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## **Spin Control: Court session on McCleary foreshadows legislative fight**

OLYMPIA – No need to check a crystal ball for a peek at what's ahead in the 2017 legislative session. Don't bother to stop at the palm reader on South Thor or consult the I Ching.

A preview of what is being dubbed "the session from hell" because of an expected battle over school funding was on display Wednesday. That's when the state Supreme Court held what seemed to be its 1,000th hearing on the public school funding case known as McCleary. The name comes from the first plaintiffs listed in the lawsuit. Unlike some famous cases known by the two sides, like *Roe v. Wade* or *N.Y. Times v. Sullivan*, this case goes by one name. Like Cher.

Outside the Temple of Justice, some Republican legislators gathered to express their belief the court is overstepping its bounds by telling them to do their constitutional duty and come up with enough scratch for public schools. A larger number of teachers gathered with the opposite view. There were signs aplenty for the television cameras and both sides brought some students as props.

In an overflow courtroom, the justices grilled two attorneys who apparently inhabit different universes. In Deputy Solicitor General Alan Copsey's universe, legislators are laboring tirelessly to come up with a way to make schools better, even if that recent labor consists mainly of naming a task force to look at what action to take.

This would be a much more convincing argument if the printing of past legislative reports on how to fix "the school crisis" hadn't already consumed several forests and if no one knew that recommendations from a task force appointed by this year's Legislature are not binding on next year's Legislature. There's a pesky thing in the middle known as the election.

In the universe of Tom Ahearne, attorney for the families challenging the state education system, legislators are doing so little that the court might need a microscope to study the changes. To him, lawmakers are less likely to find a solution to the public school funding puzzle in 2017 than they are to find unicorns grazing on the Capitol lawn.

The court seemed to struggle on what hammer to hold over legislators to force them to act, when to set a D-Day on which the boom would be lowered if they don't, and whether they should tell lawmakers in advance what that boom would be.

Last year, it fined the Legislature \$100,000 a day for contempt of its order to come up with a plan for improving the schools. This irked lawmakers but didn't cause them to cough up any cash. The state Constitution gives lawmakers the power to appropriate

money and set up accounts to hold it; they did neither. That would seem like contempt squared, or at least double secret contempt.

Not to worry, Copsey told the court. The Office of Financial Management is keeping track of what lawmakers owe, which as of Wednesday was \$39.1 million. This doesn't take an accounting whiz, just a calendar to count days and someone to add five zeroes on the end and a dollar sign in front.

Ahearne said the justices should absolutely tell lawmakers what the penalty would be and suggested a few, like voiding tax exemptions.

That was tame compared to Superintendent of Public Instruction Randy Dorn, who after the hearing repeated his suggestion the court order the schools closed because it was unfair for rich kids to get a 21st-century education and poor kids to get a 20th-century education.

That could mean all kids would then have an 18th-century education, but Dorn was confident lawmakers would then spring into action and quickly find the solution that has eluded them for decades. But then, he's not running for re-election, so it wouldn't be his problem to be the head of a school system that's closed.

While any solution must be in place when school starts in fall 2018, Copsey contended the real work will be done in next year's session when the two-year state budget is written. In 2018, traditionally a short session, they'd likely just do some tweaking, he said.

Not so fast, initiative entrepreneur Tim Eyman said shortly after the hearing. If lawmakers raise taxes next spring or summer, voters could overturn them with a referendum in the fall, forcing the Legislature to start all over in 2018. Eyman, too, attended the hearing, and by Thursday morning he was complaining to his long list of email recipients about grandstanding by the justices.

While it seemed as if the justices were just asking appropriate questions of both sides, it's hard to argue the point with Eyman, an acknowledged expert who has shown up at various events dressed as a gorilla, Darth Vader and a jump-suited inmate with mouth taped shut.

But not to worry. There should be nondebatably grandstanding aplenty, from all sides, when the Legislature convenes.

*Spin Control*, a weekly column by political reporter Jim Camden, also appears online with daily items and reader comments at [www.spokesman.com/blogs/spincontrol](http://www.spokesman.com/blogs/spincontrol).