

adequacy districts exceeding the State passage rate on the NJASK8 LAL, the below-adequacy districts performed better on the NJASK8 Math, with 68.1% of districts exceeding the State passage rate as compared to only 63.9% of the over-adequacy districts. Corrected D-49.

159. On the HSPA, for both LAL and Math assessments, more districts spending below adequacy exceeded the State passage rate than the districts spending above adequacy. 67.5% of the below-adequacy districts exceeded the pass rate on the LAL assessment as compared to 60.2% of the over-adequacy districts. On the Math assessment, the percentages are closer, yet the below-adequacy districts had 65% of districts exceeding the pass rate as compared to 62.4% of the over-adequacy districts. Corrected D-49.

160. Even within DFGs, there are examples of districts performing well and spending below adequacy as well as not achieving proficiency at the State passage rate despite spending over adequacy. At the lowest DFG, A, the highest performer on the NJASK4 LAL with approximately 85% of its students proficient or advanced proficient, is below adequacy. The lowest performer on that assessment of the DFG A districts with approximately 15% of students testing proficient is over adequacy. Corrected D-46.

161. There is a correlation between a district's DFG and performance on the State assessments. Corrected D-46 to D-48.

162. Districts of lower socio-economic status as reflected by

DFG are less likely to meet the State's passage rate than districts of higher socio-economic status or DFG. This is true regardless of whether the districts are spending above or below adequacy. Corrected D-46 to D-48.

163. Districts with high (40 percent or more) concentrations of at-risk students are less likely to meet the State's passage rate than districts with low or medium concentrations of at-risk students. This is true regardless of whether the districts are spending above or below adequacy. Corrected D-46 to D-48.

164. The fact that districts with high concentrations of at-risk children do not show the same level of achievement as districts with moderate or low concentrations of at-risk children does not reflect insufficient funding to deliver the CCCS because adequacy accounts for needs of poorer districts.

165. The correlation between poverty and achievement is a national problem. 20 U.S.C. 6301. While laws have been enacted that are designed to ensure all children can achieve State achievement standards, states are still working toward that goal using yearly progress indicators. 20 U.S.C. 6311, 6312, 6316.

166. New Jersey currently provides more funding for at-risk students than any other state. 6T55:16-18 (Hanushek).

167. Most, if not all, of the Abbott districts, which have all received substantial amounts of State aid through parity and supplemental funding prior to the SFRA and then through the first

two years of SFRA funding, are still not meeting the State passage rate on the HSPA. This is true regardless of whether the Abbott district is spending above or below adequacy. Corrected D-48.

M. Approximately two-thirds of the school districts in New Jersey are at or above adequacy and it is undisputed that those districts have sufficient funds to provide a thorough and efficient education in FY11.

168. Pursuant to the SFRA definition of adequacy, 379 out of 560 districts were spending above adequacy in 2010-11. The number of districts excludes the 21 county vocational schools. P-126.

169. Mr. Wyns used a definition of adequacy that differed from the SFRA definition. Pursuant to the Wyns definition of adequacy, 355 districts were spending above adequacy in FY11. P-126, P-136.

170. Although there is not a strong correlation between spending at or above adequacy and performance on the State assessments, it is without dispute that districts spending at or above adequacy have sufficient funding to achieve the CCCS.

171. As noted supra, the adequacy budget is intentionally generous in terms of resources and provides more than is necessary for districts to meet the constitutional standard. Abbott XX, supra, 199 N.J. at 170; D-125.

172. There are districts above adequacy with low, medium, and high concentrations of at-risk students. P-126.

173. Using the SFRA definition of adequacy, 16 of the 31 Abbott districts are spending above adequacy. Ibid.

174. Using the Wyns definition of adequacy, 13 of the 31

Abbott districts are spending above adequacy. Ibid.

N. The testifying districts are examples of districts with low, medium and high concentrations of at-risk students that are below adequacy.

175. The Special Master heard testimony from the Superintendents of six New Jersey school districts: Montgomery, Piscataway, Woodbridge, Clifton, Buena Regional and Bridgeton (the district witnesses).

176. The districts with Superintendents testifying (testifying districts) were not selected as a representative sample of districts that are below adequacy in New Jersey. Rather, these are all districts that agreed to testify on behalf of the Education Law Center (ELC). Some of the testifying districts -- Piscataway, Woodbridge, Montgomery and Bridgeton -- were subpoenaed to testify on behalf of the State after being deposed as potential witnesses for the ELC. The remaining testifying districts -- Clifton and Buena Regional -- were presented by the ELC.

177. Although not a representative sample of below-adequacy districts, the testifying districts do provide examples of how districts with low, medium and high concentrations of at-risk students responded to the reductions in State aid in FY11.

178. The examples provided by the testifying districts as to ways in which below-adequacy districts could address the reductions in State aid without negatively affecting student achievement support the conclusion that below-adequacy districts can provide a

constitutionally sufficient education at the current level of funding.

O. The Montgomery School District, a DFG J with a low concentration of at-risk students, spends less than almost any other DFG J district, and can still provide the CCCS to its students at the current level of funding.

179. Montgomery is in DFG J, the highest socio-economic status DFG. D-109; 7T9:18-19 (Kim).

180. Of Montgomery's 5,122 students, 2.52% are at-risk as defined in the SFRA. 7T10:1-3 (Kim); D-106. Superintendent Kim testified that at-risk students should be defined as any student that is academically challenged. 7T101:15 to 102:12 (Kim).

181. Montgomery is below adequacy and has been since the implementation of SFRA. D-33, D-34. Superintendent Kim expressed the opinion that over-adequacy districts have demonstrated far less fiscal restraint than Montgomery. D-29.

182. Montgomery's revenues per pupil in FY11 is \$13,104. This is lower than almost any other DFG J district. D-103 to D-105.

183. Montgomery's State aid was reduced by \$3,543,398 million or 65%. D-106.

184. Montgomery's general fund budget in FY11 was slightly more than its general fund budget in FY10. D-132. Their tax levy increased by 2.3%.

185. Montgomery budgeted surplus of \$3 million to support its FY11 budget. D-162.

186. To address the State aid reduction, Montgomery was able

to generate savings in non-instructional areas.

187. Montgomery reduced administrative expenses by \$500,000 and increased revenues through an energy savings program as well as and through facilities, activities and parking fees. 7T45:14; 7T46:22 (Kim); D-24; D-35.

188. Montgomery was able to address increased costs in energy. The district has avoided over \$3 million in energy expenses through energy-saving strategies. Additionally, the Somerset County Freeholders selected the district to receive three solar projects for district schools at no cost to the school district which will reduce energy costs. D-38.

189. Montgomery has slightly more than 300 teaching positions. The reduction of 11 teacher positions in FY11 is a decrease of 3.4%, less than the 5-10% reduction that Dr. Hanushek testified should not have any effect on student achievement. D-35; paragraphs 141-143, supra. Moreover, of the 11 teacher positions eliminated, 6 were eliminated based on enrollment decreases. D-35. Overall, Montgomery's enrollment in 2010-11 is 3.5% less than in 2008-09. D-106.

190. In FY11, Montgomery had class size increases but Montgomery's Superintendent certified to the New Jersey Supreme Court that its class sizes were within acceptable class size ranges set by the Montgomery Township Board of Education. 8T57:3-25; 8T61:18-22 (Kim).

191. Superintendent Kim characterized any class with more than 18 students as having a large class size. 7T114:22-25 (Kim).

192. Montgomery's Superintendent testified that in FY11, class sizes increased in every grade but sixth grade. 7T106:17-25; 7T108:21-25 (Kim). Montgomery's class size comparison chart reflects that the average class sizes actually decreased in some grades while increasing modestly in others. D-30.

193. Specifically, the increases in class sizes at the elementary level grades two through four were less than two students. In first grade, average class size remained relatively flat while kindergarten increased by less than 4 students. In grades six and seven, average class size decreased by one to two students while in eighth grade class size remained relatively flat. D-30. As Dr. Hanushek testified, these changes in class size would not have an appreciable effect on student achievement.

194. Montgomery's Superintendent testified that in middle school, some physical education classes contain up to 60 students and that this class size was preventing the school from providing instruction in accord with the CCCS. 7T130:23 to 131:9 (Kim). The rationale was that Montgomery has 24 "cardio stations" for students to cycle through and a class size of 60 students makes that impossible. 7T131:2-6 (Kim).

195. Having a limited number of "cardio stations" in Montgomery should not impact the district's ability to provide the

CCCS in health and physical education. Nothing in the CCCS requires the use of cardiovascular exercise equipment. In fact, there are many physical activities that can address cardiovascular fitness that do not require any type of exercise equipment.

196. Montgomery's class size comparison chart presents high school class sizes as ranges. D-30. The high school general education classes increased from a range of 10 to 30 students to 12 to 32 students. High school science class sizes increased from a range of 16 to 26 students to a range of 18 to 32 students and high school English classes increased from a range of 16 to 25 students to a range of 18 to 28 students. Finally high school health and physical education classes maintained the same ranges from 22 to 44 students between FY10 and FY11. D-30.

197. In FY11, Montgomery eliminated the two World Languages teachers that had taught first and second graders Spanish for thirty minutes twice every six days. 7T118:20 to 119:4; 8T58:11-21 (Kim). Montgomery's first and second grade students did not receive World Language instruction this year. 7T118:20 to 119:4; 7T120:11-18; 8T50:6-10 (Kim).

198. Montgomery's Superintendent testified that the elimination of World Languages at the first and second grade level prevented the district from providing a thorough and efficient education to these students. 7T121:6-17; 7T122:19 to 123:3 (Kim). However, his concern was more about students being less likely to

achieve fluency, the highest level of language proficiency, rather than the graduation standard of Novice-High. 7T123:21-24 (Kim).

199. Montgomery's students are provided World Language instruction beginning in third grade, which could allow Montgomery's students to reach the graduation standards. Montgomery also had the ability to provide its first and second grade students with World Language instruction through video-based programming or integrating World Language through the regular classroom teacher as other districts have done. 8T59:1-10; 8T62:25 to 63:17 (Kim); see paragraphs 237 to 265, infra. Montgomery decided not to provide that instruction. 8T59:1-10(Kim).

200. Montgomery still provides World Languages at the High School. Montgomery, however, will be eliminating Italian as one of its high school World Languages over the next three years. 7T119:5-16 (Kim).

201. Montgomery decided not to use \$106,000 in professional development money budgeted for this year, and instead is saving it for next year. 7T56:23 (Kim); D-31.

202. Although Montgomery is low-spending and below adequacy, it maintains higher than average standardized test scores and offers numerous co-curricular and athletic opportunities. D-38.

203. Over the past decade, at least 91% of each of Montgomery's graduating classes have gone on to a four-year college. D-87.

204. Montgomery outperforms both State and national averages on mean SAT and mean ACT scores. D-87. The district outperforms the State average on all mean SAT II scores. Ibid.

205. Consistent with the district's performance on national examinations, Montgomery far exceeds the State average on HSPA LAL, HSPA Mathematics, D-40, NJASK 6 LAL, NJASK 6 Mathematics, NJASK 5 LAL, and NJASK 5 Mathematics. D-41.

206. Montgomery High School offers more than 60 co-curricular offerings. These offerings include performing arts programs such as bands, orchestras, and choral groups; academic clubs including Robotics, Debate, and Science Olympiad teams; service organizations recognized for their community contributions; and 24 varsity sports. D-87.

207. The high school offers 21 advanced placement courses (AP), 19 honors and accelerated courses, and a wide array of electives. Ibid.

208. The district's graduation requirement of 125 credits exceeds the State graduation requirements of 120 credits. D-87.

209. The primary reasons the Montgomery Superintendent claimed the district could not provide a thorough and efficient education to its students do not support the conclusion that Montgomery is actually unable to do so.

210. In his certification to the Supreme Court, the Montgomery superintendent stated that Montgomery was unable to provide a

thorough and efficient education to its students because it was unable to offer World Language classes in grades K-2. D-25.

211. The Superintendent also testified about the impacts of the State aid reductions on class size. However, generally class sizes in the district remain below the district's own standards and, as Superintendent Kim certified, within acceptable class size ranges. D-30; D-25.

212. The Superintendent testified to lack of professional development money, but admitted that the district set aside more than \$100,000 in professional development money for the FY12 budget. The Superintendent also testified about a lack of technology spending, testimony put into context by the district's acknowledgment that its high school is a state-of-the-art facility. D-87, D-88.

213. Despite the claim by Montgomery's Superintendent that the district cannot provide a thorough and efficient education at its current level of funding, the Superintendent did not object to raising the standards for the CCCS. 7T106:6-7 (Kim).

214. In light of the high levels of achievement in Montgomery combined with the modest reduction in education funding for FY11, Montgomery can deliver a thorough and efficient education to its students in the current year.

215. Given the ability of Montgomery, a low spending, high achieving district with a low concentration of at-risk students, to

meet the constitutional standard of the FY11 spending level, other districts with low concentrations of at-risk students can also meet that standard in FY11.

P. The Piscataway and Woodbridge School Districts, with medium concentrations of at-risk students, are both low spending districts that can still provide the CCCS to its students at the current level of funding.

216. Piscataway is in DFG GH. D-109; 2T22:15 (Copeland) .

217. Of Piscataway's 7200 students, 27.35% are at-risk. 2T20:19(Copeland); D-106. Piscataway's superintendent, however, testified that the definition of at-risk student should be broadened. 3T13:25 (Copeland).

218. Piscataway was below adequacy this year and the district has been below adequacy since the SFRA was adopted. 3T20:12-17 (Copeland).

219. Piscataway has revenues per pupil this year of \$12,576. D-103.

220. Piscataway's State aid was reduced by \$4,827,944 or 28.7%. D-109.

221. Piscataway's general fund budget in FY11 was 2.4% less than its general fund budget in FY10. The tax levy increase for FY11 was less than 2%. D-132. A four percent tax levy increase would have resulted in an additional \$1.6 million in revenue.

222. Piscataway budgeted surplus of \$2.9 million in FY11. D-162.

223. In the current year, Piscataway was able to generate

savings and implement efficiencies in non-instructional areas.

224. Piscataway found efficiencies by working with other districts to share services and pool their resources. D-2.

225. For example, Piscataway generated over \$300,000 in new revenues for the district this year by providing transportation to other districts. 2T33:20 to 34:11 (Copeland).

226. As another example, Piscataway's expanded special education programs both saved money and generated revenues for the district. 2T34:21 to 35:21.

227. By expanding in-district offerings for special education students, including a program for 18- to 21-year-olds with severe cognitive disabilities and a program for students with behavioral disabilities, Piscataway saved money that it would have spent educating those students outside the district. 2T34:21 to 35:6 (Copeland).

228. In addition, by opening those expanded special education programs to students from outside the district, Piscataway increased its tuition revenues by 50% over the past two years, and by thirty times since FY07. 2T35:7-23 (Copeland).

229. Further, thoughtful money management generated additional revenue for the Piscataway district. Piscataway saved \$60,000 and earned a higher rate of return on its investments by pooling its cash management with other districts. 2T37:1 to 38:1, 2T39:19-20 (Copeland).

230. Piscataway also obtained grants to make its schools more energy efficient, use renewable resources, and replace outmoded windows. 2T40:5-23 (Copeland).

231. Piscataway found \$300,000 in savings in its transportation budget merely by adjusting different schools' start times, so that the same bus could be used for multiple routes. 2T42:15-24, 2T43:20-25 (Copeland). Piscataway also negotiated with its transportation providers to avoid cost increases for this year. 2T44:1-7 (Copeland).

232. Piscataway privatized several functions to save hundreds of thousands of dollars in additional funds this year. The district contracted with a private provider to obtain substitute employees when needed, outsourced the hiring of paraprofessionals, which saved \$150,000, and outsourced lunchroom cleaning, which saved \$200,000. 2T60:15 to 61:17; 2T61:22 to 63:1 (Copeland).

233. Further, Piscataway implemented staff reductions in administrative or support staff to produce savings that did not directly affect the classroom. Piscataway eliminated a number of support staff positions, reduced the number of assistant principals in high school to three, and eliminated three elementary guidance positions by requiring the existing counselors to each serve two schools. 2T51:19 to 53:3; 2T57:15-19; 2T58:3-19 (Copeland).

234. Similarly, in Piscataway, responsibilities for overseeing Visual and Performing and Practical Arts programs were divided

amongst assistant principals, and functions of technology teachers are now performed by classroom teachers. 2T55:17-25; 2T56:6-14; 2T55:14-16 (Copeland).

235. Piscataway was able to use its savings from non-instructional cuts, limited teacher givebacks and carryforward federal funds to maintain supplemental educational programs, including summer and bridge programs, and to avoid layoffs. 2T66:11 to 68:15, 2T70:16-19, 2T70:20 to 71:22 (Copeland).

236. In FY11, in response to the reductions in State aid, there were class size increases due to the elimination of 14 teaching positions out of approximately 400 teachers within the district. 2T72:4-14; 2T76:3-5 (Copeland).

237. Piscataway structured its World Language Program, consistent with the CCCS, to use available videos, at no cost, to teach world languages to its youngest students. 2T50:10-17 (Copeland). Piscataway, therefore, was able to reduce four teaching staff positions. 2T48:20 to 49:25.

238. The Piscataway superintendent testified that they were meeting the minimum standard for World Languages through this cost-saving method. He further noted that although meeting the standards, the students are not going to reach the levels of achievement in World Language that they otherwise could. 2T103:1-13 (Copeland).

239. Although Piscataway is low spending and below adequacy,

the district offers a broad range of AP opportunities, its students achieve higher than average on the State assessments for graduation, and the vast majority of its graduates continue on to post-secondary education. D-170.

240. In 2009-10, 91.5% of Piscataway High School students demonstrated proficiency or advanced proficiency on the HSPA Language Arts Literacy assessment, exceeding the State average passage rate of 88%. D-170.

241. In 2009-10, 83.9% of Piscataway High School students demonstrated proficiency or advanced proficiency on the HSPA Mathematics assessment, exceeding the State average of 75%. Ibid.

242. In 2009-10, Piscataway High school students took AP tests in 17 different subject areas. 15.9% of Piscataway students took AP tests. Ibid.

243. Piscataway has a graduation rate of approximately 95%. 2T58:1-2 (Copeland).

244. At least 94.6% of 2010 Piscataway high school graduates went on to post-secondary education. D-170.

245. The Piscataway Superintendent believes the district can provide a thorough and efficient education in FY11 under current funding levels, 2T116:13-19; 2T85:22 to 86:5 (Copeland), but noted he would not know with any certainty until after the Spring assessment scores come back. 2T98:5-18 (Copeland). The Superintendent, however, testified that there were areas in which

the district was having difficulty doing things in the way they think "best for kids." 2T84:14-16 (Copeland).

246. The Piscataway Superintendent also testified that the district was "troubled by the rather low standard of core curriculum contents standards." 2T112:20-22 (Copeland).

247. Woodbridge is a DFG DE district. D-109.

248. Of Woodbridge's 13,204 students, 30.2% are at-risk. D-106.

249. Woodbridge's budget is below adequacy and has been since the inception of SFRA. 3T109:24 to 110:23 (Crowe).

250. Woodbridge's revenues per pupil for the current year is \$13,477, which is higher than Montgomery's revenues per pupil. D-103.

251. Woodbridge's State aid was reduced by \$8,787,074 million or 33%. D-109.

252. Despite a 33% reduction in State aid, Woodbridge's general fund budget for FY11 was reduced by less than 1% as compared to FY10. D-132.

253. Woodbridge budgeted surplus of \$2.9 million to support its FY11 budget. D-132.

254. Woodbridge raised its tax levy by 3.3%, generating an additional \$4.9 million to support its FY11 budget. P-88. A four percent tax levy increase would have resulted in an additional \$1 million in revenue.

255. Woodbridge was able to generate savings or implement efficiencies in non-instructional areas.

256. Woodbridge saved \$2 million by outsourcing its custodial services, and at least another \$400,000 by outsourcing cafeteria services. 3T60:7-16; 3T66:11-13 (Crowe).

257. Woodbridge also installed solar panels to finance the repair of school roofs and save money on fuel, both this year and in the future. 3T67:21 to 68:4 (Crowe).

258. Woodbridge also generated additional funds by instituting pay freezes for high-level administrators and for buildings trades workers. 3T88:6-24 (Crowe).

259. Woodbridge's superintendent provided examples of how schools may improve education at no cost. In fact, the Woodbridge superintendent admitted that the district was successful in avoiding spending reductions that would have impacted student performance in any tested areas. 3T138:11-14 (Crowe).

260. To ensure library access and save costs without diminishing student achievement, the Woodbridge district assigned high school librarians to perform services in middle school libraries and gave the duties previously performed by separate "department heads" to the several vice principals. 3T68:10-12; 3T136:7-11 (Crowe).

261. In FY11, budgetary decisions were made to avoid creating class sizes with greater than 30 students. 3T124:1-14 (Crowe).

262. Woodbridge also has self-imposed class size limitations of 25 students in grade 3, which is an increase from the 20 student class size limitation previously applied within the district. 3T126:19-21 (Crowe); P-26.

263. Woodbridge class sizes in the middle and high schools are currently in the high 20's. 3T126:21-22 (Crowe); P-26.

264. Woodbridge's Superintendent testified that the district is not as concerned with music classes reaching 30 students as with math classes reaching 30 students and that certain classes, such as physical education, can withstand larger class sizes. 3T124:23 to 125:5 (Crowe).

265. Although Woodbridge has never employed a designated elementary World Language teacher, elementary classroom teachers integrate World Language teaching into their lessons to provide the required World Language curriculum content for the youngest students without the cost of an additional instructor. 3T83:21-25; 3T79:11-13 (Crowe).

266. Woodbridge's Superintendent testified that the district is meeting the "letter of the law" for World Language but that he does not know "how we can meet" the CCCS at the elementary level because the district does not have world language teachers or facilitators. 3T79:9-14 (Crowe).

267. World Languages in Woodbridge are only being taught for 10 weeks in sixth grade and for half a year in seventh and eighth

grade. 3T121:8-17 (Crowe). Woodbridge's Superintendent did not believe that the sixth grade students were receiving enough instruction to demonstrate proficiency. 3T121:8-13; 3T121:23 to 122:1 (Crowe). However, the district's issues with World Languages go further back than FY11, 3T84:1-4 (Crowe), and the CCCS do not require Novice-High proficiency until graduation.

268. Certain fiscal decisions in the Woodbridge school district did not support the ability of students in that district to achieve the CCCS.

269. In Woodbridge, a majority of the Board that approved the teacher contracts, which includes automatic raises, had conflicts of interest. 3T86:17 to 87:19 (Crowe).

270. As an example of the high cost of the teacher contracts in Woodbridge, Woodbridge could have saved \$2.6 million this year if only the 10% of its teachers earning the highest salaries had accepted a one-year pay freeze. 3T88:25 to 89:19 (Crowe).

271. Woodbridge expended funds to retain unneeded school food service employees until retirement, even though their services had been outsourced, to ensure that they could receive full retirement benefits. 3T65:19-24; 3T67:9-11 (Crowe).

272. Woodbridge has a high number of secretaries and clerks assisting central office administrators, estimated at about twenty, including three for the superintendent, and one or more for each of the Assistant Superintendent, Director of Personnel, Business

Administrator, and Director of Special Services. 3T44:15-16
(Crowe).

273. Woodbridge also paid for courtesy busing for some students for whom it is not required to provide transportation. 3T68:19 to 69:4 (Crowe).

274. In the 2009-10 school year, 94.8% of Woodbridge's students demonstrated proficiency or advanced proficiency on the HSPA LAL assessment, exceeding the State average of 88%. D-164 - D-166.

275. In the 2009-10 school year, 89.9% of Woodbridge's students demonstrated proficiency or advanced proficiency on the HSPA Mathematics assessment, exceeding the State average of 75%.
Ibid.

276. Woodbridge had a high school graduation rate of 97.7% for the class of 2010. D-164 to D-166.

277. In 2009-10, high school students in Woodbridge took AP tests in 19 subject areas. Ibid.

278. Woodbridge high school graduates going on to post-secondary education ranged from 86.7% to 90.3% at the various Woodbridge high schools. Ibid.

279. Even with certain questionable expenditures, by its own admission, Woodbridge can provide the CCCS at current funding levels. Woodbridge's Superintendent testified, albeit less definitely at the hearing than at the deposition, that the district

can provide the CCCS at current funding levels. 3T72:22 to 73:25; 3T74:2-4; 3T140:7 to 145:1 (Crowe).

280. Piscataway's and Woodbridge's experience shows that schools with medium concentrations of at-risk students can provide a thorough and efficient education with current levels of funding through the SFRA, even when they are below adequacy, as Woodbridge and Piscataway both are. If these districts can provide the CCCS - and they admittedly can - then other school districts with similar or lower concentrations of at-risk students, and similar or higher per-pupil revenues can as well. The success of these two school districts show that with proper priorities and management, districts with medium concentrations of at-risk students can provide a through and efficient education with current levels of state aid.

Q. The Clifton and Buena Regional School Districts, with high concentrations of at-risk students, are both low spending districts that can still provide the CCCS to its students at the current level of funding.

281. Clifton is in DFG CD. 12T18:9-10 (Tardalo).

282. Of the 11,262 students in the Clifton school district, 42.58% are at-risk students. D-106.

283. Clifton has been funded below adequacy since SFRA was enacted. 13T21:10-16 (Tardalo).

284. Clifton has \$12,061 in revenues per pupil this year. Only 12 K-12 districts in the State have lower revenues per pupil. D-103.

285. Clifton's State aid was reduced by \$7.1 million or 25.6% this year. D-109.

286. Clifton's General Fund budget decreased by \$6 million or approximately 4% between FY10 and FY11. Clifton's tax levy increased just over 1% in FY10 to FY11. 12T34:1-3 (Tardalo noting the tax levy increased by approximately 1%). If Clifton had raised its tax levy to the 4% cap, Clifton would have an additional \$3.1 million. D-148; P-99.

287. Clifton's budget was defeated by the voters in 2010-11 and the city council reduced the levy from 1.34% to about 1%. 12T40:2-3; 12T37:19-20 (Tardalo). The district did not appeal the reduction by the city council. 13T19:25-20:2 (Tardalo).

288. Clifton was able to generate savings or implement efficiencies in non-instructional areas.

289. Clifton obtained a cheaper health care plan, used supplies purchased last school year, reduced the cost of legal services by hiring a different attorney, and reduced mailing and printing expenses by making greater use of electronic communications. Clifton also increased efficiency in transportation by examining and adjusting routes. None of those reductions in spending have any impact on CCCS. P-100; 12T75:10-22; 12T77:7-15; 12T77:16 to 78:13; 12T78:14 to 79:5 (Tardalo).

290. Clifton also took steps to increase student performance in its High School. For the 2010-11 school year, Clifton High

School opened academy programs in the visual and performing arts and business that provide an opportunity for students to specialize in these areas. D-152.

291. Class sizes in Clifton had been increasing for the five years prior to FY11. 12T70:10-14; 12T63:6 -10 (Tardalo).

292. In FY11, class sizes in Clifton for kindergarten through fifth grade average between 24 and 27 students. 12T70:20-21; 12T63:9-11 (Tardalo).

293. In FY11, class sizes in Clifton for the secondary level average between 28 and 29 students. 12T71:8-12 (Tardalo). Clifton's Superintendent did not believe there was as significant an impact in the secondary level due to increased class sizes. 12T71:10-12 (Tardalo).

294. None of the positions eliminated in FY11 in response to the reductions in State aid had an impact on class size because none of the positions were instructional positions. 12T65:12-16 (Tardalo); P-100.

295. Clifton did not focus all its fiscal resources to support the achievement of the CCCS by its students.

296. Clifton expended funds to retain five or six unneeded school food service employees until retirement, even though their services had been outsourced. 12T79:23 to 80:14 (Tardalo).

297. Clifton entered into an arrangement with the City that was a fiscal benefit to the City not the school district.

12T42:10-20 (Tardalo) (City required the district to pay \$500,000 to the City for five School Resource Officers in FY10 but agreed to reduce the amount to \$250,000 in FY11).

298. Clifton also prioritized sports over academics. Clifton has 80 sports teams if you include varsity, junior varsity and sophomore and freshman teams and has a separate building that is a sports stadium and training room. The district reinstated middle school and intramural sports, including the middle school ice hockey team, even though that money could have been used to prevent the loss of a basic skills supervisor, which the Superintendent alleged impacted the ability to deliver CCCS. 13T35:20 to 36:4; 12T82:13-25; 13T33:15-22; 13T47:7-22 (Tardalo).

299. Clifton did not spend all of its ARRA money for this year and still has \$922,000 in Ed Jobs money available to it, that it has set aside for next year. 12T84:19 to 85:12 (Tardalo).

300. Superintendent Tardalo agreed that if you could remove the bottom 5-8% of the least capable teachers that performance could be improved. While the Superintendent has withheld increments from teachers not performing to the standard, he did not attempt to remove any teachers through the tenure removal process. 13T42:17 to 44:1 (Tardalo) . See also N.J.S.A. 18A:28-5 (tenured teachers can be removed for inefficiency); N.J.S.A. 18A:6-11 (for inefficiency removals, must provide employee with written notice of inefficiency and provide 90 days to correct or overcome).

301. Despite its low level of spending per pupil, Clifton's curriculum is aligned to the CCCS. 12T86:17-19 (Tardalo).

302. Moreover, Clifton has been successful at having more than a majority of its students meeting the State assessments for high school graduation. In addition, Clifton's at-risk students have achieved relatively well as compared to State averages.

303. In 2009-10, Clifton High School students performed slightly below the State average on the HSPA in LAL with 85.9% of its students passing as compared to the State average of 88%. D-167. Economically disadvantaged (at-risk) students at Clifton High School outperformed the State average for at-risk student on the HSPA in LAL with 79.5% passing as compared with the State average of 74.1%. P-119.

304. In 2009-10, Clifton High School students scored below the State average on the HSPA in Mathematics with 63.8% of its students passing as compared to the State average of 75%. Economically disadvantaged (at-risk) students at Clifton High School outperformed the State average for at-risk student on the HSPA in Mathematics with 75.5% passing as compared with the State average of 68.1%. P-119, D-167.

305. Clifton had students taking AP tests in 2009-10 in 15 different subjects. The percentage of students taking AP tests was 17.5%. D-167.

306. Almost 90% of students who graduated from Clifton High

School in 2010 went on to post-secondary education. Ibid.

307. Clifton's current low spending level is not simply the result of a one year reduction in State aid but rather the years of bifurcated funding between Abbott and non-Abbott districts that prompted the enactment of the SFRA. Despite the low expenditures, Clifton students perform well on the State graduation assessments and its at-risk students perform particularly well as compared to the State average for that group of students.

308. Clifton also is a district that is struggling to balance its students' academic needs with certain community expectations. To the extent Clifton needs additional fiscal resources to support student achievement, community expectations, in particular with regard to athletics, has prevented those resources from being focused on achievement of the CCCS. Although some athletic offerings are important, Clifton has maintained 80 sports teams, a sports stadium and training room, and an athletic director and coaches, while cutting resources that support academic achievement.

309. Clifton, having concluded that it is unable to deliver the CCCS to its students, should prioritize academics over those extensive athletic offerings. To the extent Clifton is unable to deliver the CCCS to its students in FY11, with appropriate prioritization, Clifton certainly could.

310. Buena Regional is a DFG A district, the lowest socio-economic status DFG. D-109.

311. Of Buena Regional's 2,081 students, 48.76% are at-risk.
D-106.

312. Buena Regional's funding is below adequacy and has been since the implementation of SFRA. D-130.

313. Buena Regional has revenues per pupil in FY11 of \$13,903. This is the highest revenues per pupil of all of the testifying districts. D-103.

314. Buena Regional's Superintendent testified that the district was not providing a thorough and efficient education prior to the SFRA or in the first two years of the SFRA. 11T55:17 to 56:9; 11T65:24-66:9 (Whitaker).

315. In 2008-09, the first year of SFRA, Buena Regional received a State aid increase of \$3,151,259. 10T43:1-4 (Whitaker). For that same school year, Buena Regional reduced its tax levy by \$520,000. 11T34:10-15 (Whitaker).

316. Buena Regional generated \$699,886 in excess surplus during the 2008-09 school year. D-162.

317. In 2009-10, Buena Regional received a State aid increase of just under \$1 million. D-130. For that same school year, Buena Regional reduced its tax levy by an additional \$330,000. 11T34:16-19 (Whitaker).

318. The approximately \$850,000 reduction of the tax levy by Buena Regional over a two-year period would have funded 12 positions in FY11. 11T76:1-5 (Whitaker).

319. Buena Regional's State aid for FY11 was reduced by \$3,018,329 or 16.2%. D-109.

320. Buena Regional's FY11 general fund budget was 3.5% less than its FY10 general fund budget. D-132.

321. Buena Regional budgeted surplus of \$699,886 to support its FY11 budget. D-162.

322. Buena Regional's school tax levy increased by less than 1% in FY11. D-132. A 4% increase in the tax levy would have raised an additional \$324,000. 11T35:20 to 36:9 (Whitaker testifying that amount would have supported five additional positions).

323. The Buena Regional Superintendent testified that even if the SFRA was fully funded he would still have concerns as to whether he could provide a thorough and efficient education. 11T55:22 to 56:5 (Whitaker).

324. Buena Regional was able to generate savings and implement efficiencies in non-instructional areas.

325. Buena Regional reduced its food service deficit from \$150,000 in 2009-10 to zero in 2010-11 and reduced its transportation costs by approximately \$200,000 from 2009-10 to 2010-11. 10T98:1-19; 10T98:25 to 99:15 (Whitaker).

326. Buena Regional also found a number of ways of improving student achievement with little or no additional cost.

327. For example, because a program audit conducted at the

Buena Regional elementary schools had revealed that its reading program was outdated, Buena Regional this year replaced it with an updated guided reading program. 11T49:5-21 (Whitaker).

328. Buena Regional also implemented a new math program that is aligned with the CCCS for K-3, and students learning it will be tested as third graders for the first time in Spring 2011. 11T57:15 to 58:6 (Whitaker).

329. Further, by changing the requirements of the senior release program this year in the high school, Buena Regional was able to dramatically increase senior attendance. 11T60:12 to 61:25 (Whitaker).

330. Buena Regional also changed its policies to allow underclassmen to enroll in AP courses, increasing the number of students in such classes from thirty-two in 2009-10 to almost 220 students this year. 11T62:1-22 (Whitaker).

331. And as a quintessential example of how education can improve at no cost, Buena Regional Middle School was able to rearrange its schedule last year to increase time spent learning language arts and math, and to improve the math program, without lengthening the school day. 11T46:1 to 47:19 (Whitaker).

332. Buena Regional was also able to alter the philosophy of the gifted and talented program to make it more effective and demanding. 11T48:16 to 49:4 (Whitaker).

333. Buena Regional anticipates having all of its curriculum

aligned with the CCCS by September 2011. 11T63:10-22 (Whitaker).

334. On the other hand, Buena Regional made some fiscal decisions that did not support the achievement of the CCCS by its students.

335. Buena Regional's Superintendent testified that the teachers in his district are only required to teach 200 minutes out of a 415 minute day and that, if permitted by the collective bargaining agreement, he believed that the teachers should be providing more instructional time each day. 11T18:8 to 19:13 (Whitaker).

336. If Buena Regional's teachers were required to provide more instructional time during the day, class sizes at Buena Regional could be reduced. 11T19:10-12 (Whitaker). That reduction in class size would be at no additional cost to the district.

337. Buena Regional's Superintendent testified that the district needed additional classroom space before it could reduce class sizes in some elementary grades. 11T23:10-16 (Whitaker). Buena Regional is compliant with N.J.A.C. 6A:13-3.1 for fifth grade. 11T23:20 to 25:24 (Whitaker).

338. Buena Regional has a facilities plan in place and will have additional classroom space in 2012. 11T27:19 to 28:7. The kindergarten through fifth grades will have projected class sizes of between 20 or 21 students at that time. 11T28:23-25; 11T33:15-17 (Whitaker).

339. In order to reduce class sizes in first through third grades to 21 students or less, one additional class would be needed for first grade, one additional class in second grade, and two additional classes in third grade. 11T24:13 to 25:7 (Whitaker); D-141. Buena Regional had three empty elementary school classrooms that it could have utilized to reduce class size. 11T7:8 to 8:5 (Whitaker). Buena Regional chose not to utilize these classrooms, in part, because of concerns about siblings remaining in the same school. Ibid.

340. Buena Regional's Superintendent testified that the district's kindergarten and fourth grade students could be redistributed through the existing classrooms to meet class size requirements. 11T23:20 to 24:12; 11T25:8-15 (Whitaker). If the kindergarten students were redistributed among the existing classrooms all kindergarten classes would have less than 21 students. Ibid. If the fourth grade students were redistributed among the existing classrooms all fourth grade classes would have less than 23 students. Ibid. Redistribution of these students would reduce class size at no additional cost to the district.

341. In 2011, Buena Regional increased its high school class sizes from between 22 and 24 students to between 26 and 28 students and sometimes up to 30 students. 10T89:25 to 90:14 (Whitaker).

342. Buena Regional also did not spend the approximately \$635,000 in Ed Jobs fund money it received, 11T21:14-17 (Whitaker),

even though it could have used a portion of it to retain the five high school teachers and four middle school teachers it purportedly had to lay off because of reductions in State aid. 11T21:14 to 22:22 (Whitaker); P-92.

343. Buena Regional had one World Languages teacher for the elementary schools that traveled between the various buildings and provided one hour of instruction every twelve days. 10T52:14-19 (Whitaker). The position was eliminated because it was deemed "futile" and in an effort to effectuate cost savings. Ibid. Buena Regional is not providing World Languages instruction to its kindergarten through fifth grade students. 10T53:2-20 (Whitaker). This should not prevent Buena Regional from being able to have its students meet the graduation requirements for World Languages. See paragraphs 147 to 154, supra.

344. In addition, Buena Regional did not effectively use additional State aid provided under the SFRA in the first two years to improve instruction.

345. At a time when the Superintendent determined that the district was not providing the CCCS to its students, Buena Regional spent a significant amount of the additional State aid on non-instructional items. Buena Regional used \$2,658,314 of the additional \$4,095,030 in State aid on four non-instructional items: increased salaries for existing staff; reduced local tax levy; expansion of sports programs; and hiring a Vice-Principal and

secretaries. D-131.

346. Buena Regional agreed to provide an average annual salary increase for teachers in the amount of 4.3% which amount to increase of approximately \$650,000 annually for existing staff. 11T43:8-17; 11T45:11-25 (Whitaker). Yet the Superintendent testified that this percent increase for the teachers was "obscene." 11T43:18-21; 11T44:13-18 (Whitaker). In addition, the purported class size problems at Buena Regional High School could be alleviated if the current teachers' contract did not limit the amount of instructional time to 200 out of a 415 minute day. 11T18:8 to 19:12 (Whitaker).

347. The Superintendent also testified that one third of his teachers are just "in it for the ride." 10T87:12-16. And, he agreed that if he could remove the 5-8% of the lowest performing teachers he could improve student performance. 11T52:7-11. To date, however, the Superintendent has not removed any teacher for inefficiency. 11T94:25 to 95:4.

348. As noted, supra, despite Buena Regional's belief that it did not have sufficient funding to achieve a thorough and efficient education, rather than using the \$4,095,030 additional State aid provided to the district during the first two years of SFRA, Buena Regional used over \$850,000 to provide tax relief. 11T75:20-76:5 (Whitaker).

349. Approximately \$2,150,000 of the additional \$4,095,030 in

State aid for 2008-09 and 2009-10 was used to increase salary for existing staff (\$1.3 million, i.e., approximately \$650,000 for each of two years) and reduce tax levy (\$850,000). See paragraphs 346 and 318, supra.

350. Buena Regional used \$238,314 of the additional State aid over the two years to expand Middle School and High School sports programs. D-131. However, Buena Regional was already spending significantly more per pupil on extracurricular activities than the State average. 11T68:1-69:12 (Whitaker); D-131; D-136. A district that determines it cannot provide the CCCS to its students should not use additional State aid to expand sports programs, particularly when that district is already spending more than the State average on such programs.

351. Buena Regional used \$270,000 of the additional State aid over the two years to hire another Vice Principal at the High School; change 10-month secretaries to 12-month secretaries and hire another guidance secretary at the High School. D-131. None of the above positions have a direct impact on the instructional program.

352. When provided a significant amount of additional State aid, Buena Regional hired only one additional instructional staff member. Yet, when State aid was reduced in 2010-11 (by an amount lower than increase in State aid from the previous two years) Buena Regional eliminated thirteen instructional staff positions. More

specifically, from 2007-08 to 2009-10, the amount of State aid Buena Regional received increased \$4,095,030 (from \$15,756,299 to \$19,819,189). D-130. With the additional State aid Buena Regional added seven positions of which only one was an instructional position. 11T66:10 to 67:25 (Whitaker). D-131. By contrast, in 2010-11, when State aid was reduced by \$3,018,329, Buena Regional eliminated thirteen instructional staff positions. D-109.

353. For 2010-11, the Superintendent recommended the elimination of high school swimming, winter track and golf. The Buena Regional Board of Education decided to retain those programs. At the same time, however, the Board decided to eliminate the after-school program which the Superintendent believed significantly benefitted students. 11T70:10 to 71:12 (Whitaker). Buena Regional spends significantly higher than the State average on extracurricular activities so a decision by the Board to retain swimming, winter track and golf and, simultaneously, eliminate an educationally beneficial after-school program particularly troubling where the district believes it is not providing the CCCS to its students.

354. Despite the questionable allocation of additional State aid during the first two years of SFRA and although Buena Regional does not perform well on the State graduation assessments as compared to the State average, it does do well in comparison to other DFG A districts.

355. In 2009-10, 80.3% of Buena Regional High School students passed the Language Arts Literacy section of the HSPA as compared to the State average of 88%. Buena Regional students significantly out performed the other DFG A districts whose average passage rate was only 64.4%. D-140.

356. In 2009-10, 59.9% of Buena Regional High School students passed the Mathematics section of the HSPA as compared to the State average of 75%. Buena Regional students, however, significantly out performed the other DFG A districts whose average passage rate was only 46.3%. Ibid.

357. In 2009-10 Buena Regional only permitted seniors to take AP courses. 11T62:1-16 (Whitaker). That year, high school students in Buena Regional took AP tests in four different subjects and the percentage of students taking AP tests was 2.8%. D-140. It is anticipated that this percentage will increase in the future given the increased number of twelfth graders taking these courses and the ability for eleventh graders to also take the courses. See paragraphs 329 to 330, supra.

358. More than 82% of students who graduated from Buena Regional High School in 2010 went on to post-secondary education. D-140.

359. The struggle that Buena Regional is experiencing in providing a thorough and efficient education to its students is not the result of an aid reduction in FY11. Although a DFG A district,

Buena Regional was not an Abbott district and therefore did not receive the substantial aid increases that Abbott districts received as part of the Court-ordered remedies in the last decade. Still, Buena Regional had revenues per pupil that exceed any of the other testifying districts and is significantly above Clifton's revenues per pupil, the other non-Abbott district with a high concentration of at-risk students.

360. Buena Regional did not effectively use all of the increased State aid it received during the first two years of the SFRA to improve instruction. Rather, the district made reducing the tax levy and retaining sports programs a priority rather than achievement of the CCCS by its students. Moreover, it continued contractual arrangements with the teachers' union that were impediments to improving achievement and that provided "obscene" salary increases for teachers in a district where the Superintendent believes that one third of the teaching staff is not effective.

361. While the Superintendent has made an effort to improve achievement with little or no additional cost, more effective use of the funds that have been provided would have assisted in this endeavor. As Dr. Hanushek testified, "how the money is spent is much, much more important than how much is spent." 6T20:23-25.

362. At the level of State aid provided in FY11, Buena Regional should be able to deliver the CCCS to its students.

However, if funds are not effectively directed to the improvement of student achievement, the Superintendent is appropriately concerned as to whether Buena Regional could do so even at full funding of the SFRA. 11T55:22 to 56:5 (Whitaker).

363. Both Clifton and Buena Regional are districts with high concentrations of at-risk students that experienced the negative effects of the bifurcated system of funding that the SFRA was designed to correct. Although both were challenged by the revenue reduction in FY11, as was the State, they made some efforts to adjust to those reductions. Both, however, permitted community pressures to divert them from the most important priority, student achievement, and devoted limited resources to non-essential areas. With proper prioritization, each could deliver the CCCS to its students at the FY11 level of funding.

R. Bridgeton, a former Abbott district, failed to demonstrate the same efforts at achieving savings, implementing efficiencies and taking steps to improve student achievement with little or no cost as the other testifying districts and yet had one of the smallest percent aid reduction in the State; these facts support a conclusion that even if Bridgeton is not be providing a thorough and efficient education to its students, it could do so with the available funding.

364. Bridgeton is a DFG A district and is the only testifying district that was a former Abbott district. D-98.

365. Of Bridgeton's 4,764 students, 89.3% are at-risk. Bridgeton has the third highest at-risk percentage in the State. Only Lakewood and Union City exceed it. D-106.

366. Bridgeton was below adequacy this year and has been since the implementation of the SFRA. 5T121:16 (Gilson).

367. Bridgeton has \$13,548 in revenues per pupil for FY 2011. It is the lowest spending former Abbott district but is still spending more per pupil than all but one of the other testifying districts. D-103.

368. Bridgeton's State aid was reduced by \$3,553,562 or 5.5%. Only one district, Camden, had a smaller percent reduction of State aid, i.e., 5.4%. D-97.

369. Bridgeton's general fund budget in FY11 was 6.9% less than its general fund budget in FY10. The school tax levy in Bridgeton increased by 3.99% in FY11. D-132.

370. Bridgeton budgeted surplus of \$600,000 in FY11. D-162.

371. With the exception of two shared services agreement, 5T161:8; 5T161:11 (Gilson), the Superintendent did not identify any non-instructional efficiencies or savings to address the aid reduction.

372. Moreover, unlike other testifying districts, the Superintendent did not present the Board of Education with any written document, other than the entire budget, that reflected the reductions being made to address the reduced amount of State aid. 5T71:9-12 (Gilson).

373. According to the Superintendent, Bridgeton has been unable to meet the CCCS since at least 2004. 5T107:16 to 108:9;

5T117:14-16 (Gilson has been Superintendent since 2004). This was true even when Bridgeton was entitled to parity funding and was successful in receiving supplemental funding. 5T116:10-12 (Gilson testifying about success in receiving supplemental funding).

374. The Superintendent testified that Bridgeton did not have sufficient funds in 2009-2010 to deliver the CCCS but the district had excess surplus of \$2.4 million at the end of that school year. 5T100:19-25 (Gilson); D-162.

375. The Superintendent further testified that he was not optimistic that student performance will improve in 2010-11 and he is concerned that it may actually get worse. He noted that at this point he did not have the data to analyze student performance. 5T129:3-14 (Gilson). The results from the State assessments are not available yet. 5T76:10-12 (Gilson).

376. Bridgeton has approximately \$1 million in unused Ed Jobs fund money available to it. 5T102:14-21 (Gilson).

377. Bridgeton had \$2.2 million in ARRA Idea and Title 1/SIA funds as of June 30, 2010. D-110.

378. Bridgeton's Superintendent testified that the district is not meeting the CCCS in World Languages in the elementary schools because scheduling issues prevented the district from teaching World Languages throughout the school year. 5T157:4 to 5T157:23 (Gilson). Instead, Bridgeton is providing its elementary students with one semester of World Languages. 5T157:4-23 (Gilson).

379. Prior to the current year, Bridgeton provided World Languages to its elementary students once per week for forty minutes. 5T157:12-18 (Gilson). Bridgeton's Superintendent testified that he did not believe this satisfied the requirements of the CCCS. 5T158:21-24.

380. In FY11, Bridgeton did not eliminate any World Language instructors. 5T162:23 to 163:8 (Gilson).

381. The Superintendent testified that Bridgeton needed four additional teachers just to provide the CCCS to gifted and talented students and that therefore the district has insufficient funds to provide a thorough and efficient education to its gifted and talented students. 5T136:23 to 137:2; 5T137:23 to 138:2 (Gilson).

382. The Bridgeton Superintendent testified that, based on "Project Star," the larger that class size is over 15 the more likely it will have a deleterious effect on student learning. 5T142:22-25; 5T143:17-21 (Gilson). This conclusion is inconsistent with the testimony about Project Star by the school policy finance expert, Dr. Hanushek. Dr. Hanushek testified that, interpreting Project Star in the best light, a one-third reduction in class size in grade K-3 showed a slight increase in student achievement. 6T35:24 to 36:21 (Hanushek).

383. In FY10, Bridgeton High School class sizes were significantly smaller than the Statewide average. Specifically, Bridgeton's class sizes in FY10 were below the statewide average by

5 students in grades 9 and 10, 6 students in grade 11, and almost 7 students in grade 12. D-168.

384. Despite these relatively small class sizes, Bridgeton made a number of decisions to avoid increased class sizes. 5T83:8-13 (Gilson). Rather, Bridgeton decided to make cuts to other programs and services, such as tutors, reading recovery teachers, an in-school suspension teacher. 5T83:8-13; 5T84:3-23; 5T91:11-18 (Gilson).

385. Bridgeton did eliminate one social studies teacher at the high school and two physical education teachers. 5T87:11 to 88:2; 5T89:6-17 (Gilson).

386. Any modest increase in class size that were caused by the elimination of these three teachers at the high school level in FY11 cannot reasonably be said to have affected the district's ability to provide a thorough and efficient education.

387. The performance of Bridgeton's students on the State graduation assessments are the lowest of all the testifying districts.

388. In 2009-10, only 70% of Bridgeton high school students passed the HSPA in LAL compared to the State average of 88%. D-168.

389. In 2009-10, only 45.7% of Bridgeton high school students passed the HSPA in Mathematics compared with the State average of 75%. Ibid.

390. Bridgeton High School students took AP courses in just

three subject areas. The percentage of students taking AP tests was 3.9%. Ibid.

391. Approximately 63.9% of students who graduated from Bridgeton High School in 2010 went on to post-secondary education. Ibid.

392. Of all the testifying districts, Bridgeton showed the least initiative in finding cost savings or efficiencies in non-instructional areas or taking other steps to address the State aid reduction that would not affect student achievement such as modest increases in its very small class sizes.

393. Bridgeton students have had the benefit of the Abbott parity remedy since 1997-98 and the programmatic remedies since 1998-99. Yet, almost one-third of its students are unable to achieve proficiency on the HSPA and the Superintendent believes that the district has been unable to deliver the CCCS since at least 2004. The circumstances in Bridgeton strongly support the conclusion that funding is not the solution and that new approaches are required.

- S. The method selected by the Governor and Legislature to allocate an unavoidable reduction in State school aid in the FY11 budget was a fair and equitable method and permitted districts to absorb the State aid loss without negatively effecting student achievement. Accordingly, the level of State school aid for FY11 meets the constitutional standard for a thorough and efficient system of education.

394. To ensure a balanced budget for FY11, it was fiscally necessary to provide State school aid at a level less than the SFRA

would have required at the statutory parameters. The State could not replace the \$1.057 billion in federal stimulus funds that supported the SFRA funding in FY10 nor fund the growth in aid the SFRA would have required. See generally JS ¶¶ 4-50 and 80-96.

395. Districts that rely more heavily on State aid to support their budgets and districts that support their budgets primarily through local resources were treated equitably in that each district experienced a State aid reduction of less than 5% of the district's FY 2010 general fund budget. See JS ¶57.

396. The result of the allocation method was that the poorest districts, as defined by DFG, and the districts with the highest concentrations of at-risk students, had the smallest percentage reductions of State school aid. See D-94.

397. Alternative means of allocating the necessary aid reduction that were suggested by witnesses as fairer or more equitable would have had a much more significant impact on Abbott districts. See D-6; 2T89:5-19 (Copeland noting the allocation method was inequitable and suggesting it would have been a fairer way to accommodate the reduction by reducing each districts' State aid by the overall percent reduction in State aid); 3T17:23 to 18:5 (Copeland stating he would still choose his allocation method even if the State's method was done so as to not disadvantage Abbott districts); 14T108:18 to 109:1 (Wyns noting you could have achieved the \$1.081 billion reduction by taking "excess spending" from

districts over adequacy and providing to districts below adequacy); 15T36:4-9 (Wyns noting that implementing his allocation method would have been more equitable).

398. Districts had a variety of means of accommodating the State aid reduction in ways that would not have any impact on student achievement by modest increases in class size, finding efficiencies in non-instructional areas such as transportation, food services, health care costs, shared services, energy efficiencies and using other available revenues including federal funds.

399. The strategies for maintaining educational programs and resources while conserving funds in the testifying districts show that (1) reductions in funds need not cause reductions in educational quality and (2) educational shortfalls in schools may not be caused by -- or fixed by -- funding changes, but by organizational management, school policies, curricular approaches, or the standards students are asked to meet.

400. A capable administrator who knows his budget, teachers and student population and who properly exercises discretion in implementing reductions can provide a thorough and efficient education at the FY11 level of funding. 6T56:12-19 (Hanushek).

401. At the current level of funding, all districts in New Jersey can deliver the CCCS to their students.

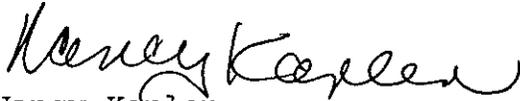
CONCLUSION

For all the reasons set forth in these Findings of Fact and Conclusions of Law, this court must conclude that districts with low, medium and high concentrations of at-risk students can provide a thorough and efficient system of education at the current level of funding in FY11.

Respectfully submitted,

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By:


Nancy Kaplen
Assistant Attorney General

Dated: March 14, 2011

Abbott v. Burke
Trial Transcripts

| NUMBER | DATE/TIME | WITNESSES |
|--------|-------------|---|
| 1T | 02/11/11 | Case Management Conference |
| 2T | 02/14/11 AM | Robert L. Copeland |
| 3T | 02/14/11 PM | Robert L. Copeland John H. Crowe |
| 4T | 02/15/11 AM | Dr. Bari Ehrlichson |
| 5T | 02/15/11 PM | Dr. Bari Ehrlichson H. Victor Gilson |
| 6T | 02/16/11 AM | Dr. Eric Alan Hanushek |
| 7T | 02/16/11 PM | Earl Kim |
| 8T | 02/21/11 AM | Earl Kim Kevin Dehmer |
| 9T | 02/21/11 PM | Kevin Dehmer |
| 10T | 02/23/11 AM | Walter Whitaker |
| 11T | 02/23/11 PM | Walter Whitaker |
| 12T | 02/24/11 AM | Richard Tardalo |
| 13T | 02/24/11 PM | Richard Tardalo |
| 14T | 02/25/11 AM | Melvin Wyns |
| 15T | 02/25/11 PM | Melvin Wyns |