

## Discussion Items for Resolution of Capital Funding

1. If mediation were not successful, the school board and the county commission would jointly employ a 3<sup>rd</sup> party to a limited scope assessment of school capital needs over the next five years. The scope would be limited to health and safety issues (mold, asbestos, septic, etc.), compliance with federal laws (ADA, etc.) and providing enough seats across the district for student enrollment (may require student assignment from overcrowded schools to those not at capacity). The county would be bound to fund the needs over the next five years either through pay as you go or the issuance of debt unless it is determined that the county does not have the debt capacity. If the county issued debt, the property tax increase could not exceed 10 cents. If it does, then the county would only be required to provide the funds through the issuance of debt to the 10 cent increase amount.
2. If mediation does not resolve the issues of capital, a local school board would still be able to pursue legal action but the timeframe by which the proceeding takes place would be significantly constrained. Specific language is below. Please keep in mind as you consider this option, that one of the complaints about the current law for current expense expenditures is that by the time the courts have disposed of the case, the school year about which the dispute is over has ended. Capital funding is significantly different in that the conditions, without proper funding, do not get better from year to year but actually get worse.

*Within five days after an announcement of no agreement on capital funding by the mediator, the local board of education may file an action in the superior court division of the General Court of Justice. Either board has the right to have the issues of fact tried by a jury. When a jury trial is demanded, the cause shall be set for the first succeeding term of the superior court in the county, and shall take precedence over all other business of the court. However, if the judge presiding certifies to the Chief Justice of the Supreme Court, either before or during the term, that because of the accumulation of other business, the public interest will be best served by not trying the cause at the term next succeeding the filing of the action, the Chief Justice shall immediately call a special term of the superior court for the county, to convene as soon as possible, and assign a judge of the superior court or an emergency judge to hold the court, and the cause shall be tried at this special term.*

*No later than five business days before the trial commences, each party shall provide to the other party a list of witnesses it intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence it intends to present. The trial shall be completed within ten business days after commencement, unless extended by the judge on a showing of extraordinary cause. Neither party shall have more than 24 hearing hours to present its case in chief, which does not include cross examination of witnesses, rebuttal evidence, or arguments of counsel.*

*The judge shall find, or if the issue is submitted to the jury the jury shall find, the facts as to the following in order to maintain a system of free public schools and provide buildings that are suitably equip as required by 115C-521(b): (i) the amount of money legally necessary from all*

*sources and (ii) the amount of money legally necessary from the board of county commissioners. In making the finding, the judge or the jury shall consider the educational goals and policies of the State and the local board of education, the budgetary request of the local board of education, the financial resources of the county and the local board of education, and the fiscal policies of the board of county commissioners and the local board of education.*

3. #2 with only a bench trial (no jury).

4. Binding arbitration, both parties have to agree on the arbitrator, if agreement cannot be met the superior resident superior court judge would appoint.