

**IN THE CIRCUIT COURT OF THE 20TH JUDICIAL CIRCUIT
ST. CLAIR COUNTY**

CAHOKIA UNIT SCHOOL DISTRICT)
NUMBER 187, GRANT CENTRAL)
CONSOLIDATED SCHOOL DISTRICT)
NUMBER 110, PANA COMMUNITY UNIT)
SCHOOL DISTRICT NUMBER 8,)
BETHALTO COMMUNITY UNIT SCHOOL)
DISTRICT NUMBER 8, BOND COUNTY)
COMMUNITY UNIT SCHOOL DISTRICT)
NUMBER 2, BROWNSTOWN)
COMMUNITY UNIT SCHOOL DISTRICT)
201 BUNKER HILL COMMUNITY)
UNIT SCHOOL DISTRICT NUMBER 8,)
GILLESPIE COMMUNITY UNIT SCHOOL)
DISTRICT NUMBER 7, ILLINOIS VALLEY)
CENTRAL COMMUNITY UNIT SCHOOL)
DISTRICT NUMBER 321, MERIDIAN)
COMMUNITY UNIT SCHOOL DISTRICT)
223 MT. OLIVE)
COMMUNITY UNIT SCHOOL DISTRICT)
NUMBER 5, MULBERRY GROVE)
COMMUNITY UNIT SCHOOL DISTRICT)
NUMBER 1, NOKOMIS COMMUNITY)
UNIT SCHOOL DISTRICT NUMBER 22,)
OSWEGO COMMUNITY UNIT SCHOOL)
DISTRICT 308, OREGON COMMUNITY)
UNIT SCHOOL DISTRICT 220)
SOUTHWESTERN COMMUNITY UNIT)
SCHOOL DISTRICT 9,)
STAUNTON COMMUNITY UNIT SCHOOL)
DISTRICT NUMBER 6, STREATOR)
TOWNSHIP HIGH SCHOOL DISTRICT 40,)
VANDALIA)
COMMUNITY UNIT SCHOOL DISTRICT)
NUMBER 203, WOOD RIVER-HARTFORD)
SCHOOL DISTRICT NUMBER 15,)
CARLINVILLE COMMUNITY UNIT)
SCHOOL DISTRICT NUMBER 1, and)
TAYLORVILLE COMMUNITY UNIT)
SCHOOL DISTRICT NUMBER 3,)

Plaintiffs,)

v.)

Case No. 2017-CH-301

The Honorable Judge Julie Katz

BRUCE RAUNER, GOVERNOR OF)
ILLINOIS, in his official capacity, and)
STATE OF ILLINOIS,)
)
Defendants.)

FIRST AMENDED COMPLAINT

Introduction

1. As set forth in Count I, the plaintiff school districts seek to enforce Article X, Section 1 of the Illinois Constitution by requiring defendant Governor Bruce Rauner and the State of Illinois (hereafter, collectively, "the State" or "the State defendants") to pay to plaintiff districts the funds that the Illinois State Board of Education ("ISBE") has calculated are necessary to meet or exceed the Illinois Learning Standards mandated under 105 ILCS 5/2-3.64a-5. These Learning Standards represent the position of the State as to what constitutes a "high quality education" under Article X, Section 1 of the Constitution. Section 1 states in part: "The State *shall* provide for an efficient system of *high quality* education." Ill. Const. Art. X, § 1 (emphasis supplied).

2. Furthermore, under this same Article X, Section 1, the State also has the primary responsibility for financing public education when the State itself – not the local district – now determines what students must know and what skills they must demonstrate. Article X, Section 1 states: "The state has the primary responsibility for financing the system of public education." While this Section may not impose such an obligation when the State defers to the plaintiff districts as to what they must spend, the Section does impose that "primary responsibility" to fund mandates that the State itself imposes - including those costs necessarily incurred to meet or achieve the Learning Standards.

3. As set forth in Count II, and as currently described by ISBE on January 17, 2018, the present inequities in the financing of public education in the State are "shocking" and violate

the rights of the plaintiff districts and their students to receive equal protection of the laws as guaranteed by Article I, Section 2 of the Illinois Constitution. The "shocking" inequities in the State's system of public education can no longer be justified as advancing the goal of local control since the Learning Standards significantly displace the local control that previously existed. Furthermore, under both Article X, Section 1, and Article I, Section 2, the students represented by the plaintiff districts have a fundamental constitutional right to an education that allows them to meet or achieve the Learning Standards. This is especially the case when meeting or achieving the Learning Standards will determine in part whether the students are to be admitted to the State's own institutions of post-secondary education.

4. Until 1997, the State had no official State definition of "high quality education" or any specific type of education – namely, what students in the plaintiff districts had to know and what skills they had to demonstrate at various grade levels. But the Illinois Learning Standards first adopted by ISBE in 1997 – and thereafter revised by ISBE and aligned with the Common Core requirements adopted by the General Assembly in 2010 – now set out in detail what constitutes a "high quality" education. Accordingly, under Article X, Section 1 of the Constitution, the State itself has incurred a constitutional obligation to "provide" that "high quality education."

5. The State itself has now calculated this financial obligation to plaintiffs in specific dollar amounts. On August 31, 2017, the State adopted Public Act 100-465, the Evidence Based Funding for Student Success Act (the "2017 Evidence Based Funding Act" or "Act"), now codified as 105 ILCS 5/18-8.15. Sec. 18-8.15(a)(1) of the Act specifically invokes the State's obligations under Section 1 of Article X of the Illinois Constitution, and states as follows:

"The purpose of this Section is to ensure that, *by June 30, 2027 and beyond*, the State has a kindergarten through grade 12 public education

system with the capacity to ensure the educational development of all persons to the limits of their capacities in accordance with Section 1 Article X of the Constitution of the State of Illinois... When fully funded under this Section, every school shall have the resources, based on what the evidence indicates is needed, to: (A) provide all students *with a high quality education*... (B) ensure all students receive the education they need to... *pursue post secondary education*... (C) reduce, with a goal of eliminating, the achievement gap between at-risk and non-at-risk students... and (D) ensure this State satisfies its *obligation* to assume the primary responsibility to fund public education....." (emphasis supplied)

6. The Evidence Based Funding Act sets forth a formula or model that establishes "adequacy targets" for each of the plaintiff districts, and these "adequacy targets" are set forth below at para. 72 et seq.

7. In the current fiscal year (2018), the State has failed to appropriate the funds necessary to meet the adequacy targets.

8. The State has appropriated only \$350 million in additional funding out of the additional \$7.2 billion that ISBE has determined to be necessary for the plaintiff districts and other districts to meet or achieve the Learning Standards.

9. The Evidence Based Funding Act recognizes that the State now has the "primary responsibility for funding the system of public education" as set out in Article X of the Constitution of Illinois.

10. ISBE in particular has recognized that obligation and in the press release issued on January 17, 2018, it stated: "At this point in time, the state has not fulfilled its constitutional mandate to assume the primary responsibility for financing the system of public education."

11. Accordingly, plaintiffs seek a judgment that the plaintiff districts are entitled in the current fiscal year to the full amount necessary for the plaintiff districts to meet or achieve the adequacy targets and to consider appropriate measures to enforce the judgment and to ensure

as soon as possible the necessary additional funding to achieve their constitutional rights under Article X, Section 1 and Article I, Section 2 of the Illinois Constitution.

Parties

12. Plaintiffs Cahokia Unit School District Number 187, Grant Central Consolidated School District Number 110, Pana Community Unit School District Number 8, Bethalto Community Unit School District Number 8, Bond County Community Unit School District Number 2, Brownstown Community Unit School District 201, Bunker Hill Community Unit School District Number 8, Gillespie Community Unit School District Number 7, Illinois Valley Central Community Unit School District Number 321, Mt. Olive Community Unit School District Number 5, Meridian Community Unit School District 223, Mulberry Grove Community Unit School District Number 1, Nokomis Community Unit School District Number 22, Oregon Community Unit School District 202, Oswego Community Unit School District 308, Southwestern Community Unit School District Number 9, Staunton Community Unit School District Number 6, Streator Township High School District 40, Vandalia Community Unit School District Number 203, Wood River-Hartford School District Number 15, Carlinville Community Unit School District Number 1, and Taylorville Community Unit School District Number 3 are school boards created by Article 10 of the Illinois School Code, 105 ILCS 5/10-1, *et seq.*

13. Plaintiffs are located in St. Clair, Bond, Christian, Fayette, Jersey, Macoupin, Madison, Montgomery, and Peoria counties.

14. Defendant Bruce Rauner is the Governor of Illinois, sued in his official capacity.

15. Defendant State of Illinois is responsible for providing a high quality education under the Illinois Constitution.

Facts

A. How the State Defines a "High Quality Education"

16. In 1985, Illinois was one of the first states to adopt “goals” for learning and specifically adopted 34 State Goals.

17. These goals were broadly stated, relatively timeless expressions of what the State of Illinois wants and expects its students to know and be able to do as a consequence of their elementary and secondary education.

18. These goals were so broadly worded as not to be susceptible to assessment or accountability by the local plaintiff districts.

19. In 1997, however, Illinois recognized that such goals were not sufficiently definite, clear and specific as to what kind of education Illinois students had to receive.

20. Consequently, in 1997 ISBE adopted the Illinois Learning Standards with the purpose of holding the plaintiff districts accountable for meeting or achieving such Learning Standards.

21. The original Illinois Learning Standards adopted in 1997 have been revised repeatedly and expanded to state what students must know and what skills they must demonstrate.

22. In particular, since 1997 the Illinois Learning Standards have significantly increased in the rigor of requirements and benchmarks and in the specificity of the direction to plaintiff districts.

23. In June 2010 and as required by 105 ILCS 5/2-3.64a-5, ISBE adopted the Common Core State Standards for English language arts and mathematics as part of the Illinois Learning Standards.

24. As ISBE previously stated on its website, the Illinois Learning Standards, including the Common Core standards, are designed to “establish clear expectations for what students should learn” and “ensure that students are prepared for success in college and the workforce.”

25. Pursuant to 105 ILCS 5/2-3.64a-5, the General Assembly requires that ISBE receive public comment in developing the Learning Standards.

26. The current Learning Standards have been developed with significant public outreach and comment.

27. Accordingly, the Learning Standards represent a consensus of the citizens of Illinois as to an appropriate "high quality" education for purposes of Article X, Section 1.

28. As previously set forth by ISBE on its web site, the Learning Standards “should reflect what Illinois citizens generally agree upon as constituting a core of student learning.”

B. The State's Failure to Fund the Learning Standards

29. As previously set forth by ISBE, “Illinois students cannot be held accountable for achieving these standards if they do not have adequate and sufficient opportunities for doing so.”

30. Nonetheless students in the plaintiff districts are being held accountable for Learning Standards that the districts cannot fund and that the State defendants fail to fund.

31. Since 1997, the cost to plaintiff districts of meeting or exceeding the Illinois Learning Standards has increased significantly as well.

32. The additional cost of complying with the Illinois Learning Standards as they now exist is beyond the financial means available to plaintiff districts from the combination of state and local resources, in particular the revenue from local property taxes.

33. Furthermore, State law bars the plaintiff districts from going into debt to meet or achieve the Learning Standards.

34. At the same time, plaintiff districts receive insufficient financial aid from the State of Illinois to meet or achieve the Learning Standards.

35. For all the plaintiff districts, the combined state and local revenue per pupil is below the average of all districts in the State, and far below that of the districts in the top fifth of local resources per pupil.

36. Each of the plaintiff districts is spending significantly under the state average of \$7,712 per student for instructional expenses and \$12,821 for operating expenses (including instruction).

37. After fiscal year 2011, the State financial aid received by the plaintiff districts from the State actually *dropped*, even as the costs necessary to meet the Illinois Learning Standards required by State law increased.

38. Through fiscal year 2017, and until adoption of the 2017 Evidence Based Funding Act, the largest form of State funding for local school districts had been General State Aid (“GSA”), which had two main components: regular GSA to deal with inadequate local resources; and supplement GSA to help districts with low-income students.

39. Regular GSA grants represented the state share of the “Foundation Level,” which had been designed to provide a minimum amount of funding per pupil from the combination of state and local resources.

40. GSA had been calculated as the Foundation Level minus a district’s “available local resources” per pupil, which is based primarily on property tax wealth.

41. For the last eight years, without any change, the Foundation Level as determined by the General Assembly had been fixed at *only* \$6,119 per student, despite the increasing education costs incurred by the local districts.

42. Each school district also had received a Supplemental GSA grant based on the number and concentration of low-income students in the district.

43. Through GSA, the State defendants were supposed to bring the funding available to the plaintiff districts up to the Foundation Level.

44. The Foundation Level of the old funding system was not tied in any way to the cost of meeting the Illinois Learning Standards.

45. Furthermore, the costs of the Learning Standards had been increasing, especially after 2010 when the State aligned the Learning Standards with the Common Core State Standards in place in Illinois and certain other states.

46. In the eight years prior to the 2017 Evidence Based Funding Act, the Foundation Level, adjusted for inflation, had dropped by \$920 per student, or by 15 percent of its original value.

47. Even worse, the General Assembly had failed to appropriate even the nominal amount of the Foundation Level.

48. Instead, when even the nominal Foundation Level was not being appropriated, the State adopted a system of “proration,” cutting GSA to all districts equally, whether wealthy or poor.

49. Such a model of funding – and the pro ration of that funding – had a severe and disparate impact on the plaintiff districts and other districts most in need of State aid.

50. Some plaintiff districts are at a disadvantage not only because of their low property wealth or low spending resources but because they also have high concentrations of low-income students.

51. The increasing concentration of low income students in so many districts of the State, including the plaintiff districts, has increased substantially the cost of meeting or achieving the Learning Standards.

52. On many occasions, ISBE itself has declared that the current system of funding for the Learning Standards is shockingly unfair and unequal.

53. ISBE has been forthright in rejecting the notion that such inequities in funding the State's own Learning Standards can be justified by any other goal, such as local control.

C. The Failure to Meet or Achieve the Learning Standards

54. As shown below, the disparity in funding and inadequate State funding correlates with the disparity of meeting or achieving the Learning Standards.

55. The State defendants have recently used assessments that are prepared by the Partnership for Assessment for Readiness for College and Careers (PARCC).

56. The 2010 law required that the assessments – now conducted in elementary schools primarily through the PARCC exams – be aligned to the Illinois Learning Standards.

57. The State in effect grades the plaintiff districts by the percentage of students who meet or exceed expectations in the PARCC examinations.

58. Furthermore, the State also uses the scores on PARCC examinations as one factor in determining whether to grant admission to Illinois funded institutions of post-secondary education.

59. The following table uses the school district characteristics, including combined state and local resources and percentage of low-income students, to show the increasing disparity in the test results between the plaintiff districts and more affluent districts of the state:

Profiles of Plaintiff School Districts and Selected Affluent School Districts								
		2016-2017		FY 2016 per pupil revenue			% Meeting or Exceeding	
	Type	Students	% low income	Local	State	Local & State	2011-12 ISAT ¹	2016-17 PARCC
Plaintiff Districts								
Bethalto CUSD 8	Unit	2509	49.3	4,384	4,325	8,709	82.1	31.4
Bond County CUSD 2	Unit	1840	48.8	4,602	4,023	8,625	86.1	40.5
Brownstown	Unit	376	50.8	2,810	6,456	9,266	85.3	33.3
Bunker Hill CUSD 8	Unit	605	45.1	3,793	4,802	8,595	82.9	28.8
Cahokia CUSD 187	Unit	3371	88.9	2,874	8,706	11,580	69.0	5.2
Carlinville CUSD 1	Unit	1495	48.4	4,450	3,283	7,733	89.5	42.3
Gillespie CUSD 7	Unit	1342	68.3	2,435	5,360	7,795	80.1	35.4
Grant CCSD 110	Elem	575	52.3	8,012	3,429	11,441	79.8	25.7
Illinois Valley Central USD 321	Unit	2131	37.3	6,458	2,469	8,927	86.1	50.6
Meridian	Unit	1698	27.4	6,127	6,864	12,991	90.8	28.8
Mount Olive CUSD 5	Unit	474	42.4	4,170	4,823	8,993	85.8	30.6
Mulberry Grove CUSD 1	Unit	391	48.6	3,707	5,178	8,885	81.2	25.6
Nokomis CUSD 22	Unit	634	46.4	4,102	4,742	8,844	78.1	49.8
Oregon CUSD 202	Unit	18,208	20.2	\$7,770	\$3,542	\$11,312	90	47
Oswego CUSD#308	H.S.	2728	18.9			9,996		n/a
Pana CUSD 8	Unit	1312	61.7	4,789	4,885	9,674	83.9	27.9
Southwestern CUSD 9	Unit	1461	41.8	4,699	4,374	9,073	86.6	39.7
Staunton CUSD 6	Unit	1303	42.2	3,084	3,294	6,378	87.2	28.4
Streator	H.S.	943	55.4	7,190	4,221	11,411		n/a
Taylorville CUSD 3	Unit	2559	55.7	4,857	3,667	8,524	85.7	28.6
Vandalia CUSD 203	Unit	1465	57.3	5,171	4,690	9,861	78.2	27.6
Wood River-Hartford ESD 15	Elem	753	70.5	5,465	2,649	8,114	79.7	20.3
Comparison Districts								
Deerfield SD 109	Elem	2956	0.4	17,313	753	18,066	96.0	76.7
Glencoe SD 35	Elem	1182	0.7	22,312	589	22,901	95.9	66.5

¹ The ISAT was the standardized test that preceded the current PARCC test.

Profiles of Plaintiff School Districts and Selected Affluent School Districts								
		2016-2017		FY 2016 per pupil revenue			% Meeting or Exceeding	
	Type	Students	% low income	Local	State	Local & State	2011-12 ISAT ¹	2016-17 PARCC
Gower SD 62	Elem	876	13.7	15,499	754	16,253	95.7	62.6
Hinsdale CCSD 181	Elem	3837	3.6	17,456	708	18,164	98.2	71.8
Kenilworth SD 8	Elem	476	0	27,346	608	27,954	99.0	74.9
LaGrange Highlands SD 106	Elem	880	6.1	14,114	903	15,017	95.3	71.1
Lake Forest SD 67	Elem	1755	2.1	19,483	665	20,148	96.3	66.6
Lincolnshire-Prairieview SD 103	Elem	1743	1.4	17,215	872	18,087	97.9	80.7
Lisle CUSD 202	Unit	1487	30.3	20,655	1,627	22,282	91.2	43.5
Northbrook ESD 27	Elem	1298	3	19,418	764	20,182	96.1	81.2
Northbrook/Glenview SD 30	Elem	1168	2.3	18,606	651	19,257	97.1	77.3
Oak Grove SD 68	Elem	889	0.4	16,695	750	17,445	95.3	72.0
River Forest SD 90	Elem	1411	5.7	15,195	1,010	16,205	96.2	68.0
Sunset Ridge SD 29	Elem	466	2.1	28,110	977	29,087	96.0	73.3
Wilmette SD 39	Elem	3691	3.3	14,842	792	15,634	96.9	67.5
Wilmette SD 36	Elem	1789	0.2	23,689	652	24,341	97.9	69.0
STATEWIDE AVERAGES	-	-	50.2	-	-	12,973	84.3	34.1

Note: Revenue per pupil based on 9-month average daily attendance.

60. As set forth in the last two columns of the table, the disparities in test results have significantly increased since ISBE adopted the Common Core requirements after 2010.

61. From fiscal year 2011 to fiscal year 2015, the plaintiff districts, on average, lost \$871 in state revenue per pupil.

62. While the plaintiff districts, on average, increased local revenue per pupil by \$576 during that time period, the result was an average \$295 loss in combined state and local revenue per pupil.

63. During that same time period, from fiscal year 2011 to fiscal year 2015, the “Comparison Districts” listed above have only lost, on average, \$54 in state revenue per pupil.

64. These "Comparison Districts" have, on average, increased local revenue per pupil by \$2,719 during that time period, resulting in an average gain of \$2,665 in combined state and local revenue per pupil.

65. During that same time period, from fiscal year 2011 to fiscal year 2015, the statewide average in state revenue per pupil has declined by \$123.

66. The statewide average in local revenue increased by \$896 per pupil during that time period, resulting in an average gain of \$772 in combined state and local revenue per pupil.

67. The scores of the students who take these assessments are part of the records of students in the plaintiff districts.

68. The increasing disparity in test results for the Illinois Learning Standards that the State defendants fail to fund have made it more difficult for the students in the plaintiff districts to be admitted or to be deemed qualified for admission to the State’s public institutions for post-secondary education.

69. Furthermore, the increasing disparity has made it even more difficult for the plaintiff districts to prevent the loss of students who are not low-income and whose parents are able to place them in other schools or move to other school districts.

70. Such loss of population further reduces the local resources available to the plaintiff districts to fund the Illinois Learning Standards and leads to an even further increase in the disparity with wealthy districts.

D. The Calculation of Adequacy Targets by the State

71. The enactment last year of the 2017 Evidence Based Funding Act replaced the past funding formula used by the State – in particular, the Foundation Level.

72. In place of the Foundation Level, the 2017 Evidence Based Funding Act calls for the use of "evidence based" funding – that is, additional funding of education practices that have a demonstrated record of success.

73. The same 2017 Evidence Based Funding Act also allows the calculation of the specific additional amounts of evidence based funding necessary for under resourced districts to meet or achieve the Learning Standards.

74. The same 2017 Evidence Based Funding Act provides for under-resourced districts to have the priority in such additional amounts of funding, although other districts retain the same State aid they received before.

75. As set forth in the 2017 Evidence Based Funding Act, the funding formula now has four parts: (1) a calculation of the unique adequacy target that considers the costs of research based activities, student demographics, and regional wage differences (for teacher salaries); (2) a calculation of each district's local capacity; (3) a calculation of how much funding the state contributes; and (4) a calculation of the additional funding each district should receive, and targeting such funding to those districts that are least well funded in relation to their adequacy target.

76. This year, and pursuant to the 2017 Evidence Based Funding Act, ISBE has determined the appropriate share of the additional funding that each district shall receive and the respective shortfalls in meeting the adequacy targets, i.e., the ability to meet or achieve a "high quality" education for their students.

77. By ISBE's calculation, the gaps in adequate State funding for the plaintiff districts are as follows:

District Name	Adequacy Funding Gap	Final Adequacy Level
Plaintiff Districts		
Bethalto CUSD#8	12,192,536.71	58%
Bond County CUSD#2	8,087,152.76	62%
Brownstown CUSD#201	1,892,573.10	56%
Bunker Hill CUSD#8	2,984,004.84	59%
Cahokia Unit SD#187	16,398,455.61	66%
Carlinville CUSD#1	6,790,771.93	60%
Gillespie CUSD#7	7,089,281.96	54%
Grant Central	1,582,610.66	77%
Illinois Valley Central	6,389,604.57	72%
Mount Olive CUSD#5	2,195,153.20	61%
Meridian CUSD#223	6,496,197.94	67%
Mulberry Grove CUSD#1	2,006,355.27	58%
Nokois CUSD#22	2,841,877.92	60%
Oregon CUSD#220	4,747,915.47	72%
Oswego CUSD#308	82,543,953.13	62%
Pana CUSD#8	6,473,520.69	59%
Southwestern CUSD#9	6,506,111.76	62%
Staunton CUSD#6	6,017,751.22	58%
Streator Township HS	5,963,055.48	51%
Taylorville CUSD#3	10,179,995.36	65%
Vandalia CUSD#203	7,377,417.14	58%
Wood River-Hartford	3,140,815.78	62%

78. By contrast, the following Comparison Districts have more than sufficient funding to meet or achieve the Learning Standards:

Comparison Districts	Adequacy Funding Gap	Final Adequacy Level
Deerfield SD#109	(13,494,098.17)	142%
Glencoe SD#35	(11,240,104.43)	187%
Gower SD#62	(1,740,872.76)	118%
Hinsdale Township HS D#86	(17,666,430.49)	132%
LaGrange Highlands SD# 106	(2,304,478.70)	124%
Lake Forest SD#67	(10,689,769.28)	156%
Lincolnshire-Praireview SD#103	(6,513,926.16)	134%
Lisle CUSD# 202	(8,675,149.16)	147%
Northbrook Elem SD#27	(10,905,913.60)	178%
Northbrook/Glenview SD#30	(8,196,324.54)	163%
Oak Grove SD#68	(3,611,586.59)	135%
River Forest SD#90	(5,988,877.33)	139%
Sunset Ridge SD#29	(6,925,536.15)	230%

79. As set forth in the above table, these are the disparities that ISBE found to be "shocking" in the press release of January 18, 2018.

80. As set forth expressly in the 2017 Evidence Based Funding Act, the General Assembly has adopted a goal of meeting the adequacy targets for the plaintiff districts and other under-resourced districts by June 30, 2027.

81. Consequently, over the next ten years – even if the General Assembly meets the goal – tens of thousands of students in both the plaintiff districts and other districts will leave the K through 12 system of public education.

82. As a result, under the timetable of the General Assembly, most if not all of the students in the plaintiff districts will have left the public education system without ever having experienced, even briefly, a constitutionally adequate education.

83. Furthermore, at the current rate of additional funding of just \$350 million a year, there is no possibility that the State will meet the goal set out in the 2017 Evidence Based Funding Act.

84. The appropriation of only \$350 million in additional funding for this fiscal year – if replicated in the same way for a ten year period – will take the State over twenty years to provide a "high quality" education.

COUNT I. ENFORCEMENT OF ARTICLE X, SECTION 1.

85. Plaintiffs incorporate the preceding paragraphs as if set forth in detail herein.

86. As set forth above, ISBE has calculated that the State defendants must spend an additional \$7.2 billion, or a total of \$15.7 billion, in State aid to local districts *annually* to provide students in those districts with the "high quality" education required by Article X of the Illinois Constitution and the 2017 Evidence Based Funding Act.

87. As set forth above, ISBE has determined that such additional funding of \$7.2 billion to under-resourced districts like the plaintiff districts is required, not at some indeterminate point in the future, but immediately to comply with Article X, Section 1.

88. The plaintiffs recognize the important advancement represented by the 2017 Evidence Based Funding Act toward the adequate funding of the Learning Standards.

89. However, as State Superintendent of Education Tony Smith stated in January 2018: "But the [evidence-based] formula alone does not address the deep inequity we see – we now have to fund the formula to create the conditions for every child to thrive. The children in

school today are not able to wait for another opportunity at a quality education. A better social and economic future for the state depends on providing all children with the quality education they deserve today.”

90. Accordingly, in violation of the rights of plaintiffs and their students under Article X, Section 1, and notwithstanding the adoption of the 2017 Evidence Based Funding Act, the State has unlawfully failed and will continue to fail to provide the funding necessary for the plaintiff districts to meet or achieve the Learning Standards.

91. Defendant Rauner has also exceeded his lawful authority by operating a public education system that operates in this unconstitutional manner.

92. Likewise, in violation of the rights of plaintiffs and their students under Article X, Section 1, and by appropriating the grossly inadequate sum of \$350 million in additional State aid to meet or achieve the Learning Standards for the State as a whole, the State defendants have unlawfully failed to provide the "high quality" education as it has been defined by the State itself and that plaintiffs and their students have a right to receive.

93. Furthermore, as set forth above, when the State acts to define the content of a "high quality education," and impose mandates like the Learning Standards that the plaintiff districts have to meet or achieve, the State defendants have the "primary responsibility" under Article X, Section 1 to fund such mandates as the State itself chooses to impose.

94. The failure of the State defendants to undertake the "primary responsibility" of funding these and other mandates that the State imposes violates the obligation for such funding to the plaintiff districts in violation of Article X, Section 1.

95. The plaintiff districts and their students will suffer irreparable injury every year that the students of the plaintiff districts advance to yet another grade and attend yet another year

of public education that denies them the fair opportunity, as determined by the State itself through ISBE, to meet and achieve the Learning Standards and to enjoy their constitutional right to a high quality education under Article X, Section 1.

WHEREFORE plaintiffs pray this Court to:

- A. Declare that under Article X, Section 1, and in order to provide a high quality education within the meaning of that provision, the State defendants have a constitutional obligation to provide to the plaintiff districts the funding determined by ISBE and pursuant to the 2017 Evidence Based Funding Act to be necessary to meet or achieve the Learning Standards and to reach the adequacy targets set forth pursuant to the 2017 Evidence Based Funding Act.
- B. Enter judgment on behalf of the plaintiff districts and against the State defendants for the amounts determined to be necessary by ISBE to meet or achieve the Learning Standards and to reach the adequacy targets set forth pursuant to the Evidence Based Funding Act.
- C. Retain jurisdiction to enforce such schedule of payments and take additional measures in whatever manner the Court deems appropriate for the State defendants to comply with this judgment.
- D. Grant plaintiffs their legal fees and costs, pursuant to Section 5 of the Illinois Civil Rights Act of 2003, for claims arising under the Illinois Constitution.

COUNT II. ENFORCEMENT OF ARTICLE I, SECTION 2.

93. Plaintiffs incorporate the preceding paragraphs as if set forth in detail herein.

94. As set forth above, and as described by ISBE, there are shocking inequities and disparities between the amounts that districts like plaintiffs are able to spend on operating expenses on a per pupil basis and the amounts that districts like the comparison districts set out above are able to spend.

95. In enacting the 2017 Evidence Based Funding Act, the General Assembly acknowledged that the prior funding formula for state aid had perpetuated or failed to reduce the disparities.

96. As set out above, the current disparities in per student expenditures across the districts of the State range as high as \$10,000 to \$15,000 per student

97. The disparities also correlate with the far lower pass rate of students in the low spending districts on the PARCC examinations.

98. Such disparities described by the ISBE have no legitimate constitutional or statutory basis when the State itself imposes the Learning Standards, which all students are expected to meet or achieve.

99. Such disparities can no longer be justified as an acceptable consequence of the State's goal of local control over local educational effort when in recent years the State has significantly displaced local control by imposing the Learning Standards.

100. Furthermore, by enacting the 2017 Evidence Based Funding Act, and by adopting the Common Core curriculum requirements in 2010, the General Assembly has established that achievement of the Learning Standards has higher priority than any other education related goal in the State.

101. A ten year or similar long term plan to reach the adequacy targets set out in the 2017 Evidence Based Funding Act will deprive the students of the plaintiff districts with a

constitutionally adequate education in the interim, and many will have left the K-12 education altogether before the State attains the long term goal set out in the 2017 Act.

102. Accordingly, by operating such an unconstitutional system of public education, the defendant Rauner has exceeded his lawful constitutional authority, and the State defendants have deprived the plaintiff districts and their students of the right to equal protection of the laws, in violation of Article I, Section 2 of the Illinois Constitution.

103. Furthermore, and in the alternative, and in violation of both Article X, Section 1 and Article I, Section 2 of the Illinois Constitution, the State defendants have denied the fundamental constitutional rights of the students in the plaintiff districts – namely, the fundamental constitutional right to a system of public education that allows them to meet or achieve the Learning Standards when doing so is a factor in determining their admission to State supported institutions of post-secondary education.

WHEREFORE plaintiffs pray this Court to:

- A. Declare that under Article I, Section 2, as well as under Article X, Section 1, the State defendants have a constitutional obligation to provide to the plaintiff districts the funding determined by ISBE and pursuant to the 2017 Evidence Based Act to be necessary to meet or achieve the Learning Standards and to reach the adequacy targets set forth pursuant to the 2017 Evidence Based Funding Act.
- B. Enter judgment on behalf of the plaintiff districts and against the State defendants for the amounts determined to be necessary by ISBE to meet or achieve the Learning Standards and to reach the adequacy targets set forth pursuant to the Evidence Based Funding Act.

- C. Retain jurisdiction to enforce such schedule of payments and take additional measures in whatever manner the Court deems appropriate for the State defendants to comply with this judgment.
- D. Grant plaintiffs their legal fees and costs, pursuant to Section 5 of the Illinois Civil Rights Act of 2003, for claims arising under the Illinois Constitution.

Dated: May 21, 2018

Respectfully submitted,

By: /s/ Thomas H. Geoghegan

Thomas H. Geoghegan
ARDC# 6316792
Despres, Schwartz & Geoghegan, Ltd.
77 West Washington Street, Suite 711
Chicago, Illinois 60602
tgeoghegan@dsgchicago.com
312-372-2511