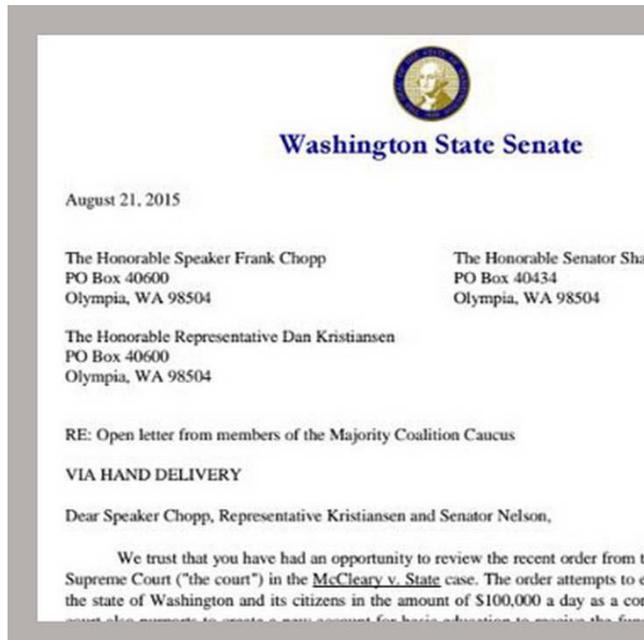


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# 19 lawmakers: State Supreme Court order — and \$100,000 per-day fine — unconstitutional



BY MELISSA SANTOS  
*Staff writer*

Top Republican lawmakers are firing back at the state Supreme Court for its recent order fining the state \$100,000 a day in a school funding case.

In a letter dated Friday, 19 members of the Republican-led Senate majority said the court's latest order in the McCleary case violates the state constitution and "presents a clear threat to our state Legislature as an institution."

"It is now time for us to explore the range of political, legal and constitutional responses that we have at our disposal," said the letter, which was delivered to leaders of the Legislature's other three political caucuses.

Meanwhile, Republican Senate leaders would not commit Friday to be part of a bipartisan work group to address school funding issues raised in the court's Aug. 13 ruling.

In a conference call Friday with Democratic Gov. Jay Inslee, leaders of the other three political caucuses agreed to appoint members to the work group, but Senate Republicans did not, said Inslee spokeswoman Jaime Smith.

Senate Majority Leader Mark Schoesler, R-Ritzville, said he still needs to speak with members of his caucus to decide whether they'll participate.

"I did not agree, nor did I decline," said Schoesler, who signed the letter objecting to the court's ruling, along with nearly three-fourths of his caucus.

The letter from the 19 senators asks legislative leaders to consider banding together to stand up to the court, noting: "The Court's Order Demands a Legislative Response."

But the letter stops short of suggesting specific measures, such as impeaching Supreme Court justices or — as some Republican lawmakers have previously proposed — reducing the number of justices on the court bench.

In the letter, the senators complain that the court doesn't have the authority to order the state to deposit \$100,000 a day in an account for basic education, something state officials acknowledged shortly after the ruling. Ultimately, the Legislature must vote to create the account and move the funds there, a spokesman for the governor's office said Monday.

By sanctioning the state, "the court has effectively hijacked the appropriation authority of the state Legislature," according to the letter signed by 18 Republican senators and a Democrat who caucuses with them.

"Our doctrine of separation of powers means that neither the governor nor a judge may interfere with legislative business," the letter continues.

But Democrats, including Inslee, were quick to dismiss the Republican letter as a distraction from the need to come up with a plan to fully fund public schools.

"I don't care what Senate Republicans think of the court's order," said Senate Minority Leader Sharon Nelson, D-Maury Island, in a statement. "Neither do kids who continue to move through our K-12 system in crumbling schools. Neither do teachers who have to leave the profession they love because they can't afford to feed their families. Neither do parents who send their kids to overcrowded schools and classrooms year after year."

"The one and only thing any of us should care about is fixing these issues and fixing them now."

In the McCleary case, the court ruled in 2012 that lawmakers were failing to meet their constitutional duty to fully fund basic education and must correct the funding gap by 2018.

In January 2014, the court justices ordered the Legislature to come up with a detailed plan to meet the 2018 deadline. Lawmakers' failure to deliver that plan prompted the court to find the state in contempt last September and to order the \$100,000 per day in penalties on Aug. 13.

Andrew Siegel, an associate professor of law at Seattle University, said the concerns raised by the 19 senators who signed the letter were "largely misplaced." He said the court's decision to penalize the Legislature for failing to comply with its orders is well within its authority.

"It very much is consistent with the role of courts in enforcing constitutional rights," Siegel said. "Once they define the parameters, it is their obligation to make sure those rights are respected."

Not all members of the Republican majority coalition joined their colleagues in objecting to the court's ruling.

Leaving their names off the letter were Sen. Joe Fain, R-Auburn; Sen. Steve O'Ban, R-Tacoma; Sen. Bruce Dammeier, R-Puyallup; Sen. Mark Miloscia, R-Federal Way; Sen. Andy Hill, R-Redmond; Sen. Steve Litzow, R-Mercer Island; and Sen. Brian Dansel, R-Republic.

Fain said he and other Republican senators are still working to solve the state's education funding issues, even if some disagree with the court's actions. The senators say as much in their letter, Fain added.

The court's latest order criticized the Legislature's continued failure to fully fund school employee salaries, which the court has said are a state responsibility and shouldn't be paid by local school districts.

A group of two Republican and two Democratic senators introduced a bipartisan proposal earlier this year to address that issue, and will hold public meetings this fall to discuss those ideas, Schoesler said.

As far as participating in another task force, Schoesler said he has seen many work groups convened in Olympia that "have a predetermined outcome."

He said he would like to see a bipartisan work group "explore a wide range of reforms and ways to improve our education system, rather than just respond to the court."

"Getting it right is more important than a timeline to make the court happy," Schoesler said.

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