg.wa.gov/leap/budget/leapdocs/k12docs.asp> (last visited 4/22/08).

the number of employees specified in the ratios for each district. LEAP 2, CP 266—273; Laws of 2007, ch. 522, § 503, CP 245—249.

The allocation is for purposes of apportioning funds to the districts and “shall not be construed as mandating specific operational functions of local school districts ...” RCW 28A.150.260(2)(c); *see also* Laws of 2007, ch. 522, § 503(8). In other words, the allocations are not intended to prescribe how any employee is paid or the number of staff hired by a district. Accordingly, “basic education shall be considered to be fully funded by those amounts of dollars appropriated by the Legislature” pursuant to the statutes setting out the program content requirements, allocation formulas, staff ratios, and certificated instructional staff salary schedule. RCW 28A.150.250.

#### **1. Certificated Instructional Staff (Teachers)**

The present process for determining the teacher allocation to school districts begins with the number of instructional staff indicated by the staff to student ratios. The number of instructional staff is then multiplied by an average salary for the district. Laws of 2007, ch. 522, § 503 (1)(a), CP 245; RCW 28A.150.410.

The average salary for a district is calculated as follows. First, the Legislature determines the derived base salary from the LEAP 2. CP 266—73. Second, the base salary is multiplied by a staff mix factor that

adds additional money to account for greater seniority and education level of the district's teachers.<sup>20</sup> Thus, if a hypothetical school district has an enrollment of 1,000 students in grades 4 through 12, it is entitled to 46 certificated instructional staff. The allocation is figured by multiplying  $(46) \times (\text{the base salary}) \times (\text{the district's staff mix factor})$ .<sup>21</sup>

## **2. Administrative Staff and Classified Staff**

For classified staff and administrative staff, the formula is simpler. The number of staff indicated by the ratios is multiplied by an average salary allocation taken from the LEAP 2. Laws of 2007, ch. 522, § 503 (1)(b), CP 245—46. Therefore, for our hypothetical school district of 1,000 students, the formula would drive out an amount equal to  $(4) \times (\text{average administrator salary})$  for administrators; and  $(16.67) \times (\text{average classified salary})$  for classified personnel.

## **D. Federal Way School District**

Respondent Federal Way School District (District) is one of 283 school districts receiving the same instructional staff base salary allocation. It is one of 225 school districts receiving the same average classified allocation and 89 school districts receiving the same average

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<sup>20</sup> Thus, a district with a “staff mix” of teachers that includes many years of experience and many master’s degrees would receive a larger allocation than a district with the same number of teachers, but a greater “mix” of teachers with less experience and bachelor degrees. *See* LEAP 1, CP 262-264.

<sup>21</sup> Because the staff mix factor is unique for each district, the resulting allocations will vary from district to district. These disparities are not being contested in this case.

administrator allocation for the 2008-09 school year. LEAP 2, CP 266—73. So, some districts that historically paid higher salaries for one of the employee classes (“grandfathered” districts) still receive higher allocations of salary dollars, although, as described above, over time, the Legislature has substantially reduced the disparity. The District challenges the remaining disparities in this suit.

In addition, the Federal Way District is one of 91 school districts that the Legislature has allowed to retain an excess levy authority percentage higher than the levy authority percentage of the other 204 school districts.<sup>22</sup> For 2007 the District had levy authority for \$32,285,398, but did not take full advantage of it, seeking \$31,000,000 from its voters. 2007 Report 2030, CP 392. The Legislature also provides additional funding to the District through Local Effort Assistance.<sup>23</sup> In 2007 the District received \$4,299,188 from the State in local effort assistance money. CP 392.<sup>24</sup>

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<sup>22</sup> The 1977 Basic Education Act was accompanied by legislation enacting a levy lid for school districts at 10 percent of a district’s basic education allocation. 2006 Manual, CP 181-82. However, certain districts were grandfathered in at higher limits. The history of the levy lid and the grandfathered levy authority mirrors the history of the salary allocations with number policy changes over the years and attempts to phase down the grandfathered levy percentages. 2006 Manual, CP 181-82. The Levy Lid Act is codified at RCW 84.52.0351.

<sup>23</sup> The Local Effort Assistance program is an additional state funding stream described in RCW 28A.500. The purpose of such assistance is to mitigate the effect that above-average property tax rates might have on the ability of a school district to raise local revenues to supplement the state’s basic program of education. Districts that have a 12 percent levy

### **E. Procedural History of This Litigation**

This action was filed in King County Superior Court on November 20, 2006, seeking a declaration that the State's school funding allocation formulae for certificated staff, administrative staff, and classified personnel are unconstitutional. On November 2, 2007, the Superior Court granted the District's Motion for Summary Judgment, holding that all three salary allocation schedules in the appropriations act violate Washington constitution, article IX, section 2. In addition, the trial court held that the salary allocation schedules in the appropriations act violate the equal protection rights of the nine individual parent, teacher and taxpayer Plaintiffs, under const. article I, section 12 of the state constitution. The Superior Court did not address the justiciability arguments raised by the State.

### **IV. SUMMARY OF ARGUMENT**

This case does not concern ample funding for education under Washington constitution, article IX, section 1. Therefore this Court must analyze the article IX, section 2, and article I, section 12 claims under the premise that the system is amply funded. This Court's precedents establish that the State has discharged its duty to create a uniform system

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rate higher than the state average are eligible to receive additional state money. RCW 28A.500.010 – 030; Salvi Decl., CP 258. *See also*, 2006 Manual, CP 186.

<sup>24</sup> The Respondents do not contend that disparities between districts in these areas are constitutionally prohibited.

of public schools under article IX, section 2, through its common school code and uniform educational provisions.

This Court need not reach the claims of the nine individual Plaintiffs under article I, section 12, for none of the individuals can establish that a justiciable controversy exists to invoke jurisdiction under the Uniform Declaratory Judgment Act.

Should this Court nonetheless reach those claims, the funding allocation system does not confer any special privileges on a minority of citizens within the meaning of article I, section 12, and the Legislature's approach is a rational means of serving legitimate state interests.

## V. ARGUMENT

### A. Standard of Review

A grant of summary judgment is reviewed de novo, and the reviewing court engages in the same inquiry as the trial court. *Amalgamated Transit Union Local 587 v. State*, 142 Wn.2d 183, 206, 11 P.3d 762 (2000). In addition to the legal principles underlying every summary judgment motion,<sup>25</sup> there is a greater burden on the District in this case. The District must overcome "the strong presumption of

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<sup>25</sup> Civil Rule 56(c) mandates that plaintiffs demonstrate there is no material fact at issue and that they are entitled to judgment as a matter of law. The court views all evidence and inferences favorable to the non-moving party; all doubts about the existence of factual issues are resolved in favor of the non-moving party. *Roger Crane & Assoc. v. Felice*, 74 Wn. App. 769, 875 P.2d 705 (1994). Summary judgment is appropriate only if, based on all evidence submitted, reasonable persons can reach but one conclusion. *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 828 P.2d 549 (1992).

constitutionality” in legislative action and statutes and provide proof beyond a reasonable doubt that the salary allocation schedules in the biennial budget violate the constitution. *Madison v. State*, 161 Wn.2d 85, 92, 163 P.3d 757 (2007).

This ‘demanding standard of review’ [proof beyond a reasonable doubt] is justified because, as a co-equal branch of government that is sworn to uphold the constitution, we assume the Legislature considered the constitutionality of its enactments and afford great deference to its judgment. Additionally, the Legislature speaks for the people and we are hesitant to strike a duly enacted statute unless fully convinced... that the statute violates the constitution.

*Tunstall v. Bergeson*, 141 Wn.2d 201, 220, 5 P.3d 691 (2000).<sup>26</sup>

This elevated burden of proof applies to all of the Respondents’ claims. Therefore, this Court must resolve all reasonable doubts in favor of the 2007 Appropriations Act and the District must convince this Court beyond a reasonable doubt that Laws of 2007, ch. 522 violates article IX, section 2 or article I, section 12. Neither the District nor individual Plaintiffs can meet this burden of proof. For purposes of article I, section 12, the individual Plaintiffs must prove beyond a reasonable doubt that there is no set of facts that may conceivably justify the disparities in the

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<sup>26</sup> The quantum of proof relates to more than what facts are proven; the standard is met only if “argument and research show that there is no reasonable doubt that the statute violates the constitution.” *Amunrud v. Bd. of Appeals*, 158 Wn.2d 208, 215, 143 P.3d 571 (2006); *Larson v. Seattle Popular Monorail Auth.*, 156 Wn.2d 752, 757, 131 P.3d 892 (2006).

salary allocations. *Caughey v. Employment Sec. Dep't*, 81 Wn.2d 597, 599, 503 P.2d 460 (1972).

**B. The Superior Court Correctly Held That Ample Funding Under Article IX, Section 1, Is Not At Issue In This Case**

The Superior Court correctly held that the District failed to prove a lack of ample funding. *See* RCW 28A.150.250.<sup>27</sup> The District offered no evidence of revenue shortfall, no comparison of state revenues to allowable expenditures, and made no claim that Federal Way or other districts are unable to provide the substantive content of basic education within allocated basic education funding.<sup>28</sup>

**C. The Salary Allocation Schedules in the Basic Education Funding Formula Do Not Violate Article IX, Section 2**

The Superior Court concluded that the current funding allocation system “violates the constitutional requirement of providing a general and uniform system.” CP 424. This conclusion was in error.

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<sup>27</sup> The process by which the State fully funds the costs of the basic education program is explained in the Salvi Declaration. Briefly, in anticipation of each biennial funding session of the Legislature, the Office of Financial Management builds a budget for education. The OSPI contributes to that process by suggesting enhancements above and beyond funding already determined to be needed in anticipation of the ensuing years’ educational costs. Basic education program costs then are fully funded through annual appropriations in the biennial Appropriations Acts. Following appropriation, OSPI allocates funding to the school districts. The allocation process conforms the forecast of costs to actual experience. If more funding is needed, supplemental appropriations are made by the Legislature to ensure full funding of those costs. Each of the last six years has seen a substantial increase in basic education allocations. Salvi Decl. ¶ 13, CP 257. In the most recent budget, the Legislature provided \$1.8 billion increase in overall K-12 spending for the 07-09 biennium. Salvi Decl. ¶ 15, CP 258.

<sup>28</sup> Substantive content of basic education includes 180 days and 1,000 hours of instruction in the essential academic learning requirements for most grades. *See* RCW 28A.150.220.

1. **Article IX, Section 2, of the Washington Constitution Is Satisfied By the Uniform Educational Provisions in the Basic Education Act and Throughout Title 28A**

Article IX, section 2, requires the Legislature to “provide for a general and uniform system of public schools.” The provision does not guarantee any student, school, or school district a right to receive precisely equal funding. Rather, this Court has long held that the provision imposes upon the State a fundamental duty to create a common school *system*—and that it discharged that duty long ago. “[T]he state Legislature at its first session established a general uniform system of common schools to be administered by state, county, and school district officers.” *Newman v. Schlarb*, 184 Wash. 147, 152, 50 P.2d 36 (1935). Although the counties are no longer part of the administrative system, this Court more recently reiterated that the Legislature satisfied the “general and uniform” portion of its article IX duty through enactment of Title 28A RCW’s “Common School Provisions” which includes the basic education act. *Tunstall v Bergeson*, 141 Wn.2d 201, 221, 5 P.2d 691 (2000).

As early as 1909, this Court recognized that “[t]he system must be uniform in that every child shall have the same advantages and be subject to the same discipline as every other child.” *School Dist. No. 20 v.*

*Bryan*, 51 Wash. 498, 99 P. 28 (1909). A similar sentiment was echoed

65 years later:

A general and uniform system, we think, is, at the present time, one in which every child in the state has free access to certain minimum and reasonably standardized educational and instructional facilities and opportunities to at least the 12th grade—a system administered with that degree of uniformity which enables a child to transfer from one district to another within the same grade without substantial loss of credit or standing and with access by each student of whatever grade to acquire those skills and training that are reasonably understood to be fundamental and basic to a sound education.

*Northshore School Dist. No. 417 v. Kinnear*, 84 Wn.2d 685, 729, 530 P.2d 178 (1974) (overruled on other grounds by *Seattle School District No. 1*).

The holdings of this Court correctly reflect that the focus of article IX, section 2 is the educational component of the common schools. They are in accord with the intent of the drafters of the Washington State Constitution: to constitutionalize the mission of the 19<sup>th</sup> century common school movement in order to insure that the patchwork of local, private, and church-supported education that prevailed in America for much of the century would be replaced by a free, statewide system of nonsectarian schools.

The Washington constitutional convention delegates were practically unanimous in drawing up an education article which protected the common school fund and set up a

democratic, nonsectarian system of public education. The Tacoma Daily Ledger ran a series of four editorials featuring an educational system for the new state. See Quentin Shipley Smith, *Analytical Index to The Journal of the Washington State Constitutional Convention 1889*, at 685 (Beverly Paulik Rosenow ed., 1999). The Tacoma Daily Ledger wrote that education should be ‘the paramount duty of the state.’ Tacoma Daily Ledger, July 1, 1889. The British colony Victoria (now known as Australia) was admired for its uniformity in charts, manuals, methods, and highly competent instructors. Tacoma Daily Ledger, July, 3, 1889. These newspaper editorials and ensuing debates culminated in two sections of the state constitution.

*Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 149 Wn.2d 660, 672— 674, 72 P.3d 151(2003). The purpose of the provision was to equalize the content and administration of education, not to guarantee uniform funding to local school districts.<sup>29</sup>

Under the Basic Education Act, the state makes ample provision for the education of students within a general uniform system of schools within the state. The state has uniform educational content, teacher certification, and instructional hour requirements, as well as a statewide assessment system enabling students to transfer from one district to another without loss of credit and with access to substantially the same educational opportunities. See RCWs 28A.150.220 (students entitled to

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<sup>29</sup> Constitutionally uniform funding would cast doubt on a variety of other practices, from levy equalization to categorical programs for certain eligible students (such as special education, bilingual education, gifted programs, learning assistance), a variety of grants and even variable from special excess levies.

1,000 hours and 180 days of instruction in the state's essential academic learning requirements); 28A.410 (uniform teacher certification requirements); 28A.655 (academic achievement and accountability).

Where as here, salary funding allocations satisfy the requirement of ample funding, and the Legislature has otherwise created a general and uniform system of public schools as outlined above, then the fact that certain districts receive salary allocations above the minimum does not implicate article IX.<sup>30</sup>

## **2. *Seattle School District Does Not Hold Otherwise***

The Superior Court predicated its article IX, section 2, holding partly on a misreading of the *Seattle School District* case. In fact, article IX, section 2, was not at issue in that case and the court did not revisit the question of whether the system was general and uniform. The case concerned the nature of the State's duty under article IX, section 1, and whether the State had met its duty to make ample provision for the education of children under section 1.<sup>31</sup> The issue before the court was

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<sup>30</sup> The superior court appears to have engrafted an equal protection standard onto its article IX, section 2 analysis, in that any disparities in funding allocations, even if the allocations are sufficient to make ample provision for the education of children, must have a "rational reason." CP 424-425. The state can show a rational basis for the current system as set forth *infra*, subsection E.2.

<sup>31</sup> The fact that Seattle School District received more dollars per FTE than the state average was expressly recited by the court, without any comment as to whether it presented any legal issue. *Seattle School Dist.* at 528. Further, the court appeared to apply a "reasonableness" standard to the average salaries paid to certificated and classified employees in the district. *Id.* at 533.

whether the burden of the basic education funding however distributed may be borne by local excess levies. In discussing the Legislature's implementation of the state's mandatory duty, this Court stated:

With the foregoing considerations in mind, we note that the Legislature has heretofore enacted laws to 'provide for a general and uniform system of public schools.' However, it has not as yet fully implemented Const. art. 9, ss 1 and 2 by defining or giving substantive content to 'basic education' or a basic program of education. Thus, the Legislature must hereafter act to comply with its constitutional duty by defining and giving substantive meaning to them.

*Seattle School District* at 519 (underline in original).<sup>32</sup> The Superior Court took the reference to const. art. IX, sections 1 and 2 to hold that the system was not general and uniform. CP 424.

However, placed within its context, the passage makes clear that the court was (1) ratifying the existence of a constitutionally general and uniform system and (2) declaring that the state's deficiency in implementation was a failure to meet article IX, section 1's requirement to define a basic education and to fully fund it. Later in the opinion, the court clarified the relationship between section 1 and section 2. Together, they "require the State to amply provide for the education guaranteed

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<sup>32</sup> The lengthy opinion is divided into subsections summarizing the issues addressed by the court. The language cited by the superior court occurs under subsection VIII. CONST. ART. 9, S 1 IMPOSES UPON THE STATE THE PARAMOUNT DUTY OF MAKING AMPLE PROVISION FOR THE EDUCATION OF ALL RESIDENT CHILDREN". *Seattle School District* at 514.

through the means of ‘a general and uniform system of public schools.’” *Seattle School District* at 522.<sup>33</sup> Nothing in *Seattle School District* casts doubt on the sufficiency of the education delivery system. Nothing in the case links a general and uniform system to funding allocations. Finally, nothing in the case overrules the *Northshore* opinion insofar as it describes the elements of a general and uniform system of public schools. Rather, this Court’s opinions describing the elements of a general and uniform system are consistent in *Bryan*, *Schlarb*, *Northshore*, *Seattle School District*, and *Tunstall*.<sup>34</sup>

### 3. The Superior Court Erroneously Relied on Language from *Brown v. State*

The Superior Court also mistakenly relied on *obiter dictum* in *Brown v. State*, 155 Wn.2d 254, 269, 119 P.3d 341 (2005). *Brown* in turn cited *McGowan v. State*, 148 Wn.2d 278, 60 P.3d 67 (2002), stating that providing more state funding to some school districts than others is “incompatible with the constitution and *Seattle School District*” because the “constitutional command that the State provide a general and *uniform*

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<sup>33</sup> “Thus we hold, compliance with Const. art 9, ss 1 and 2 can be achieved only if sufficient funds are derived, through dependable and regular tax sources, to permit school districts to provide ‘basic education’ through a basic program of education in a ‘general and uniform System of public schools.’” *Seattle School Dist.* at 522.

<sup>34</sup> The Washington cases are also consistent with the Oregon and Minnesota courts’ interpretations of “general and uniform education” clauses in the constitutions of those states. See *Olsen v. State*, 276 Or. 9, 554 P.2d 139, 148 (Or. 1976) (uniform requirement complied with if state requires and provides for a minimum of educational opportunities); *Skeen v. State* 505 NW.2d 299, 315 (Minn. 1993) (right to general and uniform system does not extend to funding of the system).

education” would be “quickly violat[ed].” *McGowan*, however, said no such thing.

At the outset of the opinion, the *McGowan* court provided an overview of *Seattle School District’s* central holding:

[T]he Legislature must provide sufficient funds derived ‘through dependable and regular tax sources, to permit school districts to provide ‘basic education’ through a basic program of education in a ‘general and uniform system of public schools’.’ The court ruled that levies cannot fund basic education, as they do not provide a dependable and regular tax source.

*McGowan*, at 284 (citations omitted). In concluding that I-732’s mandatory cost-of-living increases for school district employees were not a part of the state’s obligation to meet article IX, section 1’s basic education requirement, the *McGowan* court noted that linking state cost-of-living dollars to school employees who were otherwise paid with local funding would lead to “impermissible consequences” by tying state basic education dollars to local levies “with their deficiencies as a regular and dependable funding source, contrary to the requirements of article IX, sections 1 and 2 and the holding in *Seattle School District.*” *McGowan* at 294.

Consistent with *Seattle School District*, then, *McGowan* simply observed that I-732’s cost of living increases for non-state funded employees were not wholly supported by dependable and regular tax

sources and could not, therefore, be deemed to be part of the state's mandate to provide a program of basic education under article IX, section 1. *Brown v. State's dictum* notwithstanding, *McGowan* did not hold that each school district must receive the same level of funding from the State. To the extent the Superior Court relied on *Brown* for that principle, the Superior Court was in error.<sup>35</sup> The Superior Court erred in concluding that the funding allocation schedules violate article I, section 2.

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<sup>35</sup> The superior court also relied heavily on *Hull v. Albrecht*, 192 Ariz. 34, 960 P.2d 634 (1997). However, the purpose and history of Arizona's constitutional provisions relating to education are dramatically different than Washington's, so that case is inapposite. Article XI, section 1, of the Arizona constitution provides in relevant part that

The Legislature shall enact such laws as shall provide for the establishment and maintenance of a general and uniform public school system, which system shall include kindergarten schools, common schools, high schools, normal schools, industrial schools, and a university ...

In *Roosevelt Elementary School Dist. No. 66 v. Bishop*, 179 Ariz. 233, 239, 877 P.2d 806 (1994), the Arizona court examined the history of the state's own enabling act, the proceedings of its constitutional convention, and the language and structure of the constitution's education provisions and concluded that article XI required the state to establish and maintain "a general and uniform *financing scheme*." *Id.* at 239-40 (emphasis added). Unlike the authors of Arizona's constitution, the drafters of our own constitution explicitly vested the state's responsibility to provide an amply funded program of basic education in article IX, section 1. And, under that provision, the constitutional keystone of Washington's public school financing system is *adequacy*, not equalization. The drafters of Arizona's article XI chose a different path and explicitly mandated that the state's school financing scheme requires "full or substantial equalization" of state funding among school districts. *Hull v. Albrecht*, 190 Ariz. 520, 523-24, 950 P.2d 1141 (1997).

**D. None of the Individual Plaintiffs Has Standing to Make a Claim Under Washington's Privileges and Immunities Clause in Article I, Section 12**

The Superior Court also held that the funding allocations in the 2007 appropriations act violate the equal protection rights of the students, teachers and taxpayers under const. article I, section 12. CP 425. This Court should not reach the merits of these claims because, as the State argued below, none of them are justiciable under the Uniform Declaratory Judgments Act (UDJA), RCW 7.24. The Superior Court failed to address this issue at all.

The District did not, and could not, make a claim under article I, section 12, as, by its terms, it does not apply to districts.<sup>36</sup> In other words, the framers of the Washington constitution decided in article I, section 12, not to limit the ability of the Legislature to enact laws or make appropriations that treats local governments or special purpose districts differently. The framers opted to leave such matters to the policy judgments of the legislative process.

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<sup>36</sup> Claims under article I, section 12, are unavailable to the Federal Way School District as a municipal corporation. The constitutional language provides that “[n]o law shall be passed granting to any citizen, class of citizens, or *corporation other than municipal*, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations.” Wash. Const. art. I, §12 (emphasis added). A school district is a municipal corporation. *Seattle Sch. Dist. No. 1 of King County v. State*, 90 Wn.2d at 490; *Maxon v. Sch. Dist. No. 34 of Spokane County*, 5 Wash. 142, 31 P. 462 (1892).

Although the Federal Way District did not make a claim under article I, section 12, various officials, teachers, and parents did. They should not be allowed to make such a claim for two reasons.

First, article I, section 12, should not be construed to permit others to do, on behalf of the District, what the constitution does not permit the District to do directly.

Second, none of the individual Plaintiffs can satisfy the requirement to show a justiciable controversy exists that would invoke jurisdiction under the UDJA. *To-Ro Trade Shows v. Collins*, 144 Wn.2d 403, 27 P.3d 1149 (2001).<sup>37</sup>

There are four factors defining a justiciable controversy under the UDJA: (1) an actual, present and existing dispute, or the mature seeds of one, as distinguished from a possible, dormant, hypothetical, speculative, or moot disagreement; (2) between parties having genuine and opposing interests; (3) which involves interests that must be direct and substantial, rather than potential, theoretical, abstract or academic; and (4) a judicial determination of which will be final and conclusive. *Id.* at 411.<sup>38</sup>

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<sup>37</sup> To establish harm under the UDJA, a party must present a justiciable controversy based on allegations of harm personal to the party. The harms must be substantial rather than speculative or abstract. *To-Ro*, 144 Wn.2d 403.

<sup>38</sup> Where the four factors are not met, the court steps into the prohibited area of advisory opinion. *To-Ro*, 144 Wn.2d at 411.

The third element encompasses the doctrine of standing. *To-Ro*, 144 Wn.2d at 414. A party must be directly affected by a statute in order to challenge its constitutionality. *Id.* at 411—12. Interests are insufficiently direct or substantial where the alleged harms are contingent on uncertain intervening events. *Id.* at 413. “The kernel of the standing doctrine is that one who is not adversely affected by a statute may not question its validity.” *Id.* at 419. *Grant Cy Fire Prot. Dist. No. 5 v. City of Moses Lake*, 150 Wn.2d 791, 802, 83 P.3d 419 (2004) (*Grant Cy II*). Thus, a litigant must show injury in fact.

In *Walker v. Munro*, 124 Wn.2d 402, 879 P.2d 920 (1994), the court recognized that although students or teachers may have an interest in funding for state educational institutions, their claims were not justiciable because there was no showing how those plaintiffs were being affected or denied some benefit. Further, none of the litigants had alleged sufficient concrete harm from the challenged legislation to pass the standing test. *Id.* at 419. In short, their interests were remote, speculative, and political. *Id.* at 926.<sup>39</sup>

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<sup>39</sup> See also *Yakima County (West Valley) Fire Protection Dist. No. 12 v. City of Yakima*, 122 Wn.2d 371, 858 P.2d 245 (1993) (lack of standing due to lack of direct and substantial interest in dispute over validity of homeowners’ annexation agreements); *Washington Beauty College v. Huse*, 195 Wash. 160, 165, 80 P.2d 403 (1938) (lack of standing due to lack of showing of direct and substantial injury threatened or suffered so as to present a justiciable issue).

In the instant case, the interests of students, a teacher, and taxpayers are too remote and speculative to create a justiciable controversy. The claims of each are based on indirect and hypothetical rather than direct concrete harm.

**1. The Claims by Students Are Too Remote to be Justiciable**

Students in the Federal Way School District do well compared to the state average. In comparing 2006—07 results on the state assessment (Washington Assessment of Student Learning (WASL)), Federal Way Students outperformed the state average in all grades in reading, all grades, except 8<sup>th</sup> in math and in two of the three grades given the writing assessment. CP 394—397.

The state privileges and immunities claims by Respondent parents on behalf of students are too remote and speculative to meet the test of direct, substantial harm. Students have not established injury in fact. The parents have presented no evidence that students receive any differential treatment compared to students in other school districts in Washington or that the students receive an inferior education in Federal Way.<sup>40</sup> Without evidence of concrete harm, it is speculative whether a different schedule

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<sup>40</sup> Indeed, student scores on the Washington Assessment of Student Learning (WASL) are higher in Federal Way than the state average and better than the surrounding school districts. CP 393-405.

for any of the three classes of employees would impact students at the District.

Because the justiciability doctrine encompasses analogous article III standing principles in federal court, federal cases may be instructive. In *Okanogan School Dist. No. 105 v. Superintendent of Public Instruction*, 291 F.3d 1161 (9<sup>th</sup> Cir. 2002), the court found that students did not have standing to maintain a claim on behalf of the school district for additional federal forest revenues. Multiple layers of discretionary decision-making by the state and the school district made any redressability of harms cited by the students too remote and speculative. *Id.* at 1167. The same applies here. The students have not produced evidence of direct and concrete harm. How a different salary schedule for any of the three employee classes might affect any student is purely speculative, subject to state action<sup>41</sup> and discretionary decision-making by third party school district actors. Accordingly, there is no evidence that a court order would or could redress any harms. These claims are non-justiciable under the UDJA and should more properly be addressed to the legislative branch.

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<sup>41</sup> Indeed, one way the State could equalize salary allocations would be to reduce the allocations to the grandfathered districts. That would not change anything for the Federal Way students and illustrates that no concrete, redressable harm is alleged.

**2. The Article I, Section 12 Claim by the Teacher Is Non-Justiciable.**

The Respondents did not plead a violation of teachers' rights under the article I, section 12 privileges and immunity clause. CP 17. Nonetheless, the Superior Court ruled in response to the Respondents' arguments on summary judgment that teacher's rights were violated. The court erred by failing to rule that an article I, section 12, claim by the one teacher plaintiff, Shannon Rasmussen, is non-justiciable under the UDJA. Her claim fails the first justiciability factor because it is dormant and hypothetical. It is not ripe. The teacher derived base salary schedule on the LEAP 2 document does not determine the actual pay of teachers in the state and does not prescribe any particular pay scale. Laws of 2007 ch. 522, § 503(8); RCW 28A.150.410(1). Rather, it provides a multiplier for an overall allocation to local school districts. Teachers are employees of the local school districts, and not the State. Local unions collectively bargain with each district locally over the actual pay scale of teachers. RCW 41.59. Thus, Rasmussen is not similarly situated with other teachers in other districts in the state and intervening variables stand between the state's allocation and Rasmussen's actual pay.<sup>42</sup>

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<sup>42</sup> Clearly, Rasmussen can advance no evidence or argument whatsoever linking her interest to either the average classified or administrator salary schedules on the LEAP 2.

Rasmussen's interest is too remote and her claim is not justiciable under the UDJA.

**3. Taxpayers' Article I, Section 12 Claims Are Non-Justiciable Under the UDJA.**

The Respondents did not plead a violation of Plaintiffs rights as taxpayers under the article I, section 12, privileges and immunity clause. CP 17. Nonetheless, the Superior Court ruled that taxpayers' rights were violated in response to the Respondents' arguments on summary judgment. Eight of the nine individual Plaintiffs claim that they are taxpayers in the Federal Way School District. The Respondents argued below that they were harmed because they were unable to pay a greater level of local taxes in support of the school district they reside in. CP 55—6.<sup>43</sup> However, these taxpayers cannot show direct or concrete harm. As of 2007, the District had over \$1 million left under its levy authority. Further, the District received over \$4 million in state levy assistance.<sup>44</sup> Considering the District's grandfathered levy rate and state local effort assistance, it is by no means certain that taxpayers are unable to support the District to the same extent they could if they were in a district with a different salary schedule. However, the record is lacking evidence in that

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<sup>43</sup> The cap on levy authority is derived from the amount of state funding the district receives. Therefore, the Plaintiffs argued that they could support their district to a greater degree if the district received higher allocations.

<sup>44</sup> See *supra* note 22.

regard. The Superior Court erred in failing to rule that these Plaintiffs' interests are remote, speculative, and are not justiciable.<sup>45</sup>

**E. The Current Salary Allocation Does Not Violate Rights of Any Plaintiff Under Article I, Section 12, of the Washington Constitution**

For the reasons expressed above, the Court need not and should not reach the merits of this claim. The Superior Court held that the salary allocations violate the equal protection rights of students, teachers and taxpayers under Washington const. article I, section 12, which provides,

No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges and immunities which upon the same terms shall not equally belong to all citizens, or corporations.

This Court has previously held that the privileges and immunities clause requires an independent analysis from the equal protection clause of the U.S. Constitution. *Madison v. State*, 161 Wn.2d at 94.<sup>46</sup> To state a claim that legislation grants a prohibited privilege or immunity to a minority class (a grant of positive favoritism), the claimant must show the asserted privilege concerns a fundamental right of citizenship. *Grant County Fire Prot. Dist. No. 5*, 150 Wn.2d at 812-13. In the instant case, there is no fundamental right of citizenship in having a local municipality

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<sup>45</sup> Further, taxpayers have not established that they have requested that a proper official bring suit on behalf of all taxpayers under *City of Tacoma v. O'Brien*, 85 Wn.2d 266, 534 P.2d 114 (1975).

<sup>46</sup> Therefore, further briefing on *Gunwall* factors is unnecessary for this purpose. *Madison*, 161 Wn.2d at 94.

receive any particular funding allocation from the State. In fact, the terms of article I, section 12 expressly provide otherwise.<sup>47</sup> Where no grant of positive favoritism to a minority class of citizens is at issue, the court applies the same constitutional analysis that is applied under the federal constitution's equal protection clause." *Madison* at 766; *Andersen v. King County* 158 Wn.2d 1, 9, 138 P.3d 963 (2006) (plurality opinion).

The salary allocations do not create classes of students, teachers or taxpayers, rather they classify school districts. Nonetheless, the Superior Court concluded that all three salary schedules adopted in the appropriations act violate the rights of the student, teacher and taxpayer Plaintiffs to equal protection under const. article I, section 12.<sup>48</sup> The first step in conducting the legal analysis of whether the classification is justifiable is to determine the appropriate standard of review. Where no fundamental right or suspect class is at stake, "the legislative classification will be upheld unless it rests on grounds wholly irrelevant to the achievement of legitimate state objectives." *State v. Shawn P.*, 122 Wn.2d 553, 561, 859 P.2d 1220 (1993) (footnotes omitted).

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<sup>47</sup> The superior court did not address such a claim. It ruled solely on the equal protection aspect of article I, section 12.

<sup>48</sup> The Respondents did not argue federal law below, but the analysis of this prong of the state privileges and immunities clause would be the same in any event under the *Madison* and *Anderson* cases cited above.

## 1. No Fundamental Right is At Stake

Heightened scrutiny is applicable only when a state's legislative scheme *directly* interferes with a recognized fundamental right. *Zablocki v. Redhail*, 434 U.S. 374, 387 n.12, 98 S.Ct. 673, 54 L. Ed. 2d 618 (1978); *Tunstall*, 141 Wn.2d at 225, 5 P.3d 691. Under a federal equal protection analysis, education is not a fundamental right of citizenship giving rise to heightened scrutiny. *San Antonio Independent School District et al., v. Rodriguez*, 411 U.S.1, 33—36, 93 S.Ct. 1278 (1973).

Washington courts have recognized that article IX of our state constitution provides a “constitutionally paramount” right to “all children” “to be amply provided with an education ... through a ‘general and uniform system of public schools.’” *Tunstall*, 141Wn.2d at 221 (citing *Seattle Sch. Dist. No. 1 v. State*, 90 Wn.2d 476, 513, 537-38, 585 P.2d 71 (1978)). This right is not limitless, and the Respondents may not trigger strict scrutiny through the “abstract invocation of a fundamental right to education.” *Tunstall*, 141Wn.2d at 226 n.21. Rather, it narrowly guarantees children the right to educational opportunity through an amply funded statewide public education system. *Id.* at 220—27; *see also, id.* at 236—37. (Talmadge, J. concurring). Accordingly, strict judicial scrutiny of the State's educational funding system is not appropriate unless it is first determined that the State has infringed a

child's fundamental right to education under article IX by failing to provide an adequately funded program of basic education through a common school system. *Tunstall*, 141 Wn.2d at 226.

For the reasons set forth in subsections B and C, *supra*, the Legislature amply provides for education of children through a general and uniform system of public schools. Therefore, the rational basis standard applies. *Id.* at 226.

**2. The Current Salary Allocation Schedules Must Be Upheld If There Is Any Conceivable Basis To Support Them**

Where, as here, the state administers finite resources, a statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it. *Caughey*, 81 Wn.2d at 599 (citing *Dandridge v. Williams*, 397 U.S. 471, 485, 90 S.Ct. 1153 (1970)). A legislative classification subject to rational-basis scrutiny "is not subject to courtroom fact-finding and may be based on rational speculation unsupported by evidence or empirical data." *F.C.C. v. Beach Communications, Inc.*, 508 U.S. 307, 315, 113 S.Ct. 2096, 124 L. Ed. 2d 211 (1993). It is the burden of those attacking the rationality of the legislation "to negative every conceivable basis which might support it." *Lehnhausen v. Lake Shore Auto Parts Co.*, 410 U.S. 356, 364, 93 S. Ct. 1001, 35 L. Ed. 2d 351 (1973).

- a. **Because the allocation of education dollars is an economic decision, this Court should give substantial deference to the Legislative allocation**

In applying the “rational relationship” test, the courts have permitted a wide range of legislative discretion to define classifications and have presumed such legislation to be valid, particularly “where grants of public funds are involved since the finite nature of these resources presents difficult problems of allocation.” *Willard v. Dep’t of Social and Health Services*, 91 Wn.2d 759, 763, 592 P.2d 1103 (1979) (citing *Dandridge v. Williams* 397 U.S. 471, 90 S.Ct. 1153 (1970)).

In *Dandridge v. Williams*, the U.S. Supreme Court upheld against an equal protection challenge a Maryland welfare regulation that capped grants at \$250 without regard to actual need or family size. Justice Stewart framed the issue in the first paragraph of the opinion: “This case involves the validity of a method used by Maryland, in the administration of an aspect of its public welfare program, to reconcile the demands of its needy citizens with the finite resources available to meet those demands.”

397 U.S. at 472.

In the area of economics and social welfare, a State does not violate the Equal Protection Clause merely because the classifications made by its laws are imperfect. If the classification has some ‘reasonable basis,’ it does not offend the Constitution simply because the classification ‘is not made with mathematical nicety or because in practice it results in some inequality.’

*Id.* at 485, quoting *Lindsley v. Natural Carbonic Gas Co.*, 220 U.S. 61, 78, 31 S.Ct. 337, 55 L. Ed. 369 (1911). “[T]he Equal Protection Clause does not require that a State must choose between attacking every aspect of a problem or not attacking the problem at all.” *Dandridge*, 397 U.S. at 486—87. Moreover, the undisputed importance of education will not alone cause the court to depart from the usual deferential standard for reviewing a state’s social and economic legislation. *San Antonio Independent School Dist.*, 411 at 35.

**b. The State has a Legitimate interest in maintaining ample funding while preserving resources for other vitally important programs and priorities**

In this case, there is no evidence in the record that the salary allocations to the Federal Way District, and the many other school districts receiving the same allocations, are not ample. Therefore, to maintain a distinct equal protection analysis, the Court must begin from the premise that the appropriations act and the referenced salary allocations meet the minimum requirements of const. article IX. It thus follows that disparities resulting from allocations above the norm to some districts are of no article IX significance. Rather, they are additional grants from the Legislature based on perceived need, whether tied to recognition of a market basis, respect for the realities of local autonomy,

a reluctance to impair locally existing obligations of those districts, or simply the remnant of a partial step forward to resolve a complex funding problem.

Presuming the State has met its article IX duty, the policy of eliminating salary allocation gaps in the formula is secondary and legitimately competes from biennium to biennium with other extra-constitutional policy priorities. For the school system to function, a vast number of components and interests must be balanced and the State must be afforded latitude to work on the whole, as well as individual component parts over time. “The problems of government are practical ones and may justify, rough accommodations—illogical it may be, and unscientific.” *Dandridge*, 397 U.S. at 485 (quoting *Metropolis Theatre Co v. City of Chicago*, 228 U.S. 61, 69-70, 33 S.Ct. 441, 57 L. Ed. 2d 730 (1913)). A review of RCW 28A and the education section of the biennial appropriations act<sup>49</sup> shows that the State maintains a host of programs for students, some that are part of the basic education mandate, but many that are not. Moreover, the State’s system is evolving and has been the focus of substantial and sustained attention by the legislative and executive branches over last 15 years, including intensive attention in the most recent biennium. CP 257-58.

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<sup>49</sup> See Laws of 2008, ch. 329, §§ 501 through 517.

In short, the State has a legitimate, indeed compelling, interest in maintaining ample funding levels, while conserving finite dollars for other education and non-education economic and social priorities.

**c. The current salary allocations are supported by a conceivable rational basis.**

**(1) Courts have recognized past history, reasonable reliance interests, and incremental approaches to complex problems as rational bases for differential treatment**

The salary allocation system in Washington has long been recognized as a difficult legislative issue. According to the Reff Study,

For funding and control purposes, Washington State has adopted a salary schedule for certificated staff with plans to converge all district salary allocations onto this schedule by 1989 by holding above-average districts to less than the inflation rate and accelerating the lower-paying districts. *This continues to be the most complex and politically explosive issue in the entire reform package.*

CP 379 (Emphasis added). The 1989 target was not met. However, over time, the disparity among district allocations has been reduced, so now, at least with teachers, there are only a few districts that have effectively been "grandfathered" and receive higher allocations. The Legislature has decided to gradually bring up those districts that have had lower allocations, without disrupting the status quo in the few grandfathered districts.

The Legislature could have eliminated the salary allocation disparities at any time in the past and could do so immediately in the future by reducing the higher allocated districts to the norm of Federal Way and most other districts. However, the choice to instead bring the bottom up toward the highest districts over time was and remains an eminently reasonable means to achieve its goals. In doing so, the Legislature permissibly chose to grant inflation increases to the higher allocated districts for a number of years at the expense of a quicker route to eliminating the allocation gaps.

There is nothing in equal protection jurisprudence that renders the remaining disparities “without any conceivable basis.” The United States Supreme Court has upheld disparity in treatment in economic matters where there are historical reasons for the disparity and where there are expectancy interests that would be impacted if the disparities were totally eliminated.

The most comprehensive case discussing the relevant law is *Nordlinger v. Hahn*, 505 U.S. 1, 112 S.Ct. 2326, 120 L. Ed. 2d 1 (1992). It involved a challenge to California’s “Proposition 13” initiative that limited growth of property tax assessments and substituted an “acquisition value” for a “current value” system of assessment. The initiative resulted in a substantial differential in taxation for homes of

equal value. 505 U.S. at 5—6. The court upheld the initiative against an equal protection challenge stating that classifications “serving to protect legitimate expectation and reliance interests do not deny equal protection of the laws.” *Id.* at 13.

“The protection of reasonable reliance interests is not only a legitimate governmental objective: it provides an exceedingly persuasive justification.” 505 U.S. at 13, *quoting Heckler v. Mathews*, 465 U.S. 728, 746 (1984). The court’s opinion contained a good discussion of the need to leave such issues to the political process:

Time and time again, this Court has made clear in the rational-basis context that the Constitution presumes that, absent some reason to infer antipathy, even improvident decisions will eventually be rectified by the democratic process and that judicial intervention is generally unwarranted no matter how unwisely we may think a political branch has acted.

*Id.* at 17—18 (citing *Vance v. Bradley*, 440 U.S. 93, 99 S.Ct. 939, 59 L. Ed. 2d 171 (1979)).

The *Nordlinger* court cited three prior cases for support. First, in *Kadrmas v. Dickinson Public Schools*, 487 U.S. 450, 108 S.Ct. 2481, 101 L. Ed. 2d 399 (1988), the court upheld a prohibition on fees for bus service in “reorganized” school districts in North Dakota while allowing school boards to impose such fees in “nonreorganized” districts. The court held that “the legislature could conceivably have believed that such

a policy would serve the legitimate purpose of fulfilling the reasonable expectations of those residing in the districts with free busing arrangements imposed by reorganization plans.” 487 U.S. at 465. As in the instant case, in economic matters, the North Dakota legislature treated some districts different than others, and that differential treatment was based in part on history.

Second, in *United States Railroad Retirement Bd. v. Fritz*, 449 U.S. 166, 101 S.Ct. 453, 66 L. Ed. 2d 368 (1980), the court upheld provisions of the Railroad Retirement Act of 1974 preserving dual “windfall” benefits for some employees, but not for others.

Congress could properly conclude that persons who had actually acquired statutory entitlement to windfall benefits while still employed in the railroad industry had a greater equitable claim to those benefits than the members of the appellee’s class who were no longer in railroad employment when they became eligible for dual benefits.

449 U.S. at 178. In the instant case, some of the individual Plaintiffs structured their claim as a “windfall” to other individuals.

Third, in *New Orleans v. Dukes*, 427 U.S. 297, 96 S.Ct. 2513, 49 L. Ed. 2d 511 (1976), the court upheld an ordinance that prohibited sales of food from pushcarts in the “Vieux Carre” of New Orleans, but grandfathered in existing vendors who had been in that business for 8 years. The court held that the “city could reasonably decide that newer

businesses were less likely to have built up substantial reliance interests in continued operation. *Dukes* at 305. Thus, some protection of “vested interests” is a proper basis to support legislative classifications.

Moreover, in upholding the New Orleans grandfather provisions, the court cited a line of cases making it clear that a gradual approach to the problem is not constitutionally impermissible. A legislature need not strike at all evils at the same time, and reform may take one step at a time, “addressing itself to the phase of the problems which seems most acute to the legislative mind.” *Dukes* at 305. “Legislatures may implement their program step by step, *Katzenbach v. Morgan*, 384 U.S. 641, 86 S.Ct. 1717, 16 L. Ed. 2d 828 (1966), in such economic areas adopting regulations that only partially ameliorate a perceived evil to future regulations.” *Dukes* at 303.

**(2) The current salary allocation can be justified as an attempt by the Legislature to resolve a complex problem, with substantial financial implications, in a manner that does not disrupt existing expectations**

As the State phased in a substantial assumption of school funding responsibility with the Basic Education Act, it made a reasonable decision to use market rates as the salary allocation multiplier. In hindsight, the imposition of a prescribed statewide salary schedule would have avoided the present controversy. But, the market rate ensured the

State was not overpaying some districts while underpaying others and served a strong preference for preserving local autonomy as much as possible.

At the same time, the Legislature embarked immediately on raising the allocation levels from those recognized in the base years of 1976-77 while also narrowing the salary allocation gaps among districts.<sup>50</sup> Thereafter, the Legislature reasonably balanced the further reduction of the gaps against other educational funding priorities, including a substantial effort at education reform. In 2000, the voters enacted I-732, making uniform salary increases for school employees a clear priority over further equalization. RCW 28A.400.206. I-732 also reflects a rational policy choice as a means of balancing constitutional minimums with extra-constitutional policy priorities. As long as the system remained in compliance with article IX, the shifts in education priorities were permissible and rational.

As in *Kadrmass*, the Legislature has opted to treat districts differently, but there are historical reasons for that difference. Consistent with *Kadrmass*, *Fritz*, *Dukes*, and *Nordlinger*, Washington Legislature could have perceived that reducing the allocation to the grandfathered

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<sup>50</sup> Unfortunately, for ten years, the effort to narrow gaps was significantly undermined by actions and practices of individual school districts. Nonetheless, the Legislature did make reducing the gaps a top priority in six separate biennia, including the current one.

districts in order to eliminate disparities would disrupt existing expectations and contracts. It could also have perceived that bringing all districts up to the level of the highest outliers in each category would needlessly sacrifice resources for other vital educational and non-educational programs.<sup>51</sup>

As articulated in *Nordlinger* and other cases, this is a political issue, and the constitution presumes that inequities will be remedied over time through legislative process. Indeed, under the facts of this case, that is not just constitutionally the correct answer, but the practical one as well. Federal Way is not alone. Under the teacher allocation, it is one of 283 districts with similar allocations who are below a handful (12) of others as of the 2008-09 school year. It is among 225 districts with the same classified allocation and 89 districts with the same administrator allocation. With such numbers, it would seem that a political solution is viable.

The 2007-09 education budget demonstrates how the Legislature balances important and competing interests. The Legislature

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<sup>51</sup> At the level of the parties claiming unjustifiable classifications in this case, the State has a legitimate interest in ensuring students are provided not only with ample funding to support educational staff, but with the full panoply of educational programs. For instance, the Legislature may have determined that students are better served if it ensures access to full day kindergarten, improving math and science instruction, library augmentation, diagnostic exams, or reading achievement, even if it means teachers at Everett School District might be in a position to receive higher pay than a teacher at Federal Way. *See* Laws of 2008, ch. 329, §§ 511 (Education Reform) and 515 (Student Achievement).

appropriated \$510 million for employee compensation adjustments, including \$64 million solely to close salary schedule gaps, as part of a \$1.8 billion overall increase for K-12 programs over the previous biennium. Salvi, CP 258. A larger share of the overall investment could have been made in eliminating salary allocation disparities, but the Legislature permissibly thought otherwise.

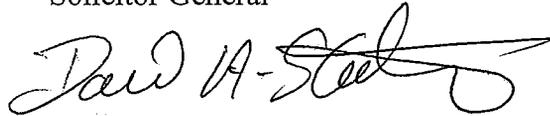
The Respondents cannot not meet their burden of showing no conceivable rational basis for the current system as it relates to the State's discharge of its paramount duty.

## VI. CONCLUSION

For the reasons articulated above, we ask this Court to reverse the judgment of the Superior Court and remand the case for further proceedings.

RESPECTFULLY SUBMITTED this 23<sup>rd</sup> day of April, 2008.

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## APPENDIX A

### **Article IX**

**SECTION 1 PREAMBLE.** It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.

**SECTION 2 PUBLIC SCHOOL SYSTEM.** The legislature shall provide for a general and uniform system of public schools. The public school system shall include common schools, and such high schools, normal schools, and technical schools as may hereafter be established. But the entire revenue derived from the common school fund and the state tax for common schools shall be exclusively applied to the support of the common schools.

### **Article I**

#### **SECTION 12 SPECIAL PRIVILEGES AND IMMUNITIES PROHIBITED.**

No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations.

Laws of 2008, ch. 329

Laws of 2008, ch. 177

Laws of 2007, ch. 522

Laws of 1987, 1<sup>st</sup> Ex. Sess., ch. 7

Laws of 1977, ch. 339

APPENDIX A

CERTIFICATION OF ENROLLMENT  
ENGROSSED SUBSTITUTE HOUSE BILL 2687

Chapter 329, Laws of 2008

(partial veto)

60th Legislature  
2008 Regular Session

OPERATING BUDGET--SUPPLEMENTAL APPROPRIATIONS

EFFECTIVE DATE: 04/01/08

Passed by the House March 13, 2008  
Yeas 64 Nays 32

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 13, 2008  
Yeas 31 Nays 18

BRAD OWEN

President of the Senate

Approved April 1, 2008, 4:46 p.m., with the exception of sections 103(14); 113(2); 114(2); 123(6); 123(12); 125(41); 125(62); 125(76); 125(78); 125(84); 127(11); 127(12); 147(5); 202(26); 202(27); 202(33); 202(34); 202(36); 203(9); 204(1)(u); 204(3)(b); 204(4)(b); 206(21); 209(29); 211, page 135, lines 30-35; 212(10); 216, page 143, lines 20-27; 218(19); 218(20); 222(37); 222(46); 222(51); 222(53); 224(1)(h); 224(1)(i); 302(27); 302(32); 302(33); 302(37); 302(39); 303(18); 307(31); 307(32); 307(44); 308(27); 311(5); 501(2)(a)(vi); 501(2)(a)(x); 501(2)(c)(xv); 501(2)(c)(xvi); 501(2)(c)(xviii); 507(4); 507(5); 507(6); 511(46); 511(48); 601(2); 605(14); 605(23); 605(24); 606(23); 606(24); 606(26); 606(27); 607(19); 607(22); 607(23); 608(7); 609(8); 610(13);

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE HOUSE BILL 2687 as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 2, 2008

Secretary of State  
State of Washington

1 (e) (~~(\$9,387,000)~~) \$9,373,000 of the education legacy trust account  
2 appropriation is provided solely for allocations for equipment  
3 replacement in vocational programs and skills centers. Each year of  
4 the biennium, the funding shall be allocated based on \$75 per full-time  
5 equivalent vocational student and \$125 per full-time equivalent skills  
6 center student.

7 (f) \$2,991,000 of the general fund--state appropriation for fiscal  
8 year 2008 and \$4,403,000 of the general fund--state appropriation for  
9 fiscal year 2009 are provided solely for the implementation of Second  
10 Substitute Senate Bill No. 5790 (regarding skills centers). If the  
11 bill is not enacted by June 30, 2007, the amounts provided in this  
12 subsection shall lapse.

13 (11) For purposes of RCW 84.52.0531, the increase per full-time  
14 equivalent student is 5.7 percent from the 2006-07 school year to the  
15 2007-08 school year and (~~(5.1)~~) 6.0 percent from the 2007-08 school  
16 year to the 2008-09 school year.

17 (12) If two or more school districts consolidate and each district  
18 was receiving additional basic education formula staff units pursuant  
19 to subsection (2)(b) through (h) of this section, the following shall  
20 apply:

21 (a) For three school years following consolidation, the number of  
22 basic education formula staff units shall not be less than the number  
23 of basic education formula staff units received by the districts in the  
24 school year prior to the consolidation; and

25 (b) For the fourth through eighth school years following  
26 consolidation, the difference between the basic education formula staff  
27 units received by the districts for the school year prior to  
28 consolidation and the basic education formula staff units after  
29 consolidation pursuant to subsection (2)(a) through (h) of this section  
30 shall be reduced in increments of twenty percent per year.

31 (13) The appropriation levels in part V of this act assume  
32 implementation of the reimbursement provisions of Senate Bill No. 6450  
33 (school district reimbursement of performance audits).

34 **Sec. 503.** 2007 c 522 s 503 (uncodified) is amended to read as  
35 follows:

36 **FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--BASIC EDUCATION**  
37 **EMPLOYEE COMPENSATION.** (1) The following calculations determine the

1 salaries used in the general fund allocations for certificated  
2 instructional, certificated administrative, and classified staff units  
3 under section 502 of this act:

4 (a) Salary allocations for certificated instructional staff units  
5 shall be determined for each district by multiplying the district's  
6 certificated instructional total base salary shown on LEAP Document 2  
7 by the district's average staff mix factor for certificated  
8 instructional staff in that school year, computed using LEAP Document  
9 1; and

10 (b) Salary allocations for certificated administrative staff units  
11 and classified staff units for each district shall be based on the  
12 district's certificated administrative and classified salary allocation  
13 amounts shown on LEAP Document 2.

14 (2) For the purposes of this section:

15 (a) "LEAP Document 1" means the staff mix factors for certificated  
16 instructional staff according to education and years of experience, as  
17 developed by the legislative evaluation and accountability program  
18 committee on (~~March 24, 2007, at 07:29~~) March 9, 2008, at 15:09  
19 hours; and

20 (b) "LEAP Document 2" means the school year salary allocations for  
21 certificated administrative staff and classified staff and derived and  
22 total base salaries for certificated instructional staff as developed  
23 by the legislative evaluation and accountability program committee on  
24 (~~April 19, 2007, at 06:03~~) March 9, 2008, at 15:09 hours.

25 (3) Incremental fringe benefit factors shall be applied to salary  
26 adjustments at a rate of (~~14.13~~) 14.11 percent for school year 2007-  
27 08 and (~~16.69~~) 16.75 percent for school year 2008-09 for certificated  
28 staff and for classified staff (~~17.06~~) 17.04 percent for school year  
29 2007-08 and (~~18.74~~) 18.72 percent for the 2008-09 school year.

30 (4)(a) Pursuant to RCW 28A.150.410, the following state-wide salary  
31 allocation schedules for certificated instructional staff are  
32 established for basic education salary allocations:

33 K-12 Salary Allocation Schedule For Certificated Instructional Staff

34 2007-08 School Year

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	32,746	33,630	34,547	35,465	38,412	40,310	39,260	42,207	44,107
1	33,187	34,083	35,011	35,970	38,948	40,836	39,696	42,674	44,560
2	33,607	34,512	35,450	36,483	39,452	41,359	40,135	43,104	45,012
3	34,039	34,953	35,901	36,967	39,930	41,884	40,552	43,513	45,468
4	34,464	35,418	36,372	37,474	40,455	42,423	40,988	43,969	45,938
5	34,902	35,861	36,824	37,988	40,958	42,965	41,432	44,403	46,410
6	35,353	36,291	37,287	38,508	41,464	43,482	41,887	44,843	46,860
7	36,145	37,097	38,106	39,394	42,393	44,467	42,739	45,737	47,812
8	37,304	38,308	39,340	40,735	43,775	45,925	44,079	47,120	49,269
9		39,562	40,646	42,091	45,202	47,425	45,434	48,547	50,770
10			41,967	43,516	46,669	48,966	46,861	50,014	52,310
11				44,984	48,204	50,547	48,328	51,550	53,891
12				46,404	49,781	52,194	49,853	53,126	55,540
13					51,397	53,882	51,431	54,741	57,226
14					53,020	55,632	53,056	56,471	58,977
15					54,400	57,080	54,435	57,939	60,511
16 or more					55,487	58,220	55,523	59,097	61,720

K-12 Salary Allocation Schedule For Certificated Instructional Staff  
2008-09 School Year

(Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	33,898	34,814	35,762	36,713	39,763	41,728	40,641	43,691	45,658
1	34,354	35,282	36,243	37,236	40,318	42,272	41,093	44,175	46,128
2	34,789	35,726	36,697	37,766	40,840	42,814	41,547	44,621	46,596
3	35,237	36,183	37,164	38,267	41,335	43,357	41,979	45,044	47,067
4	35,676	36,664	37,651	38,793	41,878	43,915	42,430	45,516	47,554
5	36,130	37,123	38,120	39,324	42,399	44,476	42,890	45,965	48,043
6	36,597	37,567	38,598	39,863	42,923	45,011	43,361	46,421	48,508
7	37,416	38,402	39,446	40,780	43,885	46,031	44,243	47,346	49,494
8	38,616	39,655	40,724	42,168	45,315	47,541	45,630	48,778	51,002

1	9	40,954	42,076	43,572	46,792	49,093	47,032	50,255	52,556
2	10		43,443	45,047	48,310	50,688	48,509	51,773	54,150
3	11			46,566	49,900	52,326	50,028	53,363	55,787
4	12			48,036	51,533	54,030	51,606	54,995	57,493
5	13				53,205	55,777	53,240	56,667	59,239
6	14				54,885	57,589	54,922	58,457	61,052
7	15				56,313	59,088	56,350	59,977	62,639
8	16 or more				57,439	60,269	57,476	61,176	63,892))

9	Years of	MA+90								
10	Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	or PHD
11	0	34,426	35,356	36,319	37,285	40,383	42,378	41,274	44,372	46,369
12	1	34,889	35,832	36,808	37,816	40,946	42,931	41,733	44,863	46,847
13	2	35,331	36,283	37,269	38,354	41,476	43,481	42,195	45,316	47,321
14	3	35,786	36,747	37,743	38,864	41,979	44,033	42,632	45,746	47,801
15	4	36,232	37,235	38,238	39,397	42,531	44,599	43,091	46,225	48,295
16	5	36,693	37,701	38,713	39,937	43,059	45,169	43,558	46,681	48,791
17	6	37,167	38,153	39,200	40,484	43,591	45,713	44,036	47,144	49,264
18	7	37,999	39,000	40,061	41,415	44,568	46,748	44,932	48,084	50,265
19	8	39,218	40,273	41,359	42,825	46,021	48,281	46,341	49,538	51,797
20	9		41,591	42,731	44,250	47,521	49,858	47,765	51,038	53,374
21	10			44,120	45,749	49,063	51,478	49,265	52,580	54,993
22	11				47,291	50,677	53,141	50,807	54,194	56,656
23	12				48,784	52,335	54,872	52,410	55,851	58,389
24	13					54,034	56,646	54,069	57,550	60,162
25	14					55,740	58,486	55,778	59,368	62,003
26	15					57,191	60,008	57,227	60,911	63,615
27	16 or more					58,334	61,207	58,372	62,129	64,887

28 (b) As used in this subsection, the column headings "BA+(N)" refer  
 29 to the number of credits earned since receiving the baccalaureate  
 30 degree.

31 (c) For credits earned after the baccalaureate degree but before  
 32 the masters degree, any credits in excess of forty-five credits may be  
 33 counted after the masters degree. Thus, as used in this subsection,  
 34 the column headings "MA+(N)" refer to the total of:

1 (i) Credits earned since receiving the masters degree; and  
2 (ii) Any credits in excess of forty-five credits that were earned  
3 after the baccalaureate degree but before the masters degree.

4 (5) For the purposes of this section:

5 (a) "BA" means a baccalaureate degree.

6 (b) "MA" means a masters degree.

7 (c) "PHD" means a doctorate degree.

8 (d) "Years of service" shall be calculated under the same rules  
9 adopted by the superintendent of public instruction.

10 (e) "Credits" means college quarter hour credits and equivalent in-  
11 service credits computed in accordance with RCW 28A.415.020 and  
12 28A.415.023.

13 (6) No more than ninety college quarter-hour credits received by  
14 any employee after the baccalaureate degree may be used to determine  
15 compensation allocations under the state salary allocation schedule and  
16 LEAP documents referenced in this act, or any replacement schedules and  
17 documents, unless:

18 (a) The employee has a masters degree; or

19 (b) The credits were used in generating state salary allocations  
20 before January 1, 1992.

21 (7) The certificated instructional staff base salary specified for  
22 each district in LEAP Document 2 and the salary schedules in subsection  
23 (4)(a) of this section include two learning improvement days. A school  
24 district is eligible for the learning improvement day funds only if the  
25 learning improvement days have been added to the 180- day contract  
26 year. If fewer days are added, the additional learning improvement  
27 allocation shall be adjusted accordingly. The additional days shall be  
28 limited to specific activities identified in the state required school  
29 improvement plan related to improving student learning that are  
30 consistent with education reform implementation, and shall not be  
31 considered part of basic education. The principal in each school shall  
32 assure that the days are used to provide the necessary school- wide,  
33 all staff professional development that is tied directly to the school  
34 improvement plan. The school principal and the district superintendent  
35 shall maintain documentation as to their approval of these activities.  
36 The length of a learning improvement day shall not be less than the  
37 length of a full day under the base contract. The superintendent of

1 public instruction shall ensure that school districts adhere to the  
2 intent and purposes of this subsection.

3 (8) The salary allocation schedules established in this section are  
4 for allocation purposes only except as provided in RCW 28A.400.200(2)  
5 and subsection (7) of this section.

6 Sec. 504. 2007 c 522 s 504 (uncodified) is amended to read as  
7 follows:

8 **FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR SCHOOL EMPLOYEE**  
9 **COMPENSATION ADJUSTMENTS**

10	General Fund--State Appropriation (FY 2008) . . . . .	(( <del>\$161,665,000</del> ))
11		<u>\$161,280,000</u>
12	General Fund--State Appropriation (FY 2009) . . . . .	(( <del>\$348,871,000</del> ))
13		<u>\$405,228,000</u>
14	General Fund--Federal Appropriation . . . . .	(( <del>\$243,000</del> ))
15		<u>\$275,000</u>
16	TOTAL APPROPRIATION . . . . .	(( <del>\$510,779,000</del> ))
17		<u>\$566,783,000</u>

18 The appropriations in this section are subject to the following  
19 conditions and limitations:

20 (1) ((~~\$444,366,000~~)) \$500,195,000 is provided solely for the  
21 following:

22 (a) A cost of living adjustment of 3.7 percent effective September  
23 1, 2007, and another ((~~2.8~~)) 3.9 percent effective September 1, 2008,  
24 pursuant to Initiative Measure No. 732.

25 (b) An additional .5 percent cost of living adjustment is provided  
26 above the amount required by Initiative Measure No. 732, effective  
27 September 1, 2008.

28 (c) Additional salary increases as necessary to fund the base  
29 salaries for certificated instructional staff as listed for each  
30 district in LEAP Document 2, defined in section 503(2)(b) of this act.  
31 Allocations for these salary increases shall be provided to all 262  
32 districts that are not grandfathered to receive salary allocations  
33 above the statewide salary allocation schedule, and to certain  
34 grandfathered districts to the extent necessary to ensure that salary  
35 allocations for districts that are currently grandfathered do not fall  
36 below the statewide salary allocation schedule. These additional  
37 salary increases will result in a decrease in the number of

1 grandfathered districts from the current thirty-four to twenty-four in  
2 the 2007-08 school year and to ~~((thirteen))~~ twelve in the 2008-09  
3 school year.

4 ~~((+e))~~ (d) Additional salary increases to certain districts as  
5 necessary to fund the per full-time-equivalent salary allocations for  
6 certificated administrative staff as listed for each district in LEAP  
7 Document 2, defined in section 503(2)(b) of this act. These additional  
8 salary increases shall ensure a minimum salary allocation for  
9 certificated administrative staff of \$54,405 in the 2007-08 school year  
10 and ~~((57,097))~~ \$57,986 in the 2008-09 school year.

11 ~~((+d))~~ (e) Additional salary increases to certain districts as  
12 necessary to fund the per full-time-equivalent salary allocations for  
13 classified staff as listed for each district in LEAP Document 2,  
14 defined in section 503(2)(b) of this act. These additional salary  
15 increases ensure a minimum salary allocation for classified staff of  
16 \$30,111 in the 2007-08 school year and ~~((31,376))~~ \$31,865 in the  
17 2008-09 school year.

18 ~~((+e))~~ (f) The appropriations in this subsection (1) include  
19 associated incremental fringe benefit allocations at rates ~~((13.49))~~  
20 13.47 percent for the 2007-08 school year and ~~((16.05))~~ 16.11 percent  
21 for the 2008-09 school year for certificated staff and ~~((13.56))~~ 13.54  
22 percent for the 2007-08 school year and ~~((15.24))~~ 15.22 percent for the  
23 2008-09 school year for classified staff.

24 ~~((+f))~~ (g) The appropriations in this section include the  
25 increased portion of salaries and incremental fringe benefits for all  
26 relevant state-funded school programs in part V of this act. Increases  
27 for general apportionment (basic education) are based on the salary  
28 allocation schedules and methodology in sections 502 and 503 of this  
29 act. Increases for special education result from increases in each  
30 district's basic education allocation per student. Increases for  
31 educational service districts and institutional education programs are  
32 determined by the superintendent of public instruction using the  
33 methodology for general apportionment salaries and benefits in sections  
34 502 and 503 of this act.

35 ~~((+g))~~ (h) The appropriations in this section provide cost of  
36 living and incremental fringe benefit allocations based on formula  
37 adjustments as follows:

1 juveniles, programs for juveniles under the department of corrections,  
2 and programs for juveniles under the juvenile rehabilitation  
3 administration.

4 (6) Ten percent of the funds allocated for each institution may be  
5 carried over from one year to the next.

6 **Sec. 510.** 2007 c 522 s 511 (uncodified) is amended to read as  
7 follows:

8 **FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR PROGRAMS FOR HIGHLY**  
9 **CAPABLE STUDENTS**

10	General Fund--State Appropriation (FY 2008) . . . . .	(( <del>\$8,396,000</del> ))
11		<u>\$8,383,000</u>
12	General Fund--State Appropriation (FY 2009) . . . . .	(( <del>\$8,779,000</del> ))
13		<u>\$8,788,000</u>
14	TOTAL APPROPRIATION . . . . .	(( <del>\$17,175,000</del> ))
15		<u>\$17,171,000</u>

16 The appropriations in this section are subject to the following  
17 conditions and limitations:

18 (1) Each general fund fiscal year appropriation includes such funds  
19 as are necessary to complete the school year ending in the fiscal year  
20 and for prior fiscal year adjustments.

21 (2) Allocations for school district programs for highly capable  
22 students shall be distributed at a maximum rate of ((~~\$372.19~~)) \$372.15  
23 per funded student for the 2007-08 school year and ((~~\$378.17~~)) \$378.13  
24 per funded student for the 2008-09 school year, exclusive of salary and  
25 benefit adjustments pursuant to section 504 of this act. The number of  
26 funded students shall be a maximum of 2.314 percent of each district's  
27 full-time equivalent basic education enrollment.

28 (3) \$170,000 of the fiscal year 2008 appropriation and \$170,000 of  
29 the fiscal year 2009 appropriation are provided for the centrum program  
30 at Fort Worden state park.

31 (4) \$90,000 of the fiscal year 2008 appropriation and \$90,000 of  
32 the fiscal year 2009 appropriation are provided for the Washington  
33 destination imagination network and future problem-solving programs.

34 **\*Sec. 511.** 2007 c 522 s 513 (uncodified) is amended to read as  
35 follows:

1 FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--EDUCATION REFORM  
2 PROGRAMS

3	General Fund--State Appropriation (FY 2008) . . . . .	(( <del>\$66,278,000</del> ))
4		<u>\$66,272,000</u>
5	General Fund--State Appropriation (FY 2009) . . . . .	(( <del>\$73,567,000</del> ))
6		<u>\$89,985,000</u>
7	Education Legacy Trust Account--State	
8	Appropriation . . . . .	(( <del>\$125,325,000</del> ))
9		<u>\$120,790,000</u>
10	General Fund--Federal Appropriation . . . . .	(( <del>\$152,616,000</del> ))
11		<u>\$152,568,000</u>
12	TOTAL APPROPRIATION . . . . .	(( <del>\$417,786,000</del> ))
13		<u>\$429,615,000</u>

14 The appropriations in this section are subject to the following  
15 conditions and limitations:

16 (1) ((~~\$19,966,000~~)) \$19,716,000 of the general fund--state  
17 appropriation for fiscal year 2008, ((~~\$19,946,000~~)) \$21,996,000 of the  
18 general fund--state appropriation for fiscal year 2009, \$1,350,000 of  
19 the education legacy trust account--state appropriation, and  
20 \$15,870,000 of the general fund--federal appropriation are provided  
21 solely for development and implementation of the Washington assessments  
22 of student learning (WASL), including: (i) Development and  
23 implementation of retake assessments for high school students who are  
24 not successful in one or more content areas of the WASL; and (ii)  
25 development and implementation of alternative assessments or appeals  
26 procedures to implement the certificate of academic achievement. The  
27 superintendent of public instruction shall report quarterly on the  
28 progress on development and implementation of alternative assessments  
29 or appeals procedures. Within these amounts, the superintendent of  
30 public instruction shall contract for the early return of 10th grade  
31 student WASL results, on or around June 10th of each year. In addition  
32 to the amounts provided for the Washington assessments of student  
33 learning in this subsection, \$11,372,000 is also included in the  
34 appropriations to the office of financial management in this act for an  
35 interagency agreement with the office of superintendent of public  
36 instruction for the expenditure of those funds based on compliance with  
37 certain requirements.

1           (2) \$3,249,000 of the general fund--state appropriation for fiscal  
2 year 2009 is provided solely for the implementation of Substitute House  
3 Bill No. 3166 (design of the state assessment system and the Washington  
4 assessment of student learning), including section 3 of the act  
5 providing for end-of-course tests in math. If the bill is not enacted  
6 by June 30, 2008, the amount provided in this subsection shall lapse.

7           (~~(\$250,000 of the general fund state appropriation for fiscal year~~  
8 ~~2008, \$250,000 of the general fund state appropriation for fiscal year~~  
9 ~~2009, and \$10,750,000 of the education legacy trust account state~~  
10 ~~appropriation are provided solely for the implementation of Engrossed~~  
11 ~~Substitute Senate Bill No. 6023 (regarding alternative assessments),~~  
12 ~~including section 2 and section 5 of that act. If the bill is not~~  
13 ~~enacted by June 30, 2007, the amounts provided in this subsection shall~~  
14 ~~lapse. Additionally, the funding provided in this subsection is~~  
15 ~~subject to the following conditions and limitations:~~

16           ~~(a) The funding may be spent on reviewing, developing, and~~  
17 ~~implementing approved alternative assessments authorized in Engrossed~~  
18 ~~Substitute Senate Bill No. 6023 (regarding alternative assessments).~~

19           ~~(b) The funding may also be used for reviewing, developing, and~~  
20 ~~implementing end of course examinations pursuant to Engrossed~~  
21 ~~Substitute Senate Bill No. 6023 (regarding alternative assessments).~~

22           ~~(c) The funding may be used for increased costs associated with~~  
23 ~~additional full time equivalent students directly resulting from~~  
24 ~~additional course taking requirements specified in Engrossed Substitute~~  
25 ~~Senate Bill No. 6023 (regarding alternative assessments).~~

26           ~~(d) \$4,900,000 of the funds provided in this subsection are~~  
27 ~~provided solely for allocations for school districts to purchase~~  
28 ~~diagnostic assessments as specified in Engrossed Substitute Senate Bill~~  
29 ~~No. 6023. By September 1, 2007, the office of the superintendent of~~  
30 ~~public instruction shall: (i) Negotiate an agreement with an~~  
31 ~~assessment vendor or vendors to secure competitive pricing for school~~  
32 ~~districts for high quality diagnostic assessment tools, and (ii)~~  
33 ~~provide quality comparison information to school districts regarding~~  
34 ~~various diagnostic assessment tools available. Of the funding~~  
35 ~~provided, a maximum of \$100,000 may be spent by the office of the~~  
36 ~~superintendent of public instruction for administrative support.~~

37           ~~(e) Beginning on September 1, 2007, the office of the~~  
38 ~~superintendent of public instruction shall submit quarterly reports to~~

1 ~~the office of financial management and the appropriate policy and~~  
2 ~~fiscal committees of the legislature detailing the actions taken~~  
3 ~~pursuant to Engrossed Substitute Senate Bill No. 6023 (regarding~~  
4 ~~alternative assessments) and amounts spent of each aspect of the~~  
5 ~~legislation.)~~

6 (3) \$250,000 of the general fund--state appropriation for fiscal  
7 year 2008, \$250,000 of the general fund--state appropriation for fiscal  
8 year 2009, and \$4,400,000 of the education legacy trust account--state  
9 appropriation is provided solely for the development and implementation  
10 of diagnostic assessments, subject to the following terms and  
11 conditions:

12 (a) A maximum of \$2,540,000 of the funding provided in this  
13 subsection shall support the development and implementation of  
14 voluntary classroom-based diagnostic assessments and progress  
15 monitoring tools for all subject areas included in the WASL by the  
16 office of the superintendent of public instruction; and

17 (b) \$2,360,000 of the funding provided in this subsection is for  
18 allocations to school districts to purchase assessment tools which  
19 supplement the system of diagnostic tests developed by the office of  
20 the superintendent of public instruction as described in (a) of this  
21 subsection.

22 (4) \$70,000 of the general fund--state appropriation for fiscal  
23 year 2008 and \$70,000 of the general fund--state appropriation for  
24 fiscal year 2009 are provided solely for the second grade assessments.

25 ~~((4))~~ (5) \$1,414,000 of the general fund--state appropriation for  
26 fiscal year 2008 and \$1,414,000 of the general fund--state  
27 appropriation for fiscal year 2009 are provided solely for (a) the  
28 tenth grade mathematics assessment tool that: (i) Presents the  
29 mathematics essential learnings in segments for assessment; (ii) is  
30 comparable in content and rigor to the tenth grade mathematics WASL  
31 when all segments are considered together; (iii) is reliable and valid;  
32 and (iv) can be used to determine a student's academic performance  
33 level; (b) tenth grade mathematics knowledge and skill learning modules  
34 to teach middle and high school students specific skills that have been  
35 identified as areas of difficulty for tenth grade students; and (c)  
36 making the modules available on-line.

37 ~~((5))~~ (6) \$2,267,000 of the general fund--state appropriation for  
38 fiscal year 2009 and \$2,367,000 of the education legacy trust account

1 appropriation are provided solely to develop a system of mathematics  
2 and science standards and instructional materials that are  
3 internationally competitive and consistent with emerging best practices  
4 research. Funding in this subsection shall fund all of the following  
5 specific projects:

6 (a) The office of the superintendent of public instruction shall  
7 adopt revised state standards in mathematics as directed by Second  
8 Substitute House Bill No. 1906 (improving mathematics and science  
9 education). Activities include conducting research at the request of  
10 the state board of education, engaging one or more national experts in  
11 mathematics selected by the board, and convening education  
12 practitioners and community members in an advisory capacity regarding  
13 revised standards in mathematics.

14 (b) The office of the superintendent of public instruction, in  
15 consultation with the state board of education, shall research and  
16 identify not more than three basic mathematics curricula as well as  
17 diagnostic and supplemental instructional materials for elementary,  
18 middle, and high school grade spans that align with the revised  
19 mathematics standards.

20 (c) The office of the superintendent of public instruction shall  
21 adopt revised state standards in science as directed by Second  
22 Substitute House Bill No. 1906 (improving mathematics and science  
23 education. Activities include conducting research at the request of  
24 the state board of education, engaging one or more national experts in  
25 science selected by the board, and convening education practitioners  
26 and community members in an advisory capacity regarding revised  
27 standards in science.

28 (d) The office of the superintendent of public instruction, in  
29 consultation with the state board of education, shall research and  
30 identify not more than three basic science curricula as well as  
31 diagnostic and supplemental instructional materials for elementary,  
32 middle, and high school grade spans that align with the revised science  
33 standards.

34 (e) The office of the superintendent of public instruction shall  
35 evaluate science textbooks, instructional materials, and diagnostic  
36 tools to determine the extent to which they are aligned with the  
37 revised science standards. Once the evaluations have been conducted,

1 results will be shared with science teachers, other educators, and  
2 community members.

3 (f) Funding is provided for the office of the superintendent of  
4 public instruction to develop WASL knowledge and skill learning modules  
5 to assist students performing at tenth grade level 1 and level 2 in  
6 science.

7 (g) Of the amounts provided in this subsection, \$300,000 is  
8 provided solely to the state board of education to increase capacity to  
9 implement the provisions of Second Substitute House Bill No. 1906  
10 (improving mathematics and science education) and Engrossed Second  
11 Substitute Senate Bill No. 6023 (regarding alternative assessments).

12 ((+6)) (7) \$8,950,000 of the education legacy trust account  
13 appropriation is provided solely for allocations to districts for  
14 salaries and benefits for the equivalent of two additional professional  
15 development days each school year for fourth and fifth grade teachers.  
16 The allocations shall be made based on the calculations of certificated  
17 instructional staff units for fourth and fifth grade provided in  
18 section 502 of this act and on the calculations of compensation  
19 provided in sections 503 and 504 of this act. Allocations made  
20 pursuant to this subsection are intended to be formula-driven, and the  
21 office of the superintendent of public instruction shall provide  
22 updated projections of the relevant budget drivers by November 20,  
23 2007, and by November 20, 2008. In the 2007-08 school year, the  
24 professional development activities funded by this subsection shall be  
25 focused on development of mathematics knowledge and instructional  
26 skills and on improving instruction in science. In the 2008-09 school  
27 year, the additional professional development shall focus on skills  
28 related to implementing the new international mathematics and science  
29 standards and curriculum. Districts may use the funding to support  
30 additional days for professional development as well as job-embedded  
31 forms of professional development.

32 ((+7)) (8) \$13,058,000 of the education legacy trust fund  
33 appropriation is provided solely for allocations to districts for  
34 salaries and benefits for the equivalent of three additional  
35 professional development days for middle and high school math teachers  
36 and the equivalent of three additional professional development days  
37 for middle and high school science teachers. The office of the  
38 superintendent of public instruction shall develop rules to determine

1 the number of math and science teachers in middle and high schools  
2 within each district. Allocations made pursuant to this subsection are  
3 intended to be formula-driven, and the office of the superintendent of  
4 public instruction shall provide updated projections of the relevant  
5 budget drivers by November 20, 2007, and by November 20, 2008.  
6 Districts may use the funding to support additional days for  
7 professional development as well as job-embedded forms of professional  
8 development, consistent with the following:

9 (a) For middle school teachers during the 2007-08 school year the  
10 additional math professional development funded in this subsection  
11 shall focus on development of basic mathematics knowledge and  
12 instructional skills and the additional science professional  
13 development shall focus on examination of student science assessment  
14 data and identification of science knowledge and skill areas in need of  
15 additional instructional attention. For middle school teachers during  
16 the 2008-09 school year the additional math professional development  
17 shall focus on skills related to implementing the new international  
18 mathematics standards and the additional science professional  
19 development shall focus on skills related to implementing the new  
20 international science standards.

21 (b) For high school teachers during the 2007-08 school year the  
22 additional math professional development funded in this subsection  
23 shall focus on skills related to implementing state math learning  
24 modules, the segmented math class/assessment program, the collection of  
25 evidence alternative assessment, and basic mathematics knowledge and  
26 instructional skills, and the additional science professional  
27 development shall focus on skills related to examination of student  
28 science assessment data and identification of science knowledge and  
29 skill areas in need of additional instructional attention. For high  
30 school teachers during the 2008-09 school year the additional math  
31 professional development shall focus on skills related to implementing  
32 the new international mathematics standards and the additional science  
33 professional development shall focus on skills related to implementing  
34 the new international science standards.

35 ((+8+)) (9) \$17,491,000 of the education legacy trust fund  
36 appropriation is provided solely for allocations to districts for  
37 specialized professional development in math for one math teacher and  
38 one science teacher in each middle school and one math teacher and one

1 science teacher in each high school. The allocations shall be based on  
2 five additional professional development days per teacher and an  
3 additional allocation per teacher of \$1,500 for training costs. In  
4 order to generate an allocation under this subsection, a teacher must  
5 participate in specialized professional development that leads to the  
6 implementation of mathematics and science courses that add new rigor to  
7 the math and science course offerings in the school. Allocations made  
8 pursuant to this subsection are intended to be formula-driven, and the  
9 office of the superintendent of public instruction shall provide  
10 updated projections of the relevant budget drivers by November 20,  
11 2007, and by November 20, 2008.

12 ~~((+9))~~ (10) \$5,376,000 of the education legacy trust account--  
13 state appropriation is provided solely for a math and science  
14 instructional coaches program pursuant to Second Substitute House Bill  
15 No. 1906 (improving mathematics and science education). Funding shall  
16 be used to provide grants to schools and districts to provide salaries,  
17 benefits, and professional development activities to twenty-five  
18 instructional coaches in middle and high school math in the 2007-08 and  
19 2008-09 school years and twenty-five instructional coaches in middle  
20 and high school science in the 2008-09 school years; and up to \$300,000  
21 may be used by the office of the superintendent of public instruction  
22 to administer and coordinate the program. Each instructional coach  
23 will receive five days of training at a coaching institute prior to  
24 being assigned to serve two schools each. These coaches will attend  
25 meetings during the year to further their training and assist with  
26 coordinating statewide trainings on math and science.

27 ~~((+10))~~ (11) ~~((+\$1,500,000))~~ \$1,133,000 of the general fund--state  
28 appropriation for fiscal year 2008 and ~~((+\$1,500,000))~~ \$1,133,000 of the  
29 general fund--state appropriation for fiscal year 2009 are provided  
30 solely to allow approved middle and junior high school career and  
31 technical education programs to receive enhanced vocational funding  
32 pursuant to Second Substitute House Bill No. 1906 (improving  
33 mathematics and science education). If the bill is not enacted by June  
34 30, 2007, the amounts provided in this subsection shall lapse. The  
35 office of the superintendent of public instruction shall provide  
36 allocations to districts for middle and junior high school students in  
37 accordance with the funding formulas provided in section 502 of this  
38 act. Although the allocations are formula-driven, the office of the

1 superintendent shall consider the funding provided in this subsection  
2 as a fixed amount, and shall adjust funding to stay within the amounts  
3 provided in this subsection..

4 ~~((+11+))~~ (12) \$143,000 of the general fund--state appropriation for  
5 fiscal year 2008 and \$139,000 of the general fund--state appropriation  
6 for fiscal year 2009 are provided solely for (a) staff at the office of  
7 the superintendent of public instruction to coordinate and promote  
8 efforts to develop integrated math, science, technology, and  
9 engineering programs in schools and districts across the state; and (b)  
10 grants of \$2,500 to provide twenty middle and high school teachers each  
11 year professional development training for implementing integrated  
12 math, science, technology, and engineering program in their schools.

13 ~~((+12+))~~ (13) \$5,303,000 of the general fund--state appropriation  
14 for fiscal year 2008 and \$5,303,000 of the general fund--state  
15 appropriation for fiscal year 2009 are provided solely for in-service  
16 training and educational programs conducted by the Pacific science  
17 center and for the Washington state leadership assistance for science  
18 education reform (LASER) regional partnership coordinated at the  
19 Pacific science center.

20 ~~((+13) \$675,000 of the general fund state appropriation for fiscal  
21 year 2009 is provided solely to support state college readiness  
22 assessment fees for eleventh grade students. The office of the  
23 superintendent of public instruction shall allocate funds for this  
24 purpose to school districts based on the number of eleventh grade  
25 students who complete the college readiness exam. School districts  
26 shall use these funds to reimburse institutions of higher education for  
27 the assessments students take and report to the office of the  
28 superintendent of public instruction on the number of assessments  
29 provided.))~~

30 (14) ~~((+14) \$51,236,000))~~ \$51,701,000 of the education legacy trust  
31 account--state appropriation is provided solely for grants for  
32 voluntary full-day kindergarten at the highest poverty schools, as  
33 provided in Engrossed Second Substitute Senate Bill 5841 (enhancing  
34 student learning opportunities and achievement). The office of the  
35 superintendent of public instruction shall provide allocations to  
36 districts for recipient schools in accordance with the funding formulas  
37 provided in section 502 of this act. Each kindergarten student who  
38 enrolls for the voluntary full-day program in a recipient school shall

1 count as one-half of one full-time equivalent student for the purpose  
2 of making allocations under this subsection. Although the allocations  
3 are formula-driven, the office of the superintendent shall consider the  
4 funding provided in this subsection as a fixed amount, and shall limit  
5 the number of recipient schools so as to stay within the amounts  
6 appropriated each fiscal year in this subsection. The funding provided  
7 in this subsection is estimated to provide full-day kindergarten  
8 programs for 10 percent of kindergarten enrollment in the 2007-08  
9 school year and 20 percent of kindergarten enrollment in the 2008-09  
10 school year. Funding priority shall be given to schools with the  
11 highest poverty levels, as measured by prior year free and reduced  
12 priced lunch eligibility rates in each school. Additionally, as a  
13 condition of funding, school districts must agree to provide the  
14 full-day program to the children of parents who request it in each  
15 eligible school. For the purposes of calculating a school district  
16 levy base, funding provided in this subsection shall be considered a  
17 state block grant program under RCW 84.52.0531.

18 (a) Of the amounts provided in this subsection, a maximum of  
19 \$272,000 may be used for administrative support of the full-day  
20 kindergarten program within the office of the superintendent of public  
21 instruction.

22 (b) Student enrollment pursuant to this program shall not be  
23 included in the determination of a school district's overall K-12 FTE  
24 for the allocation of student achievement programs and other funding  
25 formulas unless specifically stated.

26 (15) \$65,000 of the general fund--state appropriation for fiscal  
27 year 2008 and \$65,000 of the general fund--state appropriation for  
28 fiscal year 2009 are provided solely to support a full-day kindergarten  
29 "lighthouse" resource program at the Bremerton school district, as  
30 provided in Engrossed Second Senate Bill No. 5841 (enhancing student  
31 learning opportunities and achievement). The purpose of the program is  
32 to provide technical assistance to districts in the initial stages of  
33 implementing a high quality full-day kindergarten program.

34 (16) \$3,047,000 of the education legacy trust account--state  
35 appropriation is provided solely for grants for three demonstration  
36 projects for kindergarten through grade three. The purpose of the  
37 grants is to implement best practices in developmental learning in

1 kindergarten through third grade pursuant to Engrossed Second  
2 Substitute Senate Bill No. 5841 (enhancing student learning  
3 opportunities and achievement).

4 (17) \$300,000 of the general fund--state appropriation for fiscal  
5 year 2008 and \$1,000,000 of the general fund--state appropriation for  
6 fiscal year 2009 are provided solely for the development of a  
7 leadership academy for school principals and administrators. The  
8 superintendent of public instruction shall contract with an independent  
9 organization to design, field test, and implement a state-of-the-art  
10 education leadership academy that will be accessible throughout the  
11 state. Initial development of the content of the academy activities  
12 shall be supported by private funds. Semiannually the independent  
13 organization shall report on amounts committed by foundations and  
14 others to support the development and implementation of this program.  
15 Leadership academy partners, with varying roles, shall include the  
16 state level organizations for school administrators and principals, the  
17 superintendent of public instruction, the professional educator  
18 standards board, and others as the independent organization shall  
19 identify.

20 (18) \$661,000 of the general fund--state appropriation for fiscal  
21 year 2008 and \$684,000 of the general fund--state appropriation for  
22 fiscal year 2009 are provided solely for grants to school districts to  
23 implement emerging best practices activities in support of classroom  
24 teachers' instruction of students, with a first language other than  
25 English, who struggle with acquiring academic English skills, as  
26 outlined in Engrossed Second Substitute Senate Bill No. 5841 (enhancing  
27 student learning opportunities and achievement). Best practices shall  
28 focus on professional development for classroom teachers and support of  
29 instruction for English language learners in regular classrooms.  
30 School districts qualifying for these grants shall serve a student  
31 population that reflects many different first languages among their  
32 students. The Northwest educational research laboratory (NWREL) shall  
33 evaluate the effectiveness of the practices supported by the grants as  
34 provided in section 501 of this act. Recipients of these grants shall  
35 cooperate with NWREL in the collection of program data.

36 (19) \$548,000 of the fiscal year 2008 general fund--state  
37 appropriation and \$548,000 of the fiscal year 2009 general fund--state

1 appropriation are provided solely for training of paraprofessional  
2 classroom assistants and certificated staff who work with classroom  
3 assistants as provided in RCW 28A.415.310.

4 (20) \$2,348,000 of the general fund--state appropriation for fiscal  
5 year 2008 and \$2,348,000 of the general fund--state appropriation for  
6 fiscal year 2009 are provided solely for mentor teacher assistance,  
7 including state support activities, under RCW 28A.415.250 and  
8 28A.415.260, and for a mentor academy. Up to \$200,000 of the amount in  
9 this subsection may be used each fiscal year to operate a mentor  
10 academy to help districts provide effective training for peer mentors.  
11 Funds for the teacher assistance program shall be allocated to school  
12 districts based on the number of first year beginning teachers.

13 (21) \$705,000 of the general fund--state appropriation for fiscal  
14 year 2008 and \$705,000 of the general fund--state appropriation for  
15 fiscal year 2009 are provided solely for the leadership internship  
16 program for superintendents, principals, and program administrators.

17 (22) (~~(\$98,761,000)~~) \$105,765,000 of the general fund--federal  
18 appropriation is provided for preparing, training, and recruiting high  
19 quality teachers and principals under Title II of the no child left  
20 behind act.

21 (23) (a) \$488,000 of the general fund--state appropriation for  
22 fiscal year 2008 and \$488,000 of the general fund--state appropriation  
23 for fiscal year 2009 are provided solely for a principal support  
24 program. The office of the superintendent of public instruction may  
25 contract with an independent organization to administer the program.  
26 The program shall include: (i) Development of an individualized  
27 professional growth plan for a new principal or principal candidate;  
28 and (ii) participation of a mentor principal who works over a period of  
29 between one and three years with the new principal or principal  
30 candidate to help him or her build the skills identified as critical to  
31 the success of the professional growth plan. Within the amounts  
32 provided, \$25,000 per year shall be used to support additional  
33 participation of secondary principals.

34 (b) \$3,046,000 of the general fund--state appropriation for fiscal  
35 year 2008 and \$3,046,000 of the general fund--state appropriation for  
36 fiscal year 2009 are provided solely to the office of the  
37 superintendent of public instruction for focused assistance. The  
38 office of the superintendent of public instruction shall conduct

1 educational audits of low-performing schools and enter into performance  
2 agreements between school districts and the office to implement the  
3 recommendations of the audit and the community. Each educational audit  
4 shall include recommendations for best practices and ways to address  
5 identified needs and shall be presented to the community in a public  
6 meeting to seek input on ways to implement the audit and its  
7 recommendations.

8 (24) \$1,000,000 of the general fund--state appropriation for fiscal  
9 year 2008 and \$1,000,000 of the general fund--state appropriation for  
10 fiscal year 2009 are provided solely for a high school and school  
11 district improvement program modeled after the office of the  
12 superintendent of public instruction's existing focused assistance  
13 program in subsection (25)(b) of this section. The state funding for  
14 this improvement program will match an equal amount committed by a  
15 nonprofit foundation in furtherance of a jointly funded program.

16 (25) A maximum of \$375,000 of the general fund--state appropriation  
17 for fiscal year 2008 and a maximum of \$500,000 of the general fund--  
18 state appropriation for fiscal year 2009 are provided for summer  
19 accountability institutes offered by the superintendent of public  
20 instruction. The institutes shall provide school district staff with  
21 training in the analysis of student assessment data, information  
22 regarding successful district and school teaching models, research on  
23 curriculum and instruction, and planning tools for districts to improve  
24 instruction in reading, mathematics, language arts, social studies,  
25 including civics, and guidance and counseling. The superintendent of  
26 public instruction shall offer at least one institute specifically for  
27 improving instruction in mathematics in fiscal years 2008 and 2009 and  
28 at least one institute specifically for improving instruction in  
29 science in fiscal year 2009.

30 (26) \$515,000 of the general fund--state appropriation for fiscal  
31 year 2008 and \$515,000 of the general fund--state appropriation for  
32 fiscal year 2009 are provided for the evaluation of mathematics  
33 textbooks, other instructional materials, and diagnostic tools to  
34 determine the extent to which they are aligned with the state  
35 standards. Once the evaluations have been conducted, results will be  
36 shared with math teachers, other educators, and community members for  
37 the purposes of validating the conclusions and then selecting up to  
38 three curricula, supporting materials, and diagnostic instruments as

1 those best able to assist students to learn and teachers to teach the  
2 content of international standards. In addition, the office of the  
3 superintendent shall continue to provide support and information on  
4 essential components of comprehensive, school-based reading programs.

5 (27) \$1,764,000 of the general fund--state appropriation for fiscal  
6 year 2008 and \$1,764,000 of the general fund--state appropriation for  
7 fiscal year 2009 are provided solely for the mathematics helping corps  
8 subject to the following conditions and limitations:

9 (a) In order to increase the availability and quality of technical  
10 mathematics assistance statewide, the superintendent of public  
11 instruction shall employ mathematics school improvement specialists to  
12 provide assistance to schools and districts. The specialists shall be  
13 hired by and work under the direction of a statewide school improvement  
14 coordinator. The mathematics improvement specialists shall not be  
15 permanent employees of the superintendent of public instruction.

16 (b) The school improvement specialists shall provide the following:

17 (i) Assistance to schools to disaggregate student performance data  
18 and develop improvement plans based on those data;

19 (ii) Consultation with schools and districts concerning their  
20 performance on the Washington assessment of student learning and other  
21 assessments emphasizing the performance on the mathematics assessments;

22 (iii) Consultation concerning curricula that aligns with the  
23 essential academic learning requirements emphasizing the academic  
24 learning requirements for mathematics, the Washington assessment of  
25 student learning, and meets the needs of diverse learners;

26 (iv) Assistance in the identification and implementation of  
27 research-based instructional practices in mathematics;

28 (v) Staff training that emphasizes effective instructional  
29 strategies and classroom-based assessment for mathematics;

30 (vi) Assistance in developing and implementing family and community  
31 involvement programs emphasizing mathematics; and

32 (vii) Other assistance to schools and school districts intended to  
33 improve student mathematics learning.

34 (28) \$125,000 of the general fund--state appropriation for fiscal  
35 year 2008 and \$125,000 of the general fund--state appropriation for  
36 fiscal year 2009 are provided solely for the improvement of reading  
37 achievement and implementation of research-based reading models. The  
38 superintendent shall evaluate reading curriculum programs and other

1 instructional materials to determine the extent to which they are  
2 aligned with state standards. A report of the analyses shall be made  
3 available to school districts. The superintendent shall report to  
4 districts the assessments that are available to screen and diagnose  
5 reading difficulties, and shall provide training on how to implement a  
6 reading assessment system. Resources may also be used to disseminate  
7 grade level expectations and develop professional development modules  
8 and web-based materials.

9 (29) (~~(\$30,401,000)~~) \$30,706,000 of the general fund--federal  
10 appropriation is provided for the reading first program under Title I  
11 of the no child left behind act.

12 (a) \$500,000 of the general fund--state appropriation for fiscal  
13 year 2008 (~~(and \$500,000 of the general fund state appropriation for~~  
14 ~~fiscal year 2009 are)~~) is provided solely for the office of the  
15 superintendent of public instruction to award five grants to parent,  
16 community, and school district partnership programs that will meet the  
17 unique needs of different groups of students in closing the achievement  
18 gap. The legislature intends that the pilot programs will help  
19 students meet state learning standards, achieve the skills and  
20 knowledge necessary for college or the workplace, reduce the  
21 achievement gap, prevent dropouts, and improve graduation rates.

22 (b) The pilot programs shall be designed in such a way as to be  
23 supplemental to educational services provided in the district and shall  
24 utilize a community partnership based approach to helping students and  
25 their parents.

26 (c) The grant recipients shall work in collaboration with the  
27 office of the superintendent of public instruction to develop  
28 measurable goals and evaluation methodologies for the pilot programs.  
29 \$25,000 of this appropriation may be used by the office of the  
30 superintendent of public instruction to hold a statewide meeting to  
31 disseminate successful strategies developed by the grantees.

32 (d) The office of the superintendent of public instruction shall  
33 issue a report to the legislature in the 2009 session on the progress  
34 of each of the pilot programs.

35 (30) \$1,500,000 of the general fund--state appropriation for fiscal  
36 year 2008 and \$1,500,000 of the general fund--state appropriation for  
37 fiscal year 2009 are provided solely for the office of the  
38 superintendent of public instruction to support and award Washington

1 community learning center program grants pursuant to Engrossed Second  
2 Substitute Senate Bill No. 5841 (enhancing student learning  
3 opportunities and achievement). If the bill is not enacted by June 30,  
4 2007, the amounts provided in this subsection shall lapse.

5 (31) (~~(\$1,629,000)~~) \$1,643,000 of the general fund--state  
6 appropriation for fiscal year 2008 and (~~(\$1,638,000)~~) \$1,667,000 of the  
7 general fund--state appropriation for fiscal year 2009 are provided  
8 solely to eliminate the lunch co-pay for students in grades  
9 kindergarten through third grade that are eligible for reduced price  
10 lunch.

11 (32) \$400,000 of the education legacy trust account--state  
12 appropriation is provided solely for the development of mathematics  
13 support activities provided by community organizations in after school  
14 programs. Pursuant to Second Substitute House Bill No. 1906 (improving  
15 mathematics and science education), the office of the superintendent of  
16 public instruction shall administer grants to community organizations  
17 that partner with school districts to provide these activities and  
18 develop a mechanism to report program and student success.

19 (33) \$5,222,000 of the general fund--state appropriation for fiscal  
20 year 2008 and (~~(\$5,222,000)~~) \$5,285,000 of the general fund--state  
21 appropriation for fiscal year 2009 are provided solely for: (a) The  
22 meals for kids program under RCW 28A.235.145 through 28A.235.155; (b)  
23 to eliminate the breakfast co-pay for students eligible for reduced  
24 price lunch; and (c) for additional assistance for school districts  
25 initiating a summer food service program.

26 (34) \$1,056,000 of the general fund--state appropriation for fiscal  
27 year 2008 and \$1,056,000 of the general fund--state appropriation for  
28 fiscal year 2009 are provided solely for the Washington reading corps.  
29 The superintendent shall allocate reading corps members to low-  
30 performing schools and school districts that are implementing  
31 comprehensive, proven, research-based reading programs. Two or more  
32 schools may combine their Washington reading corps programs. Grants  
33 provided under this section may be used by school districts for  
34 expenditures from September 2007 through August 31, 2009.

35 (35) \$3,594,000 of the general fund--state appropriation for fiscal  
36 year 2008 and \$3,594,000 of the general fund--state appropriation for  
37 fiscal year 2009 are provided solely for grants to school districts to  
38 provide a continuum of care for children and families to help children

1 become ready to learn. Grant proposals from school districts shall  
2 contain local plans designed collaboratively with community service  
3 providers. If a continuum of care program exists in the area in which  
4 the school district is located, the local plan shall provide for  
5 coordination with existing programs to the greatest extent possible.  
6 Grant funds shall be allocated pursuant to RCW 70.190.040.

7 (36) \$1,959,000 of the general fund--state appropriation for fiscal  
8 year 2008 and \$1,959,000 of the general fund--state appropriation for  
9 fiscal year 2009 are provided solely for improving technology  
10 infrastructure, monitoring and reporting on school district technology  
11 development, promoting standards for school district technology,  
12 promoting statewide coordination and planning for technology  
13 development, and providing regional educational technology support  
14 centers, including state support activities, under chapter 28A.650 RCW.  
15 The superintendent of public instruction shall coordinate a process to  
16 facilitate the evaluation and provision of online curriculum courses to  
17 school districts which includes the following: Creation of a general  
18 listing of the types of available online curriculum courses; a survey  
19 conducted by each regional educational technology support center of  
20 school districts in its region regarding the types of online curriculum  
21 courses desired by school districts; a process to evaluate and  
22 recommend to school districts the best online courses in terms of  
23 curriculum, student performance, and cost; and assistance to school  
24 districts in procuring and providing the courses to students.

25 (37) \$126,000 of the general fund--state appropriation for fiscal  
26 year 2008 and \$126,000 of the general fund--state appropriation for  
27 fiscal year 2009 are provided for the development and posting of web-  
28 based instructional tools, assessment data, and other information that  
29 assists schools and teachers implementing higher academic standards.

30 (38) \$333,000 of the general fund--state appropriation for fiscal  
31 year 2008 and \$333,000 of the general fund--state appropriation for  
32 fiscal year 2009 are provided solely for the operation of the center  
33 for the improvement of student learning pursuant to RCW 28A.300.130.

34 (39) \$12,400,000 of the education legacy trust account--state  
35 appropriation is provided solely for one-time allocations for  
36 technology upgrades and improvements. The funding shall be allocated  
37 based on \$3,000 for each elementary school, \$6,000 for each middle or  
38 junior high school, and \$11,000 for each high school. In cases where

1 a particular school's grade span or configuration does not fall into  
2 these categories, the office of superintendent of public instruction  
3 will develop an allocation to that school that recognizes the unique  
4 characteristics but maintains the proportionate allocation identified  
5 in this subsection.

6 (40) \$250,000 of the education legacy trust account--state  
7 appropriation is provided solely for costs associated with office of  
8 the superintendent of public instruction establishing a statewide  
9 director of technology position pursuant to Second Substitute House  
10 Bill No. 1906 (improving mathematics and science education). If the  
11 bill is not enacted by June 30, 2007, the amounts provided in this  
12 subsection shall lapse.

13 (41) (a) (~~(\$9,150,000)~~) \$9,747,000 of the general fund--state  
14 appropriation for fiscal year 2008 and (~~(\$12,447,000)~~) \$16,624,000 of  
15 the general fund--state appropriation for fiscal year 2009 are provided  
16 solely for the following bonuses for teachers who hold valid, unexpired  
17 certification from the national board for professional teaching  
18 standards and who are teaching in a Washington public school, subject  
19 to the following conditions and limitations:

20 (i) For national board certified teachers, a bonus of \$5,000 per  
21 teacher in fiscal year 2008 and adjusted for inflation in fiscal year  
22 2009. Beginning in the 2007-2008 school year and thereafter, national  
23 board certified teachers who become public school principals shall  
24 continue to receive this bonus for as long as they are principals and  
25 maintain the national board certification;

26 (ii) During the 2007-2008 school year, for national board certified  
27 teachers who teach in schools where at least 70 percent of student  
28 headcount enrollment is eligible for the federal free or reduced price  
29 lunch program, an additional \$5,000 annual bonus to be paid in one lump  
30 sum. Beginning in the 2008-2009 school year and thereafter, an  
31 additional \$5,000 annual bonus shall be paid to national board  
32 certified teachers who teach in either: (A) High schools where at  
33 least 50 percent of student headcount enrollment is eligible for  
34 federal free or reduced price lunch, (B) middle schools where at least  
35 60 percent of student headcount enrollment is eligible for federal free  
36 or reduced price lunch, or (C) elementary schools where at least 70  
37 percent of student headcount enrollment is eligible for federal free or  
38 reduced price lunch; and

1 (iii) The superintendent of public instruction shall adopt rules to  
2 ensure that national board certified teachers meet the qualifications  
3 for bonuses under (a)(ii) of this subsection for less than one full  
4 school year receive bonuses in a pro-rated manner.

5 (b) Included in the amounts provided in this subsection are amounts  
6 for mandatory fringe benefits. Unless Senate Bill No. 6657 (salary  
7 bonuses for individuals certified by the national board for  
8 professional teaching standards) is enacted by June 30, 2008, the  
9 annual bonus shall not be included in the definition of "earnable  
10 compensation" under RCW 41.32.010(10).

11 (c) For purposes of this subsection, "~~((schools where at least 70))~~  
12 the percent of the student headcount enrollment ((is)) eligible for the  
13 federal free or reduced price lunch program" shall be defined as: (i)  
14 For the 2007-08 and the 2008-09 school years, schools in which the  
15 prior year percentage of students eligible for the federal free and  
16 reduced price lunch program ~~((was at least 70 percent))~~ meets the  
17 criteria specified in subsection (41)(a)(ii) of this section; and (ii)  
18 in the 2008-09 school year, any school that met the criterion in (c)(i)  
19 of this subsection in the 2007-08 school year.

20 (d) Within the amounts appropriated in this subsection, the office  
21 of superintendent of public instruction shall revise rules to allow  
22 teachers who hold valid, unexpired certification from the national  
23 board for professional teaching standards and who are teaching at the  
24 Washington school for the deaf or Washington school for the blind, to  
25 receive the annual bonus amounts specified in this subsection if they  
26 are otherwise eligible.

27 (42) \$2,750,000 of the general fund--state appropriation for fiscal  
28 year 2009 is provided solely for the implementation of Second  
29 Substitute Senate Bill No. 6377 (career and technical education). If  
30 the bill is not enacted by June 30, 2008, the amount provided in this  
31 subsection shall lapse.

32 (43) \$4,000,000 of the general fund--state appropriation for fiscal  
33 year 2009 is provided solely for an allocation of four dollars and nine  
34 cents per full-time equivalent student, or as much as the funding in  
35 this subsection will allow, to maintain and improve library materials,  
36 collections, and services. The funding provided in this subsection  
37 shall be used to augment current funding for librarian programs  
38 provided through basic education and other existing funding mechanisms.

1 In order to receive allocations under this section, school districts  
2 must agree that to the maximum extent possible they will ensure that  
3 library programs and services are equitably provided throughout the  
4 district.

5 (44) \$600,000 of the general fund--state appropriation for fiscal  
6 year 2009 is provided solely for the implementation of Second  
7 Substitute Senate Bill No. 6483 (local farms-healthy kids and  
8 communities). Of the amount provided in subsection, up to \$30,000 is  
9 provided for administrative costs associated with implementing the  
10 legislation and at least \$570,000 is provided for grants to school  
11 districts associated with implementing the legislation. If the bill is  
12 not enacted by June 30, 2008, the amount provided in this subsection  
13 shall lapse.

14 (45) \$100,000 of the general fund--state appropriation for fiscal  
15 year 2009 is provided solely for the implementation of Engrossed Second  
16 Substitute Senate Bill No. 6673 (student learning opportunities) which  
17 requires the office of the superintendent of public instruction to  
18 explore online curriculum support in languages other than English. If  
19 the bill is not enacted by June 30, 2008, the amount provided in this  
20 subsection shall lapse.

21 (46) \$500,000 of the general fund--state appropriation for fiscal  
22 year 2009 is provided solely for the summer programs for middle and  
23 high school students to explore career opportunities rich in math,  
24 science, and technology using career and technical education as the  
25 delivery model, pursuant to Second Substitute Senate Bill No. 6673  
26 (student learning opportunities). If the bill is not enacted by June  
27 30, 2008, the amount provided in this subsection shall lapse.

28 (47) \$250,000 of the general fund--state appropriation for fiscal  
29 year 2009 is provided solely for grants to five skills centers to  
30 develop and plan for implementation of integrated English language  
31 development/career skills programs that pair English language  
32 development teachers with career/technical education instructors in the  
33 classroom. The office of the superintendent of public instruction and  
34 skill center staff shall work with the state board for community and  
35 technical colleges I-BEST program staff and local community and  
36 technical college program staff to develop the program to assure  
37 critical program elements are included and that the skill center  
38 programs provide a seamless transition for high school students to the

1 community and technical college programs for students choosing that  
2 pathway. The request for proposal or grant application shall be issued  
3 no later than May 1, 2008, so that grant recipients can begin program  
4 planning and development efforts on July 1, 2008. The superintendent  
5 of public instruction shall provide the resulting implementation plans  
6 to the governor and the appropriate committees of the legislature by  
7 November 1, 2008.

8 (48) \$70,000 of the general fund--state appropriation for fiscal  
9 year 2009 is provided solely to support the Chinese exchange program at  
10 the Peninsula school district. The funding shall support scholarships,  
11 educational programs, and travel costs for students facing financial  
12 obstacles to participation in the program.

13 (49) \$150,000 of the general fund--state appropriation for fiscal  
14 year 2009 is provided solely to support public high schools'  
15 participation in the FIRST robotics program. The office of the  
16 superintendent of public instruction shall issue grants not to exceed  
17 \$10,000 per school to be used for teacher stipends, registration fees,  
18 equipment, and other costs associated with direct participation in the  
19 program. High-poverty schools and schools starting up robotics  
20 programs shall be given priority in funding.

*\*Sec. 511 was partially vetoed. See message at end of chapter.*

21 **Sec. 512.** 2007 c 522 s 514 (uncodified) is amended to read as  
22 follows:

23 **FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR TRANSITIONAL**  
24 **BILINGUAL PROGRAMS**

25	General Fund--State Appropriation (FY 2008) . . . . .	(( <del>\$65,320,000</del> ))
26		<u>\$65,595,000</u>
27	General Fund--State Appropriation (FY 2009) . . . . .	(( <del>\$69,217,000</del> ))
28		<u>\$69,560,000</u>
29	General Fund--Federal Appropriation . . . . .	\$45,243,000
30	TOTAL APPROPRIATION . . . . .	(( <del>\$179,780,000</del> ))
31		<u>\$180,398,000</u>

32 The appropriations in this section are subject to the following  
33 conditions and limitations:

34 (1) Each general fund fiscal year appropriation includes such funds  
35 as are necessary to complete the school year ending in the fiscal year  
36 and for prior fiscal year adjustments.

1 (f) The superintendent of public instruction shall distribute  
2 school year allocations according to the monthly apportionment schedule  
3 defined in RCW 28A.510.250.

4 (3) By November 15th of each year, the office of the superintendent  
5 of public instruction shall report to the appropriate committees of the  
6 legislature and to the office of financial management on the use of  
7 these funds in the prior school year, including the types of assistance  
8 selected by students, the number of students receiving each type of  
9 assistance, and the impact on WASL test scores. The office of the  
10 superintendent for public instruction shall complete its review and  
11 make adjustments to district reporting procedures to ensure consistency  
12 of reporting categories and minimize district administrative workload.

13 (4) School districts may carry over from one year to the next up to  
14 20 percent of funds allocated under this program(~~(, however,)~~).  
15 Carryover funds shall be expended for (~~promoting academic success~~  
16 ~~programs~~) extended learning activities as described in subsection (1)  
17 of this section. Carryover funds may be expended for students eligible  
18 for the promoting academic success program as described in subsection  
19 (1) of this section or for ninth and tenth grade students determined to  
20 be at risk of not passing one or more content areas of the WASL based  
21 on eighth grade assessment scores.

22 (5) After the 2007-2008 school year, funding for the promoting  
23 academic success program is discontinued.

24 **Sec. 515.** 2007 c 522 s 517 (uncodified) is amended to read as  
25 follows:

26 **FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION--FOR STUDENT ACHIEVEMENT**  
27 **PROGRAM**

28 Student Achievement Account--State Appropriation

29 (FY 2008) . . . . . ((~~\$423,414,000~~))  
30 \$423,369,000

31 Student Achievement Account--State Appropriation

32 (FY 2009) . . . . . ((~~\$446,357,000~~))  
33 \$444,970,000

34 TOTAL APPROPRIATION . . . . . ((~~\$869,771,000~~))  
35 \$868,339,000

36 The appropriations in this section are subject to the following  
37 conditions and limitations:

1 (1) Funding for school district student achievement programs shall  
2 be allocated at a maximum rate of \$450.00 per FTE student for the 2007-  
3 08 school year and (~~(\$459.45)~~) \$458.10 per FTE student for the 2008-09  
4 school year. For the purposes of this section, FTE student refers to  
5 the annual average full-time equivalent enrollment of the school  
6 district in grades kindergarten through twelve for the prior school  
7 year, as reported to the office of the superintendent of public  
8 instruction by August 31st of the previous school year.

9 (2) The appropriation is allocated for the following uses as  
10 specified in RCW 28A.505.210:

11 (a) To reduce class size by hiring certificated elementary  
12 classroom teachers in grades K-4 and paying nonemployee-related costs  
13 associated with those new teachers;

14 (b) To make selected reductions in class size in grades 5-12, such  
15 as small high school writing classes;

16 (c) To provide extended learning opportunities to improve student  
17 academic achievement in grades K-12, including, but not limited to,  
18 extended school year, extended school day, before-and-after-school  
19 programs, special tutoring programs, weekend school programs, summer  
20 school, and all-day kindergarten;

21 (d) To provide additional professional development for educators  
22 including additional paid time for curriculum and lesson redesign and  
23 alignment, training to ensure that instruction is aligned with state  
24 standards and student needs, reimbursement for higher education costs  
25 related to enhancing teaching skills and knowledge, and mentoring  
26 programs to match teachers with skilled, master teachers. The funding  
27 shall not be used for salary increases or additional compensation for  
28 existing teaching duties, but may be used for extended year and  
29 extended day teaching contracts;

30 (e) To provide early assistance for children who need  
31 prekindergarten support in order to be successful in school; or

32 (f) To provide improvements or additions to school building  
33 facilities which are directly related to the class size reductions and  
34 extended learning opportunities under (a) through (c) of this  
35 subsection (2).

36 (3) The superintendent of public instruction shall distribute the  
37 school year allocation according to the monthly apportionment schedule  
38 defined in RCW 28A.510.250.

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6879

Chapter 177, Laws of 2008

60th Legislature  
2008 Regular Session

JOINT TASK FORCE ON BASIC EDUCATION FINANCE

EFFECTIVE DATE: 06/12/08

Passed by the Senate February 13, 2008  
YEAS 47 NAYS 0

BRAD OWEN

\_\_\_\_\_  
President of the Senate

Passed by the House March 5, 2008  
YEAS 96 NAYS 0

FRANK CHOPP

\_\_\_\_\_  
Speaker of the House of Representatives

Approved March 26, 2008, 10:24 a.m.

CHRISTINE GREGOIRE

\_\_\_\_\_  
Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6879** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

\_\_\_\_\_  
Secretary

FILED

March 26, 2008

Secretary of State  
State of Washington

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SUBSTITUTE SENATE BILL 6879

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Passed Legislature - 2008 Regular Session

State of Washington                      60th Legislature                      2008 Regular Session

By Senate Early Learning & K-12 Education (originally sponsored by  
Senators McAuliffe, Tom, McDermott, and Rasmussen)

READ FIRST TIME 02/08/08.

1            AN ACT Relating to the joint task force on basic education finance;  
2 and amending 2007 c 399 s 2 (uncodified).

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** 2007 c 399 s 2 (uncodified) is amended to read as follows:

5            (1) The joint task force on basic education finance established  
6 under this section, with research support from the Washington state  
7 institute for public policy, shall review the definition of basic  
8 education and all current basic education funding formulas, develop  
9 options for a new funding structure and all necessary formulas, and  
10 propose a new definition of basic education that is realigned with the  
11 new expectations of the state's education system as established in the  
12 November 2006 final report of the Washington learns steering committee  
13 and the basic education provisions established in chapter 28A.150 RCW.  
14 In light of recent court decisions, the task force shall specifically  
15 consider issues related to equalizing school employee salary  
16 allocations among school districts. By December 1, 2008, the task  
17 force shall report to the appropriate committees of the legislature on  
18 all of the information required under this subsection.

1 (2) The joint task force on basic education finance shall consist  
2 of fourteen members:

3 (a) A chair of the task force with experience with Washington  
4 finance issues including knowledge of the K-12 funding formulas,  
5 appointed by the governor;

6 (b) Eight legislators, with two members from each of the two  
7 largest caucuses of the senate appointed by the president of the senate  
8 and two members from each of the two largest caucuses of the house of  
9 representatives appointed by the speaker of the house of  
10 representatives;

11 (c) A representative of the governor's office or the office of  
12 financial management, designated by the governor;

13 (d) The superintendent of public instruction or the  
14 superintendent's designee; and

15 (e) Three individuals with significant experience with Washington  
16 K-12 finance issues, including the use and application of the current  
17 basic education funding formulas, appointed by the governor. Each of  
18 the two largest caucuses of the house of representatives and the senate  
19 may submit names to the governor for consideration.

20 (3) In conducting research directed by the task force and  
21 developing options for consideration by the task force, the Washington  
22 state institute for public policy shall consult with stakeholders and  
23 experts in the field. The institute may also request assistance from  
24 the legislative evaluation and accountability program committee, the  
25 office of the superintendent of public instruction, the office of  
26 financial management, the house office of program research, and senate  
27 committee services.

28 (4) In developing recommendations, the joint task force shall  
29 review and build upon the following:

30 (a) Reports related to K-12 finance produced at the request of or  
31 as a result of the Washington learns study, including reports completed  
32 for or by the K-12 advisory committee;

33 (b) High-quality studies that are available; and

34 (c) Research and evaluation of the cost-benefits of various K-12  
35 programs and services developed by the institute as directed by the  
36 legislature in section 607(15), chapter 372, Laws of 2006.

37 (5) The Washington state institute for public policy shall provide  
38 the following reports to the joint task force:

1 (a) An initial report by September 15, 2007, proposing an initial  
2 plan of action, reporting dates, timelines for fulfilling the  
3 requirements of section 3 (~~of this act~~), chapter 399, Laws of 2007,  
4 and an initial timeline for a phased-in implementation of a new funding  
5 system that does not exceed six years;

6 (b) A second report by December 1, 2007, including implementing  
7 legislation as necessary, for at least two but no more than four  
8 options for allocating school employee compensation. One of the  
9 options must be a redirection and prioritization within existing  
10 resources based on research-proven education programs. The report must  
11 also include a projection of the expected effect of the investment made  
12 under the new funding structure. The second report shall also include  
13 a finalized timeline and plan for addressing the remaining components  
14 of a new funding system; and

15 (c) A final report with at least two but no more than four options  
16 for revising the remaining K-12 funding structure, including  
17 implementing legislation as necessary, and a timeline for phasing in  
18 full adoption of the new funding structure. The final report shall be  
19 submitted to the joint task force by September 15, 2008. One of the  
20 options must be a redirection and prioritization within existing  
21 resources based on research-proven education programs. The final  
22 report must also include a projection of the expected effect of the  
23 investment made under the new funding structure.

Passed by the Senate February 13, 2008.

Passed by the House March 5, 2008.

Approved by the Governor March 26, 2008.

Filed in Office of Secretary of State March 26, 2008.

and match community volunteer mentors with students selected as achievers scholars.

(vi) \$294,000 of the general fund—state appropriation for fiscal year 2008 and \$294,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the Lorraine Wojahn dyslexia pilot reading program in up to five school districts.

(vii) \$75,000 of the general fund—state appropriation for fiscal year 2008 and \$75,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for developing and disseminating curriculum and other materials documenting women's role in World War II.

(viii) \$175,000 of the general fund—state appropriation for fiscal year 2008 and \$175,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for incentive grants for districts to develop preapprenticeship programs. Grant awards up to \$10,000 each shall be used to support the program's design, school/business/labor agreement negotiations, and recruiting high school students for preapprenticeship programs in the building trades and crafts.

(ix) \$3,220,000 of the general fund—state appropriation for fiscal year 2008 and \$3,220,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the dissemination of the Navigation 101 curriculum to all districts, including disseminating electronic student planning tools and software for analyzing the impact of the implementation of Navigation 101 on student performance, and grants to at least one hundred school districts each year for the implementation of the Navigation 101 program. The implementation grants will be limited to a maximum of two years and the school districts selected shall represent various regions of the state and reflect differences in school district size and enrollment characteristics.

(x) \$36,000 of the general fund—state appropriation for fiscal year 2008 and \$36,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the enhancement of civics education. Of this amount, \$25,000 each year is provided solely for competitive grants to school districts for curriculum alignment, development of innovative civics projects, and other activities that support the civics assessment established in chapter 113, Laws of 2006.

(xi) \$2,500,000 of the general fund—state appropriation for fiscal year 2008 and \$2,500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Second Substitute House Bill No. 1573 (authorizing a statewide program for comprehensive dropout prevention, intervention, and retrieval). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(xii) \$25,000 of the general fund—state appropriation for fiscal year 2008 and \$25,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the communities in school program in Pierce county.

(xiii) \$500,000 of the general fund—state appropriation for fiscal year 2008 and \$500,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the office of superintendent of public instruction to contract with a company to develop and implement a pilot program for providing indigenous learning curriculum and standards specific online learning programs based on the recommended standards in chapter 205, Laws of 2005

(Washington's tribal history). The specific content areas covered by the pilot program will include social studies and science. The contractor selected will have experience in developing and implementing indigenous learning curricula and if possible will be affiliated with a recognized Washington state tribe. The pilot program will be implemented in a minimum of three school districts in collaboration with Washington tribes and school districts. To the extent possible and appropriate, the pilot program will involve organizations including, the University of Washington's mathematics science and engineering achievement, the digital learning commons, the virtual possibilities network, the museum of arts and culture in Spokane, Eastern Washington University, and Washington State University.

(xiv) \$70,000 of the general fund—state appropriation for fiscal year 2008 and \$70,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to support and expand the mentoring advanced place program in current operation in southwest Washington.

(xv) \$1,000,000 of the general fund—state appropriation for fiscal year 2009 is provided solely to implement House Bill No. 1051 (expanding high school completion programs). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(xvi) \$75,000 of the general fund—state appropriation for fiscal year 2008 and \$75,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for program initiatives to address the educational needs of Latino students and families. Using the full amounts of the appropriations under this subsection, the office of the superintendent of public instruction shall contract with the Seattle community coalition of compaña quezetal to provide for three initiatives: (A) Early childhood education; (B) parent leadership training; and (C) high school success and college preparation programs. Campaña quezetal shall report to the office of the superintendent of public instruction by June 30, 2009, regarding impact of the programs on addressing the academic achievement gap, including high school drop-out rates and college readiness rates, for Latino students.

**NEW SECTION. Sec. 502. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPOINTMENT**

General Fund—State Appropriation (FY 2008) . . . . . \$4,448,333.00

General Fund—State Appropriation (FY 2009) . . . . . \$4,474,199,000

Education Legacy Trust Account—State

Appropriation . . . . . \$9,387,000

Pension Funding Stabilization Account Appropriation . . . . . \$341,624,000

**TOTAL APPROPRIATION . . . . . \$9,273,543,000**

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for certificated staff salaries for the 2007-08 and 2008-09 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (e) through (g) of this subsection shall be reduced for vocational full-time

increased enrollment would have generated had such additional full-time equivalent students been included in the normal enrollment count for that particular month;

(c)(i) On the basis of full-time equivalent enrollment in:

(A) Vocational education programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 19.5 full-time equivalent vocational students; and

(B) Skills center programs meeting the standards for skills center funding established in January 1999 by the superintendent of public instruction with a waiver allowed for skills centers in current operation that are not meeting this standard until the 2008-09 school year, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students;

(ii) Vocational full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and payments shall be adjusted for reported vocational enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support; and

(iii) Indirect cost charges by a school district to vocational-secondary programs shall not exceed 15 percent of the combined basic education and vocational enhancement allocations of state funds;

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (d) through (g) of this subsection:

(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

(ii) Forty-nine certificated instructional staff units per thousand full-time equivalent students in grades K-3;

(iii) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 4-12; and

(iv) An additional 4.2 certificated instructional staff units for grades K-3 and an additional 7.2 certificated instructional staff units for grade 4. Any funds allocated for the additional certificated units provided in this subsection. (v) shall not be considered as basic education funding;

(A) Funds provided under this subsection (2)(a)(iv) in excess of the amount required to maintain the statutory minimum ratio established under RCW 28A.150.260(2)(b) shall be allocated only if the district documents an actual ratio in grades K-4 equal to or greater than 53.2 certificated instructional staff per thousand full-time equivalent students. For any school district documenting a lower certificated instructional staff ratio, the allocation shall be based on the district's actual grades K-4 certificated instructional staff ratio achieved in that school year, or the statutory minimum ratio established under RCW 28A.150.260(2)(b), if greater;

(B) Districts at or above 51.0 certificated instructional staff per one thousand full-time equivalent students in grades K-4 may dedicate up to 1.3 of the 53.2 funding ratio to employ additional classified instructional assistants assigned to basic education classrooms in grades K-4. For purposes of documenting a district's staff ratio under this section, funds used by the district to employ additional classified instructional assistants shall be converted to a certificated staff equivalent and added to the district's actual certificated instructional staff ratio. Additional classified instructional assistants, for the purposes of this subsection, shall be determined using the 1989-90 school year as the base year;

(C) Any district maintaining a ratio in grades K-4 equal to or greater than 53.2 certificated instructional staff per thousand full-time equivalent students may use allocations generated under this subsection (2)(a)(iv) in excess of that required to maintain the minimum ratio established under RCW 28A.150.260(2)(b) to employ additional basic education certificated instructional staff or classified instructional assistants in grades 5-6. Funds allocated under this subsection (2)(a)(iv) shall only be expended to reduce class size in grades K-6. No more than 1.3 of the certificated instructional funding ratio amount may be expended for provision of classified instructional assistants;

(b) For school districts with a minimum enrollment of 250 full-time equivalent students whose full-time equivalent student enrollment count in a given month exceeds the first of the month full-time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full-time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full-time equivalent students.

Units calculated under (g)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students;

(g) For each nonhigh school district having an enrollment of more than seventy annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit; and

(i) For each nonhigh school district having an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit.

(3) Allocations for classified salaries for the 2007-08 and 2008-09 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2)(e) through (i) of this section, one classified staff unit for each 2.95 certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each fifty-nine average annual full-time equivalent students; and

(c) For each nonhigh school district with an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 14.13 percent in the 2007-08 school year and 16.69 percent in the 2008-09 school year for certificated salary allocations provided under subsection (2) of this section, and a rate of 17.06 percent in the 2007-08 school year and 18.74 percent in the 2008-09 school year for classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504(2) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(a), (b), and (d) through (h) of this section, there shall be provided a maximum of \$9,703 per certificated staff unit in the 2007-08 school year and a maximum of \$9,907 per certificated staff unit in the 2008-09 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(A) of this section, there shall be provided a maximum of \$23,831 per certificated staff unit in the 2007-08 school year and a maximum of \$24,331 per certificated staff unit in the 2008-09 school year.

(c) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(B) of this section, there shall be provided a maximum of \$18,489 per certificated staff unit in the 2007-08 school year and a maximum of \$18,877 per certificated staff unit in the 2008-09 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of \$555.20 for the 2007-08 and 2008-09 school years per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported statewide for the prior school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) \$1,870,000 of the general fund—state appropriation for fiscal year 2008 and \$2,421,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to implement Engrossed Second Substitute House Bill No. 1432 (granting service credit to educational staff associates for nonschool employment). If the bill is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(10) The superintendent may distribute a maximum of \$16,622,000 outside the basic education formula during fiscal years 2008 and 2009 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$547,000 may be expended in fiscal year 2008 and a maximum of \$558,000 may be expended in fiscal year 2009;

(b) For summer vocational programs at skills centers, a maximum of \$2,385,000 may be expended for the 2008 fiscal year and a maximum of \$2,385,000 for the 2009 fiscal year. 20 percent of each fiscal year amount may carry over from one year to the next;

(c) A maximum of \$390,000 may be expended for school district emergencies;

(d) A maximum of \$485,000 each fiscal year may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs; and

(e) \$9,387,000 of the education legacy trust account appropriation is provided solely for allocations for equipment replacement in vocational programs and skills centers. Each year of the biennium, the funding shall be allocated based on \$75 per full-time equivalent vocational student and \$125 per full-time equivalent skills center student.

(f) \$2,991,000 of the general fund—state appropriation for fiscal year 2008 and \$4,403,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for the implementation of Second Substitute Senate Bill No. 5790 (regarding skills centers). If the bill is not enacted by June 30, 2007, the amounts provided in this subsection shall lapse.

(11) For purposes of RCW 84.52.0531, the increase per full-time equivalent student is 5.7 percent from the 2006-07 school year to the 2007-08 school year and 5.1 percent from the 2007-08 school year to the 2008-09 school year.

(12) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2)(b) through (h) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2)(a) through (h) of this section shall be reduced in increments of twenty percent per year.

**NEW SECTION. Sec. 503. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—BASIC EDUCATION EMPLOYEE COMPENSATION.** (1) The following calculations determine the salaries used in the general fund allocations for certificated instructional, certificated administrative, and classified staff units under section 502 of this act:

(a) Salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional total base salary shown on LEAP Document 2 by the district's average staff mix factor for certificated instructional staff in that school year, computed using LEAP Document 1; and

(b) Salary allocations for certificated administrative staff units and classified staff units for each district shall be based on the district's certificated

administrative and classified salary allocation amounts shown on LEAP Document 2.

(2) For the purposes of this section:

(a) "LEAP Document 1" means the staff mix factors for certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on March 24, 2007, at 07:29 hours; and

(b) "LEAP Document 2" means the school year salary allocations for certificated administrative staff and classified staff and derived and total base salaries for certificated instructional staff as developed by the legislative evaluation and accountability program committee on April 19, 2007, at 06:03 hours.

(3) Incremental fringe benefit factors shall be applied to salary adjustments at a rate of 14.13 percent for school year 2007-08 and 16.69 percent for school year 2008-09 for certificated staff and for classified staff 17.06 percent for school year 2007-08 and 18.74 percent for the 2008-09 school year.

(4)(a) Pursuant to RCW 28A.150.410, the following state-wide salary allocation schedules for certificated instructional staff are established for basic education salary allocations:

K-12 Salary Allocation Schedule For Certificated Instructional Staff  
2007-08 School Year

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PFID
0	32,746	33,630	34,547	35,465	38,412	40,310	39,260	42,207	44,107
1	33,187	34,083	35,011	35,970	38,948	40,836	39,696	42,674	44,560
2	33,607	34,512	35,450	36,483	39,452	41,359	40,135	43,104	45,012
3	34,039	34,953	35,901	36,967	39,930	41,884	40,552	43,513	45,468
4	34,464	35,418	36,372	37,474	40,455	42,423	40,988	43,967	45,938
5	34,902	35,861	36,824	37,988	40,958	42,965	41,432	44,403	46,410
6	35,353	36,291	37,287	38,508	41,464	43,482	41,887	44,843	46,860
7	36,145	37,097	38,106	39,394	42,393	44,467	42,739	45,737	47,812
8	37,304	38,308	39,340	40,735	43,775	45,925	44,079	47,120	49,269
9		39,562	40,646	42,091	45,202	47,425	45,434	48,547	50,770
10			41,967	43,516	46,669	48,966	46,861	50,014	52,310
11				44,984	48,204	50,547	48,328	51,550	53,891
12				46,404	49,781	52,194	49,853	53,126	55,540
13					51,397	53,882	51,431	54,741	57,226
14					53,020	55,632	53,056	56,471	58,977
15					54,400	57,080	54,435	57,939	60,511
16 or more					55,487	58,220	55,523	59,097	61,720

K-12 Salary Allocation Schedule For Certificated Instructional Staff  
2008-09 School Year

Years of Service	BA	BA+15	BA+30	BA+45	BA+60	BA+75	MA	MA+45	MA+90 or PHD
0	33,898	34,814	35,762	36,713	39,763	41,728	40,641	43,691	45,658
1	34,354	35,282	36,243	37,236	40,318	42,272	41,093	44,175	46,128
2	34,789	35,726	36,697	37,766	40,840	42,814	41,547	44,621	46,596
3	35,237	36,183	37,164	38,267	41,335	43,357	41,979	45,044	47,067
4	35,676	36,664	37,651	38,793	41,878	43,915	42,430	45,516	47,554
5	36,130	37,123	38,120	39,324	42,399	44,476	42,890	45,965	48,043
6	36,597	37,567	38,598	39,863	42,923	45,011	43,361	46,421	48,508
7	37,416	38,402	39,446	40,780	43,885	46,031	44,243	47,346	49,494
8	38,616	39,655	40,724	42,168	45,315	47,541	45,630	48,778	51,002
9	40,954	42,076	43,572	45,047	46,792	49,093	47,032	50,255	52,556
10	43,443	45,047	46,566	48,310	50,688	52,326	50,028	53,363	55,787
11	46,566	48,036	51,533	54,030	51,606	54,995	57,493	59,239	61,052
12	53,205	55,777	53,240	56,667	59,239	54,885	57,589	54,922	58,457
13	54,885	57,589	54,922	58,457	61,052	56,313	59,088	56,350	59,977
14	56,313	59,088	56,350	59,977	62,639	57,439	60,269	57,476	61,176
15	57,439	60,269	57,476	61,176	63,892				
16 or more									

(b) As used in this subsection, the column headings "BA+(N)" refer to the number of credits earned since receiving the baccalaureate degree.

(c) For credits earned after the baccalaureate degree but before the masters degree, any credits in excess of forty-five credits may be counted after the masters degree. Thus, as used in this subsection, the column headings "MA+(N)" refer to the total of:

- (i) Credits earned since receiving the masters degree; and
- (ii) Any credits in excess of forty-five credits that were earned after the baccalaureate degree but before the masters degree.

(5) For the purposes of this section:

- (a) "BA" means a baccalaureate degree.
- (b) "MA" means a masters degree.
- (c) "PHD" means a doctorate degree.
- (d) "Years of service" shall be calculated under the same rules adopted by the superintendent of public instruction.
- (e) "Credits" means college quarter hour credits and equivalent in-service credits computed in accordance with RCW 28A.415.020 and 28A.415.023.
- (f) No more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in this act, or any replacement schedules and documents, unless:

- (a) The employee has a masters degree; or
- (b) The credits were used in generating state salary allocations before January 1, 1992.

(7) The certificated instructional staff base salary specified for each district in LEAP Document 2 and the salary schedules in subsection (4)(a) of this section include two learning improvement days. A school district is eligible for the learning improvement day funds only if the learning improvement days have been added to the 180-day contract year. If fewer days are added, the additional learning improvement allocation shall be adjusted accordingly. The additional days shall be limited to specific activities identified in the state required school improvement plan related to improving student learning that are consistent with education reform implementation, and shall not be considered part of basic education. The principal in each school shall assure that the days are provided to the necessary school-wide, all staff professional development that directly to the school improvement plan. The school principal and the district superintendent shall maintain documentation as to their approval of these activities. The length of a learning improvement day shall not be less than the length of a full day under the base contract. The superintendent of public instruction shall ensure that school districts adhere to the intent and purposes of this subsection.

(8) The salary allocation schedules established in this section are for allocation purposes only except as provided in RCW 28A.400.200(2) and subsection (7) of this section.

**NEW SECTION. Sec. 504. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS**

General Fund—State Appropriation (FY 2008).....	\$161,665,000
General Fund—State Appropriation (FY 2009).....	\$348,871,000
General Fund—Federal Appropriation.....	\$243,000
<b>TOTAL APPROPRIATION.....</b>	<b>\$510,779,000</b>

The appropriations in this section are subject to the following conditions and limitations:

- (1) \$444,366,000 is provided solely for the following:
  - (a) A cost of living adjustment of 3.7 percent effective September 1, 2007, and another 2.8 percent effective September 1, 2008, pursuant to Initiative Measure No. 732.
  - (b) Additional salary increases as necessary to fund the base salaries for certificated instructional staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. Allocations for these salary increases shall be provided to all 262 districts that are not grandfathered to receive salary allocations above the statewide salary allocation schedule, and to certain grandfathered districts to the extent necessary to ensure that salary allocations for districts that are currently grandfathered do not fall below the statewide salary allocation schedule. These additional salary increases will result in a decrease in the number of grandfathered districts from the current thirty-four to twenty-four in the 2007-08 school year and to thirteen in the 2008-09 school year.

(c) Additional salary increases to certain districts as necessary to fund the per full-time-equivalent salary allocations for certificated administrative staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. These additional salary increases shall ensure a minimum salary allocation for certificated administrative staff of \$54,405 in the 2007-08 school year and \$57,097 in the 2008-09 school year.

(d) Additional salary increases to certain districts as necessary to fund the per full-time-equivalent salary allocations for classified staff as listed for each district in LEAP Document 2, defined in section 503(2)(b) of this act. These additional salary increases ensure a minimum salary allocation for classified staff of \$30,111 in the 2007-08 school year and \$31,376 in the 2008-09 school year.

(e) The appropriations in this subsection (1) include associated incremental fringe benefit allocations at rates 13.49 percent for the 2007-08 school year and 16.05 percent for the 2008-09 school year for certificated staff and 13.56 percent for the 2007-08 school year and 15.24 percent for the 2008-09 school year for classified staff.

(f) The appropriations in this section include the increased portion of salaries and incremental fringe benefits for all relevant state-funded school programs in part V of this act. Increases for general apportionment (basic education) are based on the salary allocation schedules and methodology in sections 502 and 503 of this act. Increases for special education result from increases in each district's basic education allocation per student. Increases for educational service districts and institutional education programs are determined by the superintendent of public instruction using the methodology for general apportionment salaries and benefits in sections 502 and 503 of this act.

(g) The appropriations in this section provide cost of living and incremental fringe benefit allocations based on formula adjustments as follows:

	School Year	
	2007-08	2008-09
Pupil Transportation (per weighted pupil mile)	\$1.08	\$2.04
Highly Capable (per formula student)	\$11.13	\$20.98
Transitional Bilingual Education (per eligible bilingual student)	\$29.81	\$56.19
Learning Assistance (per formula student)	\$7.00	\$13.20

(h) The appropriations in this section include \$925,000 for fiscal year 2008 and \$1,940,000 for fiscal year 2009 for salary increase adjustments for substitute teachers.

(2) \$66,415,000 is provided for adjustments to insurance benefit allocations. The maintenance rate for insurance benefit allocations is \$682.54 per month for the 2007-08 and 2008-09 school years. The appropriations in this section provide for a rate increase to \$707.00 per month for the 2007-08 school year and \$732.00 per month for the 2008-09 school year. The adjustments to health insurance benefit allocations are at the following rates:

	School Year	
	2007-08	2008-09
Pupil Transportation (per weighted pupil mile)	\$0.22	\$0.45
Highly Capable (per formula student)	\$1.49	\$3.05
Transitional Bilingual Education (per eligible bilingual student)	\$3.97	\$8.01
Learning Assistance (per formula student)	\$0.86	\$1.75

(3) The rates specified in this section are subject to revision each year by the legislature.

**NEW SECTION. Sec. 505. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION**

General Fund—State Appropriation (FY 2008) . . . . . \$262,000  
 General Fund—State Appropriation (FY 2009) . . . . . \$264,700,000  
 Education Legacy Trust Account—State Appropriation . . . . . \$25,000,000  
**TOTAL APPROPRIATION . . . . . \$552,428,000**

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) A maximum of \$848,000 of this fiscal year 2008 appropriation and a maximum of \$866,000 of the fiscal year 2009 appropriation may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(3) \$5,000 of the fiscal year 2008 appropriation and \$5,000 of the fiscal year 2009 appropriation are provided solely for the transportation of students enrolled in "choice" programs. Transportation shall be limited to low-income students who are transferring to "choice" programs solely for educational reasons.

(4) Allocations for transportation of students shall be based on reimbursement rates of \$44.84 per weighted mile in the 2007-08 school year and \$45.48 per weighted mile in the 2008-09 school year exclusive of salary and benefit adjustments provided in section 504 of this act. Allocations for transportation of students transported more than one radius mile shall be based on weighted miles as determined by superintendent of public instruction multiplied by the per mile reimbursement rates for the school year pursuant to the formulas adopted by the superintendent of public instruction. Allocations for transportation of students living within one radius mile shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile of their assigned school multiplied by the per mile reimbursement rate for the school year multiplied by 1.29.

(5) \$25,000,000 of the education legacy trust account—state appropriation is provided solely for temporary assistance to school districts for pupil transportation programs. The office of the superintendent of public instruction,

in consultation with the joint legislative audit and review committee, will develop a method of allocating these funds to school districts. The allocation method shall be based primarily on the findings and analysis from the joint legislative and audit review committee's K-12 pupil transportation study completed in December 2006.

(6) The office of the superintendent of public instruction shall provide reimbursement funding to a school district only after the superintendent of public instruction determines that the school bus was purchased from the list established pursuant to RCW 28A.160.195(2) or a comparable competitive bid process based on the lowest price quote based on similar bus categories to those used to establish the list pursuant to RCW 28A.160.195.

(7) The superintendent of public instruction shall base depreciation payments for school district buses on the five-year average of lowest bids in the appropriate category of bus. In the final year on the depreciation schedule, the depreciation payment shall be based on the lowest bid in the appropriate bus category for that school year.

**NEW SECTION. Sec. 506. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL FOOD SERVICE PROGRAMS**

General Fund—State Appropriation (FY 2008)	\$3,159,000
General Fund—State Appropriation (FY 2009)	\$3,159,000
General Fund—Federal Appropriation	\$280,398,000
<b>TOTAL APPROPRIATION</b>	<b>\$286,716,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,000,000 of the general fund—state appropriation for fiscal year 2008 and \$3,000,000 of the general fund—state appropriation for fiscal year 2009 are provided for state matching money for federal child nutrition programs.

(2) \$100,000 of the general fund—state appropriation for fiscal year 2008 and \$100,000 of the 2009 fiscal year appropriation are provided for summer food programs for children in low-income areas.

(3) \$59,000 of the general fund—state appropriation for fiscal year 2008 and \$59,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to reimburse school districts for school breakfasts served to students enrolled in the free or reduced price meal program pursuant to chapter 287, Laws of 2005 (requiring school breakfast programs in certain schools).

**NEW SECTION. Sec. 507. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SPECIAL EDUCATION PROGRAMS**

General Fund—State Appropriation (FY 2008)	\$532,192,000
General Fund—State Appropriation (FY 2009)	\$566,174,000
General Fund—Federal Appropriation	\$435,735,000
Education Legacy Trust Account—State Appropriation	\$14,561,000
<b>TOTAL APPROPRIATION</b>	<b>\$1,548,662,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) Funding for special education programs is provided on an excess cost basis, pursuant to RCW 28A.150.390. School districts shall ensure that special education students as a class receive their full share of the general apportionment allocation accruing through sections 502 and 504 of this act. To the extent a school district cannot provide an appropriate education for special education students under chapter 28A.155 RCW through the general apportionment allocation, it shall provide services through the special education excess cost allocation funded in this section.

(2)(a) The superintendent of public instruction shall ensure that:

- (i) Special education students are basic education students first;
- (ii) As a class, special education students are entitled to the full basic education allocation; and
- (iii) Special education students are basic education students for the entire school day.

(b) The superintendent of public instruction shall adopt the full cost method of excess cost accounting, as designed by the committee and recommended by the superintendent, pursuant to section 501(1)(k), chapter 372, Laws of 2006, and ensure that all school districts adopt the method beginning in the 2007-08 school year.

(3) Each fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(4) The superintendent of public instruction shall distribute state funds to school districts based on two categories: (a) The first category includes (i) children birth through age two who are eligible for the optional program for special education eligible developmentally delayed infants and toddlers; and (ii) students eligible for the mandatory special education program and who are age three or four; or five and not yet enrolled in kindergarten; and (b) the second category includes students who are eligible for the mandatory special education program and who are age five and enrolled in kindergarten and students age six through 21.

(5)(a) For the 2007-08 and 2008-09 school years, the superintendent shall make allocations to each district based on the sum of:

(i) A district's annual average headcount enrollment of students ages three through four and those five year olds not yet enrolled in kindergarten, as defined in subsection (4) of this section, multiplied by the district's average basic education allocation per full-time equivalent student, multiplied by 1.15; and (ii) A district's annual average full-time equivalent basic education enrollment multiplied by the funded enrollment percent determined pursuant to subsection (6)(b) of this section, multiplied by the district's average basic education allocation per full-time equivalent student multiplied by 0.9309.

(b) For purposes of this subsection, "average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 and shall not include enhancements, secondary vocational education, or small schools.

(6) The definitions in this subsection apply throughout this section.

(a) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and

excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(b) "Enrollment percent" means the district's resident special education annual average enrollment, excluding the birth through age four enrollment and those five year olds not yet enrolled in kindergarten, as a percent of the district's annual average full-time equivalent basic education enrollment.

Each district's general fund—state funded special education enrollment shall be the lesser of the district's actual enrollment percent or 12.7 percent.

(7) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are provided by the cooperative, the maximum enrollment percent shall be calculated in accordance with subsection (6)(b) of this section, and shall be calculated in the aggregate rather than individual district units. For purposes of this subsection, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(8) To the extent necessary, \$30,690,000 of the general fund—state appropriation and \$29,574,000 of the general fund—federal appropriation are provided for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided in subsection (5) of this section. If safety net awards exceed the amount appropriated in this subsection (8), the superintendent shall expend all available federal discretionary funds necessary to meet this need. Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall consider unmet needs for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas. In the determination of need, the committee shall also consider additional available revenues from federal sources. Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(b) The committee shall then consider the extraordinary high cost needs of one or more individual special education students. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(c) Using criteria developed by the committee, the committee shall then consider extraordinary costs associated with communities that draw a larger number of families with children in need of special education services.

(d) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(e) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(f) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent in accordance with chapter 318, Laws of 1999.

(9) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Prior to revising any standards, procedures, or rules,

the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

(10) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) One staff from the office of superintendent of public instruction;

(b) Staff of the office of the state auditor who shall be nonvoting members of the committee; and

(c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(11) The office of the superintendent of public instruction shall review and streamline the application process to access safety net funds, provide technical assistance to school districts, and annually survey school districts regarding improvement to the process.

(12) A maximum of \$678,000 may be expended from the general fund—state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

(13) A maximum of \$1,000,000 of the general fund—federal appropriation is provided for projects to provide special education students with appropriate job and independent living skills, including work experience where possible, to facilitate their successful transition out of the public school system. The funds provided by this subsection shall be from federal discretionary grants.

(14) \$50,000 of the general fund—state appropriation for fiscal year 2008, \$50,000 of the general fund—state appropriation for fiscal 2009, and \$100,000 of the general fund—federal appropriation shall be expended to support a special education ombudsman program within the office of superintendent of public instruction. The purpose of the program is to provide support to parents, guardians, educators, and students with disabilities. The program will provide information to help families and educators understand state laws, rules, and regulations; and access training and support, technical information services, and mediation services. The ombudsman program will provide data, inform and appropriate recommendations to the office of superintendent of public instruction, school districts, educational service districts, state need projects, and the parent and teacher information center.

(15) The superintendent shall maintain the percentage of federal flow-through to school districts at 85 percent. In addition to other purposes, school districts may use increased federal funds for high-cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

(16) A maximum of \$1,200,000 of the general fund—federal appropriation may be expended by the superintendent for projects related to use of inclusion strategies by school districts for provision of special education services.

(17) The superintendent, consistent with the new federal IDEA reauthorization, shall continue to educate school districts on how to implement a birth-to-three program and review the cost effectiveness and learning benefits of early intervention.

(18) A school district may carry over from one year to the next year up to 10 percent of the general fund—state funds allocated under this program; however, carryover funds shall be expended in the special education program.

(19) \$262,000 of the general fund—state appropriation for fiscal year 2008 and \$251,000 of the general fund—state appropriation for fiscal year 2009 are provided solely for two additional full-time equivalent staff to support the work of the safety net committee and to provide training and support to districts applying for safety net awards.

**NEW SECTION. Sec. 508. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL SERVICE DISTRICTS**

General Fund—State Appropriation (FY 2008)	.....	\$7,520,000
General Fund—State Appropriation (FY 2009)	.....	\$8,527,000
TOTAL APPROPRIATION	.....	\$16,047,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.310.190 (3) and (4).

(2) \$1,662,000 of the general fund—state appropriation in fiscal year 2008 and \$3,355,000 of the general fund—state appropriation in fiscal year 2009 are provided solely for regional professional development related to mathematics and science curriculum and instructional strategies. For each educational service district, \$184,933 is provided in fiscal year 2008 for professional development activities related to mathematics curriculum and instruction and \$372,357 is provided in fiscal year 2009 for professional development activities related to mathematics and science curriculum and instruction. Each educational service district shall use this funding solely for salary and benefits for a certified instructional staff with expertise in the appropriate subject matter and in professional development delivery, and for travel, materials, and other expenditures related to providing regional professional development support. The office of superintendent of public instruction shall also allocate to each educational service district additional amounts provided in section 504 of this act for compensation increases associated with the salary amounts and staffing provided in this subsection (2).

(3) The educational service districts, at the request of the state board of education pursuant to RCW 28A.310.010 and 28A.310.340, may receive and screen applications for school accreditation, conduct school accreditation site visits pursuant to state board of education rules, and submit to the state board of education post-site visit recommendations for school accreditation. The educational service districts may assess a cooperative service fee to recover actual plus reasonable indirect costs for the purposes of this subsection.

**NEW SECTION. Sec. 509. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE**

General Fund—State Appropriation (FY 2008)	.....	\$202,394,000
General Fund—State Appropriation (FY 2009)	.....	\$212,310,000
TOTAL APPROPRIATION	.....	\$414,704,000

**NEW SECTION. Sec. 510. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS**

General Fund—State Appropriation (FY 2008)	.....	\$18,301,000
General Fund—State Appropriation (FY 2009)	.....	\$18,513,000
TOTAL APPROPRIATION	.....	\$36,814,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund—state fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) State funding for each institutional education program shall be based on the institution's annual average full-time equivalent student enrollment. Staffing ratios for each category of institution shall remain the same as those funded in the 1995-97 biennium.

(4) The funded staffing ratios for education programs for juveniles age 18 or less in department of corrections facilities shall be the same as those provided in the 1997-99 biennium.

(5) \$196,000 of the general fund—state appropriation for fiscal year 2008 and \$196,000 of the general fund—state appropriation for fiscal year 2009 are provided solely to maintain at least one certified instructional staff and related support services at an institution whenever the K-12 enrollment is not sufficient to support one full-time equivalent certified instructional staff to furnish the educational program. The following types of institutions are included: Residential programs under the department of social and health services for developmentally disabled juveniles, programs for juveniles under the department of corrections, and programs for juveniles under the juvenile rehabilitation administration.

(6) Ten percent of the funds allocated for each institution may be carried over from one year to the next.

**NEW SECTION. Sec. 511. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS**

General Fund—State Appropriation (FY 2008)	.....	\$8,396,000
General Fund—State Appropriation (FY 2009)	.....	\$8,779,000
TOTAL APPROPRIATION	.....	\$17,175,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for school district programs for highly capable students shall be distributed at a maximum rate of \$372.19 per funded student for the 2007-08 school year and \$378.17 per funded student for the 2008-09 school year,

(b) For all other enrollment in grades kindergarten through twelve, including vocational but excluding handicapped full time equivalent enrollments, one classified staff unit for each sixty average annual full time equivalent students.

(c) For each nonhigh school district with an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 19.41 percent in the 1987-88 school year and 19.53 percent in the 1987-88 school year of certificated salary allocations provided under subsection (2) of this section, and a rate of 17.00 percent in the 1987-88 school year and 17.12 percent in the 1988-89 school year of classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations for the 1987-88 and 1988-89 school years shall be calculated at a rate of \$167 per month for the number of certificated staff units determined in subsection (2) of this section and for the number of classified staff units determined in subsection (3) of this section multiplied by 1.152.

(6)(a) For nonemployee related costs with each certificated staff unit allocated under subsections (2) (a), (b), (c), and (e) through (i) of this section, there shall be provided a maximum of \$5,973 per certificated staff unit in the 1987-88 school year and a maximum of \$6,188 per certificated staff unit in the 1988-89 school year.

(b) For nonemployee related costs with each certificated staff unit allocated under subsection (2)(d) of this section, there shall be provided a maximum of \$11,382 per certificated staff unit in the 1987-88 school year and a maximum of \$11,792 per certificated staff unit in the 1988-89 school year.

(7) Allocations for costs of substitutes for classroom teachers shall be distributed at a maximum rate of \$275 per full time equivalent basic education classroom teacher during the 1987-88 and 1988-89 school years.

(8) The superintendent may distribute a maximum of \$3,209,000 outside the basic education formula during fiscal years 1988 and 1989 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$342,000 may be expended in fiscal year 1988 and a maximum of \$342,000 in fiscal year 1989.

(b) For summer vocational programs at skills centers, a maximum of \$1,099,000 may be expended in fiscal year 1988 and a maximum of \$1,135,000 may be expended in fiscal year 1989.

(c) A maximum of \$272,000 may be expended for school district emergencies.

(9) Formula enhancements are provided under this section which are not attributable to enrollment or workload changes, compensation increases, or inflationary adjustments. For the purposes of section 101 of Engrossed Second Substitute House Bill No. 455, the following allocations for the 1987-88 school year shall be recognized as levy reduction funds:

(a) For certificated instructional staff units generated under subsection (2)(b)(i) of this section, all allocations for nonemployee-related costs and one-half of all allocations for certificated salaries and benefits.

(b) For certificated instructional staff units generated under subsection (2)(b)(ii) of this section, one-third of all allocations including nonemployee-related costs and certificated staff salaries and benefits.

(10) For the purposes of section 101 of Engrossed Second Substitute House Bill No. 455, the increase per full time equivalent student in the state basic education appropriation provided under this section is 2.75 percent between the 1986-87 and 1987-88 school years, and 3.52 percent between the 1987-88 and 1988-89 school years.

(11) The revenue accrual account appropriation is provided solely for allocations for employer contributions to the teachers' retirement system included under subsection (4) of this section.

(12) A maximum of \$372,000 may be distributed to enhance funding provided in subsections (1) through (8) of this section for remote and necessary school plants on islands without scheduled public transportation which are the sole school plants serving students in elementary grades on these islands. Any school district receiving an allocation under this subsection must certify that funding distributed for its remote and necessary school plants under this subsection and subsection (2)(e) of this section is used solely for programs for students enrolled in these school plants. The superintendent of public instruction shall ensure compliance with this subsection, including appropriate distribution of school district overhead costs. The superintendent shall study and, in a report submitted to the legislature prior to December 1, 1988, make recommendations on adequate but not excessive funding formulas for remote and necessary school plants serving less than twenty-five students.

(13) The appropriations in this section includes \$110,343,000 allocated for compensation increases for basic education staff, as provided pursuant to section 504 of this act.

#### NEW SECTION. Sec. 504. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—BASIC EDUCATION EMPLOYEE COMPENSATION

For the purposes of section 503 of this act and this section, the following conditions and limitations apply:

(1) (a) Districts shall certify to the superintendent of public instruction such information as may be necessary regarding the years of service and

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educational experience of basic education certificated instructional employees for the purposes of calculating certificated instructional staff salary allocations pursuant to this section. Any change in information previously certified, on the basis of additional years of experience or educational credits, shall be reported and certified to the superintendent of public instruction at the time such change takes place.

(b) For the purposes of subsection (2) of this section, "basic education certificated instructional staff" is defined as provided in section 203 of Engrossed Second Substitute House Bill No. 455.

(c) "LEAP Document 10" means the computerized tabulation of 1986-87 average salary allocations for basic education certificated administrative staff and basic education classified staff, as developed by the legislative evaluation and accountability program committee on May 11, 1987, at 11:06 hours.

(2)(a)(i) For the 1987-88 school year, average salary allocations for basic education certificated administrative staff under section 503 of this act shall be the district's 1986-87 certificated administrative average salary shown on LEAP Document 10, increased by 2.1 percent of the 1986-87 LEAP Document 10 state-wide average salary for certificated administrative staff.

(ii) For the 1988-89 school year, average salary allocations for basic education certificated administrative staff under section 503 of this act shall be the district's certificated administrative average salary allocation for the 1987-88 school year provided under this section, further increased by 2.14 percent of the 1986-87 LEAP Document 10 state-wide average salary.

(b)(i) For the 1987-88 school year, average salary allocations for basic education classified staff under section 503 of this act shall be the district's 1986-87 classified average salary shown on LEAP Document 10, increased by 2.7 percent of the 1986-87 LEAP Document 10 state-wide average salary for classified staff.

(ii) For the 1988-89 school year, average salary allocations for basic education classified staff under section 503 of this act shall be the district's classified average salary allocation for the 1987-88 school year provided under this section, further increased by 2.77 percent of the 1986-87 LEAP Document 10 state-wide average classified salary.

(c) Allocations for certificated instructional salaries in the 1987-88 school year under section 503(2) of this act shall be the greater of:

(i) The district's average salary as determined by placing the district's actual full time equivalent basic education certificated instructional staff for that school year on the 1987-88 state-wide salary allocation schedule established in subsection (3)(a) of this section; or

(ii) The district's actual average annual basic education certificated instructional staff salary for the 1986-87 school year, as reported to the superintendent of public instruction prior to June 1, 1987, improved by 2.1 percent.

(d) Allocations for certificated instructional salaries in the 1988-89 school year under section 503(2) of this act shall be the greater of:

(i) The district's average salary as determined by placing the district's actual full time equivalent basic education certificated instructional staff for that school year on the 1988-89 state-wide salary allocation schedule established in subsection (3)(b) of this section; or

(ii) For districts which received salary allocations for the 1987-88 school year under subsection (2)(c)(ii) of this section, the average basic education certificated instructional staff salary allocated for that year increased by 2.1 percent.

(3) Pursuant to section 204 of Engrossed Second Substitute House Bill No. 455, the following state-wide salary allocation schedules for certificated instructional staff, for allocation purposes only, are established:

(a) 1987-88 STATE-WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
0	17,050	17,510	17,988	18,465
1	17,681	18,158	18,653	19,164
2	18,329	18,823	19,335	19,897
3	19,011	19,522	20,051	20,648
4	19,710	20,255	20,801	21,432
5	20,443	21,006	21,568	22,250
6	21,210	21,773	22,370	23,103
7	21,995	22,574	23,188	23,972
8	22,796	23,410	24,041	24,893
9		24,279	24,944	25,831
10			25,865	26,820
11				27,843
12				
13				
14 or more				

1988-89 STATE-WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	20,645	21,666	20,645	21,894	22,968
1	21,419	22,458	21,419	22,704	23,813
2	22,211	23,285	22,211	23,549	24,693
3	23,021	24,147	23,021	24,411	25,608
4	23,883	25,045	23,883	25,309	26,558
5	24,763	25,978	24,763	26,259	27,526
6	25,678	26,928	25,678	27,227	28,547
7	26,629	27,931	26,629	28,230	29,603
8	27,614	28,970	27,614	29,269	30,712
9	28,635	30,043	28,635	30,360	31,838
10	29,691	31,152	29,691	31,486	33,018
11	30,800	32,296	30,800	32,648	34,232
12	31,944	33,493	31,944	33,862	35,499
13	33,123	34,725	33,123	35,112	36,819
14 or more	36,010	36,010	34,338	36,414	38,174

(c) As used in this subsection:

- (i) "BA" means a baccalaureate degree;
- (ii) "MA" means a masters degree;
- (iii) "PHD" means a doctorate degree;
- (iv) "+(N)" means the number of college quarter hour credits earned since the highest degree.

NEW SECTION. Sec. 505. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR CATEGORICAL PROGRAM SALARY INCREASES

General Fund Appropriation ..... \$ 21,549,000

The appropriation in this section is subject to the following conditions and limitations:

(1) "Incremental fringe benefits" means 18.77 percent in the 1987-88 school year and 18.89 percent in the 1988-89 school year for certificated staff, and 13.47 percent in the 1987-88 school year and 13.59 percent in the 1988-89 school year for classified staff, which percentages shall be the fringe benefit rates applied to the respective salary adjustments provided in subsection (3) of this section.

(2) A maximum of \$8,431,000 is provided to implement salary increases for each school year for state-supported school employees in the following categorical programs: Transitional bilingual instruction, learning

1987-88 STATE-WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	20,000	20,989	20,000	21,210	22,250
1	20,750	21,756	20,750	21,995	23,069
2	21,517	22,557	21,517	22,813	23,921
3	22,301	23,393	22,301	23,648	24,808
4	23,137	24,262	23,137	24,518	25,728
5	23,989	25,166	23,989	25,439	26,666
6	24,876	26,087	24,876	26,376	27,655
7	25,797	27,058	25,797	27,348	28,678
8	26,751	28,064	26,751	28,354	29,752
9	27,740	29,104	27,740	29,411	30,843
10	28,763	30,179	28,763	30,502	31,986
11	29,838	31,287	29,838	31,628	33,162
12	30,946	32,446	30,946	32,804	34,390
13	32,088	33,640	32,088	34,015	35,669
14 or more	34,884	34,884	33,265	35,276	36,981

(b) 1988-89 STATE-WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
0	17,600	18,075	18,568	19,061
1	18,251	18,744	19,254	19,782
2	18,920	19,430	19,958	20,539
3	19,624	20,152	20,698	21,314
4	20,346	20,909	21,472	22,123
5	21,102	21,683	22,264	22,968
6	21,894	22,475	23,091	23,848
7	22,704	23,302	23,936	24,746
8	23,531	24,165	24,816	25,696
9		25,062	25,749	26,664
10			26,699	27,685
11				28,741
12				
13				
14 or more				

(b) For all other enrollment in grades kindergarten through twelve, including vocational but excluding handicapped full time equivalent enrollments, one classified staff unit for each sixty average annual full time equivalent students.

(c) For each nonhigh school district with an enrollment of more than fifty annual average full time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of 19.41 percent in the 1987-88 school year and 19.53 percent in the 1987-88 school year of certificated salary allocations provided under subsection (2) of this section, and a rate of 17.00 percent in the 1987-88 school year and 17.12 percent in the 1988-89 school year of classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations for the 1987-88 and 1988-89 school years shall be calculated at a rate of \$167 per month for the number of certificated staff units determined in subsection (2) of this section and for the number of classified staff units determined in subsection (3) of this section multiplied by 1.152.

(6)(a) For nonemployee related costs with each certificated staff unit allocated under subsections (2) (a), (b), (c), and (e) through (i) of this section, there shall be provided a maximum of \$5,973 per certificated staff unit in the 1987-88 school year and a maximum of \$6,188 per certificated staff unit in the 1988-89 school year.

(b) For nonemployee related costs with each certificated staff unit allocated under subsection (2)(d) of this section, there shall be provided a maximum of \$11,382 per certificated staff unit in the 1987-88 school year and a maximum of \$11,792 per certificated staff unit in the 1988-89 school year.

(7) Allocations for costs of substitutes for classroom teachers shall be distributed at a maximum rate of \$275 per full time equivalent basic education classroom teacher during the 1987-88 and 1988-89 school years.

(8) The superintendent may distribute a maximum of \$3,209,000 outside the basic education formula during fiscal years 1988 and 1989 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$342,000 may be expended in fiscal year 1988 and a maximum of \$342,000 in fiscal year 1989.

(b) For summer vocational programs at skills centers, a maximum of \$1,099,000 may be expended in fiscal year 1988 and a maximum of \$1,135,000 may be expended in fiscal year 1989.

(c) A maximum of \$272,000 may be expended for school district emergencies.

(9) Formula enhancements are provided under this section which are not attributable to enrollment or workload changes, compensation increases, or inflationary adjustments. For the purposes of section 101 of Engrossed Second Substitute House Bill No. 455, the following allocations for the 1987-88 school year shall be recognized as levy reduction funds:

(a) For certificated instructional staff units generated under subsection (2)(b)(i) of this section, all allocations for nonemployee-related costs and one-half of all allocations for certificated salaries and benefits.

(b) For certificated instructional staff units generated under subsection (2)(b)(ii) of this section, one-third of all allocations including nonemployee-related costs and certificated staff salaries and benefits.

(10) For the purposes of section 101 of Engrossed Second Substitute House Bill No. 455, the increase per full time equivalent student in the state basic education appropriation provided under this section is 2.75 percent between the 1986-87 and 1987-88 school years, and 3.52 percent between the 1987-88 and 1988-89 school years.

(11) The revenue accrual account appropriation is provided solely for allocations for employer contributions to the teachers' retirement system included under subsection (4) of this section.

(12) A maximum of \$372,000 may be distributed to enhance funding provided in subsections (1) through (8) of this section for remote and necessary school plants on islands without scheduled public transportation which are the sole school plants serving students in elementary grades on these islands. Any school district receiving an allocation under this subsection must certify that funding distributed for its remote and necessary school plants under this subsection and subsection (2)(e) of this section is used solely for programs for students enrolled in these school plants. The superintendent of public instruction shall ensure compliance with this subsection, including appropriate distribution of school district overhead costs. The superintendent shall study and, in a report submitted to the legislature prior to December 1, 1988, make recommendations on adequate but not excessive funding formulas for remote and necessary school plants serving less than twenty-five students.

(13) The appropriations in this section includes \$110,343,000 allocated for compensation increases for basic education staff, as provided pursuant to section 504 of this act.

**NEW SECTION. Sec. 504. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—BASIC EDUCATION EMPLOYEE COMPENSATION**

For the purposes of section 503 of this act and this section, the following conditions and limitations apply:

(1) (a) Districts shall certify to the superintendent of public instruction such information as may be necessary regarding the years of service and

educational experience of basic education certificated instructional employees for the purposes of calculating certificated instructional staff salary allocations pursuant to this section. Any change in information previously certified, on the basis of additional years of experience or educational credits, shall be reported and certified to the superintendent of public instruction at the time such change takes place.

(b) For the purposes of subsection (2) of this section, "basic education certificated instructional staff" is defined as provided in section 203 of Engrossed Second Substitute House Bill No. 455.

(c) "LEAP Document 10" means the computerized tabulation of 1986-87 average salary allocations for basic education certificated administrative staff and basic education classified staff, as developed by the legislative evaluation and accountability program committee on May 11, 1987, at 11:06 hours.

(2)(a)(i) For the 1987-88 school year, average salary allocations for basic education certificated administrative staff under section 503 of this act shall be the district's 1986-87 certificated administrative average salary shown on LEAP Document 10, increased by 2.1 percent of the 1986-87 LEAP Document 10 state-wide average salary for certificated administrative staff.

(ii) For the 1988-89 school year, average salary allocations for basic education certificated administrative staff under section 503 of this act shall be the district's certificated administrative average salary allocation for the 1987-88 school year provided under this section, further increased by 2.14 percent of the 1986-87 LEAP Document 10 state-wide average salary.

(b)(i) For the 1987-88 school year, average salary allocations for basic education classified staff under section 503 of this act shall be the district's 1986-87 classified average salary shown on LEAP Document 10, increased by 2.7 percent of the 1986-87 LEAP Document 10 state-wide average salary for classified staff.

(ii) For the 1988-89 school year, average salary allocations for basic education classified staff under section 503 of this act shall be the district's classified average salary allocation for the 1987-88 school year provided under this section, further increased by 2.77 percent of the 1986-87 LEAP Document 10 state-wide average classified salary.

(c) Allocations for certificated instructional salaries in the 1987-88 school year under section 503(2) of this act shall be the greater of:

(i) The district's average salary as determined by placing the district's actual full time equivalent basic education certificated instructional staff for that school year on the 1987-88 state-wide salary allocation schedule established in subsection (3)(a) of this section; or

(ii) The district's actual average annual basic education certificated instructional staff salary for the 1986-87 school year, as reported to the superintendent of public instruction prior to June 1, 1987, improved by 2.1 percent.

(d) Allocations for certificated instructional salaries in the 1988-89 school year under section 503(2) of this act shall be the greater of:

(i) The district's average salary as determined by placing the district's actual full time equivalent basic education certificated instructional staff for that school year on the 1988-89 state-wide salary allocation schedule established in subsection (3)(b) of this section; or

(ii) For districts which received salary allocations for the 1987-88 school year under subsection (2)(c)(ii) of this section, the average basic education certificated instructional staff salary allocated for that year increased by 2.1 percent.

(3) Pursuant to section 204 of Engrossed Second Substitute House Bill No. 455, the following state-wide salary allocation schedules for certificated instructional staff, for allocation purposes only, are established:

(a) 1987-88 STATE-WIDE SALARY ALLOCATION SCHEDULE FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
0	17,050	17,510	17,988	18,465
1	17,681	18,158	18,653	19,164
2	18,329	18,823	19,335	19,897
3	19,011	19,522	20,051	20,648
4	19,710	20,255	20,801	21,432
5	20,443	21,006	21,568	22,250
6	21,210	21,773	22,370	23,103
7	21,995	22,574	23,188	23,972
8	22,796	23,410	24,041	24,893
9		24,279	24,944	25,831
10			25,865	26,820
11				27,843
12				
13				
14 or more				

1987-88 STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR INSTRUCTIONAL STAFF

Years of Service	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	20,000	20,989	20,000	21,210	22,250
1	20,750	21,756	20,750	21,995	23,069
2	21,517	22,557	21,517	22,813	23,921
3	22,301	23,393	22,301	23,648	24,808
4	23,137	24,262	23,137	24,518	25,728
5	23,989	25,166	23,989	25,439	26,666
6	24,876	26,087	24,876	26,376	27,655
7	25,797	27,058	25,797	27,348	28,678
8	26,751	28,064	26,751	28,354	29,752
9	27,740	29,104	27,740	29,411	30,843
10	28,763	30,179	28,763	30,502	31,986
11	29,838	31,287	29,838	31,628	33,162
12	30,946	32,446	30,946	32,804	34,390
13	32,088	33,640	32,088	34,015	35,669
14 or more		34,884	33,265	35,276	36,981

(b) 1988-89 STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR INSTRUCTIONAL STAFF

Years of Service	BA	BA+15	BA+30	BA+45
0	17,600	18,075	18,568	19,061
1	18,251	18,744	19,254	19,782
2	18,920	19,430	19,958	20,539
3	19,624	20,152	20,698	21,314
4	20,346	20,909	21,472	22,123
5	21,102	21,683	22,264	22,968
6	21,894	22,475	23,091	23,848
7	22,704	23,302	23,936	24,746
8	23,531	24,165	24,816	25,666
9		25,062	25,749	26,664
10			26,699	27,685
11				28,741
12				
13				
14 or more				

14 or more

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1988-89 STATE-WIDE SALARY ALLOCATION SCHEDULE  
FOR INSTRUCTIONAL STAFF

Years of Service	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	20,645	21,666	20,645	21,894	22,968
1	21,419	22,458	21,419	22,704	23,813
2	22,211	23,285	22,211	23,549	24,693
3	23,021	24,147	23,021	24,411	25,608
4	23,883	25,045	23,883	25,309	26,558
5	24,763	25,978	24,763	26,259	27,526
6	25,678	26,928	25,678	27,227	28,547
7	26,629	27,931	26,629	28,230	29,603
8	27,614	28,970	27,614	29,269	30,712
9	28,635	30,043	28,635	30,360	31,838
10	29,691	31,152	29,691	31,486	33,018
11	30,800	32,296	30,800	32,648	34,232
12	31,944	33,493	31,944	33,862	35,499
13	33,123	34,725	33,123	35,112	36,819
14 or more		36,010	34,338	36,414	38,174

(c) As used in this subsection:

- (i) "BA" means a baccalaureate degree;
- (ii) "MA" means a masters degree;
- (iii) "PHD" means a doctorate degree;
- (iv) "+(N)" means the number of college quarter hour credits earned since the highest degree.

NEW SECTION. Sec. 505. FOR THE SUPERINTENDENT OF  
PUBLIC INSTRUCTION—FOR CATEGORICAL PROGRAM SAL-  
ARY INCREASES

General Fund Appropriation ..... \$ 21,549,000

The appropriation in this section is subject to the following conditions and limitations:

(1) "Incremental fringe benefits" means 18.77 percent in the 1987-88 school year and 18.89 percent in the 1988-89 school year for certificated staff, and 13.47 percent in the 1987-88 school year and 13.59 percent in the 1988-89 school year for classified staff, which percentages shall be the fringe benefit rates applied to the respective salary adjustments provided in subsection (3) of this section.

(2) A maximum of \$8,431,000 is provided to implement salary increases for each school year for state-supported school employees in the following categorical programs: Transitional bilingual instruction, learning

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(3) The superintendent shall have the authority to transfer one percent of the funds appropriated in sections 96 and 97 of this act for the respective purposes of those sections.

(4) *The state board of education shall restore all educational service district boundaries as they existed prior to September 1, 1976.*

(5) It is the intent of the legislature to meet its obligation as set forth in Article IX, section 1 of the state Constitution, and in the superior court decision in the case of Seattle School District vs. the state of Washington. The appropriation contained in this section shall serve as the first step in this commitment by the legislature to phase in full funding of basic education so that for the 1980-81 school year and thereafter, the state will assume the full responsibility of funding basic education.

(6) For the purposes of sections 96 through 109 of this act, compensation includes benefits, and benefits are defined as seven percent of the district average salary for certificated staff and fourteen percent of the district average salary for classified staff.

\*Sec. 94. was partially vetoed, see message at end of chapter.

**NEW SECTION. Sec. 95. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION (INCLUDING THE STATE BOARD FOR EDUCATION)**

General Fund Appropriation—State .....	\$	9,644,000
General Fund Appropriation—Federal .....	\$	5,333,000
General Fund—Traffic Safety Education Account		
Appropriation .....	\$	313,000
Total Appropriation .....	\$	15,290,000

The appropriations contained in this section shall be subject to the following conditions and limitations:

(1) Not more than \$313,000 shall be expended for state office administration of the traffic safety education program.

(2) The superintendent may contract for services relating to proprietary educational clinics as an alternative education program for high school dropouts for not more than \$425,000 from funds appropriated by this section. The superintendent shall adopt rules and regulations to carry out the provisions of this section.

(3) The office of the superintendent of public instruction shall review the information required of local school districts by the superintendent and shall place priority on consolidation of reports and reducing collection of unnecessary information. Further attention shall be directed to insure the most efficient and economical means of collecting information from local school districts.

**NEW SECTION. Sec. 96. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—GENERAL APPORTIONMENT FOR FISCAL YEAR 1978**

General Fund Appropriation:

For General Apportionment .....	\$	670,100,000
Total Appropriation .....	\$	670,100,000

The appropriation contained in this section shall be subject to the following conditions and limitations:

BEST IMAGE POSSIBLE

INDEX AND TABLES

TRAFFIC SAFETY EDUCATION

(1) Of the appropriation contained in this section the superintendent is hereby authorized to distribute up to \$33,000,000 for compensation including benefit increases for certificated and classified staff in the common schools starting September 1, 1977. For the purpose of distributing these funds, the superintendent of public instruction shall determine the state maximum school district average compensation level including benefits for certificated staff for the 1976-77 school year and the state maximum school district average compensation level including benefits for classified staff for the 1976-77 school year.

Such state maximum compensation levels including benefits increased by four percent shall be the "maximum control levels" for certificated and classified staff for the purposes of this section.

For the purpose of distributing these funds for the 1977-78 school year, each school district shall receive average compensation level including benefit increases for certificated and classified staff respectively as follows:

(a) Those school districts whose district average compensation level including benefits is above the state average compensation level including benefits for 1976-77, shall receive a six percent increase above the 1976-77 average compensation level including benefits: PROVIDED, That no district shall receive an increase which would raise average compensation levels including benefits above the "maximum control level" so defined.

(b) Those school districts whose district average compensation level including benefits is below the state average compensation level including benefits for 1976-77, shall receive a nine percent increase above the 1976-77 average compensation levels up to an amount not to exceed six percent above the state average compensation level including benefits for 1976-77.

(2) The superintendent of public instruction is hereby authorized to direct from the moneys available for distribution pursuant to and under the conditions of subsection (1) of this section, such funds as may be necessary to grant salary increases for certificated and classified employees funded through state funded categorical programs including Educational Service Districts.

(3) Compensation including benefit increases for classified and certificated staff supported by federal programs or traffic safety education funds shall be subject to the conditions of subsection (1) of this section and paid from the respective revenue source.

(4) The weighting schedule used by the superintendent of public instruction during the 1977-78 fiscal year in computing the apportionment of funds for each school district shall be based on the following factors:

- (a) A base weighting factor of 1.0 for each full time equivalent student enrolled;
- (b) An additional weighting factor of 1.0 for each full time equivalent student enrolled in vocational education in grades 9-12 which is approved by the superintendent of public instruction;
- (c) Continuation of the weighting factors used by the superintendent of public instruction for the purpose of reimbursement

to each school district for costs resulting from staff education and experience greater than the minimum requirements. The superintendent of public instruction shall employ the staff characteristic factor of the respective local districts established in the immediately preceding school year for purposes of distribution during the 1977-78 fiscal year;

- (d) An additional weighting factor of not more than 2.0 as determined by the superintendent of public instruction for school districts enrolling not more than 250 full time equivalent students in grades 9-12;
  - (e) An additional weighting factor of not more than 2.0 as determined by the superintendent of public instruction for nonhigh school districts enrolling not more than 100 full time equivalent students which districts have been judged to be remote and necessary by the state board of education;
  - (f) An additional weighting factor of not more than 2.0 as determined by the superintendent of public instruction for small school plants which are judged remote and necessary within any school district by the state board of education;
  - (g) An additional weighting factor for a period of not more than four years, for any consolidated school district formed after July 1, 1971, equal to the additional weighting factor in effect in each qualifying district during the school year immediately preceding consolidation, which district consists of one or more former school districts which were either remote and necessary or which contained not more than 250 students in grades 9-12;
  - (h) An additional weighting factor of 0.25 for full time equivalent students residing on tax exempt property as set forth in RCW 28A.41.140(6)(b) or (c); and
  - (i) An additional weighting factor of 0.25 for full time equivalent students in an approved interdistrict cooperative program as authorized by RCW 28A.41.140(6)(a) and 28A.58.075.
- (5) During the 1977-78 school year the superintendent of public instruction shall distribute not more than \$1,627,000 of the funds appropriated by this section, outside of the apportionment formula to school districts of which \$480,000 shall be for the following purposes:
- (a) To pay fire protection districts at a rate of \$1.00 per year for each student attending a school located in an unincorporated area within a fire protection district as mandated by the provisions of RCW 52.36.020 by the expenditure of not more than \$280,000;
  - (b) To pay for school district emergencies by the expenditure of not more than \$200,000.

NEW SECTION. Sec. 97. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—BASIC EDUCATION ALLOCATION FOR FISCAL YEAR 1979

INDEX AND TABLES

General Fund Appropriation .....	\$ 770,674,000
Total Appropriation .....	\$ 770,674,000

The appropriation contained in this section shall be subject to the following conditions and limitations:

(1) The allocation of moneys for a basic education allocation per annual average full time equivalent student for the 1978-79 school year in each school district shall be determined by the superintendent of public instruction as follows: PROVIDED, That such basic education allocation so determined shall be converted and distributed on an annual average full time equivalent student basis:

- (a) Respecting certificated employees: A numerical allocation of one certificated staff unit shall be established for each average annual twenty-three and one-half full time equivalent kindergarten, elementary, and secondary students;
- (b) Respecting certificated employees: A numerical allocation of one certificated staff unit shall be established for each average annual nineteen and six-tenths full time equivalent students enrolled in a vocational education program approved by the superintendent of public instruction;
- (c) Respecting certificated employees: Numerical allocations of certificated staff units shall be established for districts enrolling not more than one hundred average annual full time equivalent students and for small school plants within any school district, which such districts or small plants have been judged to be remote and necessary by the state board of education as follows:
  - (i) For grades K-6, for enrollments of not more than sixty annual average full time equivalent students, two and one-half certificated staff units;
  - (ii) For grades K-6, for enrollments above sixty annual average full time equivalent students, additional certificated staff units based upon a ratio of one certificated staff unit per twenty-three and one-half annual average full time equivalent students;
  - (iii) For grades 7 and 8, for enrollments of not more than twenty annual average full time equivalent students, eighty-five hundredths certificated staff unit;
  - (iv) For grades 7 and 8, for enrollments above twenty annual average full time equivalent students, additional certificated staff units based upon a ratio of one certificated staff unit per twenty-three and one-half annual average full time equivalent students.
- (d) Respecting certificated employees: Numerical allocations of certificated staff units shall be established for districts operating high schools with enrollments of not more than three hundred average annual full time equivalent students as follows:

- (i) Eight and one-tenth certificated staff units for the first sixty annual average full time equivalent students;
- (ii) Additional certificated staff units based upon a ratio of eighty-five hundredths certificated staff unit per forty-three and one-half average annual full time equivalent students.
- (e) Compensation including benefits shall be calculated as herein provided for certificated staff units generated in subsections (a) through (d) above as follows:
  - (i) For the purposes of this subsection each district's 1977-78 average compensation levels including benefits shall mean such district's 1976-77 average compensation including benefits increased pursuant to section 96(1) of this act. "Maximum control levels" shall mean the "maximum control levels" established in section 96(1) of the act increased by four percent;
  - (ii) Compensation including benefits for those school districts whose 1977-78 average certificated compensation level including benefits is above the 1977-78 state average compensation level including benefits will be calculated on the basis of the 1977-78 district average compensation level including benefits increased by six percent: PROVIDED, That no district shall receive in excess of the "maximum control level".
  - (iii) Compensation including benefits for those school districts whose 1977-78 average certificated compensation level including benefits is below the 1977-78 state average compensation level including benefits will be calculated by utilizing the 1977-78 district average compensation level including benefits increased by nine percent up to an amount not to exceed a six percent for any school district above the state average: PROVIDED, That for such districts the superintendent of public instruction shall utilize, pursuant to the provisions of section 4, chapter ... (SHB 1086), Laws of 1977 1st ex. sess., the actual 1977-78 compensation level including benefits for the purpose of calculating the entitlement for compensation including benefits increases as provided for in this subsection.
- (f) The total basic education allocation for certificated employees shall be established for each district by using the salary determinations established in subsection (e) above multiplied by the numerical allocations determined in subsections (a), (b), (c), and (d) above.
- (g) Respecting classified employees: A numerical allocation of one classified staff unit for each three certificated staff units as computed for the purposes of subsections (a), (c) and (d) above for each school district shall be established. Compensation including benefits shall be calculated as herein provided for classified staff units generated in this subsection as follows:

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STATE OF WASHINGTON

- (i) For the purposes of this subsection each district's 1977-78 average compensation levels including benefits shall mean such district's 1976-77 average compensation including benefits increased pursuant to section 96(1) of this act. "Maximum control levels" shall mean the "maximum control levels" established in section 96(1) of this act increased by four percent:
- (ii) Compensation including benefits for those school districts whose 1977-78 average classified compensation level including benefits is above the 1977-78 state average compensation level including benefits will be calculated on the basis of the 1977-78 district average compensation level including benefits increased by six percent: PROVIDED, That no district shall receive in excess of the "maximum control level".
- (iii) Compensation including benefits for those school districts whose 1977-78 average classified compensation level including benefits is below the 1977-78 state average compensation level including benefits will be calculated by utilizing the 1977-78 district average compensation level including benefits increased by nine percent up to an amount not to exceed a six percent for any school district above the state average: PROVIDED, That for such districts the superintendent of public instruction shall utilize, pursuant to the provisions of section 4, chapter... (SHB 1086), Laws of 1977 1st ex. sess., the actual 1977-78 compensation level including benefits for the purpose of calculating the entitlement for compensation including benefits increases as provided for in this subsection.
- (h) The total basic education allocation for classified employees shall be established for each district by using the salary determination referred to in subsection (g) above multiplied by the numerical allocation established in subsection (g) above. In addition, each school district shall receive as part of the basic education allocation, for classified employee benefits, an amount to reimburse such district for their payments to the old-age and survivors insurance system embodied in the social security act, for employee retirement, industrial insurance, or any other benefit program mandated by the legislature for their classified staff units.
- (i) Respecting nonemployee related costs: The allocation of additional moneys for nonemployee related costs for 1978-79 school year shall utilize the number of certificated staff units as computed for the purposes of subsections (a), (c), and (d) above, multiplied by \$3,650 for each such certificated staff unit.

(2) Not more than \$6,601,000 of the appropriation contained in this section shall be expended for districts which experience an enrollment decline in the 1978-79 school year from the 1977-78 base enrollment level, the Superintendent of

Public Instruction shall distribute funds based on certificated staff units in the 1978-79 school year to such districts on the basis of the 1978-79 enrollment plus one-half the amount of the enrollment decline from the 1977-78 level. The superintendent of public instruction in ascertaining the full time equivalent enrollment under this section for any school district declining in enrollment at a rate of at least four percent, or 300 full time equivalent students, whichever is less, from the immediately preceding year, shall increase the enrollment as otherwise herein computed by fifty percent of the full time equivalent pupil enrollment loss from the previous year.

(3) Of the appropriation contained in this section the superintendent is hereby authorized to distribute up to \$11,096,000 for salary increases for certificated and classified staff in the state funded categorical programs including Educational Service Districts as of September 1, 1978. The superintendent shall determine the salary increase pursuant to the conditions in subsections (e) and (g) above.

(4) Salary increases for classified and certificated staff supported by federal programs or traffic safety education funds shall be subject to the conditions of subsections (e) and (g) and paid from the respective revenue source.

(5) To implement the provisions of chapter ... (SHB 480), Laws of 1977 1st ex. sess., \$600,000 shall be made available from this appropriation with any additional funds that should be required to implement the provision of chapter ... (SHB 480), Laws of 1977 1st ex. sess., coming from local or federal funds.

(6) The superintendent shall insure that in implementing the provisions of this section no school district shall receive fewer state dollars per annual average full time equivalent student than it received under the provisions of section 96 of this act.

(7) During the 1978-79 school year the superintendent of public instruction shall distribute not more than \$7,773,000 of the funds appropriated by this section, outside of the basic education allocation to school districts, of which \$530,000 shall be for the following purposes: To pay fire protection districts at a rate of \$1.00 per year for each student attending a school located in an unincorporated area within a fire protection district as mandated by the provisions of RCW 52.36.020 by the expenditure of not more than \$280,000; To pay for school district emergencies by the expenditure of not more than \$250,000.

**NEW SECTION. Sec. 98. FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION**

General Fund Appropriation .....	\$	87,553,000
Total Appropriation .....	\$	87,553,000

The appropriation contained in this section shall be subject to the following conditions and limitations:

(1) The appropriation contained in this section shall be expended exclusively for transportation of students "to and from" public schools and/or to approved learning centers and shall be expended in accordance with the provisions of chapter 392-141 WAC as such chapter exists on the effective date of this act. Sufficient funds are provided to reimburse school districts at a rate not to exceed 85 percent during the first year of the biennium and at a rate not to exceed 90 percent during the second year of the biennium: PROVIDED, That the superintendent shall make

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# APPENDIX B

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SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

FEDERAL WAY SCHOOL DISTRICT NO. 210, a  
municipal corporation; ED BARNEY; CYNTHIA  
BLACK; EVELYN CASTELLAR; GINGER  
CORNWELL; CHARLES HOFF; DAVID  
;ARSON, individually and as guardian for  
ANDREW LARSON and JOSHUA LARSON;  
THOMAS MADDEN, individually and as guardian  
for BRYCE MADDEN; SHANNON  
RASMUSSEN; SAANDRA RENGSTROFF,  
individually and as guardian for TAYLOR  
RENGSTORFF and KALI RENGSTORFF,  
Plaintiffs,  
V.  
THE STATE OF WASHINGTON;  
CHRISTINE GREGOIRE, in her capacity as  
Governor of the State of Washington; TERRY  
BERGESON, in her capacity as Superintendent  
of Public Instruction; BRAD OWEN, in his  
capacity as President of the Senate and principal  
legislative authority of the State of Washington;  
FRANK CHOPP, in his capacity as Speaker of  
the House of Representatives and principal

NO. 06-2-36840-1 KNT  
SUMMARY JUDGMENT OPINION

ORIGINAL

1 legislative authority of the State of Washington

2 Defendants.

3  
4  
5  
6 GENERALLY

7 First of all, this decision should in no way be construed to find or even suggest  
8 that the legislature has not provided for full funding of education in the Federal Way School District.

9 This decision will only be temporary. The losing party on each issue, will appeal this  
10 matter to the Washington State Supreme Court who will review this matter completely anew based  
11 upon the record presented to this court. Their decision will be the final word. Normally, on a  
12 summary judgment decision the judge lists the documents that he or she considered and then the  
13 order reflects whether the motion was granted or denied. I am going outside the normal process in  
14 attaching this opinion to the order because of the importance of the issue and for non-lawyers and  
15 those not at the hearing to know why I decided the way I did.

16 If this decision is upheld by the Washington State Supreme Court it will be of little moment.  
17 The State legislature has been moving closer to equalization over the years and getting there will  
18 not require great effort. For example, the state currently pays the vast majority (271) of school  
19 districts \$32,746 per teacher (before adjustments are made for staffing mix). There are 24 districts  
20 who are paid from \$32,763 to \$34,612(Everett).

21 In a way this court is particularly well suited to hear this matter. After 14 years in the  
22 legislature, 1987 to 2000, I am aware of equalization attempts (e.g. 1987 levy equalizations) and  
23 the politics that frustrate educating all of the States' students equally. I have great respect and  
24 admiration for the legislators, past and present of both parties, who labor hard at providing for the  
25 education of all our state's children.

1 Of particular note is State Representative Helen Sommers who is currently the chair of the  
2 House Appropriations Committee. In 1978 representative Sommers filed a friend of the court brief  
3 urging the Supreme Court to overturn prior case law and declare the then funding of state schools  
4 unconstitutional. On a personal note I had the privilege to be seated next to Representative  
5 Sommers on the House floor in the 1987 and 1988 legislative sessions.

6 In a way this court is *not* well suited to hear this matter. I am reminded of the wise saying –  
7 “You are never a prophet in your own land.” Nevertheless, this decision has fallen to me for the  
8 moment.

9  
10 FACTS

11  
12 The legislature essentially pays money to school districts based upon the number of  
13 students in a school district. The number of students authorizes a specific staff allocation and then  
14 the legislature allocates money for the payment of staff. Staff are divided into three categories: 1)  
15 teachers, 2) administrators, and 3) classified staff. The amounts paid have ranges in each of the  
16 three categories. Because of the “ranges” there are 258 different funding levels for the State’s 295  
17 school districts.

18 Classified staff salary allocated in the 2007-08 school year has a range from \$30,111  
19 (shared by 171 districts) to a high of \$35,227 in the Seattle School District.

20 Administrative staff has the greatest disparity among the three. Four districts received the  
21 top salary allocation for certified staff which was \$80,807 and 61 districts were at the bottom with  
22 an allocation of \$54,405. The administrative staff allocations have no relationship to actual costs.  
23 In 2006-07 Federal Way paid an average of \$94,486 per administrator, quite a bit more than the  
24 \$54,405 the state funds for 2007-08.

25

1 Teaching staff is the closest in equality. In 2007-08 the state will pay a base salary to  
2 teachers in 272 districts the amount of \$32,746. Twenty-three districts receive more with the  
3 Everett district receiving the high of \$34,612. From the base the state adds money for the staff  
4 mix, the more education and experience a teacher has the more money the state pays out. State  
5 law prohibits the school districts from paying their teachers an average salary that exceeds the  
6 district's average salary allocation received from the state. Therefore teachers in Everett will  
7 receive an average of \$1,866 more than the average teacher salary in Federal Way and 270 other  
8 school districts.

9 Federal Way is at the bottom level in all three salary allocation ranges.

10 On a per student basis the following are the allocations received from the State for the  
11 2007-08 school year:

12	Federal Way	\$ 3,005.31
13	Highline	\$ 3,075.47
14	Vashon	\$ 3,184.33
15	Tacoma	\$ 3,118.71
16	Shaw Island	\$ 3,707.20
17	Index	\$ 2,766.00
18	Skykomish	\$ 3,270.33
19	Everett	\$ 3,322.23

20  
21 If Federal Way were paid the same per student as Tacoma they would have received an  
22 average of \$114.40 more per student for a total of \$2,380,946.40 more to the district in the 2007 -  
23 08 school year.

24 If Federal Way were paid the same per student as Everett they would have received an  
25 average of \$316.92 more per student for a total of \$6,654,052.32 more to the district. The

1 allocations from the State have a ripple effect that further affect allocations for special education  
2 and levy authority.

3           Some of these disparate levels of funding are due to the staffing mix of each district but  
4 most are based on actual average salaries in the 1976-77 school year. The disparate salary levels  
5 have been brought forward by "grandfathering". So if a school district paid any or all of the three  
6 staffs comparatively low in 1976 -77 – they have been locked into those low numbers for the last 30  
7 years.

8           In 1976-77 teacher/administer salaries ranged from a low district average of \$7200 to a  
9 high of \$18,300. Classified salaries ranged from a low of \$5,000 average to a high of \$12,509.  
10 The ranges between school districts have narrowed over the years but because of their being  
11 "grandfathered" are still the main reason for the disparities in the funding of school districts. These  
12 disparate salary ranges have no relation to current circumstances or current realities.

13           The Reff report published in 1982 reports on p. 44, after noting the large salary variations:

14                   "Regardless of the cause, once the staff ratio concept had been  
15                   determined, a salary component needed to be developed and the wide  
16                   variation in pay practices and salary taken into consideration. There  
17                   appeared to be general legislative agreement that in the interest of  
18                   equity, and perhaps to comply with the court mandate, the wide range  
19                   in salaries needed to be narrowed. There was also agreement that  
20                   politically and economically this narrowing could not take place immed-  
21                   iately; it would have to occur over a period of years"

22  
23           Significant narrowing has occurred over the years but equity has not been reached.

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LAW AND DECISION

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1. Article IX, Section 1 of the Washington State Constitution provides:

It is the paramount duty of the State to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, cast or sex.

The Plaintiffs have failed to prove beyond a reasonable doubt that they are not amply funded.

2. Article IX, Section 2 of the Washington State Constitution requires "The legislature shall provide for a general and uniform system of public schools."

In December of 1974 the Washington Supreme Court held –

"That the public schools are partly funded with local property taxes does not deprive the system, we think, of those constitutional qualities described as general and uniform...A general and uniform system, that is, a system which, within reasonable constitutional limits of equality, makes ample provision for the education of all children, cannot be based upon exact equality of funding per child because it takes more money in some districts per child to provide about the same level of educational opportunity than it does in others."

*Northshore School District v. Kinnear*, 84 Wn.2<sup>nd</sup> 685 at 727, 728(1974)

Thus within a "general and uniform system of public schools" the legislature could constitutionally and rationally create different funding levels that stem from differences in educational costs. However, the disparities in the current system are not based on the cost of providing educational opportunity in any district. Instead the disparities are bases upon historic

1 salary levels paid during the school year of 1976 -77 when according to the Supreme Court of  
2 Washington, the State of Washington school funding system was not general and uniform. See  
3 *Seattle School District v. State*, 90 Wn.2<sup>nd</sup> 476 at 519 (1978) where it held that Legislature "has not  
4 fully implemented Const. Art. 9, Sections 1 and 2."

5 In *Brown v. State* 155 Wn.2<sup>nd</sup> 254, at 269(2005) the Supreme Court held "With every  
6 passing year, the state's contribution to the budgets of districts... would increase in comparison to  
7 those districts that did not. Thus some districts would receive more state funding than others,  
8 quickly violating the constitutional command that the State provide a general and uniform  
9 education." Thus, the current funding at disparate levels with no rationale for differences violates  
10 the constitutional requirement of providing a general and uniform system.

11 To the extent the *Northshore School District v Kinnear* case holds the state can fund  
12 school districts at unequal levels; this court believes it is no longer good law. Its precedent value is  
13 suspect. Put in context with the general overruling of *Kinnear*, its finding regarding Article 9,  
14 Section 2 has been overruled directly and by implication in *Seattle School District*. In the 1974  
15 *Kinnear* case the minority opinion noted it was done in a "cavalier manner" and an opinion that  
16 "may be short-lived." The dissent in *Kinnear* beginning on p. 731 of 84 Wn.2<sup>nd</sup> is quite an  
17 interesting read. Not only interesting to read but prophetic. Less than four years later in *Seattle*  
18 *School District v State*, 90 Wn.2<sup>nd</sup> 476 (1978) *Kinnear* was overruled extensively.

19 The State of Arizona 's Constitution Article XI, Section I is similar to our provision and  
20 requires a general and uniform public education system. In *Hull v. Albrecht*, 960 P. 2<sup>nd</sup> 634 (Ariz.  
21 1998) the Arizona Supreme Court held that the general and uniform public school system clause of  
22 the Arizona Constitution, Art XI, Section I forbids "a state funding mechanism that itself causes  
23 disparities between districts" and found also "the general and uniform requirement will not tolerate  
24 a state funding mechanism that itself causes disparities between districts".

25

1           The plaintiffs have shown proof beyond a reasonable doubt that school districts are funded  
2 at disparate levels; that the different levels are based upon a discredited and unconstitutionally  
3 funded system of 30 years ago. There is no rational reason to continue this. This violates the  
4 general and uniform requirement of our constitution.

5  
6           3. The State Constitution in Article 1, Section 12 requires equal protection  
7 under the law. To wit, that similarly situated individuals have the right to be treated equally under  
8 the law. This court does not feel a suspect class or fundamental right is involved.

9           Disparate treatment of similarly situated individuals "will be upheld unless it rests on  
10 grounds wholly irrelevant to the achievement of legitimate state objectives." *State v. Shawn P.*,  
11 122 Wn. 2<sup>nd</sup> 553, 561 (1993).

12           The disparate levels of funding are based upon the salaries in existence in 1976-77. The  
13 legislature has many times tried to equalize the salaries, an admission that there is no rational  
14 reason to continue this inequality and that the State objective should be to equalize funding.  
15 Because of the vested interests in the *status quo* these disparate, irrational and inequitable salary  
16 allocations will continue for the next thirty years if not found unconstitutional. This court finds that  
17 basing funding levels on salary levels of 30 years ago is arbitrary and wholly irrelevant to the  
18 achievement of legitimate state objectives. Today's State funding has no basis in reality and is a  
19 vestige from a discredited and unconstitutional system. It cannot stand. This is not to say that the  
20 State cannot fund in the future at disparate levels, if it is done on a rational basis; e.g. cost of living  
21 adjustments, staffing mix, English as a second language, small school districts, etc. This court  
22 finds and concludes that the current funding levels are irrational and cannot stand, they violate the  
23 equal protection rights of Federal Way's students, teachers and taxpayers.

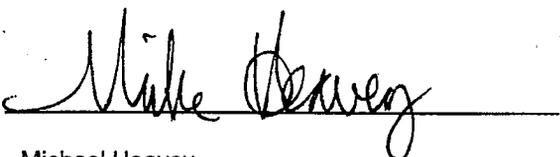
24           The court declines to make further rulings on issues presented by the Plaintiffs.  
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CONCLUSION

In conclusion this court finds that the disparate funding to school districts violates the constitution of the State of Washington because it is not general and uniform. Further it finds that the disparate funding violates the constitutional equal protection rights of Federal Way's teachers, students and taxpayers.

DATED this 2<sup>nd</sup> day of November 2007.



Michael Heavey  
Judge of the Superior Court