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Maryland Enacts Modern, Standards-Based Education Finance System: Reforms Based on "Adequacy" Cost Study

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In a stunning victory for Maryland advocates of better school funding, the Maryland legislature, in April 2002, enacted a new state education finance system that increases state funding for schools by \$1.3 billion annually, to be phased in over the next six years, and targets a larger portion of the increase to lower wealth districts and districts educating high-need students. Of particular importance to proponents of educational funding reform, Maryland's overhaul of its school funding system links school finance litigation, advocacy, and the standards-based reform movement. Proponents of the reforms credit a coalition of advocacy groups with uniting the interests of rural poor and urban poor constituencies who persuaded legislators that the proposed bill would benefit students statewide.

This policy paper provides a brief historical background of events in Maryland, in part I. In part II, it summarizes the extent to which the new legislation relied on the report from the Maryland Commission on Education Finance, Equity, and Excellence and the extent to which the Commission relied on costing-out studies. In part III, it recounts advocates' successful lobbying efforts in the legislative session.

I. HISTORICAL BACKGROUND

In 1983, Maryland's highest court rejected an "equity" challenge to the state's education finance system, in *Hornbeck v. Somerset County Board of Education*, holding that the state constitution did not mandate equality in per-pupil spending among the state's school districts. However, the court also concluded that the education clause of the Maryland constitution guarantees students the right to "an adequate education measured by contemporary educational standards."

In 1994, Baltimore City and the ACLU of Maryland initiated lawsuits against the State, alleging that the education finance system was violating students' constitutional rights because the city's schools were so underfunded that they could not provide an adequate education to their students. In a 1996 summary judgment decision, in the consolidated *Bradford v. Maryland State Board of Education* case, the trial court agreed that the education being provided to city students was inadequate, but the cause of the shortcomings was in dispute. On the eve of trial, the parties entered into a settlement,

enacted into law in 1997, that provided a modest increase in state funding for the Baltimore City Public Schools in return for a new governing board appointed by the governor and the mayor.

The resulting Consent Decree included mechanisms for the new board to request additional funds from the State. If the State failed to satisfy those requests, plaintiffs could return to court for a determination of whether the funds were necessary to enable the city district to provide a constitutionally adequate education. The new board requested increases in state funding based on its own needs assessments, and outside experts prepared an interim progress report, required by the Decree and issued in February 2000, which identified funding needs of about \$2,600 per pupil. The State did not fund the board's requests based on these needs assessments.

Therefore, plaintiffs went back to court, and in June 2000 the Circuit Court declared that the State "is still not providing the children of Baltimore City...a constitutionally adequate education," has failed to comply with the 1996 Consent Decree, and needs to provide "additional funding of approximately \$2,000 to \$2,600 per pupil" in 2001 and 2002.¹ The State did not comply with this order (which was not yet a "Final Order"). By then, however, the State had established a commission to make recommendations on how Maryland should fund its schools.

II. THORNTON COMMISSION AND LEGISLATURE RELIED ON COST STUDY

In late 1999, Maryland created a bi-partisan, 27-member Commission on Education Finance, Equity, and Excellence ("Thornton Commission") to study and make recommendations to the legislature on how the State could, inter alia: ensure adequate school funding, reduce funding inequities among school districts; ensure excellence in school systems and student performance; and provide a smooth transition for recommended changes. During 2000, the Commission reviewed Maryland's funding system and funding systems nationwide, reviewed student/school performance and accountability, and held hearings where interested members of the public could comment and make suggestions.

In 2001, the Commission focused primarily on how to measure adequate funding and structure a finance system for a standards-based education system. The cost studies were finalized in September, the Commission's report submitted in January 2002, and the legislature acted in April.

A. Costing Out

At the Commission's initial public hearings, funding reform advocates recommended that the Commission hire experts to perform an adequacy costing-out study. In fact, because they thought this study was essential to the Commission's work, the New Maryland Education Coalition, a nonprofit citizens' advocacy group, hired Management Analysis & Planning ("MAP") to conduct such a study. Shortly thereafter, the

Commission hired Augenblick & Meyers (A&M) to perform an adequacy costing-out study. MAP and A&M are among the few firms with nationally recognized expertise in state education finance systems and costing-out studies.

In June 2001, the results of the studies were announced in a joint press conference. Both studies recommended large increases in annual state aid to Maryland school districts - up to \$2.9 billion more. While MAP used the professional judgment methodology, A&M used both the "successful schools" and professional judgment approaches to analyze Maryland's school funding needs. Both studies analyzed operating costs, not capital outlays, and excluded transportation and teacher retirement, which are funded separately.

In September 2001, A&M issued its final report, which explained the assumptions and methodologies used and adjustments made and offered recommendations for additional adjustments. A&M's report began by noting that Maryland uses a per-pupil foundation amount to distribute the majority of state aid and the State is implementing standards-based reforms to improve student performance. A&M reasoned that ensuring an adequate foundation level in combination with state performance standards "implies that a state will ensure that sufficient resources are available in school districts . . . so that [students] can reasonably be expected to meet state standards."² On this basis, A&M developed a foundation level calculated to enable students without special needs to meet state performance standards and developed adjustments for three categories of students with special needs.

Using the professional judgment approach, A&M met with seven teams of educators, who designated the resources needed for a prototype school district with 40 to 50 schools and 30,000 students, who were representative of Maryland's statewide averages for high-need students (31% from low-income families, 13.5% in special education and 2% LEP). A&M then calculated the costs of the designated resources. The result, combining all grades, was \$10,631 per pupil. Analyzed by types of students and programs, the resources consisted of a per-pupil foundation amount of \$6,612 and adjustment factors of 1.17 for special education students, 1.39 for low-income students, and 1.0 for LEP students. Applying these figures statewide, the total cost would have been \$8.796 billion in 1999-2000, compared to the actual revenues available that year (from state, local, and federal sources) of \$5.917 billion, a difference of \$2.9 billion.

A&M's successful schools approach produced a foundation amount of \$5,969 but no weighting factors because the 59 schools identified as successful had low proportions of students in special education and very low proportions of students from low-income families. A&M adjusted the figures using a cost-of-education index for each of the 10 districts in which the 59 schools were located. A&M also analyzed the foundation amounts of \$6,612 and \$5,969 from the two methodologies and found that the differences were attributable to 10 additional days of professional development, full-day kindergarten, more costs for student activities, and more technology and equipment in the professional judgment model. Finally, A&M applied the adjustment factors from the professional

judgment study to the successful schools foundation amount and generated a statewide total cost estimate of \$7.939 billion, or \$2.0 billion more than the \$5.917 billion available.

In its final report, A&M stated that the special education factor was reasonable but low at 1.17, compared to the national average figure of 1.3, and the low-income factor was extraordinarily high at 1.39, compared to typical factors between .25 and 1.00 used across the country. A&M suggested that special education costs could be calculated using three or four different factors, depending on the costliness of the disability, that would average 1.17 overall. Also, for low-income students, A&M suggested that actual costs per-pupil increase with higher concentrations of poverty and low-income adjustment factors could be devised to reflect this assumption.

Finally, A&M's report warned policy makers that the approaches used in its studies were a combination of art and science and should be viewed as reasonable estimates, not precise figures. A&M noted that costing out methodologies are evolving and have actually been applied only in the past few years in a limited number of states.

The MAP costing-out study, on the other hand, used three professional judgment panels to develop total per-pupil costs, instead of a foundation level with adjustment factors for special needs. The MAP panels used the same student demographic assumptions, but also assumed that teacher salaries, district-level spending, and school technology were already adequate. MAP's three per-pupil adequacy amounts were \$9,313, \$9,215, and \$7,461. This compares to a composite total per-pupil cost from the seven A&M panels of \$10,631. Thus, all of the MAP results were significantly lower than the A&M professional judgment composite.

B. Commission Recommendations

When the Thornton Commission released its final report, in January 2002, it relied heavily on A&M's cost analyses. The Commission recommended that the State restructure its finance system and phase in, over five years, a \$1.1-billion increase in its annual support for public schools - over and above what then-current law would have generated. (State aid for the 2001-02 school year was \$2.9 billion, and current law would have resulted in \$700 million more over the next five years.) The Commission proposal, along with recommended local maintenance of effort, would increase the state's share of education funding from 41% to 49%.

The Commission highlighted certain findings that helped guide its decision making. For example, school districts with the largest "adequacy gap" - those farthest from the adequate funding levels calculated by A&M - also scored lowest on the state assessments (MSPAP). Recognizing that 'money matters,' the Commission recommended that a greater proportion of state aid be targeted to these districts. The Commission also addressed accountability in a standards-based education system, concluding that the State is responsible for establishing the standards, ensuring adequate funding, and holding

schools accountable, primarily on educational outcomes, not inputs. The Commission stated that:

In light of . . . Maryland's nationally recognized performance standards . . . , the State should move towards developing a finance and accountability system that properly reflects the roles of State and local governments in a standards-based education system.³

For the new finance system, the Commission provided comprehensive and detailed recommendations. For accountability, however, the Commission merely proposed that each school district be required to develop a master plan outlining steps being taken to improve student achievement for each segment of the student population.

In its new finance model, the Commission identified four major goals that it sought to achieve: adequacy, equity, simplicity, and flexibility. To ensure adequacy of funding, the Commission concluded that the proper model for funding schools is based on the "costs associated with meeting State performance standards, including the . . . costs associated with providing services to students with special needs."⁴ To improve equity of funding, the Commission recommended increasing from 65% to 80% the proportion of state funding that is wealth-equalized. The Commission also addressed adequacy and equity in its proposal by: applying a geographic cost-of-education adjustment; proposing a guaranteed tax base program for districts with less than 80% of statewide wealth per pupil; and strengthening local maintenance of effort.

To simplify the state's school funding system, the Commission concluded that most of the approximately 50 state funding streams should be collapsed into four: the foundation amount and one adjustment factor for each of the three special needs populations. The Commission did not follow A&M's suggestions for a range of adjustment factors within the special education and low-income categories. The Commission's recommendations regarding flexibility also supported simplicity by eliminating restrictions on how local districts may spend various revenues from the State, instead allowing local boards of education and superintendents to decide how to use these "flexible block grants."⁵

In its final report, the Commission provided significant detail on the A&M adequacy studies and offered a rationale for choosing to use the lower "successful schools" foundation amount, pointing out that this approach linked the State's standards to empirical education costs, represented a middle ground (between the A&M and MAP professional judgment amounts), and was based on a methodology upheld by the courts in at least one state. The Commission also reduced the weighting for economically disadvantaged students from 1.39 to 1.1, based on the fact that 21% of these students also fall into one of the other special needs categories. Even with this reduction, state aid based on special needs would increase, under the Commission's recommendations, from the current 19% of state aid to 28% of the higher funding level in the fifth year.

To facilitate a smooth transition between the old and new finance systems, the Commission not only recommended a five-year phase in, but also provided a spreadsheet that projected state revenues for each school district year by year. The Commission's

proposal ensured no decrease in any district's state revenue while the system was changing. Finally, the Commission recommended one research-based programmatic mandate: full-day kindergarten for all students and pre-K for all economically disadvantaged students.

III. SURPRISING LEGISLATIVE APPROVAL

By early 2002, when the Commission issued its final report, Maryland's economy had slowed and its projected tax revenues had declined. The governor's budget proposal included a small increase in school funding, but postponed consideration of the Commission's recommended funding and structural changes. The school funding dilemma was further complicated by developments in politically powerful Montgomery County, where half of the state's students at-risk due to limited English proficiency lived and their numbers were increasing rapidly. As a result, Montgomery County legislators insisted that their schools would need more support from the State.

These factors combined to dim prospects for enactment of the Thornton Commission's recommendations during the 2002 legislative session, scheduled to end April 8th. The *Bradford* plaintiffs, therefore, started preparing for an anticipated return to court at the conclusion of the session. A possible lawsuit by rural school districts was also rumored.

A. Advocacy Coalition

Nonetheless, advocates formed a statewide coalition and re-doubled their efforts to persuade legislators that their local constituents supported adequacy and the Commission's proposals. Crucial members of the coalition were Advocates for Children and Youth, the ACLU of Maryland, the Maryland Caucus of Black School Board Members, and the Maryland PTA. The coalition hired a polling firm to survey constituents by legislative district and supplied the results to each legislator, with statewide totals for the legislative leadership. The survey showed overwhelming support for the Thornton proposal and a willingness to pay higher taxes. The coalition also supplied each legislator with the amount of money their local school district would receive and the data that demonstrated stagnating scores on the Maryland assessments (MSPAP).

The coalition tried to reach out to all areas of the state through the print and radio media, and dedicated a staff member to relate to people in the Baltimore suburbs. Advocates set up a website where people could join with a letter in support of the Thornton proposal and with additional ideas for letters on another web page. Also, the PTA and other member organizations were able to facilitate a flood of emails to legislators.

The focus on adequacy for all districts, instead of equity for low-wealth districts only, helped unite rural poor, urban poor, and even affluent suburban stakeholders and legislators. Adequacy also provided advocates with concrete items and programs they could point to as essential for meeting state standards. The cost studies had delineated the

number of teachers, class sizes, full-day kindergarten, pre-K, after-school programs, and other specific educational investments on which the money would be spent. Adequacy of funding aligned with state standards is a logical, necessary element for successful standards-based reform.

In a surprising 30-17 vote on April 3, 2002, the Maryland Senate passed a bill to adopt the Commission's finance system reforms and raise the state's tax on cigarettes to help fund an increase in state aid to school districts. An expected filibuster against the tax increase failed to materialize because the bill added \$200 million for Montgomery County beyond the \$1.1 billion called for by the Commission. The senate's proposal moved on to the House of Delegates, where the add-on for Montgomery County schools proved equally effective in spurring support. By the close of the legislative session, the Commission's ambitious recommendations for structural changes and a \$1.3 billion increase in state funding, to be phased in over the next six years, awaited the governor's promised signature.

The legislature's blueprint for transforming the education finance system closely followed the Thornton Commission's recommendations, except for the \$200-million add on for Montgomery County, which secured the votes needed for passage. But this modification will likely have no major consequences. It reduced the improved equity in the Commission's model (to an estimated 75% wealth equalization) and nudged the projected state share of education spending, upon full implementation, from 49% to 50%.

In timely fashion, the Maryland legislature approved the budget for the coming school year this April. School district administrators can plan for the next two years based on the new finance system and relatively secure funding. With the simple, straightforward factors in the new system, districts can adjust funding projections as enrollments change. Schools can, at least tentatively, plan for several years because the legislature projected state allocations for each district for the entire six-year implementation.

B. Pending Questions

However, funding for the last four years is not certain. One of the last sticking points for passage of the legislation was the need for additional revenues beginning in year three. The final bill included a provision that requires both chambers to approve a joint resolution, in 2004, affirming that the state has the fiscal resources to fund scheduled increases. Otherwise, the phase in will be put on hold. But a consensus of optimism surrounded this future decision point, as discussions focused on how to raise the revenues, not whether it would be possible. Advocates feel that there is momentum toward fulfilling the funding needs because the systemic changes have already been put in place and the school districts are expecting the money. People across the state are looking at the year-by-year projections to see when the "adequacy gap" closes for their schools.

Still, tax implications of this dramatic turn of events are ambiguous. The state tax on cigarettes is expected to fund only the first two years of the reform. The new legislation

strengthens maintenance of local effort, which was already a part of Maryland law, and requires Prince George's County to impose a 5% sales and use tax on telecommunications and dedicate it to the schools. Begging for resolution is the billion-dollar question, how will the State generate the funds for the bulk of the \$1.3 billion, to be phased in over the last four years of the plan. Sales tax revenues, lottery funds, and new revenues from installing slot machines have all been mentioned as possible sources.

Looking forward, the new legislation established a commission to study the state's tax structure and recommend changes, and set up a task force to study facilities funding in recognition of the need for additional classrooms for the kindergarten and pre-K mandates. The new law also requires the Maryland Department of Education to hire experts to develop a more up-to-date geographic cost-of-education index specific to Maryland, which will be used to adjust the system's allocations accordingly. Advocates asked the candidates in the 2002 gubernatorial race to address these issues and the tax question.

IV. CONCLUSION

Maryland is one of only a few states that has adopted a modern, standards-based education finance system, that is, one built on a cost analysis of the resources needed to ensure the capacity of schools to help students meet state academic standards. With a reduced but reasonable multiplier for economically disadvantaged students, funding for poor schools may finally become sufficient to provide their students with a genuine opportunity to obtain a 21st-century education.

Maryland's successful experience with funding reform can inform similar efforts in other states. The new law relied heavily on a bi-partisan commission set up to study funding needs which, in turn, relied heavily on a costing-out study performed by one of the nationally recognized firms in this field. Not surprisingly, other factors were also important, although we cannot know to what degree. Pressure from the court ruling in *Bradford* and from grassroots advocates and advocacy organizations played a role, as did the ability of the legislature to gain the crucial votes of members from Montgomery County. We will be watching to see how and when other states follow Maryland's lead.

Endnotes:

1. *Bradford v. Maryland State Board of Education*, No. 94340058/CE 189672 (Circuit Court for Baltimore City June 30, 2000).
2. Augenblick & Myers, Inc., *Calculation of the Cost of an Adequate Education in Maryland in 1999-2000 Using Two Different Analytic Approaches 1* (September 2001).
3. Commission on Education Finance, Equity, and Excellence, *Final Report* xii (January 2002).
4. *Id.* at xiii.

5. Id.

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