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Washington State Faces \$100,000-a-Day Fine Until Schools Plan Is Reached

By **KIRK JOHNSON** AUG. 13, 2015

SEATTLE — Washington State’s highest court, which has threatened, cajoled and pleaded with the state Legislature and governor for years to close the gap in spending between rich and poor schools, said on Thursday that it had finally lost its patience. In a unanimous decision, the nine-member Supreme Court imposed a fine of \$100,000 a day on the state until a plan to reduce the gap was accepted, and in a written order “encouraged” Gov. Jay Inslee to call the Legislature into a special session.

The financial sanctions, which started on Thursday with the filing of the order, will be owed every 24 hours, seven days a week, with the money going into an education fund. The court said that some of the fines might be returned — for each day the House and Senate are back in session working on the problem — but only if their work resulted in what the court called “full compliance.”

“The State still has offered no plan,” the justices said. “Accordingly, this court must take immediate action to enforce its orders.”

Court orders regarding education financing are not new. Kansas is in the midst of one such standoff. High courts in New Jersey and Ohio have also ordered legislatures to meet constitutional requirements. But this order, with a financial penalty imposed by one branch of state government on another, to the tune of \$700,000 a week, enters new territory, legal scholars said.

“I’m not aware, ever, of a state supreme court doing this,” Scott R. Bauries, an associate law professor at the University of Kentucky who studies state constitutions and education. “I can’t see any other way of describing it — the court is appropriating funds for the education system.”

The state’s superintendent of public instruction, Randy Dorn, applauded the court’s decision and said that the fines might achieve what previous orders by the court had not.

Washington, he said, is near the bottom of the national rankings in class size and in per-pupil K-12 funding. An over-reliance on local taxes — which is at the heart of the case underlying Thursday’s order — has created, he said, a patchwork of rich districts and poor ones. That makes the question not just one of books and teacher salaries, Mr. Dorn said, but civil rights.

“This is going to get their attention,” he said, referring to the Legislature. “And it will get the public’s attention.”

Mr. Inslee, a Democrat, said in a statement that he would meet with legislative leaders on Monday to begin what he called “the necessary and difficult work before us.” Washington’s House of Representatives is controlled by Democrats, while the Senate has a coalition majority caucus led by Republicans.

“There is much that needs to be done before a special session can be called,” Mr. Inslee said. “I will ask lawmakers to do that work as quickly as humanly possible so that they can step up to our constitutional and moral obligations to our children and lift the court sanctions.”

Legislative leaders from both parties defended their work in addressing education, but mostly held their fire in criticizing the court or its order.

“There’s still work to do,” said the House majority leader, Pat Sullivan, a Democrat.

The Supreme Court emphasized in its 10-page ruling that the road to this moment was long, that the state had had many chances to make good on promises, and that no exact blueprint or dollar amount of new spending was being ordered. In

previous rulings in the case, which was brought by a group of parents, McCleary et al v. State of Washington, the court had said that the state had not met the mandate to finance education that the Washington Constitution defines as “the paramount duty of the state,” and ordered that an acceptable plan to address the problem be reached by 2018.

Last September, the Court found the state in contempt for failing to comply with previous orders, but said then that it would hold any sanctions or penalties in abeyance until after the 2015 legislative session. That session, the court said, made improvements in education funding, but did not go far enough.

Mr. Dorn, the education superintendent, said in an interview that he did not see any way that the Legislature could meet its education obligations, and the Supreme Court’s orders, without imposing new taxes. But that has proved hugely difficult.

Mr. Inslee this year proposed \$1.4 billion in new taxes as part of a nearly \$39 billion budget plan that included a new capital gains tax on the wealthy and a cap-and-trade carbon tax system he said would also reduce climate-altering pollution. That extra money, along with a projected \$3 billion surge in revenue from existing taxes in a recovering economy, would have been funneled heavily to education. But the governor’s new taxes faltered in the Legislature.

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