

PAULA T. DOW
Attorney General of New Jersey
Attorney for Defendants
R.J. Hughes Justice Complex
PO Box 112
Trenton, New Jersey 08625-0112

By: Robert Lougy
Assistant Attorney General
609-599-6868

SUPREME COURT OF NEW JERSEY
DOCKET NO. 42,170

RAYMOND ARTHUR ABBOTT, et al.,

Plaintiffs,

v.

FRED G. BURKE, et al.,

Defendants.

Civil Action

CERTIFICATION OF ANDREW
P. SIDAMON-ERISTOFF

Andrew P. Sidamon-Eristoff, of full age, upon his oath certifies and says:

1. I am the Treasurer of the State of New Jersey ("State of New Jersey"), and I submit this Certification in support of State defendants.

2. As the State Treasurer, I am involved in the formulation of the annual budget and appropriations act for the State of New Jersey and the administration of the State's fiscal matters pursuant to N.J.S.A. 52:18-1, et seq., and N.J.S.A. 52:27B-1, et seq. I am aware of the general practices,

procedures, and information pertaining to the administration and financial operations of the State and the preparation and formulation of the State's annual budget and appropriations act.

3. Governor Chris Christie delivered the budget message for Fiscal Year 2011 ("the Fiscal Year 2011 Budget Message") on March 16, 2010. On the same day, the Governor transmitted the proposed Fiscal Year 2011 Budget in Brief (the "Fiscal Year 2011 Budget") to the New Jersey State Legislature.

4. In preparing this certification, I have relied upon my knowledge and experience as State Treasurer, as well as the Fiscal Year 2011 Budget, available via the Internet at <http://www.state.nj.us/treasury/omb/publications/11bib/BIB.pdf>, the Fiscal Year 2011 Budget Message, available via the Internet at http://nj.gov/governor/home/pdf/20100316_budget_remarks.pdf, the Fiscal Year 2011 Appropriations Act, L. 2010, c. 35 ("the Appropriations Act"), and the Fiscal Year 2010 and 2011 Revenue Certifications, all of which are available on the website of the Office of Management and Budget, Department of the Treasury.

5. The Fiscal Year 2011 Budget and Appropriations Act confront squarely a budget crisis many years in the making and perhaps unmatched in the State's history. This crisis results from a persistent structural budget deficit that has gone unaddressed for too long and an ongoing national recession that has reduced the revenues generated by the State's three major

taxes: the Gross Income Tax, the Sales Tax, and the Corporate Business Tax.

6. At the time of the Fiscal Year 2011 Budget Message, Fiscal Year 2011 spending was projected at \$38.4 billion, a figure representing a 28.6% increase over the FY 2010 adjusted appropriations level of \$29.9 billion. Revenues were projected to fall to \$27.7 billion. The projected budget deficit of \$10.7 billion amounted to a shortfall of approximately 38 percent of projected revenues. The total projected growth for direct State aid to school districts in Fiscal Year 2011 was \$1.8 billion, an amount representing 16% of the total budget gap for the year. Included in that amount is \$1.057 billion in growth needed to replace one-time federal stimulus funding, \$670 million for growth in formula aid and \$42 million for growth in Extraordinary Special Education Aid. In addition, there was \$280.3 million in required growth for school construction aid and \$18 million growth for school building debt service aid, as well as funds for the State's continued support of payments for the costs of teachers' pensions, post-retirement medical benefits, and Social Security payments.

7. Although the structural deficit is not new, past actions have exacerbated, rather than ameliorated, both its growth and magnitude. Even as the State's revenue diminished as a consequence of the national recession, increased spending was supported by short term, one-shot, revenue sources.

8. Examples abound of reliance upon such non-recurring revenues. The Fiscal Year 2010 Budget exhausted \$700 million in one-time tax amnesty revenues in one year. It also spent the State's entire allocation of federal stimulus funds available to support education and other essential public services. New Jersey received \$1.3 billion in State Fiscal Stabilization Funding (SFSF) as part of its award under the American Recovery and Reinvestment Act. The SFSF funding was intended to help stabilize State and local government budgets in order to minimize and avoid reductions in education and other essential public services. The Fiscal Year 2010 Budget spent more than \$1 billion of federal stimulus monies to support aid to school districts in FY 2010, with no plan to make up the shortfall in subsequent budgets.

9. In order to achieve a constitutionally-mandated balanced budget, the Governor was required to reduce spending across the entire Budget. To close the projected deficit through increased revenue alone would require that New Jersey

more than double income taxes on every single taxpayer in the State.

10. New Jersey continues to suffer the lingering effects of a deep national recession. At legislative budget hearings, I testified that both FY10 and FY11 revenue projections needed to be lowered further. My testimony from the May 25 and May 26 hearings are available at <http://www.state.nj.us/treasury/news/2010/p100525a.pdf> and <http://www.state.nj.us/treasury/news/2010/p100526.pdf>, respectively. The certified resources (including fund balance) for Fiscal Year 2011 are \$28.667 billion, a decrease of \$823 million from the certified resources for Fiscal Year 2010. Overall projected revenue remains below the State's Fiscal Year 2006 actual revenue. With respect to Gross Income Tax, the projected revenue of \$9.855 billion is below actual results for Fiscal Year 2006. Revenues from both sales tax and the Corporation Business Tax are projected to grow from Fiscal Year 2010 levels, but still remain below actual results for Fiscal Years 2007 and 2008. Additionally, as noted, federal revenues that were available in Fiscal Year 2010 are not available in Fiscal Year 2011.

11. Through additional spending reductions, it is projected that Fiscal Year 2010 will close with a surplus of \$505.4 million and that the ending surplus for Fiscal Year 2011

will drop to \$303.2 million, leaving just over 1% of Fiscal Year 2011 appropriations for unforeseen spending needs.

12. The Fiscal Year 2011 Budget reduces the base budgets of departments, agencies, and programs by \$1.9 billion. The Budget reduced the appropriation for every single department of State government. Some of the more significant reductions include: Department of Agriculture, reduced by 24%; Department of Community Affairs, reduced by 35%; and Treasury, reduced by 39%.

13. The Fiscal Year 2011 Budget reduces the base budget by nearly \$2.0 billion through reductions that include reducing appropriations to Homestead Rebates by \$848.2 million, a reduction equivalent to 76% of Fiscal Year 2010 adjusted budgeted appropriations for the program. Municipal and County Aid was reduced by \$339.0 million and Higher Education by \$173 million. The Budget further eliminates or reduces projected growth by \$7.1 billion, including deferring \$3.1 billion in pension payments and reducing New Jersey Transit by \$272.0 million.

14. The Budget eliminates funding for numerous programs, realizing savings of \$216.6 million. Programs eliminated include, for example, the Commission for Science and Technology, saving \$10.4 million, aid to independent colleges and

universities, saving \$27.8 million, and eliminating InvestNJ Job Credits, saving \$25 million.

15. In only a few areas, the Budget increases a line item appropriation. The only areas with significant increases in appropriations are employee benefits, salary increases, and welfare. Welfare expenditures have grown as more people, likely suffering the impacts of the national recession, have sought assistance.

16. These painful reductions across the spectrum of State spending and in every part of the budget, along with increases in other resources, eliminates the \$10.7 billion structural deficit so the Governor could present the constitutionally-mandated balanced budget to the Legislature.

17. On June 29, 2010, the Governor signed the Fiscal Year 2011 Appropriations Act, L. 2010, c. 35. The Appropriations Act reduces spending by \$2.8 billion from the Fiscal Year 2010 adjusted budget. This amounts to a reduction of 8.7%.

18. State aid to education represents more than one-third of line item appropriations. In Fiscal Year 2010, adjusted school aid appropriations of \$10.1 billion represented 33.7% of total adjusted line item appropriations. The Fiscal Year 2011 Appropriations Act appropriates \$10.308 billion to education, an increase of \$227.7 million in State resources, and commits an

even larger share (36.3%) of total line item appropriations to school aid.

19. Revenues are not available to replace the loss of \$1.057 billion in one-time federal stimulus revenue used to support school aid in the Fiscal Year 2010 budget. The structural deficit, declines in revenue, and reduced spending in all areas of the Appropriations Act do not allow State resources to replace the federal funds.

20. The Fiscal Year 2011 Appropriations Act appropriates the following amount for each of the aid categories:

Category	FY 2010 Adjusted Approp (as of March 16, 2010)**	FY 2011 Approp*
Equalization Aid	5,824,882	5,556,105
Adjustment Aid	747,661	456,030
Special Education Categorical Aid	730,144	620,883
Preschool	596,094	613,330
Transportation Aid	363,126	93,115
Security Aid	241,998	97,664
Educational Adequacy Aid	24,674	24,674
School Choice Aid	8,976	9,847
Total	8,537,555	7,471,648

* In thousands of dollars

* Includes \$1.057 billion in federal stimulus revenues; does not reflect funds placed into reserve pursuant to Executive Order 14 (Gov. Christie, Feb. 11, 2010), 42 N.J.R. 660 (Mar. 15, 2010), and deappropriated pursuant to L. 2010, c. 19.

21. The Appropriations Act allocates State formula aid for school districts to ensure that, except for those districts experiencing enrollment declines, no district loses more than 4.994% of their adopted 2009-2010 General Fund Budget. The Act reduces the sum of Equalization Aid, Educational Adequacy Aid, Security Aid, Adjustment Aid, School Choice, Special Education Categorical Aid, and Transportation Aid by an amount equal to the lesser of (a) 4.994% of the districts adopted 2009-2010 budget, or (b) the sum of its 2010-2011 initial allocation of the above categories of aid.

22. The Appropriations Act calculates a district's reduction in state aid as a percentage of a district's overall general fund budget, rather than as a percentage of total formula aid, to limit the effect of the reduction on less affluent districts that are most reliant on state aid. Sixty school districts—a large majority of which are District Factor Groups I or J districts—will receive no formula aid in Fiscal Year 2011.

23. The Appropriations Act modifies three factors in the School Funding Reform Act of 2008. First, the Appropriations Act defines the Consumer Price Index ("CPI") consistent with the definition of the index rate used for Consolidated Municipal Property Tax Relief Aid, N.J.S.A. 52:27D-442. The CPI is based on data published by the United States Department of Commerce,

Bureau of Economic Analysis. For Fiscal Year 2011, the CPI is equal to zero (0). Second, the Appropriations Act establishes a State aid growth limit of 0% for all districts. Third, the Act holds a district's allocation of Educational Adequacy Aid funding equal to 2009-2010 levels.

24. In order to determine the level of appropriation for each line item of formula aid in the Fiscal Year 2011 Budget, the Commissioner established a hierarchy of the formula aid categories. The 4.994% reduction of formula aid in each district was accomplished in accordance with this hierarchy. The hierarchy established by the Commissioner, as modified by subsequent budget resolution, reduced a district's adjustment aid first, then transportation aid, security aid, equalization aid, and finally special education categorical aid. Each line item for formula aid in the State budget was reduced by the sum of the aid reductions for each district in that aid category. While the amount of aid provided in each aid category is significant for purposes of the State budget and for district accounting purposes, the funds are all unrestricted general fund revenue and thus reductions in aid by category do not affect the manner in which a district budgets or expends those funds.

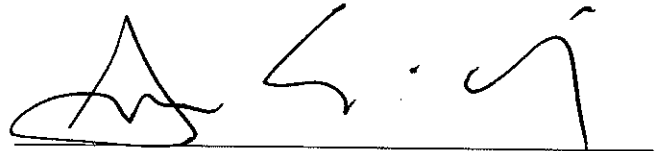
25. The Appropriations Act increases funding for Preschool Education Aid by \$17.2 million to support increased enrollments in districts currently operating approved programs.

Aid is provided to districts that received Early Childhood Program Aid (ECPA), Early Launch to Learning Initiative aid (ELLI) or Preschool Expansion Aid (PSEA) in 2007-2008. Those districts that received PSEA or Education Opportunity Aid in 2007-2008 or were approved expansion districts in 2008-2009 will receive Preschool Education Aid calculated under the modified formula.

26. The Appropriations Act appropriates \$14.9 million more for Extraordinary Special Education Aid than adjusted Fiscal Year 2010 appropriations. The appropriation reflects a reduction by 15% of projected need.

27. The Appropriations Act reduces appropriations to other categories of school funding. The Act eliminates adult education aid and reduces appropriations for Nonpublic School Aid by 15% from the adjusted Fiscal Year 2010 appropriation. It reduces School Construction Debt Service Aid and School Building Aid by 15% against projected need. In addition, districts (other than former Abbott districts) that received State support for approved project costs through the Schools Development Authority are assessed an amount equal to 15% of their proportionate share of the principal and interest payments due in fiscal year 2011 on bonds issued for the program.

I certify that the foregoing statements made by me are true to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

A handwritten signature in black ink, consisting of several stylized, overlapping loops and lines, positioned above a horizontal line.

Andrew P. Sidamon-Eristoff

Dated: Trenton, New Jersey
July 8, 2010