

No. 425A21-2

TENTH DISTRICT

SUPREME COURT OF NORTH CAROLINA

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

and

CHARLOTTE-MECKLENBURG
BOARD OF EDUCATION,
Plaintiff Intervenor,

and

RAFAEL PENN, et al.,
Plaintiff Intervenors,

v.

STATE OF NORTH CAROLINA,
Defendant,

and

STATE BOARD OF EDUCATION,
Defendant,

and

CHARLOTTE-MECKLENBURG
BOARD OF EDUCATION,
Realigned Defendant,

and

From Wake County
No. 95 CVS 1158

PHILIP E. BERGER, in his official capacity as President *Pro Tempore* of the North Carolina Senate, and

TIMOTHY K. MOORE, in his official capacity as Speaker of the North Carolina House of Representatives,
Intervenor Defendants.

BRIEF OF NORTH CAROLINA
BUSINESS LEADERS AS AMICI CURIAE

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BRIEF OF NORTH CAROLINA BUSINESS
LEADERS AS AMICI CURIAE

The undersigned *amici curiae* respectfully submit this brief in support of the arguments advanced by Plaintiffs and Plaintiff Intervenors in their roles as appellees.¹ The *amici* submitting this brief are recognized leaders in the North Carolina business community, all of whom have dedicated their professional efforts to building businesses that contribute to our state's economic progress and prosperity. For the sake of the State's business climate and the economic benefit of all North Carolinians, *amici* Business Leaders support the findings and conclusions set forth in the trial court's November 10, 2021 Order and, in part, the modifications effectuated by the April 26, 2022 Order Following Remand.

Specifically, this Court should affirm the portion of the November 10, 2021 Order directing the appropriate state officials to transfer funds necessary to implement years 2 and 3 of the Comprehensive Remedial Plan. The Court should also affirm the trial court's determination, in the April 26, 2022 Order, of the appropriate amount of funds necessary to implement these phases of the Comprehensive Remedial Plan.

¹ Other than the undersigned *amici curiae* and their counsel, no one has contributed to the preparation of this brief or the funding therefor.

INTRODUCTION

The right to education is unique among the rights guaranteed by the North Carolina Constitution’s Declaration of Rights. Unlike other provisions in the Declaration, Article I, Section 15 does not content itself with declaring the right—it expressly imposes a duty on the State to protect it. *See* N.C. Const. Art I, § 15 (“The people have a right to the privilege of education, *and it is the duty of the State to guard and maintain that right.*” (emphasis added)).

That is exactly what the Court should do here, building on its earlier decisions in *Leandro v. State*, 346 N.C. 336, 345, 488 S.E.2d 249, 254 (1997) (“*Leandro I*”), and *Hoke County Bd. of Educ. v. State*, 358 N.C. 605, 642, 599 S.E.2d 365, 393 (2004) (“*Leandro II*”). The Constitution imposes the duty to guard the right to education on “the State,” and it is ultimately this Court’s responsibility to enforce that guarantee.²

“[I]t is emphatically the province and duty of the judicial department to say what the law is.” *Marbury v. Madison*, 5 U.S 137, 177

² The Constitution makes a clear distinction between the State and the legislature. The “General Assembly” is to provide for a system of free public schools, Art. IX, § 2, but the broader duty to guard and maintain the right to education belongs to “the State,” Art. I, § 15.

(1803). If courts cannot order relief necessary to fulfill a constitutional right that the State has an express duty to “guard and maintain,” the foundational principle of *Marbury* rings hollow. This Court declared “what the law is” when it recognized and affirmed the right to a sound basic education in *Leandro I* and *II*, and it has the constitutional authority and duty to guard and maintain this fundamental right by affirming the trial court’s ruling here.

The benefits that flow from a sound basic education are legion. A quality education provides each student with essential skills and experiences needed for gainful employment, personal independence, strong citizenship, and financial stability. Knowledge, which comes from quality education, is “the handmaid of virtue” and essential for individual happiness. *Board of Graded School Comm’rs of Winston v. Bd. of Education of Forsyth Cnty.*, 163 N.C. 404, 404, 79 S.E. 886, 887 (1913).

But the benefits of quality education are not merely individual in scope. In many ways, providing quality schools and instruction inures to the benefit of all North Carolinians. *See Hart v. State*, 368 N.C. 122, 138, 744 S.E.2d 281, 292 (2015) (“[T]he ultimate beneficiary of providing these children additional educational opportunities is our collective

citizenry.”). As the framers of our State Constitution recognized, knowledge is “necessary to good government and [the] happiness of mankind.” N.C. Const. of 1868, Art. IX, § 1. Not long after adoption of the 1868 Constitution, this Court recognized that “the State must take charge of the education of its citizens” not only to improve outcomes for individual students, but to ensure the entire State’s “existence and prosperity.” *Lane v. Stanly*, 65 N.C. 153, 158 (1871) (citing N.C. Const. of 1868, art. IX, §§ 1, 2).

As these excerpts indicate, much of the discourse concerning sound basic education in North Carolina has focused on the general social benefits of providing quality public schools. This Court describes quality education as “necessary to good government.” *Id.* (without knowledge, “[t]he soldier is stolid and impairs the nation’s strength; the voter is ignorant of men and measures . . . art and science languish; and the whole nation is imbecile”). This Court has also been specific in recognizing additional general benefits that flow from quality education: improving voter engagement, fostering scientific and artistic innovation, and combating crime. *See id.*; *Collie v. Comm’rs of Franklin Cnty.*, 145 N.C. 170, 170, 59 S.E. 44, 46 (1907); *Bd. of Education of Bladen Cnty. v. Bd. of*

Comm'rs of Bladen Cnty., 111 N.C. 578, 578, 79 S.E. 886, 887 (1892),
overruled on other grounds by Collie, 145 N.C. at 170, 59 S.E. at 44-46.

The *amici* supporting this brief appreciate the broader social benefits of quality education that are so important to individual happiness and independence, but they support the trial court's decision here for a more specific reason. As business leaders in the state, *amici* are attentive to the impact of a sound basic education on our state economy. In particular, they are concerned that failing to implement improvements to North Carolina schools will negatively affect students' ability to thrive in the workplace—and by extension our collective financial condition. Improving education will ensure a skilled and talented local work force to support businesses and investment in the State. In blunt and purely economic terms, *amici* understand that our children and their educational attainment will determine North Carolina's economic future. We fail to prepare them fully at our peril.

The evidence in the case demonstrates that far too many children are not receiving a sound basic education. Without funding to implement the actions outlined in the Comprehensive Remedial Plan, the State cannot assure the availability of quality education in every school. North

Carolina will not have the well-trained teachers and administrators, the financial resources, or the many other components that every good school requires, leaving our citizens and businesses unprepared to compete in the global economy.

Improving education in the state is essential to create an inviting environment for businesses considering relocating here, and it is vital for those who, like *amici*, seek to start and grow their businesses in North Carolina. Business leaders depend on an educated workforce prepared to contribute to a modern economy, and ensuring an educated and well-prepared work force is vital for the future of their businesses and many others across the state.

Finally, *amici* understand that the education of our children is an enormously complex enterprise. Children come to our schools with extreme variations in their personal and family circumstances, and vast numbers of children need additional help to achieve the educational attainment to realize their full potential. This challenge is compounded by the increasing difficulty of attracting and retaining highly qualified educators in a competitive marketplace to staff our schools consistently in all counties.

For too long, our State has failed to take effective steps to assure essential educational capacities in every school district and in every school, as required by our Constitution. The trial court recognized this fact in ordering the State to implement the Comprehensive Remedial Plan. It is a historic, evidence-based roadmap that describes what North Carolina must do, over time, and in what sequence, and at what cost, to put the essential capacities in place, in every school, in every district, to provide a sound basic education to every child.

The Comprehensive Remedial Plan is a remarkable accomplishment, the most thorough plan ever developed in North Carolina, and possibly in any state, to assure full opportunity for all children. The State must not be deterred from this path to success and must never return to half-measures that fail countless children. By staying the course, North Carolina can proceed resolutely and systematically to assure the essential capacities that will enable our children, and our economy, to realize their full potential.

Education is the inexorable force that dictates the economic fortunes of our students and our collective citizenry. Prosperity ebbs and flows with the tide of education, and time and tide wait for no one. If the

State continues to delay and defer the funding necessary to bring its educational efforts in compliance with what the Constitution demands, the strength of the North Carolina economy will recede along with the financial condition of its citizens.

For the reasons reviewed below, the undersigned *amici* ask this Court to affirm the trial court's November 10, 2021 order, as modified in part by the April 26, 2022 Order, and authorize the transfer of state funds necessary to implement the Comprehensive Remedial Plan.

ARGUMENT

Since well before this Court's landmark decision in *Leandro I*, our citizens and government leaders have recognized the inextricable ties that bind quality education and economic prosperity. The history surrounding adoption of the 1868 Constitution shows that the framers secured the right to a sound basic education in part because of the importance it holds for the development of a robust economy that benefits all citizens.

As North Carolina evolved over the 150 years following the 1868 revisions to its organic law, our state's attention to the economic benefits of education has never wavered. Contrary to some leaders' recent

objection to funding the Comprehensive Remedial Plan, all three branches of the North Carolina government have consistently emphasized the necessity of quality education for a healthy, growing state economy. Modern social science and the empirical evidence developed in this case, including the WestEd Study and Action Plan, bears out the wisdom of government leaders who linked quality education with financial and business success. The data persuasively confirms that providing a sound basic education plays a pivotal role in economic growth and development.

The wisdom of our history, and our forebears' ancient grasp of the link between education and economic outcomes, should be sufficient warning. But we also are informed by the factual findings the trial court has made. If the State fails to fund the Comprehensive Remedial Plan, the trial court has determined, by the great weight of evidence, that North Carolina will fail to provide the educational opportunity that is every child's constitutional birthright, now and for future generations. Not only that, the same failure will deprive those same children of the learning and skills they must have to earn and enjoy the fruits of economic independence and prosperity. The resulting waste of human

potential—tragic and entirely avoidable—will constrain and diminish North Carolina’s future economy for decades to come.

I. Our Constitutional History Shows that the Framers Secured the Right to a Sound Basic Education To Ensure a Prosperous Economic Future for All North Carolinians.

To understand the link between economic prosperity and the constitutional right to a sound basic education, one must explore the history surrounding the adoption of provisions securing that right. A review of such history reveals that economic prosperity was a paramount concern for those who drafted, adopted, and expanded the education provisions of the North Carolina Constitution.

When interpreting the North Carolina Constitution, courts often seek to effectuate the intent of the framers. *State v. Webb*, 358 N.C. 92, 94, 591 S.E.2d 505, 509 (2004). Courts should construe constitutional provisions “in consonance with the objects and purposes in contemplation at the time of their adoption.” *Id.* (quoting *Perry v. Stancil*, 237 N.C. 442, 444, 75 S.E.2d 512, 514 (1953)). To ascertain the intent behind a constitutional provision, the Court should “consider the conditions as they then existed and the purpose sought to be accomplished.” *Id.* Accordingly, the correct interpretation of a constitutional provision

depends on the “history [and] general spirit of the times” existing when the provision was drafted and adopted. *Perry*, 237 N.C. at 444, 75 S.E.2d at 514, *abrogation on other grounds recognized by Forsyth Memorial Hosp., Inc. v. Chisolm*, 342 N.C. 616, 620, 467 S.E.2d 88, 90 (1996). The Court “should place itself as nearly as possible in the position of the men who framed the instrument.” *Id.*

The first North Carolina Constitution, adopted in 1776, recognized the importance of public education. Richard Caswell, who served as a leader in the colonial legislature and later as North Carolina’s first governor, initially proposed “erecting and establishing a free-school for every county” in his “Address of the General Assembly” in 1760. Charles Holloman, *Richard Caswell*, Dictionary of North Carolina Biography (1979). As chairman of the drafting committee for the provincial congress of 1776, he later wrote this concept into the State’s founding document. *Id.* It provided that “schools shall be established by the legislature, for the convenient instruction of youth, with such salaries to the masters, paid by the public.” N.C. Const. of 1776, § XLI.

Our history makes clear that the public schools provision in the 1776 Constitution lacked sufficient force to achieve its drafters’ hope of

meaningful advances in public education. The General Assembly made no significant progress on education until it enacted legislation in 1839 adopting a plan for funding public schools. *See An Act to divide the Counties into School Districts, and for other purposes, 1838-39 N.C. Sess. Laws 12; John V. Orth, The North Carolina State Constitution 156 (2011).* Even after passage of this legislation, however, the State did not implement significant public school operations for many years. *Id.* Without a stable public school system, North Carolina lagged behind its peer states, leaving “the poor in ignorance and the State in poverty.” Charles L. Coon, *The Beginnings of Public Education in North Carolina: A Documentary History 1790-1840* xii (1908).

As public education stagnated in the decades following adoption of the 1776 Constitution, citizens and government leaders sounded the alarm about the detrimental economic effects of inadequate public schools. In an 1804 message to the General Assembly, Governor James Turner lamented the unsuccessful efforts to establish “academies” throughout the state, noting that these academies failed for lack of financial support. *Id.* at 49. In his message urging legislators to fund public schools, Governor Turner emphasized that the “prosperity and

happiness” of the entire nation depend on education of its citizens. *Id.* Governor Edward Bishop Dudley, in his 1837 inaugural address, similarly linked education to economic growth, noting that the state’s schools were “languishing from neglect” and, compared with other states, North Carolina was “least in the scale of relative wealth and enterpri[s]e.” *Id.* at 803.

Journalists of this era documented the poor state of education and its impact on economic prosperity. An article that ran in an 1835 edition of the RALEIGH STAR described the legislative attitude toward public education as “profound and listless apathy” and argued that the lack of public schools “was daily draining the State of wealth and population.” *Id.* at xiv, 704-07. The STAR implored the General Assembly to “erect, on a firm basis, a system of popular education, which will enlighten our people and give durability and strength to our free institutions.” *Id.* at 707. Similarly, in 1839, the RALEIGH REGISTER printed an article supporting proposed legislation to establish public schools on the ground that it would permanently secure the “welfare and honor” of the state. *Id.* at 897; *see also id.* at xlv (summarizing an 1840 article in the

RUTHERFORDTON GAZETTE, which argued that the lack of education was a “great evil” and “the prosperity of the State was at stake”).

Ordinary citizens also took it upon themselves to warn government leaders about the lack of public education and its deleterious effects on economic opportunity. Citizens from the Borough of Halifax wrote the General Assembly in 1826 to express their “deep interest in the welfare of the people of North Carolina, and . . . her general prosperity.” *Id.* at 619. In this correspondence, the people of Halifax stated their view that “the general prosperity, and intellectual improvement of our people, cannot be elevated by any other means, than by an enlightened system of internal improvements and public[] education.” *Id.* Without sufficient investment in education, they feared, North Carolina’s “brightest stars” would take their talents and accomplishments to other states instead of investing in their native communities. *Id.*

North Carolina’s halting progress on education came to a full stop during the Civil War. Economic stress from the war depleted the public school fund, and the State was unable to replenish it with tax revenue. See John L. Bell, *Samuel Stanford Ashley, Carpetbagger and Educator*, 72 N.C. Hist. Rev. 456, 476 (1995). By 1866, amidst a lack of funding and

legislators who feared that schools might be racially integrated, the General Assembly had abolished the public school system. *Id.*

The North Carolina Constitutional Convention of 1868 presented an opportunity to revive the promise of public education and its attendant economic benefits. The framers made extensive changes to strengthen public education and insulate it from the whims and indifference of the General Assembly. *See Bell, supra*, at 482 (the framers intended the right to education to be “embedded in the constitution beyond the reach of legislative majorities”). Importantly, the 1868 Constitution added critical provisions that animate the right to a sound basic education as recognized in *Leandro I* and *Leandro II*. *See* N.C. Const. of 1868, Art. I, § 27 (“The people have a right to the privilege of education, and it is the duty of the State to guard and maintain that right.”); *id.* Art. IX, § 2 (“The General Assembly . . . shall provide by *taxation and otherwise* for a general and uniform system of Public Schools.” (emphasis added)); *see also id.* Art. IX, § 1 (“Religion, morality, and knowledge being necessary to good government and happiness of mankind, schools, and the means of education, shall forever be encouraged.”).

The history surrounding adoption of these new protections for education sheds light on the intent and motivations of those who drafted and adopted them. *See Perry*, 237 N.C. at 444, 75 S.E.2d at 514 (courts “should look to the history [and] general spirit of the times” to determine intent of the framers). In the years leading up to 1868, citizens and government leaders were frustrated by the General Assembly’s failure to adequately establish and fund a system of public education. They worried about the ill effects of inadequate education on opportunities for economic advancement, and they made those worries known to leaders in state government and others who had a hand in drafting and adopting the 1868 Constitution.

In light of this history and the concerns of the time, it is evident that the people of North Carolina secured a constitutional right to sound public education to prevent the evils that befell the state in its infancy—and to safeguard the economic prosperity that comes from strong public education.

The 1970 amendments to the North Carolina Constitution further clarified that all students must be provided the opportunity for a sound basic education. The framers of this Constitution made clear that the

“general and uniform system of free public schools” must be one “wherein equal opportunities shall be provided for all students.” N.C. Const. Art. IX, § 2.

This Court acknowledged, clarified, and gave meaning to these constitutional provisions in its *Leandro* decisions by ruling that the applicable provisions in our Constitution combine to establish a right to a sound basic education that includes qualitative standards without which the educational right would be devoid of meaning. In doing so, this Court honored the constitutional commitment to education by resolving to guard and maintain the right to education for all. In describing the characteristics of a sound basic education, this Court acknowledged again the linkage between a sound basic education, personal independence, and a strong economy.

Having clarified this constitutional right, the fundamental promise of our Constitution to future generations, this Court provided the trial court with the framework to determine whether the State is meeting its constitutional duty to provide North Carolina children with this fundamental right. The evidence developed over more than twenty years demonstrated conclusively that it has not. North Carolina was failing to

provide an opportunity for a sound basic education to a large proportion of school-age children. The trial court gave the State numerous opportunities over many years to demonstrate that plans and commitments were in place, or being planned, to address this severe and debilitating constitutional deficiency. The evidence demonstrated, however, that students were still being denied their rights.

In response to this evidence, the trial court established a process that led to an effective and comprehensive evidence-based remedy for the large, complex challenges so long neglected—a remedy that will assure the opportunity for a sound basic education to all children and a strong economic future for North Carolina.

II. All Three Branches of State Government Agree that a Sound Basic Education Improves Economic Outcomes for All North Carolinians; Scientific Research Confirms It.

The view that a sound basic education is essential for economic success endures to this day. Our state government institutions and governmental leaders agree on this point: education is good for students, good for business, and good for the North Carolina economy. Modern social science verifies the link between education and economic prosperity and empirically demonstrates that providing quality

education improves economic outcomes for individual students and the citizenry at large. Though some parties to this appeal object to the remedy ordered by the trial court, there is one salient point that cannot reasonably be disputed: fully implementing and supporting educational improvements serves the individual and collective economic interest of all North Carolinians.

A. North Carolina Courts Consistently Recognize the Economic Benefits of a Sound Basic Education.

Since the framers first embedded the right to a sound basic education in the 1868 Constitution, this Court has consistently recognized the economic benefits that flow from quality public schools.

In *Leandro I*, the Court observed that education is constitutionally adequate only if it is sufficient to prepare students to participate and compete as workers in our modern economy. *See* 346 N.C. at 345, 488 S.E.2d at 254. Moreover, when the Court defined the qualitative aspects of a sound basic education, it did so in terms of the economic benefits such an education must provide. *Id.* at 347, 488 S.E.2d at 255. (holding that a sound basic education must provide “sufficient academic and vocational skills to enable the student to compete on an equal basis with others in . . . gainful employment”). The Court reaffirmed these economic benefits

in *Leandro II*. See 358 N.C. at 616, 599 S.E.2d at 377 (“The children of North Carolina are our state’s most valuable resource.”); *id.* at 649, 599 S.E.2d at 397 (“Assuring that our children are afforded the chance to become contributing, constructive members of society is paramount.”).

Leandro was not the first time the Court recognized the link between education and economic productivity. Just a few years after adoption of the 1868 Constitution, the Court described education as essential for the State’s “existence and prosperity.” *Lane*, 65 N.C. at 158. Construing the constitutional provisions guaranteeing the right to a sound basic education, the Court expounded upon the “great governmental consideration” of free public education and admonished against viewing public education as “mere charity.” *Id.* Without the knowledge that comes from education, the Court explained, “the laborer add[s] nothing to general prosperity.” *Id.*

In *Lacy v. Fidelity Bank of Durham*, the Court stated that “there is no article in our organic law which the people regarded as more important” than the right to education set forth in Article IX. 183 N.C. 373, 373, 111 S.E. 612, 614 (1922); see also *Collie*, 145 N.C. at 170, 59 S.E. at 46 (describing education as “of the highest and most essential

importance” for the wellbeing of our state). The Court viewed the right to quality public education as essential to the entire State’s economic success, drawing a straight line from quality education to “welfare and prosperity.” *Lacy*, 183 N.C. at 373, 111 S.E. at 614.

The Court has reaffirmed the link between education and economic prosperity many times, including in recent opinions. *See, e.g., Hart*, 368 N.C. at 138, 774 S.E.2d at 292 (holding in 2015 that expanding educational opportunities benefits all citizens); *Leandro II*, 358 N.C. at 616, 649, 599 S.E.2d at 397 (recognizing that well-educated students are better positioned to contribute to the state economy); *Leandro I*, 346 N.C. at 345, 488 S.E.2d at 254 (defining a sound basic education in terms of the economic benefits it should provide).³

³ North Carolina is not the only state to recognize the strong nexus between quality public education and economic prosperity. Courts in our sister states agree. *See Conn. Coalition for Justice in Educ. Funding, Inc. v. Rell*, 295 Conn. 240, 283, 900 A.2d 206, 243 (2010) (education is the “cohesive element that binds the fabric of society together” and key factor on which “the state’s future depends”); *Claremont School Dist. v. Governor*, 142 N.H. 462, 472, 703 A.2d 1353, 1358 (1997) (“Education provides the key to individual opportunities for social and economic advancement and forms the foundation for our democratic institutions and our place in the global economy.”); *Unified School Dist. No. 229 v. State*, 256 Kan. 232, 271, 885 P.2d 1170, 1195 (1994) (educating all youth in the state is necessary to “support an economy [and] society in the 1990’s and beyond”); *Abbott v. Burke*, 119 N.J. 287, 392, 575 A.2d 359,

The North Carolina judiciary has thus consistently acknowledged the clear nexus between a strong economy and the educational attainment of our people. Our courts have uniformly interpreted the right to quality education as a necessary element of economic growth and success. This Court acted upon that interpretation in *Leandro I* and *II*. By making the constitutional guarantee of the right to quality education a reality for all North Carolina children, the trial court's efforts to apply and enforce those decisions sets North Carolina on a course to make economic prosperity a reality for all citizens.

B. The North Carolina General Assembly Acknowledges the Economic Benefits Flowing from Quality Education.

The General Assembly has also acknowledged the substantial benefits that flow from providing a sound basic education to all students. Through statute and public statements, our legislators have made clear that quality education is important for economic development and growth. This has been the record of the General Assembly until, in their

411 (1990) (“[O]ur economic well-being is dependent on more skilled workers, technically proficient workers, literate and well-educated citizens.”); *Rose v. Council for Better Educ., Inc.*, 790 S.W.2d 186, 205 (Ky. 1989) (educational opportunities “ensure a strong economic, cultural and political future”).

intervention in this case last December, the legislature opposed the trial court's remedy here.

In legislation, the General Assembly has been specific to this end: “It is the policy of the State of North Carolina to create a public school system that graduates good citizens with the *skills demanded in the marketplace*, and the skills necessary to cope with contemporary society, using State, local and other funds in the most cost-effective manner.” N.C.G.S. § 115C-408(a) (emphasis added). As statutes like this emphasize, providing quality education for the citizens of this state serves the community at large by preparing them to meaningfully participate in the economy. *See id.*

The leaders of the General Assembly, including Legislative Intervenors in this appeal, have agreed that education is essential for the state's businesses and economy. When discussing the importance of in-class instruction, Senator Phil Berger stated that the absence of “basic education” for the poor would result in many being “stuck in poverty and robbed of the opportunity for success in life.” Sen. Phil Berger, *In-person Instruction Is Critical for the Success of NC Students*, THE CHARLOTTE OBSERVER, July 30, 2020, <https://bit.ly/3v3AeAk>. In addition to the

economic effects of education on individuals, Senator Berger recognized that “education is the most important intervention to improve the condition of one’s birth. And *no institution in society is more essential to our country’s long-term viability.*” *Id.* (emphasis added).

Speaker Tim Moore agrees. In a statement regarding school construction, Speaker Moore stated: “We all know that education is what matters most to families *and businesses* in North Carolina. We have consensus that a *skilled workforce* needs 21st century classrooms for our state.” *Education Bond Act of 2019 filed by Speaker Moore and N.C. House Leaders*, Speaker Tim Moore, February 28, 2019, <https://bit.ly/3OoCGbx> (emphasis added).

In sum, the General Assembly does not dispute that North Carolina must provide its citizens with a sound basic education to ensure a thriving business environment and economic growth. Although certain leaders of the General Assembly oppose the remedy ordered in this action, our state legislative body agrees with the fundamental truth that *amici* advance here. The passage of twenty-five years since *Leandro I* has therefore not diminished the Court’s conclusion that the legislature has

“recognized the constitutional right to a sound basic education” and “embraced that right.” *Leandro I*, 346 N.C. at 347, 488 S.E.2d at 254.

C. The Executive Branch of the North Carolina Government Has Cited Education as the Engine of Economic Growth.

Government leaders in the executive branch have also cited education as an important driver of economic growth and development. In a recent press release, Governor Roy Cooper linked education to economic opportunities, explaining that “[c]ompanies come to North Carolina and choose to grow here because of our talented and educated workforce.” *Governor Cooper Leads Roundtable on Economic Growth and North Carolina’s Growing Workforce Initiatives*, North Carolina Department of Commerce, February 13, 2020, <https://bit.ly/3PowSjz>. The Secretary of Commerce has also noted the role that education plays in the health and growth of our state economy. *Education Linked to Economic Growth*, ROCKY MOUNT TELEGRAM, August 2, 2019, <https://bit.ly/3B0VryF> (education is the “greatest incentive” that brings businesses and industries to North Carolina).

The initiatives and plans implemented by departments within the executive branch also underscore the importance of education to

economic prosperity. In its 2021 Strategic Economic Development Plan, the Department of Commerce advised that “education systems must be improved” to “help more North Carolinians contribute to a thriving and innovative economy.” *First in Talent: Strategic Economic Development Plan for the State of North Carolina*, North Carolina Department of Commerce 2 (2021), <https://bit.ly/3aQJEbF>. Similarly, the Department of Public Instruction recently published a strategic vision that focuses on improving economic development. *See Operation Polaris: Future Focused, Career Ready*, North Carolina Department of Public Instruction (2021), <https://bit.ly/3v3jSYq>. The plan calls for all students to receive adequate K-12 education, including access to career exploration and real-world learning experiences. *Id.*

In word and deed, the executive branch thus acknowledges and emphasizes the connection between quality education and financial success. At bottom, no one in our state government can deny, or has challenged, the crucial role that education plays in improving our economic future.

D. Empirical Data Demonstrates the Positive Correlation between Quality of Education and Economic Prosperity.

Researchers confirm that our State’s constitutional drafters and government leaders are correct: there is a strong link between quality education and improved economic circumstances for all. “Over decades and across countries, theoretical and empirical investigations into the causes of long-run economic growth have produced a large and growing body of research that finds K-12 education plays a pivotal role in the economic growth and well-being of people and nations.” Robert G. Lynch, *Public Investments in Education Can Spur Equitable Growth, Pay for Themselves, and Create Jobs for a Stronger Economic Recovery*, Washington Center for Equitable Growth 25 (2020).

An article summarizing the research on this topic explained that “[b]etter education leads not only to higher individual income but is also a necessary (although not always sufficient) precondition for long-term economic growth.” Catherine Grant, *The Contribution of Education to Economic Growth*, K4D Helpdesk Report, Institute of Development Studies 2 (2017). One study that “modelled the impact of attainment in fifty countries between 1960 and 2000 found that an additional year of

schooling can increase a person's earnings by 10% and average GDP by 0.37% annually." *Id.* at 5.

Educational attainment is not the only important factor for these economic outcomes. Rather, the quality of educational services plays a powerful role: "[T]here is strong evidence that the cognitive skills of the population—rather than mere school attainment—are powerfully related to long-run economic growth. . . . Growth simulations reveal that the long-run rewards to educational quality are large but also require patience." *Id.* at 3.

In sum, there is unanimity among key stakeholders regarding the economic benefits that our state will realize from implementing the Comprehensive Remedial Plan. All three branches of government understand, and research confirms, that we must improve education to improve our economic situation. The trial court's remedy is the first, critical step in making those improvements a reality.

III. Implementing the Comprehensive Remedial Plan—and Providing Required Funding—Are Essential for Ensuring a Productive and Economically Successful Society.

There is no disagreement about the fundamental role that implementing and funding educational improvements play in securing

North Carolina's economic success. By enacting provisions that successively animated and strengthened the right to a sound basic education in 1776, 1868, and 1970, the framers of the North Carolina Constitution were motivated by concerns about economic prosperity. They viewed knowledge as a critical factor for ensuring our collective welfare and financial success. Moreover, researchers and officials in all branches of state government recognize how important it is to deliver quality instruction to all students—not just to improve individual lives, but also to safeguard economic and societal well-being for all citizens.

The Comprehensive Remedial Plan represents the trial court's effort to comply with the constitutional command that the State must guard and maintain the right to education by preparing a plan that would satisfy the State's obligation to ensure that every child in North Carolina receives a sound basic education. (R p 2134). The actions outlined in the Comprehensive Remedial Plan include: improving the development and recruitment of school teachers and administrators; ensuring equitable distribution of education-related funding; a system of assessment and accountability to improve student performance; interventional plans to help underperforming schools; establishing early education programs for

early childhood learning; and ensuring that students are prepared to join the workforce. (R pp 2134-35). The State did not contest the district court's conclusion that these actions will correct the constitutional violations that have continued over the course of the decades since this Court's decision in *Leandro I.* (R p 2134).

These actions are more than appropriate. The extensive record of this case establishes that these steps are necessary to bring educational services to the standard our State Constitution promises to each child. (R p 2134). Providing a quality education, including implementing the actions in the Comprehensive Remedial Plan, will fulfill a promise that has been deferred far too long. Our students must have these improvements so that they can thrive and compete in a modern society and economy that constantly demands more specialized skills.

As the trial court recognized in its April 26 Order, the State has not provided the necessary funding to meet its constitutional obligations. *See* 26 April 2022 Order ¶ 33. The State has underfunded the plan by more than \$700 million dollars, without which the State cannot fulfill its constitutional duty to provide a sound basic education to all students in North Carolina. *See id.* ¶ 50; 10 November 2021 Order ¶¶ II.11, II.18-20.

In *Leandro II*, the Court reviewed evidence presented by major employers. The Court held that, based on evidence that applicants educated in some North Carolina schools lacked basic skills in reading, math, and computer literacy, the State had denied those students the right to sound basic education. *Leandro II*, 358 N.C. at 628, 599 S.E.2d at 385. North Carolina had “failed to provide graduates with the skills necessary to compete on an equal basis with others in contemporary society’s gainful employment ranks.” *Id.*

Children born in 2004, the year that this Court decided *Leandro II*, graduated from high school this year. Because the State has failed to take the steps necessary to provide a sound basic education, many of these graduates face the same challenge as their parents. Eighteen years later, too many still lack the skills necessary to join “contemporary society’s gainful employment ranks.” *Id.*

As business leaders in the state, *amici* need to ensure an educated and skilled work force to support the continued growth and success of their businesses. They refuse to accept that another generation of students should be denied the opportunity for a sound basic education. All North Carolinians deserve the opportunity to collectively achieve the

economic success that will come from fulfilling the constitutional guarantee of a quality education.

CONCLUSION

North Carolina, at its best, is the land where “the weak grow strong and strong grow great.” N.C. Gen. Stat. § 149-2. The State’s constitutional commitment—to the weak and the strong alike—is to provide the resources necessary to ensure that every student in this state receives a sound basic education. Doing so will safeguard the continued growth and success of businesses in the state and will improve financial prosperity for all North Carolina citizens.

Under the circumstances, and in light of the untenable delay our students have endured, the remedy set forth in the trial court’s November 10, 2021 order is the practical and constitutionally appropriate means of carrying out that duty. Accordingly, the undersigned *amici curiae* respectfully ask this Court to affirm the trial court’s decision ordering appropriate state actors to transfer funds to support implementation of the remaining phases of the Comprehensive Remedial Plan.

Respectfully submitted this 27th day of July, 2022.

Electronically Submitted

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