

One-page Summary of the *McCleary* Court's November 2017 Order

The Supreme Court's November 15, 2017 Order did three things:

- (1) It unanimously rejected the State's claim that the 2017 legislature satisfied the court orders in the *McCleary* case. It unanimously rejected the State's claim that lawmakers cured their ongoing contempt of court. It unanimously rejected the State's claim that sanctions should be lifted. And it unanimously rejected the State's claim that the Court should relinquish jurisdiction and terminate the *McCleary* case.
- (2) It unanimously ordered the State to provide the additional \$1 billion of salary funding that the State, by its own admission, acknowledged would be required to fully fund the State's new salary model for the 2018-2019 school year. It unanimously ordered that this \$1 billion must be enacted by the end of the legislature's 2018 *regular* session (i.e., March 8). And it unanimously warned that if lawmakers fail to do so, the Court will "immediately" address the need to impose stronger sanctions – which, as lawmakers know from prior *McCleary* case filings, include enforcement options such as suspending all tax exemptions enacted by the legislature in order to pressure lawmakers to comply with the Court's Order.
- (3) It put the State's new funding formulas on a short leash to let them prove themselves constitutionally adequate in practice. Trusting the legislature's assurance that it is "reasonably likely" that the State's prototypical school model formulas will amply fund all ten components of the State's basic education program, the Court said: "At this point, the court is willing to allow the State's program to operate and let experience be the judge of whether it proves adequate." Thus, once a school district operates under the current State funding formulas, the *McCleary* decision's "paramount duty", "amply fund", and "all children" requirements will measure if those formulas prove themselves constitutionally adequate in practice.

[The November Order's discussion recapped that the ten components of the State's basic education program are: (1) pupil transportation, (2) Materials, Supplies, and Operating Costs (MSOCs), (3) Full-Day Kindergarten, (4) K-3 class sizes of 17 students per classroom, (5) Special education, (6) Remediation (Learning Assistance Program/LAP), (7) Transitional Bilingual Education (Transitional Bilingual Instructional Program/TBIP/English Language Learners/ELL), (8) Highly capable student instruction, (9) Core 24 (increasing high school graduation requirements from 20 credits of instruction to 24), and (10) Compensation sufficient to attract, recruit, and retain competent teachers, administrators, & staff to implement the above components.]