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SUPREME COURT OF NEW JERSEY
DOCKET NO. 42,170

RAYMOND ARTHUR ABBOTT, et al.,)

Plaintiffs,)

Civil Action

v.)

CERTIFICATION OF
KATHERINE ATTWOOD

FRED G. BURKE, et al.,)

Defendants.)

I, Katherine Attwood, of full age, hereby certify that:

1. I am the Assistant Commissioner of the Division of Finance, Department of Education ("Department"). In this capacity I am responsible for the administration of the State aid system for schools in accordance with applicable statutes; the development and maintenance of fiscal policy for all public school districts, including the annual school budget process and defeated budget process, and development of accounting and reporting guidelines; the specific fiscal monitoring and budget review of at-risk district budgets; oversight of DOE intervention under the School

District Fiscal Accountability Act, N.J.S.A. 18A:7A-54 et seq.; the maintenance of systems to plan for, acquire, award and manage federal and state grant funds; and development of regulations and procedures for safe and efficient student transportation services.

2. I have been employed at the Department since October 1998. Most recently, I held the position of Director of the Office of Fiscal Policy and Planning. In that capacity, I was involved in the fiscal accountability initiatives in the Abbott districts, including the use of auditor recommendations to inform and enhance the Department's review of Abbott district budgets.

3. I hold a bachelors degree in Mathematical Economics from Brown University and a Masters in Governmental Administration from the University of Pennsylvania.

4. The School Funding Reform Act of 2008 (SFRA or Act) was developed to ensure that every child in New Jersey has an opportunity for an education based on academic standards that satisfy constitutional requirements regardless of where the child resides. The Act also recognizes that the previous funding formula has not been used to calculate state aid for public schools since 2001-2002 and therefore there was need for a formula to account for changes in enrollment and community wealth. Finally, the SFRA recognizes that there are high concentrations of students at-risk outside of Abbott districts and that appropriate supports need to be in place for those students.

5. Moreover, as recognized in the SFRA's legislative findings, the State's approach to funding Abbott districts in the past resulted in litigation and a "fragmented system of funding under which limited resources cannot be distributed equitably to all districts where at-risk pupils reside." L. 2007, c. 260, §2f.

6. There is broad consensus that the manner of funding schools in the years leading up to the SFRA resulted in the Abbott districts receiving the greatest proportion of state aid increases, in the face of extraordinarily difficult budget constraints at the State level. For example, while almost no non-Abbott districts saw an increase in aid in FY2003, aid to Abbott districts increased by more than \$200 million. See Total State Aid To Abbott Districts: FY1997 to FY2009, attached hereto at Exhibit A.

7. Since the Court's decision in Abbott v. Burke, 149 N.J. 145 (1997) ("Abbott IV") the State has directed billions of additional dollars to the Abbott districts. Exhibit A indicates the Total State Aid payments to each Abbott district from FY1997 to FY2007, and projected payments for the current fiscal year and FY2009. State aid to the Abbott districts at the start of this period was \$1.96 billion and by FY2006 had climbed to \$4.19 billion. Even with budgetary constraints in FY2007 and FY2008, State aid to these districts increased \$250 million in that period. With very few exceptions, State aid to each of the Abbott districts has dramatically increased every year since 1997.

- a. By FY2003, State aid to Abbott districts increased to \$3.45 billion, bringing the percentage increase in State aid over FY1997 in excess of 75%.
- b. By FY2005, Abbott districts received \$4.01 billion, which represents almost an 105% increase in aid over FY1997 awards.
- c. By FY2008, the Abbott districts received \$4.44 billion, a 126% increase in aid over FY1997

8. Parity Aid: FY1998 to FY2008, attached hereto as Exhibit B, indicates parity aid payments to each Abbott district since FY1998 -- the first year the State provided aid to ensure per pupil spending at an amount equal to the average per pupil spending in the I & J districts following the Court's decision in Abbott IV. The aid amounts reflected are actual awards with subsequent year adjustments for enrollment and I & J district spending. It is noted that parity aid and supplemental funding have been combined as education opportunity aid the annual Appropriations Act since FY2005. Parity aid to the Abbott districts in the first year of distribution was \$216 million and grew to \$819 million in FY2005. By FY2007, parity aid reached \$977 million and by FY2008 parity reached \$1.04 billion.

9. Supplemental Funding: FY2000 to FY2008, attached hereto as Exhibit C, sets forth supplemental funding payments to each Abbott District. This aid category was created following the

Court's decision in Abbott v. Burke, 153 N.J. 480 (1998) (Abbott V). This category of aid has had the most dramatic increases over the last five years and is the primary contributor to the ever-increasing levels of State aid going to the Abbott districts.

- a. The total additional Abbott v. Burke Aid payments in FY2000 were \$81,921,010. In FY2002, the total additional Abbott v. Burke Aid payments were \$348,619,569, an increase of 325.6% in only two years.
- b. By FY2005, the total amount of supplemental funding payments in FY2005 was \$553 million, which represents an approximate 575% increase over five years.
- c. By FY2008, the total amount of supplemental funding awarded is \$676 million, which represents an approximate 726% increase over eight years.

10. Preschool Expansion Aid: FY2003 to FY2008, attached hereto as Exhibit D, indicates the Preschool Expansion Aid (PSEA) payments in FY2003 through FY2007 and projected to be paid in FY2008. This aid category was created in FY2003 and is specifically designed to fund increases in Abbott preschool quality and enrollment over the base year of 2001-2002. The Department anticipates awarding nearly \$260 million in this aid in FY2008. The funding amounts for FY2008 are subject to adjustment by the

Commissioner based on actual need.

11. In addition to State aid, Abbott districts also have the benefit of various types of federal aid. Looking solely at funds provided under Title I of the No Child Left Behind Act, Abbott districts received an average of \$540 per pupil in this federal aid in 2007. In total more than \$150 million in Title I funds were available in the Abbott districts in 2007 to support the needs of disadvantaged students. See Exhibit E, Federal Funding For Title I through the Improving America's Schools Act (1994) and No Child Left Behind (2001).

12. Dramatic increases in State aid have an obvious and direct correlation to increases in available per pupil revenues. As set forth in the Revenues Per Pupil comparative charts, attached hereto as Exhibit F, when districts' local school tax levy per pupil is combined with State revenues per pupil ("revenues per pupil"), the average Abbott per pupil revenue grew from \$9,559 in FY1998 to \$16,407 in FY2008 -- a per pupil amount well in excess of the FY2008 District Factor Group (DFG) I and J per pupil revenue average of \$13,703.

13. Comparing the average Abbott district per pupil revenue to the State average per pupil revenue (exclusive of Abbott districts) is also illuminating. See Exhibit F. As set forth in ¶12, *supra*, from FY1998 to FY2008, the average Abbott district per pupil revenue grew almost 72%. In contrast, over the same period,

the State average per pupil revenue grew only 55%.

14. In fact, for FY2008, 17 of the 25 highest spending K-12 districts in the State are Abbott districts. See Exhibit G, Fiscal Year 2008 Revenues Per Pupil, Highest Spending Districts (K-12 only).

15. Moreover, until FY2007, Abbott districts had not been required to raise their local school tax levies since FY1998. Collectively, their equalized school tax rates are substantially below the State average. As indicated in Exhibit H, Abbott Equalized School Tax Rates: Calendar Year 2006, 29 of the Abbott districts have an equalized school tax rate below the State average. As a group, the Abbott districts' average equalized school tax rate, 0.552, is 40% below the State average equalized school tax rate of 0.927.

16. In FY2007, Abbott districts were required to raise a school tax levy equal to that raised in FY2006 except that some districts were required to raise additional school tax levy such that the districts' total equalized tax levy was, at minimum, 110% of the State average total equalized tax rate unless such increase would result in an increase in the average household's tax liability of more than \$125 when using the 2005 tax data published by the Department of Community Affairs. Eight districts were impacted and were required to raise their tax levies for a total contribution of \$23 million.

17. Similarly, in FY2008, Abbott districts were required to increase their school tax levy such that the total equalized tax levy was, at minimum, 120% of the State average, unless such increase would result in an increase in the average household's tax liability of more than \$125 when using the 2006 tax data published by the Department of Community Affairs or would result in an increase that exceeded the cap on district tax levy increases (4%) imposed by L. 2007, c. 62. Fifteen districts were impacted and were required to raise their tax levies for a total contribution of \$15.5 million.

18. With the exception of the mandated increases described in ¶¶16 and 17 above, where the balance of the State has seen significant growth in their school tax levies per pupil, school tax levies per pupil in the Abbott districts have remained virtually flat. See Exhibit I, Abbott Districts Revenue vs. Levy. And see Exhibit F, Summary of Revenues Per Pupil Comparison.

19. The Department understands that SFRA represents a change for Abbott districts in terms of budget preparation and presentation of same to their communities as those districts are now required to develop budgets in the same manner as the rest of the State. All districts benefitted from meetings/training with the DOE to understand the SFRA impact along with the impact of implementing other recent laws, particularly the tax levy cap law and CORE reforms, on their budget and the budget development

process. The Department of Education held three meetings across the State in January (north, central and south) as well as participated in three regional New Jersey Association of School Business Officials--sponsors seminars in December, to discuss budget guidelines and protocol. This was in addition to the monthly meetings held by county office staff with their county districts to reemphasize the guidelines, answer questions and assist in budget development. These meetings/trainings help to ensure that all districts are provided consistent information and planning tools and allow for an open forum for questions and technical discussions. See Exhibit J, 2008-09 Budget Guidelines, Division of Finance, January 2008, Power Point Presentation. Many Abbott districts participated in those meetings. Additionally, a special meeting was scheduled for Abbott Business Administrators to address any specific question that they may have. That meeting took place on February 6, 2008. Most Abbott districts sent representatives.

20. One aspect of budget planning that was given particular attention in those meetings was the waiver process. Pursuant to L. 2007, c. 62, there is a 4% cap on local tax levies for school purposes plus automatic adjustments for enrollment increases, for health care cost increases and for a reduction in State aid (which was not applicable for FY2009 as all districts received at least a 2% increase in State aid under SFRA). However a district may request approval from the Commissioner for a waiver of its tax levy

growth limitation by the allowable amount in order to address extraordinary costs.

21. Extraordinary costs are specific expenditures that 1) are beyond what is customary and usual; 2) are beyond the control of the district, i.e., increases in the required PERS payment or increases in a sending district's tuition; 3) are necessary to achieve a thorough and efficient education as determined by the Commissioner; and (4) where the expenditures either were not included in the original budget of the pre-budget year or were increased by more than four percent of the amount included in the original budget of the pre-budget year. The burden is on the districts to make the requisite showing that the waiver is necessary. When considering the district's application, the Department will require the district to certify whether it is meeting specific efficiency standards in the district's business practices, i.e., operates the food service program on a self sufficient basis, overtime spending less than 10% of salaries by function, average class sizes for regular education exceeding 15 or more per class. The Department will also review the entire budget to identify any underbudgeted revenue or overbudgeted expenditures based on past and current spending patterns. In addition, the Department will identify any programs and services considered not necessary for a thorough and efficient education, i.e., courtesy busing, adult education, summer enrichment programs, that can be

either reduced or moved out of the base budget into a separate question.

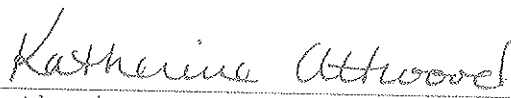
22. Statewide, a total of \$8.429 billion in State aid for Preschool to Grade 12 will be provided under SFRA through a combination of equalized and categorical aids. See Exhibit K, School Funding Reform Act - 2008-2009, Percent Aid and Enrollment, Abbott and Non-Abbott Districts.

23. The budgets generated under the SFRA will result in the Abbott districts continuing to spend at a very high level. See Exhibit L, School State Aid Comparison of 2007-2008 with 2008-2009. Total state aid to the Abbott districts under SFRA in 2008-2009 is \$4.65 billion, which represents an increase of \$200 million over 2007-2008. Viewed from a different perspective, of the \$8.429 billion in total state aid, 55% will be for the Abbott districts. These numbers are significant given that Abbott districts only enroll 23% of students statewide. See Exhibit K.

24. Assuming that Abbott districts do not increase tax levies beyond compliance with the required minimum tax levy, Abbott districts will have available an average of \$17,151 in revenues per pupil for the 2008-2009 school year. See Exhibit F. By way of comparison, assuming the I and J districts raise their tax levies for 2008-2009 by 4% (consistent with the local levy growth limitation of L. 2007, c. 62), they will spend an average of \$14,117 per pupil.

25. Additionally, the SFRA has adopted the Department's proposal for fiscal resources for at-risk, limited English proficient (LEP) and combination at-risk/LEP students as set forth in a Formula for Success. These fiscal resources significantly exceed the costed-out education resources that are known as the enhanced Professional Judgement Panel (PJP)- model. See Formula for Success at 38. With such fiscal resources built into the Adequacy Budget, there can be no question that the Abbott districts have significant resources with which to serve their at-risk population. See Exhibit M, Additional Resources Charts.

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


Katherine Attwood
Katherine Attwood

Dated: March 17, 2008

EXHIBIT A

Total State Aid To Abbott Districts: FY 1997 to FY 2009

District	FY 1997 ¹	FY 1998 ²	FY 1999 ³	FY 2000 ⁴	FY 2001 ⁵	FY 2002 ⁶	FY 2003 ⁷	FY 2004 ⁸	FY 2005 ⁹	FY 2006 ¹⁰	FY 2007 ¹¹	FY 2008 ¹¹	FY 2009 ¹²
Asbury Park City	23,879,181	30,257,737	31,541,424	38,881,105	42,322,938	48,747,442	53,480,915	54,098,038	59,197,548	60,757,872	81,033,188	53,490,802	86,141,925
Bridgton City	30,458,172	35,722,815	38,887,519	38,802,859	42,460,526	49,859,144	45,601,966	52,187,112	57,932,298	61,142,289	83,742,954	87,318,785	99,891,155
Burlington City	5,980,485	8,045,818	7,829,740	8,475,412	9,160,526	11,358,737	12,216,987	13,112,208	14,593,823	16,299,805	17,589,025	18,782,735	19,338,080
Camden City	171,833,505	187,480,175	194,115,755	201,873,233	220,531,154	230,405,650	239,405,650	226,143,588	250,241,835	254,582,028	288,546,338	288,979,351	302,332,897
City of Orange Twp	27,897,581	38,593,997	40,376,830	40,710,812	47,247,451	51,228,580	53,425,317	59,841,609	93,928,651	84,379,323	55,449,718	67,687,381	71,427,257
East Orange	89,174,928	102,718,041	105,107,650	111,591,442	125,457,988	139,897,009	142,389,423	154,444,394	169,309,882	172,784,409	174,102,240	191,561,793	197,928,154
Elizabeth City	115,078,728	147,950,532	155,839,108	167,933,609	183,977,528	215,304,325	213,157,218	237,115,393	257,110,772	273,095,971	286,117,062	302,140,644	315,594,582
Garfield City	9,367,584	18,339,812	18,471,953	22,029,215	24,228,418	27,175,927	33,513,503	34,800,410	35,818,983	39,890,440	44,360,432	40,140,644	53,125,199
GloUCEster City	15,523,407	18,931,427	19,829,803	20,430,096	20,935,572	24,207,568	26,826,741	26,948,091	30,713,646	30,733,645	30,739,888	32,319,356	33,521,480
Harrison Twp	7,408,615	10,912,734	10,346,155	11,102,893	12,008,693	12,802,002	15,702,877	17,896,972	18,324,272	18,713,039	20,089,724	20,875,603	23,934,829
Hoboken City	9,604,482	8,845,163	7,848,202	7,915,638	9,058,013	8,193,044	10,127,103	12,488,210	12,493,137	12,213,888	12,203,316	12,528,227	14,868,012
Irvington Township	67,706,884	75,341,758	73,288,642	74,619,818	78,934,415	83,782,893	100,483,681	100,803,966	111,223,438	116,587,804	119,638,624	125,923,648	132,444,338
Jersey City	199,821,710	281,742,652	268,748,393	283,991,898	308,517,435	359,947,180	371,838,246	395,747,213	434,984,498	447,028,059	446,129,395	457,738,700	472,871,653
Keansburg Boro	11,728,028	15,823,088	16,183,008	19,195,043	21,835,498	26,314,881	28,468,847	24,959,822	28,144,820	30,080,148	30,080,148	30,776,274	32,035,160
Long Branch City	18,483,099	25,237,948	28,772,848	28,596,101	32,003,547	37,852,283	41,288,160	43,024,419	45,167,535	47,384,408	48,908,933	47,150,378	48,430,991
Millville City	35,365,418	43,043,137	44,568,584	46,091,483	48,837,816	56,929,895	59,898,953	57,680,214	59,381,975	68,612,969	69,851,665	74,507,126	78,943,445
Neptune Twp	15,158,978	15,092,308	15,528,895	19,141,159	19,493,754	25,387,259	30,527,182	31,186,805	34,138,780	36,898,632	37,378,138	37,349,478	39,913,308
New Brunswick City	22,897,074	30,459,188	31,295,778	41,181,780	52,825,852	68,843,363	84,178,151	75,734,485	95,219,891	98,147,478	97,698,826	103,617,974	118,207,672
Newark City	387,045,217	375,010,045	378,905,768	450,295,314	485,038,081	562,491,533	614,218,448	654,317,827	728,622,393	748,516,047	745,942,289	757,088,292	788,249,776
Passaic City	77,353,781	94,290,968	99,548,573	109,816,404	124,078,975	137,832,702	156,669,767	154,213,957	167,750,820	173,505,639	178,036,207	190,850,959	199,652,071
Paterson City	171,231,747	218,147,871	222,578,895	235,578,914	252,441,042	291,025,853	318,145,953	343,959,036	379,615,510	408,507,981	409,539,870	424,993,378	437,584,827
Pemberton Twp	44,950,904	53,493,476	53,801,410	55,761,786	58,849,688	66,304,454	68,744,922	71,284,331	79,028,141	82,007,894	85,089,730	87,434,950	89,438,039
Perth Amboy City	50,988,151	67,184,822	72,128,618	78,875,105	83,282,829	92,745,933	99,389,743	101,152,110	102,923,524	109,690,303	118,538,282	121,979,768	135,484,978
Phillipsburg Twp	16,320,850	21,178,781	20,982,997	25,051,770	28,551,575	30,578,327	30,989,575	30,113,469	38,050,310	39,072,468	40,587,750	41,370,938	42,528,496
Plainfield City	45,145,520	45,394,779	49,825,003	53,933,102	70,159,888	85,881,148	92,597,106	98,210,030	98,100,522	108,177,903	107,372,917	110,809,854	113,816,821
Plainsville City	21,744,884	31,889,858	35,732,843	40,437,979	47,690,981	45,004,477	47,828,484	59,324,993	61,078,689	69,718,939	70,048,928	72,187,576	74,507,672
Salem City	7,254,897	8,193,295	8,891,358	9,434,794	9,950,250	10,288,517	10,493,726	10,567,395	13,982,201	18,089,385	16,045,818	17,462,092	18,074,176
Trenton City	102,293,993	120,889,335	123,915,872	146,543,499	170,582,048	194,388,406	194,763,930	209,924,430	217,987,490	239,028,398	232,889,984	241,410,477	251,602,248
Union City	63,338,965	82,172,872	87,024,796	99,291,730	99,102,805	110,978,843	113,789,843	127,395,835	131,854,375	133,408,195	137,433,442	143,053,552	166,394,744
Vineland City	83,071,258	80,822,017	83,186,509	95,904,818	97,177,262	107,787,374	108,689,303	117,431,303	127,850,293	133,995,739	142,708,898	148,593,134	153,580,133
West New York Twp	37,502,172	51,482,282	50,717,904	57,308,280	55,568,100	59,898,884	68,712,347	72,839,619	78,844,889	84,275,691	84,928,529	87,372,257	89,908,983
Total	1,984,391,112	2,329,973,127	2,389,904,045	2,819,368,360	2,878,612,837	3,259,816,693	3,454,888,749	3,650,842,819	4,013,959,439	4,187,923,147	4,263,525,521	4,437,585,956	4,648,716,739

¹ Included: Foundation Aid; Transportation Aid; Aid for At-Risk Pupils; Bilingual Education Aid; County Vocational Program Aid; and Transition Aid. Debt service aid is not included.

² Included: Abbott v. Burke Parity Remedy Aid; Core Curriculum Content Standards Aid; Supplemental Core Curriculum Content Standards Aid; Transportation Aid; Special Education Aid; Early Childhood Program Aid; Demonstrably Effective Program Aid; Stabilization Aid; Academic Achievement Award Aid; Additional Supplemental Stabilization Aid and School Tax Reduction Aid; and other aids such as Bilingual, County Vocational, Distance Learning Network, Aid, Adult and Post-Graduate, Full-Time Post-Vocational and Instructional Supplemental Aid. Debt service is not included.

³ Included: Abbott v. Burke Parity Remedy Aid; Core Curriculum Content Standards Aid; Supplemental Core Curriculum Content Standards Aid; Transportation Aid; Special Education Aid; Early Childhood Program Aid; Demonstrably Effective Program Aid; Stabilization Aid; Academic Achievement Award Aid; Additional Supplemental Stabilization Aid and School Tax Reduction Aid; and other aids such as Bilingual, County Vocational, Distance Learning Network, Aid, Adult and Post-Graduate, Full-Time Post-Vocational and Instructional Supplemental Aid. Debt service is not included.

⁴ Included: Abbott v. Burke Parity Remedy Aid; Core Curriculum Content Standards Aid; Supplemental Core Curriculum Content Standards Aid; Transportation Aid; Special Education Aid; Early Childhood Program Aid; Demonstrably Effective Program Aid; Stabilization Aid; Academic Achievement Award Aid; Additional Supplemental Stabilization Aid and School Tax Reduction Aid; and other aids such as Bilingual, County Vocational, Distance Learning Network, Aid, Adult and Post-Graduate, Full-Time Post-Vocational and Instructional Supplemental Aid. Debt service is not included.

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¹¹ Included: Education Opportunity Aid; Final Preschool Expansion Aid; Core Curriculum Content Standards Aid; Supplemental Core Curriculum Content Standards Aid; Transportation Aid; Special Education Aid; Early Childhood Program Aid; Stabilization Aid; Consolidated Aid; and other aids such as Bilingual, County Vocational, Adult and Post-Graduate, Full-Time Post-Vocational, Instructional Supplemental, Regionalization Incentive and School Choice Program Aid; Final Preschool Expansion Aid; Core Curriculum Content Standards Aid; Supplemental Core Curriculum Content Standards Aid; Transportation Aid; Special Education Aid; Early Childhood Program Aid; Stabilization Aid; Consolidated Aid; and other aids such as Bilingual, County Vocational, Adult and Post-Graduate, Full-Time Post-Vocational, Instructional Supplemental, Regionalization Incentive and School Choice Program Aid; Final Preschool Expansion Aid; Core Curriculum Content Standards Aid; Supplemental Core Curriculum Content Standards Aid; 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EXHIBIT B

