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CASE NUMBER: S-25-0136

IN THE SUPREME COURT, STATE OF WYOMING

THE STATE OF WYOMING,

Appellant
(Defendant),

v.

WYOMING EDUCATION ASSOCIATION,
a Wyoming Nonprofit Membership Corporation,

Appellee
(Plaintiff),

Case No. S-25-0136

and

ALBANY COUNTY SCHOOL DISTRICT
NUMBER ONE, CAMPBELL COUNTY
SCHOOL DISTRICT NUMBER ONE, CARBON
COUNTY SCHOOL DISTRICT NUMBER ONE,
LARAMIE COUNTY SCHOOL DISTRICT
NUMBER ONE, LINCOLN COUNTY SCHOOL
DISTRICT NUMBER ONE, SWEETWATER
COUNTY SCHOOL DISTRICT NUMBER ONE,
SWEETWATER COUNTY SCHOOL DISTRICT
NUMBER TWO, and UINTA COUNTY SCHOOL
DISTRICT NUMBER ONE,

Appellees
(Intervening Plaintiffs).

BRIEF OF APPELLANT

Ryan Schelhaas # 6-3321
Chief Deputy Attorney General

Mark A. Klaassen #6-4511
Deputy Attorney General

Sean Towles #7-5992
Senior Assistant Attorney General

Wyoming Attorney General's Office
109 State Capitol
Cheyenne, WY 82002
(307) 777-7580

Timothy M. Stubson #6-3233
Mistee L. Elliott #6-3540

Crowley Fleck PLPP
111 West Second Street, Ste. 220
Casper, WY 82601
(307) 265-2279

ATTORNEYS FOR APPELLANT

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STATEMENT OF JURISDICTION

In August 2022, Appellee Wyoming Education Association (“WEA”) filed a complaint in the First Judicial District, Laramie County, asking the district court to declare the State in violation of the Wyoming Constitution for allegedly failing to appropriately fund public education. (R. at 1-71). Appellee school districts, Albany County No.1, Campbell County No. 1, Carbon County No. 1, Laramie County No. 1, Lincoln County No. 1, Sweetwater County No. 1, Sweetwater County No. 2, and Uinta County No. 1 (“Districts”) intervened in May 2023, filing a separate complaint seeking similar relief. (R. at 318-36).

After a bench trial in June 2024, the district court entered its findings of fact, conclusions of law, and order on February 26, 2025. (R. at 6436-621). This ruling is a final appealable order under Rule 1.05 of the Wyoming Rules of Appellate Procedure because it affects a substantial right, determined the merits of the case, and resolves all outstanding issues. *Miller v. Beyer*, 2014 WY 84, ¶ 20, 329 P.3d 956, 962 (Wyo. 2014). As required by Rule 2.01 of the Wyoming Rules of Appellate Procedure, the State of Wyoming filed a notice of appeal, within thirty days of entry of the final appealable order, on March 26, 2025. (R. at 6652-56). This Court therefore has jurisdiction under article 5, section 2 of the Wyoming Constitution.

STATEMENT OF THE ISSUES

- I. Did the district court err in applying the strict scrutiny standard to claims of inadequate operational funding where no wealth-based disparity is at issue?
- II. Did the district court err in finding the State has not complied with its obligation to adjust funding for inflation and denying legislative discretion to monitor cost pressures and cost estimates in deciding whether such adjustments are necessary?
- III. Did the district court err in requiring the legislature to fund whatever salaries school districts pay as the measure of “actual cost” and invalidating the use of objective, extrinsic economic indicators and benchmarks to estimate market-based salaries and generate total personnel resources?
- IV. Did the district court err in finding that the legislature’s current funding model is not cost-based?
- V. Did the district court err in finding that certain alleged “innovations,” including School Resource Officers (SROs) and school lunch subsidies, are required elements of the legislatively-determined education program?
- VI. Did the district court err in finding that the State must use a statewide assessment, rather than administrative processes, to monitor and address the “suitability” of school facilities?
- VII. Did the district court err in mandating additional funding for technology devices where this issue was not pleaded and the State did not consent to its addition to the case?

STATEMENT OF THE CASE

I. Nature of the Case

This appeal represents yet another chapter in the seemingly endless cycle of litigation over the constitutionality of school funding in Wyoming. Earlier school finance cases had the admirable goal of eliminating unjustified, wealth-based disparities between school districts, leading to the approval of a cost-based funding model system that has been in use for nearly two decades. The Wyoming legislature has adjusted the current model over the years to improve efficiency and more closely reflect cost estimates. Unhappy with these choices, school districts and their allies again resort to legal action, filing suit to force further adjustments and compel more spending.

The suggestion that Wyoming is somehow shortchanging or harming students through inadequate funding is a premise detached from reality. For decades, the legislature has provided funding more than sufficient to provide an equal and high-quality education for all students. Operational spending for Wyoming schools consistently ranks among the best in the nation. Expenditures vastly outpace every peer state in the region – in some instances by nearly twice as much per student each year. The idea that districts cannot educate children at this level of funding defies reason.

Despite this abundance, the demands of the education establishment remain insatiable. Rather than accept overall funding aligned with generous consultant cost estimates, they invoke the students' right to education as a lever to further enhance school

budgets. Appellees complain that operational funding has not been appropriately adjusted for inflation using external cost adjustments (ECAs). They demand increases to model salary estimates to reflect district expenditures, and new funding specific to elementary counselors, school resource officers (SROs), and subsidized school meals. They further allege the legislature is failing to provide facilities “suitable” for education.

The district court’s willingness to oblige these demands raises serious concerns about the basis on which courts may nullify the actions of a co-equal branch to declare a constitutional violation and effectively force more spending – particularly where estimates of cost involve margins for error and reasonable minds may differ over what is necessary to provide education. The courts are in no better position than lawmakers to substitute their judgment where the available evidence is often disputed, unclear, or imprecise. Courts should intervene to compel increased appropriations only where substantial, objective evidence clearly demonstrates measurable harm to students, inability to deliver some required aspect of the education program or meet state standards, or declining education quality. Appellees did not present such a case at trial.

Appellees did not retain a single outside expert to support their claims, and offered virtually no evidence of measurable harm or system-wide impacts from alleged underfunding. Their case consisted almost entirely of their own employees’ personal perspectives on recruiting challenges, tightening budgets, things they felt would be helpful to students, and policy preferences for increased school funding.

The State responded with verifiable data and analysis from economists and cost-model experts who assessed relevant markets and objective measures of adequate funding. This evidence included indicators of abundance in district budgets, sustained measures of quality, stable teacher retention rates, ample personnel resources, and multiple recent funding increases in response to cost pressures. Overall funding has exceeded or remained reasonably consistent with accepted cost estimates since at least 2005. All districts provide annual assurances that they are delivering the education program at current funding levels – the ultimate test of adequacy.

The State has also spent lavishly to address school facility needs, providing over \$5 billion to substantially renovate or replace more than 70% of all school facility square footage over the last twenty years. Recent appropriations have included hundreds of millions of dollars more. Current administrative processes are allowing the State to effectively and efficiently address facility suitability, including a process allowing districts to advise the State of any facility issues impeding their ability to provide education and obtain any needed remedies.

In reviewing this evidence, the district court afforded no deference to legislative decisions and applied a nearly impossible standard of “cost-based” precision. Instead of recognizing indicators of overall abundance, it picked apart numerous model components, allowing no flexibility for minor deviations to balance out and produce adequate funding overall. The court found any indication that estimates or adjustments did not precisely

reflect districts' purported needs sufficient to shift the burden to the State to justify every aspect of its model under the strictest form of constitutional review.

Relying on this unworkable standard of precision, the district court denied the State discretion to monitor cost pressure indicators that guide the application of ECAs and assure the continued alignment of funding and cost. The court's ruling effectively requires increases to model salary estimates that reflect district expenditures as the measure of "actual cost," despite a history of this approach leading to unjustified salary inflation. The order further directs increased spending on purported "innovations," based almost entirely on subjective preferences and opinions rather than objective data or analysis demonstrating need and effectiveness. Finally, the court found the State's administrative processes to address facility needs insufficient, requiring a statewide assessment as the exclusive means of addressing suitability despite the demonstrated inefficiency and unreliability of such a cumbersome approach.

The State requests this Court correct the legal assumptions and rationale that led to these orders, re-affirming and clarifying the legislature's prerogative to define the education program and reasonably estimate cost under a "good faith effort" standard.

II. Facts Relevant to the Issues Presented for Review.

The following facts address the issues raised in this appeal, with additional detail available in the State's proposed findings of fact and conclusions of law. (R. at 6236-429).

A. Legal Background

Article 1, section 23 of the Wyoming Constitution establishes “[t]he right of citizens to opportunities for education[,]” while Article 7 further outlines the State’s obligations and authorities to provide a system of public instruction. The contours of this right were mostly undefined for decades. The education system was funded predominantly through local taxes until 1980, when it was declared unconstitutional due to disparities in tax revenue available to different districts. *Washakie Cnty. Sch. Dist. No. 1 v. Herschler*, 606 P.2d 310, 319 (Wyo. 1980).

The legislature responded only partially to this ruling, leading to a series of further school finance decisions known as the *Campbell* cases.¹ In these rulings, this Court ordered the legislature to: (i) identify the “basket” of educational goods and services every child should receive; (ii) estimate the cost of providing that basket for all children; and (iii) provide school districts with adequate funding to meet that need. (Ex. C1 at 001283). In response, the State set educational standards and created a funding system for both school

¹ The *Campbell* cases, collectively, are: *Campbell Cnty. Sch. Dist. v. State*, 907 P.2d 1238 (Wyo. 1995) (*Campbell I*); *State v. Campbell Cnty. Sch. Dist.*, 2001 WY 19, 19 P.3d 518 (Wyo. 2001) (*Campbell II*); *State v. Campbell Cnty. Sch. Dist.*, 2001 WY 90, 32 P.3d 325 (Wyo. 2001) (*Campbell III*); *Campbell Cnty. Sch. Dist. v. State*, 2008 WY 2, 181 P.3d 43 (Wyo. 2008) (*Campbell IV*).

operations and school facilities. *See generally* Wyo. Stat. Ann. §§ 21-13-301 through -337 and §§ 21-15-101 through -123.

In 2008, this Court found the State’s funding system, as adjusted, constitutional. *Campbell IV*, 2008 WY 2, 181 P.3d 43 (Wyo. 2008). This case does not challenge the funding mechanisms or general operation of this approach, but is instead a dispute over whether the State remains in compliance with the court-approved process to adjust and update the legislative funding model over time. (R. at 321).

B. Overview of the Current School Finance System for Operations

The legislature uses an education resource block grant model (“legislative funding model”) to determine a guaranteed amount of funding to be made available for the operation of each school district. *See* Wyo. Stat. Ann. §§ 21-13-301(a)(v); 21-13-309; 21-13-101(a)(xiv); and associated spreadsheets and reports identified in Wyo. Stat. Ann. § 21-13-101(a)(xvii). The goal is to “identify the costs of providing the state’s basket of educational goods and services and then to provide each school district with adequate funds to provide that basket such that each student is given an equal opportunity to meet student performance standards.” (Ex. D1 at 001623). School funding must be adequate to deliver the prescribed education program and achieve state standards, and equitable in its allocation to account for cost differences among districts. (Ex. B1 at 000970). This cost-based standard requires the legislature to “come up with an estimate” of the funding needed that adjusts for each district’s varying costs. (Tr. at 3616-17).

Wyoming relies on a consultant-informed “resource cost model” to estimate cost. (Tr. at 3465). This model starts “with the end first,” by identifying policy objectives and then determining “what components may be necessary[.]” (Tr. at 3464:15-25). The “target is the delivery of the basket of [educational] goods [and services] ... and then some additional indicators of what might be considered a quality education.” (Tr. at 3465:16-19). Funding estimates are solely “driven by the inputs,” not any required outcome or performance measures. (Tr. at 3466:1-5). While many core components are understood to be necessary, education experts disagree “at the margins” about what must be included in a school funding model to provide the necessary education program. (Tr. at 3468).

The legislative funding model estimates cost by multiplying recommended resource quantities by reasonable estimates for the price of those resources. (Tr. at 2528-29, 3464; Exs. P8 at 019072, U8 at 019073). Price estimates are market-based, while legislative policy choices, guided by expert recommendations, determine resource quantities. (Ex. P8 at 019073). Prices for some funding model components can be more precisely estimated because they are “more readily seen in the open market,” but for less tangible resources “like teachers” estimating a “market clearing price” can be more difficult (Tr. at 3467:18-3468:13). Overall, this estimation process is not susceptible to precision and there is “going to be some margin of error around those estimates.” (Tr. at 3467:12-17). While each component must have a reasonable cost-basis for estimation, the ultimate objective is to provide an overall level of adequate funding. (Tr. at 3465:1-12). In general, district-specific

adjustments that tailor funding to reflect the characteristics of the schools, staff, and students of each district assures equitable funding. (Tr. at 40; Ex. L7 at 004965); *see* Wyo. Stat. Ann. § 21-13-309.

Labor is the most significant cost for districts. (Tr. at 81:15-20). The legislative funding model estimates the number of personnel needed and multiplies this amount by estimated “model salaries” to generate total personnel resources. (Tr. at 2370:8-21, 2403:8-10). Model salaries are adjusted to reflect specific characteristics of each districts’ workforce. (Tr. at 146-148; Ex. E1 at 002136, n.2). Model salary estimates are informed by a comparable professional wage index for Wyoming, as adjusted for differences in weeks of work compared to year-round employees. (Ex. E1 at 002328). In total, Wyoming districts do not expend all of the personnel resources available to them on personnel. (Ex. E3).

Once calculated, funding is allocated to districts primarily through a block grant. (Ex. C1 at 001259). Districts have flexibility and autonomy to expend block grant resources as necessary to deliver the education program and meet state standards. (Tr. at 749; Ex. C1 at 001259, 001266); *see* Wyo. Stat. Ann. § 21-9-101. Districts value this local role and acknowledge their choices may cause spending to differ from estimates. (Tr. at 2063-64).

To maintain cost-based funding and address changes in education over time, the legislative funding model is recalibrated at least once every five years. (Tr. at 2106:9-14, Ex. C1 at 001283); Wyo. Stat. Ann. § 21-13-309(t). Recalibrations engage consultants to

make recommendations and update estimated costs. (Tr. at 3328-29). Additional model adjustments maintain cost-based funding on an annual basis, including regional cost adjustments (RCAs) and external cost adjustments (ECAs). Wyo. Stat. Ann. §§ 21-13-309(m)(v)(C), 21-13-309(o). (Tr. at 2107-08; Ex. P8 at 019071).

RCAs adjust for location-based cost differences to provide all districts “effectively the same level of purchasing power” and “ability to deliver that basket of goods.” (Tr. at 3466:1-3467:5). RCAs adjust only the salary and wage components of the funding model. (Ex. T8 at 019210). Wyoming’s RCAs round every district with below average costs up to a minimum of the statewide average, resulting in a generous degree of overfunding of actual cost for more than half of districts. Wyo. Stat. Ann. § 21-13-309(m)(v)(C). (Tr. at 2129:25-2131:15; Exs. T8 at 019210, P8 at 019095).²

ECAs are used to adjust the model for inflation and cost pressures between recalibrations. Wyo. Stat. Ann. § 21-13-309(o). (Exs. D1 at 001724, 001913, E1 at 002330). Since 2012, Wyoming has used four separate indexes to guide ECA recommendations for the four major component categories within the funding model: (1) professional staff resources, (2) non-professional staff resources, (3) energy (utilities), and

² This systemic overfunding likely explains why Appellees do not challenge the current RCA methodology, even though it is the mechanism that would address their complaint that statewide averages do not capture unique, local labor market cost pressures.

(4) educational supplies and materials. (Tr. at 46-47; Exs. D1 at 001612, E1 at 002657, 002658, P8 at 019223, T8 at 019206, U8 at 019229).

Over time, misalignment between funding and cost may occur due to intentional policy choices, such as “cost plus” funding, or accumulation of estimation errors. (Tr. at 2198-99). Automatic ECAs would perpetuate this misalignment. (Tr. at 2184:8-14; 2134:22-2135:3). To address this misalignment, the legislature enacted a “monitoring process” following the 2010 recalibration to gauge cost pressures and assess the alignment of funding and cost when deciding whether ECAs are needed and in what amount. (Tr. at 3506-07; Exs. C1 at 001262-63, E1 at 002663); Wyo. Stat. Ann. § 21-13-309(u).

The monitoring process uses readily available state, regional, and national data to assess cost pressures. (Tr. at 2118, 2124, 2823-24; Ex. H1 at 000068-69, 000073, 000082; Ex. 2049 at 019491-92). It also incorporates the annual Continued Review of Education Resources in Wyoming report comparing categorical district expenditures to corresponding model estimates. (Exs. Q1 through B2). All of this information informs recommendations made by legislative committees and the Governor, from which the legislature decides what ECAs to apply for the following school year. (Ex. C1 at 001263, 001270, 001316); Wyo. Stat. Ann. §§ 21-13-309(u); 21-13-309(o).

C. School Funding Since *Campbell IV*

In *Campbell IV*, this Court held that school funding based on a resource cost model estimate developed and recalibrated by consultant Management Analysis & Planning

Associates, LLP (MAP) met all constitutional requirements. (Tr. at 3471-73; Ex. C1 at 001283). *Campbell IV*, ¶ 4, 181 P.3d at 48. During the 2005 recalibration, while *Campbell IV* was being litigated, the legislature switched from using the MAP model to the “Evidence-Based” (EB) model proposed by a different consultant, which called for a significant increase in resource levels. (Tr. at 3478-79; Exs. B1 at 000973, D1 at 001620, 001748, E1 at 002065); *Campbell IV*, ¶ 80, 181 P.3d at 67. The legislature has continued to use the EB model as a reference for estimating funding from SY2006-07 to present. (Tr. at 16-24; Ex. D1 at 001620).

The EB model was not a wholly new system, and “all of the components that are generally found in the MAP model can also ... be found in the evidence-based model.” (Tr. at 3477:17-3478:2). While using a similar framework, the EB model immediately exceeded the court-approved MAP model estimate of cost. (Ex. D1 at 001655). The EB model’s creators suggested large spending increases would significantly improve student performance, beyond simply delivering the basket of goods, if used to implement several “evidence based” interventions, including more teachers, tutors, and instructional facilitators. (Exs. B1 at 001162, D1 at 001628, 001753, 001755). The EB model was therefore “cost-plus” at inception, and intentionally more generous than necessary to deliver the prescribed education program. (Tr. at 3479, 3680-81).

The legislative funding model provided even more generous funding than the EB model recommendations, primarily due to a legislative policy choice to use smaller class

sizes than recommended in the EB model's calculations. (Exs. D1 at 001633, 001655, 001761, E1 at 002124). The legislature also chose to fund more elective teachers, career and technical teachers, and minimum teacher levels than the EB model. (Tr. at 3479-80; Ex. D1 at 001634, 001658, 001662, 001761-62). Further cost-plus funding resulted from using average actual district salaries to estimate labor costs. (Tr. at 3490, 3499-3500; Exs. D1 at 001719, 001902, E1 at 002324, C10). These policy choices immediately increased funding by \$2,934 per student from SY2005-06 to SY2006-07. (Tr. at 3485:9-23; Exs. D1 at 001621-22; 001749, D10). This funding level was sustained through ECAs for the next several years. (Ex. P1 at 006996).

The 2010 recalibration found that this large spending increase had caused funding to greatly exceed cost and produce unintended consequences. (Tr. at 3508-09; Ex. C1 at 001260, 001267, 001283). Districts did not use additional funds to hire as many new positions as the EB model recommended or further reduce class sizes, but instead they increased salaries at a rate well above any measure of inflation and far exceeding the national rate of increase. (Tr. at 1181:15-1182:25, 3500:24-3502:5, Exs. C1 at 001259, E1 at 002124, P1 at 7008, P10, P13). By SY2010-11, salaries "were 25 percent higher than the average salary in adjacent states." (See Tr. at 2846:10-23; Ex. G1 at 000003).

Wyoming teacher salaries approached 100% of comparable wages for year-round jobs, vastly exceeding that same comparison nationally and in peer states. (Ex. C1 at 001471-72). Experts found the "presence of no labor market pressures" and "nothing

observable that would suggest that [a salary increase] was necessary,” including no increase in turnover rates and no reduction in application rates. (Tr. at 3502:21-3504:1). The increase also did not improve teacher quality. (Tr. at 2820-21, 2835-36; Exs. C1 at 001260, D1 at 001962).

Based on such studies, the 2010 recalibration committee concluded average model salaries had risen above the market, were more than necessary to recruit and retain a highly qualified labor force, and therefore exceeded the cost-basis for delivering the basket of goods. (Exs. C1 at 001260, 1263, E1 at 002327). This finding caused the legislature to abandon reliance on district salaries to recalibrate labor cost. (Tr. at 3507-08; Ex. C1 at 001458). Instead, the “price” of model salaries would be evaluated using labor market data and comparative benchmarks. (Exs. D1 at 001719, 001905, E1 at 002327).

Intentional overfunding also did not correlate to improved student performance. (Exs. D1 at 001751, E1 at 002068). National Assessment of Education Progress testing, which documents trends over time, showed no meaningful improvement for Wyoming students relative to national performance in the years following the 2005 recalibration. (Exs. D1 at 001621, 001628, 001755, 001757, E1 at 002066, L10, M10).

In 2010, funding exceeded the EB consultants’ cost-based recommendation by \$104.1 million per year. (Ex. C1 at 001267). Mandating ECAs from that period forward would only have sustained this margin of excess. (Tr. at 3510:23-3511:12). The legislature could have immediately cut above-market model salaries and other funding down to EB

model estimates in 2010, but instead “adopted the approach of holding funding constant, allowing inflationary pressures on the cost-basis to cause a convergence with the funding level over time.” (Ex. C1 at 001263). The monitoring process would be used to gauge this convergence and watch for indicators of cost pressure. (*Id.*; Ex. P1 at 006995) Wyo. Stat. Ann. § 21-13-309(u). Meanwhile, the EB model was adjusted annually to assure it remained a valid estimate for comparison. (Ex. P1 at 006998).

From SY2010-11 to SY2013-14, no ECAs were applied to the legislative funding model, based on consultant advice that forgoing an ECA “[w]hen there was reason to believe that funding exceeded the market” would be a “viable option” to allow funding and cost estimates to converge. (Tr. at 2134:5-17; 2106:3-5; 2108:5-10, 2129:7-13, 2198:4-8; Exs. P1 at 006996-006997, P8 at 019111). Recalibration consultants advised “that because of current ‘over’ funding, the [legislative funding] model could remain adequate and cost-based in the near future without additional [ECAs].” (Ex. C1 at 001286-87).

In following years, the legislature was repeatedly advised that “the appropriate use of any or all of the recommended ECAs depends on the extent to which existing funding levels were appropriate to begin with” because “[i]f the baseline price estimates overstate actual costs for one or more of the funding components, then applying an ECA to those funding components would simply perpetuate that overfunding.” (Exs. D1 at 002048, U8 at 019228). Thus, when funding exceeds cost, “the most appropriate policy response could be to forgo applying an ECA to those funding components until costs and funding

converge[.]” (Tr. at 2184, 2134-35; Exs. D1 at 002056, E1 at 002663, T8 at 019208, U8 at 019228).

The 2015 recalibration saw funding continue to exceed cost estimates, and consultants recommended the State carry on its monitoring process to determine when to apply ECAs, if funding was not immediately reduced to the EB model estimate. (Ex. D1 at 001725). District salaries from 2010 were identified as an unreliable baseline for ECAs because they were “above the market.” (Tr. at 2125:19-22). Consultants advised the State to use current labor market data and salary benchmarks to evaluate model salaries, rather than focusing on whether model salaries have been appropriately “inflated” from the 2005 levels. (Ex. D1 at 001720, 001903, 001960-002008). A labor market economist analyzed model and actual salaries, recommending Wyoming maintain its model salaries, adjusted as necessary by the monitoring process, because “[m]odel salaries, both unadjusted and relative to the salaries of comparative workers are the highest in the region and in the top third of the nation.” (Exs. D1 at 001777, 001962, E1 at 002324).

The 2020 recalibration again found no concerning indicators of cost pressures on teacher salaries, which remained strong “particularly when you look at how they compare to the salaries of other workers in the state[.]” (Tr. at 2839:2-10; Ex. E1 at 002666, 002689). Consultants again recommended using market-based benchmarks for model salaries, and proposed a target of 75% of comparable Wyoming wages to reflect work time differences compared to year-round workers. (Ex. E1 at 002328). While model teacher salaries had

fallen compared to other states and comparable professions, they were still reasonably consistent with the proposed 75% target and at the midpoint compared to teacher salaries in regional peer states. (*Id.*).

Actual average teacher salaries in Wyoming had been maintained at much higher levels for several years, near the top of teacher salaries in regional peer states and at 85% of comparable Wyoming wages. (*Id.*). Districts paid these higher salaries by employing fewer teachers than calculated in the legislative model – a consistent pattern since the MAP era. (Exs. N10, P3, R3). This consistent approach led consultants to conclude recalibration to actual salaries would not increase staffing, but would simply “give Wyoming the same education system it has today but at a higher cost.” (Ex. E1 at 002328).

The use of benchmarks and market indicators to guide ECAs, rather than actual salaries, had the intended effect of largely holding model salaries steady from 2010 through 2022. (Ex. P1 at 006996-99). Even so, Wyoming remained top among its peers in personnel spending per pupil. (Tr. at 2400-03). Other expenditure categories also remained consistent, indicating districts were not shifting resources from other categories to fund salaries. (Tr. at 2437-38, 3517:10-18; Exs. A11, Q9). Statewide, districts actually underspend the total personnel resources calculated by the legislative model, even as they pay salaries higher than the model estimate. (Ex. E3).

Overall funding remained above the EB model estimate from SY2006-07 until at least SY2019-20, excepting a meager dip of \$1.3 million, or 0.089%, below the EB model

in SY2018-19. (Exs. E1 at 002070, P1 at 006998-99). During this period of cost-plus funding, the monitoring process revealed no cost pressures on salary levels, as ample total personnel funding sustained higher salaries at districts' chosen staffing levels. (Tr. at 2828, 2866, 2839, 3509:25-3510:1; Exs. G1 at 000002, 000024, H1 at 000187, I1 at 000273-274, J1 at 000468-69, K1 at 000543-54, L1 at 000623, M1 at 000732-33). From SY2011-12 to SY2019-20, teacher salaries remained competitive and compared favorably to peer states and other professions. (Tr. at 2628-31; Exs. D1 at 001962, G1 at 000002-03, 000006, H1 at 000087, I1 at 000255, J1 at 000468, K1 at 000543, L1 at 000623, P1 at 007010). Teacher exit rates in 2021 were similar to the previous ten years. (Exs. N1 at 000815, S4, T4). Exit rates for other personnel were consistent through 2019, with only a slight uptick beginning in 2020. (Ex. T11).

Exit rates for new teachers increased slightly in 2021, and model salaries fell below the regional peer state average for the first time in the economic upheaval following the COVID-19 pandemic, but these indicators were not consistently observed until 2022. (Exs. N1 at 000815, O1 at 004224, L9). District witnesses confirmed recruiting and hiring difficulties emerged only in the last few years, reflecting national labor market trends. (Tr. at 781:25-782:25; Ex. N9). The legislature responded to the consistent cost pressures appearing in 2022 by enacting personnel ECAs for SY2023-24 that accounted for the cost pressures seen in both 2021 and 2022. (Ex. P1 at 006996-99).

These adjustments have allowed districts to maintain competitive salaries. (Tr. at 3512:10-17; Ex. U10). When adjusted for differences in regional cost, actual teacher salaries in Wyoming for SY2022-23 were higher than the national average and exceeded all regional peer states by more than \$3,000. (Tr. at 3513:9-22; Ex. U10).

At the time of trial, the legislative funding model had provided school districts with approximately \$800 million in cost-plus funding over the preceding seventeen years, exceeding the EB model estimate by more than \$47 million per year on average. (Ex. M2). The small negative differential emerging after the 2020 recalibration was largely due to a legislative policy choice to continue following past consultant recommendations, rather than more recent ones, for elementary counselors, tutors, and aides. (Ex. E1 at 002088, 002090). The following table compares legislative model funding to the EB model cost estimate since its inception in SY2006-07.

School Year	Evidence-Based Model	Legislative Funding Model	Difference (Amount)	Difference (Percentage)
2006-07	\$974,384,621	\$1,043,521,790	\$69,137,169	107.1%
2007-08	\$1,051,584,249	\$1,126,991,003	\$75,406,754	107.2%
2008-09	\$1,114,929,855	\$1,198,670,825	\$83,740,970	107.5%
2009-10	\$1,166,146,943	\$1,252,956,891	\$86,809,948	107.4%
2010-11	\$1,206,491,760	\$1,283,409,749	\$76,917,989	106.4%
2011-12	\$1,242,191,617	\$1,345,435,177	\$103,243,560	108.3%
2012-13	\$1,282,008,100	\$1,377,282,350	\$95,274,250	107.4%
2013-14	\$1,302,879,403	\$1,390,441,588	\$87,562,185	106.7%
2014-15	\$1,343,025,593	\$1,429,884,730	\$86,859,138	106.5%
2015-16	\$1,402,355,064	\$1,494,415,878	\$92,060,814	106.6%
2016-17	\$1,470,805,562	\$1,512,344,463	\$41,538,901	102.8%
2017-18	\$1,479,161,966	\$1,482,064,347	\$2,902,381	100.2%

2018-19	\$1,486,769,970	\$1,485,451,914	(\$1,318,056)	99.9%
2019-20	\$1,499,154,266	\$1,502,947,423	\$3,793,157	100.3%
2020-21	\$1,546,670,691	\$1,526,001,914	(\$20,668,777)	98.7%
2021-22	\$1,551,518,014	\$1,521,736,834	(\$29,781,180)	98.1%
2022-23	\$1,558,799,161	\$1,505,031,482	(\$53,767,679)	96.6%

(See Ex. P1 at 006999).

Multiple indicators of labor cost pressures emerged for the first time in 2023. (Tr. at 2847:16-24; Ex. P1 at 007010). The legislature again responded by enacting personnel ECAs for SY2024-25. 2024 Wyo. Sess. Laws ch. 118, § 205. Due to these ECAs, actual funding for SY2024-25 fell below the EB model estimate by only \$25 million, a variance of less than 1.5%. (Tr. at 122:8-24, 3350:2-21).

This Court may take judicial notice that in the 2025 Legislative Session, the legislature adopted cumulative, sustained personnel ECAs for SY2025-26 that exceeded recommendations for inflationary effects, as well as the recommended non-personnel ECAs. 2025 Wyo. Sess. Laws ch. 140, § 3; *see Campbell IV*, ¶ 23, 181 P.3d at 53 (taking judicial notice of legislative enactments). The combined impact increases funding by an estimated \$66.3 million, all but eliminating the gap between the legislative funding model and the EB model estimate.³

³ Picus Odden & Associates, 2025 Desk Audit of the Wyoming K-12 Public School Funding Model, (Apr. 18, 2025) <https://wyoleg.gov/InterimCommittee/2025/SSR-202506172025WYDeskAuditFINAL.pdf>

All of this funding has consistently sustained the measures of education quality identified by this Court. Wyoming has high curriculum standards and meaningful systems of assessment, with many districts offering programs that exceed state standards. (Tr. at 577:9-17, 997:25-998:19; Ex. E1 at 002068-69). Despite districts hiring less staff than calculated in the funding model, Wyoming class sizes are smaller and pupil/teacher ratios remain lower than in peer states. (R. at 6292, ¶¶ 298-304). Student performance has remained consistent, with stable graduation rates and slight improvements in college and career readiness. (R. at 6293-95, ¶¶ 308-25). As part of the State's accreditation system, all districts annually attest to their ability to deliver all aspects of the required education program. (R. at 6295-98, ¶¶ 326-40). These sustained measures of quality are largely undisputed. (*See generally* R. at 6291-98, ¶¶ 296-340).

School funding since *Campbell IV* has also produced indicators of abundance. Funding per student far exceeds any regional peer state and stands near the top of national averages. (R. at 6278, ¶¶ 194-95). Funding growth has outpaced inflation and is consistently high across all categories of expenditures. (R. at 6278-79, ¶¶ 196-201). Districts have enough funding to spend on enhancements and activities beyond the required education program, sustain or increase staffing levels despite widespread declining enrollments, accumulate reserves they often invest to generate further revenue, and grow the balance of their general funds as well as a multitude of reserve funds. (R. at 6283-91,

¶¶ 228-95). These indicators of abundance are also largely unrefuted. (*See generally* R. at 6278-91, ¶¶ 193-295).

D. School Resource Officers (SROs)

The district court required the legislature to fund SROs for every district. (R. at 6620). Some districts choose to use various funds on SROs, while others do not. (Tr. at 1895:24-1896:8; Ex. D1 at 001926). In districts that use SROs, the number, distribution across schools, and contract terms vary widely. (Tr. at 733, 794, 1051-52, 1854-55).

To support their claims, Appellees relied on testimony from district personnel who opined that SROs are helpful or felt they were necessary, but offered no analysis or independent expert opinion to support the purported need for law enforcement in schools. (*See e.g.*, Tr. at 730-34, 958, 1856-58, 2018-20). Appellees also offered no data showing increasing school violence in Wyoming or establishing how much SRO funding would be necessary.

Consultants have never recommended funding for security personnel. (Tr. at 130, 3443). The 2015 recalibration consultants found SRO funding unnecessary because law enforcement agencies estimate the number of officers needed based on population of the jurisdiction, including children. Thus, when children are in school, proper resource deployment should meet the safety needs of students. (Exs. D1 at 001782, 001923, 001928, E1 at 002354). The legislature follows this recommendation, providing no funding specific to SROs. (Ex. D1 at 001923).

SROs are just one means of providing safe schools. (Tr. at 3444-45, 3566). The State has already made additional funding available to secure schools through physical site security upgrades. (Tr. at 1669-71, 3445:17-20, 3454). Districts were allowed to use major maintenance funds on further security upgrades for three consecutive biennia. (Tr. at 3445:21-24). School districts may use any of their major maintenance funds to maintain or upgrade existing security features. (Tr. at 1673-74); 2025 Wyo. Sess. Laws ch. 12, § 2.

This funding has allowed Wyoming schools to implement many security upgrades, including secure vestibules and perimeters, security cameras, alarms and computerized locks on doors, two-way radio systems, key fob access, and visitor management systems. (Tr. at 319, 995-96, 1102-04, 1897, 1917-19, 1953-54). Other security measures include statutory authorization for school personnel to carry firearms and associated funding for training. (Tr. at 731-32, 734-36, 797-98); Wyo. Stat. Ann. § 21-3-132; 2024 Wyo. Sess. Laws ch. 117, §§ 1-4.

The State's retained expert provided the only testimony examining recent research on SRO effectiveness and found "mixed results." (Tr. at 3453:17-3454:1). Some research indicates SROs may be slightly detrimental to student performance. (Tr. at 3455:2-15, 3456:1-17, 3458:2-3461:15, 3458-91; Ex. E1 at 002360-61). Other research found slight increases in crime reporting in schools with SROs, and a greater likelihood that students charged with a minor crime will have their academic progress and performance slowed. (Ex. E1 at 002360). "Some schools across the nation ... are moving away from the use of

SROs and [] no research concluded that SROs are an essential security measure for all schools.” (Tr. at 3462:14-3463:3). Review of available studies showed “mixed” conclusions not consistently “supportive of [SROs’] inclusion and their necessity in delivering the basket of goods and inclusion into the block grant model.” (Tr. at 3461:16-3462:7).

E. School Meal Programs

The district court created a novel right to state-subsidized school meal programs. (R. at 6620). Districts have never been legally required to provide meals to students. With the exception of a few small rural and charter schools, all districts voluntarily offer some type of meal program either through participation in federal nutrition programs or operating without federal subsidies. (Tr. at 2641-43, 2646-50; Ex. Z4 at 007065-66).

The legislature follows consultant recommendations in providing no additional funding for school meal programs, with the goal of encouraging self-supporting enterprises. (Exs. D1 at 001699, 001953, E1 at 002294). Legislative consultants have repeatedly advised against subsidies because they “create[] a number of disincentives for school districts to search for market prices for meals or to operate efficiently” when providing a service that “consistently pays for itself in districts throughout the country[.]” (Exs. B1 at 001071, C1 at 001316, D1 at 001882, E1 at 002297).

Districts control the operation of meal programs, which vary greatly across the State. (Tr. at 2674:4-14). Districts make different decisions about staffing levels, delivery

models, types and preparation of food, and prices for paid meals. (Tr. at 2665-66; Ex. E1 at 002297). Some are able to operate self-sustaining meal programs without transfers from their general fund, while others make transfers into their food service account in varying amounts. (Tr. at 2652-53, 2660; Ex. Z4 at 007065-66). A few districts transfer substantially more than necessary to cover operating costs, accumulating excess balances in their food service accounts that are invested to earn interest. (Tr. at 127-29, 1285-91; Exs. 2257, N13 at 22, 73 (native numbering)).

The U.S. Department of Agriculture (USDA) annually recommends paid meal prices intended to reflect an amount sufficient to cover operating costs for districts receiving federal subsidies. (Tr. at 2664-70; Ex. Z4 at 007067). In SY2023-24, only two Wyoming districts charged paid meal prices at or above the USDA recommended price. (Tr. at 1291-92, 148:10-149:8, 2667-71; *Compare* Ex. Z4 at 007067, *with* Ex. X4 at 007051-52). Many Wyoming districts are also not regularly adjusting prices to cover costs, instead setting prices based on their perceptions of what is affordable. (Tr. at 93:21-94:15, 1291-1292).

The Districts identified no studies that estimated demand elasticities for meal programs or the impact of pricing on revenue. (Ex. D1 at 001877, 001955). A district witness stated that he believed price increases would negatively impact program participation, but had not studied and did not know the effects of increasing prices. (Tr. at 148:10-149:5). The Wyoming Department of Education (WDE) head of nutritional

services, who has experience operating school meal programs in Colorado, Wyoming, and Texas, explained that school meal programs should be run like a business, using various cost saving measures and periodic price adjustments that, in her experience, do not affect long-term demand. (Tr. at 2666-67, 2670, 2673-74, 2702).

F. Addressing Suitability of School Facilities

In addition to funding school operations, the State must ensure the “adequacy” of school facilities, which includes consideration of a facility’s condition, capacity, and suitability. *See generally Campbell III*, 2001 WY 90, 32 P.3d at 325 (Wyo. 2001). The State has a system of agencies to assist with this function, currently consisting of the School Facilities Commission (“the Commission” or SFC) and the School Facilities Division (“the Division”) of the State Construction Department. *See* Wyo. Stat. Ann. §§ 21-15-113 through -123. These agencies use a variety of assessments, data collections, and other administrative processes to identify facility issues and needs. *See Id.*

Facilities identified as having a condition, capacity, or suitability issue are subject to a Most Cost-Effective Remedy (“MCER”) study. *Rules, Wyo. State Constr. Dep’t, Sch. Facilities Comm’n*, ch. 8, § 5 (May 9, 2024). The purpose of a MCER study is to investigate remedies to serve a district’s needs in the most cost-effective manner. *See* Wyo. Stat. Ann. § 21-15-117(b). The SFC uses the MCER study to recommend a remedy and estimate its cost. *Rules, Wyo. State Constr. Dep’t, Sch. Facilities Comm’n*, ch. 8, §§ 5-6 (May 9, 2024). The SFC recommendations are forwarded to the Governor and a legislative committee as

part of an annual budget request. *See* Wyo. Stat. Ann. § 21-15-119; (R. at 9-53, 323-28). The legislature ultimately decides what remedies to fund.

Since 2006, the State has invested over \$5 billion into school facilities, including roughly \$200 million each year on average for major maintenance, component projects, and capital expenditures combined. (Exs. B6, D6, E6). Over that period, the State has built or substantially renovated 208 educational facilities, representing more than 70% of the educational square footage statewide. (Exs. Q6, R6). This amounts to more than one new or renovated building completed every month for nearly two decades. (*Id.*).

Funding has been made available to address the facilities Appellees used as examples of the State’s alleged failures. Rock Springs High School, Campbell County High School, and two Laramie County No. 1 elementary schools received appropriations for new replacement facilities over the last several legislative sessions. (Tr. at 338, 1961); 2024 Wyo. Sess. Laws ch. 118, § 313; 2025 Wyo. Sess. Laws ch. 118, § 1.

The specific issue presented on appeal is the validity of the State’s approach to addressing facility suitability and the district court’s mandate for a statewide suitability assessment. (R. at 6620). Suitability is generally defined as the “ability of the facility to support the delivery of an instructional program.” (Tr. at 3425:24-3426:8). While there is “wide consensus” on the meaning of suitability at a “conceptual level,” the validity and reliability of suitability assessments are hindered by subjectivity and “dependent on what types of programs are being delivered in the space that [is] being evaluated,” and can be

“affected by changes in use of space over time.” (Tr. at 3431:6-3433:7). If “core concepts like what instructional program is being delivered ... becomes a variable, then the reliability of an assessment comes into question because that same building, in a cynical sense, could be suitable one year and very next year not suitable, given a change of instructional programs.” (Tr. at 3433:13-3434:2).

One of the State’s experts described concerns about the uniformity of past suitability assessments arising from a lack of consensus on what components should be included and their relative weighting. (Tr. at 3584-86). Weighting is the “relative sense of the importance of one component versus another” set through “negotiation” with stakeholders. (Tr. at 3434:3-3435:3). Differences among raters, “known as inter-rater reliability,” must also be controlled to ensure “one assessor would go out and see one thing and another assessor would see essentially the same thing.” (Tr. at 3435:9-12).

Challenges with statewide suitability assessment were echoed by other witnesses. The State Construction Director stated “the definition of suitability[] it’s not necessarily a black and white definition in the industry.” (Tr. at 1629:1-11). He testified about concerns over the uniformity of statewide suitability assessments caused by “different views amongst the folks that [he] talked to as to really what was suitable.” (Tr. at 1711:18-1712:19). He “[w]ent out and looked and ... couldn’t find a national standard on suitability[,]” nor was there “a consensus even among [school districts in Wyoming] as to what their own priorities were[.]” (Tr. at 1712:20-21; 1713:2-9).

The State's expert on facility assessments described national standards for K-12 facilities that include discussion of a "functionality assessment," also referred to as suitability. (Tr. at 3005:6-12). But these standards recognize "[t]he information-gathering process is delicate because of the challenge to distinguish justifiable needs identified by space users that are potential 'real' capital projects versus personal preference for unrealistic goals." (Ex. A12 at 9 (no page numbers in document)). Functionality assessments are typically limited to certain areas of a facility and are user-driven, which makes it challenging to consistently assess a large portfolio of buildings. (Tr. at 3005-06).

District witnesses also had no clear sense of how to assess suitability. When asked how to determine whether an existing building is suitable, one district witness simply asserted that suitability "becomes apparent." (Tr. at 267:7-11). He could offer no opinion as to uniform suitability standards, but instead provided examples of things he personally felt were unsuitable. (Tr. at 267-69).

Over the years, the State has attempted various methods to assess suitability, but has struggled to measure this elusive concept in a manner that was objective, uniform, and acceptable to districts. Suitability assessments by MGT of America (MGT) in the early 2000s were abandoned in 2006-07 because MGT was not transparent about its methodology. (Tr. at 3424:7-3425:23). MGT showed "variability" in scoring, with Rock Springs High School's score bouncing from 82 to 95 to 91 (out of 100) over 8 years, as an example. (Tr. at 3601-02). "MGT was not able to explain why the differences in the

variation in a given school in a very short period of time,” and “[b]ecause they were unwilling to open up their assessment and address those issues over what might be considered inter-rater reliability, ultimately, the decision makers made the decision to move on from MGT of America.” (*Id.* at 3602:4-10).

The State then tried to develop an alternative methodology, piloting a suitability assessment that was never utilized because “as the scores began to come in, there were disagreements on how much different components would be weighted within the ... assessment.” (Tr. at 3427:4-3428:16). The methodology failed because “there [was not] enough spread in the ... assessments,” and the State “[could not] differentiate that much of a difference between the top scoring building and the lowest scoring building. ... [M]ost all the buildings came back suitable, according to this assessment, so ... it did [not] provide additional information for any kind of project prioritization.” (Tr. at 3592:17-3593:5). This effort “confirmed some of the troubles that are always associated with doing an assessment like this, which is some of the subjectivity associated with assigning weights, how exactly you’re going to assess suitability.” (Tr. at 3428:17-23).

In 2012 and 2016 the State assessed certain aspects of suitability such as air quality, illumination, and technology readiness. (Ex. 1063 at 9-16 (native numbering)). Those results were also not used to prioritize projects because districts “did not want to use that particular score,” and instead just wanted to “use that information to inform [condition] remedies.” (Tr. at 1694:6-18, 3594:6-3595:20). Finally, after years of failed attempts to

solve the issues with statewide suitability assessments, in 2021 the legislature removed the requirement to formally conduct these assessments. 2021 Wyo. Sess. Laws ch. 131, § 1 (Tr. at 3575).

The State currently uses administrative processes, guided by statute, to monitor and address suitability on a case-by-case basis. (Tr. at 3436:1-3442:15). These processes rely in part on the State's uniform adequacy standards, which provide a general baseline for gauging whether an existing facility is capable of delivering the education program. (Tr. at 1708). "[T]he adequacy standards try to address what a building should have in it to be able to ... meet its requirements on the WDE requirements for programming." (Tr. at 1596:25-1597:8).

These standards address a number of suitability concepts, including accessibility, the state of building systems, telecommunications systems, and school security. (Tr. at 1697). The standards are expressed in general terms because "to become very prescriptive about what a classroom must look like would necessarily diminish the flexibility that any particular school district may see in a particular space." (Tr. at 3437:11-21).

Suitability is also addressed as facilities are remediated for any reason, during which districts have considerable say in designing facilities suited to their needs. (Tr. at 1662-65). Regardless of the triggering issue, MCER studies are required to "take more of a holistic view" of a building's needs. (Tr. at 1715:6-17). "[W]hen a MCER study is commissioned, issues of suitability and other issues [are] incorporated into that analysis." (Tr. at 3582:22-

24). The “facility planning process” is another “collaborative process ... [that] takes place annually,” where “[s]chool districts and the Division look at ... the dispositions of the particular buildings, what are the student enrollment trends, where might future remedies begin to take place, and as those remedies begin to take shape, what issues of suitability might also be included in those remedies.” (Tr. at 3438:8-24; Tr. at 3575:25-3576:3).

If districts believe these routine processes are not capturing suitability issues in existing buildings, a separate administrative process is available under SFC Rules, ch. 3, § 8. (Tr. at 3439-40). *Rules, Wyo. State Constr. Dep’t, Sch. Facilities Comm’n*, ch. 3, § 8. This rule allows districts to bring to the Division, and then to the Commission, any concerns they may have that their facilities are inhibiting the delivery of the education program, which are then investigated by the Division. (Tr. at 1704-05) *Rules, Wyo. State Constr. Dep’t, Sch. Facilities Comm’n*, ch. 3, § 8. At the time of trial, six requests for review under this relatively new rule had resulted in five MCER studies being ordered. (Tr. at 1551-53). Remedies have been recommended for funding through this process. (Tr. at 1714).

III. Relevant Procedural History

The WEA filed its complaint on August 18, 2022. (R. at 1-71). The State filed a motion to dismiss that was granted in part and denied in part, dismissing demands for punitive damages and attorney’s fees. (R. at 259-60). The Districts intervened and filed their complaint on May 11, 2023. (R. at 318-36).

The State filed a motion seeking a ruling on which parties would have the burden of proof on May 17, 2023. (R. at 343-63). The district court ruled on this motion on July 31, 2023, placing the burden of production and persuasion on Appellees to demonstrate harm, but applying strict scrutiny to all claims. (R. at 471-79). The State and the Districts filed cross motions for partial summary judgment on February 16, 2024. (R. at 1354-58, 1851-54). The district court denied both motions on May 1, 2024. (R. at 5554-69).

The district court held a bench trial from June 3, 2024 through June 26, 2024. (*See* Tr. at 1-3785). The district court entered its findings of fact, conclusions of law, and order on February 26, 2025, granting effectively all of Appellees' requests for relief. (R. at 6436-621). The State filed its notice of appeal on March 26, 2025. (R. at 6652-56).

IV. Rulings Presented for Review

In the order presented for review, the district court declared the State has failed to maintain a constitutionally compliant school finance system. (R. at 6618-19). The court concluded the current legislative model is not cost-based because not all components of the model have a reasonable basis for estimation. (*Id.* at 6592-94). The court found the model improperly overfunds and underfunds various components in ways that require districts to adjust to meet varying needs. (*Id.*).

The district court also concluded that the legislature is not properly adjusting its model for the effects of inflation. (*Id.* at 6618-19). The court reasoned that such adjustments must be made as a matter of course each year regardless of the alignment of funding and

cost, and allowed no consideration of cost pressure indicators obtained through the legislature's monitoring process. (*Id.* at 6582-85).

Next, the district court concluded the legislature is not using model salary estimates that reflect the cost for districts to recruit and retain qualified personnel. (*Id.* at 6618, 6620). The court directed that model salaries must reflect "actual cost," a standard that suggests the measure of adequacy is determined by district expenditures. (*Id.* at 6586-91).

The district court further concluded the State must provide funding for several alleged innovations, including elementary-level mental health counselors, SROs, nutritional programs, and computers for every student. (*Id.* at 6618, 6620). The court ordered these changes based largely on district employees' opinions and preferences, concluding that these components have become innovations necessary to deliver a modern education. (*Id.* at 6569-6604).

Finally, the district court determined the State is not properly assessing school facilities for educational suitability. (*Id.* at 6618, 6620). The court concluded that the State's use of administrative processes to address suitability is unacceptable due to a potential for inconsistent and arbitrary results. (*Id.* at 6605-09). The court insisted that only a statewide assessment would suffice.⁴ (*Id.* at 6609).

⁴ The court also ruled that the legislature has allowed unequal and inadequate school facilities to exist for too long. (R. at 6612, 6620). While the State does not appeal this issue,

The district court ordered the State to modify the legislative funding model and the school facilities funding system consistent with its ruling on all of these issues. (*Id.* at 6620). The court retained jurisdiction until the constitutional violations have been remedied to its satisfaction. (*Id.*).

ARGUMENT

I. Standard of Review

Appellees allege the Wyoming school funding system for operations and facilities, as reflected in statutes and rules, fails to satisfy the constitutional right to education. “The question of whether a statute is constitutional is a question of law over which this Court exercises *de novo* review.” *Vaughn v. State*, 2017 WY 29, ¶ 7, 391 P.3d 1086, 1091 (Wyo. 2017) (quoting *Kammerer v. State*, 2014 WY 50, ¶ 5, 322 P.3d 827, 830 (Wyo. 2014)).

All but one of the legal issues the State raises in this appeal are subject to *de novo* review. *Aimone v. Aimone*, 2023 WY 43, ¶ 19, 529 P.3d 35, 41 (Wyo. 2023); *Campbell II*, ¶ 41, 19 P.3d at 531; *Campbell IV*, ¶ 10, 181 P.3d at 49. The decision to add an unpleaded issue and order changes to technology device ratios (Section VIII) is subject to review for

it disagrees with this conclusion. One need only look at school facilities across the state and examine the history of spending, including recent funding for major new projects, to appreciate the legislature’s generous commitment of resources to ensure adequate facilities for Wyoming students.

abuse of discretion. *Gould v. Ochsner*, 2015 WY 101, ¶ 39, 354 P.3d 965, 977 (Wyo. 2015).

The “touchstone inquiry in determining whether a court abused its discretion is whether the trial court could have reasonably concluded as it did.” *Id.* (internal quotations omitted).

II. The district court erred in applying the strict scrutiny standard to claims of inadequate operational funding where no wealth-based disparity is at issue.

In deciding the merits, the district court failed from the outset to distinguish the differing constitutional tests applicable to claims of equity versus claims of adequacy. The court wrongly assumed that any challenge involving the right to education is subject to strict scrutiny. (R. at 6575-76). This approach negates the important presumption of constitutionality of legislative enactments where disparities among districts are not at issue. *Campbell IV*, ¶ 13, 181 P.3d at 50.

“Courts have a duty to uphold the constitutionality of statutes which the legislature has enacted if that is at all possible, and any doubt must be resolved in favor of constitutionality.” *Washakie*, 606 P.2d at 319 (citing *Witzenburger v. State*, 575 P.2d 1100, 1112 (Wyo. 1978); *Lund v. Schrader*, 492 P.2d 202, 206 (Wyo. 1971)). Thus, in the ordinary case, a plaintiff challenging legislative action bears the “heavy” burden of proving claims by “clearly and exactly show[ing] the unconstitutionality beyond any reasonable doubt.” *Hardison v. State*, 2022 WY 45, ¶ 5, 507 P.3d 36, 39 (Wyo. 2022) (citing *Michael v. Hertzler*, 900 P.2d 1144, 1146 (Wyo. 1995) (quoting *Miller v. City of Laramie*, 880 P.2d 594, 597 (Wyo. 1994)); see also *Powers v. State*, 2014 WY 15, ¶ 7, 318 P.3d 300, 303 (Wyo. 2014); *Bienz v. Bd. of Cnty. Comm’rs, Cnty. of Albany*, 2024 WY 102, ¶ 25, 556

P.3d 227, 236 (Wyo. 2024). In the equal protection context, this presumption of constitutionality is only “inverted” when the interest “involves a fundamental right or a suspect class.” *Hardison*, ¶ 5, 507 P.3d at 30.

The district court did not apply the usual deferential standard, instead relying on statements from *Campbell I* and *Campbell II* that courts are to “review any legislative school financing reform with strict scrutiny” and that “all aspects of the school finance system are subject to strict scrutiny[.]” *Campbell I*, 907 P.2d at 1267; *Campbell II*, ¶ 42, 19 P.3d at 535 (R. at 6575). These seemingly broad pronouncements, when taken in context, are actually limited to aspects of the school funding system involving demonstrated disparities giving rise to equal protection analysis.

Campbell I is entirely focused on “the evil [of] disparate spending, caused by the arbitrary and irrational devices employed in [school funding] distribution” creating “unjustifiable disparity and denial of equal educational opportunity.” *Campbell I*, 907 P.2d at 1250, 1263. *Campbell II* continued to scrutinize equity claims, but sows some confusion as it also addresses challenges to the adequacy of funding for the first time. However, even in that case, application of the strict scrutiny standard was plainly triggered by disparities, with the Court explaining the education funding system “withstands the test of strict scrutiny only if, **when a disparity in funding is proven**, [the State] can prove that a compelling state interest justifies the disparity[.]” *Campbell II*, ¶ 45, 19 P.3d at 536 (emphasis added). When understood in context, these cases limit application of strict

scrutiny to proven claims of unjustified funding disparities among districts, not to claims of overall adequacy and the reasonableness of cost estimates.

If any confusion remained, this Court explicitly clarified the applicable constitutional test in *Campbell IV*, holding that strict scrutiny is limited to “state action resulting in a wealth-based disparity in public education” not to claims challenging adequacy. *Campbell IV*, ¶ 11, 181 P.3d at 49. The *Campbell IV* Court explained that

[s]ome of the challengers seem to contend that strict scrutiny (used to determine if a classification denies equal protection of the law) should be applied to determine whether the modifications adopted by the state resulted in what the challengers deem to be **inadequate funding** for public education. This argument is not supported by any authority and **misconstrues the strict scrutiny test**.

Campbell IV, ¶ 13, 181 P.3d at 50 (emphasis added). Strict scrutiny is limited to questions about whether funding reflects differing costs among districts “as closely as could reasonably be expected[,]” to avoid disparities that would “invoke the equal protection provisions of our constitution,” not to claims that state action has resulted in what challengers may allege is “inadequate funding.” *Id.*

The claims in this case are plainly focused on the adequacy of funding rather than whether the State is fairly distributing funding to avoid unjustified disparities between districts. (R. at 66-70, 322-28, 5828-31). They therefore do not raise equal protection concerns. *Campbell IV*, ¶ 38, 181 P.3d at 56 (differences in funding based on what “the state has determined a particular component should cost, and not on wealth,” raises no equal protection issue). The presumption of constitutionality remains and Appellees must

bear the heavy burden to “clearly and exactly show the unconstitutionality beyond any reasonable doubt.” *Hardison*, ¶ 5, 507 P.3d at 39.

The district court’s use of strict scrutiny to override legislative decisions as to the adequacy of funding is not only a misreading of precedent, but also illogical. For strict scrutiny to apply, there must be some “financial disparity” or other “disparity in funding” among similarly situated persons – a classification causing disparate treatment that may be subject to an equal protection analysis. *Campbell I*, 907 P.2d at 1266; *Campbell II*, ¶ 45, 19 P.3d at 536. Without an identified “disparity,” this Court has no way to consider whether the classification at issue is necessary to achieve a compelling state interest or is narrowly tailored and the least restrictive means of doing so. *Washakie* 606 P.2d at 333 (setting forth the strict scrutiny standard).

Applying different legal standards to equity and adequacy claims makes sense because they arise from different types of rights. The right to education encompasses both a “negative right” to be free from state action that discriminates between similarly situated persons, and a “positive right” to compel government spending for education. *See* Jeffrey Omar Usman, *Constitutional Rights in State Constitutions*, 73 Alb. L. Rev. 1459, 1462 (2010). The negative right to equal protection implicates strict scrutiny using the familiar framework for claims of discrimination involving fundamental rights. *Hardison*, ¶ 6, 507 P.3d at 39. This approach works where alleged discrimination creates disparities the State

must justify without the usual presumption of validity. *See Washakie* 606 P.2d at 333; *Campbell I*, 907 P.2d at 1236 (applying strict scrutiny to the issue of “disparate spending”).

Adequacy claims invoke a positive right to compel funding for all. The negative right standard of strict scrutiny cannot be logically applied to such a claim. Adequacy claims do not allege the legislature has acted impermissibly in creating disparities between districts, but rather that it has failed to provide enough for any of them. Asking whether the State has a compelling interest in allocating the challenged level of funding based on its estimate of cost, much less whether such funding is narrowly tailored to achieve that interest, makes no sense. This approach “misconstrues the strict scrutiny test” and provides no meaningful way to resolve adequacy claims. *See Campbell IV*, ¶ 13, 181 P.3d at 50.

The negative and positive aspects of the right to education also have different implications for the separation of powers. *See Wyo. Const. art. 2, § 1*. Enforcing the negative right to equitable funding leads to orders stopping or modifying some state action, which do not substantially invade other express legislative prerogatives. *See e.g., Washakie*, 606 P.2d at 316 (determining challengers’ equitable rights and status under the constitution to a “relatively uniform amount of money” and “an equal educational opportunity” without ordering appropriations).

Enforcing the positive right to adequate funding effectively mandates more spending, and thus invade the legislature’s exclusive taxing and appropriations powers far more directly. *Wyo. Const. art. 1, § 28; art. 3, § 35; Campbell IV* at ¶79, 181 P.3d at 67

(refusing strict scrutiny for adequacy challenges and noting “it is the legislature’s duty and prerogative to ... assure sufficient funding is provided to allow the districts to achieve [state education] standards”). Compelling such spending through the courts is a severe remedy, justifiable only where the evidence is strong enough to overcome the usual presumption of constitutional validity beyond a reasonable doubt. *Hardison*, ¶ 5, 507 P.3d 36, 39.

This Court has emphasized reasonableness and “good faith effort” as the touchstones for reviewing the adequacy of funding. *Campbell IV*, ¶ 79, 181 P.3d at 67. In *Campbell IV*, this Court emphasized that alleged deficiencies must go beyond marginal disagreements, and must be of a magnitude demonstrating “**measurable impact** on the state-wide quality of education.” *Campbell IV*, ¶ 31, 181 P.3d at 55 (emphasis added). This ruling was rightly focused on avoiding continued litigation over the minutiae of model formulas. It explains that while the legislature has a “duty ... to assure sufficient funding is provided ... **perfection is not required** or expected,” and all that is necessary is “a **good faith effort** to preserve and protect our constitution’s commitment to a sound public education system[.]” *Id.* ¶ 79, 181 P.3d at 67 (emphasis added).

Deference to reasonable, good faith legislative efforts is a vital recognition of the judicial restraint necessary to avoid courts simply substituting their judgment for that of elected lawmakers when defining education and estimating cost. In *Campbell IV*, this Court recognized the need for reasonably accurate cost estimates, but ultimately assessed overall adequacy by examining whether districts are achieving state standards and sustaining the

“state-wide quality of education.” *Campbell IV*, ¶¶ 31, 79, 181 P.3d at 55, 67. Limiting review of adequacy claims in this way, and requiring plaintiffs to overcome the usual presumption of constitutionality, respects the separation of powers while ensuring the legislature has reasonably applied its discretion in estimating cost. *See Id.*, ¶ 76, 181 P.3d at 66 (recognizing “the legislature’s role to determine what a ‘proper’ education would be for the children of Wyoming,” and that the standard is met “[s]o long as the process seeks to provide a quality education in a uniform and equal fashion”).

Applying this deference does not allow the legislature to arbitrarily underfund education. The courts have a meaningful role in enforcing constitutional obligations, including assuring the adequacy of funding. *Id.*, ¶ 65, 181 P.3d at 64 (recognizing the role of the court is “to judge whether the results achieved accurately reflects the cost of education”). But they should do so with restraint. If a plaintiff overcomes the presumption of validity by clearly demonstrating factors such as measurable harm to students, negative impacts to the statewide quality of education, or that districts cannot meet state standards or deliver education, then the courts would have the authority to step in and require the State to reexamine funding levels. *Id.*, ¶¶ 75-76, 181 P.3d at 66 (describing measures of adequacy and reviewing to assure the legislative process seeks to provide defined elements of a quality education). This more circumspect approach was not applied here. The district court immediately removed any presumption of validity or deference to legislative action. (R. at 6575-76).

Appellees' invocation of equal protection is not sufficient to trigger strict scrutiny. The substance of their claims is entirely about adequacy – demanding compliance to assure sufficient funding to adjust for inflation, reflect costs for salaries, and provide funding for other components. (R. at 9, 66-69, 322-28).

While the Districts assert equal protection, they allege no actual systematic disparities among districts as to operational funding. (R. at 320, 322). They simply ask this Court to conclude that “price increases erode the purchasing power of School Districts and leave them unable to deliver an equal opportunity to a quality education.” (R. at 322). It is unclear how such alleged reduced purchasing power (which would presumably affect all districts) is creating inequality or wealth-based disparities between them. *See Campbell IV*, ¶ 38, 181 P.3d at 56 (explaining that “[i]f the difference in funding between districts is based upon what the state has determined a particular component should cost, and not on wealth, then an equal protection issue is not raised” and strict scrutiny does not apply).

The WEA makes a somewhat more detailed, but likewise insufficient, effort to invoke strict scrutiny by alleging that insufficient operational funding forces districts to make different “cuts, compromises, and reductions[,]” resulting in educational disparities. (R. at 44). Even if Appellees had attempted to prove this allegation at trial, which they did not, the underlying adequacy of funding remains the primary and controlling issue. Any purported disparities are merely a follow-on effect of district decisions that are entirely dependent on an initial showing of inadequate funding. To reach the question of whether

funding levels are “resulting” in alleged disparities that force districts to make differing choices about expenditures, a court must first decide the primary issue – whether funding overall is, in fact, inadequate. (*Id.*) This case is therefore fundamentally about adequacy and reasonableness of cost estimates, and the more deferential standard applies.

Appellees’ frequent refrain that courts must assure the best education possible to satisfy this fundamental right misreads precedent and does not justify the district court’s lack of deference. (R. at 8, 323). In *Campbell IV*, this Court cautioned that prior opinions “characterizing our constitutional standard as requiring ‘visionary and unsurpassed’ education, and ‘the best that we can do’ did not invest the districts with the sole authority to determine what level of funding was required.” *Campbell IV*, ¶¶ 14-15, 76, 181 P.3d at 50-51, 66. Such statements do not require the legislature “to provide funding and facilities for whatever programs each district chooses to offer.” *Id.* at ¶ 15, 181 P.3d at 51.

Where the funding mechanisms of the legislative model are otherwise equitably distributing resources, which Appellees do not dispute or attempt to disprove, this Court must respect reasonable legislative decisions about how much school spending is enough. “[T]he constitution imposes on the *legislature* the obligation to determine the kind of education Wyoming’s children will be afforded,” and the courts’ role is merely to “protect against a failure of the state to fund a system capable of meeting state standards.” *Campbell IV*, ¶ 15, 181 P.3d at 51 (*italics in original*). The legislature’s decisions should be presumed constitutional unless substantial, reliable, and objective evidence proves a failure to make

a good faith effort to estimate cost that is measurably impacting the statewide quality of education. *Campbell IV*, ¶¶ 31, 79, 181 P.3d at 55, 67.

The district court's misapplication of strict scrutiny to adequacy claims entirely distorts its consideration of the evidence and does not afford the necessary deference to legislative prerogatives through a presumption of constitutionality. This Court should reverse and remand as necessary for reconsideration all claims concerning operational funding under the appropriate constitutional standard.

III. The district court erred in finding the State has not complied with its obligation to adjust funding for inflation and denying legislative discretion to monitor cost pressures and cost estimates in deciding whether such adjustments are necessary.

The district court concluded the State is not funding the actual cost of education because it has failed to adjust the legislative funding model for inflation using ECAs. (R. at 6585). In doing so, the court found the monitoring process unreliable as a means of informing the need for adjustment. (R. at 6582). The court's rationale suggests funding must be adjusted annually regardless of the relationship between funding and cost or indicators of cost pressures, effectively mandating automatic, non-discretionary inflationary adjustments using fixed indexes. (R. at 6582-83, 6585, 6619).

The State concedes that periodic ECAs are necessary to address inflation where school funding is accurately reflecting cost, but that correlation is not always assured. The legislature must retain discretion to monitor the alignment of funding and cost to inform

the need for an ECA. Removing this discretion imposes an inflexible standard that undermines rather than promotes cost-based funding.

This Court's prior mandates for inflationary adjustment were expressly conditioned on the State's continued reliance on "historic costs," with adjustment to take place "every two years at a minimum, ... to account for inflation that will occur in the interim between recalibrations." *Campbell IV*, ¶ 67, 181 P.3d at 64. This Court imposed no fixed index but merely directed that "methods of adjustment ... should be 'structured to assure the quality of education remains adequate.'" *Id.* (citation omitted).

This process is flexible, and "leaving the decision regarding inflation adjustments in the hands of the legislature each year" is not itself "objectionable." *Campbell IV*, ¶ 71, 181 P.3d at 65. Consideration of the surrounding circumstances is expected, and "[t]he amount of the adjustments required would, obviously, depend on timing and economic conditions." *Campbell IV*, ¶ 67, 181 P.3d at 64. The legislature is afforded "discretion to determine how to make the necessary adjustments," and the ultimate purpose is not to blindly inflate a prior baseline but to "assure education funding continues to adequately support the actual cost of education." *Campbell IV*, ¶¶ 69, 71, 181 P.3d at 64, 65.

Within this framework, there is no legal basis to require ECAs where the State: (1) no longer relies on historic costs; (2) provides funding at least consistent with accepted estimates of cost; and (3) monitors and reasonably responds to indicators of cost pressure.

A. ECAs are not mandatory where cost estimates no longer rely on historical expenditure data.

The legislative funding model no longer relies on historic actual expenditure data to estimate funding levels, particularly for personnel. (Tr. at 3507:6-3508:11 (monitoring process); Exs. D1 at 001719, 001905, E1 at 002327). The legislature used such an approach during the initial MAP model era, adopting districts' actual salaries to adjust model salaries and establish baseline cost estimates. (Tr. at 3489:21-3490:24, 3498:24-3499:3; Exs. D1 at 001719, 001903, E1 at 002324). This practice was the reason the *Campbell* cases required routine ECAs between recalibrations to ensure estimates based on historic costs kept pace with inflation. *Campbell II*, ¶ 90, 19 P.3d at 550 (ordering adjustment "so long as a cost of education model using historic costs is relied upon for ... education funding"); *Campbell IV*, ¶ 69, 181 P.3d at 65. However, this approach to estimation has since been abandoned.

Routine ECAs continued in non-recalibration years until SY2009-10, when the legislature recognized that such lockstep adjustments were sustaining unnecessary, cost-plus funding. (Ex. C1 at 001260, 1263, E1 at 002327). The sustained excess funding had allowed salaries to increase beyond reasonable market benchmarks and there was little incentive for districts to constrain further growth. (Tr. at 3506:23-3507:11). After studying the issue, the legislature abandoned its reliance on historical actual expenditures and began to evaluate model salaries against market-based estimates and benchmarks of professional and non-professional wages, with inflationary adjustments informed by a monitoring process. (*Id.*; Ex. C1 at 001263). The State's recalibration consultants observed that

use of the salary benchmarking studies and adoption of the funding model monitoring process in 2010 **moved the state away from a funding model based upon historical salaries paid by school districts** and into one in which the ‘price’ of salaries embedded in the [legislative] funding model is compared to appropriate labor markets.

(Trial Exs. D1 at 001719, 001905; E1 002327) (emphasis added). The link to historic expenditures ended in 2010, and the condition on which routine ECAs had been required was no longer operative. *See Campbell IV*, ¶ 69, 181 P.3d at 65. Reliance on directives from the *Campbell* cases to justify mandatory ECAs for the current model is therefore misplaced. *See Campbell IV*, ¶ 71, 181 P.3d at 65.

B. ECAs are not required when funding meets or exceeds reasonable estimates of cost.

When overall funding is already at or above a reasonable estimate of cost, no ECA for inflation is required. (Tr. at 2134:9-2135:7); *See Campbell IV*, ¶ 67, 181 P.3d at 64. Adjustments under those circumstances would only perpetuate overfunding. Regular adjustments for inflation are only made “in order [for funding] to remain accurate representations of actual, current costs.” *Id.*, ¶ 67, 181 P.3d at 64. As the State’s cost adjustment consultant advised:

ECAs do nothing more than maintain the status quo. **If the baseline price estimates overstate actual costs** for one or more of the funding components, then **applying an ECA to those funding components would simply perpetuate that overfunding, and the most appropriate policy response could be to forgo applying an ECA to those funding components until costs and funding converge.**

(Exs. D1 at 002056, E1 at 002663, T8 at 019208, U8 at 019228) (emphasis added).

The current EB consultant model has served as a benchmark of adequate funding since 2006, and has consistently recommended funding that exceeds what would have been provided by the original court-approved MAP model. (Tr. at 3679:16-3681:6; Exs. B11, C11, D1 at 001620). The EB model has been recalibrated and routinely adjusted for inflation so that it continues to serve as a reliable estimate for comparison. (Tr. at 2135:18-2136:11; Ex. P1 at 006998). Thus, to remain at least cost-based, legislative model funding need only remain reasonably consistent with this accepted and best available estimate, allowing for margins of error and justifiable use of legislative discretion to depart from consultant recommendations in defining the education system. (Tr. at 2173:17-2174:1).

The district court dismissed the “assumption” that the EB model provides an accurate and reliable estimate of cost, and therefore rejects the State’s legal argument that funding at or above that amount requires no further inflation adjustment. (R. at 6582). The court suggested overfunding was unproven and only “perceived,” and that therefore the State should have continuously applied inflationary adjustments – even if overall funding exceeded consultant recommendations. (*Id.*).

The district court’s willingness to cast aside the EB model estimate calls into question the entire notion of model-based cost estimation the legislature has relied on for decades. The court’s suggestion that the EB model does not provide a valid cost comparison undermines the foundational principles of Wyoming’s school funding system. *Campbell II*, ¶ 48, 19 P.3d at 537 (approving “use of a model as a proxy for the cost of

education” and concluding “the cost-based model approach chosen by the legislature is capable of supporting a constitutional school finance system”); *see also Campbell IV*, ¶ 12, 181 P.3d at 49-50.

As sanctioned by this Court, the legislature engages consultants to provide expertise and guidance in estimating the cost to deliver the education program. (Tr. at 57:9-19, 3476:21-23); *see Campbell II*, ¶ 11, 19 P.3d at 529; *Campbell IV*, ¶ 18, 181 P.3d at 51-52 (discussing reliance on MAP for recalibration and review of the model). No single cost estimate is definitive, and all are subject to margins of error and affected by differences in assumptions, measurement, and judgment. (Tr. at 2124:13-18, 3467:12-17, 3468:14-25). However, the current EB model has served as a legislatively-accepted cost estimate since 2006, and has remained unchallenged for that entire period. (*See generally* Tr. at 2173:17-2174:1; Exs. B1, C1, D1, E1).

No evidence at trial suggested the methods or assumptions used in the EB model are somehow invalid or unreliable as a means of reasonably estimating cost. On the contrary, the State offered undisputed evidence that the EB model is more generous than necessary and demonstrably cost-plus when compared with the court-approved MAP model. (Tr. at 3478:3-3479:2; Ex. D1 at 001655). It is also undisputed that the EB model built upon the MAP framework, but provided vastly more funding for interventions and

resources in the hope of achieving improved student outcomes. (Tr. at 3476:21-3479:2, 3680:15-3681:2; Ex. D1 001753, 001755).

Undisputed evidence shows legislative model funding consistently met or exceeded EB model cost estimates from 2006 until 2020, even as the legislature chose not to adopt all of the EB model's specific recommendations throughout this period. (Exs. E1 at 002070, P1 at 006998-99). In the face of such excess, the legislature had the discretion to forgo ECAs as a means of gradually realigning funding with cost. (Tr. at 3510:23-3512:9). Lawmakers could have enacted immediate cuts to cost-plus funding, but instead chose the less disruptive policy of gradual convergence. (*Id.*; Ex. C1 at 001263).

Since 2020, the legislature has sustained funding at levels slightly below, but still reasonably consistent with its consultant recommendations, making the question of ECAs largely irrelevant. (Ex. P1 at 006999). Funding remains well within a reasonable margin for error in estimation. (*Id.*; Tr. at 3538:8-3539:4).

The legislature did not provide personnel ECAs for SY2022-23, amid significant uncertainty over pandemic-era economic upheaval and the persistence of inflationary pressures. (Tr. at 2845:9-2846:4; Ex. P1 at 006996). However, since that time, the legislature has diligently responded to more recent indications of cost pressures with several years of sustained, cumulative ECAs across all spending categories. (Tr. at 3348:23-3349:15; Ex. P1 at 006996-97, 006999). These actions included a retroactive adjustment to account for the inflation observed in 2021. (Ex. P1 at 006996-97). This Court

may also take judicial notice that in the 2025 Legislative Session, the ECA provided an increase that exceeded the effects of inflation and all but erased the minor gap between legislative model funding and the EB model estimate.⁵ 2025 Wyo. Sess. Laws, ch. 140, § 3; see *Campbell IV*, ¶ 23, 181 P.3d at 53 (taking judicial notice of legislative enactments).

The district court's criticism that these adjustments are based on lagging indicators is also unrealistic. (R. at 6584 n.20). The legislature has no reliable way to evaluate cost pressures and make adjustments other than to use data gathered from prior periods. (Tr. 2180:20-23). While this approach causes an unavoidable delay, it also produces a commensurate overadjustment when lagging indicators reflect inflationary trends no longer affecting district operations.

So long as school funding is reasonably consistent with the EB model's cost estimate, as it currently is, there is no basis to mandate further ECAs. Forcing the legislature to make automatic, annual, non-discretionary ECAs, regardless of how funding compares to accepted cost estimates, undermines rather than supports this Court's aim of cost-based funding and should be reversed. *Campbell II*, ¶ 48, 19 P.3d at 537.

⁵ Picus Odden & Associates, *2025 Desk Audit of the Wyoming K-12 Public School Funding Model*, (Apr. 18, 2025) <https://wyoleg.gov/InterimCommittee/2025/SSR-202506172025WYDeskAuditFINAL.pdf> (estimating a difference of \$4.6 million (.34% below) on total annual model funding of \$1.337 billion).

C. ECAs are not required so long as the State monitors and reasonably responds to valid indicators of cost pressure.

Methods used to ensure the continued cost-basis of the funding model are within the discretion of the legislature. *Campbell IV*, ¶¶ 69, 71, 181 P.3d at 65. When the State abandoned reliance on historic expenditures in 2010, it also created a monitoring process to evaluate cost pressures and inform the need for ECAs. Wyo. Stat. Ann. § 21-13-309(u) (Ex. C1 001262-63). The district court erred as a matter of law in declaring this process invalid. (R. at 6582, 6585).

Studies in 2010 showed funding vastly exceeding any reasonable estimate of cost, leading the State’s consultants to recommend “consideration of an alternative adjustment for future years[,]” and the use of “a set of benchmarks to help recognize the point in time when the current funding level no longer meets the cost basis standard and needs to be adjusted.” (Ex. C1 at 001315-16). The legislature agreed, and enacted a monitoring process to identify when funding had converged with cost estimates and inform the need for ECAs. Wyo. Stat. Ann. § 21-13-309 (o) and (u); (R. at 6259-60).

The legislature is well within its authority to use this flexible monitoring approach, so long as funding, in whatever manner it is adjusted, continues to accurately represent a reasonable estimate of cost. *Campbell IV*, ¶ 31, 181 P.3d at 55. No specific process or inflationary metric is required, only that the “methods of adjustment ... should be ‘structured to assure the quality of education remains adequate.’” *Campbell IV*, ¶ 67, 181 P.3d at 64 (citation omitted).

The district court’s idea of applying annual ECAs as a purely mechanical process might make sense if it was possible to consistently provide school funding exactly at cost-based levels and the actual impact of inflation could be accounted for using indexes that perfectly reflect the real impact of inflation over time. But the process is not susceptible to such consistency or precision. (*See* Tr. at 2124:13-18). Misalignment of funding and cost is inevitable. Differences may arise through intentional “cost-plus” funding, or funding may fall below cost due to inflation or other cost pressures. Distortions may also arise through the application of inflationary indexes that accumulate marginal errors or otherwise inaccurately describe real-world effects in a particular context. (Tr. at 2198:20-2199:7). The legislature must retain discretion to monitor and respond to these dynamic situations when deciding whether an ECA is needed, and in what amount.

Mandatory ECAs would escalate funding even in the face of demonstrated misalignment between funding and cost. (Tr. at 2118:6-14). Such an approach defeats rather than promotes cost-based funding. Monitoring various economic indicators and exercising discretion to evaluate the need for ECAs is precisely the kind of good faith, fact-based process this Court should embrace to ensure continued cost-based funding for a system as complicated as school finance. *Campbell IV*, ¶ 2, 181 P.3d at 48 (noting that the State’s “comprehensive and sophisticated system” was developed to meet the “complex demands of delivering a thorough and efficient education”).

Providing adequate funding requires consideration of inflationary pressures through

a monitoring process that will continue to evolve. But the district court had no legal basis to require automatic, annual adjustments that remove the legislature’s discretion to evaluate the alignment of funding and cost. *Campbell IV*, ¶¶ 69, 71, 181 P.3d at 65. To the extent the court required automatic ECAs, this ruling should be reversed to preserve the monitoring process as a reasonable means of ensuring cost-based funding.

IV. The district court erred in requiring the legislature to fund whatever salaries school districts pay as the measure of “actual cost” and invalidating the use of objective, extrinsic economic indicators and benchmarks to estimate market-based salaries and generate total personnel resources.

The district court concluded the salaries used in the legislative funding model to estimate total personnel resources no longer reflect “the actual cost of school district personnel,” and must be adjusted to a level “adequate to recruit and retain personnel to deliver the basket of quality education goods and services.” (R. at 6586, 6591, 6620). The court repeatedly referred to “actual cost” as the measure of adequacy, and was critical of the State’s use of market-based salary benchmarking. (*Id.*). Complying with this ruling would seem to require the State to fund whatever salaries school districts are actually paying. Such an approach would impose an improper expenditure-based system.

The legislature has recently provided increases to personnel funding, but it is not bound to use whatever districts pay as model salaries. *See, e.g.*, 2025 Wyo. Sess. Laws, ch. 140, § 3 (providing personnel funding increase). Lawmakers must retain authority to recalibrate and adjust using comparisons to reasonable, market-based estimates of economic cost for labor to avoid inefficient and unnecessary wage escalation.

In *Campbell II*, this Court did not dictate the use of actual salaries for personnel in the funding model, but compared Wyoming salaries to other states to assure they remain “competitive regionally and nationally.” *Campbell II*, ¶ 66, 19 P.3d at 543. In *Campbell IV*, this Court further protected the legislature’s prerogative to estimate costs, specifically condemning attempts to require the funding model to reflect what districts pay and noting “that such an approach would essentially constitute an expenditure-based system in which the legislature must fund whatever the districts request.” *Campbell IV*, ¶ 75, 181 P.3d at 66. This Court emphasized deference to the legislature in “set[ting] the educational standards and provid[ing] an amount of funding equal to what **it determines** is necessary to meet those standards.” *Id.* (emphasis added). The adequacy of funding may be measured by “what other states have done in terms of salaries and other expenditures,” as an indicator of the market, but not by adherence to salaries paid by Wyoming districts. *Id.*

The legislative funding model generates total personnel funding by multiplying model salary estimates – informed by market indicators and consultant recommendations – by resource quantities (the number of personnel). (Tr. at 2370:8-21, 2403:6-10). The model salary is meant to reflect an efficient market cost for labor – an estimate of “the lowest price at which” districts can hire qualified employees. *Campbell IV*, ¶ 73, 181 P.3d at 65. These estimates may not always align with district expenditures, and they are not required to do so.

The use of “cost,” in the economic sense, as a “minimalist concept” was deemed adequate for estimation purposes, so long as the State continues to make a “good faith effort” to reasonably estimate and fund this amount. *Campbell IV*, ¶¶ 73, 79, 181 P.3d at 65, 67. Applying this legal standard, this Court approved model salaries that were not the highest in the region, ranked 36th nationally, and lagged behind what many districts actually paid. *Campbell IV*, ¶¶ 20-21, 23-24, 181 P.3d at 52-53.

Imposing a standard that effectively requires model salaries to conform to district expenditures is inconsistent with precedent and would encourage inefficient wage escalation driven by non-competitive factors. (Tr. at 3502:21-3504:14). If districts know that whatever they pay in salaries will be funded in the next model adjustment or recalibration, they have no incentive to be efficient. Such an approach leads to a continual upward ratchet in salaries, irrespective of market conditions. (Tr. at 3504:11-14; Exs. N10, O10). This scenario is exactly what unfolded previously, and was the reason the State abandoned reliance on historic expenditures for cost estimation, particularly for salaries. (R. at 6307-14).

In the 2001 recalibration, model salaries were adjusted to reflect what districts were actually paying. *Campbell IV*, ¶ 20, 181 P.3d at 52. Following that adjustment, districts put more of their budgets toward increasing salaries and started to deviate above the model baseline. (Exs. N10, O10). The 2005 recalibration again adjusted model salaries to district expenditures, but the gap between model salaries and actual pay was re-established almost

immediately, and continued to grow even more dramatically. (*Id.*; Tr. at 3492:11-3493:9, 3496:10-3497:6).

By the time of the 2010 recalibration, the State's labor consultants found that Wyoming's teacher salaries were so far out of line with other industries that half of districts were paying teachers more for ten months of work than similarly qualified individuals earned working the full year. (Tr. at 2111:2-22, 2114:3-23, 2153:21-2154:9; Ex. C1 at 001464, 001470-71). Teacher pay in Wyoming rose to the highest in the nation and was an outlier at those levels. (Tr. at 2113:11-19, 2115:16-22; Exs. C1 at 001476, P8 at 019080-81). Salary studies at that time concluded that this escalation went beyond any reasonable measure of inflation and had little to do with actual increases to the market cost of labor. (Tr. at 2817:3-11, 2818:4-7, 2819:10-2820:11; Ex. C1 at 001515-17). Salaries increased because districts could afford it, not because they were responding to market pressures. (Tr. at 3502:21-3504:14). This distortion in salaries took the better part of a decade to unravel as the legislature gradually realigned funding with cost estimates, in part by controlling model salary adjustments. (Ex. P1 at 006996-99).

During the 2020 recalibration, the legislature maintained model teacher salaries reasonably consistent with consultant recommendations benchmarking teacher pay at 75% of the Wyoming comparable professional wage index, a percentage that roughly accounts for differences in work hours between teachers on nine-to-ten-month contracts and year-round professionals. (Ex. E1 at 002328-29). Consultants also continued to monitor

indicators of cost pressure (such as retention rates and comparisons to salaries in peer states) to know when adjustments may be needed. They found that salary advantages were smaller but remained competitive with other occupations. (Tr. at 2839:2-14; Ex. E1 at 002689, 002702).

Consistent cost pressures first emerged in data from 2022, following the COVID pandemic. (Tr. at 2844:15-2846:4; Exs. 1104 at 13-15 (no bates numbers), O1 at 004224). The legislature responded with several increases to personnel funding, including a recent adjustment that went beyond the recommended inflationary increase. (Ex. P1 at 006996-97); 2024 Wyo. Sess. Laws ch. 118, § 205; 2025 Wyo. Sess. Laws ch. 140, § 3. The ongoing 2025 recalibration is another opportunity to evaluate the need for further market-based adjustments, but it should not occur under a mandate to pay “actual cost” if that means conforming model salaries to whatever districts are paying. There is every reason to expect that such an approach would see a repeat of prior unwarranted salary inflation.

A myopic focus on model salaries also misses the more important factor of overall personnel funding, where Wyoming substantially outpaces its peers. (Tr. 2402:25-2405:17; Ex. I9). The more relevant legal question is less about whether model salaries reflect actual salaries, and instead whether total personnel resources (the product of model salaries multiplied by the number of positions allocated in the legislative funding model) are sufficient to hire a qualified workforce capable of delivering the prescribed education

program and sustain measures of quality. *Campbell IV*, ¶ 76, 181 P.3d at 66; *Campbell I*, 907 P.2d at 1279.

Since the inception of the legislative funding model, districts have hired fewer employees than the model allocates, while still effectively delivering the basket of goods. (Ex. G10). For decades, they have used ample personnel resources to pay higher wages rather than hire as many positions as the model uses for its estimates. (Tr. at 2374:16-23; Exs. D9, P3, R3, R4). Districts are apparently comfortable with their chosen staffing levels, which show no negative effect on the delivery or quality of education. (*Id.*; R. at 6291-98).

Despite suggestions to the contrary, unrefuted data shows districts are not having to shift resources from other parts of the model to sustain higher rates of pay. (Tr. at 2434:24-2438:18, 3515:4-3519:20; Exs. A11, Q9). All categories of expenditure have remained relatively consistent over time. (*Id.*; Exs. R10, S10, T10). In fact, Wyoming districts as a whole spend slightly less on teaching personnel than the model provides. (Ex. E3). This data begs the question of how overall personnel funding could be considered inadequate when districts are not even expending the entirety of what is provided for that purpose.

The district court was critical of the State's experts for their inability to analyze and opine on the actual market sufficiency of model salaries, but this limitation merely acknowledges reality. (R. at 6588). It is impossible to know for certain whether model salaries would be enough to recruit and retain teachers because districts do not use them. (Ex. D9). To get around that problem, the State's experts used a variety of methods to

compare and evaluate the expected sufficiency of model salaries, all of which indicate that model salaries are within a range where they would be anticipated to be competitive in the market. (Tr. at 2382:19-2398:6; Exs. E9, F9, G9). These methods included a labor market study showing model salaries reflect pay premiums consistent with or greater than those of other professions in Wyoming – a finding that also dispels Appellees’ claims that sparse amenities require substantial pay premiums to entice professionals to live and work in Wyoming. (Tr. at 2390:25-2391:10; 2391:24-2392:6).

Moving from current methods for estimating and adjusting model salaries to simply matching district actual pay, without a commensurate reduction in the quantity of personnel in the model, would result in salary escalation that is not cost-based. Such a change would provide districts more funding than necessary to recruit and retain their current workforce and likely further inflate wages – as occurred from 2006 through 2010. (Exs. D10, P10). The State’s 2020 recalibration consultants observed this very problem, cautioning that increasing model salary to actual pay would only result in the same workforce at a higher price. (Ex. E1 at 002328).

The State concedes the legislature will need to evaluate and adjust its model salaries during recalibration so they continue to reflect a reasonable estimate of cost. However, the legislature is not required to adjust to whatever districts actually pay, which would create continued incentives to inefficient wage escalation. *Campbell IV*, ¶¶ 75-76, 181 P.3d at 66 (not required to fund whatever districts request). To the extent the district court imposed

an expenditure-based standard as the measure of “actual cost” for salaries, its ruling should be reversed to preserve the legislature’s authority to continue deriving model salaries using market-based comparisons to estimate economic cost.

V. The district court erred in finding that the legislature’s current funding model is not cost-based.

The district court’s order concludes that the legislative funding model overall “is not cost-based” because “some of the components ... do not have a reasonable and accurate cost basis to them.” (R. at 6592). This conclusion distorts the State’s legal obligation and imposes an unrealistic standard of precision where any marginal error renders the entire model deficient – even where overall funding, provided through a block grant, remains at or above an accepted overall cost estimate. (R. 6592-94).

With this impossibly rigid premise in place, the district court concluded that the State’s largely unrefuted evidence of systematic overfunding, indicators of abundance, and sustained measures of education quality – all of which demonstrate the overall adequacy of funding – actually proved that certain components are not cost-based, and therefore unconstitutional. (R. at 6593-94). Under the district court’s rationale, the State must either provide funding that is precisely accurate for all categories of spending for all districts, and strictly control how those resources are expended, or it will be found to have allowed disparities that render the entire system constitutionally defective. (R. at 6594). This reasoning requires a level of precision and control that is practically impossible, and contravenes the long-standing constitutional approach to estimating cost.

The *Campbell* cases do not “dictate the method the state must use to determine the cost of education” or “control the inner workings” of funding models with absolute precision. *Campbell IV*, ¶ 31, 181 P.3d at 55; *see also Campbell II*, ¶ 105, 19 P.3d at 554 (methods “need not be perfect”). Rather, these rulings allow for margins of error and inevitable differences between district expenditures and model estimates. *Campbell IV*, ¶ 84, 181 P.3d at 69 (observing that “the model is not perfectly accurate at all times in estimating what the cost of education should be”).

A rule of reasonableness applies, and “the primary constitutional issue” is whether “the state’s chosen method of funding represent[s], as close as reasonably possible, the cost of education.” *Id.*, ¶ 31, 181 P.3d at 55. The *Campbell* cases recognize: (1) the primacy of overall funding (as opposed to parsing estimates for individual components); (2) that “perfection is not required or expected”; and (3) that “a good faith effort to preserve and protect our constitution’s commitment to a sound public education system” is the operative standard. *Id.*, ¶ 79, 181 P.3d at 67.

District expenditures do not dictate the adequacy of funding. *Id.*, ¶ 75, 181 P.3d at 66 (the funding model is not an “expenditure-based system”). Rather, adequacy is defined by reasonable legislative judgments as to what is necessary to “fund a system capable of meeting state standards” that may be evaluated by reference to “what other states have done in terms of salaries and other expenditures, and by other measures such as levels of teacher

accreditation, class size, student test scores, and opinions of experts in the field.” *Id.*, ¶¶ 15, 75, 181 P.3d at 51, 66.

The State has no obligation to “exceed what is deemed adequate in other states” or “fully fund whatever programs the individual districts have adopted[.]” *Id.*, ¶ 74, 181 P.3d at 65. The State also is not required to “provide funding and facilities for whatever programs each district chooses to offer.” *Id.*, ¶ 15, 181 P.3d at 51. This Court has cautioned that districts will “always want more funds available” and may expend resources in different ways using block grant flexibility, but determining the estimate of overall cost to deliver the education program remains the “province of the legislature.” *Id.*, ¶ 73, 181 P.3d at 65. In evaluating the adequacy of funding, courts must “differentiate[] between what the districts [are] choosing to spend and what the state contend[s] a particular element should cost.” *Id.*

In *Campbell IV*, this Court also specifically ratified “cost-plus” funding. *Id.*, ¶¶ 81-84, 181 P.3d at 68-69. Extra funding does not render the model “not cost-based,” because “schools are benefited by this legislative action.” *Id.* ¶¶ 83, 84, 181 P.3d at 68-69. This holding recognizes the practical reality that “the model is not perfectly accurate at all times in estimating what the cost of education should be,” but that it could not “operate in any other way.” *Id.* ¶ 84, 181 P.3d at 69. The decision finds “no constitutional infirmity with so-called ‘cost-plus’ funding ... [where] the legislature continues to act in a responsive and responsible manner[.]” *Id.* This precedent makes clear that the standard is whether overall

funding, derived from reasonable cost estimates, generally allows for delivery of the basket of goods and sustains measures of quality. *Id.*, ¶ 76, 181 P.3d at 66.

Despite this guidance, the district court largely set aside the State’s voluminous evidence showing districts’ continued ability to deliver the education program, overall indicators of abundance, and sustained measures of quality. (*See* R. at 6278-98, ¶¶ 193-340).⁶ It relied instead on an exacting and inflexible component-by-component review that is inconsistent with this Court’s method for evaluating cost-based funding. (*See* R. at 6592-94). The district court’s approach requires a level of precision that is practically impossible

⁶ The State’s retained expert, Dr. Richard Seder, offered extensive analysis and opinion as to the continued adequacy and cost-basis of school funding, which the district court categorically disregarded as “biased” because Dr. Seder has also served as an advisor to the State. (R. at 6578-79). This finding stands in stark contrast to *Campbell IV*, where both the trial court and this Court went out of their way to acknowledge Dr. Seder as “credible,” observing “[n]o other witnesses who presented testimony in the trial ha[s] displayed Seder’s over-arching ability in this field.” *Campbell IV*, ¶ 28, 181 P.3d at 54. Given Dr. Seder’s recognized expertise, comprehensive understanding of Wyoming’s school funding system, and presentation of objective data, it is troubling that his opinions would be so readily set aside – especially where the court credited opinions of district administrators, most of whom conducted no analysis or presented any supporting data.

and does not acknowledge the standards of reasonableness and good faith effort to be applied in assessing overall adequacy. *Id.*, ¶ 31, 181 P.3d at 55.

A margin for some measure of error inherent in cost modeling is not only acceptable but unavoidable. (Tr. at 2124:13-18) *Id.*, ¶ 84, 181 P.3d at 69. Estimates can be, and have been, refined over time, but inaccuracies will always exist. (Tr. at 3467:12-3468:25). The legislative funding model was never intended to reflect the specific expenditures of every district. (Tr. at 3682:1-3683:15). It serves as merely a means of reasonably estimating and adjusting the total funding necessary for each district to deliver the prescribed education program, which is then allocated through a block grant and spent in accordance with local needs and preferences. (Tr. at 749:9-24; Ex. C1 at 001259, 001266). The model's estimates may indeed differ from district expenditures without creating disparities, because the model aims only to approximate what is necessary overall to deliver a quality education, not to prescribe expenditures for each district's situation. (Tr. at 3469:1-3470:7).

The district court, however, seized upon the expected and unavoidable variation in district expenditures as evidence that certain components are not cost-based. (R. at 6593-94). For example, the court found districts' ability to accumulate large reserves and spend excessively on non-mandated programs does not demonstrate abundant funding, but rather proves funding is not cost-based and is creating wealth-based disparities. (*Id.*). This idea that overfunding is proof the system is not cost-based has already been squarely rejected by this Court. *Campbell IV*, ¶¶ 81-84, 181 P.3d at 68-69 (addressing cost-plus funding).

The district court also concluded funding is not cost-based because, in some instances, districts are “tak[ing] money from one component to cover the cost of another.” (R. at 6594). This conclusion is an incorrect interpretation of expected variation in district expenditures that conflicts with unrefuted data. Wyoming provides greater funding than peer states across the full range of spending categories, and in the aggregate Wyoming districts’ spending patterns have been remarkably consistent over long periods, displaying no pattern of substantially shifting resources to cover purportedly underfunded areas. (Tr. at 2434:24-2438:18, 3515:4-3519:20; Exs. A11, Ex. Q9, R10, S10, T10).

Under the district court’s logic, addressing the purported shortcomings in cost modeling would require the State to precisely anticipate every possible district expense and also exert centralized control over every category of spending, depriving districts of needed flexibility. The varying ways in which districts use block grant funding, which may deviate from model estimates, will persist so long as districts have the ability to expend funds according to local priorities. (Tr. at 2063:12-2064:9).

The degree of uniform funding and expenditure the district court envisions as “cost based” cannot be created within the flexible structure of a model-based, block grant funding system. Such control over operations has never been required by this Court, nor is it likely the outcome Appellees expected or desire. (Tr. at 2063:12-2064:9); *see Campbell II*, ¶ 11, 19 P.3d at 529 (describing use of a “block grant model to preserve as much local

control as possible”; *Campbell IV*, ¶ 76, 181 P.3d at 66 (recognizing the system “values and protects local control”).

Wyoming has operated its current funding model without legal challenge for nearly twenty years. The mechanics of this system are legally valid, as they do not differ meaningfully from the court-approved MAP model. *Campbell IV*, ¶ 4, 181 P.3d at 48. (Tr. at 3476:21-3478:17). No legal authority exists to force the State to abandon or fundamentally alter this system merely because it involves unavoidable margins for error, imperfect estimates, or because districts are allowed flexibility in their expenditures. Doing so would be inconsistent with *Campbell II* and *Campbell IV*, both of which sanctioned the use of a model-based, block grant funding system to reasonably estimate and fund the cost of delivering the education program. *Campbell II*, ¶¶ 2, 48, 19 P.3d at 526, 537-38; *Campbell IV*, ¶ 12, 181 P.3d at 49-50.

While every component of the funding model must (and does) have a reasonable basis for estimation, these estimates remain just that – approximations with a margin of error. As this Court has observed, “the model is not intended to be a ‘real time’ picture of the various cost categories and there will always be some differences between the costs included in the model and the school districts’ real expenditures.” *Campbell IV*, ¶ 20, 181 P.3d at 52. “[M]inor over-funding or under-funding” errors are unavoidable and may occur as a result of “the complexity of the model approach adopted by the state[.]” *Campbell IV*, ¶ 93, 181 P.3d at 71. Whether the system remains “cost-based” is therefore to be

determined not by measuring every individual estimate against district expenditures for exact precision, but by examining the process of deriving an overall funding estimate and the legislature’s “good faith effort” to “assure sufficient funding is provided to allow the districts to achieve [educational] standards.” *Id.*, ¶¶ 75-77, 79, 181 P.3d at 66-67.

The district court’s finding that the legislative funding model is not cost-based does not, in itself, lead to a specific order for compliance. However, the error in the court’s legal reasoning should be reversed to avoid sowing confusion about the cost-based standard and the continuing validity of the State’s model-based, block grant funding system.

VI. The district court erred in finding that certain alleged “innovations” are required elements of the legislatively-determined education program.

The district court ordered the State to provide funding for the addition of new components to the education funding model, including School Resource Officers (SROs) and subsidies for meal programs. (R. at 6598-603). The court deemed these components “innovations” that have become necessary for the delivery of a quality education appropriate for the times. (*Id.*). The legal framework and rationale the court used to assess the evidence and order these remedies is inconsistent with the *Campbell* decisions.

A. The district court did not use the appropriate legal framework to evaluate demands for new funding.

When considering demands to add components to the funding model, the “right to education” being invoked must be understood according to its terms. Article 7, Section 1 of the Wyoming Constitution states that “[t]he legislature shall provide for the

establishment and maintenance of a complete and uniform system of public **instruction**[.]” Wyo. Const. art. 7, § 1 (emphasis added). Article 7, section 9 reinforces the scope of this mandate, directing the legislature to “create and maintain a thorough and efficient system of public schools, adequate to the proper **instruction** of all youth of the state[.]” Wyo. Const. art. 7, § 9 (emphasis added). Thus, to fall within this right to education any new components must be something necessary to the delivery of instruction, as opposed to some other form of social programming or service that may be provided through schools.

This Court has addressed these kinds of demands before. The plaintiffs in *Campbell IV* challenged legislative policy choices to omit certain components from the funding model. *Campbell IV*, ¶ 15, 181 P.3d at 50-51. They used dicta describing a “visionary and unsurpassed” education system that is “the best we can do” as the basis “to argue that our constitution requires the state to provide funding and facilities for whatever programs each district chooses to offer.” *Id.* This Court refused to endorse this idea, stating:

[W]e disagree with this constitutional theory for two important reasons. First, we have consistently held that the constitution imposes on the *legislature* the obligation to determine the kind of education Wyoming’s children will be afforded. Second, the challengers seem to be saying the courts should determine the proper level of educational funding and in doing so the will of the school districts must prevail.

Id. (italics in original). The opinion concludes, “the determination of whether to require funding in excess of the level deemed adequate to meet state standards **must be left to the legislature.**” *Id.* (emphasis added).

In this case, the evidence supporting demands for new funding consists almost entirely of the opinions and preferences of Appellees' own employees. No outside experts or other objective evidence was offered in support of the purported innovations. *Campbell IV* is explicit that district preferences are not the measure of adequate funding, and places the legislature in control of policy decisions concerning alleged innovations. *Id.* Legislative decisions in this regard are, of course, subject to appropriate judicial review to assure the continued quality of the education system, but to override the legislature's judgment based solely on evidence of district preferences elevates the will of districts over that of lawmakers in a way this Court has specifically rejected. *Id.*

Rather than focusing on district preferences or making subjective decisions based on competing or disputed opinions, the *Campbell* cases, taken together, may be read to suggest several objective factors that should be used to analyze demands for new funding components. These factors include whether the proposed innovation is:

- (1) Essential to deliver the prescribed education program or meet state standards, *Campbell I*, 907 P.2d at 1259-63; *Campbell IV*, ¶¶ 48, 104, 181 P.3d 43 at 73-74;
- (2) Necessary to sustain this Court's defined measures of education quality, *Campbell IV*, ¶ 76, 181 P.3d at 66 (citing *Campbell I*, 907 P.2d at 1279);
- (3) Supported by outside expert analysis and reliable studies demonstrating need and/or effectiveness, *Campbell II*, ¶ 12, 19 P.3d at 529-30; or

(4) Widely adopted in and comparable to the actions and funding levels of peer states, *Id.*; *Campbell IV*, ¶ 75, 181 P.3d at 66.

These factors use a more reliable approach to account for all components that would be plainly unreasonable to exclude from the education program.

Applying such factors, a court would be justified in mandating new model components only when objective evidence proves beyond a reasonable doubt that State action is violating students’ constitutional rights. *Hardison*, ¶ 5, 507 P.3d at 39. Where such evidence is not compelling and substantial, the legislature’s prerogative to define the education system must be respected – even in the face of district demands or preferences to the contrary. *Campbell I*, 907 P.2d at 1259; *Campbell II*, ¶ 55, 19 P.3d at 539; *Campbell IV*, ¶¶ 15, 73-79, 181 P.3d at 50-51, 65-67.

The district court’s evaluation of alleged innovations did not consider any of these recognized objective factors, but rather invoked the well-worn dicta from *Campbell I* describing “visionary and unsurpassed” education funding that is the “best we can do” as justification for its rulings. (R. at 6595-96, 6604, 6619). These mantras are not meaningful standards of compliance. They provide no limiting principles to guide review, and leave decisions over whether to compel spending on new components subject to the views of whatever court happens to decide a given case. This Court should continue to reject such an approach. *See Campbell IV*, ¶ 76, 181 P.3d at 66.

Overriding the legislature to mandate new funding components should rest on more than one court's review of competing, subjective opinions. Instead, this Court should clarify objective factors and standards suggested by its prior rulings to guide review and reiterate the high bar necessary to overturn legislative policy choices. *Hardison*, ¶ 5, 507 P.3d at 39. This approach will avoid inconsistent judgments, dissuade tenuous claims and frivolous litigation, and provide direction to the courts and legislature as they seek to distinguish what may be wanted from what is actually needed to deliver education. The district court's decisions ordering additional funding components should be reversed and remanded for consideration under an appropriate legal framework embracing specific objective factors, including those outlined above.

B. The district court erred in mandating funding for SROs.

The district court concluded that “[a]s the result of local innovation, SROs have been shown to be needed for a proper education” and thus must be added to the funding model. (R. at 6600). While facilities must be reasonably safe, adding funding for SROs to further enhance existing school security measures is a policy question involving reasonable differences of opinion. (Tr. at 3453:17-3454:1; Ex. D1 at 001923). District preferences are not a legally sufficient basis to order such a remedy, and no other evidence established the necessity of this specific security measure. *Campbell IV*, ¶ 15, 181 P.3d at 50-51.

This Court has never identified any specific security measures required to provide a constitutional education, and the legislature has never mandated that schools provide

security personnel to meet state standards. *Campbell II* generally requires that school facilities are to be “safe and efficient[,]” leaving the means of achieving this result up to the legislature. *Campbell II*, ¶ 2, 19 P.3d at 527. Even with such a mandate, this Court sanctioned a model providing no specific resources for security personnel at a time when the risk of school violence was well understood. *Campbell IV*, ¶¶ 4, 19, 181 P.3d at 48, 52 (holding funding system constitutional despite unrealized district demands for security personnel).

The State does not dispute that the risk of school violence, while remaining very low, raises significant security concerns. However, experts disagree over how best to reasonably secure schools, especially when the means of doing so often compromise other goals society has for the education system. (R. at 6356-58, ¶¶ 727-744). Each of the many available security options carries its own costs, benefits, and implications. (Tr. at 3443:6-3445:25, 3566:19-3567:4). Debating and deciding this type of contentious and unsettled issue is the role of political institutions, not the courts.

Despite reasonable policy alternatives and its own acknowledgement that the evidence in favor of SROs is “mixed” at best, the district court ordered the State to fund SROs for every district simply because some Wyoming districts already use them and others want them. (R. at 6600). This conclusion does not acknowledge consistent recommendations from legislative consultants against funding SROs, and largely overlooks funding the legislature has provided for its favored safety solution of hardening

buildings through physical site security upgrades. *See* 2014 Wyo. Sess. Laws ch. 82, § 1; 2015 Wyo. Sess. Laws ch. 194, § 1; 2016 Wyo. Sess. Laws ch. 25, § 1; 2018 Wyo. Sess. Laws ch. 134, § 027; 2019 Wyo. Sess. Laws ch. 80, § 313; 2020 Wyo. Sess. Laws ch. 80, § 027; (Exs. E1 at 002354-2362, D1 at 001782).

Compelling appropriations for “innovations” like SROs requires a more rigorous legal standard than simply observing district preferences. When analyzed under the objective factors and standards suggested above, the case for the necessity of SROs dissolves. While reasonable security measures are necessary, SROs specifically are not. Many other options exist for securing schools, including the legislature’s preferred option of physical site security upgrades. (R. at 6353-54, ¶¶ 704-714).

Outside experts and research studies do not clearly support the use of SROs. (R. at 6356-58, ¶¶ 727-44). SROs have been utilized to varying degrees in different schools throughout the country, but their benefit is widely questioned by experts and the public. (*See e.g.*, Tr. at 3462:14-3463:3). Given this uncertainty, there is nothing unconstitutional about the legislature’s policy choice to use other means to secure schools.

In requiring funding for SROs, the district court elevated district desires over legislative policy choices (which this Court has expressly rejected) despite “mixed” evidence of their effectiveness or necessity. *See Campbell IV*, ¶¶ 15, 75, 181 P.3d at 50-51, 66. The order mandating funding for SROs should be reversed.

C. The district court erred in requiring the State to provide school lunch subsidies.

The district court concluded that “[n]utrition programs are necessary for a proper quality education,” and “funding for school nutrition” must be included in the funding model. (R. at 6601-03). This ruling relies almost entirely on the observation that students need access to food during the school day because it can affect their readiness to learn. (*Id.*). Such a premise, even if accepted, is a legally insufficient basis to require the State to offer subsidized meals to tens of thousands of schoolchildren as a matter of right.

No one reasonably disputes that children need access to food during the school day, and the State is not arguing students should go without meals. The legal defect in the district court’s ruling is the logical leap from the idea that children need food to the requirement that the State must subsidize meal programs as part of the right to education. School meal programs are long-standing social programs already supported through federal subsidies for needy students. (Tr. at 1351:3-12, 2642-44). While perhaps convenient or helpful, food service is not part of the State’s constitutional obligation to provide a system of instruction. (*See* R. at 6344-45, ¶¶ 652-56). Expanding the State’s duty to include spending for such social services using the lever of constitutional enforcement threatens to radically usurp legislative prerogatives.

Before the district court’s pronouncement, no source of law had ever defined meal programs as part of Wyoming’s education system or required Wyoming districts to provide them. Wyoming districts have long operated such programs, but not as part of the mandated

system of instruction or to meet any State standard. (Tr. at 2641:6-2642:14). As a practical matter, nothing about providing a meal program is an inherent part of providing instruction or the other operations of a school system. Children need food daily regardless of their location, and with the exception of those who qualify for need-based assistance, that obligation rests with families not the State.

The fact that meal programs are routinely offered as a convenient service in schools, with federal subsidies to assist needy children, does not transform that activity into something that is part of the right to education. Districts could simply eliminate meal programs if they chose, allowing students to arrange for their meals as they would when not in school. Thus, these services are more accurately understood as adjacent social programs provided as a policy choice, not required elements of an education system.

The only way in which meal programs can be said to relate to instruction is to observe that well-fed students are generally better prepared to learn. While this may be true, the same can be said of many other social programs. For example, students are also better prepared to learn if they have adequate housing and a stable, supportive home life. That fact does not mean that affordable housing programs or social services for struggling families must be provided as part of the constitutional right to education. This line of thinking has no limiting principle.

As with other social programs, whether to subsidize school meal programs is a policy choice reserved to the legislature. Such spending is discretionary and cannot be

compelled. *See Campbell IV*, ¶¶ 73-79, 181 P.3d at 65-67. The district court ignored this distinction and merely asserted that “[p]roper nutrition is, indisputably, a necessary component to providing a quality education.” (R. at 6603). The court did not explain why it believes instruction cannot be provided without a subsidized meal program when it is clear that many students could pay for their meals, bring food from home, or be allowed to leave to get food at designated times. The court also did not analyze any connection between meal programs and *Campbell I*’s indicators of a quality education system. *See Campbell IV*, ¶ 76, 181 P.3d at 66 (citing *Campbell I*, 907 P.2d 1238, 1279).

Most significantly, the district court did not justify its novel mandate in light of the *Campbell* cases, which found the State’s education system constitutional without any funding for meal programs. *Campbell IV*, ¶ 4, 181 P.3d at 48. The court did not identify any circumstance arising since the *Campbell* cases that has suddenly made meal programs so indispensable as to now be enforceable as part of the right to education. It merely invoked the obvious fact that children must eat as sufficient reason to mandate meal program subsidies. (R. at 6601).

The district court ordered subsidies without acknowledging the importance of efficient management and pricing. (*Id.* at 6603). In doing so, the court ignored consistent recommendations from legislative consultants, who repeatedly supported self-sustaining meal programs and advised against subsidies because they create incentives for inefficiency. (R. at 6344-45, ¶¶ 652-55).

The subsidy mandate sidesteps evidence of inefficiency in districts' current pricing practices that, if resolved, could eliminate any need for subsidies. Almost no Wyoming school district charges the USDA-recommended paid meal prices, potentially missing out on further revenue. (R. at 6348-49, ¶¶ 671-78). The Districts did not even attempt to prove they were using an efficient price structure, but rather admitted they keep prices artificially low as a matter of policy. (Tr. at 93:21-94:15, 1292:12-16; *see also* R. at 6349, ¶¶ 679-82). The district court downplayed such considerations largely based on the testimony of a single witness who, without any analysis or data, simply expressed his belief that charging prices sufficient to cover costs would decrease demand for school meals. (R. at 6602; Tr. at 148:10-149:8).

The district court also pointed to district transfers into their food service funds, purportedly to cover cost overruns, to justify the need for subsidies. This rationale ignores districts' own accounting showing at least some of these transfers greatly exceed the amount of any actual cost overruns. (R. at 6346-47, ¶¶ 663-66; 6602). At least some portion of the current transfers are used by districts as a means of holding reserves, and do not accurately reflect a need for subsidization. (Tr. at 1285-91; Ex. N13 at 22, 73 (native numbering)).

The district court's observations that: (1) children must eat; (2) districts do not "believe" charging higher paid meal prices would increase revenue; and (3) districts are making transfers into their food service funds, are legally insufficient and logically

incapable of supporting the court’s conclusions. (R. at 6601-03). The leaps of logic necessary to fill in the gaps in the court’s reasoning demonstrate the need for more defined, objective legal standards to determine what is truly necessary to provide education.

An analysis under the factors derived from the *Campbell* cases yields very different conclusions. Meal programs are not necessary to deliver the education program or sustain measures of quality. They are adjacent social services that are not part of the “system of instruction” required by the Constitution. *See* Wyo. Const. art. 7, §§ 1, 9. Nothing in this Court’s precedent suggests adequate funding is measured by how well the State is mitigating the unquantifiable impact of myriad societal factors affecting students’ readiness to learn. The mandate is to deliver the education program and sustain measures of education quality, not to deliver social programming through schools.

As to the remaining factors, Appellees offered no evidence that meal program subsidies are a common policy choice in other states, much less the subject of a judicially-enforced mandate. Similarly, Appellees offered no expert analysis or other evidence demonstrating the effectiveness or necessity of meal program subsidies beyond the existing federal subsidies for low-income students. Given these factors, the legislature has made a constitutional policy choice to continue offering meal programs in the same way they have always been offered – as a voluntary service operating as a self-sustaining enterprise.

The district court's decision to mandate state subsidies for meal programs relies on the faulty legal premise that non-instructional social programs may be enforced as part of the right to education. This ruling should be reversed.

VII. The district court erred in finding that the State must use a statewide assessment, rather than administrative processes, to monitor and address the “suitability” of school facilities.

The district court concluded that administrative processes currently in use to address suitability are insufficient, and effectively requires a statewide suitability assessment of every school facility. (*Id.* at 6608-09). This ruling overstates the legal requirement and imposes an inefficient mandate.

The *Campbell* cases recognize the legislature's prerogative to determine the methods used to monitor and address the adequacy of school facilities, including suitability. *Campbell III*, ¶¶ 15, 20, 32 P.3d at 329-30. Statewide assessment is an option, but not the only means of review. The State should be allowed to continue using whatever reasonable and effective means it may choose to ensure adequate facilities, including the current administrative processes for addressing suitability.

The district court required a statewide assessment largely based on *Campbell II*, which reiterated the State's obligation to evaluate and fund roughly equal and adequate school facilities, requiring that all school “facilities must ultimately be made safe and efficient.” *Campbell II*, ¶ 137, 19 P.3d at 565. However, *Campbell II* is not as prescriptive as the district court suggests. The *Campbell II* Court validated one particular consultant's

study the State was using at that time to identify buildings in need of remediation. *Id.* Although it embraced this study as acceptable, this Court quickly clarified that it did not make that method, or any other particular method, the absolute constitutional standard going forward. *Campbell III*, ¶¶ 11, 15, 32 P.3d at 328-29.

On rehearing in *Campbell III*, this Court explicitly allowed the State to use other methods to evaluate school facilities. This ruling explains that “the [consultant] study was the *only* piece of evidence regarding capital construction needs submitted,” but that “future studies **could utilize different methodologies** to measure capital construction needs.” *Id.* (italics in original) (emphasis added). This ruling specifically preserves the State’s authority to alter its approach to addressing all aspects of building adequacy, including suitability.

In fact, the State switched to a different method for assessing building needs even before the ruling in *Campbell IV*. (Tr. at 3424:7-3425:23). This change did not offend this Court, which found the State’s school facilities system constitutional and specified the “adequacy of facilities [is] a function of delivering adequate educational programs.” *Campbell IV*, ¶ 106, 181 P.3d at 76. This ruling reiterates that the legislature has flexibility to “utilize different methodologies to measure adequacy.” *Id.* at ¶ 103, 181 P.3d at 73.

The State currently uses various means to evaluate and address suitability as an aspect of adequacy. (See R. at 6378-84, ¶¶ 881-919). While it previously attempted to use statewide assessments, the lack of transparency and consistency in these assessments was

concerning. (R. at 6373-78, ¶¶ 855-80). The legislature ultimately chose not to require statewide suitability assessments, and the State now addresses suitability through several administrative processes. 2021 Wyo. Sess. Laws ch. 131, § 1; (Tr. at 3436-40).

One of these processes invites districts to report facility concerns, including any suitability issues. (Tr. at 3440:1-21). The rule describing this process provides, in relevant part:

If a district board of trustees makes a finding that the district is unable to provide the required programs because its educational space is inadequate, the district superintendent shall immediately notify the Department in writing and provide a detailed report explaining how the current space is not adequate for the delivery of the required educational programming. ... In the event the Department receives such a report, it shall make recommendations to the Commission evaluating the deficiency and suggesting remedies to alleviate the situation. ... Based upon the district's report and the Department's recommendations, the Commission shall determine whether a remedy is necessary. If the Commission determines a remedy is necessary, it shall direct the Department to perform a most cost-effective remedy study in accordance with Chapter 8 § 5(b)(iii) of these Rules.

Rules, Wyo. State Constr. Dep't, Sch. Facilities Comm.n, ch. 3, § 8. Several districts have used this process to raise facility concerns and obtain remedies. (Tr. at 1099:21-1100:17, 1552:7-15, 1553:10-12, 1714:9-11, 1961:11-16); 2025 Wyo. Sess. Laws ch. 118, § 1.

The district court criticized this rule for two reasons. First, the court concluded that it imposes an improper burden on districts to conduct and pay for an “initial assessment.” (R. at 6608). Second, the court concluded the rule creates the “potential for arbitrary, unequal, and disparate results” because it lacks a “criteria, standard, or score” that must be satisfied to qualify for a remedy. (*Id.*). Both criticisms are unfounded.

The rule imposes no burden on districts other than to make a finding and submit a report explaining how facility issues are affecting delivery of the education program. It does not require any formal assessment or other substantial expenditures. A district is merely expected to identify its concerns and provide supporting information – hardly a burden for the entity that operates a facility and understands how it is used. This *de minimus* requirement is consistent with other processes long used to engage districts as partners in identifying and planning for facility needs, and produces more reliable and efficient results than statewide assessments. (Tr. at 3440:22-3442:11).

The district court's concern over inconsistent results is also misplaced. The potential for some variation exists within both an administrative process and a statewide assessment, as both involve a degree of inherent subjectivity. (Tr. at 3428:17-24). However, this concern is actually amplified and more difficult to mitigate when using a statewide assessment because the subjectivity may be hidden within the details of the assessment methodology. The State offered evidence of its many attempts to evaluate suitability through statewide assessments, as well as concerns caused by large, unexplained variations in assessment results. (R. at 6373-78, ¶¶ 855-80). This experience belies the district court's assumption that statewide assessments will produce more consistent decision making.

Current administrative processes reduce the potential for inconsistency and improve transparency by setting standards through rulemaking open to the public and preserved in agency records. It is easier for courts to adjudicate such standards, and their use, than if

they are embedded within the technicalities of a particular consultant's suitability assessment methodology. Indeed, district employees repeatedly complained at trial about the opaqueness of the methodology used in the most recent statewide condition assessment. (*See e.g.*, Tr. at 301:3-303:21). Such complaints would undoubtedly be even more prevalent when assessing the more nebulous concept of suitability.

This Court's precedent provides no legal basis to conclude that administrative processes are categorically insufficient, or to assume the relevant agencies are incapable of setting and using appropriate standards in response to legal guidance. *Campbell IV*, ¶¶ 133-35, 181 P.3d at 83. Any lingering potential for inconsistency can be readily mitigated through adherence to agency precedent as it develops or other minor procedural refinements.

In reaching its decision, the district court seemed overly taken with the idea that the State must evaluate suitability in the same way as condition, using statewide assessments for all facilities. (R. at 6606). However, several factors make statewide assessments less efficient and reliable for evaluating suitability than for evaluating condition.

First, suitability issues are indisputably more subjective and difficult to consistently measure than condition issues, making comparison and prioritization across a large portfolio of buildings difficult and unreliable. (Tr. at 1711:22-1713:20, 3006:11-25, 3428:17-24, 3431-3435; Ex. A12 at 7 (no page numbers in document)). Standards for performing suitability assessments vary much more than those for condition assessments.

(Tr. at 1711:22-1713:20). Suitability scores also embrace a more diverse range of subjective variables, which must be weighted subjectively, making the data more qualitative, less quantitative, and less useful for comparison. (Tr. at 3431-3435).

Second, statewide suitability assessments may create a false sense of uniformity. Suitability is primarily defined by the ways educators use facilities to support the delivery of education. (Tr. at 3432:14-3433:12). Use of space may vary greatly across districts, within a single district, and over time, depending on educators' plans and preferences. (Tr. at 3433:13-3434:2). Attempting to account for diverse and dynamic facility usage necessarily causes statewide suitability assessments to evaluate buildings in a non-uniform manner. (Tr. at 3440:22-3441:20). Suitability scores conceal this lack of uniformity behind the veneer of a seemingly objective, quantitative metric that may not accurately capture more nuanced needs. (*See* Tr. at 3440-41).

Third, mandating a statewide assessment ignores the practical advantages of an administrative process that leverages school districts' immediate involvement and access to the best information about their facility usage and needs. (*See* Tr. at 3688:22-3689:2). Statewide site assessments are periodic, providing a snapshot in time that may become outdated. (Tr. at 3687:2-3688:6). The current case-by-case approach allows districts to bring current information forward in a more direct and timely manner. This process makes it less likely that consideration of a nuanced suitability issue will be missed or delayed, as compared to periodic statewide assessments. (Tr. at 3440:22-3442:11).

Finally, mandating a statewide assessment is highly inefficient when it involves evaluating a large number of already suitable facilities. The State presented uncontroverted evidence that over 70% of the total square footage of school facilities within Wyoming has been replaced or substantially renovated over the last twenty years. (Ex. Q6). The State also allows school districts a high degree of autonomy and flexibility to design and renovate these facilities in ways they find suitable. *Campbell IV*, ¶ 109, 181 P.3d at 77.

With so much educational space already modernized to suit district needs and preferences, it is unlikely many facilities with meaningful suitability issues remain. The vast majority of the effort behind a statewide assessment would therefore be wasted reviewing relatively modern buildings that do not need to be assessed for this purpose. The current administrative process avoids this needless effort, allowing for focused review of the handful of reported buildings that may actually have suitability issues.

The *Campbell* cases preserved flexibility for the State to use whatever reasonable methodologies it finds most effective and efficient to assure adequate school facilities. *Campbell III*, ¶¶ 15, 20, 32 P.3d at 329-30. This Court should not depart from that approach. The district court's rigid assessment mandate does not acknowledge this important prerogative and should be reversed.

VIII. The district court erred in mandating additional funding for technology devices where this issue was not pleaded and the State did not consent to its addition to the case.

The district court concluded that “funding for one-to-one computer to student ratio” must be provided as a “substantive innovation” that is “appropriate for the times” and necessary to provide “education of a quality that is both visionary and unsurpassed.” (R. at 6604). This issue was never pleaded. (*See generally* R. at 1-71, 318-36). As a result, granting such relief is legally impermissible without notice and an opportunity for the State to develop and present evidence.

Unpleaded issues may only be added at trial by consent, a requirement acknowledged under the Wyoming Rules of Civil Procedure, which state:

When an issue not raised by the pleadings is tried by the parties’ express or implied consent, it must be treated in all respects as if raised in the pleadings. A party may move – at any time, even after judgment – to amend the pleadings to conform them to the evidence and to raise an unpleaded issue. But failure to amend does not affect the result of the trial of that issue.

Wyo. R. Civ. P. 15(b)(2). While this rule has changed slightly over time, previous cases addressing unpleaded issues are still relevant to the question of the State’s consent in this case.

Express consent to addition of an unpleaded issue can be found where, for example, a pretrial order identifies the issue without objection. *J Bar H, Inc. v. Johnson*, 822 P.2d 849, 855 (Wyo. 1991). However, “[t]he existence of implied consent is a more complex issue[.]” *Id.* at 856. “Implied consent ... seems to depend on whether the parties recognized

that an issue not presented by the pleadings entered the case at trial.” *Id.* (citation omitted). If the parties have not recognized an issue “there is no consent and the amendment cannot be allowed.” *Id.* (citation omitted).

“[C]onsent generally is found when evidence [supporting the unpleaded issue] is introduced without objection[.]” *Id.* (citation omitted). However, “[i]f the evidence that supports the unpleaded issue is also relevant to another issue in the case, ... [it] may not be used to show consent to trial of a new issue absent a clear indication that the party who introduced the evidence was attempting to raise a new issue.” *Gould*, ¶ 42, 354 P.3d at 977 (citation omitted).

Appellees’ pleadings make generalized claims of underfunding, including passing references to technology needs. (R. at 16, 28, 42, 66-70, 327, 334, 5828-31). However, they include no specific demand to change technology device ratios. The record shows the State had no notice or opportunity to expressly or impliedly consent to the addition of technology device ratios as an unpleaded issue. The district court never stated its intent to decide this issue in its pretrial order or from the bench. (*See e.g.*, R. at 5828-30). Further, while failing to make a motion under Rule 15(b)(2) does not necessarily preclude the determination of an unpleaded issue, the lack of such a motion indicates that no party intended to add the issue to the case. In short, the State was never given any opportunity, either by Appellees or the district court, to agree or disagree, and therefore could not have

expressed any form of consent to include technology device ratios as an unpleaded issue. *See J Bar H*, 822 P.2d at 855.

As the district court observed, the evidence at trial included testimony from school district employees expressing a desire to expand the use of student technology devices. (R. at 6603). However, witnesses made these comments in support of claims of generalized underfunding due to a lack of inflationary adjustments. (R. at 9-35, 41-44, 51-53, 323-27). Appellees supported this allegation with witnesses providing examples of things districts would like to do, or were doing using other funds, but are allegedly unable to do or continue due to alleged general underfunding. The evidence relating to student technology devices was merely one of these examples. The State had no basis to object to the testimony in that context, as it was generally relevant to a pleaded issue, but also had no notice that allowing these passing references to technology devices would be considered sufficient to raise a new claim and allow a specific order for relief. *Gould*, ¶ 42, 354 P.3d at 977.

The district court cited passages relating to technology devices within the 2020 Recalibration Report to support its decision on this issue. (R. at 6603-04). While this report provides estimates of the cost to change technology device ratios, it does not actually recommend such a change. (Ex. E1 at 002232). This voluminous document discusses technology device ratios amongst all the other components included in the 2020 recalibration. It would be unreasonable to conclude that the State's submission of this

report for other purposes constitutes consent to the trial of any subject it may have addressed.

The district court also impugned the State's lack of evidence on this issue, noting "[n]one of the State's witnesses expressly addressed the question of the sufficiency of funding for student technology devices." (R. at 6603). This is to be expected where none of the filings, proceedings, discovery, or arguments ever put the State on notice the court was intending to separately consider and decide the issue. The State was unaware that technology device ratios were under review until the district court's final order provided a remedy no party had requested.

The district court's willingness to decide this unpleaded issue reflects a degree of overreach that pervades much of its decision. Granting relief specific to technology device ratios prejudiced the State by depriving it of any notice and opportunity to present countervailing evidence. *See Gould*, ¶ 50, 354 P.3d at 979. To the extent the court even intended to exercise its discretion under Rule 15(b)(2), it has clearly abused that discretion and this part of its order should be vacated. *Id.*, ¶ 42, 354 P.3d at 977.

CONCLUSION

Throughout this case, the district court perceived its mandate as allowing unfettered scrutiny and revision of any aspect of the funding model, relying in many instances on interested testimony from Appellees' own employees to override legislative policy choices.

(R. at 477-78, 5565, 6575-77). This unrestrained approach disturbs the balance between co-equal branches necessary to maintain an appropriate separation of powers.

Where courts are addressing disparities to ensure fairness in the allocation of school funding, they exercise the broadest authority. But questions of overall adequacy and the need for new or additional spending involve subjective judgments and reasonable differences of opinion that demand more restraint. On these issues, the good faith efforts of elected lawmakers should be reviewed with deference and a presumption of constitutional validity. *See Campbell IV*, ¶¶ 15, 73-79, 181 P.3d at 50-51, 65-67.

The Constitution commands a focus on students' right to an adequate and equitable "system of instruction." Wyo. Const. art. 7, § 1. It does not justify courts substituting their judgment for that of the legislature in pursuit of whatever districts or advocates may rationalize as beneficial for students. Subjecting the State to strict scrutiny based on little more than narratives and subjective perceptions that Wyoming schools do not have enough (despite some of the highest per pupil funding in the country) does not respect the intensive, data-driven processes the legislature has used for decades to estimate cost and navigate the margins of education funding where there are often no definitive answers.

This case provides an opportunity to finally lead Wyoming out of the thicket of endless litigation by re-affirming and clarifying the limiting principles and standards from *Campbell IV*. In doing so, this Court would appropriately limit judicial entanglement in political disputes over the adequacy of a funding system that, as districts have repeatedly

conceded in assurances to the State, remains sufficient to deliver the legislatively-prescribed education program for all students.

For the foregoing reasons, the district court ruling should be reversed and remanded as necessary with instructions to preserve the authority of the legislature to: (i) exercise discretion in the application of ECAs; (ii) set model salaries using market-based estimates of economic cost; (iii) determine the components of the legislative funding model (ordering new component funding only where objective evidence establishes necessity and efficacy); and (iv) use reasonable administrative processes to monitor and address the suitability of school facilities.

DATED this 24th day of July, 2025.

/s/Ryan Schelhaas
Ryan Schelhaas #6-3321
Chief Deputy Attorney General

/s/Mark A. Klaassen
Mark A. Klaassen #6-4511
Deputy Attorney General

/s/Sean Towles
Sean Towles #7-5992
Senior Assistant Attorney General

Wyoming Attorney General's Office
109 State Capitol
Cheyenne, WY 82002
Telephone: (307) 777-7580

Timothy M. Stubson #6-3233
Mistee L. Elliott #6-3540

ATTORNEYS FOR APPELLANT

CERTIFICATE REGARDING ELECTRONIC FILING

I, Sean Towles, hereby certify that the foregoing BRIEF OF APPELLANT STATE OF WYOMING was served this 24th day of July, 2025, electronically via the Wyoming Supreme Court C-Track Electronic Filing System to the following:

Patrick E. Hacker
Gregory P. Hacker
HACKER, HACKER & KENDALL, P.C.
phacker@hackerlaw.net
ghacker@hackerlaw.net

O’Kelly H. Pearson
PARKER, POE, ADAMS &
BERNSTEIN, LLP
kelleypearson@parkerpoe.com

Richard D. Bush
John A. Coppede
COAL CREEK LAW, LLP
tbush@hickeyevans.com
jcoppede@coalcreeklaw.com

George E. Lemich
Kari Martin Moneyhun
LEMICH LAW CENTER
george@lemichlaw.com
kari@lemichlaw.com

Tyler Garrett
HATHAWAY & KUNZ
tgarrett@hkwyolaw.com

The undersigned also certifies that all required privacy redactions have been made and, with the exception of those redactions, every document submitted in digital form or scanned .pdf is an exact copy of the written document filed with the Clerk, and that the document has been scanned for viruses and is free of viruses.

/s/Sean Towles

Sean Towles, #7-5992
Senior Assistant Attorney General

APPENDIX

Pursuant to Rule 7.01(k) of the Wyoming Rules of Appellate Procedure, Appellant, State of Wyoming's Appendix is as follows:

1. Wyo. R. App. P. 7.01(k)(1) – Judgment or Final Order Appealed From

- Findings of Fact, Conclusions of Law, and Order (October 25, 2024) (District Court, First Judicial District, Laramie County) (attached).

2. Wyo. R. App. P. 7.01(k)(3) and 10.01- Statement of Costs

Pursuant to Rule 10.01 of the Wyoming Rules of Appellate Procedure, undersigned counsel certifies that Appellant, State of Wyoming, has paid the following costs:

- Appellant paid Nicole B. Boies, CSR, RPR \$253.50 on April 16, 2025, for the transcript of a Hearing on Burden of Proof.
- Appellant paid the Clerk of the District Court for the First Judicial District, Laramie County, a \$240.00 filing fee via File&Serve Xpress on March 26, 2025, which includes the District Court fee (\$140.00) and the Wyoming Supreme Court fee (\$100.00).
- Appellant has paid a total of \$493.50 in costs to date for this appeal.
- Appellant has also paid Kathy Kendrick, RPR for the transcripts of the bench trial held between June 3, 2024, and June 26, 2024. See Wyo. R. App. P. 10.01(a) (describing “a statement of the cost of the original transcript **of the evidence**”). These payments were made prior to the initiation of this appeal,

and are therefore not included in this statement. The amounts of these payments can be provided as necessary.

/s/Sean Towles

Sean Towles, #7-5992

Senior Assistant Attorney General