

EXECUTIVE ORDER NO. 61
PUBLIC SCHOOL FUNDING

WHEREAS, the Constitution of North Carolina, Article I, Section 15, and Article IX, Section 2, combine to guarantee every child of this State an opportunity to receive a sound basic education in our public schools; and,

WHEREAS, in the lawsuit of Leandro v. State of North Carolina, 346 N.C. 336 (1997), the North Carolina Supreme Court defined a “sound basic education” by four enumerated requirements. (Id. p. 347); and,

WHEREAS, based on Leandro, a lawsuit was filed by several school districts, Hoke County Board of Education, et al. and Asheville City Board of Educators, et al., vs. State of North Carolina; State Board of Education, alleging that the State of North Carolina had failed to provide adequate funds for the education of children in low-wealth and other school districts; and

WHEREAS, The Honorable Howard E. Manning, Jr., Superior Court Judge of Wake County, entered a judgment on April 4, 2002, ordering the State to remedy the deficiencies for those children, regardless of the county they reside in, who are not being provided the basic educational services. The court further observed that this responsibility cannot be passed down by the State of North Carolina to the local boards of education; and,

WHEREAS, the State Board of Education and the State Superintendent of Public Instruction have developed a plan to comply with the court order and requested supplemental funds to support disadvantaged students in certain low-wealth counties; and,

WHEREAS, Session Law 2004-124, House Bill 1414, also known as the budget bill, did not provide funding to address the court mandate; and

WHEREAS, the state has unexpended appropriations from the 2003-04 fiscal year remaining that were not allocated for public instruction use by the General Assembly in the budget bill; and

WHEREAS, the Public School Fund appropriations for the 2003-04 fiscal year had not been used completely and were not needed to balance the 2004-05 fiscal year budget; and,

WHEREAS, the court order constitutes a continuing obligation of the state.

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:

1. Any unexpended 2003-04 appropriations in the Department of Public Instruction in excess of the amounts used by the legislature in the formation of the final 2004-05 budget as signed into law by the Governor shall be carried forward and used for purposes related to school districts in the manner proposed by the State Board of Education and the State Superintendent of Public Instruction in response to the court order. These funds, together with other funds already otherwise expended or committed, shall not exceed the total amount appropriated to the Public School Fund for the 2003-04 school year.
2. The funds authorized under this Executive Order are deemed to be continuing obligations of the State necessary to comply with the court order.

This Executive Order shall be effective immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in Raleigh, this the 28th day of July, 2004.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State