

**Testimony of the Education Adequacy Project Clinic
of Yale Law School¹**

to the Education Committee

Concerning

Senate Bill 2 & House Bill 7035

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I. Introduction

In 2010, in a case brought by our predecessors in the Education Adequacy Project Clinic, the Connecticut Supreme Court concluded that the Connecticut Constitution requires the state to fund public schools in a way that “provides all students with substantially equal educational opportunities.” *CCJEF v. Rell*, 295 Conn. 240, 270 (2010). The court also concluded that students are entitled to an adequate education, consisting of an “education suitable to give them the opportunity to be responsible citizens able to participate fully in democratic institutions.” *Id.* at 314. And just last year, the trial court in the same case held that “beyond a reasonable doubt, Connecticut is defaulting on its constitutional duty to provide adequate public school opportunities because it has no rational, substantial and verifiable plan to distribute money for education aid and school construction.” *CCJEF v. Rell*, Memorandum of Decision, Honorable Thomas G. Moukawsher, No. X07-HHD-CV-145037565-S (Sept. 7, 2016).

In his State of the State Address earlier this year, Governor Malloy agreed: Connecticut continues to fail its highest-need children. In that same speech, the Governor declared, “Connecticut needs a new way to calculate educational aid—one that guarantees equal access to a quality education regardless of ZIP code.”

We come before you to outline an important and necessary step to make good on the Governor’s promise—and this Legislature’s constitutional obligation—to improve Connecticut’s education system. That essential step is an education adequacy cost study. An education adequacy cost study is a tool that employs rigorous, evidence-based methods to estimate the actual cost to adequately educate each and every student across the state. These estimates are critical to ensure that each school district receives the resources necessary to meet the diverse needs of its student population. Cost studies have been performed in over thirty states, generally at the request of the legislature or by court order to remedy unconstitutional funding systems. In fact, our own Governor’s Task Force to Study State Education Funding recommended that consideration “be given to a comprehensive cost study regarding the demographic, economic, and education cost factors that should be considered in determining an appropriate foundation level for the cost of education.”

We appear today to strongly affirm the recommendation for a cost study. In our testimony, we will: first, detail the key features of an education adequacy cost study; second, explain how a cost study would enable the Legislature to take leadership in remedying the constitutional violations that the court recognized; third, identify the wide scope of systemic deficiencies confronting our state, including examples of school districts and towns that exemplify the severity of these educational challenges and firmly establish the need for a cost study; fourth, explain how the existing budget proposal not only fails to address these structural problems, but in many ways exacerbates them; before finally, offering examples of successful cost studies in other states.

II. Education Adequacy Cost Studies

a. What is an education adequacy cost study?

An education adequacy cost study is the only truly systematic way to provide a comprehensive picture of the actual costs needed to ensure that every student in Connecticut receives an adequate education. Cost studies work by leveraging concrete data on student needs and the expertise of education experts to calibrate and allocate education funding. If we have one fundamental point to impress upon you, it is that when children's futures are on the line, we cannot afford to resign ourselves to guesswork.

Cost study experts begin by using standardized measures to identify the resources needed for all students to meet existing state standards. They then determine the costs of these resources for different types of districts, considering a range of factors that experience as well as research have shown are the most salient, including among others diverse student needs, poverty, geography, limited English proficiency, special education, and foster status. Finally, experts offer recommendations for how limited budgetary allocations can achieve the greatest impact.

b. The methodologies for education cost studies are rigorous and data-driven.

There are two leading methodologies to rigorously assess costs. Each has been used in many states and often, they have been combined to cross-check and deepen the analysis. We recommend such an integrated approach.

First, under the **Successful School District** method, researchers look at schools that are meeting state standards and examine how they spend money. The researchers analyze how much of the district's spending is truly necessary for the district to reach those standards. This amount then becomes the baseline for a "foundation" figure that is realistic and rationally based on what it actually takes to meet the educational outcomes the state wants to achieve.

Second, the **Professional Judgment** model convenes local education professionals and other stakeholders to identify school-level resources needed to meet state standards. This approach leverages local knowledge and expertise to determine what resources are necessary and effective to adequately educate our children. By having the panel represent a range of experiences and localities, this method accounts for schools of various sizes, geographic locations, and diverse student needs.

A cost study that employs these two models in tandem would empower the Legislature to more appropriately estimate the cost of providing Connecticut's diverse school districts the resources necessary to deliver an adequate and equitable education, in contrast to the arbitrary funding allocations employed to date. Policymakers can then use these data to develop a rational, substantial, and verifiable funding formula that accurately assesses—and subsequently addresses—actual student needs.

III. Rationales for an Education Adequacy Cost Study

a. A cost study responds to the request of the trial court.

The trial court's order in *CCJEF v. Rell* is a simple command: Connecticut needs a better formula to finance its schools.

“The important thing is that whatever rational formula the state proposes must be approved and followed. If the Legislature can skip around changing formulas every year, it invites a new lawsuit every year. The court will only review the formula to be sure that it rationally, substantially, and verifiably connects education spending with educational need.” *CCJEF v. Rell*, (Sept. 7, 2016) at 44.

A cost study would enable the Legislature to do just that.

b. Connecticut's “Education Cost Sharing” formula is outdated and inadequate.

The trial court specifically referred to Connecticut's “education cost sharing” (ECS) formula, which was created in 1988, and concluded it is now out-of-date and unconnected to students' needs. In seven out of the last eight years, the formula has not even been followed, and education funding has been allocated without reference to any formula at all. Funds are allocated without regard for any objective measurement of what school districts actually need to educate children. And this year, the Governor's budget decreases the foundation amount from \$11,525 to under \$9,000—a 22 percent decrease in funding that is not accompanied by any rationale based on children's educational needs.

Reconceptualizing a formula begins with determining an appropriate “foundation amount.” The “foundation” of an education funding formula is the amount of spending required to achieve an adequate level of education for an ordinary student. Just as the most important part of any house is its foundation, so too is this figure critical to achieving educational adequacy: without one, the entire system crumbles. Without commissioning or relying on the data-driven methodologies of an education adequacy cost study, the current proposals allow volatile state budget dynamics to dictate whether children receive an adequate education.

With this in mind, we urge you to consider a cost study as a robust approach to the fundamental task of diagnosing Connecticut school children's educational needs.

c. A cost study disaggregates the diverse needs of students across the state.

Beyond the per pupil foundation amount, an education adequacy cost study disaggregates the diverse needs of students across Connecticut. The state has traditionally relied on a weighting mechanism to allocate funds, increasing the amounts provided to each district by a percentage based on certain student needs. Over the years, the number of needs included has bounced around with no justification, and the formula has even eliminated important categories of student hardship in its weighting calculus.

For instance, in 2006, the state provided additional funding for: (1) low-income students; (2) limited English-proficiency students; and (3) low-performing students on state tests. By 2008, the weight for low-performing students was eliminated entirely, and the remaining weights were changed without explanation. As of 2014, the weight for low-income students was lowered and the weight for English language learners was eliminated, again without explanation. Under today's proposal, the only remaining weight for student need—poverty status—will be reduced by one-third. No data-based explanation accounts for these changes.

Instead of an approach that is fundamentally arbitrary, a cost study would empower Connecticut to properly identify the diverse needs of varying demographic groups. In addition to the three categories previously mentioned—impoverished, limited English-proficiency, and low-performing students—a cost study would also address the discrete needs inherent to special education, geography, and foster status. For example, the unique costs and programming required for special education students are radically different from those associated with empowering English language learners. Likewise, the demands of districts in urban, rural and suburban areas vary widely and do not hew to an arbitrary one-size-fits-all approach. Moreover, impoverished students and foster youth have additional needs that wealthy students simply do not. Cost studies not only account for these demographic and geographic distinctions—reflecting the varying financial requirements associated with these discrete needs—they also offer tailored implementation plans to direct funds to achieve the best results for students, families, and communities across the state.

Such a study would reaffirm the ideal that education adequacy, as mandated by the Connecticut Constitution, does not favor any one town or district over another. The state has an affirmative, nondelegable, constitutional duty to appropriately educate all of its students. An adequacy cost study is an important step in that direction.

IV. District-Level Challenges

Within Connecticut, the disparities between the haves and the have-nots are astounding. Cornwall spends over \$25,500 per student; West Haven spends less than half that amount. Across the board, the public education expenditures in most wealthy towns are more than twice those in the poorest. It is therefore unsurprising that in Bridgeport, over 90 percent of fifth-grade students failed to meet state standards in Math and over 75 percent failed in English Language Arts. 50 percent of all Bridgeport students achieved the lowest possible score on these tests. These results contrast with outcomes in the vast majority of wealthy school districts, where only 10 percent received the minimum score.

To illustrate the severity of these disparities, we highlight districts where state resources are misaligned with providing all students a constitutionally adequate education.

Poverty among districts in the 2014-2015 year—as measured by students eligible for free or reduced price lunches—ranges from 0.0 percent of students in New Canaan and 1.5 percent of students in Wilton to 82.2 percent of students in New Britain and 100 percent of students in Bridgeport. The district-to-district population of English language learners also differs

significantly, ranging from 0.4 percent of Wilton students to 24.5 percent of Windham students. The disparities among students with special education needs are also stark. In New London, special education teachers serve on average over 17 students with special needs; special education teachers in other districts, such as Darien and Weston, serve half as many students.

Disparities in achievement levels reflect these disparate needs. On the 2013 CAPT Math assessment, 41.2 percent of Bridgeport students scored “below basic.” Only 2.5 percent scored at the “advanced” level. In Windham, 47.6 percent of students scored “below basic” on the 2013 CAPT Math assessment. Only 5.3 percent scored “advanced.” The proportion of students scoring “below basic” and “advanced” are, unsurprisingly, reversed in wealthier municipalities. In 2013, only 1.5 percent of Darien students scored “below basic” while 55.7 percent scored “advanced.” New Canaan saw similar success, with 1.0 percent scoring “below basic” and 49.2 percent scoring “advanced.”

These disparities have continued more recently under the new Smarter Balanced Assessment Consortium (SBAC) tests. On the 2015-16 Smarter Balanced Math assessment, 66 percent of Bridgeport students scored at the lowest level, level one. Only 2 percent scored at the highest level, level four. Over 90 percent of Bridgeport students scored below the level indicating readiness for college or career. In New Britain, 63 percent of students scored at level one in math, while only 3 percent scored at level four, and over 87 percent of students scored below the college and career readiness level. The numbers are similar in other low-wealth districts: in Hartford and Waterbury, 84 percent of students scored below the college and career readiness level; in Windham, that number is nearly 75 percent of students. The proportion of students scoring at level one and level four are, unsurprisingly, reversed in wealthier municipalities. In 2015-16, only 4 percent of Darien students scored at level one in math while 55 percent scored at level four. Over 80 percent of Darien students met or exceeded the level indicating readiness for college or career in math. New Canaan saw similar success, with just 4.3 percent scoring at level one and 51.3 percent scoring at level four, and nearly 80 percent of students meeting or exceeding the college and career readiness level.

Every district has its individual needs to service its unique population of students. The budget proposal for reallocating education funds, discussed next, does not factor in these disparities and has the potential to exacerbate inequalities within municipalities as well as across them. A cost study would instead connect funding to the individualized needs to ensure that financing is adequate and equitable. An education cost study would benefit all districts by accounting for these district-specific needs and the resources required to meet them.

V. Inadequacies of the Current Proposal

In reallocating funding to districts, the current budget proposal fails to link funding changes to differences in student need. This funding ‘roulette’ is precisely the type of irrationality that the trial court ruled unconstitutional.

First, the proposal would cut state support for K-12 public education by \$364 million, reducing funding to over 130 municipalities. This would disproportionately affect public schools—reducing the ECS foundation by nearly 25 percent. The proposed budget also slashes

funding for bilingual education programs by 10 percent, which is the only state funding made available to English language learners. Since English language learners already struggle to meet existing state standards, cutting critical funds from these programs runs counter to improving academic achievement.

Second, what appear at first glance to be funding increases in the budget proposal would actually lead to losses for many districts. In particular, the proposal would saddle municipalities with one-third of the costs of the state's own teacher retirement program. For example, under the proposed budget, Bridgeport would receive an additional \$8.3 million in state education aid for 2018. However, after being billed \$12.9 million for teacher pensions, Bridgeport would actually suffer a net loss of \$4.7 million for 2018, despite the district's severe needs. Some districts would retain small gains, while others would suffer net losses. It remains unclear why.

Wealthier districts are not immune to these unexplained changes. In the first year, this proposal is expected to cost municipalities over \$400 million, which will likely be diverted from core education programs. That cost is projected to grow in years to come. For instance, West Hartford is projected to lose \$6 million in state education aid between 2017 and 2018. After being billed for teachers' retirement costs, the municipality's total loss will be \$14 million in just one year. Likewise, Groton is projected to lose over \$13 million.

Third, by replacing free and reduced price lunch with HUSKY A Medicaid eligibility as the benchmark for poverty, the proposal would effectively reduce funding to the state's poorest school districts. Although HUSKY A eligibility appears to be a more inclusive metric, in the aggregate fewer poor students are covered than were accounted for under FRPL.

Fourth, the existing proposal thrusts additional burdens on cash-strapped municipalities. The budget proposal doubles the allocation for school construction costs in some communities while drastically curtailing it in others. By placing additional construction costs on cities and towns the current proposal deviates from the state's constitutional duty to provide sufficient physical resources for all communities. As articulated by the Connecticut Supreme Court, this duty is affirmative and non-delegable.

VI. Exemplary Cost Studies in Other States

Indeed, it is a common practice for states to employ cost studies to remedy education adequacy issues. As of 2007, over 30 states had utilized cost studies. Some have been initiated by legislatures, and others undertaken pursuant to court order. We would like to illustrate the value of cost studies by pointing to two very different states, Massachusetts and Arkansas, both of which used cost studies to improve educational outcomes.

a. Massachusetts

In 1991, the Massachusetts Business Alliance for Education (MBAE) released *Every Child a Winner!*, a robust education adequacy cost study that ultimately formed the basis for the Massachusetts Education Reform Act of 1993. This Act ushered in an era of nationally-recognized reform in Massachusetts and catapulted the performance of that state's students to

first in the nation.

The Alliance's analysis resulted in a wide-ranging policy plan for improving educational procedures and outcomes in Massachusetts, particularly for underserved student populations. It did this by highlighting successful programs from Massachusetts as well as other states and countries, and considering how those programs could be extended throughout the state. In doing so, the study acknowledged state fiscal constraints, costed out potential interventions and identified where funds could be procured. Additionally, the cost study was not merely a rallying cry for more funding. It also highlighted several areas in which money could be appropriately redistributed across districts and within schools.

Furthermore, these changes could be phased in to account for budgeting realities. When the cost study was first released, Massachusetts was in the midst of a major fiscal decline. In response to these constraints, the state's Education Reform Act was implemented over a period of seven years. This incremental approach proved successful: by its conclusion, every school had met or exceeded its foundation funding level and had adopted all the recommended reforms.

b. Arkansas

And in Arkansas, the state's Supreme Court declared that the state's school finance system was "inequitable" and "inadequate." *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31, 91 S.W. 3d 472 (2002). The court ordered the state to conduct a cost study. Since 2007, the Arkansas Legislature has used the education cost estimates and recommendations from the study to guide its education financing system. That same year, the Arkansas Supreme Court unanimously held that this new school finance system satisfied the state's constitutional duties to Arkansas' children.

In addition to resolving the state's school finance litigation, the benefits of Arkansas' increased attention to and investment in school finance are notably demonstrated in its student achievement data. While only 42 percent of the state's fourth graders in 2001 scored at "proficient" levels on the math portion of the Arkansas Benchmark Exam, in 2011, 81 percent scored "proficient" on a more challenging test. Furthermore, a 2015 report by the Arkansas Advocates found that, since the study was released, standardized test scores improved significantly and high school graduation rates increased.

VII. Conclusion

Thank you for allowing us, as members of Yale Law School's Education Adequacy Project Clinic, to speak with you today. It is our hope that the Education Committee will amend SB 2, or another appropriate bill before the Committee, to include an education adequacy cost study and thereby ensure that every student in every district receives a constitutionally adequate and equitable educational opportunity.