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POLICY BRIEF

State Finance Reform Vignettes

New Jersey

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Background

The history of New Jersey school finance reform involves a decades-long iterative cycle of judicial intervention and oversight combined with legislative responses. We focus in this brief on two specific points in that history. First, we describe pathbreaking court rulings in 1997–98 that established the necessity of supplemental programs and services in "Special Needs Districts" (SNDs), where high concentrations of low-income and minority children signaled a need for additional funding to meet the state's constitutional obligations. These rulings shifted the emphasis away from providing parity dollar inputs to districts and toward providing an equal opportunity for students in each district to achieve common outcomes. Moreover, these decisions broadened the scope of resources required to achieve those outcomes to include adequate school facilities and early childhood programs.

Second, we focus on the period leading up to the adoption of the School Funding Reform Act of 2008 (SFRA). Although prior court orders had focused specifically on remedies for SNDs, SFRA was the New Jersey State Legislature's attempt to meet constitutional standards for those districts within a more comprehensive and systematic cost-based, statewide formula. SFRA was built loosely on cost analyses sponsored by the legislature in years prior. Preschool programs were not included in those analyses and were therefore treated separately in funding legislation, as we describe at the end of this brief.

New Jersey School Finance Reform Timeline

- 1997: Abbot IV decision
- 2000: Educational Facilities Construction and Financing Act
- 2003: Original Augenblick cost study completed
- 2007: Publication of the *Formula for Success* Framework
- 2008: Passage of School Funding Reform Act (SFRA)

Prepared for the New Hampshire Commission to Study School Funding

Establishing a Constitutional Standard

As with most state constitutions, the education article of New Jersey's constitution is relatively broad, calling for a "thorough and efficient" public school system.[1] In early stages of litigation over the adequacy of school funding in New Jersey's highest need schools and districts (1985 through 1997), the plaintiffs, state, and courts engaged in an ongoing struggle over the definitional standard by which educational adequacy should be evaluated and costed out. Unfortunately, these decisions were made with scarce information regarding the costs of education. The legislature had only historical patterns of prior expenditures but no estimates of the actual costs of producing specific outcomes. Further, although methods and models for estimating the costs of meeting the constitutional standard had existed for some time, they had not yet been used extensively to inform state school finance policy. Finally, although the court had considered and the legislature had adopted specific whole-school reform models, such as *Success for All*, to be applied as remedies (New Jersey Department of Education, 2017), neither the court nor the legislature considered the full range of programs and services that would be required to provide children in SNDs with *real* equal educational opportunity.

In a series of decisions starting with Abbott IV in 1997, the court took its first bold steps in outlining the full scope of adequate educational programs and services required for meeting the constitutional standard, although largely by summarizing and clarifying positions laid out in prior decisions. In Abbott IV, the court articulated that the constitutional standard is one of equal opportunity to achieve some constitutionally adequate level of outcomes.[2] The court further clarified that providing equal opportunity in SNDs requires what is referred to as "supplemental programs":

> *[S]tudents in the special needs districts have distinct and specific requirements for supplemental educational and educationally related programs and services that are unique to those students, not required in wealthier districts, and that represent an educational cost not included within amounts expended for regular education.... [136 N.J. at 453-54, 643 A.2d 575.] [149 N.J. 145 (1997) 693 A.2d 417]*

These decisions predate our current, improved understanding of the mix of programs and services required for mitigating outcome disparities across children and populations. Some of these services are specific to students with certain needs (such as English language learners [ELLs]), while others are more general (such as providing smaller classes in higher poverty settings). Importantly though, these decisions provide a basis for understanding how and why equal educational opportunity costs more in some places than in others.

One of the few specific parameters in the constitution itself is the age range (between 5 and 18) in which the state is responsible for providing a thorough and efficient system of free public schools. In Abbott V

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[1] "The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years." [N.J. Const. art. VIII, § 4.]

[2] "The constitutional guarantee of a thorough and efficient education attaches to every school district, and indeed, to every individual school in the State. Of course, the right to a thorough and efficient education does not ensure that every student will succeed. It must, however, ensure that every child in New Jersey has the opportunity to achieve." [149 N.J. 145 (1997) 693 A.2d 417]

and VI, however, the court explains that the preparation of children prior to primary school necessarily affects the provision of equal educational opportunity:

> *This Court is convinced that preschool for three- and four-year-olds will have a significant and substantial positive impact on academic achievement in both early and later school years. As the experts described, the long-term benefits amply justify this investment. Also, the evidence strongly supports the conclusion that, in the poor urban school districts, the earlier children start preschool, the better prepared they are to face the challenges of kindergarten and first grade. It is this year-to-year improvement that is a critical condition for the attainment of a thorough and efficient education once a child enters regular public school. [153 N.J. 480 (1998) 710 A.2d 450]*

The court goes on to order specific parameters for the adoption of preschool programs in SNDs (see also: *Abbott ex rel. Abbott v. Burke*, 748 A.2d 82, 163 N.J. 95 [2000]).

School Facilities

School facilities constituted an important aspect of New Jersey's school funding adequacy litigation from 1998 to 2000. The court's decisions made during this period mandated that the state fund in full the "approved costs" of facilities renewal and construction in SNDs to meet the demands of educational adequacy.[3] Abbott V provides extensive discussion of architectural design features and instructional spaces to be included in approved costs for which the state is held 100% responsible, for SNDs exclusively.[4] Further, the decision to require the state to fund facilities costs in SNDs was supported and clarified in several subsequent Abbott cases.

These decisions led to the adoption of the Educational Facilities Construction and Financing Act of 2000.[5] Under this act, the state would pay in full the costs of approved projects intended to bring facilities in SNDs up to standards and would pay an equalized share of the costs of approved projects for other districts, contingent on available funding.

From 1997 through 2008, the state legislature was obligated to fund in full the costs of providing supplemental programs and services for children attending SNDs as well as to address disparities in facility quality across districts. This approach led to a dual system of funding in the state, with one system based on the costs of specific court-ordered remedies in SNDs and another based on formula distributions to all other districts. However, in the early 2000s, the state began to set the stage for a unified solution, driven by cost analysis.

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[3] "The State's proposal is based on the premise that the State will fund 100% of 'approved costs.' After oral argument the State submitted to the Court its 'master funding formula' for determining which costs will be approved. We conclude that any funding formula that does not fund the complete cost of remediating the infrastructure and life cycle deficiencies that have been identified in the Abbott districts or that does not fully fund the construction of any new classrooms needed to correct capacity deficiencies will not comport with the State's constitutional mandate to provide facilities adequate to ensure a thorough and efficient education." [Abbott V, supra, 153 N.J. at 524, 710 A.2d 450.]

[4] "Approved costs" refers to the amount of money that the district and the State determine is necessary for "each district's individualized need for instructional space." *Abbott V, supra,* 153 *N.J.* at 521, 710 *A.*2d 450.

[5] The Act can be found here: https://www.njsda.gov/NJSDA/About/History_NJEFCFA.

Costing Out Inputs for the General Aid Formula

In terms of guiding revisions to the state's school finance system, New Jersey's early cost analysis was not a perfect process. In this regard, the state is not unique: Empirical estimates of costs are necessarily imperfect to begin with, and the adoption of state school finance formulas is itself a complex and challenging political process—one that requires consensus building or, at minimum, enough votes among constituents with disparate and competing interests. Where reasonable cost estimates are available, one can hope that the introduction of those estimates into political deliberations will have at least some influence on the final adopted legislation. In some states, the influence of empirical evidence on state school finance policies has been more evident than in others. But it is also the case that the quality of the empirical evidence varies widely and can itself be subject to political influence.

In New Jersey, consultant John Augenblick and colleagues were contracted through the New Jersey Department of Education (NJDOE) in the early 2000s to prepare two analyses that would inform the design of a new school finance formula:

1. A professional judgment (input-oriented) analysis, which would use the opinions of experts to determine the resources necessary for students to receive a constitutionally adequate education
2. A successful schools (average spending) analysis, which would determine the school resources necessary based on the fiscal practices of exemplary schools and districts[6]

Professional judgement (PJ) and successful schools (SS) were two especially popular approaches to estimating adequacy at the time (Baker, Taylor, & Vedlitz, 2008). The original report (never publicly released) was completed in 2003 (Baker, 2009). A version of the report coauthored by NJDOE staff was eventually released in 2006 (Dupree, Augenblick, & Silverstein, 2006).

The PJ process used in New Jersey had notable irregularities, as compared to typical PJ studies. In every similar study up to that time, PJ had involved convening panels of informed professionals, providing those panels with outcome goals, and providing blank templates for prescribing the resources those professionals felt would be required to achieve those goals. In New Jersey, panels were instead provided with templates in which quantities of various resources—including additional staffing and other resources needed to serve low-income students, ELLs, and children with disabilities—had already been recommended by department officials; panelists were simply provided the opportunity to adjust those resource quantities upward or downward (Dupree et al., 2006). The successful schools analysis was also methodologically compromised because it failed to make adjustments for student need; that is, it did not account for the fact that schools with higher test scores served students with lower average levels of need, relative to the rest of the state. Consequently, this analysis tended to underestimate the resources needed to achieve target outcomes.

[6] Successful school districts were identified as those with proficiency rates greater than the state-established thresholds for meeting adequate yearly progress (AYP) for the 2004–05 school year on all state assessments administered.

Translating the Study to Policy

The 2006 cost study report was followed by a 2007 report titled *A Formula for Success: All Children, All Communities* that laid out the framework for SFRA (New Jersey Department of Education, 2007). The *Formula for Success* framework, however, made several substantial changes to the empirical findings in the original cost study. Although certain individual changes from the cost study to the formula proposal may have increased total funding or the progressivity of funding, many of the changes served specifically to move funding away from the highest need districts toward districts with lower needs. On net, SFRA would now distribute resources less progressively with respect to poverty than under the previous litigation-driven allocations. The changes to the cost study, which are described below, served to drive money away from high-poverty districts.

- **Inclusion of grade-level weights to be applied to the numbers of students in elementary, middle, and secondary grades, respectively**. Those weights had no relationship to the cost study findings, in which the PJ analysis had defined separate per-pupil costs for elementary, middle, and high school prototypes. Higher poverty urban districts have larger shares of children in lower rather than upper grades; therefore, the choice of a greater weight on secondary students drives money away from high-poverty urban settings (Baker, 2009).
- **A recommendation for a regional cost (competitive wage) adjustment to be based on recent work from the National Center for Education Statistics by Taylor and Fowler (2006)**. This recommendation was not included in the cost study. Although such adjustments are intended to be applied at the level of the labor market (which are often proxied by core-based statistical areas[7]), NJDOE officials decided instead to apply the index at the county level, which is significantly smaller than a labor market (Baker, 2008, 2009). Using county-level data to determine the regional cost adjustment creates distortions in which districts in more affluent counties (e.g., Ridgewood in Bergen County) receive larger adjustments than poorer nearby districts in adjacent counties (e.g., Paterson in Passaic County) with lower nonteacher wages (Baker, 2009). That is, these poorer counties receive less aid because the average resident has lower earnings than in richer counties. But both richer and poorer districts are competing in the same labor market for teachers, and with the additional state aid provided by the regional cost adjustment, districts in richer counties are better able to attract teachers away from districts in poorer counties. This puts poorer districts—in which teachers already face the additional challenge of serving a higher need population of students—at an even greater disadvantage in terms of teacher recruitment and retention.
- **A recommendation for a sliding scale weight for low-income children that started at 47% on top of base funding and rose to 57% as the district-level incidence of these types of students increased from 20% to 60%.** These funding weight adjustments also were not based directly to any findings of the cost analysis.

[7] Core-based statistical areas are geographic metropolitan and micropolitan areas defined by the Office of Management and Budget and used in Census Bureau data. See https://www.census.gov/topics/housing/housing-patterns/about/core-based-statistical-areas.html and https://www.census.gov/programs-surveys/metro-micro.html.

- **Inclusion of a weight of 50% for children with limited English language proficiency (LEP), with a smaller combination weight to be used instead of the individual LEP weight for students who are both LEP and low income.** In other words, the combined low-income and ELL weights for children who qualified for both is less than the sum of the independent LEP and low-income weights. Because LEP children are also often low-income, this reduces aid for many districts serving the neediest populations.
- **Proposed a census-based system for financing special education, providing a flat per-pupil dollar amount across all districts, and assumes that 14.69% of students are special education students regardless of actual variations in their rates of disability classification (Augenblick, Palaich and Associates, 2011).** Because there is a link between low-income concentrations and mild- to moderate-disability concentrations, the use of a flat, or "census-based," figure for funding special education reduced aid to high-poverty districts (Baker, 2008). More broadly, the uniform need assumption systematically underfunds districts with greater *real* shares of children with disabilities and overfunds districts with smaller shares of children with disabilities. In addition, one third of special education aid is allocated outside of the equalization formula in addition to the census-based special education funding and consequently does not account for districts' local capacity to pay. Allocating one third of special education aid without regard for local capacity to pay leads to substantial allocations of state aid to school districts in the state that are some of the nation's wealthiest at the expense of districts with both greater need and less capacity.

These changes would be less problematic if they were conceptually or empirically justifiable and based on legitimate cost analysis. Although the original cost study itself was imperfect, its recommendations were based on empirical analysis involving outcome goals and expert opinion, in contrast to the changes proposed in the SFRA framework. Ultimately, many of the original cost study's recommendations were ignored.

Imperfectly Constitutional: The Design of SFRA

The *Formula for Success* was adopted as legislation in the School Funding Reform Act of 2008.[8] New Jersey's courts determined that the problems noted above with the newly adopted formula did not compromise its constitutionality (Abbott XX, 199 N.J. 140 [May 2009]). Despite deviations from the cost study that somewhat watered down the progressiveness of funding, the formula was built on sound principles and did yield a relatively progressive distribution of funding that provided more resources to high-need districts compared to districts with lower student needs.

[8] The School Funding Reform Act of 2008 can be found here: https://www.njleg.state.nj.us/2006/Bills/A0500/500_I2.PDF.

The original act required that the Commissioner of Education produce regular reviews of the act (on 3-year cycles), including proposals for departmental revision of limited features of the formula. The commissioner's authority (and responsibility) was limited to making adjustments to the various weights and cost factors used in calculating adequacy budgets.[9] Since the adoption of SFRA, the court has considered the formula's target funding levels sufficient to meet the state's constitutional funding obligation (Abbott XXI, 206 N.J. 332 N.J. [May 2011]).

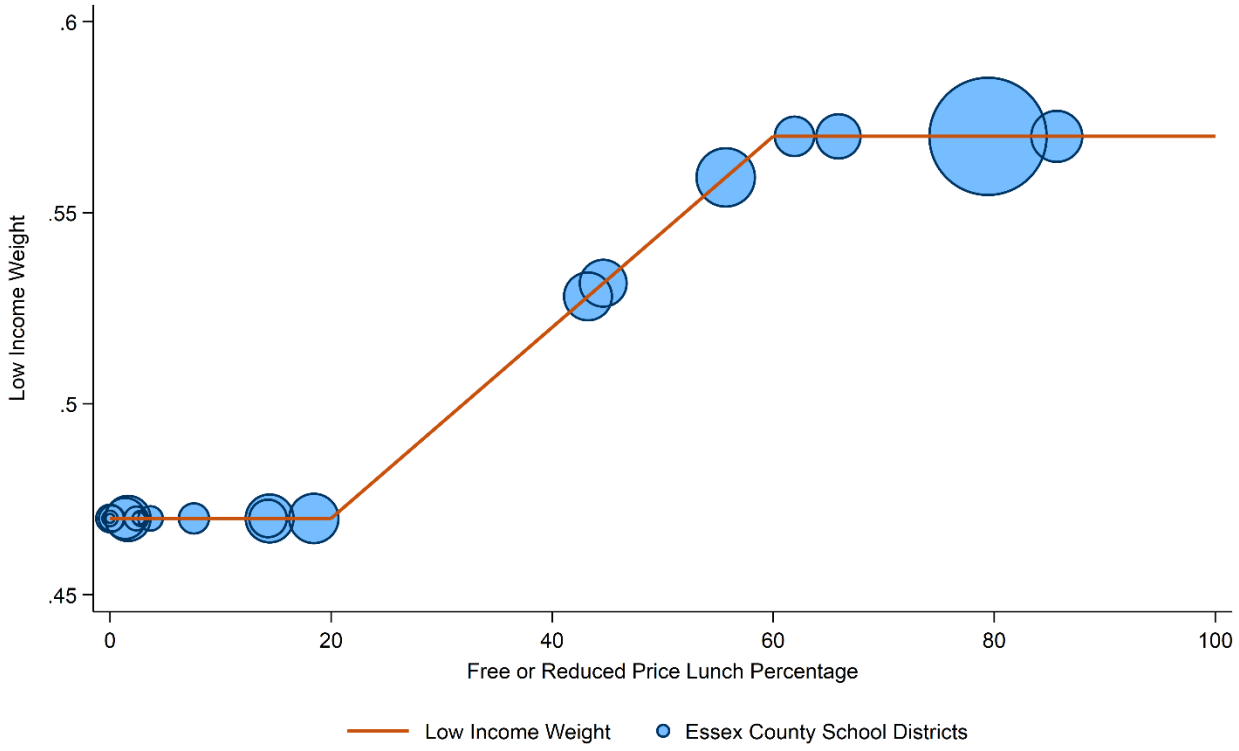
SFRA was, and still is, a classic weighted pupil foundation aid formula, and therefore it contains each of the relevant policy levers of such a formula. First, it calculates an adequacy budget per pupil for each district based on a foundation level, pupil need weights, and a geographic cost (competitive wage) adjustment. It then assigns a local fair share contribution for each district based on a combination of the income and property wealth of district residents.

Unlike most other state finance systems, New Jersey's formula acknowledges that as poverty concentration increases, so too do the costs associated with providing low-income children equal educational opportunity. Districts with fewer than 20% low-income children receive a weight of 0.47 (47% additional funding) for each low-income child. For low-income enrollment of 20% to 60%, the weight increases linearly until it reaches its maximum of 0.57 (or 57% additional funding), where it remains for all districts with greater than 60% low-income children.

Figure 1 displays the application of the low-income weighting to districts in Essex County, with low-income enrollment share on the horizontal axis and the corresponding low-income weight on the vertical axis. The circles along the line represent Essex County districts, with circle size indicating enrollment size. Like most counties in New Jersey, Essex County contains districts mainly at one end or the other of the low-income enrollment distribution, with few falling along the slope in between. Newark City schools are the largest bubble, at slightly less than 80% low income and with the maximum weight. A number of smaller, low-poverty districts in the county receive the minimum weight.

[9] Specifically, the commissioner made recommendations regarding (a) the base per-pupil amount based upon the core curriculum content standards; (b) the per-pupil amount for full-day preschool; (c) the weights for grade level, county vocational districts, at-risk pupils, bilingual pupils, and combination (at-risk and bilingual) pupils; (d) the cost factors for security aid and transportation aid; (e) the state average classification rate for general special education services pupils and for speech-only pupils; (f) the excess cost for general special education services pupils and for speech-only pupils; and (g) the extraordinary special education aid thresholds. See, for example, https://www.nj.gov/education/stateaid/1920/EARFY20.pdf.

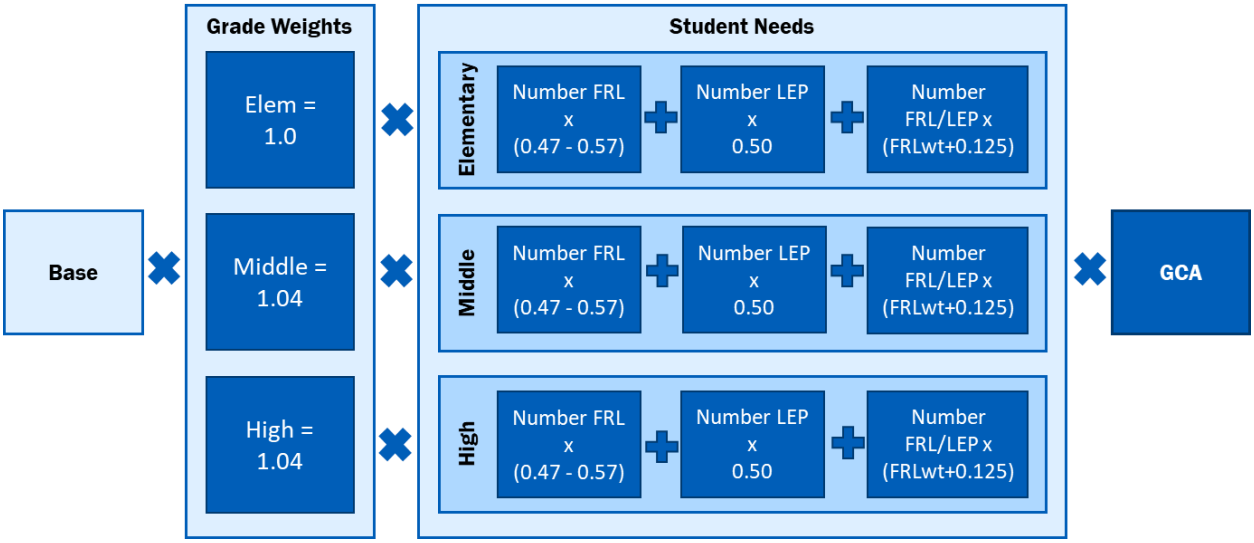
Figure 1. Low-Income Weights for Essex County School Districts



Note: Free or reduced-price lunch (FRL) percentages are from the 2016–17 Common Core of Data.

The SFRA formula contains additional complexities. Figure 2 shows that the formula is multiplicative in some parts and additive in others. The base aid is first multiplied by a grade weight based on numbers of children in a district in certain grades. The resulting aid figure is then multiplied by "weighted pupil counts," which include weights applied to low-income students, students with LEP, or students who fall into both categories (who receive less than the sum of the individual FRL and LEP weights). After multiplying the base cost figure by grade level and student need weights, the figure is multiplied by the geographic cost adjustment for each county. As a result of the multiplicative components of the formula, increases in certain components are felt more strongly in certain districts compared to others. For example, increases in student needs have a greater effect on funding for districts in higher cost counties, as measured by the geographic cost adjustment, compared to those in lower cost counties.

Figure 2. School Funding Reform Act of 2008 Formula



Notes: Although not included in the figure, the formula also includes the special education census, which provides a flat per-pupil dollar amount across all districts and assumes that 14.69% of students are special education students. The special education amount is also multiplied by the geographic cost adjustment. FRL = count of free or reduced-price lunch (FRL) eligible students. LEP = count of limited English proficiency (LEP) students. FRL/LEP = students who are both LEP and FRL eligible. FRLwt is the FRL weight calculated based on the proportion of FRL students in the district. GCA = geographic cost adjustment.

Although this legislated framework has remained in place since 2008, it has not been fully funded or implemented as intended. It has also been subjected to manipulation, including alteration of pupil need weights and introduction of an "attendance factor" to adjust funded enrollments, effectively funding districts based on "average daily attendance" rather than fall enrollment (New Jersey Department of Education, 2012). It is well understood that using average daily attendance in lieu of enrollment reduces funding for districts serving high-poverty student populations, which for a variety of reasons have lower average attendance rates (Baker, 2014).

Outside the Formula

As in many states, New Jersey's weighted and cost-adjusted general aid formula does not allocate all of the funding that schools receive. Table 1 shows that about 77% of K–12 aid is run through the formula, with special education accounting for the largest portion of "outside the formula" funding. Additional portions include adjustments for "adequacy" that provide additional aid to districts that fail to meet adequacy standards or have high tax rates and hold harmless provisions ("adjustment aid"), among others. Preschool is funded through a separate formula altogether, with total preschool spending equal to nearly 10% of total K–12 spending.

Table 1. Aid Categories and Amounts in New Jersey for FY 2021

Category	Total	Percent
Equalization Aid	$6,961,040,547	77.21%
Educational Adequacy Aid	$82,397,277	0.91%
School Choice Aid	$56,033,855	0.62%
Transportation Aid	$309,215,203	3.43%
Special Education Aid	$979,351,482	10.86%
Security Aid	$286,981,716	3.18%
Adjustment Aid	$334,850,137	3.71%
Vocational Expansion Stabilization Aid	$5,648,207	0.06%
FY 21 K–12 Aid	**$9,015,518,424**	
Preschool	$864,246,789	

Note: Figures based on the FY 2021 state aid projections, found here: https://www.nj.gov/education/stateaid/2021/.

Abbott Preschool (3- and 4-Year-Old) Programs

Although the original cost study included costs for such things as special education, administrative services, and other support services for K–12 schools, it did not address costs associated with providing quality preschool programs (Dupree et al., 2006). The Education Law Center of New Jersey, which has represented plaintiffs in the Abbott litigation for decades, addressed this question in a separate 2007 cost study. The primary approach of the study was to collect expenditure data on private and public programs coupled with data on quality measures to model the "costs" of providing high-quality preschool programs. A significant portion of their analysis focused on SNDs, also known as "Abbott districts." Belfield and Schwartz (2007) explain:

> *We use data on the costs and quality from inspections of classrooms in 210 private centers and 535 public programs. We correlate the average cost with the observed quality to see whether improvements in quality are associated with higher costs. Our correlations adjust for the prices of teachers in each district and demographic characteristics. This cost function equation tells us how much more it costs to provide high-quality preschool.*

Notably, they find:

> *Our cost function estimates show that higher quality programs do cost more and that hiring more experienced preschool teachers will cost more. We do not find strong evidence that larger centers have lower unit costs.*

The authors conclude from their analysis:

> *For the academic year 2007–08, average per-child expenditures for preschool in the Abbott districts should be $11,993 for public programs and $13,978 for private centers. These amounts account for the necessary increases to ensure quality and year-on-year inflation.*

As a second step, the authors compare their cost estimates to the costs of providing template-based "high-quality" preschool programs.[10]

> *Based on the template estimates, we find that the cost of preschool across all provider types in the Abbott districts is at least $12,300 per child. This is a lower bound because most cost templates only consider operating costs.*

That is, the cost estimates based on templates were roughly in line with the cost estimates based on models of actual expenditures on programs meeting quality parameters.

Interestingly, preschool cost estimates often come in lower on a per-pupil basis than estimates for K–12 schooling, despite the need for relatively small classes in high-quality preschool. As a comparison, the average K–12 per-pupil cost adequacy budget projection for Abbott districts in 2008–09 (the first year of SFRA) was $15,602. Preschool per-pupil costs were estimated to be about 77% of adequacy costs for K–12. This finding is likely a result of the relatively low wages of the existing preschool workforce.

Summary

The history of New Jersey school finance reforms provides a number of lessons for states, such as New Hampshire, looking to create a new funding formula or amend their existing one.

First, reform needs to begin with leadership from courts, legislatures, or advocates who can define the scope of services and desired outcomes needed to meet constitutional mandates. In New Jersey, it was ultimately the courts between 1997 and 2000 that added substantial operational clarity to the scope of services required for meeting state constitutional requirements. The courts in New Jersey stated that high-need students require additional services and programs, mandated the adoption of preschool programs in SNDs, and indicated that facilities funding must also be part of the remedy in SNDs.

The NJDOE officials were cognizant of these requirements but did not directly consider them when they commissioned a study to cost out the core elements of an adequate education in collaboration with outside consultants. In particular, they chose to exclude from this analysis preschool programs, transportation, and facilities costs.

Second, translating cost analysis to school finance reforms/legislation is also an imperfect and imprecise process. The New Jersey case also illustrates the complexities of translating an input-based analysis of education costs into a typical need-weighted, cost-adjusted foundation aid formula. A number of the recommendations of the original input-based analysis were lost in the process of developing SFRA, resulting in a combination weight for low-income and ELL students, census-based distribution of special education aid, and county-level rather than metropolitan-area-level adjustments for wage differences. Furthermore, the deviations between the cost analysis recommendations and the enacted SFRA disadvantaged high-poverty districts. However, compromises must often be made in the political process,

[10] The authors refer to 11 templates that specify high-quality resource allocation practices for high-quality prekindergarten that determine enrollment; identify quality measures such as class size, teacher qualifications, and curriculum content; calculate baseline costs; calculate upgrade costs; and model program expansion.

and the resulting formula, despite its imperfections, led to a progressive distribution of funding that targeted more resources to high-poverty districts.

Finally, review and reform is an iterative process. New Jersey first implemented a dual system in which SNDs were funded based on the costs of the students they served, and the remaining districts were funded based on a distribution formula. The state then moved to a statewide funding formula with the passage of SFRA, which was informed by an input-based cost study. Although the SFRA formula continues to guide the distribution of state aid, the standards and analyses on which it was based are now nearly two decades old. It may be time to recalibrate the formula to meet standards reflecting modern goals for education, which have changed much over that time period.

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