

Financing Public Education in Maryland: A Brief History

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Maryland's public education finance formula is well known for including adjustments for wealth, adequacy and geographic costs of education in its funding structure, but the formula was not always that way. This brief explores the recent history of Maryland's public education finance formula, beginning in 1978, and the major events that led to the finance formula that the state has today. The brief concludes with a summary of the current state of affairs in measuring the finance system's ability to provide an adequate education.

History of Public School Control in Maryland

The modern school finance system in Maryland has its roots in the Education Article of the Maryland Code passed in 1978. According to the law, the Maryland State Board of Education and the state superintendent of schools are entrusted with the supervision and administration of the public elementary and secondary schools of the state through the creation of any policies or adoption of any bylaws, rules or regulations deemed necessary.¹

In 1978 the formula, now defunct, distributed state and local taxes in a way meant to equalize funding across districts and account for differences in local wealth. The "Lee-Maurer" formula, named for then Lieutenant Governor Blair Lee and Delegate Lucille Maurer, established a per pupil statutory "foundation" level, which is the minimal per pupil base amount that each school district must spend annually.² The state and districts shared the cost of funding the formula up to the foundation level according to a percentage based on the district's wealth.¹ The idea was that wealthier districts could assume a larger percentage of the funding needed to reach the foundation level, while the state would subsidize less wealthy districts.³

The formula also established a uniform local tax rate (or statewide flat tax rate) designed to ensure that each district would contribute their share of the foundation funding.⁴ The uniform local tax rate meant that a district with greater wealth could raise more funds, and the state share of the formula would be less. Similarly, the lower a district's wealth, the more the state would contribute to bring the district up to the foundation amount. In addition to the foundation amount, the state provided supplemental funding, regardless of district wealth, based on the enrollment of children with special needs and the population density of a district.

Despite the state's intention to equalize funding across districts, the foundation level was set too low to offset differences in wealth between districts and left open the possibility of unequal spending by the districts. The districts' share of the foundation amount was the minimum they were mandated to spend on education. If and when they were inclined, districts could spend more per pupil than the formula required. This widened the gap between wealthy and poor districts without impacting the state's share and limited the state's ability to equalize funding across the state.⁵

Hornbeck v Somerset County Board of Education (Hornbeck)

In 1981, the boards of education of Somerset, Caroline and St. Mary's Counties, the school commissioners of Baltimore City, numerous school superintendents and a number of taxpayers, students, parents, and public officials challenged the existing funding formula. The group filed a lawsuit arguing that Maryland's school finance formula violated the equal protection clause of the 14th Amendment, the equal protection guarantee of Article 24 of the Maryland Declaration of Rights, and §1 of Article VIII of the Maryland Constitution, which requires the General Assembly to "establish throughout the State a thorough and efficient System of Free Public Schools; and [to] provide by taxation, or otherwise, for their maintenance."⁶

The complainants argued that the "Lee-Mauer" formula was insufficient to equalize funding across districts. They alleged that the dependence of the state's finance system on local taxable wealth, combined with a low foundation amount, left students in "fiscally distressed" school districts with a diminished level of educational resources including lower quality teachers, school facilities, equipment, and supplies. In addition to the underfunding argument, the complainants asserted that poor children (usually residing in low-wealth districts) were doubly impacted due to their need for more intensive educational assistance and the lack of funding to support the costs of creating high quality programs to support them.⁷

In 1983, the court agreed with the complainants saying that the formula created an inverse relationship between wealth per pupil and state aid per pupil and therefore was insufficient to overcome disparities in local taxable wealth between districts. This meant that the formula did not comply with the state constitutional requirement that the state provide a school system in a "thorough and efficient" manner.⁸ The court held that the state's finance formula violated Article VIII of the Maryland Constitution and Article 24 of the Maryland Declaration of Rights but not the Equal Protection Clause of the Fourteenth Amendment, as education was not guaranteed under the U.S. Constitution.⁹

Finally, the court held that the state's constitutional mandate to provide public education guaranteed a student's right to "an adequate education measured by contemporary educational standards."¹⁰ However, the court did not agree that the state constitution mandated *equal* per pupil spending among the state's school districts. This left the State Board of Education and the General Assembly with a problem. Although the court had not mandated that they spend equally on each of the state's 24 school districts, the court ruled that the state needed to create a new funding formula that addressed funding disparities among districts and provided an "adequate" education to students across the state.¹¹

Bradford v. Maryland State Board of Education (Bradford)

Despite the ruling in the *Hornbeck* case that the state was not providing an adequate education to all students, the state did not change the formula. In 1994, the American Civil Liberties Union (ACLU) and Baltimore City Public Schools initiated concurrent (and later combined) lawsuits against the state, alleging that Baltimore's students were not receiving an adequate education because of flaws in the funding formula.¹² They also asked the court to define "adequacy" in public education. The state counter sued, arguing that funding was sufficient and that the problems were in the school system's management (the school system functioned as a department of city government with the mayor appointing the school board). Baltimore City Circuit Court Judge Joseph H. H. Kaplan issued a partial summary judgment agreeing with the ACLU's argument that Maryland's constitution guarantees children an adequate education (as measured by contemporary educational standards) and that Baltimore City public schoolchildren were not receiving an "adequate" education.¹³

Before the remaining questions in the *Bradford* case went to trial, the state and Baltimore City Public Schools entered into a consent decree called the “City-State Partnership Agreement.” The consent decree called for the state to increase funding for Baltimore City Public Schools by \$254 million over five years in exchange for establishing the city school system as an independent entity governed by a new school board (appointed jointly by the mayor and governor) and CEO.¹⁴ It also charged the district with creating a master plan to reform school system management and improving student achievement. In 1997, the consent decree became law after significant debate in the General Assembly and backlash from school district stakeholders who saw the agreement as a state takeover.¹⁵

By 2000, Baltimore City Public Schools’ new school board and the ACLU returned to court arguing that the state was “still not providing the children of Baltimore City... a constitutionally adequate education” and was failing to comply with the consent decree.¹⁶ The court again agreed but never forced the state to fully fund the school system. The court allowed the state to defer payment in anticipation of recommendations on education finance from the newly established Commission on Education Finance, Equity, and Excellence, which the state had convened in anticipation of disputes at the end of the five-year consent decree.¹⁷

Commission on Education Finance, Equity, and Excellence

Partially in response to the *Hornbeck* decision and partially to avoid similar litigation as the *Bradford* case, the Maryland General Assembly passed legislation in 1999 creating the Commission on Education Finance, Equity, and Excellence (Thornton Commission).¹⁸ Comprised of 27 members appointed by either the governor or leaders in the General Assembly, the Thornton Commission met for three years (1999 and 2002) and studied and made recommendations on how the state could:

- ensure adequate school funding,
- reduce funding inequities among school districts, and
- ensure excellence in school systems and student performance.

In 2001, the Thornton Commission focused on how the state could measure adequate funding and create a finance system structured around standards-based accountability. The Thornton Commission contracted Augenblick & Myers, Inc. (A&M) to conduct a study that measured the cost to the state of providing every student with an adequate education. At the same time the New Maryland Education Coalition, a nonprofit citizens’ advocacy group, hired Management Analysis & Planning, Inc. (MAP) to conduct a similar study. The results of the two studies were released together and showed similar results. Both reports recommended significant increases in annual state aid to Maryland’s school districts.¹⁹

The A&M final report identified Maryland as implementing “standards-based” reform and that in order for the state to continue using that approach they would need to “ensure that sufficient resources are available in school districts . . . so that [students] can reasonably be expected to meet state standards.”²⁰ This meant that Maryland would have to make substantial changes to its per-pupil funding system. A&M recommended that the state adopt a foundation-based funding system that provided extra support to three categories of students with special needs: students from low-income families, students in special education programs, and students who have limited English proficiency. By emphasizing the added costs of educating these students, the new formula would allow schools with high enrollments of special needs students to receive extra funds that could be applied towards providing them with an adequate education.²¹

When the Thornton Commission released its final report in January 2002, it concluded that the state was responsible for establishing standards, ensuring adequate funding, and holding schools accountable for educational outcomes, rather than holding them accountable for educational inputs. The final report recommended that the state restructure its finance system and increase its annual support for public schools.²²

In its new finance model, the Thornton Commission identified four major goals that it sought to achieve: adequacy, equity, simplicity, and flexibility. To ensure adequate funding, the Thornton Commission concluded that the proper model for funding schools should be based on the "costs associated with meeting state performance standards, including the . . . costs associated with providing services to students with special needs." In addition to the foundation level of funding, the Thornton Commission assigned weights, or an adjustment ratio, to each of the special needs populations that would compensate districts for the additional cost of educating these students.^{ii,23} The weights represented a shift away from a system based on a specific dollar amount for each special needs student and towards funding based on a proportion of the general education base per pupil cost that would be needed, over and above the base cost, to educate at-risk students.

The Thornton Commission recommended a new finance system consisting of four major parts:

1. The per-pupil foundation
2. The guaranteed tax base for spending over the foundation
3. Weighted supplemental funding for special needs populations
4. The Geographic Cost of Living Index adjustment

To improve equity of funding, the Thornton Commission recommended increasing from 65% to 80% the equalized proportion of state funding (the total per pupil state aid provided to each school system, including the special populations funding, that is inversely related to county per pupil wealth).²⁴ The Thornton 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 requirements. The report highlighted the finding from A&M that Maryland's school districts with the largest "adequacy gaps" (or farthest from adequate funding levels) were also scoring lowest on the state's annual assessments.²⁵

To simplify the state's school funding system, the Thornton Commission concluded that the system should be standardized across the state and should include the foundation amount and one adjustment factor for each of the three special needs populations. The Thornton 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."²⁶ The Thornton Commission also recommended that school districts be required to develop a master plan outlining strategies to improve student outcomes, especially those in the high needs populations.²⁷

Bridge to Excellence in Public Schools Act

Based on the Thornton Commission's final report recommendations, the Maryland General Assembly passed the Bridge to Excellence in Public Schools Act in 2002. The Act restructured Maryland's public school finance system and increased state aid to public schools. It created a new school finance formula that linked resources with students' needs and accounted for differences in local wealth. Under the new formula, school systems received a foundation amount per student plus additional funds based on the number of students who receive special

education services, are considered limited English proficient, or are low-income.²⁸ The wealth-equalizing mechanism required that distribution of per pupil state aid be inversely related to a district's per pupil wealth—the same as under the Thornton report. Also consistent with Thornton Commission recommendations, the new formula linked resources to need and accounted for wealth differences between districts.²⁹

In addition to simplified finance structures, the Act also enacted strong accountability provisions. It charged the state with setting academic performance standards, providing schools and students adequate resources to meet the standards, and then holding schools and school systems accountable for student performance.³⁰ In the 2002 version of the law, school districts were required to submit annual accountability plans detailing their strategies for improving academic achievement.³¹ Recent changes to the law eliminated the annual accountability plan and instead require school districts to submit annual comprehensive master plans for state review. The master plans include the goals, objectives and strategies that will be used to improve student achievement and increase the number of students meeting state and local performance standards.³² If any segment of the student population failed to meet performance standards or show progress, the state superintendent was charged with reviewing the district's comprehensive master plan and working with districts to make changes.³³

The Bridge to Excellence in Public Schools Act also included the Geographic Cost of Education Index (GCEI), designed to offset differences in the costs of providing an education across districts.³⁴ The GCEI provides supplemental state funding to school districts in Maryland where the cost of educating students is high. It includes two components: a personnel cost index (PCI) and a nonwage index (NWI). The PCI takes into account the level of wages that must be offered to attract comparable personnel to each locality. The NWI accounts for differences in the costs of procuring non-personnel supplies, other than capital expenditures, such as paper products and energy.³⁵ Of Maryland's 24 local school districts, 13 are designated as "high cost" and receive GCEI funds. Those thirteen districts serve around 80% of Maryland's public school students.³⁶

In 2015, Governor Larry Hogan, taking advantage of a loophole in the Bridge to Excellence Act, announced that he intended to withhold \$68 million of the \$136 million earmarked for school districts under the GCEI in order to fund the state's underfunded pension systems.³⁷ However, the money remained unspent since the law prohibited the transfer of GCEI funds to other uses. The Maryland General Assembly responded by passing a bill making GCEI spending mandatory beginning in fiscal year 2017.³⁸

Study of the Adequacy of Education Funding

Chapter 288 of the Bridge to Excellence in Public Schools Act required the state to conduct a follow up study of the adequacy of education funding approximately 10 years after its enactment.³⁹ The law states that the study must at a minimum (1) identify a base funding level for students without special needs; (2) identify per pupil weights for students with special needs to be applied to the base funding level; and (3) provide an analysis of the effect of concentrations of poverty on adequacy targets.⁴⁰

The state's Study of Accountability of Funding for Education (Adequacy Study) request for proposals included other studies related to the funding formula such as:

- An evaluation of the impact of the federal Community Eligibility Provision of the Healthy, Hunger-Free Kids Act of 2010 (on state aid formulas and an examination of alternative proxies for the number of students eligible for free and reduced price meal (FRPM) to identify economically disadvantaged students.

- An evaluation of current mandated and additional prekindergarten services provided by districts and private providers in the state and current funding provided for prekindergarten services.
- An evaluation of the equity of the state’s education finance structure and current calculation of local wealth used by the state for education aid formulas.⁴¹

The state awarded the contract for the Adequacy Study to Augenblick, Palaich & Associates, Picus Odden & Associates, and the Maryland Equity Project. The results of the Adequacy Study, due to be completed in fall 2016, will be used to update the state’s funding formula. In 2016, the General Assembly created the Commission on Innovation and Excellence, made up of legislators and other stakeholders to review the Adequacy Study reports and make recommendations for revising the state’s education finance formula, the accountability measures, and the requirements for district master plans.⁴² The General Assembly is expected to consider changes to the finance formula during the 2018 legislative session.

Endnotes

ⁱ District wealth was defined as “the sum of the assessed valuation of real property, public utility operating property, and net taxable income.” Article- Education §5-202(a)(7)

ⁱⁱ Low-income students were weighted at 1.39, special education students at 1.17, and limited English proficient students at 1.0. For example, if the base funding was \$1000, the district would receive \$1,390 for each low-income student. The Commission’s final report reduced the weights for economically disadvantaged students from 1.39 to 1.1 because 21% of low-income students also fell into one of the other special needs categories.

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About the Maryland Equity Project

The Maryland Equity Project seeks to improve education through research that supports an informed public policy debate on the quality and distribution of educational opportunities. It conducts, synthesizes, and distributes research on key educational issues in Maryland and facilitates collaboration between researchers and policymakers. The Maryland Equity Project is a program in the Department of Teaching and Learning, Policy and Leadership in the College of Education at The University of Maryland.

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