

# More work ahead on fixing public-school financing

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Corrected

**The state Supreme Court must demand the Legislature stop the use of local school levies to pay for basic education.**

By [Dan Grimm](#)

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OUR state Supreme Court found legislators in contempt last September for their failure to comply with the McCleary decision mandating ample state funding of our public schools. Now that a final state budget has been adopted for the next two years, the time has come for the court to take decisive action.

To ensure legislators fulfill their obligations, the court must ban the use of local levies for basic education and appoint a special master to oversee the process.

Legislators deserve credit for what they've done so far. The new budget includes \$350 million for K-3 class-size reductions, \$180 million for low-income children to attend full-day kindergarten, \$418 million for school-employee salary increases and \$765 million to compensate for previously underfunded programs and operations. That's in addition to nearly \$1 billion of new money they put in the previous biennial budget.

As much as they've done, though, legislators have a lot more to do. The most immediate problem is replacing all the local levy money being spent on basic education, a clear violation of McCleary. Doing so would cost more than \$5 billion the next two years alone.

Then there's Initiative 1351, the Washington Education Association proposal to add 25,000 school employees. At \$4.7 billion per biennium, it's no wonder WEA leaders didn't include a way to pay for it. Legislators decided to defer implementation for four years, but they didn't alter the ultimate financial impact.

Coming up with all that money won't be easy, not unless the economy grows faster than it ever has or public opinion changes dramatically. As things stand now, that's unlikely. People are generally satisfied with the status quo. Student performance is improving. Levies are passing. Teachers aren't quitting.

There's certainly no outcry for a big tax increase. That's why a majority of legislators in both chambers have decided yet again to continue dithering instead of actually doing anything about it.

Along with the state Superintendent of Public Instruction Randy Dorn, several legislators are to be commended for trying to reform our entire funding system and related policies, notably state Rep. Ross Hunter, D-Medina, and state Sen. Bruce Dammeier, R-Puyallup. The court must make sure their leadership isn't squandered.

At the court's show-cause hearing last September, Justice Charles Wiggins asked what they could do to motivate reluctant legislators. Banning the use of basic education levies is the best answer.

Legally, the court has already declared the practice unconstitutional. Politically, it would create the same fear of losing re-election that motivated legislators to enact the original Basic Education Act in 1977 and of Republicans — yes, Republicans — to vote for a major tax increase in 1982 to fund it.

Schools could continue to operate despite the ban, but a 25 percent cut in funding would force program reductions and layoffs that would infuriate teachers, parents and students. If that doesn't put the fear of being thrown out of office into the hearts and minds of reluctant legislators, nothing would.

Delaying the ban until 2018 would allow plenty of time for district officials to negotiate contingency contracts and organize public support. If legislators get the job done sooner, the court order would be moot.

To guarantee the job gets done right, the court needs to appoint a special master. As Yale law professor Owen Fiss has explained, a special master could serve as an "expert adviser" to the court and would have the authority to "select from innumerable

combinations of actions that could satisfy the [state's] constitutional obligation." The eventual solution needs to include stable and adequate funding of school construction and maintenance that wasn't addressed in McCleary.

A master also would fulfill the court's commitment to "fostering dialogue and cooperation" between the judicial, executive and legislative branches of government. Left to their own devices, however, there's too much risk the other two branches will avoid difficult policy decisions.

If the court fails to act, its credibility would be compromised. Worse, it would be turning a deaf ear to McCleary attorney Thomas Ahearne. "Every year we just keep talking about this," he pleaded with the court last September. "Kids lose forever another year of their education."

The time has come for the court to act.

*Information in this article, originally published July 15, 2015, was corrected July 16, 2015. A previous version of this story incorrectly stated that Yale Law School professor Owen Fiss taught at Harvard University.*

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