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I have seen the future and it looks like the past, only longer. (attributed to Dan Quisenberry)

New Jersey School Finance, 1997

Robert K. Goertz

Note: The analysis and conclusions contained in this article do not necessarily represent the views of the State of New Jersey or the New Jersey Commission on Higher Education.

New Jersey School Finance, 1997

In 1996 New Jersey overhauled its funding formula for elementary and secondary education for the second time in six years. And in 1997, for the third time in six years, the state supreme court declared the state's school finance law unconstitutional as applied to urban districts. However, the current law still applies to the vast majority of districts, and because of the methods and assumptions used to develop the two most recent laws, a comparison is fruitful.

The first significant change to New Jersey school finance occurred in 1990, with the enactment of the Quality Education Act (QEA). This law shifted the basis for distributing aid from a guaranteed tax base to a foundation formula, thus moving from a primary concern for taxpayer equity to a concern for student equity. The bill was introduced in anticipation of a New Jersey supreme court decision on a challenge to the constitutionality of then existing statute, the Public School Education Act of 1975 (better known by its pamphlet law number, Chapter 212). The QEA was enacted with some changes shortly after the supreme court declared Chapter 212 unconstitutional as applied to plaintiff urban districts for failure "to provide for the maintenance and support of a thorough and efficient system of free public schools for all children in the state between the ages of five and eighteen years" (*Abbott v. Burke*, 119 N.J. 287, known as *Abbott II*).¹

In July 1994, the supreme court declared the QEA (as amended in 1991) unconstitutional (*Abbott III*, 136 N.J. 444) and ordered the legislature to adopt a new funding formula by September 1996 (later extended to December 31, 1996). The new formula was required to assure parity between spending for regular education in the urban districts and in their wealthy suburban counterparts and to address the additional needs of students in urban districts. The court, it should be noted, has consistently held that spending parity is but a surrogate for parity in the regular educational programs available to students; discrepancies between programs available in urban districts and those in wealthy suburban ones were well documented in the court's *Abbott II* decision.

On December 20, 1996, the Comprehensive Educational Improvement and Financing Act (CEIFA) of 1996 was approved by Governor Christine Todd Whitman, meeting the deadline established by the state supreme court. Like its predecessor the QEA, the CEIFA provides aid in three broad categories: equalized foundation aid; flat grant categorical aid; and

aid for other related programs. A fourth category of aid, that for facilities, awaits further definition.

Before turning to the discussion of the separate categories of aid, several descriptive facts about New Jersey's school system will help set the context. First, New Jersey is consistently one of the highest spending states in the nation: \$10,425 dollars per pupil in 1995-96 (Budget, 1997), but it also consistently ranks among the top three in personal income per capita. The average teacher's salary is also among the highest in the nation, at \$46,801 in 1994-95 (NCES, 1995), but these data should be adjusted for the fact that the cost of living in New Jersey is also high, 13 percent above the national average according to one estimate (Halstead, 1994). The public schools educate approximately 1.25 million students; 23 percent of them in the 28 urban districts affected by the supreme court decision. State support consistently hovers around 40 percent, federal aid around 2 percent, with the remainder coming primarily from local property taxes. Total formula aid budgeted for 1997-98 is \$4.932 billion, including facilities aid (Budget, 1997).

Foundation Aid and Required Local Share²

Developing the Foundation Amount

Unlike its predecessor, the CEIFA purports to directly link educational inputs with a set of educational outcomes, specifically students' meeting 56 core curriculum content standards in seven academic areas and five cross-content workplace readiness standards³ adopted by the state board of education. According to the CEIFA, these standards define a thorough education, perhaps for the first time, thus meeting half of the constitutional mandate. The foundation amount established in the law is intended to enable districts to deliver the standards efficiently, thus meeting the other half of the constitutional mandate. To determine the foundation amount, the New Jersey Department of Education created a model district. As explained in the Department's Comprehensive Plan for Educational Improvement and Financing (May 1996),

The elements which the state has used to determine the aid level are based on an assumed enrollment of 3,075 students in three elementary schools, one middle school, and one high school, with no more than 10 percent of the students classified for special education services other than speech. Cost assumptions are from 1994-95 data [state average audited expenditures] and projected to 1997-98 dollars. (NJDE 1996, p. 3)

Some of the other significant features of the model district include elementary schools of 500 pupils in grades kindergarten (half-day) through five, a middle school of 675 pupils in grades six through eight, and a high school of 900 students. Class sizes are 21 for grades K through three; 23 for grades four and five; 22.5 in middle school; and 24 in high school. Two guidance counselors, a nurse, and two media services/technology specialists are allotted to the middle school; the number of guidance counselors and nurses doubles in the high school. Each school has principals, assistant principals, and clerical staff consider appropriate to its size, and one security guard. Provision is made for a central office staff. Other inputs include one computer for each five students, with a five year replacement cycle, released time for professional development for teachers, and allowances for cocurricular and extracurricular activities (\$23 per elementary pupil, \$137 per middle school pupil, and \$434 per high school pupil). Although no specific basis is cited in the plan for the specific amounts of the various inputs, they arguably reflect patterns in suburban districts in a generally suburban state.

The approach is similar to that embodied in Massachusetts' recently enacted funding law, with two exceptions. First and foremost, the CEIFA explicitly links inputs and

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outcomes, although the relationship is asserted. Second, the CEIFA simply specifies a foundation amount, which was developed using the model district. The Massachusetts law specifies the individual inputs and varies them by the size of schools and districts; Massachusetts thus makes explicit both the linear and the step-wise functions⁴ associated with changes in the scale of a school or a district, whereas CEIFA leaves these functions implicit.

Foundation Budget

The CEIFA established the basic foundation, or T&E amount, at \$6,720 for pupils in grades one to five. The weight for kindergarten pupils is 0.5; that for middle school, 1.12; and the high school weight is 1.20. By contrast, the QEA made provision for half-day preschool students with a weight of 0.5 and full-time kindergarten (1.0), and established weights of 1.2 for middle school and 1.33 for high school. The basic foundation amount was not strictly comparable since the QEA included pension payments for teachers and other members of the Teachers' Pension and Annuity Fund, which are paid by the state. For 1998–1999, the basic foundation amount is increased by the regional consumer price index⁵ to adjust for inflation. As in other foundation programs, a district's foundation (T&E) budget is the product of its weighted enrollment and the foundation amount, although there are provisions to recognize historical budget patterns in calculating the T&E budget.

Unlike many foundation programs, the CEIFA assumes that the appropriate level of spending for each pupil can be found within a range, defined in dollar terms equal to five percent more or less than basic foundation amount. There is thus a minimum T&E budget and a maximum T&E budget for each district, except for the urban districts, for which the minimum budget is the maximum budget to bring about parity. The range partly addresses cost differences in the state as well as local voter preferences.

The CEIFA also establishes a biennial process for reviewing and revising the foundation. In even numbered (non-election) years, the governor, after consultation with the education commissioner, is to transmit to the legislature a "Report on the Cost of Providing a Thorough and Efficient Education." This report has three required elements. The first is the amount necessary to deliver the core curriculum, including the types of programs, services, activities, and materials necessary to achieve a thorough and efficient education. The practices of high performing schools and districts are to be used as benchmarks. The second element is range around the T&E amount, and the third element comprises the additional per pupil amounts for the following categorical aid programs: special education; early childhood programs; demonstrably effective programs; instructional supplement; bilingual education; county vocational schools; and distance learning network. (See below for a description of these programs.) Unless the legislature adopts a concurrent resolution indicating disagreement with the report and stating specific objections, the recommendations are considered adopted.⁶ In odd numbered years the T&E amount is increased by the regional consumer price index.

Required Local Share

The required local share for all districts except the urban districts is calculated at the minimum T&E budget. The prebudget year is used if it is lower. Local fiscal capacity is measured by weighting property wealth and personal income equally, a provision carried over from the QEA. No specific tax rates are specified in the formula; rather, tax rates or "multipliers" are calculated annually so that a defined amount of state aid is distributed and the capacity measures are weighted equally. Statewide data and the limited experience of the QEA suggest that the personal income "multiplier" will be four times the prop-

erty multiplier. Both income and property tax data are obtained from state tax records.

The required local share need not be raised solely from property taxes, which are the only general purpose taxes available to school districts in New Jersey. Instead, the required local share consists of the local levy, designated general fund balances, and miscellaneous local revenue, plus state aid intended to reduce local tax burdens rather than provide for local spending. The CEIFA also presumes that six percent of the general fund budget is a reasonable surplus by requiring that funds in excess of that amount be appropriated unless designated for approved capital purposes.

Core Curriculum Standards Aid

A district's foundation aid, termed Core Curriculum Standards Aid (CCSA) in the formula, is the difference between its T&E budget and its local share. Because the aidable budget can vary, a state support ratio is established at the minimum T&E budget; this ratio is the percentage that state aid comprises of the minimum T&E budget. The state support ratio is then applied to the district's actual budget. In other words, actual aid is based upon the actual T&E (regular education) budget with the percentage of the budget that is aided determined at the minimum level for districts other than the urban ones.

Like the QEA, the CEIFA limits the growth of equalized aid, presumably to a rate commensurate with estimated revenue growth. For 1997–1998 the total amount of CCSA is set at \$2,620.2 million. Its growth is indexed by growth in the regional CPI and statewide enrollment. Core Curriculum Standard Aid comprises 50 percent of total state aid to education for 1997–1998, including direct payments for the employers' share of teachers' pensions and social security, which are not reflected in local budgets (Budget, 1997).

The CEIFA also contains a provision for tax relief for districts with high concentrations of low-income pupils, equalized tax rates in excess of 110 percent of the statewide average, and, for districts with more than 2,000 pupils, property wealth not more than twice the statewide equalized valuation per pupil. A district's Supplemental Core Curriculum Standards Aid equals the difference between its minimum equalized tax rate and 110 percent of the statewide average equalized tax rate multiplied by the district's equalized property valuation. Primary beneficiaries are urban districts.

Facilities Aid

Although not part of the foundation, aid for facilities is also presumed to be equalized. As noted earlier, the exact formula has been deferred, but both debt service and lease purchase payments are to be covered.

Categorical Aid

The new law contains eight categorical aid programs to address special needs; these programs provide aid on a per pupil basis without regard to the wealth of the district in which the pupil resides. Aid amounts or excess cost factors are subject to biennial revision in the "Report on the Cost of Providing a Thorough and Efficient Education;" aid amounts are set for 1997–98 and increased by the CPI for 1998–99.

Special Education

Like earlier laws, aid for special education is based on excess cost factors that reflect additional costs associated with educating children with disabilities. The law groups a previous set of partly diagnostic and partly service categories into four tiers, although the assignment to a tier is still related to a diagnosis. The excess cost factor is applied to the T&E (base foundation) amount, but unlike previous laws, the students are

counted in their grade-appropriate categories rather than being weighted 1.0. The tier weights are: 0.0223 for Tier I; 0.4382 for Tier II; 0.8847 for Tier III; and 1.2277 for Tier IV, for students receiving intensive services such as those for autistic or chronically ill individuals. To counter an alleged overuse of the perceptually impaired classification, a limit is placed on the percentage of a district's students who may be so classified. In addition, a district may request aid, either on an emergency or a reimbursement basis, for pupils whose placement cost exceeds \$40,000. Costs of speech correction services and child study teams are included in the foundation aid amount.

Bilingual Education

Additional aid is provided for students in approved bilingual or English as a Second Language programs, subject to a threshold enrollment. The additional cost amount for 1997-98, \$1,073, is 0.1597 of the T&E amount.

Transportation

Transportation aid is calculated according to an expected cost formula, with an incentive factor for vehicle capacity utilization applied to the transportation of regular public and non-public school pupils plus those special education pupils who do not have special transportation requirements. The incentive factor does not apply to the transportation of special education pupils with special requirements.

The only variables in the formula are the number of pupils eligible for transportation (2 miles for elementary students; 2 1/2 miles for high school students) and the average distance students are transported. The coefficients in the aid equation assume that the fixed pupil costs are more than four times higher for special education pupils with special requirements than for regular pupils, but the variable costs are somewhat less than three times higher. Previous formulas either included additional factors in the expected cost formula (the QEA) or reimbursed a portion of approved costs (Chapter 212).

County Vocational Schools

In addition to foundation aid based upon the county's aggregate fiscal capacity (determined by comparing local fiscal capacity to local T&E budgets), counties receive categorical aid for pupils in county vocational schools. Aid in 1997-98 is \$1,662 per pupil, or 0.2473 times the T&E base, with shared-time pupils weighted 0.5.

Demonstrably Effective Programs

Aid in this new category is allocated to assist districts with concentrations of school or district poverty. Districts that have schools with between 20 percent and 40 percent low-income students receive \$300 per pupil for students in those schools, and districts receive \$425 per pupil for students in schools with more than 40 percent low-income students. In addition, districts in which low-income pupils comprise between 5 percent and 20 percent of the total population receive \$339 for each low-income pupil in "Instruction Supplement Aid." "Low-income pupils" are defined as those coming from households with income at or below 130 percent of the federal poverty guidelines.

This category replaces the QEA's aid for pupils at risk of educational failure, which was allocated according to the number of pupils eligible for the federal free lunch/free milk program.⁷ Aid must be used for programs such as alternative or community schools, class size reduction, parent education, and telephone, teleconference, and video tutoring. These programs are subject to separate budgeting, accountability, and monitoring requirements. The cost of remedial education programs has been included in the foundation amount.

Early Childhood Programs

The purpose of this new category is to enable districts with high concentrations of low-income pupils to provide full-day kindergarten, preschool classes, and other early childhood programs and services, which were included in the foundation program under the QEA. Districts with between 20 percent and 40 percent low-income students receive \$465 for each resident K-12, county vocational, or out-of-district special education student; those with more than 40 percent low-income students receive \$750. Districts must submit a plan to establish preschool and full-day kindergarten for all four- and five-year-old children by the 2001-2002 school year. For the next four years, aid may be used to construct facilities, and districts implementing an approved plan may use the aid for demonstrably effective programs prior to establishing early childhood programs.

Distance Learning Networks

Each district receives \$40 per resident student enrolled; the aid must be accounted for in a special revenue fund. The goals of the aid program are to create by 2001-2002 "a statewide infrastructure for the delivery of voice, video, and data" and to "provide all districts with the opportunity to share curricular offerings so as to expand the scope, quality, richness and diversity of curricula in all school districts and contribute to the redefining of teaching and learning in the contemporary setting." (CEIFA, section 22)

Adult Education

For 1997-98 each district receives \$1,345 per pupil (unweighted) for individuals enrolled in approved adult high schools, post-graduate programs, and approved full-time post-secondary programs in county vocational schools. Both program definition and the appropriate amounts of aid are to be reviewed.

Other Programs

The CEIFA includes a number of supplemental education programs to help districts that would otherwise lose aid because of formula changes and to address specific circumstances considered by key legislators to be unduly burdensome. The basic such program, Stabilization Aid, assures that no district receives less than 90 percent of the aid received under earlier programs or, in subsequent years, from the CEIFA formulas. Supplemental stabilization aid is provided to districts with high concentrations of senior citizens or tax rates in excess of 130 percent of the state average but who do not receive SCCSA.

To encourage and reward school and district outcomes, absolute achievement awards are made to schools in which 90 percent of the enrollment achieves passing scores or better on one or more of the three statewide assessments (mathematics, writing, and reading comprehension). Significant progress awards are made to schools demonstrating the most improvement in the passing rate on the tests. For the significant progress award, schools are divided into quintiles for each test based upon initial passing rates; the top 10 percent of schools in each quintile receives the award.

Lastly, grants are authorized to encourage districts to consolidate or regionalize support and specialized services.

Expenditure Limitations

Like its predecessors, the CEIFA includes limitations on the growth of district expenditures. The general limit is three percent or the increase in the regional consumer price index, whichever is greater, adjusted for changes in enrollment, certain capital outlay expenditures, special education transportation costs, and special education costs in excess of \$40,000 per pupil.

Conclusion

Shortly after Governor Whitman signed the CEIFA, the plaintiffs returned to court to challenge the constitutionality of the new law on the grounds that it failed to assure parity in regular education expenditures and to assure that additional needs of children in poor urban districts are met, as required in the Court's opinions in *Abbott II* and *Abbott III*. (Plaintiffs' Brief, 1997) The state supreme court, which retained jurisdiction of the case, heard oral arguments on March 4, 1997 and two months later decided in favor of the plaintiffs.

Independent of the court's decision, several observations are worth making. First, the CEIFA continues the pattern of distributing slightly more than half of state aid on the basis of a local district's fiscal capacity.

Second, CEIFA continues to distribute substantial aid for pupils at risk of educational failure on the basis of a poverty measure rather than on the basis of the actual delivery of services. Several legislators criticized the QEA for providing at-risk aid on the basis of eligibility for the federal free lunch/free milk program, arguing that not all children eligible for the program lunch needed additional services and ignoring the argument that the criterion for distributing aid recognized the strong relationship between poverty and educational risk. Many of these same legislators voted for not one but two programs that use poverty as the criterion for allocating aid, and one of the programs, early childhood, distributes aid not according to the target population (preschool- and kindergarten-aged children) but according to their older peers. In sum, the essential validity of the measure outlasted its critics.

Third, the use of average cost data to establish or modify a foundation or categorical amount can be criticized on at least two grounds, especially as it reflects salaries, the largest object of expenditure. On the one hand, using average costs makes no provision for cost of living differences in a state, even one as small and seemingly homogeneous as New Jersey. On the other hand, average cost data obscure often significant differences in the quality of the inputs purchased, such as the experience or training of teachers. The CEIFA partly addresses the first criticism since the T&E amount and budget calculations allow for a ten percent variance; however, one analyst recently estimated that the cost of living varies by 22 percent in the state. (Halstead, 1994)

Finally, the law breaks new ground by explicitly linking foundation inputs to specific desired outcomes. Nevertheless, given the current state of knowledge about how the former are transformed into the latter, there is no a priori reason to believe either that the foundation is sufficient or that it is not, or that the standards themselves are sufficiently comprehensive. From a constitutional standpoint, the standards and inputs conceivably could assure a thorough education without providing for equal educational opportunity, since there is no reason to assume that access to advanced placement courses, for example, is necessary to achieve the standards. By contrast, the foundation level in the QEA was established by looking at overall curriculum offerings, general staffing levels, and spending patterns in districts that achieved desirable outcomes on such measures as standardized tests and percentages of graduates going to postsecondary education. It is not necessarily clear that one approach is more defensible than the other.

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Endnotes

- For a description of the provisions of the original QEA, see Robert K. Goertz and Margaret E. Goertz, "The Quality Education Act of 1990: New Jersey Responds to *Abbott v. Burke*," *Journal of Education Finance* 16 (Summer 1990).
- In its May 14, 1997 decision, the New Jersey Supreme Court ordered the state to increase regular education funding to the 28 urban districts so that each of the districts can spend the same amount per pupil in 1997-1998 as the average of the wealthy suburban districts. This aspect of the decision effectively removes these urban districts from the foundation calculations discussed in this section.
- The seven academic areas are mathematics, science, language arts literacy, visual and performing arts, social studies, comprehensive health and physical education, and world languages. The cross content workplace readiness standards are: apply critical thinking, problem solving, and decision making skills; use technology, information and other tools; develop career planning and employability skills; acquire the skill of self-management, including goal setting, efficient use of time and working cooperatively with others; and acquire knowledge of safety principles and basic first aid. (NJDE, 1996)
- An example of a linear cost is textbooks, since each student requires one. An example of step-wise costs is guidance counselors, where, as in the CEIFA, it might be specified that there be one for every 125 students. How one treats an increment less than 125 will vary depending upon what one thinks the maximum load for a counselor should be.
- The regional CPI is "the average annual increase ... in the consumer price index for the New York City and Philadelphia areas during the fiscal year preceding the prebudget year..." The CEIFA does not indicate how the two indices are to be weighted, and various weights have been suggested over the years that a "New Jersey CPI" has been used.
- A legislative commission, the Commission on Business Efficiency in the Public Schools, is charged with developing advisory benchmarks for the cost of delivering non-instructional services such as food services, transportation, operation and maintenance of plant, purchasing, extracurricular and cocurricular activities, and health and guidance services.
- In an example of intended consequences, basing state aid on this eligibility criterion encouraged some districts to increase the number of students enrolled in the federal programs.