

School Funding Showdown in North Carolina

The attached article was forwarded to the Coalition by Jan Osborn, Superintendent of Putnam County ESC. It will be interesting to know how this potential constitutional crisis in North Carolina plays out.

The NC Supreme Court in 2004 ruled that NC children have the fundamental right to the “opportunity to receive a sound, basic education.” The NC Legislature ignored the court.

Judge Could Issue Extraordinary NC School Spending Order

A North Carolina judge has scheduled a hearing this week that could conclude with him taking the extraordinary step of ordering \$1.7 billion be spent on addressing inequities in public education.

By GARY D. ROBERTSON, Associated Press

RALEIGH, N.C. (AP) — Approaching a potential constitutional confrontation, Democratic legislators and some lawyers say there's little choice left but for a North Carolina judge this week to take the extraordinary step of ordering \$1.7 billion be spent on addressing inequities in public education.

Superior Court Judge David Lee scheduled a Wednesday hearing in which he could direct state government to move money from its flush accounts — without General Assembly approval — to agencies that would carry out two years of a remedial spending plan he endorsed. Republicans controlling the legislature said he can't do that because only lawmakers can appropriate taxpayer dollars.

Lee, who's been tasked with monitoring the state's response to Supreme Court “Leandro” rulings, has suggested he has the authority when lawmakers have failed to act. In a 2004 ruling in the Leandro case, justices found that although North Carolina's children have a fundamental right to the “opportunity to receive a sound basic education” under the state constitution, the state had not lived up to that mandate.

“This case and the actions that the court will take this week are about more than our constitutional obligations. It is a moral obligation,” state Sen. Gladys Robinson, a Guilford County Democrat, told reporters Tuesday in an online news conference with colleagues and education advocates. “Republican legislators may say that they do not have to fund Leandro, but they should want to fund it because it is the right thing to do.” Leandro was the last name of an original plaintiff.

Lee accepted the remedial plan, based on an outside consultant's report and input from Democratic Gov. Roy Cooper and the State Board of Education, which calls for at least \$5.6 billion in new education funding by 2028.

The plan includes funding improvements to help low-income students and those with disabilities, hire more school support personnel, and offer higher pay to teachers, principals and assistant principals. The plan also focuses on improving teacher competency and expanding prekindergarten access.

The \$1.7 billion would address items through mid-2023, which Cooper proposed in his budget this year. The Senate and House approved competing state budgets that covered a small fraction of that amount. Lee warned in June that it would be his duty to “correct the wrong” if the two-year items weren't carried out. Weekslong negotiations between legislators and Cooper on a consensus budget appear nearly over.

Three weeks ago, Lee asked lawyers for local school boards and children that remain Leandro plaintiffs for a draft order that demands the \$1.7 billion be spent.

CC3017 Monday November 15, 2021

Their proposal, filed Nov. 1, would tell state finance leaders to move money to the Department of Public Instruction, University of North Carolina system and the Department of Health and Human Services. That order, however, would be delayed for 30 days from Lee's signature date, to give legislators time to appeal Lee's ruling. Lee could draw up a different order, however.

Attorney General Josh Stein's office, which is representing the state government defendants in court, wrote Lee on Monday saying any order wouldn't require new legislative action or new revenues because the constitution already demands the elements of a sound, basic education.

"The General Assembly's ongoing failure to heed that constitutional command leaves it to this court to give force to it," Senior Deputy Attorney General Amar Majmundar wrote on behalf of Stein, a Democrat.

Following advice from Stein's office would run counter to a state Supreme Court decision last year that affirmed "the power of the purse is the exclusive prerogative of the General Assembly" going back to the state's original constitution from 1776, according to Republican state Sen. Deanna Ballard of Watauga County, an education budget-writer.

Lee ordering the transfer of funds would be a clear violation of the constitution, House Speaker Tim Moore's office said.

"Any attempt to circumvent the legislature in this regard would amount to judicial misconduct and will be met with the strongest possible response," Moore, a Cleveland County Republican, said in a news release. He didn't elaborate.

Robinson and other Senate Democrats held an online news conference Tuesday as the liberal Progress NC Action committee released a report accumulating complaints from parents, educators and others about K-12 school shortcomings the group say could be addressed with more funding. The criticisms included low pay, teacher and bus driver shortages, a lack of supplies and dilapidated buildings.

Allies with Progress NC blame Republican tax cuts for anemic education spending over the past decade, but GOP leaders say their critics ignore marked spending increases that could have been larger had Cooper not vetoed spending bills in 2019.

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