

McCleary Deadline Approaching, But How Long Will the Solution Last?

Briefly

- State funding for public schools has increased by 40.6 percent since 2009–11.
- Washington had the third highest funding increases per student nationally from 2008 to 2016.
- Property taxes are a major source of school funding.
- Local property tax levies supplement state funding for schools.
- Local maintenance and operations levies are almost always approved by voters (100 percent approval in 2014), while the Legislature's record of increasing education funding is mixed.
- In the 1970s, the state Supreme Court said that it is unconstitutional to require school districts to depend on local levies to fund basic education.
- In the McCleary decision in 2012, the state Supreme Court again ruled that the state was not complying with its constitutional duty to fund education.
- Since 2012, the Legislature has fully funded or committed to fully fund its definition of basic education.
- The remaining items are state funding of school compensation and the elimination of the use of local levies for basic education.
- The Legislature hasn't been able to agree on the level of funding necessary for the state to fund school compensation.
- 2016 legislation established a bipartisan task force to collect data on school compensation costs and make recommendations to the Legislature by January 2017.
- Pending the task force's findings, many estimates of the biennial cost to the state to assume responsibility for compensation are in the \$3 to \$4 billion range. (It could be lower or higher than that.)
- Economic growth will likely not add enough tax revenue to cover those costs.
- A swap of state for local levy dollars or new taxes may be required.
- Centralizing school funding at the state level may not be the best way to improve student outcomes.

Article IX, Section 1 of the State Constitution:

"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."

Since the state Supreme Court's McCleary decision in 2012, the Legislature has made considerable progress toward fulfilling its responsibility to fully fund basic education. Still, much will need to be done next session. State funding for salaries must increase, and district reliance on local property tax levies must decrease. Additionally, the

Legislature must decide how to fund these actions.

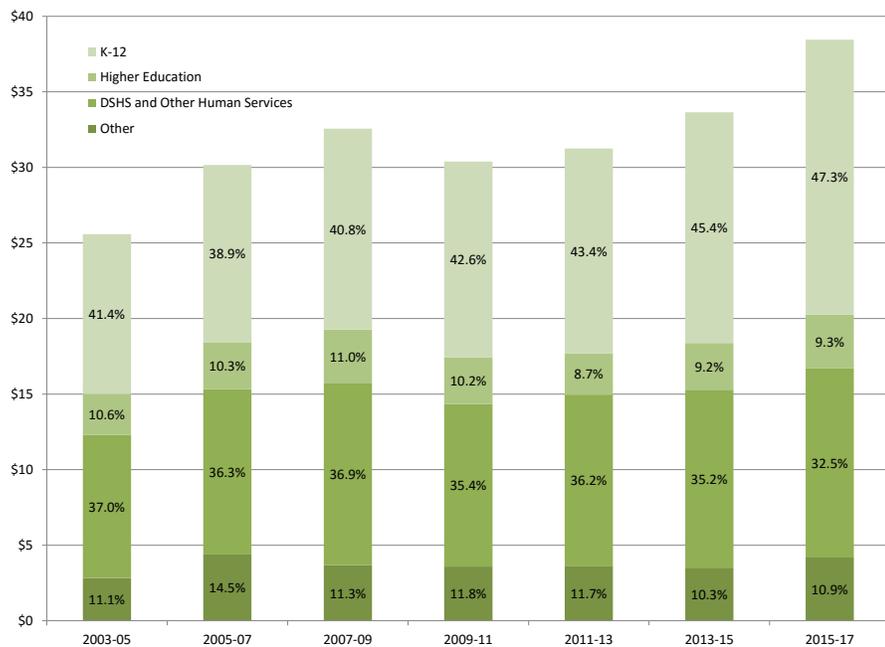
The property tax is the major source of funding for schools, and education funding has increasingly been centralized at the state level, thanks to our constitution's paramount duty clause (see box at left) and court decisions going back to the 1970s.

What is Basic Education?

With the enactment of ESHB 2261 in 2009, the Legislature redefined basic education as “that which is necessary to provide the opportunity to develop the knowledge and skills necessary to meet the state-established high school graduation requirements that are intended to allow students to have the opportunity to graduate with a meaningful diploma that prepares them for postsecondary education, gainful employment, and citizenship.”

Basic education includes at least parts of these budget lines: general apportionment, special education, pupil transportation, learning assistance program, transitional bilingual education program, highly capable program, and institutional education (W&M 2015).

Chart 1: NGFS+ Spending (Dollars in Billions, Percent of NGFS+ Budget)



Current School Funding

State funding for K–12 education has increased significantly in recent years. Since the 2009–11 biennium, near general fund–state plus opportunity pathways (NGFS+) spending on public schools has increased by 40.6 percent. Meanwhile, NGFS+ spending on all other items increased by just 16.2 percent. In 2015–17, NGFS+ spending on public schools totals \$18.197 billion and represents 47.3 percent of the NGFS+ budget. (See Chart 1.)

This increase in state funding for education compares favorably to other states. As the Center on Budget and Policy Priorities (CBPP) found earlier this year, “Most states provide less support per student for elementary and secondary schools — in some cases, much less — than before the Great Recession” (Leachman et al. 2016). According to the CBPP, Washington’s general fund spending increase per student from 2008 to 2016 was the nation’s third-highest.

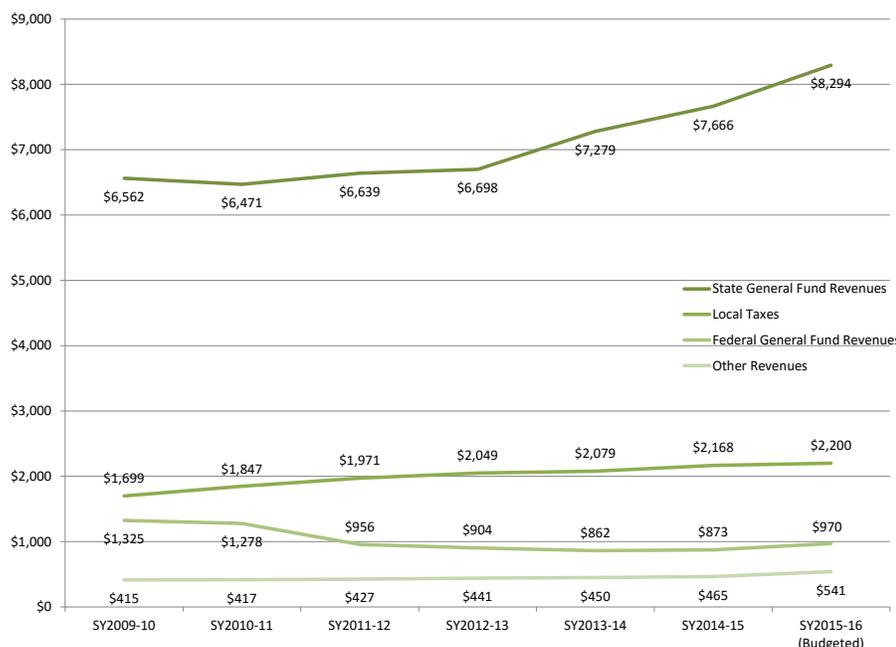
In addition to state funding, schools receive revenues from local and federal sources. In recent years, state funding has predominated, with local taxes making up the second largest source of funds. The state share has increased more significantly since school year (SY) 2012–13. (See Chart 2.)

Property taxes are a major source of funding for education in Washington. Indeed, the state property tax is dedicated to public schools (and is also known as the state school levy).

Property Tax Background

In Washington, there is a state property

Chart 2: School Funding by Source (Dollars per Enrollment)



tax as well as local property taxes. In all, there are 1,791 taxing districts, including the state, 39 counties, 281 cities and towns, 295 school districts, 365 fire districts, 190 emergency medical districts, 77 ports, and 122 water districts (DOR 2015a).

There are limits to how much property tax revenue can be collected each year. The first limit is constitutional:

... the aggregate of all tax levies upon real and personal property by the state and all taxing districts now existing or hereafter created, shall not in any year exceed one percent of the true and fair value of such property in money.
(Article VII, Section 2)

Under the constitution, this 1 percent limit does not apply to ports or public utility districts, and the limit may be exceeded under certain circumstances. For example, it may be exceeded when three-fifths of voters approve (generally such levies must be renewed annually, except in the case of bonds) and, in the case of school levies, it may be exceeded when a majority of voters approve (operations levies may run four years and pay-as-you-go construction levies may run six

years).

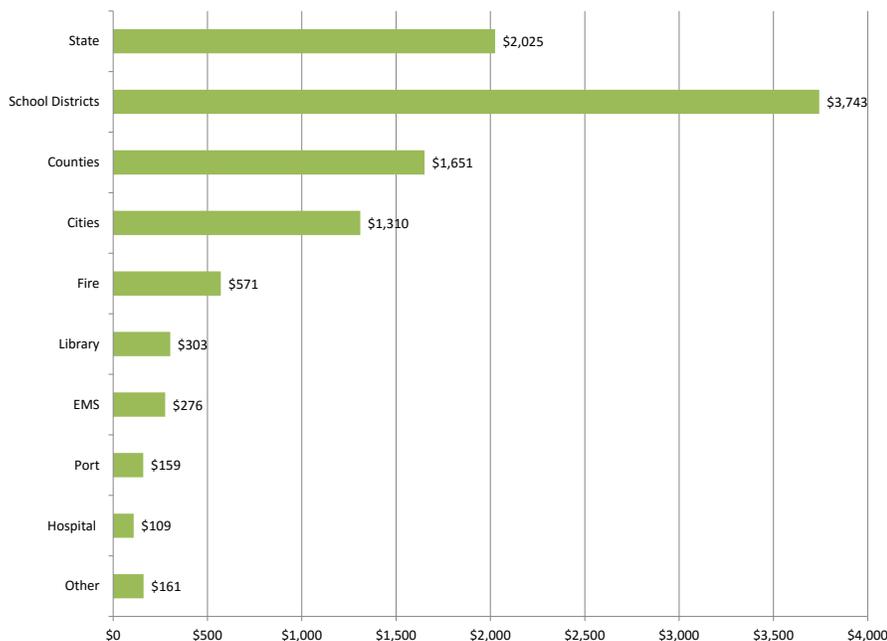
Taxes levied within the constitutional 1 percent limit are called “regular” levies and those levied outside of the limit are called “excess” or “special” levies.

Tax rates are stated in terms of dollars per \$1,000 of value. So, the 1 percent limit means that regular property taxes are limited to \$10 per \$1,000. By statute, the \$10 is split amongst the state, local districts, and special purposes (open space preservation, emergency medical services, affordable housing, metropolitan parks, criminal justice, ferry services, transit, and flood control). The state is allocated \$3.60 and \$0.50 is reserved for special purposes. Local districts are allocated \$5.90. Of that, \$1.80 goes to counties. Cities are allocated \$3.60 (unless library or fire protection services are provided separately) and in unincorporated areas \$2.25 goes to county roads. Junior districts get the rest; they include, for example, fire and hospital districts. (W&M 2016) (These are maximum amounts for regular levies. In 2015, for example, the state rate was actually \$2.14—not the full \$3.60.)

In addition to the constitutional 1 percent limit on regular state property tax levies, there is a statutory 101 percent growth limit. Under this limit, a taxing district’s levy is limited to the lesser of the previous year’s revenues adjusted for inflation or 101 percent of the previous year’s revenues. (This limit was approved by voters as Initiative 747 in 2001; it was later deemed unconstitutional because of a drafting issue. The Legislature reinstated the limit in 2007.) This limit applies only to regular levies. Further, “The 101 percent revenue limit restricts the total property tax revenue that any taxing district can raise. It does not restrict the taxes levied against a particular property . . .” (WRC 2008).

In 2015, 61.6 percent of levies in the state were regular and 38.4 percent were special (DOR 2015a). As noted above, the state levy rate in 2015 was \$2.14 (W&M 2016). The statewide average tax

Chart 3: Property Tax Levies Due in 2015 Totaled \$10.307 Billion (Dollars in Millions)

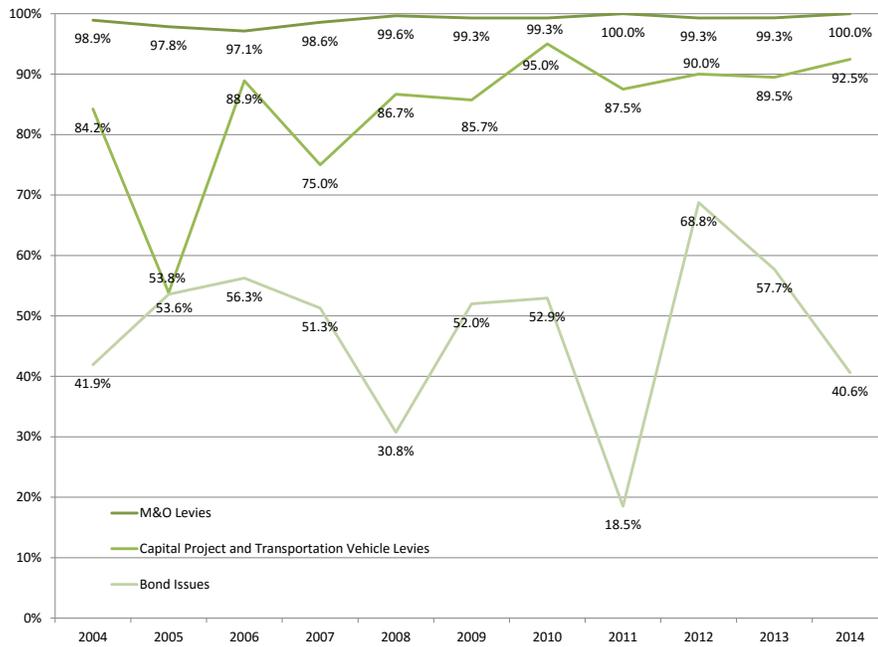


rate was \$11.70 per \$1,000 of assessed value (DOR 2015a). (This figure exceeds the \$10 limit because it accounts for special levies.)

Property tax levies due statewide in 2015 totaled \$10.307 billion. (See Chart 3 on

page 3.) Of that, 56.0 percent were for school levies (the state levy and local levies for maintenance and operations, bonds, and projects), which totaled \$5.768 billion. Of total school levies, the regular state levy due was \$2.025 billion. Special local school levies due totaled \$3.743 billion. Of the local school levies, \$2.285 billion was for maintenance and operations, \$434.7 million was for capital and transportation projects, and \$1.023 billion was for bonds. (DOR 2015a)

Chart 4: Levy Approval Percentage (Number of Districts)

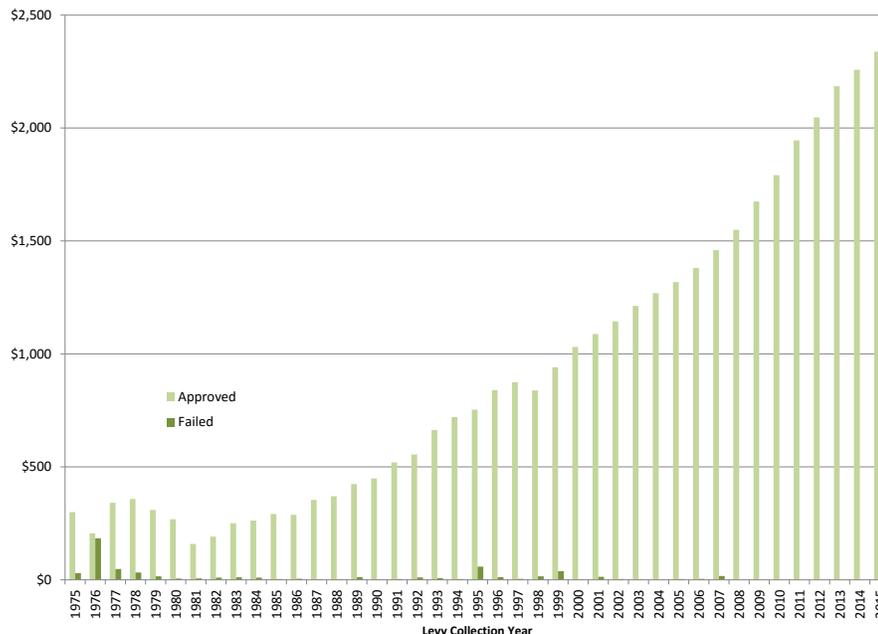


School Levies

State law authorizes school districts to use local levies to pay for non-basic education programs. (In practice, school districts have also used local levies for basic education, which is one of the problems identified in the McCleary decision.) These special levies require simple majority voter approval.

The Office of the Superintendent of Public Instruction (OSPI) compiles data on school district financing elections. Maintenance and operation (M&O) levies (also known as excess general fund levies) are used for day-to-day operations; capital project fund levies are used for school construction, modernization, and remodeling; transportation vehicle fund levies are used for school buses; and bond issues “pay principal and interest on general obligation bonds sold to finance school construction and remodeling” (OSPI 2016a).

Chart 5: M&O Levy Election History (Millions of Dollars Approved or Rejected)



Of school district levies, those for maintenance and operations almost always pass (in 2014, of 284 levy attempts, 100 percent were approved). (See Chart 4.) Moreover, since 1975, the amounts approved in M&O levies are overwhelming larger than amounts that failed—except in 1976. (See Chart 5.) In 2014, the amount collected in M&O levies statewide was \$2.258 billion. Combined, capital project and transportation vehicle levies also have a high passage rate (between 53.8 percent and 95.0 percent since 2004). The total combined amount approved in 2014 was \$657.0 million. Bond issues are not approved as often

(the passage rate ranged from 18.5 percent to 68.8 percent since 2004). The total approved in 2014 was \$1.611 billion. (OSPI 2016a)

In June 1977 the Legislature passed the Levy Lid Act (Laws of 1977, 1st E. Sess., Chapter 325). Since then, school districts have been limited in their ability to increase revenues via M&O levies. Under current law, most districts may only levy 28 percent of their state and federal revenues. (Some districts are grandfathered in at a higher rate.) This amount will drop to 24 percent in 2018. (W&M 2015)

In school fiscal year 1974–75, M&O levy revenue as a percent of total district revenues was 32.2 percent. (See Chart 6.) That figure dropped to 8.0 percent in 1980–81, but it increased to 11.0 percent in 1982–83 and gradually crept up until it reached 20.3 percent in 2012–13. It dropped to 19.5 percent in 2013–14 and to 19.4 percent in 2014–15. (OSPI 2016a)

Defining Basic Education

Local levies are supposed to be used for non-basic education only. In June 1977, the Legislature enacted the Washington Basic Education Act, which defined basic

education for the first time. The definition included the goal of the school system, program requirements, and “the determination and distribution of state resources” (Laws of 1977, 1st Ex. Sess., Chapter 359).

The definition was changed by the Legislature in 2009 with the enactment of ESHB 2261. The Legislature redefined basic education to include the instructional program of basic education, the program of education for students in residential schools and juvenile detention facilities, the program of education for individuals under 18 who are incarcerated in adult correctional facilities, and transportation to and from school. It established the minimum number of instructional hours for students and required districts to provide “students the opportunity to complete twenty-four credits for high school graduation” and supplemental instruction through the learning assistance program, transitional bilingual instruction program, special education for students with disabilities, and programs for highly capable students.

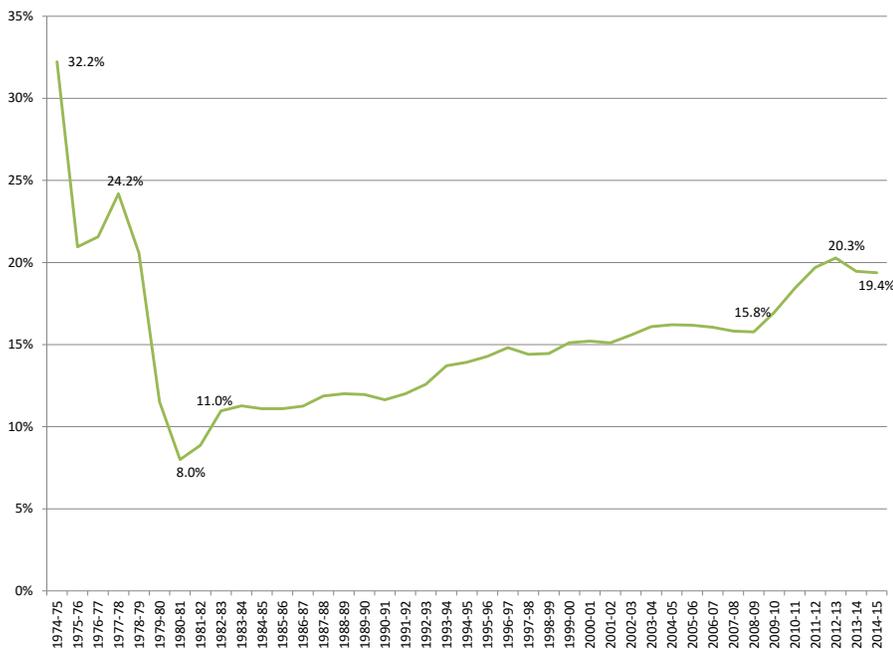
The 2009 legislation adopted a prototypical school model, through which the state allocates funds for basic education: “Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students”

On levies, the bill notes,

. . . the ability of local school districts to experiment with enriched programs can inform the legislature’s long-term evolution of the definition of basic education. Therefore, local levy authority remains an important component of the overall finance system in support of public schools even though it is outside the state’s obligation for basic education.

In ESHB 2261, the Legislature said it intended to “enhance the current salary allocation model” and established a working group to make recommenda-

Chart 6: M&O Levy Revenue as a Percent of Total District Revenue



SHB 2776 required the transportation funding formula to be fully phased in by the 2013–15 biennium; MSOC to be fully funded by SY 2015–16; all-day kindergarten to be implemented statewide by SY 2017–18; and K–3 class sizes to be reduced to 17 by SY 2017–18.

tions about how to do so. Additionally, the bill created the Quality Education Council “to recommend and inform the ongoing implementation by the legislature of an evolving program of basic education and the financing necessary to support such program.” The bill is to be fully implemented by 2018.

In 2010, SHB 2776 was enacted to continue implementation of ESHB 2261. It sets the minimum allocations for class sizes; staffing levels; materials, supplies, and operating costs (MSOC); and the learning assistance program, transitional bilingual instruction program, and highly capable programs.

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How Teachers are Paid Currently

Although the Legislature intended to enhance the salary model for teachers as part of ESHB 2261, it has not yet been changed. Under current law, the state funds certificated instructional staff (including teachers) based on a salary allocation schedule. Increasing funds are provided for teachers depending on the educational credits they have earned (nine steps, from a bachelor’s degree to a Ph.D.) and years of service (from zero to 16). Actual salaries are subject to collective bargaining. Districts need not pay teachers exactly what the state salary schedule suggests, but they must pay beginning teachers at least the minimum salary in the state schedule, and a district’s average salary cannot exceed the average salary in the state schedule. (W&M 2015)

Additionally, supplemental pay may be provided for time, responsibilities, and incentives (this is known as TRI pay): “The vast majority of these contracts are paid from local revenue” (W&M 2015). State law specifies, “No district may enter into

a supplemental contract under this subsection for the provision of services which are a part of the basic education program” (RCW 28A.400.200(4)).

Despite this prohibition, many districts may in fact be paying teachers for basic education services with local funds. As the state Supreme Court said in the McCleary decision,

Some of the difference between actual salaries and state allocations represented permissible incentive pay that went toward nonbasic education related tasks. But OSPI data highlighted that ‘districts pay for some supplemental salaries that are likely a basic education responsibility.’ (McCleary 2012a)

Court Decisions Have Shaped Education Funding in Washington

School districts in Washington have been supplementing state funding for education with local levies for decades. This practice has been challenged in court in the Doran I, Doran II, and McCleary cases. Further, these cases have led to the state’s definitions of basic education.

Doran I. In 1975, the Seattle School District submitted special excess levy proposals to voters twice; both were rejected. Moreover, “The District’s experience was not unique. During the 1975–76 school year, 40 percent of the students in the state were in levy loss districts” (Seattle School District 1978). The Seattle School District and others sued the state for failing its paramount duty to make ample provision for education. (This despite the fact that, in response to the levy failures, the Legislature appropriated \$65 million in SY 1975–76 for school levy relief (Laws of 1975–76, 2nd Ex. Sess., Chapter 2).)

Thurston County Superior Court Judge Robert J. Doran ruled in March 1977 that it is unconstitutional to require districts to rely on local levies for non-enrichment programs and that the state must define basic education and “fund it

In 1978, the state Supreme Court wrote, “The special excess levy is neither dependable nor regular.”

from regular and dependable tax sources” (Seattle School District 1978). In 1978, the state Supreme Court affirmed (in a decision that is commonly known as Doran I). (The state Supreme Court noted in its opinion that the Legislature had enacted the Washington Basic Education Act of 1977 “subsequent to trial but almost simultaneously with this appeal.” The Court wrote of the act that it “indicates a commendable effort to alleviate” the lack of a definition of basic education, but said “it is not properly before us for constitutional review.”)

According to the Supreme Court, because the state has a paramount duty to make ample provision for the education of children, those children “possess a ‘right’ . . . to have the State make ample provision for their education” (Seattle School District 1978). But, the Court found, “While legislative appropriations for such schools have continually increased, they have not kept pace with increased costs incurred by school districts operating under existing statutes and regulations” (Seattle School District 1978).

On levies, the Court wrote:

The special excess levy is neither dependable nor regular. It is wholly dependent upon the whim of the electorate and is then available only on a temporary basis. A levy defeat ensures that needed funds will not be available. This unstable statutory system destroys a district’s ability to plan for a known or definite funding base for either the current year or for future years.

Further, the levy system’s instability is demonstrated by the special excess levy’s dependence upon the assessed valuation of taxable real property within a district. Some districts have substantially higher real property valuations than others thus making it easier for them to raise funds. Such variations provide neither a dependable nor regular source of revenue for meeting the State’s obligation. (Seattle School District 1978)

Judge Doran’s decision (later affirmed by the Supreme Court, as noted above) led to the passage of the Basic Education Act and the Levy Lid Act. Under the Levy Lid Act, levies could not account for more than 10 percent of a school district’s basic education allocation (that percentage has since increased). As shown in Chart 6 on page 5, in 1980–81, M&O levy revenue as a percent of total district revenues dropped to 8.0 percent. The figure then began to increase again.

Doran II. In 1982, a group of school districts sued on the grounds that the Basic Education Act of 1977 and the 1981–83 funding amounts for schools were unconstitutional. Judge Doran ruled that “the State was not meeting its obligation to fully fund the programs included in its article IX, section 1 duty” (McCleary 2012a). Judge Doran wrote, “[f]ull funding of the education program required by Article IX, Sections 1 and 2, must be provided before any statutory program is funded” (McCleary 2010). The ruling, known as Doran II, was not appealed to the state Supreme Court. Still, as King County Superior Court Judge John Erlick later noted, Doran’s opinion “is widely regarded as law” (McCleary 2010). The Supreme Court writes that the decision “largely shaped the legislature’s design of the basic education program for the next several decades” (McCleary 2012a).

McCleary. The McCleary family and others sued the state in 2007 because they thought it wasn’t adequately funding the K–12 school system. In January 2012, the state Supreme Court ruled—again—that the state was not complying with its constitutional duty “to make ample provision for the education of all children in Washington” (McCleary 2012a). That said, it recognized that “The legislature recently enacted a promising reform package under ESHB 2261 . . . which if fully funded, will remedy deficiencies in the K–12 funding system” (McCleary 2012a).

Additionally, the decision notes that

. . . the State consistently underfunded

staff salaries and benefits. Testimony revealed that the State allocation for salaries and benefits fell far short of the actual cost of recruiting and retaining competent teachers, administrators, and staff. (McCleary 2012a)

The Court wrote,

The evidence at trial showed that the State's now-abandoned basic education funding formulas did not correlate to the real cost of amply providing students with the constitutionally required 'education.' As a result, the State has consistently failed to provide adequate funding for the program of basic education, including funding for essential operational costs such as utilities and transportation. To fill this gap in funding, local districts have been forced to turn increasingly to excess levies, placing them on the same unstable financial foundation as the schools in Seattle School District. (McCleary 2012a)

The Court also echoed Doran on excess levies. They are not “dependable and regular” because they are subject to voter approval and because they “depend on the assessed valuation of taxable real property at the local level” (McCleary 2012a). Thus, the equity and adequacy of the K–12 funding system is called into question.

Responding to McCleary

As noted above, the McCleary decision recognized recent work by the Legislature to reform basic education (ESHB 2261 and SHB 2776) and said that full funding of those bills would address many of the Court’s objections. The Court retained jurisdiction in the case; a July 18, 2012 Supreme Court order required the Legislature to file annual reports with the Court summarizing its efforts at implementing ESHB 2261 (McCleary 2012b).

The Legislature has almost completed funding the items specified in SHB 2776. The Legislature provided \$51 million to begin to fund these items in 2011–13 and ramped up funding beginning in 2013–15. As the table shows, in 2015–17, the Legislature funded carryforward costs and added new funding for pupil transportation, MSOC, all-day kindergarten, and K–3 class size reduction. (The table does not include other education enhancements the Legislature has made.)

The 2013–15 biennial budget fully funded the pupil transportation model, and the 2015–17 biennial budget fully funded MSOC and all-day kindergarten. Additionally, the 2015–17 budget added funds for K–3 class size reduction—the remaining needs in this category will be funded by the deadline in the 2017–19 biennial budget. (To demonstrate its commitment, the Legislature included the remaining K–3 class size reduction piece in maintenance level spending for 2017–19 as part of the four-year budget outlook.)

A Jan. 9, 2014 Supreme Court order (after enactment of the 2013–15 budget) said that funding so far fell short in almost every category, did not include capital funding for the new classrooms that will be needed to accommodate smaller K–3 classes and all-day kindergarten, and ignored staff salaries (McCleary 2014a).

(Regarding the capital funding needs, a

Table: Increased Appropriations to Fund SHB 2776 (Including Supplemental Budgets, Dollars in Millions)

	2013-15	2015-17		
		Carryforward Costs	New Funding	Total
Pupil Transportation	\$132	\$220		\$220
MSOC	\$432	\$607	\$742	\$1,349
All-Day Kindergarten	\$90	\$102	\$180	\$282
K-3 Class Size Reduction	\$104	\$128	\$350	\$478
Total	\$757	\$1,057	\$1,272	\$2,329

Notes:

–The Legislature also increased appropriations in 2013-15 for other basic education items by \$283 million (they also have carryforward costs).

–Carryforward costs are the costs in the current biennium of appropriations made in the previous biennium.

The Legislature hasn't been able to agree on the level of funding necessary for the state to fund school salaries.

2015 report from the Office of Superintendent of Public Instruction estimated that statewide costs to provide *permanent* K–3 classrooms would be \$1.978 billion when all-day kindergarten and K–3 class size reductions are fully implemented (OSPI 2015a). The Legislature's 2016 report to the Court noted that during 2015–17 it appropriated about \$886 million for construction of permanent and modular classrooms. The report classified funding for construction as being "outside of the basic education program" (JSC 2016.)

The Court ordered the state to provide "a complete plan for fully implementing its program of basic education for each school year between now and the 2017–18 school year" (McCleary 2014a). On Sept. 11, 2014, the Court found the state in contempt for violating its Jan. 9, 2014 order to provide a plan (McCleary 2014b).

On Aug. 13, 2015, the Court imposed a \$100,000 per day penalty on the state until it complies with the Jan. 9, 2014 order. The Court noted that after the 2015 legislative sessions, "the State still has offered no plan for achieving full constitutional compliance by the deadline the legislature itself adopted" (McCleary 2015). (This despite the attorney general's note that "Although work remains to be done, the 2015 Legislature's actions move the State closer to ultimate constitutional compliance than any written plan would have done, and continuing to demand a plan at this point would serve no useful purpose" (Ferguson 2015).)

In 2016, E2SSB 6195 was enacted. In the Legislature's report to the Supreme Court, it noted that by enacting this bill,

. . . the Legislature has complied with the Court's request to provide this Court with a plan for legislative action on the remaining issue of funding for the state's program of basic education. In addition, E2SSB 6195 provides the Legislature with a mechanism to gather the remaining data needed to quantify the remaining portion of the state's

salary obligation. (JSC 2016)

Some observers, including state Superintendent Randy Dorn, have dismissed it as "a plan to plan to fund basic education" (OSPI 2016b). Still, the Legislature hasn't been able to agree on the level of funding necessary for the state to fund salaries. (As E2SSB 6195 notes, there is a "lack of transparency in school district data regarding how districts use local levy funds.") The data collection and recommendations required by E2SSB 6195 should help them to do so.

E2SSB 6195 states, "Legislative action shall be taken by the end of the 2017 session to eliminate school district dependency on local levies for implementation of the state's program of basic education." The legislation further confirms that "It is the intent of the legislature to provide state funding for competitive salaries and benefits that are sufficient to hire and retain competent certificated instructional staff, administrators, and classified staff."

A consultant will be hired to collect and analyze school staff compensation data, identify market rate salaries, and consider local labor market adjustments. The consultant's final report is due Nov. 15, 2016.

Additionally, the legislation establishes the education funding task force to make recommendations to the Legislature on implementing the program of basic education, with guidance from the consultant's work. The task force, which has already begun meeting, must make compensation recommendations, including whether "a system for future salary adjustments should be incorporated into the salary allocation model" and whether a local labor market adjustment formula should be used.

Further, the task force must make recommendations on local levies and local effort assistance, local collective bargaining, clarifying the distinction between basic education and local enrichment

services, school employee health benefits, and “sources of revenue to support the state’s statutory program of basic education.” Task force recommendations must be submitted to the Legislature by Jan. 9, 2017.

Remaining McCleary Requirements and Other Policy Options

To respond to the McCleary decision, the Legislature must still assume responsibility for school salaries that are competitive and sufficient and end the use of local levies for basic education. (There may also be additional capital funding needs. It should be noted, though, that the original McCleary decision did not mention capital funds.) The Legislature has not come to a consensus about how to do so—E2SSB 6195 is the closest it has come. There have been proposals, however, including SB 6130 and a plan from Superintendent Dorn.

There are many policy changes the Legislature could make concurrently. Indeed, the task force established by E2SSB 6195 will be looking at several of them, including whether wages and school employee benefits should continue to be determined through local collective bargaining. The Legislature may also consider whether to continue the practice of paying teachers more based on their education level.

SB 6130. In 2015, a bipartisan group of senators introduced SB 6130. (The Legislature did not act on the bill.) The bill would have added salary allocations to the definition of basic education and the state would have assumed “full responsibility for providing state basic education salary allocations that are sufficient to attract and retain” teachers.

Under the bill, the salary allocation model for teachers would have been “less complicated” than it is currently, and it would have included an annual cost-of-living adjustment, a localization factor, and regular comparable wage analyses “to keep salaries for all state-funded K–12 school employees competitive and aligned with

market forces.” The new salary allocations would have been phased in beginning by the McCleary deadline in SY 2018–19 and completed by SY 2021–22.

In SY 2016–17, as funded in the 2015–17 operating budget, the state base salary for a beginning teacher with a bachelor’s degree (for example) will be \$35,700. During the phase-in of SB 6130, the salary of a beginning teacher with a bachelor’s degree would have increased to \$38,000 in SY 2018–19, \$41,672 in SY 2019–20, \$45,344 in SY 2020–21, and \$48,056 in SY 2021–22. School districts’ levy revenue would have been reduced to help offset these increases in state funding.

After SY 2021–22, the state salary schedule would have been streamlined. Teachers would have been paid based on whether they have entry-level residency certificates or professional certificates. Within those two categories, they would have been paid more if they have an advanced degree. To be paid more for an advanced degree, the degree would have had to be “relevant to current or future assignments as locally determined by the relevant school districts.” Teachers with professional certificates would have received another bump in pay after nine years of experience.

Under the bill, school districts would still have been allowed to pay for enhanced salaries with local funds, but only if through a separate contract for “additional time or for duties assigned and performed that are outside the basic education duties of the individual staff.” New collective bargaining agreements would have been required to be consistent with the bill.

Importantly, the bill would have required changes to school accounting systems so that districts would have to provide “separate accounting of state, federal, and local revenues and expenditures, and also separate accounting of basic education and nonbasic education expenditures.” Such changes, along with regular audits, would help “ensure local

funds are not being expended for basic education purposes except for locally provided salaries.”

The bill would also have modified school district levy authority and the state’s local effort assistance program. (Through local effort assistance, the state provides matching funds for local levies in property poor districts.) The bill “recognizes that to accomplish all of these actions requires additional sources of revenue and should not be accomplished through reductions to other parts of the state budget.” It did not specify what that new revenue source would be.

Dorn’s Proposal. In April 2015, Superintendent Dorn proposed a plan “to fully fund basic education.” His proposal goes beyond what is required by the state Supreme Court. In addition to funding SHB 2776, his proposal would reduce class sizes in grades 4–12 (unlike with K–3 class size reduction, research has shown that the costs would exceed the benefits of reducing class sizes in grades 4–12 (WRC 2014)), hire more teachers and support staff, build more classrooms, reform the compensation system, and reform the levy system. Superintendent Dorn’s plan would be fully implemented by 2021. (OSPI 2015b)

Superintendent Dorn’s compensation reforms would include statewide collective bargaining, the provision of K–12 health insurance for teachers “through a statewide benefit program similar to state employees,” funding 10 professional development days and teacher mentors, and defining “supplemental contracts to ensure that local levies are not used for basic education/compensation.” Levy reforms would include defining “appropriate uses of local levy funds” and “limiting the future growth of levies.” (OSPI 2015b)

Collective Bargaining. Currently, school employees bargain at the district level (RCW 41.59), on subjects like wages, hours, and terms and conditions of employment. As discussed above, the state adopts a salary allocation schedule;

teacher salaries do not have to match those in the schedule exactly (W&M 2015). One proposed reform of the teacher compensation system is to change the collective bargaining system.

In 2008, the Office of Program Research noted that such reforms could take many forms:

For example, the employer for purposes of bargaining may be the state, a coalition of school districts, or some combination thereof. The scope of bargaining may include wages, hours, and working conditions, or be limited to a statewide salary schedule. There may be only one agreement, or a master agreement negotiated at the state level with supplemental agreements negotiated at the local level. (OPR 2008)

Only Hawaii has statewide collective bargaining currently. (Note, though, that Hawaii is a special case—it has only one school district.) It is illegal for teachers to collectively bargain in Georgia, North Carolina, South Carolina, Texas, and Virginia (Sanes and Schmitt 2014).

Superintendent Dorn proposed statewide collective bargaining “for compensation, benefits, regional cost-of-living adjustments, and workday definition.” Under Superintendent Dorn’s proposal, the Superintendent of Public Instruction would represent employers in collective bargaining with teachers and staff. The bargaining scope would not include time, responsibility, and incentive pay:

School employees will retain the right to organize locally and collectively bargain other terms and conditions of employment with each school district employer, for supplemental contracts regarding compensation for education enrichment services and activities that go beyond the state’s program of basic education. (OSPI 2015b)

Another reform option would be for the Legislature to set more rules regarding what may be bargained and require negotiations to remain within those rules.

Many recent estimates of the additional biennial compensation costs are in the ballpark of \$3.5 billion.

This could help limit future reliance on local levies to pay for services that should, under McCleary, be funded by the state.

School Employee Health Benefits. Although the state allocates funding for health insurance for school employees, most districts in the state choose to purchase insurance individually through brokers. Many have suggested that districts should be pooled together for this purpose, perhaps through the creation of a School Employees Benefits Board (modeled after the Public Employees Benefits Board that handles insurance for state employees). A 2011 performance review from the State Auditor's Office found that creating a statewide health insurance program for school employees and standardizing benefits (at a similar level to those currently provided) could save \$90 million a year. The audit looked at 23 states and found that 21 of them "currently have some form of state-wide health benefits program for school employees" (SAO 2011).

Teacher Compensation and Advanced Degrees. The current state salary allocation schedule for teachers provides increased compensation for teachers with advanced degrees. In 2012, the Washington State Institute for Public Policy reviewed the literature on this topic and found that "financial incentives for teachers to obtain general graduate training and professional development is not associated with improvements in student test scores" (Pennucci 2012). However, "more focused training, such as in-subject master's degrees and content-specific professional development, can improve student outcomes" (Pennucci 2012). Under SB 6130, teachers with advanced degrees would have been paid more, but only for degrees that "are relevant to current or future assignments as locally determined by the relevant school district."

Matthew Chingos of the Brookings Institution has written, "The fact that teachers with master's degrees are no more effec-

tive in the classroom, on average, than their colleagues without advanced degrees is one of the most consistent findings in education research" (Chingos 2014). Still, as Chingos notes, most districts nationally pay teachers with master's degrees more than those with bachelor's degrees. In 2013, North Carolina stopped providing additional pay for master's degrees (DeWitt 2013). Other jurisdictions have de-emphasized advanced degrees as a determinant of compensation (Banchemo 2013).

Cost Estimates

There is not a consensus in the Legislature as to how much it will cost to take over compensation responsibility from the local districts at a level sufficient to recruit and retain competent teachers. The E2SSB 6195 consultant's compensation analysis should clarify matters and will inform the discussion. In the meantime, many recent estimates of the additional biennial costs are in the ballpark of \$3.5 billion, but some go much higher, and the final number could be lower.

For example, Ross Hunter, the former chair of the House Appropriations Committee, wrote in 2015 that it would probably cost the state about \$3.5 billion a biennium to replace local dollars that are currently being used to pay salaries related to basic education (Hunter 2015). Rep. Chad Magendanz has said it could cost between \$3 and \$3.5 billion; Rep. Kristine Lytton, chair of the House Finance Committee, has said it could cost about \$3–\$4 billion; and Sen. Christine Rolfes has said it could cost about \$3.5 billion (WRC 2015c, 2015d, 2015e). (Meanwhile, as noted above, M&O levies due in 2015 totaled \$2.285 billion.)

The final funding need could be required in the 2017–19 biennium, or the Legislature may decide to phase it in over a period of time. For example, both SB 6130 and Superintendent Dorn's plans would have been phased in, with full implementation occurring in 2021–23 and 2019–21, respectively. According to the Legislature, the salary allocations and

The levy swap and capital gains tax are often proposed as ways to fund the additional costs related to McCleary.

local effort assistance changes in SB 6130 would have increased state spending by \$3.481 billion when fully implemented (SCS 2015). Altogether, when fully implemented, Superintendent Dorn's plan (which includes items that are not mandated by the McCleary decision) would cost \$7.595 billion (OSPI 2015b). (That figure includes the pieces that the Legislature has already funded or committed to fund, but it doesn't include capital costs.) The total amount for just the salary changes in Superintendent Dorn's proposal (when fully implemented) would be \$3.879 billion.

Finally, as the Seattle Times has noted, some advocates (notably, not legislators) suggest that at least \$10 billion is still needed to comply with McCleary (Anand 2016). (Such estimates go well beyond the salary needs and incorporate other policies.)

Funding Options

Whatever the final tally, it doesn't seem likely that economic growth will cover it (at least in the near term). The Economic and Revenue Forecast Council estimates that state revenues will increase by \$3.055 billion in 2017–19. But the costs to continue the current level of state services will also increase—the estimated unrestricted ending fund balance in 2017–19 is negative \$314 million. (ERFC 2016) That does not include the costs of completely funding school salaries at the state level.

The Joint Task Force on Education Funding listed several potential funding options in 2012: use the rainy day fund, retain expiring taxes, find new budget savings, eliminate tax exemptions, transfer K–12 transportation to the transportation budget, impose an excise tax on capital gains, use the state school levy to replace local levies, increase the state school levy, or revise the state school levy growth factor (JTFF 2012). Some of these options are still being mentioned as possibilities, particularly the levy swap and capital gains tax.

Levy Swap. A levy swap would increase state property taxes and reduce local school district M&O levies. There is room within the constitutional 1 percent property tax limit to increase the state property tax. As noted above, the rate was \$2.14 per \$1,000 in 2015; it could go up to \$3.60. According to the Department of Revenue, if the state property tax was increased to \$3.60 per \$1,000 of market value (from \$2.25 in 2014), general fund revenues would increase by \$3.509 billion in 2017–19 and \$3.707 billion in 2019–21 (DOR 2015b).

There are many ways a levy swap could be done. As a general example, the state property tax rate could be increased to \$3.50 per \$1,000 assessed value in 2019. The revenue would be distributed to school districts and each district's levy authority would be reduced by the amount of state funding it gained. (In this example, the average local rate would be \$1.25/\$1,000 in 2019, down from \$2.64/\$1,000 in 2015.) Although on average the new combined state and local tax rate would be similar in 2019 to that of 2015, the result would vary across school districts. In property-rich districts, the state rate would increase by more than the local rate decreases. For Seattle, the sum of the state and local rates would be \$5.26/\$1,000 in 2019 compared to \$3.71/\$1,000 in 2015. Meanwhile, Pasco's combined rate would be \$5.09/\$1,000 in 2019 compared to \$6.61/\$1,000 in 2015. (WRC 2015b)

Former Rep. Ross Hunter proposed the levy swap in 2011; it would have been revenue-neutral (Hunter 2011). In 2015, he wrote, "Time has crept by and there is no longer enough property tax available to make this solution work, but it can be a key element of whatever we choose to do" (Hunter 2015). According to Hunter,

While staying below the constitutional limit of \$10 per \$1000 of home value and without significant disruption to local governments who also use the property tax the Legislature could increase the state rate from about \$2.00

to about \$3.11. This produces about \$2.7 billion. You still need around a billion dollars and have to use some other source. (Hunter 2015)

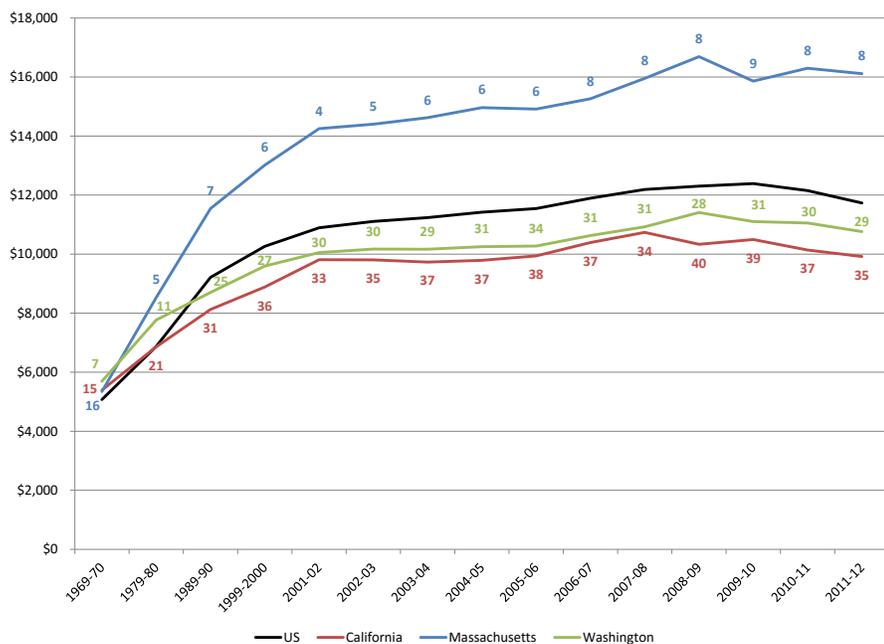
(Some of the options he mentioned are capital gains and carbon taxes.) Additionally, Hunter argued that the Legislature should repeal the I-747 statutory growth limit: "Otherwise you recreate the problem in a few years when the revenue grows more slowly than the cost of providing public education" (Hunter 2015).

Capital Gains Tax. In 2015, Gov. Inslee proposed a capital gains tax (it was not enacted). The proposal would have increased revenues by \$1.778 billion in 2017–19 (WRC 2015a). Other capital gains tax bills introduced in 2015 would have increased revenues by about \$1.2 billion in 2017–19 (they were also not enacted) (WRC 2015b). There are some serious questions about the wisdom of tying education funding to a capital gains tax. First, it's not clear a capital gains tax would be constitutional. Second, revenues from such taxes are volatile. Whether or not a taxpayer earns capital gains is subject to the swings of the market and

the taxpayer's decisions on when to sell. For example, in 2007, Washington residents reported net capital gains of \$23.7 billion; in 2009, they reported capital gains of \$5.9 billion. To address this volatility, some proponents of a capital gains tax recommend dedicating some of the revenues to the Budget Stabilization Account (the rainy day fund). (WRC 2015a)

Other Revenue Options. In April 2015, state Treasurer James McIntire proposed making several changes to the state's tax system. His proposal would tax personal income at a flat rate of 5 percent (with income tax revenues dedicated to education). This significant new addition to Washington's mix of taxes would be coupled with several tax limitation measures. These would include amending the constitution to require supermajority votes to change tax rates, reducing business and occupation taxes, reducing the state sales tax rate, and reducing property taxes. Property tax changes would include eliminating the state property tax, lowering the constitutional 1 percent limit on regular property tax rates, limiting school levies to 15 percent of the state allocation, and resetting the I-747 growth limit to inflation or 3 percent. (McIntire 2015) The plan would increase revenues by about \$4 billion a biennium (Stang 2015).

Chart 7: Expenditures per Pupil (Constant 2013–14 Dollars, Rank Among States)



Looking at K–12 Financing Differently

State property taxes are subject to legislative approval—not the whims of local voters (who directly determine the outcome of local levies). Thus, state funding should be more dependable than local levies. But, since the Doran decision centralized school funding at the state level, per-pupil funding in Washington has declined relative to other states. By this measure, Washington ranked seventh in the nation in 1969–70 (and spent more per pupil than the national average). By 1989–90 (after the Doran decisions), Washington ranked 25th (and spent less than the national average). (See Chart 7.)

As part of the state budget, education is just one of many competing priorities. At the local level, voters have direct incentives to fund education.

The argument that state funding is more dependable fails because, as William Fischel, a Dartmouth economist, writes,

. . . homeowners, who are the most numerous and politically influential group within most localities, are guided by their concern for the value of their homes to make political decisions that are more efficient than those that would be made at a higher level of government. (Fischel 2001)

Further,

The problem of statewide funding is that it offers childless voters no financial motivation to support efficient levels of education spending. No-kids-in-school voters at the local level at least have the home-value motive. The homevoter motive is eliminated when funding is centralized. (Fischel 2001)

As part of the state budget, education is just one of many competing priorities. At the local level, voters have direct incentives to fund education. Recall that M&O levies almost always pass in Washington. Conversely, when the Legislature raises taxes, voters can and have rejected them via initiative. (See, for example, Initiative 1107 in 2010 (WRC 2010).) Along these lines, state Senator Reuven Carlyle has written,

In our state, the romantic image of strong funding from the state government has not been realized. Political impasse over generations has created a system with unconstitutional funding structures, relatively poor student outcomes and great inequality.

A case can be made that Washington's top-down approach disconnects schools from their natural, strongest base of support—local families and communities. (Carlyle 2015)

Thus, although the state Supreme Court's decisions requiring increased state funding may be aligned with the paramount duty clause of the constitution, they may nevertheless be flawed when it comes to educational outcomes. Sen. Carlyle fur-

ther argues, "Ironically, perhaps we can implement the values of our state constitution to invest in public education more effectively by making a change to our constitution to reconnect our local dollars to local schools" (Carlyle 2015).

Such a change needn't mean that students would suffer. As Sen. Carlyle writes, "There is a clear, compelling and influential linkage between those states with locally-oriented education funding systems and both quality outcomes and higher funding levels" (Carlyle 2015). Indeed, a recent Seattle Times article noted that Massachusetts, for example, does well in preparing its students for their futures: ". . . when measuring access to early education, high-school graduation rates, college enrollment and adult employment, Massachusetts bests Washington on every metric" (Rowe 2016).

While Massachusetts does spend more on schools than Washington, more of those funds come from local sources than in Washington—51 percent and 27 percent, respectively, in 2011–12 (about \$8 billion in Massachusetts and about \$3 billion in Washington). Indeed, the state of Washington appropriates more funds for schools than the state of Massachusetts does (about \$7 billion in Washington and about \$6 billion in Massachusetts in 2011–12). (Rowe 2016)

In Massachusetts, local governments are required to provide the level of funding that the state has determined they can afford—the amount is not subject to voter approval (MBPC 2010). Additionally, just because local taxes provide a larger share of school funding doesn't mean the state doesn't have a role to play in setting standards. When Massachusetts reformed its system and provided more funding, it also increased its achievement expectations (Rowe 2016).

The Massachusetts example shows that schools could be adequately funded in a manner that is quite different from Washington's current system. That said, completely changing Washington's sys-

tem would be a heavy lift for the Legislature.

Comment

Since the McCleary decision, the Legislature has increased education spending in absolute terms and in relation to the rest of the budget. The Legislature has met (or has committed to meet) its deadlines for implementing the program of basic education, pursuant to the McCleary decision. In 2017, the Legislature will have to address school employee compensation and the dependence on local levies. The costs of doing so could be in the billions of dollars, and some combination of a levy swap or new taxes may be required.

But it is not clear that further centralizing funding in the state will actually improve student outcomes. The Legislature could also consider the proposal Sen. Carlyle suggests and amend the constitution. A benefit of rethinking the paramount duty clause would be to break the cycle Washington is in: State school funding drops (due to recession or other priorities), local levies make up the difference, courts rule that the state must pay more, repeat. The McCleary case was filed because spending devolved despite the Doran decisions. Whether it will be different this time will depend on whether sufficient safeguards are put in place to prevent future increases in local levy reliance.

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