

SUPREME COURT OF NORTH CAROLINA

HOKE COUNTY BOARD OF
EDUCATION, et al., Plaintiffs,

and

CHARLOTTE-MECKLENBURG
BOARD OF EDUCATION, Plaintiff-
Intervenor,

and

RAFAEL PENN, et al., Plaintiff-
Intervenors,

v.

STATE OF NORTH CAROLINA
and the STATE BOARD OF
EDUCATION, Defendants

and

CHARLOTTE-MECKLENBURG
BOARD OF EDUCATION,
Realigned Defendant

From the North Carolina Court of
Appeals
No. COA 22-86

From Wake County
No. 95 CVS 1158

**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF
BY THE NORTH CAROLINA JUSTICE CENTER**

TO THE HONORABLE SUPREME COURT OF NORTH CAROLINA:

The North Carolina Justice Center (“Justice Center”), through counsel and pursuant to Rule 28(i) of the North Carolina Rules of Appellate Procedure, requests leave to file the accompanying brief in support of the Plaintiffs.

AMICUS CURIAE’S INTEREST IN THIS CASE

The mission of the Justice Center is to eliminate poverty in North Carolina. In furtherance of this mission, the Justice Center, among other things, works towards a quality public education for every child through its Education & Law Project. The Court’s decision in this case will have a direct, substantial, and immediate impact on these objectives.

**REASONS WHY A BRIEF OF AMICUS CURIAE
IS BELIEVED TO BE DESIRABLE**

The Justice Center seeks permission to participate as amicus in order to present its subject-matter expertise in education policy. The Justice Center is uniquely qualified to synthesize research findings and apply those findings to assess the efficacy of the Comprehensive Remedial Plan in remedying the constitutional violations identified by this Court in *Leandro* and its progeny.

ISSUES OF LAW TO BE ADDRESSED

If permitted to participate as amicus, the Justice Center will present arguments emphasizing the constitutional necessity of the remedy provided for in the trial court’s order of 10 November 2021 and why the Comprehensive

Remedial Plan is correct as a matter of educational policy and will meet the minimum standards to effectuate the constitutional requirements for a sound basic education.

* * * * *

WHEREFORE, the Justice Center respectfully requests that this Court allow:

- a. This motion for leave and accept the Justice Center's amicus brief; and
- b. Such other and further relief as the Court deems just and proper.

Respectfully submitted this the 18th day of July, 2022.

Electronically Submitted

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This the 18th day of July, 2022.

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BRIEF OF NORTH CAROLINA JUSTICE CENTER
AS AMICUS CURIAE

(Submitted Pursuant to N.C. R. App. P. 28(i))

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BRIEF OF AMICUS CURIAE
NORTH CAROLINA JUSTICE CENTER

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¹ No one other than undersigned counsel and amicus curiae North Carolina Justice Center contributed to the drafting of this brief. The brief was indirectly funded by Ann Goodnight, Sandra Conway, and Liz Bruno.

ARGUMENT

It is, to be sure, a complex undertaking to implement constitutionally adequate education across North Carolina's 100 counties and numerous and diverse rural, urban, and suburban communities with their varying levels of income, local support, and opportunity. Ideally, "[t]he administration of the public schools of the state is best left to the legislative and executive branches of government." *Leandro v. State*, 346 N.C. 336, 357, 488 S.E.2d 249, 261 (1997) ("*Leandro I*"). When those political branches fulfill the minimum requirements of the North Carolina Constitution, litigation and concomitant judicial involvement to enforce court orders and to implement statewide policies is not needed. Amicus curiae North Carolina Justice Center, through its Education & Law Project, has long worked to inform the public policy dialogue with sound research informed by community engagement in order to assist the political branches in fulfilling their constitutional duties.

When one of the political branches—here, the North Carolina General Assembly—repeatedly fails to meet its constitutional obligations, this Court “has its duty under the North Carolina Constitution.” *Id.* The longstanding and worsening denial of the fundamental rights of North Carolina students to a sound basic education cannot be allowed to persist. And a toothless paper remedy that will never be implemented does not suffice. This Court should affirm, in response to nearly 20 years of legislative inaction and obstruction,

that the General Assembly’s “power of the purse,” *Cooper v. Berger*, 376 N.C. 22, 37, 852 S.E.2d 46, 58 (2020), is not a blank check to defy this Court’s orders or to make political hay at the expense of North Carolina’s students.

For the reasons elaborated in this brief, the Justice Center and the 144 organizations who have signed on in support of this brief² believe, and the social science research supports, that the Comprehensive Remedial Plan ordered by the trial court (R pp 1678-1771) provides the minimum remedy necessary to correct the State’s denial of children’s fundamental educational rights. The trial court’s 10 November 2021 Order (R pp 1823-1842) enforcing the Comprehensive Remedial Plan was and is a necessary and constitutional mechanism to ensure an adequate remedy for the State’s longstanding violation of constitutional rights.

Ordering a remedy near the constitutional limits of judicial power understandably raises separation of powers concerns. But the exercise of judicial power to ensure the provision of affirmative constitutional rights is far from unprecedented. Extraordinary constitutional violations, especially those involving the education of our children, sometimes require aggressive judicial action to correct them. Most notably, the right to equality in education

² To assist the Court by consolidating potential amicus briefs, the North Carolina Justice Center circulated this amicus brief for consideration by a wide range of organizations. The 144 supporters who approve the arguments in this brief are listed in the Appendix.

recognized by *Brown v. Board of Education*, 347 U.S. 483 (1954), ultimately required the intervention of the federal judiciary to ensure an effective remedy. *See, e.g., Swann v. Charlotte-Mecklenburg Bd. of Ed.*, 402 U.S. 1, 15 (1971) (“If school authorities fail in their affirmative obligations under these holdings, judicial authority may be invoked.”).

The same principle applies here. “Certainly, when the State fails to live up to its constitutional duties, a court is empowered to order the deficiency remedied” *Hoke Cnty. Bd. of Educ. v. State*, 358 N.C. 605, 642, 599 S.E.2d 365, 393 (2004) (“*Leandro II*”). “[I]f the offending branch of government or its agents either fail to do so or have consistently shown an inability to do so, a court is empowered to provide relief by imposing a specific remedy and instructing the recalcitrant state actors to implement it.” *Id.*

When the State defies a court order and manifestly fails to ensure the rights of North Carolina students to a sound basic education, as it has here, the judiciary must act. In this case, the trial court acted within its authority to ensure that the right to a sound basic education—the educational minimum guaranteed to every North Carolina student—was protected and enforced. The trial court’s carefully crafted, constitutional remedy should be affirmed.

I. In the decades since *Leandro II*, North Carolina has fallen further below the constitutional minimum. Funding the Comprehensive Remedial Plan is imperative, urgent, and cost-efficient.

In 2004, this Court affirmed the “clear showing of a denial of the established right of Hoke County students to gain their opportunity for a sound basic education” and the trial court’s finding that “the State’s method of funding and providing for individual districts such as Hoke County was such that it did not comply with *Leandro*’s mandate of ensuring that all children of the state be provided with the opportunity for a sound basic education.” *Leandro II*, 358 N.C. at 637-38, 599 S.E.2d at 390. The State, not local school districts, is the ultimate guarantor of students’ *Leandro* rights. *Id.* The trial court had established a set of minimum input and output standards to measure deficiencies in the provision of that right—standards that are fully applicable not only to Hoke County but statewide—which were thereafter affirmed as the appropriate measures by this Court. Manifold statewide deficiencies on those standards have continued without redress.

Since 2004, the children of North Carolina have grown up in an unconstitutional education system while “every reasonable deference” was provided to the State to correct the ongoing constitutional violations. And during those eighteen years, the resources made available to at-risk students—the very students that this Court held were being denied the opportunity for a

sound basic education—dwindled. Today, North Carolina is even farther away from meeting the constitutional minimum set forth in *Leandro*. Given the impact of the COVID-19 pandemic especially on at-risk students, the trial court was correct to enforce the Comprehensive Remedial Plan.

A. Since this Court declared the State’s education system unconstitutional in 2004, the State has made less—not more—effort to provide funding and resources to meet the constitutional minimum of a sound basic education.

North Carolina’s public schools have fewer resources today than they did in 2004 when *Leandro II* affirmed the existence of a constitutional violation. The declines in funding illustrate the extent to which the State has failed to comply with this Court’s directive to establish a *constitutional* public education system.

North Carolina is a growing state and, as a result, the three primary cost-drivers of public schools (student enrollment, staff salaries, and staff benefits) have grown since 2004. The increase in costs for enrollment, salaries, and benefits alone between 2004 and today totals \$4.6 billion, but the State has only increased funding for public schools by \$4.1 billion since 2004, leading to a shortfall of approximately \$500 million.³ This decrease does not even include other cost drivers such as fuel for school buses, supplies and materials, and technology.

³ Calculations available in Appendix, at x-xi.

The amount of money North Carolina spends on public education falls woefully below neighboring states, demonstrating that North Carolina students are unable to gain “sufficient academic and vocational skills to enable [them] to compete on an equal basis with others in further formal education or gainful employment in contemporary society,” as required by the Constitution. *See Leandro I*, 346 N.C. at 347, 488 S.E.2d at 255.

The shortfall in State funding is starkly reflected in numerous ways:

- North Carolina’s per-pupil expenditure by state and local sources (adjusted for local costs) ranks 48th out of 50 states and the District of Columbia, with \$9,954 per pupil, an amount that is \$4,594 less than the national average per pupil.⁴ South Carolina by comparison ranks 24th in the country with a per pupil expenditure of \$14,090 and Virginia ranks 35th at \$12,714 per pupil.⁵ In short, the amount available for local school districts to spend on public education is significantly less than the amount available to districts in neighboring states.

⁴ Danielle Farrie & David G. Sciarra, *Making The Grade 2020*, *Education Law Center* 6, fig. 1A (2020), <https://edlawcenter.org/assets/MTG%202020/Making%20the%20Grade%202020.pdf>.

⁵ *Id.*

- The State is funding fewer teacher and teacher assistant positions on a per-student basis than it funded in the 2003-04 school year.⁶
- Teacher compensation has declined since 2004. Had teacher pay maintained parity with inflation since 2004, average teacher pay would have been \$61,033 in the 2020-21 school year.⁷ Instead, actual average teacher pay was \$53,458.⁸
- North Carolina ranked 46th in the country for average salaries of instructional staff for the 2020-21 school year, significantly lower salaries than its neighbors: South Carolina's average salary was \$60,608 (30th in the U.S.) and Virginia's was \$60,880 (29th in the U.S.).⁹
- According to the most recent data (covering the years 2014 to 2018), North Carolina teachers earn 26.5 percent less than their

⁶ Calculations available in Appendix at xii.

⁷ U.S. Bureau of Labor Statistics, CPI Inflation Calculator, https://www.bls.gov/data/inflation_calculator.htm (comparing January 2004 to January 2021).

⁸ Nat'l Educ. Ass'n, *Rankings of the States 2021 and Estimates of School Statistics 2022* 20, fig. B-6 (2022), <https://www.nea.org/sites/default/files/2022-04/2022%20Rankings%20and%20Estimates%20Report.pdf>.

⁹ *Id.*

similarly aged peers with college degrees, the 7th worst wage gap in the nation.¹⁰

School districts are competing with other states and other employers—and losing—for the college-educated individuals needed to teach. North Carolina can hardly compete for the instructional personnel it needs to provide a sound basic education when good educators can earn 10 percent more simply by moving across the border.¹¹ A good teacher makes all the difference in the world to a student; and yet the State has not taken the necessary steps to ensure there are “competent teachers in classrooms” as legally required. *See Leandro II*, 358 N.C. at 637, 599 S.E.2d at 390.

The needs are great. Fortunately, North Carolina has the available funds to satisfy such needs at the minimum level required by the North Carolina Constitution. The State can afford to spend more on public education—just as its neighbors do. North Carolina ranks 50th out of 51 on “funding effort,” that is, the amount of spending on public education as compared with GDP of the state. The national average is 3.35 percent; North Carolina’s is 2.34 percent.

¹⁰ Sylvia Allegretto & Lawrence Mishel, Econ. Policy Inst., *The Teacher Weekly Wage Penalty Hit 21.4 Percent in 2018, A Record High* (Apr. 24, 2019), <https://files.epi.org/pdf/165729.pdf>.

¹¹ Pub. Schs. of N.C., *Report to the North Carolina General Assembly 2020-2021 State of Teaching Profession in North Carolina* 10, table 2 (Feb. 17, 2022), <https://www.dpi.nc.gov/media/14558/download> [hereinafter Report to the NC General Assembly on State of Teaching].

South Carolina ranks 9th at 4.06 percent and Virginia ranks 37th at 3.08 percent.¹² If North Carolina had met just the national average funding effort level in 2019-20 (the most recent year for which this calculation can be made), public schools in North Carolina would have received an additional \$6.0 billion in state funding.¹³

B. At-risk students bear the brunt of the constitutional violation, necessitating the State's intervention.

The funding deficits detailed above disproportionately impact students in poorer communities, because their local governments are unable to raise additional funds to make up for the losses in State-level funding. Lower wealth counties tax themselves at much higher rates than wealthier counties, but are still unable to generate comparable tax revenue. In 2019-20, the ten poorest counties in the state taxed themselves at an average rate of 7.8 percent, compared with an average rate of 4.5 percent among the ten wealthiest counties.¹⁴ Despite the significant effort of lower wealth counties to fund public education, the gap in local spending per student between low-wealth and high-

¹² Calculations available in Appendix at xii-xiv.

¹³ Calculations available in Appendix at xiv-xv.

¹⁴ Pub. Sch. Forum, *2020 Local School Finance Study 6* (2020), <https://www.ncforum.org/wp-content/uploads/2020/02/2020-Local-School-Finance-Study3.pdf>.

wealth counties has grown from \$1,644 per student in 2003-04 to \$2,984 per student in 2019-20.¹⁵

While many states provide additional funds to districts based on the number of English language learners or economically disadvantaged students, North Carolina provides little additional funding to support these student needs. North Carolina's limited English proficiency allotment has been roughly 50 percent less than the national average.¹⁶ The same is true for low-income students; North Carolina's supplemental funding to districts based on the additional low-income populations is roughly three times less than the 26 other states for which data is available.¹⁷

Similarly, North Carolina currently caps the amount of funding available to local districts to serve students with disabilities. A study of the 2005-2017 time period found that on average 62 percent of local districts faced underfunding of their special education programs each year, requiring significant contributions of local revenue.¹⁸ (If implemented, the

¹⁵ *Id*; Pub. Sch. Forum, *2004 Local School Finance Study* (2004), <https://www.ncforum.org/wp-content/uploads/2016/10/2004FinanceStudy.pdf>

¹⁶ Calculations available in Appendix at xv-xvii.

¹⁷ Calculations available in Appendix at xvii-xviii.

¹⁸ Chris Needham & Eric A. Houck, *The Inequities of Special Education Funding in North Carolina*, 45 *J. of Educ. Finance* 1, 1-22 (2019), <https://muse.jhu.edu/article/747802>.

Comprehensive Remedial Plan would eliminate the cap that currently limits funding in districts with larger shares of disabled students.)¹⁹

Residents living in lower wealth districts face substantially greater financial burden to supplement instructional costs for public education. The Constitution, however, allocates ultimate responsibility for education to the State. As a matter of constitutional law, the State must provide minimum funding so that students born in North Carolina—whether in Tyrrell, McDowell, Wake, or Mecklenburg County—have the opportunity to learn the basic skills needed to function in contemporary society.

C. North Carolina’s future depends on immediate funding of the Comprehensive Remedial Plan.

The foregoing disparities have led to a reality in which North Carolina is moving further away from the constitutional minimum.

Consequently, schools do not have enough teachers to teach. In the 2020-21 school year, across the State there were 3,215.94 (or 3.4 percent) vacancies on the 40th instructional day of the school year, nearly double the vacancies at the same time in 2017.²⁰ The very positions that are absolutely critical to a sound basic education are experiencing the largest number of vacancies: there were 690.6 vacancies in the core elementary subjects, meaning that at least

¹⁹ April Order, Exhibit A, Part III.B.ii.1.

²⁰ Report to the NC General Assembly on State of Teaching, *supra*, at 17.

690 classrooms did not have a qualified teacher last year in North Carolina; 616 positions were vacant for special education teachers across the state; and 272.6 career and technical education positions were vacant.²¹ The school districts with the largest numbers of vacancies were all in low-wealth districts: Bladen, Anson, Thomasville City, Person, and Vance.

Unfortunately, the COVID-19 pandemic has only exacerbated the already perilous situation in which the State has placed at-risk students. Student achievement had already significantly declined statewide and the achievement gap between Black and white students had grown during the 2010s. (R p 1358) COVID worsened the situation: a study comparing how well students were predicted to score on tests at the end of the 2020-21 school year and how well they actually scored demonstrate that the pandemic had a “negative impact for all students, for all grades, for almost every subject (except English II). . . especially true for Math (5th-9th grades) and Science (Biology).”²² The impact was even greater for students in low-wealth

²¹ *Id.* at 18, table 10.

²² N.C. State Bd. of Educ & Dep’t of Pub. Instruction, *Report to the North Carolina General Assembly: An Impact Analysis of Student Learning During the COVID-19 Pandemic* 5 (preliminary report Mar. 15, 2022), https://content.govdelivery.com/attachments/NCSBE/2022/03/02/file_attachments/2091616/JLEOC%20Report%20HB196.%20Impact%20on%20Lost%20Instructional%20Time%20for%20SBE%20March.pdf.

counties.²³ Overall, while all students generally scored worse than predicted, the difference between predicted score and actual score was much greater in districts with more economically disadvantaged students than in districts with fewer numbers of economically disadvantaged students.²⁴

The Comprehensive Remedial Plan does not simply throw money at the problem. When cost drivers and inflation are taken into account, the Plan is remarkably cost-efficient and in line with education funding effort levels in other states in the region. The Plan targets the additional money to particular programmatic elements designed to improve educational outcomes and remediate the ongoing constitutional violation.

For instance, if North Carolina's educational funding were set to achieve national average testing outcomes, North Carolina would have to increase its per-student spending by \$3,326 per student, or 34 percent above actual spending levels, to achieve the national average test scores.²⁵ By contrast, the Comprehensive Remedial Plan will increase per pupil student spending by only \$2,623 per student above the current funding levels.²⁶

²³ *Id.* at 111.

²⁴ *Id.* at 88, 90.

²⁵ Bruce D. Baker et al., Albert Shanker Inst., *State School Finance Profile 2018-19 School Year* (Dec. 2021), https://www.schoolfinancedata.org/wp-content/uploads/2021/11/profiles19_NC.pdf.

²⁶ Every Child N.C., *The Leandro Plan Budget Impact Analysis Tool K-12* (Apr. 21, 2022), <https://everychildnc.org/leandro-impact-analysis-2/>.

Other funding measures also show the relative cost-efficiency of the Comprehensive Remedial Plan. In 2004, North Carolina dedicated 3.08 percent of its GDP to public schools. If this level of effort had been maintained, the total state spending on public education in 2020 would have been \$4.4 billion more than it was.²⁷ As the trial court found in the Order Following Remand, Funding Years 2 and 3 of the Comprehensive Remedial Plan would require \$785,106,248 of additional funding, more than \$3.6 billion below what it would have cost simply to maintain funding at 2004 levels. *See* 26 April 2022 Order (“April Order”) at 24.

The fact that State funding has decreased so much since 2004 means that, compared to the status quo, overall funding will increase if the Comprehensive Remedial Plan is implemented. Ultimately, however, the strength of the Comprehensive Remedial Plan is that, rather than providing overall amounts of education funding, it targets funding to education policy initiatives that have a proven track record of improving outcomes, particularly for at-risk student groups who have experienced the greatest constitutional violation.

In short, enforcing the Comprehensive Remedial Plan will not wholly eliminate the deficits between North Carolina and other states, but it will

²⁷ Calculations available in Appendix at xix.

enhance educational opportunities for students who graduate from North Carolina public schools and enable them to compete “on an equal basis with others in further formal education or gainful employment[.]” *See Leandro I*, 346 N.C. at 347, 488 S.E.2d at 255.

It is well past time to implement the Comprehensive Remedial Plan and vindicate the rights recognized in *Leandro* and found to be violated by State action and inaction in *Leandro II*. Instead of increasing funding levels to match needs and population growth, the State has decreased them. Unsurprisingly, North Carolina is trailing far behind the other states in its region (let alone the country). Children, especially those born in low-wealth counties, are being deprived of their constitutional rights. The State has both the ability and the urgent need to act now.

II. Adequately funding the Comprehensive Remedial Plan will improve outcomes, particularly for the at-risk student groups identified in *Leandro*.

The Comprehensive Remedial Plan is the result of significant, independent, non-partisan analysis of the particular programs that will work to improve outcomes for students, especially at-risk students. The Plan is grounded in data-driven, sound educational policy. It is not a blank check to any particular government agency. Instead, the Plan designates funds for specific purposes in specific years. The Justice Center has reviewed social science literature independent of the WestEd report and collaborated with

local communities across North Carolina separate and apart from the WestEd initiative. As a result, the Justice Center has concluded that the Comprehensive Remedial Plan is well-grounded in: (a) proven research-based strategies for education investments; and (b) support from parents, educators, and community leaders.

A. Valid, accepted, and comprehensive social science research guides the data-driven approach of the Comprehensive Remedial Plan.

The Comprehensive Remedial Plan relies on a large body of scholarly research about the impact of particular education policy initiatives on student outcomes. In addition, the WestEd researchers, in partnership with N.C. State University, conducted thirteen independent studies within North Carolina to determine the most effective solutions for the unique characteristics of North Carolina's school system. (R p 1349). Each of the eight years of the Plan calls for the completion of step-by-step tasks, and targets resources to those tasks.

Importantly, the portions of the Plan that the State has not yet funded (which are identified specifically in the April Order) are of particular importance to at-risk students. The unfunded Plan items include allocations targeting disadvantaged students, investments in teacher recruitment and retention, early education initiatives, and wrap-around services for at-risk students. Each of those steps is supported by unbiased research into what will *actually improve* student outcomes.

1. Increased school funding improves student outcomes, particularly for at-risk, disadvantaged students.

The Comprehensive Remedial Plan requires the State to incrementally increase funding to districts: (a) based on the number of economically disadvantaged students; and (b) to provide eligible counties supplemental funding equal to 110 percent of the statewide local revenue per student. These items for Years 2 and 3 of the Plan were not funded, at all, by the General Assembly in the budget.²⁸

The Comprehensive Remedial Plan also calls for the State to eliminate existing funding caps for children with disabilities and children with limited English proficiency, and increase support for districts for those students. These initiatives have largely been unfunded, with the exception of roughly 24 percent of the Plan's allotment for students with disabilities.²⁹

Educational reforms—whether court-mandated or otherwise—that increase per-pupil expenditures result in better outcomes for disadvantaged students.³⁰ This fact is largely uncontroverted and supported by a sizeable body of rigorous, empirical research. In other words, data shows that increasing resources for education actually works. Below are just a few examples:

²⁸ April Order, Exhibit A, III.B.ii.2 and III.B.ii.3.

²⁹ April Order Exhibit A, Parts III.b.ii.1 (students with disabilities) and III.b.ii.4 (Limited English Proficient students).

³⁰ Bruce D. Baker, Albert Shanker Inst., *Does Money Matter in Education?* (2d. ed 2016), <https://www.shankerinstitute.org/resource/does-money-matter-second-edition#:~:text=Yes.,some%20students%20than%20for%20others>.

- A 2014 study from the National Bureau of Economic Research followed children born between 1955 and 1985. Researchers compared district-specific changes in spending caused by court-mandated reforms in a wide variety of states across the United States. The study found that in school districts that saw a 20-percent increase in per-pupil spending each year during the 12 years when children attended school, children from poor families saw 0.9 more completed years of education, 25 percent higher earnings, and a reduction in the annual incidence of adult poverty by 20 percentage points.³¹
- A 2018 study concluded that court-mandated school finance reform had twice the impact per dollar as reductions in class sizes.³²
- A 2019 study of small districts in Texas that received additional state funding under that state's funding formula saw a statistically significant increase in test scores for every \$1,000 of additional

³¹ See C. Kirabo Jackson et al., *The Effect of School Finance Reforms on the Distribution of Spending, Academic Achievement and Adult Outcomes* (NBER Working Paper No. 20118, 2014), https://www.nber.org/system/files/working_papers/w20118/w20118.pdf.

³² Julien Lafortune et al., *School Finance Reform and the Distribution of Student Achievement*, *Am. Econ. J. Applied Econ.*, Apr. 2018, at 5.

revenue, as well as decreased drop-out rates and improvements in rates of graduation and college enrollment.³³

Even the most well-known critic of increasing school funding, Stanford University Professor Eric Hanushek, has acknowledged in recent years that targeting resources to specific objectives, as the Comprehensive Remedial Plan does, has been proven to have a positive impact on student outcomes, and that arguments that money is irrelevant to developing sound education policy are incorrect.³⁴

In summary, low-wealth communities face insurmountable economic barriers to provide educational opportunities to their students—even when they make extraordinary efforts to tax themselves much more than higher-wealth communities. Significant empirical evidence shows that funding *does* matter for disadvantaged students. Accordingly, targeting disadvantaged students for additional funding is a well-supported proposition that the Comprehensive Remedial Plan appropriately deploys.

³³ Daniel Kreisman & Matthew P. Steinberg, *The Effect of Increased Funding on Student Achievement: Evidence From Texas's Small District Adjustment 1* (EdWorkingPaper No. 19-58, May 2019), https://edworkingpapers.com/sites/default/files/ai19-58_v1.pdf.

³⁴ Daarel Burnette II, *Student Outcomes: Does More Money Really Matter?*, EducationWeek (June 4, 2019), <https://www.edweek.org/policy-politics/student-outcomes-does-more-money-really-matter/2019/06>.

2. Investing in teachers improves student outcomes.

Every person who learned from, and was inspired by, a good teacher understands intrinsically what it means to have that privilege. Empirical evidence unambiguously confirms that the caliber of teacher tremendously influences how much a student learns.³⁵ With respect to ensuring the constitutional minimum level of education, the central issue is what steps will provide enough high-caliber teachers in the schools that most need them. The Comprehensive Remedial Plan includes specific and deliberate items aimed at training, recruiting, and retaining teachers across the state.

Studies of North Carolina show that teachers prepared at in-state universities perform better than teachers trained at out-of-state universities or through lateral entry programs.³⁶ Therefore, the Comprehensive Remedial Plan invests resources in North Carolina in the profession itself by, among other things: (1) expanding recruitment programs; (2) supporting teacher preparation residency programs in high-need rural and urban districts; and

³⁵ See, e.g., Mona Mourshed et al., McKinsey & Company, *How to Improve Student Educational Outcomes: New Insights From Data Analytics* 8 (Sept. 22, 2017), <https://www.mckinsey.com/~/media/mckinsey/industries/public%20and%20social%20sector/our%20insights/how%20to%20improve%20student%20educational%20outcomes/how-to-improve-student-educational-outcomes-new-insights-from-data-analytics.pdf> (emphasizing the importance of teacher-directed instruction and its impact on student outcomes).

³⁶ Gary T. Henry et al., *The Effects of Teacher Entry Portals on Student Achievement*, 65 *J. Tchr. Educ.* 7, (2013), <https://journals.sagepub.com/doi/10.1177/0022487113503871>.

(3) implementing a statewide system to coordinate, enhance, and evaluate efforts to recruit, place, and retain teacher candidates and beginning teachers between institutions of higher education and school districts. Educational research is clear that these are the types of investments that could make a difference as to whether North Carolina students actually have access to quality teachers in their classrooms. Yet these investments in teachers are all items from the Comprehensive Remedial Plan that have not been funded by the General Assembly.³⁷

The other major initiative in the Comprehensive Remedial Plan is to increase wages for teachers and other instructional staff by five percent, in order to bring the salaries more in line with other states and other industries. The State has funded roughly 77 percent of this initiative for the first two years, significantly below what is needed. As a result, it will be more difficult to increase wages incrementally over the eight-year period anticipated by the Plan.³⁸ More and more academic literature supports the proposition that teachers' overall wages, as well as their wages relative to other professions in their geographic region, determine the quality of the individuals who choose to enter the profession and whether they stay in the profession.³⁹ Moreover, on the whole, research demonstrates that compensating teachers more leads to improvements in student outcomes. For example, one study

³⁷ April 2022 Order Exhibit A, Parts II.a.iii.3, I.a.ii.5, I.c.ii.1, I.k.ii.2.

³⁸ See April Order Exhibit A, Part III.e.ii.2.

³⁹ Baker, *supra*, at 15.

found that, after adjusting for labor market factors, raising teacher wages by 10 percent reduced high school dropout rates by three percent to four percent.⁴⁰

The Comprehensive Remedial Plan focuses on elevating the teaching profession in North Carolina by increasing compensation and through targeted initiatives to: (a) recruit and train talented educators within the state's universities; and (b) incentivize teachers to go into districts across the state that otherwise struggle to attract talent. These efforts will increase the number, quality, and equitable distribution of high quality teachers, which in turn will significantly impact the educational opportunities provided to children.

3. Early childhood support has long-term, positive impacts on the *Leandro* factors.

The Comprehensive Remedial Plan calls for the State to expand the pre-kindergarten program (which is only available to qualifying disadvantaged students) so that 75 percent of students who are eligible under the current criteria may attend (currently only 50 percent of eligible children can attend) and to increase staffing for early interventions for children with developmental delays.⁴¹ These steps come directly from independent academic studies conducted on North Carolina's own programs, yet the General Assembly has

⁴⁰ *Id.* (citing Susanna Loeb & Marianne Page, *Examining the Link Between Teacher Wages and Student Outcomes: The Importance of Alternative Labor Market Opportunities and Non-Pecuniary Variation*, 82 Rev. of Econ. and Stats. 393 (2000)).

⁴¹ April Order Exhibit A, Parts VI.A.ii.1 and VI.C.ii.1.

only made available \$1.7 million of the \$26.5 million estimated for the first year for pre-kindergarten expansion and zero dollars of the estimated \$7.7 million needed for early intervention for children with developmental delays.

Early intervention has lasting impacts on student outcomes. Today, social scientists largely concur that gains from preschool, particularly for children from economically disadvantaged households, can be enormous. While some earlier studies of preschool programs provided mixed results, the consensus now is that well-implemented pre-kindergarten programs support early learning gains, while also making a lasting impact on graduation rates and providing benefits that persist into adulthood.⁴² North Carolina's own programs have been studied extensively and found to improve school readiness and academic success in elementary school:

- North Carolina's "More at Four" program was studied for nine years after it was implemented, and found to have a large impact on language and literacy skills, and a moderate to large impact on math skills.⁴³

⁴² Beth Meloy et al., Learning Policy Inst., *Untangling the Evidence on Preschool Effectiveness* 7 (Jan. 2019), https://learningpolicyinstitute.org/sites/default/files/product-files/Untangling_Evidence_Preschool_Effectiveness_REPORT.pdf.

⁴³ Ellen S. Peisner-Feinberg & Jennifer M. Schaaf, UNC FPG Child Dev. Inst., *Evaluation of the North Carolina More at Four Pre-kindergarten Program* 3 (2011), https://fpg.unc.edu/sites/fpg.unc.edu/files/resource-files/MAF_Yr9_key_findings.pdf.

- The North Carolina Pre-K program has been shown to have a significant impact on participating students in math and executive functioning skills at the end of kindergarten as compared with similarly situated peers (though this study did not find a difference for language and literacy).⁴⁴
- The “More at Four” and “Smart Start” programs in North Carolina have been shown to decrease the need for special education interventions in the third grade due to the early interventions they provide.⁴⁵

The fact that a sound basic education has been denied to many North Carolina children for the last twenty years means that there are inevitably vast differences between the starting points for children. Children deprived of their fundamental educational rights are now adults raising their own children. Empirical research shows that working with young children to get them ready for school and provide them with the types of literacy and math supports that many of their peers have (at home or in private childcare) is

⁴⁴ Ellen S. Peisner-Feinberg et al., *NC Pre-K Program Evaluation Project, Effects of Participation in the North Carolina Pre-Kindergarten Program at the End of Kindergarten 2015–2016 Statewide Evaluation Executive Summary* (2017), <https://files.eric.ed.gov/fulltext/ED588071.pdf>.

⁴⁵ Clara G. Muschkin et al., *Impact of North Carolina’s Early Childhood Initiatives on Special Education Placements in Third Grade* (Nat’l Ctr. for Analysis of Longitudinal Data in Educ. Research, Working Paper No. 121, 2015), <http://www.caldercenter.org/sites/default/files/WP%20121.pdf>.

critical to ensuring that all students can successfully access educational offerings. Programs that already exist in North Carolina are quite successful at achieving these aims. The Comprehensive Remedial Plan needs to be funded fully so that these opportunities can be offered to more children.

4. Community and wrap-around supports for at-risk students are critical to educational success.

The Comprehensive Remedial Plan also restores opportunities for at-risk students by bolstering support outside of traditional classroom instruction. The Plan calls for resources and support to high-poverty schools that adopt a “community schools” model or other evidence-based model to address out-of-school barriers to learning. (R p 1475-78). The General Assembly has not funded this initiative.⁴⁶

Models leveraging wrap-around services and community-based supports have proven successful in keeping students in school and supporting their achievement. North Carolina implemented a turn-around model using community-based supports from 2009 to 2014 in its lowest-performing schools. Graduation rates and overall student achievement increased more on average than in other schools; proficiency on reading and language arts tests in elementary and middle schools also improved when compared to other low-performing schools.⁴⁷

⁴⁶ April Order Exhibit A, Part V.C.ii.1.

⁴⁷ Gary T. Henry et al., Consortium for Educ. Research and Evaluation—N.C., *Outcomes and Impacts of North Carolina’s Initiative to Turn Around the Lowest-Achieving Schools* (Sept. 2015), <https://www-data.fi.ncsu.edu/wp-content/uploads/>

One item in the Comprehensive Remedial Plan that the State has funded is the program for District and Regional Support Teams, which are also geared to providing additional supports in high-poverty districts. After four years of services from the District Support Teams, 83 percent of the 118 schools served improved their overall performance and no longer fall in the bottom five percent of schools.⁴⁸ District-level interventions produced statistically significant effects on both schoolwide growth and student achievement.⁴⁹ In short, the experience with Support Teams shows that supporting districts that approach the whole child with community-based, data-driven programs is effective.

The Comprehensive Remedial Plan would also pay for additional supports within school, including teacher assistants and counselors. A recent study of teacher assistants in North Carolina elementary schools over a period when those positions were cut (2001-2012) found that teacher assistants boost academic outcomes for students, most clearly in reading.⁵⁰ The Comprehensive

2021/10/25095413/Outcomes-and-Impacts-of-North-Carolinas-Initiative-to-Turn-Around-the-Lowest-Achieving-Schools.pdf [hereinafter Henry et al.].

⁴⁸ Nancy Barbour, Pub. Schs. of N.C., *Transforming Lowest Achieving Districts and Schools* (Jan. 27, 2016), <https://www.ncleg.gov/documentsites/committees/House2015-174/DPI%20Turnaround.pdf>.

⁴⁹ Henry et al., *supra*.

⁵⁰ Steven W. Hemelt et al., *Do Teacher Assistants Improve Student Outcomes? Evidence From School Funding Cutbacks in North Carolina*, 43 *Educ. Evaluation and*

Remedial Plan would increase funding for teacher assistants so that there is one teacher assistant for every 27 children in grades kindergarten to third grade. Again, the General Assembly did not fund this part of the Plan.⁵¹

Evidence also indicates that school counselors help students by reducing the frequency of disciplinary incidents, thereby limiting instructional interruptions,⁵² particularly for students of color and students from families with low incomes.⁵³ Counselors have also been found to improve academic outcomes for boys.⁵⁴ The Comprehensive Remedial Plan calls for increasing the numbers of counselors to meet the national guidelines (one per every 250 students), but only a portion of this initiative was funded.⁵⁵

* * * * *

Policy Analysis 280 (2021), <https://journals.sagepub.com/doi/pdf/10.3102/0162373721990361>.

⁵¹ April Order Exhibit A, Part III.c.iii.2.

⁵² Randall Reback, *Noninstructional Spending Improves Noncognitive Outcomes: Discontinuity Evidence From a Unique Elementary School Counselor Financing System*, American Education Finance Association, Spring 2010, <http://www.columbia.edu/~rr2165/pdfs/ALcounselors.pdf>.

⁵³ Scott E. Carrell & Susan A. Carrell, *Do Lower Student to Counselor Ratios Reduce School Disciplinary Problems?*, 5 Contributions to Econ. Analysis & Pol'y, Article 11 (2006), <http://faculty.econ.ucdavis.edu/faculty/scarrell/counselors2.pdf>.

⁵⁴ Scott E. Carrell, Mark Hoekstra, *Are school counselors an effective education input?* 125 Econ. Letters 66 (2014), <https://www.sciencedirect.com/science/article/abs/pii/S0165176514002766?via%3Dihub>.

⁵⁵ April Order, Part III.d.ii.1.

In summary, the Comprehensive Remedial Plan targets resources to specific actions to provide a sound basic education to the students who have been most deprived of that constitutionally commanded opportunity over the last two decades. The Plan adopts proven measures, supported by social science research, to comply with this Court's 2004 mandate that "the State must act to correct those deficiencies that were deemed by the trial court as contributing to the State's failure of providing a *Leandro*-comporting educational opportunity." *Leandro II*, 358 N.C. at 648, 599 S.E.2d at 396.

B. The Comprehensive Remedial Plan relies upon experience and feedback of the local communities that have long been denied a sound basic education for their children.

While WestEd is an independent, third-party organization based in California, the recommendations made (and ultimately adopted after careful review by the trial court) are entirely North Carolina-focused. The WestEd researchers conducted: (1) interviews with more than 60 public-sector leaders and stakeholders with in-depth knowledge of the education leadership landscape in North Carolina; (2) interviews with six staff members of the North Carolina Department of Public Instruction; (3) interviews with seven county-level administrators; and (4) focus groups with 50 local school district superintendents, 33 local school board members, and five (of the eight) Regional Education Service Alliance directors. (R pp 1353-54).

Separate and apart from the information gathered by the WestEd researchers to develop the Comprehensive Remedial Plan in the first instance, people who will

be impacted by changes in education policy contemplated by the Plan agree, nearly unanimously, that the steps adopted by the trial court are the correct steps to redress the State's constitutional violations.

The North Carolina Justice Center Education Law Project convened over 40 child-serving organizations across North Carolina to form the Every Child N.C. Coalition in 2019. Beginning in February 2020, the coalition conducted meetings with local participants to express their views on state policies to improve public schools for six student groups: students with disabilities, students in rural counties, families in early childhood education, students who are English-language learners, students affected by racial discrimination, and students from low-income households. The Coalition convened 39 events and hosted 911 participants in the sessions.

Overall, participants made over 100 policy recommendations. Many recommendations, such as expansion of community schools or funding instructional support personnel at recommended levels, were raised by multiple student groups. Of the participants' over 100 recommendations, only six recommendations were not already in the Comprehensive Remedial Plan.

Thus, acting entirely independently from WestEd, the trial court, or the Plaintiffs in this case, North Carolina's educators, parents, and leaders pointed to the very improvements required by the Comprehensive Remedial Plan—improvements that are backed by empirical data. Accordingly, this Court may

confidently conclude that the Comprehensive Remedial Plan is an appropriate, community-accepted remedy that deserves to be implemented and must be fully funded.

CONCLUSION

An entire generation of children has now been born and graduated from high school in a public education system that did not offer them the opportunity of a sound basic education. Despite the best efforts of the poorest counties in our state to provide good schools to their children and despite the best efforts of educators, parents, and local leaders alike to ensure that disadvantaged students have the opportunities the North Carolina Constitution affords them, the State has not fulfilled its own constitutional responsibility to North Carolina's future generations. State funding for public schools has not kept pace with growing costs, compensation for teachers has not kept pace with inflation, and North Carolina spends less per pupil than 47 other states in the United States.

The trial court considered the programs that would most effectively and efficiently correct the deficiencies based on empirical evidence, and then it outlined steps to take over the course of eight years. The trial court gave the General Assembly more than ample time to address the problem with no result. Funds are available to accomplish the Comprehensive Remedial Plan this year and in the coming years. It is past time to fulfill the State's duty to the people of North Carolina and the next generation.

For all of the foregoing reasons, amicus curiae North Carolina Justice Center respectfully requests that this Court affirm the Comprehensive Remedial Plan, ensure that it is adequately funded, and finally remedy the decades-long violation of the constitutional right of each North Carolina student to receive a sound basic education.

Respectfully submitted this the 18th day of July, 2022.

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This the 18th day of July, 2022.

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APPENDIX

<u>Organization</u>	<u>By and Through</u>
A Better Chance A Better Community (ABC2)	Chester B. Williams
A.J. Fletcher Foundation	Damon Circosta
Action4Equity	Kellie Easton
Adora NC	Julian Abreu
Advance Carolina	Jovita Lee
Alexander County Partnership for Children	Paula Cline
Alliance for Children	Linda F. Smith
American Association of University Women of North Carolina	Pat Ashe
American Civil Liberties Union of North Carolina	Daniel Bowes
Asheboro Latinx Services	Tanie Jimenez
Asheville City Schools Foundation	Copland Rudolph
BelleJAR Foundation	Gregory Payne
Book Harvest	Isabel Geffner
Brady Education Foundation	Elizabeth Pungello Bruno
Bridging the Gap with DMH	Danita Mason-Hogans

Burroughs Wellcome Fund	Alfred Mays
Carolina Jews for Justice	Abby Lublin
Catawba County Partnership for Children	Kim Holden
Charlotte East Language Academy Parent Teacher Association	Amy Hawn Nelson
CharlotteEAST	Greg Ascitutto
Chatham County Partnership for Children	Genevieve Megginson
Chatham County Schools	Dr. Anthony Jackson, Superintendent
Chatham Education Foundation	Jaime Detzi
Child Care Services Association	Marsha Basloe
Children & Youth Partnership for Dare County	Sara Sampson
Children First/Communities In Schools of Buncombe County	Greg Borom
Children's Council of Watauga County, Inc.	Elisha Childers
ChildTrust Foundation	Cyndi Soter O'Neil
Choice Not Chance	Angela Evans
Columbus County Partnership for Children	Selena Rowell
Community Conversations	Rebecca Trammel

Community Enrichment Organization	Byron Hall
Congregations for Children	David Rockefeller
Dancing On The Go, LLC	Courtney Jant
Disability Rights North Carolina	Reighlah Collins
Down East Partnership for Children	Henrietta Zalkind
Dudley Flood Center for Educational Equity & Opportunity	Deanna Townsend-Smith
Durham Public Schools Foundation	Magan Gonzales-Smith
Durham's Partnership for Children	Danielle Johnson
ECAC Exceptional Children's Assistance Center	Aimee Combs
Education Justice Alliance	Letha Muhammad
El Centro Hispano	Pilar Rocha-Goldberg
El Pueblo	Iliana Santillan
Empower All Incorporated	Valencia Hicks-Harris
Empowered Parents in Community	Toyia Williams
Empowering Ties LLC	Chandra Green
Episcopal Diocese of North Carolina	The Rt Rev. Anne E. Hodges-Copple

Equality NC	Rebby Kern
Family Childcare & Center Enrichment Foundation	Vantoinette Savage
Goodnight Educational Foundation	Ann Goodnight
Great Schools in Wake	Yevonne Brannon
Haitians Of The Triangle (HOTT)	HOTT
Harvesting Humanity LLC	Eboné M. Lockett M.S.Ed.
Hawthorne Villages	Va Boyle
Iredell County Partnership for Young Children	Lisa Familo
ISLA NC	Jenice Ramirez
Justicia y Esperanza	Carmen Rodriguez
Justine Can Do It, LLC	Justine A. Wayne, MSW, MSPH
KidSCOpe	Lara Kehle
Latino Educational Achievement Partnership (LEAP)	Leigh Bordley
LatinxED	Elaine Utin
League of Women Voters Charlotte Mecklenburg	Tom E. Bowers
League of Women Voters Lower Cape Fear	Elizabeth Anne Eitelman

League of Women Voters of North Carolina	Jo Nicholas
Legal Aid of North Carolina	Jennifer Story
Lenoir Greene Partnership for Children	Edward Chisolm
Love Our Children	Peter Rawitsch
Mary Magdalene Ministries	Geraldine Alshamy
Manpower Development Corporation (MDC)	Jenna Barnes
Michael & Karen Schley Foundation	Michael Schley
MomsRising NC	Beth Messersmith
Montford Park Players	John Russell
Montgomery County Partnership for Children, Inc.	Deborah S. Musika
Mujerxs Organizando Oportunidades Notables (MOON)	Griselda Alosno
National Black Child Development Institute-Charlotte	Devonya Govan-Hunt
NC ACCESS - Early Childhood Education Faculty Association	Cyndie Osborne
NC Black Alliance	Jovita Lee
NC Budget & Tax Center	Alexandra Forter Sirota
NC Child	Tiffany Gladney

NC Congress of Latino Organizations	Ivan Parra
NC Early Childhood Foundation	Muffy Grant
NC Early Education Coalition	Elaine Zukerman
NC Home Visiting & Parenting Education System	Rachael Burrello
NC Society of Hispanic Professionals	Rocio Anderson
New Beginnings Community Operations	Ernestine Ledbetter
New Rural Project	Cynthia L. Wallace
New Hanover County Educational Justice	Peter Rawitsch
North Carolina Association for the Education of Young Children	Susan Butler-Staub
North Carolina Association of Educators	Nicole Price
North Carolina Council of Churches	The Rev. Dr. Jennifer Copeland
North Carolina Families for School Testing Reform	Chelsea Bartel
North Carolina Partnership for Children	Safiyah Jackson
North of the River Association	Edward Carter
Orange County Partnership for Young Children	Robin Pulver
Organizing Against Racism: Cumberland County	Lisa Lofthouse

Partners for Children and Families, Inc.	Stuart L. Mills
Partnership for Children & Families	Kristy Arey
Partnership for Children of Cumberland County, Inc.	Mary Sonnenberg
Pastors for NC Children	The Rev. Suzanne Parker Miller
People's Alliance	Board of Directors
Phillip Boyle and Scottie Seawell, Leading and Governing Associates	Scottie Seawell
PSA: Public School Advocates, Moore County	Alexa Roberts
Public School Forum of North Carolina	Lauren Fox
Public Schools First NC	Yevonne Brannon
Quality Care	Kim Jant
Raikes Foundation	Fatima Gulamali
Randolph County Partnership for Children	Lisa Hayworth
Region A Partnership for Children	Janice M. Edgerton
Resilient Bladen at Bladen Smart Start	Tocarra Osborne
Richmond County Partnership for Children	Dr. Katrina Chance
Robeson County Partnership for Children	Jessica Lowery Clark

Rural Opportunity Institute	Vichi Jagannathan
Saint Andrews Presbyterian Raleigh	Rev. Dr. Thomas J. Watkins
Saint Francis United Methodist Advocates for Public Schools	Bill Stagner
Save Our Schools North Carolina	Susan Book
Seeds of HOPE cdc	Shalonda Regan
Smart Start of Brunswick County	Krista Campana
Smart Start of Mecklenburg County	Jake House
Smart Start of New Hanover County	Jane Morrow
Smart Start of Pender County, Inc.	Connie Carr-Costin
Smart Start of Transylvania County	Deborah Tibbetts
Smart Start Rowan	Amy Brown
Southern Education Foundation	Fred Jones
St. Francis Springs	Steve Swayne
Stokes Partnership for Children	Cindy Tuttle
Strategic Educational Alliances, Inc.	Thomas J. Williams
The Bullock Farm and Strategic Planning Committee	Jean Steverson

The Center for Racial Equity in Education (CREED)	Jerry J. Wilson
The Conway Family Fund	Sandra Wilcox Conway
The Halifax - Warren Smart Start Partnership for Children, Inc.	Magda Baligh
The Partnership for Children of Wayne County	Valerie Wallace
Think Babies™ NC Alliance	Elaine Zukerman
TNTP	Andy Smith
uCANcomplain, Inc.	Shirley Tang
Unitarian Universalist Justice Ministry of North Carolina	Rev. Lisa Garcia-Sampson
Village of Wisdom	William Jackson
Wake County PTA Council	Lisa Noelle Mead
Wake County Smart Start	Gayle E. Headen
WakeEd Partnership	Keith Poston
White Plains Children's Center	Nicole Butters
Wilkes Community Partnership For Children	Michelle Shepherd
Wilson County Partnership for Children	Dr. A. NaDene Tucker
Wulczyn Grants and German Translation	Heidi Wulczyn

Z. Smith Reynolds Foundation	Maurice “Mo” Green
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Calculations

The calculations presented in the amicus brief submitted by the North Carolina Justice Center were made by Kristopher Nordstrom, Senior Policy Analyst, based on public record data. The information below provides the bases for these calculations.

Calculation of Increased Costs versus Increased Funding

The increase in costs for enrollment, salaries, and benefits alone between 2004 and today totals \$4.6 billion, but the State has only increased funding for public schools by \$4.1 billion since 2004, leading to a shortfall of approximately \$500 million. This calculation is based on unpublished public data from the North Carolina Department of Public Instruction “teacher FTE by step and lane, 1% Sheet.” This analysis estimates the additional costs for enrollment, salaries, and benefits as follows:

Enrollment Increase	\$976,748,003
Salary Costs	\$1,782,971,610
Benefit Costs	\$1,804,624,408
Total	\$4,564,344,022

- Enrollment costs were estimated by multiplying the per-student state funding for public schools in 2004 (\$4,633) by the total change in public school enrollment between 2004 and 2022 (210,826 students).
- Salary costs were estimated by examining the number of full-time equivalent (FTE) teachers and instructional support personnel at every step and lane of the teacher salary schedule. The cost of the 2004 salary schedule was then compared to the cost of the 2022 salary schedule. Additional estimates for school-based administrators and noninstructional support personnel are based on comparing average salaries and number of FTE in each year.
- Benefit costs were estimated using DPI's 1% sheet. This worksheet calculates the cost of a 1% salary increase for school personnel based on position type, average salaries, FTE, and benefit costs. By substituting the 2004 benefit costs into this sheet, one can isolate the additional costs schools face due to the rising costs of benefits. Specifically, employer contributions for retirement increased from 5.77% to 22.89%. Per-employee health care contributions rose from \$2,518 to \$7,019.

Calculation of Teacher and Teacher Assistant Positions Funded per Student

The State is funding fewer teacher and teacher assistant positions on a per-student basis than it funded in the 2003-04 school year. Data from the North Carolina Department of Public Instruction’s “Highlights of the North Carolina Public School Budget” in 2004 and 2022 provide the following data, showing per-student decreases in the number of state-funded teachers and teacher assistants.

	2003-04	2021-22
State-Funded Teachers	76,314	81,116
State-Funded Teacher Assistants	21,053	14,226
Traditional Public School Students (Allotted ADM)	1,321,203	1,411,656
State-Funded Teachers per Student	0.058	0.057
State-Funded Teacher Assistants per Student	0.016	0.010

Calculation of Funding Effort Rankings in 2019-2020 School Year.

North Carolina ranks 50th out of 51 on “funding effort,” that is, the amount of spending on public education as compared with GDP of the state. The national average is 3.35 percent; North Carolina’s is 2.34 percent. South Carolina ranks 9th at 4.06 percent and Virginia ranks 37th at 3.08 percent. Funding effort is determined by comparing the amount of state and local revenue for public education in each state to the GDP of the state.

Data on states' gross domestic product ("GDP") comes from the U.S. Bureau of Economic Analysis (<https://www.bea.gov>). Specifically, this analysis uses table SAGDP1, Current-dollar GDP (millions of current dollars).

State public school revenue data is from the U.S. Census Bureau's Annual Survey of School System Finances. Specifically, this analysis sums each state's Revenue from State Sources (table 3), Revenue from Local Sources (table 4), and Federal Impact Aid (table 2) to determine total revenue for public schools.

Comparing each state's public school revenue for the 2019-20 school year against their GDP for the 2019 calendar year produces the following effort measurements for the 2019-20 school year:

State	19-20 Effort
Alabama	3.37%
Alaska	4.39%
Arizona	2.45%
Arkansas	3.85%
California	2.87%
Colorado	3.09%
Connecticut	4.01%
Delaware	3.02%
Florida	2.63%
Georgia	3.42%
Hawaii	3.44%
Idaho	3.13%
Illinois	4.10%
Indiana	3.25%
Iowa	3.55%

State	19-20 Effort
Montana	3.60%
Nebraska	3.44%
Nevada	2.67%
New Hampshire	3.69%
New Jersey	4.89%
New Mexico	3.93%
New York	4.19%
North Carolina	2.34%
North Dakota	3.00%
Ohio	3.40%
Oklahoma	3.18%
Oregon	3.50%
Pennsylvania	3.95%
Rhode Island	3.91%
South Carolina	4.06%

Kansas	3.82%	South Dakota	2.92%
Kentucky	3.61%	Tennessee	2.65%
Louisiana	3.05%	Texas	3.34%
Maine	4.30%	Utah	2.90%
Maryland	3.80%	Vermont	5.57%
Massachusetts	3.06%	Virginia	3.08%
Michigan	3.57%	Washington	3.18%
Minnesota	3.42%	West Virginia	4.17%
Mississippi	3.77%	Wisconsin	3.45%
Missouri	3.02%	Wyoming	4.32%

Calculation of Funds Required to Meet National Average Funding Effort in 2019-2020 School Year.

If North Carolina had met just the national average funding effort level in 2019-20 (the most recent year for which this calculation can be made), public schools in North Carolina would have received an additional \$6.0 billion in state funding.

Data on North Carolina's gross domestic product ("GDP") comes from the U.S. Bureau of Economic Analysis (<https://www.bea.gov>). School revenue data and population data come from the U.S. Census Bureau (<http://www.census.gov>). The calculation was made as follows: In 2019-20, North Carolina dedicated 2.34% of its GDP (\$595,655,400,000) to revenue for public schools (\$13,940,945,000). The weighted average state effort level that same year (weighted by state population) was 3.35%. If North Carolina had

dedicated 3.35% of its 2019 GDP to public schools, it would have provided revenue totaling \$19,959,311,243 or \$6,018,366,243 above actual funding levels.

Calculation of Funding for Limited English Proficient Students as Compared with Other States

North Carolina's limited English proficiency allotment has been roughly 50% less than the national average.

To conduct this calculation, North Carolina spending levels were determined from "Highlights of the North Carolina Public School Budget," published by the North Carolina Department of Public Instruction, as found at: <https://www.dpi.nc.gov/districts-schools/district-operations> Report to the NC General Assembly on State of Teaching /financial-and-business-services/demographics-and-finances/student-enrollment-school-personnel-and-reports. DPI provided limited English proficiency headcount data used to calculate supplemental funding for the 2020-21 school year. That year (October 2019 headcount), there were 125,528 students identified as having limited English proficiency. For the 2020-21 school year, the supplemental allotment for limited English proficiency totaled \$100,660,852. This equates to supplemental funding of \$802 per identified student.

In order to convert the supplemental amount provided for North Carolina students to an equivalent weight, the supplemental amount must be compared to a base funding amount provided to all students. DPI’s “Highlights of the North Carolina Public School Budget” for 2021 provides base funding amounts at various grade level spans (page 12). A singular base funding amount for all North Carolina public school students in the 2020-21 school year is determined by taking the weighted average of these base funding amounts based on enrollment in each grade level:

Grade	ADM	Base Funding
K	121,572	\$6,141
1	118,369	\$6,141
2	117,264	\$6,141
3	117,473	\$6,141
4	118,633	\$5,243
5	121,830	\$5,243
6	126,179	\$5,243
7	125,912	\$5,243
8	124,513	\$5,243
9	132,431	\$5,246
10	118,345	\$5,246
11	109,864	\$5,246
12	108,325	\$5,246
Weighted Average		\$5,517

Comparing the supplemental per-student funding (\$802) to the base funding amount (\$5,517) shows that in 2020-21, North Carolina provided the equivalent weight of 0.145.

To compare this figure nationally, the analysis available from the Education Commission of the State's 50-State review of supplemental funding for English language learners (available at: <https://www.ecs.org/50-state-comparison-english-learner-policies/>) identifies 21 states that provide supplemental funding for English language learners expressed in a weight. The average weight among these 21 states is 0.31, more than double North Carolina's weight equivalent of 0.145.

LEP Headcount	125,528
LEP Allotment	\$100,660,852
Supplemental funding per LEP Student	\$802
Base Funding Amount	\$5,517
Weighted Funding Equivalent	0.145

Calculation of Funding for Economically Disadvantaged Students as Compared with Other States

North Carolina's supplemental funding to districts based on additional low-income populations is roughly three times less than the 26 other states for which data is available.

The same methodology described for the Limited English Proficient funding was used to determine the weight equivalent of North Carolina's supplemental funding for at-risk students. The total supplemental funding in the at-risk and disadvantaged supplemental student funding (DSSF)

allotment totaled \$408 million in the 2020-21 school year. This equates to \$562 per economically-disadvantaged student.

Total ADM	1,560,710
Economically Disadvantaged Percent	47%
Economically Disadvantaged Students	725,730
At-Risk Allotment	\$307,174,412
DSSF Allotment	\$100,697,833
Total Funding for ED Students	\$407,872,245
Supplemental funding per LEP Student	\$562
Base Funding Amount	\$5,517
Weighted Funding Equivalent	0.102

Comparing this supplemental funding amount of \$562 to the base funding North Carolina provides on the basis of all students (\$5,517) shows that in 2020-21, North Carolina provided the equivalent weight of 0.102 for economically disadvantaged students.

To determine the comparison amount from national data, data was found in the Education Commission of the States 50 State Comparison: Funding for Students from Low-income Backgrounds (2021) (available at: <https://reports.ecs.org/comparisons/k-12-and-special-education-funding-06>).

The Education Commission of the State's 50-State review of supplemental funding for students from low-income backgrounds identifies 26 states that provide supplemental funding for low income students expressed in a weight. The average weight among these 26 states is 0.28, nearly three times North Carolina's weight equivalent of 0.10.

**Calculation of Amount Required to Maintain Funding Effort from
2004 to Present**

In 2004, North Carolina dedicated 3.08 percent of its GDP to public schools. If this level of effort had been maintained, the total state spending on public education in 2020 would have been \$4.4 billion more than it was.

GDP figures were drawn from the U.S. Bureau of Economic Analysis (<http://www.bea.gov>) and school funding and population levels were drawn from the U.S. Census Bureau (<http://www.census.gov>). The calculation was conducted as follows: If North Carolina had dedicated 3.08 percent of its 2019 GDP (\$595,655,400,000) to public schools for the 2019-20 school year, it would have provided revenue totaling \$18,358,274,258 or \$4,417,329,258 above actual funding levels of \$13,940,945,000.