

**FINAL REPORT OF THE
ASSEMBLY TASK FORCE ON THE FUNDING OF EDUCATION**

JULY 16, 1996

NEW JERSEY GENERAL ASSEMBLY
SPEAKER'S TASK FORCE ON THE FUNDING OF EDUCATION

Assemblyman Gary W. Stuhltrager, Chairman
Assemblyman Jeffrey W. Moran, Vice Chair
Assemblyman Nicholas Felice
Assemblywoman Carol J. Murphy
Assemblyman Guy Gregg

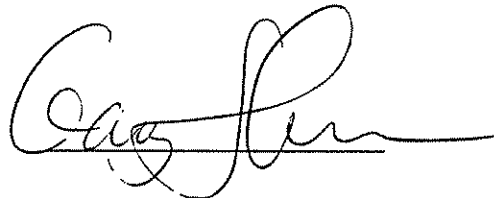
Assemblyman Joseph J. Roberts, Jr.
Assemblyman Raul "Rudy" Garcia
Assemblywoman Nia H. Gill

July 16, 1996

Honorable Jack Collins, Speaker
General Assembly of New Jersey

Dear Mr. Speaker:

The Assembly Task Force on the Funding of Education herewith respectfully submits its report and recommendations pursuant to Assembly Resolution No. 11.

A handwritten signature in black ink, appearing to read "Gary Stuhltrager", written in a cursive style.

Gary W. Stuhltrager, Chairman

Members of the Assembly Task Force on the Funding of Education

**Assemblyman Gary Stuhltrager
Chair**

**Assemblyman Jeffrey Moran
Vice Chair**

**Assemblyman Nicholas Felice
Assemblyman Raul "Rudy" Garcia
Assemblywoman Nia H. Gill
Assemblyman Guy Gregg
Assemblywoman Carol Murphy
Assemblyman Joseph J. Roberts, Jr.**

Staff:

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**Kathleen Fazzari, Secretary
Office of Legislative Services**

**John L. Harris, Special Advisor to the Task Force
Rowan College**

Introduction:

This document represents the final report and recommendations of the Assembly Task Force on the Funding of Education. The task force was created by resolution adopted on February 8, 1996, and is comprised of eight assemblymembers representing a geographic and economic cross-section of New Jersey as well as both political parties.

Assemblyman Gary Stuhltrager (Gloucester) was appointed chairman and Assemblyman Jeffrey Moran (Ocean) was appointed vice chairman. The other members of the task force are Nicholas Felice (Bergen), Raul "Rudy" Garcia (Hudson), Nia H. Gill (Essex), Guy Gregg (Sussex), Carol Murphy (Morris) and Joseph J. Roberts, Jr. (Camden).

The task force was given the broad charge of studying the State's responsibility to provide a "thorough and efficient" education to all children between the ages of 6 and 18 as mandated by the State Constitution and interpreted by the State Supreme Court, and developing recommendations as to how the State can fulfill this constitutional mandate in the most economical and equitable fashion possible.

In ruling that the "Quality Education Act of 1990" was unconstitutional because it did not equalize per pupil spending, the New Jersey State Supreme Court directed the Governor and Legislature to adopt a new plan to fund public education that meets constitutional requirements for spending and educational parity among all school districts by September, 1996, to be implemented for the 1997-'98 school year.

Between February and May, the task force held a series of six public hearings, taking testimony from the Commissioner of Education and other officials of the department, all interested parties and the public. The task force proceeded with the awareness that the Commissioner of Education was nearing completion of his own process to develop a new initiative to fund public education. The Commissioner's proposal, entitled the "*Comprehensive Plan for Educational Improvement and Financing*," had been published and distributed in November 1995 following several years work. The task force acknowledges the exhaustive and comprehensive nature of this effort and applauds the plan's innovative approach to ensuring a thorough and efficient education for all students regardless of residency, and how such an education is to be funded.

Rather than reinvent the wheel, the task force has chosen to accept the Commissioner of Education's plan as the model on which our recommendations will be based. Our recommendations are founded on the principles that all school districts must be treated fairly and an equitable "ability-to-pay" model be utilized for all public school districts.

Since the Commissioner's proposal has not yet been formally introduced as legislation in the General Assembly, the task force is using the "*Comprehensive Plan for Educational Improvement and Financing*," as the basis for analysis. Before a bill is introduced, or following introduction, the recommendations contained in this report can be incorporated as amendments if the General Assembly so chooses.

BACKGROUND

Since the cases of *Robinson v. Cahill* through *Abbott v. Burke*, the Court has held that the issue is not equalized spending for all students, but an equal education delivered to all students regardless of residency. In *Abbott v. Burke*, 1990, the court stated:

- “...In other words, the Constitution does not mandate equal expenditures per pupil. We implied that the level can - and should - be defined in terms of substantive educational content. But while disparity was explicitly permitted, there was a caveat -- the excess spending could not somehow be allowed to mask a failure to achieve thoroughness and efficiency in other districts.”
- “The clear thrust of our decision was to render equal dollars per pupil relevant only if it impacts on the substantive education offered in a given district...”
- “...in *Abbott I*, as it bore on the issue of appropriate forum, we found it necessary to underline the basic holdings of the *Robinson v. Cahill* cases, including explicitly the power of local districts to spend beyond what was required for a thorough and efficient education, subject to the limitation that ‘such authorization does not become a device for diluting the State’s mandated responsibility’”.

On the issue of special needs students, the court said:

- “...the education needed to equip the students for their roles as citizens and workers exceeds that needed by students in more affluent districts...”

Thus, the Court has consistently held that per pupil spending did not have to be equal as long as every student was receiving a “thorough and efficient” (substantive) education. Likewise, the court has held that spending is important only as it relates to providing a “thorough and efficient” education. However, absent a definition of what a substantive education consists of, the court has reluctantly used spending as the comparison, although the court consistently refers to providing a “thorough and efficient” education, and not equalized spending, as the State’s constitutional obligation.

Once again, in July, 1994, the State Supreme Court declared New Jersey’s school funding law, the “Quality Education Act,” unconstitutional, and directed the Executive and Legislative branches of government to develop a new school funding plan to equalize regular education spending between the state’s “special needs” districts and the state’s wealthiest districts.

In responding to this latest order, the Department of Education summed up the situation in its “*Comprehensive Plan for Educational Improvement and Financing*,” released in November, 1995:

“The challenge posed by the Court’s directive is not a new one.

Indeed, the state has been engaged in the search for fiscal equity for more than twenty years. That search has been unsuccessful in producing the desired result, and it has divided the branches of government as well as communities and school districts of the state.

The Executive Branch is committed to fulfilling the Supreme Court's charge. However, it is clear that a new approach is needed...

Testimony centered on the question: What are the elements of schooling that are essential to providing a 'thorough and efficient' education and, therefore are those for which funding must be guaranteed in all school districts throughout the state?

A reasonably precise answer to this substantive question must form the heart of any system of educational improvement and financing."

Unlike past attempts which merely tried to pump more money into the "special needs" districts without adequate purpose or accountability, while trying to hold all other school districts "harmless," the Commissioner's plan is much more innovative and strikes at the very heart of the issue -- providing a "thorough and efficient" education to all students.

For the first time since adoption of the 1947 State Constitution, an attempt is being made to define "thorough and efficient." Thereby, rather than compare students simply by dollars, educational quality will become the standard.

The Commissioner's plan defines "thorough and efficient" as a "Core Curriculum," a framework that identifies the content (subject) areas that every student will be taught. Each content area has a series of standards and progress indicators that will be tested at the 4th, 8th and 12th grade levels. Actual curriculum development is left to each school district.

Using the "Core Curriculum," plus extracurricular and co-curricular activities, and categorical programs, the Department of Education priced out what a "thorough and efficient" education should cost at the elementary, middle and secondary levels. Thus, by defining the elements of a "thorough and efficient" education, applying this definition to all students, and establishing the cost of providing this education, all students regardless of residency will receive their constitutionally guaranteed "thorough and efficient" education.

However, the Commissioner's plan does not prevent districts from raising and spending funds for the purpose of exceeding the constitutional requirement. As stated previously, in its Abbott II decision, the Court maintained that local districts have the explicit power to "spend beyond what was required for a thorough and efficient education, subject to the limitation that 'such authorization does not become a device for diluting the State's mandated responsibility.'" Under this plan, a local district may spend in excess of their constitutional obligation, as long as the voters in the district authorize such additional spending.

Through this bi-focation, the State is attempting to comply with the Court's opinion - a substantive and fiscally equitable "thorough and efficient" education is being provided to all New Jersey students, while local districts are provided the leeway to raise and expend beyond what is required if their residents so choose.

At the other end of the spectrum, the task force applauds the initiative to designate the use of "at-risk" dollars for specific programs. This will bring not only accountability into the system, but more importantly, will drive the money where it is needed the most, rather than simply being deposited into a district's general fund.

Thus, the Commissioner's plan maps out a new approach to the age-old question of how to fund our public schools, how to compare the quality of education received, and how to provide additional assistance to those students that need it the most. The task force believes the Commissioner's plan has merit, and is therefore using it as the foundation for our recommendations.

RECOMMENDATIONS

REGULAR EDUCATION BUDGETS

1. The task force believes that no district should substantially gain or lose revenue from their current levels of state aid and local support in the first year of the new funding plan. Although the plan establishes a 10% cap on any decrease in state aid the first year, the plan should also provide a three year phase-out of this amount.
2. Districts whose 1996-97 regular education budgets exceed the proposed maximum T&E budget, should be permitted to have their current budget maintained and established as the baseline for future budgets. Using the plan's proposed system, no vote should be required on any budget that spends up to this amount plus adjustments for enrollment and the CPI. If a school board wishes to spend in excess of this amount, then all new spending should be put out to vote. The appeal process proposed may be invoked if the question on new spending fails.

This "grandfathering" provision is intended to stabilize the transition to the new funding scheme without wreaking undue havoc on established school programs.

3. Districts whose equalized aggregate property value to aggregate income ratio is 1.5:1 greater than the State average, are not an I, J or Abbott district, have a student enrollment of at least 500, and a tax rate above the State average, should receive additional State aid to compensate their residents ability-to-pay. High ratios usually indicate districts that are property rich but income poor, thus increasing the difficulty of residents ability to pay higher school taxes.

4. Former transition aid districts, as defined under the "Quality Education Act of 1990," whose percentage of senior citizens is greater than the State average should be provided stabilization aid to reduce their local school tax burden. The maximum amount of aid for an eligible district should be \$50.00 per pupil for each whole percentage point by which the district's percentage of senior citizens exceeds the State average.
5. Although 35 school districts are classified in District Factor Group "A," the poorest districts in the State, not all of these districts are classified as "Abbott" districts. The task force recommends that all District Factor Group "A" districts be treated and funded as "Abbott" districts.

AT-RISK FUNDING

At present, all districts receive at-risk aid for their students that qualify under the free lunch or free milk guidelines established by the State Board of Education. Under the Administration proposal, "At-Risk" funding will be divided into two categories, "Early Childhood Aid" and "Demonstrably Effective Programs." Each category will have a defined set of acceptable programs on which "At-Risk" funds may be spent, thus introducing accountability into the program for the first time, and ensuring that "At-Risk" funds reach the students that need it.

However, the plan restricts distribution of "At-Risk" aid. In order to receive "Early Childhood Aid," a minimum of 20% of a school district's student population must qualify. In order to receive aid for "Demonstrably Effective Programs," a minimum of 20% of an individual school's student population must qualify.

6. The task force recommends that aid for "Early Childhood" and "Demonstrably Effective Programs" be distributed on a sliding scale for those entities (districts or schools) that do not meet the 20% threshold.

<u>Qualifying Students</u>	<u>Percentage of Aid (Year One)</u>
0- 4.99%	0
5- 9.99%	25%
10-14.99%	50%
15-19.99%	75%
20-39.99%	100%
40+%	As Proposed

This schedule will continue to provide those entities with sizeable "at-risk" populations, but do not meet the 20% threshold, with assistance to support this population.

7. The aid received for these programs should be identified within a district's budget, spent only on these designated and approved programs, and audited to ensure accountability and proper use. Any funds designated for these purposes which are not used, should be returned to the State, with an explanation as to why these funds were not used and how

the targeted students received the additional assistance for which these funds were intended.

MUNICIPAL OVERBURDEN

The plan provides for "Supplemental Core Curriculum Standards Aid" for districts that have high poverty rates (a minimum 40% at-risk population) and high tax rates.

8. In order to be eligible to receive "Supplemental Core Curriculum Standards Aid," a local district's taxing effort should be at least \$1.10 per \$100 equalized property tax valuation.

SPECIAL EDUCATION

The Administration plan attempts to eliminate over-classification of students by establishing a 10% cap on the number of placements a school district can make and still receive full State funding. The plan goes on to propose a scaling down of State aid for placements that exceed 10% but are less than 14.3%. Placements in excess of 14.3% would not be eligible for any State aid.

In those circumstances in which the excess placements can be justified, a district may appeal to a special panel for additional aid. Likewise, districts may also appeal to the panel for additional aid for high-cost placements.

The plan also proposes to move to a "revenue neutral" funding system in which all State special education aid will go to the district of residence. Further, the plan proposes to substitute the 19 funding classifications with a flat aid amount regardless of disability.

9. The threshold for appealing for additional aid for high-cost placements should be reduced from \$50,000 to \$30,000.
10. The cap on fully funding special education students should be waived for vocational schools, since special education students constitute a large segment of the vocational population.
11. Aid for special education should be designated in a school district's budget and be used only for that purpose. Funds not used should be returned to the State.

TRANSPORTATION

The proposed plan starts to introduce efficiency incentives into the funding of pupil transportation, a good first step towards a more productive, efficient system.

12. The issue of providing and holding a seat for every eligible rider, even though usage is never 100% because many eligible high school students drive their own cars to school, must be addressed so buses are used to their fullest capacity rather than continually

transporting far less than the maximum of 54 students per bus.

FACILITIES/DEBT SERVICE

The need to upgrade our schools is considerable. A 1992 study by the Department of Education estimates that approximately \$6 billion is needed to upgrade all schools. According to the study:

- NJ public school buildings range in age from 0 to 141 years old.
- The average age of all buildings is 47 years.
- 49 buildings are more than 100 years old. (2% of total)
- 35 of these century old buildings are in Special Needs Districts.
- 934 buildings (41% of total) are more than 50 years old.
- 64% of Special Needs District buildings are over 50 years old.
- 36% of other district buildings are over 50 years old.

- The 6 counties comprising the northern third of the state, have more than half of their buildings over 50 years old.

The Administration plan establishes a review mechanism before a school district can build or renovate a school and expect the State to provide debt service aid. Under the plan, a district must submit its plan to the Commissioner of Education, who shall decide whether or not the project is necessary in order to provide the students of the district with a "thorough and efficient" education. If deemed necessary by the Commissioner, the project would be eligible for State debt service aid if the district qualifies for such aid. The plan proposes full debt service aid for future projects.

13. While the task force endorses this plan, the failure to fully fund existing debt service is unconscionable. The task force fully endorses the "World Class Schools Construction Act" (ACR-1; A-2157) that will fully fund the State's debt service obligation, guarantee full debt service in the future and build new schools. The legislative package will provide \$50 million in immediate property tax relief by making up the State's shortfall on debt service aid, and leverage an estimated \$4 billion in funds to construct new schools. This package of bills should be adopted in time to appear on this year's ballot.

BUDGET PROCESS

The Administration plan proposes several changes to the process of formulating and adopting local school budgets. The plan includes two-year budget planning at the State and local levels, which will stabilize revenue needs and expenditures; using current year enrollment; eliminating

the public vote on budgets withing the approved "T&E range;" limiting any public vote only to spending in excess of the approved "T&E range," and limiting the appeal process on defeated school budgets to the local governing body.

These proposed changes guarantee the funding necessary to provide a constitutionally mandated "thorough and efficient" education, but provide the flexibility to go beyond this requirement. The task force supports these changes with the following modifications:

14. Current year enrollment should be counted twice annually, in October and February. Adjustments in aid should be made for districts that show significant changes in enrollment. If necessary, a special fund should be established to provide additional aid to those districts that have large increases, especially in the special education area.
15. All school elections, budgets when necessary and school board members, should remain in April.

REGIONALIZATION

Under current law, rules and regulations, at least one district is negatively impacted fiscally when a plan to form or enlarge a regional school district is proposed. Although many districts would like to regionalize, which also appears to be a goal of the Administration, the financial impact usually prevents the parties from moving forward.

16. The Administration or Legislature should undertake a study of the incentives and disincentives which impact on the formation or enlargement of regional school districts, with the goal of removing obstacles to regionalizing and ensuring that such a move is equitable to all parties.

LOCAL DISTRICT SPENDING EFFICIENCIES

A goal of the Administration plan is to make local districts more efficient by concentrating on those items that constitute a "thorough and efficient" education while making non-required spending optional at the local voters discretion. To facilitate local efficiencies, meaningful incentives should be provided.

17. A system should be established that allows local districts to keep a percentage of any money it saves by sharing services or other local initiatives. Such rewards should be put aside for future needs rather than be included in the free appropriation balance.

FORMULA FOR AID DISTRIBUTION

In determining a municipalities wealth, the Department of Education uses the Table of Equalized Property Value that is produced annually by each county to determine each town's property wealth, and federal census data to calculate a town's aggregate income.

Census data is not very accurate because it is quickly dated and is sorted by zip code, even though many zip codes extend beyond municipal boundaries encompassing multiple municipalities. Thus, the use of zip codes as a means of sorting can skew a municipalities wealth, thereby affecting their state aid and local property tax.

18. The State should develop the necessary software and procedures for the calculation of income on an annual basis, using State income tax returns sorted by municipality. This will provide a more accurate determination of each municipalities income wealth and a fairer distribution of state aid.

REGIONAL COST DIFFERENCES

The Administration plan aims to equalize spending for the provision of a "thorough and efficient" education among all school districts and students in the State. However, the per pupil amount of \$6,720 provides a vast difference in buying power among different regions in the State.

19. An analysis should be conducted to determine the cost of living, housing, etc. for different regions in the State. The per pupil amount should then be adjusted to provide for any regional cost differences that are determined.
20. In determining the Consumer Price Index (CPI) for the biennial adjustment to the per pupil amount, the State should be divided into regions, with North Jersey using the New York metropolitan CPI, and South Jersey using the Philadelphia metropolitan CPI.