EDUCATION, EQUITY, AND THE LAW
No. 1

Assessing Success in School Finance Litigation: The Case of New Jersey

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An earlier version of this paper was presented at the fourth annual symposium of the Campaign for Educational Equity, "Equal Educational Opportunity: What Now?" at Teachers College, Columbia University, November 12-13, 2007.

The Campaign for Educational Equity

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TABLE OF CONTENTS

EXECUTIVE SUMMARY

In 1970, four New Jersey cities challenged the constitutionality of the state's school funding system, arguing that large wealth-based variations in per pupil expenditures across the state's districts deprived students in low-wealth communities like theirs of a "thorough and efficient" education. Since then, in over 20 decisions handed down over the last 35 years, through *Robinson v. Cahill* (1973-1976) and later *Abbott v. Burke* (1985-2005), the New Jersey Supreme Court has sought to ensure that all students in New Jersey, particularly in distressed urban areas, have equal access to a quality education. This paper examines the impact of court-mandated school finance reform in New Jersey and describes the state's new school funding formula, the School Finance Reform Act (SFRA) of 2008, and its potential impact.

In a series of *Abbott* decisions, the court defined a constitutional education as one that prepares a student to be a citizen, to be competitive in the labor market, to participate fully in society, and to appreciate music, art and literature, all as measured by students' mastery of the state's core curriculum standards. In addition, it determined that the state must ensure that its most disadvantaged students have sufficient opportunity to compete with their more advantaged peers. The court ordered the legislature to design a new funding system that would equalize spending between poorer urban districts and property-rich districts (parity aid) and provide additional funds to redress the disadvantages of the urban districts. It also issued an order addressing the special educational and facility needs of Abbott students, including full-day kindergarten and half-day preschool programs for three and four year olds; off-site coordination and referral for social and health services; supplemental funding for additional educational programs *based on need*; and funding of the complete cost of addressing facilities deficiencies. Later, the court included early literacy programs, class sizes, family support teams, secondary school reforms and technology personnel.

Thirty years of school finance reforms and increased state aid have yielded higher and more equitable spending in New Jersey school districts. While state aid as a percentage of the total state budget remained relatively constant between 1975 and 2007, hovering between 28% and 32% of total state spending, total state aid for education increased 336% ($7.3 billion) in real (2007) dollars. Significantly more funds have been directed to the Abbott districts. In 1984-85, the Abbott districts spent a few hundred dollars per pupil more than the low-wealth, non-Abbott

districts, over $800 per pupil less than the middle-wealth districts, and nearly $2,200 per pupil less than the high-wealth communities (in real 2007 dollars). By 2007-08, the Abbott districts spent $1,300 per pupil *more* than the high-wealth districts and considerably more than both the low-wealth non-Abbott ($4,000) and middle-wealth non-Abbott ($3,000) districts. In 1984-85, the Abbott districts had the highest tax rates in the state. By 2007-08 they had the lowest tax rates. In contrast, tax rates in the non-Abbott low- and middle-wealth districts have remained well above those of the high-wealth districts. Thus, the legislative response to the *Abbott* court decision did not create parity system-wide.

Abbott districts used the additional funds in ways directed by the court. Elementary schools, for example, added vice principals, teacher tutors, basic skills teachers, specialists who provided regular classroom teachers with preparation and planning time, guidance counselors, nurses, social workers, parent liaisons, attendance and security staff, and instructional aides. Class sizes were generally reduced to 20-22 students in grades 1-5. In addition, nearly 80% of eligible three- and four-year-old children in Abbott districts were enrolled in state-funded preschool programs in 2005-06.

Tests scores in the Abbott districts, as measured by both state and national assessments, rose in the fourth and eighth grades, narrowing the performance gap between Abbott students and other students in the state. From 1999 to 2007, the difference in test scores between the Abbott districts and the rest of the state fell 11 points or 0.39 standard deviation units in fourth grade mathematics and 7 points or 0.40 standard deviation units in fourth grade reading. In the eighth grade, the gap was reduced by 5 points in mathematics and 1point in reading. Results from the National Assessment of Educational Progress confirm these trends.

In 2008, the School Finance Reform Act (SFRA) replaced the Abbott remedies with one formula applicable to all districts in the state. The new formula eliminates any special funding for the Abbott districts (with the exception of facilities aid); increases the weights for at-risk and LEP programs, providing significantly more funds to non-Abbott districts that have growing numbers of poor and LEP students; replaces a special education categorical aid program largely with a census-based system of aid; and wealth-equalizes funding for at-risk and LEP students and two-thirds of general special education costs. As intended, low- and middle-wealth non-Abbott districts benefit most from the new formula, with a projected increase of $2,000 per pupil in regular and categorical

education funds. The Act does include an "adjustment" aid provision (a form of save-harmless aid), that maintains current levels of funding (with a 2% increase) for the near future. Without this adjustment, Abbott districts stood to lose $1100 per pupil in revenues; even with it, they will have difficulty maintaining services as salaries and other costs continue to rise.

In May 2009, the New Jersey Supreme Court ruled in *Abbott XX* that SFRA was constitutional and may be applied to the Abbott districts subject to the state fully funding the SFRA formula annually, conducting a review of the law after three years of implementation, and adjusting the formula's adequacy amount, weights, and other elements based on this review. In rendering its decision, the court argued that SFRA provides the appropriate "measuring stick" against which to gauge the resources needed to achieve a thorough and efficient education for every child in the state. The court was also clear, however, that it would hold the state responsible for funding and ensuring the efficacy of the formula.

In spite of much progress, much remains to be done in New Jersey. While test scores are rising, not enough Abbott students are meeting more stringent state proficiency standards or graduating from high school. Nearly half of the Abbott schools and districts have been identified as in need of improvement under the state and federal accountability systems. Difficult social and economic conditions persist. At the same time, the new state funding law freezes the revenues of many Abbott districts and eliminates the court's financial remedies.

New Jersey suffers from both a recession-driven and structural deficit. In spite of an infusion of $1 billion of federal stimulus funding into the state aid formula and a reduction in state payments to the teacher pension fund of $565 million, SFRA was under-funded by $300 million in 2009-10. After receiving a 2% increase in revenues in 2008-09, most Abbott districts will see no further growth. As a result, funding disparities between the Abbott and wealthy suburban districts have reappeared: $901 per weighted pupil in 2008-09 and a projected $1,066 per weighted pupil in 2009-2010. The fiscal situation does not look any more promising for 2010-11, and federal stimulus funding will be gone in 2011-12. Thus, it is unlikely that the state will meet its obligation to fund SFRA fully without major dislocations to other parts of the state budget. The third-year review will be particularly crucial in determining whether SFRA, particularly an under-funded SFRA, truly can and does enable all students to meets the state's increasingly rigorous academic standards.

OVERVIEW

Education finance policy in New Jersey has been shaped by over 30 years of school finance litigation. Through its decisions in *Robinson v. Cahill* (1973-1976) and *Abbott v. Burke* (1985-2005), the justices of New Jersey's supreme court have defined the state's constitutional guarantee of a "thorough and efficient" education, set parameters for how the state's urban schools should be funded, and provided guidance on how education dollars should be spent in these communities (the so-called Abbott districts). In January 2008, the legislature enacted a new funding formula, the School Finance Reform Act of 2008, which jettisons the court's remedies. The court upheld the constitutionality of this law in its 20th *Abbott* ruling issued in May 2009.

The purpose of this paper is to examine the impact of court-mandated school finance reform in New Jersey and describe the School Finance Reform Act (SFRA) of 2008 and its potential impact. The first section of this paper provides the demographic and economic context for education policy in New Jersey. The second and third sections describe how the court has defined educational "success" or "adequacy" over the last 30 years and how New Jersey measures an adequate education. The fourth section looks at the impact of school finance reform on education spending, taxation, and student achievement. The fifth section describes SFRA and its impact and the most recent round of litigation.

DEMOGRAPHIC AND ECONOMIC PROFILE OF NEW JERSEY

New Jersey is a small, densely populated state with a population that roughly mirrors the U.S. average (Table 1). New Jersey had 8.7 million residents in 2006, with a density of 1,134 persons per square mile. About 63% of New Jersey residents were of white, non-Hispanic origin, 15% were African-American, and 15% were of Hispanic or Latino origin. The percentage of foreign-born residents (17.5%) and residents who spoke a language other than English at home (25.5%) in 2000, however, exceeded the national average, reflecting a wave of immigration that accounted for half of New Jersey's population growth between 1990 and 2000 (Mackey, 2004).

The racial/ethnic composition of New Jersey's schools, on average, reflects the state's population (Table 2). State averages, however, obscure major disparities in demographics across New Jersey's 603 school districts. Because of the racial homogeneity of New Jersey's municipalities, the state contains some of the nation's most racially isolated school districts. For example, New Jersey ranks sixth nationally on two measure of segregation, black exposure to whites and Hispanic exposure to whites (Orfield & Lee, 2007). The student population in the Abbott districts, which are the state's poorest urban communities, is 88% minority.[1] In contrast, in the rest of the state the student population is 34% minority.

New Jersey residents are wealthier than the national average, but communities are as diverse economically as they are demographically. Median household income in 2006 was 133% of the national average. New Jersey's poverty rate was only 8.7% compared with the national average of 13.3%. However, the poverty rate in the Abbott districts (as measured by the percentage of students receiving free or reduced school lunch) is four times as high as that of the non-Abbott districts (70% versus 18%). Similarly, the Abbott districts have limited property bases; the average per pupil property valuation in the Abbott districts was $456,000, about 46% of the state average. Put another way, while the Abbott districts enroll only 20% of the state's students, they educate half of the state's minority and poor children and contain less than 10% of

[1] In 1990, the New Jersey Supreme Court defined "poor urban districts" (subsequently called the Abbott districts) as the 28 districts that were classified by the New Jersey Department of Community Affairs as "urban" communities and fell within district factor groups (DFG) A and B. DFGs were created from a composite measure of a community's social and economic resources, using date from the U.S. Census. At this time, DFGs were used to report state test scores so that comparisons could be made within similar socioeconomic status categories. The legislature added two more Abbott districts in its enactment of the Quality Education Act of 1990. The New Jersey Department of Education added a 31st district in 2003.

the state's property wealth. These large urban/suburban disparities have been a focus of the state's school finance litigation for the last three decades.

Table 1. Demographic and Economic Characteristics of New Jersey

	New Jersey	US
Population, 2006 estimate	8,724,560	
Persons per square mile, 2000	1134.4	79.6
% white persons, non-Hispanic origin, 2005	63.2%	66.9%
% African-American persons, 2005	14.5%	12.8%
% Hispanic or Latino origin, 2005	14.9%	14.1%
% Asian persons, 2005	7.0%	4.2%
% foreign-born persons, 2000	17.5%	11.1%
Language other than English spoken at home, % age 5+, 2000	25.5%	17.9%
% bachelor's degree or higher, 2000	29.8%	24.4%
Per capita money income, 1999	$27,006	$21,587
Median household income, 2006	$64,470	$48,451
% persons below poverty, 2006	8.7%	13.3%
Median value of owner-occupied housing, 2000	$170,000	$119,600

Sources: U.S. Census Bureau (2006, n.d.)

Table 2. Student Characteristics in New Jersey School Districts, 2007-08

	State	Abbott Districts	Non-Abbott Districts	Abbott Districts as % of State
Student enrollment*	1,378,614	272,235	1,106,378	19.7%
% white students	55.0%	12.4%	65.5%	4.5%
% African-American students	17.2%	38.7%	11.8%	44.6%
% Hispanic students	19.4%	45.9%	12.3%	46.8%
% Asian students	8.0%	2.6%	9.3%	6.5%
% free and reduced school lunch (FRL)	28.1%	70.4%	17.7%	49.4%
Per pupil property wealth	$980,889	$455,794	$1,116,830	9.6%

**Includes preschool enrollments.*
Sources: Data on enrollments, student race/ethnicity and FRL: New Jersey State Department of Education (n.d.). Data on property wealth: New Jersey State Department of Education, State aid file, 2007-08.

DEFINING AN ADEQUATE EDUCATION ("THOROUGH . . .")

Article VIII of the New Jersey Constitution, adopted in 1875, calls for the legislature "to provide for the maintenance and provision of a thorough and efficient system of free public schools for the instruction of all children in the State between the ages of five and eighteen years." In over 20 decisions handed down over the last 35 years, the New Jersey Supreme Court has sought to ensure that all students in New Jersey, particularly in their distressed urban areas, have equal access to a quality education.[2] Over time, the court has defined the state's constitutionally required "thorough and efficient" education in both absolute and relative terms, and developed standards for achieving a thorough and efficient education for all students. While many writers, researchers and policymakers view the New Jersey decisions as focused on equity, the court has been concerned from the beginning with how to define and measure an adequate education for all children.

In 1970, four cities (East Orange, Jersey City, Paterson, and Plainfield) challenged the constitutionality of the state's school funding system, arguing that large wealth-based variations in per pupil expenditures across the state's districts deprived students in low-wealth communities like theirs of a "thorough and efficient" education. In its initial decision in 1973 (*Robinson v. Cahill*), the New Jersey Supreme Court ruled in favor of the plaintiffs and defined a "thorough and efficient" (T&E) education as one that "Embrace[s] that educational opportunity which is needed in the *contemporary setting* to equip a child *for his role as a citizen and competitor in the labor market* (emphasis added)" (*Robinson I*, p. 295).

In 1975, the New Jersey court accepted the legislature's definition of T&E, a set of input and process standards included in the state's school finance reform law—the Public School Education Act of 1975 (more commonly called Chapter 212). In ruling Chapter 212 facially constitutional in its fifth *Robinson* decision, the justices shifted their standard for judging adequacy from dollar disparities to substantive educational content (*Robinson v. Cahill*, 1976). Expenditures per pupil would now be relevant only if it had an impact on the substantive education offered in a specific district.

[2] For a more detailed discussion of the court's decisions between 1973 and 1998, see Goertz and Edwards (1999).

In 1981, five years after the implementation of Chapter 212, the Education Law Center (ELC) challenged the constitutionality of this funding law on behalf of students from four cities (Camden, East Orange, Irvington, and Jersey City). Addressing the court's new focus on substantive educational opportunities, the plaintiffs charged in this new case, *Abbott v. Burke*, that New Jersey's education finance system caused not only significant educational expenditure disparities but also vast programmatic differences between poor urban and wealthy suburban school districts.

In a series of *Abbott* decisions, the court broadened its definition of a T&E education, especially as applied to disadvantaged students from poor urban communities. In the first *Abbott* decision, the court expanded the constitutional standard for a T&E education to one that assures *disadvantaged* students the opportunity to compete with children in property-rich districts, or contribute to the society entered by *relatively advantaged* children (*Abbott v. Burke*, 1985). In its second decision, the court determined that the adequacy of education provided by a school district could not be judged solely by students' performance on basic skills tests and that a "thorough and efficient" education included not only the ability to fulfill one's role as a citizen, but *to participate fully in society, in the life of one's community, to appreciate music, art and literature, and to share that with friends* (*Abbott v. Burke*, 1990). The justices also held that the input and process procedures put in place under Chapter 212 failed to measure whether students were receiving a T&E education because they did not include standards for the breadth of curriculum that was to be offered or of other educational inputs (such as staffing ratios, teacher experience or teacher training). In addition the state department of education did not evaluate the adequacy of a district's curriculum, the relationship of the curriculum to a T&E education, or the quality of any offering.

In 1997, the court accepted the state's new academic and workplace readiness standards (Core Curriculum Standards), coupled with performance assessments that measure educational achievement on these standards, as a reasonable legislative definition of a constitutional T&E education (*Abbott v. Burke*, 1997).[3] But, the court argued, standards alone do not ensure a

[3] The Comprehensive Educational Improvement and Financing Act of 1996 (CIEFA) referenced standards in seven academic areas: mathematics, science, language arts literacy, visual and performing arts, social studies, comprehensive health and physical education, and world languages. In 2003-04, the state board of education updated these standards and added two more--technology and career education; and consumer, family and life skills.

substantive level of achievement. “Real improvement still depends on the sufficiency of educational resources, successful teaching, effective supervision, efficient administration, and a variety of other academic, environmental, and societal factors needed to assure a good education” (*Abbott IV*, pp. 428-429). What suffices as sufficient resources, and constitutes an “efficient” education, remains a matter of contention.

In summary, the New Jersey Supreme Court has defined an adequate education as one that prepares a student to be a citizen, to be competitive in the labor market, to participate fully in society, and to appreciate music, art and literature, all as measured by students’ mastery of the state’s core curriculum standards. In addition, the state must ensure that its most disadvantaged students have sufficient opportunity to compete with their more advantaged peers.

MEASURING AN ADEQUATE EDUCATION ("…AND EFFICIENT")

In *Abbott II* (1990), the justices established the educational programs, personnel, and facilities in affluent suburban districts as adequacy standards for the urban districts. When the court found both deficiencies and striking disparities in these areas, it ordered the legislature to design a new or revised funding system that would equalize spending for the *regular education program* between poorer urban districts and property-rich districts[4] and provide additional funds to meet the *special educational needs* of the urban districts in order to redress their disadvantages.

The legislature enacted two laws in response to the *Abbott* decisions, the Quality Education Act of 1990 and the Comprehensive Educational Improvement and Financing Act of 1996 (CIEFA). The supreme court, however, ruled that these laws fell short of guaranteeing a "T&E" education in the state's 30 poor urban school districts and ordered a higher level of funding and a prescriptive set of services for these districts.

Parity between Abbott and High-Wealth Districts

CIEFA provided a level of foundation funding, or T&E amount, based on a service delivery model that the state argued would enable students without special needs to meet the state's Core Curriculum Standards (CCS) (New Jersey Department of Education, 1996). Although no specific basis was cited for the educational inputs in the model (e.g., class size, student support services, and administrative staffing), they arguably reflected patterns in suburban districts at that time of its development.[5] The foundation formula, or Core Curriculum Standards Aid, supported the regular education budget; separate categorical aids funded programs for special student needs, such as students with disabilities, English language learners, and those students needing remedial education.

Although CEIFA purported to link funding with outcome standards for all districts, the New Jersey Supreme Court ruled in 1997 (*Abbott IV*) that the CEIFA model fell short as applied

[4] "Property-rich" districts were those assigned a DFG of I or J.

[5] The model district had an assumed enrollment of 3,075 students in three elementary schools, one middle school, and one high school, with no more than 10% of the students classified for special education services other than speech. The model assumed class sizes of 21 for grades K through three; 23 for grades four and five; 22.5 in middle school; and 24 in high school; two guidance counselors, a nurse, and two media services/technology specialists for the middle school; the number of guidance counselors and nurses doubles in the high school; and administrative staffing.

to the Abbott districts for four reasons: (1) the state had failed to show how the model delivery system underlying the foundation amount was tied to the Core Curriculum Standards (CCS); (2) the state had not yet established either assessments or performance standards linked to the CCS; (3) the state's model of an "efficient" district was not based on the characteristics of the Abbott districts; and (4) CEIFA, like earlier laws, failed to address sufficiently the special educational needs of students in the Abbott districts.

The court concluded that it was left once again without a "constitutional measuring stick" to determine the level of resources needed to ensure equal educational opportunity in poor urban communities other than the inputs of the state's wealthy districts. It ordered parity in regular education funding between the Abbott districts and the state's wealthy suburban districts for the 1997-98 school year. This time the legislature relented and enacted a program of "parity aid." Parity aid is the difference between an Abbott district's per pupil regular education budget and the average per pupil regular education budget in the New Jersey's highest socioeconomic school districts. In 2007-08, the parity benchmark was $12,872 per pupil, and Abbott districts received $1.04 billion in parity aid, or about $3,700 per pupil.

Abbott Remedies and Supplemental Funding

The justices also expressed their frustration in *Abbott IV* with the inability or unwillingness of the state to undertake the studies of supplemental programs for urban students they had ordered in earlier decisions. They remanded the case to the superior court to determine appropriate judicial relief in the areas of supplemental programs and facilities. In 1998, the supreme court issued a remedial order addressing the special educational and facility needs of Abbott students (*Abbott v. Burke*, 1998). The court called for (1) the implementation of proven, research-based whole school reform designs in all 319 Abbott elementary schools, with Success for All as the presumptive model; (2) full-day kindergarten; (3) half-day preschool programs for three and four year olds; (4) off-site coordination and referral for social and health services; (5) security, technology, alternative school, and school-to-work programs; (6) supplemental funding for additional educational programs *based on need*, including summer school, added security, and school-based health and social service programs; and (7) funding of the complete cost of addressing facilities deficiencies and the construction of additional classrooms needed to serve current and project student populations. The court clarified and expanded this list (the so-called

Abbott remedies) in its 2003 decision to include early literacy programs, class sizes, family support teams in elementary schools, secondary school reforms and technology personnel (*Abbott v. Burke*, 1998). In some instances, the court specified personnel or program requirements, such as the minimum qualifications of preschool staff, 90-minute reading blocks, tutors and instructional facilitators in early literacy programs, and student/computer ratios.

Abbott districts were eligible for "Additional Abbott Aid" if they showed proof that additional funds were needed to meet additional special educational needs of their districts. The NJDOE had a process for reviewing and approving these requests; funds allocated under this aid program were to be spent for the approved purpose and accounted for in a separate revenue fund. About $690 million was appropriated for Additional Abbott Aid in 2007-08.

EVALUATING THE SUCCESS OF NEW JERSEY'S REFORMS

Each new school finance law (Chapter 212, the Quality Education Act of 1990 (QEA) and CEIFA) infused substantial amounts of money into New Jersey's education system.[6] Total state aid for education increased 336% ($7.3 billion) in real (2007) dollars between 1975 and 2007 (Table 3). To put these numbers in perspective, however, state aid as a percentage of the total state budget has remained relatively constant since the enactment of Chapter 212 in 1976-77, hovering between 28% and 32% of total state spending (Tractenberg, Liss, Moscovitch, & Sadovnik, 2005; authors' own calculations).

Table 3. State Aid for Education in New Jersey (in Millions), 1975-76 through 2007-08 (CPI Adjusted)

	1975-76	1977-78	1984-85	1989-90	1993-94	1996-97	2000-01	2005-06	2007-08
Total Equalization Aid	1660.3	2151.1	2428.6	3050.9	3640.0	3597.8	3844.1	3744.0	3625.1
Abbott Aid[a]	0	0	0	0	0	0	642.3	1616.7	1727.3
Categorical Aid	524.1	716.5	1073.4	1375.0	2066.2	1840.1	1887.4	2049.0	2071.8
School Construction	124.1	206.0	203.9	145.8	123.7	105.4	265.7	376.3	655.4
Teacher Retirement	756.9	714.7	1069.2	1343.0	731.9	808.1	919.3	1557.1	2264.1
Total Aid	*3077.0*	*3788.2*	*4775.2*	*5914.7*	*6561.7*	*6351.4*	*7558.7*	*9343.1*	*10343.7*

[a] *Includes Abbott Parity Aid and Abbott Additional Aid.*
Note: Does not include early childhood aid.
Source: State of New Jersey Budget, FY76 through FY09

[6] The starting point of our analysis is 1975-76, the year prior to the implementation of Chapter 212. The interim years reflect the effects of the changing school finance systems over the 30-year period: initial implementation (1977-78), mid-point (1984-85) and ending (1989-90) years of Chapter 212; the mid-point (1993-94) and last year (1996-97) of QEA; and implementation and the last year of both CEIFA and Abbott Parity Aid (2000-01 and 2007-08). These are also years for which the authors had statewide databases.

Equalization and categorical aid grew steadily under Chapter 212 and the early years of the QEA Act (1975-76 through 1993-94), after which these categories of aid remained essentially flat. While state aid increased 57% in real dollars between 1993-94 and 2007-08, most of this growth was in Abbott aid and teacher retirement costs. Over the last 30 years equalization aid dropped from 54% to 35% of state aid, while Abbott aid, which did not exist until 1997-98, accounted for 17% of total state aid in 2007-08. The Abbott districts' share of state operating aid increased from 42% to 54% between 1989-90 and 2007-08 (Firestone, Goertz, & Natriello, 1997; authors' calculations). This shift was an impetus for a new funding formula, designed to send relatively more aid to non-Abbott low- and middle-wealth districts.

Trends in Education Spending

Thirty years of school finance reforms and increased state aid have yielded higher and more equitable spending. The following analyses examine per pupil education spending for the *regular education program* as this has been the focus of both the court's and the legislature's definition of an adequate education, and because the regular education budget per pupil is commonly considered the measure of horizontal equity. All spending data is presented using real (CPI adjusted) 2007 dollars, and is weighted by district enrollment. Districts are initially grouped into seven wealth septiles of approximately equal numbers of students based on equalized property value per pupil.[7]

From 1975-76 to 2007-08 average statewide per pupil spending increased $6,600 in real dollars, representing a 116% increase in spending. The trajectory of growth was similar for the middle wealth (Septiles 3 and 5) with each group doubling their spending over the 30+-year period. Although the rate of growth was greater for the highest-wealth districts (Septile 7), spending in the lowest-wealth group (Septile 1, which includes many Abbott districts), grew by 149%, resulting in that group going from the second lowest spending septile in 1975-76 to the highest spending septile in 2007-08 (Appendix 1).

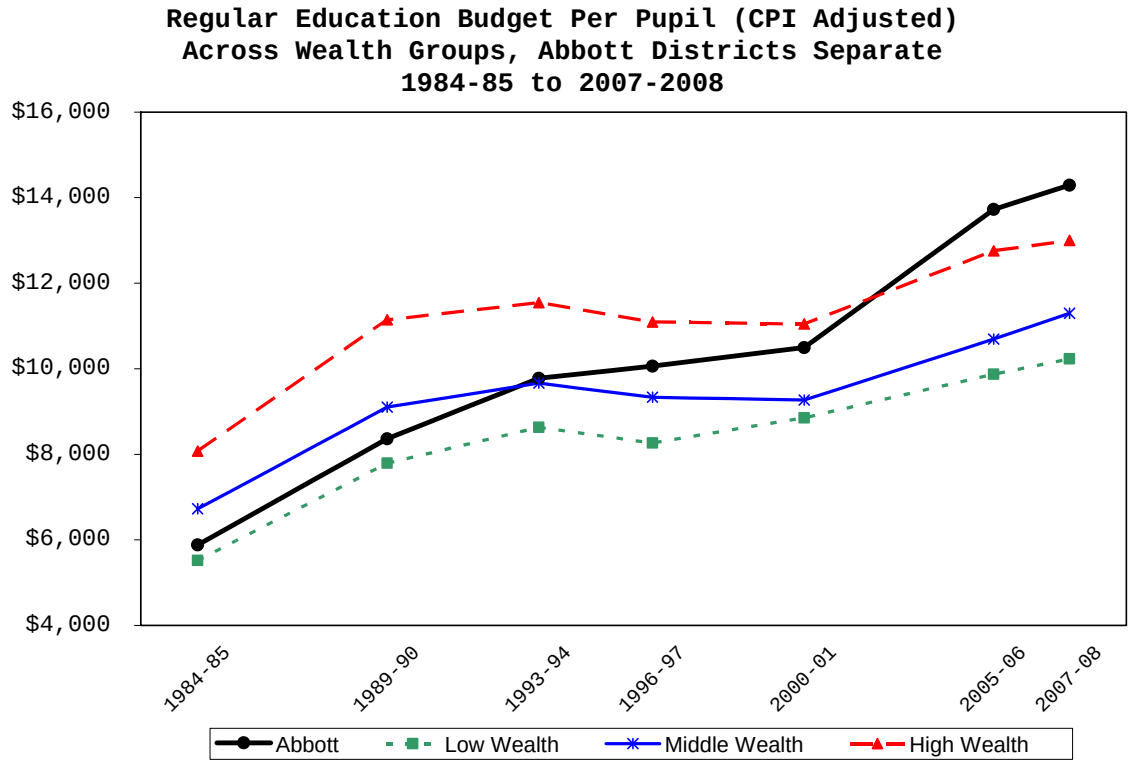
[7] Goertz has used septiles to analyze the allocation of education funds in New Jersey since 1975. Septiles were chosen over deciles because in 1975 one large urban district, Newark, educated about 7% of the state's students and would have constituted most of its decile. The analyses include 547 to 553 of the state's 603 school districts. We exclude the 21 county vocational, eight county special services (e.g., special education), and 23 nonoperating districts because of their unique characteristics. The wealth groupings are reset at each time point; thus, a non-Abbott district may not be in the same wealth septile over time if its per pupil property wealth changed at a rate substantially different from that of other districts in the state.

We did not have databases that would allow us to separate out the Abbott districts prior to 1984. Starting with that year, we created a separate comparison group composed of the 30 Abbott districts[8] and collapsed the seven septiles into three broader wealth categories: low-wealth districts (Septiles 1 and 2, minus Abbott districts); middle-wealth districts (Septiles 3 through 5, minus any Abbott districts); and high-wealth districts (Septiles 6 and 7). In 1984-85, when the first *Abbott* decision was handed down, the Abbott districts spent a few hundred dollars per pupil more than the low-wealth, non-Abbott districts, but over $800 dollars per pupil less than the middle-wealth districts, and nearly $2,200 per pupil less than the high-wealth communities (Figure 1 and Appendix 2). At the same time, a $2,500 per pupil spending gap separated the low-wealth and high-wealth districts. This changed dramatically by 2007-08 when the Abbott districts were spending $1,300 per pupil *more* than the high-wealth districts and considerably more than both the low-wealth non-Abbott ($4,000) and middle-wealth non-Abbott ($3,000) districts. The large increase in spending in the Abbott districts was due in large part to the infusion of parity and supplemental aid since 1998.

Among the non-Abbott districts, per pupil spending disparities between the low- and high-wealth districts changed only slightly (from $2,550 to $2,770) in this 20+-year period, while the gap between the middle- and high-wealth districts gradually widened (from $1,350 to $1,700). These growing disparities, coupled with rising local school taxes, led middle-wealth districts to press for major revisions to the state's funding formula.

[8] In 2003, the state added a 31st Abbott district, Salem City. Because this is a relatively recent event, we did not include this district in the Abbott category. Since Salem City is small (1,200 students), this exclusion will not affect the findings.

Figure 1.



Trends in District Tax Rates

Large increases in state aid in the late 1970s and 1980s, coupled with rapid increases in property valuation, cut the average school tax rate in half, from $1.69 per hundred of equalized property value to $0.86 per hundred between 1976 and 1990. School tax rates rose again throughout the 1990s, reflecting stagnant tax bases. A rapid rise in property valuations between 2000-01 and 2007-08 accounts for the drop in school tax rates in that time period, even as state aid was frozen for the non-Abbott districts.

Figure 2 and Appendix 3 highlight the change in the Abbott districts' tax rates relative to the low-, middle-, and high-wealth non-Abbott districts. In 1984-85, the Abbott districts had the highest tax rates in the state. By 2007-08 they had the lowest tax rates. In addition to raising the Abbott districts' regular education budget through the spending parity requirement, the state did not require Abbott districts to increase their school tax revenues until 2006-07.[9] In contrast, tax

[9] In 2006-07, the legislature set a minimum tax rate for Abbott municipalities of 120% of the state average. Districts are required to increase their tax rates to that level, with a limit on the increase of $125 per household. Revenues generated by this tax increase are used to offset state education aid.

rates in the low- and middle-wealth districts have remained well above those of the high-wealth districts. Note that the 20+-year trends in tax rates largely reflect their relationship with equalized valuation per pupil (*r = -0.86)*.

Table 4 shows the interaction of state aid, local revenues, and education spending and tax rates in 2007-08. In that year, the Abbott districts' regular education budgets exceeded regular education budgets in the highest-wealth districts (Septile 7) by over $550 per pupil, while the Abbott tax rates were 0.12 mills lower than the highest-wealth districts. Thus the legislative response to the *Abbott* court decision has created parity between the Abbott districts and the high-wealth districts in the state. However, the funding system has not led to equity or parity *system-wide*. Non-Abbott districts in Septiles 1 through 5 have average regular education budgets that are between $2,600 and $5,000 per pupil below those of the Abbott (and Septile 7 districts), even though their tax rates are considerably higher. The difference between Septile 1-5's regular education budgets and the Abbott districts' regular education budgets is largely due to the non-Abbott districts' greater reliance on local revenues to fund education. While only 16% of the Abbott districts' budgets came from local revenues, non-Abbott districts in Septile 2 raised over 60% of their regular education budget through local taxes, despite having a tax base (equalized valuation per pupil) that is only slightly greater than that of the Abbott districts. With state aid frozen, growth in spending in middle-wealth districts has been driven by increased taxes. While tax rates have declined, reflecting a rapid rise in property values, homeowners' school tax bills have soared.

How the Dollars Were Spent

In both 1998 and 2003, the court ordered the New Jersey Department of Education (NJDOE) to evaluate "the effectiveness of programs and reforms in improving student achievement in the Abbott districts" (*Abbott X*). The state has not conducted this evaluation, but has sporadically monitored different aspects of the operation of Abbott districts. In the late 1990s, the state developed "illustrative budgets" for the preparation, review and approval of school budgets in Abbott districts. The state monitored line items in school and district budgets (e.g., total teacher salaries), but did not examine how schools used their funds. More recently, the state conducted fiscal audits and curriculum reviews in the Abbott districts, but again focused on

Figure 2.

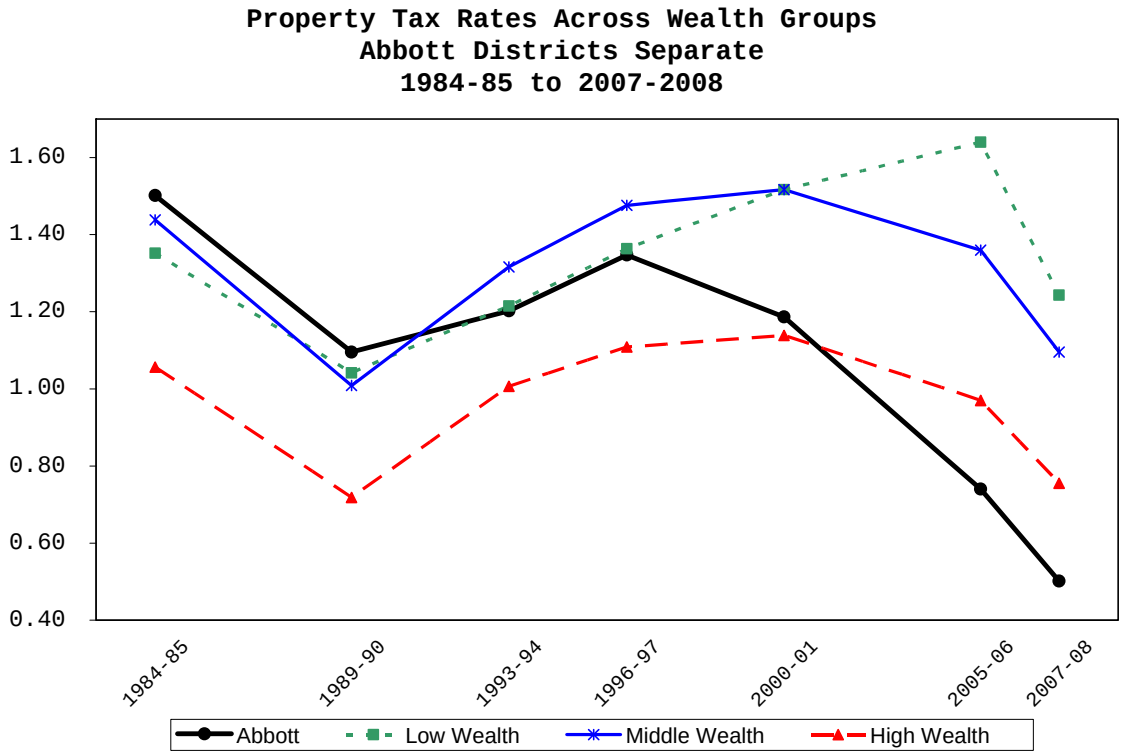


Table 4. Spending and Tax Burden Statistics by Wealth Septiles, Abbott Districts Separate (2007-2008)

Wealth Group	No of Districts	Number of Students	Equalized Property Value PP	Local Revenue PP	State Equalization Aid PP	Regular Education Budget PP	Tax Rate
Abbott	30	276,747	$455,793	$2,287	$12,007	$14,294	0.50
Septile 1	26	23,135	348,682	4,235	5,138	9,373	1.21
Septile 2	80	124,864	535,537	6,565	3,823	10,388	1.23
Septile 3	70	160,307	724,109	7,962	2,601	10,563	1.10
Septile 4	72	191,961	860,721	9,800	1,706	11,506	1.14
Septile 5	65	189,765	1,020,589	10,841	871	11,713	1.06
Septile 6	67	187,449	1,200,960	11,961	315	12,277	1.00
Septile 7	141	191,431	2,187,586	13,507	200	13,707	0.62
*State Average**	*551*	*1,345,659*	*980,889*	*8,615*	*3,661*	*12,276*	*0.88*

Source: Computed by authors from the New Jersey State Aid Database, 2007-2008.

** Note: This table includes a total of 551 districts and 1,345,659 students in New Jersey. All other figures in this table are weighted state averages*

compliance (or lack thereof) with state regulations rather than on the substance of the educational services provided.

Two independent studies of a sample of Abbott districts and schools found relatively similar allocation patterns across Abbott elementary schools mirroring the "illustrative" budgets issued by the NJDOE in the late 1990s. In their study of FY 2000-01 school budgets in four Abbott districts, Erlichson and Goertz (2001, 2002) found that elementary schools budgeted the positions included in their illustrative budgets and, in many cases, added vice principals, teacher tutors, basic skills teachers, attendance staff, additional security, and instructional aides—what the authors characterized as "Illustrative Budget Plus." The five schools in the Goertz, Gross, and Weiss (2005) study devoted between 55% and 60% of their regular education budgets to core academic teachers and specialists. Each school had at least five specialists who provided regular classroom teachers with preparation and planning time. Class sizes generally ranged from 20 to 22 students in grades 1-5. In line with the Abbott mandates, all of the schools had a guidance counselor, a nurse, a social worker (or contracted out for these services) and a parent liaison.[10]

In addition, the National Institute for Early Education Research (NIEER), based at Rutgers University, has been evaluating the quality and impact of the Abbott preschool program for several years. They found that nearly 80% of eligible three- and four-year old children in Abbott districts were enrolled in state-funded preschool programs in 2005-06. Abbott students attending preschool programs show substantial gains in learning and development in language, literacy, and mathematics prior to entry to kindergarten, and these gains are largely sustained during the kindergarten year (Frede, Jung, Barnett, Lamy, & Figueras, 2007).

Trends in Education Performance

It is difficult to assess the impact of the *Abbott* decisions on indicators of student achievement because New Jersey, like most other states, has changed its assessments several times over the last 30 years. Also, any evaluation is limited to cohort analyses since New Jersey did not implement grade-by-grade testing until 2005-06 and only recently developed a

[10] The Education Law Center (2006) reported, however, that 31% of Abbott schools did not have a parent liaison in 2004-05.

longitudinal student-level database. However, one can use state assessment and NAEP data to ascertain some trends.

New Jersey State Assessments. We used two state assessments—the NJAsk4, and GEPA (fourth and eighth grades respectively) in mathematics and language arts—over the last seven to nine years to explore trends in student achievement. From 1999 to 2007 statewide student scale scores increased dramatically on the fourth grade mathematics assessment. Mean scale scores shot up by 26 points over these eight years, with the greatest increases in the Abbott districts. As a result, during this time period there was significant closure in the achievement gap between the Abbott districts and the rest of the state. In 1999 the gap between the Abbott districts and all other districts in the state was over 30 points. By 2007 the gap was down to 19 points, a reduction of 11 points or 0.39 standard deviation units.[11] The gap between the Abbott districts and the high-wealth districts fell from 35 to 22 points. Meanwhile performance in the low-, middle-, and high-wealth districts essentially remained parallel during this eight-year period (Figure 3).

On the fourth-grade reading assessment, overall statewide scores decreased by two points between 2001 and 2007. While statewide average scores declined, the Abbott districts saw an increase of three points during this six-year period. The gap between Abbott districts and all other districts was reduced by seven points during this time period, or 0.40 standard deviation units. The gap between the Abbott districts and the high-wealth districts closed from 25 points to 17 points in 2007 (Figure 4). Performance in the low-, middle-, and high-wealth districts essentially remained parallel during this time.

[11] The standard deviation on the fourth-grade mathematics exam was 35.4 and in the fourth-grade reading test was 23.6. Standard deviations in this section represent pooled standard deviations calculated from the yearly scaled score standard deviations available on the NJDOE website.

Figure 3.[12]

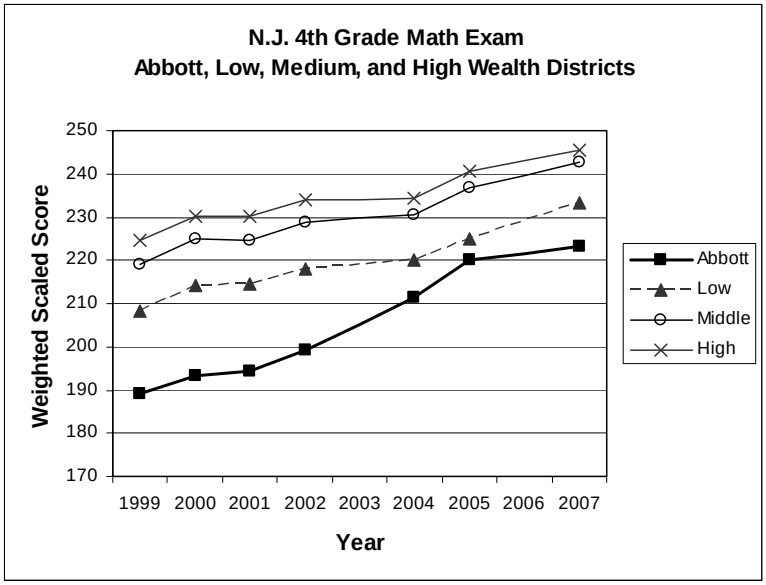
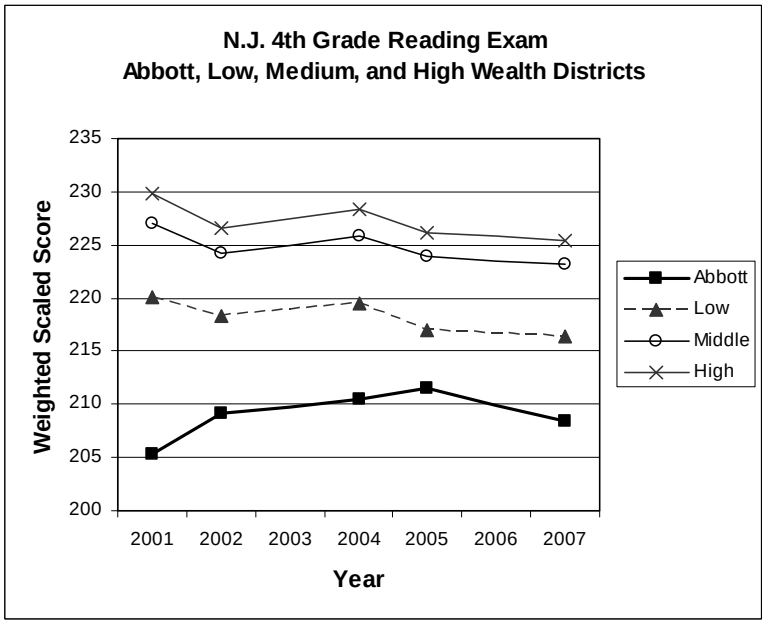


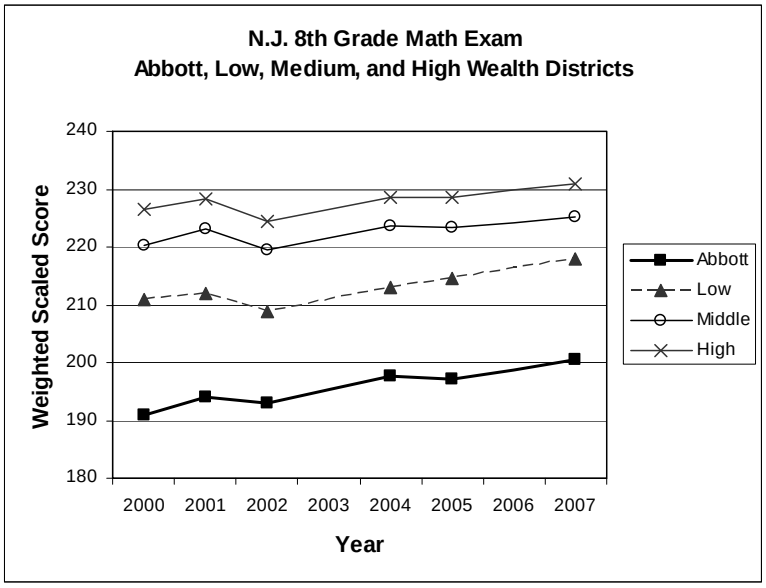
Figure 4.



[12] Data for Figures 3 and 4 come from the NJDOE website. For consistency over time, districts were not included if they were missing data for any year. For the math exam, the Abbott, low-, middle-, and high-wealth districts include 27, 43, 135, and 130 districts respectively. For the reading exam, the Abbott, low-, middle-, and high-wealth districts include 26, 45, 134, and 127 districts respectively.

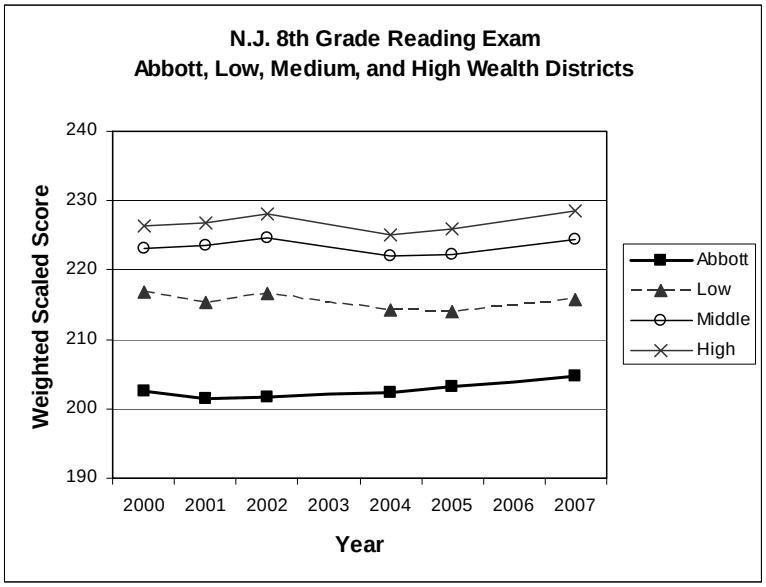
Statewide mean scores on the New Jersey eighth-grade mathematics and language arts assessments increased slightly between 2000 and 2007 with a seven-point increase in mathematics and a two-point increase in language arts. During this time period, the Abbott districts saw an increase in both math and language art scores of nine points and two points respectively. As a result, we see a small closure in the achievement gap between the Abbott districts and the rest of the state of five points in mathematics and one point in language arts. Figures 5 and 6 show the average scale scores in the Abbott, low-, middle-, and high-wealth districts from 2000 to 2007. During this time period, the gap between the high-wealth districts and the Abbott districts decreased by five points in math and remained the same in language arts.

Figure 5.[13]



[13] Data for Figures 5 and 6 come from the NJDOE website. For consistency over time, districts were not included if they were missing data for any year. For the math exam, the Abbott, low-, middle-, and high-wealth districts include 26, 36, 116, and 102 districts respectively. For the reading exam, the Abbott, low-, middle-, and high-wealth districts include 25, 35, 119, and 104 districts respectively.

Figure 6.



National Assessment of Educational Progress (NAEP). The National Assessment of Educational Progress (NAEP) allows us to examine longer-term performance trends and can provide confirmation of trends in state assessment results, although we suggest caution in interpreting these results.[14] New Jersey participated in NAEP through 1996, but not again until 2003 when required under NCLB. Table 5 presents the most recent years of test scores for fourth- and eighth-grade reading and mathematics. NAEP reports scores by school location, and we have used the "central city" or "city" category as a proxy for the Abbott districts in New Jersey, and the "urban fringe" or "suburb" as a proxy for the suburbs. The NAEP results confirm the changes we saw using state assessment data. NAEP scores in fourth-grade reading and mathematics in central cities rose 21 and 22 points, respectively between the mid-1990s and 2007, a rate that was faster than the urban fringe in both subjects and the state as a whole in reading. Eighth-grade NAEP scores are available starting in 2003. Between 2003 and 2007, scores for the urban districts rose six points in eighth-grade reading and 18 points in eighth-grade mathematics, a considerably higher rate of growth than in the suburbs and statewide. During this

[14] NAEP is designed to provide comparisons among states, not within a state (i.e., district to district). As a result, we look at long-term trends in New Jersey and compare urban schools with nonurban schools as a proxy for comparing Abbott with non-Abbott districts. In addition to inexactness in the overlap between the Abbott districts and all New Jersey urban schools, NAEP's definition of urbanicity has been modified during the time period examined. Finally, in 1996 NAEP changed its rules for permitting accommodations. As a result NCES cautions users of NAEP about making long-term trend comparisons from before 1996 to after 1996.

four-year time period, the achievement gap between the urban districts and the suburbs was reduced by six points in fourth-grade reading, eight points in fourth-grade mathematics, five points in eighth-grade reading and 12 points in eighth-grade mathematics.

Table 5. Scale Scores on NAEP, New Jersey, 1994-2007

Grade / Subject	Year	Central City	Urban Fringe	State	Nation
Grade 4					
Reading	2007	211	232	231	220
	2005	209	224	223	217
	2003	201	228	225	216
	1994n	190	225	219	212
Mathematics	2007	235	249	249	239
	2005	233	245	244	237
	2003	219	241	239	234
	1996n	213	229	227	222
Grade 8					
Language Arts	2007	256	270	270	261
	2005	251	270	269	260
	2003	250	269	268	261
Mathematics	2007	273	289	289	280
	2005	260	285	284	278
	2003	255	283	281	276

n = Accommodations were not permitted for this assessment.

Sources: For 1994-2005, National Center for Education Statistics (2005); for 2007, National Center for Education Statistics (2007).

THE SCHOOL FINANCE REFORM ACT OF 2008

Governor Jon Corzine signed a new school finance funding formula into law in January 2008. The School Finance Reform Act (SFRA) of 2008 replaced CEIFA and the Abbott remedies (parity aid and supplemental funding) with one formula applicable to all districts in the state. In March 2008, the state asked the New Jersey Supreme Court to determine that SFRA is constitutional and to rescind the Abbott remedies, except as they apply to facilities. The court remanded the case to a special master in November 2008 and issued its decision upholding the constitutionality of SFRA in May 2009.

Funding Formula

SFRA has three major components: equalization aid, categorical aid, and adjustment aid.

Equalization Aid. Equalization aid is calculated through a foundation formula based on an "adequacy budget." The adequacy budget includes funding for the regular education program and costs for student poverty ("at-risk" aid), limited English proficient (LEP) students, and special education services. The base amount for regular education is $9,649 per elementary pupil. Grade level weights of 1.04 and 1.17 are applied to middle and high school students, resulting in base amounts of $10,035 and $11,289, respectively. At-risk aid is provided to students who qualify for free and reduced price lunches. The at-risk weights, which are applied to the grade-adjusted base cost, range from 0.47 (for districts with fewer than 20% at-risk students) to 0.57 (for districts with poverty concentrations of 60% or higher). LEP students receive a weight of 0.50. The LEP weight is reduced to 0.125 for students who qualify for both the at-risk and LEP weight. SFRA changes special education funding from a pupil weighting to a census-based system. The excess cost for general special education is the product of the district's enrollment, the state's average classification rate (14.7%), and the state average excess cost for general special education ($10,898). Two-thirds of this amount is included in the district's adequacy budget and one-third is allocated as categorical aid. Each district's total adequacy budget is then adjusted by a geographic cost index. Districts must contribute their "local fair share," which takes into account both property and income wealth.

The SFRA "adequacy budget" is based on a study that the NJDOE undertook in 2003 to inform the development of a new state aid formula and to determine the cost of providing education services consistent with the state's current Core Curriculum Standards (CCS). The

study used a truncated professional judgment panel (PJP) approach to identify resources required to meet the CCS in elementary, middle, and high schools located in six hypothetical districts that differed by grade span and size. These resource models were then used to calculate an overall cost of meeting state performance standards and to generate weights for the special needs programs (Dupree & Augenblick, 2006). The NJDOE subsequently adjusted the costs for inflation, and made a few modifications in response to external reviews of the original model (NJDOE, 2007).[15]

Categorical Aid. Districts receive one-third of the excess cost for general special education, extraordinary special education aid (for costs that exceed $40,000 per pupil for in-district programs and $55,000 per pupil for out-of-district programs), security aid, and transportation aid through non-wealth-equalized categorical aid programs. The SFRA eliminated Parity Aid and Additional Abbott Aid for the Abbott districts.

Adjustment Aid. Adjustment aid is a save-harmless program for districts that receive less state aid under SFRA than they did in 2007-08, particularly Abbott districts where state-approved expenditures generally exceeded their SFRA adequacy budgets. For 2008-09, the state guarantees that all districts will receive a minimum of 102% of their 2007-08 state aid. Adjustment aid will be reduced in the out-years as equalization and categorical aids grow. Thus, districts receiving adjustment aid will not receive state aid increases until their SFRA formula allocations exceed 102% of their 2007-08 state aid. Adjustment aid was $860 million in 2008-09, 11% of total state aid. Abbott districts received $599 million of this aid, representing about $1,320 per pupil and 15% of their total aid.

Impact of SFRA

SFRA represents a major break from previous school finance formulas in New Jersey. First, it eliminates the Abbott designation and any special funding for the Abbott districts (with the exception of facilities aid). Second, it increases the weights for at-risk and LEP programs, providing significantly more funds to non-Abbott districts that have growing numbers of poor and LEP students. Third, it replaces a special education categorical aid program that allocated funds based on the number of special education students and the intensity of their services with a

[15] The SFRA model district, which is based on the large district model in the PJP study, has an assumed enrollment of 5,240 students in six elementary schools of 400 students each, two middle school of 600 students each, and one high school with 1,640 students.

census-based system of aid. Finally, the SFRA wealth-equalizes funding for at-risk and LEP students and two-thirds of general special education costs. What did not change was the relative level of the base amount in SFRA. The average base amount for SFRA's adequacy budget is $10,281 compared with CIEFA's T&E amount of $10,273 when adjusted for inflation (Wyns, 2008).

Changes to the formula, as well as the level of the base amount, have had a differential impact on school districts across the state. As shown in Table 6, SFRA increased total state aid by $532 million. The amount of aid generated by the formula, that is, through the adequacy budget and categorical programs, was $327 million lower in 2008-09 than in 2007-08, however. The new funding was needed to fund adjustment aid.

Table 6. Changes in State Aid under SFRA, 2007-08 to 2008-09

	2007-08				2008-09					
District	**Equal Aid[a]**	**Spec Educ Aid**	**Other Categ Aid[b]**	**Total Aid**	**Equal Aid[c]**	**Spec Educ Aid[d]**	**Other Categ Aid**	**Total Formula Aid**	**Adjust Aid**	**Total Aid**
Abbott	2972.8	218.9	737.3	3929.0	2880.9	495.3	138.0	3514.2	599.0	4113.2
Non-Abbott	1957.4	759.1	660.1	3376.6	2138.1	956.6	369.6	3464.3	260.9	3725.2
Total	*4930.2*	*978.0*	*1397.4*	*7305.6*	*5019.0*	*1451.9*	*507.6*	*6978.5*	*859.9*	*7838.4*

[a] Includes DEPA, Bilingual Aid and Abbott Parity Aid.
[b] Includes Additional Abbott Aid.
[c] Excludes special education costs in the adequacy budget.
[d] Includes all special education aid.
Note: Figures do not include early childhood aid.
Source: NJDOE State School Aid Printout, December 12, 2007.

Abbott Districts. The SFRA affects the Abbott districts in several ways. First and foremost, the law rescinds the remedies prescribed by the court: spending parity with high-wealth districts, access to additional funding for supplemental programs, and program mandates. Second, the base amount in the SFRA adequacy budget is 20% or $2,591 per pupil below the Abbott parity amount. Although the increased weights for DEPA and bilingual education provide additional funds for these students, it is insufficient to offset the loss of parity aid. As shown in

Table 6, total aid to the Abbott districts for the regular education program, at-risk and bilingual education students is $2.881 billion, or $92 million lower under SFRA than under the previous law. The elimination of Additional Abbott Aid under SFRA results in a reduction of $599 million in other categorical aid. Although Abbott districts receive an increase of $275 million in special education aid, overall they lose $415 million in total formula aid.

Third, SFRA dramatically increases the "fair share," or expected local tax revenues from the Abbott districts. The local share attributed to Abbott districts under SFRA is nearly double what they currently raise in local taxes. This provision overrides the court's requirement that increases in local revenues be limited due to high levels of municipal overburden in these districts. Under the Abbott remedies, Abbott districts were held to their prior year local levy (if their total tax rate exceeds 120% of the state average) or a $125 per household increase. This change has two negative consequences for Abbott districts. First, by raising their required local share, Abbott districts are eligible for less equalization aid. Second, apart from the constraints of municipal overburden, many Abbott districts cannot raise their required fair share because the state limits the growth in locally raised education revenues to 4% a year. Although SFRA calls for the Abbott districts to contribute $1.140 billion in local revenues, their capped local levy is only $660 million (Wyns, 2008). As a result, the total of equalization aid and capped local revenues falls nearly $500 million short of what the adequacy budgets should be in the Abbott districts.

The impact of SFRA on the Abbott districts is highlighted in Table 7 that compares regular and categorical education spending in 2007-08 with what we project would be available to districts under the SFRA formula, excluding adjustment aid and assuming that all districts increase their tax revenues by 4%. On average, the per pupil regular education budget in the Abbott districts drops $5,600, or 39%, reflecting the loss of the Abbott remedy aids. It also creates a $4,300 gap in regular education spending between the Abbott and high-wealth districts. Increased aid for at-risk, special education and bilingual education boosts the projected per pupil spending in Abbott districts from $8,701 to $14,561 under SFRA, but this is still $1,065 per pupil below the 2007-08 level. Spending per *weighted* pupil uses program and grade level weights to reflect the additional costs of educating students with special educational needs and in different grade spans. Spending per weighted pupil in the Abbott districts falls from $9,453 in 2007-08, around the state average, to a projected $8,782 under the SFRA formula, without

adjustment aid. This amount is well below the projected state average of $10,280 and more than $2,000 per pupil below that of the high-wealth districts.

Non-Abbott Districts. As intended, low- and middle-wealth non-Abbott districts benefit most from the new formula. Assuming that they also increase their local revenues by the 4% maximum, these districts see a $800 per pupil (middle wealth) to a $1,300 per pupil (low wealth) increase in their regular education budgets, and a $2,000 per pupil increase in regular and categorical education funds. The positive impact of increased funding of programs for students with special educational needs is reflected in changes in projected per pupil spending under SFRA. While spending per weighted pupil declined from 2007-08 in the Abbott districts, it increased by $1,500 in the low- and middle-wealth non-Abbott districts. High-wealth districts show a small increase in spending due to the projected increase in their local taxes. Most high-wealth districts will lose categorical aid for their special-needs students as most of these funds are wealth equalized under SFRA.

The Constitutionality of SFRA

The New Jersey Supreme Court left the door open for alternative funding formulas in its *Abbott IV* decision. The justices acknowledged that the legislature and executive branch could develop a funding plan that equalized expenditures across all districts at a level below those of the affluent suburban districts, but the state would have to "convincingly" demonstrate that the Abbott districts could provide a substantive thorough and efficient education through spending below parity or that the suburban districts' budgets contained inefficiencies or excesses that are "truly unnecessary to the achievement of a thorough and efficient education."[16]

In March 2008, the state sought a determination by the supreme court that SFRA met the "thorough and efficient" requirement of the New Jersey constitution and that the Abbott remedies, with the exception of facilities, were no longer necessary. The state made several arguments in support of its position. First, it argued that, through its basis in the findings of the

[16] *Abbott IV*, p. 442.

Table 7. Education Expenditures in 2007-08 Compared with Projected Expenditures under SFRA in 2008-09 without Adjustment Aid

2007-2008					
	Regular Education Budget Per Pupil[a]	**Regular Education Budget + Categorical Spending Per Pupil[b]**	**Regular Education Budget + Categorical Spending Per Weighted Pupil**	**Enrollment**	**Weighted Enrollment[c]**
Abbott Districts	14,294	15,626	9,453	276,747	458,762
Low Wealth	10,230	11,597	8,338	147,999	206,433
Middle Wealth	11,299	12,253	9,253	542,033	721,952
High Wealth	12,999	13,803	10,652	378,880	491,855
State	12,276	13,311	9,587	1,345,659	1,879,002

Projected 2008-2009					
	Regular Education Budget Per Pupil [d]	**Regular Education Budget + Categorical Spending Per Pupil [e]**	**Regular Education Budget + Categorical Spending Per Weighted Pupil**	**Enrollment**	**Weighted Enrollment [c]**
Abbott Districts	8,701	14,561	8,782	273,788	453,859
Low Wealth	11,496	13,766	9,848	146,186	204,096
Middle Wealth	12,135	14,284	10,729	533,468	710,862
High Wealth	13,385	14,120	10,901	377,363	489,936
State	11,712	14,238	10,280	1,330,805	1,858,753

[a] Sum of local revenue, equalization aids, Abbott Parity and Abbott Additional Aids.

[b] Sum of regular education budget, special education aid, at-risk aid, bilingual education aid and additional formula aid.

[c] Sum of enrollment times grade level weights and the number of at-risk, ESL and special education (at 14.69% of enrollment) students times program weights.

[d] Sum of adequacy base minus fair share and 104% of 2007-08 local revenue.

[e] Sum of SFRA Equalization Aid, categorical special education aid, extraordinary aid and 104% of 2007-08 local revenue. Does not include security aid.

Note: Figures do not include early childhood aid.

Source: Authors' calculations from NJDOE state databases

PJP study, SFRA directly links the Core Curriculum Content Standards—the substantive definition of a "thorough and efficient" education—to the funding needed to deliver these standards to all students. Thus, the adequacy budget in SFRA provides a more appropriate "measuring stick" for the cost of providing a thorough and efficient education to Abbott students than parity funding. Second, through its system of weights for at-risk students and other provisions, SFRA provides sufficient funding for Abbott districts to provide the special and extra-educational programs and services required by the court. This eliminates the need for the supplemental funding process as well as the separate designation for Abbott districts. Third, SFRA creates one formula that is applicable to all students in the state. With one-half of all low-income students and students of color living outside of the Abbott districts, SFRA will ensure that all disadvantaged students, regardless of where they live, have access to the same special programs and services that were available in the Abbott districts.

The Education Law Center argued, in response, that SFRA suffers from the same constitutional flaws as other funding laws rejected by the Supreme Court, including CEIFA. First, the SFRA base cost is derived from a hypothetical K-12 school district model, the same method used to develop the cost of regular education under CEIFA. As in CEIFA, the SFRA model is not representative of the actual size and configuration of Abbott districts and schools. Second, the PJP process used to identify resources needed to meet state standards was seriously flawed. The panels responded to resource models created by the NJDOE; panels lacked sufficient representation from schools generally, and the Abbott districts in particular; participants did not receive any information about the Abbott remedies or the unique needs of Abbott students and schools; and the study, conducted in 2003, did not reflect current state standards and assessments. Third, as described above, the base amount in the SFRA adequacy budget is significantly below the Abbott parity amount, and the state failed to demonstrate that the SFRA base amount is sufficient to provide a thorough and efficient education in Abbott schools. Fourth, the state provided no basis for discontinuing the Abbott K-12 supplemental programs remedy or for vacating the Abbott preschool rulings. Finally, the state provided no evidence for eliminating the Abbott district designation although the conditions of extreme poverty, racial isolation, low community wealth, municipal overburden, and educational inadequacy persist in the current Abbott districts.

The supreme court remanded the case to a special master to develop a record and report on factual findings and conclusions. The special master recommended that SFRA be found constitutional, but that supplemental funding be continued to Abbott districts during and until a three-year look-back review of SFRA. In May 2009, the supreme court ruled in *Abbott XX* that SFRA was constitutional and may be applied to the Abbott districts subject to the state fully funding the SFRA formula annually, conducting a review of the law after three years of implementation, and adjusting the formula's adequacy amount, weights, and other elements based on this review. It lifted its prior remedial order for parity aid and discontinued supplemental funding until the mandated review. The court asserted that, until that time, Abbott districts would have access to substantial nonstate sources of funding, particularly federal aid, that could be used to fill this gap.

In rendering its decision, the court argued that SFRA provides the appropriate "measuring stick" against which to gauge the resources needed to achieve a thorough and efficient education for every child in the state. "SFRA deserves the chance to prove in practice that, as designed, it satisfies the requirements of our constitution" (*Abbott XX*, p. 49). The court was also clear, however, that it would hold the state responsible for funding and ensuring the efficacy of the formula. "The Court remains committed to our role in enforcing the constitutional rights of the children of this State should the formula prove ineffective or the required funding not be forthcoming" (*Abbott XX*, p. 41).

CONCLUSION

Thirty years of school finance litigation established a comprehensive definition of an adequate education in New Jersey and adequacy measures for poor urban school districts that were benchmarked to education spending and programs in the state's wealthiest communities and to programs designed to meet the special needs of urban students. Through 2007-08, the Abbott districts spent more, on average, than the wealthy districts in the state. These new dollars began to enable the Abbott districts to provide their students with educational programs that, on many dimensions, mirror those of their suburban counterparts—smaller class sizes; art, music, and technology specialists; student support services; and modern facilities. Most eligible Abbott children are enrolled in high quality preschool programs that provide foundational learning skills. Test scores in the Abbott schools, as measured by both state and national assessments, have risen in the fourth grade and eighth grade, narrowing the performance gap between poor urban and other students in the state.

Much remains to be done, however. While test scores are rising, not enough Abbott students are meeting more stringent state proficiency standards or graduating from high school. Nearly half of the Abbott schools and districts have been identified as in need of improvement under the state and federal accountability systems. Difficult social and economic conditions persist. At the same time, the new state funding law freezes the revenues of many Abbott districts and eliminates the court's financial remedies.

What does the future portend? New Jersey suffers from both a recession-driven and structural deficit. In spite of an infusion of $1 billion of federal stimulus funding into the state aid formula and a reduction in state payments to the teacher pension fund of $565 million, SFRA was under-funded by $300 million in 2009-10. Only 171 school districts received state aid increases, and these were capped at 5%. After receiving a 2% increase in revenues in 2008-09, most Abbott districts will see no further growth. As a result, funding disparities between the Abbott and wealthy suburban districts have reappeared: $901 per weighted pupil in 2008-09 and a projected $1,066 per weighted pupil in 2009-2010.[17] The fiscal situation does not look any more promising for 2010-11, and federal stimulus funding will be gone in 2011-12. Thus, it is

[17] K-12 Estimated Revenue per Weighted Pupil Comparison, 2008-09 and 2009-2010, prepared by the Education Law Center, May 13, 2009.

unlikely that the state will meet its obligation to fund SFRA fully without major dislocations to other parts of the state budget. And the pain will be spread across both low- and middle-income school districts, Abbott and non-Abbott alike. As Rutgers Law School professor Paul Tractenberg (2009) points out, the court's decision widened the constituency of those with both constitutional and political claims to include all low-income, limited English proficient, and special education students in the state. The third-year review will be particularly crucial in determining whether SFRA, particularly an under-funded SFRA, truly can and does enable all students to meets the state's increasingly rigorous academic standards. As the court wrote in *Abbott XX*, "there should be no doubt that we would require remediation of any deficiencies of a constitutional dimension, if such problems do emerge" (p. 7).

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APPENDICES

Appendix 1. Regular Education Budget per Pupil, Districts Grouped by Property Wealth per Pupil, 1975-76 through 2007-08, CPI Adjusted

	1975-76	1977-78	1984-85	1989-90	1993-94	1996-97	2000-01	2005-06	2007-08
Septile 1	$5,565	$5,406	$5,706	$8,146	$10,031	$10,083	$10,433	$13,647	$13,852
Septile 2	5,384	5,858	5,834	7,961	8,918	9,031	9,647	11,629	11,535
Septile 3	5,615	6,145	6,330	8,675	9,233	9,002	9,051	10,285	11,214
Septile 4	5,796	6,169	6,664	9,113	9,862	9,547	9,425	10,883	11,506
Septile 5	5,619	6,313	7,114	9,456	9,993	9,558	9,431	11,128	11,762
Septile 6	5,777	6,090	7,850	10,631	10,893	10,681	10,628	12,362	12,340
Septile 7	5,993	6,774	8,297	11,644	12,240	11,557	11,469	13,204	13,750
State Average	*5,677*	*6,087*	*6,830*	*9,377*	*10,175*	*9,928*	*10,019*	*11,867*	*12,276*

Sources: For 1976-77 and 1977-78, Goertz (1983). For other years, authors' analysis of state aid databases.

Appendix 2. Regular Education Budget per Pupil, Districts Grouped by Property Wealth per Pupil, 1984-85 through 2007-08, Abbott Districts Separated, CPI Adjusted

	1984-85	1989-90	1993-94	1996-97	2000-01	2005-06	2007-08
Abbott 30	$5,883	$8,365	$9,780	$10,062	$10,495	$13,725	$14,294
Low Wealth	5,521	7,791	8,632	8,266	8,854	9,874	10,230
Middle Wealth	6,724	9,103	9,663	9,335	9,268	10,693	11,299
High Wealth	8,073	11,147	11,545	11,097	11,045	12,759	12,999
State Average	*6,830*	*9,377*	*10,175*	*9,928*	*10,019*	*11,867*	*12,276*

Source: Authors' analysis of state aid databases.

Appendix 3. School Tax Rates, Districts Grouped by Property Wealth per Pupil, 1984-85 through 2007-08, Abbott Districts Separated, CPI Adjusted

	1984-85	1989-90	1993-94	1996-97	2000-01	2005-06	2007-08
Abbott 30	1.50	1.10	1.20	1.35	1.19	0.74	0.50
Low Wealth	1.35	1.04	1.21	1.36	1.52	1.64	1.24
Middle Wealth	1.44	1.01	1.32	1.48	1.52	1.36	1.10
High Wealth	1.06	0.72	1.01	1.11	1.14	0.97	0.76
State Average	*1.24*	*0.86*	*1.14*	*1.27*	*1.29*	*1.11*	*0.87*
State Aver Prop Val/Pupil	*$378,802*	*$766,944*	*$612,521*	*$548,118*	*$525,950*	*$734,120*	*$980,889*

Sources: Authors' analysis of state aid databases

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