

FILED

STATE OF WYOMING)
) SS. IN THE DISTRICT COURT
COUNTY OF LARAMIE) FIRST JUDICIAL DISTRICT

WYOMING EDUCATION ASSOCIATION,)
A Wyoming Nonprofit Membership Corporation)

Plaintiff,)

vs.)

STATE OF WYOMING,)

Defendant,)

And)

ALBANY COUNTY SCHOOL DISTRICT NUMBER)
ONE, CAMPBELL COUNTY SCHOOL DISTRICT)
NUMBER ONE, CARBON COUNTY SCHOOL)
DISTRICT NUMBER ONE, LARAMIE COUNTY)
SCHOOL DISTRICT NUMBER ONE, LINCOLN)
COUNTY SCHOOL DISTRICT NUMBER ONE,)
SWEETWATER COUNTY SCHOOL DISTRICT)
NUMBER ONE, SWEETWATER COUNTY SCHOOL)
DISTRICT NUMBER TWO, and UINTA COUNTY)
SCHOOL DISTRICT NUMBER ONE,)

Intervening Plaintiffs.)

Doc. 200-788

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This case came before the Court for a bench trial beginning June 3, 2024, and ending on June 26, 2024. Patrick E. Hacker, Gregory P. Hacker, and Erin M. Kendall were present

representing Plaintiff Wyoming Education Association (WEA), O’Kelley H. Pearson, Richard D. Bush, Dami R. Metzler, John A. Coppede, George E. Lemich, and Kari Moneyhun were present representing intervening Plaintiffs Albany County School District No. 1 (Albany 1), Campbell County School District No. 1 (Campbell 1), Carbon County School District No. 1 (Carbon 1), Lincoln County School District No. 1 (Lincoln 1), Sweetwater County School District No. 1 (Sweetwater 1), Sweetwater County School District No. 2 (Sweetwater 2), and Uinta County School District No. 1 (Uinta 1) (collectively, Plaintiff School Districts), and Mark A. Klassen, Sean Towles, Timothy M. Stubson, and Mistee L. Elliott were present representing the State of Wyoming (State). Upon the filing of the parties’ proposed findings of fact and conclusions of law on October 25, 2024, the Court took this matter under advisement.¹ The Court finds, concludes, and orders as follows:

I. NATURE OF THE CASE AND CONTENTIONS OF THE PARTIES

WEA and Plaintiff School Districts (Plaintiffs) challenge the constitutionality of Wyoming’s public-school financing system. Plaintiffs’ claims are brought pursuant to the Wyoming Uniform Declaratory Judgement Act (the Act). Although there is just one cause of action, a declaratory judgment action seeking a declaration that the Wyoming Legislature’s funding of public schools is unconstitutional, Plaintiffs assert the Wyoming Legislature has violated the Wyoming Constitution for several distinct reasons.

Plaintiffs contend the State’s funding of education is unconstitutional because it has not maintained a cost-based funding system and it has failed to properly adjust the funding system for inflation. Plaintiffs assert the State’s public-school funding system has not adjusted school districts’ personnel salaries sufficiently to assure personnel salaries are reasonable estimates of the

¹ Initially, the proposed findings and conclusions were due in late August, but the Court granted a requested extension so the parties would have the benefit of finalized completed transcripts from the court reporter.

cost of those salaries. Plaintiffs argue the State is not providing the constitutionally mandated quality education because the components of the educational program do not include elementary level mental health counselors, school resource officers (SROs), nutritional programs, and sufficient computer technology equipment. Regarding the State's funding of school facilities, Plaintiffs allege the State is failing to properly assess school facilities for educational suitability and the system has allowed too many inadequate school facilities to be used for too long. Plaintiffs assert the State's failures have caused harm to the fundamental right of education and have caused disparities between the 48 school districts in Wyoming. Plaintiffs request the Court declare the State's public school finance system for funding school district operations and funding school facilities unconstitutional and to order the State to amend its public-school financing system so that it complies with the requirements of the Wyoming Constitution.

II. ISSUES PRESENTED FOR TRIAL

The following issues are before the Court:

- A. Has the State maintained a public-school finance system that is constitutional as defined and developed by Wyoming Supreme Court caselaw?
 1. Is the State properly accounting for the effects of inflation in funding public schools?
 2. Is the State's current method/model for determining the cost of education capturing the actual cost of providing the required public school educational program?
 3. Is the State adequately funding professional and non-professional school personnel salaries?
 4. Does the current funding model include all components of a complete and uniform, thorough and efficient, and quality public-school education program?

5. Does the current funding model adequately fund all components of a complete and uniform, thorough and efficient, and quality public-school education program?
 6. Is the State's current system for funding school facilities adequate?
 7. Is the State properly assessing the suitability of school facilities?
- B. Does the current school funding system result in disparities in funding and/or disparities in the quality of education between Wyoming school districts and students?
- C. If Plaintiffs prove the existence of any constitutional violation, has the State proved its actions and inactions are necessary to achieve a compelling state interest and that there is no less onerous alternative to achieve its objective?

III. HISTORY OF SCHOOL FINANCE LITIGATION IN WYOMING

A. Washakie Case

There have been a series of cases challenging Wyoming's school finance system.² In 1978, a school district brought a declaratory judgment action against the State seeking a declaration that the public-school finance system, which was then based primarily on local property taxes, violated the equal protection clause of the State Constitution. *Washakie County School Dist. No. 1 v. Herschler*, 606 P.2d 310, 327 (Wyo. 1980) (*Washakie*). The *Washakie* case was appealed to the Wyoming Supreme Court after the district court granted the State's motion to dismiss. *Id.* at 314-15. The Supreme Court determined that an evidentiary hearing or trial was not necessary and based their decision on the existing statutory scheme and Wyoming Department of Education (WDE) records received by taking judicial notice. *Id.* at 333. The Supreme Court held the school financing system violated the equal protection clause of the Wyoming Constitution because it created wealth-

² School financing was also the subject of an earlier case where the Wyoming Supreme Court held that ad valorem taxes were not equalized for school purposes. *Sweetwater County Planning Committee for Organization of School Districts v. Hinkle*, 491 P2d 1234 (Wyo. 1971).

based disparities and there was no compelling governmental interest supporting the system. *Id.* at 335. The disparities demonstrated that “the quality of a child’s education in Wyoming, measured in terms of dollars available for that purpose, is dependent upon the property tax resources of his school district.” *Id.* at 332. As an example, the Supreme Court noted:

If we multiply the differences per student by the total students affected, the figures more forcefully demonstrate the disparity. For example, for each 100 students in Washakie District No. 1, \$161,000 for their education is available. In Converse District No. 1, \$284,500 for the same number is available; in Campbell District No. 1, \$329,900 is available.

Id.

B. Campbell I Case

In 1992, four school districts brought a declaratory judgment and injunctive action against the State challenging the constitutionality of the school financing system post-*Washakie*. *Campbell County School District v. State*, 907 P.2d 1238, 1263-64 (Wyo. 1995) (*Campbell I*). Following the *Washakie* case, the 1983 legislature enacted legislation modifying the existing school funding system, creating additional mill levies and amending the constitution to allow recapture and redistribution of revenue between districts. *Id.* at 1246-47. In enacting the amendments to the system, the legislature suggested these amendments were temporary and it would study and create a cost-based school finance system. *Id.* The legislature did not create and enact a cost-based system and the 1983 legislative amendments continued to be the school finance system. *Id.* at 1247-48. The plaintiff school districts in *Campbell I* challenged the constitutionality of the optional mill levies statute, the recapture statute, and capital funding statute, arguing those statutes created wealth-based disparities. *Id.* at 1250. Those plaintiff school districts also challenged the distribution formula, including the divisor statute, the municipal divisor statute, and the recalculation statute, arguing those statutes created irrational and arbitrary spending disparities not

justified by cost differentials. *Id.*

The Supreme Court held the recapture statute was unconstitutional because it allowed the school districts that were subject to recapture to retain 109% of the foundation guarantee, which allowed wealth-driven funding disparities that were not supported by a compelling governmental interest and were arbitrary. *Id.* at 1268. The Supreme Court held the optional mill levies were unconstitutional because they also created wealth-based disparities between districts. The optional mill levies statute required local voters to approve the mill levies and the amounts raised by the optional mill levies widely differed from district to district because it depended upon the district's assessed valuation. For example, Campbell 1's assessed valuation was \$1.3 billion and Laramie 1's assessed valuation was \$269 million. *Id.* at 1269-70. The Supreme Court held the State's system for funding school facilities unconstitutional because the State had "virtually ignored" the requirement that State funds are readily available for school building construction on a parity for all school districts. *Id.* at 1275. For example, the Court noted that an independent firm, MGT of America, Inc. (MGT), assessed statewide school facility needs and priorities and determined \$275 million was needed in repairs and replacements, but the legislature had routinely transferred capital facility funds to meet school operational needs and only \$5 million was available at that time for capital facility funding. *Id.* at 1274. Finally, the Court held the distribution formula, including the divisor, municipal divisor, and recalculation statutes, was unconstitutional. *Id.* 1278. The Court determined the distribution formula created disparities in funding that were not "cost-based". For example, the divisors caused smaller schools to receive more funding per student than larger schools which were not based upon actual cost disparities. *Id.* at 1277-78.

C. Campbell II Case

Following issuance of the *Campbell I* decision, the legislature hired a consulting firm,

Management Analysis & Planning, Inc. (MAP), to guide it in developing a constitutionally sound school finance system. *State v. Campbell County School Dist.*, 2001 WY 19, ¶ 11, 19 P.3d 518, 529 (Wyo. 2001) (*Campbell II*). During the 1997 legislative session, the legislature did not fund the preferred MAP model scenario (MAP 3) and several school districts and WEA again filed an action challenging the constitutionality of the school funding system. *Id.* at ¶¶ 14-15, 530. The district court held two trials, one in 1997 and the second in 1999, because it allowed the legislature to further address school funding in 1998 and 1999. *Id.* at ¶¶ 15-20, 530-31. The district court held the revised school funding system was generally constitutional, but it held some of the technical issues and adjustments were unconstitutional and it held unconstitutional the statutory system for financing public school capital construction. *Id.* at ¶¶ 20, 37, 531, 534.

On appeal, the Supreme Court held the school finance system adopted by the legislature “is capable of fulfilling” the fundamental constitutional right to an “education ‘appropriate for the times.’” *Id.* at ¶ 139, 566. The Supreme Court, however, held that certain components of the school finance system – administrative and classified salaries, capital construction and maintenance, vocational education, inflation adjustments to costs, student activities, small school adjustment, regional cost adjustments (RCAs), kindergarten costs – required modifications to make them constitutional. *Id.* at ¶¶ 68-110, 544-56. The Court concluded administrative and classified salaries were unconstitutional because the model did not adjust to account for differences in experience, responsibility, and seniority, which created unacceptable disparities not supported by a compelling state interest. *Id.* at ¶¶ 68-69, 544. The Court held that the State had not properly adjusted for inflation since 1996-1997 because the evidence revealed that Wyoming teacher salaries ranked 42nd in the nation, and actual salaries being paid by Wyoming school districts were between 6 percent and 40 percent greater than the statutory model’s salaries. *Id.* at ¶¶ 88-89, 549. Regarding

the system for funding capital construction of school facilities, the Court held it was unconstitutional because the evidence established the capital construction needs at that time were over \$565 million with \$303 million in deferred maintenance, the percentage of inadequate facilities had risen, the evidentiary record “was devoid of evidence that the legislature has funded or intends to fund the undisputed deficiencies any time soon”, and only \$30 million had been actually appropriated by the legislature toward capital construction. *Id.* at ¶¶ 121-123, 19 P.3d at 558-59.

The Supreme Court ordered the legislature to make the required modifications by July 1, 2002. *Id.* at ¶ 110, 556. The Supreme Court also held the capital construction finance system unconstitutional. *Id.* at ¶ 111, 556. Finally, the Supreme Court, after noting there had been years of inaction on capital construction, ordered the legislature to take specific actions regarding capital construction. *Id.* at ¶ 137, 565. The Supreme Court ordered that the district court retained jurisdiction until the legislature complied with the *Campbell II* decision. *Id.* at ¶ 141, 566.

D. Campbell III Case

The Supreme Court, upon a petition for rehearing following its *Campbell II* decision, issued a third decision clarifying the *Campbell II* decision regarding the capital construction funding system. *State v. Campbell County School Dist.*, 2001 WY 90, 32 P.3d 325 (Wyo. 2001) (*Campbell III*). The Supreme Court also considered and rejected the State’s argument that the Supreme Court’s *Campbell II* orders concerning capital construction violated the separation of powers and political question doctrines. *Id.* at ¶¶ 29-45, 331-37.

E. Campbell IV Case

In March 2004, thirty Wyoming school districts, WEA, and the Wyoming School Board Association filed a Petition for Resolution of Constitutional Interpretations in district court

claiming the State failed to comply with the *Campbell II* decision mandates. *Campbell County*

School Dist. v. State, 2008 WY 2, ¶ 5, 181 P.3d 43, 48 (Wyo. 2008) (*Campbell IV*). Again, the district court held a trial in 2005 and issued a written decision. *Id.* at ¶ 7, 48. Ultimately, the Supreme Court held the State had complied with the *Campbell II* decision mandates, except to the extent that certain actions that were needed regarding capital construction financing and the application of Wyoming Cost of Living Index (WCLI). *Id.* at ¶ 136, 83. The Supreme Court released its continuing jurisdiction. *Id.* at ¶ 138, 84.

IV. FINDINGS OF FACT

A. Glossary

The facts of this case involve many acronyms. Therefore, the Court believes it helpful to provide the following glossary of acronyms and terms which are used repeatedly throughout this Order. The acronyms will be further described in the order.

ACT	American College Testing Program Assessment Test
ADA	Americans with Disabilities Act
ADM	Average Daily Membership
AP	Advanced Placement
APA	Augenbblick, Palaich and Associates
ARPA	American Rescue Plan Act Funding
BLS	Bureau of Labor Statistics
BV	Bureau Veritas North America, Inc.
CRERW	Continued Review of Educational Resources in Wyoming
CTE	Career and Technical Education
EA	Exception Authorization
ECA	External Cost Adjustment
ELL	English Language Learner
ESSER	Elementary and Secondary School Emergency Relief
FCA	Facility Condition Assessment

FCI	Facility Condition Index
FCNI	Facility Condition Needs Index
FEA	Facility Engineering Associates
FTE	Full Time Equivalent
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Plan/Program
JAC	Joint Appropriations Committee
JEC	Joint Education Committee
LSO	Legislative Service Office
MAP	Management Analysis & Planning, Inc.
MCER	Most Cost Effective Remedy
MGT	MGT of America Consulting Group
NAEP	National Assessment of Educational Progress
PIC	Professional, Industry and Career
PTSB	Professional Teaching Standards Board
SCD	State Construction Department
SFC	School Facilities Commission
SFD	School Facilities Division
SRO	School Resource Officer
USDA	United States Department of Agriculture
WCLI	Wyoming Cost of Living Index
WDE	Wyoming Department of Education
WY-TOPP	Wyoming Test of Proficiency and Progress
TRRTF	Teacher Retention and Recruitment Task Force

B. Funding of School Operations since *Campbell IV*

1. Funding Models

(a) The Statutory Funding Model

1. The original Wyoming School Finance Model found to be constitutional in *Campbell IV* was the MAP Model, which was developed and implemented from 1999 to 2005.

The MAP model was the legislature’s response to the *Campbell I* and *Campbell II* decisions and was the subject of the *Campbell IV* decision. The MAP model was used to fund schools up through school years 2005-06. [Trial Transcript Vol. I at 102; Vol. XIII at 3470-3473]³

2. The current actual school funding model, which is also sometimes referred as the educational resource block grant, WDE 100, or statutory model, is the funding model adopted by the legislature (Funding Model).⁴ [Vol. 1 at 44-45; Vol. III at 645-646; Vol. XIII at 3337] The Funding Model implements what has been adopted by the legislature, as defined by Wyo. Stat. Ann. § 21-13-101(a)(xiv) and as detailed in spreadsheets and accompanying reports referenced under Wyo. Stat. Ann. § 21-13-101(a)(xvii). The Funding Model determines the guaranteed amount of funding to be provided for school district operations. *See* Wyo. Stat. Ann. §§ 21-13-301(a)(v), 21-13-309. The Funding Model is “the mechanism[] by which the State generates resources and allocates them, distributes them to the school district[s]” to meet that obligation. [Vol. XIII at 3464, Vol. IX at 2204].

3. The Funding Model block grant for each school district is determined each year. [Exhibit (Ex.). L7, p. 1⁵] The Funding Model is intended to “identify the costs of providing the State’s basket of educational goods and services and then to provide each school district with adequate funds to provide that basket such that each student is given an equal opportunity to meet Wyoming’s student performance standards.” [Ex. D-1] The first step is to determine the base

³ Citations using a Vol. number refer to the transcript Volume. Exhibits are a separate part of the record.

⁴ Another model was identified as the “Payment Model.” The Payment Model, however, is WDE’s version of the Funding Model – WDE 100 – and it aligns with or matches the Funding Model. The WDE 100 or Payment Model implements the Funding Model. [Vol. IX at 2204-2205, 2236, Vol. XIV at 3618; see Ex. 2044] Because the parties have not alleged any inconsistencies between the Funding Model and the Payment Model, the Court’s use of the term “Funding Model” refers to both the Payment Model and the Funding Model. WDE maintains the Funding Model. [Vol. XIII at 3323]

⁵ The Exhibits include many different page numbers because some exhibits include several different documents. Therefore, generally, when an Exhibit’s page number is cited, the Court is citing to the PDF page number and not the page number located at the bottom of an exhibit’s page.

school resources⁶ needed to provide the required education. Once the base components and the cost of the base components are determined, several adjustments are applied to the cost of the base components, including an ECA, a Regional Cost Adjustment (RCA), and reimbursable costs. After the adjustments are applied, the result is each school districts' Funding Model guarantee. [Ex. L7, p.1; Vol. IX at 2208] The funding each district ultimately receives is a function of the components of the Funding Model and the characteristics of the schools, staff, and students within a district. *See* Wyo. Stat. Ann. § 21-13-309 [Ex. L7].

4. When local funding resources available to a school district exceed the Funding Model guarantee, then the State recaptures the excess. Examples of local funding include revenue from property taxes and from fines and forfeitures. If the Funding Model guarantee exceeds local resources, the State makes entitlement payments to the school district to cover the difference and ensure all districts have the same effective level of funding. Wyo. Stat. §§ 21-13-310, 21-13-311 [Vol. IX at 09; Ex. L7]. If local funding exceeds a school district's Funding Model guarantee, that district is a Recapture District. If local funding is not enough to fund a school district's Funding Model Guarantee, that district is an Entitlement District. [Ex. L7, p. 2]

5. If a school district is an entitlement district, WDE pays 15 percent of the entitlement in August each year, then WDE pays 10 percent of the entitlement each month from September through April, and finally 5 percent in May each year. Because Recapture Districts are funded entirely by local tax revenues, those districts receive funding based upon local tax collections. [Vol. IX at 2256-2258] School districts have significant discretion on how to spend its funding and are not required to use the Funding Model funding based upon the calculations from the

⁶ The term "resources" is also used to refer to funding resources like local taxes and fines. The term "resources" as used here is better understood as the necessary components the districts utilize to provide the public education. For example, teachers, supplies, curriculum, staff, and administrative services. [Vol. I at 41]

Funding Model. [Vol. XIII at 3469]

6. The base components are defined by statute. Wyo. Stat. § 21-13-101(a)(xvii). Examples of base components include professional labor, non-professional labor, educational materials, and energy costs.⁷ 2012 Wyo. Sess. Laws Ch. 99, Attachment A. The Funding Model does not include funding for elementary level counselors, SROs, nutrition programs, and Pre-kindergarten (Pre-K) programs [Vol. I at 100-101, 135, 164; Vol. XI at 2650] The Funding Model provides for fewer instructional facilitators than recommended by the State’s consultants. [Vol. IX at 2272-2274] The Funding Model provides funding for counselors, social workers, and at-risk student support positions. [Vol. I at 130]

7. Teacher salaries are a component of the Funding Model. Teacher salaries are estimated using a base “model” salary (Funding Model Base Salary). The Funding Model Base Salary for teachers in 2022-2023 school year was \$37,540, and in 2023-24 school year the Funding Model was about \$39,000 a year. [Vol. VIII at 1980, Ex. 2044 row 168] The Funding Model Base Salary is then adjusted upward for education, experience, responsibility, and regional costs as well as by applying any cost adjustments granted by the legislature, which is known as the weighted model salary (Funding Model Weighted Salary). *See* Wyo. Stat. § 21-13-309(m)(v)(C). [Vol. I at 146-148, Vol. III at 665, Vol. IV at 900, Vol. XIII at 3324-3328; Ex. E1 p. 77; Ex. 2393]. The average Funding Model Weighted Salary is a culmination of the weighted average salaries for all 48 school districts in Wyoming, which includes an adjustment for average experience and average education and is single average salary. [Vol. I at 52, Vol. IV at 900-901, Vol. XIII at 3325-3326] Every school district’s average Funding Model Weighted salary is unique to that district. [Vol. IV at 900, Vol. IX at 2223] The amount each school district receives annually for salary component

⁷ At times the parties referred to professional staff as certified staff and nonprofessional staff as classified staff. Those terms will be used interchangeably throughout the order.

is based upon the Funding Model's Weighted Salary for that school district. [Vol. XII at 2860] Funding Model salaries included in the Funding Model, which are used to calculate a school district's Funding Model Guarantee, are not based on actual salaries paid by the school districts. [Vol. IX at 2220]

8. The "basket of educational goods" or required education is defined by statute and WDE regulation. [Vol. XIV at 3620] Since 2005, the legislature has added a few components to the educational basket of goods, including the Hathaway Success Curriculum and replacing keyboarding with computer science. [Vol. XIII at 3475] Currently, the basket of educational goods includes: reading/language arts, social studies, mathematics, science, fine arts and performing arts, physical education, health and safety, humanities, career and technical education (CTE), World cultures and languages, government and civics including state and federal constitutions, and computer science. Wyo. Stat. § 21-9-101. [Ex. E-1, p. 9] The Funding Model uses class size ratios of 16 to 1 for primary grades and 21 to 1 for secondary classes. [Vol. 1 at 145] Neither driver's education nor elementary athletics are required components of public education program in the Funding Model. [Vol. I at 155]

9. Average daily membership (ADM) is measure of the student count or enrollment in a school district. [Vol. I at 50, Vol. III at 645] ADM affects the amount of funding provided by the Funding Model. When ADM goes up, funding provided by the Funding Model is increased. [Vol. I at 131-132] When ADM decreases, funding provided by the Funding Model is decreased. [Id. at 132] Decreases in ADM are spread over a three-year rolling average to temper the effect of ADM losses on the amount of funding provided by the Funding Model. [Vol. III at 645, Vol. IX at 2218] This approach may result in a school district being funded under the Funding Model for a higher ADM than actual ADM. [Vol. III at 671]

10. The Funding Model includes an RCA, which is intended to address impacts such as higher costs based on a school district's region. [Vol. III at 696-697] The RCA is an intrastate adjustment, not interstate. [Vol. IV at 897] The RCA applies only to salaries and wages. [Vol. IX at 2208] An RCA is designed to reflect differences – geographic variations – in hiring costs from one school district to the next. An RCA is intended to address hiring difficulties occurring only in certain districts. [Vol. IX at 2118-2119]

11. Each school district may have pre-1997 funds in a separate account outside the funds provided by the Funding Model, which the district may carry over every year. Once that money is spent, the district may not add any money to the pre-1997 account. [Vol. IV at 974]

(b) The Consultant's Model

12. The State also maintains the Consultant's Model.⁸ In 2005, the State hired Lawrence O. Picus & Associates (Picus) as its school funding consultant for the 2005 recalibration. The Picus Model is the Consultant's Model. It is used to guide the legislature in adopting the Funding Model. It is intended to be cost-based because it estimates the cost of the level of funding required to fund the delivery of the basket of goods included in the Funding Model. [Vol. I at 57, Vol. IX at 2197, 2202; Ex. E-1, pp. 5-6] It is the consultant's best estimate of the cost to provide the required basket of goods. [Vol. XIII at 3337, Vol. XIV at 3668] The Consultant's Model includes recommendations made by the State's consultants at recalibrations as to the base components that should be included in the Funding Model. [Vol. I at 57] The Consultant's Model only changes due to recalibration. [Vol. XIII at 3384] The Consultant's Model is maintained by the Wyoming Legislative Services Office (LSO), which updates the Consultant's Model annually based on data changes. [Vol. IX at 2202, Vol. XIII at 3322-3323] Like the MAP Model, the

⁸ The Consultant's Model is often referred to as the "Evidence-Based Model." [Vol. IX at 2236, Vol. XIII at 3322] For purposes of consistency, the Court will refer to it as the "Consultant's Model."

Consultant's Model employs prototype schools and prototype school districts based on research and professional judgment panels. [Vol. XIII at 3476-3477] Since 2005, the legislature has, in adopting the Funding Model, deviated from the Consultant's Model. For example, the legislature included fewer instructional facilitators, fewer interventionists, and tutors in the Funding Model than the Consultant's Model. [Vol. XIII at 3361-3362, 3479-3480] If the class size ratios in the Consultant's Model were used to determine school district funding, then it would result in less funding. [Vol. 1 at 146]

13. Beginning in 2018-19 school year, if the Consultant's Model had been fully adopted by the legislature, it would have provided more funding for public schools than the Funding Model provided. [Vol. I at 59, Vol. XIII at 3339; Ex. P-1, Table 2, p. 8; Ex. M-2] In school years 2018-19, 2020-21 2021-22, and 2022-23, the Consultant's Model would have provided more funding than the Funding Model, specifically: \$1.3 million more in 2018-19; \$20.7 million more in 2020-21; \$29.7 million more in 2021-22; and \$53.7 million more in 2022-23. [Ex. P-1, Table 2, p. 8] For school years 2023-24 and 2024-25, it was estimated that the Consultant's Model would have provided more funding than the Funding Model, specifically: \$30.2 million more in 2023-24; and \$98 million more in 2024-25.⁹ [Id.] The total amount of funding provided by the Funding Model for the school years 2018-19 through 2022-23 ranged from \$1.5 billion to \$1.6 billion. [Id.]

2. ECAs

14. ECAs are adjustments to the level of funding in the Funding Model between recalibrations and are potentially applied in the years between recalibrations. An ECA is designed to address changes over time in the state-wide level of prices for certain items. [Vol. IX at 2107-2108, 2118-2119, Ex. P-8] An ECA is an adjustment for inflation and its purpose is to maintain

⁹ The relevant witnesses agreed that the actual difference in 2024-25 was closer \$30 million after the most recent legislative session. [Vol. I at 122, Vol. XIII at 3350]

the status quo on a school district's purchasing power. [Vol. I at 82] An ECA is not applied in the year after a recalibration. [Vol. XIII at 3332] ECAs are not applied to funding that is fully reimbursed, such as transportation and special education. [Vol. XIII at 3340] An ECA is potentially applied to several of the base elements included in the Funding Model. [Vol. I at 47-48] In 2010, the legislature began to track four broad categories of components that school districts must purchase, including professional salaries, nonprofessional salaries, energy, and school supplies and materials, for purposes of applying an ECA. [Vol. IX at 2119-2020]

15. Since 2001, the legislature has not applied an ECA to the Funding Model in school years 2002-2003, 2006-2007, 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2017-2018, 2018-2019. [Ex. P-1, Table 1, p. 5] During the 2016 legislative budget session, the legislature did not sustain the ECA enacted for fiscal year 2015-2016. [Ex. 2143, p. 15] During the 2017 legislative general session, the legislature eliminated the ECAs enacted during the 2016 legislative budget session. [Id. at 16] When an ECA is adopted for salaries, it increases the Funding Model base salary by the ECA percentage and not the actual salaries districts are paying. [Vol. III at 774] Between school years 2017-18 and 2022-23, the legislature adopted just one ECA for salaries, in 2019-2020. [Vol. IX at 2263-2264; Ex. 2044] An ECA was enacted for school year 2023-24 of approximately 4.3 percent for certified staff and 5.4% for classified staff, which was intended capture inflationary pressures for the two preceding years. [Ex. P-1 p. 5-6] For 2024-2025, the legislature adopted a 4.1 percent ECA for classified staff, a 3.8 percent ECA for certified staff, a 14.6 percent ECA for energy, and a 21.8 percent ECA for supplies and materials, which amount to about \$68 million. [Vol. XIII at 3349]

3. Recalibrations

16. State statutes require the legislature to engage in a recalibration of the Funding

Model “to determine if modifications are necessary to ensure it remains cost-based in light of changing conditions and modifications to the law.” Wyo. Stat. § 21-13-309(t); [Vol. I at 68, 77] Recalibration involves reviewing the Funding Model to assure the model continues to include all the necessary components, in the right quantities, funded at the right actual prices to assure that the model is fulfilling all the constitutional requirements. [Id. at 67] The State’s consultant oversees each recalibration. The consultant is charged with identifying an estimated cost to deliver Wyoming’s educational system. The consultant provides recommendations regarding whether to add new components to the Funding Model. The State also hired separate consultants to provide guidance about the education labor market and the need for ECAs and for any RCAs. School districts and educational professional panels also participate in recalibration. Ultimately, the legislature decides how to recalibrate the Funding Model. [Vol. XIII at 3328-3330] The legislature considers adoption of recalibration report recommendations in the legislative session the year after the report. [Vol. XIII at 3374]

17. During the 2005 recalibration, teacher salaries in the Funding Model were significantly increased, about \$10,000 a year. [Vol. V at 1180; Ex. P-10] In 2003-04, the average Funding Model Weighted salary for teachers was \$37,609.00. In 2006-07, the average Funding Model Weighted Salary for teachers was \$43,938.00. [Ex. N-10] The average actual teacher salaries paid by school districts were \$39,532 in 2003-2004 and \$50,692 in 2006-2007. [Id.] The actual salaries being paid by school districts during the 2005 recalibration were folded or translated into the Funding Model in 2006-07. Those new Funding Model salaries also included a 2005 legislative appropriation of \$25 million in bonuses for all school district personnel, which increased actual salaries. [Vol. XIII at 3499, Vol. XIV at 3638-3639]

18. During the 2010 recalibration, the State, based on reports from its labor market

experts, concluded actual salaries being paid by school districts were above market. Unlike after the 2005 recalibration, the legislature did not base the Funding Model salaries on the actual salaries being paid by school districts. [Vol. XIII at 3506]

19. There was also a recalibration in 2017, which was less than five years since the prior recalibration in 2015. [Vol. I at 68] The 2017-18 recalibration study was performed by Augenblick, Palaich & Associates (APA). That recalibration study recommended \$71.2 million more funding than the Funding Model. [Ex. 2144, p.1] The recommendation was not adopted by the legislature. [Vol. XIII at 3357-3359] In its 2018 recalibration report to the State, APA recommended that the model teacher salaries be adjusted to reflect the actual average teacher salaries paid by Wyoming school districts. [Ex. 1196, p. 51] Specifically, APA stated:

The results of the study team analysis of teacher salaries are consistent with prior estimates, and indicate that teacher salaries in Wyoming are higher than teacher salaries in neighboring states. However, the advantage over other regions is beginning to shrink. Since 2013, teacher salaries have lost ground in Wyoming relative to other full-time, employed college graduates. This is largely because teacher salaries have remained relatively flat, while other Wyoming workers' salaries have increased significantly since 2010. After adjusting for inflation and rising wages in non-teaching jobs, teacher salaries in Wyoming have fallen by up to 13 percent since 2012.

Further, the degree to which districts pay teachers above the model salary suggests that they believe the model salary is insufficient to attract and retain high-quality teachers. While the study team cannot expressly rule that out, the current data does not suggest Wyoming has a big problem with teacher attrition and there is no evidence of substantial movement across districts within the state. However, this could be the result of high salaries being paid by districts, and the study team cannot know for certain what it would look like if districts were paying at the model salary level.

Districts typically pay above the model salaries determined by the state by an average of roughly \$3,900 annually, but there has been relatively little change in model salaries or received salaries over the period 2011-12 to 2016-17.

.....

The study team recommends increasing the average funding model teacher salary

by \$3,900 to bring funding model salary levels back in line with the actual salaries paid by districts across the state and to pace with the rate of growth of non-teaching salaries in the region. This should allow Wyoming to maintain its advantage over its neighbors in terms of the relative attractiveness of teacher salaries.

[Id. pp. 51-53]

20. During the 2020 recalibration, Pre-K, SROs, and nutrition programs were considered for additional components to the Funding Model. The consultants did not recommend adding SROs or adding nutrition programs. [Vol. XIII at 3330-3331; Ex. E-1, p. 6] The consultants recommended the legislature fund Pre-K in the Funding Model. [Vol. XIII at 3361] The State's consultant recommended adding mental health counselors for elementary students but reducing pupil support. [Ex. 1024, p. 1] The State's consultant's recommendation for elementary level mental health counselors would have cost \$15.8 million more than the Funding Model's amount. [Vol. XIII at 3352-3353; Ex. 1024 at p. 2] Since 2020, a State sponsored K-12 mental health working group has also recommended including mental health counselors as a component to the Funding Model. [Ex. 2091] Salaries were not reset during the 2010, 2015, and 2020 recalibrations. [Vol. XIII at 3377]

4. Consultants' Monitoring Reports

21. During the 2010 recalibration, the legislature directed LSO and its consultants to monitor cost pressures and provide an annual monitoring report. *See* Wyo. Stat. 21-13-309(u). The monitoring process was intended to "to monitor the [Funding Model's] cost basis as it converges with the funding level." [Ex. G-1 p. 1] In every non calibration year since 2010, LSO and the consultants have provided a monitoring report at a joint meeting with the Joint Appropriations Committee (JAC), the Joint Education Committee (JEC) and the Joint Education Interim Committee (JEIC) in the end of September. [Vol. XIII at 3347-3348] The monitoring process is intended to assist the legislature in determining whether to enact an ECA. [Ex. P-1, p. 4]

22. WDE monitors school district spending and resource allocation of general funds each year. Through the monitoring process, WDE produces annually a Continued Review of Educational Resources in Wyoming report (CRERW Report). CRERW Reports summarize school district spending patterns. [Vol. IX at 2224-2225, 2227; Exs. Q-1 – B-2] The data included in a CRERW Report come from WDE’s Form 601 (WDE-601), which is fiscal data submitted by every school district annually to WDE, and WDE’s Form 602 (WDE-602), which is staffing data submitted by all school districts annually to WDE. [Vol. IX at 2225-2226, 2228] A CRERW Report breaks data down by school district and is focused on school district general fund monies, which come from the school districts’ Funding Model guarantee. [Vol. IX at 2226-2227] CRERW Reports are provided to the legislature annually in September. [Vol. IX at 2229-2230] CRERW Reports are used to monitor whether the Funding Model’s components reflect actual costs and to assure that it is cost-based. Not all school district spending is captured by CRERW Reports. [Vol. IX at 2268-2270]

C. Off-Model Funding and Unfunded Programs

23. There are some educational components that are or have been funded by the State separately from or outside of the Funding Model. [Vol. III at 646, Ex. L-7, p. 13] The off-model funding is in addition to the Funding Model guarantee. [Vol. XIII at 3333-3334] For example, Wyoming Retirement, special education, and instructional facilitators have been at times funded separately from the model. [Vol. III at 647] Instructional facilitators are currently funded through the Funding Model. [Vol. XIII at 3335] CTE grants are funded outside the Funding Model. [Vol. XIII at 3334] These are also referred to as categorical grants. [Vol. XIII at 3333] Categorical grant funding is for a specific purpose and school districts may not use that funding for any other purpose. [Vol. XIII at 3335]

1. Special Education and Section 504 Plans

24. The federal government provides funding to the State for special education through the Individuals with Disability Education Act (IDEA). [Vol. II at 498] Currently, all school district special education expenses documented through an Individualized Education Program (IEP), including special education teacher salaries and benefits, are 100 percent reimbursable from the State. [Vol. I at 150; Vol. II at 387, 427, 474, 499, 505-506] The special education costs are reimbursed by the State the year after the costs have been incurred. [Vol. II at 387, Vol. VIII at 2051] Before 2023, special education was funded in the Funding Model, but was fully reimbursable. [Vol. IX at 2260, 2279] An IEP outlines the specific education assistance and accommodations that a student is eligible to receive to optimize the student's learning. [Vol. VI at 1388] The State, however, determines what is an allowable expense. In general, to be reimbursable, the cost must be necessitated by a student's IEP and services must be provided by a properly licensed service provider. [Vol. II at 474, Vol. IX at 2216-2217, 2261] The WDE has provided guidance on allowable special education expenditures. [Ex. 2486] During the 2018 legislative budget session, the legislature capped special education funding for school years 2018-19 and 2019-20. [Ex. 2143 p. 17]

25. Costs associated with students on a Section 504 plan under the federal Vocational Rehabilitation Act, however, are not fully reimbursable and are paid for by school districts' general fund. [Vol. II at 475, 499; Vol. VIII at 1971] Students on a Section 504 plan receive accommodations for disabilities associated with activities of daily living (ADLs). [Vol. VIII at 1971]

2. Nutrition Programs

26. The United States Department of Agriculture (USDA) operates and regulates

federal school nutrition programs, subsidizes school nutrition programs, and gives school districts access to commodities like meat. [Vol. I at 94-95] USDA regulations generally limit increases on the price a school district may charge a student to 10-cents per year. [Id.] Federal nutrition funding flows through WDE to school districts. [Vol. V at 1308] The purpose of the federal school lunch and breakfast programs is to provide healthy meals to children while at school. [Id. at 2678]

27. Wyoming school districts are not required by law to offer any meals to students, but all of Wyoming's school districts offer some level of meals to students. [Vol. XI at 2641-2642] The State, however, provides no funding to school districts for nutrition programs provided by the districts. [Id. at 2650] School districts fund student meals in different ways. Some participate in the USDA nutritional breakfast and lunch programs and are reimbursed per meal by the federal government and some districts pay for student meals independently.

28. The USDA reimburses student meals based upon economic status if a student qualifies for free or reduced lunches. To qualify for a free or reduced lunch, a student's parents must complete a free and reduced lunch application listing the student's household income and size. A student qualifies for a free lunch if the student's application reflects his or her household income is at or below 130 percent of the federal poverty level, and a student qualifies for a reduced-price lunch if the student's application reflects his or her household income is at or between 130 percent and 185 percent of the federal poverty level. [Vol. XI at 2677-2678] If a student does not qualify for free or reduced meals, then the federal government's reimbursement is less. [Id. at 2642-2646] In school year 2023-24, the USDA reimbursed school districts \$4.33 per meal for lunches served to students who qualified for free meals, \$3.93 for each lunch served to students qualifying for reduced meals, and \$0.48 for each lunch served to students paying for meals. [Vol. XI at 2660, Ex. Z-4 pg. 2] The USDA, using a formula, also recommends a price that school

districts should charge full-paying students for meals, which was \$4.15 in school year 2023-24. [Vol. XI at 2665, 2670 Ex. Z-4 pg. 2]

29. School districts participating in the USDA Lunch Program must provide lunches with a protein, a milk, fruit, vegetable, and grain. All students must be provided the opportunity for the meals. [Vol. XI at 2676] School districts participating in the federal programs also have access to USDA commodities. The commodities program assigns each district a commodities allowance based on a formula, which the district may use to obtain food from federal programs. [Vol. XI at 2646-2647] WDE assists school districts in using and obtaining their commodities allowances. [Id. at 2648-2649]

30. Most Wyoming school districts transfer funds from their general fund to cover shortfalls in their nutrition programs. When a school district transfers from its general fund to cover shortfalls in their nutrition programs the transfer is reported to WDE, WDE reports those amounts to the USDA, and uses those amounts for the State's required matching funds under the programs. Wyoming's matching amount is about \$436,000.00.¹⁰ [Vol. XI at 2651-2653, 2682-2683, 2698; Ex. Z-4] For example, in the 2022-23 school year, Campbell 1 transferred approximately \$2 million from its general fund to its nutrition fund. [Vol. XI at 2659, Ex. Z-4] During the Covid pandemic, the USDA provided additional funding and every meal served by school districts during that time was reimbursed regardless of the student's economic status. [Vol. XI at 2656]

31. Each school district has discretion to determine the amount it charges students for each meal. School districts charge different prices for the meals they provide. For example, Campbell 1 did not raise its price for meals from school year 2012-23 through school year 2023-

¹⁰ The State pays an employee's salary and benefits as part of the USDA National School Lunch program. [Vol. XI at 2694]

24. In school year 2023-24, Campbell 1 charged \$3.00 per meal for high school students. [Id. at 2668-2669, Ex. X-4]

3. Transportation

32. Transportation costs are funded outside the Funding Model, and are fully reimbursable, but a purchased vehicle is reimbursed over five years. [Vol. IX at 2259] School district transportation costs are fully reimbursed by the State the year after the costs have been incurred. [Vol. II at 425-426]

4. Mental Health Grants

33. The WDE has developed a mental health program using federal grants, titled Project AWARE. The purpose of Project AWARE is providing access to mental health providers in schools. Project AWARE is time-limited because it is funded through federal grants. [Vol. VI at 1460-1463, 1507; Ex 2087 at pg. 5] WDE estimated the cost of implementing a statewide Project Aware, not funded by federal grants at \$13 million per year. [Vol. VI at 1473-1475; Ex 2092] Project AWARE has not been expanded statewide. [Vol. VI at 1523] Care Solace provides online assistance to students and teachers in finding a needed counselor. Care Solace does not pay for the counselor or counseling. [Vol. IV at 1000-1001]

34. In the 2024 session, the legislature appropriated a total of \$10 million in a grant program to be divided by all districts based on ADM for mental health needs. [Vol. I at 130; Vol. IV at 1004; Ex. L-7 at p. 10, Vol. VI at 1472-1473, Vol. XIII at 3349-3350]

D. Funding of School Facilities since *Campbell IV*

35. The Wyoming State Construction Department (SCD) includes three divisions: operations division, construction management division, and the school facilities division (SFD). [Vol. VI at 1528] The SFD deals with all public-school facilities. [Vol. V at 1196]

36. The School Facilities Commission (SFC) oversees, identifies, and prioritizes, school capital facilities construction projects and major maintenance projects. The SFC includes seven members, and it oversees the SFD. The SFC makes final decisions on recommendations for capital construction to the legislature. Wyo. Stat. §§ 21-15-113 – 114. There is also a Select Committee on School Facilities (SCSF), which is a committee of legislators from the Wyoming House and Senate. The SCFC provides oversight of the SFC. [Vol. V at 1197; Vol. VI at 1531]

37. The State maintains a data base called AiM¹¹ which includes detailed information about every school facility in the State. [Vol. II at 317] The data includes a facility’s date of construction, dates of any renovations, floor plans, drawings, records of major maintenance, and condition assessment scores. [Id. at 318]

1. Condition and Capacity

38. On October 6, 2009, the SFC adopted rules for prioritizing school facility projects by establishing “criteria for building capacity, building condition, educational suitability, and technology readiness.” [Ex. 1124 at pg. 2] Those rules required the SFC to “take into consideration the condition, the capacity, and the educational suitability of every facility” when assessing the adequacy of school facilities for proposed of prioritization. [Id. at 3] The rules required the SFC to develop a prioritized needs index “at least biennially.” The rules were in effect until November of 2018. [Id. at 1] The State did not develop a new needs index every two years as required by its own rules. [Vol. V at 1239]

39. The SCD created a facilities condition assessment (FCA). In the FCA, all school facilities are assessed and scored based upon the condition of the school facility’s major components and then ranked as compared to other school facilities around the State. [Vol. I at 273-

¹¹ The database is now named Facility Force Operate.

274; Vol. VI at 1528-1530] The school facility scores are then put into the required needs index (FCI), which ranks the schools based on condition, worst to best or highest need to lowest need. Generally, the State performs an FCA every four years. A school facility's deferred maintenance is factored into its FCI score. [Vol. II at 330; Vol. VI at 1539] Before an FCA is completed, the State sends each school district a pre-assessment questionnaire seeking input. [Vol. VII at 1681-1682]

40. The State performed FCAs in 2012, 2016, 2023, but not in 2020. [Vol. II at 297-298, Ex. 1163] The FCAs performed in 2012 and 2016 were completed by a consultant, Facility Engineering Associates (FEA), and the 2023 FCA was completed by a different consultant, Bureau Veritas (BV). [Vol. II at 328; Vol. VI at 1529]

41. An FCI score is a national standard and is an equation, where the cost of needed repairs is divided by the cost to replace the existing building to get a percentage. [Vol. XII at 2908-2909] A score of .3 means, the cost to repair or replace the facility's major components needing repair or replacement is 30 percent of the cost of replacing the facility. [Vol. VII at 1684] An FCI score falls between 0 and 1. The closer the score is to 0, the better its condition is. [Vol. VI at 1531-1532] A score of .3 means, the cost to repair or replace the facility's major components needing repair or replacement is 30 percent of the cost of replacing the facility. [Vol. VII at 1684]

42. As of October 2013, an FCI score of over .33 was considered "high priority" for condition. [Ex. 1044] Over the years since 2013, the state has increased the FCI condition score needed to be rated as "high priority" to .45 and then to .60. [Vol. II at 343-344, Vol. V at 1224, Ex. 1044] Currently, a school facility with an FCI score of .60 is at the point where a major renovation or replacement is more likely. [Vol. VII at 1686]

43. If a school facility does not have a particular component, like air conditioning, the

FCI score does not account for the lack of air conditioning. [Id. at 1764-1765] See Wyo. Stat § 21-15-117. FCI scores do not include any assessment of a school facility's educational suitability. [Vol. V at 1268, Vol. VI at 1537]

44. Under BV's 2023 FCA, an FCI score of .31 to .59 means renovation should be considered and an FCI score of .60 and higher means demolition should be considered. BV's FCA resulted in just 21 school buildings having an FCI score of .31 to .59, and no buildings had an FCI score of .60 or higher. [Vol. XII at 2925-2926, 2963 Ex. D-5, pp. 6-7]

45. Laramie 1 had 11 of the 22 worst conditioned schools in the 2016 FCA performed by FEA. [Tr. Vol. I at 274] As a result of the 2016 FCA, Laramie 1's Hobbs Elementary was the highest need school facility in the state in the FCI priority list. [Vol. II at 298-299]

46. The 2016 FCA and 2023 FCA had inconsistent results. In 2016, Laramie 1's Buffalo Ridge Elementary School ranked 18th on the FCI list, and in 2023, Buffalo Ridge ranked 4th on the FCI list even though Laramie 1 had performed a significant – \$6 million – renovation of Buffalo Ridge since 2016. [Vol. II at 299-301; Ex. 1163] In 2016, Laramie 1's Fairview Elementary School ranked 8th on the FCI list, and in 2023, Fairview ranked 265th on the FCI list. [Vol. II at 301-302] In 2016, Laramie 1's Arp Elementary School ranked 34th on the FCI list, and in 2023, Arp ranked 280th on the FCI list. [Id. at 302] In 2016, Laramie 1's Bain Elementary School ranked 9th on the FCI list, and in 2023, Bain ranked 281st on the FCI list. [Id. at 302-303] In 2016, Laramie 1's Lebhart Elementary School ranked 13th on the FCI list, and in 2023, Lebhart ranked 345th on the FCI list. [Id. at 303] In the 2023 FCA, Campbell County High School (CCHS) was dropped to number 78 on the FCI priority list from 30 on the 2016 FCI priority list. [Ex. 1163]

47. CCHS's 2016 FCI score and 2023 FCI score did not result in a high enough priority to qualify a capital remedy. As of the date of trial, There was a Most Cost Effective Remedy study

(MCER) ongoing for seven Laramie 1 school facilities, including 6 elementary schools. Some of these school facilities were high on the priority list from the 2012 FCA. [Vol. VII at 1697-1698] As a result of the of the 2023 FCA, the legislature, in 2023 and 2024, appropriated funds to build two new elementary schools to replace multiple existing schools in Laramie 1. The funding will not be available to construct those two new elementary schools until another MCER is completed. [Vol. II at 338-339]

48. The State also assesses school facilities based on capacity. In 2013, school facilities with capacity over 110 percent are categorized as “high priority” for capacity. [Ex. 1044] More recently, the State looks at capacity of a particular school facility as well as capacity in the school district overall. If a school facility is at 100 percent capacity, then it may trigger a MCER. [Vol. VII at 1592-1593]

49. The State performs MCERs on school facilities that attain a certain condition or capacity score. [Vol. II at 291] A MCER’s purpose is to identify an appropriate action to address a school district’s capital construction needs in the most cost-effective manner. Wyo. Stat. § 21-15-117(b). When the State orders a MCER, it hires a consultant to study what the best solution or most cost-effective remedy is for a school or schools, which could be renovation or replacement. [Id.] A school facility’s FCI score and ranking determines whether an MCER will be performed. Currently, any school facility that scores a .3 on an FCI score requires an MCER. [Vol. II at 320-321; Vol. V at 1278-1281, Vol. VII at 1589, 1684-1685] School districts have input in the MCER process. [Vol. VII at 1662-1663] A MCER study is not limited to the capacity or condition issues which triggered the MCER. [Id. at 1715] A MCER study may include more than one school district facility. [Vol. VII at 1717] Ultimately, the consultant preparing a MCER study determines the final recommendation in the MCER. The SFC then determines whether to adopt the MCER’s

recommended remedy. [Id. at 1750-1751] A MCER may result in a recommendation to do nothing, to use component funding, or to replace the facility. [Vol. VI at 1554-1555]

2. Educational Suitability

50. Educational suitability generally refers to the ability of a school facility to support and enhance the delivery of the defined educational program. Educational suitability is one of the three aspects used to determine school facility adequacy. The other two aspects of school facility adequacy are condition and capacity. Assessing a school facility's educational suitability generally requires evaluating instructional spaces, school facility sites, safety and security, building accessibility, acoustics, technology readiness, equipment, lighting, heating and cooling, sightlines, building perimeter, ingress and egress, and air quality. [Vol. VII at 1628-1632, Vol. XIII at 3431-3433; Ex. 2123]

51. In 2008, the State developed a method for assessing a school facility's educational suitability. Previously MGT had assessed educational suitability. [Vol. V at 1200-1201, 1203-1204; Ex. 2119] In 2006-07, the State ended its relationship with MGT, in part because MGT was unwilling to make their suitability assessment system transparent. [Vol. XIII at 3424-3425] The State created and adopted an assessment instrument, but never utilized it to assess and prioritize school facilities based on educational suitability. [Vol. V at 1201; Vol. VII at 1638-1639] The instrument was designed to evaluate "how well a school facility supports the ability to deliver a quality educational program being cognitive of the district's delivery of those programs." [Ex. 2119, at 4] In prioritizing school facilities for capital construction, educational suitability was to be a 10 percent component, physical condition a 50 percent component, and capacity a 40 percent component. [Id. at 3] At that time, there were many school facilities in poor condition and with capacity issues, so more weight was assigned to those components. [Vol. V at 1204]

52. The State no longer directly assesses whether a school facility is educationally suitable. [Vol. I at 275] In 2021, the legislature deleted educational suitability from Wyo. Stat. § 21-15-117, which governs school facility priorities. [Vol. VII at 1597-1598, Ex. 2121 pp. 1-2] Educationally suitability does not play a role until a new school is being built. [Vol. II at 298] Instead, regarding existing school facilities, the State relies on the Uniform Adequacy Standards Rules (Adequacy Standards). SFC Rules, Uniform Adequacy Standards, Ch. 3. The State does not assess school facilities to determine whether they satisfy the criteria in the Adequacy Standards and does not know which school facilities meet the standards or do not. [Vol. VII at 1645-1646] In 2024, the SFC amended the Adequacy Standards to include a process authorizing school districts to bring a claim to the SCD asserting the district is unable to provide the required programs because of its educational space. This process is referred to as the Chapter 3, Section 8 Process. [Ex. Y-5] The SFC decides whether to grant a Chapter 3, Section 8 Process claim and then makes a budget recommendation to the legislature. [Vol. VII at 1728] A MCER may be required through the Chapter 3, Section 8 Process. [Vol. VI at 1552-1553; Vol. VII at 1588-1589]

53. On February 12, 2020, the SFC adopted revised School Design Standards and Guidelines (School Design Standards), which enumerate in significant detail design guidelines for school facilities. The purpose of School Design Standards is described as:

These guidelines are intended to encourage innovative design for school buildings and facilities. Many of the guidelines use and encourage high performance standards for schools. It is the intent to develop and design school buildings and facilities that are safe, secure, energy efficient, and support the prescribed state educational program.

This document includes the required standards and guidelines that apply to design of remedies determined by the SFC and that are funded as capital projects appropriated by the legislature for building or facility construction, replacement, renovation, repair, or any combination thereof for school buildings and facilities.

It is recommended that school districts also consider these design standards and guidelines for the remediation of schools and facilities when expending major building and facility repair and replacement funds.

[Ex. 2354 at 11] The Design Standards include over one hundred pages of standards and guidelines. [Id.] The Design Standards are only applied to newly constructed schools and not to existing school facilities. [Vol. V at 1232-1233]

54. There have been six school district applications made using the Chapter 3, Section 8 Process. Five of those requests have been approved for MCERs, including Rock Springs High School (RSHS), CCHS, Jackson High School (JHS) and two bus barns. [Vol. VI at 1553; Vol. VII at 1714] The Teton County bus barn is currently in the design phase and is funded for construction. [Vol. VII at 1714] The adequacy issue at RSHS was the size and capacity of its cafeteria, and the issue at JHS was the size of its hallways. [Vol. VI at 1557-1559] The CCHS facility inadequacies have been repeatedly reported to the State. [Vol. V at 1097-1098] The State has appropriated design funding for CCHS after a third MCER study is completed. [Vol. V at 1099-1100, 1270-1273]

3. Major Maintenance Funding

55. The State also provides major maintenance funding to school districts based on formula using ADM and building square footage. Wyo. Stat § 21-15-109 [Vol. II at 307, Vol. V at 1236, Vol. VI at 1540-1541] Major maintenance funding is intended to cover the cost of maintaining or replacing of major components at school facilities, for example HVAC systems or roofing systems. [Vol. II at 307] It is not for routine maintenance. [Vol. VI at 1543] The SCD oversees major maintenance funding and must approve school district projects funded by major maintenance. The formula for calculating major maintenance funding is based on a school district's building square footage, the district's ADM, and a replacement cost multiplier. Wyo. Stat. § 21-15-109(c). [Vol. VI at 1541]

56. The SCD and SFC ensure major maintenance funds are being used for valid

purposes. [Vol. VI at 1542; Vol. VII at 1653] Major maintenance funding is dispersed by the SCD quarterly to school districts. [Vol. VI at 1544] School facility components are assessed a condition score of 1 to 5, 1 being the worst condition, and the SCD encourages school districts to address the components scored 1 or 2 first. [Vol. VII at 1654-1655] Major maintenance funds cannot be used to add square footage to a facility, only 10 percent may be used for any enhancement, and projects must be approved by the SCD. [Vol. V at 1262] If a school building is not at 100 percent of capacity, that district does not receive 100 percent of its major maintenance funding for that building. [Vol. VI at 1542]

57. Generally, the State does not provide funding for installation of air conditioning through its major maintenance funding. [Vol. II at 306, Vol. V at 1264-1265, Vol. VII at 1654] School districts are allowed to use up to 10 percent of their major maintenance funding on adding new security features, but the money must be spent within six years. [Vol. VII at 1673-1676] If a district uses major maintenance funds for security, that funding is no longer available for major maintenance. [Vol. VIII at 1949] School districts may also use major maintenance funds to maintain enhancements, which are additions to a school facility that exceed the state adequacy standards. Examples include swimming pools and additional space. [Vol. VII at 1677-1678]

4. Component Funding

58. The State also provides component funding, which is separate from major maintenance funds. It exists only when the legislature appropriates funding because major maintenance is underfunded, and it may be used when major maintenance funding is not available. It is project specific. [Vol. VII at 1661-1662, 1744-1746] There is also emergency funding for school facilities. A school district must request the funding from the SFC. Emergency funds have been used to address a water line break, structural issues, and accessibility issues. School district

must use all its major maintenance funding before receiving any emergency funding. [Id. at 1667-1669, 1733-1734]

5. Basic Process for Capital Construction Funding of School Facilities

59. The basic process to have a school facility replaced or remodeled begins with a school district demonstrating a need. Need is determined by an FCI score, a building being over capacity, or through the Chapter 3, Section 8 Process. Once need is established, the project is presented to the SFC and SCFC. [Vol. VI at 1549-1551] If need is demonstrated through the Chapter 3, Section 8 Process, the SFC then determines whether an MCER is required. [Id. at 1554] Generally, once the legislature approves funding for a school facilities project, it takes three years to complete it. [Id. at 1549] *See* Wyo. Stat. § 21-15-117 – 118.

60. The State tracks every school facility's capacity each year. It also projects capacity eight years into the future because the process for addressing over capacity facilities – including MCER study, legislative appropriation, design, and construction – takes time. [Vol. VII at 1678-1680]

61. Ultimately, SFC decides what amount of funding to request from the legislature for capital facilities, major maintenance, and routine maintenance each biennium. Not all school district requests are included in the requested budget. [Vol. VI at 1545-1547, 1564-1565] The legislature does not always fund the requested budget. [Id. at 1548]

6. Safety and Security Funding

62. After completing a security study of school facilities in 2014-2015, the legislature, in 2016 and 2018, appropriated one-time funding for security at school facilities. The State appropriated approximately \$13.95 million to address security issues in school facilities. Not all the funding has been spent. The security funding was divided between all school districts based

upon a formula created in the study. The appropriated funding did not provide sufficient funding to address all the security issues identified in the study. [Vol. II at 315-316, Vol. VII at 1669-1672, 1734-1735, 1737, Vol. V at 1236] The State has not performed a new school safety assessment since 2015. [Vol. V at 1233-1234]

7. Total School Facility Funding Since *Campbell II*

63. From 2006 to 2023, the State appropriated \$5.5 billion in school facilities funding. [Vol. XI at 2718; Ex. B-6] From 2002 to 2022, the State appropriated an average of just over \$200 million each year in capital facilities funding. [Vol. XI at 2719; Ex. D-6] In some years, however, the State appropriated no or very little in capital construction funding. [Vol. XI at 2734; Ex. Z-5] From 2002 through 2023, almost 17 million square feet of the 24 million square feet of school district educational buildings have been remodeled or replaced with new buildings. 208 of the 468 total number of educational buildings have been renovated or replaced. [Vol. XI at 2720, 2731; Exs. Q-6, R-6] From 2017 to 2023, only \$38.1 million of the \$493 million appropriated for major maintenance was spent on the facilities with the poorest ratings from the 2016 FCA. [Vol. XI at 2721-2722; Ex. M-6]

E. District and School Accreditation

64. Each year every Wyoming school district is required to sign a form, District Annual Accreditation Report and Assurances (Annual Assurances Form), which assures WDE that the school district is complying with state statutes and is “meeting all state requirements for accreditation purposes.” [Ex. E-4; Vol. II at 388] Each district, by signing and submitting the form, makes certain assurances, including: (a) it is offering the common core of knowledge and skills; (b) its teachers are licensed and endorsed by the PTSB; (c) it is delivering the statutorily required educational program that is sufficient for all students; (d) its teachers provide expertise in their

areas of instruction; (e) it is providing gifted and talented programs; (f) its graduating students are meeting state graduation requirements; (g) its technology meets student and staff needs; and its students are educated in a safe environment. [E4; Vol. II at 389-394] If a school district does not make these assurances, sign the form, and submit the form, that school district's accreditation status would be threatened. [Vol. II at 394] If a school district is not accredited, its diplomas are meaningless and its school funding from the Funding Model would be in jeopardy. [Id. at 396]

65. The Annual Assurances Forms are intended to make sure the school districts are providing the statutory requirements and the basket of educational goods and services. WDE relies upon the information provided in the Annual Assurances Form. School districts are required to submit a separate document including evidence and data supporting the assurances in the form. School districts submit their Annual Assurances Form on November 1 each year, the WDE accreditation department has until March 1 to comment and make recommendations, the forms are finalized by May 1, and then submitted to the State Board of Education (SBOE). [Vol. XI at 2589-2594] Individual school districts and schools receive one of four levels of accreditation: (1) accredited; (2) accredited with follow-up; (3) accredited with support; and (4) not accredited. [Id. at 2594]

F. Teacher Licensing and Qualifications

66. Teachers in all Wyoming public schools must have authorization to teach from the Professional Teaching Standards Board (PTSB). PTSB Rules, Ch. 1, Sec. 1(a). PTSB authorizations to teach include the following types of licenses or permits: (1) Educator License; (2) Exception Authorizations (EAs); (3) Apprentice Permit; (4) Classroom Substitute Permit; and (5) Professional, Industry, and Careers Permit (PIC).¹² *Id.* Chs. 2, 5, and 6. 198. The PTSB also

¹² There are other permits authorizing one to teach, but those are not generally relevant to the issues before the Court.

issues endorsements to a teacher's standard license. Those endorsements define which courses, subject matters, and levels of students the teacher may teach. [Vol. VI at 1379-1380] PIC permits, EAs, and long-term substitute permits are issued by the PTSB upon application and review of qualifications. [Vol. II at 455-456] Individuals teaching classes on an EA or a PIC Permit are not fully licensed and are not qualified as fully certified teachers because they have not participated in student teaching and have not been trained on teaching methods and curriculum. [Vol. I at 204-205]

67. To be a candidate for an EA, the individual must have a bachelor's degree. A person teaching on an EA must be supervised by a fully licensed teacher. [Vol. VI at 1383-1387; Exs. 2040, 1068] School districts must certify to the PTSB that a fully licensed teacher cannot be hired after searching and recruiting for a teaching position before it may request an EA. [Vol. VI at 1391] There are different types of EAs, including persons who have a degree in education but have not passed the required standard test, persons with bachelor's degrees not in education but are progressing towards an education degree, and teachers teaching a subject for which they do not have an endorsement. [Vol. VI at 1395-1397]

68. Individuals teaching on a PIC Permit are typically professionals transitioning to teaching. A PIC permit is valid for 5 years. [Vol. II at 440-441] A PIC permit is typically given to CTE teachers. For example, a welder with years of experience could teach welding on a PIC permit. An individual teaching on a PIC permit is required to make efforts to develop teaching skills. [Vol. VI at 1404-1406; Ex 1068]

69. A licensed substitute teacher may teach any grade level or subject. A licensed substitute teacher may teach for more than just a day or week. [Vol. VI at 1410-1411; Ex. 1069]

70. All public-school teachers with an Educator's License and under contract with a

Wyoming school district are either a Continuing Contract Teacher or an Initial Contract Teacher. Wyo. Stat. Ann. § 21-7-102. In general, a Continuing Contract Teacher is one who has worked as a teacher in the same school district for three consecutive years and had his or her contract renewed for a fourth year. Wyo. Stat. Ann. § 21-7-102(a)(ii)(A). School districts must employ a Continuing Contract Teacher from year to year without an annual contract renewal unless the school district gives notice of recommendation to terminate to the teacher by April 15 of any year and, if requested, provides the teacher with an administrative hearing. Wyo. Stat. Ann. §§ 21-7-104(a), 21-7-106(a), 21-7-110(c). A school district may only terminate a Continuing Contract Teacher on the grounds listed in Wyo. Stat. Ann. § 21-7-110(a). An Initial Contract Teacher is any teacher that has not achieved Continuing Contract Teacher status. Wyo. Stat. Ann. § 21-7-102(a)(iv). A school district may terminate or not renew a contract for an Initial Contract Teacher for any reason not prohibited by law upon notification of the reasons by April 15 of any year. Wyo. Stat. Ann. § 21-7-105. [Tr. Vol. III at 753-754]

G. Teacher Pay

71. Wyoming school district certified staff are paid using a salary schedule. The salary schedule includes steps, which are based on years of experience, and lanes, which are based on educational credits. [Tr. Vol. I at 225, Vol. IV at 1026] Generally, progression through the steps and lanes is not based upon a teacher's performance. [Tr. Vol. I at 242] WDE maintains a roster of all school district employees on the WDE Form 602 (WDE 602). [Tr. Vol. III at 654] WDE 602 includes staffing names, salaries, experience, days worked, and classifications. [Tr. Vol. III at 654]

72. Wyoming school districts generally pay teachers increasingly more than the Funding Model provides for teacher salaries and hire fewer instructional staff than is provided for in the Funding Model. [Vol. IV at 856-857; Ex. 1104, pp. 2-3] In 2010-11, actual teacher salaries

were 6 percent higher than the Funding Model salaries, and in 2022-2023, actual teacher salaries were 16 percent higher the Funding Model salaries. [Vol. IV at 871-872; Ex. 1104, p. 3]

73. In school year 2022-2023, Wyoming public school teachers' average actual salary was \$61,979.00, which was 26th among the 50 states. [Ex. 1216 p. 25] The average public school teacher salary in the United States in 2022-2023 was \$69,544.00. [Id.] The estimated average Wyoming teacher actual salary for 2023-2024 is \$62,823.00 and the estimated average public school teacher salary in the United States is \$71,699.00. [Id. p. 44] Although Wyoming's average actual teacher salary was above other regional states from 2006-07 to 2020-21, in 2022-23, it was estimated that Wyoming's average teacher salaries actually paid were below Colorado's and Utah's average teacher salaries. [Vol. XIII at 3502; Exs. P-10, U-10] In 2010, the Funding Model average Funding Model Weighted salary for teachers was \$53,046, and 12 years later in 2022-2023, it was \$53,506. [Ex. 1213, p. 4]

74. From school year 2006-07 through school year 2022-23, the Funding Model has authorized more total teacher full-time equivalents (FTE) than the actual teacher FTE hired by all school districts. [Vol. IX at 2240-2241; Ex. P-3] From school year 2006-07 through school year 2022-23, the actual average salary paid to instructional staff – teachers, tutors, librarians, and instructional facilitators – by all school districts has exceeded the average Funding Model Weighted salary. [Vol. IX at 2242-2244; Ex. E-3] From school year 2006-07 through school year 2022-23, the Funding Model has provided more funding for teacher salaries than all school districts combined have expended on teacher salaries. Teachers does not include counselors, nurses, social workers, or substitutes. [Vol. IX at 2244, 2283-2284; Ex. E-3]

75. Campbell 1's actual base teacher salary in 2005-06 was \$29,000.00 a year and in 2006-07, the actual base teacher salary was increased to \$40,000.00, after the 2005 recalibration

of the Funding Model. [Vol. V at 1181-1182, Ex. P-13] Carbon 1's actual base teacher salary in 2017-2018 was \$47,500, in 2023-2024 it was \$51,000, and in 2024-2025 is \$52,000, which is higher than the funding provided by the Funding Model. [Vol. VIII at 1840-1841, Ex. P-13] In 2023-2024, Uinta 1's actual base teacher salary was \$51,400.00 annually and the highest possible teacher salary was \$78,400.00 for a teacher with a PhD and thirty years of experience. [Ex. 2393 at p. 2] In school years 2022-23 and 2023-2024, Uinta 1 increased base teacher salaries by \$5,000.00. [Vol. III at 691-692] Lincoln 1's current base salary for a first-year certified teacher is \$52,000.00. In 2024-25, Lincoln 1 will raise the base rate to \$54,000.00 because of the ECA adopted by the legislature in 2024. [Vol IV at 933-934]

H. Plaintiff School District's Finances

76. Laramie 1's June 30, 2023 Financial and Compliance Report reflected: (a) Laramie 1's net position – the difference between assets and liabilities – was increased by approximately \$8 million or 3% from 2021-22 to 2022-23; (b) Laramie 1's expenses were \$8 million less than its revenues in 2022-23; (c) Laramie 1 spent approximately \$208,000 from its general fund on (Pre-K programs; (d) Laramie 1 expected to receive approximately \$8 million in additional funding from the Funding Model in 2023-2024, and \$9 million in additional funding from the Funding Model in 2024-2025 as a result of two separate sustained ECAs approved by the legislature; (e) Laramie 1 received approximately \$3 million in major maintenance funds from the State in 2022-23 and \$11.4 million in major maintenance funds from the State in 2023-24; (f) at the end of 2022-23 Laramie 1's balance in its major maintenance fund was approximately \$19 million; (g) Laramie 1's certified staff and classified staff and administrative staff all received salary raises in 2022-23 from the ECA and due to the steps and lanes movements; (h) Laramie 1 received approximately \$80 million in federal Covid funding in in 2023-23; (i) Laramie 1 has approximately \$117 million

in investments; (j) in 2022-23 Laramie 1's net position in its business enterprise fund accounts, primarily the school nutrition fund, was approximately \$5.4 million; (k) Laramie 1 maintains a special building fund, which is primarily funded through general fund transfers, which had \$21.8 million in it at the end of 2022-23. [Ex. J-16, pp. 21, 25, 27, 28, 30, 90; Vol. I at 134-144]

77. Laramie 1 is authorized to carryover each year 15% of its Funding Model money. [Vol. I at 117] Laramie 1 carried over 10% to 15% at the end of fiscal year 2023. [Id. at 118] Laramie 1 recently constructed a new swimming pool at East High School, which cost \$17.8 million. Funding for the pool came primarily from Laramie 1's general fund. The State categorizes a swimming pool as an enhancement. [Id. at 152-154]

78. Albany 1's 2022-2023 Budget Narrative reflected a general fund balance of about \$10.3 million for FY2022. [Ex. W-12]

79. The net financial position for Campbell 1 over the ten years from fiscal year 2014 through 2023 increased from \$215,439,610 to \$297,338,848. Campbell 1 maintained a cash balance of \$14,358,744 and held investment assets of \$101,076,829 in total governmental funds for the fiscal year ending June 30, 2023. Campbell 1's investment assets held as reserves generated additional income for the district of \$6,107,869 for the fiscal year ended June 30, 2023. Campbell 1 was able to make transfers out of its general fund during the ten years from FY2014 through FY2023 that have ranged from \$227,889 in 2021 to as much as \$14,321,100 in 2019. Campbell 1 was able to make transfers out of its general fund during the ten years from FY2014 through FY2023 that have ranged from \$227,889 in 2021 to as much as \$14,321,100 in 2019. In 2022, Campbell County 1 approved a replacement aquatic center, for a "bid of \$38,430,360" to be funded primarily from its depreciation reserve fund, which is funded through transfers of general funds. [Ex. N-13]

80. Sweetwater 1 maintains a general fund and several other reserve funds, including a capital projects fund, major maintenance fund, health plan fund, and food service fund. [Ex. G-18 pg. 29] According to an auditing report, in 2023 Sweetwater 1’s “total revenues exceeded expenses increasing net assets by \$4.22M.” [Ex. H-18 pg. 9] Sweetwater 1 carries over funds in various accounts each year in an interest-bearing account. Sweetwater 1’s general fund cash carryover balance has increased over the last five years. [Vol. VIII at 2054-2056; Ex. G-18; H-18]

81. In 2018-2019, Carbon 1 transferred \$2.4 million of general funds into the depreciation reserve fund. [Ex. B-15 pg. 1] That same year Carbon 1 transferred an additional \$650,000 of general funds into its depreciation reserve fund. [Id. at pg. 4]

82. Uinta 1 has a depreciation reserve account which is funded by its general fund money. Uinta 1 is using some of its depreciation reserve account, about \$3 million, to build a regulation soccer field, replace turf, and resurfacing the track. These are facilities and not components in the Funding Model. [Vol. III at 764-765]

83. From school year 2008-09 through school year 2022-23, the actual school districts’ spending for student activities has exceeded the Funding Model’s funding to all school districts for student activities in the cumulative amount of \$120 million. [Vol. IX at 2246-2247, Ex. V-3]

I. Plaintiff School District Hiring, Retention, and Turnover

84. Laramie 1’s teacher turnover rate was 4.86 percent in 2019-20 and 8.16 percent in 2021-22. [Ex. C-16] Laramie 1’s total certified staff turnover rate was 5.39 percent in 2019-20 and 9.80 percent in 2021-22. [Id.] At the start of the school year in 2022, Laramie 1 had 7 certified teaching positions unfilled and over 30 classified positions unfilled. In 2023, Laramie 1 had 18 certified positions unfilled. [Vol. I at 197] In 2014, 39 paraprofessionals left employment at Laramie 1, and in 2022, 103 paraprofessionals left employment at Laramie 1. [Id. at 211] Laramie

1 conducts optional exit surveys of employees leaving employment. [Vol. I at 244; Exs. D-16, E-16, F-16] The exits surveys include a question about the primary reason why an employee left employment, including dissatisfaction with pay. [Vol. I at 247] In 2023, 14 out of 60 employees indicated they were dissatisfied with their compensation and 29 out of 60 indicated they were satisfied with their compensation. [Vol. I at 250-251; Ex. F-16]

85. In 2022, Albany 1 conducted a Climate and Culture Survey (Albany Survey) of students, parents, and community members. [Ex. I-13] There were 2700 responses to the Albany Survey and 11 percent of respondents were Albany 1 staff. Respondents in the Albany Survey agreed or strongly agree that Albany schools provide enough technology resources and material resources. [Id. at p. 5]

86. Between 2018 and 2023, Albany 1 terminated 10 staff and reassigned 14 staff because of performance issues. [Ex. 2153] At the start of the 2022-2023 school year Albany 1 had: 3 of 308 certified positions unfilled; 28 unfilled classified positions; and utilized four teachers on PIC permits, six teachers on EAs, and three long-time substitute teachers. [Vol. II at 421, Ex. 2148] In 2023-24, Albany 1 filled 15 positions with teachers on EAs or PIC permits. [Vol. II at 408-409]

87. Each year Campbell 1 must hire 75 to 100 new teachers and has an 8 to 12 percent turnover rate. [Vol. V at 1124] The number of qualified applicants for teaching positions in Campbell 1 has dramatically decreased in the past 20 years. In July 2021, Campbell 1 still had 21 teacher openings for that school year. [Id.] Campbell 1 used to get 10 to 12 applicants for special education teachers, but now only gets 1 to 2 applicants, if any. It also has significant difficulty hiring speech, occupational, and physical therapists for special education. [Id. at 1125] As of June 7, 2024, Campbell 1 had seven open teacher positions for 2024-25. [Id. at 1126] Campbell 1 also has difficulty hiring CTE, family and consumer science, English, math and science teachers. [Id.]

at 1127-1129] Positions that used to be easy to fill, such as elementary and PE teachers, are more difficult to hire now. [Id. at 1159] In the past five years, Campbell 1 started the school years with 5 to 7 open teaching positions each year. When a position is unfilled, Campbell 1's existing teachers must pick up the slack, long-term substitutes are hired, or EAs are hired. [Id. at 1133-1134] At the time of the trial, Campbell 1 had 25 open bus driver positions and 4 bus aide openings. During the last school year, it had 45 openings in special education. [Id. at 1115-1116]

88. Sweetwater 1 conducts climate surveys of certified staff. In the 2023 survey, 94 percent of teachers responded. 85 percent of respondents felt physically safe, 83 percent felt the district provides all needed instructional materials, 65 percent are satisfied with their salary, and 84 percent envisioned teaching in the district for at least another year. [Vol. VIII at 2045-2047; Ex. B-18] Sweetwater 1 also conducted an exit survey in 2023 and 62 percent of responding exiting employees said pay was not a factor in leaving. [Vol. VIII at 2050-2051; Ex. D-18]

89. Uinta 1 has hired more EAs since 2020. Uinta 1 hired 14 EAs in 2022-23, which is the highest number ever. Most of the EA hires were for special education positions. [Vol. III at 722-723, 786; Ex. F-19]

90. In 2023-2024, Carbon 1 started the school year with six unfilled certified positions: three in special education, two elementary teachers, and a high school science teacher. At Carbon 1, 90 percent of certified positions are typically filled with certified teachers; however, in the last two years, it has only been able to fill 70 percent. [Vol. VIII at 1835-1836; Exs. 2218 and C-15]

91. In 2023, the WDE appointed a Teacher Retention and Recruitment Task Force (TRRTF). The TRRTF included teachers, principals, personnel directors, parents, industry, and community college faculty. The TRRTF completed a climate survey. The TRRTF recommended increasing teacher salaries by continuing to enact ECAs, paying teachers at 85% of comparable

professions, and providing for mental health personnel for elementary schools. [Vol. VI at 1442-1447; Exs. 2071, 2076] A TRRTF memo to the JEC included a summary of a climate survey taken of Wyoming teachers. The climate survey included 3,552 valid responses from Wyoming teachers and 78 percent of survey respondents ranked higher salary as the number one priority to increase desire to stay in current position. [Vol. IV at 949-950; Ex. 2071] The TRRTF provided the JEC with estimated costs for the recommended increase in mental health professionals for school districts. [Vol. VI at 1455-1456; Ex. 1023] A legislative bill was drafted to provide funding for school nurses and elementary level counselors in the Funding Model, which the legislature did not consider. [Vol. VI at 1470]

J. Use of SROs by Plaintiff School Districts

92. Laramie 1 spends approximately \$600,000.00 on SROs. [Vol. I at 100] Uinta 1 funds two SRO positions at \$50,000.00 a year from a federal grant and from the general fund. The City of Evanston picks up the rest of the cost of the SROs because they are city police officers. [Vol. III at 730-734] Campbell 1 employs four SROs. The SROs are jointly funded by Campbell 1's general fund and local law enforcement. [Vol. VII at 1784-1786, Exs. 2171 and 2172] Lincoln 1 does not employ any SROs because SROs are not funded by the Funding Model. [Vol. IV at 958] Sweetwater 2 has two SROs, one for the high school and one for the junior high school. The district splits the cost of those SROs with the City of Green River. [Vol. IV at 1036] Carbon 1 employs two SROs. The SROs are jointly funded by Carbon 1 and local law enforcement. Carbon 1's share of the cost for SROs will be funded from the general fund going forward. [Vol. VIII at 1855; Exs. 2229 and 2230] Sweetwater 1 employs two SROs. [Vol. VIII at 2019] Lincoln 1 does not employ any SROs [Vol. IV at 958]

K. Statewide and Plaintiff School District's Statistics

93. In 2022 Wyoming enrolled a total of approximately 91,500 public school students. [Ex. 1216 p. 17]

94. Laramie No. 1 currently includes approximately 13,200 students and employs approximately 2,800 staff. [Vol. I at 34] In school year 2018-2019, Laramie 1 employed 1,320.01 certified FTE staff and 894.35 classified FTE staff. [Ex. B-16] In school year 2022-2023, Laramie 1 employed 1,461.07 certified FTE staff and 913.14 classified FTE staff. [Id.]

95. Campbell 1's ADM has been stagnant or decreasing in the past ten years. [Vol. VII at 1799-1800] Carbon 1's ADM has been decreasing over the years, it lost about 100 students in the last five years, which has contributed to fewer positions being funded by the Funding Model. [Vol. VIII at 1867-1868] Uinta 1 has had decreasing ADM since 2008. Uinta 1's ADM decreased by approximately 300 students from 2008 to 2023. [Vol. III at 670, 678; Ex. 2408]

96. Lincoln 1 is a medium to small school district with approximately 600 students and 119 employees. Approximately 28% of the students qualify for free and reduced lunches. [Vol. III at 811, Vol. IV at 951] Kemmerer's population is about 3,000, and it is the largest community in Lincoln 1. [Vol. IV at 963] Lincoln 1 has three schools, an elementary school, a 7th grade through 12th grade school, and an alternative school. [Id. at 968-969]

97. Sweetwater 2's ADM has been steadily declining over the years. It has a high school with a student capacity of 1,400, but has just around 700 students, and it closed an elementary school due to decreasing ADM. The decrease in ADM resulted in fewer employees. [Vol. IV at 1044-1045]

98. In 2023-2024, Sweetwater 1 had approximately 4,842 students. 17 percent of the Sweetwater 1's students are in special education, 7 percent receive Section 504 accommodations,

8 percent are English language learners, 5 percent are homeless, and 43 percent are entitled to free or reduced cost meals. [Vol. VIII at 1969] Over the past five years, Sweetwater 1's ADM has decreased by about 470 students. [Id. at 2028-2029]

L. Additional Witness Testimony

1. Grady Hutcherson

99. Grady Hutcherson is the president of WEA and has been in that position for four years. WEA is a nonprofit organization, and its purpose is to advocate for public schools and students, and to advance the teaching profession. WEA has over 5,000 members, and 3,000 are actively working in education across Wyoming. Many WEA members are also parents of Wyoming public school students. WEA is governed by a Board of Directors, which includes 24 members from across various regions of Wyoming. [Vol. I at 12-13] WEA also advocates for higher salaries for public school teachers and for more funding for education. [Id. at 25-26]

100. Mr. Hutcherson was an elementary school and high school math teacher for 24 years in Goshen County School District No. 1. [Vol. 1 at 16] According to Mr. Hutcherson, students who are hungry are focused on being hungry and not learning. When he was a teacher Mr. Hutcherson observed a student digging through a trashcan to find food. [Id. at 20]

2. James Cicarelli

101. Mr. Cicarelli is the chief financial officer (CFO) for Laramie 1. Mr. Cicarelli has a bachelor's and master's degree in business administration from the University of Wyoming (UW). [Vol. I at 30] Mr. Cicarelli is responsible for budgeting, allocation of recourses, procurement, purchasing nutrition services, and advising the Laramie 1 Board of Trustees and leadership of Laramie 1 on all financial matters. [Id. at 33-34] Mr. Cicarelli is a certified school finance operator. [Id. at 34] Mr. Cicarelli oversees the nutrition services department at Laramie 1. [Id. at 89]

102. Mr. Cicarelli worked at WDE for nine years, beginning in 2009. While employed at WDE, Mr. Cicarelli worked in and, eventually, oversaw WDE's administration of the school financing system in Wyoming. [Vol. I at 31] Mr. Cicarelli often testified before the legislature in his roles with WDE and as CFO of Laramie No. 1. [Id. at 33] While at WDE, Mr. Cicarelli trained and helped onboard new school district business managers in the administration of the Wyoming school finance model. [Id. at 35] Mr. Cicarelli was also responsible for the collection of data, specifically for the WDE 100. [Vol. I at 44]

103. Mr. Cicarelli was the chair of the School Finance Data Advisory Committee (SFDAC) while he worked for WDE. SFDAC is an advisory committee comprised of school district business officials, superintendents, and state agency staff that provides guidance and input on the administration of the Wyoming Funding Model. Mr. Cicarelli is currently a member of SFDAC. [Vol. I at 32]

104. According to Mr. Cicarelli, the legislature has not consistently or cumulatively adjusted the Funding Model for inflation. [Vol. I at 54] Mr. Cicarelli testified, in the past ten years, the legislature applied a cumulative ECA in 2019-2020, 2022-2023, and 2023-2024. [Id. at 54- 55] Mr. Cicarelli stated that if an ECA had been consistently and cumulatively applied, then the Funding Model's base salaries would be closer to cost. [Id. at 88] Mr. Cicarelli described the legislature's application of ECAs as "inconsistent and noncumulative" and stated the legislature is not properly accounting for inflation in funding public schools. [Id. at 56] He testified the State has failed to fully fund a cost-based school finance system. [Vol. I at 65-66] Mr. Cicarelli asserted the State is not adequately funding school district personnel salaries. [Id. at 88-89] He based his opinion on the legislature's failure to abide by the recommendations made by the State's consultant over the years through the monitoring process. [Id.]

105. Mr. Cicarelli testified the Consultant's Model resulted in a higher funding amount than the Funding Model beginning in 2018-2019 primarily because of the "nonapplication" of ECAs to the Funding Model. [Vol. I at 58-59] According to Mr. Cicarelli, there were years when no ECA was applied to the Consultant's Model. Mr. Cicarelli said the Consultant's Model, therefore, was not cost-based because it was not adjusted for inflation. [Id. at 65-66, Ex. M1, p. 5]

106. Mr. Cicarelli has been involved in three recalibrations over the years. According to Mr. Cicarelli, professional and non-professional base salaries have not been adjusted in any of those recalibrations. [Vol. I at 67-68] Mr. Cicarelli testified there was a recalibration in 2017, which was less than five years after the 2015 recalibration, because there had been a significant downturn in mineral revenues coming into the State and there was a desire to obtain a less expensive funding model. [Id. at 68-69] The State hired APA to perform a cost study instead of Picus. [Id. at 69]

107. Mr. Cicarelli stated the legislatively enacted caps on special education funding in 2018-19 and 2019-20 meant that special education costs were not entirely funded, and Laramie 1 was not reimbursed approximately \$500,000.00 to \$600,000.00 in special education costs. [Vol. I at 78-79] Mr. Cicarelli testified many of the changes to the Funding Model enacted by the legislature from 2016 to 2020 resulted in less funding. [Id. at 80; Ex. 2143]

108. Approximately 80 to 85 percent of Laramie 1's general fund budget is for personnel. [Vol. I at 81]. There has been inflation in the past ten years. [Id.] According to Mr. Cicarelli, the legislature's failure to apply an ECA each school funding year impacts a school district by eroding the school district's purchasing power, effecting the school district's ability to attract and retain staff and make purchases, and requiring the school district to use other resources to adjust salaries to keep up with inflation. [Id. at 82] When a time-limited noncumulative ECA is

applied, a school district is unable to make permanent adjustments to personnel salaries and must only give one-time bonuses [Id. at 82-83, 106]

109. Mr. Ciarelli testified Laramie 1 has had difficulty recruiting quality professional and nonprofessional staff, including teachers, special education teachers, service providers bus drivers, accountants, computer technology, paraprofessionals, and classified staff. [Vol. I at 83, 86] Laramie 1 competes for employees with other school districts, government, and private enterprises. [Id. at 84] Mr. Cicarelli has found that potential employees are becoming more focused on salaries and benefits. [Id.]

110. Laramie 1 does not pay its teachers and its classified staff the salaries set in the Funding Model because it would be unable to attract and retain staff. [Vol. I at 84-86] Laramie 1's actual base teacher salaries remained stagnant from 2019 until the legislature applied ECAs in school years 2022-23. [Id. at 85] According to Mr. Cicarelli, Laramie 1 could not recruit professional and nonprofessional staff if it paid the Funding Model's base salaries. [Id. at 86-87]

111. Laramie 1 hired a labor market consultant to provide a market analysis about classified personnel. The consultant determined Laramie 1's salaries for classified staff were below the market and recommended adjustments. [Vol. I at 86-87] In school year 2022, Laramie 1 began adjusting classified staff salaries based on the consultant's recommendations and funded those adjustments from Laramie 1's reserve account. [Id.]

112. Laramie 1 subsidizes its nutrition services program because the funding is insufficient to cover the costs of the program. [Vol. I at 89-90] Laramie 1's general fund pays approximately \$1.3 million each year to cover the costs of the nutritional program. [Id.] Mr. Cicarelli testified if Laramie 1 increased the price it charges students for nutritional services to cover the actual cost of the nutritional program, then the participation in the school lunch program

would significantly decrease. [Id. at 91-92] Mr. Cicarelli agreed he had not studied whether an increase in lunch prices would affect participation. [Id. at 148] Mr. Cicarelli also said that not all students who qualify for free and reduced cost lunches apply for the program because of the stigma attached. [Id. at 92] Laramie 1's goal is to assure that school meals are accessible to its students. [Id. at 94] Laramie 1 serves approximately 1.2 million school meals to students per year. [Id. at 109] Laramie 1 charges \$2.75 or \$3.00 per lunch, which is less than the USDA's equity amount. [Id. at 148] Laramie 1 has raised its prices for school lunches over the years. Mr. Cicarelli believes the State does not fully fund the actual cost of Laramie 1's nutrition services. [Id. at 96]

113. According to Mr. Cicarelli, principals and schools in Laramie 1 often request to hire additional staff for student mental health and student behavioral issues. [Vol. I at 97] Laramie 1 has used federal Covid funding – ARP and ESSER funds – to provide additional mental health positions in the schools; however, that funding ended on September 30, 2024, and approximately 90 positions were eliminated. [Id. at 98-99] Mr. Cicarelli opined that the State does not fully fund the actual cost of Laramie 1's mental health services. [Id. at 99]

114. Mr. Cicarelli stated the Funding Model also does not fully fund technology, utilities, student activities, computer science, liability and property insurance. [Vol. I at 102-103, 109]

115. Mr. Cicarelli indicated that Laramie 1 has cut programs due to a lack of funding. Laramie 1 eliminated driver's education, reduced offerings for gifted and talented students, eliminated elementary athletics, reduced professional development, and reduced personnel. [Vol. I at 103-104]

116. Laramie 1's reserve fund monies are used to address costly expenditures that the district would not otherwise be able to cover in a single year. Examples include purchasing school

buses, computers for all students, and covering the cost of insurance claim deductibles [Vol. I at 158-159] Laramie 1's weekly expenditures are approximately \$5 million, so reserves are used to maintain cashflow. [Id. at 160]

117. Mr. Cicarelli acknowledged that income from its investments is not counted as local revenue when Laramie 1's annual Funding Model amount is determined. [Tr. Vol. I at 139] Laramie 1's total budget for school year 2022-23 was \$340 million and its Funding Model guarantee was \$207 million in 2022-23. [Id. at 144]

118. Mr. Cicarelli agreed that there are certain employment positions in Laramie 1 that are harder fill and said Laramie 1 has not increased the salary for harder-to-fill positions more than other positions. [Vol. I at 149-150] Laramie 1 has, however, given one-time incentive payments to the harder to fill positions. [Id. at 150] Mr. Cicarelli, based upon a WDE guidance document, said that school districts may not pay additional salary to special education personnel unless they also pay additional salary to nonspecial education personnel. [Vol. I at 150-151, Vol. XV at 3777, Ex. 2486] He agreed that the guidance document does not expressly state that special education salaries cannot be raised without raising salaries of other personnel. [Vol. XV at 3779]

119. Laramie 1 hires fewer full-time employees than is entered into the Funding Model for Laramie 1. Thus, Laramie 1 receives more health insurance funding than is needed for all its full-time employees. [Vol. I at 152]

3. Victoria Thompson

120. Ms. Thompson is the assistant superintendent of human resources at Laramie 1. Ms. Thompson has worked for Laramie 1 for almost three years. Ms. Thompson was previously the director of human resources at Thompson School District in Loveland, Colorado, and the executive director of human resources in the Poudre Valley School District in Ft. Collins,

Colorado. Ms. Thompson is professionally certified by the Society of Human Resource Management. Ms. Thompson has a master's degree in business administration, and she completed the teacher preparation and principal licensure programs. Ms. Thompson is a licensed business teacher by the PTSB. Ms. Thompson was a high school business and marketing teacher for nine years. [Vol. I at 166-168]

121. According to Ms. Thompson, Laramie 1 has experienced a worsening problem hiring and retaining qualified employees. Each year Laramie 1 has over 200 open certified staff positions it must fill. [Vol. 1 at 170-172; Ex. 2239] Ms. Thompson testified she has seen a decrease in the number of fully licensed and highly qualified staff applying for teaching positions in Laramie 1. [Vol. I at 172] The State Superintendent of Public Instruction appointed Ms. Thompson to the TRRTF. [Id. at 219-220]

122. Laramie 1 has difficulty filling special education, math, science, physical therapy, occupational therapy, speech and language pathologist, social worker, school psychologist, and technical education positions. [Vol. I at 172-173; Ex. 2267] Laramie 1 has resorted to and relied more on hiring individuals with a PIC Permit or on an EA, which means the individual does not have an Educator License or endorsement. [Vol. I at 176-178, 200, 203-204] In 2023, Ms. Thompson signed 31 EA applications. [Id. at 201] Having EA teachers also increases the workload of the certified teacher mentor for the EA teacher. [Id. at 204-205, 257-258] An EA teaching special education cannot write an IEP or sign off on IEP paperwork, so the supervising mentor must perform those tasks. [Id. at 257-258] Laramie 1 has had to remove two EA teachers for poor performance. [Id. at 205-206] Ms. Thompson opined that use of EAs and PIC Permittees has impacted student learning in Laramie 1. [Id. at 207]

123. Hiring special education certified staff is especially difficult for Laramie 1.

According to Ms. Thompson, there has been an increase in the number of students qualifying for special education services and those students' needs have increased. She said teaching special education students is very taxing, the number of individuals seeking a career in special education have decreased, and there is a high burnout rate for special education teachers. [Vol. I at 181; Ex. 2267 at pp. 13-14]

124. Laramie 1 recruits its staff through its website, a national teaching website, social media, national professional association websites, and teacher recruiting fairs. Recruiting fairs typically are held by universities or colleges which have education programs. Laramie 1 is charged a fee for attending the recruiting fairs. Ms. Thompson has attended teacher recruiting fairs since 2008. Ms. Thompson said, in the past, when she attended recruiting fairs while she worked for Colorado school districts, the fairs were very well attended by university students and Wyoming school districts were very popular with the university students because of the salaries being offered. [Vol. I at 182-187] According to Ms. Thompson, her experience at more recent recruiting fairs for Laramie 1 is different. She stated there has been a drastic drop in candidates, and the fairs are less well attended. [Id. at 188]

125. Laramie 1 competes with Colorado school districts for teachers. [Vol. I at 189] Colorado school district salaries have increased significantly in the past five years. The starting salary at the Poudre Valley school district is \$52,000, and the starting salary at Laramie 1 is \$50,000. [Id. at 191-192] Ms. Thompson believes Colorado school districts are targeting UW education graduates because some Colorado school districts have started paying student teachers. [Id. at 192] Student teachers are typically not paid while student teaching. [Id. at 223-224] Many out of state school districts attended the UW recruiting fair in the spring of 2024, including districts from Texas, Colorado, Arizona, Alaska, and California. [Id. at 222-223]

126. Ms. Thompson believes Laramie 1 would be more successful recruiting staff if its salaries kept pace with inflation. [Vol. I at 193] Ms. Thompson opined that Wyoming school districts pay more than the Funding Model salaries because it is necessary to pay more to recruit and maintain staff. [Vol. I at 219] Sometimes, Laramie 1 is unable to fill an open position and Laramie 1 will ask one of their teachers to teach additional classes, increase class size in a class which has a teacher, or just eliminate a particular class at a school. [Id. at 180, 197-199]

127. Laramie 1 has offered incentives to attract more applicants. For example, Laramie 1 has offered a \$5,000 stipend to newly hired special education teachers and offered to reimburse two-thirds of tuition for current teachers to obtain a master's degree in special education. [Vol. I at 194]

128. Laramie 1 competes with the healthcare industry for occupational, physical, and speech therapists, as well as school nurses. [Vol. I at 193] At the start of the 2023 school year, Laramie 1 had 5 occupational therapy openings, which the district could not fill. Laramie 1 is providing some of its occupational therapy services virtually through an independent contractor. [Id. at 199-200]

129. Each year Laramie 1 must recruit 450 classified staff employees, which is an increase in the three years since Ms. Thompson started at Laramie 1. [Tr. Vol. I at 208] The hardest classified positions to fill include bus drivers, special education paraprofessionals, nutrition services, and custodians. Laramie 1 had over 30 open classified positions at the start of the 2023-2024 school year. [Id. at 208-209] Laramie 1 competes with private industry, government, and the healthcare field for certified employees. [Id. at 211-212] If there are not enough bus drivers, then routes are cancelled. If there are not enough custodians, then Laramie 1's schools are unclean, and trash is not emptied. If there are not enough paraprofessionals working with special education

teachers, then special education students struggle. [Id. 209-210]

130. Laramie 1 hired an independent consultant to perform a labor market study for classified staff in 2022. The study concluded that Laramie 1 was paying below market for most of its classified positions. Laramie 1, therefore, reconfigured its entire classified staff salary structure and scale. [Vol. I at 212-215; Ex. 2249] Ms. Thompson testified the new salary structure has helped, but Laramie 1 still has issues recruiting certified staff because of inflation. [Id. at 215] A more recent salary study update indicated that Laramie 1 classified staff salaries remain below market. [Id. at 216] Laramie 1 has used incentive payments to help with recruiting classified staff, but Ms. Thompson said those are quick fixes and not sustainable. [Id. at 217]

131. Laramie 1 conducts an annual comprehensive teacher performance evaluation based on State standards, which is required by the State. When Ms. Thompson completes the WDE 662 reporting form indicating whether a teacher is effective or ineffective, she bases that primarily on whether that teacher will be retained or not retained. [Vol. XIV at 3698-3703; Ex. 2258] She testified that the effective/ineffective indication on a WDE 622 form is not relevant to determining the quality of a teacher. [Vol. XIV at 3704]

4. Andy Knapp

132. Mr. Knapp is the Executive Director of Support Operations for Laramie 1. Mr. Knapp oversees Laramie 1's facilities, planning and construction, transportation, custodial, and safety and security departments. He also manages a part of Laramie 1's purchasing department. [Vol. I at 261] Mr. Knapp was a CTE teacher for six years, teaching construction, drafting, and construction management, before taking on his current position in 2017. [Id. at 262-263] Mr. Knapp also has experience as a general contractor of custom homes and some commercial buildings. [Id. at 263-264]

133. Laramie 1 has 30 elementary schools, three junior high schools, four high schools, and 10 support buildings. [Vol. I at 261-262] Laramie 1 is the largest school district in Wyoming and has the highest number of schools in Wyoming. [Vol II at 339-340] In Mr. Knapp's opinion, about 10 of Laramie 1's schools are not educationally suitable. [Vol. I at 268, Ex. 2235 p. 41]

134. Mr. Knapp is very involved in the funding, planning, designing, and construction of new schools for Laramie 1. Mr. Knapp has been involved in the construction of three new schools and the major renovation of two schools for Laramie 1. [Vol. I at 264-265] Mr. Knapp testified that educational suitability is an important factor when designing, planning and constructing new schools. [Id. at 265] According to Mr. Knapp, educational suitability includes four major components – utilities, technology, architecture, and environment. [Id. at 265-66] Mr. Knapp described educational suitability as “trying to find an appropriate place” or “suitable facility and space” to deliver an adequate education for today. [Id. at 266] Laramie 1's newer schools are more educationally suitable because those schools provide adequate space, lighting, heating, ventilation, and security. [Id. at 275] The newer more modern schools are designed for better security with a single point of entry, and have wider hallways, air conditioning, more natural lighting, and are accessible under the Americans with Disabilities Act (ADA). [Id. at 276-277]

135. As an example of suitability, Mr. Knapp testified Laramie 1's Arp Elementary school was at 160 percent of capacity, which made it unsuitable due to the lack of space for the number of students. Students were being taught in entry areas, closets near the stage, and in the library instead of classrooms. [Vol. I at 267-268] Mr. Knapp also described Arp as unsuitable because of its outdated design, which does not include recovery rooms, collaboration spaces, and behavioral intervention rooms. [Id.] In comparison, Mr. Knapp described Meadowlark Elementary school which was built in 2016. Meadowlark is educationally suitable because it has larger

classrooms with greater natural lighting, collaboration spaces, open spaces, pull out spaces for student interventions and recovery, integrated technology, air conditioning, adequate power outlets. [Vol. II at 304-306]

136. A MCER was prepared on Laramie 1's high needs secondary facilities, which was initially completed in 2019 and then updated in 2022. [Vol. I at 270-271, Vol. II at 311; Ex. 2235] The Laramie 1 MCER has been presented to SFC several times. [Vol. I at 270] Funding was allocated by the State in 2023 and 2024, but then the State ordered another MCER, which was not complete at the time of trial. The allocated funding in 2023 and 2024 cannot be used by Laramie 1 until completion of the most recent MCER. [Vol. II at 312-313] According to Laramie 1's MCER, 19 of the oldest school buildings are in Laramie 1. [Ex. 2235 pg. 41, Vol. I at 272] Mr. Knapp considers Fairview, Arp, Bain, and Lebhart to be some of Laramie 1's most deficient and inadequate school facilities. [Vol. II at 301-304]

137. Based on his experience with the recent design, plan, and construction of Coyote Ridge Elementary School and Carey Junior High School in Laramie 1, the delay from appropriation of funding by the State until actual construction causes significant increases in the cost of construction. [Vol. I at 271-272]

138. Arp Elementary students have been going to school at one of Laramie 1's swing spaces for two years and are bussed across town to that space. [Vol. I at 278-279] Before the Arp Elementary students were moved, the capacity issues were addressed using modular buildings since 2008. Modulars do not have sewer and water connected. [Id.] Mr. Knapp does not consider modular buildings to be educationally suitable. [Id. at 280] Laramie 1 has been considering replacing Arp since 2004. [Vol. II at 306-307]

139. Mr. Knapp opined that the State does not sufficiently fund major maintenance

because Laramie 1 cannot cover the cost to for all maintenance requests every year. [Vol. II at 307] The failure to properly fund major maintenance causes deferred maintenance, which is occurring in Laramie 1. [Id. at 308] Failing to perform necessary maintenance may cause harm to the lifespan of a facility. [Id. at 314] According to Mr. Knapp, the deferred maintenance creates inequality between schools and students, as some schools are not suitable without the needed maintenance. [Vol. II at 308-309]

140. Mr. Knapp explained educational suitability is an essential component in determining whether a school is adequate. Mr. Knapp stated having schools that are not educationally suitable creates inequity between students attending different schools. Some students attend newer more educationally suitable schools while others do not. [Vol. II at 309] Mr. Knapp also believes educationally unsuitable schools negatively affect the learning environment and experience. [Id. at 310] Mr. Knapp agreed that Laramie 1 had not made a claim about any facility pursuant to the Chapter 3, Section 8 Process. [Id. at 324] Mr. Knapp described the Adequacy Standards as minimal and a low bar. [Vol. I at 282-283]

141. Mr. Knapp agreed all Laramie 1 school facilities have security cameras, lockable doors, and visitor management systems. [Vol. II at 319] Mr. Knapp agreed the State funded installation of air conditioning when Buffalo Ridge was renovated. [Id. at 331] Mr. Knapp acknowledged that since 2005, the State had funded the construction of 13 new schools in Laramie 1 and the renovation of 5 schools. [Id. at 335-336] Mr. Knapp agreed all the new and renovated schools are educationally suitable. [Id. at 337] One of the elementary schools, Saddle Ridge, was at capacity when it opened and required modulars within two years. [Id. at 340]

5. Stephen Newton, PhD

142. Dr. Newton is the superintendent of Laramie 1. Dr. Newton has a bachelor's degree

in biology, a master's degree in educational leadership, and doctorate in curriculum and instruction. Dr. Newton has been a high school science teacher and coach, regulatory neurophysiologist at UW, an assistant junior high principal, an associate high school principal, high school head principal, director of curriculum and instruction, and an educational consultant for several different states. [Vol. II at 347-348] Dr. Newton has worked at Laramie 1 for 21 years. [Id. at 351]

143. Dr. Newton testified that Laramie 1's newer schools, like Meadowlark Elementary, provide a significantly different educational opportunity to students than the older schools, like Arp Elementary. The newer schools provide more space, better lighting, better opportunity for collaboration. [Vol. II at 349-350] Dr. Newton testified Laramie 1 should be providing equal educational opportunities and experiences to all students regardless of background and location. [Id. at 350]

144. According to Dr. Newton, there has been a significant increase in the number of students at all grade levels and age groups with behavioral and emotional needs and an increase in the severity of those students behavioral and emotional issues. Laramie 1 continues to allow students to attend school virtually post-Covid because there are so many students who would not otherwise come to school in-person. The increase in student mental health and behavioral issues impacts teachers trying to educate and students trying to learn. [Vol. II at 351-354, 381] Laramie 1's guidance counselors, whose primary role is to assist students with what courses to take and finding when those courses are offered, are having to deal with student emotional and behavioral issues. [Id. at 369-370]

145. The Safe2Tell program at Laramie 1 allows students, parents, teachers, administrators, and community members to anonymously report concerning behaviors so those

who are struggling can be identified. A Safe2Tell report is directed to law enforcement and Laramie 1 personnel. Safe2Tell reports are received at any time. [Vol. II at 354-356] The number of Safe2Tell reports received by Laramie 1 have tripled in the past four years. [Id. at 358; Ex. 2265] There has been a significant increase in reports involving suicide, depression, and threats of violence. [Vol. II at 358] Responding to Safe2Tell reports may require utilization of significant Laramie 1 resources. [Id. at 359]

146. Laramie 1 used federal Covid funding to help address the increase in reports of emotional and behavioral issues. Laramie 1 hired behavioral interventionists, tutors, and academic interventionists to help struggling students with their behavioral or emotional issues and keep up with their education. [Vol. II at 359-360] Academic interventionists and tutors assist those students who lack the all the academic skills to keep up with the teaching and learning at their grade level. [Id. at 362-363] The student to counselor ratio at East High School is approximately 500 to 1, which Dr. Newton said is not ideal. [Id. at 360-361] The federal Covid funding ends in the fall of 2024, requiring Laramie 1 to collapse over 100 positions. [Id. at 361]

147. Laramie 1 has approximately 488 ELL students, meaning that English is not their primary language. That number included 19 different distinct languages. ELL students have the same educational expectations as all Laramie 1 students, which is very challenging. [Vol. II at 363-364] Laramie 1, at the time of the trial, also had 14 incarcerated students. [Id. at 381]

148. Laramie 1 has reallocated personnel and cut course offerings because of reduced funding. For example, Laramie 1 cut courses in British literature, botany, astronomy, conceptual physics, global science, and computer graphics. Laramie 1 has also combined separate sections into one class offering, which increased the class size. [Vol. II at 365-367] Laramie 1 has eliminated necessary positions including graduation coaches, instructional coaches, curriculum

coordinators, a music and art coordinator, a physical education coordinator, world language coordinator, and a data analyst. [Id. at 370-371] Graduation coaches find and encourage students to work toward graduating and finishing high school, and they bring kids who have dropped out back into school [Id. 371-372] An instructional coach assists teachers at being better teachers and better managers of the classroom. [Id. at 373]

149. Dr. Newton testified recruiting employees has been affected by reduced funding. He said there are individuals being hired now who would not have gotten interviews previously because the applicant pool is smaller. For example, Laramie 1 had 5 occupational therapist openings in August 2023. The positions were offered to two qualified applicants. One applicant declined because the salary was too low and the other declined because she would not be allowed to work remotely. [Vol. II at 367-368] Occupational therapists are essential for disabled students to learn. [Id. at 368-369] Laramie 1 let go 17 first or second-year teachers this year because of poor performance, which has been rare in the past. [Id. at 375, 377]

150. Dr. Newton opined that Laramie 1 is unable to deliver the educational program to every student that he believes should be delivered. [Vol. II at 374] Dr. Newton clarified that Laramie 1 is delivering the state-mandated education program, but not every student is receiving a “high quality education.” [Id. at 382] Dr. Newton believes that every student requires a highly qualified teacher, which Laramie 1 is not able to provide currently. [Id. at 377-378] According to Dr. Newton, students are educationally harmed by being taught by teachers who are not highly qualified. [Id.] As an example, Laramie 1 correlated poor student performance on test scores with a class taught by a teacher who was let go due to poor performance. [Id.] Specifically, there are individual classrooms in some of Laramie 1’s older schools where none of the students are proficient at their grade level. [Id. at 395] Dr. Newton testified the cost of textbooks and curriculum

materials has increased at a rate higher than consumer inflation indexes. [Vol. II at 380]

151. Dr. Newton agreed Laramie 1 signed and submitted the Annual Assurances Form in 2022, and he has signed and submitted that form in his tenure as Laramie 1 Superintendent. [Vol. II at 392] Dr. Newton believes Laramie 1's signing and submission of the Annual Assurances Form means it attests that it is meeting the bare bones minimum of delivering education. [Id. at 398]

6. Nathan Cowper

152. Mr. Cowper is the chief human resources officer for Albany 1. Mr. Cowper has been in that position since July 18, 2023. Mr. Cowper has a bachelor's degree in English and a law degree from UW. [Vol. II at 401, 402] Mr. Cowper is responsible for employee recruiting, general supervision of district employees, overseeing human resources and payroll, assuring employees are properly certified, and administering employee health insurance and benefits programs. [Id. at 401]

153. Mr. Cowper identified a 2023 memo written by his predecessor in Albany 1 to Albany 1's superintendent about hiring difficulties. According to the memo, Albany County was experiencing recruiting and hiring difficulties due to "an inability to compete in wages and benefits" and loss of employees due to fatigue and a perceived lack of respect. [Vol. II at 403-404; Ex. 2148]

154. Albany 1 is experiencing significant difficulty in hiring special education teachers, special education service providers, math teachers, and science teachers. [Vol. II at 405] In 2023-24, Albany 1 was unable to fill one math teacher position and was required to have other math teachers absorb that burden, which impacts the teachers and students. [Id. at 405-408] Albany 1 has had difficulty hiring classified staff also, specifically bus drivers, bus aides, custodians, and

special education paraeducators. [Id. at 409] Albany 1 competes with UW for classified employees. [Id. at 409-410] Bus mechanics and the transportation manager often are required to drive a bus because of the shortage of drivers. [Id. at 410] Albany 1 also has experienced significant turnover with classified staff due to higher pay at competing employers. [Id. at 416-417]

155. In the spring of 2024, Albany 1 adopted pay raises for classified and certified staff to start on July 1, 2024. Certified staff's base salaries were raised by \$2,500, for a new base salary of \$47,500.00, and classified staff will receive a raise of \$3 per hour. [Vol. II at 412] Albany 1 was able to adopt the raises because of the recent ECA to the Funding Model and by eliminating 15 FTE through a reduction in force (RIF) process. [Id. at 413-414] Albany 1's driver education program was also eliminated in the process of giving the raises. [Id. at 415] As a result of the pay raises and the RIF, both students and teachers will be impacted by increased class sizes and more work. [Id. at 415-416]

156. Mr. Cowper acknowledged bus drivers and special education employees had not gotten a raise prior to the 2024 raise for all employees. [Vol. II at 427-428]

7. Stephen Slyman

157. Mr. Slyman is the Chief Student Advocacy Officer, formerly the Director of Individualized Instruction, for Albany 1. Mr. Slyman has worked for Albany 1 for 26 years. Mr. Slyman previously worked as special education teacher, behavior specialist, and elementary principal. Mr. Slyman has a bachelor's degree in hotel and restaurant administration, and master's degrees in special education. Mr. Slyman's is responsible for special education services, students at risk for academic failure, and for success in school. Mr. Slyman works closely with local law enforcement, the Department of Family Services (DFS), diversion programs, behavioral health, youth crisis center, UW, the Cathedral Home for Children, and other community organizations to

support students at risk. [Vol. II 458-460] As a special education teacher, Mr. Slyman worked primarily with elementary students with emotional disabilities and behavioral challenges. [Id. at 462]

158. Albany 1 has experienced an increase in the number of students on IEPs and in special education. [Vol. II at 469-470] In 2022-23, Albany 1 had 550 special education students and in 2023-24, Albany 1 had 656 special education students, which is about 17 to 18 percent of the student population. [Id. at 470-471] There has also been an increase in the number of students on Section 504 Plans. [Id. at 471] The increases have significantly impacted Albany 1 due to increased intensity, frequency, and duration of inappropriate behaviors, making it hard to teach and hard for students to learn. [Id. at 471-472] Albany 1 needs more special education personnel and programs because of the increases. [Id. at 472] Mr. Slyman described the increase specifically as:

This year, not only at I-CARE, but in our behavior support programs, we've been overwhelmed with student needs that are behaviorally very extreme. From eloping from school to the mantra of hitting, biting, kicking, spitting, cussing, causing extreme disruptions not only to the behavior support programs, but to the schools as a whole. When we have to go to -- say a student's in a fourth-grade classroom at a school and becomes dysregulated and is trying to harm themselves or others in the classroom, and you have to clear the classroom. That means all the other kids in that classroom are no longer learning, along with the student in crisis, which is also going to require the crisis response team to come and help deescalate the student.

And that, again, when I think about duration, those durations, when I see the reports, they're not 3 to 5 minutes, they're 15 to 20 minutes or 30 minutes or 40 minutes, or go home for the rest of the day and let's try again tomorrow.

[Id. at 529-530] Albany 1 currently has 10 students in residential treatment and has had more students in residential treatment in the past year than the previous 11 years combined. [Id. at 530]

159. Albany 1 is having significant difficulty hiring and getting applicants for special education positions, including school psychologists, teachers, paraeducators, and vision and

hearing service providers. This past school year, Albany 1 had no applicants for special education paraeducators because the salary of \$14 to \$15 an hour is so low. [Vol. II at 472-473]. The hiring challenges have caused the current special education staff to be overworked and have increased stress. [Id. at 473] Albany 1 contracts for most of its occupational therapy and physical therapy services because it cannot hire OTs and PTs. [Id. at 517, 528] Mr. Slyman has requested that Albany 1 pay some special education positions more than general education service providers because the positions are hard to fill, which Albany 1 has resisted. [Id. at 508-509, 527]

160. Albany 1 has students not on an IEP or a Section 504 plan – general education students – with additional needs. For example, students with trauma in their background, students with food insecurities, homeless students, students with language barriers, students with emotional and behavioral issues, students who have had trouble with the law, and students with substance abuse issues. [Vol. II at 476-477] Albany 1 must address these students’ special needs to properly educate the students. [Id. at 479] These additional student issues and needs impact the students’ ability to learn and impacts other students’ abilities to learn. [Id. at 479-480] Albany 1 has two to five DFS referrals a week, and there has been an increase in the number and intensity of student behavioral issues. [Id. at 481-482]

161. Mr. Slyman testified funding has impacted Albany 1’s ability to respond to the increased challenges with student behaviors and emotional issues. Albany 1 no longer has sufficient behavior support teachers to respond appropriately to situations. [Vol. II at 483-484] The special education staffing issues also impacts professional development opportunities for general education personnel. [Id. at 486]

162. Mr. Slyman indicated that funding for additional interventionists, social workers, and counselors for general education students would benefit struggling students. [Vol. II at 487,

525] Mr. Slyman testified Albany 1 does a decent job at educating special education students and students on the college tract, but some students not in those categories have needs that are not being met or identified and those students are not successfully educated. [Id. at 487-491, 496-497] Mr. Slyman attributed the failure to properly educate these students to funding levels. [Id. at 496-497]

163. Albany 1 employs 10 elementary school counselors. Elementary school counselors provide social-emotional learning programs in all classrooms, participate in school building intervention teams to help students be successful in school, provide IEP-required services, and crisis response services. [Vol. II at 491-493] Two of the counselors are assigned to special education and eight are in general education, and those are funded from the general fund. [Id. at 493] Mr. Slyman testified elementary school counselors are necessary to address unmet student needs so the students may access their education. [Id. at 494-495] Without the counselors, there would be elementary students whose ability to learn would be impacted because their needs are not being addressed. [Id. at 495] Mr. Slyman testified children cannot learn to read and write if they are not ready to do so and counselors are essential in getting some children ready to learn. [Id. at 495-496]

8. Kathleen Kniss, PhD

164. Dr. Kniss is the Chief Academic Officer for Albany 1. Dr. Kniss has worked for Albany 1 since 2002. [Vol. II at 533] Dr. Kniss has previous experience as a classroom teacher, an interventionist, an instructional facilitator, and a professional development coordinator. [Id. at 534] Dr. Kniss has a bachelor's degree in political science and elementary education, a master's degree in curriculum and instruction, and a PhD in curriculum and instruction, all from the UW. [Id. at 533] Dr. Kniss's educational focuses included mathematics curriculum and professional

development around implementation of common core state standards. [Id. at 533-534] As the Chief Academic Officer, Dr. Kniss defines the curriculum – academic instruction, practice, and assessment – for Albany 1. [Id. at 536-537]

165. According to Dr. Kniss, in the past ten years, beginning in approximately 2015-2016, funding levels have slowly eroded students’ access to opportunity and instruction. [Vol. II at 537-538] Albany 1 has reduced intervention resources, professional development opportunities, shifted class sizes, adjusted instructional facilitator salaries, and decreased electives and enrichments. [Id. at 541, 544-545] Instructional facilitators elevate and improve teacher instructional practice by coaching teachers. [Id. at 541-542] An interventionist supports students that are struggling and are not achieving at grade level, but who have potential to be at grade level. [Id. at 543-544] The reduction of electives and course offerings compromises Albany 1’s ability to achieve both career and college readiness for all students. [Id. at 545-546] Dr. Kniss believed the funding for instructional facilitators decreased because funding was changed from a categorical grant and folded into the legislative funding model. [Vol. III at 605-606]

166. Dr. Kniss explained that research shows that teacher quality is “the single most indicative factor in student achievement.” [Vol. II at 542, Vol. III at 563] For a student, a single year with a low or inadequate quality teacher could require up to three years of recovery time. [Vol. II at 550] “Professional development is the mechanism for ensuring quality” teachers are available to all students. [Id. at 549] A quality teacher has content knowledge, pedagogical knowledge – teaching strategies or ways of instructing, and disciplinary content knowledge – and ways of teaching specific to a discipline. [Vol. II at 549, Vol. III at 564] If a teacher does not have all three of those skills, professional development is used to provide them with the skills. [Id.] Dr. Kniss testified, research shows that “the number one most important factor for” children is “the

quality of the teacher in their classroom.” [Vol. III at 562] According to Dr. Kniss, student-to-teacher ratio is not as impactful on student outcomes as the quality of a teacher. [Id. at 583]

167. Typically, a teacher teaching as an EA or PIC permit has substantial content knowledge, but they do not have much pedagogical or discipline knowledge. [Vol. III at 566, 567] Thus, those EA and PIC permit teachers will often have an instructional coach in their classrooms. [Id. at 567-568] It takes approximately 30 to 100 hours of professional development to shift a teacher’s instructional practice. [Id. at 560] Professional development is important to make better teachers. [Id. at 561-562]

168. Albany 1’s student enrollment has declined, which impacts student resources and forces the district to be more efficient with its services, staffing, and opportunities for students. For example, if there is a loss of 5 first graders in a class of 22, there is a loss of funding associated with the reduced ADM, but Albany 1 must continue to staff at the same level and has the same cost for materials. [Vol. II at 538-539]

169. Dr. Kniss opined that the existence of Wyoming’s public-school content and curriculum standards does not necessarily demonstrate Wyoming’s students are high achieving. [Vol. III at 578] Dr. Kniss further opined Wyoming’s public school system does not provide ample opportunity to at-risk students who are not in special education and does not provide ample opportunity to advanced and high-achieving students. [Id. at 579-580] Dr. Kniss explained statewide average scores on statewide assessment tests like the ACT¹³ and NAEP does not necessarily mean that Wyoming is fulfilling its obligation to move all students forward in their educational success. [Id. at 585-586] She said those statewide assessments are geared toward

¹³ The ACT is college readiness gauge and an assessment tool used by all Wyoming school districts to assess student achievement. [Vol. III at 572]

college readiness and do not measure career readiness, which is also required. [Id. at 586] Dr. Kniss stated Albany 1 is successfully delivering the required educational basket of goods to a percentage of its students, but not to all its students. [Id. at 618] Dr. Kniss explained that Wyoming's NAEP scores are one measure of student achievement in specific and narrow content areas. NAEP scores are of limited utility because they do not represent the full set of content taught to Wyoming students. [Vol. XV at 3753-3755, 3762]

170. Dr. Kniss testified the purpose of the Annual Assurances Form is for school districts to assure it is complying with programming and structural requirements. She said the form is not a measure of outcome or an accounting that the outcome has been achieved; it is just a promise that the school district spent its funding to accomplish the requirements. [Vol. III at 587-589, 592] According to Dr. Kniss, by signing the Annual Assurances Form, the school district is not assuring that its students have achieved a particular standard, but rather is only assuring its programs comply with the standards. [Id. at 590]

9. John Williams, PhD

171. Dr. Williams is the CFO for Uinta 1 and he has been the CFO for Uinta 1 since July 1, 2006. [Vol. III at 634, 636, 638] Dr. Williams has a bachelor's degree in elementary education, a master's degree in educational leadership and policy, a master's degree in public administration, and doctorate in school business administration. [Id. at 634-635] Dr. Williams worked with one of the principals of MAP. [Id. at 634-635] Dr. Williams previously worked as a fifth-grade teacher, at the Rockefeller Institute of Government as the acting provost's research assistant, and as a researcher in at Albany University. [Id. at 636] Dr. Williams participated in the 2010 Funding Model recalibration at the request of the State's consultant, and in 2016-2017 he was on SFDAC. [Vol. III at 637]

172. Dr. Williams performed an analysis of Uinta 1's budget from 2008 to 2023 to determine whether inflation has eroded the value of money in terms of revenues available to Uinta 1. [Vol. III at 644; Ex. 2395] Dr. Williams concluded there has been a significant erosion of Uinta 1's dollar buying ability due to inflation – “less bang for the buck.” [Vol. III at 651, 653, 667] Dr. Williams opined that the State has not properly adjusted funding for Uinta 1 to account for the effects of inflation. [Id.]

173. Dr. Williams performed a salary market analysis for Uinta 1. [Vol. III at 654] Dr. Williams used a redacted version of the WDE 602 to compare Uinta 1 salaries to comparable districts, local districts, and all districts except Teton County. [Id. at 654-656; Ex. 2395 Table 2] Dr. Williams concluded Uinta 1 generally has a longer tenured and more seasoned staff than all other districts, but Uinta 1's wages are lower. [Vol. III at 659-660] As a result of Dr. Williams' market analysis of Uinta 1 salaries, Uinta 1 restructured its support staff for purposes of retention and recruitment. [Id. at 661, 698] Dr. Williams agreed his analysis did not include the impact of the RCA applied in the Funding Model and agreed his analysis did not include benefits such as retirement and health insurance. [Id. at 677-678, 683, 690]

174. Dr. Williams also compared Uinta 1's salaries to nearby school districts in Utah. [Vol. III at 663-664; Ex. 2394] The Funding Model Weighted salary for Uinta 1 was \$50,597 in 2022-23 and \$52,188 in 2023-24. [Vol. III at 665; Ex. 2394] Uinta 1's actual average teacher salary was \$60,622 in 2022-23. [Id.] The Rich school district in Utah, which is just thirty miles from Evanston and Uinta 1, had an average teacher salary of \$74,200 in 2022-23 and the Park City school district in Utah, which is fifty miles from Uinta 1, had an average teacher salary of \$65,245 in 2022-23. [Ex. 2394, Vol. III at 666] Dr. Williams agreed he was unable to compare experience levels of teachers in Utah to Uinta 1 and agreed Utah has significantly larger class sizes than

Wyoming schools. [Vol. III at 692-694] According to Dr. Williams, Uinta 1 was able to attract teachers from the lower elevations and warmer climates of the Wasatch Front in Utah because it paid higher salaries, but Uinta 1 has now lost that advantage and attraction. [Id. at 666-667]

10. Ryan N. Thomas

175. Mr. Thomas is Superintendent of Schools at Uinta 1, with over thirty-five years' experience in education in both teaching and leadership roles, including human resources. [Vol. III at 700-703] Superintendent Thomas has a bachelor's degree in teaching, a master's degree in educational leadership, an education specialist degree in educational leadership, and is currently completing his doctoral dissertation. [Id. III at 702]

176. Superintendent Thomas was the superintendent of operations at Uinta 1 from 2005 to 2009, and he was responsible for human resources and hiring. [Vol. III at 703] During that period, Uinta 1 recruited heavily from Utah and Idaho and typically attended two large Utah job fairs and one in Idaho. During that period, Uinta 1 also tried to attract applicants through its high salaries and excellent benefits. At that time, Uinta 1 teacher salaries were top ten in the nation, and retirement and health insurance were fully paid. [Id. at 704-705] Uinta 1 would have hundreds of applicants for only a handful of positions. [Id. at 705-706] According to Superintendent Thomas, after the 2010 recalibration, base salaries were not changed, and Uinta 1's employees began having to pay more for health insurance. [Id. at 707]

177. Superintendent Thomas testified recruiting teachers to Uinta 1 has become much more difficult in the past five to six years. Uinta 1 receives very few applicants from Utah and gets most of its applicants from UW, and from online universities, which are often not as rigorous as an in-person university. [Vol. III at 708-712]

178. Uinta 1 has the most difficulty hiring math, science, and special education teachers.

According to Superintendent Thomas, only two qualified math teacher candidates graduated from UW this past year, and neither was hired by Uinta 1. [Vol. III at 710-711] Uinta 1 is hiring individuals now that would have not been hired or even considered three years ago. [Id. at 712] Even though special education teachers are hard to find, Uinta 1 has not increased special education salaries separate from other teachers because the district wants to treat all teachers the same. [Id. at 788-789]

179. Uinta 1 has experienced a significant increase in the number of teachers leaving for salary reasons in the past two to three years. Uinta 1 lost five principals in the past ten years and had one teacher leave mid-year, which is very unusual. The salary of one of the departing principals was increased by \$15,000.00 at his new position. [Vol. III at 713-714]

180. To remain competitive and to provide the annual step increases, Uinta 1 has reduced staff through attrition, raised class sizes, and reduced spending in operations. [Vol. III at 717-718] Superintendent Thomas stated the inconsistent application of an ECA has significantly impacted Uinta 1. [Id. at 720] Uinta 1 prioritizes teacher salaries so it can hire the best classroom teachers, improve schools, and impact students. [Id. at 721] Superintendent Thomas opined that having the best classroom teachers has the largest impact on students. [Id.]

181. Uinta 1 paid its teachers a one-time retention bonuses with federal Covid funds, but those bonuses do not impact the teacher's retirement. [Tr. Vol. III at 720-721] In the past five years, Uinta 1 has experienced significant challenges hiring classified employees, especially bus drivers, because its salaries are not competitive. [Id. at 724-725]

182. Superintendent Thomas opined that the Funding Model does not provide sufficient funding for all the components in Uinta 1's educational program. [Vol. III at 726] Specifically, the Funding Model does not provide any funding for elementary counselors, which Superintendent

Thomas stated are critical. He testified elementary counselors provide students and their families essential services and build relationships, so the students learn better. Uinta 1 employs four elementary counselors/social workers. [Id. at 727] The Funding Model also does not fully fund the required maintenance of Uinta 1's two swimming pools. [Id. at 737]

183. Superintendent Thomas stated the Funding Model does not fully fund Uinta 1's nutritional program. The district typically transfers about \$400,000.00 each year from general funds to the nutritional fund. Uinta 1 participates in the federal nutritional lunch program and provides breakfast. Uinta 1 has many impoverished students, which is very challenging for the district. If Uinta 1 did not provide breakfast and lunch to its impoverished students, then the students would be hungry during the school day. Superintendent Thomas opined, based on his experience in the classroom, students who are hungry do not learn well and its nutritional program is vital to learning. [Vol. III at 728-730]

184. Superintendent Thomas insisted SROs are an important and necessary part of Uinta 1's educational program. SROs provide for safety and security, manage illegal student conduct, train district employees with concealed carry permits, and build relationships with students. [Vol. III at 730-732] Uinta 1 received funding to upgrade its building security, which it fully utilized. [Id. at 737]

185. According to Superintendent Thomas, the Funding Model does not fully fund technology. Computer science is a WDE required educational component for every school district. [Vol. III at 738] Uinta 1 has adopted ratio of one-to-one computer policy beginning during the Covid pandemic, but the Funding Model funds school districts at a three-to-one ratio. [Id. at 766-767] Superintendent Thomas testified it is important for every student to have a computer. [Id. at 802] Superintendent Thomas said Uinta 1 would benefit from additional funding to hire more

instructional facilitators for better staff development and to help support EAs, which have increased. Id. at 739-740]

186. An EA is not only teaching, but they are also required to obtain college credits to become certified, which is challenging. [Vol. III at 741] A student being taught by an EA teacher is not getting the same quality educational opportunity as a student taught by a highly qualified teacher. [Id. at 762] A highly qualified teacher has the largest impact on student learning and educational achievement. [Id. at 753] Superintendent Thomas agreed there is a nationwide teacher shortage. He testified the shortage affects Uinta's ability to recruit high quality teachers due to funding. [Id. at 743] In recent years, Uinta 1 has had an increase in nonrenewal or termination of Initial Contract Teachers because they are unqualified. Increasingly, these teachers resign when they are informed of the nonrenewal. [Id. at 755-757]

187. Uinta 1 teachers are generally in the school building 35 to 37 hours a week. Uinta 1 teachers, however, also often perform district work when not at the building at night, on weekends, and during the summer. This includes preparation time. Most teachers work more than 40 hours per week. [Vol. III at 746-749]

188. Because staff salaries and benefits account for 85% of a school district's operational budget, when funding for staff is inadequate, there is only 15% of the rest of the operational budget to reduce. [Vol. III at 750-751] Uinta 1 puts general fund money into an employee benefit fund used to reward longevity with the district upon retirement. [Id. at 778-780]

189. Each year Uinta 1 negotiates salaries and benefits for all its staff with an agent, Evanston Education Association. [Vol. III at 768-769, Ex. E-19] Prior to the negotiations, Uinta 1 determines the amount of funds available for salaries and benefits. [Vol. III at 771] Since 2005, Uinta 1 has never decreased salaries or frozen salary schedules. [Id. at 772] Uinta 1 has funded the

steps for teachers to move up the salary schedule based upon education and experience. [Id. at 773]

190. Superintendent Thomas agreed he signed and submitted Uinta 1's Annual Assurances Form each year in his tenure as Uinta 1 Superintendent. [Vol. III at 789, Ex. I-4] He agreed Uinta 1's teacher evaluations reflect a large majority of its teachers are highly effective, and that number has increased in the last three years. [Vol. III at 792-793; Ex. C-19]

11. Teresa Chaulk

191. Ms. Chaulk has been Superintendent of Schools at Lincoln 1 for the past seventeen years. Superintendent Chaulk has a bachelor's degree in elementary education and K-12 special education, a master's degree in special education, and is working toward an education specialist degree in school psychology. She has been employed in education since 1994 in a broad range of positions, including as a special education teacher, special education director, curriculum director, grant writer and coordinator, staff development, alternative school principal, superintendent, business manager, and human resources. [Vol. III at 809-811]

192. Lincoln 1 employs one half-time elementary school counselor. A school counselor helps students grow socially and emotionally. In recent years, the elementary school counselor has had to engage in more individual student counseling because the students' social and emotional needs are greater, and they need more help and support to be in the classroom. Increasingly, students are coming to school with significant issues in their home life. [Vol. III at 812-814] Due to the lack of counselors, Lincoln 1 is not meeting the needs of these students, which impacts the student's ability to learn. Superintendent Chaulk testified Lincoln 1 needs a full-time counselor, as well as a behavioral analyst and a behavioral paraprofessional. [Id. at 814-817] Superintendent Chaulk said it is Lincoln 1's responsibility to address these students' emotional and behavioral needs so they can learn, and the emotional and behavioral issues impair a student's ability to learn.

[Vol. III at 819-820, Vol. IV at 929] She stated these emotionally and behaviorally challenged students cause increased stress on teachers having to deal with the students and impact other student's ability to learn. [Vol. III at 820-821, Vol. IV at 929]

193. Superintendent Chaulk agreed the Funding Model provides some funding for support for at-risk students which may be used for counselors, but she said the funding is insufficient. [Vol. IV at 1000] Lincoln 1 participates in Care Solace, a mental health program provided by the State. [Id. at 1000-1001]

194. Superintendent Chaulk stated Lincoln 1 could not recruit and hire a highly qualified first year teacher at the Funding Model's first-year base rate of \$39,800.00. [Vol. IV at 933] Superintendent Chaulk testified that the starting salary of \$54,000.00 is somewhat competitive with some regional states, but is not competitive with others, including Utah, which is just 80 miles from Lincoln 1. [Id. at 935] She believes a starting salary of \$60-62,000 for first-year teacher would be competitive with Utah. [Id. at 937] In the past ten years, Lincoln 1 experienced a significant decrease in teacher applicants and in the quality of the applicants. [Id. at 962-963]

195. In years where the legislature has not adopted an ECA, Lincoln 1 has given raises by reducing other operational costs and reducing staff. For example, Lincoln 1 significantly reduced funding for professional development, training for teachers, and textbooks. Reductions in textbook resources and professional development impacts students negatively because students are not getting researched-based materials and their teachers are stressed from extra work. [Vol. IV at 937-939] Superintendent Chaulk has had to teach classes at times due to the lack of funding. [Id. at 961] Through 2009, Lincoln 1 spent significant portions of its pre-1997 funding to retain more staff. [Id. at 975] Lincoln 1 has not cut salaries during Superintendent Chaulk's tenure. [Id.

at 977] Since 2019-2020, Lincoln 1 has had some limited success hiring teachers from out of state and from other Wyoming school districts. [Vol. IV at 981-984; Ex. M-16]

196. Lincoln 1 has just one CTE teacher teaching woods, welding, and auto. He teaches 16 different sections. Lincoln 1 has just the one teacher because of funding and a lack of applicants. Lincoln 1 has hired another CTE teacher on a PIC permit who will begin next school year. [Vol. IV at 940-941] This past school year, Lincoln 1 had a long-term substitute teaching English, an EA teaching math, and an EA teaching special education. [Id. at 941, 986] Lincoln 1 has struggled to hire a computer science teacher. [Vol. IV at 987, Ex. U-16]

197. Lincoln 1 has also struggled to recruit and retain classified staff, especially bus drivers and special education paraprofessionals. [Vol. IV at 942] Lincoln 1's geographical location, limited amenities, and limited job opportunities impact its ability to recruit and retain employees. [Id. at 964-965] There are limited job opportunities in the area for a teaching applicant's spouse and there are few entertainment and restaurant choices in the district. [Id.] Superintendent Chaulk stressed the importance of having competitive salaries because of Lincoln 1's location and relative size. [Id.]

198. Superintendent Chaulk explained TRRTF was created to support and value teachers and to retain and recruit teachers. Superintendent Chaulk was appointed to a WDE subcommittee to work through the recommendations of the TRRTF. [Vol. IV at 943, 972-973] Superintendent Chaulk said that while the subcommittee was preparing to present to the legislature, Laurie Ballard, the Innovations Officer for WDE, told the subcommittee that it was not allowed to discuss teacher salaries at the JEC. [Id. at 948-949]

199. Superintendent Chaulk opined that there is inequity between large school districts and Lincoln 1 at the secondary level – 7th through 12th grade. Just like a large district, Lincoln 1

must offer the entire “basket of goods” required by WDE. This means they have to offer a calculus class even though there may only be five students, compared to 20-25 students at a larger district. Students at Lincoln 1 may not be able to schedule all their courses because of limited offerings for higher and lower-level courses. Smaller district also cannot offer as many electives – courses outside the required basket of goods – as large districts. [Vol. IV at 951-953] It is difficult to offer the higher-level courses needed for a student to qualify for the Hathaway college scholarship program. [Id. at 998] Lincoln 1 does not qualify for the Funding Model’s small school adjustment. [Id. at 969] Lincoln 1’s graduation rate last year was 91 percent, which is less than its typical rate of 98 percent. [Id. at 1007]

200. Superintendent Chaulk opined that Lincoln 1 is not providing a quality education to all its students. She explained that 60 percent of Lincoln 1’s elementary students are not proficient in math, the district is not meeting all student’s needs, and not all students are succeeding. [Vol. IV at 954-955, 959] She also opined that Lincoln 1 is not meeting all students emotional, behavioral, and mental health needs because of a lack of funding. [Id. at 959]

201. Lincoln 1 provides breakfast and lunch to its students because some students would not otherwise eat. In addition, Superintendent Chaulk said having a full belly helps a student learn and a hungry child does not learn as well. Lunch and breakfast periods also provide an opportunity for students to socialize, interact, and work on peer conflict resolution. [Vol. IV at 955-956] Lincoln 1 does not participate in the federal nutritional program because the school board elected not to participate. Lincoln 1 charges students for lunch and breakfast, except for those students who cannot pay the fee, and covers the rest of the cost from its general fund. [Id. at 992-995]

202. Unlike larger districts, Lincoln 1 does not have enough room in its operations budget to independently fund an SRO. Superintendent Chaulk believes SROs are necessary part

of providing an education because of the changes to student demographics and students behavior. [Vol. IV at 958]

203. Superintendent Chaulk agreed Lincoln 1 submitted and signed its Annual Assurances Form in October 2022. [Vol. IV at 990-991, Ex. F-4] She described the Annual Assurances Form as a simple checklist that does not address rigor, implementation, and development of the delivery of the educational program. [Vol. IV at 1008] She agreed that since 2020-21, Lincoln 1's teacher evaluations reflect a large majority are meeting or exceeding expectations. [Vol. IV at 989-990; Ex. S-16] Superintendent Chaulk noted the evaluation criteria is not very difficult to attain. [Vol. IV at 1009-1010] Superintendent Chaulk agreed that Lincoln 1's school facilities are adequate to provide a quality education. [Id. at 1005]

12. Christiana Stoddard, PhD

204. Dr. Stoddard has a doctorate in economics and works in labor economics and public finance. [Vol. IV at 831] Dr. Stoddard is a professor at Montana State University, teaching economics, public finance, and statistical modeling. She has been a professor since 2002. [Vol. XII at 2808] Dr. Stoddard is a consultant for the state of Wyoming for recalibrations and has worked in that capacity since 2010. [Vol. IV at 832-833]. She generates monitoring reports and labor market studies for the State, detailing information about external cost pressures on school districts. [Id. at 836]. Dr. Stoddard's monitoring reports are intended to help the legislature decide about adopting an ECA. [Id. at 899] Dr. Stoddard has performed K-12 labor market studies for Hawaii, Michigan, Montana, and Nevada. [Vol. XII at 2808] Dr. Stoddard has never worked in public school education. [Vol. IV at 834]

205. In 2010, the State hired Dr. Stoddard to perform a labor market study for teachers in Wyoming. According to Dr. Stoddard, during the 2005 recalibration, teachers' wages were set

based upon the amounts school districts were actually paying teachers at that time and class sizes were modified, which caused a significant increase in funding for paying teachers. She believed the additional funding was used primarily to raise teacher salaries and not to hire more teachers. [Vol. XII at 2809-2811] Her 2010 study compared Wyoming's teacher wages to the wages of other occupations in Wyoming and compared Wyoming's teacher wages to teachers in other states. She also studied teacher turnover and teacher quality from 2005 to 2010. [Vol. XII at 2812-2813; Ex. C-1, p. 247-283]

206. From her 2010 study, Dr. Stoddard concluded the 2004 and 2005 average Funding Model Weighted salary for teachers was higher than average actual salaries being paid to Wyoming teachers. Then, from 2005 to 2010, average actual salaries being paid to Wyoming teachers increased significantly and have consistently remained higher than the average Funding Model Weighted salary for teachers. She concluded the difference between average actual salary and the average Funding Model Weighted salary from 2006 to 2010 was not cost-related [Vol. XII at 2815-2817; Ex. C-1, p. 252, 253 Figs. 1 and 2] She also concluded Wyoming's average actual teacher's salary from 2006 to 2008 was significantly above the average teacher salary in regional states – Colorado, Idaho, Montana, Nebraska, South Dakota, and Utah. [Vol. XII at 2818-2819; Ex. C-1, p. 255 Fig. 5] When she compared Wyoming teacher salaries to other occupations in Wyoming, she found that Wyoming teaching salaries were about 95 percent of other professional and technical occupations in Wyoming, even though teachers work fewer hours and receive greater benefits. In general, she concluded that in 2010, Wyoming teacher wages “were very competitive and well above” labor market conditions. [Vol. XII at 2818-2820; Ex. C-1, p. 257-258, Figs. 6 and 7]

207. Regarding measuring teacher quality, Dr. Stoddard said it is difficult accomplish. She stated she did not find any clear indicators of an improvement in teacher quality between 2005 and 2010. [Vol. XII at 2820-2821] Dr. Stoddard has repeatedly told the State it does not have good data on the quality of public-school teachers. [Vol. IV at 849] According to Dr. Stoddard, the 2024 legislature passed a bill requiring collection of data about unfilled school district vacancies. [Vol. XII at 2840]

208. After providing her 2010 recalibration reports, the State enlisted Dr. Stoddard to monitor changes in the labor market and provide guidance regarding cost pressures in the school district labor market. [Vol. XII at 2821-2823; Ex. 2049] Dr. Stoddard typically produced an annual report on cost pressures in the school district labor market for the State and legislature. [Vol. XII at 2824-2826; Exs. G-1 through O-1] In her 2011 monitoring report, Dr. Stoddard did not find there were any cost pressures in the school district labor market for teachers and non-teachers. [Vol. XII at 2828-2832]

209. In her 2015 monitoring report, which was prepared for recalibration, she concluded that the Funding Model had enabled school districts to provide highly competitive teacher salaries nationally and that “Wyoming is now ranked at the very top of the United States in terms of the relative attractiveness of the teaching profession.” Dr. Stoddard also did not find there were any cost pressures in the school district labor market for teachers and she concluded nonteacher salaries remained competitive. [Vol. XII at 2832-2836; Ex. D-1, pp. 375]

210. Dr. Stoddard’s 2020 recalibration report concluded, in part, on average, teachers leaving teaching are getting substantially less pay in their new position, which suggests they are leaving teaching for reasons other than salary. She recommended that the Funding Model salaries be set at 75 to 83 percent of comparable professional and technical workers in Wyoming. The

purpose of setting teacher salaries at a percentage was to adjust for the fact that teachers work fewer hours than the comparable workers. In general, Dr. Stoddard concluded Wyoming’s teacher pay, relative to other states, was not as strong as it had been, there were no significant changes to the indicators of cost pressures on the educational labor market, and nonteacher salaries remained competitive. [Vol. XII at 2836-2839; Ex. E-1 pp. 606-631]

211. In her 2022 monitoring report to the legislature, Dr. Stoddard determined exit rates for teachers close to retirement had risen significantly, which increased turnover rates, and that cost pressures in the educational labor market were likely to emerge post-pandemic. [Vol. XII at 2844-2846; Ex. O-1] In other words, she was anticipating that cost pressures were emerging in her 2022 report. [Vol. XII at 2847] She also found the average Funding Model Weighted teacher salary was 3 percent lower than the average salaries of states in the region. [Id. at 2861]

212. Dr. Stoddard’s 2023 monitoring report noted there were increases in exit rates for teachers in the middle of their careers, which was a concern because those teachers typically have significant proficiency in the classroom. [Vol. XII at 2846-2847; Ex. P-1, Fig. 10] Dr. Stoddard indicated her prediction of emerging cost pressures in the educational labor market had been accurate because it was clear “significant cost pressures” were appearing. [Vol. XII at 2847]

213. Dr. Stoddard’s September 2023 monitoring report to the legislature included a summary of her conclusions, which provided, in part:

SUMMARY

- **Teaching wages in Wyoming in May 2022 were about 80 percent of average annual wages in comparable occupations.** The United States (U.S.) average and average in neighboring states and North Dakota remained close to 75 percent.
- **The ratio of teaching salaries to comparable occupations in Wyoming has consistently eroded over the last several years,** with a particularly sharp decline in the last year observed. It is now significantly lower than in any year recorded since the series began in 2003-04. Comparison of business and health occupations

in Wyoming have experienced particularly sharp wage increases in the last 2 years.

- **Teaching salaries in Wyoming have remained flat over the past several years.** In adjacent states and the U.S. as a whole, the increase in teaching salaries has been larger, at 1- 2 percent per year.

- Teacher wages in Wyoming are 6.6 percent higher than in adjacent states and North Dakota. **Wyoming’s advantage relative to the region has fallen in half since 2018/19. Wyoming’s 2022/23 K-12 education resource block grant model (model) teacher salaries lie 3 percent below the average salary in the region.**

- The lowest paying districts in Wyoming have much higher salaries than the lowest paying districts in other states in the region, salaries in the highest paid districts are closer.

- **The exit rate of teachers jumped in the last two years. Exit rates for new and midcareer teachers are the highest rates recorded in Wyoming.** Exit rates for retirement age teachers had a large jump after the pandemic, and were below average last year, indicating a return to more normal exit rates for older teachers.

- **Demographic factors**—student enrollment and teacher retirement—are **not significant contributors to cost pressures** on salaries.

- **Three factors significantly limit the pipeline of new teachers** in Wyoming compared to other states in the region: 1) there has not been a well-developed alternative certification program, 2) the ratio of individuals who take the teaching certification exams relative to the number of new teaching program completers is the lowest of all other states in the region, and 3) the certification exam pass rate is the lowest of all states in the region.

[Ex. 1213 at 2 (emphasis in original)]

214. Dr. Stoddard presented a power point to the legislature regarding her 2023 monitoring report, and she concluded: (a) Wyoming teacher salaries have shown little growth since 2012-13; (b) in Wyoming, teaching wages have fallen relative to comparable occupations from a high of 96 percent ratio to a 83 percent ratio in 2022; (c) in 2022-23, average actual teaching wages in Wyoming were 6.6 percent above the average in neighboring states; (d) Wyoming’s actual teacher salaries grew at less than 1 percent per year, while average salaries in other states increased

1 to 2 percent per year; and (e) the average Funding Model Weighted salary was 5.5 percent below actual average salary in nearby states. [Vol. IV at 915-917, 923, Ex. 1104 at 45-47]

215. Dr. Stoddard agreed there is a relationship between teacher salaries and teacher quality. She said when teacher salaries are increased, schools get more quality teachers. [Vol. IV at 836-837, 872; Ex. 1104, p. 4] Dr. Stoddard testified that UW education graduates have a low pass rate when taking the teacher certification exam. [Vol. IV at 844]

216. In generating her monitoring reports, Dr. Stoddard has less quantitative data than she would like. For example, she did not have consistent data on the numbers of applicants for each full-time teaching position, when districts were able to hire their first-choice teacher applicant, and areas of teacher shortages. [Vol. IV at 839-842] Dr. Stoddard repeatedly indicated in her reports that Wyoming does not have good measures of teacher quality. [Id. at 846] Dr. Stoddard has rarely gathered qualitative data – interviews – from Wyoming school districts. [Id. at 848] Dr. Stoddard’s monitoring report’s conclusions and recommendations were based on the actual salaries being paid and not on the Funding Model’s Weighed salary. [Vol. XII at 2860-2861] She agreed her opinions could change if she had based her analyses on the Funding Model Weighted salaries. [Id. at 2871-2872, 2874] Dr. Stoddard did not specifically compare Wyoming salaries to specific regions of other states, such as the Colorado Front Range or Utah’s Wasatch Front. [Id. at 2863-2864]

217. Due to the limited amount of data, Dr. Stoddard cannot opine that the Funding Model salaries are sufficient to attract and retain high-quality teachers. [Vol. IV at 849, 867; Ex. 1105, p. 3] The State has never asked Dr. Stoddard whether the Funding Model is sufficient. [Vol. IV at 850]

218. Wyoming’s weather, local amenities, air service, community sizes, access to medical care, and the ability of a candidate’s spouse to find work in a community could impact the decision to take a teaching position. [Vol. IV at 851-853] Dr. Stoddard addresses those concerns by looking at the wages of nonteachers. [Id. at 853-854]

219. Dr. Stoddard opined there is not a general teacher shortage nationally, but there are teacher shortages in certain geographic areas – disadvantaged urban areas – and in certain teaching fields – special education and STEM. [Vol. IV at 859] At the request of the legislature’s joint education committee, in September 2022, Dr. Stoddard prepared a report on teacher shortages and policies to recruit and retain teachers. [Id at 861-862, Ex. 1105] Dr. Stoddard’s Report states there is a significant decrease in the number of college graduates from teacher preparation programs. [Id. at 863; Ex. 1105, p. 3] Dr. Stoddard agreed there were a significant number of teachers who left the profession after the Covid pandemic. [Id. at 864]

220. Dr. Stoddard compared teachers to workers in comparable professions. A comparable profession is one with similar attributes to teaching, college-educated workers, and professional-technical occupations. She determined that there is a salary gap between teachers and comparable workers, with teacher’s actual annual salaries being lower, and the gap widening after 2013. [Vol. IV at 873-875, 880-881, 884; Ex 1104] In 2008, teacher salaries were at about 96 percent of comparable profession wages. [Vol. IV at 887; Ex. 1104 at 13] To an extent, she attributed teacher’s lower salary to the fact that they generally have summers off and work fewer weeks than comparable workers. [Id. at 876]

221. As of 2022-23, every adjacent state’s average actual teacher salary, except South Dakota, was higher than the average Funding Model’s Weighted salary. [Vol. IV at 892-893; Ex. 1104 at 22] Dr. Stoddard agreed these adjacent states were increasing their teacher’s salaries faster

than Wyoming, Wyoming teacher salaries were flat for several years, and Wyoming teacher salaries increased very slowly since 2010. [Id. 893-894]

222. According to Dr. Stoddard, since 2019, there has been an increase in teachers with 4 to 20 years of experience leaving teaching in Wyoming. [Vol. IV at 907-908; Ex. 1104 at 35] Since 2012, there has been a decline in students graduating from UW in education, with a high of 278 graduates in 2012 and 182 graduates in 2023. [Vol. IV at 911-912; Ex. 1213 at 25-26] The number of undergraduates majoring in education has also declined steadily since 2010. [Ex. 1213 at 25]

223. As of 2021-2022, Dr. Stoddard's analysis of nonteacher salaries to comparable noneducational positions indicated broadly that school district administrative positions had salaries consistent or somewhat above other public sector management occupations. [Vol. XII at 2849-2851; Ex. N-11] She determined that as of May 2022, the Funding Model salary for principals was roughly in line with what other states were paying. [Vol. XII at 2851; Ex. O-11] She acknowledged, however, in the past several years Wyoming's principals' actual salaries have eroded when compared to other states in the region. [Vol. XII at 2868] She determined that as of May 2022, school district professional staff were paid as well as similar professionals in Wyoming, except registered nurses, who were less competitive. [Vol. XII at 2852-2853; Ex. P-11] Dr. Stoddard's determined that, as of May 2022, school district secretarial, clerical, and maintenance positions were lower than in other sectors of the State. [Vol. XII at 2855-2856; Ex. S-11] Dr. Stoddard's analysis further showed turnover rates in general in education increased between 2018-2022, but they were lower than other sectors in the Wyoming workplace. [Vol. XII at 2856-2857; Exs. T-11, Z-11] She agreed increasing exit rates or turnover rates are a factor that may signal compensation is not enough to retain an employee. She further agreed some of her opinions could

change if she had based her analyses on the Funding Model Weighted salaries and not on actual salaries. [Vol. XII at 2874-2876] As whole, she concluded that nonteacher school district actual salaries were competitive with other sectors in Wyoming. [Id. at 2857] She did not provide an opinion as to whether the Funding Model Weighted Salaries for teachers and nonteachers are sufficient to be competitive. [Id. at 2877]

224. Dr. Stoddard agreed teachers deciding whether to stay in the profession, students deciding whether to major in education, and school districts making staffing decisions are all looking at actual salaries and not the Funding Model Weighted Salary when making those decisions. [Vol. XII at 2859] Dr. Stoddard agreed the quality of a teacher is very important. [Id. at 2865]

13. Steve Core

225. Steve Core is Sweetwater 2's Board of Trustees Chair and has been elected to and served on that board for over twenty-four years. Chairman Core has a bachelor's degree from UW in broadcast journalism and was a radio broadcaster for 40 years. Chairman Core has served as secretary, clerk, and treasurer for the Board. [Tr. Vol. IV at 1014-1017] Chairman Core explained the Board's general duties are to set policy, establish an annual budget, and hire a superintendent. [Id. at 1019]

226. Chairman Core testified a consistent ECA would allow the Sweetwater 2 to pay teachers more and hire more qualified teachers. [Vol. IV at 1024-1025] Because of funding issues, Sweetwater 2 has offered incentives to staff to retire early, which resulted in a loss of experienced teachers. [Id. at 1025]

227. Chairman Core described Sweetwater 2's annual salary negotiations with the Green River Education Association as an interest-based negotiation with a mediator from WEA.

He said the negotiations go much better when the State adopts an ECA. There were some years without an ECA when the Board could only give a \$100 annual raise, which was not well received. [Vol. IV at 1027-1029]

228. Chairman Core stated Sweetwater 2 could not hire new teachers at the rate set in the Funding Model, because of the cost of living in Green River. [Vol. IV at 1030] Chairman Core stated that Sweetwater 2 is not currently putting qualified teachers in front of all students. In the last two years, Sweetwater 2 has over twenty teachers who either are not certified or have not completed student teaching. Sweetwater 2 has had an increase in non-renewals of first and second-year teachers [Id. at 1031-1032] Sweetwater 2's elementary test scores were disappointing in November 2023 and its graduation rate has dropped from about 93 percent to 90 percent. [Id. at 1032] Sweetwater 2 had over 20 EAs in the past two years. [Id. at 1054-1055] Chairman Core said Sweetwater 2 is providing a quality education to its students and he defined that quality as "quality preowned car education" which the district "keeps running" and maintains. He said, however, Sweetwater 2 is not providing a quality new car education. [Id. at 1035]

229. Sweetwater 2 has difficulty recruiting and retaining classified staff; it's like "a revolving door." Sweetwater 2 competes with local high-paying trona mines for classified staff, which is very challenging. [Vol. IV at 1032-1033, 1035] Sweetwater 2 also has two schools 24 and 28 miles from Green River, which do not have SROs because there is no funding. [Vol. IV at 1041]

230. Sweetwater 2 used federal Covid funds to hire two counselors and four nurses due to the increase in mental health issues from the pandemic. Chairman Core believes these positions contributed to the lack of any suicides since hiring the positions. Those positions are not funded

by the Funding Model, and the federal Covid funding is no longer available. [Vol. IV at 1037-1039]

231. In the past five years, Sweetwater 2 has not frozen salaries and has always funded at least the steps. [Vol. IV at 1047] Chairman Core agreed Sweetwater 2's facilities "are in pretty good shape." [Id. at 1053]

14. Chad Bourgeois

232. Principal Bourgeois has been the CCHS principal for six years in Campbell 1. Prior to going to Campbell 1, he was the principal at Buffalo High School for nine years. He also has been an elementary school principal and taught middle school. [Vol. IV at 1058] He served in the United States Air Force before attending college. [Vol. V at 1093]

233. Principal Bourgeois described significant issues at CCHS's facility. CCHS was built in 1972 with several poorly planned additions since it was built. CCHS has different elevations without appropriate ramps, over 60 exterior doors, poor continuity and flow, and poorly designed location for bus drop off. The number and style of the 60 exterior doors, many of which are just single doors, create significant security issues for Campbell 1. Buffalo High School, which was completed two years before he became principal there, has dramatically fewer exterior doors. [Vol. IV at 1059-1061, 1065] The primary entry way to CCHS is not modern and representative of contemporary design. CCHS does not have a vestibule like Thunderbasin High School has in Campbell 1, which makes it less secure [Vol. IV at 1062-1064, Vol. V 1109] CCHS has bathrooms that do not comply with the ADA. [Id. at 1066] CCHS has a section of classrooms divided only by movable walls, which allow noise to be transmitted easily and distracts teaching and learning. [Vol. IV at 1067-1068] Some of CCHS's classrooms are not designed for the class being taught in

the room. [Id. at 1068-1069] Unlike at Buffalo High School, CCHS lacks significant natural light exposure in classrooms. [Id at 1070-71]

234. Principal Bourgeois noted CCHS's heating, ventilation, and air conditioning system is old, inefficient, and provides significantly inconsistent and varying temperatures throughout the facility. A classroom that is either too cold or too hot impacts student learning because it effects students' and teachers' ability to focus. [Vol. V at 1080-1082] CCHS's exterior water collection system drains directly into its sewer system, which causes the sewage to backup into CCHS bathrooms and floor drains with heavy rain. During one event recently, the backup necessitated students being dismissed for the day. [Id. at 1082-1086] The 1988 addition to CCHS was built on top of an existing exterior sewer line and the manhole cover remains under the addition, causing unpleasant gases to emit into building. [Id. at 1107-1108]

235. Principal Bourgeois testified, based on his experience, that CCHS's many facility inadequacies cause interruptions in the education of Campbell 1 students, which did not exist at Buffalo High School. [Vol. V at 1088-1089] He said CCHS students do not have the same educational experience and opportunity as students at Thunder Basin high school, which is also in Gillette. [Id. at 1090]

236. Principal Bourgeois acknowledged CCHS was delivering all the required components of the WDE program and the Hathaway success curriculum. [Vol. V at 1101] He also agreed CCHS has significant security systems in place, including cameras, locked and alarmed doors, and a visitor management system. [Id. at 1102-1104]

15. Larry J. Reznicek, PhD

237. Dr. Reznicek has been the Human Resource Manager at Campbell 1 for the past twenty-one years. [Vol. V at 1111-1112]. Dr. Reznicek has a bachelor's degree in human

resources, a master's degree in management, and a doctorate in educational leadership. [Id. at 1112]

238. Campbell 1 employs approximately 2,000 people. Campbell 1's largest competitor for employees is Powder River Coal, which employs approximately 1,900 people and pays very well. [Vol. V at 1113-1114, 1117]

239. According to Dr. Reznicek, in the past five years, Campbell 1 has increasing difficulties hiring and retaining qualified personnel, both certified and classified staff. Campbell 1 has significant problems hiring and retaining bus drivers, bus aides, custodians, nutrition service workers, and special education aides. Campbell 1 competes with the coal mines for bus drivers. [Vol. V at 1114-1117]

240. In the Spring of 2023, Campbell 1 hired a consultant to perform a market study on transportation, instructional aide, and custodian positions. The study concluded a large majority of the positions should have wage increases. [Vol. V at 1118-1120, Ex. 2196] Campbell 1 followed up with a second market study on the remaining classified positions, which also concluded most were being paid under the market. [Id. at 1120-1121] Based on the salary studies, Campbell 1 raised salaries up to 9 percent for many classified staff, which was funded from its general fund. [Id. at 1146-1147, 1170]

241. Dr. Reznicek testified the high turnover rate and being unable to fill these classified positions causes stress to employees, especially to special education teachers who do not have the needed instructional aides to help with emotionally challenged and autistic students. [Vol. V at 1122-1123] Special education teachers are unable to fully deploy the education the students deserve. [Id. at 1123]

242. Dr. Reznicek believes use of EAs is a band aid and allows low quality teachers to

be teaching students. He said individuals teaching on an EA lack some of the essential teaching skills to be a complete and high-quality teacher and often cannot handle the challenge and quit. Campbell 1 had over 50 individuals teaching on an EA in 2023-24. Those EAs taught math, science, PE, health, and special education. [Vol. V at 1136-1137, 1139-1140, 1168, 1188; Ex. 2201] EAs require significantly more instructional coaching and more robust induction than newly hired certified teachers. [Vol. V at 1148-1150, 1168, 1188-1189] When he first started working for Campbell 1, there were no teachers teaching on an EA or something similar. [Id. at 1136]

243. Dr. Reznicek opined that its recruiting and retention difficulties for certified and classified staff has significant impacts on student learning in Campbell 1. Those issues stress the entire system, which detracts significantly from optimal teaching and learning. Dr. Reznicek testified Campbell 1 is not putting high-quality teachers in front of all its students. [Vol. V at 1140-1141]

244. Dr. Reznicek stated Campbell 1's location, climate, and lack of amenities contributes to difficulty recruiting and retaining of staff. He stated Campbell's low teacher salaries make recruiting difficult and Campbell 1 needs to be much more competitive with salaries. [Vol. V at 1142-1144] Dr. Reznicek agreed Campbell 1's teacher turnover rate has remained steady since 2018-19, but its classified staff turnover rate has fluctuated more. [Vol. V at 1152-1153, 1156, Ex. O-14]

245. Dr. Reznicek agreed Campbell could raise salaries for hard-to-hire special education teachers and be fully reimbursed by the State. Dr. Reznicek explained, however, raising only special education teacher salaries would cause morale and fairness issues with the other teachers. In addition, Campbell 1 recognizes its fiscal responsibility to use tax dollars wisely and does not want to raise salaries just because the State fully reimburses those funds. [Vol. V at 1162]

Campbell 1 was able to give substantial raises to certified staff in 2023-24 and for 2024-25 because of the legislative adoption of an ECA each year. [Id. at 1174-1175]

16. David Bartlett

246. Mr. Bartlett is the Associate Superintendent for Instructional Support at Campbell 1. [Vol. V at 1192] He has a bachelor's degree in secondary education, a master's degree, and an education specialist degree. [Id. at 1192-1193]. His experience includes serving as an elementary and middle school principal, and positions at Laramie 1 where he oversaw support operations, finance, planning and construction, major maintenance, risk management, nutrition services, and business operations. [Id. at 1193]

247. While he was working at Laramie 1, Mr. Bartlett oversaw planning, design, and construction of approximately \$265 million in school facility projects, including 12 new school facilities and 10 school facility renovations. He also oversaw major maintenance projects at Laramie 1 facilities, which averaged about \$10 million a year. [Vol. V at 1194-1195] Mr. Bartlett has worked closely with the SFC and has attended many SFC meetings over the years. [Id. at 1197-1198]

248. Mr. Bartlett was involved with the State's and Dr. Seder's attempt to create an educational suitability assessment instrument in 2008. [Vol. V at 1201, Vol. XIV at 3723] Mr. Bartlett described an educationally suitable classroom as one that is flexible, is technologically up to date and prepared for technological innovations, allows for collaboration, and is properly climate controlled. [Vol. V at 1206-1208] Mr. Bartlett was not aware of the SFC ever assessing a school facility for educational suitability using the SFC Priority Criteria rules in effect from 2009 to 2018. [Id. at 1220-1221] Educational suitability also considers security for the entire facility, including playgrounds, fields and other accessory areas. [Id. at 1208-1210] Mr. Bartlett opined

that the State is not properly assessing educational suitability. [Id. at 1256-1257, 1259] His experience with the State on educational suitability has not been positive and he believes the State focuses primarily on condition and capacity. [Vol. XIV at 3708] He said that changes in curriculum do not cause buildings to become educationally unsuitable. [Id. at 3709]

249. In 2018, when Mr. Bartlett worked at Laramie 1, MGT performed a facilities assessment for Laramie 1. [Vol. V at 1212; Ex. 2272] Regarding educational suitability, MGT concluded that educational suitability assessments “provide critical information for decision makers prioritizing capital investment in schools because it evaluates how well a building supports the educational programs offered by the school” to ensure they are prioritizing capital investment for schools and not for a corner gas station. [Ex. 2272 at 2] Mr. Bartlett provided MGT’s conclusions to SFC and SCSF, and MGT presented to the SFC at one of its meetings. [Vol. V at 1214-1215] Mr. Bartlett related there are four Laramie 1 elementary schools built in the 1960s and 1970s – Arp, Hobbs, Fairview, and Hebard – that are not educationally suitable. [Id. at 1257-1258]

250. In 2013, Mr. Bartlett notified the SFC that several Laramie 1 school facilities had an FCI score of over .33 and several were over capacity by 110 percent. [Vol. V at 1223-1224] Mr. Bartlett testified the SFC did not take any significant action regarding those high priority schools at that time, even though the State’s policy regarded the buildings as representing severe health and safety issues. [Id. at 1224-1225]

251. Mr. Bartlett opined that CCHS is not educationally suitable because, when compared to other high schools, its security, natural light access, climate control, classroom design, and sewer system are all below standard. [Vol. V at 1226] Mr. Bartlett further opined that the Adequacy Standards are vague, nebulous, and offer the bare minimum needed to deliver students a quality education. [Id. at 1227-1229] Mr. Bartlett said the State has failed to establish and

maintain sufficient uniform adequacy standards for school facilities. [Id. at 1258-1259]

252. Mr. Bartlett explained the 2015 school safety assessment is out of date because safety and security have significantly evolved. [Vol. V at 1233-1234] Mr. Bartlett believed the State's funding was an insufficient response. [Id. at 1236] Mr. Bartlett insisted the State has failed to adequately address and fund school safety and security of older school facilities. [Id. at 1259-1260]

253. According to Mr. Bartlett, the State does not fully fund major maintenance. If major maintenance is not fully funded, then school facilities will have deferred maintenance – needed maintenance which does not get repaired or properly maintained – causing major components to never be fully maintained. [Vol. V at 1236-1238, 1260] Components with deferred maintenance will develop more problems. [Id. at 1273]

254. Mr. Bartlett had the same concerns as Mr. Knapp when he compared the 2016 FCI scores to the 2023 FCI scores of several Laramie 1's schools. [Vol. V at 1240-1242] There were also inconsistencies in the 2016 FCI as compared to the 2023 FCI for Campbell 1 schools. [Id. at 1242-1244, Ex. 1163]

255. Mr. Bartlett testified the State's method for determining a school facility's capacity is overly complicated because it includes district wide capacity and grade bandwidth capacity of a district, instead of just determining a particular school's capacity compared to the number of students attending the school. [Vol. V at 1250-1251] According to Mr. Bartlett, studies show that busing elementary students to another school because their home school is over capacity causes the student to lose a year of academic achievement. [Id. at 1251-1252]

256. Mr. Bartlett related Campbell 1's school bus facility is failing and inadequate. The bus barn's wash bay is badly corroded, is too small for Campbell 1's fleet of 170 buses, has no

training space, is not secure, and is in a poor location. Campbell 1 employees informed the State of the inadequacies of the bus facility “at least seven years ago.” Therefore, Campbell 1 is in the process of filing a claim under Chapter 3, Section 8 Process. [Vol. V at 1253-1255] Mr. Bartlett testified the State’s process for assessing school support facilities is inadequate because they have been ignored too long. [Id. at 1256]

257. Campbell 1’s nutrition program does not set meal prices with the goal of covering the cost of the program. For the ten years prior to 2023-2024, Campbell 1 did not raise the cost of meals in its nutrition program. [Vol. V at 1291-1292]

17. Tate Mullen

258. Mr. Mullen is the Government Relations Director for WEA and has been in that position since 2019. His primary role is as a senior policy analyst to evaluate education policy to ensure State policies align with evidence-based research and best practices. Mr. Mullen also lobbies the governor, the legislature, and WDE for WEA. He has a master’s degree in political science from UW, and significant experience in research in support of policy issues. [Vol. V at 1300-1301]

259. Mr. Mullen researched the history of school nutrition. He explained the studies have concluded proper nutrition is essential for students to learn and succeed. [Vol. V at 1305-1306]

260. Mr. Mullen researched school violence. Behavior incidents, including assaults and aggravated assaults have been increasing in schools. Research shows that there are certain predictors for school violence, including access to weapons, rural nature of a school, poverty, mental health, and security measures at a school. [Vol. V at 1312-1315]

261. Mr. Mullen was critical of Dr. Stoddard’s 2023 salary comparison analyses because she miscalculates the hours teachers work. He explained a recent RAND study indicated teachers

work an average of 53 hours a work week. [Vol. V at 1316-1317]

262. Mr. Mullen testified the Funding Model's salaries have lost a competitive edge because there is only one state with a lower model salary. [Vol. V at 1319] He said that the exit rate for teachers with 4 to 20 years of experience is increasing. [Id. at 1320]

18. Brendan O'Connor

263. Mr. O'Connor is the Executive Director of the PTSB. [Vol. VI at 1360] The PTSB oversees licensure of all educators in Wyoming. [Id. at 1361] The mission statement of PTSB is "to ensure that every student is served by competent, ethical educators who meet rigorous performance standards." [Id.] Mr. O'Connor was previously a secondary school English teacher in Cody and Powell, Wyoming. [Id. at 1362-1363] The PTSB has 13 members, including teachers, principals, school counselors, school psychologists, a school board member, and a UW representative. [Id. at 1364-1365]

264. Mr. O'Connor testified that student teaching is an important part of teacher education because it provides exposure to classroom teaching of students. [Vol. VI at 1372-1373] It is also important for teachers to have had exposure to special education, child development, and the different methods of teaching. [Id. at 1375-1377]

265. The number of EAs issued by the PTSB statewide is increasing significantly. [Vol. VI at 1419; Exs. D-12 and 1070] In 2018, there were a total of 184 EAs teaching statewide, and in 2023, there were close to 500 EAs teaching statewide. [Vol. VI at 1425-1427, Exs. D-12 and 1070] There are approximately 500 EAs working in the state and there are approximately 9,000 teachers in the state. [Vol. VI at 1435-1436] From 2020 to 2022, more EA licenses were issued for elementary teachers than special education teachers. [Vol. VI at 1427-1429, Ex. 1073]

266. Mr. O'Connor, at the request of the JEC, made a presentation about the PTSB's

different types of teacher licenses and recruitment. As part of his presentation, Mr. O'Connor described a social media campaign done in other states to recruit teaching candidates because of the ongoing teacher shortage in Wyoming and the nation. [Vol. VI at 1411-1415; Ex. 1068]

19. Laurel Ballard, PhD

267. Dr. Ballard worked for the WDE from 2005 to 2011 and again from 2015 to about April 2024. [Vol. VI at 1440, 1441] She has a doctorate in Economics from the University of Wyoming. [Vol. VI at 1441-1442, 1486] At the time of the trial, Dr. Ballard was the chief academic and student services officer for the Wyoming Community College Commission. [Vol. VI at 1440, 1479] Dr. Ballard's last position with WDE was innovations officer. [Vol. VI at 1441]

268. While employed by WDE, Dr. Ballard supervised and supported the TRRTF. Dr. Ballard agreed there is a nationwide supply issue with teachers. [Vol. VI at 1515]

269. As a result of the TRRTF, WDE developed a report, the Bright Spots Report, which attempted to provide a list of best practices for recruitment and retention. WDE used data and information provided by school districts with strong success in recruiting and retention. Although competitive salaries were part of the report, culture, support and professional development were equally as important. The report has not been provided to the legislature or to school districts. [Vol. VI at 1495-1497, 1512; Ex. 2075]

270. Dr. Ballard also presented information to the JEC in 2023 about mental health services in school districts. The memo and presentation noted that Wyoming is ranked low for its access to mental health services and ranked high for its suicide rate. Dr. Ballard agreed mental health issues affect a student's ability to learn. [Vol. VI 1457-1459; Ex. 2087]

20. Delbert McOmie

271. Mr. McOmie is the Director of the SCD. [Vol. VI at 1525]. He has held this position

recently for about eight months, and previously for a little over four years (October 2015 through December 2019, and November 2023-current). [Vol. VI at 1525-1526] Before his position as Director for the SCD, he was the Director of SFD. [Vol. VI at 1526-1527]. Director McOmie has a bachelor's degree in civil engineering. [Vol. VI at 1527]

272. Director McOmie testified about FCAs and the resulting FCI scores. He agreed, there is a point where a school facility's FCI score becomes so high that the cost of maintaining it becomes too high and it should be replaced or undergo major maintenance. [Vol. VI at 1535-1536]

273. Director McOmie acknowledged the Adequacy Standards do not specify either cafeteria or hallway sizes. [Vol. VI at 1558-1559] Director McOmie agreed the Adequacy Standards do not set any sort of specific criteria, standard, or score which a school district must satisfy to get a remedy in the Chapter 3, Section 8 Process. [Vol. VII at 1727-1728] Director McOmie agreed the Adequacy Standards do not include detailed standards based upon the required educational components. [Vol. VII at 1597]

274. In 2017, Director McOmie, based on a report from consultant FEA, recommended modifications to the formula for funding major maintenance to the JEC and SCSF. The recommendation was to increase funding for major maintenance to extend the life of buildings. The legislature adopted just one of the recommendations but did not modify the basic calculation for determining major maintenance funding. [Vol. VI 1565-1568; Vol. VII at 1583-1584, 1642-1644] In this time frame, FEA also recommended increasing the amount of major maintenance funding if the goal was to promote preservation of existing school facilities over the replacement of school facilities. [Vol. VII at 1580-1581] The LSO advised the legislature about the estimated cost of modifying major maintenance calculations. [Ex. 2136] In September 2019, the State was putting more emphasis on the idea of preserving school facilities than on capital construction. [Vol.

VII at 1618, 1627; Exs. 2133 and 2130, pp. 2-6]

275. According to Director McOmie, BV's FCA considers the current condition of a school facility and projects the facility's condition five or twenty years into the future. FEA's 2016 FCA was a snapshot in time and applied a depreciation factor. [Vol. VII at 1590-1591, 1690] BV's 2023 FCA included consideration of the full site of a school facility, which FEA's 2016 FCA did not. BV's 2023 FCA allows changes to FCI scores in between FCAs based upon repairs made in that time. [Vol. VII at 1690, 1700-1701] When determining a school facility's capacity, the State considers the facility's current capacity, as well as its projected capacity in the future. [Vol. VII at 1534]

276. Director McOmie described educational suitability as "making a building functional" so that the WDE's required educational basket of goods/components can be delivered. Director McOmie did not know the specific educational components required by WDE. [Vol. VII at 1596-1597] Director McOmie testified educational suitability is within the scope of the Adequacy Standards. He also stated educational suitability may be considered if a MCER study recommends capital construction due to capacity or condition issues. [Vol. VII at 1709-1710] Director McOmie had concerns with adopting an educational suitability assessment instrument because educational suitability is hard to define and there is not a consensus on what to include with an educational suitability assessment. [Vol. VII at 1711-1713]

277. Director McOmie acknowledged that in June of 2019 the SCSF considered not assessing the issue of educational suitability in prioritizing school facility needs. [Vol. VII at 1605-1607; Ex. 2121] Director McOmie said the State hired a consultant and developed a proposed educational suitability assessment, but it never adopted the assessment or implemented it. [Vol. VII at 1609-1611] In September 2019, the State's consultant, FEA, made a presentation to the

SCSF about the potential to address school facility educational suitability through major maintenance funding. The State did not opt to address educational suitability through major maintenance funding. [Vol. VII at 1612-1615, Ex. 2017]

278. Director McOmie agreed he informed the legislature that school facility needs continue to outpace available resources. [Vol. VII at 1622-1623; Ex. 2030, p. 2] Director McOmie agreed that insufficient major maintenance funding may lead to deferred maintenance, which leads to a shortfall in getting needed work done and may cause a school facility to deteriorate. [Vol. VII at 1644-1645] According to Director McOmie, there are no “educational” school facilities that currently have an FCI score of .60. [Vol. VII at 1686-1687]

279. Director McOmie testified major maintenance funding may be used to remodel a school and educational suitability issues may be addressed during the remodel. [Vol. VII at 1699-1700]

21. Kirby Eisenhauer

280. Mr. Eisenhauer is the deputy superintendent at Campbell 1. Previously he was the superintendent for instructional support and was principal of CCHS and Wright Junior/Senior High School. Mr. Eisenhauer holds a bachelor’s degree in education, a master’s degree in educational leadership, and is currently a doctoral candidate in educational leadership. [Vol. VII at 1777-1778].

281. Mr. Eisenhauer is on the Campbell 1 Educational Plan Committee. That committee is tasked with determining, annually, whether to add requested new FTEs and/or new educational programs or equipment that Campbell 1 staff believes support better teaching and better student performance. Less than half of the requests are approved each year. Requests are primarily denied because of a lack of funding. [Vol. VII at 1778-1783; Ex. 2181] In 2023-2024, the committee denied a request from the technology department to continue a one-to-one computer device per

student ratio, which was previously accomplished using federal Covid funds, because there was insufficient funding available. [Vol. VII at 1783-1784] Mr. Eisenhauer opined that a three-to-one student to computer device ratio is not sufficient for today's education. [Vol. VII at 1817-1818]

282. Mr. Eisenhauer said the SROs assist in providing safety for students and staff, deal with students' illegal behavior, create relationships between students and law enforcement, and act as role models for students. [Vol. VII at 1784-1786]

283. Mr. Eisenhauer is responsible for student behavior and conduct at Campbell 1. Mr. Eisenhauer testified Campbell 1 has experienced increased extreme student behaviors in the past five years. He has seen an increase in the extreme mental health needs and conduct in elementary students. Two fifth-grade students made a suicide pact, which resulted in their hospitalization. Campbell 1 has expelled elementary students, which is very uncommon. Mr. Eisenhauer has also seen an increase in students with substance abuse issues. According to Mr. Eisenhauer, students' mental health issues, substance abuse issues, and behavioral issues interfere with all student learning. [Vol. VII at 1787-1790]

284. Campbell 1 employs 15 counselors in its elementary schools, who are funded from the general fund. Mr. Eisenhauer opined that the elementary level counselors are "absolutely" necessary to properly educate the students. [Vol. VII at 1791-1792] Student mental health situations arise where having a counselor on-site every school day is necessary. [Vol. VII at 1798] Some of the elementary counselors are for special education and are fully reimbursed by the State. [Vol. VII at 1806]

285. Campbell 1 also participates in the federal grant-funded AWARE program. Campbell 1 uses its AWARE program funding to provide off-site mental health services to students. Typically, the services are provided to non-special education students, and it takes

approximately 30 days for a student to be seen by a provider. Campbell 1 received approximately \$414,000.00 over five years through the program. The grant is set to end on September 30, 2025. [Vol. VII at 1792-1795, 1802-1803, 1816]

22. Mike Hamel

286. Mr. Hamel is the Superintendent of Carbon 1. [Vol. VII at 1820] Superintendent Hamel has a bachelor's degree in secondary education, a master's degree in educational administration, has completed a doctoral program, and is working on his dissertation. [Vol. VII at 1820-1821. With over thirty years in education, Superintendent Hamel has held many roles in education, including as a teacher, coach, building administrator, principal, human resources director, and superintendent. [Vol. VII at 1821-1822]. As the superintendent, he works under the district board of trustees to implement its priorities and is responsible for educational achievement, the budget, and running the school district. [Vol. VII at 1822]

287. Superintendent Hamel indicated the past two to three years has been the most difficult hiring environment for certified and classified staff he has ever experienced. Carbon 1 has had difficulty hiring bus drivers, paraprofessionals, maintenance staff, and custodial staff. Carbon 1 had to consolidate bus routes, which means students are on buses earlier and longer. Carbon 1 has also had increased turnover rates with maintenance and custodial staff due to competition from oil and gas companies and the Wyoming Department of Corrections. [Vol. VII at 1822-1824] Carbon 1 has increased salaries for classified staff because of the hiring and turnover issues. [Vol. VII at 1825]

288. Regarding difficulties with certified staff, Superintendent Hamel described having fewer candidates and fewer qualified candidates, positions being unfilled, and staff leaving. Carbon 1 has eliminated certified positions because they cannot be filled and has had to

increasingly rely on EAs and other non-certified teachers. [Vol. VIII at 1835-1837; Exs. 2218 and C-15] Carbon 1 prefers to hire certified teachers over EAs and long-term substitutes. [Vol. VIII at 1863]

289. Superintendent Hamel testified it is not easy to hire for any certified teaching positions. When he was with Albany 1 from 2011-2017, Albany 1 would get 140 to 150 applicants for an elementary vacancy, now Carbon 1 gets three or four applicants at most. [Vol. VIII at 1861-1862]

290. Superintendent Hamel opined that persons teaching on an EA are, generally, not as effective because they do not have the same preparation and skills as certified teacher who completed classes on child development, adolescent psychology, behavior management, and instruction pedagogy. He also testified that Carbon 1 is not always putting the best teacher in front of all students because of the increased use of EAs. [Vol. VIII at 1838-1839] Superintendent Hamel testified the increased use of EAs and long-term substitutes may not have any immediate effect on student performance, but it will have significant cumulative effect. [Vol. VIII at 1840] As an example, he explained that Carbon 1 used an EA in a position for four years and those students' achievement in the first three years was significantly different than in other classrooms. [Vol. VIII at 1907]

291. Superintendent Hamel further explained that salaries are the most important factor for recruiting teachers. [Vol. VIII at 1840] Carbon 1 has reduced its reserves, decreased the amount of carryover, and reduced subsidization of its nutrition program to fund the salary increases. Utah, Colorado, and South Dakota offer very competitive teacher salaries now, and there has been a decline in out-of-state applicants. [Vol. VIII at 1841, 1842-1844, 1875] He opined that the State's failure to adopt a consistent and cumulative ECA for salaries has strongly impacted Carbon 1's

ability to maintain competitive salaries. [Vol. VIII at 1842] He also said the national teacher shortage is contributing to Carbon 1's recruiting issues. [Vol. VIII at 1862] He agreed Carbon 1 has never frozen salaries in his experience because that would cause a loss of quality employees. [Vol. VIII at 1875]

292. Carbon 1 hired several positions, including a nurse, custodian, instructional facilitator, and SRO, using Federal Covid funds, and several of those positions have been eliminated because funds are ending. The loss of those positions will increase the work for others. [Vol. VIII at 1848-1850]

293. Superintendent Hamel has observed a dramatic increase in the social, emotional, and mental health needs of Carbon 1's students. Carbon 1 students have experienced significant trauma from two student suicides in Carbon 1 in the last four years, including two staff suicides, the suicide of a staff member's spouse, as well as other suicides related to Carbon 1 staff. Covid has also increased students' emotional needs. [Vol. VIII at 1850-1851] Carbon 1 employs three elementary counselors, who are very busy. [Vol. VIII at 1851, 1853] Carbon 1 participates in the grant-funded AWARE Program and provides telehealth services to approximately 70 Carbon 1 families. Grant funding for the program ends in two years and Carbon 1 does not have any excess funds to continue to support it. [Vol. VIII at 1851-1852]

294. Superintendent Hamel testified it is very difficult for a student to concentrate on learning if their basic needs – shelter, safety, and food – are not met. [Vol. VIII at 1852]

295. Superintendent Hamel said Carbon 1's SROs assist in providing safety for students and staff, deal with students' illegal behavior, interact and create beneficial relationships with students, and engage in preventative activities. One of its SROs helped discover and prevent a student's plan for a mass casualty event and to locate a student who had brought a loaded gun to

school. [Vol. VIII at 1856-58, 1896; Exs. 2229 and 2230] Superintendent Hamel indicated that SROs provide increased safety for Carbon 1's students and staff and that SROs are a necessary component for providing a quality education. [Vol. VIII at 1860]

296. Carbon 1 has a depreciation account, and the district has occasionally moved excess carryover into that account at the end of a fiscal year. Depreciation account funds may not be used for salaries or general operating expenses. Carbon 1 uses its depreciation account primarily for funding technology equipment, which Superintendent Hamel stated was not sufficiently funded by the Funding Model. [Vol. VIII at 1869-70, 1903; Ex. B-15] Carbon 1 has paid one-time retention bonuses or stipends to all employees in the last five years. [Vol. VIII at 1877]

297. Carbon 1 has not eliminated any educational programs in the past five years, but has added family and consumer science, middle school soccer, and indoor track. Carbon 1 has a Pre-K program, which is funded with its general fund. [Vol. VIII at 1878-1879] Superintendent Hamel explained that since the Pre-K program was adopted, Carbon 1's third-grade scores have noticeably increased. [Vol. VIII at 1908] He agreed Carbon 1 has not increased special education salaries more than other salaries because it would be unfair to the other teachers and unfair to the State because it must fully reimburse the costs of special education. He explained, in his experience with the JEC, there is a clear expectation from the State that school districts should not abuse the fully reimbursable programs. [Vol. VIII at 1881, 1883]

298. Carbon 1 agreed its school facilities are sufficient to provide the required educational program to its students. [Vol. VIII at 1891] Superintendent Hamel agreed Carbon 1 submitted and signed its Annual Assurances Form on an annual basis. [Vol. VIII at 1892; Ex. D-4] He described the Annual Assurances Form as related to accreditation and attests only that the minimum standard is being met. [Vol. VIII at 1905-1906] He also acknowledged Carbon 1's Wyoming Testing of

Proficiency and Progress (WY-TOPP) scores have increased dramatically in recent years. [Vol. VIII at 1893] Although Carbon 1 has experienced reduced ADM, it has more staff than it did in 2019. [Vol. VIII at 1894; Ex. E-15]

23. Daniel Selleroli

299. Mr. Selleroli is the Director of Facilities for Sweetwater 1, and he has been employed by Sweetwater 1 since January 2004. He has over forty years of construction experience, including 25 years in school facilities. [Vol. VIII at 1911-1913, 1919]. He has certifications in the International Code Council, International Building Code, International Fire Code, International Mechanical Code, International Plumbing Code, OSHA, and holds a refrigeration license, and journeyman's license. [Vol. VIII at 1914].

300. Mr. Selleroli testified that school safety and security is an important issue and that the associated technology is developing quickly. [Vol. VIII at 1915-1916] He opined that the Funding Model does not sufficiently fund school facility safety and security. [Vol. VIII at 1917] Mr. Selleroli criticized the State's methods of funding security because the funding provided following the 2015 security assessment and through the 10 percent major maintenance allowance were overly complicated, difficult to properly spend, and cut into other major maintenance needs. [Tr. Vol. VIII at 1917-1919]

301. Mr. Selleroli has had many interactions with the SCSF, SCD, SFC, and the SFC. [Vol. VIII at 1920-1921] In 2014 or 2015, Mr. Selleroli first began discussing with the State the issues with the RSHS facility. Initially, he notified the State of capacity and need issues. RSHS was built in 1971, and there have been four additions which were added to existing utilities. Ongoing issues include backed up sewer lines into the building, hazardous glycol leaks, insufficient lighting, and electrical service problems which violate fire codes and cause circuit

breaker failures. [Vol. VIII at 1922-1925, 1946-1947] The 2016 FEA statewide FCA assigned RSHS a .269 FCI score which put it around 80th on the priority list. [Vol. VIII at 1958] Although Sweetwater 1 has had a plan to replace RSHS since 2016 and has a site to build the new facility, it was not until the May 2023 BV FCA when the State began to acknowledge RSHS's issues. [Vol. VIII at 1927-1929] OSHA evaluated RSHS in 2017 and determined it had 500 violations. [Vol. VIII at 1941-1942]

302. In the 2023 BV FCA, RSHS was initially fifth on the priority list based on its FCI score, but it was later dropped to 30th on the priority list. Sweetwater 1 obtained a second opinion FCA done by FEA on RSHS. FEA assessed the building, adjacent sidewalks, and the immediate parking lot, however, BV included the entire RSHS site, including the football field, tennis courts and track in its FCA. Because the track, football field, and tennis courts were all recently updated and improved, BV's FCA dropped RSHS significantly on the priority list. [Vol. VIII at 1927, 1929-1933; Ex 2357] FEA assessed RSHS to be in very poor condition, receiving a .379 FCI score. [Vol. VIII at 1934, Ex. 2367]

303. The state approved construction of a satellite high school in Rock Springs in 2018, and it was constructed and is operating. [Vol. VIII at 1958] Because RSHS did not qualify for a MCER using its 2023 BV FCA condition score, Sweetwater 1 made a claim pursuant to the Chapter 3, Section 8 Process. As a result of that process, the 2024 legislature appropriated funds to design and construct a new RSHS. [Vol. VIII at 1960-1961] Assuming design and construction go as expected, a new RSHS would be open for students in a minimum of six years. [Vol. VIII at 1965]

304. Mr. Selleroli was critical of the Adequacy Standards because they set standards that are not reasonably attainable with an older school facility like RSHS. When an older school cannot

satisfy the required standards, then the students and staff at that school are getting a different environment for education. He also said the Adequacy Standards lack sufficient detail for him to determine whether a facility component satisfies the standards. [Vol. VIII at 1936-1940]

305. Mr. Selleroli opined that the Adequacy Standards do not correctly consider educational suitability. He further stated that RSHS is not educationally suitable. [Vol. VIII at 1943] According to Mr. Selleroli, the State's failure to provide a timely replacement for RSHS has significantly impacted Sweetwater 1's ability to provide a quality education to its students. [Vol. VIII at 1944-1945]

24. Kelly McGovern

306. Ms. McGovern is the Superintendent of Sweetwater 1, and she has held that position for ten years. She has over thirty-three years of experience working in education in many roles, including teaching, human resources, and building and district leadership. [Vol. VIII at 1967-1968] Superintendent McGovern has a bachelor's degree in mathematics, a master's degree in curriculum and instruction, a principal endorsement K-12, a director endorsement K-12, and a superintendent licensure K-12. [Tr. Vol. VIII at 1968].

307. Ms. McGovern testified that Sweetwater 1's diverse student population creates significant challenges. [Vol. VIII at 1970-1971] Sweetwater 1 employs 471 certified staff and about 400 classified staff. Of those employees, 28 of its certified staff are working on an EA, 29 are long-term substitute teachers, and 8 are teaching on a PIC Permit. About 15 percent of Sweetwater 1's certified staff are not fully certified and licensed teachers. Sweetwater 1 uses EAs, PIC permits, and long-term substitutes because of difficulties in recruiting, filling, and retaining certified teachers. [Vol. VIII at 1971-1972; Ex. 2294]

308. Superintendent McGovern said Sweetwater 1 has experienced increased mental

health issues, including anxiety, trauma, and ADHD, in the past ten years. For example, it lost five students, one teacher, and a classified staff member to suicide. There are also students who have experienced abuse and have parents going through divorce and have emotional and behavioral issues. [Vol. VIII at 1973-1974] There is an increasing need to address emotional and behavioral problems in the elementary student population. When a student has an emotional outburst in the classroom it impacts all students in the same and nearby classrooms and wears on the teachers. [Vol. VIII at 1974-1975] Sweetwater 1 has had six open school psychologist positions since 2018, and it has seven open counseling positions. Superintendent McGovern said its salaries for these positions is too low to attract applicants. [Vol. VIII at 1975-1976]

309. Sweetwater 1 participates in the Project AWARE. The district provided virtual mental health services to about 166 students in the past four years. There were 304 students identified to receive the services. The grants will terminate at the end of 2026. Superintendent McGovern indicated student mental health should not be funded through grants, but, instead, should be part of the Funding Model. [Vol. VIII at 1990-1992]

310. Superintendent McGovern agreed with the 2023 TRRTF recommendations regarding adding mental health FTEs for elementary schools, but indicated it was the minimum needed. She testified Sweetwater 1 must provide mental health support to students, so they are ready to learn. [Vol. VIII at 1978-1979; Ex. 1023]

311. Superintendent McGovern opined the current school funding system is broken because Sweetwater 1 cannot recruit and retain quality teachers, some school facilities are in poor condition, and instructional materials are outdated. [Vol. VIII at 1976-1977] She also testified that, although the Funding Model is a good school finance model, it is no longer cost-based because the legislature has not sustained cumulative ECAs to reflect the effects of inflation. Superintendent

McGovern explained the Funding Model is deficient because it has not been recalibrated to include all the positions needed to educate students. [Vol. VIII at 1982-1983] She stated SROs, elementary mental health counselors, and nutrition programs should be part of the Funding model and should be cost-based. [Vol. VIII at 1992] According to Superintendent McGovern, WDE requires school districts to include a computer science component to teach basic coding and computer skills, but the Funding Model does not provide the financial support to effectuate that requirement. The district's computer science position has been funded with Federal Covid money, which will terminate soon. [Vol. VIII at 2001-2002] She also related that the Funding Model's standard ratio of 3 to 1 for students to computer devices is inadequate and unrealistic. [Vol. VIII at 2058]

312. Sweetwater 1 cannot recruit and hire teachers using the Funding Model's base salary of \$39,000 a year. Sweetwater 1's actual base salary for 2024-2025 is \$55,250 per year. To fund the actual base salary paid by Sweetwater 1, the district must take money from its programs and operations. Superintendent McGovern testified Sweetwater 1 seldomly gets applicants from Utah because Utah pays a competitive starting salary and Utah teaching candidates would rather work in Utah for the same salary. According to Superintendent McGovern, Wyoming has lost its competitive edge over other regional states, and she and others have repeatedly told the JEC, JAC, and the State about the issue. [Vol. VIII at 1980-1984, 2025] She agreed Sweetwater 1 has provided raises to all staff in four of the past five years and has been able to hire a few teachers from Utah and other states. [Vol. VIII at 2033-2034; Exs. 2339 and 2299]

313. Superintendent McGovern agrees certified staff's base salaries should be at 85 percent of comparable professions, as recommended in 2023 by TRRTF. [Vol. VIII at 1985; Ex. 2076]

314. Superintendent McGovern agreed she, on behalf of Sweetwater 1, submitted and

signed its Annual Assurances Form each year. She described the Annual Assurances Form as related to accreditation. The form is not an assurance that Sweetwater 1 is providing all its students with an equal opportunity for a quality education, and a district attests only that the minimum or floor basket of goods is being met. If a district did not sign the form, it would be at risk of losing its accreditation, that district's diplomas would be diminished, and the WDE may not distribute the district Funding Model guarantee. [Vol. VIII at 1986-1988; Ex. G4]

315. She testified the education being provided by Sweetwater 1 is not innovative, world-class, or high quality. Superintendent McGovern said the minimal level of education is reflected in declining ACT scores, poor reading scores, poor math scores in the district, and a 79 percent graduation rate. [Vol. VIII at 1999-2000, 2027] She opined that the cuts to school funding have harmed the education of Sweetwater 1's students. Superintendent McGovern testified, "[w]e have an opportunity to educate kids, and we're blowing it" and she is retiring because the legislature is hurting students. [Id. at 2017-2018]

316. RSHS has about 1400 students, but its cafeteria only holds 220 students. As a result, many students must leave the school facility to get lunch. Recently, one of RSHS's students died after being hit by a vehicle a block from the facility during his lunch break. [Vol. VIII at 1993]

317. Due to funding levels, Sweetwater 1 engaged in significant cost-savings efforts in 2016 and 2021. The district offered early retirement bonuses of \$40,000 and \$50,000 to each eligible employee. 60 employees accepted the bonuses and retired. The program drained Sweetwater 1 of significantly experienced employees. [Vol. VIII at 1995-1996, 2011-2013; Ex. 2357] Sweetwater 1 also did a RIF of classified employees which eliminated 75 paraprofessionals. [Vol. VIII at 1996-1997] The district has also closed four elementary schools and eliminated several AP programs. [Id. at 2015] Superintendent McGovern agreed some of its staff reductions

are because of the district's decreasing ADM and the closing of elementary schools. Vol. VIII at 2030-2031]

318. Sweetwater 1 also has difficulty recruiting and retaining certified staff in all areas, including bus drivers, paraprofessionals, nutrition services, and administrative positions. [Vol. VIII at 1997-1998]

319. Sweetwater 1 has funded many positions, including interventionists, counselors, and English language teachers with Federal Covid money. Because those funds are no longer available Sweetwater 1 has eliminated all those positions except the computer science teacher and a nurse. [Tr. Vol. VIII at 2002-2003, 2009; Ex. 2292] Interventionists provide vital support to teachers, by supplementing basic instruction to poorly performing students outside of the regular classroom. Interventionists are a very effective strategy in preventing dropouts. [Vol. VIII at 2025-2027]

320. Sweetwater 1 participates in the federal nutrition program. The funding provided is not enough to sustain Sweetwater's nutritional program. Sweetwater tried to make the program self-sustaining, but it could not. The State provides no funding for nutrition services, so the district must bolster the nutrition program with general fund money. Going without a meal program in Sweetwater 1 is not an option because the student population includes many students in poverty, who would not otherwise get the nutrition for them to effectively learn. [Vol. VIII at 2004-2006]

321. Superintendent McGovern said SROs are very instrumental for safety, building relationships with law enforcement, providing training, making staff and students feel safer. [Vol. VIII at 2019-2021] Sweetwater 1 does not have special education staff on a separate salary schedule because those positions are hard to fill. [Vol. VIII at 2051-2052]

25. Lori Taylor Loden, PhD

322. Dr. Taylor is a professor of Public Service Administration at Texas A&M University and a scholar in K-12 education finance and public finance. [Vol. IX at 2102] She has a Doctorate in economics from the University of Rochester. [Vol. IX at 2103]. Dr. Taylor has been a school finance consultant for the State since shortly before 2010. [Vol. IX at 2106]. She was a senior economist and policy advisor with the Federal Reserve Bank in Dallas, Texas. [Vol. IX at 2104] Dr. Taylor's expertise is in RCAs and ECAs. [Vol. IX at 2106-2107]

323. The State hired Dr. Taylor to assist with the 2010 recalibration of the Funding Model. Dr. Taylor has provided recommendations to the State on both RCAs and ECAs and remains a consultant to the State for that purpose. She performed an analysis comparing Wyoming teacher's pay to nonteacher pay in Wyoming and to teacher pay in other states (2010 Teacher Pay Analysis). [Vol. IX at 2106-2107]

324. Dr. Taylor's 2010 Teacher Pay Analysis was based upon 2007-2008 data. [Vol. IX at 2180] She presented her analysis to the legislature, and she stated that actual teacher pay in Wyoming frequently exceeded the 12-month pay for nonteachers and almost always exceeded the 10-month pay for nonteachers in Wyoming. In other words, her analysis showed Wyoming teachers were earning as much in a ten-month contract as nonteachers are earning in 12 months. She concluded, therefore, that actual teacher pay in Wyoming at that time was highly competitive. When she compared Wyoming actual teacher pay to teacher pay in other states, she determined Wyoming teacher salaries were among the highest in the nation. [Vol. IX at 2112-2114; Ex. C-1, Figure 4] She concluded that, at that time, Wyoming's actual teacher salaries were more than sufficient to attract and retain "a high-quality workforce" and teacher salaries are above market. [Vol. IX at 2116, 2125] Dr. Taylor has not examined average teacher salaries in Colorado, Utah,

Idaho, or South Dakota since she prepared her 2010 report. [Vol. IX at 2159-2160] Dr. Taylor agreed her analysis was based on actual teacher pay in Wyoming and not on the Funding Model's Weighted Salaries. [Vol. IX at 2173] In determining nonprofessional wages, Dr Taylor used the Comparable Wage Index, which includes all college graduates who are not teachers. [Vol. IX at 2192]

325. Dr. Taylor advised the legislature against using the Consumer Price Index to determine an ECA because it is weighted heavily towards housing prices, which school districts do not purchase. Dr. Taylor also told the legislature she believed the Funding Model at that time was excessively funding her estimate of the cost of providing an adequate education program, and that no additional ECA was required in the "near future." [Vol. IX at 2119-2121, 2148] In other words, she told the legislature if prices are above market there is no need to apply an ECA. [Vol. IX at 2129]

326. The State also used Dr. Taylor during the 2015 recalibration of the Funding Model. Her role was to advise about ECAs and RCAs. Dr. Taylor explained in her report to the legislature that forgoing an ECA was a viable option because there was reason to believe that the Funding Model was, at that time, funding more than market. [Vol. IX at 2133- 2135 Ex. D-1, Appendix F] Dr. Taylor again provided guidance to the legislature during the 2020 recalibration of the Funding Model. [Vol. IX at 2136; Ex. E-1]

327. Dr. Taylor provided further guidance to the JEC in May 2022 about ECAs. The legislature adopted her recommended 2022 ECA, but not her recommended 2023 ECA. [Vol. IX at 2139-21442; Exs. T-8 and U-8]

328. Dr. Taylor agreed inflationary pressures in Wyoming do not always track with inflationary pressure nationwide. She acknowledged that inflation adjustments keep a cost-based

school funding model cost-based, and when prices change the dollar amount of the cost-based model must change. [Vol. IX at 2150-2151] Dr. Taylor agreed inflation is cumulative and ECAs are important to maintain the status quo. [Vol. IX at 2151-2152]

329. According to Dr. Taylor, a decline in the number of teacher applications, persistent shortages in teaching specialties, increases in turnover rates among teachers, and increases in the number of teachers leaving Wyoming could all be signs of a decline in the competitiveness of Wyoming teacher salaries. She further agreed, an increase in the number of teachers leaving the Wyoming is a strong indicator that Wyoming teacher salaries are no longer competitive. [Vol. IX at 2161-2164, 2167] If she was asked to determine whether Wyoming teacher salaries were competitive today, she would want data about teacher turnover rates, teacher applications, shortages in teachers, and the number of teachers leaving the state. [Vol. IX at 2170] Dr. Taylor's report to the legislature in 2023 indicated that the estimated price for professional staff in 2024-2025 was 135 percent of the price paid in 2009-2010, and the estimated the price for nonprofessional staff in 2024-2025 was 138 percent of the price paid in 2009-2010. [Vol. IX at 2164-2167; Ex. P-1, Table 8]

330. Dr. Taylor agreed that inflation occurs – affects prices – before there is an index reflecting the existence of inflation and it is important to promptly apply an ECA to maintain the status quo. [Vol. IX at 2181-2182] Dr. Taylor testified if an ECA is applied to an incorrect base cost, the ECA will be flawed, and its flaws will persist and will be compounded. [Vol. IX at 2183-2184] She agreed an ECA is a strategy for estimating prices. [Vol. IX at 2148] Dr. Taylor agreed an ECA should be applied every year and cumulatively to maintain the status quo. [Vol. IX at 2178]

26. Leslie Zimmerscheid

331. Ms. Zimmerscheid is WDE's supervisor of the School Foundation Program and she has held that position since 2019. [Vol. IX at 2201]. Ms. Zimmerscheid's primary role is to administer the Funding Model for the Wyoming school districts. [Vol. IX at 2202]

332. According to Ms. Zimmerschied, only one Wyoming school district has currently elected to enroll its employees in the State's health insurance plan. [Vol. IX at 2251]

333. Ms. Zimmerschied agreed a time-limited ECA is not cumulative, and acknowledged the legislature had enacted ECAs some years that included a sunset date and were removed from the Funding Model. [Vol. IX at 2262-2263]

27. Vince Meyer

334. Mr. Meyer is the Data Analytics Supervisor at WDE. Mr. Meyer has worked for WDE for twenty years as a statistician and data services supervisor. He has a bachelor's degree in electrical engineering and a master's degree in business administration [Vol. IX at 2299] His responsibility at WDE is to analyze reported data for WDE, including data reported by school districts. [Vol. IX at 2300-2301]

335. Mr. Meyer analyzed data for the State for purposes of this case and provided a series of charts showing the results. [Vol. IX at 2303 – Vol. X at 2334] Those charts generally showed: (a) between school years 2011-12 and 2021-2022 Wyoming's 11th grade average high school graduate ACT scores were generally lower than but comparable to those in Utah, North Dakota, Montana, and Colorado [Ex. J4]; (b) in school year 2011-12 Wyoming's 11th grade average high school graduate ACT score was 20.3 and in school year 2021-22 Wyoming's 11th grade average high school graduate ACT score was 19.2 [Ex. J4]; (c) between school years 2013-14 and 2022-23, there has been a gradual increase in the percentage of students who qualify for the Hathaway

Success Curriculum [Ex. L-4]; (d) between school years 2009-10 and 2022-23, Wyoming's general graduation rate has hovered around 80 percent, between 77.6 percent at the lowest and 82.4 percent at the highest [Ex. M-4]; (e) between school years 2019-20 and 2022-23, the percentage of Wyoming high school graduates who are "postsecondary ready" increased from 56.2 percent to 60 percent [Ex. P-4]; (f) between school years 2009-10 and 2022-23, the average weighted base new teacher salary actually paid by school districts increased from \$42,171.00 to \$49,120.00, which is 16.5 percent [Ex. R-4]; (g) between school years 2008-09 and 2022-23, the percentage of teachers who remained a teacher in the same school district the following year hovered around 90 percent, with a high of 92.2 percent in 2008-09 and a low of 87.8 percent in 2022-23 [Ex. S-4]; (h) between school years 2008-09 and 2022-23, the percentage of teachers who remained a teacher in Wyoming the following year hovered around 90 percent, with a high of 93.3 percent in 2008-09 and a low of 90.2 percent in 2021-22 [Ex. T-4]; (i) between school years 2008-09 and 2022-23, the percentage of all teachers who are teaching with an EA increased from a low of 0.5 percent in 2012-13 to a high of 3.6% in 2022-23¹⁴ [Ex. U-4]; and (j) at the start of school year 2022-23, 0.4 percent of elementary generalist FTEs were vacant, 1.1 percent of secondary core subject FTEs¹⁵ were vacant, and 0.8 percent of special education FTEs were vacant [Ex. V-4, Vol. X at 2353]

336. Some of the data analyzed was provided by school districts in response to subpoenas issued in this case, but only 36 of the 48 school districts responded to the subpoenas. None of the Plaintiff School Districts were subpoenaed or provided data. [Vol. X at 2334, 2343] All of the charts prepared by Mr. Meyer were prepared at the request of the State's attorneys in

¹⁴ This percentage did not include teachers teaching with a PIC permit or long-term substitute teachers. [Vol. X at 2348]

¹⁵ Mr. Meyer's agreed that core subject FTEs does not include teachers who teach subjects other than math and language arts and those teachers were not included in this statistic. [Vol. X at 2354-2355]

this case. [Vol. X at 2341]

28. Cory Koedel, PhD

337. Dr. Koedel is a professor in the economics department at the University of Missouri and has been a professor since 2007. [Vol. X at 2362] Dr. Koedel's doctorate is in economics with a focus on the economics of education, which includes the study of teacher labor markets. He is involved in an entity known as the Center for the Analysis of Longitudinal Data in Education Research (CALDER). CALDER is a national research center into the economics of education, including teacher labor markets. [Vol. X at 2362-2365] Dr. Koedel was called by the State as expert witness to offer opinions about teacher resources with a focus on teacher salaries in Wyoming. [Vol. X at 2367-2368].

338. Dr. Koedel's analyses and opinions were based on data he gathered from various sources, and he agreed he did not speak with any Wyoming school districts or personnel. [Vol. X at 2369-2370; 2457] According to Dr. Koedel, he understands that the purpose of an ECA applied to the Funding Model is to maintain the ability of school districts to staff their schools in the face of rising labor costs. [Vol. X at 2371]

339. According to Dr. Koedel's data analysis, Wyoming actual teacher salaries have always – 2002 to 2022 – been above the Funding Model salaries and the actual salaries have increased at a slightly higher rate than increases in the Funding Model Weighted salaries. [Vol. X at 2373-2374; Ex. D-9] Dr. Koedel does not know the reason actual salaries are higher than the Funding Model Weighted salaries, but he suggested the reasons could include: (a) school districts need to pay a higher salary to fully staff their schools; or (b) teacher labor groups influence school districts to increase salaries. He acknowledged he did not have any evidence of labor organization pressures in Wyoming and agreed Wyoming does not have a statute creating a collective

bargaining process. [Id. at 2516] He testified that he believes Wyoming school districts' most significant competition for teachers is with other Wyoming school districts. [Vol. X at 2375-2376] He acknowledged Wyoming school districts must reallocate funds from other areas to pay their teachers more than the Funding Model Weighted salary and are hiring fewer teachers than authorized under the Funding Model. [Id. at 2537-2538] He did not interview any administrators or school board members about the reasons for paying teachers more than the Funding Model salary. [Id. at 2542-2543]

340. Dr. Koedel performed an analysis comparing Wyoming's actual average teacher salary and average Funding Model Weighted salary to actual teacher average salaries in Colorado, Idaho, Montana, Nebraska, South Dakota, Utah, and North Dakota from 2000 to 2022. Dr. Koedel concluded: (a) in 2007, the average Funding Model Weighted salary was higher than the average actual salaries in the other states, and in 2022, the average Funding Model Weighted salary of \$54,035.00 was a little below the average actual salary of \$55,416.00 paid in the other states; (b) since 2006-07, the Wyoming teacher average actual salary has been above average actual salaries in the other states; and (c) in 2022, the Wyoming teacher actual average salary was \$60,820.00, which is about \$5,000.00 more than the average actual salary of the other states. [Vol. X at 2378-2382; Ex. E-9] According to Dr. Koedel's analysis, in 2022, Wyoming's average actual salary paid to teachers was more than all the other states' average actual teacher salary. [Vol. X at 2385; Ex. F-9] In 2022, Wyoming's teacher's average actual salary and the other regional states' average actual salary were below the national actual average salary. [Vol. X at 2469-2470; Ex. E-9]

341. Dr. Koedel performed an analysis to determine whether employers must pay more to attract employees to Wyoming by comparing the pay of comparable occupations in Wyoming and in other states. His comparable occupations included human resource specialist, loan officer,

mental health counselor, healthcare social worker, paralegal, insurance sales agent, and registered nurse. [Vol. X at 2385-2392] Dr. Koedel selected the comparable occupations he used in his analysis. [Vol. X at 2475] Based on his analysis, even though four of the seven comparable occupations pay more in Wyoming than other states, he concluded there is nothing uniquely special about Wyoming that would require more pay or less pay. [Vol. X at 2385-2392; Ex. G-9] In performing his comparison to other occupations, Dr. Koedel accounted for the fact that teachers generally only work nine months of the year and teachers receive more compensation in the form of benefits. Based upon these adjustments, he concluded teachers in Wyoming should be earning on average 76 percent of the average of the other occupations. According to Dr. Koedel, the average Funding Model Weighted salary was at 82 percent of the other occupations and the average actual salary was at 92.6 percent of the other occupations. [Vol. X at 2396-2398]

342. Dr. Koedel's analysis concluded, based upon the actual number of teachers in Wyoming between 2001 and 2020, Wyoming had a very low pupil to teacher ratio – between 1 to 12 and 1 to 14 – when compared to regional states and in the nation. A low pupil to teacher ratio means there is a high level of teacher resources. [Vol. X at 2401-2402; Ex. H-9] He also determined that in 2020, Wyoming teachers' per-pupil salary was higher than any other regional state. [Vol. X at 2404-2405; Ex. I-9]

343. Dr. Koedel analyzed whether there was stress in Wyoming's educational labor market. He examined four factors, the use of teachers without standard certifications, teacher evaluations, teacher mobility, and individuals completing teacher preparation programs. [Vol. X at 2405-2406] Dr. Koedel concluded there was an uptick in the use of teachers without standard licenses beginning in 2020 through 2022, but he believed the uptick was related to the overall generally tight labor market since the Covid pandemic. [Vol. X at 2412-2413; Exs. N-9 and J-9]

The increase in use of teachers without standard certifications was 100 percent from 2022 to 2023. [Vol. X at 2558-2559] He also noted that the use of teachers without standard certifications was higher as percentage in the special education field. [Vol. X at 2416; Ex. V-9]

344. Based upon his examination of Wyoming school districts' teacher evaluations from 2018 to 2022, he concluded that less than 0.5 percent of Wyoming teachers are identified as ineffective. He agreed, however, that research shows that the rating systems are not very informative. [Vol. X at 2417-2419; Ex. K-9] He also acknowledged that initial contract teachers are not evaluated and are excluded from his analysis. [Vol. X. at 2508-2509]

345. Dr. Koedel's analysis of teacher mobility showed there was a big increase in individuals leaving the Wyoming teacher workforce from 2020 to 2021, but he said the uptick was related to the overall generally tight labor market since the Covid pandemic. [Vol. X at 2420-2424; Ex. L-9] He also noted, based upon his review of other's research that teacher movement across states lines is "very small, [and] does not happen very much." [Vol. X at 2424] He agreed he did not analyze any data about vacancies in Wyoming schools. [Vol. X. at 2448]

346. Dr. Koedel's analysis of individuals completing teacher preparation programs showed that: nationally the interest in becoming a teacher and completing the educational program has decreased significantly – 40 percent – since 2007 to 2021; and during that same time, Wyoming also saw a decrease in the interest in becoming a teacher and completing the educational program, but not as significant as nationally. [Vol. X at 2427-2429; Ex. M-9] He did not know whether UW's education program is producing enough quality teachers to satisfy Wyoming's annual need. [Vol. X at 2496, 2498]

347. Dr. Koedel opined that Wyoming school districts are not engaging in efficient pay practices because they generally are not paying higher wages for hard to fill positions, like special

education positions. [Vol. X at 2432-2434; Ex. P-9] According to Dr. Koedel, Wyoming has the highest per pupil spending – about \$18,000 – in the region and generally outspends other states in the region in most categories of spending including instructional spending, which includes teachers. [Vol. X at 2437; Ex. Q-9]

348. Dr. Koedel analyzed average Wyoming 4th and 8th grade student NAEP scores in math and reading between 2005 and 2022. He determined that Wyoming students' average scores during that period stayed consistent with or even improved over student performances in other regional states. According to Dr. Koedel, these scores showed no relative decline in student performance and did not support stress in the educational labor market. [Vol. X at 2439-2441; Ex. R-9] The NAEP tests are one to two days and are administered every four years in just reading and math. [Vol. X at 2501-2502]

349. Dr. Koedel explained that the enacted ECAs made by the State have been sufficient because teacher pay in Wyoming has remained relatively high compared to teacher pay in other states and when compared to comparable occupations. He further opined that his analyses showed that the Wyoming educational labor market is not under great stress. [Vol. X at 2441-2442]

350. Dr. Koedel agreed he had not studied inflation in Wyoming. [Vol. X. at 2444] He acknowledged he had performed similar analyses for other states, and he had always concluded that the teacher salaries were adequate. [Vol. X at 2447] In his analyses, Dr. Koedel could not determine whether Wyoming school districts could hire the necessary teachers if the school districts paid the Funding Model salaries. [Vol. X. at 2453] Dr. Koedel agreed all his analyses are comparing state-wide and national averages, which may not necessarily capture regional or local problems. [Vol. X. at 2458-2459, 2486] In all his analyses, he did not consider that all Wyoming schools must provide the same educational opportunities to their students. [Vol. X. at 2463] He

agreed that, typically, a higher quality product costs more than a lower quality product and that his analyses did not compare or determine the quality of teachers of education in the various states. [Vol. X. at 2525]

29. Chelsea Oaks

351. Ms. Oaks is the Accreditation and Support Supervisor at WDE. [Vol. X at 2574] Prior to 2018, the State hired a consultant to perform accreditation of Wyoming schools. [Vol. X at 2576-2577] Since 2018, WDE has accredited all Wyoming public schools. [Vol. XI 2587-2588]

352. Ms. Oaks agreed the Annual Assurances Forms require school districts to check boxes and there is no place on the form for narrative answers. She acknowledged the forms are not evidence of the quality of the education being provided or the quality of the teachers. [Vol. XI at 2601-2602, 2617]

353. Regardless of which level a school district attains, Ms. Oaks said the State would not threaten to withdraw funding. If a school or school district does not attain the accredited level, WDE provided supports to the school for improvement, including professional development. None of the Plaintiff School Districts are not accredited or accredited with support. [Vol. XI at 2594-2596, 2629] Albany 1 was accredited with follow-up, Laramie 1 had six schools that were accredited with support, and Sweetwater 1's RSHS was accredited with support in 2023-24. [Vol. XI. at 2608-2609]

354. WDE's accreditation division also monitors teacher certifications to assure teachers are endorsed to teach the classes they are teaching. [Vol. XI at 2597-2598] No school district has ever said to Ms. Oaks that it cannot provide the required educational basket of goods for any reason. [Vol. XI at 2599-2600]

355. According to Ms. Oaks, the educational basket of goods is a listing of curriculum

areas, and the accreditation process just makes sure that those curriculum areas are being offered. [Vol. XI at 2610-2611]

30. Carla Bankes

356. Ms. Bankes is the Child Nutrition Programs Supervisor at the WDE. She oversees various federally funded school nutrition programs. Before she worked for WDE, she was Laramie 1's food service director for three years. [Vol. XI at 2637-2638] Ms. Bankes is a registered dietician and has a bachelor's degree in food and nutrition. [Vol. XI. at 2640]

357. Ms. Bankes worked in school nutrition at a Colorado public school for several years, and in Colorado, the state met its matching requirement by reimbursing schools for the cost of the reduced meals. Since she left Colorado, Colorado now provides universal free meals to students. [Vol. XI at 2681-2682] Ms. Bankes agreed that students learn better when they are nourished. [Vol. XI at 2678]

358. According to Ms. Bankes, the school nutrition programs are intended to be self-sustaining. [Vol. XI at 2651] Almost all Ms. Bankes's tenure with Laramie 1 was during the Covid pandemic. [Vol. XI at 2696]

31. Jerimi "JJ" Revell

359. Mr. Revel is the Chief Financial Officer and Chief Technology officer at the SCD and has held those positions for 13 years. His duties include daily management and programming of the AiM database. [Vol XI at 2706-2707] School districts have access to the AiM database and the reports in the database. [Vol. XI at 2708]

360. BV's 2023 FCA included 617 school buildings, 48,000 systems and components, and 3.8 million data points were assessed. 50,000 photographs were taken. The data collected was substantially more than in previous FCAs [Vol. XI at 2709-2710]

361. From 2017 to 2023, all school districts expended about the same amount on school security and enhancements. [Vol. XI at 2726-2727; Ex. O-6]

362. Mr. Revel agreed the AiM database does not track facility suitability and does not track compliance with the Adequacy Standards. [Vol. XI at 2745]

32. Valerie Hughes

363. Ms. Hughes was employed by the WCD as the School Facilities Division administrators from October 2021 to February 2024. Ms. Hughes has a bachelor's degree in business administration and a master's degree in accounting. Ms. Hughes has employment experience with construction and property management. Ms. Hughes presented to the SFC, JAC, and to the Governor's office, and she oversaw four school facilities project managers. [Vol. XI at 2755-2758]

364. Ms. Hughes assisted the State in hiring BV to perform the 2023 FCA. She supported hiring BV. [Vol. XI at 2765-2766] BV's 2023 FCA verified cost estimates by contacting Wyoming contractors and BV's FCA looked into the future. [Vol. XI at 2775-2777]

365. Before BV began to perform the 2023 FCA, Ms. Hughes office communicated with school districts about the process, and sent school districts a pre-assessment questionnaire before BV's on-site visit. The questionnaires allowed school districts to identify any issues with their facilities. According to Ms. Hughes, only fifty percent of school districts responded to the questionnaire, and Laramie 1 did not complete the questionnaire before BV's site visit. [Vol. XI at 2771-2773; Ex. H-5]

33. Matthew Anderson

366. Mr. Anderson is a Program Manager with BV. Mr. Anderson is a registered architect in California and has worked at BV since 2008. [Vol. XII at 2887-2888] BV routinely

performs facility condition assessments for governments and school districts in other states. [Vol. XII at 2889] BV executed a contract with Wyoming to perform an FCA in August 2022. [Vol. XII at 2890, 2902]

367. Mr. Anderson described the basic process followed in completing the 2023 FCA, which included video conference meetings with school districts and sending the pre-assessment questionnaire. According to Mr. Anderson, just 38 percent of school districts responded to the questionnaire. [Vol. XII at 2891-2893] BV intentionally chose not to consult FEA's 2016 FCA while performing the assessments because it was old and not very useful. [Vol. XII at 2894-2895, 2911-2912] BV visually inspected all 615 school district buildings, including 448 schools, and spent anywhere from three hours to three days on-site depending upon the size and complexity of a building. [Vol. XII at 2897-2898]

368. BV began field assessments of school buildings in October 2022, completed them in March 2023, and delivered draft reports in April 2023. [Vol. XII at 2902, 2945] School district personnel were present for the on-site assessments. [Vol. XII at 2905] BV presented its findings to the SFC in June 2023 and the SCSF in September 2023. Those reports detailed and described the scope of BV's 2023 FCA. [Vol. XII at 2899-2901; Exs. C-5 and D-5]

369. BV's 2023 FCA resulted in a an FCI score for each school building. [Vol. XII at 2912] BV's FCA estimated the total cost of replacing the school building components essential to keep the buildings in good condition in the next twenty years – capital improvements – is approximately \$6.1 billion, assuming no major maintenance was done, and no new construction was done. [Vol. XII at 2920, 2948; Ex. D-5, p. 5]

370. BV's 2023 FCA included some different data than was included in FEA's 2016 FCA. BV included site work, playgrounds, athletic facilities, and parking lots, which were not part

of FEA's 2016 FCA. Mr. Anderson agreed BV's inclusion of the additional data on the building site could affect a building's FCI score negatively or positively. [Vol. XII at 2912-2913, 2942] Although BV has assessed educational suitability in other states, BV's 2023 FCA for Wyoming did not assesses school buildings on educational suitability. [Vol. XII at 2914, 2938, 2944] BV's FCA projected costs and conditions twenty years into the future, and FEA's FCA was just a snapshot in time. [Vol. XII at 2915-2916] The FCIs resulting from BV's FCA were based upon a five-year projection because of the time and procedures required to complete a school facility project. [Vol. XII at 2917-2918]

371. BV's FCA included immediate needs reports for each school building. These reports addressed conditions which needed to be addressed within a year. [Vol. XII at 2923-2924; Ex. C-5 p. 16]

34. Justin Foy

372. Mr. Foy is a Senior Vice President of Charles Taylor Engineering Technical Services Division, which is an engineering and architectural firm. Mr. Foy has a bachelor's degree in engineering and has worked in engineering, construction, and architecture since 1997. [Vol. XII at 2968-2972]

373. He has performed many capital reserve studies, many capital expenditure analyses, and many facility and property condition assessments. [Vol. XII at 2973] Mr. Foy described the process of performing facility condition assessments, and he noted the importance of pre-site investigation questionnaires in identifying issues that are not visually accessible. [Vol. XII at 2974-2977] He has performed facility condition assessments for 25 to 30 different Colorado school facilities. [Vol. XII at 2980]

374. In this case, the State hired Mr. Foy to review the State's school facility condition

assessment program to determine if it meets industry standards. He reviewed BV's FCA as well as the AiM database. [Vol. XII at 2982-2983] His review included examining 30 to 40 of BV's individual school facility reports from cover to cover. [Vol. XII at 2986, 2997] He described the AiM database as very comprehensive and centralized [Vol. XII at 2985] He did not make any site visits to Wyoming school facilities. [Vol. XII at 2987] He could not recall whether any of BV's reports he reviewed were for buildings in any of the Plaintiff School Districts. [Vol. XII at 2997-2998]

375. Mr. Foy concluded BV's 2023 methodology was consistent with industry standards. [Vol. XII at 2987] In his research, he determined that Wyoming is one of only a few states using a third-party consultant to perform FCAs on its schools and, within the past five years, Wyoming is one of only a few states to perform a statewide FCA. [Vol. XII at 2988-2989]

376. Mr. Foy did not examine the accuracy of the information or data used by BV, did not independently evaluate BV's resulting FCI scores to determine if the scores were accurately calculated, and did not review any of the previous FCAs performed in Wyoming. [Vol. XII at 2992-2993] He agreed it would be helpful to have access to and to review the information in the AiM database when performing FCAs, which BV did not do. [Vol. XII at 2999-3000]

35. Matthew Willmarth

377. Mr. Willmarth is the senior school finance analyst for the LSO. Mr. Willmarth has worked for LSO since 2009. Mr. Willmarth has a bachelor's degree in business administration. Before he began working for LSO, he was employed at the WDE as a school foundation program consultant in finance. While with WDE he worked on the 2005 recalibration of the Funding Model, collecting and inputting data and calculating payments. He currently is the most experienced in school finance of anyone at LSO and he was involved in the 2010, 2015, and 2020 recalibrations

of the Funding Model. [Vol. XIII at 3318-3321]

378. According to Mr. Willmarth, from 2007-2008 to 2009-2010, the legislature adopted ECAs based upon a single index, the Education Cost Index (ECI). In 2010, the Funding Model was providing over \$100 million more than the Consultant's Model. [Vol. XIII at 3341-3342]

379. According to Mr. Willmarth, in the past six years total student enrollment statewide has decreased about 2000 students and total school district FTE has increased by about 490. [Vol. XIII at 3355] Based upon appropriated funding, the per student funding is estimated to be \$18,500.00 in 2024-2025. [Vol. XIII at 3356] Mr. Willmarth agreed, in 2022, the JEC recommended to the JAC an ECA for all school district personnel and the JAC declined to consider the ECA. [Vol. XII at 3369]

36. Richard Seder, PhD

380. Dr. Seder is the State's consultant in school finance. Dr. Seder's doctorate is in education policy and organization. Dr. Seder has many years of experience in school finance with different states, including with MAP, Wyoming's original school finance consultant. He first worked with Wyoming in 2001. [Vol. XIII at 3412-3416] Since 2005, Dr. Seder has consulted for the State on many issues involving school finance, including operational funding and capital facilities funding. [Vol. XIII at 3420-3421] Dr. Seder sat through the entire trial on behalf of the State. [Vol. XIV at 3606] Dr. Seder was very involved in the development of CRERW Reports. [Vol. XIV at 3609] Dr. Seder provided significant guidance to the State on the Funding Model and the Consultant's Model since 2005. [Vol. XIV at 3614]

381. Dr. Seder performed an analysis of the issue of educational suitability for school facilities. [Vol. XIII at 3423] Dr. Seder explained that educational suitability is often referred to as "functionality." [Vol. XIII at 3426] After the States terminated MGT's services, Dr. Seder assisted

the State in developing a method for assessing educational suitability in 2009. Ultimately, an educational suitability assessment instrument was created and piloted, but never actually used. Dr. Seder said the instrument was abandoned by the State because of disagreements on the weight to be given each component and after applying the tool, the results did not show much variation in scores. [Vol. XIII at 3426-3428; Vol. XIV at 3590-3593] The State also attempted to address educational suitability of facilities by the development of facility condition needs index (FCNI) in 2010 to 2012, which considered air quality, illumination, safety and security, and technology readiness and resulted in an FCNI score. The FCNI scores were never used to prioritize school facilities. Rather, the information was used to inform remedies. [Vol. XIII at 3429; Vol. XIV at 3595] Around 2020, the State again attempted to develop a new educational suitability assessment instrument. [Vol. XIV at 3596]

382. According to Dr. Seder, educational suitability is typically assessed through an on-site evaluation of a school facility combined with conversations with the school facility administration about the instructional programs being provided. Dr. Seder testified, if a school district changes curriculums or how the curriculum is delivered, the educational suitability assessment may also change. [Vol. XIII at 3431-3433]

383. Dr. Seder opined that the State is effectively assessing educational suitability of school facilities. According to Dr. Seder, the State assesses school facility educational suitability through the Adequacy Standards and the Chapter 3, Section 8 Process, design guidelines for new school facilities, the annual collaborative school facility planning process, the MCER process, component funding, and major maintenance funding. He agreed, however, all these mechanisms for addressing educational suitability do not capture every potential educational suitability issue, which should then be addressed by the Chapter 3, Section 8 Process. [Vol. XIII at 3436-3440,

3441-3442] Dr. Seder further opined that the State's current method for assessing educational suitability is more efficient to a statewide educational suitability because of the variability between how school districts deliver their educational programs. [Vol. XIII at 3440-3441]

384. Dr. Seder has not been inside any Wyoming school building, including CCHS and RSHS, since 2014 and has very little experience planning, designing, or constructing a school building. [Vol. XIV at 3569-3571; 3576] Dr. Seder could not recall reviewing the MCER studies for Laramie 1, Sweetwater 1, or Campbell 1 since 2012. [Vol. XIV at 3577-3578] He was not aware of a situation where major maintenance funding or component funding was used to address educational suitability. [Vol. XIV at 3580-3581]

385. According to Dr. Seder, the question of whether to include SROs as part of the Funding Model has been considered since MAP's development of the Funding Model and at every recalibration since 2005. He said, the State's consultants have never recommended that SROs be included as a component in the Funding Model. Dr. Seder performed a literature review of SRO research. [Vol. XIII at 3442-3443]

386. Since the 2020 recalibration, Dr. Seder's researched revealed many school facility security issues are addressed through modifications to school buildings. According to his research, the likelihood of a school shooting incident is extremely low, and SROs have not proven to be effective during school shootings. [Vol. XIII at 3444-3446] Dr. Seder testified that his research showed that nationwide reported violent victimization at schools had decreased from 2010 to 2021. [Vol. XIII at 3449-3450; Ex. D-11] Overall, Dr. Seder opined his review of the research literature reflected it is not necessary to include SROs as part of the Funding Model. [Vol. XIII at 3461-3462]

387. Dr. Seder understood that the general purposes of an SRO are to provide security

and safety, build relationships with students, and provide training to teachers and students. [Vol. XIII at 3451] Dr. Seder said his research revealed that the number of referrals to law enforcement from within Wyoming schools is very low, below 1 percent. [Vol. XIII at 3453] Based upon his review of studies about SROs, those studies showed: the presence of SROs tended to lead to more exclusionary discipline of students, which generally harms educational progress; SROs tended to view schools as a place where crime is occurring; students interviewed felt safer when SROs were present at school and were more willing to report threats to SROs; the presence of SROs correlated with reduced amount crime; the presence of SRO's correlated with an increase in the number of identified drug-related and gun-related offenses; and the presence of SRO's was correlated with the reporting of more incidences, especially with Black and Hispanic students. In general, Dr. Seder was critical of the various studies because they were based on surveys and are only correlational. [Vol. XIII at 3454-3460; Vol. XIV at 3554]

388. Dr. Seder agreed there had been an uptick in the incidence of school shootings nationwide from 2021 to 2022, and that uptick was not noted in his report. [Vol. XIV at 3563] Dr. Seder acknowledged his opinions on SROs were all based upon his research of the literature. He agreed that he had no experience specific to SROs, he had not spoken to any SROs, law enforcement officers, school district employees, students, or parents, and he had not reviewed the MOUs between Wyoming school districts and law enforcement. [Vol. XIII at 3544-3547] There was a more recent study, which was not based solely on surveys, that showed the presence of SROs appeared to reduce some forms of school violence and to increase the incidence of exclusionary discipline. [Vol. XIII at 3461] Dr. Seder agreed one of the studies found that SROs in middle schools reduced serious violence. [Vol. XIV at 3555]

389. Dr. Seder said the State's Funding Model is a "resource cost model." A resource

cost model identifies the desired outcome first, then identifies the essential components needed to achieve the outcome, then determines the quantity of the components needed, and finally determines the cost of the components. He explained a resource cost model like the Funding Model will be “cost-based” if “each of the components have a reasonable and accurate cost basis to them.” Dr. Seder indicated the desired outcome for the Funding Model is the delivery of the basket of goods as defined by the Wyoming Statutes and “then some additional indicators of what might be considered a quality education.” [Vol. XIII at 3464-3465] Ultimately, Dr. Seder stated the Funding Model is an estimate of the cost of delivering the basket of goods. [Vol. XIII. at 3467]

390. According to Dr. Seder, determining the cost of some components in the basket of goods is easier because those components are common in the open market, e.g. computers, supplies, materials, and custodians. Determining the cost of other components in the basket of goods is more difficult because those components are not common in the open market, e.g. teachers. [Vol. XIII at 3467-3468]

391. Dr. Seder testified that because school districts have significant discretion on how to spend its Funding Model money there will be differences in how school districts deliver the basket of goods, and those differences should not be viewed as disparities. [Vol. XIII at 3469-3470]

392. Dr. Seder opined that the Consultant’s Model is much more generous with funding and components than the original MAP model, and called the Consultant’s Model, the MAP Model on steroids. [Vol. XIII at 3478-3479] He said the Funding Model is cost based, but then stated it exceeds the cost of providing the basket of goods and a quality education, referring to it as ‘cost plus plus.’ [Vol. XIII at 3481-3482] Dr. Seder agreed the issue is whether the Funding Model is cost-based, not the Consultant’s Model. [Vol. XIV at 3625, 3632]

393. From school years 1997-98 to 2019-20, Wyoming's per pupil spending has increased and stayed above other regional states. In school year 2019-20, Wyoming spent approximately \$18,000.00 per pupil in operational funds and the next closest was Montana which spent approximately \$14,500.00 per student.¹⁶ Per pupil spending increased significantly as compared to the other regional states in school years 2005-06 after the 2005 recalibration. During school years 2005-06 to 2006-07, the State increased operational funding by 30 percent, which was after the legislature stopped relying on the MAP Model, and it began relying on the Consultant's Model. [Vol. XIII at 3484-3485; Ex. D-1]

394. Dr. Seder had no explanation for Wyoming spending so much more per student than other regional states. He said Wyoming is comparable to Montana and the Dakotas in its number of rural school districts. [Vol. XIII at 3488-3489]

395. According to Dr. Seder, following the 2005 recalibration Wyoming school districts spent their Funding Model funds very differently than as resourced by the Funding Model. School districts in total did not hire as many additional positions authorized by the Funding Model. Dr. Seder "surmised" the school districts used the additional funding to raise salaries instead. [Vol. XIII at 3492-3493; Ex. G-10] Dr. Seder stated his conclusion was supported by the increased difference between the average Funding Model teacher salary and the actual salaries being paid by the school districts. [Vol. XIII at 3496-3497; Ex. N-10] He did not believe the significant increases to the average actual salaries being paid by school districts was supported by the labor market experts. [Vol. XIII at 3498-3499, 3504] He acknowledged he did not know why school districts increased actual salaries and did not increase FTEs. [Vol. XIV at 3660] Dr. Seder believed the

¹⁶ Exhibit E-10 lists Montana's per pupil spending for 2019-2020 as \$13,221. With a regional cost adjustment, Wyoming spent approximately \$20,000.00 per pupil in operational funds and the next closest was Montana which spent approximately \$15,000.00 per student. [Ex. E-10]

Funding Model salaries adopted in 2006-2007 following recalibration were “cost plus.” [Vol. XIII at 3503] He further acknowledged, ultimately, the legislature decided to set the Funding Model salaries after the 2005 recalibration. [Vol. XIV at 3640]

396. Dr. Seder testified that adopting ECAs to the Funding Model during the period of 2010 to 2020, when the Funding Model funding exceeded the Consultant’s Model, would have caused the Funding Model to continue to provide funding over cost. According to Dr. Seder, the State’s goal was to have the overall funding provided by the Funding Model converge with the overall funding provided by the Consultant’s Model. [Vol. XIII at 3511-3512]

397. Dr. Seder opined that Wyoming’s Funding Model has allowed Wyoming school districts to maintain “competitive average salaries.” According to his calculations, in 2022-23, Wyoming ranks first in actual average teacher salary paid, as adjusted for regional cost differences, when compared to other regional states. [Vol. XIII at 3512-3513; Ex. U-10]

398. Dr. Seder testified that Wyoming school districts’ overall patterns of spending by function remained very consistent from 1996 through 2019. He indicated that this consistent spending pattern shows school districts are not having to reallocate its resources to pay higher salaries. [Vol. XIII at 3515-3519; Exs. A-11, R-10, T-10, and S-10]

399. According to Dr. Seder, the Consultant’s Model is intended in part to provide sufficient funding to improve student outcomes. He concluded, based on Wyoming’s NAEP scores, Wyoming’s students’ outcomes have not significantly improved with increased funding. He testified there is no correlation between increased spending and increased NAEP scores. He also noted that Wyoming students’ NAEP scores are generally comparable with other regional states’ scores even though those states spend less per pupil. [Vol. 3519-3524; Exs. L-10, M-10] Dr. Seder agreed Wyoming’s goal is to provide a high-quality education for every student and is

not to achieve certain average test scores. [Vol. XIV at 3616] NAEP testing is not done on every Wyoming Fourth and Eighth grade student, just a sampling. [Vol. XIV at 3672-3674]

400. Dr. Seder testified, if one were to judge the quality of education based upon class size, school size, low pupil to teacher ratios, and low pupil to staff ratios, that these measures have remained very consistent and unchanged over the years since the MAP Model was found to be constitutional in 2008. [Vol. XIII at 3524-3532; Exs. Y-10, X-10, Z-10]

401. Dr. Seder ran two simulations of the MAP Model funding used in the 2005-06 school year, when the per pupil spending was \$6,700, applying an ECA based upon the WCLI and the Employer Cost for Employee Compensation index. Based upon those simulations, he concluded that the Funding Model provided more funding than the two simulations would have up until 2020. [Vol. XIII at 3533-3538; Exs. B-11, C-11] Dr. Seder agreed that his simulations are only valid if his overriding assumptions are consistent over time. [Vol. XIV at 3645] Dr. Seder noted that comparing the Funding Model to the MAP Model would be unsound if there had been substantial changes to the basket of goods and if teaching and learning had substantially changed. [Vol. XIII at 3474-3475] Dr. Seder acknowledged there had been significant technology changes in teaching and learning since the MAP Model was used. [Vol. XIV at 3642-3644]

402. He explained the Funding Model currently provides more than sufficient funding to deliver the basket of goods and provide a quality education. He further related that the State's monitoring system effectively assures the Funding Model is cost-based and that the Funding Model is cost-based. [Vol. XIII at 3540-42] Dr. Seder agreed he previously referred to the Funding Model as "creating a socialist utopia" and that Wyoming does not know what kind of "red state" it is. [Vol. XIV at 3614-3615]

403. Dr. Seder has not compared the Funding Model's base salary to another state's

Funding Model base salary. He agreed the Funding Model base salary is the amount that a new college graduate should be offered. [Vol. XIV at 3655-3656] Dr. Seder would not agree that there is a national teacher shortage. [Vol. XIV at 3657]

37. Sean Mathes

404. Mr. Mathes is the Supervisor of Buildings and Grounds at Campbell 1, where he has been employed for twenty-six years. He supervises 26 employees involved with building and grounds maintenance [Vol. XV at 3737]

405. Mr. Mathes was involved with the 2023 BV FCA. He attended close to half of the individual school assessments with BV. He related that BV's individual assessments of Campbell 1 buildings were initially thorough, but as BV moved through the list of schools the assessments were performed more hastily. Mr. Mathes stated he completed BV's preassessment questionnaire before the onsite assessment of CCHS and the questionnaire alerted BV to the ongoing sewer issues at CCHS. [Vol. XV at 3738-3741; Ex. 2488] Mr. Mathes communicated with BV and the State repeatedly regarding issues and concerns with BV's 2023 assessment of CCHS. [Vol. XV at 3745-3751]

V. CONCLUSIONS OF LAW AND ANALYSIS

A. Burdens of Proof and Level of Scrutiny

As the Court previously held, Plaintiffs have the burden of producing evidence and going forward to establish the facts showing any alleged constitutional violations. Plaintiffs also have the burden of persuasion as to any disputed issues of fact regarding the existence of a constitutional violation. The disparity and/or constitutional harm must be demonstrated. *Washakie*, 606 P.2d at 327 (a disparity must be demonstrated); *Campbell II*, ¶ 45, 19 P.3d at 536 (strict scrutiny applies when a disparity is proven).

The burden of persuasion as to any factual issues is by a preponderance of the evidence. The preponderance of the evidence standard is defined as “proof which leads the trier of fact to find that the existence of the contested fact is more probable than its non-existence.” *Scherling v. Kilgore*, 599 P.2d 1352, 1359 (Wyo. 1979).

As to the applicable constitutional scrutiny, the *Washakie* Court held “when a fundamental interest is affected or if a classification is inherently suspect, then the classification must be subjected to strict scrutiny to determine if it is necessary to achieve a compelling state interest” and “the state [must] establish that there is no less onerous alternative by which its objective may be achieved.” *Washakie*, 606 P.2d at 333. In *Campbell I*, the Court described the applicable constitutional scrutiny as follows:

We hold the district court erred in applying equitable allocation/rational scrutiny. Among other valuable lessons, *Washakie* teaches that this court will review any legislative school financing reform with strict scrutiny to determine whether the evil of financial disparity, from whatever unjustifiable cause, has been exorcized from the Wyoming educational system. *Washakie*, 606 P.2d at 335. The triggering issue in *Washakie* was wealth-based disparities; however, we now extend that decision beyond a wealth-based disparity to other types of causes of disparities.

Because the right to an equal opportunity to a proper public education is constitutionally recognized in Wyoming, any state action interfering with that right must be closely examined before it can be said to pass constitutional muster. Such state action will not be entitled to the usual presumption of validity; rather, the state must establish its interference with that right is forced by some compelling state interest and its interference is the least onerous means of accomplishing that objective. *Miller v. City of Laramie*, 880 P.2d 594, 597 (Wyo. 1994).

907 P.2d at 1266-67. The Court further stated, “the strict scrutiny test applies to legislative action which affects a child’s right to a proper education.” *Id.* at 1267.

The Wyoming Supreme Court confirmed the application of strict scrutiny in the cases that followed. It held, “[b]ecause education is a fundamental right and our citizens are entitled to equal protection under our state constitution, all aspects of the school finance system are subject to strict

scrutiny, and statutes establishing the school financing system are not entitled to any presumption of validity.” *Campbell II*, ¶ 42, 19 P.3d at 535.¹⁷

B. General Legal Principles

Article 1, Section 23 of the Wyoming Constitution establishes education as a right for the citizens of Wyoming. That section provides:

The right of the citizens to opportunities for education should have practical recognition. The legislature shall suitably encourage means and agencies calculated to advance the sciences and liberal arts.

Article 7 explains how education must be implemented and funded, and further defines the nature of the education required. Section 1 requires the legislature to “provide for the establishment and maintenance of a complete and uniform system of public instruction.” Wyo. Con. Art. 7, § 1. Section 8 gives the legislature the power to allocate the distribution of school funds, but the allocation must be equitable among all school districts. Wyo. Con. Art. 7, § 8. Section 9 states “[t]he legislature shall make such further provision by taxation or otherwise, as with the income arising from the general school fund will create and maintain a thorough and efficient system of public schools, adequate to the proper instruction of all youth of the state ... free of charge.” Wyo. Con. Art. 7, § 9.

The *Washakie* and *Campbell* decisions addressing Wyoming’s school finance system provide significant guidance on interpretation of these constitutional provisions. The Wyoming Supreme Court held “education for children of Wyoming is a matter of fundamental interest.” *Washakie*, 606 P.2d at 333. The Court described the legislature’s constitutional duties to provide

¹⁷ The Court acknowledges the State argued that the Wyoming Supreme Court, in *Campbell IV*, limited the application of strict scrutiny to wealth-based classifications and that strict scrutiny does not apply to challenges to inadequate funding. *See Campbell IV*, ¶¶ 13, 38, 181 P.3d at 50, 56. In its July 2023 Order on Burden of Proof, this Court disagreed with the State’s position because the Plaintiffs in this case are challenging the constitutionality of a new Funding Model and not just inadequate funding, the issues in *Campbell IV* were primarily factual, and the Wyoming Supreme Court did not expressly overrule its previous holdings in *Washakie*, *Campbell I*, and *Campbell II*. This Court concludes the standard of review is not a “good faith” standard.

for public education:

We find the true focus of this case to be whether the legislature has complied with its constitutional duty to provide an equal opportunity for a quality education by structuring both school financing and the education system in a manner, and at a level, that maintains “a complete and uniform system of public instruction” and a “thorough and efficient system of public schools, adequate to the proper instruction of all youth of the state.” WYO. CONST. ART. 7, §§ 1 and 9. This language identifies three “duties” borne by the legislature to meet its constitutional responsibility to provide this equal opportunity:

1. The “system of public instruction” must be “complete and uniform”;
2. The “system of public schools” must be “thorough and efficient”; and
3. The thorough and efficient system of public schools must be “adequate to the proper instruction” of the state’s youth.

Campbell I, 907 P.2d at 1263-64.

The legislature’s paramount priority is to support “an opportunity for a complete, proper, quality education” and any competing priorities that are not of constitutional magnitude are secondary. *Campbell II*, at ¶ 51, 19 P.3d at 538. The lack of financial resources is not an acceptable reason to fail to provide the best educational system. *Id.* at ¶ 138, 19 P.3d at 566 (quoting *Campbell I*, 907 P.2d at 1279). It is the legislature’s obligation to determine the kind of education afforded to Wyoming’s children. *Campbell IV*, ¶ 15, 181 P.3d at 51. The Courts, however, must examine the Funding Model inputs to determine whether the education being provided is appropriate for the times. *Campbell II*, at ¶ 55, 19 P.3d at 539.

C. Witness Credibility

Regarding credibility and weighing evidence, it is the obligation of the trier of fact to sort through and weigh differences in evidence and testimony, including that obtained from experts. *Morgan v. Olsten Temp. Servs.*, 975 P.2d 12, 13 (Wyo. 1999). Credibility determinations should be based upon specific, concrete examples of inconsistencies, deceit, or dishonesty and should be

based upon the records and testimony admitted into evidence. *McMasters v. State, Wyo. Workers' Safety & Comp. Div.*, 2012 WY 32, ¶¶ 74-77, 271 P.3d 422, 440-41 (Wyo. 2012). The trier of fact may disregard an expert's opinion if it "finds the opinion unreasonable, not adequately supported by the facts upon which the opinion is based or based upon an incomplete or inaccurate medical history." *McMillan v. State ex rel. Wyo. Dep't of Workforce Servs., Workers' Comp. Div.*, 2020 WY 68, ¶ 11, 464 P.3d 1215, 1219 (Wyo. 2020) (citation omitted).

A large majority of the evidence was not disputed. The evidence described in the first 40 to 50 pages of this Order's findings of fact could have been stipulated to by the parties. Therefore, generally, the Court need not weigh witness credibility. There were several witnesses, however, whose opinions the Court gave less weight because of demonstrated bias, unreasonableness, and/or due to demonstrated flaws in their opinions.

First, the Court found Dr. Seder to be biased.¹⁸ He admitted to referring to the Funding Model as "creating a socialist utopia" and that Wyoming does not know what kind of "red state" it is. He demonstrated a strong bias in support of his position that Wyoming is overfunding public schools and personnel are overpaid. He, unreasonably, was unwilling to agree that there is a national teacher shortage, despite many witnesses, including several of the State's witnesses, acknowledging the existence of a national teacher shortage. [Vol. XIV at 3657] During his cross-examination, Dr. Seder repeatedly gave nonresponsive answers to straightforward questions. For example, when asked whether the salaries set in the original model were based on two named experts, he answered "those analyses were done in 2001." [Vol XIV at 3654, line 25 to 3655, line 8; *See also* Vol. XIV at 3630, lines 6-15; at 3633, lines 2-20; Vol. XIV at 3659, lines 16-21] The evidence demonstrated Dr. Seder had strong motivation to testify in support of the State's actions

¹⁸ A finding of bias does not mean the Court believes Dr. Seder was fabricating or being intentionally deceptive. Instead, the Court found his opinions to be tainted or influenced by his biases.

and inactions because he was opining on much of the advice and guidance he provided to the State for twenty years. [Vol. XIV at 3614] Dr. Seder developed the monitoring process and authored many portions of the monitoring reports. Dr. Seder helped to prepare several of the State's witnesses and sat through the entire trial.¹⁹ Finally, Dr. Seder acknowledged he always opined that the funding was adequate when he testified in other school funding cases for other states. [Vol. XIV at 3606] Therefore, the Court gave his opinions less weight when those opinions conflicted with other witnesses' opinions.

Second, the Court gave diminished weight to some of the opinions expressed by Dr. Stoddard and Dr. Taylor because their analyses about personnel salaries were based upon actual salaries being paid by school districts and were not based on the salaries used in the Funding Model. To determine whether the Funding Model is accurately and reasonably estimating the cost of personnel salaries, Dr. Stoddard and Dr. Taylor should have used the Funding Model salaries in all their comparisons. The Funding Model salaries, not actual salaries, are used to calculate the Funding Model's salary component of each school district's guarantee. Dr. Stoddard agreed her opinions could change if she had based her analyses on the Funding Model Weighted salaries. Dr. Stoddard agreed teachers deciding whether to stay in the profession, students deciding whether to major in education, and school districts making staffing decisions are all looking at actual salaries and not the Funding Model Weighted Salary when making those decisions. Dr. Koedel admitted he did not use the Funding Model base salaries in his analysis. Regarding the constitutionality of salaries, this Court must determine whether the Funding Model is accurately estimating the cost of personnel salaries. The school financing system cannot be constitutional if the estimate of

¹⁹ Dr. Seder's interest in supporting his advice and guidance is not unlike the bias this Court might have if it were asked to opine on any decision it makes, which is the reason an appeal of this Court's decisions go to an independent and separate appellate court.

teacher costs does not reflect the actual cost of the teachers necessary to deliver the basket of goods. *Campbell II*, ¶ 57, 19 P.3d at 540. Even Dr. Seder agreed a resource cost model like the Funding Model will be “cost-based” if “each of the components have a reasonable and accurate cost basis to them.” [Vol. XIV at 3464-65]

D. Analysis of Issues Before the Court

1. Funding Model’s Funding of Operations

(a) Accounting for Inflation

Plaintiffs argue the State’s failure to enact cumulative and consistent ECAs during the school years between recalibrations is unconstitutional because the State has failed to properly adjust for the effects of inflation as required by the *Campbell* cases. The State asserts it has adjusted for the effects of inflation by application of its cost pressure monitoring process and tracking the convergence of the total amount of funding recommended by Consultant’s Model with the Funding Model’s total funding amount. The State believes application of an ECA is a discretionary legislative policy decision because of previous overfunding.

So long as the State uses a funding model based upon historic actual costs to determine school funding, the legislature, “shall conduct a review of all the components every five years to ensure funding accurately reflects the actual costs school districts are paying because of current market or economic conditions,” and shall adjust for inflation or deflation every two years at a minimum. *Campbell II*, ¶¶ 89-90, 19 P.3d at 549. Inflation or deflation adjustments based upon the WCLI are presumed adequate; however, the legislature may use other methods of adjustment so long as the adjustments are “structured to assure quality of education remains adequate.” *Id.* at ¶ 90, 19 P.3d at 549-50. The constitutional requirement is “the costs must be escalated for inflation in order to assure education funding continues to adequately support the actual cost of education.”

Campbell IV, ¶ 69, 181 P.3d at 65. The primary constitutional issue is whether the “State’s chosen method of funding represent[s]” the cost of education as close as reasonably possible. *Id.* at ¶ 31, 55.

The Wyoming Legislature enacted a statute regarding application of an ECA. That statute provides:

(o) To the extent specifically provided by the legislature, and between periods of model recalibration required under subsection (t) of this section, ***the amount computed for each district under subsection (m) of this section shall be adjusted to provide for the effects of inflation***, excluding those amounts specified under subparagraphs (m)(v)(E) and (F) of this section and the assessment component contained in paragraph (b)(xxviii) of “Attachment A” as referenced in W.S. 21-13-101(a)(xvii). The adjustment under this subsection shall not be applied until the expiration of the school year immediately following the first school year of application of the recalibrated model, and shall be adjusted on a cumulative basis each school year thereafter and until the first school year of application of a subsequent model recalibration. Following analysis of information reported under subsection (u) of this section, the joint appropriations interim committee shall submit a recommendation to the legislature and the governor not later than November 1 of each applicable year on an external cost adjustment for purposes of this subsection.

Wyo. Stat. § 21-13-309(o) (emphasis added).

The parties agree that since 2010, the legislature has not adopted ECAs for every year between recalibrations, has repealed previously enacted ECAs, and enacted time-limited ECAs. The State no longer relies on a particular index, like the WCLI, to account for the effects of inflation. Instead, the State opted to use the monitoring process to attempt to account for the effects of inflation. In deciding whether to enact an ECA, the State relies on its experts’ reports about “cost pressures” and whether it believes the Funding Model is overfunding the cost of education. The State determines whether the Funding Model is overfunding the cost of education by comparing the Funding Model’s total expenditures to the total amount of expenditures that would result from the Consultant’s Model. The State’s current method for accounting for the effects of

inflation is dependent on two assumptions: (1) the Consultant's Model as adopted in the 2010 recalibration was an accurate estimate of the cost of providing the required education; and (2) that the Funding Model in 2010 was overfunding the cost of providing the required education.

The Court finds the State's method used to account for inflation is flawed because it does not properly account for inflation of each of the required components of the Funding Model. Whether or not the Funding Model's total expenditures are more than the total amount of expenditures that would result from the Consultant's Model does not necessarily account for any inflation that exists for each of the four broad categories of components that school districts must purchase, including professional salaries, nonprofessional salaries, energy, and school supplies and materials. As Dr. Seder explained, a resource cost model like the Funding Model will be "cost-based" if "each of the components have a reasonable and accurate cost basis to them." Comparing total funding of the Funding Model to total funding of the Consultant's Model may show that the Funding Model is overfunded, but it does not establish the reasons for the overfunding and, certainly, does not establish the existence or non-existence of inflation on each of the categories of professional salaries, nonprofessional salaries, energy, and school supplies and materials. In essence, the State's method for accounting for inflation is an attempt to decrease the perceived overfunding of operations since 2010 disguised as a method for determining the effects of inflation on costs. There was no evidence presented that the existence or non-existence of "cost pressures" is an accurate method for determining whether inflation exists.

The State's method is further flawed because its expert on ECAs, Dr. Taylor, based most of her advice about salaries being above market in 2010 and 2015 upon the actual salaries being paid by school districts and not based upon salaries used in the Funding Model. If the amount of funding provided to school districts is calculated using the salaries set in the Funding Model, then

a determination of whether salaries are above market should be based upon the Funding Model salaries and not the actual salaries paid by school districts. Therefore, one of the State's essential assumptions used for its inflation accounting method – that the Funding Model was overfunding salaries – has not been proven to be true. Dr. Taylor could not state that the salaries used in the Funding Model were sufficient to attract high-quality teachers and agreed those salaries were old.

The State's method for accounting for inflation is not consistent with the previous holdings and guidance in the *Campbell* cases. In *Campbell II*, the Supreme Court noted that it would be “of great assistance to” the Court if inflation adjustments were adopted as a separate component of the Funding Model to avoid confusion with other adjustments. *Campbell II*, at ¶ 90, 19 P.3d at 550. In *Campbell IV*, the Supreme Court approved the legislature's annual adjustments for inflation based on facts and data different from the WCLI because the evidence established the legislature was, in fact, making “the adjustments necessary to assure that the historic costs continue to represent the actual cost of education.” *Campbell IV*, ¶¶ 69-71, 181 P.3d at 65. Although the Funding Model includes ECAs as a separate component, the State's current method – relying on experts' reports about cost pressures and whether it believes the Funding Model is overfunding the cost of education – does not use any index or indexes, and it is not truly based on the existence or nonexistence of inflation. It really comes down to a judgment call by the legislature that the Funding Model provides enough funding to deal with any inflation.

Even if the State's method for accounting for inflation was not flawed, it has not adopted cumulative ECAs in years when the State's experts identified the emergence of cost pressures and when the Consultant's Model's total funding amount exceeded the Funding Model's total funding amount. There was no ECA enacted for personnel for the 2022-23 school year, even though Dr. Stoddard's 2022 monitoring report indicated exit rates for teachers close to retirement had risen

significantly, which increased turnover rates, and that cost pressures in the educational labor market were likely to emerge post-pandemic.²⁰ At that time, she also found that Funding Model Weighted teacher salaries were 3 percent lower than the average salaries of states in the region. The State did not adopt consistent and cumulative ECAs from 2018-2022, even though in school years 2018-19, 2020-21, 2021-22, and 2022-23 the Consultant's Model would have provided more funding than the Funding Model, specifically: \$1.3 million more in 2018-19; \$20.7 million more in 2020-21; \$29.7 million more in 2021-22; and \$53.7 million more in 2022-23. In other words, the State has not accounted for inflation to assure education funding continues to adequately support the actual cost of education, as required by *Campbell IV* and as mandated by Wyo. Stat. § 21-13-309(o). The State's method for accounting for inflation is not accounting for actual inflation to the costs of each of the components of the Funding Model, which means there is not a reasonably accurate cost-basis for each component.

Dr. Williams' analysis further supports that the State has not been properly accounting for inflation. Dr. Williams concluded there has been a significant erosion of Uinta 1's dollar buying ability due to inflation between 2008 and 2023. Dr. Williams opined that the State has not properly adjusted funding for Uinta 1 to account for the effects of inflation.

The ECAs adopted for school years 2023-24 and 2024-25, although helpful in accounting for inflation, do not make up for the lost years where inflation was not accounted for. Those ECAs were applied to the Funding Model component costs that existed in school year 2022-23, which were not adjusted for inflation from 2018 to 2022. The Funding Model and Consultant's Model have been out of convergence since school year 2020-21, because the Consultant's Model total

²⁰ The legislature's 2023-24 ECA was intended to address inflation from 2022-23. However, an adjustment for inflation, which is a lagging indicator, over a year after it existed does not fully account for the effects of inflation. In addition, the ECA enacted in 2023 did not go into effect until six months after it was passed, which was over a year after the effect of the inflation would have been felt.

funding has exceeded the Funding Model total expenditures each school year. An ECA is an adjustment for inflation and its purpose is to maintain the status quo on the school district's purchasing power. Dr. Taylor agreed inflation is cumulative and ECAs are important to maintain the status quo. Dr. Taylor acknowledged that inflation adjustments keep a cost-based school funding model cost-based, and that when prices change, the dollar amount of the cost-based model must change. She also stated inflation is a lagging indicator and purchasers, including school districts, would feel the effects of inflation the year before the inflation appears in an index, so it is important to promptly apply an ECA to maintain the status quo. Dr. Taylor testified that applying an ECA to an incorrect base cost would result in a flawed ECA, and its flaws will persist and will be compounded.

The Court concludes the State is not in compliance with the *Campbell II* holding that so long as the State uses a funding model based upon historic actual costs to determine school funding, the legislature shall “adjust for inflation or deflation every two years at a minimum.” *Campbell II*, ¶ 90, 19 P.3d at 549. It is unconstitutional to not adequately adjust teacher salaries for inflation. *Id.* at ¶ 67, 19 P.3d at 543. The State's monitoring process is not escalating the costs based on inflation so to assure education funding continues to adequately support the actual cost of education, and is, therefore, unconstitutional. *Campbell IV*, ¶ 69, 181 P.3d at 65. Applying an ECA two years after inflation occurred does not make up for the lost earnings due to the lack of an ECA.

(b) School District Personnel Salaries

Plaintiffs contend the Funding Model does not adequately fund school district personnel salaries because the salaries used in the Funding Model do not reflect the actual cost of personnel. The Plaintiffs support their position by showing difficulties with recruiting and retention, actual

salaries being paid by school districts are consistently more than the Funding Model salaries, and wage studies showing salaries are too low. The State argues the Funding Model salaries have not risen significantly because teachers were overpaid pursuant to the 2005 recalibration and an additional bonus in 2006-2007. The State believes the Funding Model overall provides sufficient total funding for school districts to be able to pay its personnel.

The most expensive component of any educational system is personnel, primarily classroom teachers. Personnel costs are 80 percent of the total operational costs.²¹ The Court must give the personnel component of Funding Model its closest scrutiny. *Campbell II*, ¶ 57, 19 P.3d at 540. “[T]eacher quality is critical to providing a constitutional education” and “[i]t is unacceptable for essential teaching positions to remain unfilled or to be consistently filled by unqualified applicants.” *Id.* at ¶ 91, 550. The school financing system cannot be constitutional if the estimate of teacher costs does not reflect the actual cost of the teachers necessary to deliver the basket of goods. *Id.* at ¶ 57, 540. Evidence that actual salaries being paid by Wyoming school districts are consistently higher than the Funding Model salaries shows that the Funding Model’s salaries may be below the cost of providing the required education. *Id.* at ¶¶ 88-89, 549.

The Court finds Plaintiffs proved by a preponderance of the evidence that the Funding Model’s estimate of the cost of salaries for personnel no longer accurately reflects the actual cost of school district personnel, and therefore violates the *Campbell* holdings.

There is no dispute that the salaries actually paid to school district personnel have been consistently higher than the Funding Model salaries, which is evidence that the Funding Model salaries are below cost. From school year 2006-07 through school year 2022-23, the actual average

²¹ The evidence proved personnel salaries and benefits continue to account for 80% to 85% of a school district’s operational budget.

salary paid to instructional staff – teachers, tutors, librarians, and instructional facilitators – by all school districts has exceeded the Funding Model’s average salary. The difference between actual salaries paid by school districts to teachers and the Funding Model salaries for teachers has grown from 6 percent in school year 2010-11 to 16 percent in school year 2022-23.

Dr. Koedel posited two potential reasons for school districts paying more than the Funding Model salaries. First, it could be because the higher salaries are necessary to staff their schools, and second, it could be due to teacher labor groups influence on school districts. His opinion that it was more plausible that the reason was teacher labor groups influence was not supported by any evidence of a teacher labor group influencing any school district.²² He acknowledged he did not have any evidence of labor organization pressures in Wyoming and agreed Wyoming does not have a statute creating a collective bargaining process. A great majority of the evidence supported the need to staff schools was the cause of higher actual salaries.

The Funding Model base salary, which is the amount the Funding Model estimates is the cost to hire a first-year teacher with no experience and only a bachelor’s degree, was approximately \$37,000 in 2010 and rose to just \$37,540 in 2022-2023. Dr. Koedel admitted he could not determine whether Wyoming school districts could hire the necessary teachers if the school districts paid the Funding Model salaries. None of Wyoming’s school districts pay teachers based on the Funding Model’s salaries. As previously stated, the State’s reasoning for not increasing the Funding Model salaries was because the 2005 recalibration increase and 2006-2007 bonuses resulted in above-market pay. This reasoning is not consistent with the Supreme Court’s 2008 opinion in *Campbell IV*, which approved the 2006-2007 MAP Model salaries as cost-based.

²² There was evidence presented that some Plaintiff School Districts meet with local teacher and staff groups annually to discuss potential salary increases based upon available funding. That evidence did not include any suggestion of significant or undue pressure or influence by those groups. To the contrary, Chairman Core described difficult salary discussions with district personnel when the salary adjustments were not well-received.

Campbell IV, ¶¶ 23 and 68, 53 and 64-65.

Many of Dr. Stoddard's opinions and conclusions showed the Funding Model's salaries were not cost-based or were not the salary amount a school district must pay to hire personnel. For example, she testified: as of 2022-23, every adjacent state's average teacher salary, except South Dakota, was higher than the Funding Model's weighted average salary; these adjacent states were increasing their teachers' salaries faster than Wyoming, Wyoming teacher salaries were flat for several years, Wyoming teacher salaries increased very slowly since 2010; Wyoming teacher salaries have shown little growth since 2012-13; Wyoming's teaching wages have fallen relative to comparable occupations from a high of 96 percent ratio to an 83 percent ratio in 2022; Wyoming's advantage relative to the region has fallen in half since 2018-19; and Wyoming's 2022-23 K-12 Funding Model teacher salaries lie 3 percent below the average salary in the region. Dr. Stoddard agreed she was not providing an opinion that the Funding Model salaries were sufficient to attract and retain highly qualified teachers, nor could she provide an opinion.

APA's 2017 recalibration report indicated Wyoming teacher salaries remained relatively flat, teacher salaries were losing ground to their previous advantage over other regional states and over other college educated professionals in Wyoming, and teacher salaries fell up to 13 percent since 2013. APA recommended adjusting the Funding Model salaries in-line with actual salaries being paid by school districts.

Several of the Plaintiff School Districts had recently performed wage studies for classified employees, which uniformly concluded those employees' salaries were significantly below market. Dr. Stoddard opined that non-professional personnel salaries are generally competitive; however, her opinion was undermined by the fact she used actual salaries paid by school districts instead of the Funding Model salaries. She admitted she was not providing an opinion that the

Funding Model salaries for nonteachers were sufficient to be competitive, nor could she provide an opinion. Even though she was comparing actual salaries instead of the Funding Model salaries, she concluded Wyoming school principals' salaries had eroded when compared to other regional states.

There was significant evidence demonstrating school districts are having increasing difficulty recruiting and retaining personnel. Since 2019, there has been an increase in teachers with 4 to 20 years of experience leaving teaching in Wyoming. Since 2012, there has been a decline in students graduating from UW in education, with a high of 278 graduates in 2012 and 182 graduates in 2023. The number of undergraduates majoring in education has also declined steadily since 2010. The TRRTF recommended increasing teacher salaries by continuing to enact ECAs and paying teachers at 85% of comparable professions. The TRRTF climate survey taken of Wyoming teachers reflected that 78 percent of survey respondents ranked higher salary as the number one priority to increase desire to stay in their current position. Dr. Koedel acknowledged the interest in becoming a teacher and completing the educational program nationally has decreased 40 percent from 2007 to 2021 and that Wyoming also saw a decrease during that time frame in the interest in becoming a teacher and completing the educational program.

Ms. Thompson and Dr. Newton from Laramie 1, Mr. Cowper from Albany 1, Superintendent Thomas from Uinta 1, Superintendent Chaulk from Lincoln 1, Dr. Reznicek from Campbell 1, Superintendent Hamel from Carbon 1, and Superintendent McGovern from Sweetwater 1 all testified extensively about the significant difficulties with hiring and retaining professional and non-professional staff. The Court gave significant weight to the testimony of each of these very experienced educational professionals and found it more convincing than the statewide statistical evidence presented by the State. Vacancy rates and turnover rates do not

address the significant decrease in the supply of qualified candidates for school district personnel positions described by each of the school district witnesses. In other words, low vacancy and turnover rates do not disprove the Plaintiff School Districts' evidence demonstrating a significant decrease in the number of qualified candidates. The school district administrative professionals are doing the actual hiring and recruiting, and they experience the circumstances first-hand. There was no evidence to suggest these professionals were exaggerating the situations and no evidence establishing a motivation to exaggerate or fabricate. Dr. Ballard agreed there is a nationwide supply issue with teachers. Dr. Stoddard testified there was a teacher shortage in certain geographical and subject areas.

The increased use of EAs, PIC permittees, and long-term substitutes supports the school district professional's experience with hiring. The evidence established the number of EAs issued by the PTSB statewide has increased significantly, from a total of 184 EAs teaching statewide in 2018 to close to 500 EAs teaching statewide in 2023. From 2020 to 2022, more EA licenses were issued for elementary teachers than special education teachers. Although the percentage of EAs when looking at the total number of teachers is relatively low, the use of 500 EAs means all the EAs' students are not being taught by a highly qualified and certified teacher and the EAs' school districts must assign a fully endorsed teacher to mentor each EA. Dr. Koedel agreed the increase in use of teachers without standard certifications was 100 percent from 2022 to 2023.

The State's criticism of the Plaintiff School Districts' failure to pay their fully reimbursed special education and transportation personnel more than the rest of its staff did not prove the Funding Model salaries were reasonable estimates of the actual cost of personnel. At best, that evidence showed the Plaintiff School Districts had a potential remedy available to increase pay for special education and transportation personnel. It also demonstrated the State is willing to pay

actual salaries of certain personnel, but not for all. Moreover, the Plaintiff School Districts reasons for not paying special education and transportation personnel were reasonable and understandable.

The Funding Model's estimate of the cost of salaries for personnel no longer accurately reflects the actual cost of school district personnel, and therefore violates the *Campbell* decisions holdings. The Wyoming Supreme Court held the school financing system cannot be constitutional if the estimate of teacher costs does not reflect the actual cost of the teachers necessary to deliver the basket of goods. *Campbell II*, ¶ 57, 19 P.3d at 540. This Court agrees with the Wyoming Supreme Court that the legislature's paramount priority is to assure the State provides its students with a complete, proper, quality education and any competing priorities that are not of constitutional magnitude are secondary. The drafters of the Wyoming Constitution had the forethought to include education as a fundamental right. Assuring that Wyoming students have the highest-quality teachers and school personnel is essential to guaranteeing the promise of a quality education and must also be paramount.

(c) Is the Funding Model Cost-based?

Plaintiffs assert the Funding Model is not cost-based because the State acknowledges it is not. The State does not expressly argue that the Funding Model is cost-based. Instead, the State contends the funding provided by the Funding Model is consistent with funding under the Consultant's Model, and the Consultant's Model is a reasonable estimate of the costs of the goods and services necessary to provide the required quality education.

There is no dispute that the Funding Model must be cost-based. Wyoming Statute § 21-13-309(t) requires recalibrations to assure the Funding Model is cost-based. Ms. Zimmerscheid agreed the Funding Model must be cost-based and Dr. Seder described the Funding Model as a resource cost model that must be cost-based.

The Court finds and concludes the Funding Model is not cost-based. Dr. Seder explained a resource cost model like the Funding Model will be “cost-based” if “each of the components have a reasonable and accurate cost basis to them.” The evidence established some of the components included in the Funding Model do not have a reasonable and accurate cost-basis to them.

The 2010 recalibration report stated the Funding Model was exceeding an amount that is cost-based. Mr. Willmarth appeared to acknowledge the Funding Model is not cost-based because the legislature has not adopted the Consultant’s Model, which is intended to be cost-based. He called the Funding Model the legislature’s determination of cost. The State’s experts acknowledged the Funding Model is not cost-based. Dr. Koedel and Dr. Seder both testified the Funding Model salaries, as of 2010-11, were above cost. Dr. Seder testified the Funding Model is “cost plus-plus,” which means it is not cost-based. When asked if the Funding Model is cost-based, Dr. Seder’s answer was it is at least cost-based.

Several of the State’s arguments seem to concede that the Funding Model is not cost-based. There is a common theme running through those arguments and defenses: broadly, regardless of whether the Funding Model accurately estimates the cost of its components, the Funding Model total guarantee provides sufficient funding to allow school districts to provide the required education. Examples of those arguments include: the Funding Model funding is producing indicators of abundance; school districts’ general funds and reserve accounts are growing; and school districts overspend on school activities and on enhancements. In one of its arguments, the State expressly asserts that the Funding Model’s funding of personnel health insurance exceeds actual cost. In other words, the State asserts it is okay that the Funding Model is not cost-based because the total guarantees from Funding Model are equal to or greater than the total guarantees

if the Funding Model was cost-based. The problem with those arguments is they do not address the issue before this Court, which is whether the Funding Model is cost-based; specifically, do each of the Funding Model components have a reasonable and accurate cost basis. These arguments are an admission that the Funding Model is not cost-based.

It appears to the Court that the legislature, during or just after the 2010 recalibration, concluded that its recent raises to personnel salaries made those salaries above cost. To address that perception, the legislature has been trying to get those perceived above-cost salaries closer to cost by not applying ECAs, regardless of the existence of inflation. If the personnel salaries used by the Funding Model in 2011 were not based upon the actual cost of purchasing the employee services, then any adoption of or failure to adopt a cumulative ECA only served to exacerbate the problem one direction or the other. As Dr. Taylor testified, if you apply an ECA to an incorrect base cost, the ECA will be flawed, and its flaws will persist and will be compounded. For these reasons, the Court concludes the Funding Model is no longer cost-based.

Dr. Seder's testimony about his simulations of the MAP Model did not prove the Funding Model is cost-based. Wyoming school districts have not been funded pursuant to the MAP Model since 2006. Whether or not the application of inflationary indexes to the defunct MAP Model from 2006 to 2020 makes the MAP Model a cost-based model is not probative of the issue before the Court. His simulations require too many unproved assumptions, including that the components in MAP Model are comparable to and consistent with the Funding Model components, and that teaching and learning has not substantially changed since 2006.

The evidence of the amounts in Plaintiff School Districts' reserve accounts and their spending on student activities and on pre-school did not prove the Funding Model is constitutional. Part of the purpose of maintaining a cost-based funding system is to assure equality of funding and

prevent wealth-based disparities. The existence of reserves and excess student activities spending by some of the larger districts in the State shows the Funding Model is not cost-based and creates wealth-based disparities. Over-funding components to make up for underfunding components does not make the Funding Model cost-based.

School districts should be provided funding for each of the components necessary to provide the required quality education based upon a reasonable and accurate cost basis for each component. School districts should not have to take money from one component to cover the cost of another component because the latter is not cost-based. Based upon the evidence presented, this Court cannot conclude the Funding Model represents “as close as reasonably possible, the cost of education,” which is the primary constitutional issue. *Campbell IV*, ¶ 31, 181 P.3d at 55. Even assuming the Consultant’s Model is cost-based, the State’s method of comparing the total amount of funding using the Consultant’s Model to the Funding Model’s total funding does not mean the each of the components in the Funding Model have a reasonable and accurate cost basis to them.

2. Does the Funding Model Include all Components Necessary to Provide the Required Quality Education?

Plaintiffs contend the Funding Model should include additional components and those components should be funded. Specifically, Plaintiffs assert elementary level mental health counselors, SROs, nutrition programs, and a one-to-one ratio for technology devices are essential for school districts to provide the required quality education. The State asserts its consultant has never recommended inclusion of nutrition programs in the Funding Model, and the federal subsidies and fees charged should make the nutrition programs self-sustaining. The State argues that its consultant has never recommended inclusion of SROs in the Funding Model, and the State has provided significant building security funding to address school security issues. The State believes the off-model mental health funding and student support funding included in the Funding

Model is sufficient to address any need for elementary level mental health counselors. The State did not provide any specific argument about the technology device ratio.

The constitution requires a proper and quality education for all Wyoming children, which is “the *best* that we can do.” *Campbell I*, 907 P.2d at 1279 (emphasis in original). The Supreme Court described some aspects of a quality education as:

1. Small schools, small class size, low student/teacher ratios, textbooks, low student/personal computer ratios.
2. Integrated, substantially uniform substantive curriculum decided by the legislature through the State Superintendent of Public Instruction and the State Board of Education with input from local school boards.
3. Ample, appropriate provision for at-risk students, special problem students, talented students.
4. Setting of meaningful standards for course content and knowledge attainment intended to achieve the legislative goal of equipping all students for entry to the University of Wyoming and Wyoming Community Colleges or which will achieve the other purposes of education.
5. Timely and meaningful assessment of all students’ progress in core curriculum and core skills regardless of whether those students intend to pursue college or vocational training.

Id. (Footnote omitted).

The legislature must “provide an education system of a character which provides Wyoming Students with a uniform opportunity to become equipped for their future roles as citizens, participants in the political system, and competitors both economically and intellectually” and “provide a thorough and uniform education of a quality that is both visionary and unsurpassed,” and that courts should “protect against a failure of the state to fund a system capable of meeting” that standard. *Campbell IV*, ¶¶ 14-15, 181 P.3d 50-51. The Court further explained that the public-school financing system must “assure each child the opportunity to receive a quality education regardless of where that child resides or the location of the school which that child attends” and assure each school “is staffed with competent and sufficient teachers and which contains appropriate and sufficient teaching material and equipment.” *Id.* at ¶ 138, 84 (quoting *Campbell*

I, 907 P.2d at 1278). The Wyoming Supreme Court recognized, “[c]hildren with an impaired readiness to learn do not have the same equal opportunity for a quality education as do those children not impacted by personal or social ills simply because they do not have the same starting point in learning.” *Campbell I*, 907 P.2d at 1278.

Because the Wyoming Constitution is “in a sense, a living thing, designed to meet the needs of progressive society, amid all the detail changes to which society is subject[,]” the Wyoming Constitution’s language must not be narrowly construed, but rather must be broadly construed. *Campbell I*, 907 P.2d at 1257-58. “The definition of a proper education is not static and necessarily will change” because there may be local substantive innovations that should be available to all school districts. *Id.* at 1274. If there are changes to what constitutes a proper education due to local innovation, then “all students are entitled to the benefit of that change.” *Id.* A quality education is dynamic and evolving, and one that is “appropriate for the times.” *Campbell II*, ¶¶ 55, 125, 19 P.3d at 539, 560. The Funding Model should be adjusted to implement major changes in the field of public education. *Campbell IV*, ¶ 18, 181 P.3d at 52.

The State is correct that the legislature has the primary responsibility and discretion to determine the kind of education for Wyoming students. The Court, however, interprets the above statements from the Wyoming Supreme Court to authorize and require this Court to determine whether Plaintiffs have proved elementary counselors, SROs, nutrition programs, and one-to-one technology devices are substantive innovations that should be available to all school districts and students because they are appropriate for the times and necessary to provide a “thorough and uniform education of a quality that is both visionary and unsurpassed.”

(a) Elementary School Mental Health Counselors

The evidence about elementary level mental health counselors is mostly undisputed. The

State's consultant and the Consultant's Model recommended adding elementary level school counselors as a component to the Funding Model during the 2020 recalibration. The 2023 TRRTF recommended the Funding Model include elementary level mental health personnel. A State-sponsored K-12 mental health task force recommended including elementary level mental health counselors to the Funding Model. The TRRTF informed JEC that Wyoming is ranked low for its access to mental health services and ranked high for its suicide rate. Plaintiff School District witnesses Dr. Newton, Mr. Slyman, Superintendent Thomas, Superintendent Chaulk, Superintendent Eisenhauer, Superintendent Hamel, and Superintendent McGovern all testified that each of their districts have experienced a significant increase in the number of students at all levels with emotional and mental health issues and an increase in the severity of the behavioral issues occurring due to students' mental health issues. Dr. Ballard agreed mental health issues affect a student's ability to learn.

Many of the Plaintiff School Districts employ elementary mental health counselors even though they are not funded by the Funding Model. In 2023, the estimated cost to provide the recommended elementary health counselors was \$15.8 million. The State responded with some time-limited grant programs. This included Project AWARE, which was funded by the federal government, and \$10 million grant program to be shared by all school districts based on ADM. No witness for the State testified that its grant programs were sufficient to address the growing mental health and behavioral issues in elementary students. Access to on-site elementary counselors is immediate, but access to Project AWARE counselors may take as long as 30 days.

Based upon the undisputed evidence, this Court can only conclude the Funding Model must include elementary level school mental health counselors as a component. Not providing the elementary mental health counselors results in a failure to provide the constitutionally required

ample and appropriate provision for at-risk and special problem students. The evidence established providing elementary school counselors represents a major change and innovation in public school, which should be available to all Wyoming students.

(b) SROs

SROs provide several services to school districts, including increased safety and security at school buildings, safety and security training to students and staff, managing illegal conduct in schools, and building law enforcement relationships with students. Laramie 1, Campbell 1, Sweetwater 1, Sweetwater 2, and Carbon 1 all employ SROs even though the Funding Model does not include SROs as a component. Lincoln 1 does not employ any SROs.

Adding SROs has been considered at every recalibration since 2005. However, the State’s consultants have not recommended adding SROs to the Funding Model. The 2005 recalibration report reflected that some school districts were using SROs and “there may be a need to add resources for safety and security” to the Funding Model. The 2015 recalibration report included a summary of research on safety and security and student achievement. The report indicated:

Research shows student achievement suffers when students feel unsafe at school; they do not perform as well academically as students who feel safe at school. Research also shows physical evidence of security (metal detectors) are not as effective as a school climate when it comes to improving student achievement. Academic outcomes are improved with better student-adult relationships as evidenced by more adults being visible and talking to students in the hallways.

[Ex. D-1, p. 316] The 2015 recalibration report suggested if SROs were to be funded, that they be funded outside the Funding Model as a categorical grant because developing a funding formula would be difficult. [Id. at p. 319-320] The 2015 report recommended “a slow roll-out of SRO services” and the State wait cautiously on a strategy to cost share for SROs with local law enforcement. [Id. at p. 320-321] The 2020 recalibration report summarized the research on SROs as:

In summary, what is known about the presence of SROs in schools is that there is a slight uptick in the number of crimes reported in a school with SROs, and a greater likelihood that students will be charged with a minor crime and entered into the criminal justice system, slowing their academic progress and performance. This effect, although relatively small, needs to be considered along with the perception and reality of additional security at the school in the face of a major violent incident. The major impact of SROs seems to be a reduction in less violent crimes but a greater reporting of those crimes to law enforcement rather than students being disciplined through their school district's disciplinary process. There is only one study to date on the impact of this shift on student performance, which suggests SROs may have a slight detrimental impact on student performance.

[Ex. D-1, pp. 30-32]

Since the 2020 recalibration, additional national research and studies have been conducted on SROs. Those studies generally showed: SROs tended to view schools as a place where crime is occurring; students interviewed felt safer when SROs were present at school and were more willing to report threats to SROs; the presence of SROs correlated with reduced amount crime; the presence of SRO's correlated with an increase in the number of identified drug-related and gun-related offenses; and the presence of SRO's was correlated with the reporting of more incidences, especially with Black and Hispanic students. The research shows that there are certain predictors for school violence, including access to weapons, rural nature of a school, poverty, mental health, and security measures at a school. Other studies showed the presence of SROs increases students feeling of safety and security while at school. SROs may also lead to an increase in exclusionary discipline – suspensions and expulsions. Studies have shown a correlation between the presence of SROs and reduced incidents of some violence.

Superintendent Chaulk testified SROs are an essential component of providing an education due to student demographics and behavior. Superintendent Thomas, Superintendent Hamel, and Superintendent McGovern all said SROs are a necessary part for providing their school districts' educational program. In 2015, a school safety and advisory committee created by the

Governor recommended developing an SRO program for all 48 Wyoming school districts. The advisory committee noted that all Wyoming school districts “almost unanimous[ly]” desire to have SROs in their schools. The State’s only witness regarding the need for SROs was Dr. Seder, who opined his review of the research literature reflected it is not necessary to include SROs as part of the Funding Model.

Although the national research on the effects of SROs is mixed, the Court concludes Plaintiffs proved SROs should be included as a component of the education provided to Wyoming students. The evidence established the presence of SROs at school facilities benefit student learning by providing increased feelings of safety and security. Wyoming is a rural state which is an indicator for school violence. The professional educators and school administrators unanimously agree SROs are an essential ingredient for a quality education. Almost all Wyoming school districts want SROs in their schools. The 2015 Governor’s task force recommended including SROs for every school district. On the question of the necessity of SROs, the Court gave more weight to the opinions of the education professionals than it did to Dr. Seder. Dr. Seder’s opinion was based only on a review of nationwide SRO research. There may be some school districts in other states that have moved away from SROs, but that evidence did not necessarily correlate to Wyoming. Dr. Seder is not a professional K-12 educator, nor does he have any experience in any Wyoming public school facility.

As the result of local innovation, SROs have been shown to be needed for a proper education. Therefore, all Wyoming public school students are entitled to the benefit of SROs. SROs have been established as appropriate for the times and should be implemented for all school districts.

(c) Nutrition Services

The parties agree with the general premise that a hungry student is less ready and able to learn and to educationally succeed. Ms. Bankes, the WDE's nutrition supervisor, agreed that students learn better when they are nourished. Superintendent Thomas testified students who are hungry do not learn well and his school district's nutritional program is vital to learning. Superintendent Chaulk said having a full belly helps a student learn and a hungry child does not learn as well. She also explained that lunch and breakfast periods provide an opportunity for students to socialize and interact and work on peer conflict resolution. Mr. Mullen's research revealed that studies have concluded proper nutrition is essential for students to learn and succeed. Superintendent McGovern stressed that Sweetwater 1 must have a nutrition program to allow students to learn effectively. Superintendent Hamel testified it is very difficult for a student to concentrate on learning if their basic needs – shelter, safety, and food – are not met.

In other words, all agree that students must have sufficient nourishment for a successful education. Therefore, the Court must conclude that providing meals to students while at school is an essential part of successful teaching and learning. Nutrition programs are necessary for a proper quality education, must be implemented, and are a required component of the educational basket of goods and services.

Where the Plaintiffs and the State disagree is whether nutritional programs should be a component of the Funding Model. The State's position is that the nutrition programs should be self-sustaining because all school districts are allowed to participate in the federally subsidized nutrition programs and school districts are permitted to charge enough to cover the cost of feeding students. Plaintiffs assert that the State provides no funding for nutritional programs, not even its federal matching requirement. Plaintiffs contend school districts would have to charge

significantly more of its students who do not qualify for free or reduced lunches to make the programs self-sustaining.

The evidence established that the federal school nutrition programs do not provide sufficient funding to assure that all Wyoming public school students are fed and ready to learn and succeed educationally. Superintendent Thomas said Uinta 1 transfers an average of \$300,000 a year from its general fund to cover the cost of its nutrition program, and that the federal subsidies are not nearly enough to cover the cost of the program. Mr. Cicarelli testified Laramie 1 pays approximately \$1.3 million each year to cover the costs of the nutritional program because the federal funding is insufficient to cover the costs of the program. Mr. Cicarelli believed if Laramie 1 increased the price it charges students for nutritional services to cover the actual cost of the nutritional program, then the participation in the school lunch program would significantly decrease. Superintendent McGovern stated the federal programs do not provide enough funding to sustain Sweetwater 1's nutritional program. She said Sweetwater 1 tried to make the program self-sustaining, but it could not. No witness testified that the federal nutrition programs provide enough funding to sustain Wyoming school districts' nutritional programs, even if the school districts charged the USDA's recommended amount of \$4.15 per meal. At best, Ms. Bankes testified the nutrition programs are "intended" to be self-sustaining.

All Wyoming school districts offer some level of meals to their students. Most school districts transfer significant funds from their general fund to cover shortfalls in their nutrition program funds. Those school district transfers are used to satisfy the State's matching requirement of \$436,000.00. There is no dispute that the Funding Model does not include funding for nutrition programs and the State does not provide any off-model funding to school districts for nutrition programs. In other words, the State passes on its matching requirement to school districts, but the

State does not provide any funding to the school districts.

Wyoming school districts should be fully funded for all components necessary to provide every Wyoming public school student with a quality education. Proper nutrition is, indisputably, a necessary component to providing a quality education. The State provides virtually no funding for school nutrition programs, except for Ms. Bankes's salary and benefits. School districts should not be required to use its general fund money intended to be used for other Funding Model educational purposes to cover feeding its students. The evidence demonstrated a school funding model which does not include a nutrition component and funding for school nutrition is unconstitutional because nutrition is an essential component of a quality education.

(d) Technology Devices

Some of Plaintiff School Districts were able to provide computers to every student from federal Covid funding provided due to the pandemic. All federal Covid funding ended on September 30, 2024. Several of Plaintiffs' witnesses opined that the Funding Model should include more funding for technology devices. Superintendent Thomas said it was important for every student to have a computer. Mr. Eisenhower testified the current Funding Model ratio of one (1) computer per three (3) students was not sufficient. Superintendent Hamel stated the Funding Model does not provide enough money for technology devices and that Carbon 1 must use its depreciation account to cover shortfalls. Superintendent McGovern insisted the Funding Model's standard of 1 to 3 for student computer devices is inadequate and unrealistic.

None of the State's witnesses expressly addressed the question of the sufficiency of funding for student technology devices. The 2020 recalibration report discussed technology and equipment. [Ex. E-1, pp. 169-182] That report provided an estimated cost of \$350 per ADM to fund a "one-to-one student-to-computer ratio" and indicated this was a "policy decision by the state." [Ex. E-

1, p. 170] The report also described the importance of students being technologically proficient and noted how technology had “changed the face of how students are educated.” [Id.] It further noted that “[r]esearch shows technology engages students and can be effective in schools with high concentrations of lower income and minority students” and “[t]he advent of the COVID-19 pandemic has further emphasized the critical importance technology plays in the education of students.” [Id. (citations to studies omitted)]

The Court concludes the Plaintiffs proved the Funding Model should include funding for one-to-one computer to student ratio. All the evidence presented supported a finding that a one-to-one computer to student ratio is a substantive innovation which should be available to all school districts and students because it is appropriate for the times and necessary to provide a “thorough and uniform education of a quality that is both visionary and unsurpassed.”

3. Funding of School Facilities

Plaintiffs argue the State is not constitutionally funding school facilities because the State does not properly assess facilities for educational suitability and the school facility funding system has failed to timely remedy many inadequate school facilities. The State asserts it is assessing school facilities for educational suitability, primarily using the Chapter 3 Section 8 Process. It further argues the 2023 BV FCA proves the school facilities financing system is constitutional.

A school financing system which allows deficient school facilities to exist deprives students of an equal educational opportunity and violates the Wyoming Constitution. *Campbell I*, 907 P.2d at 1275. “[T]he state bears the burden of funding and providing constitutionally adequate facilities to school districts that provide an equal opportunity for a quality education.” *Campbell II*, ¶ 123, 19 P.3d at 559. The State must provide “safe and efficient” physical school facilities to carry on the process of education and “state funds must be readily available for those needs.” *Id.*

at ¶ 120, 557. “The constitutional goal is to ensure adequate capital construction funding from state wealth.” *Campbell III*, ¶ 8, 32 P.3d at 328. The methodology used by MGT to assess capital facilities includes assessments of technological readiness, educational suitability, and safety and building code systems condition. It is required to provide the required education by assuring safe and efficient school facilities. *Campbell II*, ¶¶ 133-137, 19 P.3d at 562-565. To be safe and efficient, all school facilities should attain an acceptable score for building condition, educational suitability, technological readiness, and building accessibility. *Id.* at ¶ 137, 565. Buildings used to educate children should take priority in capital construction. *Campbell III*, ¶ 22, 32 P.3d at 330. School buildings in immediate need must be remedied as quickly as possible and inadequate facilities should be remedied within four years. *Id.* at ¶¶ 17-18, 329.

The State has complied with the mandates of the constitution regarding capital construction when:

1. The legislature has funded the facilities deemed required by the state for the delivery of the required educational programs to Wyoming students in all locations throughout the state.
2. The legislature has enacted a comprehensive plan, separate from operations, to provide adequate funding for adequate facilities from state wealth;
3. The legislature measures an adequate facility as one requiring only routine maintenance, although it may utilize different methodologies to measure adequacy.

Campbell IV, at ¶ 103, 181 P.3d 73.

(a) Assessment of Educational Suitability

Although the Wyoming Supreme Court has never expressly held that the State must assess existing school facilities for educational suitability, it expressly approved MGT’s 1998 facilities assessment, which included educational suitability. The Court also ordered the State to make all school facilities safe and efficient, which required a particular score for educational

suitability. *Campbell II*, ¶¶ 133-137, 19 P.3d at 562-565. Dr. Seder agreed the State must have a method to understand suitability. [Vol. XIV at 3587] Therefore, this Court concludes the Wyoming Constitution requires the State to assess all school facilities for educational suitability.

The evidence established the State does not assess existing school facilities for educational suitability in the same manner it assesses existing school facilities for condition and capacity. The legislature repealed the statutory suitability assessment requirement in 2021. The State agrees, independent of the Chapter 3, Section 8 Process, it does not directly assess existing school facilities for educational suitability. Instead, the State relies primarily on the Chapter 3, Section 8 Process to assess an existing school facility's educational suitability. The Chapter 3, Section 8 Process is defined as follows:

Section 8. Adequacy of Educational Space for Required Programs. Educational buildings shall provide adequate educational space. Educational space shall be deemed adequate if a district is able to provide the educational programs required by Wyoming Statute § 21-1-101. If a district board of trustees makes a finding that the district is unable to provide the required programs because its educational space is inadequate, the district superintendent shall immediately notify the Department in writing and provide a detailed report explaining how the current space is not adequate for the delivery of the required educational programming. The report shall include elements necessary to evaluate the impact that the identified deficiency poses to the provision of the required educational program, including but not limited to objective and measurable impacts on students and expected actions necessary to mitigate that impact such as aggregate student performance data, specific known deficits with respect to the Commission's Uniform Adequacy Standards, any known national standards relevant to the claimed deficiency, and any known comparables with school buildings and facilities located elsewhere in the district or State. In the event the Department receives such a report, it shall make recommendations to the Commission evaluating the deficiency and suggesting remedies to alleviate the situation. The Department may satisfy its obligation under this section by utilizing the Facility Condition Assessment of existing school buildings and facilities and the most recent school capacity information available to the Department in developing its recommendation to the Commission. Based upon the district's report and the Department's recommendations, the Commission shall determine whether a remedy is necessary. If the Commission determines a remedy is necessary, it shall direct the Department to perform a most cost-effective remedy study in accordance with Chapter 8 § 5(b)(iii) of these Rules.

(a) Instructional spaces shall be sufficient for the required educational programs. Temporary educational space shall not be considered in evaluating Subsections (b) through (e) of this Section.

* * * *

Subsections (b) through (e) define very generally the elements required to be included in elementary, middle schools, and all school buildings. For example, elementary schools must have art, music, and science classrooms “adequate to deliver the required educational program.”

The Chapter 3, Section 8 process requires: (1) a school district board to assess its facilities to determine whether an existing school facility is educationally adequate; (2) a school district board to make a finding that an existing school district facility is inadequate; (3) a school district board to direct the school district superintendent to notify the SCD and prepare a detailed report explaining the reasons why the existing facility is not adequate; (4) the school district superintendent to provide the detailed report to the SCD; (5) the SCD to evaluate the school district’s report and then make recommendations to the SFC; and (6) the SFC to determine if, based upon the school district’s report and the SCD’s recommendation, a remedy is necessary and if a remedy is necessary, direct the SCD to perform a MCER. The Chapter 3, Section 8 process does not list any criteria or standard that a school district must satisfy to be entitled to a remedy. Director McOmie agreed the Adequacy Standards do not set any sort of specific criteria, standard, or score which a school district must satisfy to get a remedy in the Chapter 3, Section 8 Process.

The State also contends educational suitability may be addressed through the MCER process, facility planning process, component funding, major maintenance funding, and the design process. The Court disagrees that those funding mechanisms address educational suitability for existing school facilities. The planning process, design process, and MCER process all occur post-assessment – after a school facility has been deemed to be insufficient due to condition, capacity,

and/or pursuant to the Chapter 3, Section 8 Process. Dr. Seder was unaware of any scenario where educational suitability had been considered in component funding.

This Court concludes the Chapter 3, Section 8 Process is not constitutionally assessing existing school facilities to assure all existing school facilities are safe and efficient. The Chapter 3, Section 8 Process is deficient on many levels. First, according to the process, the State is not actually performing the educational suitability assessment. The school district's board must do the initial assessment and pay for the assessment. This is different than the assessments for condition and capacity, where the State performs or hires a consultant to perform the assessment, and the State pays for the assessment. Second, there is no criteria, standard, or score, which a school district must satisfy or attain to qualify for a remedy and a MCER, which is unlike State assessments for condition and capacity. When there are no set objective criteria or score, the process creates a significant potential for arbitrary, unequal, and disparate results. “[D]isparate treatment of schools based upon arbitrary standards cannot be justified.” *Campbell II*, ¶ 100, 19 P.3d at 553.

The evidence presented regarding the recent SFC approvals of remedies and MCERs for CCHS and RSHS using the Chapter 3, Section 8 Process did not include any detailed explanation as to the grounds for the SFC's approvals. Essentially, the SFC has unfettered discretion to determine whether school district's claim under the process is approved for a remedy.²³ Finally, because there are no clear standards for approval, this Court cannot determine whether the SFC's decision is based on the facility being educationally unsuitable or on some other unknown reason.²⁴

The State's failure to assess every school facility for educational suitability is not consistent

²³ The problems with failing to have defined standards are recognized in the general rule that, to be constitutional, explicit and reasonably precise legislative standards are required when the legislature delegates legislative authority to an administrative agency. *Wyoming Coalition v. Wyoming Game & Fish Com'n*, 875 P.2d 729, 732-733 (Wyo. 1994).

²⁴ The State asserts the Adequacy Standards are the criteria used to determine whether to approve a claim pursuant to the Chapter 3, Section 8 Process. The plain and unambiguous language of Chapter 3, Section 8, however, does not expressly or impliedly establish any criteria upon which the SFC may grant or deny a remedy.

with the mandates of the *Campbell* decisions. That failure has allowed many Wyoming public-school students to be educated in educationally unsuitable schools for many years. For example, students attending CCHS, RSHS, and Arp Elementary have been educated in inadequate school facilities for at least ten years. The State presented no evidence to suggest that those facilities were educationally suitable. The *Campbell* decisions do not authorize the State to fail to assess educational suitability because educational suitability is difficult to assess. The State previously successfully completed a suitability assessment and several Plaintiff School Districts hired consultants who successfully completed educational suitability assessments. The State must assess school facilities for educational suitability.

(b) Adequacy of Capital Facilities Funding

In *Campbell IV*, the Wyoming Supreme Court agreed that the State had not complied with the *Campbell II* mandate to fix facilities in immediate need, but it held that the State had acted in good faith in trying to meet the mandate. The Court generally held that the statutory and regulatory schemes enacted since *Campbell II* created a constitutional system and any delays in meeting the mandate were due to administrative and logistical challenges. At the same time, the Court emphasized that it “regret[ted] that so many children have passed through facilities requiring major repairs or replacements.” *Campbell IV*, ¶¶ 101-102, 181 P.3d at 72-73.

Although the evidence established the State has appropriated a significant amount of funding to repair and replace hundreds of school facilities across the State, this Court cannot find that the State has acted in good faith to assure school facilities have sufficient funding to provide adequate school facilities, which require only routine maintenance, to all school districts in the state. Even Director McOmie agreed that he informed the legislature that school facility needs continue to outpace available resources. Director McOmie also acknowledged he believes the State

underfunds major maintenance.

The State failed to comply with its own rules regarding school facilities. In 2009, immediately after *Campbell IV*, the SFC adopted rules for prioritizing school facility projects, requiring the SFC to take into consideration the condition, capacity, and educational suitability of every facility. The rules, which were in effect until 2018, required the SFC to develop a prioritized needs index “at least biennially.” The State did not develop a new needs index every two years as required by its own rules. The State did not complete an FCA from 2017 to 2023, a period of six years. As previously established, the State has not directly assessed school facilities for educational suitability since *Campbell IV*, a period of fifteen years.

The Plaintiffs proved many school facilities are in need of more than just routine maintenance. Laramie 1’s Arp, Bain, Hobbs, Lebhart, and Fairview elementary schools are deficient and inadequate. In 2016, Fairview Elementary School ranked 8th on the FCI, Arp Elementary School ranked 34th on the FCI, Bain Elementary School ranked 9th on the FCI, and Lebhart Elementary School ranked 13th on the FCI. Laramie 1’s Hobbs Elementary School was determined to be in poor condition in 2016, and as of 2023, it had not received a remedy and remained in poor condition. For years, CCHS and RSHS also have been school facilities requiring more than routine maintenance. In 2016, CCHS was 13th on the FCI. In 2016, RSHS was 60th on the FCI.

CCHS, RSHS, and Arp Elementary are examples of school facilities not capable of delivering the required educational program to students attending those schools. The evidence established CCHS is over 50 years old and suffers from poorly planned additions with too many exterior doors, poorly designed classrooms, an inefficient heating and ventilation system, a very poor drainage system that causes interior sewer backups and limited natural lighting. RSHS is also

over 50 years old and includes too many additions, utility service issues, backups in the sewer lines, hazardous glycol leaks, poor lighting, and many OSHA violations. RSHS's cafeteria's capacity is 220, yet the school has 1400 students. Arp has been over capacity for many years. Modular buildings without sewer and water were used to deal with the excess capacity. Students and teachers were using vestibules, janitor's closets, and the stage. For the past two years, Laramie 1 has had to bus Arp students across town.

The State hired a new FCA consultant, BV. BV's methods differed from FEA's, so BV's 2023 FCA resulted in some wildly different FCI scores for numerous school facilities. In 2016, Laramie 1's Fairview Elementary School ranked 8th on the FCI. In 2023, Fairview ranked 265th on the FCI. In 2016, Laramie 1's Arp Elementary School ranked 34th on the FCI. In 2023, Arp ranked 280th on the FCI. In 2016, Laramie 1's Bain Elementary School ranked 9th on the FCI. In 2023, Bain ranked 281st on the FCI. In 2016, Laramie 1's Lebhart Elementary School ranked 13th on the FCI. In 2023, Lebhart ranked 345th on the FCI.

BV's recent comprehensive FCA on all school buildings is a step in the right direction by the State, but it does not prove the legislature has enacted a comprehensive plan to provide adequate funding for adequate facilities requiring only routine maintenance. It is also an acknowledgment that the State must have a comprehensive system for maintaining, repairing, and replacing inadequate school facilities. This Court, however, cannot conclude, as the Supreme Court did in *Campbell IV*, that current delays in addressing school facilities with immediate needs is due only to administrative and logistical challenges. There have been years when the legislature appropriated no funding or very little funding for capital facilities even though inadequate school facilities existed. The State has not biannually assessed school facilities for condition and educational suitability. There are schools which have been inadequate for at least ten years. These

schools are now finally being addressed, but it will be at least another six years until they are replaced. It is unacceptable for generations of students to pass through inadequate schools. “[D]eficient school facilities deprive students of an equal educational opportunity and any financing system that allows such deficient facilities to exist is unconstitutional.” *Campbell II*, ¶ 120, 19 P.3d at 557. Regardless of the recent actions taken by the State to address RSHS, CCHS, and several Laramie 1 elementary schools, the evidence demonstrated the State has allowed those inadequate school to be used to educate Wyoming students for far too long.

4. Harm to Fundamental Right to Education

The strict scrutiny test applies to legislative action which affects a child’s fundamental right to a proper education. *Campbell I*, 907 P.2d at 1267. “[W]hen a fundamental interest is affected or if a classification is inherently suspect, then the classification must be subjected to strict scrutiny to determine if it is necessary to achieve a compelling state interest” and “the state [must] establish that there is no less onerous alternative by which its objective may be achieved.” *Washakie*, 606 P.2d at 333.

Plaintiffs proved by a preponderance of the evidence that the State’s actions and inactions of failing to properly adjust for inflation, failing to assure school district personnel salaries are funded based upon cost, failing to maintain a cost-based funding model, failing to include and fund all essential components of a quality education, and failing to maintain and fully fund a system for assuring all school facilities are educationally suitable and adequate have each caused harm to the fundamental right to education. The State’s failures have affected Wyoming children’s right to a proper education. The failures regarding inflation, personnel salaries, and maintaining a cost-based funding model have caused too many students being taught by unqualified teachers. As Dr. Kniss and Superintendent Thomas explained, research shows that teacher quality is the single most

indicative factor in student achievement, is the number one most important factor for children, and has the largest impact on student learning and educational achievement. Dr. Stoddard agreed the quality of a teacher is very important.

The Plaintiffs' professional and very experienced public school education experts uniformly opined that the State's failures are causing significant harm to the fundamental right of education. Dr. Newton testified Laramie 1 is unable to deliver the quality educational program to every student because not every student is receiving a high-quality education, and not every student is being taught by a high-quality teacher. He said Laramie 1 can correlate poor student performance on test scores with a class taught by a teacher who was let go due to poor performance. He gave an example of individual classrooms in some of Laramie 1's older schools where none of the students are proficient at their grade level. Dr. Kniss testified Wyoming's public school system is not providing ample opportunity to at-risk students who are not in special education and is not providing ample opportunity to advanced and high-achieving students. She said not all of Albany 1's students are provided the educational basket of goods. Superintendent Hamel testified Carbon 1 is not always putting the best teacher in front of all students because of the increased use of EAs, and the increased use of EAs and long-term substitutes will have a significant cumulative impact on student performance. He explained that Carbon 1 used an EA in a position for four years and those students' achievement in the first three years was significantly different than in other classrooms. Mr. Slyman testified Albany 1 does a decent job at educating special education students and students on the college tract, but students not in special education or on the college tract are not being successfully educated, which he attributed to funding levels. Superintendent McGovern testified Sweetwater 1 was only able to provide a minimal level of education, which is reflected in declining ACT scores, poor reading scores, poor math scores in the district, and a 79

percent graduation rate. Superintendent McGovern testified, “[w]e have an opportunity to educate kids, and we’re blowing it,” and that Sweetwater 1’s students’ education is suffering due to the cuts to school funding.

While the State is correct that the Plaintiffs did not present significant quantitative data on the harm to the fundamental right to education, the State did not present any expert testimony to counter Dr. Newton’s, Dr. Kniss’s, Superintendent Hamel’s, Superintendent McGovern’s, and Mr. Slyman’s strong opinions of harm to the fundamental right to education. Dr. Taylor, Dr. Stoddard, Dr. Koedel, and Dr. Seder have little to no experience and no expertise educating K-12 public school students, in public school curriculum, evaluating teacher quality, or public-school administration. It was surprising to the Court that the State did not present any testimony from a witness employed by or previously employed by any of the other forty school districts about the quality of Wyoming’s public-school education.

The Court was not persuaded by the State’s evidence, which the State contends demonstrates the fundamental right to education has not been harmed. The Plaintiff School Districts’ signing and submission the Annual Assurances Form is not an acknowledgement or proof that the school districts are able to provide the constitutionally required quality education to all students. Dr. Kniss explained the Annual Assurances best when she testified the purpose of the Annual Assurances Form is for a school district to assure it is complying with programming and structural requirements. She said it is not a measure of outcome or an accounting that the outcome has been achieved, but rather is just a promise that the school district spent its funding to accomplish the requirements. She explained the school district is not assuring that its students have achieved a particular standard, but rather is only assuring it programs comply with the standards. The State’s witness, Ms. Oakes, acknowledged the Annual Assurance Forms are not evidence of

the quality of the education being provided or the quality of the teachers. A school district's completion and submission of the Annual Assurances Form assures accreditation and indicates a school district is providing the minimal level of required educational components, but it does not establish school districts are able to provide all their students with a quality education.

The Plaintiff School Districts' annual WDE 662 teacher assessment ratings also did not convince the Court that there are enough high-quality teachers to provide the required education to all students. Dr. Koedel admitted that research shows these teacher ratings are not very informative and acknowledged the WDE assessments do not include Initial Contract Teachers. The WDE assessments have only two choices, effective or ineffective, and are not comprehensive teacher evaluations. Ms. Thompson explained that effective and ineffective are based on whether a Continuing Contract Teacher is retained or not retained.

Evidence showing no significant decrease and some minimal increases in statewide average graduation rates, statewide average NAEP scores, statewide average ACT scores, and increases in students qualifying for the Hathaway scholarship program did not prove a lack of educational harm. Statewide averages simply show overall student performance and do not disprove the Plaintiffs' significant credible testimonial evidence that the State's failures are harming students' rights to a quality education. According to Dr. Kniss, statewide average scores on statewide assessment tests like the ACT and NAEP do not necessarily mean that Wyoming is fulfilling its obligation to move all students forward in their educational success, and that statewide assessments are geared toward college readiness and do not measure career readiness. She further noted that NAEP scores are of limited utility because they are just one measure of student achievement in specific and narrow content areas, and they do not represent the full set of content taught to Wyoming students. NAEP testing is only given to some fourth and eighth grade students

in just reading and math every four years. Several of Mr. Meyer’s charts and graphs showed decreases in statewide performance standards, including a decline in ACT scores from 2011-12 to 2021-22, and a decline in graduation rates since 2020-2021. Lincoln 1’s graduation rate last year was 91 percent, which is less than a typical rate of 98 percent.

5. Equal Protection

“[D]isparate treatment of schools based upon arbitrary standards cannot be justified.” *Campbell II*, ¶ 100, 19 P.3d at 553. Any types and causes of disparities in public school financing are subject to strict scrutiny. *Campbell I*, 907 P.2d at 1266-67. “The state financed basket of quality educational goods and services available to all school-age youth must be nearly identical from district to district.” *Id.* at 1279. Equality of education requires a rough measure of equal facilities over time and any capital facilities financing system “must be capable of providing equal facilities to all Wyoming school children over the long term.” *Campbell II*, ¶ 128, 19 P.3d at 561. “[E]xact or absolute equality is not required,’ and differences may exist in funding between school districts if those differences result from differences in the cost of providing education.” *Campbell IV*, ¶ 11, 181 P.3d at 49 (quoting *Washakie*, 606 P.2d at 336).

Superintendent Chaulk opined that there is inequity between large school districts and Lincoln 1 at the secondary level – 7th through 12th grade. Just like a large district, Lincoln 1 must offer the entire “basket of goods” required by WDE, which means they have to offer a calculus class even though there may only be five students compared to 20-25 students at a larger district. Students at Lincoln 1 may not be able to schedule all their courses because of limited offerings for higher and lower-level courses. Smaller district also cannot offer as many electives – courses outside the required basket of goods – as large districts. It is difficult to offer the higher-level courses needed for a student to qualify for the Hathaway college scholarship program.

Principal Bourgeois testified that CCHS's many facility inadequacies cause interruptions in the education of Campbell 1 students, which did not exist at Buffalo High School. He said CCHS students do not have the same educational experience and opportunity as students at Thunder Basin High School, which is also in Gillette. Mr. Bartlett opined that CCHS is not educationally suitable because, when compared to other high schools, its security, natural light access, climate control, classroom design, and sewer system are all below standard.

Because the Funding Model does not include funding for mental health counselors in elementary schools and for SROs, some schools have elementary mental health counselors and SROs, and many do not. Superintendent Chaulk explained that Lincoln 1 cannot afford SROs within its budget.

The State's only evidence purporting to show that the Funding Model is not causing disparities in the education being provided to Wyoming students was Dr. Seder's testimony. He stated, without any support, there will be differences in how school districts deliver the basket of goods, but those differences should not be seen as disparities. He attributed the "differences" to the significant discretion given to school districts in how to spend its Funding Model money. Dr. Seder has not been inside a Wyoming public school for over ten years. Dr. Seder has never taught K-12 students and never worked as a public-school administrator. Therefore, this Court gave his opinion on the existence of disparities very little weight.

The Court finds the Plaintiffs proved the existence of disparities arising from the Funding Model and the State's school facilities system. Those demonstrated disparities are not because school districts have too much discretion. The State did not prove the disparities were caused by differences in costs of providing an education from district to district.

6. Compelling State Interests

The State neither proved there is a compelling state interest, nor that its actions and inactions are necessary to achieve that compelling state interest. Although the State mentioned “efficiency” as a compelling state interest in its closing argument, the State’s proposed findings of fact and conclusions of law do not assert that there is a compelling governmental interest which is supported by its actions and inactions. The State provided no argument or evidence that its actions and inaction are the least onerous to achieve the goal of efficiency. Therefore, the Court finds and concludes the State’s Funding Model is unconstitutional and the State’s system for funding school facilities is unconstitutional.

VI. CONCLUSION

The Funding Model is unconstitutional. The Funding Model is no longer cost-based. The Funding Model does not properly account for inflation and does not accurately estimate the cost of personnel needed to deliver the basket of goods. The Funding Model salaries are not a reasonably accurate estimate of the cost of school districts’ personnel. The Funding Model is not providing the constitutionally required high quality education because it does not include or fund the components of elementary level mental health counselors, SROs, nutrition programs, and computers for every student. The State’s system for funding school facilities is also unconstitutional because it does not properly assess the educational suitability of schools and it has allowed deficient and inadequate school facilities to be used to educate students for too long.

The Court has not reached its conclusions lightly and has carefully tried to apply the holdings and standards set by the Wyoming Supreme Court in its previous school finance decisions to the proven facts in this case. There are several overarching principles adopted by the Wyoming Supreme Court which guided this Court throughout its analysis, which are as follows. The

legislature’s paramount priority is to support “an opportunity for a complete, proper, quality education” and any competing priorities that are not of constitutional magnitude are secondary. *Campbell II*, ¶ 51, 19 P.3d at 538. The lack of financial resources is not an acceptable reason to fail to provide the best educational system; *Id.* at ¶ 138, 566 (quoting *Campbell I*, 907 P.2d at 1279). “[T]eacher quality and local innovation” are critical to providing a constitutional education and “[i]t is unacceptable for essential teaching positions to remain unfilled or to be consistently filled by unqualified applicants;” *Id.* at ¶¶ 51 and 91, 538 and 550. The school financing system cannot be constitutional if the estimate of teacher costs does not reflect the actual cost of the teachers necessary to deliver the basket of goods. *Id.* at ¶ 57, 540. The constitution requires a proper and quality education for all Wyoming children, which is “the *best* that we can do.” *Campbell I*, 907 at 1279. The legislature must “provide a thorough and uniform education of a quality that is both visionary and unsurpassed.” *Campbell IV*, ¶ 14, 181 P.3d at 50. A quality education is dynamic and evolving, and one that is “appropriate for the times.” *Campbell II*, ¶¶ 55, 125, 19 P.3d at 539, 560. Finally, a school financing system which allows deficient school facilities to exist deprives students of an equal educational opportunity and violates the Wyoming’s Constitution. *Campbell I*, 907 P.2d at 1275.

THEREFORE:

The Court declares State has failed to maintain a constitutionally compliant school finance system by not properly funding the actual costs of school districts to provide the basket of quality educational goods and services;

The Court declares that the State has failed to maintain a constitutionally compliant school finance system by not properly adjusting for the effects of inflation;

The Court declares that the State has failed to maintain a constitutionally compliant school

finance system by not providing for salaries adequate for the school districts to recruit and retain personnel to deliver the basket of quality educational goods and services;

The Court declares that the State has failed to maintain a constitutionally compliant school finance system by not including funding for elementary level mental health counselors, SROs, nutritional programs, and computers for every student;

The Court declares that the State has failed to maintain a constitutionally compliant school facilities finance system by not adequately and evenly assessing school facilities for educational suitability; and

The Court declares that the State has failed to maintain a constitutionally compliant school facilities finance system by allowing unequal and inadequate school facilities to exist for too long of a period.

VII. ORDER

IT IS THEREFORE ORDERED that the State shall modify the Funding Model and the school facilities financing system in manners consistent with this Order to assure the school financing system for operations and for school facilities are constitutional. The Court notes, because 2025 is a recalibration year, there is an excellent window of opportunity to address these issues.

IT IS FURTHER ORDERED that this Court shall maintain jurisdiction over this case until such time as the constitutional violations have been fully remedied.

Dated this 26th day of February 2025.

/s/ Peter H. Froelicher
Peter H. Froelicher
District Court Judge
First Judicial District Court

Please provide copies to:

Patrick Hacker
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O'Kelley Pearson
George Lemich
Kari Moneyhun

I hereby certify that I distributed a true and correct copy of the foregoing this _____ day of _____ 2025, as indicated. [M-mail; B-box in Clerk's Office, H-hand delivery; F-facsimile transmission.]