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RAYMOND ARTHUR ABBOTT, ET AL.,

Plaintiffs

v.

FRED G. BURKE, ET AL.,

Defendants

SUPREME COURT OF NEW JERSEY

DOCKET NO. 42,170

CIVIL ACTION

**CERTIFICATION OF
MELVIN L. WYNS**

I, Melvin L. Wynn, of full age, hereby certifies as follows:

1. I am an expert in New Jersey public school finance and in the budget requirements and process for Abbott districts. I served as Director of New Jersey Department of Education's ("DOE" or "State") Office of School Finance from September 1988 until July 2001, and as School Business Administrator and Board Secretary for the Trenton Public Schools from July 2001 until July 2005. I also served as interim Business Administrator for the Trenton school district from October 1, 2007 until December 21, 2007. Although I am currently retired, I have continued to follow

all developments related to school funding in New Jersey, especially as they relate to the budgets of the Abbott districts.

As I have done in prior proceedings in this litigation, I agreed to assist pro bono the Abbott Plaintiffs and their counsel, Education Law Center, on this motion.

2. I also assisted Plaintiffs, and Plaintiffs' experts Dr. Margaret Goertz and Dr. Clive Belfield, in analyzing the impact of the SFRA formula on the Abbott parity, supplemental programs and funding, and municipal overburden remedies. As a result, I am familiar with the analyses, findings and conclusions set forth in the Goertz and Belfield certifications.

3. I submit this Certification to provide the Court with an analysis of the impact of the recently enacted School Funding Reform Act of 2008 ("SFRA"), P.L. 2007, c. 260 (January 13, 2008) on Abbott district expenditures and budgets. Specifically, I will analyze the education expenditures and funding in Abbott district budgets approved under the prior school funding formula, the Comprehensive Education Improvement and Financing Act of 1996 ("CEIFA"), as augmented by parity and the other remedies ordered in this litigation ("Abbott remedies"), to ensure a thorough and efficient ("T&E") education to students in those districts. I will also analyze the expenditures and funding in Abbott district budgets determined "adequate" for Abbott students under SFRA. Finally, I will analyze the ability of Abbott districts to

maintain current (2007-08), DOE-approved expenditures in future years under SFRA, in light of annual fixed, non-discretionary increases in salaries, benefits and other costs.

4. Because the State is asking to discontinue the Abbott remedies, it is critical for the Court to have a thorough understanding of the level of resources determined necessary to provide T&E to Abbott students under CEIFA and the Abbott remedies as compared to the resources deemed educationally adequate under SFRA. This analysis is also important because the State's presentation focuses on the general statewide features of SFRA and the state aid provided under the formula for 2008-09, with little of the comparative data or other information necessary to assess the impact on Abbott districts, schools and students if the Abbott remedies were ended in favor of SFRA in 2008-09 and beyond.

I. Comparison of Abbott/CEIFA and SFRA

5. The CEIFA and SFRA formulas share many of the same elements, and while there are differences, some CEIFA provisions have been carried over to SFRA. I first describe and compare below the major provisions in the two formulas, along with the Abbott remedies to CEIFA ordered to provide T&E to Abbott students ("Abbott/CEIFA"). I then analyze the level of approved budgetary expenditures provided under Abbott/CEIFA and SFRA, and the projected impact if the Abbott remedies are discontinued.

A. Regular Education

6. Both CEIFA and SFRA provide funding for the basic educational program for all students in each district, called "regular education" or "foundational education," and funding for programs and services to address the extra educational needs of three types of students: students affected by poverty, also called "at-risk;" students lacking English language skills, or "limited English proficiency;" and students classified with speech, learning and other disabilities.

7. Abbott IV (1997) found two components of the CEIFA formula deficient for Abbott students: funding for regular education and funding for extra or "supplemental programs" for student poverty. To ensure adequate funding in these areas, Abbott IV ordered regular education funding at "parity" with the State's successful suburban districts, a remedy initially ordered in Abbott II (1990). Abbott V (1998) and several later Abbott orders also directed implementation of specific supplemental programs and reforms, including preschool, to address concentrated student poverty, and the establishment of procedures for Abbott schools and districts to demonstrate the need for additional or "supplemental funding" above the levels in CEIFA to ensure needs-driven program implementation.

8. In both CEIFA and SFRA, funding for regular education is based on the cost per elementary school pupil of delivering the Core Curriculum Content Standards ("CCCS") and extra-curricular

and co-curricular activities, also referred to as the cost of "regular education" or "foundational education." Abbott IV (1997) accepted the CCCS as defining the substantive content of T&E for New Jersey public school students.

9. The cost per elementary student is called the "T&E amount" in CEIFA and the "base per pupil amount" in SFRA. Both CEIFA and SFRA "weight" this amount for middle and high school students. In CEIFA, the weights are 1.04 and 1.11 and, in SFRA, the weights are 1.04 and 1.17 for middle and high school students, respectively.

10. Both the CEIFA T&E amount and the SFRA base amount are derived from models of hypothetical school districts developed by the Department of Education ("DOE"). The CEIFA model is a district of 3,075 students, with three elementary schools of 500; a middle school of 675; a high school of 900; and a central office. The SFRA model is a district of 5,240 students, with six elementary schools of 400; two middle schools of 600; a high school of 1,640; and a central office. Both models contain assumptions about the inputs or resources -- number of teachers, teachers' aides, instructional minutes, professional and technical staff, administrative staff, textbooks, supplies and equipment -- that the DOE determined would be "adequate" to provide a regular education program under the CCCS. Once the models were

established, the DOE affixed costs for the inputs based on statewide averages and other cost benchmarks.

11. As noted above, Abbott IV found the CEIFA T&E amount incapable of providing the CCCS to students in Abbott districts, primarily because the CEIFA model district did not reflect the actual conditions, realities and needs in those districts. Dr. Goertz, in her certification, analyzes the SFRA model and concludes that it contains these very same flaws. See Certification of Margaret E. Goertz ("Goertz Cert."), ¶¶31-38.

12. To remedy this deficit, Abbott IV directed the State to replace the T&E amount with the "parity amount," or the average regular education expenditure in the successful suburban, or District Factor Group ("DFG") I&J districts, and to provide extra funding to equalize expenditures at the parity level. Each year since 1997-98, the parity amount is recalculated and the State provides additional aid above CEIFA - currently called "Education Opportunity Aid" ("EOA") -- to ensure regular education parity.

13. The CEIFA T&E amount is \$9,784 per elementary pupil in 2008-09, adjusted for inflation. After weighting, the T&E amount is \$10,175 and \$10,860 per pupil for middle and high school students, with an average of \$10,273 per pupil. The Abbott parity amount, which replaces the T&E amount, is \$12,872 per pupil, which is \$2,599 per pupil or 25.3% above the average T&E amount. See

Exhibit A, Comparison of Regular Education Costs: Abbott/CEIFA and SFRA.

14. The SFRA base amount is \$9,649 per elementary pupil, \$135 per pupil below the CEIFA T&E amount. After weighting, the base amount is \$10,035 and \$11,289 per pupil for middle and high school students, respectively. The average base amount is \$10,281 per pupil, 20% or \$2,591 per pupil below the Abbott parity amount. See Exhibit A.

15. Both CEIFA and SFRA calculate state aid for regular education through a "wealth equalized" formula. The State first determines an amount of property tax revenue each district is expected to raise based on factors related to property value and income wealth. This is called the "local share" in CEIFA and the "local fair share" in SFRA (hereinafter referred to as "local share"). The amount of state aid is then calculated as the difference between the local share and the regular education cost using the T&E amount in CEIFA and the base amount in SFRA.

16. The local share in CEIFA and SFRA are determined by the same formula, based on the district's property wealth as measured through equalized valuation in the pre-budget year and resident income, with rates applied to property value and income. Based on these factors, the State calculates the amount of local property tax revenue each district is expected to contribute. Most importantly, districts are not required to actually raise the

local share and, conversely, can raise local revenue that exceeds the local share. Annual increases in local revenue, however, are capped at 4% under both statutes.

17. The Abbott remedies include a further limit on increases in local revenue based on "municipal overburden." Abbott II (1990) found that the combination of low property wealth and low income, high demands on municipal services, and excessive overall tax rates limit the capacity of poorer urban districts to increase property tax revenue, or the "local levy," to ensure adequate education funding. The State has implemented this ruling by mandating that districts, at a minimum, raise the prior year local levy. In 2006-07 and 2007-08, the State also required districts to increase the levy if the total tax rate was below 110% (2006-07) and 120% (2007-08) of the state average rate. If below these levels, districts were required to increase the local levy, subject to a \$125 cap per household. In 2007-08, fifteen (15) Abbott districts under the 120% threshold were mandated by DOE to increase their local levy.

18. In CEIFA, each district receives state aid for regular education called "core curriculum standards aid" ("CSSA"). CSSA is wealth equalized which, as described in paragraph 15, means that the aid is calculated by subtracting the local share - the local expected tax revenue -- from the "T&E budget," or the regular education cost based on the T&E amount. The Abbott

remedies modify this formula in two ways: by imposing a limit on the local levy based on municipal overburden, as described in paragraph 17, and by adding EOA state aid to ensure regular education parity with I&J districts, as described in paragraph 12.

19. Under SFRA, districts receive funding for regular education called "equalization aid," calculated by subtracting the local share from an "adequacy budget." Unlike the T&E budget in CEIFA, the adequacy budget in SFRA not only includes the regular education or "base cost," but also includes costs for student poverty ("at risk"), LEP students, and two-thirds of special education. While CEIFA provides districts with wealth equalized state aid for regular education that is differentiated from categorical aid to support programs for student poverty, LEP and special education, SFRA equalization aid is distributed as a single, lump sum amount, undifferentiated between the amount generated by the base cost, or the regular education program for all students, and the amounts to address extra student needs, such as student poverty. In addition, the only requirement in SFRA for equalization aid is that it be expended for a T&E "system" of education "consistent with" the CCCS; there is no requirement that the aid be expended for any particular programs or to address any specific student needs.

20. Wealth equalization under both formulas serves the same purpose, to determine state aid for each district. As noted

above, wealth equalized state aid is determined based on the local share, or the property tax revenue the district is expected to generate. The actual amount of local revenue, however, depends primarily on historical patterns of community wealth and willingness to increase property taxes to support public education. Because of revenue limitations due to municipal overburden, as described in paragraph 17, the local share attributed to Abbott districts under SFRA is almost double the amount of local revenue actually contributed by the districts. In I&J districts, local revenue exceeds the local share because of these districts' high wealth. This difference in capacity to raise local revenue contributed to the longstanding disparity in regular education expenditures in Abbott districts that ended in 1997-98 when funding was equalized at the I&J district level under the Abbott parity remedy.

B. Student Poverty

21. CEIFA provides state aid for student poverty as "categorical aid." Under CEIFA, categorical aid is allocated to districts based on the numbers of students with specific needs (e.g., limited English proficiency or types of disabilities and special education services), student characteristics (e.g., poverty), and to support specific programs and services (e.g., supplemental programs, preschool, transportation or choice). Categorical aid under CEIFA is not wealth-equalized. CEIFA has

two categorical aids for supplemental programs for student poverty: Demonstrably Effective Program Aid ("DEPA") for K-12 supplemental programs and Early Childhood Program Aid ("ECPA") for preschool programs.

22. As noted above, Abbott IV found DEPA and ECPA deficient for Abbott students because these aids were not based on studies of actual program needs and costs, and because there was no requirement for specific program implementation. In Abbott V, Abbott X (2003) and several other rulings, the Court directed the Commissioner to implement, by regulation, preschool and specific K-12 supplemental program reforms based on need, and to establish budgetary procedures for Abbott districts to demonstrate and request additional state aid or "supplemental funding" above the CEIFA aids, if necessary to implement the required programs. The Abbott rulings also authorize districts to seek supplemental funding if needed for preschool; enhancements to regular education and special education; and to maintain previously approved budgetary expenditures. From 1999-00 until 2007-08, districts utilized this process to request supplemental funding, and the State, each year, approved supplemental funding at varying levels among the districts. Abbott supplemental funding for preschool is appropriated as "Preschool Expansion Aid" and for K-12 supplemental programs is combined with parity aid in the EOA appropriation.

23. Thus, the specific supplemental K-12 and preschool programs established, as needed, to address concentrated student poverty in Abbott schools and districts are funded by CEIFA categorical aid, comprised of the DEPA and ECPA aids, and supplemental funding, as approved by the DOE on a district-by-district basis.

24. State aid for student poverty under SFRA is provided as equalization aid, the undifferentiated aid calculated from the adequacy budget described in paragraph 19 above. The adequacy budget includes an "at-risk cost," described as "the cost of providing educational and other services to at-risk pupils," and is represented by an at-risk student weight. The at-risk weights, developed by DOE, range from .47 to .57 of the base cost, depending on the district's rate of concentrated poverty, capped at 60%. Equalization aid is calculated as the difference between local share and the adequacy budget, which, as noted above, includes the at-risk cost. As discussed in paragraph 19, SFRA does not differentiate an at-risk amount of equalization aid, nor does the Act require equalization aid be used by districts to provide programs to address student poverty.

25. SFRA also provides a separate categorical aid for security, calculated at a cost of \$406 per at risk pupil in districts with a poverty concentration of over 40%.

26. Dr. Belfield, in his certification, provides a detailed

analysis of the at-risk cost and student weights, and how these costs and weights do not meet the standards established in the Abbott supplemental programs and funding remedy. As Dr. Belfield emphasizes, SFRA does not require that equalization aid be used to provide the Abbott-mandated K-12 supplemental programs in Abbott schools and districts, or for any other programs and services to address student poverty. See Certification of Dr. Clive Belfield ("Belfield Cert."), ¶¶34-35.

C. LEP Students

27. CEIFA provides Bilingual Education Categorical Aid for LEP students, with the amount of state aid based on the per-pupil program cost and the number of students enrolled in bilingual or English as a second language programs. SFRA provides state aid for LEP students as undifferentiated equalization aid, based on the calculation derived from the adequacy budget as described in paragraph 19. The adequacy budget includes a "LEP cost," described as the "cost of providing educational and other services for bilingual education pupils," and is represented as a LEP student weight developed by DOE. The LEP weight is .50; however, for a student who is both at-risk and LEP, the at-risk weight is applied and an additional .125 LEP weight is added. Equalization aid is calculated as the difference between local share and the adequacy budget, which, as noted above, includes the LEP cost. As discussed in paragraph 19, SFRA does not differentiate a LEP

amount of equalization aid, or require equalization aid to be used for programs for LEP students.

D. Students with Disabilities

28. CEIFA provides categorical state aid for students with disabilities under a four-tier structure based on the actual number of classified students in specified program cost categories. The costs range from \$373 per pupil eligible for speech services only ("Tier I") to \$15,668 per pupil eligible for the most intensive service level, adjusted for inflation, and each district receives state categorical aid to support these costs.

29. SFRA provides state aid for special education as both equalization aid and categorical aid. To determine this state aid, SFRA uses an "excess cost" of \$10,898. No information is available regarding the basis for this figure other than that it was based on the FY '06 per pupil expenditures for special education services, excluding the costs for speech, extraordinary aid and federal aid, and was adjusted for inflation. See A Formula for Success: All Children, All Communities, Department of Education (December 2007), page 16. SFRA also uses a "census" approach, assuming that 14.69% of all students, the statewide average special education classification rate, require general special education services and 1.897% require speech services only. Two-thirds of the total excess cost is included in the adequacy budget and provided as undifferentiated equalization aid

through the same calculation used to wealth-equalize regular education, at-risk and LEP, as described in paragraph 19, and there is no requirement that the equalization aid be used for special education programs. The remaining one-third is provided as categorical aid.

30. In 2007-08, the Abbott districts' average special education classification rate is 15.48%, compared to the state average of 14.69% used in SFRA. Over two-thirds of Abbott districts (twenty-two) have a classification rate above the SFRA rate, with eight districts having a classification rate 120% above the average rate. Thus, the cost of providing special education to students in excess of the 14.69% rate will come from local revenue which is far below the local share and likely to be unavailable in Abbott districts. See Exhibit B, Abbott District Special Education Classification Rates. If the Abbott supplemental funding remedy is ended, the districts will have no "fall back" mechanism to demonstrate the need for additional state aid and, because special education programs are mandated by federal and state law, will be forced to reallocate regular education, at-risk and other program funds.

31. Unlike the CEIFA categorical aid, the SFRA census approach does not base funding on the actual percentage of students receiving special education in a district, the relative

severity of their disabilities, or the actual cost of the services they receive.

32. Both CEIFA and SFRA provide "extraordinary" special education categorical aid to help offset the costs for the very highest cost students with disabilities. SFRA, however, reduced the mandate of reimbursement from 100% of the costs to 75% of the costs, while increasing the threshold for reimbursement from \$40,000 to \$55,000 of "extraordinary" costs.

E. Preschool Program

33. Like CEIFA, SFRA provides categorical state aid for preschool. For 2008-09, the level of state preschool aid is determined by the DOE-approved amounts based on the needs-based budgeting process under the Abbott supplemental programs and funding remedy. However, beginning in 2009-10, funding will shift to a categorical per pupil cost, which will be the greater of the 2008-09 approved budgetary amount or \$11,506 per pupil for in-district programs; \$12,934 per pupil for community provider programs; and \$7,146 per pupil for Head Start programs, adjusted for inflation. Abbott districts will no longer be able to request supplemental funding for preschool above the SFRA categorical aid amount, as they have been able to do under Abbott/CEIFA, if needed to ensure program implementation.

II. K-12 Budgets under Abbott/CEIFA and SFRA

34. I have analyzed the level of overall budgetary

expenditures - programs, services, staff and other costs -- approved by the State to provide a T&E for students in Abbott districts under Abbott/CEIFA and SFRA. See Exhibit C, Comparison of Abbott/CEIFA and SFRA T&E Budgets.

35. For 2007-08, Abbott districts have an overall K-12 budget of \$4.613 billion under Abbott/CEIFA. The budget consists of \$1.772 billion in wealth equalized and other state aid for regular education; \$122.1 million in CEIFA categorical aids for student poverty; \$304.6 million in categorical and other aid for students with disabilities and other identified program needs; \$1.779 billion in Abbott remedial aids for parity and K-12 supplemental programs; and \$635.2 million in revenue from the local levy. See Exhibit C. The budget represents the total amount of expenditures presently approved by the State, supported by available state aid and local revenue, to provide T&E to Abbott students.

36. For 2008-09, Abbott districts will have an overall K-12 budget of \$4.166 billion under SFRA. The budget consists of \$3.208 billion in equalization aid; \$297.8 million in categorical aids; and \$660.7 million in revenue from the local levy, assuming the maximum 4% allowable increase. See Exhibit C. The budget represents the total amount of expenditures the State deems "adequate" under SFRA to provide T&E to Abbott students.

37. Based on this analysis, I find that SFRA provides \$447.1

million or 9.7% less than the level of expenditures the State determined essential to provide T&E to students in Abbott districts in 2007-08 under Abbott/CEIFA. Put differently, SFRA declares \$447.1 million, or \$981 per weighted pupil in current-year, DOE-approved expenditures, excessive and not necessary to provide T&E for Abbott students. I can find no study, research or other analysis of Abbott district budgets, programs or expenditures in SFRA or in the development of the Act to support this determination.

III. Excess Expenditures and Adjustment Aid

38. As noted above, Abbott districts have an overall budgetary level approved for T&E under Abbott/CEIFA in excess of the "adequacy" level in SFRA. My analysis shows eighteen (18) of the districts have "excess" expenditures.

39. I also calculate that 378 or 66% of the school districts statewide, including Abbott districts, have excess expenditures under SFRA, totaling \$1.191 billion. Twenty-seven percent of these are I&J districts, which have \$345.9 million in excess expenditures under SFRA. See Exhibit D, SFRA K-12 Excess Expenditures. I am unaware of any study, data or other analysis that supports the determination in SFRA that the \$345.9 million excess in I&J districts, or the \$1.191 billion statewide, represents inefficiencies, waste or spending not otherwise necessary for T&E.

40. Increase in Required Local Share: Under SFRA, the Abbott districts' local share is \$1.14 billion. This is 79.4% or \$507 million above the \$635.2 million in local revenue the districts actually provided in 2007-08. See Exhibit E, Comparison of Abbott Tax Levy to LFS. The State cites below average school tax rates as the sole justification to support this dramatic increase in the local share under SFRA. See Certification of Katherine Attwood, ¶15 ("Attwood Cert."). The school tax rate, however, is not a realistic measure of the ability of Abbott districts to provide property tax revenue for education. The total tax rate - the threshold for municipal overburden - is the appropriate indicator of taxing capacity. As Dr. Goertz's analysis shows, virtually all Abbott districts have total tax rates above the state average and half are over 120%. See Goertz Cert., Exhibit C, Table 1. I am also unaware of any study, data or other information in SFRA or in developing the Act, demonstrating that the Abbott districts have the realistic ability to raise the local share under SFRA.

41. Reduction in State Aid: SFRA not only increases the local share, the Act also reduces overall K-12 state aid from the level under Abbott/CEIFA. Abbott districts will receive \$3.51 billion in K-12 state aid in 2008-09 or \$472.5 million less than the districts received in 2007-08. See Exhibit C.

42. Adjustment Aid: If SFRA were applied in 2008-09, many Abbott districts would face immediate, substantial reductions in

programs, services and positions previously approved for T&E under Abbott/CEIFA. The impact, however, will not be as immediate if the Legislature funds the "adjustment aid" provision of SFRA. Adjustment aid, described only as "transition aid," does not support any of the Act's defined education cost and, therefore, is not part of the Act's adequacy budget. As a result, the appropriation of this aid is solely at the discretion of the Legislature. Because adjustment aid is "off-formula," there is no assurance that it will be available in 2008-09 or future years.

43. SFRA targets adjustment aid primarily to Abbott districts with excess expenditures, and would provide an overall state aid increase of 2% in 2008-09, but with no increase above the 2008-09 level in subsequent years. If the Legislature appropriates adjustment aid after 2008-09, it will be "adjusted" downward as other SFRA formula aids increase so that the affected districts receive "flat" State funding, or no state aid increase.

44. Under the DOE proposal, twenty-four (24) Abbott districts would receive adjustment aid in 2008-09, bringing their total state aid increase to 2% over their 2007-08 state aid amount. Of these, eighteen (18) districts have expenditures over the SFRA adequacy budget. The total proposed adjustment aid for Abbott districts for 2008-09 is \$599.4 million, 70.5% of the \$850.4 million proposed statewide. See Exhibit F, Abbott District Adjustment Aid.

45. SFRA also contains a provision for "Educational Adequacy Aid." In 2008-09, four (4) of the thirteen (13) Abbott districts spending below the SFRA adequacy budget would receive \$8.1 million in EAA. EAA would be distributed based on factors related to municipal overburden and a failure "to meet educational adequacy," similar to, but narrower than, the criteria for Abbott designation. I can find no data, study or other information that explains the rationale justifying the selective EAA eligibility factors in lieu of Abbott designation, and why the aid is provided to some districts and not others. Further, like adjustment aid, EAA is not part of the SFRA adequacy budget and, as a result, there is no assurance that the Legislature will provide this funding in 2008-09 or future years.

46. The DOE is also proposing in the Governor's FY09 budget \$19.2 million of "Initial Charter School Aid" to four (4) Abbott districts. It appears that the DOE is proposing this extra aid because the large increase in payments to charter schools under SFRA will reduce the districts' adjustment aid below the level necessary to provide a 2% overall state aid increase in 2008-09. Abbott districts statewide are required to pay charter schools \$205.7 million in 2007-08, \$65.9 million above 2007-08, adding to the difficulty those districts will face in maintaining current, approved budgetary expenditures in future years. Initial charter school aid is not part of SFRA and is non-recurring.

IV. Budget Shortfalls

47. DOE approved \$4.613 billion in K-12 expenditures, see paragraph 35, and \$511 million in preschool expenditures, see Belfield Cert., ¶29, to provide T&E to Abbott students in 2007-08 under Abbott/CEIFA.

48. Based on my experience, especially as a school business administrator, the budgets of Abbott districts typically increase by an annual inflation factor of approximately 4%. This "cost of living" factor results from increases in non-discretionary expenditures in the budget, particularly contracted teacher and staff salaries, health benefits, special education tuition, and mandated charter school payments. Other factors impacting upon the Abbott budgets from year-to-year include a 2% limit on surplus, whether the district accepted a "presumptive budget" increase in the prior year, and whether the district requested supplemental funding.

49. Further, the just-released cost data in the DOE Comparative Spending Guide ("CSG") show a 4.8% increase in classroom instruction costs per pupil statewide and the total budgeted cost per pupil statewide. In addition, the CSG shows a 6.6% increase in the cost of support services, which includes guidance, nursing and other services that are among the required Abbott supplemental programs. Classroom instruction and support services comprise 74.3% of the total budgeted cost per pupil

statewide. See <http://www.state.nj.us/education/news/2008/0319csg.htm>

50. Under SFRA, the Abbott districts' 2008-09 K-12 budget is projected at \$4.775 billion, including adjustment aid. See Exhibit G, Table 1, Estimated 2008-09 K-12 Budget Shortfall Under SFRA. The budget would be \$4.547 billion, or 4.8% less, if it was only based on the "adequacy budget" - or the level of resources determined to be adequate for a thorough and efficient education under SFRA. Obviously, the final budget level will depend on whether adjustment aid and the other "off-formula aids" are appropriated and, if so, at what amount.

51. I have analyzed the ability of Abbott districts to maintain current expenditures for programs, services and positions, approved under Abbott/CEIFA, in 2008-09, 2009-10 and 2010-11 under SFRA, based on an estimated 4% increase in non-discretionary expenditures. My projections are based on a range that includes the 4% maximum increase in the local levy, as well as Adjustment Aid and EAA. My findings are as follows:

(a) twenty-four (24) districts will have a budget shortfall of \$62.3 million to \$78.2 million in 2008-09. See Exhibit G, Table 1;

(b) twenty-one (21) districts will have a budget shortfall of \$181.6 million to \$212.6 million in 2009-10. See Exhibit G, Table 2, Estimated 2009-10 K-12 Budget Shortfall Under SFRA; and

(c) the budget shortfall will rise to \$307.1 million to \$354.7 million in twenty-one (21) or twenty-two (22) districts by 2010-11. See Exhibit G, Table 3, Estimated 2010-11 K-12 Budget Shortfall Under SFRA.

52. As noted in paragraph 16, SFRA does not mandate that the actual local levy be maintained and limits any increases to 4% annually. Even for districts that are able and willing to raise the maximum local levy allowable per year, that locally generated amount, for most Abbott districts, will fall far short of the local share under the Act. As a consequence, the total state and local revenues available in these districts will be substantially below the SFRA adequacy budget. Even in regards to the actual local levy, not the local share, raising local revenue in Abbott districts is, at best, an uncertain and daunting prospect given the absence of any State mandate to do so, and the excessive current overall tax rates and continuing municipal overburden in these districts.

53. In 2007-08 and prior years, Abbott districts could seek supplemental funding to maintain current, approved programs, services and positions when faced with State-imposed presumptive or budgetary growth limits. If the supplemental funding remedy is discontinued, there is no process of last resort available for districts to seek and secure funding to maintain prior approved and necessary expenditures in the event of a budget gap.

54. Absent the supplemental funding process, some Abbott districts will likely reduce and/or eliminate programs, services and positions in 2008-09 in order to address these budget shortfalls. Even if the Legislature appropriates adjustment aid in future years, the budget shortfalls and consequent reductions will become greater in 2009-10 and beyond since adjustment aid will decrease and many districts will receive no state aid increase after 2008-09.

55. The only rationale offered by the State for the reductions in expenditures under SFRA is that Abbott districts are among the "highest spending" districts statewide, and spend above I&J districts, based on "total revenue per pupil." To support this claim, the State presents a "Revenues Per Pupil Comparison" in which the total Abbott and I&J district budgets are divided by un-weighted student enrollment. See Attwood Cert., ¶¶14, 24. This comparison is highly inappropriate and misleading because it fails to account for the differences in revenues and expenditures generated by the stark variations in concentrations of student poverty and other student needs among New Jersey school districts.

56. I have calculated per pupil spending using the pupil weights developed by DOE for SFRA to measure relative educational needs, a more appropriate method to compare district revenue and expenditures. My analysis shows that I&J districts remain the highest spending districts in the State, when adjusted for student

need. In 2008-09, Abbott districts will spend \$10,377 per weighted pupil, while I&J districts will spend \$11,278 per weighted pupil. Thus, I&J districts outspend Abbott districts by \$901 per pupil when adjusted for student need. See Exhibit H, K-12 Revenue Per Weighted Pupil Comparison.

57. The State also justifies reductions in Abbott expenditures under SFRA by citing the statistic that 55% of all state school aid is provided to Abbott districts, even though enrollment comprises 23% of the State's students. See Attwood Cert., ¶23. In my experience with the prior funding formulas, the poorest districts, mostly Abbott districts, have always received close to half of the state school aid because of the extremes of community wealth and student poverty in New Jersey's public education system. Recent data confirms the persistence of this hyper-segregation: based upon the wealth measures used in SFRA, property value and income, twenty-four (24) of the fifty (50) poorest districts in the State are Abbott districts; the Abbott district poverty rate is twenty-eight (28) times the rate in I&J districts; the Abbott LEP rate is more than eight (8) times the I&J rate; and Abbott districts have special education classification rates above the state average. It is misleading, therefore, to suggest that the state aid to enrollment ratio for Abbott districts represents anything other than an indicator of the longstanding condition of low wealth and extreme concentrated

student need in the State's poorer urban districts.

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

MELVIN L. WYNS

Dated: April 24, 2008