

JOINT HEARING OF SENATE BUDGET AND APPROPRIATIONS  
COMMITTEE AND SENATE EDUCATION COMMITTEE

DECEMBER 13, 2007

SUBMITTED BY RICHARD E. SHAPIRO, ESQ. SPECIAL ABBOTT  
COUNSEL ON BEHALF OF THE FOLLOWING ABBOTT SCHOOL  
DISTRICTS:

BURLINGTON CITY SCHOOL DISTRICT  
ELIZABETH SCHOOL DISTRICT  
GLOUCESTER CITY SCHOOL DISTRICT  
TOWN OF HARRISON  
KEANSBURG SCHOOL DISTRICT  
PASSAIC SCHOOL DISTRICT  
STATE-OPERATED SCHOOL DISTRICT OF PATERSON  
PEMBERTON SCHOOL DISTRICT  
PHILLIPSBURG SCHOOL DISTRICT  
SALEM CITY SCHOOL DISTRICT  
TRENTON SCHOOL DISTRICT

I APPEAR HERE TODAY ON BEHALF OF 11 ABBOTT DISTRICTS THAT I HAVE REPRESENTED AS SPECIAL COUNSEL IN ABBOTT-RELATED MATTERS, INCLUDING SEVERAL APPEARANCES ON THEIR BEHALF IN THE NEW JERSEY SUPREME COURT. I URGE THE NEW JERSEY LEGISLATURE TO CONDUCT A CAREFUL AND THOROUGH PUBLIC REVIEW OF THE STATE AID FIGURES RELEASED YESTERDAY AND NOT TO RUSH COMPLEX FUNDING CHANGES THROUGH THE LAME DUCK SESSION THAT COULD HAVE DISASTROUS CONSEQUENCES FOR DISADVANTAGED, LARGELY MINORITY, CHILDREN IN NUMEROUS ABBOTT DISTRICTS. THE LEGACY OF THIS LEGISLATURE IN THE REMAINING DAYS OF THIS SESSION SHOULD NOT BE THE HURRIED DISMANTLING OF THE ABBOTT FRAMEWORK, WHICH HAS STARTED TO SHOW PROMISING RESULTS IN CLOSING THE ACHIEVEMENT GAPS BETWEEN THE POOREST AND WEALTHIEST SCHOOL DISTRICTS IN THIS STATE.

THERE ARE SEVERAL BASIC ISSUES THAT MUST BE THOROUGHLY CONSIDERED BY THE LEGISLATURE PRIOR TO THE ENACTMENT OF A NEW FUNDING FORMULA. THESE CANNOT BE PROPERLY ADDRESSED IN THE REMAINING FEW DAYS IN THIS SESSION. FIRST, THE MOST BASIC AND FUNDAMENTAL QUESTION IS WHAT WILL BE THE ACTUAL IMPACT OF THE FUNDING FORMULA ON EACH SCHOOL DISTRICT IN NEW JERSEY I AM NOT TALKING ABOUT THE STATE AID FIGURES RELEASED YESTERDAY, WHICH HAVE BEEN COBBLED TOGETHER FOR HURRIED LEGISLATIVE PASSAGE. IF THE FORMULA IS EVERYTHING

IT'S CRACKED UP TO BE, WHY CAN'T WE GET A STRAIGHT RUN OF THE FORMULA'S IMPACT ON ALL SCHOOL DISTRICTS IN NEW JERSEY RATHER THAN A ONE-YEAR PATCHWORK QUILT OF STATE AID NUMBERS, ADD-ONS AND ADJUSTMENTS THAT DO NOT REFLECT THE REALITY OF THE IMPACT OF THE FUNDING FORMULA AND THAT, WORSE YET, MASK THE TRUE EFFECT OF THE NEW FUNDING APPROACH.

TWO, THE HOLD HARMLESS CLAIMS FOR THE ABBOTT DISTRICTS ARE A MYTH. THE 2% INCREASE THAT MOST OF THE ABBOTT DISTRICTS WILL GET IN 2008-09 IS LESS THAN THE PRESUMPTIVE INCREASE THEY RECEIVED IN THE PAST FEW YEARS AND SIGNIFICANTLY LESS THAN THE ANNUAL INCREASE IN FIXED COSTS IN THOSE DISTRICTS. THE ABBOTT DISTRICTS RECEIVING 2% WILL SIMPLY NOT BE HELD HARMLESS, BUT WILL FACE SEVERE BUDGET CUTS AND THE CLAIMS TO THE CONTRARY ARE SIMPLY NOT TRUE.

ADDITIONALLY THERE DOES NOT APPEAR TO BE ANY PROVISION FOR ONE-YEAR START-UP COSTS FOR NEW FACILITIES IN THE ABBOTT DISTRICTS. IN THE PAST, THERE HAS BEEN A SEPARATE STREAM OF FUNDING FOR THESE NEW FACILITIES; IT NOW APPEARS THAT THESE FUNDS WILL HAVE TO COME OUT OF THE DISTRICT'S BUDGET, WHICH WILL REPRESENT A FURTHER SEVERE CUT IN THOSE DISTRICTS WITH NEW FACILITIES IN 2008-09.

ANOTHER FLAW IN THE HOLD HARMLESS CLAIM FOR NUMEROUS ABBOTT DISTRICTS IS ALSO EVIDENT FROM THE FIGURES RELEASED

YESTERDAY. SEVERAL ABBOTT DISTRICTS THAT RECEIVED SUPPLEMENTAL FUNDING LAST YEAR AFTER APPEALING TO THE DEPARTMENT AND SHOWING DEMONSTRABLE NEED DO NOT HAVE THAT AMOUNT INCLUDED AS PART OF LAST YEAR'S BUDGET FIGURES IN THE NUMBERS RELEASED YESTERDAY. THEREFORE, THOSE DISTRICTS WILL ACTUALLY GET LESS STATE AID THAN LAST YEAR, NOT THE 2% INCREASE THAT IS PROMISED IN THE STATE AID FIGURES. IT IS UNCLEAR AT THIS POINT HOW MANY OTHER DEFECTS IN THE FIGURES WILL REMAIN HIDDEN WITHOUT A THOROUGH VETTING OF THE REAL NUMBERS.

UNLIKE OTHER DISTRICTS, THE ABBOTT DISTRICTS WILL NOT BE ABLE TO RECOUP THESE SERIOUS CUTS THROUGH AN INCREASE IN PROPERTY TAXES SO THERE WILL BE A SIGNIFICANT LOSS OF NEEDED PROGRAMS AND SERVICES IN THESE DISTRICTS.

THIRD, WHY CAN'T THE ADMINISTRATION PROVIDE THE LEGISLATURE AND THE PUBLIC WITH ALL THE SUPPORTING DOCUMENTS THAT WENT INTO THE DEVELOPMENT OF THE VARIOUS FUNDING AMOUNTS? ALTHOUGH CLAIMS HAVE BEEN MADE THAT THIS FORMULA HAS BEEN FULLY VETTED, THIS IS SIMPLY NOT THE CASE. THE TRUTH IS THAT FROM FEBRUARY THROUGH THE END OF NOVEMBER, MAJOR DECISIONS WERE MADE ABOUT THE COMPOSITION OF THE NUMBERS WITHOUT PUBLIC INPUT AND WITHOUT PUBLIC DISCLOSURE. FOR EXAMPLE, THE DOE FORMED AN ADVISORY PANEL OF THREE EXPERTS TO GUIDE THE DOE IN CREATING A FORMULA.

ALL WE HAVE BEEN TOLD IS THAT THE DOE MADE CERTAIN DECISIONS "IN CONSULTATION WITH THE ADVISORY PANEL." THAT IS OF NO HELP IN UNDERSTANDING SPECIFICALLY WHAT THESE PEOPLE WERE ASKED TO DO, WHAT RESTRICTIONS WERE PLACED UPON THEIR INPUT, WHAT THEY ACTUALLY RECOMMENDED AND, MORE IMPORTANTLY, WHAT RECOMMENDATIONS OF THEIRS WERE NOT ACCEPTED BY THE DOE AND WHY.

FOURTH, WE DO NOT KNOW TO WHAT EXTENT THIS NEW APPROACH TO SCHOOL FUNDING WILL TURN BACK THE CLOCK ON THE PROGRESS IN THE ABBOTT DISTRICTS AFTER YEARS OF UNDERFUNDING OF THE EDUCATIONAL OPPORTUNITIES FOR CHILDREN IN THOSE DISTRICTS. THE CUTS IN THOSE DISTRICTS WILL CLEARLY REQUIRE THE DISMANTLING OF PROGRAMS, SERVICES AND POSITIONS THAT HAVE ACTUALLY WORKED TO MEET THE SPECIAL NEEDS OF DISADVANTAGED CHILDREN AND TO CLOSE THE ACHIEVEMENT GAP. THE PROGRAMS THAT HAVE WORKED SHOULD BE CONTINUED IN THE ABBOTT DISTRICTS AND EXPANDED TO DISADVANTAGED STUDENTS IN OTHER DISTRICTS, NOT JEOPARDIZED BY STATE AID FIGURES THAT FAIL TO ENSURE THAT THE EDUCATIONAL NEEDS OF STUDENTS IN THE ABBOTT DISTRICTS WILL BE MET. THESE ARE IMPORTANT ISSUES THAT REQUIRE A CAREFUL ANALYSIS OF THE NEW STATE AID FIGURES OR ELSE WE COULD BE ON THE PRECIPICE OF ONCE AGAIN CREATING AN INEQUITABLE AND

LIKELY UNCONSTITUTIONAL EDUCATIONAL FUNDING SYSTEM IN NEW JERSEY.

FINALLY, WE WERE TOLD WITHIN THE PAST WEEK THAT EDUCATIONAL FUNDING FOR NEXT YEAR WOULD REQUIRE \$450 MILLION ADDITIONAL DOLLARS. NOW WE ARE ADVISED BY YESTERDAY'S FIGURES THAT EDUCATIONAL FUNDING WILL BE INCREASED BY APPROXIMATELY \$530 MILLION IN ADDITIONAL REVENUES. WHERE IS THIS ADDITIONAL REVENUE COMING FROM WHEN THE STATE IS ALREADY IN CONSIDERABLE DEBT? IT MAKES NO FISCAL SENSE TO PROMISE FUNDING IN THE LAME DUCK SESSION THAT THE NEW LEGISLATURE MIGHT NOT AGREE TO FUND OR BE ABLE TO FIND THE AVAILABLE REVENUE TO FUND.

IN SUM, I URGE YOU FOR THE SAKE OF ALL OUR CHILDREN, INCLUDING THE DISADVANTAGED CHILDREN IN THE DISTRICTS I REPRESENT, TO NOT RUSH PASSAGE OF THIS MAJOR POLICY CHANGE THROUGH A LAME DUCK LEGISLATURE. THE ADMINISTRATION AND THE LEGISLATURE SHOULD WELCOME THE MAXIMIZING OF PUBLIC REVIEW, INPUT AND UNDERSTANDING OF SUCH MONUMENTAL CHANGES, NOT DISREGARD IT BY HASTY ACTION THAT PREVENTS ANY MEANINGFUL PUBLIC PARTICIPATION. THANK YOU.