

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

APPEAL FROM LEE COUNTY  
COURT OF COMMON PLEAS

Thomas W. Cooper, Jr., Circuit Court Judge

Appellate Case No. 2007-065159

RECEIVED

JUN 30 2017

S.C. SUPREME COURT

Abbeville County School District, et al., ..... Appellants-Respondents,

v.

The State of South Carolina, et al., of whom Hugh K. Leatherman, Sr., as President Pro Tempore of the Senate and as a representative of the South Carolina Senate, and James H. Lucas, as Speaker of the House of Representatives and as a representative of the South Carolina House of Representatives, are ..... Respondents-Appellants

and

State of South Carolina, Henry D. McMaster, as Governor of the State of South Carolina, are, ..... Respondents.

**APPELLANTS-RESPONDENTS' REPORT AND RETURN TO PETITION TO VACATE CONTINUING JURISDICTION AND REPORT OF RESPONDENT-APPELLANT JAMES H. LUCAS, AS SPEAKER AND REPRESENTATIVE OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES**

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TABLE OF CONTENTS

I. Report on Plaintiffs’ Efforts to Address Issues Identified in *Abbeville II*. . . . . 1

    A. Efforts By the Plaintiff Districts to Explore the Benefits of Consolidation  
        and Collaboration. . . . . 5

        1. Consolidation. . . . . 5

        2. Collaboration and Efficiencies. . . . . 11

II. Response to the Report of Respondent-Appellant James H. Lucas On Behalf of  
the House of Representatives. . . . . 17

    A. The State’s Approach to Funding is Fundamentally Flawed and  
        Unchanged. . . . . 17

    B. Other Legislative Actions Do Not Offer A Comprehensive Remedy. . . . . 19

III. Return to the Petition to Vacate Continuing Jurisdiction of Respondent-  
Appellant James H. Lucas On Behalf of the House of Representatives . . . . . 25

Appellants-Respondents (hereinafter referred to as “Plaintiffs” or “Plaintiff Districts”) respectfully submit this Report, pursuant to the Court’s Order dated September 20, 2016, and Return to Petition to Vacate Continuing Jurisdiction and Report of Respondent-Appellant James H. Lucas, as Speaker and Representative of the South Carolina House of Representatives.

**I. Report on Plaintiffs’ Efforts to Address Issues Identified in *Abbeville II*.**

By Order dated September 20, 2016, the Court directed both the Plaintiff Districts and the Defendants to submit a report on their own efforts to address the issues identified in *Abbeville II*. In *Abbeville County School District v. State (Abbeville II)*, 410 S.C. 619, 651, 767 S.E.2d 157, 173 (2014), the Court held that “the educational funding scheme is a fractured formula denying students in the Plaintiff Districts the constitutionally required opportunity.” In creating a remedy for their failure to provide students in the Plaintiff Districts the constitutionally required educational opportunity, the Court directed the Defendants to “take a broader look at the principal causes for the unfortunate performance of students in the Plaintiff Districts, beyond mere funding” and consider “the wisdom of continuing to enact multiple statutes which have no demonstrated effect on educational problems, or attempting to address deficiencies through underfunded and structurally impaired programming.” *Id.* at 660, 767 S.E.2d at 178. Further, the Court noted that the Plaintiff Districts themselves had an important role to play in helping the State craft a solution, directing the Plaintiff Districts to work together with the State to develop a “plan to address the constitutional violation announced today,” while at the same time recognizing that it was the Defendants “who must take the principal initiative, as they bear the burden articulated by our State’s Constitution, and

have failed in their constitutional duty to ensure that students in the Plaintiff Districts receive the requisite educational opportunity.” *Id.* at 662, 767 S.E.2d at 179-80.

On June 22, 2017, Respondent-Appellant James H. Lucas submitted a Report to the court, accompanied by a Petition to Vacate Continuing Jurisdiction. Unfortunately, the Introduction accuses the Plaintiffs of “failing to fully attend meetings” or “correspond with the Chair of the Task Force or the Speaker about new solutions to remedy the constitutional violation or what steps they believe should be taken next” to chart a path forward. House Petition to Vacate Continuing Jurisdiction and Report, pp. 7-8. These accusations are unwarranted. As discussed more fully below, the Plaintiff Districts have worked with the legislative bodies when given the chance and once again affirm that they would like nothing better than to work collaboratively with the House and the Senate to develop solutions to the “myriad problems” facing the students in their districts.

It appears the Defendant’s claim of non-cooperation is based on the House’s Exhibit A, which is an attendance sheet from a meeting of the Educational Reform Student Advisory Council, held in Florence, South Carolina, on Friday, September 16, 2016. This student advisory council was organized by the Honorable Rita Allison, Chair of the House Education and Public Works Committee and of the House Education Policy Review and Reform Task Force, to get student feedback through “openly and honestly” discussing their education and how to improve their scholastic experience. The list of students in attendance at the second of two meetings, held on September 16, a school day, reflects that some students from districts as far away as Hampton and Abbeville (two-three hour drive each way) were not present, thus apparently forming the basis for the Defendant’s claim of non-cooperation. However, Representative Allison described the first meeting as “a tremendous success,” so it is doubtful

that she would assert that the Plaintiffs were uncooperative. Further, blaming the students is a failed, but too familiar argument, and Plaintiffs trust that the General Assembly does not contend that the absence of some students from a second meeting justifies a claim that Plaintiffs are not cooperating and have not cooperated in the past when given the chance. The Plaintiff Districts have appeared and participated in developing a solution to the fullest extent possible within the constraints imposed by the Defendants, and pledge to work cooperatively when given the chance.

The complex problems facing the students in the Plaintiff Districts require not only thoughtful study, but also purposeful action by the parties with the power and responsibility to bring about change, and the Plaintiff Districts have done everything they reasonably can to contribute to finding a solution. Following the Court's ruling in November 2014, the Plaintiff Districts immediately began working to develop a proposed remedy for the constitutional deficiencies identified by the Court. By June 2015, the Plaintiff Districts had developed a comprehensive proposed remedy, which they presented to the House Education Policy Review and Reform Task Force, appointed by Speaker Lucas, and to the Senate Special Committee on Abbeville, appointed by the Honorable Hugh Leatherman, President Pro Tempore of the Senate.<sup>1</sup> The remedy proposed by the Plaintiff Districts represented more than six months of dedicated study by a group of district, state and national experts and leaders in the field of education, and included dozens of specific recommendations, within a comprehensive framework focused on six key pillars, discussed more fully on pages 7-8 of the accompanying Report of the Plaintiff District Actions prepared by Dr. Jo Anne Anderson, attached hereto as

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<sup>1</sup> A copy of the Plaintiff Districts' proposal, as presented to the House and the Senate, is attached as Appendix A to the Report of the Plaintiff District Actions prepared by Dr. Anderson and submitted with this Report and Return.

Exhibit A. Indeed, the value of this substantial body of work is acknowledged by the Defendants, who now report to the Court that they “adopted most, if not all, of the recommendations of the Plaintiff Districts.”<sup>2</sup> While the Plaintiff Districts appreciate the House’s affirmation that the House Task Force accepted most if not all of their recommendations, the legislation passed thus far reflects a disconnect between adopting the recommendations and translating those recommendations into action. The Plaintiff Districts continue to suffer from the problems identified in *Abbeville II*.

The efforts by the Plaintiff Districts to examine the programs and services offered in their districts in an attempt to improve and prioritize student learning within the limits of available resources, and efforts addressing the specific areas of concern identified in *Abbeville II* and in the Court’s September 20, 2016 Order are documented in the attached Report of the Plaintiff District Actions prepared by Dr. Jo Anne Anderson. Dr. Anderson is widely recognized as a leading expert in the field of education, having spent decades as a professional educator—in the classroom, in the South Carolina Technical College System, as an administrator in Richland County School District One, in the South Carolina State House staffing the Senate Education Committee, and as the Founding Executive Director of the South Carolina Education Oversight Committee from 1998 to 2011. She is currently an educational consultant with The Anderson Group. Acting on behalf of the Plaintiff Districts to respond to the Court’s September 20, 2016 Order, Dr. Anderson conducted a comprehensive survey of the actions taken by the Plaintiff Districts to tackle the issues identified in *Abbeville II*. Her

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<sup>2</sup> The House Task Force’s final report included a copy of the Plaintiff Districts’ recommendations in an appendix, but did not expressly incorporate the framework or the recommendations developed by the Plaintiff Districts into the Task Force’s findings or recommendations. However, many, indeed most, of the recommendations were adopted by the five subcommittees appointed by the Chair of the Task Force, the Honorable Rita Allison. The subcommittee recommendations were made a part of the Report.

efforts included compiling information from data and reports maintained on South Carolina school districts by the State of South Carolina and conducting interviews with district superintendents or their designees in the Plaintiff Districts. The Plaintiff Districts particularly draw the Court's attention to the following information drawn from the Report of Plaintiff District Actions prepared by Dr. Anderson and other sources.

**A. Efforts By the Plaintiff Districts to Explore the Benefits of Consolidation and Collaboration.**

The Supreme Court has expressed an interest in exploring the benefits that may accrue to the Plaintiff Districts through consolidation or collaborative efforts. This section addresses those topics, which are also addressed in the attached Report prepared by Dr. Anderson, on pages 9-15.

**1. Consolidation.**

There are currently 82 school districts in South Carolina. Most are countywide districts. The exceptions are as follows:

1. Anderson County - Districts 1, 2, 3, 4, and 5
2. Bamberg County - Districts 1 and 2
3. Barnwell County - Districts 19, 29, and 45
4. Clarendon County - Districts 1, 2, and 3
5. Dillon County - Districts 3 and 4
6. Dorchester County - Districts 2 and 4
7. Florence County - Districts 1, 2, 3, 4, and 5
8. Greenwood County - Districts 50, 51, and 52
9. Hampton County - Districts 1 and 2

10. Laurens County - Districts 55 and 56
11. Lexington County - Districts 1, 2, 3, and 4
12. Orangeburg County - Districts 3, 4, and 5
13. Richland County - Districts 1 and 2
14. Spartanburg County - Districts 1, 2, 3, 4, 5, 6, and 7
15. York County - Districts 1, 2, 3, and 4

In addition, School District Five of Lexington and Richland Counties, which crosses county lines, was formed in the 1950s.

The counties with more than one district range from the second highest population (Richland) to the forty-fourth (Bamberg). Since the *Abbeville* case was tried during 2003 and 2004, the State has merged three districts in Marion County into one. It has also consolidated Dillon 1 and 2 into Dillon 4. Prior to 2003, the State consolidated eight districts in Orangeburg County into three. During the 2017 legislative session, the General Assembly voted to consolidate the Orangeburg districts, but Governor McMaster vetoed it.

Discussions about consolidation within the Plaintiff Districts are ongoing. For example, the Florence 2, 3, and 5 superintendents met with their board chairmen and local House member this year to discuss consolidation among their districts, and these discussions will continue. The Florence districts are concerned, in part, that consolidation will simply result in a larger poor district that is unable to support its students and infrastructure. Bamberg 2 completed a feasibility study recently and has discussed consolidation with its local House member, but its research and experience shows that consolidation of its districts and schools would result in a less valuable learning experience for its students due to travel time and less individual classroom attention. Barnwell County undertook a study of its schools, and public

discussions or hearings have been held over the last two years. The result is that Barnwell County has decided, at least for the moment, that consolidation of its districts is not financially feasible. In Clarendon County, mergers have been discussed informally among board and administrative leaders, but they are challenged by distance and debt service and hostility among the community against consolidation. Therefore their local delegation has not acted on it. Other Plaintiff Districts lack objective evidence of the benefits of consolidation and/or, as in Clarendon County, lack community support for consolidation. At least one of the Plaintiff Districts has chosen to observe how recent consolidations in other counties evolve, including the fairly recent consolidation of the Sumter County districts, before acting further. Exhibit A, at p.

The House criticizes State Superintendent of Education Molly Spearman and the Executive Director of the South Carolina School Boards Association for stating that the State should not force districts to consolidate. *See* House Petition to Vacate Continuing Jurisdiction and Report, at p. 8. The Report unfairly accuses the education community of engaging in self-preservation efforts that oppose better ideas intended to create better conditions for students.

Two studies have been conducted in recent years that offer insight into whether districts should be consolidated. Neither study directly discussed consolidation or recommended it. The information obtained during the studies, however, is informative. The first study was performed by Miley and Associates in 2003 for the Education Oversight Committee (EOC). The second was a 2017 study by Alvarez and Marshall Consultants prepared for the South Carolina Department of Education (“SCDE” or “SDE”) at the General Assembly’s direction.

As reflected in the accompanying Report prepared by Dr. Anderson, the EOC, after studying the Miley and Associates findings on demographics, characteristics, student

performance, revenues and costs, did not recommend a particular district size or consolidation of small districts. Exhibit A, at p.10. The Miley study recognized that administrative inefficiencies exist in districts smaller than 2500 students, but also found that “one-size-fits all” policies will be met with limited success. It also cautioned that any proposal to reduce operational costs through consolidation should be thoroughly evaluated to avoid other consequences that may occur, including indirect impacts on student performance and increased transportation costs.

The Alvarez and Marshall study submitted to the SCDE this year did not evaluate consolidation of districts, but instead directed attention to increasing efficiencies and cost savings through investments in modernization and a shared services collaboration among the Plaintiff Districts. It focused on central district operations in five areas: finance, human resources, procurement, transportation, and overhead, which comprise only a portion of school districts’ operations and duties. The study projected that investments in modernization and collaborations would result in possible savings of between \$35 million and \$89.6 million over five years, depending on the scope and capacity of the collaboration mechanism. The districts affirm their interest in further expanding the district-to-district and consortia collaborations they already employ, *see* discussion, *supra* at pages 8-14, and do not as a group oppose consolidation if it is shown to improve student learning and is properly and fully vetted within the communities and their stakeholders.

In order to objectively analyze the benefits and disadvantages of consolidation, however, a thorough evaluation is necessary. Despite the popular belief that consolidation automatically results in significantly lower costs, studies and recent experiences in those districts that have consolidated in Sumter, Marion, and Dillon counties do not support this.

Most importantly, as pointed out in the accompanying Report prepared by Dr. Anderson, it may well be financially more costly due in part to the fact that the newly created district must assume the cost of capital debt or expenditures to maintain or renovate obsolete buildings or add space through new facilities. Exhibit A, at pp. 13-14. Potentially even more costly is the fact that the newly created district must also equalize employee compensation and programmatic offerings, by raising the salaries and related benefits for employees, including teachers, from the lower paying district to match those of its consolidation partner, and by providing equivalent access to curricular and co-curricular programs across the newly-formed consolidated district. If all Plaintiff Districts were consolidated into single countywide districts, a rough estimate of the cost to equalize per pupil expenditures, including the compensation and programmatic offerings, in those counties would be \$64,963,311 annually (excluding annual increases). *Id.*, at page 14. The five year cost of this equalization would exceed \$300 million and would quickly overwhelm the Alvarez and Marshall projected administrative savings of \$35 million to \$89.6 million over five years. *Id.*

In addition, the numbers of administrative positions are not always or even often reduced by consolidation, despite popular belief. The superintendents of some of the smaller Plaintiff Districts frequently wear many hats, performing finance, human resource, curriculum, grant administration, and other administrative functions in addition to the primary responsibilities of a superintendent. In a larger district, the administrative functions are spread across multiple staff positions, requiring additional staffing. While this may ultimately benefit the student experiences, it does not eliminate administrative cost, which may even increase depending upon what services are needed.

Consolidation also entails educational and community considerations. Consolidation is often associated with the closing of schools in rural communities, resulting in actual economic and cultural loss to those communities. In addition, consolidation of schools generally leads to increased travel time to and from school for many students including the very young, increased school bus or family travel costs, restricted access to extracurricular activities, and loss of community identity. Consolidation will never eliminate the fact that some areas of the State are simply sparsely populated, necessitating more transportation costs and service difficulties than in more densely populated areas, regardless of the numbers of school districts in existence. Choices must be made between the advantages of busing children shorter distances to smaller schools or having longer and more expensive routes to larger schools in larger districts.

With respect to the Court's concerns about congregating children of poverty in a school or district, regrettably, high poverty is intransigent in some areas, and a child living in poverty is most often the result of that child's accident of birth. Combining districts and schools in those areas does nothing to relieve the burden that poverty places on a child and his community. Indeed, clustering more impoverished children with many social, medical, and educational needs into larger schools may well increase difficult instructional issues. Bussing children from high poverty areas to more affluent areas is, as far as Plaintiffs know, impractical. Accordingly, any perceived financial savings from larger schools and districts should be fully evaluated and carefully balanced against the educational disadvantages impoverished children may suffer from long commutes and larger classes, which have been shown to be detrimental. Unless the State determines that it, and the child, is best served by transporting the child beyond the area of his or her current school or district, they will remain

clustered in such pockets of poverty. These factors, among others, must be considered and addressed.

Perhaps these complex financial, educational, and community considerations explain the State Superintendent's and School Boards Association Director's caution about imposing consolidation on districts. As stated, the Plaintiff Districts are not opposed as a group to consolidation, but urge the General Assembly, which controls this issue, to consider carefully all aspects of such a move, including especially the educational environments, the impact on students, and the potential objective and subjective costs.

## **2. Collaboration and Efficiencies.**

While remaining open to the concept of consolidation in those circumstances in which the above-described obstacles can be overcome or mitigated, the Plaintiff Districts have taken active measures to obtain some of the benefits of larger districts by collaborating on various matters with other districts and entities. They are quite willing to engage in other strategies and opportunities for collaboration with other districts, with the State, and with other entities and would welcome the assistance of the State in their efforts.

In their ongoing efforts to overcome the financial challenges they face and still provide educational services to their students, they actively collaborate with other districts in their geographical areas in the employment of academic discipline coordinators or experts, instructional coaches, or specialized program teachers (e.g., gifted and talented, summer program teachers). Examples of such efforts currently employed in the Plaintiff Districts include the following:

- Shared services for low incidence (e.g., autism) special needs students among Clarendon School Districts One, Two, and Three;

- Willingness of Florence District One to allow its curriculum leaders to work additional days in Florence District Two and to work with Florence Two in professional development, technology purchases, and in obtaining an Early Learning Grant;
- Curriculum development projects jointly conducted between Florence School Districts One and Four;
- Florence School District One allows some Florence Four students to attend its Career Center, assisting with transportation to the Career Center when possible;
- Alternative school staffing shared between Florence School Districts Two and Three;
- Shared science and adult education centers between Laurens District 55 and Laurens District 56, which also collaborate on grant writing, professional development, and apprenticeship programs with local industry;
- Shared adult education programs in Hampton, Jasper, Laurens and Lexington counties; and
- Project Share teachers for low incidence disabilities categories in the Pee Dee region;
- Chesterfield County School District partners with other districts on purchases of food products, technology, instructional materials including software, and through State contracts with vendors for furniture, consumables, vehicles, and equipment;
- Dillon School District Three shares a number of functions with surrounding districts, including staff development, vocational programs, grant writing and

management, college dual credit, work force development, adult education, special needs services, and some financial management functions and purchasing;

- Lexington Four collaborates with Lexington Three on its First Steps pre-school program.

*See* Exhibit A, Report, at pp. 11-12.

The Plaintiff Districts also organize within regional consortia for economies of scale in purchasing, programming, professional development and instructional services. *See* Exhibit A, Report, at pp. 12-13. Functions of the consortia are varied and include the following:

- The Pee Dee Education Center provides collegial meetings, professional development, limited joint purchasing and Project Share to provide special education services;
- The Western Piedmont Consortium provides collegial (job-alike) meetings, professional development, cost-sharing, and governmental liaison services;
- The Olde English Consortium provides collegial meetings, professional development and government liaison services; and
- The Salkehatchie Consortium provides collegial meetings and sharing of information.

Through agreements with higher education institutions, the consortia are also able to offer graduate programs to teachers and administrators in the districts they serve. The capacity to share personnel and services is limited by the distances among and between the school districts and the fact that the consortia are private organizations. As private organizations, consortia employees do not participate in the state benefits program, including the retirement system, which limits the willingness of district personnel to work for the consortia. Despite this, the

superintendents support the potential for the consortia or other regional centers to provide additional services and believe that the organizational issues can be resolved.

**B. Individual Efforts by the Plaintiff Districts to Advance Reform and Place Students' Interest at the Forefront.**

The Plaintiff Districts submit that, while fully understanding their need to continually improve and learn, on the whole and within their individual capacities, they are doing all they know to be reasonably done to educate the children in their schools given the circumstances they face. Many of the Plaintiff Districts have undertaken very creative and innovative measures to improve the educational opportunities available to their students, seeking out funding from local, state, federal, and private sources to overcome the deficiencies in the general funding provided to them by the State. The Report prepared by Dr. Anderson covers these matters in detail, broken down by criteria as follows:

**Infrastructure:** As detailed on pages 15-24 of the accompanying Report prepared by Dr. Anderson, the Plaintiff Districts have attempted to improve physical facilities, transportation services, and access to and quality of instructional technology when possible, by taking such measures as: taking proposals to their communities to sell bonds to enable them to finance larger projects, such as construction of new facilities and renovation of existing facilities; using non-millage sources for facilities renovation and/or construction, including U.S. Department of Agriculture grants, the sale of "energy bonds," adopting local sales tax initiatives and, when available refinancing current debt; extending employment of bus-drivers to full-time positions through mid-day employment such as cafeteria workers and maintenance services in order to recruit drivers; and seeking and obtaining grants or charitable funds to

support technology and many other programs whenever possible, including federal e-rate funds, competitive U.S. Department of Agriculture grants and private corporate grants.

**Teachers:** As detailed on pages 24-26 of the accompanying Report prepared by Dr. Anderson, the Plaintiff Districts have employed strategies to address teacher shortages and improve the quality of teaching in their districts, wherever possible, including, by way of example: providing housing or housing assistance for teachers when possible; providing signing and performance bonuses to the extent funding is available; higher utilization of foreign teaching force, although the language and cultural barriers can significantly hamper the classroom instruction to children in the Plaintiff Districts; using Teach for America cadets, although costly with predictable cadet turnover; and working with professional development resources like the Francis Marion Center for Excellence in Teaching Children of Poverty.

**Early Childhood Education:** As detailed on pages 27-29 of the accompanying Report prepared by Dr. Anderson, the Plaintiff Districts have worked in collaboration with other community agencies to serve pre-school children to the best of their abilities. Some examples of initiatives include: partnership with Head Start for professional development, facilities sharing or joint programming; working with boards of trustees to reconfigure student attendance zones and to reallocate existing federal, state and local funds to support the center-based approach; seeking out external funding sources, such as *Save the Children Foundation*.

**Education for Grades 4-8:** As detailed on pages 29-31 of the accompanying Report prepared by Dr. Anderson, the Plaintiff Districts have focused their efforts to deliver effectively the core instructional program to students and to provide after-school programs and summer learning opportunities wherever possible. By way of example, districts have experimented with the following: partnering with curricular and co- or extra-curricular

providers to improve instructional delivery, such as the *Montessori Method*, *Project Lead the Way* and the *Transform SC* initiative; merging federal and state allocations with transportation allocations and federal summer feeding funds to offer a summer reading program for elementary students; and partnering with groups beyond federal and state governments to provide after-school programs and summer learning opportunities.

**Education for High School Students**: As detailed on pages 31-34 of the accompanying Report prepared by Dr. Anderson, the Plaintiff Districts have focused their efforts on providing the curriculum offerings necessary for students to access college and careers. By way of example: some districts offer virtual programming for Advanced Placement courses, when there too few students to participate or insufficient funds to allocate a teacher; every district offers dual enrollment courses, permitting students to receive both high school and college credit for college courses taken while in high school; every district offers some summer programming; and some schools offer tutorial or credit-recovery courses, all to the extent they can.

These measures all reflect efforts by the Plaintiff Districts to leverage resources to the best of their ability, and to work cooperatively as much as possible to benefit from economies of scale and shared resources. The Plaintiffs put tremendous effort into the study and development of their Proposal for an Abbeville Remedy and specific recommendations shared with and accepted by the House Task Force, but they are unable to act on many of those recommendations without State implementing legislation and the overhauling of the State's education funding system.

## II. Response to the Report of Respondent-Appellant James H. Lucas On Behalf of the House of Representatives.

Plaintiffs have received and reviewed the House of Representatives' report to the Court. Plaintiffs do not believe it is appropriate to distinguish one legislative chamber or one branch of government from another when addressing constitutional violations and will not comment other than agreeing that the House has thus far been the more active legislative body and noting, as discussed below, that it is the State as a whole, not one subset of the General Assembly, that is responsible for curing the constitutional deficiencies. With that prefacing comment, Plaintiffs offer the following in response to the House's Report.

### A. The State's Approach to Funding is Fundamentally Flawed and Unchanged.

In *Abbeville II*, the Court held that "the educational funding scheme is a fractured formula denying students in the Plaintiff Districts the constitutionally required opportunity." *Abbeville II*, 410 S.C. at 651, 767 S.E.2d at 173. Included in the House's Petition to Vacate Continuing Jurisdiction and Report is the announcement two weeks ago by the Chairman of the House Ways & Means Committee of the formation of a special committee to study education funding reform. In that announcement, the House admits that state school funding and education policy is piecemeal and fundamentally flawed:

For nearly forty years the General Assembly has taken a **piecemeal** approach to education policy and funding. We have added **layers of burdensome requirements** on school districts and teachers and are now stuck with **funding formulas that are overcomplicated and outdated**. We need to simplify education funding and allow the districts the flexibility to decide how best to get the most out of state resources.

*See* Exhibit C to the House Report (emphasis added). This statement by the House confirms the Court's finding in *Abbeville II* and affirms the very point the Plaintiff Districts proved at trial and have been making throughout the appeal and post-appeal briefing in this case. The

Plaintiff Districts are gratified that the House has now recognized the core problems in education policy and funding in South Carolina.

The House states in its Report at p. 10 that funding “is the principal means by which the House can act to ensure that the requisite educational opportunity is present.” In addition to adequate and sustained funding, however, Plaintiffs believe the legislature must take a broader look at education and address reform by developing the system, or package, of educational offerings and relief. First, if all students in South Carolina are to be offered the opportunity for a meaningful education, the legislature must determine what those educational offerings must be, taking into consideration the varying needs of different students, schools, and districts. This includes safe and adequate facilities and the other instrumentalities of learning, as well as effective and qualified teachers in each classroom supported by effective leaders. Second, the State must determine what is required to fund those necessary educational offerings. Only after determining the actual needs of students and schools can the State decide what is required to fund them. Any system must recognize that some students, by virtue of family circumstances and place of birth, have greater needs than others, and that some districts, by virtue of meager resources, cannot meet their needs. This comprehensive approach to education policy and funding will ensure that each student has an opportunity to learn at the levels expected of them and that tax dollars are not wasted.

The funding data submitted in the House Report is misleading if it is intended to show the legislature’s commitment to education funding because it uses 2011-2012 as its base year for comparison purposes. The Education Finance Act’s (EFA) base student cost, as confirmed by the graph presented on page 21 of the House report, was dramatically impacted by the recession beginning in 2008. The base student cost was funded at \$2,476 during fiscal year

2007-2008, prior to the recession. In 2009-2010, \$2,578 was appropriated, but the recession led to a mid-year reduction, dropping EFA base student cost funding to \$2,190. The base student cost funding was further reduced in 2010-2011 to \$1,615, and in the year the House used as the benchmark in its report, 2011-2012, it was funded at \$1,880 per pupil. By contrast, if the pre-recession year of 2007-2008 is used as the benchmark, when the base student cost was \$2,476, a different and far less favorable picture of the commitment to education funding is apparent. Moreover, in 2017-2018, the base student cost will only be \$2,425, which is lower than it was in 2007-2008, ten years ago. Finally, the General Assembly historically and consistently underfunds the EFA, and this year is no different. If the base student cost were funded at its statutorily mandated level for 2017-2018, it would be \$2,984. This underfunding of the base student cost by \$500 per pupil results in an approximate loss of \$400 million or more to the school system for the 2017-2018 school year. *See* Exhibit A, at pp 3-4, n. 1. Underfunding the EFA's base student cost is particularly harmful to low wealth districts because of their heavy reliance on the EFA funds.

The House's use of 2011-2012 as the base year to depict the rise in absolute funding is also misleading because the student population has increased since that year. South Carolina schools are now serving approximately 65,000 more students than in 2011-2012, and increased funding is required just to accommodate their numbers.

**B. Other Legislative Actions Do Not Offer A Comprehensive Remedy.**

The House in its Petition to Vacate Continuing Jurisdiction refers to a timeline adopted by the Defendants to guide their progress toward constitutional compliance. The only timeline Plaintiffs are aware of is that contained within the House Task Force Report, referenced in the

Report of the House and Senate submitted to this Court on June 29, 2016. That timeline, in its entirety, is as follows:

- June 2016**                    Enactment of legislation creating Office of Transformation.  
  
   SDE begins operation of Regional Service Centers to increase capacity of plaintiff districts.  
  
   Local districts begin implementation of recommendations that do not require approval of the General Assembly.
- July 2016**                    Increased funding for school bus purchases or leases, and for school bus drivers' salaries  
  
   Evaluation of school infrastructure needs, including technology, begins.
- September 2016**            The Office of Transformation is open and functioning.
- March 2017**                School Infrastructure Report is submitted to Governor and General Assembly.
- June 2017**                Enactment of legislation creating School Infrastructure Bank.

Plaintiffs do not take exception to these timelines standing alone, but they are not a part of any binding resolution or legislation and do not reflect a timeline to complete the essential education reforms. There are no projected deadlines for: repairing the funding system and establishing consistent and reliable financial support of new and existing initiatives and programs; expanding learning time through afterschool and summer experiences; raising standards for preparation and entry into the teaching profession; developing working conditions and compensation packages that attract and retain effective teachers and leaders in the Plaintiff Districts; providing for safe and adequate facilities and transportation; or any number of other reforms necessary to ensure that the Defendants will, within a reasonable time, provide adequate educational opportunities to each child. Indeed, the General Assembly has steadfastly refused to indicate when reforms will be in place.

Plaintiffs similarly do not contend that the individual legislative enactments since *Abbeville II* are improper or harmful. Most of them are one-time appropriations included within the General Appropriations Act, however, which means funding is not guaranteed beyond June 30 of any year. School districts are precluded from making long-term substantial investments when there is no guarantee of continued funding, and reforms must be matched with consistent and reliable funding over time. Plaintiffs offer the following additional observations about the recent legislative actions.

In general, the 2016 and 2017 acts, provisos, and bills listed in the House Report modify or redefine existing policies and initiatives. For example, the learning expectations stated in the Profile of the South Carolina Graduate amplify, but do not materially change, the expectations stated in the Education Accountability Act.<sup>3</sup> Professional development, technical assistance, diagnostic reviews of struggling schools by external review teams, requiring strategic plans, and declaring states of emergency and taking over schools have been provided by statute since at least 1998 when the Education Accountability Act was enacted. Accordingly, many of the policy reforms are essentially currently available policies, repackaged or tweaked.

The \$55.8 million for capital improvements in the Plaintiff Districts and high poverty districts is unquestionably helpful, but the Plaintiffs offer this perspective. As pointed out on page 16 of the accompanying Report prepared by Dr. Anderson, the source of funding for this program is excess EIA funds from the previous year, if and when they become available. It is

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<sup>3</sup> The Profile of the South Carolina Graduate actually had its inception with the efforts of school districts, including many of the Plaintiff Districts, and other entities, which collaboratively developed the Profile. The General Assembly ultimately adopted the suggested Profile as law in 2016. This is another example of the Plaintiff Districts' efforts to proactively advance reform and place their students' interests at the forefront.

the fourth priority for these funds, following \$9.6 million allocated from excess EIA funds to other uses. Because the excess EIA revenues for fiscal year 2016 totaled \$35 million, it is doubtful that the Plaintiff Districts and other high poverty districts will receive \$55.8 million.

In terms of what the funding might cover, the latest published report by School Planning & Management states that school districts spending in the lowest quartile for school buildings reported a median cost in 2014 of \$12,800,000 to build an elementary school, \$20,000,000 to build a middle school, and \$25,900,000 to build a high school.<sup>4</sup> See 20<sup>th</sup> Annual School Construction Report at p. 23, available at <https://webspm.com/research/2015/02/annual-school-construction-report/asset.aspx?tc=assetpg&tc=page0>. As set forth in the accompanying Report prepared by Dr. Anderson, \$1,000,000 is the generally accepted projection to roof an elementary school. Exhibit A, at p. 16. In the face of such anticipated costs, the allocation of \$55.8 million is a welcome but clearly insufficient amount.

The Office of Transformation, created by Act 178 of 2016, was suggested by Plaintiffs during the House Task Force meetings and adopted by the Task Force. It will help coordinate remedial activities as a separate department within the SCDE. It provides no funding to the Plaintiff Districts.

The House does not contend that providing technical assistance to underperforming schools, as in Proviso 1A.12, is a new initiative, and it is not. Technical assistance is a central

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<sup>4</sup> Nationally, the median costs in 2014 were \$15,850,000 for an elementary school, \$29,000,000 for a middle school, and \$45,233,500 for a high school. This organization did not do a similar report in 2017, in part because the sample size was too small, but did issue a report identifying the general trends in school construction. See 2017 Facilities and Construction Brief, available at <https://webspm.com/research/2017/02/facilities-construction-brief/asset.aspx?tc=assetpg&tc=page0>.

component of the 1998 Education Accountability Act and has been available since then. The technical assistance funding provided in Proviso 1A.84 is similar to that provided in years past, with some additional weighting for poverty.

Act 23, the Fiscal Accountability and Intervention Act, allows the SDE to intervene if a district does not manage its financial affairs in a way the State deems acceptable. The State Superintendent may, in extreme cases, assume management of such a district. The Plaintiffs note that all districts have been required for years to submit annual accounting audits to the SDE, and that the takeover provisions provided by the EAA also remain in effect.

The appropriation of \$29 million in Proviso 3.4 for the purchase of new school buses is welcome, but it is far less than the \$10 million in recurring funds and \$95 million in additional funds recommended by the State Superintendent to eliminate the unsafe buses that continue to transport children and to replace other older buses with new, more reliable buses. The proviso providing additional bus funding for 2017-18 was, unfortunately, vetoed by the Governor, and no override has been attempted.

The House reports that it passed the South Carolina Education School Facilities Act, H.3323, calling it “the crown jewel” of its bills. Plaintiffs wish it had passed and commend the House for trying. Unfortunately, that bill has not been enacted, and the Plaintiff Districts remain stressed by their lack of resources to repair, maintain, or construct facilities. *See* Exhibit A, at pp. 15-19.

Likewise, the passage by the House of H.3220, reestablishing the South Carolina Education and Economic Development Coordinating Council, has not become law. The Plaintiff Districts hope that if it is enacted, the Council and the State will focus on enabling the Plaintiff Districts to provide the educational and career experiences for students that are

required by law, but that they cannot provide because of their lack of resources and local businesses with which to partner on apprenticeships and other career experiences. *See* Exhibit A, at pp. 31-33.

Yet another unenacted House bill is H.3969, which establishes the Pilot District Accountability Models. It includes a revision of the report card requirements that have been in effect since the EAA was enacted in 1998 and recites the need for students to be college and career ready, and to reach the standards established in the Profile of the South Carolina Graduate. The Plaintiff Districts agree that its students need to be college, career, and “life” ready.

Another bill passed by the House, but not enacted, is H.3427, the South Carolina Computer Science Education Initiative. However, the Plaintiff Districts lack the infrastructure required for today’s technology and are not able to equip all of their students with the necessary computer equipment. *See* Exhibit A, at pp. 18, 22-24. This bill does not propose to remedy that problem.

The House again notes the creation in 2006 of the Child Development Education Program (“CDEP”) for certain four-year-olds as its response to the trial court’s finding that the State was failing the students in the Plaintiff Districts because of its failure to provide early childhood education, which the trial court described as including children from birth through third grade. As noted in the accompanying Report prepared by Dr. Anderson, early childhood education programs are supported in policy and by resources from the federal and state governments as well as private entities. Exhibit A, at p. 27. This is an important and essential part of an adequate education system. However, neither CDEP nor other publicly funded programs reach all eligible children, at least in part because the State has extensive space

requirements for CDEP programs. *Id.* at p. 27. As previously noted by the Plaintiff Districts in their Response to the Defendants' 2016 Report to this Court, the State does not ensure adequate funding to cover CDEP facilities, transportation, materials or salaries. Plaintiffs also wish to point out that studies prove that gains from early education are lost if the child is not properly supported in later years.

**III. Return to the Petition to Vacate Continuing Jurisdiction of Respondent-Appellant James H. Lucas On Behalf of the House of Representatives.**

The State of South Carolina is the defendant in this action, and the State is responsible for curing the constitutional violation announced in *Abbeville II*. The State can only act through its elected representatives, and thus the House of Representatives, the Speaker of the House, the Senate and its President Pro Tempore, and the Governor, all of whom must work in conjunction to enact curative legislation, are all necessary parties. There is no legal authority, and none is offered, to support the House's request that it should be separated from the other Defendants and dismissed as a party based on its stated commitment to correcting the constitutional deficiencies in the public education system. Until the Court can reasonably conclude that the State is on an assured path to constitutional compliance, which is not the case currently, it should continue to retain jurisdiction over the State as a whole, including its entire legislative body.

The House cites to *Seattle Sch. Dist. No. 1. v. State* and *Rose v. Counsel for Better Educ., Inc.* in support of its argument that the Court is overstepping its authority by retaining jurisdiction to supervise the State's progress toward implementing a remedy for the constitutional violation announced in *Abbeville II*. This issue, and these authorities, have previously been raised by the State and rejected by this Court, which has instead properly

aligned itself with the many courts, beginning with the United States Supreme Court in *Brown v. Board of Education*, that have concluded that the retention of jurisdiction is a necessary and proper exercise of a court's solemn power and duty to uphold the Constitution. *Abbeville II*, 410 S.C. at 661, 767 S.E.2d at 179; *see also, e.g., Brown v. Bd. Of Educ. of Topeka, Kan.*, 349 U.S. 294, 301 (1995) (directing lower courts to retain jurisdiction as necessary to ensure full compliance with the court's order); *McCleary v. State*, 269 P.3d 227, 259 (Wash. 2012) (concluding that continued jurisdiction was necessary to ensure that the legislature followed through, even in a case where, unlike here, the legislature had enacted comprehensive reform legislation, the court stated, "what we have learned from experience is that this court cannot stand on the sidelines and hope the State meets its constitutional mandate"); *Campaign for Fiscal Equity v. State (CFE II)*, 80 1 N.E.2d 326 (N.Y. 2003) (ordering legislature to reform education system in one year and remanding to trial court for further proceedings); *Campbell Cnty. Sch. Dist. v. State*, 907 P.2d 1238, 1280 (Wyo. 1995) (providing a reasonable time for the legislature to achieve constitutional compliance and remanding to the trial court to retain jurisdiction until a "constitutional body of legislation is enacted and in effect.") This Court previously recognized that it is appropriate to retain jurisdiction as long as necessary to ensure constitutional compliance, and the Plaintiff Districts urge the Court now to re-affirm that commitment made to the children in the Plaintiff Districts and, indeed, to all children in our State.

In *Abbeville II*, the Court held that "the educational funding scheme is a fractured formula denying students in the Plaintiff Districts the constitutionally required opportunity." *Abbeville II*, 410 S.C. at 651, 767 S.E.2d at 173. Notwithstanding the Defendants' stated commitment to improving public education and incremental steps forward, that statement is as

true today as it was in November 2014. In fact, less than one week before petitioning this Court to vacate jurisdiction, the Defendants, through the press release issued by the Chairman of the House Ways and Means Committee, admitted that the heart of the constitutional violation found in *Abbeville II* still has not been resolved because the State has failed to adopt a comprehensive approach to reform, instead taking a “piecemeal approach to education policy and funding.” Exhibit C to House Petition to Vacate Continuing Jurisdiction and Report.

This historically piecemeal approach to education policy and funding continues unabated today. Much as the Plaintiff Districts appreciate the work of the House Task Force, this Court, the experts at trial, and now the Defendants themselves, acknowledge that the solution lies in a comprehensive approach to reform, which has, of yet, not been undertaken. Indeed, the actions taken in each of the three full legislative sessions since the issuance of this Court’s opinion in *Abbeville II* continue to reflect this piecemeal approach:

- In 2015, in the first legislative session after the November 2014 opinion in *Abbeville II*, the Plaintiff Districts took the initiative of preparing and presenting to the Defendants a comprehensive plan for addressing the unconstitutionality of the school system. The House Task Force adopted pieces of that plan. In the meantime, the General Assembly accomplished nothing different than it had accomplished in the preceding years: adjust the base student cost slightly with whatever money remained in the General Fund after sprinkling it around for other state needs or wishes, distribute EIA and lottery funding to various and sundry projects, and enact statutes requiring the school districts to offer additional courses or services, but without studying the costs of those courses and services and without ensuring sufficient funding for them.
- In 2016, the second legislative session after the *Abbeville II* opinion, the General Assembly passed four statutes purportedly drawn from the ideas presented in the House Task Force report issued in 2015. Two of those four statutes proposed additional study, including a study of teacher supply issues that added little to the annual studies CERRA has been doing for years. Some in the General Assembly talked about creating an infrastructure bank to aid the Plaintiff Districts and others in meeting their facility needs, but legislation supporting that initiative did not pass.
- In 2017, the third legislative session after the issuance of the *Abbeville II* opinion, the General Assembly again enacted piece-meal, ad hoc statutes that appear not to be linked

to any strategy of comprehensive reform. The General Assembly increased the base student cost, but it remains about \$500 per student less than the law requires, for a total underfunding of that one funding stream of \$400 million or more. It also proposed to fund some additional purchases of school buses, which is magnitudes less than the State Superintendent says is required, and even that amount was vetoed by the Governor.

In other words, the Defendants continue on their course of making only incremental changes here and there, all the while ignoring the fact that the general funding scheme for our public schools is broken; to paraphrase this Court's words, the spending is disconnected from the results. In 2014, this Court found that the Defendants were "continuing to enact multiple statutes which have no demonstrated effect on educational problems, [and] attempting to address deficiencies through underfunded and structurally impaired programming." *Abbeville II*, 410 S.C. at 660, 767 S.E.2d at 178. There has been no fundamental change in the way in which the Defendants provide for education since that time.

The schools in the Plaintiff District have been and are failing too many students. During the trial, one of the Defendants' expert witnesses testified that "SWAT teams" should be sent in to correct the pervasive problems. Fourteen years later, another entire generation of students has passed through and out of our schools, and there are still no SWAT teams and no plan for rationally attacking the unconstitutionality of the system. The State is throwing away the futures of our children and of our State by its failure to attack the problem at its core.

The first beacon of hope for these children, and for our State, came with this Court's November 2014 decision, in which it called the General Assembly to task after decades of neglect. A second hopeful sign occurred only two weeks ago, when the State, for the first time in the history of this litigation, admitted that the entire system of education in South Carolina is based on a cracked foundation. But this statement comes after more than twenty years of litigation, and on its own is not sufficient basis for the Court to relinquish the judicial oversight

that has proven necessary to propel the Defendants forward toward finally accomplishing a constitutionally compliant system of education.

Throughout the history of this litigation, the Defendants have argued that judicial oversight stands in the way of progress; claiming that they can only move forward if they are left with unfettered discretion to address the systemic problems plaguing the education system. To the contrary, the State has always been free to enact legislation fulfilling its constitutional obligations, but it has failed to do so. Even now, almost three years after this Court held that the education system was constitutionally deficient and failing the State's most vulnerable children, the State has failed to undertake the comprehensive reform measures the *Abbeville II* court held would be necessary to bring the system into constitutional compliance. As stated in *Abbeville II*, "[t]hrough the evidence demonstrates the intersection of statutes and ever increasing funding streams, it does not show, at least to this Court, a comprehensive effort by the Defendants to determine the demands of providing the constitutionally mandated educational opportunity throughout the State. In our opinion, without that determination, it is near impossible for the Defendants to meet their constitutional obligation." *Abbeville II*, 410 S.C. at 659, 767 S.E.2d at 178. None of the Defendants can plausibly argue that they have made a comprehensive effort to determine the demands of providing the constitutionally mandated educational opportunity in South Carolina. The State deprives more children of their right to an education each day that passes, and the Defendants have had more than ample time to offer a comprehensive and well considered plan.

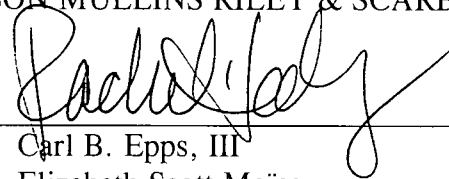
Therefore, the Plaintiff Districts request that the Court continue to retain jurisdiction over this case while the unconstitutional deficiencies exist, and push the State toward achieving

constitutional compliance by requiring a specific date by which the State will finalize and agree to comprehensive reform measures to cure the constitutional deficiencies found in *Abbeville II*.

Respectfully submitted,

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June 30, 2017

Columbia, South Carolina

# EXHIBIT A

REPORT OF THE PLAINTIFF DISTRICT ACTIONS

in preparation for the  
Response to the Order of the South Carolina Supreme Court  
dated September 20, 2016

Prepared on behalf of the Plaintiff Districts

By

Jo Anne Anderson

June 28, 2017

## CONTENTS

	Page
PART I	INTRODUCTION ..... 1
PART II	BACKGROUND INFORMATION ..... 2
A.	Evolving Expectations ..... 2
B.	Overwhelming Constraints ..... 3
C.	Community Variations ..... 6
PART III	ACTIONS TAKEN BY THE PLAINTIFF DISTRICTS ..... 7
A.	Remedy Proposed to the State ..... 7
B.	Consolidation and Collaboration ..... 9
C.	Infrastructure ..... 15
1.	Physical Facilities ..... 15
2.	Transportation Services ..... 20
3.	Instructional Technology ..... 22
D.	Teachers ..... 24
E.	Early Childhood Education ..... 27
F.	Grades 4-8 ..... 29
G.	High Schools ..... 31
H.	A Final Note ..... 34
Appendix A	Remedy Proposed by Plaintiff Districts to the State

Background detail and the summaries of individual district actions are available upon request from The Anderson Research Group, 803-206-4360.

## PART 1

### INTRODUCTION

This document is intended to detail the efforts of the Plaintiff Districts to address the questions posed by the South Carolina Supreme Court in its November 12, 2014, opinion and in its Order of September 20, 2016, to the 33 school districts that are Plaintiffs in *Abbeville County School District v. State*, 410 S.C. 619, 767 S.E.2d 157 (2014) (*Abbeville II*). To answer these questions, information was compiled from data and reports maintained on South Carolina school districts by the State of South Carolina and through interviews with district superintendents or their designees in the Plaintiff Districts.

In its September 20, 2016 Order, the Supreme Court directed the Plaintiff Districts to report on their progress in the areas identified as deficient or problematic in *Abbeville II*. The Court further ordered the Plaintiff Districts to “work in concert with the Defendants to chart a path forward which appropriately prioritizes student learning” and “to set balanced priorities and consider and apply the benefits of consolidation . . . .” *Id.* at 178-79, 410 S.E.2d at 660. The Court required the Plaintiffs to “examine their own important role in advancing reform and placing students at the forefront of organizational decision-making and policy.” *Id.* at 179, 410 S.E.2d at 662.

General background information and the context in which the Plaintiff Districts work is provided in Part II of this report. Descriptions of the efforts made by the Plaintiff Districts in the areas noted by the Supreme Court, including constraints on their abilities to overcome the identified deficiencies, are offered In Part III of this report.

## PART II

### BACKGROUND INFORMATION

#### **A. Evolving Expectations**

Expectations of schools and their communities have changed over time, moving from basic literacy to emerging citizenship to college and career readiness. Today the constitutional floor is that schools are to provide a minimally adequate education. As a practical matter and as a matter of stated state policy, this requires an education resulting in a citizen who can make positive decisions, live independently and contribute to his/her community, as captured in the Profile of the South Carolina Graduate adopted by General Assembly in spring 2016. The legislation provides for “world class knowledge based on rigorous standards in language arts and math for college and career readiness,” in addition to expectations for learning a foreign language, science, technology, engineering, arts and social sciences. Student competencies include the intellectual skills of creativity and innovation, collaboration and teamwork, communication and knowing how to learn.

The Plaintiff Districts, through their formal recommendations, through actions of their governing boards of trustees, and through participation in organizations such as the South Carolina School Boards Association and the South Carolina Association of School Administrators, adopted the Profile to guide their work.

The Profile necessitates changes in services and in results. Data presented in this report demonstrate that some communities and school districts have capacity to initiate, support, and sustain continuous improvements. Others do not have that capacity. As the State has changed its performance expectations for her students over the last twenty years, South Carolina teachers and administrators have focused on four different sets of content standards (Curriculum Frameworks, South Carolina Academic Content Standards, the Common Core, and revised South Carolina Standards), measured achievement of its Grades 3-8 students by five different assessments (BSAP, PACT, PASS, ACT Aspire and SC Ready), used a variety of high school achievement tests (BSAP and revised Exit Exams, Work Keys, end-of-course tests, and Advanced Placement and International Baccalaureate exams), and calculated high school graduation rates using at least three different methodologies. Over this same period the General Assembly has enacted, but not fully funded, full-day kindergarten for all five-year-olds, full-day pre-kindergarten for targeted four-year-olds, SC Read to Succeed, the Education and Economic Development Act, incentives for National Board of Professional Teaching Standards (and similar) certification, rural teacher incentives, an Education Finance Act (“EFA”) weighting for students in poverty, and an EFA weighting for those students in dual enrollment courses. As the General Assembly was mandating these program changes, state revenues declined. While imposing mid-year cuts and underfunding the EFA, the State continued to place responsibility for achievement of the State’s increased expectations on the school districts.

Student achievement cannot be separated from community capacity; that is, the capacity to provide for the early and continuing development of children, to build and sustain personnel and material resources, to engage and inspire other community contributors to children's well-being, and to capitalize on both in-school and out-of-school time. A 2016 report by the Education Policy Center of the American Institute of Research, *Equality and Quality in US Education: Systemic Problems, Systemic Solutions*, examined circumstances in which education reform had worked. Remarking on those systems and districts with sustained success, the authors state, "Their success has come not from isolated and piecemeal interventions for which U.S. education seems to have a penchant, but rather from strategies carefully integrated into the system so that they contribute to, rather than detract from, the system's overall culture and effectiveness. Similarly, success has come not from blaming teachers and threatening schools but rather from expecting and supporting improvement over time and learning from mistakes. And success has come **not from seeing schools and districts as isolated organizations but rather as part of their communities' core institutions and partners.**" (emphasis added)

## **B. Overwhelming Constraints**

Public schools are funded and operated through an assumed state-local partnership. The State establishes goals and policies, provides a system of governance, offers school-day transportation for students, and targets appropriations to particular programs and services. Local communities are expected to provide the matching or other necessary resources to achieve statewide standards and expectations, to expand upon state expectations to the degree expected by their communities, and to provide school facilities. Unfortunately, many of the Plaintiff Districts are incapable of raising sufficient revenues from their localities to pay for the services their students need.

The General Assembly appropriates funds to school districts through a number of budget line items. These include General Fund line-item appropriations for the EFA and specific programs, Education Improvement Act ("EIA") appropriations in accordance with the governing legislation (generally focusing on teachers, special programs, and instructional improvement), bonded funds for transportation, and lottery funds for professional development and transportation. The EFA is considered to be the foundation program and the enabling legislation states its purpose was to guarantee "at least minimum educational programs and services appropriate to [the student's] needs." S.C. Code Ann. § 59-20-20.<sup>1</sup>

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<sup>1</sup> The EFA, crafted in 1974-75 and enacted in 1977, is considered the foundation program for state support. Through three mechanisms (the base student cost, the weighted pupil unit, and the index of taxpaying ability), the EFA directs funding to districts. The EFA was intended to provide funding to ensure that children across the State had access to a basic education program; transportation to school and school facilities are not and have never been provided through the EFA. S.C. Code Ann. § 59-20-20.

The education program envisioned by the EFA was based upon a 1974-75 study that described the Defined Minimum Program ("DMP"). The cost of the DMP is called the base student cost and is premised upon a school

However, the EFA is neither the primary revenue stream nor sufficient to educate students to the level of achievement expected by the State and for which districts are held accountable. In fact, the EFA accounts for less than 25 percent of the annual per pupil expenditure. While the EFA distribution formula is premised upon a 70-30 percent state-local responsibility, that formula does not apply to other state appropriations for education nor to the revenues generated locally.

The inadequacy of the state's approach was pointed out as recently as June 16, 2017 when Representative Brian White, Chairman of the House Ways and Means Committee, stated,

[t]he state will provide \$4.4 billion for K-12 education next year. Over a third of the state's general fund budget goes to public education. For nearly forty years, the General Assembly has taken a piecemeal approach to education policy and funding. We have added layers of burdensome requirements on school districts and teachers and we are now stuck with funding formulas that are overcomplicated and outdated. We need to simplify education funding and allow school districts the flexibility to decide how best to get the most out of state resources.

Exhibit C to Petition to Vacate Continuing Jurisdiction or, in the Alternative, Dismiss the South Carolina House of Representatives as a Respondent, and Report of James H. Lucas, as Speaker and Representative of the South Carolina House of Representatives, in Compliance With the Court's September 20, 2016 Order.

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district of 6,000 students in 1974-75. Neither the DMP nor the base student cost anticipated a 24-unit high school graduation requirement nor proficiency standards in technology nor the current factors represented in the Profile of the South Carolina Graduate. In the early 2000s, the Education Oversight Committee (EOC) reviewed all statutes and regulations governing the school program and recommended that the base student cost calculation be revised to reflect current demands. The chronically underfunded base student cost also is widely criticized for reductions during recessionary economic periods that have not been restored as the economy recovers. As a consequence, the base student cost is about \$500 (roughly 17 percent) lower than it would have been had not these reductions been taken. This is a statewide deficit of over \$400 million for a single year.

While underfunding and inadequacies of the base student cost are critical issues, the constraint with which districts and communities suffer most, is the ability to provide local resources for their schools. The index of taxing ability is used to determine the district share of the base student cost and is calculated annually by determining the value of property in a district in relationship to the value of property statewide. The index presumes that local communities have or can access tax revenues to meet the partnership requirements. The index is flawed in three ways:

It incorrectly assumes that the EFA is adequate to provide the defined educational program;

It incorrectly assumes that local districts have access to sufficient revenues from property owners; and

It incorrectly assumes that the burden of taxation is generally even across the state.

The South Carolina Revenue and Fiscal Affairs Office anticipates a statewide school district revenue average of \$12,696 per pupil for School Year 2016-2017. (Note: Bond revenues are excluded.) The mean state portion is estimated at 46.4 percent, the federal contribution at 10 percent, and the local revenue contribution at 43.6 percent.

Variability from district to district directly impacts a local district's capacity to recruit and compensate teachers and other personnel, to raise funds for capital expenditures, and to offer those core educational experiences we expect of schools. For example, a mill in Clarendon School District Three raises \$10,339 which necessitates 6.5 mills to hire one teacher. A single mill in Anderson School District Three (similar in demographics to Clarendon School District Three) raises \$40,734; therefore, a teacher can be employed for 1.7 mills. For Horry County Schools, a single mill (valued at \$2,093,003) could hire 31 teachers.

While the EFA's index of taxpaying ability seeks to establish a state-local partnership for a component of school operating costs, neither the index nor other state appropriations attempt to balance funding for all program costs or capital expenditures.

School districts depend heavily on local citizens to pay a significant portion of costs. School districts *depend totally* on local revenues or external grant funds to pay for school facilities, curriculum leadership, academic or student support services beyond the state minimum, and extracurricular activities and experiences.

In school districts without industrial or commercial investment, the tax burden is carried by individual residents. For districts with industrial or commercial investment, the tax burden is shared by consumers of the industrial product or, in the case of tourist communities, by vacation property owners or visitors. For low property wealth communities, such as many of the Plaintiff Districts, the resulting tax burden is excessive.

Returning to the three districts discussed above, Clarendon School District Three imposes 277.5 mills on its community for school district operations. Anderson School District Three imposes 163 mills and Horry County Schools imposes 123.10 mills for operations. The burden in Clarendon School District Three is such that the local leadership believes it cannot responsibly engage in a building program. By contrast, in Anderson School District Three, the community bears an additional 40 mills for debt service; in Horry County, the debt service costs are only 10 mills.

The Plaintiff Districts find themselves constrained by an inability to raise local revenues to satisfy the state-local partnership and to provide the services their students need. Because they lack the ability to raise local revenues, the Plaintiff Districts too often are dependent upon, rather than in partnership with, the State. As the State underfunds the schools, the economic realities in the Plaintiff Districts are such that the districts cannot make up for the State shortfalls.

### **C. Community Variations**

There are 33 Plaintiff Districts, serving approximately 130,000 students. (Consolidations in Dillon, Marion and Orangeburg counties over the course of the suit reduced the number of districts from 37.) Statewide population growth and decline indicate a pattern of significant growth and development along the coastal and northwestern South Carolina borders and increases in communities that attract retirees. The contrast between general population growth and growth within the age 5-17 years population highlights challenges across the school districts. Fifteen of the 20 counties in which Plaintiff Districts are located are experiencing declines in the age 5-17 years population, and 22 of the 33 Plaintiff Districts are experiencing declines in student enrollment. Districts with declining student enrollment receive lower amounts of state funds, year over year.

Notably, costs for operating a school do not decline in direct proportion to enrollment declines. Often costs for upkeep and maintenance on facilities increase. Because students do not enter or leave a school in convenient classroom numbers, the cost per pupil rises dramatically. For example, funding may be allocated to elementary classrooms at roughly 24 students for each teacher. As enrollment drops, so do funds but not the need for a teacher or other personnel to serve the same classroom that now has fewer than 24 students. To address these shortfalls, Plaintiff Districts struggling with declines employ a number of strategies including combining schools, using itinerant teachers in arts and physical education who travel among schools or districts, and accessing virtual instruction.

Obviously, given the demographic differences among the Plaintiff Districts, one-size-fits-all policies have not been nor are likely to be successful in our future. The Plaintiff Districts recommend a more thoughtful use of varying strategies and resource allocations in recognition of the differences among districts.

## PART III

### ACTIONS TAKEN BY THE PLAINTIFF DISTRICTS

#### A. Remedy Proposed to the State

Following the Supreme Court ruling in *Abbeville II* in November 2014, the Plaintiffs began work with and through a team of district, state, and national leaders to develop a remedy for the constitutional deficiencies identified by the Court. In June 2015, the Plaintiff Districts presented a proposed remedy to the House Education Policy Review and Reform Task Force, appointed by the Honorable Jay Lucas, Speaker of the House of Representatives, and to the Senate Special Committee on Abbeville appointed by The Honorable Hugh Leatherman, President Pro Tempore of the Senate. The remedy proposed by the Plaintiff Districts to the State is attached to this report as Appendix A.

The Plaintiff Districts' proposed remedy acknowledges the need for a minimally adequate education and the realities of education improvement and incorporated four understandings:

First, the goals for student learning are not static. We want our system to prepare students to succeed today, tomorrow, and beyond. Therefore we must develop State, school, educator, and student capacity to respond with the times. Highly effective organizations and individuals prevail in ever-changing environments. We cannot preclude the changes but we can develop capacity to be highly effective;

Second, for every student and the entire system to achieve, changes must be effected not only in law and funding but also in daily practices and attitudes. New attitudes and new determination must be exercised from the student desk to the legislative desk;

Third, the remedy can work only if there is flexibility to adapt to local circumstances. What may work in one district may not work in another, what works with one group of students may not work with another, what works at one point in time may not work in another;

Fourth, our efforts are going to take time, well beyond a budget cycle, a district superintendent's tenure, or perhaps a generation of students. Many of our challenges are chronic—rural communities are sparsely-manned by definition; students who need more time learning need additional time throughout their school careers.

Heeding the Supreme Court's direction to the Plaintiff Districts to examine themselves, develop their capacities to serve students, and make informed and substantively different decisions, the Plaintiffs proposed a six-pronged, interwoven strategy. While **each element of the strategy is necessary, no one element is sufficient**. The strategy built upon the following elements:

Long Term Capacity	through better facilities and current technology, transportation services supportive of learning, and community engagement leading to schools and districts that are highly effective organizations, independent of external intervention;
Teachers and Leaders	through renewed and rigorous engagement with higher education partners, comprehensive changes to teacher preparation, recruitment, compensation, and professional development targeting success with children of poverty;
Early Childhood	through cross agency leadership at state and local levels focusing on nutrition, stable and productive development, and meaningful programs;
Grades 4-8	through realizing the potential of both formal and informal learning time and through career and college exploratory co-curricular experiences and arts education;
Grades 9-12	through access to strong career and college preparatory curricula, utilization of K-16 partnerships to deliver coursework and experiences, including apprenticeships;
Continuous Improvement	through data coordination and the use of systemic evaluations and rigorous accountability to facilitate changes leading to success over time.

The House Task Force issued a report in late 2015, which included a number of the Plaintiffs' recommendations and appended the Plaintiffs' proposal to its report. The Senate Special Committee did not issue a report and, to the best of the Plaintiffs' knowledge, did not reconvene during the 2017 legislative session.

In the 2016 and 2017 legislative sessions, a number of bills, appropriations, and Appropriations Act provisos were introduced in response to the Task Force recommendations. In 2016, four of these bills were enacted into law; in 2017, two of these bills were enacted. These bills and/or provisos did not provide significant relief or state funding over time. The General Assembly continues to fail to offer a significant plan to address all students' needs which includes changes in the funding mechanisms and a time line for implementation.

### **Specific Actions Taken within the School Districts**

Both before and after the Abbeville decisions, the Plaintiff Districts have focused on the areas identified in *Abbeville II* with the intent of improving and prioritizing student learning. The Plaintiff Districts submit that on the whole and within their individual capacities they are doing all they know to be reasonably done to educate the young people in their schools, given the

circumstances they face. Any examination of the programs and services across the 33 Plaintiff Districts must incorporate the understanding that the districts differ in demographic, economic and geographic contexts. District priorities are established within the limits of available resources and needs. Regardless of the differences among approaches or strategies chosen, the Plaintiff Districts are unified in their commitment to every student achieving the Profile of the SC Graduate.

As ordered by the Court in the September 20, 2016 Order, the Plaintiff Districts report in this section on those actions, organized by reference to the following topics: consolidation and collaboration among school districts; infrastructure (physical facilities, transportation services and instructional technology); teachers (recruitment and retention); early childhood education (pre-school through grade three); grades 4-8 (curriculum, after-school and summer school programs); and high schools (curriculum, after-school and summer school programs). Each topic also includes a discussion of the constraints faced by the Plaintiff Districts that confound their efforts to do more in these areas.

## **B. Consolidation and Collaboration**

The General Assembly, subject to approval of the Governor, holds authority and responsibility for making decisions regarding school district consolidation.

There are few issues which raise the level of community concern and controversy as do district or school consolidation. Current conversations regarding consolidation use the countywide school district as a frame, although several South Carolina school districts touch upon more than one county and several counties include more than one high enrollment district. Other conversations regarding consolidation focus on district enrollment and presume that administrative or financial efficiencies increase with size. This section describes consolidation discussions among the Plaintiff Districts, as well as efforts by the Plaintiff Districts to improve efficiencies through collaboration with other districts and entities. It also addresses the administrative and instructional impact of a countywide school district, shared services or consortium operating models, and the potential for increased or decreased costs.

Over the course of the Abbeville suit, the General Assembly has consolidated a number of smaller districts. These consolidations include actions in Dillon County to reduce three school districts to two and in Marion County to reduce four school districts to one. Prior to the suit, consolidations in Orangeburg reduced the number of school districts from eight to three. In the 2017 legislative session, legislation was passed to consolidate the remaining three Orangeburg County districts into one, beginning in 2018; however, that legislation has been vetoed by the Governor. Multiple districts remain in the following plaintiff counties: Bamberg, Barnwell, Clarendon, Dillon, Florence, Hampton, Laurens, and Lexington. In Barnwell and Orangeburg counties, public discussions or hearings have been held in the last two years. In Clarendon County, merger has been discussed informally among board and administrative leaders. District and area leaders in some of the Florence County districts have also discussed consolidation

over the years. The topic has arisen at least in informal discussions in all the multi-district counties.

Two studies have explored the potential for administrative efficiency and/or savings. Neither study addressed consolidation per se nor recommended consolidation of two or more districts into one. These are a 2003 study by Miley and Associates to the Education Oversight Committee and a 2017 report on efficiency provided to the State Department of Education. Having studied the demographic characteristics, student performance, revenues and costs, the EOC study did not recommend a particular school district size; however, the study did note the following:

- The real question [of district size] is “what is the appropriate size for whom;”
- There are administrative inefficiencies, in administrative and leadership costs, for districts enrolling fewer than 2,500 students and in districts enrolling more than 25,000 students;
- “One-size-fits-all” policies will meet with limited success across all districts;
- Any proposal designed to reduce operational costs through consolidation of smaller districts needs to be carefully evaluated to ensure there are no indirect impacts on performance and increased transportation costs.<sup>2</sup>

The 2017 study for the State Department of Education, conducted by Alvarez and Marshall Consultants, explored costs and opportunities for savings in five areas: finance, human resources, procurement, transportation and overhead (SC Department of Education, 2017.) These costs account for approximately 14 percent of district expenditures. Findings from the study cluster around the two themes of modernization and collaboration; the study did not consider nor did it recommend consolidation. The consultants recommended a shared services collaboration model and projected savings between \$35-89 million depending upon the scope and capacity of the collaboration mechanisms. The Plaintiff Districts, by current practice and reactions to the study, affirm their interest in expanding the district-to-district and consortia collaborations they employ currently. Further discussions are needed to see how and where collaboration can reduce financial and programmatic stress in the districts.

Conversations with superintendents confirm that the administrative burdens on the smallest school districts are heavy. In several of the smaller Plaintiff Districts, the superintendent is the only certificated personnel in the central office. That means the superintendent is responsible for leadership, knowledge, and administration of every federal, state and local program. Some superintendents have working relationships with larger districts to share curriculum leadership,

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<sup>2</sup> The Education Oversight Committee in 2003 (Education Oversight Committee, School District Organization in South Carolina, 2003). The report noted that in 1950, South Carolina operated 1220 school districts and that since the 1960s, the number of school districts had declined from approximately 100 to today’s 82. The EOC report cites historical studies indicating that sparsely populated school district are often more expensive to operate because of the costs of transporting students. The studies further indicated a strong correlation between district size and student socio-economic status.

and others depend upon consortia or professional development programs for assistance. While many advocates of consolidation cite administrative savings from merging districts, the statewide average expenditure on all district leadership functions is 1.18 percent of operating expenditures. (SC Department of Education, InSite 2013-2014.) The range among Plaintiff Districts is from less than 1 percent to approximately 5 percent. Several school districts are sharing teacher recruitment efforts, procurement, and administrative training to achieve the perceived efficiencies of consolidation.

Informal conversations suggest that consolidation of school districts would lead to consolidation of schools and result in longer student ride times and increases in transportation costs. Without significant study and proposal of attendance zones, impacts on students and costs or savings for districts cannot be estimated.

One superintendent stated, "If you take our high school, you destroy our community." High schools historically have been the center of many rural communities capturing support through the achievements of their student, their arts and athletic accomplishments, and their service as a community center. Consolidation is perceived as a threat to those communities.

Consolidation is associated with greater access to curriculum leadership for schools and teachers and increased course offerings for students. The current system of allocating funds to school districts based upon the number of pupils generally or the number of pupils in a particular program disadvantages small school districts. Without sufficient funding, the employment of academic discipline coordinators or experts, instructional coaches, or specialized program teachers (e.g., gifted and talented, summer program teachers) is either impossible or requires local revenues beyond those available. Because of this, the Plaintiff Districts are effectively utilizing a number of strategies to provide the benefits associated with higher enrollment districts. Some examples are the following:

Shared services for low incidence (e.g., autism) special needs students among Clarendon School Districts One, Two, and Three;

Willingness of Florence District One to allow its curriculum leaders to work additional days in Florence District Two and to work with Florence Two in professional development, technology purchases, and in obtaining an Early Learning Grant;

Curriculum development projects jointly conducted between Florence School Districts One and Four;

Florence School District One allows some Florence Four students to attend its Career Center, assisting with transportation to the Career Center when possible;

Alternative school staffing shared between Florence School Districts Two and Three;

Shared science and adult education centers between Laurens District 55 and Laurens District 56, which also collaborate on grant writing, professional development, and apprenticeship programs with local industry;

Shared adult education programs in Hampton, Jasper, Laurens and Lexington counties; and

Project Share teachers for low incidence disabilities categories in the Pee Dee region;

Chesterfield County School District partners with other districts on purchases of food products, technology, instructional materials including software, and through State contracts with vendors for furniture, consumables, vehicles, and equipment;

Dillon School District Three shares a number of functions with surrounding districts, including staff development, vocational programs, grant writing and management, college dual credit, work force development, adult education, special needs services, and some financial management functions and purchasing; and

Lexington Four collaborates with Lexington Three on its First Steps pre-school program.

The Plaintiff Districts also organize within regional consortia for economies of scale in purchasing, programming, professional development and instructional services. The functions of the consortia are defined among the participating superintendents and vary by consortium. The consortia include the Pee Dee Regional Education Center providing collegial meetings, professional development, limited joint purchasing and Project Share to provide special education services; the Western Piedmont Consortium providing collegial (job-alike) meetings, professional development, cost-sharing and governmental liaison services; the Olde English Consortium providing collegial meetings, professional development and government liaison services; and the Salkehatchie Consortium providing collegial meetings. Through agreements with higher education institutions, the consortia are able to bring graduate programs to their teachers and administrators. The capacity to share personnel and services is limited by the distances among and between the school districts and that the consortia are private organizations. As private organizations, consortia employees do not participate in the state

benefits program, including the retirement system, which limits the willingness of district personnel to work for the consortia. Despite this, the superintendents support the potential for the consortia to provide additional services and believe that the organizational issues can be resolved.

Consolidating districts is often equated with savings, either because services offered in one district are redundant of those offered in another district or because there are insufficient pupils to generate a level of funding needed for the program. The impact of equalizing salaries and other funding across districts has not been explored. The 2017 efficiency studies did not analyze the possible effects of combining multiple districts' different salary structures, which comprise the largest part, by far, of district expenses, or providing equivalent access to curricular and co- or extra-curricular programs. While there could be savings in certain administrative functions, salaries and program access would be leveled "up."<sup>3</sup> Table 1 displays information projecting the costs of equalizing per pupil expenditures in districts. A definitive study is needed to sort through expenses based upon student eligibility for particular federal and state programs and competitive grants; however, even this crude estimate demonstrates the costs of consolidation.

Table 1  
Projected Per Pupil Expenditure If Equalized Within a County  
2013-2014 InSite Data

County	District	2013-2014 InSite Data			Projected Equalized Expenditure	Projected Increased Cost
		Number of Pupils	Per Pupil Expenditure	Total Expenditure		
Bamberg	Bamberg 1	1,430	\$11,004	\$15,732,296	\$20,410,390	\$4,678,094
	Bamberg 2	735	\$14,273	\$10,488,918	\$10,488,918	
Barnwell	Barnwell 19	768	\$11,118	\$8,542,746	\$8,542,746	
	Barnwell 29	952	\$9,841	\$9,369,359	\$10,584,336	\$1,214,977
	Barnwell 45	2,431	\$9,185	\$22,333,868	\$27,027,858	\$4,693,990
Clarendon	Clarendon 1	818	\$13,407	\$10,968,521	\$10,968,521	
	Clarendon 2	3,035	\$8,455	\$25,658,759	\$40,690,245	\$15,031,486
	Clarendon 3	1,218	\$8,432	\$10,266,919	\$16,329,726	\$6,062,807
Dillon	Dillon 3	1,651	\$7,422	\$12,253,891	\$13,307,060	\$1,053,169
	Dillon 4	4,332	\$8,060	\$34,914,076	\$34,914,076	
Florence	Florence 1	16,295	\$9,370	\$152,682,911	\$159,772,475	\$7,089,564
	Florence 2	1,221	\$7,860	\$9,600,430	\$11,971,905	\$2,371,475
	Florence 3	3,727	\$9,688	\$35,104,356	\$36,543,235	\$1,438,879
	Florence 4	738	\$9,805	\$8,194,293	\$8,194,293	
	Florence 5	1,424	\$9,239	\$13,148,833	\$13,962,320	\$813,487

<sup>3</sup> Under the South Carolina Teacher Employment and Dismissal Act, teacher salaries cannot be reduced from year to year. If District A's salaries are higher than District B's salaries, District B's salaries would have to be increased to match those of District A if the two districts were consolidated.

Hampton	Hampton 1	2,464	\$10,153	\$25,612,778	\$32,172,064	\$6,559,286
	Hampton 2	909	\$12,651	\$11,496,662	\$11,496,662	
Laurens	Laurens 55	5,991	\$8,968	\$53,722,576	\$58,591,980	\$4,869,404
	Laurens 56	3,096	\$9,780	\$30,284,965	\$30,284,965	
Lexington	Lexington 1*	24,047	\$10,087	\$242,564,513	NA	
	Lexington 2*	9,030	\$9,645	\$106,866,927	NA	
	Lexington 3*	1,986	\$11,389	\$22,622,780	NA	
	Lexington 4	3,512	\$8,937	\$32,385,295	\$40,092,992	\$7,707,697
	Lexington 5*	16,650	\$11,416	\$189,980,668	NA	
Orangeburg	Orangeburg 3	2,973	\$11,822	\$35,150,255	\$36,529,251	\$1,378,996
	Orangeburg 4*	3,886	\$9,812	\$38,146,430	NA	
	Orangeburg 5	6,865	\$12,287	\$84,346,815	\$84,346,815	
Projected Annual Increase						\$64,963,311

\*Not a plaintiff district

Therefore, while districts may save between \$35 and \$89 million over a five-year period through consolidating certain administrative functions, the costs of equalizing per pupil expenditures is far greater, exceeding \$300 million over the same period. Since the State does not pay salaries above the minimum salary schedule, the burden of raising this money would fall upon the local communities and their districts.

The questions regarding the difficulties of school districts with a preponderance of students from economically disadvantaged backgrounds is one often studied by educational researchers. To demonstrate the impact of countywide organization on poverty levels, a student poverty level is shown in Table 2 below. Regrettably, the high poverty status is intransigent. To change the student experience, the level of poverty in a school and in a classroom would need to be addressed, often requiring busing to a school further from the student's home, entailing additional transportation expense and time, as well as curtailment of learning time.

Table 2  
Projected Countywide Student Poverty Levels

District	Student Poverty Level by District	Consolidated County	Weighted Student Poverty Level by County
Bamberg One	78.9	Bamberg	84.8
Bamberg Two	97.7		
Barnwell 19	95.3	Barnwell	86.2
Barnwell 29	86.2		
Barnwell 45	83.7		
Clarendon 1	98.3	Clarendon	87.6
Clarendon 2	92.3		
Clarendon 3	69.6		
Dillon 3	79.8	Dillon	90.3
Dillon 4	94.4		

Florence 1	74.3	Florence	78.4
Florence 2	79.1		
Florence 3	93.9		
Florence 4	97.3		
Florence 5	75.9		
Hampton 1	85.9	Hampton	86.8
Hampton 2	97.8		
Laurens 55	82.8	Laurens	83.7
Laurens 56	85.3		
Orangeburg 3	96.7	Orangeburg	94.3
Orangeburg 5	93.2		

Source: Enrollment and poverty data drawn from Annual School and District Report Cards, 2016.

Finally, consolidating school districts is not impossible. Authority to do so rests with the General Assembly. As one superintendent stated, “nothing is too difficult to work out.” But without a clear purpose and a detailed plan to include building community support, a phase-in period and resolution of revenue, debt, and leadership issues, the potential for savings or educational success cannot be determined. Recent efforts in Sumter, Marion and Dillon counties do not point to economic savings or to dramatic improvements in student achievement.

Any consideration of consolidation of school districts must include the emotional and pragmatic constraints that it entails, including

- Community self-definition, particularly in rural settings, by their high schools and fear of losing that identity;
- No statement of the purpose for consolidation or problem to which consolidation is a remedy;
- Loss of small educational settings, which are most beneficial for impoverished students;
- No clear cost savings, when teacher salaries and building needs are factored in; and
- Insufficient information to determine the financial impact of consolidation.

### **C. Infrastructure**

For purposes of our discussion infrastructure is defined as physical facilities, transportation services, and access to and quality of instructional technology.

**1. Physical Facilities.** Throughout most of South Carolina’s history, the building and maintaining of public school facilities has been a state-local partnership. Over the last thirty years, sources of state revenue for school construction have shifted dramatically, with the result that the State has withdrawn much of the financial support it formerly provided. At one time the General Assembly assisted local communities with building funds through “30-15” money. (S.C. Code Ann. § 59-21-320.) Districts were provided \$30 for every grade 1-12 student in membership and \$15 for every kindergarten student enrolled in the half-day program.

Districts also had access to excess Education Improvement Act (EIA) revenues and/or EIA revenues not spent at the end of the fiscal year for either construction or debt reduction. The 1995 School Facilities Assistance Program (also known as Barnwell Funds) supplemented these. Today, no funds are allocated through “30-15”. Barnwell funds dropped from a high of \$48,441,188 in 1995-96 to a low of \$1,427,030 in 2010-11 and nothing beyond. Excess EIA revenues fluctuate and their use is dictated by proviso in the annual appropriations act. While the Fiscal Year 2018 General Appropriations Act assigns funds to the Abbeville Equity District Capital Improvement Plan, the bulk of the funds are from excess Education Improvement Act funds (up to \$55.8 million), when and if they become available, as detailed in Proviso 1A.50. Those funds are the fourth priority, following \$9.6 million in allocations to other uses. In Fiscal Year 2016, the total excess revenues receipts were \$35 million; therefore, the assignment of \$55.8 million to the Capital Improvement Plan is optimistic. The Act also allocates \$16 million from the Teacher Loan Program revolving fund (Proviso 1A.81) and a direct appropriation of \$4.8 million. (Section I. State Department of Education, XIII.J.)

During this same 20-year period, the State instituted full-day kindergarten for all five-year-olds and full-day pre-kindergarten for designated four-year-olds, but did not provide for the construction or renovation of classrooms, bathrooms, and playgrounds to meet Department of Social Services and Department of Health and Environmental Control facilities standards. A recent Education Oversight Committee (EOC) report on the Child Development Education Program (CDEP) serving four-year-olds indicates that there are 273 CDEP classrooms in 94 schools across the Plaintiff Districts. (Education Oversight Committee, Annual Evaluation of the CDEP 2013-2014).

The South Carolina State Constitution permits districts to borrow up to 8 percent of the assessed value of property for capital expenditures, which are loosely defined as new construction, renovation and repairs, technology, and equipment without a local bond referendum. Only with the approval of the local community may districts commit to debt beyond the 8 percent constitutional limit.

Every plaintiff superintendent indicated that the district’s 8 percent money is in a cycle of constant use in their efforts to provide safe and adequate facilities that will facilitate learning. For smaller and less wealthy districts, “8 percent is insufficient” to maintain their current facilities, much less to renovate or construct new facilities. Using a generally accepted projection that an elementary school roof costs \$1 million, revenues from within the constitutional debt limit in three Plaintiff Districts are insufficient to roof even one school, and eight more Plaintiff Districts raise less than \$2 million. As one superintendent stated, “we have to choose among inadequate lighting, leaking roofs, and unhealthy HVAC systems” because of the inadequacy of the 8 percent money to repair building deficiencies in that district.

South Carolina ranks first in the nation with a per student long-term debt of \$16,948 (2013 dollars), just over twice the national average of \$8,467.<sup>4</sup> Districts must choose between high debt and inadequate and unsafe facilities. The Plaintiff Districts have taken proposals to their communities to sell bonds to enable them to finance larger projects such as construction of new facilities and renovations of existing facilities. The ability of citizens of different communities to repay those debts through increased taxes for their local schools varies. The leadership of each district must make judgments, based on their knowledge of their communities, as to whether even embarking on a bond referendum, which can be an expensive process, is feasible. In many of the Plaintiff Districts, the community may support the goal of new buildings, but the local resources are such that the community would be unable to repay the debt required to get them.

The capacity of each Plaintiff District to raise funds through their 8 percent money and the sale of bonds is well below that which is needed to undertake capital projects in a timely manner. Twenty-three of the Plaintiff Districts raise less than \$5 million within the constitutional 8 percent limit. These districts have an insufficient economic base to maintain facilities supportive of the instructional program and safe for young people. Building new facilities cannot be undertaken without imposing excessive levels of millage on an already overburdened, generally poor community.

Facilities challenges are not limited to new construction or renovation. Every day poor ventilation, inadequate fire protection, and energy-wasting lighting eats into school and district operating costs. Older school facilities, statewide and in the Plaintiff Districts, have higher upkeep and maintenance costs. The state mean expenditure for upkeep and maintenance, according to the 2013-2014 In\$ite report (SC Department of Education, Office of Finance), is 9.49 percent of the annual per pupil expenditure, amounting to \$668,127,037. Over half of the Plaintiff Districts are spending above the state mean, due in large part to their need to maintain old facilities. These expenses are paid from operating funds, which reduces the dollars available for instructional purposes. In many schools, such as Estill Elementary in Hampton School District Two, built in the 1920s, upkeep and maintenance costs increase annually.

An overwhelming majority of superintendents report that leaking roofs are a constant challenge. District superintendents share the following:

“We watch the weather reports so that we can sandbag the server room and blow up baby pools to catch water in classrooms;”

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<sup>4</sup> According to a recent report, *State of Our Schools: America's K-12 Facilities*, “districts nationwide have been spending \$99 billion a year on facilities--\$50 billion on maintenance and operations, and \$49 billion on capital construction and new facilities.” (US Green Building Council's Center for Green Schools, the 21<sup>st</sup> Century Fund and the National Council on School Facilities.) State by state data from the report indicate that South Carolina spends about \$919 per student each year on maintenance and operations.

“The floors in our elementary school are warped from moisture, rotting has occurred, concrete cracks; we can see the pipes beneath the cracked concrete bathroom floors;”

“Mold collects in the walls and beneath the flooring. Mold removal is becoming more expensive every day;”

“We only deal with the immediate issues; we don’t have the resources and cannot get them to address the long-term concerns.”

The Plaintiff Districts incur additional costs and face other challenges in equipping older buildings to support today’s instructional programs. Students in several Plaintiff Districts attend “Jimmy Byrnes schools,” that is, schools built in the 1950s with revenue from a sales tax enacted during Governor Byrnes’s administration. At one high school, wiring to support the technology necessary for online assessments required penetrating the existing walls to run cables. Penetrating the walls alarmed the local fire marshal about the quickness with which a fire could move from one classroom to another and the age of the fire warning and suppression system. However, a new warning and suppression system is estimated to cost \$500,000. Bamberg School District Two reports that cutting into the walls to install technology infrastructure weakened the integrity of the roof. The State does not account for the cumulative impact of installing current technology on student safety in older schools.

The high school program has expanded greatly since the EFA’s passage in 1977 without recognition that the 24-unit diploma increased the need for specialized instructional space, particularly in the sciences, foreign language, and career preparation programs. The EFA has not been amended to address those additional financial burdens on school districts.

Student safety must be addressed. In one district, the high school gymnasium floor is splitting. District staff cover the split with duct tape to avoid razor cuts when students fall or slide. Mold accumulates in many school settings without proper HVAC systems; wet floors lead to slips and falls. Inadequate lighting increases eye strain and interferes with the ability to read and study. The Plaintiff Districts are in a perpetual search for resources to remedy these building deficiencies.

Because of their inability to fund capital projects through more traditional routes, several Plaintiff Districts have utilized non-millage sources for facilities renovation and/or construction. These include the US Department of Agriculture grants, sale of “energy bonds,” local sales tax, and when available, refinancing current debt.

In March 2017, the State Department of Education reported on the review of facilities in the Plaintiff Districts. The facilities were evaluated on five characteristics: building envelope, security and life safety, accessibility, interior building condition, and building infrastructure conditions using a 6-point scale. Across Plaintiff Districts, the mean scores were the following:

Building Envelope	3.43 (Fair)
Security and Life Safety	2.41 (Poor)
Accessibility	3.19 (Fair)
Interior Building Condition	3.22 (Fair)
Building Infrastructure Condition	3.21 (Fair)

The lengthy report includes individual district reports and documents instructional settings that are determined to be non-operational. The report states,

Aged building systems and equipment can also be a significant impediment to instructional improvements sought by the district. . . .

One factor that was revealed during this study, but which was not included in the mission laid out in the proviso, is the evaluation of the building for its suitability to meet the needs of the district and students in today's education environment. Older buildings that were originally constructed to meet a more lecture-style instructional method cannot be easily modified to meet the needs of today's students personalized learning programs. Limited space to expand power, HVAC, and technology represents a significant barrier to renovation as well as increased cost when compared to a newer facility. It is recommended that a study be commissioned to determine the impact older buildings have on districts' ability to meet the needs of today's students."

The report concludes with the following:

Districts generally are maintaining their building systems and equipment to the best of their financial capacity. However, aged building systems and equipment represent a financial and operational risk to the districts. The renovation and/or replacement of school facilities and infrastructure are critical to providing optimal learning opportunities to students as well as maintaining the financial and operational health of the districts.

(Source: SC Department of Education, March 2017.)

When we look at the facilities issue, we find that the Plaintiff Districts are devoting time and resources to accomplish the goals of the State; however, their efforts are constrained by

- Inadequate community wealth upon which to draw for new construction and/or major renovation;
- Aging facilities which require extensive upkeep and maintenance;
- Narrow definitions of school facilities that do not recognize co-curricular and extra-curricular contributions to the overall school goals; and
- No funding for the impact on facilities of new programs and expectations.

**2. Transportation Services.** The State assumes responsibility for transporting students to their zoned school, an alternative school, or a career center during the instructional day. Any student living within 1.5 miles of the school must provide his/her transportation (S.C. Reg. 43-80(H)), and no student ride can be longer than 90 minutes. The State of South Carolina provides and maintains school busses, establishes criteria for and compensation of bus drivers, and defines school bus routes (in cooperation with the school districts). Local school districts are responsible for (and must fund) the transportation of students for co-curricular and extra-curricular activities; the recruitment, employment and supervision of bus drivers; defining special routes for students with disabilities; and paying for any special route outside the state routing plan, including special routes to avoid hazardous situations and transportation of students to and from anything other than their assigned school for the regular school day. The current provisions fail to acknowledge that many students, particularly high school students, are enrolled in courses at local colleges and engage in co-curricular experiences such as job shadowing or internships outside the hours of the school day. For students living in rural communities, the inability of many Plaintiff Districts to fund school-provided transportation eliminates opportunities for these experiences.

In *Abbeville II*, the Supreme Court provided considerable attention to the “ride times” transporting students from home to school. Despite new routing software some ride times persist at 90 minutes in the sparsely populated areas. Software, without investment in buses and drivers, cannot overcome the transportation challenges of sparsely populated areas. In Allendale County, some four-year-old students are picked up as early as 6:10 a.m. The practical challenges include providing bathrooms for children who may be on the bus more than an hour. In Allendale County School District, it is not unusual to pause and take younger students into the high school to use the bathroom before continuing their journey. Lexington School District Four also reports ride times of up to 90 minutes, each way. While some suggest that smaller buses would be more appropriate for these communities, more buses require more drivers and there is a crippling driver shortage. More drivers also necessitate more funding for driver salaries and benefits.

School districts expend resources for transportation in three areas: additional routes to extend the instructional program, salary supplements for drivers, and hazardous routes. The cost of routes to extend the instructional program include transporting students to technical colleges for dual enrollment or career courses; transporting students to work sites, colleges and other experiences that increase their understanding of and interest in colleges and careers; academic, arts or athletics experiences; and transporting students to competitions and field trips. The State requires that school districts fund those additional routes; the inability of some Plaintiff Districts to do so deprives their students of those educational opportunities.

The second area in which districts expend transportation dollars is salary supplements. Without exception, the Plaintiff Districts must supplement the base driver salary provided by the state in order to recruit drivers. The extreme shortage of qualified school bus drivers is a

source of constant concern for the school districts. One superintendent reports that “recruiting bus drivers is as difficult as recruiting teachers.” Bus drivers are required to have a commercial driver’s license (CDL). Districts recruit potential drivers and often support the drivers financially through their training to receive the CDL. Because the state salary base is only \$7.70 per hour, districts must supplement the salary to be competitive in the local market. Some districts are paying as much as \$15 per hour to meet the market demand. Turnover is high as drivers with the CDL are recruited by trucking firms for higher pay and greater benefits. To deter their departure, the Plaintiff Districts provide mid-day employment for drivers as classroom or cafeteria aides, maintenance workers, etc. By extending the drivers’ employment to full-time, the drivers become eligible for retirement and health care programs, adding to the districts’ expense. Drivers begin their workday early (before 6:00 a.m.), drive one or more routes, work at schools during the middle of the day, and drive the afternoon routes. These are long days, often 12 hours, which result in drivers earning overtime pay by Thursday of a five-day school week. In one recent pay period, a driver in Clarendon School District Three earned 37 hours overtime.

The Plaintiff Districts also report expending considerable resources for additional routes to keep students out of hazardous situations. When a district determines that a student living within 1.5 miles of the school should be provided bus transportation because he would otherwise be exposed to a hazardous commute, the school district is billed for that cost by the State. Superintendents report that student safety is the first priority, requiring them to respond to situations such as those below:

Dillon County: Many students must walk across a busy highway to get to the school. The districts assume costs for additional routes rather than placing a young person in jeopardy;

McCormick County: Students walk along the highway shoulder to the bus stop or the school. They may not anticipate logging trucks coming along at 50-60 mph and, depending upon the weather or traffic, may not be visible to the truckers; and

Saluda County: 900 of 2200 students live on dirt or gravel roads that are unlit; therefore, a student walking to school (or even a bus stop) in the early morning is vulnerable to being involved in an accident. To avoid this, the district pays for additional bus routes.

When we look at transportation issues, we find that the Plaintiff Districts are addressing the issues with limited resources, but are constrained by the following:

- The general shortage of individuals interested in driving school buses;
- The inability to compete in the marketplace for drivers;
- The costs of supplementing salaries and extending work schedules;

- The physical size of school districts and the length of rides;
- The need to provide supplemental bus routes for students who otherwise would be walking in unsafe conditions.

**3. Instructional Technology.** The State of South Carolina has funded some improvements in technology for teaching and learning through its Technology Initiative. The impact of the program is under study by the Education Oversight Committee. Among the points of study is the use of blended learning format (at least 50 percent of instruction online) or completely online. Ten Plaintiff Districts are among the 31 districts statewide reaching this level of blending learning, primarily because of federal or private sector competitive grants.

Plaintiff Districts also are working to achieve the state expectations for wiring/cabling, one-to-one device ratios, and preparation for online assessment. When the EOC examined the expenditure of Technology Initiative funds, the EOC found that, across all technology funds (multiple sources), 67 percent of funds expended in FY 2015 were for the purchase of devices and 16 percent for internal connections within schools. The achievement of the one-to-one device ratio would allow full integration of technology into the teaching-learning process. Not only are students using the devices at school, but also at home to extend or confirm what is learned during the school day, to turn in homework, and to participate in teacher-made or state-administered assessments.

The State Technology Initiative presumes a goal of one-to-one devices; however, the state-local partnership in pursuit of this goal is neither defined nor funded. School districts are scrambling for funds to reach the goal. Using the \$70 per pupil allocation, the EOC data indicating that 67 percent of the allocation is spent on devices, and a Chromebook cost of \$180 (prices range from \$180 to \$500), it would require four state appropriations cycles to pay for one student device. School districts are implementing only a few grade levels each year, supplementing with local revenues, applying for grants, or switching federal and state funds from one purpose to another. None of these actions address the replacement cycle. Plaintiff Superintendents express concern that the use of supplemental appropriations to purchase the devices does not guarantee a continuing revenue stream, and their districts will be unable to continue providing these technology improvements to their students.

Plaintiff Districts had the option of participating in a digital literacy pilot program during the 2016-2017 school year, authorized in the Fiscal Year 2017 General Appropriations Act (Provisos 1A.52 and 1A.75), to improve student keyboarding and coding skills and general digital literacy understandings. Twenty of 33 Plaintiff Districts participated.

Plaintiff Districts have had to seek external funding from sources other than the State to enable them to participate in such technology initiatives and advances. Approaches used by the Plaintiff Districts include using federal e-rate funds, competitive grants from the US Department of Agriculture, and private corporate grants. Opportunities to compete for grants are available only to those districts who have funds to contract for or staff to write grants.

Occasionally, but not consistently, school districts are able to combine purchasing of technology in order to maximize their purchasing power. Florence School District One and Florence School District Two and the Western Piedmont Consortium members employ this strategy. Variations among infrastructure (e.g. cabling, servers) and device choice preclude extensive shared purchasing. Superintendents express continuing concern that attention is paid to initial acquisition of devices, rather than a long-term acquisition and replacement cycle. Funding to sustain technology access at the level for student learning over time and with advances in speed, memory and access is not under consideration by the State. As mentioned earlier in the discussion of school facilities, districts building new or renovating older schools are able to fold technology costs within the facilities costs and shift payment to debt millage. Unfortunately, districts not undergoing building programs must pay for technology from their limited operating funds.

By 2018, both federal and state testing of students is to be accomplished online. South Carolina has an intention to test online in 2017. To understand the state’s readiness, the General Assembly, working with the SC Department of Education, funded a district-by-district study of “readiness for standardized, on-line assessments beginning in 2017 and the capacities to offer quality computing based instruction, including Wi-Fi availability for support of instruction.” The study yielded a technology score measuring the (a) impact of facilities, (b) readiness of infrastructure, (c) readiness of existing hardware, (d) teacher readiness, (e) student readiness, (f) technology support, (g) funding mechanisms and (h) strategic planning. A five-point scale was used to represent district capacity for online testing with a score of 3 meaning “The district will be able to meet the 2017 Online Testing requirements. The district will not be able to handle additional subjects or grade levels without significant improvement in multiple areas” (SC Department of Education 2016.)

As shown below, only four of the Plaintiff Districts scored 3 or higher.

Table 3

District Scores on Readiness for Online Testing Scale

District	Rating	District	Rating
Abbeville	3.4	Allendale	2.8
Bamberg 1	2.4	Bamberg 2	2.2
Barnwell 19	1.8	Barnwell 29	2.6
Barnwell 45	2.5	Berkeley	2.9
Chesterfield	2.7	Clarendon 1	2.6
Clarendon 2	2.3	Dillon 3	2.5
Dillon 4	2.5	Florence 1	2.9
Florence 2	3.8	Florence 3	2.7
Florence 4	2.3	Florence 5	2.5
Hampton 1	2.8	Hampton 2	1.5
Jasper	3.0	Laurens 55	3.7
Laurens 56	2.8	Lee	1.7
Lexington 4	2.7	Marion	2.4
Marlboro	2.6	McCormick	1.9

Orangeburg 3	1.5	Orangeburg 5	3.6
Saluda	2.8	Williamsburg	2.7

Source: SC Department of Education, 2016.

With respect to technology, Plaintiff Districts find themselves constrained by the following:

- Ill-defined partnership with the state regarding the goal for and implementation of technology in teaching and learning;
- Inconsistent revenue streams and purchasing mechanisms to provide infrastructure and devices;
- No long-term planning for replacement and advancements in technology.

#### **D. Teachers**

For a number of years, educators have lamented the low number of college graduates entering the teaching profession. At first, those shortages were evident in the certification areas related to serving students with special needs and to science and math teaching. Rural areas expected to experience more shortages than other areas. Today teacher shortages are pervasive across all certification areas and in every community.

In many of the Plaintiff Districts, the challenges are exacerbated by geographic isolation, economic isolation, or both. Plaintiff Districts find themselves competing against neighboring districts, particularly those with greater community wealth. For the 2016-2017 school year, starting salaries for first year teachers in Dillon School District Three are only 85 percent of those in neighboring Horry County. Not surprisingly, then, some of the Plaintiff Districts become training grounds for other districts. Teachers begin their careers in rural or economically disadvantaged settings and move to higher-paying districts as soon as possible.

Other obstacles to teacher recruitment include the fact that rural and/or high poverty settings often lack housing for teachers. Several Plaintiff Districts have been able to assist with housing and facilitate a cadre of colleagues with whom to build personal and professional bonds.

The general supply of teachers is limited and well below the level of state needs. The recruitment and retention issues are exacerbated for Plaintiff Districts that pay lower salaries or grappling with the challenges of rurality. Recruitment and retention efforts do not end at state borders. Districts bordering other states report hiring teachers who have retired from the North Carolina system. Because these teachers are older, their tenure with the districts is limited. A number of Plaintiff Districts use teacher placement services to employ international teachers, often with varying success. Hiring an international teacher requires considerable local investment. Administrative fees paid to the placement services range from \$2,000 to \$12,000 per year. In an attempt to overcome cultural and language barriers, school districts employing international teachers sponsor varied cultural and community professional training for the teachers and the communities; however, language and cultural differences often interfere with

student understanding. Of international teachers in South Carolina, the Plaintiff Districts employ 33 percent, despite enrolling only about 17 percent of the students. Table 4 indicates the number of 2015-16 international teachers employed in Plaintiff Districts.

Table 4

International Teacher Employment by Plaintiff District

<u>District</u>	<u>2015-2016 Number of International Teachers</u>
Abbeville	1
Allendale	4
Bamberg 2	5
Barnwell 19	3
Barnwell 45	5*
Berkeley	7
Chesterfield	2
Clarendon 1	1
Clarendon 2	11
Florence 3	5
Florence 5	1
Hampton 1	2
Hampton 2	7
Jasper	7
Lee	15
Lexington 4	5
Marion	5
Marlboro	15
McCormick	1
Williamsburg	15

Source: SC Department of Education, 2017.

\*Data reported separately by superintendent.

The *Teach for America* (TFA) program places college graduates with exemplary academic records in challenging teaching settings. During their three-year commitment, TFA cadets must complete education coursework and work closely with mentors. In addition to paying TFA teacher salaries, local school districts are also required to pay a fee of \$4,000 per cadet annually to support cadet expenses. Districts also face the likely short-term employment (three years) of TFA cadets, which has a negative impact on their effectiveness. TFA has been in South Carolina for five years and in 2015-2016 has over 160 cadets working in schools in 14 districts. Five Plaintiff Districts are partnering with TFA. (Source: Teach For America: South Carolina, 2016.)

To recognize differences among teacher assignments and professional standing, South Carolina has participated in the Teacher Advancement Program (TAP), which staffs schools with mentor and master teachers and pays performance bonuses for professional growth and achievement. TAP is a national effort to restructure the teaching profession through multiple career paths, performance-based compensation, performance-based accountability, and on-going applied professional growth. TAP has been active in South Carolina for nearly twenty years and, through a series of four grants from the Milken Family Foundation and the U.S. Department of Education, has provided supplemental compensation for mentor and master teachers and

performance bonuses for classroom teachers. Unfortunately, TAP is not funded beyond 2016-2017, and the seven participating Plaintiff Districts lack the local or external resources to sustain the program.

The Plaintiff Districts employ teacher recruitment and retention strategies appropriate to their communities and within the limits of available resources. These include recruiting and supporting current employees to gain teacher certification, providing signing and/or performance bonuses, paying salaries above the state salary schedule, offering housing and/or mileage stipends, employing TFA cadets and employing international teachers.

In an effort to focus intensely upon the needs of children of poverty and to work collaboratively with higher education and other districts, ten Plaintiff Districts partner with the Francis Marion University Center for Excellence in Teaching Children of Poverty. The Center works with teacher preparation and professional development programs, school districts, and schools to prepare teachers to work with students and their families living in poverty and in the schools serving those children. Ten Plaintiff Districts work in collaboration with the Center as partners in designing and supporting professional development efforts.

Plaintiff District superintendents express frustration with short-term remedies, many of which seem like a “flavor of the day” solution. As mentioned earlier, salaries in the Plaintiff Districts generally are not competitive with more advantaged districts. Teacher shortages drive them to alternative sources with high administrative fees. Often the Plaintiffs are paying more for a less qualified, less experienced, and short-term teacher. South Carolina as a state is in teacher supply crisis, the Plaintiff Districts suffering most severely. Several of the superintendents’ comments are worth noting,

“The best recruitment strategy is retention. We cannot simply give signing bonuses to new folk; we must make certain our older staff are compensated well;”

“All I can do is fill positions. Ten years ago I could choose among qualified applicants; today I’m lucky to have one applicant;”

“Nothing is more defeating than standing in front of a faculty who know they do not have to follow your lead. After all, you are lucky just to have them.”

With respect to teachers, then, the Plaintiff Districts find themselves constrained to staff their schools by

- Shortages in the supply of teachers generally;
- Inadequate or inconsistent resources with which to compensate the teachers;
- Housing and other community factors.

## **E. Early Childhood Education**

Early childhood development and education enjoy a level of consistent policy support that few other programs and services enjoy. Both federal and state governments, as well as numerous non-profit entities, provide resources. These include Head Start, Early Head Start, and services to pre-school children with disabilities from federal funds. Other key early childhood education services include the Education Improvement Act child development programming for four-year-olds, full-day kindergarten, the full-day program for qualified four-year-olds, quality standards for child care centers, and the statewide First Steps program.

The Child Development Education Program (CDEP) was initiated by proviso in the 2006-2007 school year and enacted as permanent legislation in 2014 (renamed the SC Child Early Reading and Education Program). CDEP was implemented initially in the Plaintiff Districts and expanded to other districts in accordance with the level of poverty in the district (now at 70 percent or greater). CDEP is a joint effort provided through public school districts and/or private child care providers through First Steps. The State provides per pupil funding for eligible four-year-olds, a per pupil transportation allocation, and a grant for classroom materials. No funding is provided for classroom or play area construction or renovation. The Plaintiff Districts employ aggressive recruitment strategies, provide nearly 280 classrooms, and, when external supplemental funds are available, expand the CDEP program to serve additional students and parents. The classrooms must satisfy square footage requirements, have access to warm water, and access bathrooms sized for young children. Playgrounds must be separate from the other elementary school students and have both equipment and ground covering that minimizes falls or injuries of any kind. These requirements have necessitated considerable renovation undertaken at local expense. Plaintiff Districts expand the program as space is available either through the schools or in partnership with Head Start or private child care centers. Despite these efforts, the Education Oversight Committee estimates that only 60 percent of eligible four-year-olds are served through public school CDEP, Head Start, ABC Child Care vouchers or private CDEP providers, leaving 40 percent not served. Program participation is optional.

The Plaintiff Districts work in collaboration with other community agencies to serve pre-school children. Districts partner with Head Start for professional development, facilities sharing, or joint programming. Some districts include teachers and staff from private child care centers in their professional development activities. Three collaborative programs stand out as examples of service and coordination. These are Allendale County Schools, Florence District One, and Lexington School District Four. Descriptions of those programs follow.

Allendale County Schools: Allendale County Schools serves children from birth through four years through extended early childhood programs. The services include four classes of a birth to three years program. Two classes are funded through Early Head Start and two classes are funded locally. The district funds two classes of a 3K program including transportation. For four-year-olds the CDEP program is available. One 4K class is a Montessori class. The district has assumed the supplemental salary, training and materials costs. Students in these

programs have access to the districtwide Smiles Dental Clinic and the Healthy Learners program.

Florence School District One: Start SMART offers unique services for young children ages birth to age five to ensure that all children enter school ready to learn so that they will be better able to grow into productive citizens. Over 1,000 Florence-area children currently benefit from preschool for three- and four-year-olds, home visits for children under 4 and their parents, book distributions, and monthly training for caregivers. Through partnerships with public and private entities, the school district designed and created a full-day, school-based holistic approach to children's health, nourishment, development and education. The district converted whole schools and/or wings to schools to accommodate the program. Under district leadership, the program has incorporated the efforts of The School Foundation, other government entities and private partners. Funded with state allocations (EIA and CDEP), Title One allocations, private funds and competitive grants, the Start SMART program is partnering with Florence School District Two and Florence School District Three to extend the program into their communities.

Lexington School District Four: The Early Childhood Center (ECC) serves children from birth to age five through an integrated approach among Title One, Head Start and Early Head Start, CDEP, First Steps, and local support at one site. The District built a center that serves the entire district and, by bringing the services together, the community has developed a focus and sustained commitment to early childhood education. The ECC serves three- and four-year-olds with full-day Montessori programs. Teacher training has been supported with federal stimulus funds (now exhausted), SC Lottery appropriations for professional development (no longer appropriated), and Title One. Programming for parents is offered early in the morning in 30-minute segments so the parents can attend before they go to work. A Jump Start program is offered for two-year-olds as well as Early Head Start services for children aged six weeks to three years. A community block grant affords a mental health professional. The ECC would like to add a nurse practitioner to its staff but does not have funds.

These three programs serve as models statewide. Several Plaintiff District superintendents report working with their boards of trustees to reconfigure student attendance zones and to reallocate existing federal, state, and local funds to support the center-based, holistic approach. Access to facilities that are safe and appropriate for young children remains a barrier.

In five Plaintiff District counties, young children benefit from external funding from the *Save the Children Foundation*. The Foundation offers a three-pronged service, in financial and programmatic partnership, with the districts. The three prongs are (1) Early Steps for children birth to age five to assist with language, social and emotional development, (2) literacy

experiences for children ages five to twelve to increase their reading achievement, and (3) Healthy Choices to increase information and access to regular physical activity for children ages five to twelve. Save the Children reports serving fewer than 6,000 young people in five counties.

Despite their focused efforts on the important area of early childhood education, the Plaintiff Districts experience these constraints on their ability to provide these vital services to all eligible young children:

- Perceived competition with private sector providers;
- Inadequate space that is specialized to the needs of young children;
- Inability to reallocate funds without disrupting the quality of other programs.

#### **F. Grades 4-8**

This section is organized to reflect the Court's interest on direct instructional efforts and the remedy proposed by the plaintiffs. Actions are structured within discussion of the core instructional program, after-school services, and summer learning opportunities the Plaintiff Districts have endeavored to offer.

Core Instructional Program. As young people move from early childhood to elementary and middle school, they are expected to learn independently, to build interest in secondary and postsecondary education, and to achieve across the curriculum. To facilitate that, schools follow the academic standards approved by the State and utilize defined and research-based instructional approaches as well as supplementary learning experiences. During these years effective schools build strong relationships with parents leading toward high school, college, and career planning. Schools work with a number of community non-profit and social or health agencies to ensure that students' opportunities to learn are not compromised by conditions or experiences outside the school.

A number of school districts use the *Montessori Method* to serve their students. Montessori, a research-based program, incorporates mixed-aged classrooms, student choice of learning activities, large blocks of uninterrupted time, a discovery model, specialized materials, and a trained teacher. While at one time the South Carolina Department of Education provided guidance for this program, the SCDE grant was exhausted and support discontinued. The extra costs for Montessori model classrooms are now borne by the local districts. The South Carolina Department of Education (2017) reports that public Montessori classrooms are operating in schools in seven Plaintiff Districts.

*Project Lead the Way* seeks to change learning experiences through the infusion of hands-on activities, projects, and problems. *Project Lead the Way* is a STEM-focused curricular program aligned with the Profile of the SC Graduate. Students are engaged in project- and problem-based learning including hands-on activities. Statewide there are 181 active middle or high schools involved including schools in seven Plaintiff Districts.

The South Carolina Council on Competitiveness attempts to support elementary and middle schools through *Transform SC*. Transform SC is built around four key practices: real-world learning; anytime, anywhere learning; real-time information through continuous assessment of student progress; and students advancing when ready (based upon competency). The initiative is intended to achieve the Profile of the South Carolina Graduate as adopted by the General Assembly. Three Plaintiff Districts have been accepted as participants. (Source: SC Council on Competitiveness, Transform SC Schools, 2017.)

Other schools and districts have followed the *Arts in the Basic Curriculum (ABC)* strategy for school planning and curriculum integration. The ABC project staff members work with school and district staff to develop a long-term instructional plan to integrate the arts into instruction school wide. The Project, in its 30<sup>th</sup> year, has undergone a number of evaluations that demonstrate its positive impact on student achievement and behavior. There are 29 ABC elementary and middle school sites within six Plaintiff Districts. (Source: Arts in the Basic Curriculum Committee, conversation with Project Director, 2017.)

After-School Programs. The remedy proposed by the Plaintiff Districts to the General Assembly included engaging after-school experiences for students that reinforce and extend school learning and emphasize the development of creativity, persistence, and life skills. These programs, when offered, are supported by allocations of federal funds such as Title One, external agency grants, grants from non-profit organizations, and local operating funds. School districts are confounded by the inconsistency of funding. A majority of the Plaintiff Districts are dependent upon 21<sup>st</sup> Century Learning Center grants which rarely go beyond four years. Non-profit organizations focus on starting programs but are not committed to longer-term program sustenance. The Plaintiff Districts find themselves constantly searching for grant money and often lacking the personnel to write those grants. In rural settings, there are few individuals to hire to operate or staff the programs even when funding is gained. Funding and staff shortages and the lack of transportation services preclude offering programs to every student, resulting in services accessible only to a small percentage of at-risk elementary and middle school students. Only Florence School District One reported funding after-school programming with local and continuing funds.

Summer School. Opportunities for summer learning typically are funded from two sources: federal Title One allocations and the state appropriations for specific purposes (e.g., Read to Succeed, Junior Scholars). By merging these funds with transportation allocations and federal summer feeding funds, the Plaintiff Districts have been able to offer, at a minimum, the summer reading program for elementary students. Several districts reported the need to supplement these funds when the per pupil allocations were insufficient to meet the costs of a teacher and transportation services. Rarely does a summer program last longer than 3-5 weeks. Many Plaintiff Districts find that the transportation distance and costs overwhelm the budget and student interest.

Some districts have been able to partner with groups beyond federal and state governments, including the SC Arts Commission, the Read-to-Succeed summer camps, Engaging Creative Minds programs, South Carolina STEAM, and 4-H Clubs. Access to programming is determined by the external providers' funds, not by district interest.

Although the Plaintiff Districts are partnering with curricular and co- or extra-curricular providers to improve the quality of core instruction as well as supplemental learning experiences for students in grades 4 through 8, the districts are constrained by

- Dependence upon external grants funding which cannot be sustained beyond the grant periods and
- Shortages in instructional leadership to provide support and professional development for highly productive programs.

### **G. High Schools**

South Carolina requires students to earn 24 units to graduate from high school. The senior South Carolina public universities (i.e., Clemson University and the University of South Carolina, Columbia) require a more academically rigorous background to include units earned in laboratory science courses and multiple units of a foreign language.

Small enrollment districts face a dual dilemma—are there sufficient students to generate the revenues to offer a course and are there teachers certified to teach the course? As a consequence, Chesterfield County Schools currently cannot offer Biology 2, Chemistry 2, and Physics. Allendale County Schools offer only one foreign language (Spanish). Dillon School District Four pays teachers to teach additional courses because of teacher shortages. Despite innovative scheduling and shared teachers, many high schools find themselves without the resources to offer the comprehensive curriculum necessary for student access to college and careers. Schools operating in older facilities lack laboratories for the sciences and the audio components needed for a high quality foreign language program.

Examination of the Plaintiff District responses within the high school program are presented with respect to extended curriculum, partnerships to reshape the high school experience, dual enrollment, after school and summer programs, and career education. Each Plaintiff District is applying remedies to the instructional challenges differently in accordance with priority needs and available resources.

Extended Curriculum. The high school curriculum is enhanced by two programs for college-bound students. Advanced Placement (AP) and International Baccalaureate (IB) courses are a means for high school students to earn college credits that are accepted by the most prestigious and selective colleges. The South Carolina General Assembly provides partial funding for student AP course assessments, teacher training, and, when appropriations permit, instructional materials. State regulations require that high schools offer at least one AP course in their curriculum. Plaintiff District superintendents in small enrollment districts report

difficulty offering AP classes on campus because they do not receive sufficient state per pupil revenues to support a teacher. AP programs are not funded by a student weight or count; instead the State appropriates an amount to the program, which is divided among the participating districts. The amount varies annually and does not cover all costs; from the districts' perspective, the funding amount is arbitrary. When there are few students to participate or the district lacks funds to allocate a teacher, the districts use online AP courses. This is despite concerns that only the most motivated students are able to succeed through the independent study approach.

The IB program serves students from ages 3 through 19 with a rigorous curriculum. School participation is voluntary and requires investments in specialized teacher preparation, standardized courses, and assessments used worldwide. As of August 2016, the SC Department of Education reported IB programs within five Plaintiff Districts.

Partnerships to Reshape the High School Experience. To leverage local resources for curriculum leadership and professional development, school districts work with a number of alliances. These include *Transform SC*, *New Tech* high schools, and the *Arts in the Basic Curriculum (ABC)* project. The project-based learning focus of Transform SC and New Tech high schools overlap.

Dual Enrollment. Every Plaintiff District offers dual enrollment courses. These programs permit students to receive both high school and college credit for college courses taken while in high school. School districts have employed several different approaches including early or middle college programs, college-led summer schools, college courses taught on high school campus, and college courses taught on the college campuses. Student access to the courses is funded in a number of ways. Beginning in the 2016-2017 school year, a weighting was added to the Education Finance Act to assist districts. (Note: enrollment data are not available at this time.) As with other weightings, the degree to which costs are covered depends upon the number of students participating, that is, the greater the number of students participating, the more likely a district is able to realize economies of scale. For this reason, state funding is less likely to cover the costs of such courses in sparsely populated areas. Other strategies include local funding of early and/or middle colleges, local funding for the tuition and fees for dually enrolled students, utilization of the student's eligibility for either state lottery or federal grants, and student fees. Superintendents enlist higher education partners in offering dual enrollment courses. These include the technical colleges within a school district's area, Erskine College, Francis Marion University, Lander University, and the University of South Carolina (Aiken, Columbia and Salkehatchie campuses.)

After School and Summer Programs. High schools report offering tutorial or credit recovery courses<sup>5</sup> both after-school and in summer. Bamberg School District Two is very notable in that

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<sup>5</sup> Credit recovery courses allow high school students who fail a course during the regular school year a second chance in the summer to gain academic credit.

teachers volunteer to stay after school each day to offering tutoring and other curriculum assistance to students.

At most high schools, students engaged in after-school activities participate in athletics, band, or arts extra-curricular activities. These programs must be funded totally from local funds or from grants, often not accessible to smaller, rural communities. Neither Lee County Schools nor Clarendon District Three have a high school band. In the last two years the superintendent in Lee County Schools brought college bands to perform at half time during football games to spark community support to purchase band instruments for interested students. Further partnerships with Benedict College and South Carolina State University offer scholarships for qualified students.

Every Plaintiff District offers some summer programming. This varies by enrollment and access to supplemental funding. Districts offer credit recovery courses and, with a collegiate partner, some dual enrollment courses. Enrollment in the most rural settings is low as students do not have access to transportation or they need to work in the summers.

Career Education. Opportunities for career preparation vary by district, generally based on the proximity of career and technology centers and the capacity to employ sufficient teachers for one of the career majors. Although each district is required to provide several pathways to careers, access to career education laboratories and/or equipment preclude many of the districts from offering classes in current technologies and related work experiences. More than one superintendent reported the ability to fill a welding program with students—if only the district had a lab. Saluda County Schools and Florence School District Two were among those requesting funds for welding. Distance from industry and inadequate student transportation (either school or student provided) make job shadowing, summer internships, or apprenticeships impossible.

Today the high school curriculum is accountable for broader and deeper knowledge and skills levels. Credits required for graduation and for admission either into a career or a college necessitate a range of courses and experiences that are disproportionately expensive for the very small schools or inaccessible for the students. As discussed previously, South Carolina high schools are attempting to offer the wider curriculum through virtual courses and dual enrollment. Superintendents are open about the difficulties in providing advanced or specialized courses for their students; however, the deterrents are more often teacher shortages and absence of laboratories than they are low enrollment.

With respect to high school programming, the Plaintiff Districts find themselves constrained by

- Low enrollments which do not generate sufficient funds to offer the career and college preparatory curriculum;
- Teacher shortages which threaten curriculum capacity;
- Disparities in the ability to fund dual enrollment courses for students;

- Distance from viable and engaging career exposure or experiences.

#### **H. A Final Note**

Repeatedly through this response the Plaintiff Districts have endeavored to show that they are good stewards of the resources before them and that the structure and capacity of the revenue and expenditure streams preclude higher student achievement and organizational efficiency. But the “stop and start” nature of funding creates an environment in which local leaders find it difficult to sustain the steps forward.

The South Carolina Supreme Court raised the issue of the funding system in its findings. The Plaintiff Districts continue to call for a comprehensive, studied restructuring of the funding system which incorporates differences in communities as well as differences among student needs and provides a time line for revision. The system should incorporate attention to

- Student access to the entire breadth of the curriculum, including school facilities, current technology, and extended learning time;
- Funding for quality teaching and learning experiences including knowledgeable and skilled teachers, supplementary learning experiences;
- Funding to support student, teacher, and institutional advancement and innovation;
- A defined partnership between the state and local school districts to address accomplishment of current and future goals, cost analyses that are specific and that include strategies to sustain funding, and the shared responsibilities of the state and local school district.

APPENDIX A

Remedy Proposed by the Plaintiff Districts to the State, 2015

**FOLLOWING THE ABBEVILLE DECISION, THE PLAINTIFF DISTRICTS CONVENED A GROUP OF EDUCATORS AND OTHERS TO DISCUSS REMEDIES REQUIRED TO MEET THE MANDATE OF THE ABBEVILLE DECISION. THIS DOCUMENT REFLECTS THE WORK OF THE COMMITTEE AND THE SCOPE OF NEEDED REFORMS.**

**EXECUTIVE SUMMARY**

This comprehensive list of educational initiatives and needed changes, if fully implemented and funded, is designed to meet the charge given to the House Education Policy Review and Reform Task Force and the Senate Finance Special Subcommittee for Response to the Abbeville Case to propose reforms to comply with the South Carolina Supreme Court's decision in *Abbeville*. These initiatives, opportunities, and strategies are designed to provide each child in the Plaintiff Districts an education enabling him to become a productive citizen equipped with the world class knowledge, skills, and life and career characteristics described in the Profile of the South Carolina Graduate developed by Transform SC. The initiatives are also designed to meet the court's requirement that every child in South Carolina must be provided an education that allows them to become productive citizens and, as often said, "to have a chance at life." To succeed, a special focus on the State's low-wealth, rural schools is essential. Many of our recommendations provide answers to questions posed to the House Task Force, and it is our sincere hope that the State, acting through the House Task Force and the Senate Finance Special Subcommittee, will embrace these initiatives to guide further discussions and frame solutions.

Once initiatives are adopted, our State, as in other states, must determine the financial or other support required to implement them so that it can match resources to these needs. To ensure consistent and reliable financial support over time, funding will be placed in an account dedicated to these reforms as stated in Section 6.B below. Clearly, these initiatives will not provide adequate educational opportunities without sufficient and consistent funding over time.

Many of the initiatives rely on actions required of the schools, districts, the South Carolina Department of Education and other State offices and agencies for guidance, staffing, and implementation. Their support is essential. As is the case with adequate and sustained financial support for the Plaintiff Districts, these entities must receive the financial support needed to meet their assigned responsibilities. While not always explicitly stated below, each responsibility required of a district, school, agency, department, committee, or institution carries with it a commitment by the State to provide this support, irrespective of whether funding is explicitly stated.

The Plaintiff Districts also believe that efficiencies can be created by forming regional support centers to share expertise among the Districts, and that greater coordination with other institutions of learning, such as colleges, universities, and technical centers will benefit all of South Carolina and help meet the *Abbeville* mandate.

The Executive Summary outlines six broad initiatives required to provide the opportunity for a meaningful education to all children in the Plaintiff Districts and those elsewhere who face similar challenges. To the extent existing state laws provide these opportunities, they should be utilized so long as accompanied by adequate funding. Each of the six categories is described in more detail following the Executive Summary.

**Create and Sustain Local Capacity for Long Term Success**

- Provide a structure for sustained collaboration among community and district leaders
- Promote the value of education through engagement and collaboration
- Provide a robust transportation system for all school needs
- Partner with families through effective family outreach and inclusion programs

- Provide safe and optimal facilities for learning

### **Improve the Quality, Stability and Effectiveness of the Teaching Force and Leadership Team**

- Raise standards for preparation and entry into the profession
- Recruit and train teachers and leaders specifically to work in the Plaintiff Districts and work with children of poverty
- Allow for fair but quick and humane ways to disengage teachers who are not effective in teaching children of poverty to high standards
- Sustain district superintendent leadership over time for continuity and effectiveness
- Provide effective professional learning supported by proven strategies and objective measurements of effectiveness
- Develop working conditions and compensation packages that attract and retain effective teachers and leaders in the Plaintiff Districts
- Increase local capacity to improve curriculum and instruction

### **Provide High Quality Early Childhood Education through Grade 3**

- Improve the quality of child care and early learning programs for children in the Plaintiff Districts
- Provide for optimum child health and development
- Partner with families through proven family outreach and inclusion programs
- Expand learning time through afterschool and summer experiences
- Support improved teaching and learning in reading and math, including reading and math coaches and tailored professional development at the school site

### **Provide Students in Grades 4 Through 8 High Quality Learning Opportunities and Experiences**

- Provide high quality learning experiences both in the classroom and externally
- Increase opportunities for career exploration to better understand their interests, talents and potential goals, expose them to career and educational opportunities to realize their goals, and assist students and their parents in developing individual study plans for middle, high school, and beyond
- Support interdisciplinary teams of teachers to provide students access to a set of challenging real-world project assignments that require them to use literacy, math, science, and the arts, and engineering ways of thinking and technology
- Implement consistent student discipline practices that do not detract from learning time and opportunities
- Expand learning time through afterschool and summer experiences

### **Provide Students in Grades 9 Through 12 High Quality Learning Opportunities and Experiences**

- Support opportunities for teachers to collaborate in designing classroom assignments and assessments that are aligned to college and career readiness standards and actively engage students in learning
- Expand opportunities for students to choose accelerated programming, dual enrollment, early college, state agencies' programming, advanced industry credentials, or substantial credit toward an associate's degree or post-secondary certificate while earning a high school diploma
- Expand learning time through afterschool and summer experiences

**Provide for Continuous improvement By Monitoring the Quality of Implementation and Holding Schools and School Personnel Accountable for Results**

- Monitor and measure educational outputs at each grade level to ensure continuous improvement
- Improve the quality of data and access to meaningful understanding and use of data
- Measure the effectiveness of each initiative over multi-year evaluations
- Evaluate professional learning both objectively by student outputs and through teacher and leadership observations
- Evaluate each State agency's or department's effectiveness by annual performance reviews

**1.0 SUPPORT LOCAL CAPACITY FOR LONG TERM SUCCESS**

**1. A By 6/30/16**

Each of the Plaintiff Districts, working independently or in collaboration with other Districts, shall be provided grant writers who are responsible both for writing grants and for teaching grant writing to local officials. These professionals shall be supervised by the Plaintiff District or a reasonable combination of Plaintiff Districts, but shall be jointly responsible to the Transformation Authority Board as it is more fully explained in Section 6. A below.

**1. B By 6/30/16**

The State will fund a study by the SCDE of school facilities in each of the Plaintiff Districts to analyze the needs, costs, and funding options to construct or renovate schools in the Plaintiff Districts to provide adequate and safe space and modern equipment providing students with excellent academic and vocational learning opportunities. These facilities must provide the space, technology, and equipment sufficient to enable the instructional staff and school leadership to expand student experiences in a manner that decreases student dropout rates and prepares them for technical training, post-secondary education, or the military. The facilities must increase student access and choices from a broader array of EEDA clusters, the arts, technology, technical education, and community learning. These studies should also consider the use of school facilities as community learning centers, including access to technology, and as sites for the provision of multi-agency services.

**1. C By 8/15/15**

The SCDE will design and create family-school-community partnership networks and fund membership in the National Network of Partnership Schools. These actions are to promote the value of education, working with county libraries, community organizations, local arts organizations, faith-based institutions, pediatric and family practice medical professionals, businesses and other interested entities in engaging families, with the goal of encouraging and enabling students to receive a high quality of education and to become lifelong learners.

**1. D By 6/30/17**

The State will provide a more robust school transportation system, including stable and adequate funding, for reductions in student travel time so that student learning is not impeded and students have increased access to courses, extra-curricular activities, and afterschool and summer learning opportunities. The feasibility and effectiveness of

providing digital access for students on busses should be determined and provided if proven both feasible and practical in order to increase learning time.

1. E By 6/30/16

Each Plaintiff District, working with community childcare, healthcare, faith-based institutions, business leaders, and a technical college or university, will develop a five year plan, including projected costs, to serve the long term educational needs of its students. The plan should integrate all existing federal and state planning requirements and address the following issues: organizational capacity, quality, stability and effectiveness of the teaching force and leadership team, high quality early childhood education and care through grade three, high quality learning opportunities and experiences for students in grades 4 through 8, high quality learning opportunities and experiences for students in grades 9-12, and accountability for the quality of implementation and results over time. The plan should be developed in conjunction with health, social and human service agencies, technical colleges and universities, faith-based institutions, and community leaders. The State shall provide the necessary support to enable the Districts to implement this initiative, including organizing and participation by non-district entities, and, if needed, shall offer external facilitators or moderators to ensure that the Districts and their communities fulfill this initiative.

1. F By 6/15/16

The SCDE will develop and the State will provide incentives for the removal of regulatory barriers for two or more school districts to improve the quality of implementation of the district plans and ensure the most efficient use of resources through collaboration and/or contracts with other entities such as educational consortia, institutions of technical and higher education, or multi-district service organizations.

1. G By 6/15/16

The State will provide state level coordination of policies and funding related to providing comprehensive, geographically-convenient, and wraparound services based on multi-agency collaboration to meet students' and children's current and future social, emotional, developmental, and health needs.

1. H By 12/31/15

The SCDE shall convene a working group representing education, social services, health and family support to establish costs and methods to enable services to be integrated at or near the school a child attends.

1. I By 1/31/17

The State will provide funding for the new or renovated school facilities identified in 1.B above for the first 20% of schools deemed most deficient in the study. The State will fund, sequentially, the ensuing 20% of the most deficient schools annually until all schools identified in 1.B above are able to deliver a 21<sup>st</sup> century education.

**2.0. IMPROVE THE QUALITY, STABILITY AND EFFECTIVENESS OF THE TEACHING FORCE AND LEADERSHIP TEAM**

2. A By 12/31/15

The SCDE will identify teachers who are successful in teaching children of poverty and recruit them as teaching mentors to design and implement professional learning for children of poverty. The State will further provide the technology and

other state of the art instruments of remote learning proven to be effective when remote instruction is required in the classroom.

2. B By 6/30/16

The State, working through the SCDE and CERRA and by offering enhanced compensation or other benefits, will establish a pool of well-qualified teachers to be employed in the Plaintiff Districts sufficient to meet the Districts' needs. Special consideration shall be given to teachers specially trained or proven to be effective in teaching students of poverty. The compensation and other benefits shall be sufficient to enable the Plaintiff Districts to attract and retain teachers who are highly skilled and effective in teaching children of poverty.

2. C By 6/30/16

The State will provide incentives and other resources for teachers in the Plaintiff Districts to enable them to have access, time, and the incentive to enroll in courses in higher education whose emphasis is teaching children of poverty, as well as earn graduate credit that will lead to an add-on certification for teachers trained to teach children of poverty.

2. D By 6/30/16

The State will provide financial incentives, such as the Homegrown Teacher Initiative, Rural Education Salary Supplement, and longevity bonuses sufficient to attract and retain top-notch superintendents and principals who, in turn, will be evaluated in part for their ability to attract and retain teachers or other leaders who are effective in teaching children of poverty.

2. E By 6/30/16

The State will establish employment standards for hiring and retaining qualified superintendents with sufficient incentives to attract them to the Plaintiff Districts. These superintendents will be eligible for multi-year contracts of not less than five years to ensure stability and quality leadership. These superintendents shall receive annual evaluations based on objective criteria that includes, but is not limited to, increases in student outputs over time and their ability to recruit and retain effective principals and teachers. Their contracts shall provide that they may be discharged only for just cause, and any district whose superintendent turnover rate is such that it creates instability within the district shall, at the sole discretion of the SCDE, have its superintendent appointed by the SCDE for not less than a five year period and have its annual evaluation performed by the SCDE. However, the SCDE will have the authority to terminate the employment contract at will based solely on its discretion, reserving the right to appoint another superintendent to fill the remaining years of the five year term and under the same conditions.

2. F By 6/30/16

The State will implement high quality and embedded professional learning experiences that have been demonstrated to be effective and to increase student learning as well as preparing students to meet state academic and career standards. The SCDE shall establish criteria for "demonstrated effectiveness" based on state of the art knowledge and professional learning successes in similar settings. Educators shall be given the time, incentive, salary supplements, and support to undertake these professional learning experiences. Year-long contracts will be provided to teachers when needed to fully implement professional development.

2. G By 6/30/16

The State will fund regional lead institutions of higher education (for example, FMU's Center of Excellence for Teachers of Children of Poverty) to develop and implement ongoing training for school district board members, superintendents, principals and teachers on the issues of poverty and learning; to develop and support community outreach and collaboration; to improve leadership in turnaround schools' to support teachers and principals to improve continuously; and to work as a team with parents and the community.

2. H By 6/30/16

The State will employ the FMU Center of Excellence for Teachers of Children of Poverty to convene meetings of community leaders, district board members, superintendents, principals and teachers, and experienced faculty from other colleges, to deepen their understanding of the impact of poverty on achievement and methods of working collaboratively to institute educational achievement and learning based upon that knowledge.

2. I By 8/31/15

The SCDE will require all teachers in their Goal Based Evaluations to include no less than one goal related to improving the achievement of children of poverty and use action based research to document the achievement of that goal.

2. J By 6/30/16

The SCDE and Commission on Higher Education ("CHE") will modify policies and practices based on research studies using systemic tools such as "Great Teachers and Leaders" and utilized by the SCDE to assess root causes related to teacher quality and turnover and effectiveness, and require state action to address root causes.

2. K By 7/31/15

The SCDE shall conduct an initial interview-based study of a sample of teachers in the Plaintiff Districts. The purpose of the study is to identify school, district, and personal factors related to attracting and retaining teachers in the Plaintiff Districts. The sample should include four subsamples: a subsample of those new to teaching (Subsample 1), a subsample of those new to a Plaintiff District (Subsample 2), a subsample of those who have taught in the same district for a minimum of 8 years (Subsample 3), and a subsample of those who are no longer teaching or no longer teaching in the Plaintiff Districts (Subsample 4). Interview questions should focus on why a teacher chose to teach in the school at which they teach, why a teacher chose to transfer to that school as well as reasons for leaving his or her previous school, why an experienced teacher chose to remain in that school and/or district for an extended period of time, and why a teacher left a school in the Plaintiff Districts.

2. L By 6/30/16

The CHE will identify and the State will fund a cadre of higher educational faculty across the state to work together and in collaboration with school district personnel and faculty at other institutions of postsecondary education to enhance the understanding and ability to work with children of poverty and to ensure their success. The cadre is further responsible for working with South Carolina professional associations to form a professional association focused on children of poverty.

2. M By 7/31/16

The SCDE will require school districts to utilize annual surveys of teachers, including queries on working conditions, to direct the work of school and district leaders in building a culture in which teachers want to work and feel supported in their efforts.

2. N By 6/30/16

The State will establish regional early childhood development training centers in two or more of the Plaintiff Districts staffed by professors of early childhood education and their students. The practicum students will be provided full scholarships, to include tuition and travel allowances, for their training during that semester.

2. O By 6/30/16

The SCDE, CHE, SBE, and teacher preparation institutions will modify regulations, policies, and practices to ensure more rigorous admission and exit requirements for teacher preparation programs, to ensure that programs are consistent with state learning standards, and to incorporate the principles of teaching children of poverty as well as practices with children of poverty in all programs.

2. P By 6/30/16

The SCDE shall specify the criteria for effective professional training programs implemented in the districts. Those criteria shall include, but not be limited to, alignment with performance expectations, demonstrated achievement, and effectiveness in similar districts. The SCDE will identify all state funds available for professional learning, will evaluate the process, content and results of all professional learning experiences/programs to determine how successful they are in accomplishing their goals, and will recommend improvements or elimination if the goals are not achieved.

**3.0 PROVIDE HIGH QUALITY EARLY CHILDHOOD EDUCATION AND CARE THROUGH GRADE 3.**

3. A By 6/30/16

Each district will participate actively in the National Network of Partnership Schools and appoint a dedicated and qualified volunteer parent/family liaison to coordinate communication and activities in the Network, including coordination of individual school memberships and actions.

3. B By 12/31/15

The SCDE, in collaboration with the EOC and First Steps, will establish criteria for the design and implementation of high quality early learning experiences that emphasize language development, arithmetic concepts and skills, and artistic expression, and will monitor their use and impact on student learning and development.

3. C By 6/30/16

The SCDE, in partnership with DSS and First Steps, will provide training to parent and family educators that emphasize the cultural knowledge, language skills, arithmetic, artistic, and human relation skills needed to make productive home visits.

3. D By 6/30/16

Using the Florence One "Read2Me" program as a model, the SCDE will provide guidance and support so that the Plaintiff Districts will have a "Read2Me" or like program in which employee work breaks are used to introduce parents to strategies for increasing language through oral storytelling and age-appropriate books.

3. E By 6/30/16

The SCDE, in collaboration with DSS and First Steps, will require that all kith and kin caregivers and child care providers, either by demonstrating their knowledge and skills or participating in research based and state-approved training sessions, have the knowledge and skills that are needed to care for infants and toddlers and enable the child to develop successfully and show readiness on state readiness assessments in pre-K and kindergarten.

3. F By 6/30/16

The SCDE will ensure that every public school early childhood program (and private providers who choose to participate) receives the guidance and support necessary to achieve national accreditation (for example, NAEYC, Montessori). Programs shall be evaluated relative to the accreditation standards and provided with guidance regarding the actions and costs to reach the accreditation. When appropriate, cross-district work groups shall be formed to facilitate progress.

3. G By 6/30/16

The SCDE will employ and assign early childhood consultants/facilitators to work with at least two schools in each of the Plaintiff Districts to conduct the self-study required by the accrediting agency and to outline the needs, priority actions and costs to achieve accreditation.

3. H By 6/30/16

As more fully described in Section 1.C, the State will provide staff at each school to develop and implement family outreach strategies that build positive relationships with parents and families with an emphasis on improving family literacy and enhancing children's health and safety.

3. I By 6/30/16

The SCDE, in collaboration with DSS, DHEC, EOC and First Steps, will provide guidance and support for district and/or regional meetings of early childhood collaborative work groups, including educators, parent liaisons, health care providers, and family services providers, to promote communication, continuous learning and the evaluation of children's progress and development.

3. J By 6/30/16

The SCDE will offer training for all early childhood teachers in the principles and practices of action research and the use of the results to guide, monitor and modify the ways in which they teach and relate to young children.

3. K By 6/30/16

Each Plaintiff District, with guidance from the SCDE, will explore ways to expand learning time to meet the needs of each student, including the use of afterschool and/or summer learning experiences and/or moving to year-round schools, and

provide detail on feasibility, costs and effectiveness. The State will provide resources, including financing, for expanding learning time through afterschool and summer opportunities in accordance with the needs of each district and in consultation with the S.C. Afterschool Alliance and other organizations such as Boys and Girls Clubs and 4-H.

3. L By 6/30/16

The State will enable each Plaintiff District to offer "booster camps" in the academic subjects (including the arts) designed primarily for gifted and talented students but open to all interested students.

3. M By 6/30/16

The State will require that all programs that prepare professionals to work with young children (e.g., teaching, nursing, child care, etc.) include training in state of the art knowledge of the social, emotional, health and academic needs of young children and how to meet those needs.

3. N By 6/30/16

In recognition that the very early years are critical to subsequent learning, the State will increase parenting programs for parents of children in poverty for child development, training, and self-sufficiency skills such as family planning, avoidance of substance abuse, and employability habits, to raise healthy school-ready children through age 4.

3. O By 6/30/16

The State will ensure the delivery of professional development targeted to successfully implementing the Read To Succeed Act within the Plaintiff Districts, and will develop and field test a pilot STEM initiative providing professional development and coaches in the Plaintiff Districts.

3. P By 6/30/16

In addition to the summer reading camps required by the Read To Succeed Act for 3<sup>rd</sup> graders scoring Not Met 1 (who will be retained if they do not improve dramatically by the end of the summer on an approved test), students in the Plaintiff Districts in grades 1 and 2 who are predicted to be "Not Met 1" in grade 3 should be offered summer reading camp to improve their skills. The summer camp should be staffed with highly qualified teachers and coaches, and will also be used as teacher professional development.

#### **4.0 PROVIDE STUDENTS IN GRADES 4 THROUGH 8 HIGH QUALITY LEARNING OPPORTUNITIES AND EXPERIENCES**

4. A By 6/30/16

The State will provide funding for family and student outreach and engagement for each Plaintiff District to assist in planning for future workforce, career, and postsecondary opportunities.

4. B By 6/30/16

Each district will employ a full-time coordinator of expanded learning opportunities and school-community partnerships in each middle school, with the coordinator also having responsibilities for students in grades 4 and 5 attending feeder schools. The SCDE, working with a District Coordinator for Family Involvement, Afterschool and/or Summer Learning Programs, will design and implement extended time learning programs. The State will seek other funds in addition to

State funds to support programs in all the elementary and middle schools in the Plaintiff Districts. The coordinators will also build partnerships to design and provide quality afterschool and/or summer learning opportunities in or near their school. Coordinators will work with the principal and superintendent to allocate Title One and other funds to develop comprehensive afterschool and/or summer learning programs, but to provide for certainty and insure a long term solution, the State will ensure that these programs are fully funded irrespective of the success in obtaining outside resources. Partnerships with the SC Afterschool Alliance as well as with Boys and Girls Clubs, literacy, STEM, arts and cultural and community organizations, employers, and faith-based, youth-serving and workforce groups, and technical colleges and other higher education institutions should be leveraged to expand and improve the afterschool and/or summer learning opportunities and to engage more families in the education of their students and improve the parents' own education levels. To maximize the impact and minimize costs, the afterschool and summer learning opportunities should employ master teachers from the region and local schools and use community teachers—tutors, mentors, artists, retirees and college students—to inspire the students and involve families in the planning and delivery of the programs.

4. C By 6/30/16

Each school district will provide space and funding for schools and districts sufficient to conduct regular parent/student workshops.

4. D By 12/31/16

Each school district will organize events for students and their parents to visit higher education institutions and employers.

4. E By 12/31/15

The SCDE will conduct an audit in each district of the implementation of the provisions of the EEDA applying to the middle grades, with an emphasis on improving the quality and intensity of guidance and career counseling.

4. F By 6/30/16

Based upon the results of the audit in 4.E, the SCDE will provide assistance to those districts shown to have inadequate implementation of the EEDA provisions and assist them to secure the resources needed to improve implementation.

4. G by 6/30/16

The SCDE will conduct a review of the courses in all the Plaintiff District middle schools to identify shortcomings in course offerings and equipment that make it difficult for their middle school students to be ready to benefit from an up-to-date high school curriculum and be ready to get on a path to high school graduation and at least one year of a Technical College degree program.

This review and analyses should be done by the SCDE in partnership with South Carolina Technical College System ("SCTEC") and CHE. The review will recommend remedies to identified shortcomings including needed curriculum changes, funding adjustments, improving the quality of teaching of these middle school courses, and access to modern equipment and technology.

4. H By 7/31/15

The SCDE will require and support a team of teachers and administrators at each school to review disciplinary policies, both as written and enforced, to determine the policies' effectiveness in reducing problem behavior, their fairness to all students, and their impact on instructional time.

4. I By 6/30/16

The SC Arts Commission and the SCDE will work together to create a "Corridor of the Arts" to include the design and implementation of an arts-integrated curriculum, experiences in the arts and summer or after school opportunities for students to work in and learn about the arts.

4. J By 6/30/16

The SCDE will support work groups that include school district, school, and higher education representatives to design state-approved models of teaching and learning for high poverty middle grade students that are (1) engaging, (2) intensive, (3) rigorous, and (4) meet the needs of students based on their learning and development rather than their chronological age. The work product also shall include the resources (including facilities) and training necessary to implement the state-approved models.

4. K By 6/30/16

The SCDE will develop standard weekly assignments for use across the state to enhance learning and enable students to successfully meet grade level state standards. The SCDE shall convene a cadre of experienced and successful ELA and math teachers (other disciplines to be included in subsequent years.) The cadre should include six teachers by discipline for each grade. The members of each cadre will receive training in the design and/or selection of 36 weekly assignments that meet the following five criteria: meaningfulness, relevance, authenticity, alignment with state and national standards and vertical articulation. Following an initial three-day training, cadre members may contract to develop a specified number of weekly assignments. Once completed, the assignments are to be reviewed and their acceptance for distribution determined by an external review team designed by the SCDE. Payment for the weekly assignments is contingent upon acceptance/approval by the review team.

4. L By 6/30/16

Each middle school shall implement an extended learning/summer program, including year-around schools when needed, to provide opportunities for students in need of accelerated or supplementary learning experiences to boost their achievement. These programs also may be used for professional learning of teachers.

4. M By 6/30/16

The SCDE shall design and implement four PILOT expanded learning and teacher development programs serving grades 4-8 students in the Plaintiff Districts. Because only four pilots are funded in FY2017, students should be able to attend regardless of district of residence. The experiences are to serve three purposes: improve student performance by providing targeted instruction; provide Plaintiff District teachers opportunities to learn and grow professionally through a collaborative supportive relationship; and improve instructional leadership and human relation skills of principals.

4. N By 12/31/15

The SCDE will prepare and distribute materials for the proper use of field trips, real or virtual, to introduce students to the world outside their communities thereby enhancing their aspirations and expanding their horizons.

4. O By 7/31/15

The SCDE will require that each student in grade 5 is given the responsibility along with his/her parents, for collecting and organizing information on course enrollment patterns, career options and interests and self-evaluations to be conducted on an annual basis.

4. P By 7/31/15

The SCDE, working with business and community leaders, will identify businesses and industries willing to work with schools in the Plaintiff Districts to provide career and job information and experiences and facilitate school-business partnerships that ensure that this information and these experiences reach the students.

4. Q By 12/31/15

The SCDE will conduct studies of instructional quality in grades 4-8 with an emphasis on content, rigor, vertical alignment and school-to-school transitions and provide professional learning experiences and guidance to implement instructional improvements based on the results.

4. R By 6/30/16

School counselors shall meet twice annually with each student and his/her parents to review and develop in conjunction with the student and his/her parent a career exploration plan for the coming school year.

4. S By 6/30/16

The SCDE will develop and provide a standardized set of engaging daily and weekly assignments and projects in all subject areas that are aligned with state standards (e.g., rigor, vertical alignment, engagement) to ensure that student work will result in improved learning and achievement.

## **5.0 PROVIDE STUDENTS IN GRADES 9 THROUGH 12 HIGH QUALITY LEARNING OPPORTUNITIES AND EXPERIENCES**

5. A By 6/30/16

The State will provide funding for families and students to engage in planning for future workforce, career, and postsecondary opportunities, including virtual and on-site visits.

5. B By 12/31/15

The SCDE will conduct an audit in each district of the implementation of the provisions of the EEDA applying to the high school grades, with an emphasis on improving the quality and intensity of guidance and career counseling.

5. C By 6/30/16

Based upon the results of the audit in 4.E, the SCDE will provide assistance to those districts shown to have inadequate implementation of the EEDA provisions and assist them to secure the resources needed to improve implementation.

5. D By 6/30/16

The State will provide funding to enable each district to employ a coordinator at each school district for accessing an array of regional and state resources to broaden course offerings.

5. E By 6/30/16

Each Plaintiff District will employ a full-time director of expanded learning and school-community partnerships and develop opportunities based on the best practices and research in that field (for example, *Expanding Minds and Opportunities: The Power of Afterschool and Summer Learning for Student Success* and *Beyond the Bell: A Toolkit for Creating Effective After School and Extended Learning Programs*).

5. F By 6/30/16

The State will enable each Plaintiff District to employ a special Coordinator of Access to Advanced Learning. The coordinator shall be responsible, along with the high school principal and superintendent, to identify strategies and develop partnerships to greatly expand the availability of advanced career, technical and academic courses during the school day, after school and summers near or in high schools. They shall collaborate with SCTEC, other 2- and 4- year colleges, employers, online or blended learning opportunities as well as with successful high school reform groups working in South Carolina, such as New Tech High Schools and the Middle College initiative. To assist with the expansion of advanced learning courses in rural and low-income schools and communities, the State shall also provide funding to the SCDE to employ a senior expert for expanding access for high school students to advanced career, technical and academic courses.

5. G By 6/30/16

Each school will provide space and funding for schools and districts to communicate opportunities through regular parent/student workshops.

5. H By 12/31/15

The State will enable each Plaintiff District to organize visits for students and their parents to higher education institutions and employers.

5. I By 6/30/1

The SCDE will employ a statewide high school improvement coordinator and a statewide coordinator of quality. The duties and responsibilities of the high school improvement coordinator include the following: (a) expanding and deepening the curriculum to include the full array of EEDA clusters, opportunities for arts experiences and arts education, a comprehensive Graduation Career and College Preparation Action Plan for each high school and other such programmatic improvements leading to successful graduates. The SCDE shall also employ a coordinator of quality afterschool and summer learning whose duties shall include the following: providing guidance for programs at school and community sites to offer extended learning that complements the school day and helps struggling students to

succeed and to accelerate learning to meet the standards; facilitating partnerships with community organizations and business and industry; integrating program content and activities with the state learning standards.

5. J By 6/30/16

The SCDE will develop recommendations to change state laws, regulations, funding and transportation to make it much more likely for high school students in the Plaintiff Districts to earn dual high school and TEC credit, to take and succeed in advanced technical or occupational courses, participate in New TECH, AP and IB courses, enroll in introductory TEC or 2- and 4- year college courses on their campuses for full or partial credit during the school day, after school and in summers. These recommended changes should be developed by the SCDE working with the SCTEC, CHE and including representatives from local workforce development boards and representatives of the local Coordinators of Advanced Learning. The recommendations should also include strategies to better equip and support the teachers of these advanced courses to engage students in these courses and deliver the content in inspiring ways. The recommendations should include approaches to involve students and families in real and online visits to postsecondary institutions, learn about how to pay for college and how to apply for need-based scholarships, and learn about good current and emerging jobs that require high school diplomas and training.

5. K By 12/31/15

Each high school in the Plaintiff Districts will activate a local broad-based Graduation, Career and College Preparation Action Committee.

5. L By 12/31/15

The SCDE will require and support a team of teachers and administrators at each school to review disciplinary policies, both as written and enforced, in terms of the policies' effectiveness in reducing problem behavior, fairness to all students and impact on instructional time.

5. M By 12/31/15

The SCDE will expand high school learning opportunities and the choice of courses by updating state policies so that in the Plaintiff Districts students have increased access to dual credit opportunities online, and/or alternative learning formats, Advanced Placement (AP), international baccalaureate (IB) or other accelerated learning opportunities, to science, technology, engineering and mathematics and arts/music program opportunities and to quality college and career readiness advising (designed jointly with secondary and postsecondary institutions).

5. N By 6/30/16

The SCDE and SCTEC will identify qualifications and provide a training program leading to certificates for employees in afterschool and summer learning program coordination who do not have teaching certificates or four year degrees in their specialty.

5. O By 6/30/16

SCDE and SCTEC will coordinate partnerships between high schools and local technical college and provide guidance for successful implementation and expansion.

5. P By 6/30/16

Each high school in the Plaintiff Districts shall implement an expanded learning/summer program, including year-around schools when needed, to provide opportunities for students in need of accelerated or supplementary learning experiences to boost their achievement. These programs also may be used for professional learning of teachers.

**6.0 PROVIDE FOR CONTINUOUS IMPROVEMENT BY MONITORING THE QUALITY OF IMPLEMENTATION AND HOLDING SCHOOLS AND SCHOOL PERSONNEL ACCOUNTABLE FOR RESULTS**

6. A By 6/30/16

The State will establish within the SCDE a Transformation Authority Board supported by a Transformation Office within the SCDE to serve Plaintiff Districts. The staff shall be selected through joint approval of the State Superintendent of Education and the Transformation Authority Board.

The Transformation Authority Board shall be composed of ten members to include three educational experts, one of whom shall be appointed by the Plaintiff Districts, one by the Chair of the Senate Finance Committee, one by the Speaker of the House of Representatives, two school district superintendents appointed by the Plaintiff Districts, the State Superintendent of Education, the Executive Director of the Education Oversight Commission, the Executive Director of the South Carolina Technical College System, the Executive Director of the State Board of Education, and the Executive Director of the Commission on Higher Education. Members shall serve five-year terms with the exceptions that elected or appointed officials, chairs, or executive directors, shall not serve beyond his/her term of office, and district superintendents shall serve only so long as they are district superintendents in the Plaintiff Districts. Members are eligible for reappointment. The Board shall elect a chairperson to serve a term of two years. No chairperson may serve more than two consecutive two-year terms as chairperson.

The Board shall report annually to the Supreme Court of South Carolina or its designee, the Governor, the General Assembly, the Plaintiff Districts, and the public (a) on the status of the implementation of the remedy, the need for changes in the remedy and/or changes in the time period over which the remedy is to be implemented; and (b) beginning in 2017 the Board also shall report on the impact of implemented parts of the remedy and the need for adjustments in the overall remedy or a component of the remedy and/or funding. The Board shall meet twice annually, once in July and once in December of each year.

Each public entity with responsibilities outlined in the remedy shall provide the Board the information, data and advice requested by the Board and consistent with the entity's responsibilities. The SCDE Transformation Office shall serve as staff to the Board and funding shall be appropriated to the SCDE to meet the obligations assigned to it.

6. B By 6/30/16

The State will establish an ongoing fund to implement and sustain the remedy, approved with annual appropriations in the Office of the State Treasurer. This fund should be separate from other state funds and permit expenditures to be carried over from year to year if unspent.

6. C By 12/31/15

Working with districts, the SCDE shall tailor reports using PowerSchool and other state data sets to provide information to monitor and modify the district plan and any school level plans, including the programs in which each student

participates, when the student enters and leaves each program, and student outcomes. The SCDE shall provide workshops that enable teachers and counselors to access, interpret and use electronic data sets to understand and assist struggling students.

6. D By 6/30/16

The SCDE and CHE will develop common student identifiers across early childhood, elementary-secondary and postsecondary education to provide understanding and guidance of student performance and outcomes across all educational levels.

6. E By 6/30/16

In order to establish the level of learning required by these initiatives, the State, through the EOC and working with the Transformation Authority Board, SCDE, representatives of higher education, technical colleges, and the business community, will identify and use appropriate measures of growth in all aspects of an education needed to meet today's societal, marketplace, cultural, global, and civic demands as represented in the Profile of the South Carolina Graduate. These agencies and Boards are directed to adopt grade specific performance-oriented educational standards in the core academic areas of mathematics, English/language arts, social studies (history, governmental, economics, and geography,) science, and the arts for early childhood through the twelfth grade, and for grades nine through twelve adopt specific academic standards for benchmark courses in mathematics, English/language arts, social studies, and science. The standards are to promote the goals of providing every student with the competencies to:

- (1) read, view, and listen to complex information in the English language;
- (2) write and speak effectively in the English language;
- (3) solve problems by applying mathematics;
- (4) conduct research and communicate findings;
- (5) understand and apply scientific concepts;
- (6) obtain a working knowledge of world, the United States, and South Carolina history, government, economics, and geography, and;
- (7) use information to make decisions.

The standards must be reflective of the highest level of academic skills with the rigor necessary to improve the curriculum and instruction in South Carolina's schools so that students are encouraged to learn at unprecedented levels and must be reflective of the highest level of academic skills at each grade level.

6. F By 6/30/16

The EOC, working with SCDE and representatives of higher education and the business community, will establish consistent performance expectations across assessments for both students and schools.

6. G By 6/30/16

The EOC, working with the SCDE, DSS and First Steps, will evaluate early childhood programs, including services provided to students with disabilities, LEP students and gifted and talented students, and make changes to ensure that programs

are serving students' best interests and that the students are making successful transitions to kindergarten. The State will provide information to teachers and provide leadership teams with assistance in interpreting and using the findings.

6. H By 6/30/16

The EOC will evaluate CATE schools, in part, based upon the number of CATE students to obtain career field certificates and use the data for improvement of CATE schools.

6. I By 6/30/16

The SBE, SCDE and EOC will gather consistent high-quality data and recognize schools for gains in achievement as well as improvements in family engagement, teacher and student attendance, reducing disciplinary actions, improvement in student grades, on-time graduation rates and percentages of middle and high school students taking more rigorous courses. These data shall include longer-term gains in high school such as on-time graduation rates, the percentages of students enrolling in postsecondary education or training, or joining the military in multi-year factors.

6. J By 12/31/15

The SCDE shall convene a working group to include representatives of the EOC, SC Division of Research and Statistics, CHE and school districts to determine how existing data sets can be linked and made available for state, district and school planning.

The EOC shall review all accountability data collections as well as those listed above to determine their accuracy, validity and potential for use in improvement of student outcomes. Results of the studies shall be presented to the General Assembly not later than 3.1.16;

The SCDE shall tailor reports and provide ongoing training related to PowerSchool to a variety of school and district audiences.

6. K By 6/30/18

The EOC, working with SCDE, will evaluate remedial elementary programs, including services provided to students with disabilities, LEP students and gifted and talented students and make changes to ensure that programs are serving students' best interests and that the students are making successful transitions to middle school. The State will provide information to teachers and provide leadership teams with assistance in interpreting and using the findings.

6. L By 6/30/19

The EOC, working with the SCDE, will evaluate remedial middle school programs, including services provided to students with disabilities, LEP students and gifted and talented students and recommend changes to ensure that programs are serving students' best interests and that the students are making successful transitions to high school. The State will provide information to teachers and provide leadership teams with assistance in interpreting and using the findings.

6. M By 6/30/20

The EOC, working with the SCDE, CHE, AND SCTEC, will evaluate remedial high school programs, including services provided to students with disabilities, LEP students and gifted and talented students and make changes to ensure that programs are serving students' best interests and that the students are making successful transitions to postsecondary

education, the military or the workforce. The State will provide information to teachers and provide leadership teams with assistance in interpreting and using the findings.

6. N By 6/30/16

An alternate form for School Improvement Councils shall be initiated to achieve the purposes of effective engagement and input of family, faculty, and community in reviewing and making recommendations for policy, programming, and effective practices in each individual school by the school district. The alternate form would create separate stakeholder councils or committees for 1) family representatives, 2) school faculty, and 3) school-community representatives of both appropriate school and staff (sports, media centers, guidance, after-school programs, health, career services, etc.) and of community organizations able to provide learning and development services to students during the regular school day, afterschool, weekends, and summers. The Chair and Vice-Chair of each of the three committees would serve with the school principal as the School Improvement Council to review and approve the School Improvement Plan and to monitor and consider opportunities to implementation across the school year. In addition, the school community committees of each school would have representatives on a district or countywide School Community Council which would review and recommend effective community programs and services for students. The community organizations would include business, library, recreation, health, religious, public safety, arts, and culture. The district or county school community council would be responsible for planning services and supports for students which each school community committee could access and organize based on the specific best match of priorities to student needs.

CERTIFICATE OF SERVICE

I, the undersigned of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellants-Respondent, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by **hand delivery** to the following address(es):

Pleadings:

Appellants-Respondents' Report and Return to Petition to Vacate Continuing Jurisdiction and Report of Respondent-Appellant James H. Lucas, as Speaker and Representative of The South Carolina House of Representatives

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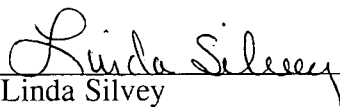
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June 30, 2017