



A View from the Top: A Conversation with Former Governors about *Abbot v. Burke*



POLICY RESEARCH INSTITUTE
FOR THE REGION

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EDITED BY TIMOTHY N. CASTANO

WWS Woodrow Wilson School of Public & International Affairs

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Preface

Questions regarding the provision of a thorough and efficient education to “all children in New Jersey, regardless of socioeconomic status or geographic location,” have dominated the public policy landscape for decades. How effectively has New Jersey allocated vast resources in an effort to achieve not only equity, but also an enhanced educational experience for students in poorer school districts? How should the state evaluate *Abbott v. Burke* at the present and, more importantly, how should our leaders chart a future course with respect to school funding in light of shifting demographic, economic, and political realities?

These overarching inquiries shaped “A View from the Top: A Conversation with Former Governors about *Abbott v. Burke*,” a forum hosted by the Policy Research Institute for the Region, at which Brendan Byrne, Jim Florio, and Donald DiFrancesco offered historical, analytical, and executive perspectives on the landmark decision. This volume presents the recorded remarks of three leaders who dealt with this challenge at the highest possible level, from as early as the *Robinson v. Cahill* decision in the 1970s through the ongoing *Abbott v. Burke* reforms of recent years. While the insights of the governors serve as the centerpiece, this publication also benefits from the contributions of Dick Leone, former New Jersey State Treasurer and president of the Century Foundation; Gordon MacInnes, senior education policy expert at the Woodrow Wilson School; and Lucille Davy, commissioner of the New Jersey Department of Education.

As the session displayed and this work reflects, a topic as rich and, in some instances, combustible as *Abbott v. Burke* spills across the wider policy terrain and seeps into such areas as statewide fiscal viability, urban-suburban relations, and prospective economic competitiveness, to name but a few. In tracing the evolution of the successive decisions on school funding, the governors uniformly endorsed the theoretical

aspirations: children in poorly funded districts hold a right to the same educational opportunities as their peers in more affluent districts. The governors cited several practical examples, such as early childhood education and smaller class sizes, in which the outcomes have justified the expenditures, with Governor DiFrancesco noting of the preschool program, “Yes, it’s expensive, but I thought it was well worth the money.”

As the conversation expanded and the three governors adopted retrospective and prospective vantage points, the inherent tension between *Abbott v. Burke*’s essential elements of funding and performance surfaced. Scientists understand that correlation does not imply causation, a fact supported by evidence from New Jersey’s schools, where greater spending does not necessarily equate with better results. If, at this stage in *Abbott v. Burke*’s development, attention favors performance, has money become less consequential to a campaign initially born of deep financial concerns?

In this respect, the views of each governor do not so much diverge as reflect the nuances of the larger debate. Governor Byrne asserted, “People no longer believe that money solves educational problems,” a view echoed by the other participants in their emphasis on how a child’s success depends so heavily on the quality of classroom instruction and the interaction between student and teacher. At the same time, the point was made that overlooking the financial components seems shortsighted, with Governor Florio observing, “I’m always struck by the folks who say money is not a consideration. The folks in the districts who have the money never volunteer to give it away, so money obviously appears to be somewhat important to some people.”

With this intrinsic dichotomy, school funding remains grounded in metrics, yet defies quantitative measures. Analysts and advocates work to define the cost of educating a child; however, the normative value of a quality education resists pricing techniques. The moral and the material collide, with New Jersey’s leaders attempting to reconcile the conflict over the years through the various installments of *Abbott v. Burke*. As the governors and other observers suggest, with increasing pressure on the state’s tax base and mounting fiscal challenges, the terms of the settlement require renegotiation.

This symposium arrived at a most opportune moment, as Governor Jon Corzine only recently had introduced the School Funding Reform Act, passed by the legislature and signed into law in January 2008. According to the new formula, school districts will receive approximately \$7.8 billion for K–12 education this fiscal year, an increase of approximately \$550 million. An increase of at least two percent in state aid will be distributed to each district during the first year, while no district will experience a decrease in total state aid during the first three years. Aid will lower in later years only if districts show significant declines in overall enrollment or in enrollment categories. In addition, high-quality preschool for all at-risk students will expand over the course of six years. We have included in this volume an essay by New Jersey Education Commissioner Lucille Davy that explains the details of the new law.

How Governor Corzine's plan evolves will write the next chapter in the ongoing history of *Abbott v. Burke*. As the comments of Governors Byrne, Florio and DiFrancesco illustrate, the work of *Abbott v. Burke* remains unfinished, perhaps in perpetuity.

Sincerely,

A handwritten signature in black ink that reads "Richard F. Keevey". The signature is written in a cursive, flowing style with a large, prominent "R" at the beginning and a long, sweeping tail at the end.

Richard F. Keevey
Director
Policy Research Institute for the Region, Princeton University

A View from the Top: A Conversation with Former Governors about *Abbott v. Burke*

FRIDAY, DECEMBER 14, 2007

NOTE: The following segment, which represents the material recorded during the participants' remarks, has been edited. The text accurately reflects the content of the proceedings.

Richard F. Keevey

Good morning. I'm Rich Keevey. I'm the director of the Policy Research Institute here at Princeton University, and I welcome you to the campus on behalf of the Woodrow Wilson School for our discussion "A View from the Top: A Conversation with Former Governors." Good morning.

An institute dedicated to public policy research aims to present forums that generate interest among a cross-section of scholars and practitioners, attract high-caliber speakers, and address topics of significant breadth and resonance. At best, these sessions also hold the potential to influence the consideration and course of timely issues. I think this morning's gathering more than meets these criteria.

In the same vein, only a matter of such weight and importance could draw the speakers that we have today. In Brendan Byrne, Jim Florio, and Donald DiFrancesco, we have not only three former governors, but three leaders who dealt with the challenge at the highest

possible level, from as early as the *Robinson v. Cahill* decision in the 1970s, through the ongoing *Abbott-Burke* reforms in recent years. I wish to thank each of the governors personally for their participation. It is an honor and a privilege to have them share their insights with us today. I will add that Jim McGreevey was slated to participate, but a last-minute change in his schedule prevented him from joining us.

While the governors serve as the centerpiece of our program, we will also benefit from the guidance of our moderator, Dick Leone, the former New Jersey state treasurer and presently the president of the Century Foundation, as well as Gordon MacInnes, senior education policy expert here at the Woodrow Wilson School, and, of course, a former assemblyman and senator, and an assistant commissioner for education. Those of you who have followed education policy over the past decades know that Dick and Gordon have among the most thoughtful perspectives on this issue.

A line contained in the Supreme Court opinion accompanying the 1990 *Abbott v. Burke* decision is very instructive. The justices wrote, "The dilemma is that while we spend so much time, there is absolutely no question that we are failing to provide the students in the poorer districts with the kind of an education that anyone could call thorough and efficient."

As a matter of fact, the debate on *Abbott-Burke* continues to this very day, as reflected in Governor Corzine's recently proposed school funding plan. Based on the data just released by the governor, he intends to maintain a foundation formula. The local fair share will continue to be based on property values and income, as well as the concentration of needy students, especially where they live. How Governor Corzine's plan evolves will write the next chapter of *Abbott-Burke*.

In closing, I'd like to take the opportunity to thank our co-sponsors from the Public Education Institute at the Center for Effective School Practices at Rutgers University. In particular, I want to acknowledge and introduce Herb Green. Herb is the director of the Public Education Institute and one of the most tireless education advocates in New Jersey. And without Herb's vision and commitment, this morning's event probably would not have come to fruition. So without further ado, let me turn to Herb for a few comments and then he'll turn it over to our moderator, Dick Leone.

Herbert T. Green

Thank you, Rich. Thank you, ladies and gentlemen. It's a pleasure to be here. I'm never sure I'm going to make it, you know, as the days dwindle down to a precious few. But I am delighted, and I think this timely event will inform all of us and get us thinking more seriously than we have perhaps about the issues at hand. I want to welcome you on behalf of the Public Education Institute at Rutgers, on behalf of my colleague, Claudia Burzichelli, who is the co-director.

Just a couple of things come to mind. One is that I remember the 1977 gubernatorial campaign, when Governor Byrne had half the state of New Jersey running against him in the primary, but he got there. And then I heard him in a debate at the New Jersey School Boards Association convention in October, in which he debated his opponent in the election, and I was so stirred by that. I remember, as a young boy then, running up to him, and shaking his hand and telling him how much that speech meant to me, and obviously it meant a great deal. Similar speeches meant a great deal during the election. This, despite the fact that the income tax was a big issue, if you remember, in 1977.

And then, of course, there is Governor Florio, whom I've admired tremendously from, well, long before he took the position of governor. And I reminded him this morning of a speech of his that I ran across. I've had it in my file for a long time. It was his acceptance speech, where the trustees of the John F. Kennedy Library Foundation gave him an award. And his speech really describes everything that Jim Florio has meant, I think, to the state and to the citizens in it. I can't read the whole thing, although I offered to, and he said he'd give me his time, if I wanted to do that, but I can't do that. But he did say so many wonderful things, and among them were, he says:

I don't believe in carrying those who can walk. Neither do I believe in refusing a hand to those who stumble. I believe instead that all of us must accept responsibility for ourselves, our families, and our communities. And if we are fortunate enough to be chosen for public office, we must accept the responsibility of making difficult decisions.

We don't get to choose the times in which we live, but we do get the chance to determine how we respond to those times. We can consign our children to inadequate schools or we can choose to make our schools better.

And we know what choices Governor Florio made.

Now as for the gentleman on the end, I think he was an assemblyman before one of the many redistrictings in the state of New Jersey, and he actually was an assemblyman covering Plainfield, and that's where I lived and live now, and he came to call me the troublemaker. He never called me by name. "Ah, the troublemaker." I'd see him in a diner for a cup, "Ah, the troublemaker." Well, believe it or not, you see this kindly old man before you. In years gone by, I was a troublemaker. I admit it. I admit it.

Let me just point out to you that book, sitting right there. Is there a book sitting there? Could you hold that book up? This is the last thing I want to say. That's a newly published book entitled *Other People's Children: The Battle for Justice and Equality in New Jersey's Public Schools*, and that's going to be kind of as a follow-up to this meeting. That's going to be a follow-up on January 29 to this meeting, because the subject is the same, and I'm delighted to say, to point out that the author of that book, Deborah Yaffe, is here, and she's going to appear on January 29, and we're going to extend and continue this discussion. And now, to get right to it, it's my great pleasure to introduce to you the president of the Century Foundation and the moderator for this morning, Richard Leone.

Richard C. Leone

Thanks, Herb. Actually for years I've thought the *Abbott* decision was a little boring and unpleasant to talk about. It's been dying for its Costello and we finally found it. This is a topic that goes back deep into the roots of New Jersey politics in the 1960s. I'm going to take just one minute to remind people of what state government was like here 40 years ago. Many of you know this. New Jersey spent less per capita at the state level than any other state in the country. It was 50th in state spending. It was 50th in state aid to local governments and schools. It was the last state in the country to join the Medicaid program. It was the last state in the country to join the food stamps program. It was 50th in support for higher education. So whatever is true about how important money is, it is clear that at the beginning of this story, New Jersey, by the standards of the United States of America, wasn't spending enough money on a great many things.

Now the reasons for that lie deep in the political history of the state. We're not going to take any time with them today, I don't think, because there's enough excitement in the last 40 years, and I think I should say about these last 40 years, we're all getting grayer and older. So view this as a time capsule you're getting a little peek at, and the younger members of the audience among you will be the ones who have to keep alive the memory of what these fights are all about and why they happened. But one of the reasons they happened, whatever is true about how important money is or isn't in education, is we simply weren't spending a lot of money at the state level.

In 1965, New Jersey had neither a sales nor an income tax, so it was a very different government, very different political system from the one we know today. And in many ways, the political history of the last 40 years, when it's summarized in some big book that covers hundreds of years, will say it was about two things. Well, it seemed that way, for those of us who lived through it, but they'll say it was about taxes and education, and they're intimately related. The income tax, for example, was dedicated to state aid. All of that money goes to state aid. The sales tax, which came in under Governor Hughes, after he failed to get an income tax, was mostly state aid.

So it still seems like property taxes are very high. We spend a lot in this state, but it is not because we haven't greatly increased the size of state government, at great political cost, the courageous governors who tried to do it. Hughes had a very difficult time. Bill Cahill, among other things, was deeply hurt by his advocacy of an income tax, and lost the primary in his own party. Governor Byrne, as has been mentioned, a sitting governor, was re-nominated with 28 percent of the Democratic vote in the primary. We needed all those other people to be running against him to have a chance to win, because the taxes were so unpopular.

Governor Florio undertook a massive reorganization of the tax and education system. Governor Kean had the state take over the pensions and health benefits of teachers, which are paid for at the state level. Some people think that makes it even more difficult. And Governor DiFrancesco vastly increased

the amount of money that went out for that purpose, along with other things. So all these men, and so far it's just men—maybe that's why it's such a mess . . . I don't know—but so far it's just men, have lived through this for a long time. They have a lot to say.

I would just spend one minute on the educational foundation of all these decisions. Back in the 1960s, there was a report called the *Coleman Report*, which became the seminal document in looking at what matters in schools. Just to remind everybody, technically speaking, the *Coleman Report* seemed to indicate that it didn't matter very much what went on in the schools. It mattered very much who you went to school with, and that became the foundation, the justification for the enormous battles about school integration, and busing and other things.

We still know limited numbers of things about how to transform kids into good students, who start out with handicaps along those lines, difficulties in becoming good students. We know that it still matters a lot who they go to school with. We know that money must matter. Of course, we believe very strongly in our society that money can be a proxy for all sorts of other things. We're an economy—we're a country really—whose basic philosophy was originated by lawyers, and I would argue has been taken over by economists, and it's driven by things we can quantify. One of the things we can quantify is money. One of the things the court in New Jersey, which has been unique—although half the states have had decisions about funding, and a couple have done, Massachusetts and Connecticut have done

important things in recent years—New Jersey is unique in the extent and perseverance and importance of the court in judging when you're doing enough, and largely judge it in terms of money, which has made that an important decision for all of us and continues to be.

If you're like me, and you get confused about which is *Abbott VI* and which is *Abbott IV*, and what's the difference between *Abbott III*, and how did *Abbott V* come along, we'll try and stay away from all that today, and we'll go right now to the first of our governors, who's going to—oh, excuse me. We're going to go first to somebody who I think knows more about the educational issues—not just the history—but the educational issues involved than anybody in the state. Gordon MacInnes was an assemblyman, a senator, the head of New Jersey Public Television. He wrote a terrific book called *Wrong for All the Right Reasons*, which I would recommend to you. And he worked, labored for decades in education, including most recently as the top state official for the *Abbott* districts until he left. And he's a fellow here at the Woodrow Wilson School, and he will help encapsulate this history and sort us through that time. Gordon.

Gordon A. MacInnes

Good morning. The idea that I'm going to limit myself to 15 minutes to discuss *Abbott* is terrifying to me, and it probably will be at the end to you as well, but I'm going to try, and I'll be very quick to jump to trying to set a perspective for this morning's discussion.

Let me start with two blazing generalizations, that I won't try and defend, but please accept

them as truth. First, New Jersey is uniquely positioned to be the first state in the union to have a decent chance to close the achievement gap. We have, because of *Abbott*, adequate resources to carry out that work. And because of *Abbott*, we have something very special, which is that we offer children in 31 very poor districts the opportunity to start school at the age of three, and that is an essential step, I believe, in closing the achievement gap. The districts involved in *Abbott* for the past, well, particularly for the past 10 or 11 years, in terms of funding, have the resources, if they are spent in the appropriate way, to show dramatic progress in closing the gap. And I offer that as a starting point and, as I said, a blazing generalization.

Secondly, I suggest that *Abbott* is no longer sustainable politically, financially, or morally. That we cannot politically see as a permanent situation a program under which 60 percent of the operation state aid goes to districts where only 20 percent of the students are found and, incidentally, where only 20 percent of the taxpayers and 20 percent of the voters are found. I don't think over time that is sustainable, and I think the governor's recommendation of this week puts that into context.

Secondly, New Jersey can't afford to maintain that system. The state is close to broke, at least in the words used by the current governor and his immediate predecessor, and the idea that we're going to be able to extend the *Abbott* idea across the board to dozens of other districts is not financially something that can be done.

And finally, it's not sustainable morally. The supreme court wanted poor children in this state to have an opportunity to be given the same choices in life that middle-class kids have. That's what *Abbott* is about. And you can only do that if you're well educated, and you cannot have a system where half of the kids who are poor are not included. And that's what we've reached today, which is that 49.8 percent of the kids who are eligible for free and reduced lunch in New Jersey don't live in the *Abbott* districts. That change is a slow one. It's taking place over time, but the direction is very clear. And if we want to deal with the problems of poor children growing up in concentrated poverty, we're going to have to take a different approach.

Let me just make three observations about *Abbott*. These are fairly simple and obvious points, and you'll probably be scratching your head and saying, "Why, in the presence of these governors, is he taking our time to talk about these issues?" But they're frequently neglected in the discussion of *Abbott*. It's real easy to forget some of these things.

First, the court has ordered that the state and the districts do something that's never been done. No district, with the possible exception of two New Jersey districts, has ever succeeded over time in closing the achievement gap, when they are charged with educating concentrations of poor kids. It's never happened. We've been talking about this for 40 years in this nation. It began with the *Coleman Report*. It has continued through the enactment of Title I. It has continued through dozens of boards, commissions, the terms of education governors, the terms of education presidents.

The fact is that that gap, while it narrowed noticeably in the years in the '70s and into the '80s, it has largely stagnated, and it has stagnated at a very wide margin. And the reason is that the job of educating kids who grow up in poverty is just much harder, and we need to be clear and specific and concrete about that fact.

The *Coleman Report*, in addition to what Dick mentioned, found that one of the key characteristics that define the difference in how kids ended up being educated was, who they went to school with, but the first finding was, who did they grow up with? In what family did they grow up? And that is a problem that we have now documented in elaborate detail subsequently, and we know, for example, that at the age of three, a child growing up in a poor family has heard 30 million fewer words than a child growing up with two college graduates as his or her parents—30 million fewer words. ETS just published a report this week that points out the differences between, for example, the time spent reading stories to children before they go off to kindergarten and the time spent watching television. All of these factors have an enormous influence on what happens when kids show up at the schoolhouse door at the age of five, and that gap needs to be understood, it needs to be treated by the public school districts with greater urgency than most of them treat it, but it needs to govern our conversation that this is really, really hard work. It's not that it can't be done, but it's really difficult, and we need to be clear about why.

Secondly, we need to stop looking for panaceas as the answer to this problem. Again, we've

had 40 years of all sorts of recommendations. Educational TV was supposed to take care of this problem. So was something called school-based budgeting. So was the open classroom. So was any number of recommendations and enthusiasms. You could put vouchers on that list. There are lots of things that have been put forward as the answer. They don't work. They don't work for the 100 percent of kids who are or the 90 percent of kids who are not affected by some of these programs that might help with 10 percent. We need answers that deal with 100 percent, not the 10 percent.

And in that light, I would say that we have evidence about what works, and that would be my third point. It's so simple. You've heard it so often that I hesitate to repeat it this morning. But, in fact, what we're talking about is pedagogy. There are two things that will allow us to close the achievement gap, and I say this because we are looking at places where the gap is being closed, and what we find there is a culture that shares certain practices and policies and approaches, none of which can be encapsulated into an off-the-shelf program that you can grab and install in public school 11 and expect to see results. They all require a lot of work, different work than is going on in most classrooms where poor kids go to school, because if what is going on in those classrooms was effective, we would've seen that gap close much more than it has. So we need to change what happens in classrooms.

I mentioned that there are a couple of districts where we're really seeing evidence that this is not a delusion, talking about closing the achievement gap. West New York and Union

City may be the only two city districts in the country that have sustained gains into the fourth grade that were made with younger children. Because lots of districts have shown that they can do that, that they can raise the percentage of kids who can read and write, but typically those gains fall off by the middle grades. So our eighth-grade results are very different. In fact, our eighth-grade results in New Jersey's poor districts are pretty flat since the eighth-grade exam was introduced in 1999.

In Union City, in eighth-grade math seven years ago, the gap between Union City kids and the New Jersey average was 26 percentage points. Last year it was .6 of one percent. I'd say that's pretty close to closing the gap. In language arts, the gap went from 23 points to three points, and I'd make the same point, the same case. And we have also seen in a number of *Abbott* districts the ability to greatly increase the percentage of kids who are competent readers by third and fourth grade, and those districts have shown dramatic progress in the last five or six years, districts like Orange, Vineland, Perth Amboy, East Orange, Elizabeth, Jersey City. So we have a range of districts, with different demographics and economics, showing that this is work that can be done effectively.

And what do they do? They all do pretty much the same thing. First of all, they set academics as the primary goal. That's what they pay attention to. That's how they judge principals. That's how they evaluate schools. And they're very clear about what's expected. They have a roadmap that teachers, parents, and students can understand about what it is they're expected to learn. If they're a third-grader and

it's March, this is where you should be in math. This is where you should be in language arts. And they track all the time. They're always gathering evidence. Not just state tests, because that information comes in much too late, and in a forum that's frankly not useful. They track all the time with their own assessments about how kids are doing over this eight-week period, and they use that information to change what happens with classroom instruction. They work with the teachers. Look at these kids in your class. They've got these problems. This is how we might do it; let's try this approach with those kids. They support teachers. They understand that what happens in classrooms is the only thing that counts in the end, and so the teachers are very much a part of the changes that take place in the instruction. They obviously have to be a part of it, and they adjust instruction, and they keep tracking, and they readjust instruction. This is difficult work, but it can be done.

Now the one consistent measure that we've been employing since 1971 to judge how well kids are doing is the National Assessment of Educational Progress. And we could argue about some of the psychometrics of it or whatever, but it does provide us a fairly consistent and uniform measure of how well kids are doing. In 2007, fourth-graders in New Jersey went to the number two position in the country. Only fourth-graders in Massachusetts performed better, and Massachusetts is not nearly as diverse as New Jersey is. It doesn't have nearly the same concentration of poor kids that New Jersey has, and none of the states that are in the top five or 10 do. This is

really a fairly remarkable achievement. It's just one year of the test, but of the 52 jurisdictions that take the NAEP, looking at the three groups that we look at—Latinos, African Americans and whites—New Jersey was the only one of those 52 where all three groups improved between 2005 and 2007. And the jump by African American students was 13 scale points, which is a remarkable, remarkable jump in a two-year period. And the fact is that it's a sample test and all of that, but there is no other subgroup in any other state that improved by a greater margin than African Americans in New Jersey. Latinos improved by eight percentage, by eight scale points, whites by six points.

And what does that suggest? It suggests that, in fact, we can see hope that resources well spent can make a big difference. Resources poorly spent make no difference. And there's the other side of that story, and it needs to be told, that a lot of districts, a lot of *Abbott* districts, have greatly increased their funding, while their educational performance has stagnated or even declined. And we have a pattern, it's not a precise scientific connection, that the higher performing districts tend to be among the lower spending, and the lowest performing tend to be among the highest spending. I think there's a reason for that. But I believe that unfortunately it's those latter examples that receive so much public attention because it's contaminated with debate about *Abbott*, and we need to pay attention to the fact that we have made some dramatic progress and we have hope that this intelligent use of resources will work. I think that's enough. Thank you very much.

Brendan T. Byrne

Well, first of all, let me lament the fact that Governor McGreevey isn't here. I think he was an educational governor. The morning of his, or the day of his inaugural, he immediately adjourned and read books to kids. So he would've made a contribution, and I understand that some conflict developed at the last minute and he didn't make it. I want to say a couple of things before I speak. One is I'm the only living governor of New Jersey who went through the New Jersey public school system, and I get credit for that. Right? And if we were 50th in the country at that time, so what?

A couple of other observations. I'm not going to be too long, because I don't know much about education. I think we're talking to the wrong people. How many of you have ever taught school? You did a little bit, didn't you? But not school kids. Any of you ever read a book by Frank McCourt called *Teacher Man*? Some of you? One of the points he, well, first of all, let me talk about Frank McCourt because he's a buddy of mine. He taught in two separate schools in New York. One was where he was dealing totally with people who only had to do with discipline. He really couldn't teach, and that was a question of getting those kids through the day. And then the second opportunity he had was to teach at Stuyvesant High, where he got the talented students and he was able to teach them. Now it was the same Frank McCourt, but with different students.

And so let's take a look for a minute at what he has to say about how you approach the

educational problem. He says talk to the teachers. Talk to the people who are in the classrooms, dealing with these kids. And I think he comes out with the conclusion that you've got to get them very early. And so we recognize that in New Jersey, and we're starting to put money into the three-year-olds, where I think it will make a difference. And after a certain age, it becomes a lot more difficult to turn a kid around. If he's on the right track, you see it. I have grandchildren now, and by the time they are three or four, they're well on their way. I took my four-year-old to Pal's Cabin the other day, and she looked at the menu, and she said she wanted chicken fingers. She read the menu and the menu said chicken fingers. Now there are a lot of kids that age who can't read at all. And so that's why I think that you've got to get them early. And you've got to get not only the kids, you've got to get the parents. You've got to get the parents. And I guess the point I'm making here is that a lot depends on what you do with parents.

One other point I make is when we talk about school funding, we talk about how many dollars we need. I have never seen really a discussion of what we need it for. My son wrote an op-ed piece for the *Ledger* early this week, in which he pointed out that thorough and efficient are two words, and that we ought to look at both the money that goes into it and the programs, what the money pays for. I do think that we've got to start looking at what the money pays for.

And so I got into thorough and efficient pretty early. At the time that I took office in 1974, *Robinson v. Cahill* was the law. People believed

that we needed funding for education. People, in the long run, supported the state income tax because they believed it was going to do something. It was going to do something for kids. It was going to do something for education. People no longer believe that. They no longer believe that money solves educational problems. And as Gordon said, you're not going to get them to keep advocating more and more money for education. You've got to have people believing that we're doing something, and that the hundreds and millions of dollars that have gone into education since my days in West Orange High School are making a difference. And we don't see it, and maybe we can't see it. Maybe by the time we get kids into the public schools, they're too far gone.

And I urge you to talk to not former governors, but people who have been in the classroom. I have a daughter who taught here in Princeton for a couple of years. She got her degree at Princeton. She got her Harvard master's degree, so she taught in a classroom. Nobody listens to her, but she probably knows more than anybody in this room about what happens in the classroom and how you might be able to use those experiences to do something different and something better.

So I come here more to listen to what's going on today and to respond to the fact that we, in 1974, and Dick Leone is the guy who put [it] together—he won't tell you—[put together] the first state income tax, and we believed it. We believed it then. We don't believe it now. At least I don't believe it now.

James J. Florio

Thank you and good morning to everyone. Governor Byrne laments the fact that Governor McGreevey is not here. I always lament the fact when Governor Kean doesn't show up, because the secret is I always have a buffer between me and Governor Byrne—Governor Kean. And Governor Kean is much easier to follow than Governor Byrne.

But I'm establishing the precedent of trying to establish your credentials for even being here. I am a graduate of what was then Trenton State Teachers College. I'm also married to a teacher, so I have a little bit of credentials, and going to public schools was something I did, but not in New Jersey. I went to public school in New York, in Brooklyn. I went to a very good school, by the way: Erasmus Hall High School. And the school system—hooray for Erasmus—the system was a very, very good one at that time, substantially different than it is now, in terms of things that it would not be politically acceptable to have now: different grades and different schools for the smart kids and the dumb kids. That was the way that things were dealt with.

I also have to confess that I didn't finish high school. I quit high school and went into the Navy, got my GED diploma. Then I went to Trenton State Teachers College, but became involved, and I'm very much committed to education because I lived a life of having affordable, quality education available to me. Trenton State Teachers College tuition was \$150 a semester when I went there, and I was only able to afford it because I got the Korean War

GI Bill, \$70 a month, which allowed me to go and get a good quality education at an affordable rate.

When I came into office, obviously Governor Byrne and Governor Kean had been through a little bit of this process of trying to define what the policy was going to be in New Jersey to provide a quality education for all of our students. *Robinson v. Cahill* established the basic premise that there was something fundamentally wrong and unconstitutional about assigning to a child the quality of education that came with the accident of where they lived, saying overdependence upon local property taxes to finance education, when there was such a variation town by town, was not acceptable under the constitution. And that was something that we—and Governor Kean and, of course, Governor Byrne—led the effort to try to have more state monies put into the process, so as to equalize the opportunity, the opportunity to be able to have a quality education for all of our children.

Abbott v. Burke started to put some flesh on the bones of how it is you do that. But the court very modestly, and perhaps correctly, at the outset said we don't know what the actual indicators are for good educational outcomes for all our young people across the whole state. But what we do know is that the high-performing districts happen to be affluent, and the underperforming districts happen to be very, very unfunded and very poor. Therefore, in light of those incontrovertible facts, what we have going for us is an understanding that money is a difference. And, therefore, what we're going to do is say that the state

has to contribute to the funding, to bring the lowest-performing districts—the so-called *Abbott* districts—up to the highest-performing districts, and that will be the shorthand for our effort to move to equity.

And I guess the good news is that over this period of time from then to now, and hopefully into the future, research at the local level, at the state level, at the federal level has given us more insight into what are good educational outcomes. How is it that we can be more specific than just talking about pure money as being a dividing line between good and underperforming? And so over the years, we've come to understand, particularly for young children in the lower grades, class size is a determiner of outcomes. By the way, that also entails money, because class size and money, there's a correlation there. Quality education, quality educators, quality teachers is an indicator of good outcomes, and therefore that's something we should start building into our systems of educational funding. The whole idea of kindergarten is a good place. In the *Abbott* districts, kindergarten was something we early on said ought to be obtained for those young people.

We had a lot of school construction. The quality of the physical facility was a good indicator of outcome. I can recall when I was governor going to Paterson, finding in Paterson you had 100-year-old schools, wooden schools, schools that didn't have a computer, whereas in other areas around the state we had computers for the young people in the classes. So all of those types of things were the indicators that we've started to try to build in, and they do translate

into money in some respects, but we now have a better sense of what we have to do to be able to get good educational outcomes.

Which brings us down to where we are now, because what the governor is doing is to say that all of those things we've tried to build into the system should not just be for districts. We're really about children. We picked districts at the outset because it was neat. It was manageable. It was something that you could evaluate easily. With technology, with the capability and with the insights and with the research that we have now, we can go to individual pupils. And so the governor's formula, as I read it in the newspapers, is about saying that we want to treat children as children, and [identify] those who are at risk, in need of all of these things we've identified, preschool being the one that I happen to believe is most significant, as Governor Byrne pointed out. I've got 10 grandchildren. They're in three different families. All of them—ranging from one to 18—have had families that right from the very beginning have inculcated into them the importance of reading, the importance of books, the importance of education. And if every child in this state could get the benefit of those types of backgrounds in education or in their families, we would have quantum leaps forward in terms of educational opportunity. So I think that the proposal that we have now to start talking about children who are in need of assistance—to be able to have them get a thorough and efficient education wherever they live—is really the direct way to go.

And I'll just conclude by saying, as always is the case, money is the problem. How do you

go about saying that money can be raised to do the things that we want to do? I'm always struck by the folks who say money is not a consideration. The folks in the districts who have the money never volunteer to give the money away, so money obviously appears to be somewhat important to some people. And I guess the thing that I see now, and I read again—this is no inside scoop—I read it in the newspapers that the governor is talking about half a billion dollars in additional money to finance this expanded scope of distribution of resources. And, again, I'm not sure, but one of the skeptics or critics said, "Where's the money going to come from?" And I will just make an observation that one of the things that the governor is talking about is this monetization plan. The monetization plan is designed to, as I understand it, reduce debt by 50 percent, from \$30 billion to \$15 billion. Obviously that money should be used for debt reduction, capital expenditures. But every year in the operating budget, there is approximately \$2 billion for paying off bonded indebtedness. To the degree that the asset monetization plan works as I suspect it's supposed to work, reducing the ability to carry that debt, we now have operating funds that can be used for other things in the operating budget. And I would suggest that nothing would be more important than being able to use some of that money to fund the half a billion dollars in additional monies that are required to be carrying out this plan.

So hopefully we'll get through this year, set a new direction that will be a better direction, an improved direction, move us down the road to provide a cost-effective, thorough

and efficient education for all of our students. Thank you.

Donald T. DiFrancesco

Thank you very much, and I am always the last one to speak, and generally it's with these two other giants of politics, former governors: Governor Byrne and Governor Florio. I, too, was hoping that Governor McGreevey would be here, and I was hoping that Tom Kean and Christie Whitman would be here to enlighten us on their views, and their experiences and their administrations. I was fortunate enough, unlike—with the exception of Dick Codey—and like other governors, to have served in the legislature under four governors: Byrne, Kean, Florio, Whitman. So I was able to firsthand see what was going on, not only in education, but generally in politics in New Jersey. And, of course, as Dick Leone had said, we've come a really long way from when I first was voting as a 21-year-old, I guess for Richard Nixon. I don't remember, but I think that might've been the first election I ever voted in. And because I had relatives who were locally involved in politics, somehow I knew a little bit about local politics.

But I was listening to Gordon and I was thinking, because you were saying that kids that are disadvantaged, perhaps studies show that they haven't had the benefit of 30 million words—I think you said—prior to kindergarten. Well, my parents were from Italy and didn't say much to me those first few years, and I was wondering if I had had that advantage, maybe I'd have been governor more than one year. You know? Maybe I would've had the benefit of those extra years.

But I had three older sisters and an older brother, and my older sister was at Douglass College when I was born. I don't think it was called Douglass College at that time. I think it was called the New Jersey College for Women. And when I got to grade school, my father made me go to this brand new Catholic school for eight years, called St. Bart's in Scotch Plains. We had such a big Italian family, we called it "Scotcha Plains" in our household. And my sister who was at Douglass used to yell and scream about why am I going to Catholic school—"You're not getting as good an education as you would in public school." And she was a teacher and a strong believer, and she taught in Plainfield, a strong believer in public school education. So when I got out of that Catholic school, I went right to the public high school in Scotch Plains, and I had a great experience there, and then went on to college and fortunate enough to have gone to law school.

I was in the legislature for 26 years, and I've met many of you while I was involved in that process. And all of you are much more, have much more expertise than I do on these issues, particularly this issue. I see Steve Aduato over here taking notes. I'm a little nervous when he's taking notes, when I'm speaking, but, or he's doodling—you know, I mean, what's this guy talking about?—and a few others that I have worked with. But I came into the legislature. And I know everybody feels that their time was the most exciting. When Governor Byrne was governor and when he ran for office in 1973, as some of you will recall—not all of you, because some of you are really young—he swept in, for a variety of

reasons, a lot of Democrats. There's one over there, I think. Right, Gordon? And I'm not saying . . . You were obviously well qualified, ran a great campaign, but the other people. And he had this huge number of Democrats in the Assembly—66, I believe, out of 80—a huge number of Democrats in the Senate—I think 31 out of 40—and an overwhelming majority.

And I wasn't in politics at that time, and I had voted in the primary for Governor Cahill, although he lost, and made a few calls for him at the behest of my uncle. And two years later, they were looking for candidates to run on the Republican Party, because everybody was wiped out in the legislature. And because I had all these relatives in Scotch Plains, and Scotch Plains was a major part of this district at that time, somebody asked me to run for the Assembly, and that's pretty much what happened. I never served as mayor or freeholder. I never had that opportunity, or any other office, but I was thrust into this Assembly in the election of '75, and seated in January of '76, and immediately the governor proposes; well, no, I don't think the governor proposed it that year. I think he let the legislature propose it—this income tax. I think you decided that you would sit back. I think that Governor Byrne was going to sit back and let the legislative leaders, and there's a man who was there with me—not with me, but with legislative leaders—deal with this issue of funding T&E.

And it was an amazing year. It was 1976. Besides being the bicentennial, it was an amazing year politically because I was able to sit back, as a little guy in the Assembly, in the back row, watching the leaders of the legislature try

to deal with this difficult issue of enacting an income tax for the first time in New Jersey, which I think Governor Cahill had proposed, and Governor Byrne had proposed, in an effort to deal with this issue of funding for not only schools, but generally for our budget. And I watched and I learned. You know, one thing I've always said to kids, particularly college kids, is that don't think that the people that sit in the legislature—pardon me for saying this, Gordon—are all Rhodes Scholars, that they're all valedictorians, that they're wonderful people who know everything about any issue. They don't. You have to assume that they don't know anything about the issue you're talking about.

So I became educated in 1976 on a variety of issues around the State of New Jersey that I had never even dreamed about before, whether it be human services or education or what have you, and it was a great experience for me those first couple of years. The schools were closed. I read the schools were closed theoretically on July 1st of 1976. I don't know what kind of impact that had on the legislature, but the income tax was passed. Governor Byrne let us go on July 4th to celebrate July 4th, then we had to come back. And it was one of those weeks where—and you've read about those weeks—where you have to be there around the clock, around the clock, around the clock. And it passed. It was enacted.

And I guess, Dick, I think at the time, and I'm doing this by recall now, everyone thought, well, this is probably going to help solve the funding crisis for education in New Jersey. And my recollection was that obviously there was

a new infusion of a tremendous amount of money in the beginning. But the formula, whatever that formula was, grew rapidly—grew rapidly—and the cap on suburban spending—I'll call it suburban spending, I mean the cap on spending in other districts—lasted about five minutes. Right? I mean the Teacher's Association, etcetera, lobbied hard to get that lifted, and so that went by the wayside and spending increased every year. And as spending increased every year in the suburban districts, the need to fund the *Abbott* districts increased. So the school district in Short Hills and I'll say Millburn Township, as they spent more money, so did the need to fund the *Abbott* districts, and that created issues over the years, as there were recessions from time to time.

This wasn't a formula that was geared to how much revenue was coming into the treasury. It was designed specifically to deal with what is everybody spending around the state. What are the higher-income or the wealthier districts spending? So that the *Abbott* districts could keep up with those districts, and they did, through various court decisions, through various tax increases, etcetera. In fact, I voted for taxes. I voted against taxes. I was there 26 years. I remember when Governor Kean was governor. It was a difficult couple of years in the beginning, and almost on New Year's Eve or something like that of 1982, we raised the income tax, and we raised the sales tax I think at the same time, and he signed it. He probably would never tell you that, but he signed it. He would never admit to that. In fact, I was with—I don't know where I was—with Assemblyman Doyle when he signed it. And even though I thought—and I was the Senate

minority leader at the time, the early '80s—I thought we were doing Governor Kean a favor by raising these taxes. When he signed it, he was very smart politically. When he signed it, he said, "I'm going to sign it. With holding my nose, I'm going to sign these bills. I really hate these bills, but I'm going to sign them because I guess we have no choice." And I said to John, I said, "Wow, I voted for this." I learned a lot about politics that day, too.

So as the years went on, the need for increased funding just kept going up and up and up, and it's been very difficult to keep up. Gordon addressed a lot of this. And it was very difficult to deal with the courts, too. A lot of my colleagues, Democrats and Republicans over the years, were screaming, hollering, shouting, yelling about this formula, and why do we have to do this, and why do we have to do this, and why doesn't their district get more money? The only answer you had is because the court won't allow us to do the things you want us to do, because the *Abbott* districts are funded through T&E, and it's through a formula that is pretty much, was pretty much untouchable.

As we got into the '90s, Governor Florio legislatively addressed a lot of issues dealing with education with the Quality of Education Act. And while controversial, his motivation and intentions were unbelievably pure, and idealistic and right. Believe it or not, I was lucky enough to be elected Senate president because of him. And I can say that to him because we are friends. I'll never forget this. He had won an election. I thought I had been in the Senate a long time. When I left the Sen-

ate, 10 years seemed like a long time to me, being one in the minority, in the Senate. And I was finally thinking, "Gee, maybe I should do something else with my life." And then when I saw that Christie Whitman almost beat Bill Bradley—talk about Rhodes Scholars—I said, "Wow, we might win the legislature next year," and sure enough we did. I was fortunate enough to be picked as the president, future president of the Senate in January of '92, to work with Governor Florio in '92 and '93.

And funny how these things happen. I mean you're trying to get press. You're trying to get your picture in the paper. You're trying to do this and that. And, of course, once that happened, I was trying not to have my picture in the paper anymore. But once an article appeared in the *New York Times*, and I won't go into the details, but the title of the article was, "Mr. Bland Goes to Trenton"—me. George Will called me—I thought it was another John Russo joke. Senator Russo used to call and have people call me, with all kinds of different names. But it wasn't a joke. George Will called me, the columnist, and he said, "You know, I read this article in the *New York Times* about 'Mr. Bland Goes to Trenton,' and I'm intrigued by this and I'd like to write a column about it," about Jim, Jim and I, I guess, "and how you got to be president of the Senate because of these circumstances." So he said, "Could I meet with you?" and we met here at Princeton University. I think he was involved somehow. He would come here every once in a while.

We met here, and he wrote his column on how this man, through his courage and through his drive, had done this, this, and this, and as a

result of that, this guy was lucky enough to get to be president of the Senate, and that was the gist of his column. And, of course, you may not have this experience or you may, but when something like that appears around the country, you're bound to get a high school classmate write to you and say, "Are you really this guy? Are you really president of the Senate for New Jersey? You?" I got a couple letters like that.

So I guess, if I could quickly just mention a couple of things while I was president of the Senate, and Governor Florio and Governor Whitman were governor, and then I had one year as governor, a lot of the focus continued to be on *Abbott*. We did agree to fund and mandate preschool education in the *Abbott* districts, and I thought that was a great thing. I visited a number of preschools and a number of schools dealing with that, and I found that that was at least something that appeared to be having great results, and I think everybody has mentioned that. And it resulted in a variety of ways. Not just in kids learning to read and write, but identifying problems with kids, whether they need glasses, a prescription for such and such, other problems, not just educational problems. You get kids with teachers and they recognize, well, this child has this problem, this child has that problem. Let's help them now at three years old instead of five.

And so I was really impressed with that. Yes, it's expensive, but I thought it was well worth the money. And, you know, the problem with legislators is they view themselves as being there short term. So they're, generally speaking, their focus is short term. So repealing the death penalty or enacting the death penalty,

that's a major issue, one or the other. But dealing with kids' education—because it's hard to quantify, the results takes years, and maybe you never know what the results are of your efforts—you know, that's not as good as building a railroad in your community. So you have to continue to lobby, to deal with kids' problems, even though you won't, may not be able to see the results of your programs for 10 years. So I found that preschool education was a great thing, and it's a great thing if it can be done even at a much wider degree.

I was involved in the school construction issue, and I didn't mind doing that. In fact, the speaker and I had a disagreement over the amount, the percentage of funding. We took the position that in the *Abbott* districts, we would pay 100 percent. He went to court and said we should only pay the percentage they are getting of state aid from the state. We had a more logical argument, but we thought that for lack of money these schools weren't going to do anything, unless we gave them—school districts—unless we gave them 100 percent. We went out, we enacted a program, and I left. And, of course, you know, it's easy for legislators—and I was one for many years—to pass bills, and not worry about them after that and say, "We did this," but implementing some of these programs are very difficult. We expanded that program to include all the districts in some percentage or another, and a lot of schools have benefited from state aid for school construction. So I thought that was a great thing.

And, Herb, if it wasn't for me Plainfield wouldn't be an *Abbott* district today, because I insisted that Plainfield and Neptune be added

to the *Abbott* districts. And I know that probably was just a tiny little tip of the iceberg thing because I also knew at the time that there were a lot of other districts that needed help, that could qualify for substantial help, if we had revised that formula. But I felt all the years that I was a legislator that Plainfield should be an *Abbott* district, and when I was in a position to do it, we did it.

With respect to the governor's plan, I think it's fabulous, if it can be implemented in a proper way. I think that, as I said, if you can identify poor kids, who will benefit from preschool, who don't have the opportunity to do that now, I think it's wonderful. It's the implementation that we'll be bogged down in, and we'll have great difficulty in dealing with the districts, or the facilities, or the teachers, all the arguments you'll read about. But I think that as a policy measure, it's a great idea.

I want to say it's been an honor to have been governor for one year. We had some difficult issues that year. 9/11 occurred in that year and there were some anthrax issues down in Hamilton and a few other places, but it was a great honor to be here for that one year and it was an honor to serve with Governor Florio. I served with Governor Byrne, Kean, and Whitman. Jim McGreevey has been a close friend of mine for many, many years, and I hoped to see him today. But if I could just sum it up, I'd say serving in the legislature was a great experience that I've had because I've learned so much about people in New Jersey, about life, and I've met so many people who are committed to wonderful issues, helping particularly kids in unfortunate circumstances,

and without that, you know, I don't know where I'd be as a person today. Thank you very much.

NOTE: The following segment, which represents the material recorded during the question-and-answer session, has been edited. The text accurately reflects the content of the proceedings.

LEONE: In addition to having served in government and as governors, all three of these men are lawyers, and have at various times in their career taken that very seriously. Governor Byrne, of course, was a judge. The question I have is this: Has the court all these years—when it has defined the issues in education largely by a series of decisions in a particular way—has it overreached? Has it misinterpreted the role it should play in trying to do something about education? Has it taken this clause in the constitution and expanded it into a premise for all educational decisions?

DIFRANCESCO: Can I just say something quickly, that my observation about that is having the focus just on the school district, the school children, made sense at the time. What I personally observed, I mean here you have a Camden, Jim, a Camden, where the school district's getting tons of money, as a result of the decision over the years. They're getting a lot more money than they've had before, but the municipality was totally broke, either because of incompetence or just a lack of ratables, whatever the case may be. I think in a lot of the *Abbott* districts, that's been an issue that really never was dealt with properly. Yes the school district was receiving all this money, but the issues, the problems of the city

still persisted year after year, after year, after year. And I'm not talking about Camden, but, you know, there might be a situation we had, corrupt government in one town, incompetent government, lack of ratables, lack of funds, bankruptcy in the school district, and I don't think you can separate those two. I think they go hand in hand. I think the family structure is just as important as having the teacher in the school, and the facility adequately funded.

BYRNE: Yeah. Donnie makes a point. The point he just made is that in certain areas, nobody will do anything until the court steps in, and that's exactly what's happened in education. I mean the problem he talked about, the courts could move in tomorrow and say, "Hey, you've got to do this or you've got to do that or it rises to a Constitutional level." They did it in education. Did they overstep the bounds? Probably. Have they done more than they had to do? Maybe. Incidentally, one of the issues that came up in both *Robinson v. Cahill* and maybe *Abbott* is whether the right to a thorough and efficient education was based on the New Jersey Constitution or whether it was based on the federal Constitution. The United States Supreme Court said in a Texas case that it was not based on the federal Constitution. That doesn't stop the New Jersey Supreme Court from saying that it's based on a different provision of the New Jersey Constitution. In other words, they can say that equal protection, the equal protection clause of the New Jersey Constitution, which doesn't exist by the way, and they import it, demands a thorough and efficient education. And so if the legislature ever decided that we've gone too far and we're going to abolish

the thorough and efficient clause in the state constitution, I think the New Jersey Supreme Court would go back and rely on the equal protection clause. So I don't think it's in danger from that standpoint. Yes, they may have gone too far. Yes, they could be doing something in other areas, but the legislature just doesn't have—the legislature, by the way, tends not to do anything. They really do not; the desire is not to do anything and the status quo is fine. And so when they do something, they get criticized. When they don't do anything, they don't get criticized.

FLORIO: Well, in any society, there are certain values that are generally codified in your fundamental documents, constitutional things of that sort. Quality education is something that hopefully most societies would want to have for all the young people in that society. We have it embedded in our New Jersey society and in our constitution. And then the realization of that goal traditionally falls into the three branches of government, each deciding what it is they're supposed to do in the process. The difficulty we've experienced in New Jersey, and in the country and around the world, is with the problems that we're facing becoming so complex, so complicated, that the legislative branch of government doesn't appear to be almost up to the task, and that's why we're seeing more power gravitate to the executive branches of government. New Jersey started out that way. The executive branch in New Jersey is uniquely qualified and powerful to do those types of things.

But in this instance, we saw clearly the legislative branch wasn't up to dealing with the complexi-

ties of providing quality education for our young people, and so the judicial branch stepped in with, some said, more power and authority than it really had, but it filled the void. As we remember, they actually threatened to close the schools. Fortunately enough, I think it was in June they threatened to close the school, so it was easy. Now the threat was there, but it induced action in order to achieve the goal. Over the years, as I think we've been following, the judiciary is starting to be criticized in a lot of different contexts for being overly aggressive, for legislating outcomes, rather than doing what they're theoretically supposed to be doing, which is resolving disputes. And so the new problem that we have is that the legislature is not up to the task of formulating responses to very complicated problems, and the judiciary is being more and more criticized for stepping into the void. How is it we're going to deal with these problems? And the new approach is to have the legislature, trying to resolve problems by having a policy of consensus, studied ambiguity. They pass laws that have everybody being winners, and no one ever thinking that they didn't win, and, of course, that means the ambiguity has got to be resolved at an administrative branch of government or, ultimately, in the judicial branch of government.

So that's a societal problem that we have. But the main goal is that the problems get resolved, and whether it be executive driven, legislative driven, or judicial driven, that will be determined by the political process, as to who we're going to be able to support to resolve the problem that has to be resolved.

BYRNE: One thing you have to realize, there are three branches of government. If you're the executive and you can get another branch on your side, you're way ahead. And when I couldn't get the legislature, I got the judicial branch.

LEONE: It's actually worth taking a moment to relate the circumstances, because not all of you will be intimately familiar with them. The climax of Governor Hughes' eight years as governor was his struggle to get an income tax. He failed by one vote in the Senate. He passed it in the Assembly. He settled for the sales tax. The next governor was Governor Cahill, a Republican, who proposed an income tax and lost the primary in his own party. But before he left office, he appointed former Governor Hughes as chief justice of the supreme court. So he was chief justice when Governor Byrne proposed the income tax, and it was rejected by the legislature for two years running. Actually it was three years running. That was when Governor Hughes led the court to the decision to close the schools, and it was that that put teeth in the whole threat to do something about education or else, and subsequent decisions certainly related to that.

Now those were unique circumstances, where a couple of the branches seemed to commingle in some respects and led to a result that probably otherwise wouldn't have happened at that time. I think the decision might've gone over. I would just say, in defense of the court's point of view, looked at from 30,000 feet, you could say this about New Jersey. It used to be in the middle of the pack. It's now the most wealthy state, or second or third in the nation.

It used to be well down in the pack on education. Now it spends the most on elementary and secondary education, and it gets excellent results. It graduates the most kids. It has high test scores; most kids do well going to college, compared to the rest of the country. So from the court's point of view, if there were such a thing as a court over these generations, it might say, "Where did we go wrong? Maybe this was a blunt instrument." But the result is a wealthy state, high incomes, with, in general, very good educational outcomes. It is true that specifically, in particular districts, in particular schools and for specific children, of course, the outcomes aren't so great. But, again, looked at from a statewide perspective, following the implications of thorough and efficient education to their logical conclusion has not necessarily been a bad thing. It has chewed up a lot of politicians along the way because they've been stuck with implementation. But my question really was about the fact that one branch has called the tune, as defined for the other two branches. Will this be the most important thing you deal with, because of the way we define this problem, and that that has occurred over 30, 40 years, and has [it] been very significant in terms of choices that governors and legislators made?

BYRNE: How do you fit taxpayer revolt into that picture?

LEONE: I think when you go from zero to 60, or have big, statewide broad-based taxes—we have relatively high income taxes and we have relatively high sales taxes—you get a taxpayer revolt. I think there would be something wrong with the democratic process

if you didn't. People don't like to pay taxes. If over a period of years of living memory taxes go up a lot, they're going to revolt against it.

AUDIENCE MEMBER: How do you see the changes proposed by Governor Corzine squaring with the previous *Abbott* mandates?

FLORIO: Well, in some respects, and you'll even see it in the newspapers, he is diffusing some of the adverse political pressure that has been out there, by virtue of talking and acknowledging the fact that there are middle districts, as opposed to just dealing with the high-performing districts, affluent districts, and the *Abbott* districts. This system is designed to get money, an additional half a billion dollars apparently, into those districts that are in the middle, that have felt particularly ignored in light of the escalating monies that are going in. And, again, it is not only a political calculation, but it is a good substantive calculation that children are children. An at-risk child, depending upon where they live, is no less at-risk than an at-risk child in one of the *Abbott* districts. So I think it is a good policy initiative, as well as a good political initiative.

BYRNE: Isn't that what the governor is addressing as we speak?

LEONE: Yeah.

BYRNE: Okay.

LEONE: I think part of your question, though, is what's likely to be the court's reaction to this, which is a fundamental shift in focus. It would undo the focus that we've seen in *Abbott* over and over again. Go ahead.

DIFRANCESCO: Despite what they say, I think the court will look more favorably upon Governor Corzine's proposal. I really do. I feel strongly that they will. Do we have any public school teachers here? This is not a negative, but the ability of the NJEA's lobby to effectively get salary increases year after year after year, in every school district around the state, despite perhaps going through some difficult times, is part of the reason why we have escalated so much in our spending. You know this state is a labor-union state, to some degree. And I'm not saying that's a bad thing, but part of the reason is that during even recession times, contracts with police, fire, and teachers are designed not to have a zero increase, but an increase. So over a period of 30 years, you're going to see educational spending in all of the districts in the state go up dramatically, and I'm not sure that's the case around the country. I don't know that it's as much a given around the country as it is in New Jersey. Very difficult to change those systems.

AUDIENCE MEMBER: Isn't there a difference between educating 1 percent of poor children in a high-wealth district versus 90 percent of poor children in a low-wealth district? If the problem regarding the education of disadvantaged children in higher-wealth districts is that the local district has not attended to that problem, then the state education department has unlimited power to control education in New Jersey. If there's a problem with some *Abbott* district spending too much and getting too little, where does the state education department step in, especially since two of those districts have been operated by the state itself for between 10 and 15 years?

If you get nothing else out of this, I hope you will go home and read and think hard, and try to understand the new school funding proposal. I think it's a very skillful exercise in public relations. If you think about one of the themes—that money shouldn't follow the zip code—isn't that really what *Robinson* and *Abbott* were all about? But that slogan has been co-opted now on behalf of wealthier districts, who have said, "It's unfair to give all this state aid to poor districts." So I suggest to you to be very slow to embrace this new approach, because in my view it's a very tricky and, I think, potentially very dangerous slippery slope away from *Abbott*, away from the values everybody around here, former governors included, have fully subscribed to. Who could oppose helping disadvantaged children, wherever they live? The question is how do we help them?

BYRNE: You, in that very interesting and in-depth analysis, you didn't touch what the real problem is, and I don't know what the real problem is. Is the real problem just money? I don't think so anymore. I told you that. Is the real problem we don't have the adequate teachers? I'm not sure. I gave you the Frank McCourt example, where he taught in one school, he was great; he taught in another school, he was terrible. Is it motivation? Do we need money to get people motivated? And if we do, where do we spend it? I don't think we're looking at a real analysis of what we need and how we get there.

AUDIENCE MEMBER: What specific procedures are in place to hold school districts accountable for the money they receive? What happens when the money and equipment

arrive ahead of the training, leaving teachers unable to use the curriculum?

LEONE: Well, I think, on behalf of the panel, obviously they're not managers.

FLORIO: Yeah, but let me just say one of the things that we don't do in New Jersey that we really should do to a much greater degree, that used to be done at the Washington level, that has not been done for the last six or seven years, is oversight. Now it's one thing to pass laws. It's another thing to appropriate monies to carry out the laws. But then there's supposed to be a legislative function or an administrative function of actually going and seeing how the money is being implemented, seeing how the money is being put forward. New Jersey has not got a great history in terms of legislative oversight. A scandal, a decapitation, whatever, hits the newspapers, then someone will hold a hearing on it. But the normal routine of having legislative oversight is not done, and I think in some respects that's what's going to have to be done to a much greater degree, in terms of being able to make sure that the requirements are being carried out, and that there are trained professionals there. We're going to have to have a much higher degree of involvement by the legislature or the department to ensure what's going on is supposed to be what's going on.

AUDIENCE MEMBER: Regarding the intrinsic factors of education, such as the academic self-concept of students and their understanding of the expectations placed on them, could a portion of additional funds be directed to professional development programs for teachers?

BYRNE: If I can comment, I think we're dancing around the issue of whether charter schools or vouchers aren't the best way out of this. And the key word is motivation. Isn't that where we're headed? Or isn't that where we should be headed?

LEONE: Anybody want to comment on charter schools specifically?

FLORIO: Motivation doesn't have to be in a private school or a charter school. Motivation goes to teacher training. I'm a big believer, and I know this is controversial in some areas. I happen to think education costs are extremely important for educators. A lot of folks say, "No, no, we just want subject matter training," and if you don't know how people learn how to learn, then you're not going to be particularly good at giving information out, so I think that's something that's important. My apprehension about over-reliance upon vouchers or the charter schools is that it brings sort of a market mentality to the educational system that is not appropriate in a democratic society. I've always supported the charter schools that I've been involved with, that I know something about, as long as there was a commitment to say this charter school—in the city of Camden, where I know one of the charter schools—is in a sense almost a demonstration project. I don't want to come back here 10 years from now and find out that this publicly supported charter school is sort of an island of excellence in a sea of despair. If you can go learn how to do it right there, and then provide to the rest of the school system the same skills, the same motivation, that you have in this school, that's fine. But not to have a permanent little island,

as I say, of excellence for a long period of time.

AUDIENCE MEMBER: Are we using pre-service education and professional development to prepare teachers not only for 21st-century schools, but for a 21st-century way to learn? Is there any thought to spending some money on working within the communities to help students arrive at school able and ready to learn?

DIFRANCESCO: Well, that's been the case forever. That's what I meant before about you're spending all this money in the schools, but what about their life outside of the school? What are we doing there? What is the community doing? What is the municipal government doing? What are the programs available? And my feeling has always been that we're lacking there. *Abbott* has helped us with respect to the school district, but haven't really responded with respect to the community itself, in developing these children who are born in unfortunate circumstances, giving them opportunities that other kids have around the state.

FLORIO: You know, one area of great progress over the last 15 or 20 years has been the business community's involvement in understanding. When the things we did in 1990, in '91, went into effect, as some can remember, [they] were very controversial. I can remember having heated conversations with people, who I thought were more sophisticated than they ultimately were, who were saying, "What are you giving money to them for?" It was something that was very, very ugly. But what's happened is that the business community has

come to realize that the workforce of the future is everywhere, and it may even be disproportionately minority people with language problems, and, therefore, that community—the business community—has become involved and been much, much more supportive of providing education for everyone, not just because it's the right thing to do, but because it's the smart thing to do from their perspective.

LEONE: I think I'm going to raise a question. We often talk about education in two different ways. One is we talk about what can happen with gifted and talented teachers, principals, school districts, and we have models. The other way we talk about it is in terms of what we can do that affects the system. How can we reproduce that model? How can we have thousands of good schools like that? I'll just start by saying two things, and this one's a commercial. The Century Foundation, together with the Russell Sage Foundation, are about to publish a book, which summarizes all of the evidence about charter schools in the nation, and we now have thousands, and we have years of experience. And it essentially shows that it's a 50–50 proposition. Some of them work pretty well. Some of them don't work as well as public schools. Probably the reasons are the same reasons some public schools work better than others—gifted, talented teachers, principals. When the court looks at this, however, the court is trying to look at some way to change the system across the board, and it uses money as a proxy for improvement for a very good reason. We use that as a proxy in other places. Goldman Sachs, to pick a firm at random in New Jersey,

gets very good people, and it pays them a lot of money, I mean really a lot of money, as we know. Now, would it get those people and have that performance if it paid less than Merrill Lynch, or Solomon Brothers, or UBS, or the rewards were less? Now obviously we want people in teaching and in medicine and in politics who are motivated by things other than money, but you can't blame a court in the United States of America in 2007 or over the last 30 years for saying, "Money must be pretty damn important. It may not be the only thing. I can't issue a decision that says, 'You shall only hire gifted and talented principals and superintendents, and have only well motivated and serious board members.'"

At one time education in New Jersey was very much a closed shop. That closed shop actually used to meet at the Princeton Inn, which was then a private institution, not a dorm here in Princeton. It was called the Princeton Group. And the commissioner of education met with the head of the NJEA, the school superintendents, the school administrators, and they made policy. The state colleges at that time all served that system. Each of the state college presidents was a principal, had been a principal, come up through the system. And they kept the peace, and they didn't spend much by contemporary standards, and people were unsatisfied with the results and they made changes. The results are uneven now, but there have been significant changes. I'm going to ask a simple question: Do we long for a simpler time? Were we better off 30 or 40 years ago than we are today? Or has the court and the consequences of the court decision made a positive difference?

FLORIO: You can spend a whole lot of time lamenting the fact that the world has become much more complex, but it's probably time you've wasted lamenting that. The fact of the matter is we have what we have. And, therefore, we have to figure out new systems for dealing with the complexities that we have. We're not going to radically change the basic governmental system. What we have to do is to figure out how to create more opportunities for interaction to achieve the goals. But that means you have to start out by defining what the goal is. For example, in education, one of our new goals ought to be to train our young people to be part of the world. We have an educational system that doesn't focus on languages, doesn't focus on geography, doesn't focus on learning about other people's cultures around the world. Think about how things might have taken a different turn if six or seven years ago, the American people had a basic, fundamental understanding of the fact that Sunnis, Shiites, and Kurds are not likely to come together and be just partners in progress and peace, and that for 1,600 years they haven't done it. So there's a need to change our educational system to take into account the new realities of world citizenship that people are going to be involved with in the future.

BYRNE: I was at a meeting on this campus a couple of weeks ago of economists, and one of the economists made the point that our whole educational system is based on an industrial complex that the United States has, and that we train people for competing in the industrial complex of the 1800s. We march them into school the same way we march

them into a factory. We blow a whistle. They sit down. They memorize stuff. They blow another whistle and they leave for lunch. Then they come back for the afternoon. And their success is based on what they memorize. And he made the point that they can come up with a chip that can outdo any student who's on that program, and what we really have to do is teach kids how to think and we're not doing it.

KEEVEY: If, in fact, the revenues are only going to go up two percent per year, and we have school aid that's committed to an additional \$450 million, and we have rising property taxes that everybody is concerned about, and we have the rest of the state budget, including municipal overburden that Governor DiFrancesco alluded to, and Medicaid problems, is it time to re-look at the whole tax structure of the state in order to keep *Abbott-Burke* going and in order to fund the rest of the state government? We're looking at presumably a \$3 billion shortfall. What would you think about re-looking at the entire tax structure?

BYRNE: Reworking the state tax system in what way?

KEEVEY: Well, one argument could be made that we need to have a more progressive tax structure. We need to broaden the tax base. For example, just looking at the sales tax, it's quite narrow. It doesn't tax a lot of services. It doesn't tax food. It doesn't tax clothing. And those negative aspects of that base could be taken care of by tax credits and things of that nature. But if, in fact, we have this mounting problem, and the commitments that Professor Tractenberg suggested, maybe we don't have

enough money to fund *Abbott* as the years move on. What is the alternative? Is there another way to raise taxes in this state? Is it time to re-look at it?

BYRNE: Ha, ha, ha.

LEONE: I don't know. These panelists have put in their time on tax issues. It's a good question.

FLORIO: I don't want to beat a dead horse, but the whole idea is, if in fact you're going to talk about systemic change in anything, someone has to be out front. Usually the first folks get mowed down. The first lieutenants generally get mowed down. But someone's got to put something on the table. I never take anybody seriously, who is a critic, who hasn't got some specific, constructive proposal to offer as an alternative. And in New Jersey, the situation is such that the legislature is just constitutionally not capable of being able to launch initiatives that are comprehensive. The judiciary is not supposed to be doing that, so it falls upon the executive. If the executive is willing to go launch things, and obviously it's not someone by themselves, they have to go build a base of support for it in the private sector and the public sector. But whether we talk about electric deregulation, or we talk about alternative energy systems, or school financing or taxes, those types of comprehensive things require real, effective leadership. And the point that I would make, and I've made it on a couple of occasions today, is the times that we are in are just so dramatically and rapidly changing that, for the most part, many of the institutions, many of the policies, many of the laws we have

conjured up in a different day, we should not be surprised they don't work because the facts on the ground have changed dramatically. So there's a need for changes that are not just incremental, just not marginal. There's a need for systemic change, but, as Governor Byrne implied, it's easier said than done.

DIFRANCESCO: You know, as a long-time legislator, I watched when they raised the sales tax. Last year I guess they raised the sales tax a penny, and all of you probably watched that too. Now that's not what you're talking about because that's not as progressive as you mean. But look, they struggled. They struggled to raise the sales tax a penny, made it seem like it would be political suicide voting for a 1 percent increase in the sales tax. My part of that, my line always was in 1982, I voted to raise the sales tax a penny. No one called me to criticize me. I didn't get one letter saying, "You bum," blah, blah, blah. 1992, we reduced it by one penny. No one called me to thank me. No one said a word to me. So I chuckled over this struggle to raise the sales tax one penny, as if they were going to lose an election, which I know you never lose an election over taxes. You lose it for other reasons. And so to do what you suggest might be doable, but it takes a lot of leadership, takes a lot of cajoling, takes a lot to convince a legislature that this is a policy that we have to do in this time. It took years to get a 2 percent income tax passed. And not to point at Governor Byrne, I mean Hughes, Cahill, Governor Byrne all tried. It took theoretically 10 years to get that passed, let alone raise it from 9 percent to 12. It's very difficult, and so my constant advice to legislative leaders is don't put too much out there. Don't say

you're going to change the world. Don't come out with 20 different things you're going to do this year. Pick one. Take baby steps if you have to, but start, get yourself on a ladder of getting to where you want to be. Governor Corzine struggled for two years with some of these issues, and part of it is his legislative leadership is not cooperating with him. He needs their cooperation, in order to enact some of the policy initiatives that you'd like to see enacted. It's a new era. It's hard. It's not easy.

LEONE: There are three things in the budget that increase a lot faster than revenues, and it's interesting to think about them and what their political support is. One is education, where there's broad political support because it's also property tax relief. But if all the money goes to a few places, the political support is narrow. The other is healthcare, which is the next biggest item—which tends to go to poor people. It's Medicaid, charitable care, so the constituency for that is very narrow. The third, and actually for a number of years the most rapidly growing in percentage terms, was corrections, because we vastly increased the number of people in prisons. That is very popular actually, even though it's quite expensive. When you look at the budget, and you look at the spending side, it's impossible to achieve any of this balance that everyone desires, without doing something in all three of those areas, or at least two out of the three, and that's going to be very difficult. I think Paul Tractenberg raises an important question. Underneath, the court's power and its decisiveness has masked the limited public support for increasing the amount of money for a relatively small number

of districts. The healthcare issue has been masked by a couple of things, including the fact that we have the pharmaceutical industry here, and so we don't do a lot of things to save money in that area that every other state does, and that's also an expression of the way politics works.

AUDIENCE MEMBER: Do you support the fundamental idea behind Governor Corzine's proposal to adjust the funding formula?

DIFRANCESCO: Yeah, I said before that I kind of do. I guess Paul's very suspicious about this, and maybe I should be more suspicious. I just think to implement this is going to be a real difficult task, and we haven't seen a bill. It's going to be very hard to implement this in every district in the state. Who's poor? Who's not poor? I don't know. Maybe; but ideally I like it.

BYRNE: One thing I'd like to get some comment on, because I talk to a fair number of people, and people are trying to beat the system, I'm told that one way to beat the system is to throw kids into special education. So if you're in a town like Millburn, where you don't get any state aid, you have a lot of kids do special ed.

DIFRANCESCO: They do that.

LEONE: Because you get the special education money regardless of the wealth of the district.

KEEVEY: Well, to some degree, Governor Corzine's proposal makes some attempt to address that issue, because he is putting some

special education money into the equalization formula and some funding for special ed as a separate component. I think the total would be the same. The distribution perhaps would be different is my understanding.

AUDIENCE QUESTION: What entities—the legislative branch, the judicial, the executive—are the most effective in identifying and addressing urban education problems? Which one would you say is the most effective in identifying and addressing these especially urban education problems?

DIFRANCESCO: Well, I was only governor one year. Some pass the buck on these issues, but I certainly don't. Who's supposed to be? The Department of Education. The Department of Education should be dealing with issues like (he) raised, and the implementation of all these programs and oversight for these programs. They should be doing it. You're saying who's doing it best? . . . I would think, personally, I would think the governor's office is the best at identifying the problems through its cabinet and dealing with the issues, but I don't know that there can be any number one in this situation.

AUDIENCE MEMBER: When will the state focus on the needs of the children instead of politics?

FLORIO: I don't know how to respond to the question because it's a question about life. To say there's no simple answer, but this is what we have government for, to try to work through some of these difficulties. And, yeah, the old saw about you if don't like the

expense of education, find out the expense of ignorance. So, again, you also talked a little bit about administration. There's lots of areas that we could do something about, but there doesn't seem to be a political will to do that sort of thing. I can recall—I don't know if the numbers are still the same—but when I was in office, I used to quote the fact that New Jersey spent 40 percent higher than the national average for our administration of education. But whenever anyone tries to say we should coordinate, rationalize school districts, so as to be able to eliminate the cost of the redundancy and the duplication, to have, as what you seem to be implying, a uniform outcome across the nation, across the state, that doesn't seem to have a whole lot of political support as well.

AUDIENCE MEMBER: Governor DiFrancesco talked about the sales tax issue. Last year it was a major battle in Trenton about raising the sales tax. But, okay, it got through. Half of the penny was going to go to the property tax relief. That was the final agreement. Everybody went back and they were happy. We just turned down a proposal to dedicate the other half cent to property tax relief. From the average taxpayer's perspective, did we need the one cent increase to begin with? It didn't go to pay down the debt. It didn't go for the original justification for it. It went, again, to make some people politically happy with the school construction, \$8.6 billion.

FLORIO: Well, we know what you're against. What are you for, by the way?

AUDIENCE MEMBER: What are we for? Where are we going to be in five years, in 10

years? We're still going to be having the same conversation, because it isn't focusing on the problem. We're focusing on the sickness.

BYRNE: You're right, though. The fact is that we're not interested. Hubert Humphrey used to have a great two-hour speech on the Constitution of the United States, two-hour speech. I heard it once. And one of the points he made was that nowhere in the Constitution of the United States will you find the word efficient.

FLORIO: I'm just not prepared to concede that efficiency is the beginning and the end, even monitoring efficiency. If we're talking, and Dick earlier talked about Goldman Sachs folks and whether they were worth the money we pay for them. But you can very well objectively determine whether they're worth it or not from the profit and loss outcome. Can you do the same thing in government? Because some of the outcomes are not as neat as whether you made money that year. Should we be striving for cost-effective programs? The answer is—of course. But it's not as easy to determine as a profit and loss statement is at a corporation level. There's a lot of disputes. I suspect if we went around person to person in this room, outcomes that we want to achieve in education would probably be as numerous as there are people in this room. So the whole idea that somehow we're going to discover what the magic formula is that will get us to nirvana tomorrow is just something that's very unrealistic and, in some respects, immature. The process of governing is the process of constantly striving to be able to get the best arrangement at the time for the majority of people in the society. And, again,

that's just something that's not neat. Churchill said, "Democracy is the worst system, except for all the rest." And so what we do is as long as we're continuing to progressively strive to a higher level of attainment, that should be what we try to do, rather than somehow lamenting the fact that we haven't reached the ultimate point of perfection.

AUDIENCE MEMBER: Was there ever any thought given to why New Jersey's public schools are some of the most segregated in the United States? Would you have had the courage and political will to look at integration in the state, recognizing the long history of home rule?

LEONE: Actually, I can probably answer it quickly and save you the trouble. All of these people had before them the example of Governor Richard J. Hughes and his commissioner of education, Marburger, who raised the question of crossing district lines in order to integrate the schools, and is generally given credit for turning a two-to-one Democratic legislature into a three-to-one Republican legislature. So there was that kind of experiment with throwing that idea out in New Jersey politics, and it had a decisive consequence. I don't think it became an issue that rose to the level of a test of courage, because it became irrelevant after that, as a prospect. I started this conversation talking about the *Coleman Report*, and we all know that integrating schools by, not necessarily by race, but by economic class would do some good for the people whose economics are not so good. There are some places in the country where that actually is done, including parts

near St. Louis and in North Carolina. But in the rest of the country, it's proven extremely difficult, and it is now being fought out at higher education as a substitute for racial integration because the courts—the United States Supreme Court—does not look with favor on using race in any way as a judgment of who can go to what school, or who can be admitted to what school. And we will probably find out over the next decade in a series of Supreme Court decisions how they feel about economic criteria being used to admit people into colleges and programs. In other words, admitting some people because their incomes are low, who might not otherwise be admitted. So it'll play out at both levels. But I think there's a world of what's relevant to politics and a world of what's irrelevant to politics, and it became irrelevant in New Jersey in the 1960s and '70s for reasons that were nakedly political.

BYRNE: What you're seeing a little bit is a city like Hoboken, for instance, which had the problem 20 years ago and doesn't have the problem now, not because we did anything in Trenton, but because they did something in Hoboken. And now Hoboken is a very integrated community. Montclair is now a very integrated community. And so I think you're seeing that from the back end forward, slowly.

AUDIENCE MEMBER: Regarding special education funding, will the new formula no longer allow funding to follow individual children? Has the state conducted sufficient evaluations of district performance to support the proposed alterations?

LEONE: I think the way to put the question is, is this change in the formula reflective of what we know about what's actually happening in the schools and how well they're performing against the criteria that already exist, or is it a mechanical change that simply affects how the money follows people, students with particular characteristics?

FLORIO: About special education?

LEONE: Everything really; the whole thing.

FLORIO: Well, as I understand it—and I don't purport to be an expert in this new program—the special education formula is going to be changed by dealing with every student. It's almost the converse of what's happening across the board, saying that special education students, when in large concentrations, are more difficult and more expensive to try to treat, and therefore there will be weighted formulas for providing money for special education students who are in larger concentrations. I think maybe we should defer to Gordon, because that means there is a change from an equal amount of money for special education for every student to perhaps providing more special education money for those special education students that are in concentrations, presumably urban areas.

AUDIENCE MEMBER: Well, I believe it's the average for the state, and then it's going to be multiplied by your enrollment. So it's not going to look at the number of children, to address your point that some districts may be loading that special ed component. But I think it would've been better to look at why those districts are loading up on special ed.

DIFRANCESCO: They get money.

AUDIENCE MEMBER: Well, because they need it. Like why are you going to address special ed, and push the funding to address what's a different underlying need of these districts?

LEONE: I don't think any of us can answer that question. We literally only know what we've read in the paper about the program, and I'm sure it'll be part of the process. Gordon MacInnes probably can address the question.

MACINNES: A lot of these issues are raised around the oversight by the Department of Education. I would offer an observation that I think is pretty crucial to this discussion. The Department of Education is established to regulate. The assumption that it recognizes good or bad education is an assumption that one should not make. It does recognize compliance with regulations. It can count. It can receive reports. It can require reports. It can do things that are common to bureaucracies, and that is in direct conflict with the habits of mind that you need to offer high-quality instruction to kids in poor school districts. And so it does not really have—has not had—the mission to be a partner in the better education of kids. It's had the mission to write regulations and to enforce them, and that's why the State Board of Education exists and that's what it does. It takes about a year for a proposal for regulations to adopt them, and they put it through so that all the groups have an opportunity to comment on it, and that becomes the law. And the practice of education requires not a formula or a mechanical approach. It requires a

different approach, if it's going to be effective, and that is not an approach which is within the culture of the Department of Education. So I think we ought to stop looking for a mechanical answer that can be easily adopted, that will be enforced by bureaucrats in Trenton and driven home in Camden or Newark or wherever.

FLORIO: But if I could just amplify off of what Gordon said. The theory is, and the theory actually works where it's supposed to work, is that, for example, the Department of Education comes before the appropriations committees for monies every year. At that point, it is a legitimate set of responsibilities of the legislators to say, "Well, we're giving you this money. You have regulations. Are the regulations carrying out the clear intent of what we want?" And if, in fact, they're not, people are supposed to be called on the carpet. That doesn't work very well at the state level. That's just a commentary on what we should be doing and, again, I happen to believe that it's executive driven. The executive should drive the legislature to go and make sure that they do what they're supposed to be doing, which is the oversight responsibilities. So it can't be just saying, "Well, it doesn't work," or "We haven't got a plan," or whatever. All the pieces are in place, for making this Civics 101 for making the process work well. We just have to have more concentrated focus on having accountability, cost-effective allocation of money, and appropriate declarations of what the goals are that we're trying to achieve. The system can work. It just needs more of a hands-on, jumping into the process, beating up some people that have to be beat up from time to time.

KEEVEY: Well, we started out with *Abbott v. Burke*, and we wandered into tax policy, and municipal overburden, and integration, and formulas, and family content and family values. So I would like to thank Dick Leone for being the moderator for this panel, and Governor Byrne, and Governor Florio, and Governor

DiFrancesco, and you, the audience, for coming. We like to do these kinds of forums, but they're not possible without the interest of the panelists who participate. And I know they have all very busy schedules, so we certainly appreciate it and maybe we could give them a round of applause.

Appendix A: School Funding Reform: One Formula Reaching Every Child

Lucille Davy
Commissioner, New Jersey
Department of Education

The recently adopted school funding formula in the School Funding Reform Act of 2008 is the first step in the effort to end years of inequities in and disputes about state aid for our schools. Now, for the first time in a decade, one funding formula will be used to determine state aid to each of New Jersey's 618 school districts.

Districts that have been short-changed for years as their property taxes escalated, districts with high rates of enrollment growth, and districts with rising numbers of at-risk students are finally on the road to receiving their fair share of state aid.

The new formula will ensure that all children in all communities will have an opportunity to succeed because their school districts will have the resources to prepare students for career and educational opportunities after high school.

A LONG ROAD TO REFORM

The debate around school funding equity has been ongoing since the *Robinson v. Cahill* era, which began in 1976 with the supreme court case. Over the last 30 years, the state has struggled to provide a thorough and efficient

education for all of its students. The state's last attempt at a school funding formula was in 1997, with the inception of the Comprehensive Education Improvement and Financing Act (CEIFA). However, the New Jersey Supreme Court declared CEIFA unconstitutional as it applied to the *Abbott* districts, the group of 31 urban districts that had been locked in litigation with the state for more than two decades over adequate resources for the low-income children who resided within their boundaries.

The court held that the amount of aid provided in CEIFA was not based on any actual study of the needs of at-risk children or the costs of supplying the necessary programs, and so required an interim remedy. The state was ordered to provide what the court called per-pupil "parity aid," an amount equal to the average annual amount spent for each child by the state's wealthiest districts. In 1998, the court ruled that *Abbott* districts could also seek additional funding over and above parity to meet specialized needs.

Meanwhile, from the 1997–98 through 2001–02 school years, CEIFA determined the state aid entitlement for the non-*Abbott* districts. As the state began to experience budget difficulties in 2001, state aid for non-*Abbotts* was either held flat or provided as a simple percentage increase that did not recognize

changes in enrollment or other demographic changes in the non-Abbott districts.

The result was a two-tiered funding system that continued to provide generous amounts of state funding to help students in Abbott districts, while a growing number of the at-risk children in the state, who live outside Abbott boundaries, were denied access to these same resources simply because of their zip codes.

During this period, many districts were undergoing significant demographic changes. Large housing developments were springing up in once-rural areas, drawing in young families with children who had to be educated. Suburban and exurban districts began to enroll more and more low-income children and children whose families did not speak English at home, and these students required additional resources. But with base aid numbers frozen in 2001 demographic data, it was impossible to shift state resources to meet the districts' changing needs.

And as districts struggled to address these problems with diminished aid from the state, many people living in middle-income communities found themselves forced to pick up a larger and larger share of the cost of public education through local property tax increases.

HOW THE NEW FORMULA WORKS

The Department of Education began working on a new formula in June of 2002. Three months later, the department signed a contract with Augenblick, Palaich and Associates, Inc.

for consulting services. The department then convened three different professional judgment panels.

This work led to the October 2006 release of the *Report on the Cost of Education* and a round of stakeholder and legislative meetings throughout 2007. The department presented its proposed funding formula to the Legislature in December 2007.

Passed in January of this year, the School Funding Reform Act of 2008 distributes approximately \$7.8 billion in state aid to K–12 education for the 2008–09 school year, an increase of approximately \$550 million.

Funding will be distributed through a foundation formula. The calculations are based on a per-pupil adequacy budget, reflecting an analysis of what it should cost to educate a child according to New Jersey's standards in an efficiently functioning K–12 school district. A base amount is set for elementary school students and is increased for middle school students, high school students, and vocational school students, since it grows more expensive to meet students' needs as they get older and vocational schools cost more to operate than traditional high schools.

Additional weights are added to the bases at the various grade levels for at-risk students (those eligible for free or reduced lunch), students with Limited English Proficiency (LEP), and special education students. A combination weight is calculated for students who are both at-risk and LEP. Because there are additional challenges in meeting students' needs in a

very poor district, the additional at-risk weight increases as the poverty concentration in a community increases. Because the cost of goods and services vary throughout the state, each district's adequacy budget is adjusted by a geographic cost index.

SPECIAL EDUCATION FUNDING

The formula also improves the way special education is funded in New Jersey. Under a method used by the federal government and many other states, each district's adequacy budget for special education costs will be calculated by using a "census model" by multiplying the district's total enrollment by the statewide average classification rate of 14.69 percent and by the statewide average special education excess cost.

One-third of each district's base special education costs will be funded on a categorical basis, which means the district receives 100 percent funding for one-third of the special education costs calculated using the "census model," and two-thirds will be funded on a wealth-equalized basis. This means that districts receive two-thirds of the special education costs calculated by the census model based on its relative wealth defined by property and income. The state will also reimburse all districts regardless of wealth for most of the extraordinary costs of providing special education programs for students with the most severe disabilities.

CALCULATING THE DISTRICT'S FAIR SHARE

Districts' total adequacy budgets are supported by a combination of state and local

funding. Under the formula, the calculation of each district's local fair share is based on the wealth of each community as measured by aggregate income and property value. This is the same method of determining the fair local contribution as was used under CEIFA. As should be expected under an equitable system, wealthy municipalities will still be expected to pick up a larger share of the cost of public education in their districts than poorer communities, but every district will continue to receive state aid.

Another important aspect of the new process is that the demographic data on which it is based will be updated every year, and every three years, the department will update the adequacy budget resources and the estimate of costs on which it is based. In the intervening years, the adequacy budget costs will be inflated annually by the Consumer Price Index. This will help us avoid situations in which the allocation of state aid doesn't keep up with changing circumstances, resulting in inequities and imbalances.

STABILIZING PROPERTY TAXES

Finally, the law enacting the formula also has a provision that will help stabilize property tax growth in some communities. Specifically, 120 districts currently spending above adequacy and contributing more than their fair share toward their educational costs will be required to use a portion of their state aid increases to offset their school tax levy increases. This provision in the formula responds directly to concerns about property taxes voiced by municipal officials and the public at large at the

public hearings held during the development of the new formula.

STATE-FINANCED PRESCHOOL FOR AT-RISK CHILDREN

One of the most exciting aspects of the new funding law is the governor's commitment of state funds for high-quality preschool for low-income three- and four-year-olds throughout the state. The expansion will be phased in over time; the goal is to reach at least 90 percent of the eligible population within six years.

With all that we know about the significant impact that high-quality preschool can have on a child's academic career, this is the single most productive step we can take in terms of improving education in New Jersey. Research and the department's experience with the *Abbott* preschool program show that early preparation has very positive effects on literacy development, school readiness, and later success in school.

When at-risk children attend quality preschool, they enter kindergarten more ready to learn. At this level, the gap between these children and their more economically privileged classmates has been dramatically reduced. They have experienced the thrill that comes with understanding and achieving, and they are ready to move on to the next level.

Research has also shown that quality preschool for at-risk children translates not only into higher achievement levels at school but also gives a much better shot at success in life.

MOVING FORWARD

Two very clear principles will continue to guide the implementation of the new school funding formula as we move forward.

First, the department will continue to support the reforms for children that have been implemented successfully in the former *Abbott* districts. This formula responds to our constitutional responsibility to provide a "thorough and efficient education" to all of New Jersey's children. Many of the former *Abbotts* are already among the highest-spending districts in the state, but no district is going to receive less money than it will receive in 2008–09 unless there are enrollment decreases over the next three years that exceed 5 percent.

Second, as Governor Corzine has directed, taxpayers throughout New Jersey need to be assured that their tax dollars are being spent effectively in all districts. In the past two years, the legislature has given the department three very important tools to ensure that districts are being held accountable for their spending decisions: NJQSAC, the state's new district monitoring system; CORE, the 2006 law that focused on increased education efficiency and responsibility; and the School District Fiscal Accountability Act.

The new funding formula complements these provisions by providing the commissioner with authority to withhold funds if the commissioner is not satisfied that all educational expenditures in the district will be spent effectively and efficiently in order to enable

students to achieve the core curriculum content standards.

This new school funding formula does what it was expected to do: it accounts for the needs of all children in all communities. It is equitable, fair, and based on need, not zip code. It is a true formula, one that has not been in place for a decade. It is a single formula that

addresses years of inequity, while, at the same time, it provides children in New Jersey with the best opportunities to learn.

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Appendix B:

Conference Agenda

A View from the Top:
A Conversation with Former Governors about *Abbott v. Burke*

DECEMBER 14, 2007

Sponsored by the Policy Research Institute for the Region at the Woodrow Wilson School of Public and International Affairs, Princeton University

Welcome

Richard F. Keevey, Director, Policy Research Institute for the Region, Princeton University
Herbert T. Green, Director, Public Education Institute

Opening Remarks

Richard C. Leone, President, The Century Foundation

Putting *Abbott v. Burke* in Perspective

Gordon A. MaclInnes, Senior Education Policy Expert, Woodrow Wilson School

Panel Comments and Observations

The Honorable **Brendan T. Byrne**
The Honorable **James J. Florio**
The Honorable **Donald T. DiFrancesco**

Questions from Moderator

Questions from Audience

Closing Remarks

Richard F. Keevey, Director, Policy Research Institute for the Region, Princeton University

Appendix C:

Participant Biographies

The Honorable Brendan T. Byrne

Brendan T. Byrne served as the governor of New Jersey from 1974 to 1982. He also served as the prosecutor of Essex County, president of the New Jersey Public Utility Commission, and assignment judge of the New Jersey Superior Court.

Governor Byrne is a former vice president of the National District Attorneys Association, chairman of the National Commission on Criminal Justice Standards and Goals, chairman of the National Governors Association Committee on International Trade, and a former trustee of Princeton University. He is an editor of the *New Jersey Law Journal* and the *Irish Law Reports* and former chairman of the Princeton University Council on New Jersey Affairs and United States Marshalls Foundation.

Governor Byrne was a member of the boards of directors of Prudential Insurance Company of America, New Jersey Bell Telephone Company, Elizabethtown Water Company, Jamesway Corporation, Ingersoll-Rand, Mack Cali Realty, and Chelsea GCA. He also served as a commissioner of the New Jersey Sports and Exposition Authority.

Governor Byrne received his B.A. from Princeton University and his L.L.B. from Harvard University.

The Honorable Donald T. DiFrancesco

The 51st governor of New Jersey and a long-time member of the State Senate, Donald T. DiFrancesco's career in public service began with his election to the New Jersey General Assembly in 1975. In a special election in 1979, Governor DiFrancesco was elected to the New Jersey State Senate, to which he was re-elected six times, representing the 22nd Legislative District. He served as minority leader from 1982 to 1984. In 1992, he was chosen to serve as president of the Senate, setting a record for his decade-long service in that role.

On January 31, 2001, Governor DiFrancesco became the first New Jersey legislator since the amendment to the 1947 State Constitution to serve in the dual role of governor and senate president. He provided New Jersey with outstanding leadership, particularly during the difficult period following the terrorist attacks of September 11, 2001.

Governor DiFrancesco's accomplishments include the establishment of the Catastrophic Illness in Children Relief Fund, the passage of the Family Leave Act in New Jersey, and the enactment of the New Jersey Better Educational Savings Trust, a state-managed program designed to encourage saving for college.

Governor DiFrancesco graduated from Pennsylvania State University in 1966 and Seton Hall University School of Law in 1969, when he was admitted to the New Jersey Bar.

Governor DiFrancesco rejoined his law firm, then named DiFrancesco, Bateman, Coley, Yospin, Kunzman, Davis & Lehrer, P.C., as managing partner. He serves on the boards of directors of Commerce Bancorp, the New Jersey State Chamber of Commerce, and Children's Specialized Hospital of Mountainside, as well as Crime Stoppers of Somerset County. Governor DiFrancesco holds honorary degrees from Rutgers University, Kean University, and Centenary College.

The Honorable James J. Florio

James J. Florio served as governor of New Jersey from 1990 to 1994. During his term, he signed into law the Clean Water Enforcement Act, the Quality Education Act, a landmark welfare reform package, a healthcare cost-reduction program, and the nation's toughest assault weapons ban.

While in the U.S. House of Representatives from 1974 to 1990, Governor Florio authored

the Comprehensive Environmental Response Compensation and Liability Act. As chairman of the House subcommittee with jurisdiction over environmental matters, he was involved in the drafting or passage of virtually every major piece of federal environmental legislation. Governor Florio also wrote the legislation that privatized Conrail and served on the U.S. Secretary of Energy's advisory board.

Governor Florio entered public service in 1969, serving three terms in the New Jersey General Assembly. Previously, he was an attorney in private practice in Camden County. Governor Florio received his Juris Doctorate from Rutgers University Law School in Camden. He graduated magna cum laude from Trenton State College and attended graduate school at Columbia University, where he received a prestigious Woodrow Wilson Fellowship.

Governor Florio has been a university professor for public policy and administration at the Edward J. Bloustein School at Rutgers University. He also served as chairman of the board of directors of the Federal Home Loan Bank of New York and as chairman of the Pinelands Commission in New Jersey. Governor Florio currently serves on the board of directors of the New Jersey Health Care Quality Institute.

Governor Florio holds numerous honorary degrees and was the 1993 recipient of the Profile in Courage Award by the John F. Kennedy Library Foundation. He is a founding partner of Florio Perrucci Steinhardt and Fader.

Herbert T. Green

Director, Public Education
Institute, Center for Effective
School Practices, Rutgers
University Graduate School
of Education

Herbert T. Green is the director of the Public Education Institute (PEI) at the Center for Effective School Practices within the Rutgers University Graduate School of Education. Established in 1985, the PEI serves as an independent forum where citizens, community leaders, scholars, and policymakers can debate local and state educational issues and recommend timely policies grounded in sound theory and research.

Green is a 1947 graduate of the U.S. Naval Academy. He has been a resident of Plainfield since 1957 and has served on the board of education twice, first appointed by the mayor and then elected by the voters.

He is the founding director of several not-for-profit organizations dedicated to educational improvement statewide, with particular emphasis on meeting the needs of poor and minority children. He was named a Distinguished Leader in Education in 2003 by the Rutgers University Graduate School of Education.

Richard F. Keevey

Director, Policy Research Institute
for the Region

Richard F. Keevey is the director of the Policy Research Institute for the Region at the Woodrow Wilson School, Princeton University, and a member of the faculty.

Keevey served as the chief financial officer for the U.S. Department of Housing and Urban Development, the deputy undersecretary of defense for financial management, and the director of the Office of Management and Budget for the State of New Jersey.

In the private sector, Keevey worked for Andersen, LLP as director of budget and finance practice, as director of core administration programs for Unisys Corporation, and as director of performance management at the National Academy of Public Administration.

Keevey is active in his community. He was president of his local school board, a member of the board of directors of the local community hospital, and a member of several college advisory boards. Keevey also served as an artillery officer in the U.S. Army.

Keevey was twice awarded the Department of Defense Medal for Distinguished Services, as well as the Department of Defense Medal for Outstanding Service by the Secretary of Defense. He is a fellow of the National Academy of Public Administration, Leadership NJ, the MIT Program on Foreign Policy, and the Council for Excellence in Government.

Keevey received his B.A. from La Salle College and a graduate degree from the Wharton School of the University of Pennsylvania.

Richard C. Leone

President, The Century Foundation

Richard C. Leone is president of the Century Foundation, a public policy research foundation in New York and Washington.

His past posts include chairman of the Port Authority of New York and New Jersey and state treasurer of New Jersey. He also was president of the New York Mercantile Exchange and a managing director at Dillon Read and Co., an investment banking firm. He is a member of the Council on Foreign Relations and the National Academy of Social Insurance.

Leone's analytical and opinion pieces have appeared in the *New York Times*, the *Washington Post*, the *Los Angeles Times*, *Foreign Affairs* and the *Nation*. He earned a Ph.D. and was a member of the faculty at Princeton University.

Gordon A. Maclnnes

Senior Education Policy Expert, Woodrow Wilson School

Gordon A. Maclnnes, presently a senior education policy expert at the Woodrow Wilson School, has devoted four decades to government service and leadership on issues related to education, poverty, and urban living.

He served from 2002 to April 2007 as assistant commissioner for *Abbott* implementation for the New Jersey Department of Education, where he oversaw a division that was created to better coordinate the implementation of *Abbott v. Burke*. From 1998 to 2002, he served as president of Citizens for Better Schools, a New Jersey-based nonprofit organization.

He was a member of the New Jersey State Senate from 1994 to 1998. Prior to that, he served in the New Jersey General Assembly and held positions that included chief executive of the New Jersey Network, director of the Fund for New Jersey, special assistant to New Jersey governor Richard J. Hughes, special assistant to the New Jersey Commissioner of Education, deputy director of the White House Task Force on the Cities, and director of program development for United Progress, Inc., the anti-poverty agency for Trenton.

Maclnnes is the author of the book *Wrong for All the Right Reasons: How White Liberals Have Been Undone by Race* and the white paper "Kids Who Pick the Wrong Parents and Other Victims of Voucher Schemes."

Maclnnes has a B.A. from Occidental College and an M.P.A. from the Woodrow Wilson School, where he also served as a visiting senior fellow from 1976 to 1978 and again from 1998 to 1999. He has had numerous opinion pieces published in the *Star-Ledger*, the *Record*, the *Daily Record* of Morris County, and the New Jersey section of the *New York Times*.

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The Policy Research Institute for the Region was established by Princeton University and the Woodrow Wilson School of Public and International Affairs to bring the resources of the University community to bear on solving the increasingly interdependent public policy challenges facing New Jersey, metropolitan New York, and southeastern Pennsylvania.

With a full-time staff augmented by project coordinators and guided by faculty associates and an advisory board, the institute reflects an understanding that the issues facing our region cut across not only state and municipal borders, but also across a range of traditional academic disciplines. Our mission is to bring together the University's greatest resources—its faculty and students, its research expertise, and commitment to public service—to find solutions across boundaries that improve the quality of civic life in our dynamic, multi-state region.

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