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Gary L. Payne

Nelda H. Cambron--McCabe

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The absence of standards does not excuse the conditions that exist in Ohio's schools.

Ohio School Finance: Continuing Challenges to Adequacy and Equity of Funding

Gary L. Payne
Nelda H. Cambron–McCabe

Like many states, Ohio struggles as it attempts to fund and maintain public schools. The Ohio constitution requires the General Assembly to make such provisions, by taxation or otherwise, that will secure a thorough and efficient system of common schools throughout the state. Clearly, education is a state function and a state responsibility. Yet, many argue that Ohio operates one of the most inequitably funded school systems in the nation. As the state confronted its second legal challenge in modern times to the constitutionality of the school funding system, notable disparities abound: a per pupil funding disparity of approximately four to one exists between the richest and the poorest school districts; funds in excess of $10 billion are needed to bring public school buildings into compliance with state building codes (Ohio Public School Facility Survey, 1990); Ohio's public school buildings have the highest percentage of major flaws of any state in the nation (U.S. Government Accounting Office, 1996); and over half of the public school buildings cannot accommodate the technology available through the state's new $495 million "SchoolNet" initiatives (Ohio Legislative Office of Education Oversight, 1996).

In September 1996, the condition of Ohio's schools was dramatically and poignantly portrayed in a two-hour PBS special program entitled *Children in America's Schools with Bill Moyers* (1996). The program was broadcast the week the Ohio supreme court heard oral arguments in *DeRolph v. State of Ohio*, the latest constitutional challenge to the state's funding system. Moyers noted that the program focuses on Ohio but mirrors American schools everywhere, echoing the debate occurring around the nation.[1] Juxtaposing Ohio's affluent suburban schools against problem-plagued rural and urban schools in the documentary magnifies the difference money makes in educational opportunities for children. The wide disparities and glaring inadequacies portrayed raise critical political and moral questions that policy makers and citizens must confront.

This paper examines the structure of Ohio's school funding system and highlights specific elements that shape educational opportunity within the state. The first section describes the funding system and the specific distribution formula used by the state. Elements of the funding system that raise equity concerns follow in the next section. The third section explores the legal challenge now confronting the state. The concluding section raises issues that Ohio must address to ensure equitable and adequate educational opportunities for all children.

State Funding for Schools

Ohio serves over 1.8 million public school students in 611 school districts, spending in excess of $9 billion annually. In FY95, the state contributed 43% of the revenue for schools while school districts generated 51%. Like other states, local school revenue is derived primarily from property taxes.[2] The state spends less than one-fourth of its General Revenue Fund on education; this is a decline from 30% of the general fund in the mid-1980s. Major sources of state income include state personal income tax (41%), sales and use tax (36%), corporate franchise tax (8%), public utility excise tax (6%), and cigarette and alcoholic beverage taxes (3%). Before the 1930s, financial support for Ohio's schools came primarily from local real property taxes. In 1935, the General Assembly enacted a 3% sales tax for schools and levied the first state income tax in 1971 with the intent of funding schools. Over the past two decades, the legislature often defended other state tax increases as needed to fund schools. In 1987, Ohio citizens passed a state referendum approving a state lottery to provide "extra money" for schools.

With the approval of the 1935 state sales tax for education, the General Assembly assumed responsibility for providing a basic level of state support for education and adopted its first state school foundation program. The state formula for funding schools in Ohio has undergone several changes over the years. In FY76 an Equal Yield Formula (district power equalization) replaced earlier versions of a school foundation formula. The state legislature never fully funded the equal yield formula and eventually replaced the formula in 1982 with the present system, a basic Strayer-Haig foundation plan. The current formula consists of two major components—Part A: Basic Program Support, and Part B: Categorical Program Funding.

Funding Formula

Part A (Basic Program Support). The first part of the Basic Program Support begins with an amount of money per pupil decided by the state legislature for each year of the two-year state budget. In Ohio, the state legislature provides funding biennially, and the promised two-year appropriations are subject to immediate reductions by the Governor if the state economy suffers a downturn and state tax revenues decline. In FY82 when the General Assembly approved the current formula, the initial per pupil amount was calculated by simply allocating a lump sum of money for education in the state budget and dividing the amount by the number of pupils in the state. From the FY82 per pupil amount, the General Assembly has allocated a percentage increase each biennium based on the Consumer Price Index (CPI) and any other factors that may influence this political body at the time. In FY82, the per pupil amount was $1,410; in FY97, the amount is $3,500[3]. The designated amount bears no relationship today to any determinations of what an adequate or a quality program costs. The cumulative percent increase of the per pupil amounts over the past fifteen years is 196.61%. State figures reveal the CPI rose by 90.41% over the same period. Once determined by the state legislature, the per pupil amount is multiplied by the dis-

Gary L. Payne, Associate Professor, Miami University, and Nelda H. Cambron–McCabe is Professor and Chair, Department of Educational Leadership, Miami University, Oxford, Ohio.

trict's average daily membership (ADM) times a Cost of Doing Business (CDB) factor:

($ Per Pupil x District ADM x CDB)

The Ohio Department of Education (ODE) calculates the Cost of Doing Business factor based on wage data for all workers in the state supplied by the Ohio Bureau of Employment Services. The cost factor for a district is based on the average weekly wage for the county in which the district is located and its contiguous counties. This factor ranges from 1.00 to 1.075, and serves as a proxy to offset regional costs of providing equivalent educational services.

The second part of the basic program support section of the formula is the qualifying section. To qualify for State Basic Program Support, each district must levy a minimum local property tax of 22 mills (up from a previous requirement of 20 mills and scheduled to increase to 23 mills in FY97). Other sources of local income are not considered. Revenue derived from this local taxation is subtracted from the total amount obtained in the first part. The complete formula for Basic Program Support is:

($ Per Pupil x ADM x CDB)—(Total Value of Assessed Real Estate x 22 mills)

The state makes additional adjustments at this point to account for variations in the number, training, and experience of teachers, and other services provided. These adjustments may either increase or decrease the Basic Program Support. The amount will increase if a district employs teachers with above average training and experience or will decrease if their pupil/teacher ratio or number of educational service personnel is below average. Further, through a guarantee provision, the state cushions school districts against a loss from the previous year's level of basic aid revenue.[4] The original intent was to avoid instability in school operations that occur with the loss of state aid due to changes in student population or real property valuation.

Disadvantage Pupil Impact Aid (DPIA), the final calculation of Part A, provides additional funds for districts with a high percentage of economically disadvantaged students. The state bases the amount for each district on the percentage of district students receiving Aid to Dependent Children (ADC) benefits. A formula provides increasing funds per pupil based on the district's percentage of students receiving ADC benefits. At the top level, districts with more than 30% of their students qualifying for funds receive $1,288 per student. For many years the use of these disadvantaged pupil funds was unrestricted; the legislature did not require that districts spend these funds on the education of ADC students. State law, however, now requires that 70% of these funds must be spent on specific programs identified by the General Assembly.

Part B (Categorical Funding). Part B of the Funding Formula provides support for specific programs and/or services that the state wishes to support and foster in local school districts. By providing funds for these specific areas, the state increases the likelihood that districts will offer these programs in local schools. Supported programs include:

- Vocational education classes
- Special education classes and services
- Gifted programs
- Summer work for some school employees
- Transportation
- Programs for children in institutions
- Teacher mentor programs
- Summer remediation programs

The General Assembly funds these programs through established unequalized special formulae. Except for summer work, transportation, and teacher mentor programs, all districts receive the same flat grant amount per unit regardless of school district wealth. For example, school districts are allocated approved units for special education based on the number of eligible students who require special education services. Lack of available *funded* units from the state results in school districts operating *unfunded* units.

Sources of Local School Districts' Revenue

Local school districts receive revenue from property taxes (assessed on 35% of real market value) based on approval of the taxes by local citizens who reside in a school district's attendance area. Tax issues may be placed on the ballot at general or special elections. Local school boards request these tax increase referenda for a specific number of years or for a continuing period of time (permanent unless the issue is repealed). Obviously, most school districts attempt to secure voter approval for "continuing" levies.

By state law, school taxes also are levied against the tangible personal property (inventory and equipment) of businesses located within the school district's attendance area. The state collects this tax and distributes the funds to the school districts. Businesses strongly oppose personal property taxes, and over the past two decades, the legislature reduced this tax assessment from 45% of assessed value to its present assessment of 25%. This tax highly favors school districts where factories, shopping malls, and other large businesses/industries may be located. In some districts, revenues from personal property taxes exceed significantly the revenues from real property taxes. Districts with high personal property income are among the most wealthy in the state. School districts comprised largely of residential and rural farming areas receive relatively small amounts of income from this source. Further exacerbating equity in the distribution of state aid, school district income from this tax is not considered in the qualifying section of the basic aid formula, and state guarantee provisions do not consider income from this tax.

In an attempt to provide school districts with other sources of income, the General Assembly in 1989 enacted a law to permit school districts with voter approval to tax the income of residents. Many municipalities objected strongly when this legislation passed since the local income tax option had been historically the major source of income for these local governments. The tax has not been popular, and currently only about 15% of the school districts receive funds from local school income taxes. Although some Ohio districts may receive income from all three sources of local income, schools depend primarily on property taxes.

Equity Concerns

Various laws weaken the impact of Ohio's school funding system and pose significant issues for ensuring an adequate or equitable level of funds in low wealth and high pupil need school districts. In this section, issues related to property tax limitations, state loans, guarantees, and lottery revenues are discussed.

Property Tax Limitations

The 1970s high inflationary period resulted in the General Assembly enacting House Bill 920 in 1976. Continuing protests from citizens, who complained about higher tax bills following reappraisals of their property, motivated the legislators to act. Significantly, HB 920 mandated that real property owners must receive a tax reduction equal to any increase in property taxes resulting from reappraisal or readjustments of real property. This legislation further provides that the county tax assessor will not change the assessed value of property more than once every three years and will not increase the property tax bill

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because of reappraisal or readjustment. Additionally, the legislation provided for a 10% property tax rollback for all property owners. (In 1979, an additional 2.5% rollback followed this 10% rollback.) The local school districts, however, do not lose these funds; the state makes direct payments to cover the rollback reductions.

The cumulative effect of HB 920 on Ohio's local school districts has been devastating. Despite the increasing value of real estate, school districts do not receive more funds than the amount generated the first year after an operating tax levy is passed. In effect, voters approve the amount of revenue to be collected rather than a fixed millage rate. Without additional tax funds from the increasing value of property, school districts continually face inadequate income growth to cover inflationary costs. Districts, therefore, must return to voters repeatedly for additional school tax levies to cover ever-rising costs. With these additional levies, districts are often asking voters to approve tax rates that they previously approved but rolled back due to the increasing valuation of property. Voters perceive these levies as simply more taxes. No other state has a tax limitation measure with such a severe impact on local revenue generation (Fleeter, 1996).

Not only does HB 920 curtail local revenue growth but it also can affect the state aid a school district receives. This occurs when real estate in a school district has undergone reappraisal or an update that results in an increase in the total property valuation in the school district. In the basic program support formula, this district is now wealthier because its valuation has increased, which will likely result in a decrease in state assistance. However, from the school district's perspective revenue has not changed since school taxes do not increase when property values increase. Thus districts lose twice; tax revenues do not keep up with inflation and state assistance is reduced because the district's taxable wealth has increased. This circumstance has become known as the "phantom" revenue problem (Fleeter, 1996).

In Ohio, school districts are not the only entity seeking approval from voters for property tax increases. Ohio voters face an astounding array of proposals to increase property taxes at election time. Property tax levies often are proposed for county government expenses, mental health services, senior citizen services, police, fire, hospitals, parks and recreation, 911 services, and even the local zoo. Sandwiched in among all these also may be a school levy. With the number of issues that appear on the ballot each year, it is not surprising that voters reject most school tax levies. From 1979 to 1991, only 47.8% of all local school operating levies passed. In 1987, 59% of these levies failed.

State Loans

The latter of half the 1970s was a low point for school funding in Ohio. Faced with inadequate state funds, recalcitrant taxpayers, and a balanced budget requirement, some Ohio schools were forced to close because they did not have sufficient operating funds. Students often remained home for weeks or, sometimes, for the remainder of the school year. With widespread media attention to this school closing phenomenon, Ohio's school funding problems became a matter of national interest. Responding to the obvious embarrassment of children being denied an education because of schools closings, the General Assembly in 1980 quickly approved legislation forbidding school closures. This legislation did not address any school funding problems; it simply required school districts faced with the prospect of insufficient funds to reduce programs to state minimum standards. Once districts pared programs to minimum standards, they could qualify to borrow funds from a newly established state loan fund that required repayment of loans with interest.

Since 1981, 176 (29%) of Ohio's school districts have received funds through the State Loan Fund. The General Assembly never intended the emergency loan fund to become a long term solution. Yet it still exists, and many school districts have been forced to obtain frequent loans from the fund over the past fifteen years. One school district has been approved for loans eleven times and has an application pending now. Depending upon need, districts have received loans as small as $25,000 and as large as $79,485,000. As an example, one school district remains in such financial difficulty that the state has taken it over and outstanding loans total more than $212,000,000. Despite a state takeover, this district has yet another loan application pending.[6] These financially bankrupt school districts have little hope for financial stability, and the prospects that they will repay the loans are not good. With each succeeding year, the list of bankrupt Ohio school districts grows. By October 1996 of the current fiscal year, another 24 districts had filed loan applications; only six of these districts were filing loan applications for the first time. These data suggest serious problems of financial inadequacies and inequities in the state's school funding system.

Guarantees

In 1981, knowing that local school districts faced high inflationary costs, insufficient growth from local property taxes, high failure of tax levies, and/or declining enrollments, the General Assembly enacted a minimum guarantee provision for the Basic Program Support section of the foundation formula. The guarantees, which continue today, assure districts of a minimum amount of funds despite the formula. In 1981, 389 of the 615 Ohio school districts (63%) received funds through the guarantee provision. Initially, guarantees provided that districts would receive at least the amount of funds they had received the previous two years. In some years, the guarantees even provided inflationary increases so districts were guaranteed 105 or 106% of their previous basic support funding.

Funds required to be set aside for guarantees have been substantial. In the first two-year budget that provided guarantees (1982–83), $750 million were set aside to fund guarantee districts. By providing guarantees, the General Assembly used tax dollars that could have funded the formula at higher levels. Clearly, these guarantees advantaged many districts but hurt others that could have benefited from higher per pupil amounts in the formula.

Realizing the difficulty created by the guarantees, the General Assembly has tried, with mixed results, to eliminate or reduce them. Politically, legislators have found it difficult to abolish support to wealthy influential school districts that receive guarantees. The General Assembly, however, in FY93 began reducing the guarantees to districts with very high property values per pupil so that previous guarantee funds would flow to lower wealth districts. Currently, districts with assessed valuation of real estate per pupil above $285,000 will receive a 15% reduction of the guarantee amount for each year the district's valuation has exceeded $285,000 since 1993. For example, if a district's valuation per pupil has exceeded $285,000 every year since 1993, the district would have a reduction of 75% (5 years x 15%). Thus, this district would receive only 25% of the established guarantee. A 5% reduction also applies to districts with valuations per pupil at or above $200,000, but less than $285,000.

Despite these attempts to restrict guarantees, the Ohio Department of Education estimates that 155 school districts will receive guarantee funds in FY97, costing the state an additional $104.2 million. The attempt to restrict guarantees has progressed slowly. Furthermore, districts that benefit from substantial amounts of personal property tax income continue to receive guarantee funds because the state does not consider this revenue source when attempting to restrict guarantee funds. For example, in FY97 a district currently spending almost $15,000 per pupil and other districts ranking among the ten highest per pupil expenditure districts in the state are receiving guarantee funds.

State Lottery

Citizens frequently ask the legislature and school boards in Ohio: Whatever happened to the lottery money? The General Assembly enthralled Ohio taxpayers with the potential a state lottery held for solving the school funding problem. Citizens approved the state lottery by the second-largest margin ever for a constitutional amendment, believing the profits would provide "extra money" for schools. However, the lottery profits, growing from $37 million in 1980 to more than $660 million in 1995, gave the General Assembly more flexibility and funds generally for other state services. By anticipating the growing amount of lottery profits each year that can be used for the education budget, the General Assembly has the flexibility to redirect general tax revenue funds to other state needs. The General Assemblies use of lottery funds to supplant general tax revenue for state basic education aid honors its commitment to direct lottery profits to education in name only while freeing up millions of dollars for other state programs. The idea of "extra money" for schools that was sold to the voters became, simply, basic funds for education—and another way for the legislature to balance the state's budget.

Legal Challenges

In 1923 the Ohio supreme court declared that "A thorough system [of public education] could not mean one in which part or a number of the school districts were starved for funds. An efficient system could not mean one in which part of or any number of school districts lacked teachers, buildings, or equipment" (*Miller v. Korns*, 1923, pp. 297–298). Plaintiffs in the latest challenge to the state's funding system argue that many districts are starved for funds and that, in effect, many lack minimal facilities. Similar to legal suits in other states, plaintiff school districts are asserting that the school funding system violates the equal protection and state education clauses of the Ohio constitution.

The present law suit follows in the shadow of *Cincinnati v. Walter* (1979), in which the Ohio supreme court upheld the state's previous equal-yield formula under both the equal protection clause and the "thorough and efficient" education clause of the Ohio constitution. Although education is explicitly guaranteed in the Ohio constitution, the state supreme court avoided the question of fundamental right that would have required strict judicial scrutiny, stating that the case was more directly about how Ohio "has decided to collect and spend state and local taxes than it is a challenge to the way in which Ohio educates its children" (pp. 375–376). Invoking the rational basis test, the court found the principle of local control to be a legitimate basis to uphold the funding system. The court noted that local control not only allows citizens to determine how much money they are willing to devote to education but also allows for "local participation in the decision-making process that determines how these local tax dollars will be spent" and in the development of "programs to meet perceived local needs" (p. 380). Examining whether the legislature had met its duty to provide a "thorough and efficient" system of schools, the court concluded that the equal yield formula did ensure an adequate education.

Distinguishing *DeRolph v. State* (1994) from *Cincinnati v. Walter* (1979), the trial court concluded that *Walter* was not binding on the trial court. Specifically, the court noted that the system reviewed in 1979 no longer exists: the former "equal yield" formula has been replaced, new state standards apply to schools, districts now face substantial revenue limitations under H.B. 920, and schools can no longer close but must borrow funds to operate. The court stated that while the *Walter* case focused on taxation and fiscal policy, the crux of the present case is "the astounding impact our state system of education is having on the youth of this state." (p. 468). On the facts before it, the trial court ruled that public education is a fundamental right guaranteed by the Ohio constitution. In subjecting the funding system to strict judicial scrutiny, the court rejected the state's reliance upon "local control" as establishing a compelling state interest to justify large disparities in funding and educational opportunity. The court found local control to be a cruel illusion for the plaintiff school districts. The court further ruled that the state through shifting major obligations for funding from the state to local schools districts did not fulfill its responsibility to provide a thorough and efficient system of education.

On appeal this decision was overturned by an Ohio appellate court in 1995 but subsequently upheld by the state supreme court in March 1997. Based on the record presented, the state high court concluded that "we can reach but one conclusion: the current legislation fails to provide for a thorough and efficient system of common schools in violation of Section 2, Article VI of the Ohio Constitution." The court in finding that the present system is a "far cry from thorough and efficient" noted that many districts are starved for funds and lack teachers, buildings, and equipment required for even a minimally adequate education. Rejecting the contention that wide disparities in educational opportunity are caused by poor districts' inability to pass tax levies, the court cited evidence to illustrate that poor districts cannot raise as much money as wealthier districts even if they exert the same tax effort.

In setting the framework for the state's response, the court cautioned that it does not advocate a "Robin Hood" approach, or a system that mandates the same educational opportunities for all children, or one that imposes spending ceilings on the wealthier school districts. While the court did not require specific legislation, it ordered the General Assembly to "create an entirely new school financing system." In a strongly worded conclusion, the court stated:

> By our decision today, we send a clear message to lawmakers: the time has come to fix the system. Let there be no misunderstanding. Ohio's public school financing scheme must undergo a complete systematic overall. The factors which contribute to the unworkability of the system and which must be eliminated are (1) the operation of the School Foundation Program, (2) the emphasis of Ohio's school funding system on local property tax, (3) the requirement of the school district borrowing through the spending reserve and emergency school assistance loan programs, and (4) the lack of sufficient funding in the General Assemblies biennium budget for the construction and maintenance of public school buildings. The funding laws reviewed today are inherently incapable of achieving their constitutional purpose.

Although policymakers, educators, parents, and taxpayers may debate the efficacy of the *DeRolph* decision, it is clear that Ohio must address in significant ways the disparities among school districts and the inadequacies of the current system. By focusing widespread public attention on the deplorable school conditions that threaten the future of many Ohio children, litigation has provided a means to confront a system that does not work.

Conclusion

Ohio, as many other states, aspires to achieve equal educational opportunity for all children. A number of research studies (Adams & Crampton, 1983; Cohen, 1983; Edlefson, 1983; Mitroff & Erekson, 1988) have examined the equity of Ohio's school finance system, finding success on some equity mea-

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sures but movement away from equalization on other measures. Drawing implications from most of the studies is difficult because they employ different methodologies, rely upon different variables, and examine relatively short time periods. Long-term impact of the funding system, however, can be seen in a longitudinal study (1980–1989) conducted by Johnson and Pillianayagam (1991), which examined horizontal equity (equal treatment of equals) and equal educational opportunity (absence of a relationship to districts' fiscal ability and available resources). The researchers concluded from their analysis that Ohio's system of financing education has been "ineffectual in moving toward greater equity in school funding" (p. 82). Several findings are important to note. The data analysis revealed that Ohio's system of providing guarantees to school districts exacerbated movement toward greater equality of educational opportunity. Further, assessed property valuation per pupil was "a significant predictor of current operating expenditures throughout the 1980s" (p. 78). These findings support the plaintiffs' claims in the *DeRolph* case.

The General Assembly also has recognized the need to address equity concerns of low wealth school districts. Under the provisions of Sub. H.B. 671, the General Assembly began distribution of equity funds to Ohio's poorest school districts in FY93. The first equity fund allocation ($50 million) was distributed primarily based on school district size and adjusted valuation per pupil (considers both district property valuation and income of residents). In FY93, the law required that the threshold valuation figure be set at such a level that the poorest 218 districts in the state would receive funds. While this attempts to recognize the significant need of the poorest districts, it represents less than 1% of the total foundation program expenditure. The trial court in *DeRolph* pointed out that the state's recognition of inadequacies through the allocation of these "equity" funds merely substantiates the inequities in the current funding system (p. 466). Despite the addition of these equity funds (in excess of $350 million over five years), the discrepancies among districts' expenditures per pupil for education are significant. In FY95, education expenditures per pupil in Ohio ranged from $3,695 to $14,985, a difference of $11,920 between the lowest and highest spending districts. Assessed valuation per pupil ranged from below $20,000 to more than $500,000.

Ohio's frustration in its attempts to fund schools in an adequate and equitable manner is not unique. Public school districts in many states face great disparities in funding that create very wealthy and very poor school districts. In the United States, a student's place of birth often determines the quality of the student's education. Moreover, with variability in funding one usually finds differences in curricular expectations and school performance (Cusick, 1983; Powell, Farrar, & Cohen, 1985). These funding and school performance variabilities have resulted in litigation resulting in a number of state courts declaring their school funding systems unconstitutional.

In fairness to states, however, our country's decentralized systems of education encourage disparities. With fifty state educational systems and the absence of any national standards or expectations, each state defines what constitutes an "adequate education" and what that education costs. Ohio, like most other states, does not have clearly defined education standards and thus what constitutes an adequate education is simply the amount budgeted for a specific year. Legislators, faced with the pressure of increasing state services without raising taxes, look for escape routes of least resistance. Many believe state legislators, knowing the inequities that exist in their states, welcome court decisions that "order" them to improve the quality of education in their state. Meanwhile, citizens embrace the idea of having control over their local schools and resist any state "interference" in local education.

We expect the school funding concerns of adequacy and equity, like those in Ohio and elsewhere, to continue until our nation faces directly the need for educational standards that define what its students should know and be able to do. Until we resolve this dilemma, an adequate education will continue to be difficult for politicians and courts to translate into dollars. The absence of standards, however, does not excuse the conditions that exist in Ohio's schools. Too many children continue to attend schools in unsafe buildings, to use out-dated texts and curricula, and to learn marginally from teachers who receive inadequate support and development from their school districts.

Toward the conclusion of the PBS special *Children in America's Schools with Bill Moyers,* one student from a poor, rural Ohio school district stood and challenged the distinguished panel that included policy makers and educators "to look me in the eye and tell me I am not worth the money." It is past time for Ohio to respond to this student.

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