

ANALYSIS OF THE NEW JERSEY
FISCAL YEAR 2002 - 2003 BUDGET



DEPARTMENT OF EDUCATION

PREPARED BY

OFFICE OF LEGISLATIVE SERVICES

NEW JERSEY LEGISLATURE

MAY 2002

NEW JERSEY STATE LEGISLATURE

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DEPARTMENT OF EDUCATION

Budget Pages..... B-8; B-14; B-38 to B-39; C-16; C-20; C-23 to C-24; C-28 to C-29; C-35; C-37 to C-39; D-123 to D-153; D-490 to D-492; F-6; H-36 and H-42

Fiscal Summary (\$000)

	Expended FY 2001	Adjusted Appropriation FY 2002	Recommended FY 2003	Percent Change 2002-03
State Budgeted	\$6,764,324	\$7,430,234	\$7,688,481	3.5%
Federal Funds	495,695	639,262	740,921	15.9%
<u>Other</u>	<u>16,856</u>	<u>18,824</u>	<u>19,102</u>	<u>1.5%</u>
Grand Total	\$7,276,875	\$8,088,320	\$8,448,504	4.5%

Personnel Summary - Positions By Funding Source

	Actual FY 2001	Revised FY 2002	Funded FY 2003	Percent Change 2002-03
State	478	542	567	4.6%
Federal	242	247	297	20.2%
<u>Other</u>	<u>160</u>	<u>161</u>	<u>176</u>	<u>9.3%</u>
Total Positions	880	950	1,040	9.5%

FY 2001 (as of December) and revised FY 2002 (as of September) personnel data reflect actual payroll counts. FY 2003 data reflect the number of positions funded.

Introduction

The Department of Education is responsible for the governance of the public schools, the system under which instruction will be provided to over 1.4 million students in FY 2003. The department's responsibilities include allocating \$6.6 billion in State school aid to local districts in FY 2003, exclusive of pension and social security costs paid by the State on behalf of teaching staff members. Under the "Comprehensive Educational Improvement and Financing Act of 1996" (CEIFA), the Department of Education is responsible for the development of a framework of educational guidelines, the Core Curriculum Content Standards, that define what constitutes a thorough and efficient education. Using these guidelines and the funding provisions of CEIFA, the department is responsible for calculating each year the amount that each district is required to

Introduction (Cont'd)

spend to provide a thorough and efficient education for the students in its district (the district's T and E budget), and to calculate the amount of aid the State will provide to each district and distribute that aid, calculate the amount of the T and E budget that has to be raised by a local tax levy, and oversee local district operations including a review and audit of local district budgets.

Key Points

- The total recommend FY 2003 budget for the department (excluding federal and other funds) is \$7.688 billion, an increase of \$258 million (3.5 percent) over the FY 2002 adjusted appropriation of \$7.430 billion.
- With certain exceptions noted below, pursuant to budget language, page D-152, "each district shall receive no less of a total State aid amount payable for the 2002-2003 school year than the sum of the district's total State aid amount payable for the 2001-2002 school year for the following aid categories: Core Curriculum Standards Aid; Supplemental Core Curriculum Standards Aid, Early Childhood Program Aid, Demonstrably Effective Program Aid, Instructional Supplement Aid, Rewards and Recognition, Stabilization Aid, Stabilization Aid 2, Stabilization Aid 3, Large Efficient District Aid, Aid for Districts with High Senior Citizen Populations, Regionalization Incentive Aid, Distance Learning Network Aid, Adult and Postsecondary Educational Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, and Aid for Enrollment Adjustments."
- General formula aid recommended for the FY 2003 budget totals \$4.742 billion, an increase of \$182.8 million (4 percent) over the FY 2002 adjusted appropriation of \$4.559 billion.

Abbott v. Burke Parity Remedy Aid recommended for FY 2003 budget totals \$512.7 million, an increase of \$83.6 million (19.5 percent) over the FY 2002 adjusted appropriation of \$429.1 million.

Additional Abbott v. Burke Aid recommended for FY 2003 totals \$305.7 million, a decrease of \$43 million (-12.3 percent) from the FY 2002 adjusted appropriation of \$348.7 million. The FY 2002 adjusted appropriation of \$348.7 million is the result of an original FY 2002 appropriation of \$248.7 million and a transfer of \$100 million in April of 2002.

Abbott Preschool Expansion Aid, a new category of Abbott aid, is recommended for FY 2003 at \$142.4 million. Budget language on page D-136 and on page xxx of this document, provides that this aid is to fund cost increases due to projected increases in preschool enrollment for the Abbott districts. This aid is payable to an Abbott district upon documented enrollment expansion.

In the aggregate, the above Court ordered aid programs recommended in the FY 2003 budget total \$960.7 million, an increase of \$183 million (23.5 percent) over the FY 2002 adjusted appropriation of \$777.7 million.

Key Points (Cont'd)

- State aid for Charter Schools and School Choice recommended in the FY 2003 budget totals \$23.86 million, an increase of \$10.32 million (76 percent) over the FY 2002 adjusted appropriation of \$13.54 million.
- State aid for the Governor's Literacy Initiative totals \$10 million. This is the first year of funding for this four-year, \$40 million initiative.
- State aid for Teacher Quality Mentoring recommended in the FY 2003 budget totals \$6.5 million, an increase of \$4.5 million over the FY 2002 adjusted appropriation of \$2 million. This level of funding is approximately equal to FY 2002 resources available from original appropriations and reappropriation.
- State aid totaling \$977.6 million is recommended in the FY 2003 budget for teacher's health benefits, pension and social security payments on behalf of the teaching staff of local school districts, an increase of \$71.9 million (7.9 percent) over the FY 2002 adjusted appropriation of \$905.7 million.
- Non-public school aid recommended in the FY 2003 budget totals \$92.9 million, a decrease of \$4.1 million (4.3 percent) from the FY 2002 adjusted appropriation of \$97 million. This reduction is a result of a decrease from \$40 to \$20 in the per pupil amount for Nonpublic Technology Aid.
- Continued funding of \$1.6 million is not recommended for items added to the FY 2002 budget by the Legislature.
- The FY 2003 recommended State aid for Teacher Recruitment totals \$1 million, a decrease of \$4 million (80 percent) from the FY 2002 adjusted appropriation of \$5 million. Of the original FY 2002 appropriation of \$5 million, \$669,000 has been transferred out of the account and \$2.5 million is targeted by the Governor to lapse for deficit reduction, leaving \$1.8 million in FY 2002 program resources.
- The FY 2003 recommended appropriation for the School Construction and Renovation Fund (Department of the Treasury, page D-490) is \$44.6 million, a decrease of \$37.4 million (45.6 percent) from the FY 2002 adjusted appropriation of \$82 million. According to the Office of Management and Budget (OMB), this appropriation will be supplemented by \$35 million in unexpended balances from pay-as-you-go advances made to the Economic Development Authority (EDA) prior to the \$500 million bond issue in the spring of 2001. In addition, OMB anticipates that a \$500 million bond issue in the fall of 2002 will generate premiums of \$20 million. OMB thus projects that there will be a total of \$99.6 million available for the School Construction and Renovation Fund. These funds will be used for debt service on the existing debt of \$41.2 million, \$31.2 million for transfer to the Department of Education for retroactive debt service and \$27 million for the new issue.
- The FY 2003 recommended appropriation for Facilities Planning and School Building Aid is \$142.4 million, a decrease of \$3.96 million (2.7 percent) from the FY 2002 adjusted appropriation of \$146.4 million.
- The FY 2003 recommended budget does not include the annual \$3 million appropriation required for fiscal years 2001 through 2005 under section 64 of the "Educational Facilities

Key Points (Cont'd)

Construction and Financing Act," P.L.2000, c.72 (18A:7G-38), to provide additional funding for apprenticeship programs. The FY 2002 adjusted appropriation for the apprenticeship program of \$3 million is targeted in its entirety by the Governor to lapse as a deficit reduction measure.

- Federal funds recommended for the department total \$740.9 million, an increase of \$101.6 million (15.9 percent) over the FY 2002 adjusted appropriation of \$639.3 million.

Federal funds for special education recommended for FY 2003 total \$250.1 million, an increase of \$35.9 million (16.8 percent) over the FY 2002 adjusted appropriation of \$214.2 million.

Federal funds recommended for Educational Support Services/Academic Programs and Standards total \$84.7 million, an increase of \$62.6 million (283 percent) over the FY 2002 adjusted appropriation of \$22.1 million.

- Curtailments of FY 2002 spending in the Department of Education's operations and programs to close the estimated FY 2002 deficit total approximately \$14 million.
- The estimated public school resident enrollment for FY 2003 is 1.424 million, an increase of about 33,000 (2.4 percent) over the FY 2002 revised enrollment of 1.391 million.
- The estimated FY 2003 average per pupil support (per local budgets, and State aid including core curriculum standards aid, debt service, transportation aid, all categorical aid, and pension/Social Security contribution) is \$12,790, an increase of \$370 (3 percent) over the FY 2002 revised average per pupil support of \$12,420.

The average local share of the estimated FY 2003 average per pupil support is \$6,984, an increase of \$291 (4.3 percent) over the revised FY 2002 average local share amount of \$6,693.

The average State share of the estimated FY 2003 average per pupil support is \$5,401, an increase of \$28 (.5 percent) over the revised FY 2002 average State share amount of \$5,373.

The average percent local share of the estimated FY2003 average per pupil support increases to 54.6 percent, compared to the revised FY 2002 average percent local share of 53.8 percent.

The average percent State share of the estimated FY 2003 average per pupil support decreases to 42.2 percent, compared to the revised FY 2002 average percent State share of 43.3 percent.

Background Papers

- Interdistrict Public School Choice Program p. 57-60
- Abbott Decisions p. 61-73

Program Description and Overview

Department of Education Operations

The recommended FY 2003 appropriation for the Department of Education operations is \$55.7 million. The administrative responsibilities of the department staff include: the calculation and payment of State aid; the development of standards for local districts including safety, assessment, fiscal and program management standards; certifying teachers and administrators for the public schools; overseeing and auditing local school districts' budgets and programs; adjudicating budget and other school controversies; and providing information to the Governor, the Legislature and the public.

A major task for the Commissioner of Education in FY 2003 and each year thereafter is compliance with the new federal law, "No Child Left Behind Act of 2001." Under the federal law, there are certain key implementation deadlines.

- By the fall of 2002, states and districts are required to issue report cards to the public which, in part, provide information on achievement in math and reading/language arts, on both an aggregated basis and disaggregated by race/ethnicity, disability, socioeconomic level, gender, migrant status, and limited English proficiency.

Other dates of importance include, but are not limited to:

- the adoption of a single statewide accountability system (using the 2001-02 school year as the base year) for defining "adequate yearly progress" (AYP) for all public school students (charter school students are included) based on academic indicators -- reading/language arts and math (by the end of the 2013-14 school year, all students are required to be performing at or above proficient levels in reading and mathematics. While a date by which such a system has to be implemented is not specified, the State is required to use 2001-02 school year as the base year and issue report cards beginning in the fall of 2002 and reach 100 percent of students performing at or above proficient levels by the end of the 2013-14 school year;
- test students in grades 3 through 8 annually in reading or language arts and mathematics beginning in 2005-06 and, beginning in 2007-08, test students in science at least once during each of the following grade spans -- 3-5, 6-9 and 10-12;
- by the year 2002-03, State plans must demonstrate that school districts will provide an annual assessment of the English proficiency (oral, reading and writing skills) of all limited English proficient students;
- develop a plan to identify and address the schools and districts which are "under-performing." The time line for implementation of this plan is related to the implementation of the annual yearly progress measures. Once implemented, a school that is identified as not meeting annual yearly progress measures for two consecutive years must be identified as "needing improvement." Technical assistance is to be provided to these schools and school choice options must be provided to students in these schools. Additional and more severe consequences are faced by any school that fails to meet annual yearly progress for four consecutive years and again for five consecutive years; and

Program Description and Overview (Cont'd)

- participation, beginning in the 2002-03 school year, in the National Assessment of Educational Progress testing every other year in grades 4 and 8 for reading and mathematics.

A major program responsibility of the Department of Education is to develop and recommend appropriation amounts for State aid to school districts and to determine how the appropriated amounts are to be allocated. Under the "Comprehensive Educational Improvement and Financing Act of 1996," P.L.1996, c. 138 (C.18A:7F-1 et seq.)(CEIFA), provision is made for an ongoing review of the core curriculum content standards. It is through conformance with these standards, that CEIFA envisions the offering of an educational content in the school which will "ensure that all children are provided the educational opportunity needed to equip them for the role of citizen and labor market competitor in the contemporary setting."

As part of this review, the Commissioner of Education is to develop and establish through the issuance of a biennial report efficiency standards which define the types of programs, services, activities, and materials necessary to achieve a thorough and efficient education. CEIFA requires the Governor, after consultation with the commissioner, to recommend to the Legislature through the issuance of the biennial Report on the Cost of Providing a Thorough and Efficient Education (Biennial Report) certain per pupil amounts to be used in calculating the costs of providing a thorough and efficient education in all districts in the State. Based on these per pupil amounts and an amount initially set in CEIFA for Core Curriculum Standards Aid, adjusted each year in accordance with annual percent changes in enrollment as projected by the Department of Education, and the CPI, the department develops and recommends to the Legislature appropriations which are required to provide aid to and for the school districts. The recommendations of the March 2000 Biennial Report, which usually provide for increases in State aid per pupil amounts based on changes in the Consumer Price Index and enrollment growth, if any, are still in effect for the calculation of State aid for FY 2003. **However, pursuant to language in the Governor's recommended FY 2003 budget, with certain exceptions to be noted in this report, each district will receive the same cash State aid as it did in FY 2002.**

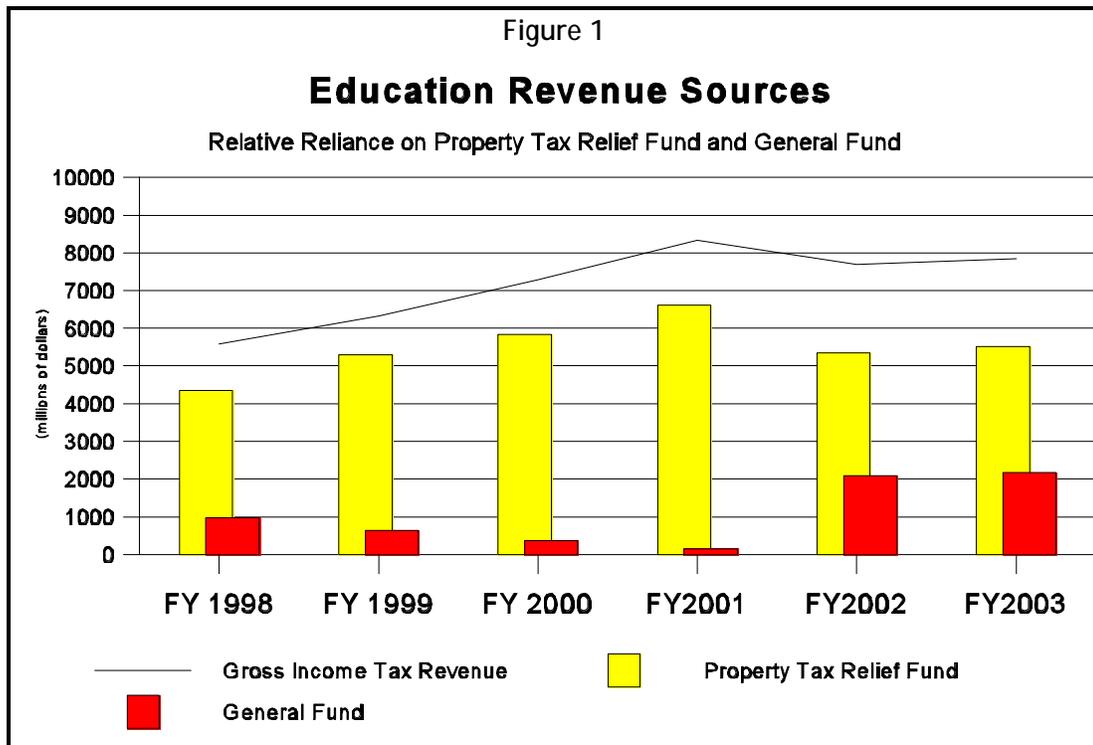
Education Funding

In FY 2003, the total recommended appropriation from all sources for the Department of Education is \$8.448 billion. This includes \$7.688 billion in State funds -- \$5.512 billion from the Property Tax Relief Funds, \$2.177 billion from the General Fund -- plus \$740.9 million from federal funds and \$19.1 million from "other funds." The total recommended FY 2003 appropriation from State funds of \$7.688 billion represents an increase of \$258 million (3.5 percent) over the FY 2002 adjusted appropriation of \$7.430 billion.

The principal source of revenue for department funding and for aid to school districts is the Property Tax Relief Fund, which is the Fund into which receipts from the Gross Income Tax are deposited. Deposits into this Fund may be used only for property tax relief. The other major source of funds for State aid to school districts is the General Fund. Depending on the recommended total appropriation needed for funding thorough and efficient education and categorical and special aid programs and the receipts from the Gross Income Tax, appropriations from the General Fund change (see Figure 1). From FY 1998 to the estimated figure for FY 2002 (in the FY 2002 recommended budget), total revenue received by the State from the Gross Income Tax was expected to increase by 59.5 percent. Over the same time period, the appropriation from the Property Tax Relief Fund for State aid to education was expected to increase by 64.4 percent and the appropriation from the General Fund was expected to decrease by 83 percent. Both the

Program Description and Overview (Cont'd)

FY 2002 adjusted appropriation and the FY 2003 recommended budget represent marked shifts in the relative proportions of educational funding from the Property Tax Relief Fund and the General Fund. As adjusted the FY 2002 proportion of State funding for education from the General Fund is estimated to be 27.4 percent and for FY 2003, 27.7 percent. This is in contrast to the previous four years when the General Fund share declined each year due to rising income tax revenues. With income tax revenues now constrained by current economic conditions, the General Fund is relied upon to assume a more substantial share of educational support.



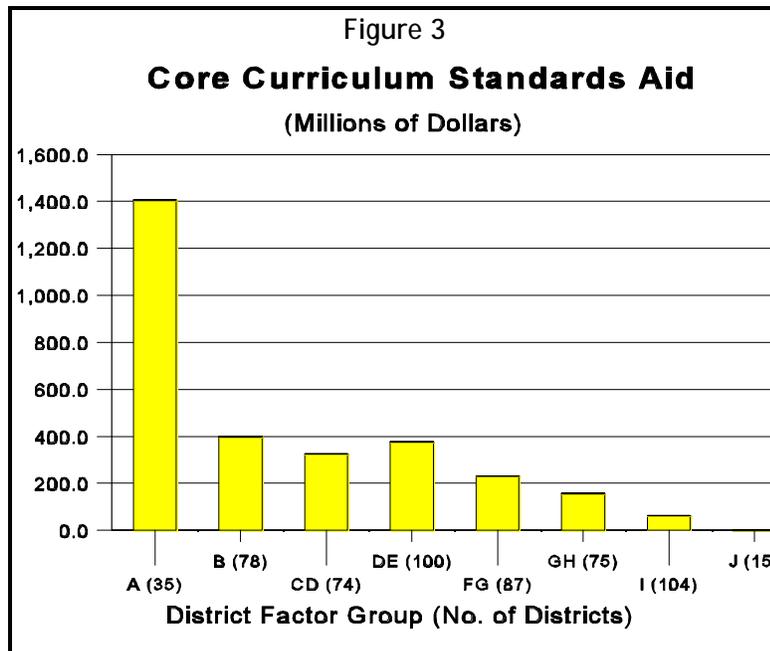
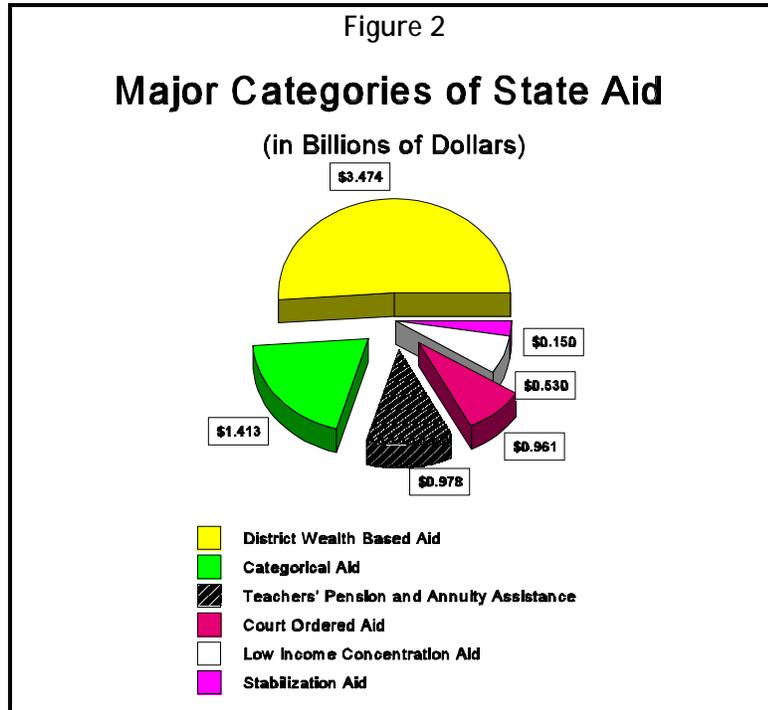
State Aid To Or On Behalf Of Local Districts

Under CEIFA, the Department of Education is responsible for recommending (through the annual budget) how the revenues available are to be distributed to school districts to achieve a thorough and efficient education. Figure 2 charts the major categories of State aid to or on behalf of local districts from State funds that in FY 2003 total \$7.506 billion. A summary of each of these categories follows.

Aid to Districts Based on District Wealth

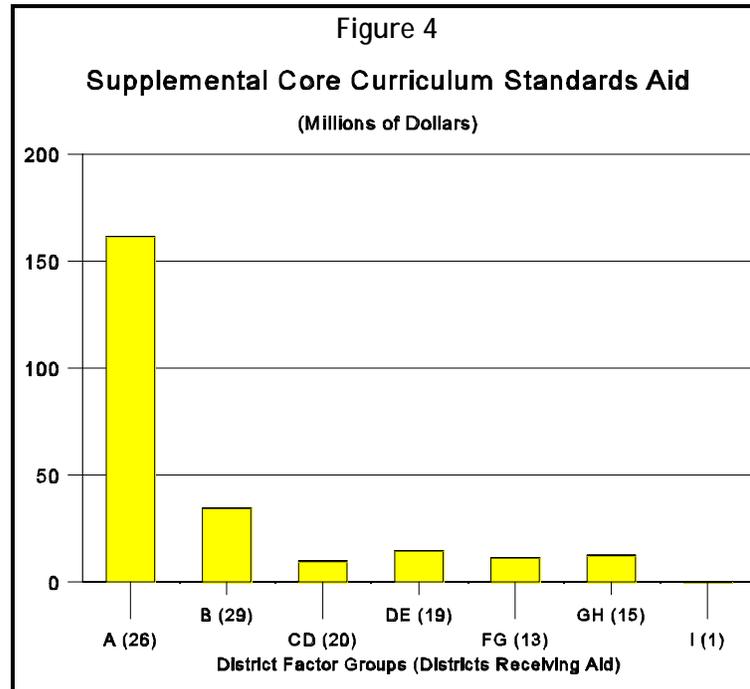
The greatest amount of State aid distributed to local districts is based on a district's relative wealth and its resident enrollment -- Core Curriculum Standards Aid. The recommended FY 2003 appropriation for Core Curriculum Standards Aid (CCSA) is \$3.1 billion. The calculation of a district's CCSA is determined first by calculating the total amount available for CCSA. Then based on a district's wealth relative to all other districts in the State and the district's resident enrollment, a calculation is made to determine each district's CCSA entitlement, if any. While not calculated for the FY 2003 appropriation, the distribution of the Core Curriculum Standards Aid reflects district wealth used in calculating this aid for FY 2002 (see Figure 3, Core Curriculum Standards Aid by District Factor Group).

Program Description and Overview (Cont'd)



Program Description and Overview (Cont'd)

Another wealth-based aid is Supplemental Core Curriculum Standards Aid (SCCSA). SCCSA is given to those districts with a low-income pupil concentration equal to or greater than 40 percent of the district's modified enrollment which have an estimated minimum equalized tax rate that exceeds by 10 percent the estimated minimum equalized tax rate for the State as a whole. An additional \$63.6 million was incorporated into SCCSA in FY 2002 and is continued into the FY 2003 recommended appropriation of \$251.8 million in order to provide assistance to communities



to stabilize the tax impact of significant changes in enrollment and wealth (see figure 4, Supplemental Core Curriculum Standards Aid, also by District Factor Group).

The other wealth-based aid provided to districts is debt service aid, for FY 2003, of \$142.4 million. Under the "Educational Facilities Construction and Financing Act," P.L.2000, c.72, debt service aid for districts was restructured as follows:

Prior issuance of debt. Debt issued for projects approved prior to July 18, 2000 (the effective date of P.L.2000, c.72), will continue to have debt service aid calculated as in past fiscal years, in the same proportion that Core Curriculum Standards Aid is to a district's T and E budget (regular education) with two exceptions as noted below.

Retroactive exception 1. Any district which obtained approval from the commissioner since September 1, 1998 and prior to July 18, 2000, of the educational specifications for a school facilities project or obtained approval from the Department of Community Affairs or the appropriately licensed municipal code official since September 1, 1998 of the final construction plans and specifications, and the district had issued debt, could elect to have the final eligible costs of the project determined pursuant to a review of those cost by the commissioner and to receive debt service aid under section 9 or section 10 of P.L.2000, c.72. Debt service aid under section

Program Description and Overview (Cont'd)

9 for districts whose projects qualify under this language would be at a minimum of 40 percent of final eligible or approved costs. Debt service aid for these same projects under section 10 would be calculated as in previous fiscal years on the total costs of the project.

Retroactive exception 2. Any district which received approval from the commissioner for a school facilities project at any time prior to the effective date of P.L.2000, c.72, and had not issued debt, other than short term notes, could submit an application to be reviewed by the commissioner to have the final eligible costs of the project determined and to have the authority construct the project; or, at its discretion, the district could choose to receive debt service aid under section 9 or under section 10 or to receive an up-front grant for the project under section 15.

Under the retroactive exceptions above, the "issuance of debt" includes lease purchase agreements in excess of five years. After July 18, 2000, issuance of debt will not include lease purchase agreements.

Projects approved after July 18, 2000. For final eligible costs of school facilities projects approved by the commissioner after July 18, 2000, a school district may choose to receive a one-time up-front grant for the project or debt service aid. The minimum amount of aid provided for up-front grants will be 40 percent of the final eligible costs and, for debt service aid, 40 percent of principal and interest costs on school district bonds issued to finance final eligible costs.

Categorical Aid

The biennial Report on the Cost of Providing a Thorough and Efficient Education issued in March of each even numbered year, in addition to recommending the T and E amounts required for a thorough and efficient education, also recommends the per pupil amounts required to support the costs of categorical and other special aid programs. The per pupil amounts recommended in this report are considered approved for two successive years beginning one year from the subsequent July 1, unless the Legislature adopts a concurrent resolution stating that it is not in agreement with all or any part of the report. Aid amounts recommended for FY 2003 on a per pupil basis for the aid categories listed in Table 1 below (aid amounts are the same as for FY 2002) are: Adult and Postsecondary Education --Adult (\$1,443), Post-Secondary (\$1,985); Bilingual Education (\$1,168); County Vocational (\$1,883); Distance Learning Network (\$44); Special Education-- Tier I (\$310, Tier II (\$3,260), Tier III (\$5,975), Tier IV (\$13,037); and Transportation-- CP1 (\$383.88), CD2 (\$10.50), CP2 (\$2,675.77), CD2 (\$5.10). A summary of the total State aid amounts provided to the districts for some of the categorical aid items is provided in Table 1.

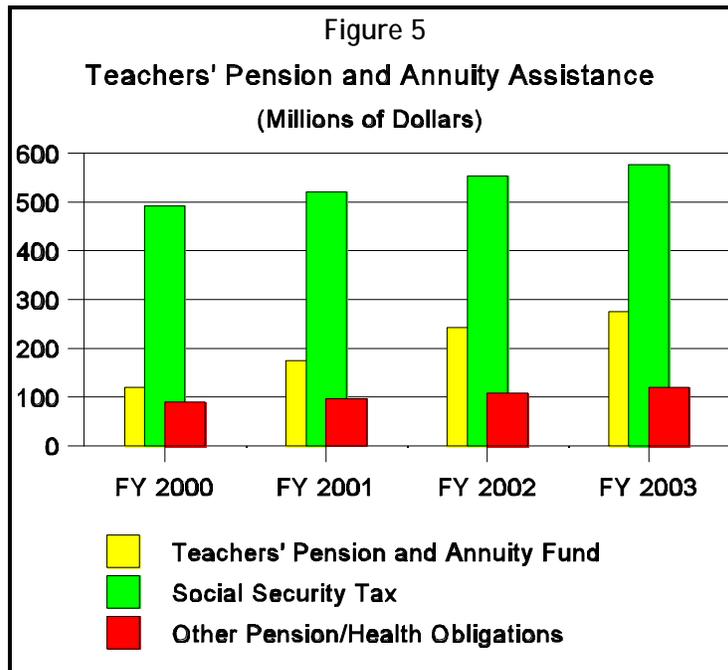
Teachers' Pension and Annuity Assistance Aid

The recommended FY 2003 appropriation to assist school districts with Teachers' Pension and Annuity Assistance is \$977.6 million, an increase of \$71.9 million (7.9 percent) over the FY 2002 adjusted appropriation of \$905.7 million. As shown in Figure 5, two components make up the major portion of this State aid to school districts, Social Security Taxes and the Teachers' Pension and Annuity Fund which pays the cost of post-retirement medical benefits.

Program Description and Overview (Cont'd)

Table1: Categorical State Aid, FY 1999 to FY 2003
(Millions of Dollars)

Aid Categories	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	Percent Change 99-03	Percent Change 02-03
Adlt & Postscndry	\$25.01	\$26.70	\$26.65	\$28.72	\$28.72	14.8%	0.0%
Bilingual	\$53.20	\$55.50	\$59.25	\$65.58	\$65.58	23.3%	0.0%
Co Voc Ed	\$38.42	\$39.55	\$40.73	\$44.41	\$44.41	15.6%	0.0%
Dist Lrng Network	\$52.20	\$54.50	\$56.82	\$59.16	\$59.16	13.3%	0.0%
Spec Ed	\$643.90	\$692.30	\$770.35	\$911.42	\$911.42	41.5%	0.0%
Transport	\$261.10	\$266.80	\$301.54	\$303.79	\$303.59	16.3%	-0.1%
Total	\$1,073.83	\$1,135.35	\$1,255.34	\$1,413.08	\$1,412.88	31.6%	0.0%

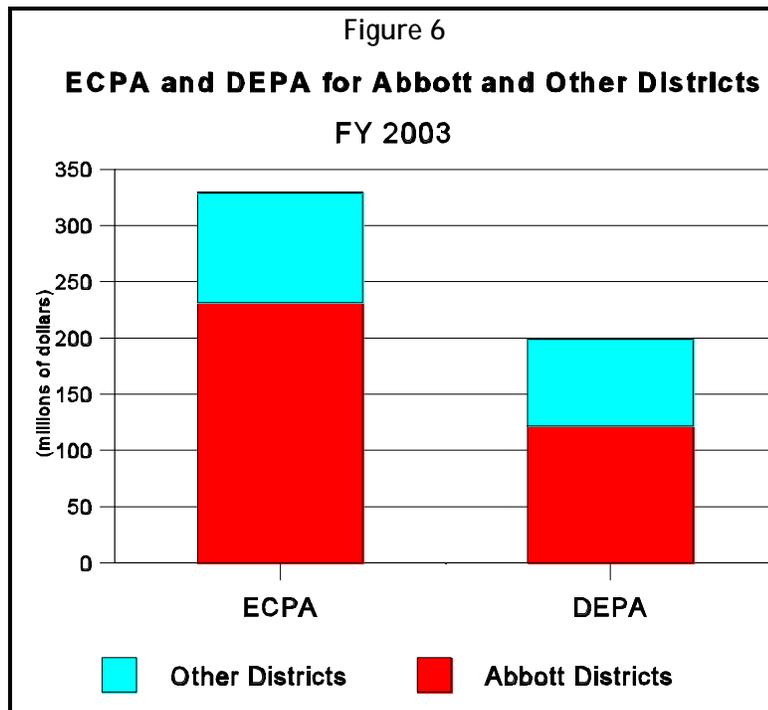


Aid Programs for Districts with High Concentrations of Low-Income Pupils

Program Description and Overview (Cont'd)

Two additional programs provide aid to districts with high concentrations of low-income pupils. Early Childhood Program Aid (ECPA) is provided to all school districts meeting certain low-income pupil concentration rates for the purpose of providing full-day kindergarten, preschool classes and other early childhood programs and services for all the pupils in the district. The aid is calculated on a per pupil basis in accordance with the amounts set in the biennial Report. Districts which have a low-income pupil concentration equal to or greater than 20 percent and less than 40 percent of modified enrollment receive aid in FY 2003 in the amount of \$506 per **district** pupil. Districts which have a low-income pupil concentration equal to or greater than 40 percent receive aid in FY 2003 in the amount of \$817 per **district** pupil (these are the same per pupil amounts used in calculating this aid in FY 2002).

Demonstrably Effective Program Aid is allocated for the purpose of providing instruction, school governance, and health and social service programs to students in the schools which qualify within a district. **Schools** qualify for this aid by having a low-income pupil concentration equal to or greater than 20 percent and less than 40 percent of the school's modified enrollment or by having a low-income pupil concentration equal to or greater than 40 percent of the school's modified enrollment. Districts with a **school** or **schools** in the first category, are recommended to receive aid in FY 2003 in the amount of \$327 per pupil in the **qualifying school** or **schools**; districts with a **school** or **schools** in the second category, are recommended to receive aid in FY 2003 in the amount of \$463 per pupil in the **school** or **schools** which qualify (these are the same per pupil aid amounts as for FY 2002).

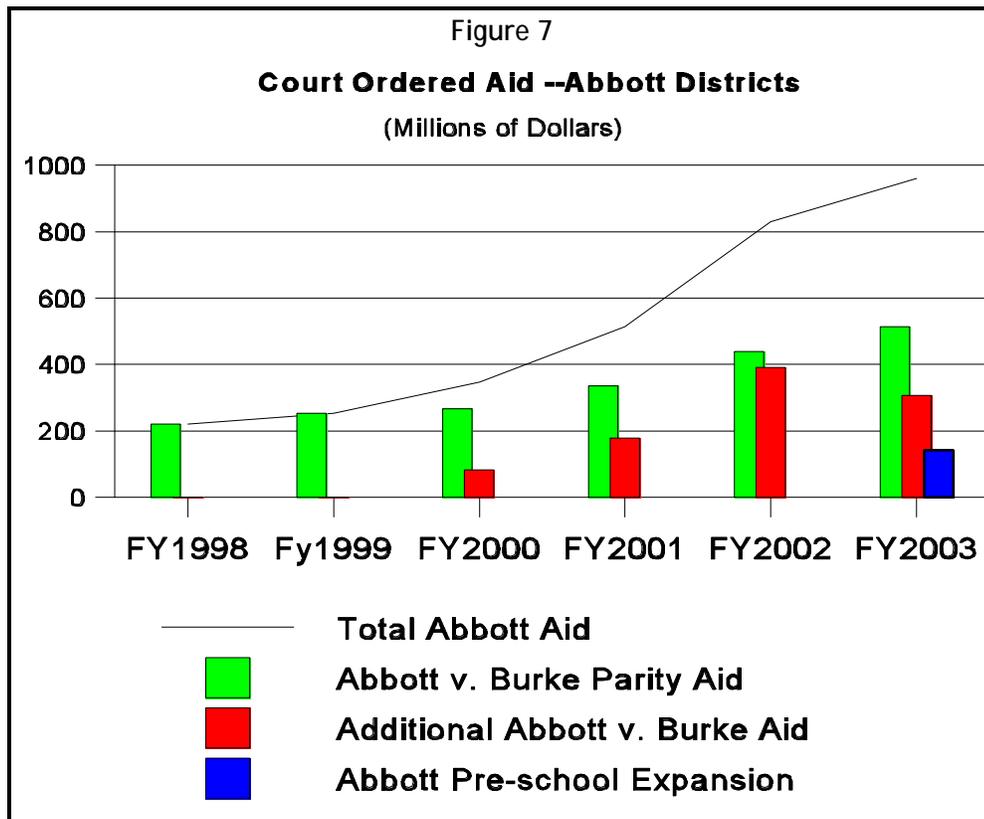


Program Description and Overview (Cont'd)

Early Childhood Program Aid (ECPA) and Demonstrably Effective Program Aid (DEPA) are important components of the State's efforts to achieve reform in all districts having low-income pupil concentrations, especially the Abbott districts. Figure 6 shows the recommended FY 2003 appropriation for Early Childhood Program Aid and Demonstrably Effective Program Aid by Abbott and other districts. Information provided by the Department of Education shows that for FY 2003, \$330.6 million is allocated to districts for Early Childhood Program Aid, of which \$231.8 million (70.1 percent) is allocated to Abbott districts and \$97.7 million (29.9 percent) is allocated to the other districts. For FY 2003, \$199.5 million is allocated to districts for Demonstrably Effective Program Aid, of which \$121.6 million (61 percent) is allocated to Abbott districts and \$77.5 million (39 percent) is allocated to the other districts. These aid amounts are the same as for FY 2002.

Court Ordered State Aid

Abbott v. Burke Parity Aid is distributed to the Abbott districts as a result of Abbott IV in which the court required that additional State aid be provided to the Abbott districts to increase the per pupil regular education expenditure in each of those districts to the level of average per pupil regular education expenditure of the District Factor Groups I and J districts, the 120 highest wealth districts in the State. In Abbott V, the Court also provided for Additional Abbott v. Burke State Aid requiring that half-day preschool programs for three and four year olds and full day kindergarten be implemented in the Abbott districts, along with other ancillary programs, the purpose of which is to address the special educational needs of children coming from low-income and urban



neighborhoods and directed the commissioner, upon receipt of demonstrated need from the district, to make efforts to secure and provide the necessary funding.

Program Description and Overview (Cont'd)

The recommended FY 2003 budget contains a new line item for Abbott districts, Abbott Preschool Expansion Aid, for which \$142.4 million in aid is recommended. In Abbott VI, the Court required that the department, along with the Abbott districts, be more aggressive in seeking out children of pre-school age to be enrolled in the Abbott preschool programs. As a result, the total enrollment in Abbott preschools is expected to grow by more than 13,000 students from the 2001-2002 to the 2002-2003 school year. Total Court ordered aid for Abbott districts in FY 2003 equals \$960.8 million. See Background paper, pages 61-73, for a summary of the Abbott decisions.

Stabilization Aid

Under CEIFA a provision is also made for Stabilization Aid. In recognition of the fact that the adoption of a new school aid formula in 1997-1998 as well as annual fluctuations in school district wealth and enrollment would result in some districts receiving less State aid compared with the prior year than needed to continue to plan and function effectively, and that some districts might receive a greater increase in State aid compared to the prior year than that for which the district could effectively plan and budget, provisions of CEIFA permitted the department to calculate aid to provide relative stabilization in the amount of State aid a district receives from one year to the next. In addition, the Legislature has acted each year to provide additional Stabilization Aid. The categories and totals of Stabilization Aid for FY 2003 are found in Table 2.

Table 2: Stabilization Aid
(Thousands of Dollars)

Stabilization Aid Categories	FY 2003 Recommended Appropriation	Dollar Change FY 02 to FY 03	Percent Change FY 00 to FY02
Stabilization Aid	\$111,626	\$0	0.0%
County Special Services Tuition Stabilization	\$0	(\$250)	(100.0)%
Large Efficient District Aid	\$5,250	\$0	0.0%
Regionalization Incentive Aid	\$18,295	\$0	0.0%
Aid for Districts with High Senior Citizen Populations	\$1,231	\$0	0.0%
Stabilization Aid 2	\$2,491	\$0	0.0%
Stabilization Aid 3	\$11,402	\$0	0.0%
TOTAL	\$150,295	(\$250)	(3.4)%

In FY 2003, by continuing Stabilization Aid 3 in the amount of \$11.4 million, along with Stabilization Aid and Stabilization Aid 2, no district will receive less cash aid in FY 2003 than it received in FY 2002. Under Stabilization Aid 3, 136 districts received up to 2 percent more in State aid in FY 2002 than was originally announced in the State aid figures released by the department on January 24, 2001. As already indicated, this aid is continued in the FY 2003 recommended budget.

Fiscal and Personnel Summary

AGENCY FUNDING BY SOURCE OF FUNDS (\$000)

	Expended FY 2001	Adj. Approp. FY 2002	Recom. FY 2003	Percent Change	
				2001-03	2002-03
General Fund					
Direct State Services	\$54,823	\$57,620	\$55,683	1.6%	(3.4)%
Grants-In-Aid	3,536	10,326	13,551	283.2%	31.2%
State Aid	96,020	2,016,638	2,107,259	2094.6%	4.5%
Capital Construction	1,970	2,930	400	(79.7)%	(86.3)%
Debt Service	0	0	0	0.0%	0.0%
Sub-Total	\$156,349	\$2,087,514	\$2,176,893	1292.3%	4.3%
Property Tax Relief Fund					
Direct State Services	\$0	\$0	\$0	0.0%	0.0%
Grants-In-Aid	0	0	0	0.0%	0.0%
State Aid	6,607,975	5,342,720	5,511,588	(16.6)%	3.2%
Sub-Total	\$6,607,975	\$5,342,720	\$5,511,588	(16.6)%	3.2%
Casino Revenue Fund	\$0	\$0	\$0	0.0%	0.0%
Casino Control Fund	\$0	\$0	\$0	0.0%	0.0%
State Total	\$6,764,324	\$7,430,234	\$7,688,481	13.7%	3.5%
Federal Funds	\$495,695	\$639,262	\$740,921	49.5%	15.9%
Other Funds	\$16,856	\$18,824	\$19,102	13.3%	1.5%
Grand Total	\$7,276,875	\$8,088,320	\$8,448,504	16.1%	4.5%

PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual FY 2001	Revised FY 2002	Funded FY 2003	Percent Change	
				2001-03	2002-03
State	478	542	567	18.6%	4.6%
Federal	242	247	297	22.7%	20.2%
All Other	160	161	176	10.0%	9.3%
Total Positions	880	950	1,040	18.2%	9.5%

FY 2001 (as of December) and revised FY 2002 (as of September) personnel data reflect actual payroll counts. FY 2003 data reflect the number of positions funded.

AFFIRMATIVE ACTION DATA

Total Minority Percent	25.3%	25.0%	25.0%	----	----
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Significant Changes/New Programs (\$000)

<u>Budget Item</u>	<u>Adj. Approp. FY 2002</u>	<u>Recomm. FY 2003</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
<u>Abbott v. Burke Parity Remedy</u>	\$429,056	\$512,656	\$83,600	19.5%	D-132
<u>Additional Abbott v. Burke State Aid</u>	\$348,674*	\$305,674	(\$43,000)	(12.3)%	D-133
<u>Abbott Preschool Expansion Aid</u>	\$0	\$142,400	\$142,400	—	D-133
Total Court Ordered Aid	\$777,730	\$960,730	\$183,000	23.5%	

* The additional Abbott v. Burke State Aid amount has been adjusted for the transfer of \$100 million from the School Construction and Renovation Fund in the Department of Treasury in accordance with the fiscal 2002 Appropriations Act. This transfer has not taken place as of April 30, 2002.

Abbott v. Burke Parity Remedy Aid is allocated to the 30 Abbott school districts pursuant to the May 14, 1997 order of the New Jersey Supreme Court. The court required that additional State aid be provided to the Abbott districts to increase the per pupil regular education expenditure in each of those districts to the level of the average per pupil regular education expenditure of the District Factor Groups I and J districts, the 120 highest wealth districts in the State.

Additional Abbott v. Burke State Aid is allocated by the commissioner based on his evaluation of the supplemental funding requests of the Abbott districts in accordance with the districts' demonstration of particularized need. This aid category is provided pursuant to the May 21, 1998 order of the New Jersey Supreme Court. As indicated in footnote (b), p. D-135 of the FY 2003 recommended budget, "the recommended fiscal 2003 appropriation for Additional Abbott v. Burke State Aid will be adjusted downward or upwards by the Commissioner, as necessary, to fulfill the responsibilities of the Commissioner under the Abbott order."

The Abbott Preschool Expansion Aid will be used to fund the increase in costs between fiscal years 2002 and 2003 for the approved preschool programs for three- and four-year olds in Abbott districts. The number of Abbott preschoolers served in fiscal year 2003 is expected to grow to over 39,000 from 26,500 enrolled in fiscal year 2002. This new line item represents specific funding for Abbott preschool programs, which were funded through Early Childhood Program Aid and Additional Abbott v. Burke State Aid in prior years.

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2002</u>	<u>Recomm.</u> <u>FY 2003</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
School Building Aid	\$140,873	\$137,858	(\$3,015)	(2.1)%	D-147
School Building Aid Debt Service	\$5,484	\$4,532	(\$952)	(17.4)%	D-147
School Construction and Renovation Fund	\$81,993*	\$44,600	(\$37,393)	(45.6)%	D-490
Total	\$146,357	\$142,390	(\$3,967)	(2.7)%	

* The FY 2002 appropriation amount for the School Construction and Renovation Fund in the Department of Treasury was adjusted to reflect a transfer of \$100 million to the Additional Abbott v. Burke State Aid account in the Department of Education in accordance with the fiscal 2002 Appropriations Act. This transfer has not taken place as of April 30, 2002.

The appropriation for School Building Aid is recommended to decrease by \$3 million from \$140.8 million in FY 2002 to \$137.8 million in FY 2003. This appropriation will fund State debt service aid on debt issued for school facilities projects approved prior to July 18, 2000, the effective date of the "Educational Facilities Construction and Financing Act," other than retroactive debt service funding provided under that law.

The reduction in State funding for School Building Aid - Debt Service reflects a decrease in debt service obligations due to the scheduled retirement of a portion of the debt of the three remaining school building aid programs enacted by the Legislature pursuant to P.L.1968, c.177, P.L.1971, c.10 and P.L.1978, c.74. It is anticipated that, based on the payment schedules for the bonds, the appropriation for this aid program will decrease annually until the bonds have been fully paid.

The recommended appropriation for FY 2003 for the School Construction and Renovation Fund is \$44.6 million a decrease of \$37.4 million or 46% from the FY 2002 adjusted appropriation of \$82 million. The FY 2003 appropriation will be supplemented by \$35 million in unexpended balances from pay-as-you go advances made to the Economic Development Authority (EDA) prior to the \$500 million bond issue in the spring of 2001. It is anticipated that a \$500 million issuance in the fall of 2002 will generate premiums of \$20 million, making a total of \$99.6 million available. The funds will be used for State debt service payments of \$41.4 million on the 2001 issuance of EDA bonds, \$31.2 million for transfer to the Department of Education for retroactive debt service and \$27 million for State debt service payments on the new issue.

County Special Services

Tuition Stabilization	\$250	\$0	(\$250)	(100.0)%	D-133
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The "Comprehensive Educational Improvement and Financing Act of 1996,"(CEIFA) P.L.1996, c.138, established a county special services school district tuition stabilization aid program for the 1997-98 through 2001-2002 school years. County special services school districts are county districts established to provide programs and services for special education students, and a student's district of residence is responsible for tuition payments to the county special services district to fund the cost of the student's education. Under the tuition stabilization aid program, State aid is provided

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2002</u>	<u>Recomm.</u> <u>FY 2003</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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to fund tuition losses experienced by a county special services school district when student placements in the district drop by more than five percent between the prebudget and budget years. This five-year program under CEIFA will expire at the end of the 2001-2002 school year and consequently the Governor does not recommend funding for FY 2003.

**Educational
Information and
Resource Center**

	\$450	\$0	(\$450)	(100.0)%	D-133
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No appropriation is recommended for the Educational Information and Resource Center (EIRC) in FY 2003. These funds were added by the Legislature in FY 2002. The functions and activities of the EIRC include: providing information and other resources to school districts throughout the State; operating an instructional materials loan library for teachers; and, providing consulting, technical assistance services and staff development programs for school districts throughout the State. The State funds recommended for elimination are used in part to support basic operations at the EIRC which include support for clerical staff, utilities, and other operation and maintenance costs. The EIRC receives other grants, many of which require either an in-kind service such as clerical support, or matching funds, as a condition for receiving the grant. Any matching funds that are required of the center are funded from the State appropriation.

School Choice	\$1,945	\$3,755	\$1,810	93.1%	D-147
Charter School Aid	\$6,000	\$14,500	\$8,500	141.7%	D-147
Total	\$7,945	\$18,255	\$10,310	129.8%	

The total recommended FY 2003 appropriation for School Choice/Charter School Aid is \$18.3 million, an increase of \$10.3 million (129.8 percent) over the FY 2002 adjusted appropriation of \$7.9 million. State aid for School Choice/Charter Schools is used for: the payment of State aid to any charter school which operates a full-day kindergarten program in an Abbott district (pursuant to P.L.1999, c.385 this aid category was to end after the 2000-2001 school year but was continued in FY 2002 through budget language and is recommended for continuation in FY 2003); the payment of State aid as required under subsection c. of section 12 of P.L.1995, c.426 on behalf of charter school students who come from a resident district in which 90% of the maximum T & E amount is less than 90% of the program budget per pupil amount (the resident district is only responsible for paying the lesser amount and the State pays the difference); and the payment of State aid to districts for the costs of the initial year of enrollment of charter school students who were previously enrolled in a nonpublic school in accordance with the provisions of subsection d. of section 12 of P.L.1995, c.426. The increase in aid recommended for FY 2003 reflects the payment of increased school choice aid due to enrollment increases under the school choice program; and the increase necessary to fund the budget language found on page D-149 which provides that the State will pay any difference between a resident district's actual required 2002-2003 charter school payment and the estimated appropriation used in completing the school district's 2001-2002 budget.

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp. FY 2002</u>	<u>Recomm. FY 2003</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
Teacher Quality Mentoring	\$2,000	\$6,460	\$4,460	223.0%	D-134
Teachers' Pension and Annuity Assistance	\$244,464	\$275,800	\$31,336	12.8%	D-147
Debt Service on Pension Obligation Bonds	\$72,665	\$76,899	\$4,234	5.8%	D-147
Pension and Annuity Assistance - Other	\$36,029	\$48,349	\$12,320	34.2%	D-147
Teachers' Social Security Assistance	\$552,578	\$576,550	\$23,972	4.3%	D-147
Total	\$905,736	\$977,598	\$71,862	7.9%	D-146

The total recommended FY 2003 appropriation for Teachers' Pension and Annuity Assistance is \$977.6 million, an increase of \$71.9 million (7.9 percent) over the FY 2002 adjusted appropriation of \$905.7 million. The recommended funding for Teacher's Pension Assistance (\$275.8 million) pays the cost of post-retirement medical benefits. The normal contribution is paid from excess valuation assets.

The recommended FY 2003 appropriation for Other Pension and Annuity Assistance is \$48 million, an increase of \$12.3 million (34.2 percent) over the FY 2002 adjusted appropriation of \$36 million. The appropriation for Other Pension and Annuity Assistance pays the costs for post-retirement medical benefits for retired members of boards of education pursuant to P.L. 1992, c. 126. The account is funded on a pay-as-you-go basis.

Governor's Literacy Initiative	\$0	\$10,000	\$10,000	—	D-146
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The recommended appropriation for the Governor's Literacy Initiative is \$10 million. This represents the first installment in a four-year \$40 million program - for reading coaches and other forms of reading assistance to schools, children and communities. This new program will help achieve the goal that every student will be able to read at or above grade level by the third grade.

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2002</u>	<u>Recomm.</u> <u>FY 2003</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
Nonpublic School Aid	\$97,043	\$92,899	(\$4,144)	(4.3)%	D-133

The recommended FY 2003 appropriation for Nonpublic School Aid is \$93 million, a 4.3 percent decrease from the FY 2002 adjusted appropriation of \$97 million. Non-Public School Aid provides assistance to boards of education in public school districts to reimburse these districts for expenses they are required to incur on behalf of students who are enrolled in grades K-12 in a nonpublic school within the district in the following categories: textbook aid; auxiliary services aid; handicapped aid; auxiliary/handicapped transportation aid; nursing services aid; and technology initiative aid. The decrease in the FY 2003 appropriation is attributable to a decrease in the per pupil amount from \$40 to \$20 for Nonpublic Technology Initiative Aid.

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No comparable language.

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p. D-152

Notwithstanding any other law or regulations to the contrary, each district shall receive no less of a total State aid amount payable for the 2002-2003 school year than the sum of the district's total State aid amount payable for the 2001-2002 school year for the following aid categories: Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Early Childhood Program Aid, Instructional Supplement Aid, Demonstrably Effective Program Aid, Rewards and Recognition, Stabilization Aid, Stabilization Aid 2, Stabilization Aid 3, Large Efficient District Aid, Aid for Districts with High Senior Citizen Populations, Regionalization Incentive Aid, Distance Learning Network Aid, Adult and Postsecondary Education Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, and Aid for Enrollment Adjustments.

Explanation

This recommended budget language assures that the amount of State aid payable for the 2002-2003 school year to each school district will be no less than the sum of a district's total State aid amount payable for FY 2001-2002 for the 19 aid categories listed. Aid categories not included in the list above are: Abbott v. Burke Parity Remedy Aid, Additional Abbott v. Burke State Aid; Abbott Preschool Expansion Aid; School Choice and Charter School Aid.

Note: The language provision section is not organized as usual, according to the order of budget pages, but as follows: since State aid for school districts has not been calculated for each district for the 2002-2003 school year, with certain exceptions, and therefore the recommended budget language provides that the same amount of cash State aid be given in FY 2003 as in FY 2002, the language provision section starts with the recommended budget language for the distribution of State aid above, then proceeds to any language concerning the categories of State aid listed in that recommended language, in the order in which the categories are listed. Following that, the remainder of the language provisions are in the order in which they appear in the budget.



Language Provisions (Cont'd)

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p. B-51

p. D-135

Of the amount hereinabove for [Direct Educational Services and Assistance], an amount equal to the total earnings of investments of the School Fund [in excess of the amount allocated for School Construction and Renovation] shall first be charged to such Fund.

Of the amount hereinabove for Core Curriculum Standards Aid, an amount equal to the total earnings of investments of the School Fund shall first be charged to such Fund.

Explanation

The appropriation for the School Construction and Renovation Fund in the Department of the Treasury does not include an amount from the earnings of the School Fund. The total earnings of investments of the School Fund are to be appropriated for Core Curriculum Standards Aid.



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p. B-51

Notwithstanding section 11 of P.L.1996, c.138 (C.18A: 7F--11), the required appropriation for the State's Core Curriculum Standards Aid contribution for the 2001--2002 school year has been reduced by \$5,000,000, to be held in reserve pending the determination of income appeals filed pursuant to section 15 of P.L.1996, c.138 (C.18A: 7F--15). In addition to the amount appropriated hereinabove for Core Curriculum Standards Aid, there is appropriated \$5,000,000 for payment of income appeals, subject to the approval of the Director of the Division of Budget and Accounting. In determining income appeals the property value multiplier and income multipliers shall be the same as originally calculated.

No comparable language.

Explanation

Section 15 of P.L. 1996, c.138, the "Comprehensive Education Financing and Improvement Act of 1996" (CEIFA), provides a district with the right to appeal the district's aggregate income figure used as part of the calculation to determine a district's eligibility for Core Curriculum Standards Aid. Under the FY 2002 budget language \$5 million of the State's core curriculum standards aid contributions was held in reserve pending the outcome of district appeals on the aggregate income

Language Provisions (Cont'd)

used in the calculation of Core Curriculum Standards Aid. Pursuant to the budget language on page D-152, Core Curriculum Standards Aid is not calculated for FY 2003. Each district will receive the same amount in FY 2003 as it received in FY 2002. Any changes in a district's core curriculum standards aid in FY 2002 based on an income appeal has already become part of the district's Core Curriculum Standards Aid for FY 2002; therefore this budget language is unnecessary in FY 2003.



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Notwithstanding any other law to the contrary, "district income" for the purposes of section 14 of P.L.1996, c.138 (C.18A: 7F--14) shall mean the aggregate of total income reported on NJ-1040 for 1998 and all public assistance including Temporary Assistance to Needy Families for 1998 of the residents of the taxing district or taxing districts.

No comparable language.

Explanation

Section 14 of P.L.1996, c.138 (C.18A:7F-14) provides for the calculation of each district's core curriculum standards aid in which a district's aggregate income is one measure of a district's wealth used to determine eligibility for core curriculum standards aid. This FY 2002 budget language defined district income for the purpose of that calculation. Since core curriculum standards aid remains the same as for FY 2002, this language is not needed in FY 2003.



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Notwithstanding the provisions of section 17 of P. L. 1996, c. 138 (C.18A: 7F--17), the amounts hereinabove in the Supplemental Core Curriculum Standards Aid account for each school district shall be calculated by summing the amount initially calculated for the district in accordance with the requirements of this section and an amount calculated as follows if the calculated result is greater than zero: 1.) Determine the district's

No comparable language.

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calculated pursuant to section 14 of P. L. 1996, c. 138 (C.18A: 7F--14) by its equalized valuation. For this purpose a district's local share shall be limited to the amount of its T&E Budget. 2.) For districts in district factor groups "A", "B", "CD", "DE", "FG", "GH" and in both district factor groups "I" and "J" having an equalized valuation per pupil and an income per pupil below the State average determine the difference between a tax rate of \$1.72 per \$100 of equalized valuation per pupil and the district's T & E tax rate per \$100 of equalized valuation. 3.) Multiply the difference obtained in step two by the district's equalized valuation. Aid pursuant to the provisions of subsection b. of section 5 of P. L. 1996, c. 138 (C.18A: 7F--5) and subsections c., e., f., and h. of section 10 of P. L. 1996, c. 138 (C.18A: 7F--10) is eliminated.

Explanation

Supplemental Core Curriculum Standard Aid (SCCSA) is provided pursuant to section 17 of CEIFA to districts which have a low-income concentration rate equal to or greater than 40 percent and a minimum equalized school tax rate that exceeds by 10 percent the estimated minimum equalized school tax rate for the State as a whole. Through budget language first adopted in FY 2001, SCCSA was also provided to districts which have a T&E tax rate in excess of \$1.72 per \$100 of equalized valuation per pupil in an amount necessary to reduce those district's T&E tax rate to \$1.72 per \$100 of equalized valuation per pupil. Budget language is not necessary for the distribution of SCCSA in FY 2003, since the recommended budget language, page D-152, includes this as one of the aid categories for which districts will receive the same amount as in FY 2002.

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Notwithstanding the provisions of section 16 of P.L.1996, c.138 (C.18A:7F--16), a level II district and a non--Abbott district that is required to comply with this section with respect to the establishment of a preschool and full--day kindergarten for all four and five year Olds in the 2001--2002 school year, that has a

No comparable language.

Language Provisions (Cont'd)

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district aid percentage equal to or greater than 55% pursuant to P.L.2000, c.72 (C.18A:7G--1 et seq.), and is entitled to receive Early Childhood Program Aid, may use its unexpended Early Childhood Program Aid balances as of June 30, 2001 to enter into an agreement with the New Jersey Economic Development Authority by June 30, 2002 to fund the local share of an early childhood school facilities project constructed by the authority and approved by the Commissioner of Education.

Explanation

FY 2002 budget language permitted a level II district and certain nonAbbott districts receiving early childhood program aid to use their unexpended Early Childhood Program Aid balances as of June 30, 2001 to enter into an agreement with the New Jersey Economic Development Authority by June 30, 2002 to fund the local share of an early childhood school facilities project constructed by the authority and approved by the Commissioner of Education. Similar language for FY 2003 is not needed since these districts have had time to present facilities projects, if any, to the voters for approval of the local share.



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p. B-54

Notwithstanding the provisions of section 29 of P.L. 1996, c. 138 (C. 18A: 7F--29), the amount appropriated hereinabove for Rewards and Recognition shall be made available to qualifying schools based upon a per pupil amount for the projected number of pupils enrolled in qualifying schools for the budget year in the grade levels eligible to take the most recent grade eight proficiency assessment and the high school proficiency test and schools that administered the grade eight proficiency assessment shall qualify for an absolute success reward with 80% of the pupils performing above the passing scores. In addition, no more than \$1,000,000 of the

No comparable language.

Language Provisions (Cont'd)

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amount appropriated hereinabove for Rewards and Recognition shall be made available to qualifying school districts as Academic Achievement Rewards Aid 2 determined in the following manner: (a) all school districts with a general education passing rate on the most recent grade eight proficiency assessment shall be ranked based upon a three year average of the general education passing rate on the grade eight proficiency assessment; (b) these districts shall also be ranked in descending order based on the "Budget 1999--00 Per Pupil Cost" from the "Total Cost Per Pupil" table in the March, 2000, "Comparative Spending Guide"; (c) the two rankings shall be summed; (d) within each district factor group, districts with combination ranks within the top 10% of the district factor group shall be provided \$6.25 per projected resident pupil, except that districts with a 1999--2000 net budget greater than their 1999--2000 net T&E Budget, as defined in section 3 of P.L. 1996, c. 138 (C. 18A: 7F--3), shall be excluded, however the exclusion shall not apply to a district sending more than 10 pupils as of October 15, 1999, with an average tuition amount per pupil greater than the district's average weighted T&E amount per sent pupil in the 1999--2000 school year. These calculations shall be repeated substituting the high school proficiency test for the grade eight proficiency assessment, and the aid from both calculations shall be combined. Aid provided to a district pursuant to this paragraph shall be included in the budget year for the purposes of calculating a district's stabilization reduction and Stabilization Aid.

Explanation

FY 2002 budget language established two categories of Academic Achievement Reward Aid, notwithstanding the provisions of section 29 of CEIFA. Pursuant of the budget language on page D-152, districts will receive the same amount of this aid category as in FY 2002; therefore this language is not necessary in FY 2003.

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Notwithstanding the provisions of section 10 of P. L. 1996, c.138 (C.18A: 7F--10), the amounts hereinabove for Stabilization Aid shall be calculated for all school districts based upon a 2000--2001 prebudget year total that includes Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Stabilization Aid received pursuant to subsection b. of section 10 of P. L. 1996, c.138 (C.18A: 7F--10), Stabilization Aid 2, Distance Learning Network Aid, categorical aids for special education programs, bilingual education programs, county vocational programs, Early Childhood Program Aid, Demonstrably Effective Program Aid, Instructional Supplement aid, Transportation Aid, aid for adult and post--secondary programs, and academic achievement rewards calculated pursuant to sections 15 through 22, 25, 28, and 29 of P. L. 1996, c.138(C.18A: 7F--15 through 18A:7F--22), (C.18A: 7F--25), (C.18A: 7F--28), and (C.18A: 7F--29) and school choice aid calculated pursuant to section 7 of P.L. 1999, c.413 (C.18A: 36B--8). The 2000--2001 prebudget total for each school district for Stabilization Aid calculation purposes shall also be adjusted to reflect the amounts payable in the 2000--2001 school year in each aid category based upon the actual pupil counts for the prior school year.

No comparable language.

Explanation

The FY 2002 budget language defined the categories of aid to be included in the prebudget year base used to determine if a district was eligible for stabilization aid in the 2001-2002 school year. Stabilization aid is one of the aids for which districts are to receive the same cash State aid in FY 2003 as they did in FY 2002; therefore there is no need to include this budget language in the FY 2003 budget.



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Notwithstanding the provisions of subsection b. of section 10 of P. L. 1996, c.138 (C.18A: 7F--10), the amounts hereinabove for Stabilization Aid for all school districts shall be the greater of (a) the lesser of \$100,000 or an amount calculated for the district based upon the difference between 100 percent of the district's prebudget total and the sum of the district's aid payments for the 2001--2002 school year other than the aid provided pursuant to subsection d. of section 10 of P. L. 1996, c.138 (C.18A: 7F--10) and for School Building Aid or (b) the greater of an amount calculated for the district based upon either the difference between 98% of the district's prebudget total and the sum of the district's aid payments for the 2001--2002 school year other than the aid provided pursuant to subsection d. of section 10 of P. L. 1996, c.138 (C.18A: 7F--10) and for School Building Aid or the difference between 92% of the district's prebudget total for the 1997--98 school year and the sum of the district's aid payments for the 2001--2002 school year other than the aid provided pursuant to subsection d. of section 10 of P. L. 1996, c.138 (C.18A: 7F--10) and for School Building Aid.

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No comparable language.

Explanation

The FY 2002 budget language provided that, in contrast with CEIFA under which a district could lose no more than 10 percent in cash State aid from one fiscal year to the next, no district could lose more than 2 percent between school years. Since this is one of the aid categories included in the general budget language, page D-152, that provides that districts will receive the same amount of cash aid in FY 2003 as in FY 2002, this budget language is not necessary in FY 2003.

Language Provisions (Cont'd)

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Notwithstanding any other law to the contrary, districts that were projected as qualified for Stabilization Aid 2 for the 2000--2001 school year pursuant to the provision for districts with an increase in their Core Curriculum Standards Aid payment for the 2000--2001 school year that also had a decrease in their total aid payments for the 2000--2001 school year shall also receive Stabilization Aid 2 for the 2001--2002 school year in an amount equal to the decrease in their total aid payments for the 2001--2002 school year other than the payment for School Building Aid.

No comparable language.

Explanation

The FY 2002 budget language continued to provide one category of Stabilization Aid 2 in FY 2002 to the same districts that had received it in FY 2001. Stabilization Aid 2 was initiated in FY 2001 to hold harmless certain districts which had received an increase in Core Curriculum Standards Aid but a decrease in overall State aid for that budget year. Pursuant to recommended budget language, page D-152, districts that received Stabilization Aid 2 in FY 2002 will receive the same cash amount in FY 2003.



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Notwithstanding any other law to the contrary, districts that were projected as qualified for Stabilization Aid 2 for the 2000--2001 school year pursuant to the provision for districts with a T&E and general fund tax rate greater than or equal to \$2.00 per \$100 of equalized valuation shall also receive Stabilization Aid 2 in the amount necessary to provide the district a total aid payment for the 2001--2002 school year, other than the payment for School Building Aid, that is equal to the sum of its total aid payment for the 2000--2001 school year, other than the payment for School Building Aid, and either 1% of the district's

No comparable language.

Language Provisions (Cont'd)

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2000--2001 net budget or \$100,000, whichever amount is greater, except that no district shall receive an aid amount that is less than zero.

Explanation

Stabilization Aid 2 was also provided in FY 2001 to districts which had both a T&E tax rate greater than \$1.72 per \$100 equalized valuation per pupil and a general fund tax rate greater than \$2 per \$100 of equalized valuation. Budget language in FY 2002 continued this form of Stabilization Aid 2. Pursuant to recommended budget language, page D-152, districts that received Stabilization Aid 2 in FY 2002, will receive the same cash aid amount in FY 2003.

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Notwithstanding any other law to the contrary, each district having a reduction in State aid from prebudget totals after the application of the language provisions of this annual appropriation act for determining Stabilization Aid and Stabilization Aid 2, shall also receive Stabilization Aid 3 for the 2001--2002 school year in an amount equal to the remaining difference between 100 percent of the district's prebudget total and the sum of the district's aid payments for the 2001--2002 school year, other than the aid provided for School Building Aid after the Stabilization Aid and Stabilization Aid 2 calculations.

No comparable language.

Explanation

This budget language in FY 2002 provided that no district would receive less cash State aid in FY 2002 than it did in FY 2001. This language is, in effect, continued by the more general recommended budget language on page D-152, which provides that districts will receive the same amount of cash State aid in FY 2003 as they did in FY 2002.

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Each district eligible for State aid pursuant to subsection d. of section 10 of P.L. 1996, c.138 (C.18A: 7F--10) shall be entitled to receive aid in the net amount calculated pursuant to the provisions of section 1 of P.L.1999, c.438 (C.18A: 7F--32.1), or \$1,250,000 per school district, whichever is greater, except that if the amount calculated pursuant to the provisions of section 1 of P.L.1999, c.438 is greater than \$1,250,000 the district shall also receive an additional amount of \$500,000, or a district that has a projected T&E budget equal to its projected minimum T&E budget shall also receive an additional amount of \$1,250,000, for the purposes of subsection d. of section 10 of P. L. 1996, c.138 (C.18A: 7F--10).

No comparable language.

Explanation

This FY 2002 budget language established the State aid amount for large and efficient district aid and regionalization incentive aid for the 2001-2002 school year. For FY 2003, this budget language is not necessary since, pursuant to budget language on D-152, districts which received this aid in FY 2002 will receive the same amount of cash aid in FY 2003.



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Notwithstanding the provisions of section 19 of P. L. 1996, c.138 (C.18A: 7F--19), the amounts hereinabove in the Special Education Aid account payable to each school district, other than a county vocational school district, for Tier II special education categorical aid shall be calculated by reducing each district's pupil count for the perceptually impaired pupils in Tier II by two-thirds of the amount of the pupil count reduction required by this section for the 2001--2002 school year.

No comparable language.

Language Provisions (Cont'd)

Explanation

For FY 2002, under section 19 of CEIFA, the pupil count of perceptually impaired students in each district was not to exceed the State average. FY 2002 budget language reduced the number of perceptually impaired students by which a district is permitted to exceed the State average by two-thirds rather than to the State average. For example, if a district's pupil count of perceptually impaired students is 100 more than the State average, the number has to be reduced by two-third, or by 67 pupils. As a result of this budget language in FY 2002, districts received more State aid for Special Education in FY 2002 than they would have under section 19 of CEIFA. Pursuant to the recommended budget language, page D-152, districts will receive the same amount of Special Education aid in FY 2003 as they did in FY 2002. Therefore, this language is not necessary in FY 2003.

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Notwithstanding the provisions of section 19 of P.L. 1996, c. 138 (C. 18A: 7F--19) and the recommendation in the March, 2000, "Report on the Cost of Providing a Thorough and Efficient Education", the Tier III cost factor for the purpose of calculating special education aid pursuant to section 19 of P.L. 1996, c. 138 (C. 18A: 7F--19) shall be \$5,975 for fiscal year 2002.

No comparable language.

Explanation

Cash state aid for special education for FY 2003 is recommended to be the same as it is for FY 2002 and therefore similar budget language for FY 2003 is not necessary. The language for FY 2002 reduced the per pupil amount recommended in the March 2000, Report on the Cost of Providing a Thorough and Efficient Education for Tier III special education pupils from \$6,607 to \$5,975.

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Notwithstanding the provisions of section 4 of P.L. 1996, c.138 (C. 18A: 7F--4) and the recommendation in the March, 2000, "Report

No comparable language.

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on the Cost of Providing a Thorough and Efficient Education”, the incentive factor for the purpose of calculating Transportation Aid pursuant to section 25 of P.L. 1996, c.138 (C. 18A: 7F--25) shall equal 1.0.

Explanation

This FY 2002 budget language delayed the implementation of the application of the transportation efficiency factor on the State aid for transportation received by school districts. That factor, which was developed to reflect efficient transportation practices of school districts, would result in the reduction of aid to those districts which did not meet the standard. This budget language is not necessary in FY 2003 since transportation aid is being maintained at the FY 2002 level.



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Notwithstanding section 25 of P.L.1996, c.138 (C.18A: 7F--25), the Commissioner of Education shall apportion Transportation Aid among the districts by providing each district 95.43 percent of the amount of Transportation Aid that would have been apportioned to the district had the full amount of State aid required by section 25 of P.L.1996, c.138 (C.18A: 7F--25) been appropriated.

No comparable language.

Explanation

The FY 2002 budget language provided that districts would receive 95.43 percent of their entitlement under the State transportation aid formula in FY 2002. Similar language is not needed for FY 2003, since, pursuant to recommended budget language on page D-152, transportation aid will be provided to districts in FY 2003 in the same amount as they received in FY 2002.



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In addition to the amount appropriated hereinabove for Pupil Transportation, there is appropriated an amount determined by the Commissioner of Education to be necessary, subject to the approval of the Director of the Division of Budget and Accounting, to reimburse school districts for payments made for the expanded eligibility for transportation costs as provided as follows: Notwithstanding the provisions of N.J.S. 18A:39--1 to the contrary, if a school district is located in a county of the third class or a county of the second class with a population of less than 235,000, according to the 1990 federal decennial census, transportation shall be provided to school pupils residing in this school district in going to and from any remote school other than a public school, not operated for profit in whole or in part, located within the State not more than 30 miles from the residence of the pupil.

No comparable language.

Explanation

FY 2002 budget language was added by the Legislature to provide that a school district, located in a county of the third class or a county of the second class with a population of less than 235,000 would be required to provide transportation to nonpublic school pupils if the nonpublic school was located not more than 30 miles from the pupil's residence. Under existing law, the nonpublic school may not be located more than 20 miles from the pupil's residence. The language provided State aid to cover the costs of this expanded eligibility. Nonpublic school pupils in the following counties were provided transportation: Cumberland, Gloucester, Hunterdon, Salem, Sussex and Warren. Similar language is not recommended by the Governor for FY 2003.

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No comparable language.

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Notwithstanding the provisions of section 2 of P.L.2002, c.437, (C.18A:39-1a) and any other law to the contrary, the maximum amount of nonpublic school transportation costs per pupil provided for in N.J.S.18A:39-1 shall equal \$710.

Language Provisions (Cont'd)

Explanation

P.L.2001, c.447, enacted on January 10, 2002, provides that for the 2002-2003 school year the maximum amount of nonpublic school transportation cost per pupil will equal \$735 and in subsequent school years this amount would be increased in proportion to the increase in State transportation aid per pupil or the CPI whichever is greater. The maximum nonpublic school transportation cost per pupil is the amount within which a school district is obligated to provide transportation services to an eligible nonpublic school pupil. If transportation cannot be provided within that amount, then the parent or guardian of the pupil receives an aid-in-lieu of transportation payment of \$735. In the 2001-2002 school year, the maximum amount of the aid-in-lieu of transportation payment is \$710. Under the recently enacted law, the State is required to pay the difference between \$710 and \$735 and in each subsequent year, the difference between \$710 and the amount of the payment for that school year. Under the recommended budget language, the aid-in-lieu of payment would remain at the FY 2001-2002 level, \$710.

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No comparable language.

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Notwithstanding the provisions of section 1 of P.L.2001, c.65 (C.18A:39-11.1) districts will not be reimbursed for administrative fees paid to Cooperative Transportation Service Agencies.

Explanation

P.L.2001, c.65, enacted on April 19, 2001, provides, in part, that in those instances in which a public school district uses a cooperative transportation services agency to provide transportation services to nonpublic school pupils and the administrative fee charged by the agency results in the cost to the district exceeding the maximum amount of nonpublic school transportation costs per pupil (\$710 for FY 2003 under separate budget language), the school district may apply to the Commissioner of Education for reimbursement of the costs which exceed that maximum amount. Under the Governor's FY 2003 recommended language, districts will not be reimbursed for administrative fees paid to cooperative transportation service agencies. The effect of this budget language combined with the language which limits the aid-in-lieu of payment to \$710 instead of the statutory \$735, effectively means that fewer nonpublic pupil will receive transportation services. Rather, the parent or guardian of those pupils will receive an aid-in-lieu of payment of \$710 and either the parent or guardian or the nonpublic school will have to arrange for transportation for those nonpublic school pupils.

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Pursuant to subsection a. of section 5 of P.L.1996, c.138 (C.18A: 7F--5), the net amount hereinabove appropriated for 2000--2001 enrollment adjustments in the Aid for Enrollment Adjustments and Debt Service account shall be determined by using the actual October 13, 2000 pupil counts to recalculate the State aid amounts payable to each district for the 2000--2001 school year, for each aid category impacted by enrollment under the provisions of the "Comprehensive Educational Improvement and Financing Act of 1996", other than Rewards and Recognition and Stabilization Aid 2 that shall not be recalculated, except for Stabilization Aid 2 determined in accordance with the paragraphs for districts with an October 15, 1999 resident enrollment greater than 9,500 and for districts with a T&E tax rate greater than 125% of the State average T&E tax rate that shall also be recalculated, and comparing the recalculated amounts to the amounts originally determined as payable to the district for the 2000--2001 school year for each aid category based upon the projected October 13, 2000 pupil counts. For the purposes of this recalculation, the State's Core Curriculum Standards Aid contribution for the 2000--2001 school year shall be determined by indexing the amount for the 1999--2000 school year by the sum of 1.0, the CPI and the actual State average enrollment growth percentage between the 2000--2001 and 1999--2000 school years and the Core Curriculum Standards Aid amount payable to each district shall be calculated using the October 13, 2000 pupil counts, the formulas and criteria contained in sections 12 through 15 of P.L.1996, c.138 (C.18A: 7F--12 through 18A:7F--15) and based upon this indexed amount of Statewide available Core Curriculum standards Aid. The percentage concentration of low income pupils for each district or each individual school used for the purposes of recalculating Early Childhood Program Aid, Demonstrably Effective Program Aid and Instructional Supplement aid shall

No comparable language.

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remain the same as the percentage concentration originally determined for the 2000--2001 school year. The percentage concentration of low income pupils for individual schools in operation on October 13, 2000 that would otherwise qualify for Demonstrably Effective Program Aid that were not in operation on October 15, 1999 shall be redetermined based upon the actual October 13, 2000 pupil counts for the school.

Explanation

The FY 2002 budget language concerned the adjustment of pupil enrollments as required under the provisions of the "Comprehensive Educational Improvement and Financing Act of 1996," (CEIFA) P.L.1996, c.138 (C.18A:7F-1 et seq.). Under CEIFA, enrollments are projected for the upcoming school year based on an average of enrollment growth over six years, using as the sixth year, the actual enrollment count on October of the prebudget year. These projected enrollment numbers are used in calculating each district's State aid. Once the enrollment count is taken in the budget year, the State aid to which the district is entitled is adjusted upward or downward in accordance with the actual enrollment count. Cash adjustments for those districts experiencing enrollment changes are made in the subsequent school year budget. The amount in the FY 2002 budget for enrollment adjustments, \$16.5 million, is cash aid for districts for enrollment adjustments made during the FY 2001 school year. Similar language is not recommended for FY 2003, since Enrollment Adjustment Aid is being held constant through the recommended budget language of page D-152. Enrollment adjustments were not made in the current school year, 2001-2002, nor will they be made in FY 2003. The effect of not making enrollment adjustments is mixed. For example, for some districts which have experienced even more enrollment growth, it creates further hardship. For districts which had enrollment growth for which a positive adjustment was received in FY 2002, but which did not experience similar growth between the projected 2001-2002 school year enrollment and the actual October 2001 enrollment count, continued aid for FY 2003 is a bonus.

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No comparable language.

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Receipts from nonpublic schools handicapped and auxiliary recoveries are appropriated for the payment of additional aid in accordance with section 17 of P.L.1977, c.192 (C.18A:46A-14) and section 14 of P.L.1977, c.193 (C.18A:46-19.8).

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Explanation

Section 17 of P.L.1977, c.192 (C.18A:46A-4) and section 14 of P.L.1977, c.193 (C.18A:46-19.8) provide, in part, "In the event the expenditures incurred by the district are less than the amount of State aid received, the district shall refund the unexpended State aid after completion of the school year. The refunds shall be paid no later than December 1. In any year, a district may submit a request for additional aid pursuant to P.L.1977, c.193 (C.18A:46-19.1 et al.). If the request is approved and funds are available from refunds of the prior year, payment shall be made in the current school year." This language anticipates such refunds (see page C-16 Nonpublic Schools Handicapped and Auxiliary Recoveries = \$5 million) and makes them available for use for payment of additional aid as provided in these sections.

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Nonpublic Technology Initiative aid shall be paid to school districts and allocated for nonpublic school pupils at the rate of **[\$40]** per pupil in a manner that is consistent with the provisions of the federal and State constitutions.

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Nonpublic Technology Initiative aid shall be paid to school districts and allocated for nonpublic school pupils at the rate of \$20 per pupil in a manner that is consistent with the provisions of the federal and State constitutions.

Explanation

Nonpublic Technology Initiative aid is not statutory and therefore the per pupil amount has always been established in the budget language. It was set at \$40 per pupil in the FY 2000 budget and has been the same amount for the FY 2001 and FY 2002. Pursuant to the recommended FY 2003 budget language, the department will decrease Nonpublic Technology Initiative aid from \$40 to \$20 per pupil, reducing the total amount of aid in this category from \$8.2 million to \$4.1 million.

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Notwithstanding any other law to the contrary, State aid for each "Abbott district" whose per pupil regular education expenditure for **[2001-2002]** under P. L. 1996, c.138 is below the estimated per pupil average regular education expenditure of districts in district

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Notwithstanding any other law to the contrary, State aid for each "Abbott district" whose per pupil regular education expenditure for 2002-2003 under P. L. 1996, c.138 is below the estimated per pupil average regular education expenditure of districts in district

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factor groups "I" and "J" for [2001-2002] shall be increased. The amount of increase shall be appropriated as Abbott v. Burke Parity Remedy aid and shall be determined as follows: funds shall be allocated in the amount of the difference between each "Abbott district's" per pupil regular education expenditure for [2001-2002] and the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for [2000-2001] indexed by the actual percentage increase in the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for [2000-2001] over the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for [1999-2000]. In calculating the per pupil regular education expenditure of each "Abbott district" for [2001-2002], regular education expenditure shall equal the sum of the general fund tax levy for [2000-2001], Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P.L.1996, c.138 (C.18A:7F-10); enrollments shall initially be those resident enrollments for preschool through grade 12 contained on the Application for State School Aid for [2001-2002] indexed by the [annual] growth [rates] used to determine the estimated enrollments of October 2001 [for calculation of Core Curriculum Standards Aid and T&E budgets for 2001-2002]; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full-day kindergarten enrollments. State aid shall be adjusted upon receipt of resident enrollment for the "Abbott districts" as of October 15, 2001] as reflected on the Application for State School Aid for [2002-2003]. State aid shall also be adjusted based on the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for [2001-2002]. In calculating the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for [2001-2002], regular education expenditure

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factor groups "I" and "J" for 2002-2003 shall be increased. The amount of increase shall be appropriated as Abbott v. Burke Parity Remedy aid and shall be determined as follows: funds shall be allocated in the amount of the difference between each "Abbott district's" per pupil regular education expenditure for 2002-2003 and the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2001-2002 indexed by the actual percentage increase in the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2001-2002 over the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2000-2001. In calculating the per pupil regular education expenditure of each "Abbott district" for 2002-2003, regular education expenditure shall equal the sum of the general fund tax levy for 2001-2002, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P.L.1996, c.138 (C.18A:7F-10); enrollments shall initially be those resident enrollments for preschool through grade 12 contained on the Application for State School Aid for 2002-2003 indexed by the district's growth rate used to determine the estimated enrollments of October 2002; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full-day kindergarten enrollments. State aid shall be adjusted upon receipt of resident enrollment for the "Abbott districts" as of October 15, 2002 as reflected on the Application for State School Aid for 2003-2004. State aid shall also be adjusted based on the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2002-2003. In calculating the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2002-2003, regular education expenditure shall equal the sum of the general fund tax levy for 2002-

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Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P.L.1996, c.138 (C.18A:7F-1 et seq.); enrollments shall be the resident enrollment for preschool through grade 12 as of October 15, [2001] as reflected on the Application for State School Aid for [2002-2003]; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full-day kindergarten enrollments in districts receiving Early Childhood Program Aid.

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2003, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P.L.1996, c.138 (C.18A:7F-1 et seq.); enrollments shall be the resident enrollment for preschool through grade 12 as of October 15, 2002 as reflected on the Application for State School Aid for 2003-2004; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full-day kindergarten enrollments in districts receiving Early Childhood Program Aid.

Explanation

This budget language establishes the formula for the calculation of Abbott v. Burke Parity Remedy Aid in FY 2003. Under the proposed FY 2003 language, in order to estimate enrollments in the Abbott districts for the calculation of parity remedy aid for the 2002-2003 school year, the enrollments contained on an Abbott district's 2002-2003 Application for State School Aid will be indexed by the district's growth rate used to determine estimated October 2002 enrollment rather than the average growth rate used to determine estimated enrollment for the purpose of calculating core curriculum standards aid and T&E budgets. This change reflects the fact that core curriculum standards aid and T&E budgets were not calculated for the 2002-2003 school year since State aid is being held level for all school districts other than the Abbott districts and school choice districts. Abbott v. Burke Parity Remedy Aid is calculated using these projected enrollment figures, as usual. The FY 2003 budget recommends \$512 million for Abbott v. Burke Parity Remedy Aid, \$83 million more than for the 2001-2002 school year. It is important to note also, that the inclusion of this language means that adjustments to Abbott v. Burke Parity Remedy Aid will be made in school year 2002-2003, as usual, after districts have filed their Application for State School Aid for the 2003-2004 school year. The total amount of Abbott v. Burke Parity Remedy Aid could increase or decrease based on the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2002-2003 school year.



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The expenditures associated with the amounts appropriated herein for Abbott v. Burke Parity Remedy aid and Additional Abbott v. Burke State Aid shall not be included in the calculation of the actual cost per pupil for tuition purposes, pursuant to a sending/receiving agreement.

No comparable language.

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Explanation

The budget language from the FY 2002 budget has been enacted into law, P.L.2001, c.285 (C.18A:38-19). Therefore budget language for this purpose is not necessary for FY 2003.



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Notwithstanding any other law to the contrary, as a condition of receiving Abbott v. Burke Parity Remedy aid, an "Abbott district" shall raise a general fund tax levy which shall be no less than the [difference between (a) the product of the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2000--2001 indexed by the actual percentage increase in the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2000--2001 over the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 1999--2000 multiplied by each "Abbott district's" estimated "resident enrollment" for October 15, 2001 less one half of kindergarten enrollments and (b) the sum of Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, all forms of stabilization aid pursuant to section 10 of P. L. 1996, c.138(c.18A:7F--10) and Abbott v. Burke Parity Remedy aid.]

Notwithstanding any other law to the contrary, as a condition of receiving Abbott v. Burke Parity Remedy aid, an "Abbott district" shall raise a general fund tax levy which shall be no less than the general fund tax levy of the prior year.

Explanation

The change in recommended FY 2003 budget language when compared with the FY 2002 budget language reflects the fact that core curriculum standards aid, supplemental core curriculum standards aid and stabilization aids are not being recalculated for the 2002-2003 school year. The purpose of the language for both fiscal years is to prescribe a minimum tax levy for the Abbott districts.



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No comparable language.

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The amount appropriated hereinabove for Additional Abbott v. Burke State Aid will provide additional resources to "Abbott districts" and will be distributed by district in an amount that shall not exceed the Additional Abbott v. Burke State Aid authorized and expended by each district in FY 2001-2002. Before the Commissioner of Education establishes the final district award, he shall first review the budgets and any other financial statements, including the annual audit filed pursuant to N.J.S. 18A:23-1, of each Abbott district that has requested Additional Abbott v. Burke State Aid. Any district that fails to submit the required documentation or fails to submit their annual audit by November 15, 2002, may have their State aid withheld upon the commissioner's request to the Director of the Division of Budget and Accounting. In establishing the final award amount, the commissioner shall consider all of the district's available resources and any appropriate reallocations, including, but not limited to, a reallocation of the district's undesignated general fund balances in excess of two percent.

Explanation

This budget language limits the amount of Additional Abbott v. Burke State Aid that Abbott districts will receive in FY 2003 to the amount authorized and expended by each district in FY 2002. The amount appropriated in the FY 2002 budget was \$248.7 million. An additional \$66.58 million made up the award to the Abbott districts as of June 26, 2001. In the ensuing months, additional negotiations concerning the requests of the Abbott districts for additional aid took place. The final FY 2002 award amount is \$391.2 million, of which the Abbott districts are to receive \$348.6 million in actual cash aid and \$42.6 million as receivables. The FY 2002 budget amount is the \$348.6 million, with \$42.6 million in the FY 2003 budget. However, the districts' total spending authority for FY 2002 is \$391.2 million. The FY 2003 recommended appropriation for Additional Abbott v. Burke State Aid is \$305.7 million. Based on the recommended budget language, however, the districts could request aid in an amount up to \$391.2 million, \$85.5 million more than the FY 2003 recommended appropriation.

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No comparable language.

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The amount appropriated hereinabove as Abbott Preschool Expansion Aid is for the purpose of funding the increase in the approved budgeted costs from FY 2001-2002 to FY 2002-2003 for the projected expansion of the preschool programs in the "Abbott districts." Payments of Abbott Preschool Expansion Aid shall be based upon documented expansion of the preschool program. Upon the Commissioner of Education's request, "Abbott districts" will be required to provide such supporting documentation as deemed necessary to verify that the actual expansion in the preschool program has occurred in the 2002-2003 fiscal year. Such documentation may include enrollment and attendance data that may be subject to an audit. Appropriate adjustments to a district's Abbott Preschool Expansion Aid amount may be made by the commissioner based on actual need.

Explanation

This is a new line item in the department's budget that will fund the increase in costs between the 2001-2002 and 2002-2003 school years for preschool programs in the Abbott districts. Up until this time, Abbott preschool programs have been funded through a combination of Early Childhood Program Aid and Additional Abbott v. Burke Aid. In Abbott V, the Court ordered the department and the Abbott districts to offer preschool for three- and four-year olds. In Abbott VI, the Court clarified its order in Abbott V to spell out, in part, that: children in Head Start programs can be excluded from Abbott district preschool enrollment projections only when the district can demonstrate these children attend a Head Start program that meets the department's standards; no child can be excluded because of parental status; and Abbott districts are to make concerted outreach efforts to improve enrollments, especially in those cases where low enrollments indicate a lack of parental awareness. In addition, the Court added that the commissioner was to make funding available for an expansion of the preschools should such be the result of this concerted effort. The projected enrollment for Abbott preschools for the 2000-2003 school year is over 39,000, an increase of over 13,000 from the 2001-2002 enrollment. The recommended budget language requires documentation of both enrollment and attendance and also provides that the commissioner may adjust a district's Abbott Preschool Expansion Aid amount based on actual need.



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Notwithstanding any other provision of P.L.1996, c.138 (C.18A: 7F--1 et seq.) the county special services school districts' tuition losses provided for in subsection b. of section 3 of P. L. 1971, c.271 (C.18A: 46--31) as amended by section 77 of P. L. 1996, c.138 shall be calculated by using the enrollment counts taken on October 15 in order to compare the budget to the pre--budget year.

No comparable language.

Explanation

The FY 2002 budget language concerned the calculation of enrollments for the county special services school district's stabilization program which provides the county special services school districts with State aid for tuition losses. Under CEIFA this program was effective only for school years 1997-1998 through 2001-2002 and therefore similar language is not needed for FY 2003.

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p. B-55

Notwithstanding the provisions of section 16 of P.L.1996, c.138 (C.18A:7F--16), a level II district and a non--Abbott district that is required to comply with this section with respect to the establishment of a preschool and full--day kindergarten for all four and five year Olds in the 2001--2002 school year, that has a district aid percentage equal to or greater than 55% pursuant to P.L.2000, c.72 (C.18A:7G--1 et seq.), and is entitled to receive Early Childhood Aid, may use its unexpended Early Childhood Aid balances as of June 30, 2001 to enter into an agreement with the New Jersey Economic Development Authority by June 30, 2002 to fund the local share of an early childhood school facilities project constructed by the authority and approved by the Commissioner of Education.

No comparable language.

Language Provisions (Cont'd)

Explanation

FY 2002 budget language permitted certain districts to use unexpended Early Childhood Aid balances as of June 30, 2001 to enter into an agreement with the New Jersey Economic Development Authority by June 30, 2002 to fund the local share of an early childhood school facilities project constructed by the authority and approved by the Commissioner of Education. This enabled them to proceed in with the construction of an early childhood facility in a timely manner. Similar language is not needed for FY 2003 since districts have had time to seek approval from the local district voters for any local share needed for facilities construction.



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p. D-136

No comparable language.

The amount hereinabove for Teacher Quality Mentoring shall be paid to districts at the rate of \$1,000 for new alternate route teachers and \$550 for new traditional route teachers.

Explanation

Teacher Quality Mentoring began as a pilot program in a few districts in FY 2001. Budget language for FY 2001 recommended that payment be made to districts at the rate of \$1,750 for new alternative route teachers and \$1,350 for new traditional route teachers in the first year of the program's operation. The program is Statewide for FY 2003 and the reduced amount paid to districts for mentoring provides for the inclusion of more beginning teachers in the mentoring program.



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2003 Budget Recommendations

p. B-60

The unexpended balance as of June 30, 2001 in the Statewide Assessment Program (Grades 4,8,11) account is appropriated for the operation of the assessment program, subject to the approval of the Director of the Division of Budget and Accounting.

No comparable language.

Explanation

Pursuant to the budget language for FY 2002, \$3.9 million dollars was reappropriated from the unexpended balance as of June 30, 2001 in the Statewide Assessment Program account for use in FY 2002 for the operation of the Statewide Assessment Program. In addition to the appropriation

Language Provisions (Cont'd)

of \$16.7 million, this provided the department with over \$20 million for the assessment program. Currently, \$1.6 million of this total represents the budget amount reserved and not available for use in FY 2002. This amount has been identified by the Governor for use in closing the FY 2002 budget deficit. The absence of similar budget language for FY 2003 indicates that such unexpended balance, if any, will be lapsed.

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p. B-60

The amount appropriated hereinabove for the Teacher Recruitment program shall be expended for the [incentive packages for new teachers] in accordance with provisions established by the Department of Education. [The incentives may only be provided to individuals who are not currently teaching in New Jersey, and who agree] to teach preschool in a district defined as an Abbott district under section 3 of P.L. 1996, c. 138 (C.18A:7F--3), or for a community provider under contract with an Abbott district to provide preschool programs to 3 and 4 year old children. [The first year recruitment incentive for eligible recipients shall consist of a laptop computer and a cash award. The cash award for High Achiever recipients, defined as those teachers with a GPA of 3.0 or higher, will be \$6,000. For Regular Incentive recipients, defined as those teachers with a GPA below 3.0, the cash award is \$3,500. In years two through four, non--cash incentives] will be provided to eligible teachers to have a portion of their outstanding student loan indebtedness canceled and/or to receive [a tuition coupon] for graduate studies at any of New Jersey's four-year colleges and universities. The total value of the [non--cash] incentives for High Achiever recipients is [\$10,000 and \$6,500] for Regular Incentive recipients. [For teachers to be eligible, the school districts in which [they] are working or in which they are employed by a community

2003 Budget Recommendations

p. D-148

The amount appropriated hereinabove for the Teacher Recruitment program shall be expended for the second-year incentives for teachers deemed eligible for this program in fiscal 2002 in accordance with provisions established by the Department of Education, and who continue to teach preschool in a district defined as an Abbott district under section 3 of P.L. 1996, c. 138 (C.18A:7F--3), or for a community provider under contract with tuition reimbursement for graduate studies at an Abbott district to provide preschool programs to 3 and 4 year old children. Incentives will be provided to eligible teachers to have a portion of their outstanding student loan indebtedness canceled and/or to receive tuition reimbursement for graduate studies at any of New Jersey's four-year colleges and universities. The total value of the incentives for High Achiever recipients is up to \$3,333 and up to \$2,167 for Regular Incentive recipients. In order to maintain eligibility in the program, the school districts in which the teachers are working or in which they are employed by a community provider under contract with the district must maintain a participation agreement with the department and the district must provide, in a manner specified by the department, information regarding the teachers qualified for incentives working in said district and certifications of completion of a full year of teaching service. Incentives may only be paid upon satisfactory completion of a full year of teaching service

Language Provisions (Cont'd)

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provider under contract with the district must [enter into] a participation agreement with the department and the district must provide, in a manner specified by the department, information regarding the teachers qualified for incentives working in said district and certifications of completion of each full year of teaching service. [For all years other than the first year, incentives] may only be paid upon satisfactory completion of [each] full year of teaching service and will be contingent upon the teacher's completion of all applicable professional development requirements and other conditions of employment, such as satisfactory evaluations by supervisors. [One-half of the first year cash award will be provided at the start of the school year, with the remainder paid upon the satisfactory completion of a full year of teaching service. Laptops will remain the property of the State until the satisfactory completion of a full year of teaching service. Of the amount hereinabove, an amount not to exceed \$85,000 is available for transfer to the Direct State Services accounts of the department, an amount not to exceed \$35,000 is available for transfer to the Direct State Services accounts of Commission on Higher Education, and an amount not to exceed \$100,000 is available for transfer to the Department of Human Services. These transfers are for the administrative expenses of this program and are subject to the approval of the Director of the Division of Budget and Accounting.]

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and will be contingent upon the teacher's completion of all applicable professional development requirements and other conditions of employment, such as satisfactory evaluations by supervisors and submission of documentation as may be required by the department.

Explanation

The proposed FY 2003 budget language establishes the value of, and the procedures to be used for, providing second-year incentives (tuition reimbursement for graduate studies) for teachers deemed eligible for this program in fiscal 2002 in accordance with provisions established by the Department of Education, and who continue to teach preschool in an Abbott district. The FY 2002 budget language provided that the total value of the incentive awards for the second through the fourth years would be \$10,000 for high achievers and \$6,500 for regular incentive achievers. The incentive amounts for FY 2003 are one-third of these amounts. In contrast with the FY 2002 budget language, no provision is made in the recommended FY 2003 budget language for administrative expenses.

Language Provisions (Cont'd)

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p. B-61

Notwithstanding the provisions of section 2 of P.L. 1999, c.385 amounts appropriated hereinabove for School Choice/Charter School aid shall be used to distribute aid to any charter school which operates a full-day kindergarten program and which is located in an "Abbott district" in accordance with the formula contained in section 1 of P.L. 1999, c. 385 except that "KPP" which is defined therein as the amount paid by the district to the charter school for each kindergarten pupil pursuant to section 12 of P.L. 1995, c.426 (C.18A:36A--12), shall be the sum of the amount paid by the district and the State to the charter school for each kindergarten pupil; and to distribute aid to charter schools pursuant to the provisions of subsection d. of section 12 of P.L. 1995, c.426 (C.18A:36A--12).

2003 Budget Recommendations

p. D-149

Notwithstanding the provisions of section 2 of P.L. 1999, c.385 amounts appropriated hereinabove for School Choice/Charter School aid shall be used to distribute aid to any charter school which operates a full-day kindergarten program and which is located in an "Abbott district" in accordance with the formula contained in section 1 of P.L. 1999, c. 385 except that "KPP" which is defined therein as the amount paid by the district to the charter school for each kindergarten pupil pursuant to section 12 of P.L. 1995, c.426 (C.18A:36A--12), shall be the sum of the amount paid by the district and the State to the charter school for each kindergarten pupil; and to distribute aid to charter schools pursuant to the provisions of subsection d. of section 12 of P.L. 1995, c.426 (C.18A:36A--12). Notwithstanding the provisions of P.L.2000, c.142 (C.18A:36A-12) and any other provision to the contrary, the program budget per pupil shall be the same as the 2001-2002 program budget per pupil and if necessary the State shall pay on behalf of a resident district an amount not to exceed the difference between the district's 2002-2003 total actual charter school payment and the estimated appropriation used in completing the school district's 2001-2002 budget as stated in the 2001-2002 Potential Charter School Aid notification.

Explanation

Since the FY 2003 budget recommends that, with certain exceptions, school districts receive the same amount of cash aid in FY 2003 as they did in FY 2002, the added budget language above, provides that the State will pay for any increase in a district's required payment to a charter school for the 2002-2003 school year. Such an increase would be due to a new charter school opening, an existing charter school adding a new grade level or a shift in enrollment to a grade level for which the weighted per pupil program cost is greater. School districts are required to budget for charter school payments for FY 2003 an amount which is equal to the amount they budgeted for charter school payments for FY 2002 based on the 2001-2002 Potential Charter School Aid notification. The department estimates that the added cost to the State under this budget language will be \$8.5 million. The recommended FY 2003 budget language also provides that the per pupil amounts required to be paid on behalf of individual charter school students in the 2002-2003 school year will remain the same as in the 2001-2002 school year.

Language Provisions (Cont'd)

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p. B-61

Notwithstanding the provisions of section 11 of P.L. 1996, c.138 (C. 18A: 7F--11) as amended by P.L. 1999, c.413 the State's core curriculum standards aid contribution for the 2001--2002 school year shall be reduced by one--half of the total projected Statewide school choice aid for the school choice districts for the 2001--2002 school year.

No comparable language.

Explanation

The FY 2002 budget language established a procedure for the adjustment of the State contribution for core curriculum standards aid to reflect school choice students who reside in core curriculum standards aid districts. This language is not necessary for FY 2003 as the State's core curriculum standards aid contribution will remain the same as in FY 2002.



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p. D-149

No comparable language.

Notwithstanding the provisions of P.L.1999, c.413 (C.18A:36B-1 et seq.), for the purpose of the calculation of 2002-2003 choice aid, the projected enrollment of choice students shall be the total of the actual choice students reported in the October 15, 2001 Application for State School Aid and the new choice students as reported on the Notice of Intent to Enroll forms for the 2002-2003 school year.

Explanation

The recommended FY 2003 budget language establishes a procedure for the projection of the number of students enrolled in school choice districts under the school choice program. This language is necessary due to the fact that enrollments for all school districts, including the choice districts, were not projected for the 2002-2003 school year. The choice aid recommended for FY 2003 is \$3.8 million, an increase of \$1.9 million over the FY 2002 adjusted appropriation. As indicated in the budget language, increased aid is provided to choice districts for new choice students. Projected enrollment of choice students for FY 2003 in choice districts is 468 students.



Language Provisions (Cont'd)

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p. D-148

Notwithstanding the provisions of section 9 of P.L. 2000, c.72 (C.18A: 7G--9), for the purpose of calculating a district's State debt service aid, "DAP x 1.15" shall not be less than 40 percent.

Notwithstanding the provisions of section 9 of P.L. 2000, c.72 (C.18A: 7G--9), for the purpose of calculating a district's State debt service aid, "DAP x 1.15" shall not be less than 40 percent. Notwithstanding the provisions of section 10 of P.L.2000, c.72 (C.18A:7G-10) for the purposes of calculating aid, CCSAID shall be equal to the district's core curriculum standards aid calculated pursuant to section 15 of P.L.1996, c.138 (C.18A:7F-15) for fiscal 2002 and TEBUD shall be equal to the district's T&E budget calculated pursuant to subsection d. of section 13 of P.L.1996, c.138 (C.18A:7F-13) for fiscal 2002.

Explanation

The recommended FY 2003 budget language permits the use of a district's core curriculum standards aid and T&E budget calculated for FY 2002 in determining aid under section 10 of the "Educational Facilities Construction and Financing Act." Section 10 provides districts with debt service aid for school facilities projects approved prior to the effective date of that act. A district's State share is calculating by dividing a district's core curriculum standards aid for the school year by its T&E budget for the same year. Pursuant to the recommended budget language on page D-152 in which districts are receiving the same cash aid in FY 2003 as they did in FY 2002, core curriculum standards aid and T&E budgets have not been calculated for FY 2003. Under this budget language, a district's State share, for the purposes of calculating debt service aid will be the same in FY 2003 as it is in FY 2002.



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p. B-63

Such sums as may be necessary for the operating costs of the audit of enrollment registers are appropriated from revenues that may be received or are receivable for this program, subject to the recommendation of the Commissioner of Education and the approval of the Director of the Division of Budget and Accounting.

No comparable language.

Language Provisions (Cont'd)

Explanation

In FY 2003, the operating costs of the audit of enrollment registers will come from the General Fund as part of Direct State Services. No language similar to that for FY 2002 is needed.



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2003 Budget Recommendations

p. B-64

Notwithstanding any other provision of law to the contrary, the repayment by the Hudson Milestone (formerly Hudson Association for Retarded Citizens) to the Department of Education of the unexpended balance of a Special Education Programs grant from federal funds received from a fiscal year 1990 appropriation made pursuant to the early intervention program, Part H, under a grant agreement for an Aids infant--parent pilot program, and of any other funds remaining to be paid to the department from unexpended balances from fiscal year 1990 State appropriations shall be deferred during the fiscal year 2002.

No comparable language.

Explanation

The FY 2002 budget language was added by the Legislature. The Hudson Association for Retarded Citizens is required to repay to the Department of Education certain federal funds. The FY 2002 budget language provided for the deferral of that repayment during FY 2002. No further deferral on the repayment of the unexpended balance is recommended for FY 2003. The repayment of approximately \$46,874 will be required in FY 2003.



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2003 Budget Recommendations

p. B-64

Notwithstanding the provisions of any law to the contrary, there shall not be required of a former constituent district of a grade 9 through 12 limited purpose regional school district which dissolved on June 30, 1997, any reimbursement or withholding of State aid as

No comparable language.

Language Provisions (Cont'd)

2002 Appropriations Handbook

reimbursement of State aid provided in the 1998--99 school year to reduce the school tax increase of that former constituent district. Such district shall apply the savings from this provision to its originally certified General fund tax levy for the 2000--2001 school year and shall file a revised certificate and report of school taxes form A4F with its county board of taxation.

2003 Budget Recommendations

Explanation

The Clark school district received Stabilization aid in the amount of \$940,000 in FY 1999 to offset costs incurred as a result of the dissolution of the regional school district of which it was a constituent district. In FY 2000, budget language required the return of any surplus fund of that regional school district received by the Clark district as repayment of the Stabilization aid received in FY 1999. However, the repayment was not required prior to FY 2000-2001. In FY 2001, budget language similarly required the return of the surplus, but limited the amount to be repaid in FY 2001 to one-third of the total amount to be repaid to the State, which amount was to be deposited in the School Construction and Renovation Fund. The budget language for FY 2002 is contained above which relieves the Clark district of the requirement to repay any of the remaining amount. No budget language is recommended for FY 2003. Since the original requirement to repay the surplus was in the form of adopted budget language, not statute, the absence of budget language for FY 2003 means that Clark is not required to make any payment in FY 2003.



Discussion Points

1. The Governor's Budget identifies approximately \$75 million in additional revenues from new or increased fees throughout State government.

- **Question:** Please identify the authority (i.e., legislation, executive order, or agency regulation) for any fee changes or other new State revenue sources reflected in the FY 2003 budget for your department. If legislation is required to implement these changes, what is the status of those bills?

2. Federal enactments and federal budget proposals often impact significantly on State programs and fiscal resources. Most significantly, the new federal education law, "No Child Left Behind Act of 2001," imposes significant new responsibilities on states with respect to the development and administration of tests and the collecting, storing, tracking and reporting of information regarding student progress in math, literacy and science on different organization levels (State, district and school) and with respect to different pupil groupings (race/ethnicity, disability, socioeconomic level, gender, migrant status, and limited English proficiency). As part of this responsibility an annual report card is required by the beginning of the 2002-2003 school year.

- **Question:** What impact will the expectation of (a) increased or decreased federal funding, or (b) new or revised federal mandates or matching requirements, have on your department's resources and activities in FY 2003? Be specific with regard to the expected federal action and the corresponding State or local impact.

3. At the April meeting of the State Board of Education, Commissioner Librera presented his proposal to reorganize the Department: how it is structured and how it functions.

- **Question:** Please provide both concept and detail regarding the commissioner's proposed plan to reorganize the department, including estimates of costs for the reorganization and cost savings due to the reorganization.

4. The FY 2003 budget recommends an appropriation of \$10 million for an early childhood literacy program, the first year of a four-year initiative. The program includes providing reading coaches for under-performing elementary schools.

- **Question:** How will under-performing elementary schools be identified (if using proficiency level, please provide the proficiency level which will be used as a cut-off for determining if a school is considered under-performing)? If under-performing schools have already been identified, please provide a list of the schools. If not already identified, when will they be identified? Will these schools be included in the schools required to be identified as under-performing on the new report card required under federal law?
- **Question:** What are the qualifications for a "reading coach?" How many of the under-performing schools already have a staff person meeting the qualifications for a reading coach? What plans does the department have for attracting additional qualified persons to be placed in the under-performing schools?

Discussion Points (Cont'd)

5. The FY 2003 budget recommends an appropriation of \$142.4 million for Abbott Preschool Expansion Aid. In addition, the FY 2003 budget recommends an appropriation of \$330.6 million for Early Child Program Aid (ECPA), of which \$231.9 is recommended for the Abbott districts, for use in providing preschool programs.

- **Question:** For each Abbott district, indicate the amount of Abbott Preschool Expansion Aid and ECPA it is recommended to receive in FY 2003; whether the district has in place a program serving all 3 and 4-year olds; the number of facilities in which each district offers early childhood education broken down by type of facility (district or licensed child care center); and the number of children projected to be enrolled in preschool for school year 2002-03 compared with the number of children enrolled in preschool for school year 2001-02, also broken down by type of facility.
- **Question:** Please provide the number of persons and their certification (including years of experience teaching three and four-year olds), or lack thereof, currently teaching in preschool programs in the Abbott districts and child care centers under contract with the Abbott districts, broken down by district, schools within a district and child care centers under contract with a district, and classroom within a school or child care center.

6. Pursuant to the "Charter School Program Act of 1995," former Commissioner Gagliardi held public hearings in the northern, central and southern regions of the State in 2001. An evaluation of the charter school program was submitted to the Governor, the Legislature and the State Board of Education by October 1, 2001. As a result of the evaluation, several recommendations were made by the commissioner concerning funding, support and assistance, planning, personnel, and regulation/oversight. More recently, Commissioner Librera, in commenting on funding for the proposed Bergen Hope Charter School, indicated that the mechanism for funding charter schools is broken and needs to be overhauled.

- **Question:** What suggestions does the commissioner have for revising the funding of charter schools? Please discuss the department's plans with respect to each of the report's recommendations, including a time table for their implementation.

7. In Abbott V (May, 1998), the New Jersey Supreme Court directed that "whole school reform" be implemented in the Abbott school districts according to the schedule proposed by the commissioner (50 in 1998-1999, 100 more in 1999-2000, and 150 more in 2000-2001); that the curriculum "Success for All and Roots and Wings" be the presumptive learning model for whole school reform; that the implemented version of whole school reform contain the essential elements identified by the commissioner; and that the commissioner implement a comprehensive formal evaluation program, modeled on Success for All's formal evaluation precedents, to verify that Success for All is being implemented effectively and is resulting in the anticipated levels of improvement in the Abbott elementary schools.

- **Question:** To date, how many individual schools of the total number of schools in each Abbott district have not implemented whole school reform? For each school that has implemented Whole School Reform and for general education students only, please provide the year in which Whole School Reform was implemented, the number of students enrolled in 4th grade, the number of students tested and percent of students who scored proficient and advanced proficient on the 1999 and 2001 ESPA.

Discussion Points (Cont'd)

8. The FY 2003 recommended budget provides \$960.7 million in court ordered aid to the Abbott districts, an increase of \$183 million (23.5 percent) over the FY 2002 adjusted appropriation of \$777.7 million. Total State aid for FY 2003 for the 30 Abbott districts, including the court ordered aid, is \$3.39 billion which is 53.6 percent of all public school aid given by the State. At the same time, the Abbott districts enroll about 22% of the public school students in the State. Recently a Department of Education official was reported (Star-Ledger, April 19, 2002) to have said that the Department's insistence on Whole School Reform has proven to be problematic; and the Department of Education and the Education Law Center have petitioned the New Jersey Supreme Court for the court's approval to delay for a year any further school reforms related to the Abbott districts in order to allow the department to study existing Abbott regulations and programs to see what is working and where changes are needed.

- **Question:** To what extent has the State budget crisis contributed to the recent petition to the Supreme Court to delay further reforms for a one-year period? What other factors have been important in deciding that a year is needed to study the Abbott reforms? In what sense has the insistence on Whole School Reform proven to be problematic?

9. There are three State operated school districts: Jersey City, Newark, and Paterson.

- **Question:** Please provide an update on the status of each of these districts and each district's progress toward the return to local control.

10. Former Commissioner Hespe presented a detailed Report on the Newark School District's budget and its projected deficit before the Senate and Assembly Education Committees on February 24, 2000. At the conclusion of the report, the commissioner presented a list of 10 recommendations concerning actions that need to be taken with respect to the Newark budget deficit.

- **Question:** Please update the status of each of these 10 recommendations, in particular number 10 which concerns the monthly filing of cash reconciliation and account balance reports, form number A-149s. Also, with two years having elapsed since the hearing, are there any new recommendations or revisions to the initial 10 recommendations? If so, please provide those recommendations and/or revisions. Please provide a summary of the reports of outside auditors and their recommendations.

11. In July of 2000, the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et al.), was signed into law. In addition to establishing procedures for the approval and financing of new school facilities projects, the law included a grandfather provision which allowed certain school districts which initiated school facilities projects prior to the law's effective date to take advantage of its aid provisions. The type of aid available to a grandfathered district, debt service aid or an up-front grant, depended on whether the district had issued debt prior to the school construction law's effective date. The law also allowed school districts which met certain criteria to submit school facilities projects for approval prior to the completion of the district's long-range facilities plan (waiver districts).

Discussion Points (Cont'd)

- *Question:* Has the review of projects under the grandfather provision of the school construction law been completed? How many districts qualified for State facilities aid under that provision? How many districts are receiving debt service aid and how many qualified for an up-front grant? Please provide the dollar amounts of debt service aid and up-front grants by district.
- *Question:* How many school facilities projects were approved in accordance with the waiver provision of the school construction law? Has the approval of all potential waiver district projects been completed? Please provide the name of each district and each school facilities project, including its cost, for that district for which approval was received in accordance with the waiver provision of the school construction law.
- *Question:* Since the enactment of the new school construction law, how many school facilities projects have been approved in Abbott districts and non-Abbott districts respectively? How many school construction projects have begun actual construction in the Abbott districts and non-Abbott districts respectively? How does the department respond to the criticism that the vast majority of projects which have moved to the construction phase are suburban district projects and that little progress on actual construction has been made in the Abbott districts? Please provide information, including costs, by district on school facilities projects indicating the status of the application in the approval process and whether actual construction has begun. Please provide this information broken down by Abbott and non-Abbott districts.

12. On November 29, 2001, the Joint Budget Oversight Committee approved a transfer of \$2.326 million from the School Construction and Renovation Fund in the Department of the Treasury to the Educational Facilities Construction and Financing Direct State Services account in the Department of Education. The purpose of the transfer was to provide funding for professional services for software systems related to the department's responsibilities under the "Educational Facilities Construction and Financing Act." At that time, the department indicated that the proposed software projects were needed to maintain a database and on-line application system for long-range school facilities plans and to enable data retrieval from multiple sources to generate reports on the school construction and renovation program. The overall impact would be to increase coordination between and therefore effectiveness of the agencies involved in facilities construction. More recently, Commissioner Librera has expressed dissatisfaction with the effectiveness of the facilities construction operation and suggested that changes need to be made.

- *Question:* Please indicate what changes the commissioner would propose to make the educational facilities construction operation more effective and efficient.
- *Question:* Please provide an update on how this money has been spent and the status of the projects (Ongoing Hosting LRFP Application, Project Content/Tracking, Abbott Data Migration, and Data Mining: Phase One) for which the transfer was provided. Has greater coordination between the agencies been achieved?

Background Paper: Interdistrict Public School Choice Program

Budget Pages.... D-143, D-145 to D-147

This background paper will provide an overview of the establishment, operation and funding of the Interdistrict Public School Choice Program in New Jersey and update the information provided in last year's budget analysis.

An interdistrict public school choice program is one in which parents may enroll their children in a public school located outside of the school district of residence without paying any costs of tuition. The New Jersey program was established with the enactment of the "Interdistrict Public School Choice Program Act of 1999," P.L.1999, c.413, on January 18, 2000.

Under the statute, the Commissioner of Education is directed to establish an interdistrict public school choice program with the following limitations: for the first year of the program (school year 2000-2001), there can be no more than 10 choice districts in the State; for the second year, no more than 15 choice districts; and for the third, fourth and fifth years, no more than 21 choice districts. In no year can there be more than one choice district per county. The sections of the statute which establish the program will expire on June 30 following the fifth full year of the operation of the program.

CURRENT ENROLLMENT STATUS

Since FY 2003 is the third year of operation of the Interdistrict Public School Choice Program, the commissioner may establish as many as 21 choice districts. Eight choice districts were in operation in FY 2001; three more were established for operation in the 2001-2002 school year; and two more* have been established for operation in FY 2003 for a total of 13 districts. The table below provides the county, district, enrollment and State aid information for FY 2002 and FY 2003.

County	District	Enrollment 2002	Enrollment 2003	State Aid 2002	State Aid 2003
Atlantic	Folsom Elementary School	17	71	\$134,521	\$561,823
Bergen	Englewood Public	none	1	-----	\$7,913
Burlington	Washington Twp	5	10	\$41,545	\$83,090
Camden	Brooklawn Boro*		19		\$157,871
Cumberland	Cumberland Regional High School	10	67	\$83,090	\$556,703
Gloucester	South Harrison Township*		3		\$23,729
Hudson	Hoboken Public	3	31	\$24,927	\$257,579
Hunterdon	Bloomsbury Elementary	13	28	\$102,869	\$221,564

Background Paper: Interdistrict Public School Choice (Cont'd)

County	District	Enrollment 2002	Enrollment 2003	State Aid 2002	State Aid 2003
Monmouth	Upper Freehold Regional (Allentown High School)	14	52	\$110,782	\$411,476
Morris	Mine Hill	16	54	\$126,608	\$427,302
Salem	Salem City	none	none	-----	-----
Union	Kenilworth (David Brearley Middle School)	25	96	\$197,825	\$759,648
Warren	Belvidere	none	36	-----	\$284,868
Total	Thirteen Districts	103	468	\$822,167	\$3,745,653

ESTABLISHMENT, ENROLLMENT AND OPERATION

A school district that wishes to become a choice district is required to submit an application to the commissioner no later than April 30 in the year prior to the school year in which the choice program will be implemented. The commissioner is authorized to take appropriate action, consistent with State and federal law, to provide that student population diversity in all districts participating in a choice district program is maintained.

The parents or guardian of a student must notify the resident district of the student's intention to participate in the choice program and submit an application to the choice district, indicating the school the student wishes to attend. To be eligible to participate in the program, a student must be enrolled at the time of application in grades K through 9 in a school of the resident district and have attended school in the resident district for at least one full year immediately preceding enrollment in the choice district.

A choice district may evaluate a prospective student on reasonable criteria, including the student's interest in the program offered by a designated school. The district may not, however, discriminate in its admission policies or practices on the basis of athletic ability, intellectual aptitude, English language proficiency, status as a handicapped person, or any other basis prohibited by State or federal law.

A choice district must establish and maintain a parent information center. This center is responsible for collecting and distributing information about participating programs and for assisting parents and guardians in submitting applications for the enrollment of students in the appropriate school.

SENDING DISTRICT OPTIONS

The board of education of a sending district may impose certain limitations on the number of students who may enroll in a choice district. For example, the board may adopt a resolution restricting enrollment of its students in a choice district to a given percentage of the number of

Background Paper: Interdistrict Public School Choice (Cont'd)

students per grade level per year in the sending district, and further limited by a resolution which may also restrict enrollment to a given percentage of the total number of students enrolled in the sending district.

STATE AID

As noted above, a student is entitled to attend a choice district without payment of tuition. In order to calculate the distribution of State aid, the student is not counted in the resident enrollment of the choice district for the calculation of core curriculum standards aid, but is treated in the same manner as a student who resides in the choice district for the purpose of calculating all other forms of State aid under CEIFA. In addition, the choice district is entitled to receive school choice aid for each choice student in the amount of the weighted per pupil T & E amount; except that for a choice student who attends a choice district which is categorized as an A or B district factor group,¹ the choice district is entitled to receive the weighted per pupil maximum T & E amount (of the choice districts listed in the table above, Washington, Brooklawn, Cumberland Regional and Hoboken are district factor B choice districts). The major purpose of this funding provision is to provide an incentive to participate in the choice program by granting additional aid to a choice district which now receives no core curriculum standards aid or less than the maximum amount, and which would therefore be required to supplement the support of the choice student with funds derived from the local tax levy.

Compensation is also provided, however, to the resident district which would otherwise lose completely the core curriculum standards aid that a student who enrolls in a choice district generates. The resident district is entitled to count a choice student in its weighted enrollment for the purposes of determining that aid according to the following formula: the student would be counted as .75 in the first year of attendance in the choice district; .50 in the second year; .25 in the third year; and .00 in the fourth year.

TRANSPORTATION

Transportation, or aid-in-lieu of transportation, must be provided to an elementary school pupil who lives more than two miles from the choice district school of attendance and to a secondary school pupil who lives more than two and one-half miles from the choice district school of attendance, provided the choice district school is not more than 20 miles from the residence of the pupil. Transportation, or aid-in-lieu of transportation, is the responsibility of the choice district.

REPORTS AND EVALUATION

The commissioner is required to report annually to the State Board of Education and the Legislature on the effectiveness of the interdistrict public school choice program. No later than June 30 following the second year of the operation of the program (2001-2002 school year), the report must include a recommendation on the continuation of the program.

The Joint Committee on the Public Schools is required to commission an independent study of the first two years of the operation of the program. On or before January 1, 2003, the Joint Committee must submit a report to the Legislature on the implementation of the choice program

¹District factor groups, DFGs, were developed by the department to rank districts according to the socioeconomic characteristics of the community in which a district is located; DFG A and B school districts are the two lowest ranking socioeconomic groupings.

Background Paper: Interdistrict Public School Choice (Cont'd)

based on the study and the commissioner's annual reports to the Legislature, which report must include a recommendation on whether the program should be continued as otherwise provided by the statute. If the Legislature does not act on the recommendation by the adoption of a concurrent resolution within 60 days of the Joint Committee's submission of the report, the program will then be continued through the fifth year.

Background Paper: Abbott Decisions

Budget Pages.... D-132 to D-133; D-135 to D-136

On February 5, 1981, the Education Law Center (ELC) filed a complaint in the Superior Court on behalf of 20 children attending public schools in the cities of Camden, East Orange, Irvington, and Jersey City challenging the State's system of financing public education under the "Public School Education Act of 1975," P.L.1975, c.212 (chapter 212). The plaintiffs contended that the State's education finance system was unconstitutional as applied, as it had caused significant educational expenditure disparities between poor urban and wealthy suburban school districts and that poorer urban districts were unable to adequately meet the educational needs of their students under the act. The trial court dismissed the complaint, holding that the plaintiffs had failed to exhaust the administrative remedies available through the Commissioner of Education. The Appellate Division reversed the trial court's decision, remanding the case for a plenary hearing on the plaintiffs' constitutional claims. The New Jersey Supreme Court granted the defendants' petition for certification. This would be the first in the Supreme Court's Abbott line of decisions.

This background report provides a brief overview of each of the Supreme Court's Abbott decisions, from Abbott I decided in 1985 to Abbott VIII decided in 2002. These decisions were a continuation of the court's involvement during the 1970's in school finance reform litigation through the Robinson v. Cahill line of cases. In the Abbott decisions the Supreme Court continued to define, in an increasingly specific and expansive way, the State's obligation pursuant to the thorough and efficient clause of the State constitution.

ABBOTT I

Abbott v. Burke, 100 N.J. 269 (1985)

Plaintiffs' claims should be considered first by the appropriate administrative agency rather than the courts.

The Supreme Court in Abbott I dealt with one narrow issue: what was the appropriate tribunal to consider the plaintiffs' constitutional challenge to the State's system of funding public education under chapter 212. Chapter 212 had been held facially constitutional under Robinson V.¹ The plaintiffs contended that the law, as applied, violated the thorough and efficient clause of the New Jersey Constitution² and both the State and federal equal protection clauses.³

¹ Robinson v. Cahill, 69 N.J. 449 (1976).

² The thorough and efficient clause of the State Constitution provides:

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. [Article VIII, Section IV, paragraph 1]

³ Article I, paragraphs 1 and 5 of the New Jersey Constitution and Amendment XIV of the United States Constitution.

Background Paper: Abbott Decisions (Cont'd)

The Supreme Court in Abbott I held that, prior to judicial consideration, the parties' claims should first be presented to an administrative tribunal in order to develop a record adequate for the complex issues involved. Because the Commissioner of Education was a defendant in the case, the court ruled that the commissioner was required to transfer the case for an initial hearing and fact-finding to an administrative law judge.

It is significant to note that while the court in Abbott I reiterated the constitutional mandate as it had developed through the Robinson line of cases,⁴ it added a new element of considerable relevance to the constitutional standard of the educational opportunity required under the thorough and efficient clause. The court in Abbott I found that the requirement of a thorough and efficient education to provide "that educational opportunity which is needed in the contemporary setting to equip a child for his role as a citizen and as a competitor in the labor market, meant that poorer disadvantaged students must be given a chance to be able to compete with relatively advantaged students." Abbott I at 296, citations omitted. Where the court in Robinson V, in finding that chapter 212 was facially constitutional, seemed to have focused on whether the State was providing a minimum substantive level of educational opportunity, the Abbott I court seemed to favor a new concept of comparative equal educational opportunity.

ABBOTT v. BURKE, No. EDU 5581-88 (OAL 1988)

After extensive hearings and other proceedings, the Administrative Law Judge (ALJ) issued a lengthy decision. The ALJ determined that the plaintiffs had proven that there were "unmet educational needs in poor urban districts and vast program and expenditure disparities between property rich suburban and property poor urban school districts." ALJ Decision at 12. The ALJ concluded that evidence of sizable disparities in educational input, such as course offerings, teacher staffing, and per pupil expenditures, were related to disparities in school district wealth; that a constitutionally mandated thorough and efficient education was not being provided by the plaintiffs' districts, and others; that the inequality of educational opportunity Statewide itself constituted a denial of a thorough and efficient education; that the failure was systemic; and that chapter 212 and its funding were unconstitutional. The Commissioner of Education rejected the ALJ's findings and concluded that chapter 212 was not unconstitutional; the State Board of Education affirmed the commissioner's decision in almost all respects.

ABBOTT II

Abbott v. Burke, 119 N.J. 287 (1990)

Chapter 212 found unconstitutional as applied to 28 poorer urban districts

In Abbott II a unanimous Supreme Court held that chapter 212 violated the thorough and efficient clause of the State constitution and was unconstitutional as applied to the 28 poorer urban school districts in the State. The court defined the poorer urban districts as those districts which were both classified as urban districts by the Department of Education (DOE) and included by the

⁴ See Robinson v. Cahill, 62 N.J. 473 (1973) (Robinson I) cert. denied, 414 U.S. 976 (1973); Robinson v. Cahill, 63 N.J. 196 (1973) (Robinson II) cert. denied, 414 U.S. 976 (1973); Robinson v. Cahill, 67 N.J. 35 (1975) (Robinson III); Robinson v. Cahill, 69 N.J. 133 (1975) (Robinson IV) cert. denied, 423 U.S. 913 (1975); Robinson v. Cahill, 69 N.J. 449 (1976) (Robinson V); Robinson v. Cahill, 70 N.J. 155 (1976) (Robinson VI).

Background Paper: Abbott Decisions (Cont'd)

department within District Factor Group (DFG) A or B (those with the lowest socioeconomic status)⁵ with the exception of Atlantic City (which was eliminated because of its high tax base).

The court found that although a thorough and efficient education is to be defined in terms of substantive educational content rather than spending, the expenditure disparity between the 28 poorer urban districts and the wealthy suburban districts was not irrelevant given the absence of a thorough and efficient education in the poorer urban districts. Abbott II at 316, 337. The court compared the quality of education delivered in the poorer urban districts with the education delivered in the more affluent DFG I & J districts and concluded that the poorer urban districts provided an inferior educational opportunity. Specifically, the court pointed to deficiencies within the poorer urban districts in educational inputs such as teacher/pupil ratios, teacher qualifications and experience and facilities. In addition, the court found wide disparities in the breadth of course offerings available in the poorer urban districts as opposed to the property rich districts. The court noted that many of the poorer urban districts had in effect become basic skills districts and stated that "these poorer districts offer curricula denuded not only of advanced academic courses but of virtually every subject that ties a child, particularly a child with academic problems, to school - - of art, music, drama, athletics, even, to a very substantial degree, of science and social studies." Abbott II at 364-365.

The court also considered the special needs of the students in the poorer urban districts - those needs that undercut the student's capacity to learn. The court found these needs to be vastly greater than any extra-educational needs of the students in the DFG I & J districts. The court concluded that in order to achieve the constitutional standard - to be able to function in the society entered by the relatively advantaged students - the poorer urban districts must provide educational offerings with elements over and above those found in the affluent suburban districts.

The court formulated a two-part remedy in Abbott II that responded both to the disparity in regular education funding and the special needs of students attending school in the poorer urban districts. The court ordered chapter 212 to be amended, or new legislation passed, that would assure that educational funding in the poorer urban districts was substantially equal to that of the wealthy suburban districts - those districts providing the kind of education that these students needed. The funding was required to approximate the average net expense budget of the DFG I & J school districts. In addition the court ordered that the level of funding must be sufficient to provide for the special needs of the students in the poorer urban districts in order to address their extreme disadvantages. The court stated that it was up to the Legislature to determine how to meet the mandate, but, the remedy could not depend on the budgeting and taxing decisions of the local school boards and the funding mechanism had to be guaranteed and mandated by the State. The court also stated that the Legislature could, if it chose to do so, equalize per pupil expenditures for all districts at any level that it determined would achieve a thorough and efficient education. This level did not necessarily have to be the average of the DFG I & J districts. The court required the

⁵ At that time the DOE divided the State's school districts into ten groups known as the District Factor Groups (DFGs) and designated them as DFG A through DFG J, with A being the group with the lowest socioeconomic status, and J the highest. Socioeconomic status was measured using the following seven factors: per capita income level; occupation level; education level; percent of residents below the poverty level; density (the average number of persons per household); urbanization (percent of district considered urban); and unemployment (percent of those in the work force who received some unemployment compensation). The DOE still classifies districts by DFGs, but the criteria have been somewhat revised.

Background Paper: Abbott Decisions (Cont'd)

new funding mechanism to be in place legislatively for the 1991-1992 school year, but the court allowed for a phase-in period.

As to capital construction, the court found the record insufficient to fashion a remedy. It noted, however, that the lack of capital investment was great. The court stated that "if squarely presented to us with an adequate record of need and legislative failure, we would be obliged under the Constitution to consider the matter." Abbott II at 391.

ABBOTT III

Abbott v. Burke, 136 N.J. 444 (1994)

Quality Education Act of 1990 (QEA) held unconstitutional as applied to the 30 special needs districts (SNDs).

In response to the Abbott II decision, the QEA was enacted. The court found the statute unconstitutional because of its failure to assure parity of regular education expenditures between the SNDs⁶ and the more affluent districts.

The funding provisions of the QEA provided payments of foundation aid for current expense and capital outlay to SNDs in an amount essentially equal to the difference between each district's "maximum foundation budget" and its "local fair share." Local fair share was calculated in a manner designed to reflect a school district's fiscal capacity - a formula based primarily on the district's equalized property value and the aggregate income of the district's residents. Since the local fair share was determined by a fixed mathematical formula, the critical variable in determining foundation aid under the QEA was the maximum foundation budget. It was the maximum foundation budget which effectively controlled the amount of foundation aid a district received from the State.

The complex calculation of a school's maximum foundation budget began with a foundation amount per pupil determined by the Legislature. For the 1991-1992 school year that amount was established at \$6,640 for an elementary school student, \$7,304 for a middle school student and \$8,831 for a high school student. Multiplying the foundation amounts by a school district's enrollment determined the district's maximum foundation budget, or the amount necessary for regular education. In the SNDs these foundation amounts were increased by an additional weighting factor - the special needs weight. The weighting factor was set at 1.05 per student for the 1991-1992 school year with the statute authorizing a periodic adjustment of the weight by the Governor, subject to the disapproval of the Legislature. The legislative authorization to increase the special needs weight, which was never exercised, was the mechanism by which the QEA theoretically could have enabled the SNDs to increase their maximum foundation budgets and their foundation aid, in order to achieve parity with the richer suburban districts.

The court held that because under the provisions of the QEA the achievement of parity depended fundamentally on the discretionary action of the executive and legislative branches to increase the special needs weight, which in turn would increase the maximum foundation budget

⁶ The QEA established the category of "special needs districts." As defined in the law, the SNDs included all of the 28 poorer urban districts identified by the Supreme Court in Abbott II and two additional districts, Neptune Township and the City of Plainfield, for a total of 30 SNDs.

Background Paper: Abbott Decisions (Cont'd)

and the amount of foundation aid in the SNDs to the levels required for parity, the statute failed to guarantee adequate funding for the SNDs. The statute did not comply with the mandate of Abbott II that the required level of funding for the SNDs "cannot be allowed to depend on the ability of local school districts to tax...[and] must be guaranteed and mandated by the State...." Abbott II at 295.

The court also had concerns about the State's failure to adequately address the "special educational needs" of the SNDs. Abbott II had required funding for the "special educational needs" of the SNDs in addition to that necessary to achieve parity with the richer suburban districts. Although the QEA included a formula for calculating aid for programs for at-risk pupils, there had been no study conducted of the programs and services needed to aid at-risk students and funding under the QEA was not based on any study of the actual costs associated with providing services to these students. The court made it clear that children in the SNDs could not be expected to succeed unless the DOE and the commissioner identified and implemented the special supplemental programs and services that the children in these districts required.

The court was also concerned about the need for supervision of the uses of the additional funding provided to the SNDs. According to the court, no mechanism was in place to control, regulate or monitor the uses of the additional funding, despite the fact that in Abbott II the court had required the State to ensure that the uses of the additional funding were supervised and regulated in order to significantly increase the likelihood that the students in the SNDs would attain the constitutionally-prescribed quality of education to which they were entitled.

The court retained jurisdiction. It declined to direct any immediate, affirmative, remedial relief, in light of the substantial increase in State aid provided to the SNDs since Abbott II, compared to the wealthy suburban districts. According to the court, the increases were a constitutionally legitimate response by the legislative and executive branches to Abbott II. The court held that substantial equivalence of the SNDs and the wealthier districts in expenditures per pupil for regular education must be achieved by the 1997-1998 school year along with a provision for the special education needs of students in the SNDs. The court also stated that if a law assuring substantial equivalence - approximately 100% - and providing, in addition, for the special educational needs was not adopted by September 1996, then the court would consider applications for relief.

ABBOTT IV

Abbott v. Burke, 149 N.J. 145 (1997)

*Comprehensive Educational Improvement and Financing Act of 1996 (CEIFA) held unconstitutional as applied to the Abbott districts.*⁷

CEIFA was the legislative response to Abbott III. Pursuant to CEIFA, specific substantive standards were provided that defined the content of a constitutionally sufficient education. The substantive requirements were specified by the core curriculum content standards. The content standards were intended to implement the thoroughness component of the constitutionally mandated thorough and efficient education. The court held the content standards were consistent

⁷ CEIFA, as originally enacted, excluded Plainfield and Neptune from its definition of an Abbott district. An Abbott district was defined as one of the 28 poorer urban districts identified by the court in Abbott II.

Background Paper: Abbott Decisions (Cont'd)

with the education clause of the constitution.

The court, however, found CEIFA unconstitutional as applied to the Abbott districts because the statute failed to guarantee sufficient funds to enable students in those districts to achieve the requisite content standards. The funding provisions in the statute purported to implement the efficiency component of the constitutionally mandated thorough and efficient education. The statute set forth a per pupil amount, the T & E amount, deemed necessary to achieve the content standards. Expenditures in excess of the prescribed T & E amount were deemed to be unnecessary to achieve a thorough and efficient education. The funding scheme of CEIFA was derived from a hypothetical school district that served as the model for all school districts. Using this model the DOE concluded that it would cost \$6,720, plus or minus \$336, to provide the constitutionally required educational opportunity to every elementary school pupil in the State in the 1997-1998 school year.

The court held that the efficiency standards undergirding the statute's funding provisions were derived from a model district that had few, if any, characteristics of any of the State's successful districts. The court rejected the State's argument that the DFG I & J districts should not be the measure of the amount that should be spent on a constitutionally adequate education because those districts had notable inefficiencies in their spending practices. Any expenditure over the T & E amount, according to the State's position, was an expenditure that was inefficient and unnecessary for a thorough and efficient education. The court stated that neither the statute itself, the record in the case, empirical evidence, common experience nor intuition supported the State's position. The court also found that the model district was not based on the characteristics of the Abbott districts. None of the Abbott districts conformed with the model district and CEIFA did not provide the funding necessary to enable them to achieve conformity. According to the court "[t]he model district ...assumes, as the basis for its resource allocations and cost projections, conditions that do not, and simply cannot, exist in these failing districts." Abbott IV at 172.

The court also held that although the statute purported to address the special educational needs of the Abbott districts, CEIFA did not provide for the remediation that would be necessary to overcome the constitutional deprivation that had previously been identified by the court. CEIFA attempted to provide for the deprivation through two programs: demonstrably effective program aid (DEPA) and early childhood program aid (ECPA). All of the Abbott districts qualified under CEIFA for these aid categories. The court found fault with the fact that the amount of aid provided pursuant to these programs was not based on any actual study of the needs of these students or the costs of supplying the necessary programs to address those needs. Under DEPA funds were provided to districts in which certain schools had the required concentration of low-income pupils. The funds could be used for a list of programs including class size reduction programs, parent education programs and job training programs. None of the programs were required to be implemented and there was no evidence presented that the funds provided could cover the cost of the programs.

Funding for ECPA was distributed in a manner similar to DEPA - funds were provided to districts with a specific concentration of low-income pupils. ECPA was intended to provide for full-day kindergarten and preschool classes and other childhood programs and services. Under CEIFA districts receiving ECPA were required to establish preschool and full-day kindergarten for all four and five year olds by the 2001-2002 school year. The court found this implementation date to be a glaring weakness in the statute, noting that if this date was used, four more classes of disadvantaged children in the Abbott districts would miss out on programs that the court considered essential to future educational success. In addition, the court determined that the per

Background Paper: Abbott Decisions (Cont'd)

pupil amount provided under ECPA was not sufficient to enable the Abbott districts to provide the essential early childhood programs.

The court also held that the State had failed to address one of the most significant problems facing the Abbott districts -- the "dilapidated, unsafe, and overcrowded facilities." Abbott IV at 186. The court held that CEIFA's failure to address the facilities needs of the Abbott districts was of constitutional significance. The court held that it was the State's obligation to provide facilities for students in the Abbott districts in order to enable those students to achieve the substantive standards that had been developed to define a thorough and efficient education. The court stated that the quality of the facilities could not depend on the Abbott districts' willingness or ability to raise taxes or to incur debt.

The court in Abbott IV mandated an interim remedy - increased funding to assure parity in per pupil expenditures for regular education between each Abbott district and the budgeted average expenditures of the DFG I & J districts by the commencement of the 1997-1998 school year. The increased funding was required to be accompanied by firm controls that would ensure that it was spent efficiently and effectively. The court in explaining the reasons for using the DFG I & J districts stated:

The DFG I & J districts are achieving and undoubtedly will continue to achieve at high levels, and it is thus eminently reasonable that the Court continue to focus on their recipe for success until experience under the new standards dictates otherwise. Abbott IV at 176.

The court remanded the case to the Superior Court, Chancery Division, to determine what judicial relief was necessary in order to address the need for supplemental programs and facilities improvements in the Abbott districts. The court authorized the Superior Court to direct the Commissioner of Education

to initiate a study and to prepare a report with specific findings and recommendations covering the special needs that must be addressed to assure a thorough and efficient education to the students in the SNDs. That report shall identify the additional needs of those students, specify the programs required to address those needs, determine the costs associated with each of the required programs, and set forth the Commissioner's plan for implementation of the needed programs. In addition, the Superior Court shall direct the Commissioner to consider the educational capital and facility needs of the SNDs and to determine what actions must be initiated and undertaken by the State to identify and meet those needs. Abbott IV at 199-200 (footnote omitted).

The court authorized the Superior Court to appoint a Special Master to assist in the proceedings and in the Superior Court's review of the recommendations of the parties.

ABBOTT V

Abbott v. Burke, 153 N.J. 480 (1998)

Commissioner of Education is directed to implement full-day kindergarten and half-day preschool

Background Paper: Abbott Decisions (Cont'd)

programs for 3 and 4-year-olds in the Abbott districts and to secure funds to cover cost of remediating identified life-cycle and infrastructure deficiencies in Abbott school buildings as well as the cost of providing the space necessary to house Abbott students adequately.

In accordance with Abbott IV Judge Michael Patrick King, who was temporarily assigned to the Chancery Division of the Superior Court, conducted the remand proceeding and appointed a Special Master. The ELC and the DOE submitted reports on and recommendations concerning supplemental programs, facilities needs, and implementation and Judge King conducted hearings on the proposals. A report by the Special Master was also submitted that focused on the special needs programs. Based on the different proposals put forth by the parties, Judge King recommended that certain programs be implemented. The Supreme Court in Abbott V addressed the recommendations and other proposed remedial measures.

The court in Abbott V adopted Judge King's recommendations that the State require all Abbott districts to adopt some version of a proven, effective whole school reform model, with Success for All - Roots and Wings being the presumptive elementary school model. Whole school reform was the State's response to the direction given by the court in Abbott IV to identify supplemental programs in order to redress the disadvantages of children in the Abbott districts. The whole school reform approach integrates supplemental programs with the regular education format. Instead of simply adding new programs, the whole school reform fundamentally restructures the core curriculum and methods of instruction to ensure that students achieve a constitutionally mandated education. Whole school reform focuses on the individual school rather than the school district. The court directed that whole school reform be implemented according to the schedule proposed by the Commissioner of Education. The court also stated that Success for All must include the essential elements identified by the commissioner, such as the use of zero-based budgeting in which all of the school's funding streams are combined and the aggregate amount is used as the basis for the entire school budget. The court also required that the commissioner utilize a comprehensive formal evaluation program, to verify that whole school reform was being implemented successfully and was resulting in the requisite level of improvement in the Abbott districts.

The court also affirmed Judge King's recommendation that full-day kindergarten be implemented immediately in the Abbott districts. However, if the district could not obtain adequate classroom space or instructional staff immediately, the district was permitted by the court to commence the program in the 1999-2000 school year. The State was required to provide or secure the funds and resources essential for the implementation of the full-day kindergarten program for the Abbott districts.

The court in Abbott V directed the commissioner to use his powers under CEIFA to require all Abbott districts to implement half-day preschool programs for three- and four-year-olds as expeditiously as possible. The court stated that if an Abbott school was able to obtain the necessary space, supplies, staff and transportation to implement the preschool programs for the 1998-1999 school year, the State should supply them with the funding necessary to do so. The court required the commissioner to ensure that all other Abbott schools have the resources and additional funds that are necessary to implement preschool programs by the start of the 1999-2000 school year. The court, in mandating the preschool program, authorized cooperation with, or the use of, existing early childhood and day-care programs in the community.

In Abbott V several supplemental programs were mandated that were targeted to overcoming the disadvantages that prevent middle and high school students in the Abbott districts

Background Paper: Abbott Decisions (Cont'd)

from achieving a thorough and efficient education. The court directed the commissioner to provide a community services coordinator in every middle and secondary school to identify student need and arrange for community-based providers to furnish essential health and social services. Because of the acute needs of the Abbott districts, however, individual schools and districts were permitted, based on demonstrated need, to request and receive resources necessary to enable them to provide on-site social services that either were not available within the community or could not effectively and efficiently be provided off-site. The commissioner had a corresponding duty to authorize requested school-based social service programs for which there was a demonstrated need and to provide or secure the necessary funding.

Security was another supplemental program addressed by the court. The court noted that security was a critically important factor in the provision of a thorough and efficient education and held that individual Abbott schools or districts had the right to request supplemental programs for security and that the commissioner was required to authorize the requested programs that were based on demonstrated need and secure or provide the necessary funding. As to other supplemental programs, the court directed the commissioner to implement technology programs, alternative schools or comparable education programs, accountability programs, school-to-work and college transition programs in secondary schools, at the request of an Abbott school or district, to satisfy the school's or district's constitutional obligation to provide a thorough and efficient education. The court also directed the commissioner to provide and secure funding for requested summer-school, after-school and school nutrition programs for which there was a demonstrated need. The court made clear that if an Abbott school demonstrated the need for programs beyond those recommended by the commissioner, including programs in, or facilities for, art, music, and special education, then the commissioner must approve the requests and, when necessary, seek appropriations to ensure the funding and resources necessary for their implementation.

The court held in Abbott V that the DOE had substantially complied with its mandate in Abbott IV in regard to the State's constitutional obligation to provide adequate school facilities. The DOE had undertaken a detailed assessment of the facilities needs of the Abbott districts and provided recommendations concerning how the State should address the identified needs. The DOE also recommended an appropriate funding mechanism. Using the DOE's study and proposals as the basis of its remedy in this area, the court directed that the Five-Year Facilities Management Plans and district enrollment projections, which each district was required to provide to the department, be completed by January, 1999. The court accepted the DOE's educational adequacy standards, which were designed to ensure that every school had the instructional areas sufficient to enable the children to meet the core curriculum content standards. The court stated, however, that every Abbott school or district was authorized to demonstrate the need for additional, specialized space and if that need was demonstrated, the commissioner must secure or provide the necessary funds. As to the State funding of school facilities in the Abbott districts, the court stated 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 at 524.

The court ordered that the architectural blueprints for the required school facilities be completed

Background Paper: Abbott Decisions (Cont'd)

by the fall of 1999 and that construction begin by the spring of 2000.

ABBOTT VI

Abbott v. Burke, 163 N.J. 95 (March 2000)

Details the parameters of the quality preschool education which was mandated by the court in Abbott V.

The court in Abbott VI addressed claims that the commissioner had repudiated his promise in Abbott V to provide quality preschool education for the children in the Abbott districts. The court found that the manner in which the DOE had carried out the preschool mandate of Abbott V was not consistent with the commissioner's representations to the remand court in that case. Therefore, the court deemed it appropriate in Abbott VI for it to provide further guidance for the implementation of preschool programs.

The court held that an essential component of a quality preschool program was substantive educational guidance provided by the DOE. The court ordered that the department adopt standards for these programs by April 17, 2000, in order to allow districts to prepare for the 2000-2001 school year. Another area for concern involved teacher certification standards. As a practical matter, given the time constraints within which the districts were required to develop half-day programs for 3- and 4-year-olds, Abbott V recognized that cooperation with, or use of, existing early childhood and day-care programs in the community would be both necessary and appropriate. Department of Human Services (DHS) licensed day care programs, however, do not require certified teachers. The DOE had promulgated regulations, that according to the court, permitted day-care employees too much time to become fully qualified teachers. As a consequence a two-tiered system would be set up - district-run programs with qualified teachers and DHS-licensed providers without them. The court held that existing teachers in DHS-licensed providers who had experience but otherwise lacked academic credentials should be given four years to obtain certification and should be evaluated each year to determine whether they would be retained. New teachers were required to be college graduates and could be given until September, 2001, to obtain the proposed preschool-3 certificate. The DOE was also directed to develop clear standards for providing schools with waivers if certified teachers could not be found. The court also reaffirmed the requirement of one certified teacher for every fifteen preschool children which was assumed in the Abbott V decision.

The court in Abbott VI also held that: contracts between the school districts and the community providers must spell out the specific responsibilities of the parties to ensure quality preschool programs; children in Head Start programs can be excluded from district enrollment projections only if those programs meet DOE standards; and appointing a Standing Master was unnecessary.

ABBOTT VII

Abbott v. Burke, 164 N.J. 84 (May 2000)

State is required to fund all costs of necessary facilities remediation and construction in the Abbott districts and the State may remove an Abbott district from classification if it no longer possesses the requisite characteristics.

The Speaker of the General Assembly motioned to intervene and sought clarification of the Abbott V decision. Specifically, the Speaker asked whether Abbott V required the State to provide

Background Paper: Abbott Decisions (Cont'd)

the full costs of school construction in the Abbott districts or whether, instead, the Legislature could require a district to contribute a fair share of local aid based on the district's ability to pay. The court held that its directive in Abbott V was clear: "The State is required to fund all of the costs of necessary facilities remediation and construction in the Abbott districts." Abbott VII at 88.

The Speaker also asked whether the complete costs of facilities funding had to be provided to Abbott districts that had changed since the commencement of the litigation. The Speaker used as an example the City of Hoboken which had become property and income rich with wealth ratios stronger than some of the wealthiest towns in the State. The court held that "[w]hen a district no longer possesses the requisite characteristics for Abbott district status, the Legislature, the State Board and the Commissioner may take appropriate action in respect of that district." Abbott VII at 90 (citations omitted).

ABBOTT v. BURKE, No. M1121 (N.J. OCT 22, 2001) (OCTOBER ORDER)

On September 25, 2001 the court heard oral arguments on a motion filed by the ELC alleging that the DOE had not carried out its responsibility to review and approve preschool program and budget proposals in a timely manner. The ELC asked the court for the appointment of a Standing Master to oversee and supervise the implementation of the Abbott preschool programs. On October 22, 2001, the Supreme Court issued an order in advance of its opinion on the matter. The court declined to appoint a Standing Master in light of the court's firm commitment to use the administrative process established by the Legislature for Executive Branch decision-making. The court did find, however, that the DOE had not completed in a timely way its review of certain preschool program and budget proposals. The court ordered that the submission, review, and appeal of Abbott district preschool program and budget proposals were to be carried out pursuant to a schedule set forth by the court that would ensure final dispositions were issued in time for the 2002-2003 school year.

ABBOTT VIII

Abbott v. Burke, 170 N.J. 537 (Feb. 2002)

Amplification of the court's October Order and further clarification of its direction in Abbott VI regarding preschool programs.

In Abbott VIII, the court elaborated on its decision in its October Order to deny the ELC's request for the appointment of a Standing Master. The court, although it remained concerned about the DOE's reluctance to deal with certain difficult preschool issues in a timely manner, found the appointment of a Standing Master too extreme a remedy. The court could not justify a new and superseding role for the court given the progress made by the DOE and the department's ongoing effort to fulfill the Abbott mandates.

The court stated that in addition to establishing a schedule for the submission, review, and appeal of Abbott preschool program and budget proposals, the October Order also required cooperation between the DOE and the Abbott districts which the court considered essential for the implementation of a successful preschool program. The court in Abbott VIII stated that it was encouraged by the collaborative effort between the parties that had recently been demonstrated. The court had granted two applications by the plaintiffs to modify the schedule established by the court in its October Order, the first was approved on December 21, 2001 and the second on February 11, 2002. The modifications provided extensions for certain deadlines, in part to facilitate decision-making by the incoming administration.

Background Paper: Abbott Decisions (Cont'd)

In Abbott VIII, the plaintiffs argued that the department had not provided "the guidance necessary for districts and community providers to implement uniform, high-quality preschool education in the Abbott districts." Abbott VIII at 548. The DOE had adopted an outline of the goals of preschool education, the "Early Childhood Program Expectations: Standards of Quality" (Expectations), which are similar to the Core Curriculum Content Standards for grades K-12, and required Abbott districts to integrate them into their preschool programs. The department was in the process of developing the "Early Childhood Education Curriculum Framework" (Framework), a curriculum strategy intended to provide substantive guidance to aid in the realization of the Expectations. The court set an April 30, 2002 date for the DOE to complete a final draft of the Framework in order to ensure the availability of detailed curricula for use in the 2002-2003 school year.

Another issue the court discussed was one that concerned the court in Abbott VI - the "need for community outreach to inform parents about the availability of preschool for three- and four-year old children in the Abbott districts." Abbott VI at 119. The court in Abbott VIII stated that "[i]n the end, it is the outreach effort that is critical to the success of the Abbott programs." Abbott VIII at 551. The court required the DOE to work with the Abbott districts to develop corrective action plans when the districts do not meet enrollment goals. In addition, the DOE was required to review with these districts the effectiveness of the corrective action plans during the implementation phase.

The utilization and funding of community providers were also addressed by the court. The plaintiffs alleged that the DOE had willfully violated court mandates by excluding Head Start programs from district preschool plans and by insufficiently funding community providers generally. In Abbott VI the court approved the use of community providers, but required that those providers meet the stringent requirements imposed on district-run programs. In Abbott VIII the court required the DOE to provide reasonable supplemental funding so that Head Start and other appropriate community providers could meet the more demanding State preschool requirements. The court also required districts to use Head Start providers "unless they are not able and willing to comply with the Abbott preschool standards, or unless the cost of doing so is demonstrably more expensive than other high-quality alternatives." Abbott VIII at 555.

Qualified, certified teachers were an essential component of adequate State funding for preschool programs according to the court in Abbott VIII. The court required the DOE to provide additional funding for teacher salaries if the community provider could demonstrate an inability to retain qualified staff due to salary parity problems. Head Start and other community providers had complained about certified staff fleeing to district-run programs, lured by the higher compensation packages offered by those programs. The court also found reasonable an administrative code provision that "grandfathered" certified elementary school teachers with two years preschool experience by waiving the requirement of Abbott VI that they obtain an instructional certificate with a P-3 endorsement in order to be hired as teachers in Abbott preschool programs. The court was confident that the grandfathering would not compromise the education of any preschool pupil, and was an appropriate response to the teacher shortage which affected both community providers and district-run preschools.

Funding issues continue to be a concern of the court, as they have been from the start of the litigation. In Abbott VIII the plaintiffs complained that the DOE had "neither provided sufficient budgetary guidance to the district, nor allocated funding based on actual need." Abbott VIII at 556. The court found that the districts, with regulatory guidance from the DOE, must develop and articulate budgetary requests with specificity and that the DOE must respond to those requests with

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an appropriate explanation regarding the funding it was providing. The court held that the DOE must base funding decisions not on "arbitrary, predetermined per-student amounts, but, rather, on a record containing funding allocations developed after a thorough assessment of actual needs." Abbott VIII at 559.

The issue of facilities was also discussed briefly by the court. The plaintiffs' claim was that the DOE had failed to provide preschool facilities that were safe and adequate. The court on the record before it could not determine the full extent of the facilities problem. It noted, however, that by conducting outreach initiatives for preschool programs, the districts may experience increased enrollment which could cause some districts to have insufficient classroom space for the children who enroll. The court suggested that Abbott districts that anticipated increased enrollment have in place a contingency facilities plan reviewed and approved by the department.

The court concluded by observing that it was acutely aware of the constitutional imperative that undergirded the Abbott line of decisions, and of "the vulnerability of our children in the face of Legislative and Executive Branch inaction." Abbott VIII at 562. The court was unwilling, however, to step in and run the school system. "Only when no other remedy remains should the courts consider the exercise of day-to-day control over the Abbott reform effort." Abbott VIII at 562.

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