

Assembly Budget Committee

May 9, 2006

Acting Commissioner Lucille E. Davy

Good morning Chairman Greenwald, Vice Chairman Payne, and members of the Assembly Budget Committee.

I am here this morning to discuss with you the Department of Education's budget for fiscal year 2007.

Savings and Efficiency

During preparation of our budget request for the next fiscal year, the Department of Education recognizes and has responded to the seriousness of the fiscal problems facing our state. The department has complied with Governor Corzine's 10 percent reduction initiative by reducing funding for salaries by \$1.9 million and will have 18 fewer funded positions than we had this year. This brings the department's staffing level down to about 800 positions.

I believe it is important to put that number in perspective, so we must look at what has happened over the last few years.

In the 1980s, the DOE had a staff of almost twice as many people as we have today, but had about half of the state and federally-mandated responsibilities that we currently have. I'd like to briefly review the major areas of increased oversight that have been handed to the DOE over the last decade.

Ten years ago, we did not use Core Curriculum Content Standards to guide teaching in our classrooms. There were no charter schools. The state did not administer 3rd, 5th, 6th or 7th grade tests. The Supreme Court decisions in *Abbott v. Burke* that required the department to create full-day preschool and kindergarten programs and mandated the school construction program had not yet been handed down.

At the federal level, there wasn't a *No Child Left Behind Act*, with its detailed accountability responsibilities in terms of student achievement, teacher quality and school safety that the department must now administer. The newly revised federal special education act, *IDEA*, mandates a shift toward inclusive programs and away from out-of-district placements, a concept that the department must regulate and administer.

NCLB mandates have required the department to double the number of state tests in four years and increase federal reporting exponentially on every aspect of education.

The department is required to keep track of how many of our teachers meet the federal definition of "highly qualified" and how many of our schools meet the definition of

“persistently dangerous.” And we must provide assistance to those who fail to meet the federal expectations.

After we calculate the results of the tests of about 700,000 students to determine where the federal standards were met and where they were not, the Title I office must provide technical assistance at a level never previously required or contemplated to the New Jersey schools and districts that have been designated as “in need of improvement” under *NCLB*.

The school construction law, *EFCFA*, enacted in 2000, mandates that the department review and approve every one of the almost 600 districts’ five-year long-range facilities plans and approve thousands of individual building projects for renovations, additions and construction of new facilities.

Most recently, we have assumed a central role in the implementation of the school safety initiative under Homeland Security. Added to all of this is the exploding demand for data about every aspect of education which DOE is trying to address with technology that is generations removed from where it should be.

Finally, the department continues to handle the direct distribution of \$9.7 billion in school aid to districts throughout the state.

The current situation can be summarized very simply. There is one DOE employee for every 1,740 students in this state. There are 1.25 DOE employees per school district and they are expected to carry out all the state and federally-mandated functions that now govern education in our society.

The department is already quite lean, but we have worked hard over the past few months to comply with Governor Corzine’s directive to reduce costs and improve efficiency. There is no question that we will place a greater focus on accountability as we move forward.

In addition to the reduced number of full-time employees, we have cut the number of hourly employees. And we continue to search for any additional savings we can find.

We have found some room for belt-tightening by reducing the number of state cars in our department fleet, returning blackberries that were underutilized, and taking back cell phones and canceling their usage contracts. We’ve also cancelled subscriptions to periodicals and journals, cut back on photocopying and eliminated hard copies of most reports and documents, relying instead almost exclusively on Internet postings. The State Board of Education is going to a totally paperless agenda, which could save as much as \$35,000 in paper costs alone.

Initiatives

I'd like to take a few minutes to talk about some of the initiatives that are currently under way at the department.

Education policy in the United States is driven by the accountability mandated under the federal *No Child left Behind Act* and by general demands for better results from the public at every level. The foundation of *NCLB* accountability depends upon each state's testing program to demonstrate progress towards the goal of having every child proficient in language arts literacy and math by the year 2014. In addition, the pressures of competition in a global economy require that we pay closer attention to the outcomes of all children.

For many years, New Jersey had an 8th grade test and an 11th grade test. In 1999, we added a 4th grade test and in 2004, a 3rd grade test. This year, we added state-administered tests in 5th, 6th and 7th grades in order to comply with the expanded demands of *No Child Left Behind*. In all, we are now testing more than 700,000 children a year out of the 1.4 million children in our public schools.

Because the federal government has not provided additional funding to states for expanded testing requirements, New Jersey has had to foot a large part of the bill for most of the additional state tests. We have asked for an increase of \$4.5 million in the FY07 budget for the statewide assessment system to help cover those costs; we currently receive about \$10 million from the federal government.

In all, it will cost New Jersey about \$30 million a year – about one-third of DOE's entire operating budget – to purchase, administer and score these tests.

When I first joined the department last September, one of my first priorities was to address the statewide testing system. I believe, as many others do, that New Jersey should get more "educational value" from a \$30 million testing system than a set of data to report to the federal government and to post once yearly in the newspapers. Educators had long lamented that our costly and time-consuming statewide testing system did not provide enough information to assist them in improving classroom instruction and, therefore, student achievement.

As a result, I have been working for the past six months with department staff and members of the education and business communities to create a new vision for our statewide assessment system. In the meantime, the US Department of Education gave us permission to use an interim test for grades 5, 6, and 7 this year while we took on the task of revising our entire statewide assessment system. When our work is complete, we will be able to provide educators with not only test scores, but real tools to improve student achievement and meet federal and state accountability goals.

The second major initiative under way in the department over the past six months is the New Jersey Quality Single Accountability Continuum (NJQSAC), the unified evaluation

system that you approved last year. The regulations to implement the new school district monitoring system will replace *N.J.A.C. 6A:30*, the current rules governing the Evaluation of the Performance of School Districts that expire in May 2007.

Under NJQSAC, public school districts will be evaluated by means of uniform, objective criteria in five key areas of school district effectiveness: instruction and program, personnel, fiscal management, operations, and governance. This comprehensive review will determine the extent to which each district is providing a thorough and efficient education.

The evaluation standards and criteria are designed to assess both actual achievement and progress toward proficiency as indicated by the implementation of programs, policies, and other measures to improve district performance.

The department has worked to streamline the evaluation process and simplify the reporting system. The NJQSAC district performance review is currently being piloted in about a dozen districts that volunteered to participate in this process.

In the long run, we expect to change the DOE/district relationship from one of compliance and monitoring to one of support and assistance. The DOE will work collaboratively with districts that are identified as deficient in one or more areas. We will require a district improvement plan, and we will provide technical assistance to the district where warranted.

In cases where it is necessary, the new system allows the DOE to intervene early enough to help turn things around in specific areas before they get out of hand and result in years of lost educational opportunity for students. At the end of the day, we believe this will enhance our state's accountability system.

A third initiative involves the development of high-quality in-district placements for students with disabilities. One of the most frequently cited causes for rising costs in local education budgets is the cost of out-of-district placements. These costs have been escalating over the years at an alarming rate. In fact, New Jersey leads the nation in the percentage of disabled students who are being educated at private schools or other facilities outside of their home districts.

Federal aid for special education is supposed to be funded at the 40 percent level. In reality, the funding is always considerably lower than that, leaving the states and local districts to make up the difference on these rising costs. I would be remiss if I did not mention the negative impact that has on our budget and that of local districts.

One of the classifications showing a high rate of growth is autism and the autism spectrum disorders. In New Jersey, the number of these cases has doubled in the last four years, and 26 percent of local districts' requests for extraordinary aid are in this category, because districts place a high percentage of autistic students in private programs.

Governor Corzine has responded to this problem by proposing \$15 million in new funding in the FY 2007 budget for special education programs for autism. In addition, the Governor proposed \$4.5 million for the development of high-quality in-district programs for students with disabilities other than autism. Both of these grant opportunities will apply to creation of new programs or expansion of existing programs.

The department believes that the development of high-quality in-district programs is both educationally and fiscally sound. It will allow relief in one of the most expensive categories of the district's budget – extraordinary costs – and appropriately educate students with disabilities with their non-disabled peers.

There were numerous changes in the December 2004 reauthorization of *IDEA*, the federal *Individuals with Disabilities Education Act*. The primary intent of the 2004 revisions was to focus resources on teaching and learning, while also reducing paperwork and administrative requirements that do not assist in improving educational results for students with disabilities. The changes also emphasize access to general education curriculum and programs for students with disabilities.

A fourth initiative that has been receiving intensive effort is the development of NJ SMART – a statewide longitudinal student-level database. When NJ SMART is fully operational, it will house all assessment data for every public school, the 92 data elements contained in the NJDOE Student Data Handbook, and a statewide student identifier that will enable us to track the progress of every student. The state will have a much clearer picture of how many students are dropping out of the system and a much more accurate count of how many graduate.

Right now, questions about the effectiveness of public school programs and practices are answered more by hunch than solid evidence. A student-level database will let educators and researchers analyze assessment information in conjunction with other indicators more effectively.

They will be able to answer detailed questions about how various subgroups of students perform in different areas and find out why. They will be able to determine whether particular commercial programs or practices actually pay off in terms of higher student performance.

This capability will dramatically increase our ability to make data-driven decisions that will help us increase student academic performance.

The software for the database will also track Medicaid reimbursements for the districts, which will help the state receive more Medicaid dollars from the federal government. It was that system that we expanded in order to move forward with a student-level database. And the money we take in from Medicaid will, in turn, help pay for the development of the longitudinal data system.

NJ SMART currently consists of a comprehensive data warehouse collection of the assessment scores for all New Jersey students for the last six years. The assessment data was loaded in 2005, and in January 2006, the department began populating the warehouse with student-level data from four Abbott districts – Burlington City, Salem City, Long Branch, and Newark.

It is expected that the student-level data for the remaining Abbott districts will be loaded into the warehouse during the next few months. In the next school year, we anticipate expanding the data system to the non-Abbott districts.

Current Issues Affecting Education

As you know, this is an era of accountability and public scrutiny. In the past few months, a number of education-related issues have attracted significant media attention here in New Jersey. I would like just a few more minutes of your time to address some of those issues today.

A recent report by the State Commission of Investigation (SCI) revealed some significant excesses in superintendents' salaries, benefits, and perks that have been awarded by school districts. While this is public information, the conditions of administrative contracts are not usually voluntarily put on public display. While the negotiation of teacher and administrative contracts are grounded in the bedrock of local control, the department supports any legislated contract limitations that would be the same as those that apply to state employees.

The SCI reported abuse in the area of compensation for accumulated vacation and sick time. There should be legislated restrictions similar to those imposed on the state.

Sick time is not a gift or an entitlement, it is a benefit that is available for those who truly need it. Vacation time should not be banked for years in anticipation of a cash windfall. This kind of apparent abuse is not acceptable. If we limit the options that districts have in manipulating the contract perks, then the compensation will be reflected in the salary figure and be more transparent to the public.

Another accountability issue arose in mid-April when the *Bergen Record* presented its series of articles about Abbott pre-school community providers. DOE literally opened our files to these reporters. Over a period of more than six months, key members of the Abbott, early childhood, compliance and finance staffs spent dozens of hours in interviews, forthrightly answering questions about the state of the preschool program when the Abbott division was created in 2002 and the work we have done in the past four years to clean it up both in terms of finance and quality.

The articles hit the alleged abuses hard but virtually ignored what the department had accomplished in terms of reform. They also omitted the larger context through which the process must be viewed when evaluating this unprecedented undertaking with full-day preschool mandated by court order in 1998.

I believe it is important to us today to put the Record's coverage in a more accurate and complete perspective.

Beginning in 1999, the focus at the district and department level was to identify as many three- and four- year-olds as possible and enroll them in Abbott preschool. The Supreme Court ordered every district that didn't have the capacity to enroll those children in its own facilities to contract with any DHS-licensed day care center that would accept the higher quality standards and the greatly increased funding.

Over 400 providers with 500 operating sites – from small day care providers to large community service agencies -- stepped forward. Between 2000 and 2004, the number of children served at these sites increased by 147 percent, from 10,700 to 24,500.

What many of these providers did not realize was that they were going to have to make the leap from providing basic childcare to providing high-quality preschool, including the fiscal accountability demanded by the mandate.

And unfortunately, it was only when the Abbott division was created in 2002 that anyone at the state or district level set up a systematic program to ensure that these 400 providers were doing what the Court ordered and what their contracts with the districts required.

In summary, here is what we have done:

- DOE took over from DHS the responsibility for creating and reviewing budgets to cover the mandated educational program and to create a common contract to be signed by districts and providers.
- In the spring of 2002, the Abbott Division directed the first proactive audits of providers, limited to the state-operated school districts which account for about 45% of all providers. These audits led to the first referrals to the Division of Criminal Justice in September 2002.
- By 2003, the division had set forth very precise budget guidance that the providers were required to follow. The division also began to review the budget submissions of each provider as they were reviewed and approved by the contracting district.
- The division also contracted with the DOE Office of Compliance Investigation to audit vendors in the 28 Abbott districts that are not state-operated. In total, 254 audits have now been completed, representing 51 percent of current vendors.
- In 2004, the division required the Abbott districts to employ a fiscal specialist to assist the providers in preparing their budgets and managing their books.

- While we did discover some criminal activity, we also found that many of the vendors who were running into problems were not trying to steal money or rip off the system. They just didn't know how to run a business in the manner that complied with all the provisions of a government contract.

It is also important to note that the Abbott Division, working with the affected districts, has terminated or not renewed the contracts of 80 providers, including 17 of the 26 mentioned in the *Record* stories. It is probable that no public program has been subjected to such a proactive and searching incidence of oversight and financial audits.

Finally, I want to note that the emphasis in Abbott preschool is “quality, quality, quality!” High-quality preschool substantially increases the probability that a child will experience success in school and produces a host of life-long benefits, including increased school achievement and social and economic success as adults. However, without improved classroom performance, the investment in preschool will not yield the educational and other results we know can be achieved.

In 1999, only 65 percent of all Abbott preschool teachers were college graduates; today 99 percent are. In 1999, there were dozens of different curricula being implemented and scores of sites in which no coherent instruction was given. Today, the Abbott districts employ almost 200 master teachers who are responsible for working with every site and in every classroom to improve the quality of instruction and the proper use of curricula.

In 2003, the first use of the internationally-accepted standard of preschool quality—the ECERS—found an average score of 3.9 on a scale of 7. This year that number has increased to 4.8, indicating that in most classrooms quality is reaching the level when dramatic results can be expected.

Research is beginning to show just that. The National Institute for Early Education Research (NIEER) at Rutgers in the fall of 2005 found that children that attended the preschool program at age four showed a 28 percent increase in early reading skills at kindergarten entry. Preschool done right is one of the best investments we can make. And here, once again, we will continue to place accountability at the center of our work.

Another issue for taxpayers and schools is flat funding of state school aid. State aid to local districts is the largest item in the state budget before you, a total of \$10.4 billion which is an increase of a billion dollars.

Districts have expressed disappointment that they have flat funding once again, but Governor Corzine has proposed significant increases in the state's contribution to fund the teacher's pension system (\$743 million), teacher's social security assistance (\$36 million), and post-retirement medical benefits (\$36 million). In fact, the increase in the pension contribution for FY07 is more than the state's contribution for the last nine years combined.

Flat funding is an even bigger issue in Abbott districts. Governor Corzine has returned to the NJ Supreme Court for relief on Abbott increases mandated by the original Supreme Court order. *CEIFA* is overdue for a complete review. The Bacon cases are pending. Abbott district status must be re-evaluated.

CEIFA is ten years old and it has inequities that must be addressed. Even full funding of *CEIFA*, which has almost never happened, at this point would not solve the structural problems with the formula.

The Governor has stressed to the schools and municipalities the necessity for sharing services and consolidating where feasible. We need to be able to encourage not discourage regional school districts. The department hopes to work on these inequities with the Legislature once we get beyond the fiscal crisis.

Not only do we have flat state funding, but the federal funding is flat, as well. The department anticipates receiving \$810 million in federal funds in FY 2007. This is a decrease of almost \$26 million compared with the amount anticipated for FY 2006.

This year, all federal programs experienced significant reductions in Even Start, Enhancing Education through Technology, Innovative Education programs, and Safe and Drug-free Schools programs, which is New Jersey's only source of money for these kinds of programs. The Comprehensive School Reform Demonstration programs were eliminated.

Another issue that needs quick resolution because of its dramatic impact on local districts is the depletion of the school construction program funds. Governor Corzine has taken action to address the systemic problems with the School Construction Corporation and the allegations of mismanagement of the original funding under the facilities act. He has formed a small fast-acting working group to report to him by the end of May with recommendations to address the structural and systemic problems before funding decisions will be made. The department will continue to fulfill its part of the facilities process, especially in the finalizing of the districts' Long-range Facilities Plans (LRFPs).

DOE looks forward to working with the Legislature on the issues that require legislative review and possible revision. I will be happy to take your questions at this time.