

PUBLIC HEARING

before

JOINT COMMITTEE ON THE PUBLIC SCHOOLS OF THE  
NEW JERSEY LEGISLATURE

on

ADDITIONAL COST FACTORS CONTAINED IN SECTION 21, P.L. 1975, c. 212

(Impact on school children of the present system  
of funding categorical programs)

Held:  
June 15, 1977  
Assembly Chamber  
State House  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Stephen B. Wiley (Chairman)  
Senator Wayne Dumont, Jr.  
Assemblyman John H. Ewing  
Assemblyman Albert Burstein  
Assemblyman Harold Martin

ALSO:

Paul M. Muller, Research Associate  
Legislative Services Agency  
Aide, Joint Committee on the Public Schools

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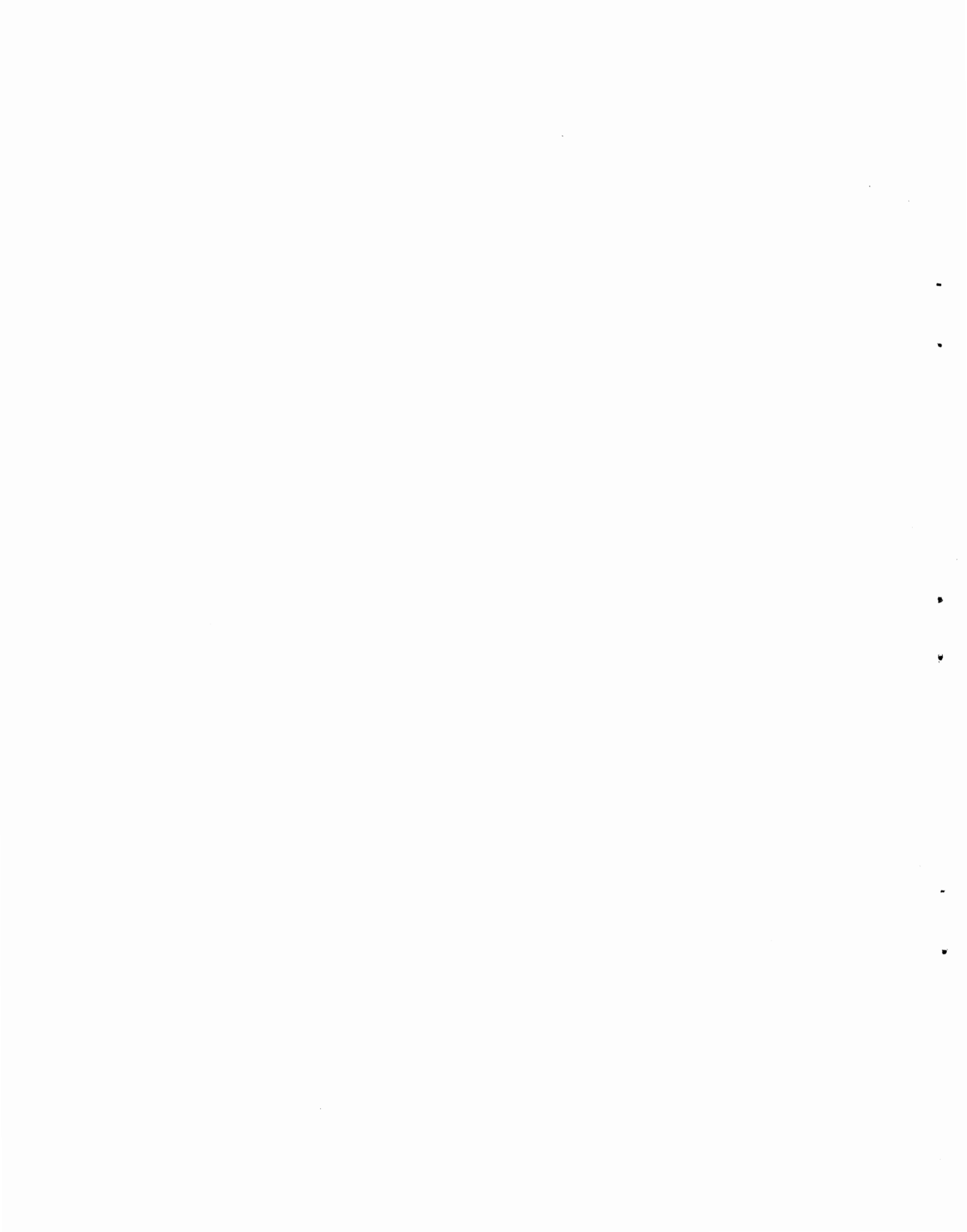
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SENATOR STEPHEN B. WILEY (Chairman): If we can come to order, we will get our hearing under way. This is a public hearing by the Joint Committee on the Public Schools on the subject of special education. I might say at the beginning, before anyone has different ideas, that there has been an interest expressed in our not having smoking in the room, which is the normal Assembly rule. If that is generally agreeable, we will try to observe that during the day in the interest of those who are affected by smoke.

I was about to say this is a meeting of the Joint Committee on the Public Schools. The setup for the day is, we will hear from anyone who wishes to be heard from on the subject of special education. The general background is this: Special education is now funded and provided for under the Public School Education Act of 1975. When that Act was put together, it was recognized that there were uncertainties and that we were entering new territory and that we ought to have a mechanism for review and correction of mistakes. We knew we had made some; we didn't know where they were. We assumed that experience would show us where the mistakes were and where they were not. To gain from that experience, we set up this Committee, which has a monitoring and observing role, so that we can discipline ourselves to improve things for times to come.

This Committee meets periodically under Dr. Reock and Mr. Muller's leadership, as our staff aides. We have some 29 monitoring programs by which we mean to acquire this experience and information in various areas, and that includes this area of special education.

We added to that normal program this public hearing on special education because some particular interest had been expressed in the effect of the categorical funding and other aspects of it. We made that decision back in April. The occasion for that was a meeting with the School Boards Association, the Teachers' Association, the State Department, and some other people having to do with the weighting that had been proposed for the coming year by Governor Byrne. Those weightings were reviewed and went into effect because we didn't take action to suspend them.

At that time, it was felt that a public hearing of this kind would be useful so that everyone who might be interested would have an opportunity to come and tell us what their views were and we asked the Department to develop a report reacting to some of the proposals that had been made, giving us its recommendations for the treatment and handling and funding of special education in times to come.

The Department is now working on that report. It is not to be ready until this summer. We talked this morning about the time. The tentative date was August 1st. That may have to be adjusted. But, in any event, we will be getting it shortly.

This hearing is timed so that the Department can have the advantage of your comments and your criticisms in the development of its report.

I hope we have given adequate notice. We sent notice to all of the people who are on our mailing list and we have publicized the meeting as best we could. We have a list of 12 or 14 names of people who would like to be heard. They are listed in the order in which we heard from them and we will take them in that order, if that is generally agreeable.

The subject is as broad as the topic of special education and

categorical funding. We will ask you to keep an eye on the clock when you are testifying so that we don't run too long. But, I think the list is short enough so that we will be able to accommodate pretty nearly everyone.

The first one on the list is the representative of the Department of Education. I understand Assistant Commissioner Vincent Calabrese is going to lead off. Vince, I think that microphone is probably the best place to sit.

V I N C E N T C A L A B R E S E: I would like to thank you for the Commissioner for, first, conducting a hearing on a matter of such deep concern to the people of the State, Legislators, Boards of Education, parents, and children, and, secondly, for inviting the Department to participate fully in the hearings themselves. We will be here to listen today to find out the various views of the various constituencies in this State and to take those views into consideration in preparing any final reports to the Governor and to the Legislature.

Our first phase of the report, that will be due later this year, has been completed. Basically, it is a report that indicates where we currently are in special education. Mr. Starkey will be testifying more deeply on that report in a few moments.

One of the main points made in that report, however, is that the law has basically achieved its objectives, and that is something good when we can say that about any law - where you have achieved the objectives of law itself.

As an aside, I get disturbed when I hear so much talk about 212 and what 212 is not doing.

SENATOR WILEY: Vince, let me just interrupt you one second. Can everybody hear?

(negative response)

Not very clearly? Pull the mike more directly in front of your face. When you say favorable things, Vince, talk directly into the mike.

MR. CALABRESE: Okay, I will be glad to do that.

SENATOR WILEY: If anyone cannot hear adequately, please put your hand up. Thank you.

MR. CALABRESE: I sometimes become disturbed when I hear some of the talk about 212 and its failures and so forth. 212 has been in operation less than one year. I have been with the Department about one year and one-half. I was neither part of the formulation of the Law, nor part of its original implementation, so I can comment on it without being defensive or overly praising of the law itself.

I think it is a good law, albeit a complex law. It provides for accountability and the name of the game, both in the law and in the regulations that followed it, was involvement - involvement of the people; involvement of the teachers; involvement of parents; involvement of students; and involvement of legislators. Any law that mandates that broad an involvement has to finally come up with something good. I am convinced of that.

Part of its problem, of course, is its close link-up to fiscal reform in the State in the funding of our schools. Mr. Starkey's report will show that this has occurred and that the final objectives attached to 212, at least in that area, have been accomplished.

Basically, they are the only remarks I had for you at this point. I

would prefer to have Mr. Starkey explain the fiscal ramifications of special education and Chapter 212, as it currently exists.

Again, I would like to thank you for inviting us.

SENATOR WILEY: All right. Thank you very much, Vince. Are there any questions of Assistant Commissioner Calabrese by the members of the Committee?

(negative response)

If not, we thank you, sir, and we invite you, if you would like, to join us up here so that you might pose any questions to witnesses. It might be helpful to you in developing the report.

For any of you who are not Trenton-wise in many respects, let me remind you of the names of the people at the table this morning. On my right is Senator Dumont, who has been a member of this Committee all during its various stages of development of the law and oversight. On my left is Assemblyman Harold Martin, well known and, likewise, working actively in all of the matters affecting this Act that we are talking about today, over the recent years. On his left is Assemblyman Al Burstein, known to all of you, I am sure. He is responsible for any of the problems in the Bill that we will hear about today. Al has been co-chairman and leading director of much of this effort over the last several years. It is delightful having you here.

Our next witness, as introduced by Vince Calabrese, is Herb Starkey, who has been with us many times and given us a lot of good advice and counsel. Herb, we are always grateful to you for your fine participation. It is delightful to hear from you today.

H E R B E R T S T A R K E Y: Thank you, Senator. Members of the Committee on Public Education, my report is a background report on the objectives and how well they have been achieved, only from a fiscal standpoint. I have three points to make.

On the first page, number one, the first objective of Chapter 212 was to attain an average state support of 40% of total school expenditures and that was achieved in the year '77/'78. There was an interim goal of 38% in the prior year.

SENATOR WILEY: May I interrupt you? Do we have extra copies of the report? It might be of interest to the people in the audience to have this as Mr. Starkey goes through it. It is very interesting information.

If in the course of the proceeding you hear us talking about something and you don't have a copy, let us know, please, and we will share it with you if we have it. Pardon me, Herb.

MR. STARKEY: The material that is summarized in item 1, is total state aid of 40.3%. There is an exhibit A in the back of the report that details this state aid distribution and if you look for a minute at that exhibit A, you will see that in the prior year - '76/'77, the first year of the new act - the percentage of support turned out to be 39%, which means we went a little higher than the goal of 38%. I believe the explanation for that is that there is a thing called caps and the budgets in '76/'77 didn't quite get as high as certain projections that were made, say three or four years ago when the plan was first developed.

In that figure, however, is a \$250 million contribution to the Teachers' Pension and Annuity Fund. The \$1,259,000,000 state aid is actually

about one billion direct to the school districts. The school districts do not, in their budgets, include \$250,000,000 for the pension fund. It is also included in the total estimate of expenditures of \$3,126,000,000.

You might be interested-- If you did not include the pension fund, the percentage of support, direct to the budgets, is 35%.

Now, in both cases, they are, of course, appreciably higher than the '74/'75 year, when the percent was 31% and if you went back a little further before '74/'75, you would have gotten back to in the neighborhood of 26% or 27%.

The second item: There was a goal of increasing equalization program support and, in effect, decreasing, as it were, the non-equalizing minimum aids and categorical aids to try to achieve the goal of the court, I guess, of fiscal neutrality, which would mean that all districts had the same ability to provide a thorough and efficient education. Here, again, there is a dramatic change. The details will be found in exhibit B, which is the last page.

I will just highlight the figures that are here. In '74/'75-- And, by the way, I did not use '75/'76 because that year the distribution of aid was not by formula; it was by appropriation and there was a little item called a freeze on spending, which meant that the actual aid was not related to the old law, nor was it related to the new law. So, a comparison of equalizing and non-equalizing cannot, really, accurately be made from that year.

Equalization aid of \$254,000,000 in '74/'75 was 42% of the total aids that are in Chapter 212. This excludes Pension Fund and would exclude any non-affected small categorical aids. Non-equalizing aids in that year were higher than equalizing. But, in '77/'78 you see the sharp change: Equalization from \$254,000,000 up to \$679,000,000 and the non-equalizing, while not eliminated, was decreased to \$283,000,000. The percentage, then, has gone from 42% to 70.6%.

Where were these changes and what happened are itemized in A, B, C, D, and E. The minimum aid was the big reduction - from \$230 million to \$49 million. The save harmless, which in the original included mostly building aid - that is where most of that \$7 1/2 million is. That is now down to one-half million and is scheduled to disappear in '78/'79.

Transportation aid increased sharply because of the formula change. Categorical instructional program support increased from 62 to 147. Most of that is not a special education increase. It was due to the addition of compensatory and bi-lingual new programs that were not there before. We will have more details on the special education as soon as we move to the next section.

Equalization aid increased 176%, from \$227 million to \$626 million. I would like to point out that if you assume that pension funds should be considered in this as non-equalizing - which it is - then, looking at exhibit B, you will see that we have achieved the goal but the percentages are quite different. In other words, if you, at the very bottom of section B, take the equalization aid as a percent of everything, including pensions, then, in '74/'75, we only had equalization of 31%. And, in '77/'78 we are just above the halfway point of 54%. So, we have shown both. They have increased, of course - both. Whether you are using the bottom line or the upper line the goal, I think, was achieved.

Now, if we move on to special education, primarily this is the rest

of the report, since that is the purpose of the hearing this morning. The goal here was to provide a method, actually, for all education, to reduce disparities in per pupil expenditures among districts which are above average in wealth and below average in wealth. This was more or less a court requirement in order to try to equalize educational opportunity. At the same time we had a goal of doing this without eliminating or reducing, at least, support for special education. This now is a report on whether we have achieved, or not achieved, that.

First, we have tried to make a study of how much disparity there is. Evidence of disparity in special education expenditures from a sample of representative districts ranked by property wealth. Admittedly, this was just an interim report and we are, as I have noted at the bottom, expanding this to the same districts that we used in our testimony to the court - or our reporting to the court. We can already tell you that it substantiates what is on here, not with the precise percent but with the idea of comparing a group of districts that are below average in wealth with a group of districts that are above average. You will notice that the day school cost per pupil in the higher group, as would be expected, is \$1,758 median and in the lower group \$1,505 - a difference of 17%. When we do the same thing with special class costs, we find that the difference here was 55% higher.

We have, in our other study, substantiated the same condition - that there are greater differences within the special education classes than we find within the total day school cost. Of course, this simply indicates that the goal of trying to remedy this is part of the special education program.

We are going to try to make a report on services - child study teams and the extra costs in supplemental. The difficulty in doing it here is we are finding much greater disparities in the area of services, but they are not necessarily tied to whether a district is rich or poor. In other words, we find districts spending four and five times as much per pupil but we do not see the relationship. It seems to be scattered and not related to whether they are a district with low wealth or high wealth.

The second point at the top of page 3 is the real core of this report and where I think there is a great misunderstanding. All special education expenditures that are not covered by additional cost factors are included as part of the net current expense budget and districts receive equalization aid for such costs. I will give a simple illustration before I itemize the three sub-headings.

Classes are reimbursed on an additional cost factor of just under \$800 per pupil this coming '77/'78 year. As the law is written, that is the amount paid to every district. It is on an NOB average figure. That means some districts may, obviously, be spending more than that and some less. If a district, whether it be rich or poor, were to be spending \$1,200 instead of \$800, the extra \$400 is a budget expenditure not covered by the categorical and, therefore, will remain in the net operating budget on which equalization aid is paid. So, that \$400 extra cost, if it is a Camden that receives 80% support -- they would get 80% of that \$400. If it is a Princeton or Millburn and it is a minimum support district, then it would be 10%. So, that point is that all costs that are not in categorical support are not left out. And, as I come down here, you will see, first, that this amounts to \$36 million in additional

money that is for the purpose of financing special education, so that is in addition to the '77, which is very evident. That is what I call the visible support for special education. Not so visible and neglected - and, by the way, this was true under the Bateman/Tanzman Law and no one ever considered it - is \$36 million, or roughly about one-half more money that is being provided and this will be developed later in this testimony.

SENATOR WILEY: May I interrupt you just for clarity?

MR. STARKEY: Yes.

SENATOR WILEY: You gave the example, as I understood it, of a district with an NOB below the State average. You were talking about Camden, for instance.

MR. STARKEY: Yes.

SENATOR WILEY: Not that Camden is necessarily in that category.

MR. STARKEY: Well, that is a district that is, wealth-wise, one of the lowest.

SENATOR WILEY: Right. But, is their average per pupil expenditure also below the statewide average?

MR. STARKEY: Well, if you look at it this way, I think this is what you are driving at. That district would receive 80%. I would say the average district would be getting somewhere in the neighborhood of one-third of the support of the extra cost.

SENATOR WILEY: Right.

MR. STARKEY: Now, you might also ask, what happens if you are paying \$800 and they only spend \$600? The system automatically provides for this because if you over-paid in categorical, the net operating budget is low and the State recovers it through less equalization aid.

SENATOR WILEY: Right.

MR. STARKEY: So, there is a compensating adjustment either way.

SENATOR WILEY: Let me ask this kind of a question to see if the difference is significant here. Let us take a district that spends at the average state spending for its normal costs. You call it net operating budget. It spends at the average state level, say \$1,500. Is that about right?

MR. STARKEY: Yes.

SENATOR WILEY: Let's say it is getting average reimbursement which you indicated was one-third, is that right?

MR. STARKEY: Well, the-- Are you speaking about equalization or categorical? Are you now talking about equalization aid?

SENATOR WILEY: Yes, equalization.

MR. STARKEY: Equalization aid would be just roughly around one-third.

SENATOR WILEY: Okay. Then, if a child in that district is in one of the categories and is thereby generating an excess cost factor as one of the elements in the statistics and let's say that excess cost factor is \$300, that child is responsible for generating \$300 plus one-third of the \$1,500, or \$500, in terms of state aid. Now, I want to distinguish that from the case of a district which, on the average, is spending less than \$1,500 per pupil. Let us say it is spending \$1,000 per pupil. You take a comparable child with a comparable disability in the second category district, with a low average per pupil cost, if you have a child with a handicap that is expensive and, thereby, is going to raise the cost for that child, let's say, up to \$2,000, while the

categorical funding may only provide \$300 for that child, the equalizing funding is going to provide some of the difference between \$1,000 and \$1,500.

MR. STARKEY: Some of the difference. It would depend upon the wealth of the district as to what that percentage would be.

SENATOR WILEY: Right. Okay. If it is an 80% district, as you described it, it is 80% of \$500, which would be \$400 plus the \$300, or \$700 out of \$1,000.

MR. STARKEY: Yes. I want to point out though that you are talking about a high cost handicap. Of course, each handicap has its own separate factor and, again, the State average on a high cost handicap, like emotionally disturbed is-- Payment now - excess - is close to \$2,000. I think \$1,900 is the amount that is paid out to each district as excess cost for every emotionally disturbed child who is classified that way.

SENATOR WILEY: Right. Well, I thought I heard you making that distinction. But, the \$36,000 that you are speaking of here that is in equalization aid, is that for all students?

MR. STARKEY: Right.

SENATOR WILEY: Not just those in districts with a--

MR. STARKEY: This is an overall figure.

SENATOR WILEY: For all districts?

MR. STARKEY: Yes.

SENATOR WILEY: Okay.

MR. STARKEY: Now, if you look at the second item, you will see three points. Now, you can say that equalization aid, contrary to general knowledge, is paid for child study teams. It is true, there is no child study team category, as such. But, equalization aid is paid for child study teams, which means that if there is a cost for a child study team of, let's say, \$50 thousand in a district, the support is not identified as categorical, but it is eligible under equalization. It will depend upon the wealth of the district whether that is 10% or -- in a couple of cases cited here it goes as high as 93%. And, it is equalizing in the sense that the districts would have equal tax effort. In other words, the wealthy district can raise that money with a lot lower taxes than a poor district.

So, in the design of this, no dollar of special education spending is left out. The issue is, is it going to be reimbursed at 100% of the State average under categorical, or is it going to fall into the equalization hopper? And that would be true for child study teams and the oversight on resource rooms, which were a factor that perhaps should have been included and were not included. The Statement is frequently made that there is no money being paid for resource rooms and that isn't true either. The district will receive equalization support for any expenditure, including, by the way, the expenditure that shows up for a child after September 30th. If it shows up in the budget as an actual tuition charge, it has to be funded. And, if it wasn't in the original budget, it gets into the equalization the following year.

The third area I have already elaborated on. Any cost beyond the per pupil allotment for categorical aid is paid. I will not spend much time on the third point because what I am saying is, it averages out to 31% of all special education items listed above and it provides percentages, depending upon the state aid equalization factor. I have listed a group of districts.

I do want to caution you: There is nothing here that says every district receives more money than they got under the old act for special education. Because as soon as you move into equalization, we are not paying 50% of all of the costs to every district. I would say the range under the old law was not really 50%, plus equalization. There was a two-year lag in the payment and we found, the way costs were increasing, that the old 50%, by the time the money was paid, ran about 40% of the expenditures in the year in which it was paid, plus equalization. So, there was a 40, plus equalization and this will be mentioned on the bottom of page 3.

In the new law, we are actually current in this sense on categorical. When the factors were devised, a cost was found for the last year in which we had evidence. For example, the cost for an educable child in '75/'76, average excess, we believe was around \$685. We are now paying \$798 for every educable child in categorical support because the factor that we used is upgraded each year by the net operating budget change that occurs. In other words, it takes care of inflation. So, the aid, assuming it is the right figure as the average cost, that is being paid is an attempt to be current at the average cost. It is not two years back. These are things that are improvements in the new law.

Final points are these - very briefly: The total state support - putting all of this together - for special education in '77/'78 is 59% of estimated special education expenditures, compared with 56% in the last year of the former law. I think it is important enough to go over the nine lines for comparison. One, estimated expenditures for special education are simply projections - conservative projections - based upon the percentage increase in educational spending overall. My own personal feeling is that probably since classes are not declining here, as they are overall, that the figures here may be too low, but if the figures are too low, then the conclusion would be even more conclusive that we are supporting - in comparison with the figures before - more than we think because the \$155 million to \$193 million - the direct aid - went from \$62 million to \$77 million. Subtracting line 2 from line 1, we have, then, presumably \$93 million and \$116 million that is still in the net current expense budget for equalization purposes.

How much is the net current expense budget? The answer, on line 4, was \$1,700,000,000 and \$2,157,000,000. Therefore, special education expenses, which are not covered by categorical represent 5.47% of the net current expense budget and 5.38%.

We then look at the equalization aid. I had to include minimum aid, I think, to be fair and not to make the comparison unfair under the old law. Minimum aid wasn't designated for anything. It was just paid. Therefore, in terms of, "What do you use it for", I think, obviously, you have to consider it as being as usable as equalization aid was for the expenditures of the school district, including special education. So, by that use, I have \$460 million instead of \$229 million.

The new law provides \$675, including the minimum support and the share that goes to special education under the old law was \$25 million and \$36 million under the new law. So, adding line 2 and line 7 together, the true support for special education under the old law is \$87 million, and the new law \$113 million. Putting that over the special education expenditures on line 1, we get 56% and 59%.

In conclusion, on the last page, this means that the average state support - and I point this out, this is average - for special education under Chapter 12 is 59% of expenditures, but when you subtract that out from the rest of expenditures, all other expenditures then are supported at 33% because the state total here, without pension fund, in the first column, in direct aid, is just over \$1 billion. The estimated expenditures, without the pension fund is \$2,876,000,000; that is 35% support. Pension fund makes it 40.

Special education, as we have just shown you, is 59%. Subtracting column 2 from 1, you get the rest of the expenditures. In other words, everything else averages out to 33%. I do want to point out that under the equalization feature, the total support for special education runs as high as 80% in some of the poorer districts. In the rich districts, though, it will be going down to, I would say, as low as around 25% and looked at from that standpoint, it is less for those districts. That is what Chapter 212 is all about. It is less for those districts than they were receiving under the old law, which I would compare as 25% to 40%. I don't think those districts got new equalization. Therefore, because they were two years late in receiving the money, the impact was about a 40% impact. But, under the new law - under equalization - yes, and with the absence of 50%, I would say the range would be as low as 25%, but it would go up to figures as high as 80%, or even higher.

I would be glad to answer any questions.

SENATOR WILEY: What did we use, Mr. Starkey, for the basic estimate of expenditures for special education of \$193 million? How was that derived?

MR. STARKEY: We had a firm figure from the so-called older law A-42 reports, which reported what under that law it was classified as special education figures and the projections are simply a percentage increase projection which, I think, is conservative in assuming that the increase in special education costs was about the same as all spending for current expense for all pupils.

Now, if that is not true, then on page 3-- If you say, "Well, I think that special education expenditures..." - and two years from now we will know - "...might be \$213 million instead of the figure of \$193 million", all that means would be that we would have \$213 million - \$20 million more - and we would have that much more in the equalization hopper and that would produce more than \$36 million. In other words, you would simply increase the amount that would come under the equalization share. It would not change the results of your comparison.

SENATOR WILEY: The assumption is, then, that there was not any particular increase in expenditure for special education by virtue of the categorical funding, but merely a displacement of--

MR. STARKEY: We have no evidence of it, no. That may be true but the conclusion that we are drawing simply was that the new law does provide, at least percentagewise, slightly more percentage, statewide, for special education. It did not decrease the support for special education. It changed it.

SENATOR WILEY: Right.

MR. STARKEY: And it has an impact on the question of the equalization, as to who gets it. But, the overall support has not been diminished and in relation to other programs, the program support intentionally is higher than program support for other things.

SENATOR WILEY: This difference between 62 and 77 is a known - the growth and direct categorical aid - and the increase from 25 to 36 is a known, once you make the assumption that you have just made about increased cost of special education in general, so to speak?

MR. STARKEY: That's right.

SENATOR WILEY: With a result of a total increase in special education aid - identified or unidentified - of \$26 million over a base of 87?

MR. STARKEY: Yes. To put it another way, I think you could put it this way: Special education represents about 7% of the total cost. Special education costs represent about 7% of the total. But, special education receives about 11% of the state aid. In other words, that is taking the same figures.

SENATOR WILEY: You get the 33 - 59 difference?

MR. STARKEY: Yes, because of that.

SENATOR WILEY: Sure. There is no significance to the fact that in Appendix A the increase in total school expenditures from '76/'77 to '77/'78 - the difference between \$2,914,000,000 and \$3,126,000,000 - comes out to 212?

MR. STARKEY: No.

SENATOR WILEY: That is about - what? - a 7% increase in the cost of education?

MR. STARKEY: I believe so, yes. But, you have to look at it also as, the rather large increase occurred in the pension fund - \$33 million of that - and other years we may have been in a different spot. It varies from year to year. But, 6% or 7% would be the area of increase in the last year or two.

SENATOR WILEY: The average budget cap was what, Herb?

MR. STARKEY: Well, the average factor that was used was 7.166, but if you actually found out - and we don't quite have that compiled yet, we are working on it - just how much the budgets are above the prior year, I don't think it will be the 7%.

SENATOR WILEY: We are concerned - among other things, of course - to know the impact of the shift of funding from the general sharing to the categorical aid on local operations and identification of children - whether people are shuffling children around to make money or not. We are not going to hear from the Department on that today. This will be addressed in a subsequent report.

MR. STARKEY: I don't believe there will be any testimony on that today, no.

SENATOR WILEY: Mr. Starkey said he doesn't believe it will be in the testimony of the Department today. This will come as a subsequent report.

MR. STARKEY: I would like to also point out that in the report that we are preparing, we are going into, in much more detail, the method used to determine the index factors. I think one of the most important things that has to be understood is that the addition of a child, or leaving a child in a special education class, doesn't change costs in most cases.

Let me explain that. It is very simple, but I think it is important to understand this. You may have a class of severely handicapped children and you can't find, let's say, more than three pupils to be in that class. This happens. The class cost may be, let's say, \$18 thousand - teacher's salary,

materials, support for supervision, and so on. Then, if you have only three pupils there, you call that a \$6 thousand cost. A child enters on October 15th. We didn't count them in that enrollment of September 30th. It didn't increase the cost because if you are allowed to put a fourth child in that class, it is the same \$18 thousand with only the minor cost of perhaps materials - the difference between where the child was before and where the child is now. All you have done if you have four in there is reduce the cost per pupil to \$4,500.

Suppose you are able to put six in that class. You can add two more. Now, the problem comes when you pass the maximum number permitted and when that point is reached and you have to create another class and employ another teacher, then you have an \$18 thousand cost, not the cost of one child. We cannot operate this system. It is handled through equalization and through the budget because the minute that any additional cost got into that budget, it is covered by equalization payments. But, we cannot, I don't think, go in and continue counting the categorical part without realizing that pupils leave as well as enter. We have to look at it from a net standpoint. But, that is not the major cost problem.

SENATOR WILEY: You are pointing out something which is understood by those who deal with the numbers. Board secretaries know that but not all people in the school system may know that that is the way it works.

I mentioned that the Department will not be talking today but will subsequently talk about its judgment of the impact of categorical funding on the handling of children - the placement of children. We do want to hear from anyone who is on the list today and would like to speak on that subject. That is one of the particular things we would be interested in.

Herb, I want to express my own thanks and now let me turn to the other members of the Committee and see if there are any other questions. Wayne, do you have a question? Senator Dumont.

SENATOR DUMONT: Herb, why does this contribution to the Teachers Pension and Annuity Fund mount so rapidly each year?

MR. STARKEY: In my present role I am not supposed to know, I guess.

SENATOR DUMONT: You worked for the NJEA before you worked for the Department of Education.

MR. STARKEY: Well, I assume it is benefits given out and inflation. That is the easiest answer. It is related to benefits and inflation.

SENATOR DUMONT: Is the number of teachers being hired statewide mounting that rapidly when the pupil population is on the decline, statewide?

MR. STARKEY: Well, I think the obvious answer is, the number of teachers is not increasing. What is increasing, of course, is salaries and the pension factors for benefits paid. In other words, there had been changes in benefits and you have to also pay off back liabilities. So, a lot of this, for example, may be even trying to improve the benefits of people who have retired. All of that is in this cost. It isn't just for future retirees. It is a total figure.

SENATOR DUMONT: Granted, we have tried to raise the teachers who retired some years ago who I don't think are being treated entirely fairly by any means, but isn't it a fact that we match - and I want to be corrected on this if I am wrong - dollar for dollar the contributions by the teachers

themselves?

MR. STARKEY: I think on the technical side I ought to refer you to Mr. Joseph at the Division of Pensions. It is not a matching, dollar for dollar, no.

SENATOR DUMONT: It is not a match?

MR. STARKEY: Not any more, no. It hasn't been since--

SENATOR DUMONT: All right. Well, how much does the State put in in respect to what the teachers contribute?

MR. STARKEY: I don't have current figures but I know it is appreciably more than the teacher puts in and has been since 1955, when the law was changed.

SENATOR DUMONT: This bill that is appended here, sponsored by Senator Menza, introduced on April 18th, is this a bill that emanated from the Department of Education?

MR. STARKEY: I am not familiar with the bill you are talking about.

MR. MULLER: It did not start with the Department. It started with Senator Menza and some of the professionals in this field.

SENATOR DUMONT: All right. Thank you. That is all, Herb, for now.

SENATOR WILEY: Are there any further questions? Al, do you have any questions? Assemblyman Burstein.

ASSEMBLYMAN BURSTEIN: Mr. Starkey, with respect to the identification, I did not quite hear the Chairman's statement before and perhaps this is somewhat off your subject, but we have a September 30th date for submission of those in the various categories for whom the aids that you have been talking about would be computed. There has been a complaint from the districts, of course, that those who are identified subsequent to the cut off date are picked up as to cost entirely by local funding. Is there some solution that you might offer for that particular problem?

MR. STARKEY: Well, there is legislation, I believe, on its way through the Legislature to take another count. It will have minimal effect because in many districts while there are additional pupils arriving in a particular classification, which may cause an additional cost - tuition, for example - they will be paid only equalization on that late entrance. The difficulty with this is that we are not in a period, generally, where enrollments are going up, but where enrollments are going down. Now, if you start picking up - as we will be doing if this bill passes - a date also at the end of the year and finding out whether there has been an increase, we will be paying aid out then based upon the higher of the overall total and in some districts this will be higher and in others, of course, it will be lower. In special education areas the enrollments are not necessarily going down. But, I would point out that most of the count-- When you total the whole number who are covered by some part of special education, the classes are the small part - maybe the largest, moneywise. Supplementary instruction is the biggest area and on supplemental instruction and home instruction we do not use a September 30th count; we use a total count from the prior year.

Now, in special classes, this legislation would help some districts. It would not be a major money change. But, then, I would caution you, again, that the addition of a pupil after September 30th doesn't necessarily really change the cost. It depends upon whether it is a tuition or whether it is

an additional class that must be formed. And, that is hard to cure. I mean, do you go in and say, we are going to count everytime you establish a class after September 30th? Then you have a whole new system of identifying payments because you can't pay a class by one pupil and you would have to change the formula somehow if you are going to pay on class cost rather than pupil cost. Maybe it should be considered.

ASSEMBLYMAN BURSTEIN: May I ask you, with respect to another phase of special education that will be impacting upon New Jersey and other states shortly, whether the effective date as of October of this year of Public Law 94-142 would, in your view, have any appreciable effect either upon the numbers of special education pupils that ought to be serviced under the Federal law, which are not presently being covered by Chapter 212, and whether, if that be the fact, there will be an appreciable increase in cost that is attendant upon that variant now that will be coming in the law?

MR. STARKEY: I think you are in an area that I am not familiar with. I think Mr. Porado, perhaps, ought to comment on that. I can't.

ASSEMBLYMAN BURSTEIN: All right. I will withhold that until Mr. Proado testifies.

MR. MULLER: Mr. Porado was not scheduled to testify.

SENATOR WILEY: Mr. Porado was not intending to testify today, Al, did you want to get into that?

ASSEMBLYMAN BURSTEIN: Well, if it is an area that you don't want to touch for the moment, why that is all right. I have had many questions left unanswered before in my career. (laughter)

SENATOR WILEY: He is available. Perhaps he would want to come on for a few moments after we are through with Mr. Starkey.

Assemblyman Martin.

ASSEMBLYMAN MARTIN: Herb, I notice on page 2 of the sheets you were working from--

MR. STARKEY: Yes.

ASSEMBLYMAN MARTIN: --there is a figure of \$9,453 in Princeton and I think the low figure up on the first category in the low 7 districts is \$1,892. Could you explain some of this disparity?

MR. STARKEY: Yes. The disparity - and actually you have to understand this whole area-- You should not be surprised at these costs. I can find you costs of \$15,000 in a poor district. You just have to look at it from this standpoint: Unless you can arrange movement of pupils between districts, if the service has to be provided and you have only two pupils, you are going to run a \$10,000 cost because you are going to have a teacher, an aide, supervision, materials, and at present payments you are talking about a cost for, roughly, let's say at least \$20,000 for an instruction unit. And, if you only put two children in it because you can't find any more, then you are going to have these kinds of costs.

Therefore, Princeton's cost might drop next year from that figure to \$4,000 just because they were able to find twice as many pupils as there were that year. Likewise, that \$1,800 figure you see happens to be, of course, in a relatively small community and that could go up just because a child disappeared and moved to another district and there was no replacement.

The variable in this kind of thing is why I think the average

cost was paid out, so you were treating everybody alike. Because if you said let's pay the whole thing, does that mean you are going to pay \$9,000 difference? Do districts charge that kind of tuition? That could be another question. What do you do when you have these circumstances? It is not anybody's fault if you have to pay for this, unless we find another way of delivering the service that is more efficient.

ASSEMBLYMAN MARTIN: How about the quality of the service delivered?

MR. STARKEY: I don't think the money can be therefore necessarily related to the quality here. You may have to face the fact that these cost figures in this area, because of the lack of pupils, are purely a relationship between the availability of numbers to go into a class.

Now, you won't have this in a place like Trenton or East Orange or Newark, where you have literally dozens of such classes and where the assignment of these children can be limited to whatever is desirable, or maximum. But, you can't do that in a-- For example, I don't see the problem very much in educable classes or in those areas where there are a larger number of pupils. We have some categories where there may not be more than four or five districts in the whole state providing the service and where the total enrollment in the whole state may be less than 100. So, the very chance that these youngsters may show up is not going to enable you to eliminate this kind of thing. And, I hope that no one is looking at these figures with an inference that something is wrong because they are high. It is not a consequence of desire; it is the circumstances of enrollment and it is these erratic situations that are going to be in this area that require, when the planning is done, some kind of an equitable way to try to resolve an otherwise very difficult area. I assure you, planning this back two or three years ago and trying to come up with something was the most difficult thing I have ever tried to do in this area. I would be the last one to think it is perfect, by any means. It has lots of problems but when you try to find other ways to do it, you also come against roadblocks, no matter how you turn.

ASSEMBLYMAN MARTIN: Doesn't that then raise a question that goes to the issue in *Botter, Robinson v. Cahill*, with respect to the quality of educational opportunity if we are dealing solely in numbers in terms of arriving at these figures?

MR. STARKEY: Well, could it be answered this way? We have, for years, determined that such children shall be in classes where size of class is limited as opposed to a normal class. There are even differences between certain categories and others. Now, that presumably is to assure the quality of teaching. But, within a range permitted, you may have a range of up to, let's say, 10 in a category but you can't match and put 10 in every one of those classes.

Now, if you are saying that because only 4 are in there that changed the quality, I don't know how to answer that as to whether it does or doesn't change the quality. Apparently, it is clear that something lower than a regular class in numbers is necessary for the individual assistance is required.

ASSEMBLYMAN MARTIN: It certainly limits the amount of time that a teacher can give in terms of 10 students as opposed to 2 students, doesn't it?

MR. STARKEY: That's right. That is, of course, why the actual aid under categories was paid out essentially on an average number in a class. In other words, the aid was determined based upon the average, or the recommended area of numbers.

ASSEMBLYMAN MARTIN: I would like to ask another question, Mr. Chairman.

SENATOR WILEY: Proceed.

ASSEMBLYMAN MARTIN: Why was the median selected as opposed to an arithmetical average?

MR. STARKEY: In a small group like this, one large district would completely dominate the answer and we are trying to find a picture of this in a small sample. This was just a starter to see whether it was true. In the study we are now doing, we will probably provide both averages and medians and we are finding they are not too far apart.

ASSEMBLYMAN MARTIN: Is there any reason why South Orange, Maplewood shows none here?

MR. STARKEY: That is because they have it as a resource room. In other words, the pupils are not in a regular handicap; all of their pupils are in a resource room, or sent to other districts.

ASSEMBLYMAN MARTIN: But, if that figure were in, it could conceivably change that bottom line substantially.

MR. STARKEY: Well, it could change the median, yes. That is why we are saying this isn't a big enough study to any more than set the fact that there seems to be a difference; let's investigate it. And, we are investigating it in a larger sample.

ASSEMBLYMAN MARTIN: There is one figure that I don't find here and that is the average in terms of cost. There is \$193 million spent on special ed?

MR. STARKEY: That would be the total cost estimate.

ASSEMBLYMAN MARTIN: And how many students are we taking care of?

MR. STARKEY: That is also a difficult thing for this reason: In that total number you have cost of special classes that is running \$2 thousand, \$3 thousand, or \$4 thousand a pupil. The largest number of pupils served in special education are supplementary - being taken out of a class for an hour or so for speech or non-speech help. If you throw that into an overall total of \$150 thousand, maybe 100 thousand of these pupils -- the cost may not be more than \$100 per year. You can't get an average that is meaningful. You can divide \$193 million if you want by 150 thousand but that isn't an average of anything because you have apples, oranges, and everything else in your total pot. You have the districts with special classes. You have the resource rooms which are a different cost. And, you have the supplemental and home instruction which may be simply \$8 or \$9 an hour. So, I don't see how you could mix to come up with any kind of an average.

ASSEMBLYMAN MARTIN: I understand what you are saying but wouldn't that seem to be a key ingredient in making a valid judgment as to what you would recommend, in terms of coping with this problem? In other words, what I am saying is, wouldn't it be important - in fact, vital - to know how many students are in the \$100 category and how many might be in the \$2 thousand or \$3 thousand category -- where those students are? I don't find anything in this.

MR. STARKEY: This is not our summer report. This was just a preliminary background to help. The material is available and will be in the report.

ASSEMBLYMAN MARTIN: Thank you, Mr. Chairman.

SENATOR WILEY: Assemblyman Ewing.

ASSEMBLYMAN EWING: Herb, is there any prohibition from their regionalizing their special education course in Princeton?

MR. STARKEY: No. When you say regionalizing, it could be done. There are methods within the law for doing joint operations, yes.

ASSEMBLYMAN EWING: Well, does the Department make any effort to try to get them to coordinate with another district?

MR. STARKEY: Again, you are in an area that I think is outside my area of expertise.

ASSEMBLYMAN EWING: Well, do you think it would be a good idea if there was an effort made?

MR. STARKEY: Well, I think there is.

ASSEMBLYMAN EWING: Pardon me?

MR. STARKEY: In other words, you have in special education a high percentage of the pupils attending school in a different district. - in other words, through tuition and movement between districts to the place where a number provide a class of a reasonable size.

ASSEMBLYMAN EWING: Well, do you feel there should be a penalty, though, for districts that don't? Is this Princeton Borough and Township? Do they have one school system?

MR. STARKEY: That's right. They have one.

ASSEMBLYMAN EWING: Well, do you feel that there should be a penalty for a district that wanted to just hang on to themselves and not make any effort to reduce the cost?

MR. STARKEY: Well, I think before you start putting penalties in you would have to study to make sure and determine how you can best provide for this. I am sure in some areas there is just no way. You may have two down in Cape May County and the nearest the others would be might be 100 miles away.

ASSEMBLYMAN EWING: There are always exceptions, right.

SENATOR WILEY: Thank you very much.

I'm sorry, Senator Dumont has another question.

SENATOR DUMONT: Herb, do you have any explanation as to why four of the high seven, if you include Princeton Borough and Princeton Township - then you would have five of the highest seven - happen to be in Mercer County?

MR. STARKEY: Yes. In the original study we were trying to simply arrive at a group by EV per pupil and we were working with equalized valuation so we got a fair number that were above the guarantee, which at that time was, I think, eighty seven thousand. So, they are in their proper proportion. At the time we were doing it, we also had problems with the availability of certain data and we had all the information from those districts. We also wanted to avoid very, very small districts that may not have had any services at all. So, between the problem of availability of data at the time, the size of districts we needed, and their wealth, it just turned out that we had those three. In other words, we were working within an availability of quick

answers from Mercer County which was close by.

The more complete study, I would think, is the one you want to look at. This was simply to indicate "is there a situation that we should study further?" We look upon this simply as an indication that, yes, there is something there we ought to examine and we will have a more complete report involving 50 districts, systematically selected. They will be of all sizes, all locations, and every county will be represented. It will be the same 50 districts that were used by the Supreme Court.

ASSEMBLYMAN EWING: Thank you.

SENATOR WILEY: Thank you again, Mr. Starkey. We do appreciate it.

SENATOR WILEY: Under the general heading of the Department of Education, I wonder if we might ask Mr. Porado to give us a minute or two on the subject that Assemblyman Burstein was interested in.

Paul Porado is in charge of Special Education in the Department of Education. Maybe you will want to give your official title so the record will show it.

P A U L P O R A D O: Presently I am Acting Deputy Assistant Commissioner for the branch of operation of pupil services, which includes special education.

SENATOR WILEY: Assemblyman Burstein.

ASSEMBLYMAN BURSTEIN: I would repeat the question which I know you heard, Mr. Porado, before, as it relates to the impact of the oncoming Public Law 94-142, both on the census aspect of identification of students with special needs in New Jersey, as well as the cost implications, taking into view the amount that the federal government under that law is going to contribute as a percentage of the expenditures, and what New Jersey presently is spending. Can you give us some idea as to those two aspects of the matter in relation to the oncoming federal law?

MR. PORADO: The overall national ratio of federal to state support for fiscal year '77 has been indicated to be 5 percent. In New Jersey, Mr. Starkey has very ably presented you with information on the amount of money we are currently expending. We anticipate that for fiscal year '78 the State of New Jersey will receive approximately \$8 million of support for programs under 94-142.

You had asked a question earlier as to what we would see as a result of 94-142 in terms of additional local costs. I think we are fortunate in New Jersey that at the present time we have at this moment 150,000 children receiving special education and/or related services. I do expect within the next two years to find that number increase. I don't expect that there will be a great rush of enrollment of children next fall. Rather the significant impact on local districts next year will be seen whereby the federal statute, as does the State, requires that the child in a program receive those related services that are necessary to fulfill the individual educational program requirements. Therefore, we will find an increase next year in the numbers of ancillary services provided to children - such as, we will see more educable children getting speech correction. We will see more children receiving mobility training and training to offset perceptual disabilities, etc. That will be the initial impact here in New Jersey.

I see in the second year an increase in the total number of children serviced. We will anticipate that, out there, there could be as many as 10,000 additional children who may be in need of special or related special education services.

ASSEMBLYMAN BURSTEIN: Are the cost implications of those ancillary services that you have described such that the \$8 million you anticipate from the federal government in the next fiscal year will be sufficient to cover those costs?

MR. PORADO: Again, the barometer is difficult to read. As you realize - and this is somewhat in response to Assemblyman Ewing's question - in New Jersey the autonomy of local districts is highly recognized. How they organize their services, the numbers of staff they employ, the extent to which they meet these state and federal criteria are things that we daily monitor. Although we can request, and enforce, that they provide these services, the extent of their local

expenditures is one that we capture a year later.

So I find it difficult to respond to your question in terms of what kind of significant increase will we see? Will it show up in terms of a \$10 or \$12 million increase? We do see the following things occur: Number one, that the \$8 million coming to New Jersey, for the most part, will be used to provide team personnel to districts and ancillary service staff, such as speech, physical therapists, mobility trainers, etc. So I see that \$8 million going primarily to staff increases at the local district. We have sufficient manpower there. In terms of discussions with NJEA and other groups from Higher Education, we have a reservoir of teachers who are qualified to accept these positions in New Jersey.

So I do see that the funds coming in will primarily go to salaries for staff to add to that dimension of quality that someone else commented on and that the immediate effect will be not so much in increasing the numbers of kids, but rather adding quality to the current programs.

ASSEMBLYMAN BURSTEIN: May I ask one final question, and it has to do with the fact that under that federal law, as I recall, a substantial, if not predominant, amount of money will be going directly from the federal government to the local education agency, rather than through the State. Does that pose any kind of supervisory problem with respect to the State's monitoring what is happening in special education at the local level?

MR. PORADO: Yes. If I may just redirect the flow-through situation you have described, the money is awarded to the State Department of Education, which then has the responsibility to issue the funds to local school districts on a project approval basis. This is requiring additional staff time within the Bureau of Special Education and will require additional staff and time for monitoring of these programs at the local district level. We will be hopeful that the request for personnel submitted a year ago might be realized so that we can do a thorough job of looking at the programs districts provide with not only the federal funds, but the State funds, to see that the quality is there.

ASSEMBLYMAN BURSTEIN: Thank you.

SENATOR WILEY: Does that pass-through requirement --- it stipulates a percent of the federal aid which must go to local districts. Does that present any problem to us?

MR. PORADO: No, sir. In the first year, currently fiscal year '78, 50 percent of the funds available to the State of New Jersey must be distributed to local school districts. The remaining 50 percent may be used by the Department of Education for funding of special projects. So we still will keep a project component within the department, funding local district specialized projects.

The entitlement that the districts have for the balance of the funds is not automatic. They still must submit a description as to how those funds will be used and for what purpose and what children. So, even though it is a requirement that these funds be distributed to the districts, there is a strict process in place.

At the beginning of fiscal '79 and for the remainder of the Act, which is 1982, the split becomes 25 percent for the State and 75 percent will flow through to local districts.

SENATOR WILEY: Is there any requirement in that Act that the State participate to a certain degree in the total cost of special education in order to

qualify?

MR. PORADO: Yes.

SENATOR WILEY: Do we qualify?

MR. PORADO: Yes - which New Jersey very ably does.

SENATOR WILEY: We do.

Senator Dumont.

SENATOR DUMONT: Why do you think, Mr. Porado, that so much of that money, whatever it is worth, is going to have to be used for staffing? Is it primarily to fill out forms required by Congress and the U. S. Department of Education?

MR. PORADO: No, I didn't refer at any time, sir, to that kind of staffing. I think I have described the staffing increases that I see in respect to additional child study team personnel at the local level and additional staff, such as speech correctionists, physical therapists, etc. The paperwork involved is being kept to a minimum. I would understand that the first time districts are exposed to this, it does seem new and it does seem cumbersome, but that's true with any situation in which something new is presented to you.

I was making that comment in positive terms, knowing the response of local districts. Needless to say, there are many ways in which they may present information to us as to how they propose to use the funds. But the basic criterion for these funds is that they must serve children and the best way you can serve a child is to put him in a position with a professionally-trained person to offset specific disabilities and have that professional work with the child rather than expend the funds on renovations and certain types of materials, etc.

SENATOR DUMONT: Suppose boards of education do not want any additional child study team personnel. Are they going to be forced to hire them as a result of the federal money?

MR. PORADO: They have always had a mandate in New Jersey to identify and evaluate and classify and program handicapped children. The federal mandate, which is pretty much modeled after New Jersey's law, also requires that every school district have a procedure for identifying and evaluating and programming handicapped children.

In New Jersey, districts will be required to use a child study team for these purposes because that is our approach to it. So, if districts are to undertake efforts to ascertain that they are serving every handicapped child, I would see the first effort being made in terms of getting additional team personnel.

If I may - and we will be presenting to the Committee the full report, but I don't want to take too much time since there are many people here who have come specifically to share their opinions with us - I would like to further elaborate on the fact that, due to misunderstanding, and I hope Mr. Starkey's preliminary paper will help to offset some of those earlier misunderstandings, many districts have not proceeded with original plans to employ additional child study team personnel. Many districts have --- I shouldn't say "many" --- but some districts have released team personnel. I see these federal funds giving them now the ability to bring themselves back to the level of staffing that they would desire.

SENATOR DUMONT: Yes, but the more child study team personnel you have, the more classifying is likely to be done. I thought what we were trying to do in New Jersey was to get away from some of the labelling that is going on and do

more mainstreaming.

MR. PORADO: We have a variety of programs available. The teams, under our current statute, must look at a child and designate that he has a disability. That label to which you refer merely indicates that there is confirmation that there is a learning disability there. It is grouped under this specific area and should be so recognized in the development of the child's individual educational program.

There are national concerns about labelling. But the teams' responsibilities go beyond just identifying classifying children and putting them into, whether it is a mainstream program, a resource-room program, a special class or whatever. Teams play a very vital part in the total services provided to all children in that district and all teachers in that district in helping to prevent disabilities from occurring. In many districts they work with the kindergarten teachers, they work with the parents, they work with the teachers in other primary grades, to reinforce the fact that this specific child or this group of children should not be referred to the team for classification, but rather, by altering some of the daily program offerings for that child, this potential disability can be eliminated and a child need never be referred to the child study team. So they work in a preventive aspect, which is not often discussed, and I would like to have that noted at this time.

SENATOR WILEY: Assemblyman Ewing.

ASSEMBLYMAN EWING: Paul, if you are monitoring what is happening in Princeton - why are they so high? Is it an exceptional case or are they just not going to the next ---

MR. PORADO: I don't have all the details on Princeton. But our earlier information on Princeton - I am going back quite a few years now, Assemblyman - was that we found in Princeton a great number of team personnel employed by the district, which at that time under the 50 percent provision was their prerogative. We found that the high cost of the Princeton program was mostly associated with team personnel which that district used in a preventive process, not evaluating children and classifying them merely for enrollment in special programs, but they worked very heavily on the preventive aspects.

SENATOR WILEY: Assemblyman Martin.

ASSEMBLYMAN MARTIN: Paul, did I understand you to say that out of the \$8 million, about \$4 million would go into the local districts and the balance into the State?

MR. PORADO: I probably should clarify that. Four million is earmarked and must be directly distributed to eligible school districts. The balance, the \$4 million that is referred to as the State funds, will also be distributed to local school districts, but on a project basis. The State has no right to use that money for anything but the children who are served by local school districts. It is simply a design. One aspect of it is called the flow-through funds that districts are entitled to once they have met the project criteria. The other is a project approach whereby, if a district wishes to undertake a specific project that would address the needs of the children in that community or that region, they may apply to the Department for project funds that will be funded from the balance of the money.

ASSEMBLYMAN MARTIN: Assuming that all \$8 million does get back to the local districts, if you were to just use the \$150 thousand figure - and, as I understand it from your remarks, that would be amplified or expanded as a result of the earlier identification or concentrated identification - I come up with about \$53 per student.

MR. PORADO: That's right, sir.

ASSEMBLYMAN MARTIN: That is not going to buy very much.

MR. PORADO: It doesn't. That is one of the fallacies of the Act, and perhaps the only fallacy. The criteria that it asks states to meet doesn't have the dollar support behind it. I think though again - and I want to acknowledge the historic interest of the Legislature in the handicapped - that we will in New Jersey have less problem in meeting the full commitments required under that Act than any of the 50 states in the country.

I am not saying it is going to be easy. There are some criteria that will cause some concerns. The staff has been working diligently for over six months in reviewing our current Administrative Code provisions, the rules and regulations for special education. We feel quite confident that all of the major criteria proposed or in place now for districts to meet, in order to maintain their eligibility for the federal funds, can be adjusted through revisions to the Administrative Code. We are also looking at the current statute and we feel that there are very few changes in the current statute that may be required. And Dr. Swanson will be presenting that information to the Legislature at a later day.

ASSEMBLYMAN MARTIN: Under the new federal program, on what basis would those funds go back to the districts? In other words, what I am asking is, for instance, would Princeton with an expenditure of ninety-four fifty-three have the same entitlement as a district like Salem City with eighteen hundred ---

MR. PORADO: Basically, yes, because the funds were generated by a count of children in local school districts and the national entitlement was approximately \$70 a child at that time, one-half of that being \$35 for distribution to the districts and \$35 for the State projects. So Princeton has an entitlement based on the number of kids it reported as serving, just as Newark has an entitlement. Therefore, every district in the State that is meeting the requirements of State statute has an entitlement.

There was earlier discussion - and I don't mean to take the time again - that districts would have to have a basic entitlement of \$7500 or more in order to be eligible for the flow-through funds. That has been altered so that basically if a district reports it is serving five kids, it has an entitlement if it wishes to apply.

ASSEMBLYMAN MARTIN: Wouldn't this have a tendency again, as I asked earlier of Herb Starkey, to accentuate the disparity that Botter-Cahill was aimed at changing?

MR. PORADO: Well, you can ask for the same explanation as to the distribution of Title I funds for the disadvantaged or other kinds of federal funds that come into the State. You have to go back to the federal legislation and see the rationale that was there. And the rationale there was that it takes additional funds to provide education and related services to the handicapped; and, in order to reach the goal of serving all children across the county, Congress made this provision through the Act to put some additional funds behind each child.

SENATOR WILEY: Assistant Commissioner Calabrese has a question.

MR. CALABRESE: Just to clarify the answer to Assemblyman Martin's question,

the \$53 per pupil would be further aggravated by the fact that \$4 million of the \$8 million would be in special projects which, by their nature, would probably have a relatively high cost, leaving only \$4 million for flow-through funds for the majority of students.

MR. PORADO: Yes.

MR. CALABRESE: So it would be even a lot less for that great number.

SENATOR WILEY: Did you have a question, Mr. Scovronick? Mr. Scovronick is a member of the Senate Committee staff.

MR. SCOVRONICK: Would Public Law 94-142 require a large expenditure by the State for educational programs for children in institutions beyond what you have already told us about?

MR. PORADO: Definitely there will be a requirement for additional educational components to be provided to children in State institutions, yes.

MR. SCOVRONICK: Is that part of your cost estimate or is that beyond the cost estimate you have given the Committee?

MR. PORADO: No. That is an additional cost estimate and an additional activity that the Department is working on.

MR. SCOVRONICK: Is there a cost estimate of that now?

MR. PORADO: Not at this time, no.

MR. SCOVRONICK: Thank you.

SENATOR WILEY: There are apparently no further questions. Thank you very much for your testimony, Mr. Porado. We appreciate it.

That completes the representation from the Department. As I indicated, the Department is not proposing today and not assuming today that it is rendering its report. These are isolated comments that we are receiving. We will receive the overall report and recommendation from the Department later in the year.

The second name on the list is Mr. Bernard Charles. I have a note here that he will submit his testimony in writing. Is there any quarrel with that? Apparently not.

The third one listed is Mr. Bernard Shore. He is here. He is the Director of Special Services of Teaneck Public Schools and we welcome him.

Why don't you identify yourself for the record, Mr. Shore, and see if you agree with what I said.

B E R N A R D S H O R E: My name is Bernard Shore and I am Director of Special Services in the Teaneck Public Schools.

One of the problems with hearings like this is that sometimes there are philosophical differences between the people who testify. And I must confess that I have a philosophical difference with people who put children into adding machines and computers and come up with averages.

As a behavioral scientist who has worked almost all my life with handicapped children, I have to deal on a daily level with the chronic sorrow of parents who have damaged children. In my 25 years, I have found that handicapped children know no geography and are not subject to social or economic class differences. Handicapped children represent a universal tragedy. It can happen to a Kennedy. It can happen to a Humphrey. It can happen to my nephew. And it is a universal tragedy that should be dealt with, in my opinion, according to the needs of children, not the

wealth or poverty of a school district.

If we are going to achieve parity for handicapped children, let's not equalize with the net average being mediocrity; but let's equalize with the average being quality.

Now, when I leave Trenton today, I will participate this evening in a graduation of 550 children from Teaneck High School. No one in the audience, except some parents, will be able to identify approximately 15 handicapped children who will receive their diplomas. Some of the children are retarded. Some are neurologically impaired. Some are, or were, emotionally disturbed. Some were chronically ill. Some were socially maladjusted. All of these handicapped children are participating in the rights of passage to adulthood and all of these handicapped children are entering a new phase of life. Some will work. Some are going for specialized vocational training. Some are going to sheltered workshops. And some have been accepted at colleges. None will vegetate at home. None is going to be unemployed.

Teaneck Public Schools are proud of this record, and these handicapped children will be productive citizens because special education in New Jersey has always been responsive to the needs of children.

I come here today because this kind of service to handicapped children is in jeopardy. The new formula for funding special education categorical aide, in my opinion, threatens quality education for children with special needs.

Now educational funding is always controversial. The central point that I would like to make as a representative of the Teaneck Board of Education is that the categorical aid formula for funding special education is not only controversial, it is immoral. In essence, the State Education Department has introduced a new lottery game into the State and the only winners would seem to be the private schools. Children are guaranteed losers, parents are losers and the school systems that want to fulfill their professional obligation to help the most vulnerable group of children are heavily penalized. It is a lottery game which transforms psychologists into croupiers, tempting them to juggle children's classifications for whatever cost factor will bring the biggest payoff.

Lest you think this is rhetoric, the proof was seen recently in Bergen County in a featured story carried in the Bergen Record where one of the school districts announced that they were considering reclassifying all handicapped children as Multiply Handicapped in order to meet the costs of special education. The intended move brought a rebuke from Dr. Richardson of the State Education Department. But, in truth, the error that River Edge committed was in verbalizing what every psychologist in every school district has considered. Is reclassification any more immoral than a state education sponsored system that places dollar values on the nature of the handicap? Who is to tell the mother of a retarded child that her child deserves less of a program, less State aid, than a delinquent child who has been classified as Socially Maladjusted? What Solomon can determine the pain of a parent who has to bear the chronic sorrow of an irresolvable handicap? Can anyone in this room tell that parent that her child deserves anything less than the best program? Can anyone in this room say that a retarded child merits a program with less financial support than a child who is emotionally disturbed? Should the criteria for reimbursement be based on an idiosyncratic formula which applies weights

to handicaps rather than the logical one of paying for costs above and beyond what a school district pays to educate a non-handicapped child?

The categorical aid formula destroys a proud tradition of quality education in New Jersey's Special Education. It encourages minimal support services and the packing of classes. Very few school districts can now afford to maintain a class with five children. Incidentally, the question of two children in a special education class, in my 25 years, belongs in fantasy land. I have never had a class with less than five children and we are continuously recruiting from neighborhood schools. Very few school districts can afford to maintain special education classes with the maximum number of children allowed. All school districts are encouraged by this incredible proposal to segregate their children by placing the youngsters in a private school. The formula rewards school districts that want to ship out children rather than integrating them into their own school system.

P.L. 94-142 encourages states to provide the least restrictive environment for handicapped children. There are presently no provisions for state aid for special education pupils in Resource Rooms. The new formula discourages the employment of child study team personnel who are necessary for special programs for both handicapped and non-handicapped children. No provisions are made for children who need special services and programs and are placed after September 30th. The local district is only reimbursed for youngsters reported to the County Office on October 1st.

Let us turn from a discussion of the morality or immorality, the appropriateness or inappropriateness of the law to an analysis of difference in State aid, at least in Teaneck, under the old 50 percent formula and the new cost-factoring formula.

Before we get into the cost figures, whether it is my presentation or some preceding one, there are a few points to keep in mind regarding this or any other similar comparison. There is the old saw that goes "figures lie and liars figure." That can apply very well to this comparison as it requires pulling apart a complexity of cost figures and remolding them to fit a new approach. Essentially, we are taking a set of known facts arrived at on one basis and philosophy, and are making a comparison with a set of projected facts arrived on at a difference basis and philosophy.

What should be kept in mind, however, is that there are no major differences between the programs compared. Our costs per handicapped pupil and for special education services have shown moderate but steady increases over the past few years. One would expect, therefore, that the amount of State aid would reflect and keep pace with these increases, especially in view of the fact that the new State aid formulas were designed to eliminate inequities and provide for a larger share of participation by the State in the costs of education. Therefore, one would or should conclude that the new State aid for special education be at least equal to and, more likely, greater than the old 50 percent formula. The reverse, however, is what has happened in Teaneck.

Based on the old formula and procedure, Teaneck could expect \$621,826 in special education State aid for 1977-78. The amount is based on program costs for 1975-76. Under the new formula, Teaneck has been informed to expect \$427,688 or \$194,138 less, a drop from 50 percent to 31 percent based on cost.

The logical question, then, is: Where has State aid been lost under the new formula? In order to try and determine this, we divided the 1975-76 costs into three basic areas and attempted to make some comparisons between the old and new aid formulas. These reflect the experience in Teaneck.

I am not going to read these figures to the group. You have them before you. You can see the incredible thing, that for the retarded children, the most vulnerable in our program, we stand to lose \$885 per child under the new formula. Trainable children, the severely retarded children, we will lose \$702 per child under the new formula. Resource Rooms, for which there is no formula aid per child, we will lose \$3.38 per hour. And if you multiply 180 days, etc. - the average of 2 hours in a classroom - you could come to the figure.

There were increases in public schools tuition for the emotionally disturbed, for the multiple handicapped and for the auditory handicapped.

Now let's look at private schools, the payoff for private schools. Private schools get a bonanza. For the emotionally disturbed, they are going to get an increase of \$1,224 per child. The private school that works with the neurologically impaired is going to get an increase of \$1,002. The private schools that work with trainable children are going to get an increase of \$729.

As an aside, I ask whether the intent of the Bill is to subsidize private schools or to service children who are attending the public schools.

(See page 7x for figures submitted by Mr. Shore.)

Teaneck is located in a high education cost section of New Jersey. This seems to be borne out by the fact that the new aid formula, based on State average costs, results in Teaneck losing State aid for "in-house" special education classes.

Students sent to other public schools, some out of Bergen County, to lower cost areas of New Jersey, and to private schools, result in lower per pupil costs and, especially with private schools, a higher State aid return.

Under the new aid formula, Teaneck is receiving back about 36 percent of the costs of operating its handicapped classes. By picking and choosing carefully, Teaneck could send their students to other public schools and private schools and realize an aid return of about 75 percent of the cost.

It is clear that under the new aid formula, Teaneck should either make sharp cost reductions in handicap classes, if possible, or more logically, eliminate all such classes and "shop" for the lowest tuition arrangement it can find, preferably in a private school.

Now, let's look at certain other areas, home instruction. Under the old formula, Teaneck would have received \$3.64 per hour reimbursement. Under the new formula, the aid will be \$9.04 per hour, two and one-half times as much, or \$1.04 more than we are paying for the instruction. Even if we allow for overhead costs, FICA, Workmen's Compensation insurance, etc., we are still making money if we put kids on home instruction. Is there a message? Are we sending a message to school districts: educate handicapped children at home - you save money.

Supplemental Instruction. Under the old formula, \$100 per student in aid would have been received. Under the new formula, \$136 per student will be received.

Speech Instruction. Under the old formula, \$57 per student would have been received. Under the new formula, \$136 per student will be received.

There is no question that Teaneck and other school districts can make money on home instruction, above and beyond costs. Supplemental instruction and speech therapy also result in financial return - but only if we play the number game - as long as we can maintain an instructional level of less than 17 hours per year per student and provide service to as many students as possible. Under the old aid formula, 50 percent of costs for supplemental and speech was anticipated. Under the new formula, we will receive 68 percent of costs.

There are many areas that we would have received 50 percent aid under the old formula. There is no reimbursement under the new formula. The aid based on the 1975-76 costs is \$122,185. Salaries for such distinguished people as myself and the following are no longer reimbursable: Learning Disability Specialists, Psychologists, textbooks, teaching supplies, A-V materials, testing programs, private school placement, School Physicians, Nurses, Neurologists, psychiatric fees, class field trips, utility costs.

Now we subtracted class costs from the foregoing list and the list, therefore, represents costs for the special education program as a whole.

As I indicated previously to you, Teaneck is losing \$194,138 in special education aid. Of this, \$122,185 is accounted for as other costs. \$71,953 is lost aid attributable to special education class operation.

One could justifiably take the approach that many of the costs would be incurred and not reimbursed if a child was not in a special education program. I don't think we can argue in good faith for those costs. I have no desire to see some of these costs included. But we should be willing to expend as much on our special education students as we do on our regular program students. There are many costs, however, which are strictly as a result of the special education program, and these should be picked up by the State.

The new aid formula, in my opinion, is designed to discourage special education programs in high-cost areas of the State. As these high-cost programs stop or cut costs and services, the State average will come down. Unless factors are increased, the tendency will be to provide less and less State funding. Local districts, in turn, will cut programs and, as time goes on, special education will be effectively minimized in the State.

The Teaneck School System is proud of its Special Education Program. We have given children in need the strengths to cope in a complex society. We have given parents hope that their child will make it.

Our community and Board of Education believe firmly in the Judaic-Christian ethic, "I am my brother's keeper." We want to continue that ethic. The funding under categorical aid makes this an extremely difficult goal.

Thank you.

SENATOR WILEY: Thank you very much, Dr. Shore.

What would you propose - go back to the across-the-board sharing of all costs?

DR. SHORE: Not all costs, sir. I feel that there were abuses in that. And I think that there was a loophole. I think that the problem with the old formula was that there was not effective monitoring. I agree with Paul Porado that the new law, the federal law, which imposes the requirement for an educational plan for each child, is an important beginning. Candidly, I think that that can also become

eyewash unless it is reinforced by a monthly instructional plan for each child, which is shared with the parent, and where there is accountability on a monthly level for each child.

I don't think that administrative costs should be included. I certainly feel that child study costs should be included because they are the most effective way of minimizing special education placement. We have in Teaneck close to 300 children in special education. We maintain over 700 children outside of special education through the child study team's diagnosis and development of programs which will enable the children to stay in the mainstream.

I believe in resource rooms. I hate labelling. I believe children should be grouped by needs. And I feel that a program of aid that is based upon those legitimate costs, above what it costs to educate the average child, would represent an equitable approach, providing the State sets minimum standards for school districts.

SENATOR WILEY: Would you set maximum standards as well?

DR. SHORE: Since I am in the profession, that is a tough question. Yes, I feel that certainly there can be abuses. You know, before I came to Teaneck, I worked in Westchester County and the typical American family was a mother, a father, two children and a psycho-analyst. I don't want this. But I would like to see sufficient staffing to minimize problems. For example, I believe that there should be a Learning Consultant in every school to work with teachers, to insure that the bright child and the average child gets the maximum educational program, and certainly to develop the appropriate learning prescription for the child in trouble.

Do we need a psychologist in each school? I question that. It depends upon the district. The question was asked about Princeton - and I don't know Princeton. But I do know that in a number of school districts that I worked in, the demands of the community, the culture of the community, would require different kinds of services. There are communities in which parents feel powerless and don't ask for services. And there are communities - and Teaneck may be one of these - and I have a parent here - where parents feel very powerful and demand services.

SENATOR WILEY: You would then think of the State paying the full excess costs, setting minimum standards, monitoring ---

DR. SHORE: --- and possibly with parameters on the other side.

SENATOR WILEY: On the high side?

DR. SHORE: On the high side.

SENATOR WILEY: And setting the range and letting the local district determine within that range at what level it was going to spend?

DR. SHORE: Right. Then if a wealthy school district wants to go above the parameter, it would not be a reimbursable factor.

SENATOR WILEY: If you were to pay the full cost of the excess portion and set a range, would there be a tendency for a district, if it did not participate at all in meeting that cost, to go to the maximum?

DR. SHORE: I would say - and I am using my school district obviously as a barometer - that citizens are extremely aware of what education costs. It probably represents the most controversial issue in our town. From my professional point of view, I don't have as many speech therapists as I should have, but the town has placed a limit on this.

I think there is always a balance between need and the capacity to pay - and I think this is a healthy thing.

SENATOR WILEY: But if all of the money for the excess portion were to come from other pockets, so to speak, from Trenton, might you be subject to criticism as the leader of special education in your own district if you didn't take full advantage of that funding, as we, for instance, are sometimes criticized for not taking full advantage of federal money?

DR. SHORE: I would say, for example, most parents detest labelling. Most parents do not want their children in special education. Most parents want the needs of their children met. What one could probably anticipate is not a dramatic increase in special ed. classes, but an increase in requests for those services which would take a child out of special education.

SENATOR WILEY: I was thinking more of the question of services rather than the number of pupils enrolled. If you were to set parameters of costs high and it was possible for you to spend - let's say you are spending \$600 for disability X or handicap X - but the State would reimburse you up to \$1,000 for the extra services for that child - there would be some tendency, I suppose, to go to the top, would there not?

DR. SHORE: If the old formula where the community has to absorb 50 percent share --- I may not have presented my position appropriately. I believe in a shared ---

SENATOR WILEY: --- in cost sharing.

DR. SHORE: Yes.

SENATOR WILEY: That then - you were listening, I know, to Mr. Starkey's testimony - presents the question of the equalization ---

DR. SHORE: Right.

SENATOR WILEY: (Continuing) --- because in some districts, as it is now, the State is paying 80 percent or more of the costs of all education and in other districts it is paying 10 percent or 15 percent of the cost of education. All of that is calculated on the basis of local ability in terms of the property base, what a given level of tax effort will yield. Would you take that into account?

DR. SHORE: I would not take it in account when I am dealing with handicapped children. I do believe in it when we are talking about education for regular children. Handicapped children have to be placed in a category where human need is paramount. The child with the 35 IQ, the child with Downs syndrome in Teaneck or Tenafly or Ridgewood, needs the same kind of program as a child in Newark or Camden or less affluent districts. The goal should be that the program in Camden be equal to the program in Ridgewood or Teaneck or Tenafly.

This is a central philosophical difference that I have with the concept of parity. I accept it completely, although many people in my community may not, in terms of the education of non-handicapped children, but I believe handicapped children have special needs which have to be considered outside of what I might call actuarial thinking.

SENATOR WILEY: You have touched a resonant chord within all of us as you talk. It probably becomes one of fashioning a system that is going to respond to those instincts that all of us feel. However, we must deal with numbers somehow. For instance, if you pick 50 percent sharing, which you did, what does that mean to Camden, for instance, where normally they get 80 percent? Fifty percent is, in

effect, taking money away from them, so to speak, if you don't take into account their poverty in property terms. That is the kind of problem that is presented to us.

We are most appreciative of your testimony. I think it has been very helpful to the Committee.

Suppose we go down the row here and see whether there are any questions by the members of the Committee.

Senator Dumont.

SENATOR DUMONT: Mr. Shore, to bring you up to date on the resource room situation. Your statement at the bottom of page one is right as of the moment. Senate Bill 3155, which has been released by the Senate Education Committee, which is scheduled for hearing tomorrow morning before the Senate Revenue and Finance Committee, which, of course, has to approve any appropriation over \$100 thousand, would correct that and add it as a category and provide \$8 million in the forthcoming school year for that program, instead of the \$3 million in the present year.

DR. SHORE: I think that all of us would welcome that bill.

SENATOR DUMONT: Now the Department wanted about \$12 1/2 million, but in the fiscal situation that we have here, it would have been foolish to try to jump from \$3 million to \$12 1/2 million in one year. So it is being done by phases if it has to be done to that degree.

You said you had 300 children in Teaneck in special education. That is out of how many - what is your total enrollment in Teaneck?

DR. SHORE: Sixty-five hundred.

SENATOR DUMONT: You realize, of course, when you talk about the large city areas, if we run into a situation, as is certainly true, for example, in Newark, where the local governing body is reluctant or even unwilling to conduct a re-evaluation to determine exactly what their property ratables are, that money can be poured into an area, but not necessarily in relation to the need of that area. We have to have some formulas here too if we are going to be practical and are going to do any good by the taxpayers of the State as a whole.

Thank you.

SENATOR WILEY: Thank you, Senator Dumont. Just because I am sitting to your left, let me ask, on the question of a ratable base, you perhaps don't know offhand, but, Mr. Starkey, do you know what Teaneck's ratable base is per pupil?

MR. STARKEY: I would just say above average.

DR. SHORE: Substantially above average.

MR. STARKEY: I think it is a 10 percent district.

SENATOR WILEY: Ten percent aid district. Our guaranteed evaluation is now what - 97 thousand dollars per pupil? You would have more than \$97,000 worth of property per pupil if you were above average. Well, the average would be lower than that. We are guaranteeing above the average. The average would be what, \$75,000?

MR. STARKEY: Seventy-one, I think.

SENATOR WILEY: And, if you are in the 10 percent category, you are not only above average - you are above the guarantee level, which is \$97,000 per pupil, which means that you get \$970 per tax point whereas somebody else gets that much less, depending upon what their ratable base is. Camden, for instance, as indicated here, gets \$200 per tax point less. On the point of what Newark gets and the way the formula operates on property evaluations, whether or not there is a local

re-evaluation, there are the equalizing efforts that are made through the Division of Taxation because of the sampling of sales; and, in any substantial city, there are a great many sales and you have a pretty accurate index of equalization. So, when we talk about ratables per pupil, whether in Newark or elsewhere, we have a fairly sensitive gauge on what that really is, never mind what the local assessor says. We are looking at what the marketplace says. That is not always too good in a small town where there are very few sales. But in a town of any size, it is quite reliable.

Assemblyman Martin.

ASSEMBLY MARTINS: No questions.

SENATOR WILEY: Assemblyman Burstein.

ASSEMBLYMAN BURSTEIN: I just want to pay tribute to the fine special education program of that great Town of Teaneck and that great Legislative District 37, which happens to be mine.

SENATOR WILEY: We thank you very much, Dr. Shore.

I'm sorry. Assistant Commissioner Calabrese has a question.

MR. CALABRESE: I have one very brief question. The fact you said that the Board of Education felt that they are their brother's keeper prompts me to ask it. Under Chapter 212, equalization is just that, but on a statewide basis as opposed to within a district itself. Is your main problem the actual aid or the fact that educational decisions have to be made within a cap which does not permit money to be spent for special education unless it is drawn from another priority?

DR. SHORE: The cap has been a factor, but a very minor factor. For example, I know that many of you are aware, we have no summer school for handicapped children this year, which I think is tragic. But the major factor is the amount of aid that would be available.

You know, the best example I can give you is - and I come from a very good vintage; I come pre-Beadleston - when I came to Teaneck, we had one class located in a decrepit building, in which there was a potpourri of 18 children, going from Downs syndrome to youngsters with 120 IQ's. I saw, as a result of the Beadleston Bill, quality, sensitivity and respect for children brought into New Jersey.

My point is that the moment school districts feel the economic pinch, the moment you can no longer go to your school board and say, "We will get 50 percent back," - and I am putting it as colloquially as I can - you are put in the position of chiselling, fighting, scrapping, for the kids who are the most vulnerable. Remember, with 6,500 children in the school district - when I came there, there were 8,000 --- Incidentally, parenthetically, there were 8,000 children and maybe 20 handicapped kids; today, there are 6,500 children and 300 handicapped kids. The moment you find yourself fighting and scrapping with the bulk of the school system for the needs of a small minority, you are fighting a losing battle.

What essentially I am pleading for is a formula which will enable us to go to school boards and represent the needs of children. In the 20 years that I have been in Teaneck, the community has never voted down a proposal for special education as long as it was documented and backed that we had children in need. We never had two children in a class.

Though the cap has presented a problem, this is not the problem I am addressing myself to.

SENATOR WILEY: Are there other questions? (No response.) Thank you very

much, sir. We do appreciate it.

The next one on our list is Elena Scambia from the Newark Board of Education. We also have Ellen McCabe, who is Principal of the Branch Brook School. Why don't you identify yourself for the record and give us your official positions and we will be most interested to hear from you.

MS. SCAMBIA: I am Elena Scambia, President of the Newark Board of Education.

MS. MC CABE: I am Ellen McCabe, Principal, Branch Brook School, Newark, New Jersey.

SENATOR WILEY: It is very nice to have you both with us.

E L E N A S C A M B I A: First, I would like to present the formal position of the Newark Board of Education, relative to a request for amendment of Chapter 212, regarding handicapped children, adopted by the Newark Board of Education on March 22, 1977.

I wish to express the critical concern of the Newark Public Schools relative to the financial and humanistic inequities that are inherent in Chapter 212. If the rights of handicapped children are to be protected and guaranteed, it is essential that the Legislature take immediate steps to correct errors of omission and inequities.

It is important for all parties to establish perspective in terms of the historical Beadleston legislation, the ensuing rules and regulations, the introduction of due process requirements during the 1970's, the passage of Chapter 212, Laws of '75, and the landmark federal legislation, 94-142. These factors all contain mandates and procedures that affect the total operations of local schools. Given the impact at the local level, it behooves the Legislature to be aware of the impact and the reasonableness of the demands.

The present omission of reimbursement of special education resource rooms is not in keeping with the intent of handicapped legislation and serves only to undermine the intent and purpose of the law, itself. It has taken a long while for the least restrictive environment concept to gain acceptance. Yet, at the time New Jersey school districts strived to modify program structures accordingly, the financial support was eliminated. This act of omission forced many districts to change and/or manipulate programs in a frantic attempt to retain financial integrity and balance.

The rights of handicapped children have been and will continue to be compromised in the process until long-standing remedial measures are initiated. Senator Dumont has indicated that S 3155 would, in fact, correct this situation.

Secondly, the numerical weight factors that are incumbent in the existing reimbursement formula require review and analysis. Financial aid based upon per capita handicapping conditions does not attend to the realities associated with children's needs, program costs and qualitative effectiveness. Current provisions, in our opinion, serve to promote the classification of children with regard to dollars as opposed to an individual condition or need, the latter of which should insure the right of each handicapped child to a thorough and efficient education.

Thirdly, present accounting procedures do not provide local educational agencies with financial entitlements. Pupil counts as of October 5 of a given year do not accurately reflect the numbers of handicapped children who receive special education services throughout a school year. Population mobility, especially in our

urban centers, is an established fact. Yet current provisions do not provide for increased costs and program demands that are determined by handicapped youngsters who move into a district after that date or by those continued residents who are identified and provided special education also after that date.

Vince Calabrese earlier indicated to me that S 3012 would resolve this issue by placing the date at the end of May. We agree with that.

Fourthly, current provisions promote the use of the private sector as opposed to the further development and/or continuance of public school programs for handicapped children. This financial inequity is in direct contradiction with the mandate to identify handicapped pupils and provide them with the required educational service in the least restrictive environment. Indeed, it is our feeling that this particular provision is in contradiction to the spirit of the Beadleston legislation as well.

Any time a student is called upon to leave a public school environment, the concept of the least restrictive is immediately negated. Yet Chapter 212 provides financial incentives for such action.

The public schools need to be provided leadership and the financial resources necessary to insure compliance with the laws and to develop qualitative special education programs commensurate with the needs of identified handicapped children.

I call upon you in behalf of the Newark Board of Education to provide the requisite action of amendment to insure the rights of handicapped children and the ability of the public schools to meet their unique needs.

SENATOR WILEY: Thank you very much. Since you are going to give a joint presentation, we will hear both of you and then ask questions.

Would you identify yourself once again.

E L L E N M c C A B E: I am Ellen McCabe, Branch Brook School Principal, Newark.

SENATOR WILEY: Thank you.

MS. MC CABE: As a person who has been in the field of special education for over 23 years in various capacities, including home instructor, hospital instructor, classroom instructor and presently principal, it is my obligation to come here to speak to you today and also to mention to you that if P.L. 94-142 is based on the Beadleston Law, then surely the Beadleston Law is based on the long history of the foundations of special education in this State in the City of Newark.

The most disturbing aspect of the current regulations relative to the education of the handicapped is an apparent emphasis on classification. What this amounts to is a body count because that is the basis on which reimbursement will be made to districts. Beyond this, the categorical aid numerical values appear to be based on class size limitations which have not been reviewed critically in years.

In the case of the orthopedically handicapped child, one district may classify a youngster, place him in a regular class, render him minimum service applicable to his disability, and be reimbursed in the same manner as the student in my school who receives physical therapy, occupational therapy, speech therapy and classroom instruction. Let me emphasize, both of these districts will receive the same reimbursement. What then is the incentive to pay the additional personnel needed to provide essential services to this youngster? There is none. The bottom line

is maximum classification in the maximum reimbursement categories and minimum services.

I most urgently recommend either return to previous funding formulas or reformulazation of categorical aid based on hard data relative to student needs and appropriate programs. This would insure that each child's needs are being met, based on the child study team prescription and the individual education program, rather than on simply being a member of a large group with varying and individual needs among its members. I refer to the list of classification.

On the face of this issue, it would appear that the intent of T and E and the special education funding are at cross purposes, the former emphasizing local and community control and the latter imposing programmatic and personnel limitations as a result of fiduciary restraints.

The district and the community should be allowed to develop plans and programs which meet the needs of their handicapped population, have them approved and monitored by existing authority and be assured of adequate fiscal support through T and E. Thank you.

SENATOR WILEY: Thank you very much Miss Scambia and Mrs. McCabe.

I have one or two questions. Of the four points that you mentioned Miss Scambia, bills are underway on two of them - your points one and three. On your point two, which is the one addressed particularly by Mrs. McCabe, on head count funding, have you considered what alternative you would rcommend? And I don't mean to put you in the position of having to recommend one today. Mrs. McCabe did say that it could be alternatively on the basis of approved programs for a child, actual program, child by child. It may well be that that could be done - I don't know offhand. It sounds as though administratively it would present some questions. But, if you move away from actual counting of children in the program, the general tendency, I presume, would be to move in the direction that was mentioned before of the State sharing, like the 50 percent that was shared before.

Now you represent a district where 80 percent of the cost of education, or near that, is paid by the State. Part of the design behind this, as I reconstruct it, was to supplement that by trying to provide 100 percent of the excess costs in some administratively digestible manner, by taking an average cost statewide. We know the effects it has and you told us about that. What I am talking about is the alternative. Would you favor, for instance, a 50-50 sharing, seen from the perspective of Newark?

MS. SCAMBIA: At this point,- I would like to respond to that - I would like to go back to something that was said earlier. I am not really sure, and I don't know that we can determine it at this point in time, just how much, just what the percentage is, that the State is contributing to special education in Newark. I dispute Mr. Starkey's remarks relative to that - and I don't have data with me to substantiate my remarks.

I think one of the major problems - and it has been stated earlier by previous speakers - is that, yes, we can do a head count and reimbursement will be forthcoming. However, the child study team services, speech therapy, occupational therapy and all of the other kinds of services that indeed make special education the same kind of basic education that is offered to all other youngsters - those items are not in that. I think that was mentioned earlier, that they are lumped in

with all other funds.

SENATOR WILEY: --- all other costs - and then they are shared by the State, based on local wealth, which in your case would mean that the State presumably would be paying 75 or 80 cents out of the dollar.

MS. SCAMBIA: That's right - for education costs.

SENATOR WILEY: For any general education cost or, for instance, for the child study team.

MS. SCAMBIA: Okay - for general education costs. That is my problem.

SENATOR WILEY: And for other special education costs.

MS. SCAMBIA: --- which are subsumed under general education costs. Okay?

SENATOR WILEY: Fine.

MS. SCAMBIA: Keeping aware of that - and I represent the Board of Education and it is very difficult for me to speak in the manner which I am going to - boards of education, which I know as a member of one, sometimes make decisions based upon financial expediency, make decisions based upon administrative problems, based upon lack of information, as you are aware.

I think that if a decision were left to a local board of education - unfortunately, Newark is not as fortunate as a place like Teaneck is - we sometimes put handicapped youngsters in jeopardy. If the Newark Board of Education had to make a decision as to whether to hire two additional child study teams out of that lump sum or to hire additional individuals who would help secure the buildings and assist in the violence and vandalism, assist in decreasing it, we would sometimes have to make a decision to go the route - and I am not talking security force; I am talking about assistant kinds of staff - we would have to go in that direction. I think in so doing, in leaving that decision up to a local board of education, you are shortchanging the children.

I don't really believe the moneys are equal. I don't think you can extract out of our general educational fund how much money is spent on special ed. in Newark. I don't think you can do that.

SENATOR WILEY: Well, if at the moment, Newark were to decide to add a child study team, in the subsequent year, it would receive some percentage of that, something like 80 percent or in the high 70's. That is because that is not to go to the special education's categorical fund. That is not unlike any other expenditure. You give the example of security expenditure or whatever. Among the alternatives to it, are what? - that you would put it into special education on a 100 percent basis?

MS. SCAMBIA: No, I believe in some local contribution.

SENATOR WILEY: A local share.

MS. SCAMBIA: Yes, I do - the same as I believe the present system under 212 is based upon a philosophical difference, not dealing with the money, the bucks that are returned specifically, because, as I said earlier, I don't think we can identify how much that is yet in Newark. But I am concerned about the philosophical emphasis.

SENATOR WILEY: You think there ought to be a separation there.

MS. SCAMBIA: In part, yes.

SENATOR WILEY: -- and not trade it off.

MS. SCAMBIA: That's the problem.

SENATOR WILEY: Would a 50-50 sharing then, even though it meant less money

to you, be acceptable with that in mind?

MS. SCAMBIA: I think special education in Newark under the Beadleston legislation was in much better shape. I am talking about two years ago versus this year. And I am not attributing it to this legislation. There are a whole host of other factors that have occurred in Newark. But I am saying there are some differences.

SENATOR WILEY: Just one other question: You mentioned the private sector as your fourth point. What has been the effect in Newark of that funding? You think that it is excessive. Has it had the effect of bringing about private placement?

MS. SCAMBIA: Newark, like any other city, is not faced with tremendous declining enrollments. We still do, in fact, have a lack of pupil stations. When youngsters are identified as handicapped, an educational plan is developed for them and it is determined that they need a more intensive program of special education, specifically a special ed. class, frequently we do not have the space to open up a class. Therefore, we send youngsters out to private schools by the hundreds - by the hundreds. Philosophically, this is segregating kids. There are all kinds of problems with that, the ills implicit in segregating. In addition to that, it is costing the taxpayers many, many more dollars and we are not really receiving the same kinds of services that we could be in the local district.

SENATOR WILEY: Assemblyman Burstein, do you have any questions?

ASSEMBLYMAN BURSTEIN: Just a couple of questions Miss Scambia: Is the Newark school budget for the current year at cap?

MS. SCAMBIA: No, it isn't, sir.

ASSEMBLYMAN BURSTEIN: Then I take it the reason it is not is the function of the rest of the cost that Newark has in running its city government.

MS. SCAMBIA: That's correct.

ASSEMBLYMAN BURSTEIN: So, in turn, part of the problem in funding your special education program, as well as other parts of your educational program, come from the fact that you exist under constraints generally within the City of Newark, irrespective of the amount of State aid that you get.

MS. SCAMBIA: That's correct.

ASSEMBLYMAN BURSTEIN: Can I shift over to Mrs. McCabe for a moment since she has been left out of it? She is probably feeling quite lonely. I would like to clarify whether I heard you correctly with regard to your presentation as to the matter of placing children into categories - and there has been criticism of labelling and so on. Isn't that derived really from the Beadleston Act that pre-existed Chapter 212?

MS. MC CABE: I did not comment on labelling at all.

ASSEMBLYMAN BURSTEIN: I know that you didn't comment directly on labelling, but you did say something about putting children into categories for the purpose of eliciting more money by way of contribution from the State.

MS. MC CABE: What I said was that the categorical aid was apparently based on class size limitations.

ASSEMBLYMAN BURSTEIN: --- which is likewise derived from the Beadleston Act.

MS. MC CABE: Correct - which has not, in fact, been reviewed in many years.

ASSEMBLYMAN BURSTEIN: Yes. I would agree with you that that is something that does require some kind of review. You did say something again - and perhaps I misunderstood what you were driving toward - with respect to the matter of local programming and that there is State interference in that or that there is some manner in which the State is inhibiting the establishment of local programs.

MS. MC CABE: I can only give you an example of our particular school. Our school is 52 years old. It has been in existence that length of time. We provide the multiplicity of services which I mentioned. If we wish to refer to actual budget figures, I could say to you now that, under the 50 percent formula, our school will receive from between \$150 and \$200 thousand less in reimbursement under the new funding than it has in the past. What I am saying is that the categorical aid, as it is presently put out, will cause when they come to realize it, I suspect, the possibility of reducing the kinds of additional services which we presently give, because we could indeed be a school for the orthopedically handicapped child by simply having them come to the school and instruct them. But we give a total program, which involves all those other services which I mentioned. But when the cost of providing those services exceeds what we previously were receiving, then it becomes fiscally unsound to continue.

ASSEMBLYMAN BURSTEIN: So that you are saying that you are getting fiscally punished and, as a result, reduced programs because of the new formula.

MS. MC CABE: We have not been reduced as yet, but I anticipate that programs such as mine will be doomed under this particular funding formula.

ASSEMBLYMAN BURSTEIN: So I can get it clear now, we are under the new formula as of this fiscal year.

MS. MC CABE: Yes, sir.

ASSEMBLYMAN BURSTEIN: And you did have the same kind of program under the old Bateman formula.

MS. MC CABE: Yes.

ASSEMBLYMAN BURSTEIN: You are not telling us, are you, that there has been a difference of that magnitude in the dollars you received between the old and the new?

MS. MC CABE: Yes, sir, I am, because we are not dealing with isolated classes in regular schools. We are dealing in this case, because Newark has a population of over 3,000 at the present time of handicapped children, having nine special education center schools where you have a concentration of services to take care of the particular type of handicap that the youngster has, with a youngster who cannot go into the mainstream, who cannot go into a special education class. The new funding, from what I have been able to observe and what I see in my budget, is definitely a severe penalty this year and will be in the future.

ASSEMBLYMAN BURSTEIN: Would you be able to extract from your budget the back-up material that would indicate what you are telling us now? It would be very interesting to this Committee if you could do so.

MS. MC CABE: Yes, sir, I can.

ASSEMBLYMAN BURSTEIN: Thank you.

SENATOR WILEY: Assemblyman Martin.

ASSEMBLYMAN MARTIN: Miss Scambia, there was a figure of 3,000 just mentioned by Mrs. McCabe as the number of special ed. students.

MS. MC CABE: More than 3,000.

MS. SCAMBIA: There are 3,000 in our Special Education Center Schools.

ASSEMBLYMAN MARTIN: What I am trying to arrive at is the percentage of students in special ed. as a percent of your total school population.

MS. SCAMBIA: I think the figure of 3,000 is inaccurate. It is accurate when you are talking about students in schools, such as Miss McCabe's. The number is probably closer, if one includes youngsters with speech handicaps, to probably 9,000.

ASSEMBLYMAN MARTIN: What does that represent in terms of the number of ---

MS. SCAMBIA: There is a total of 72,000 school children.

ASSEMBLYMAN MARTIN: So you are talking about 8 percent. Excuse me it is 11 or 12 percent. Is that about right?

MS. SCAMBIA: Yes, that sounds about right.

ASSEMBLYMAN MARTIN: About 12 percent.

MS. SCAMBIA: Remember I included youngsters with speech problems as well in that 11 percent.

ASSEMBLYMAN MARTIN: The other question I had related to the statement that you made just prior to the last comment in response to Senator Wiley's question, which was why I wanted to interrupt him at that particular moment. Just to go back, you were discussing the problems of identifying the State aid with respect to special education. You said something to the effect that it has to do with other factors beyond your educational budget. Were you then referring to your local or municipal budget or are there other factors?

MS. SCAMBIA: Yes, I was alluding to our localmunicipal support. I was also referring to some of the same kinds of things that Miss McCabe just mentioned to Assemblyman Burstein. There has been a substantial decrease and we can't identify where it is and why, but it exists.

ASSEMBLYMAN MARTIN: I don't recall the number of the public law, but the Auditor General Bill - since its passage, has there been any significant improvement that you have noticed in terms of administration and in terms of your dealing with the problems that you are confronted with?

MS. SCAMBIA: Sir, if I may, I would like to refer you to my testimony on December 8th to the Senate Education Committee. I don't see any change in Newark fiscally. I don't see any change in Newark educationally. I see very insignificant kinds of changes. I do, however, see greater administrative problems, greater financial problems. The testimony is available.

ASSEMBLYMAN MARTIN: Thank you.

SENATOR WILEY: Senator Dumont.

SENATOR DUMONT. Miss McCabe, you talked about objecting to a head count. I take it both of you object to that. But you realize that part of the reason that we passed legislation pertaining to the Newark School District had to do with the fact that we were not necessarily satisfied - this was only in part, of course - with the attendance of students in the Newark Public School system, because in those days when we were working under a weighted pupil formula, which frankly I disagree with, you were getting aid in some cases for so-called phantom children that weren't showing up in attendance. Now have you something better to propose than using a head count? Remember that 80 percent of the money that you get to operate your schools is coming from taxpayers all over the State and they want an accounting of it too, as to

where their funds are going. Do you have something better to propose than a head count?

MS. MC CABE: Senator, I have to respectfully say that I really am not prepared to answer any questions concerning absentee students or anything of that sort. In my particular school - I can only speak for myself - we have a very good attendance record. I really could not answer any questions concerning overall non-attendance of special education pupils.

My concern here today is not the overall budget of the Newark school system and I am sure that every taxpayer has the right to know where his money is going, as those of us who live in Newark have that right. But I am interested and I am here today on behalf of the handicapped children and the preservation, at least, of those programs which they presently have. I would suggest that certainly one of the first things that has to be done is to look into the foundations - if we are going to continue on the head count, then the foundations for the numerical categorical aid would be number one; and, number two, a conscientious review of the class size limitations; and, third, I think I did offer a suggestion that approved programmatic, continually monitoring, which I believe the county and the State is supposed to do anyway, of the special education programs would suffice to make sure that the moneys were well spent.

SENATOR DUMONT: Now, Mrs. Scambia, you mentioned that since the Auditor General has been in there, you think there are more administrative problems. Would you care to enlarge on that?

MS. SCAMBIA: In all deference to your request, Senator Dumont, I will respond in the same manner as I have previously. Those remarks are on record with the Senate Education Committee - date, December 8th.

SENATOR DUMONT: Well, I don't doubt but they are, but you know we hear a good many witnesses in the course of months and it is a little difficult to remember all the testimony that comes in.

MS. SCAMBIA: I understand that. I don't really feel that this is the appropriate forum to get into Newark's problems.

SENATOR DUMONT: Well, all right. Thank you.

SENATOR WILEY: Assemblywoman Muhler has a question.

ASSEMBLYWOMAN MUHLER: This is for Mrs. Scambia. You had said that in Newark you had 3,000 handicapped students and, if you included speech, the number was 9,000 out of 72,000. Now how many do you have placed in private schools?

MS. SCAMBIA: I can't give you that figure offhand.

ASSEMBLYWOMAN MUHLER: Is it a portion of the 9,000 or the 3,000?

MS. SCAMBIA: It is a portion of the 3,000.

ASSEMBLYWOMAN MUHLER: Oh, it is.

MS. SCAMBIA: Yes.

ASSEMBLYWOMAN MUHLER: Do you know how many you have programs for within Newark right now of that 3,000?

MS. SCAMBIA: I can't give you those figures at this point. Certainly I can get them from our administration.

ASSEMBLYWOMAN MUHLER: Okay. And I have a question for Mrs. McCabe. On one of your points on the classification, is your recommendation that we change the formula so that a school district would be reimbursed for services that have been provided instead of just classifying the children according to a formula?

MS. MC CABE: Yes, Assemblywoman, that is it exactly.

SENATOR WILEY: Apparently there are no further questions.

On Assemblyman Burstein's request to get some facts, I think it would be of interest to the Committee - if I am covering the same ground, excuse me - to know the circumstances of the funding of the school that you head, just as a good example, and the district as a whole for special education. Newark is of keen interest to all of us. I think it would be helpful to us to have that analysis. I would ask our own staff, Mr. Muller, working with the Department of Education, to pull those facts together. Perhaps, before you leave --- Mr. Muller, I was asking these folks to be sure that we get information so we can understand the situation of the school that Mrs. McCabe is the principal of, as well as the district as a whole. Perhaps you could consult with them and Mr. Starkey or other people in the Department who could help. We don't know what we will be able to do with it; but, at least, we will be well informed. Is this what you wanted?

ASSEMBLYMAN BURSTEIN: Yes.

SENATOR WILEY: All right. We will have that and we thank you very much for being here.

We have six more presentations to be made and I believe we can do that this afternoon. Suppose we break for lunch now and resume at 2:15.

(Recess for Lunch)

AFTERNOON SESSION

SENATOR WILEY: This is a resumption of the morning meeting of the Joint Committee on the Public Schools. I am Senator Wiley. Senator Dumont is on my right.

The next pair of witnesses is Thomas Scharf, Director of Special Services in West Orange and Leonard Margolis, Region 2 Coordinator of Special Education. Why don't you start off, Mr. Scharf.

T H O M A S S C H A R F: I am Thomas Scharf, Director of Special Services, West Orange Public Schools. Mr. Margolis and myself are here today to express the concerns of the North Jersey Special Education Administrators Organization, relative to the funding system called for under Chapter 212.

At the time of landmark Federal legislation - meaning 94, 142, and 504 - and the impending changes in the New Jersey Special Education Rules and Regulations, a regressive penalizing funding formula was enacted by the Legislature. We question the consideration of the needs of handicapped children and youth versus the endorsement of bureaucratic convenience, coupled with financial restraint.

Heretofore, we had 50% of actual special education funds reimbursed. That included teachers, child study team personnel, classroom operating expenses, supportive services required for diagnostic assessment, - a process which included such things as neurologists and psychiatrists - and also the directors and coordinators of special education programs.

We, as consumers, providers, and leadership personnel feel obligated to bring the following matters to your attention for additional consideration and corrective action.

First, to the best of our knowledge neither the State Office of Finance nor the Department of Education have involved themselves in systematic consultative effort with district level administrators who were and are responsible for the delivery of special education programs and services. By the time the field became aware of the proposed changes inherent in 212, the established legislative time line did not allow ample time for study, analysis, and feedback recommendations.

We feel that laws are not self-fulfilling, whereas the negative effects of weighted categorical funding have already taken a toll in terms of services to handicapped children. These services have been curtailed, reduced and, in some cases, tabled pending the longitudinal effects of 212, 94, 142, and 504.

One can argue that there was need to equalize special education aid across the State, however, such an argument assumes - and I underline the word assumes - that equalized aid insures equal opportunity and qualitative programming for all handicapped children. We question the self-fulfilling nature of this assumption. We question the effectiveness and validity of subjecting handicapped to weighted formulas. We question the constitutional issue as to whether the unique needs of the handicapped, upon which Federal and State mandates were founded, are being met through the equalization formula.

Increases in general school aid are reportedly available for the supportive special education. Without specific directives, there is no guarantee that these monies will be so allocated. Caps, coupled with budget defeats, further

complicate the problem and detract from special education allocations. With this, the reduction of child study team personnel and instructional supplies and equipment account for dollars throughout the State.

Categorical funding promotes labeling, based upon anticipated revenue versus special education needs. Mention was made this morning of a first page article in the Bergen Record. There was a front page article in the Bergen Record which told of one school district wanting to change categories of youngsters for the sole purpose of capturing \$80 thousand of State monies.

The law calls for educating the handicapped in the least restrictive environment, yet to do so may cost as much as or more than traditional self-contained programs. Categorical funding does not support this principle in philosophy nor in reimbursement. It, in fact, promotes self-contained special education classes with maximum enrollments versus a continuum of services based upon the identified needs of children.

We feel there is an inconsistency of intent and purpose within 212 itself. The very quantitative formulas that exists for students enrolled in categorical self-contained programs is one thing if the same handicapping conditions are reimbursable on an equalized basis with regard to resource rooms, supplemental instruction, and home instruction. The latter is program based, as opposed to a categorical approach.

We are unaware of evidence that poor districts are to receive more special education aid under the new formula. Child study teams were overlooked in computing the weighted formulas. They are mandated to serve the handicapped in terms of evaluations, programming, and reviews. There is no incentive to increase services under the existing formula. We question the reasonableness of the expectancies under the law when enforcement, incentive, and dollars are not provided.

Similarly, there is no longer an incentive to provide services for special education and leadership personnel. We view the present system as counter-productive and call upon you to address yourselves to the reasonableness and effectiveness of excess cost funding on a programmatic basis.

L E O N A R D M A R G O L I S: My name is Leonard Margolis. As the copy of the survey, which you have in front of you, indicates, the questionnaires were hastily circulated to school districts in five counties in the State - Bergen, Essex, Middlesex, Passaic, and Somerset. Fifty six responses have been received to date with no attempt made toward following up on those not returned.

Our organization neither had the time in terms of quickly preparing for this hearing, nor the manpower to carry out a more extensive collecting of data. Our greatest number of responses were from Bergen County, where more than half the school districts replied. Generally, the surveys were completed through the combined effort of the district superintendent, board secretary, and business administrator.

Districts indicated that the categorical weighted formula produced an average decrease of 41.56%. This was calculated by averaging the percentage decreases reported by all districts - and I should clarify from this morning's discussion that that is a simple arithmetic mean. None of the 56 respondees reported any increase in aid utilizing the new categorical weighted formula.

Comments indicated a general feeling of disgust, annoyance, and frustration with the new system.

Question 2 asked the respondents to indicate what effect the change in funding has had on child study team services since these are no longer directly reimbursed under the categorical weighting system. Twenty three indicated cuts in child study team services while thirty-three, or 49%, reported no immediate cut. Comments included statements like these - and I quote: "However, needed services have not increased."

Another comment: "It may definitely affect us in future years."

Yet, another comment: "Consideration of an additional child study team for 1977/'78 was dropped due to a lack of specific reimbursement."

Another comment: "Not yet, but when next year's budget is formulated and the cap forces further reductions in spending the Board of Education may well have to consider a reduction in child study team costs in order to protect the maintenance of its regular program."

And, a last comment: "The present funding formula encourages and at times forces school districts to service mainly the more severely handicapped children who need special education placement. There is no incentive provided to maintain classified children in regular classrooms with supplemental help. It does not encourage the initiation of early identification programs for children with learning problems. It goes contrary to the basic philosophy of special education, which is, early identification and prevention. Time spent on work with children who are not classified but who go through child study team evaluations is not reimbursed under the present formula. It discourages child study team members from working with regular classroom teachers who have children with learning problems."

All of this comes on the heels of Public Law 94-142, with its mandate to provide annual individual educational programs and parent conferences to review the process and the progress of youngsters, as well as the setting of new goals and objectives. All of this requires additional child study team services.

Question 3 asks the districts to agree or disagree with the following statement: The Legislature and the State Accounting Office have maintained increased general school aid and compensatory education funds have the effect of reducing local educational costs and, therefore, should enable districts to increase expenditures in special education.

Fifty-two of the fifty-six responded that they disagreed with this statement. Comments included the following - and I quote: "In light of the mandated programs, compensatory education money is all utilized for that program. General school aid must support things like the lunch program,-over \$25,000 in our small district - bilingual education, etc."

Another comment: "The increase in school aid has not kept pace with the increase in mandated expenses of the district. Comp ed funds provide additional services for other than handicapped students and do not allow paying for any existing services."

Another comment: "Compensatory education funds are specific mandated programs, therefore, general education costs are not reduced by this aid to district area. There is no assurance that special education expenditures will be increased, given caps, budget defeats, board priorities, etc."

Question 4 dealt with the September 30th SA-1 form being used as the determination of special education pupil census information. At this time,

children who are enrolled in special education programs after September 30th do not count in the district's reimbursement for that year. The Legislature and the State Accounting Office contend that the number of students entering will be washed out by the number of students leaving special ed programs.

Our survey showed that the average low - and again this is an arithmetic mean - was 4, while the average gain was 15. Four districts reported losses of 4, 8, 2, and 2, while 43 districts reported gains of between 1 child and 115 students.

The last question - question 5 - asked the respondents if, in their judgment, they felt that the requirement to justify reimbursement claims in terms of definite special education categories was educationally valid and conducive to a thorough and efficient education for the handicapped. Fifty three of the fifty six districts felt it was not.

We received numerous comments to our NB or note-well comment at the bottom of the last page of the survey. I would like to share it with you and the comments that we received.

First, just let me read the NB comment. Categories carry variable weights and apply only to self-contained programs which could encourage restrictive placement. Categorical aid units ignore the reality of secondary and concomitant handicaps. Maximum class sizes are encouraged since pupils, rather than program costs are reimbursed.

Several comments we received, I would like to share with you. One was: "Your NB reflects our rationale."

Another was: "Applying categorical weights to primary classification and ignoring other facets of student and program needs is restrictive and non-conducive to a thorough and efficient education for handicapped youngsters."

Another comment: "We agree strongly with the above analysis, in addition to the belief that the system also is counter to State and Federal goals, such as providing the least restrictive environment for handicapped students and the development of resource room programs."

Having collected this limited but impressive data, the North Jersey Special Education Administrators Association - SEAA - recommends that the Joint Committee on the Public Schools consider the following recommendations:

1. Authorize and direct that a comprehensive study be made of all school districts in the State of New Jersey to determine, a, if the new categorical system of reimbursement has brought about a significant personnel reduction in child study teams; b, whether the categorical weighting system encourages labeling to increase State reimbursement to school districts; c, if the categorical system of reimbursement tends to perpetuate self-contained special ed classes at a time when the Federal direction is toward mainstreaming; d, if professionals involved in special education feel that New Jersey should strive toward achieving a financial reimbursement system which is program-based or pupil-based.

2. To introduce and secure passage of legislation which would again provide a reimbursement formula for the cost of operating child study teams to include both individual child study team members as well as special education administrators who provide the necessary leadership that this State needs to maintain these programs for special education students.

There are two other recommendations apropos to listening to the hearing this morning that we would support and are not included in the written comments that you have. They would be:

3. Passage of Senate Bill S-3155, which will finally provide a permanent solution to the lack of reimbursement for special education resource rooms, and,

4. Passage of Senate Bill 3012, which would provide a mechanism for providing reimbursement for special education students placed in programs after September 30th.

On behalf of the North Jersey Special Education Administrators Association, Mr. Tom Scharf, and myself, I would like to thank you for hearing our concerns. It is our hope that this Committee will look favorably upon our recommendations and will move ahead quickly in their implementation. We will be glad to answer any questions you may have now or in the future.

I would like to call your attention to our addresses and phone numbers, which have been provided to you on the hand-out. Thank you very much.

SENATOR WILEY: Thank you sir. During the break someone was asking about the role of the Committee and what bill we are considering. What we are doing is a little different from the usual. We are not a standing reference Committee of either House. This Committee exists primarily to observe what is happening under the existing legislation and to listen to suggestions for change where change is indicated and then formulate recommendations. So, what you are doing is very helpful to us. This is exactly what is intended and while we don't have a particular bill before us, our mission will be to generate one if the need is made to appear in the minds of the Committee.

I will just reflect on the fact that we have a bit of a time limitation. I want to give everyone an adequate opportunity this afternoon to speak. No doubt, the Committee members will have some questions, but we hope that we can move along reasonably and expeditiously.

I would like to express my thanks and see if there are any questions from the Committee members. (no questions)

Thank you very much. Dr. Sol B. Heckelman, New Jersey Association of School Psychologists.

D R. S O L B. H E C K E L M A N: I am Dr. Sol B. Heckelman. I am on the Executive Board of the New Jersey Association of School Psychologists. I am also the Director of Special Services for the Englewood Public Schools. I am not going to read a prepared statement. I think the information you have been given this morning is rather ample - the background and particularly some of the suggestions the last few speakers have given you.

What I would like to do is - perhaps more usefully - to comment on some of the questions that have been raised and emphasize some of the points as I have experienced them.

Just a note concerning my background in New Jersey, which I think may be useful. I am in Englewood now. I have spent over 10 years in the Trenton public schools as a school psychologist and in administrative capacities. So, my experience has been both in a rather intense urban setting and in a different kind of setting up in Bergen County.

One of the questions that came up this morning had to do with the impact of the change in legislation from the previous programmatic personnel and

materials to the categorical aid. There have been references to the idea that perhaps this leads to more classification than is necessary. That certainly is a theoretical possibility.

The way I experience it is on the reverse end of that. What we do is not to do that kind of thing. We are very strict in terms of emphasizing the mainstreaming, in terms of emphasizing the services that the children need in the least restrictive alternative. The consequence of that, though, for the school district is that there is less money coming in. So, the choice we make is in terms of quality for the children and the consequences we in the school district suffer is a financial one. So, there is a negative consequence but it is in that direction. I think either way, of course, there is a poor result.

The approximate loss in funding, as our board secretaries have calculated it, if you compare both formulas - both pieces of legislation - is over 40% for us. Based upon these figures we are getting 40% less for special education reimbursement than we would have gotten had we still been operating under the old programmatic formula.

I was very glad to hear Mr. Porado talk this morning about 94-142 as an incentive and as a means for providing better services. That has not been my experience. I would be very happy to find out what districts are doing that.

The prospect we face in Englewood is a cut in child study staff for next year - an approximate 20% reduction in child study staff. That is, in good part, due to the caps but I don't think you can blame everything on the caps. However, what the district is faced with is the fact that there will be a cut of something like \$500 thousand to \$600 thousand and when you look across the board for places to cut, the handicapped are one of the prime targets.

I must say, it is not that people in the district are not sympathetic. I don't have the feeling they are saying, "well you guys don't count", or, "we don't care about those kids." It is one area that stands out that is a very dramatic kind of area which does require a good deal of money. So, if the consequences are not that immediately obvious, then the feeling is, "well, let's cut it out of them; they cost a lot."

So, I want to reemphasize one of the points made earlier, which is, the local school boards really, even though they may be of good will, very often cannot, left to their own local devices, often find the means or the will to support special ed the way it should be supported.

On 94-142, of course, there is both the carrot and the stick. There is, presumably, money coming down. The figure of \$53 was mentioned this morning. I am not sure what that will be or how that will come down to us. However, there is also increased responsibility. In New Jersey we are kind of fortunate in that the Federal legislation, as you may know, is modeled on New Jersey and we do have the team concept of child study teams and the educational plans. However, in addition to that, there are additional Federal requirements, such as the IEP's - the individual educational programs - more frequent evaluations, and so on. So, the net result will probably be something of an increase in quality service but, again, that is bought. It is bought at a price in personnel and a price in dollars. If we don't have the dollars for that, obviously we are going to be servicing less children.

That's probably the main gist of what I want to emphasize, except

that on the question of labeling, I do want to add that labeling to me is not a bugaboo. I think it is a tool and a means for servicing children. I feel that it is not something to shy away from at all cost. On the other hand, it is not something to rush into in order to get money. There are always philosophical differences, as referred to this morning, and we each have our own personal and educational philosophies. But, I think, within an educational context, if we are given the means to provide the services for the particular children, flexibly as fits their particular needs in a particular context, then that is the way we can get the most efficient use of the dollars and, at the same time, provide the best kind of services for the children.

When I was in Trenton, for example, we got a Title IV Education of the Handicapped grant for three years, which was precisely for the purpose of identifying and remediating children in the very early grades, before they needed formal special education kinds of services - classification and being put into separate special classes.

Now, the fact that we were able to get that money for those three years meant the board would be willing for us to do that kind of service. When the three years were over, that was the end of the service. Nobody said it was a waste of time or a waste of money. Nobody said, "We don't want you to do it." But, nobody said, after three years, "Here is the money to do some more of it." So, the result is that when you can do that kind of thing, you avoid having the kids, later on, go into special classes; you save money in the long run; but, at the same time, somebody has to be willing to prod the local people into laying out the money, or provide at least part of it - with local people coming up with more of it - so that you do what is more efficient for the kids in the long run.

Senator Wiley, I believe you asked a question of one of the speakers here - would he be subject to criticism for not taking full advantage of a 100% excess funding if that came along? My comment to that is, there are always criticisms of people in our positions, for various reasons - sometimes very appropriate, - and I welcome that kind of input, and sometimes not.

My feeling is that the special services people that I know of are influenced by what is good for the kids - what their needs are. We are willing to take the criticisms. We are not willing to go out and just spend dollars for the sake of spending dollars. It is very difficult to get a board-- For example, if we are funded at a 50% rate, the board knows that they must spend 50% also. If it is 100% excess cost, the feeling is, well, there is a free ride. Get the gravy that you can. It is not something that I have heard people say they would be willing to do. I don't know of anybody either on the Board of Education or in an administrative or professional capacity who would simply go about it and try to pull in the money you can. You must justify services. You must justify the value of what you are doing. So, I don't really see that as a danger. What I see is the opposite side of that coin, which is, given a reason to spend a little bit of money to get more the boards may do that kind of thing.

That is the gist of my remarks.

SENATOR WILEY: You would be willing to fund up to 100% without any maximum of whatever services the district wanted to provide for a given population of special children?

DR. HECKELMAN: I would be willing to live with certain kinds of maximums. I think there are situations which certainly could be abused. I think there should be a good deal of monitoring as to the quality of services that goes on too. I want to support one of the earlier statements to that effect.

The educational plans that the State requires us to write on every classified child, I think, is a very good means for that. I would like to see the State Department people come around more often, as a matter of fact, and go into the classrooms, look at the materials that we write and really do on-the-spot kinds of inspection. They do it now on paper. We submit each plan to the county for approval. I think there should be closer, on-sight, in-field kinds of investigations.

But, basically, I feel that 100% excess funding is the most appropriate vehicle for supporting special ed, with certain limits.

SENATOR WILEY: Okay. Are there any questions?

Assemblyman Burstein.

ASSEMBLYMAN BURSTEIN: Aside from pointing out again that Dr. Heckelman comes from that great part of Bergen County--

SENATOR WILEY: What county is that? Monmouth?

ASSEMBLYMAN BURSTEIN: No, more particularly from the legislative district number -- whatever it is.

Dr. Heckelman, perhaps this is a little off the main thrust of our questioning on the subject before the Committee, but I am interested in getting your view with respect to this matter of mainstreaming. It has been posed to not only us but to others as being the current trend of modern thinking with respect to the handling of the handicapped. I am wondering whether or not, in your view, that is true and whether mainstreaming, as a concept, is an idea whose time has come or whether there are many problems associated with it, particularly once a child is in the mainstream. What happens to him?

DR. HECKELMAN: Okay. I think the answer is yes to the last two comments. Yes, it is an idea whose time has come but, yes, there are problems. It can be abused. It can be an excuse to take kids out of special programs and put them back into the mainstream and say, we are doing what is best for them but not really follow up because they may be less visible then. When they are classified in a special full time class, they are very visible. And, then, you have to maintain the services in a more visible way.

Again, I think it not so much the official label of the programs as the people who are doing the work. And, again, just to cite my own personal example, the staff in Englewood is very much conscious of supporting kids in the mainstream. For example, there is a learning disabilities consultant in every one of the four elementary school buildings. Part of their responsibility is to work with children, both classified and non-classified, who are spending most of the day in a regular program. If not for that type of service, many of these children would be in full time special classes, either within the district or outside the district - county, or perhaps private school. Of course, we lose money by this under the current formula.

The purpose of mainstreaming is a laudable one and I think it is an excellent one. It is to keep the kids integrated within their regular classes

as much as possible. They are with their friends. They are not singled out, and so on. However, I think a close watch has to be made and we resist any attempt to farm the kids off as just kind of one of the herd, where they do need very special kinds of services. We can often give them special services.

For example, in the high school - just to take the other end of the scale - we have a team up there which spends a lot of its time not classifying kids but as a drop-in kind of office. Kids come in for some informal counseling. They come in to discuss problems that they have. We do not get a cent back for that under the special ed reimbursement this year. However, it keeps a lot of the kids in the school and it keeps them graduating.

ASSEMBLYMAN BURSTEIN: Is the classroom teacher, in the normal class, given any special instruction by your special ed skills people with respect to the identification or the monitoring of the performance of a child back in the mainstream but who, nevertheless, is getting some assistance?

DR. HECKELMAN: Yes. There is a very complex and I think good process of follow-up. As a matter of fact, even before we classify a child, there is a very strong emphasis now on due process which involves not only the parents but the teachers as well. So, there is close consultation. When a child study team is asked to evaluate a child the two sources we go to first are the parents and the classroom teacher. It may be a child does not have to be classified. However, he may need some extra help in the classroom. We will consult with the teacher and make suggestions and follow-up periodically.

If a child is classified, the child may stay in the mainstream. The child may go out and then come back later on, which is the basic goal of the special ed classes. At all points we will periodically check back with the teacher.

One thing I would like to see that we don't do enough of, probably, is in-service teaching for the regular staff. Ironically, many of the skills and techniques that are useful for normal, everyday, primary, early-age school children are those that are pioneered in special education. A lot of the new materials came out of special education and would be very useful for all kids. That is one of the things we are going to try to do.

ASSEMBLYMAN BURSTEIN: Again, Dr. Heckelman, if we could focus on the funding for a moment, you mention that a child who was undergoing the mainstreaming process, rather than classification, is not funded with any special funding from the State under the categorical program under Chapter 212, is that correct?

DR. HECKELMAN: In a limited way. It depends. He is not funded if he is-- For example, the learning disabilities people who see classified children, those children are not funded because that is not a person hired; that is a special ed teacher. However, a child who is seen on a supplemental basis has a very small funding. It is .09, I believe, percent of the \$1,500. Resource rooms, which is, again, part time, are funded.

ASSEMBLYMAN BURSTEIN: So, actually, it wouldn't be entirely accurate to say that a child going through the mainstream process is not receiving some additional state aid for that purpose.

DR. HECKELMAN: Right.

ASSEMBLYMAN BURSTEIN: I gather your complaint is that under the old system you were getting more by reason of a 50% reimbursement formula?

DR. HECKELMAN: We are getting more and it was being put into a more useful direction - I think probably with laudable intent. I wasn't privy to the reasoning that went on. I imagine that the more hours a child spends in special ed, the more dollars should be made available. That is the way the formula works out. And, the further away from home, the more dollars. Presumably private school requires even more, for whatever reasons. However laudable the intent, the effect is the reverse, as was pointed out, of the educational intent. So, in that respect it is a detriment.

ASSEMBLYMAN BURSTEIN: I have your point. Thank you.

SENATOR WILEY: Thank you very much, Dr. Heckelman.

DR. HECKELMAN: Thank you.

SENATOR WILEY: Dr. James Reilly and Charles Walker of the New Jersey Education Association. Nice to have you with us. Who leads off?

DR. REILLY: I will lead off.

SENATOR WILEY: Okay.

D R. J A M E S R E I L L Y: I am James Reilly. I am Director of Research for the New Jersey Education Association. We have a prepared statement, which has been given to the Committee. I would like to outline 10 or 11 major points that we have attempted to make in this statement, after which my colleague, Mr. Walker, would like to offer some comments on some items that are of special concern to NJEA, in respect to categorical funding.

The first point that I wish to make - and the Committee has heard a number of these things mentioned before - is that the present method of funding special education and other categorical aids appears to be deficient or has significant problems in several respects. For one thing, the present system, as outlined in Section 20 of Chapter 212, seems to encourage a more restrictive environment, which seems to run counter to the thrust of recent Federal legislation in the area of special education, which calls for least restrictive environments, insofar as that is appropriate for the individual child.

The system also seems to encourage districts to fill classes to the maximum permissible limits and to, in some cases, use aides to secure an additional one-third extension of maximum permissible class sizes.

The current system does not make provision for child study teams or diagnostic services and there is no permanent method for funding resource room programs, although separate legislation has been introduced which would take care of this problem and NJEA supports that legislation.

Speech and supplementary education are based on numbers of pupils served and it has been suggested that it would be more appropriate to take a closer look at the manner in which those pupils are served, rather than simply the number of pupils who are being served.

There also seems to be an incentive for misclassification in the labeling, or classifying, system that is stipulated by the law. Some disabilities or impairments carry greater weightings than others and this does seem to provide such an incentive.

There also appears to be an incentive, in certain districts anyway, for private school placements instead of placements and provision of programs in the public schools. This also is counter to the thrust, as we understand it, of recent Federal legislation in this area - specifically, Public Law 94-142.

Mention has also been made of the so-called September 30th problem, as we have heard it characterized, in which children who transfer into the district or who are classified after the counting of pupils on the last school day of September, do not receive aid for the remainder of that year. A bill has also been introduced - S-3012 - which would provide for this problem and we support that legislation.

There is another problem which has come to our attention and that is the prior year funding basis. Of course, the previous system was similar in that respect. We have a new factor in the situation, which is budget caps of course, and in view of that, the prior year funding basis seems to create problems in terms of program expansions which may be necessary in order to meet the needs of special children, especially, again, in light of the thrust of recent trends in special education and recent Federal legislation.

We have some continuing questions about the method which has been used to derive the categorical weights. We have talked to the Department of Education on several occasions and discussed some figures with them. It appears to us that only about one-half the cost actually involved in providing special education is actually used in calculating the weights and that is not necessarily an assertion; it is a question that we would like to raise and we urge that every effort be made to verify the figures which have gone into the calculation of the weights. I understood Mr. Starkey to say earlier that this subject will be dealt with extensively in the report which is due later in the summer from the Department. We are very happy to hear that.

We would also like to point out, about the categorical weighting system that exists, that it tends to solidify what exists rather than to encourage what ought to be in respect to proper care of special students.

We have also observed that Section 20 tends to be insensitive to the needs of individual pupils because it is based on statewide averages. We also fear that an arbitrary system, such as prescribed in Section 20 will create financial incentives and disincentives, which are detrimental to the interests of all children, both special and normal. We think that a significant amount of additional study is necessary in order to determine exactly what the implications of such a system would be in this respect. We are not at all sure that we understand all of the incentives that might be created which could be damaging.

In general, we feel that a system providing for full funding of special education is a better system as an ideal and this is the position that has been adopted by our governing bodies. A full funding of actual excess costs system would be a reasonable approximation, in our opinion, of this ideal and we endorse that concept as opposed to the categorical weighting system which currently exists.

We do not feel, by the way, as has been suggested in some areas, that such revisions would jeopardize the constitutionality of Chapter 212 because the proportions of equalized and non-equalized aid might be changed because we feel that such modifications would make a greater overall contribution to a thorough and efficient education than the present system does.

We feel that the most crucial consideration is that incentives not be created which would result in massive relocations of special children into

regular classrooms to their detriment and the detriment of normal children.

In these resource room, mainstream type situations, we feel it is very important that there be controls in the type and number of mainstream children who enter these classes and that the total size of the class which is permitted should be controlled.

For the short term, NJEA supports the recommendations which have been made for changes in the weighting factors and which have been submitted to the Governor. However, we urge that every effort be made to insure the accuracy of calculations upon which these recommendations are based. And, we continue to be concerned about the three areas which were reduced: perceptually impaired, neurologically impaired, and chronically ill.

With respect to the specialized area of the categorical weighting system, compensatory education, we feel that the recent controversy which has surrounded compensatory education is an excellent example of the problems which are derived from such arbitrary weighting systems based on statewide averages. We also feel that compensatory education funding should be stabilized. NJEA is especially concerned about recent actions of the State Board of Education which will deprive many districts of some of their compensatory education in 1978/'79. A similar situation affects a different set of districts for 1977/'78. A bill - S-3134, of course - has been introduced which will tend to stabilize funding in this area if we approve of that type of measure.

Finally, we are concerned that steps should be taken to avoid, in any way possible, misapplication of compensatory education funds and resources. I would like to point one thing out which is in the text of our testimony. Mr. Porado mentioned in his testimony, earlier, that about 150 thousand pupils are being dealt with in special education programs. We mention, in the beginning of our text, that the special education population makes up about 2 1/2%. We took that figure from a Department of Education document. It apparently refers to those children actually classified in special education classes, as opposed to the total number of children involved in special education.

With your permission, Senator, I would like to turn the microphone over to my colleague, Mr. Walker.

SENATOR WILEY: Thank you, Dr. Reilly.

C H A R L E S W A L K E R: I am Charles Walker, representing the New Jersey Education Association, Division of Instruction. I have less hair now than the last time I appeared before you, Senator, but it is good to be here.

Assemblyman Martin raised a question this morning to Mr. Starkey that said something to this effect: What effect will the money have in terms of providing quality under the present system? I don't think you can consider any decision on the categorical aid or other formula device until you realize what happens in reality when the money goes into the districts. You have questioned and answered on three separate categories today, one dealing with the categorical aid for special ed, one dealing with some of the ramifications of the new Federal legislation - P.L. 94-142 - and on a few occasions people got into the State compensatory ed program, which is one of the categories under the categorical aid distribution.

Ironically, Assemblyman Martin's point on the money and what happens to it in terms of providing a quality education goes in three separate channels and can do three conflicting things on all of these three programs and topics.

To give you an example, it has been proven, or at least testified to today by people involved in psychology and child study team work, that the categorical aid system as it exists now, under Section 20, moves and tends to move toward placing students in a restrictive environment if the school district is to get more bang out of the State buck. To get more monies, the district can do that by restricting the environment with the placement of the child.

Now, the new so-called "landmark" legislation, this 94-142, which will bring about maybe \$8 million next year into the schools of New Jersey for education and then almost a doubling factor in the next school year - so, we are talking about more than just \$8 million a year from the Federal legislation - says just the opposite. It will encourage money to the states and to the local districts for providing the least restrictive placement of students in an environment conducive to a peer-exposure education.

How the State of New Jersey can have its own legislation for categorical funding serving almost in direct conflict with that of the Federal legislation, which serves to bring us \$8 million and perhaps \$16 million in the next year, seems to be an irony of conflict. But, moreover, we have seen some districts today that have talked and told about how their losing money under the system - or how they stand to lose monies. There are several districts who have gained tremendous amounts of monies under the State compensatory education program and under the guidelines and administrative code for that particular program. These monies that you as a State gave to the local districts were to create programs in excess of, and supplemental to, programs that existed last year in the schools.

One of the weaknesses in the funding system right now is the fact that the monies go into the school district and there is no enforcement procedure to see that the regulations of the code and the law are carried forth. Particularly, this is specifically seen in the State comp ed situation. I can call off districts that have received a small amount of money and some who received larger amounts of money. West Deptford, for example, in Gloucester County, received approximately \$39 thousand from your State funding plan under the categorical aid feature for State compensatory ed. They took a program which they had funded last year and had afforded in their budget to do again this year that served over 1,000 children in remedial reading and accelerated reading programs-- They took the \$39 thousand from the State and created a program that stopped the other program from happening and now serves one hundred and some odd children. There are some nine hundred children in West Deptford not having services that they received last year, but West Deptford is \$39 thousand richer from the State categorical aid formula for its State compensatory ed. And, that money, in many districts is laying, amortizing, or in the free balance account of a budget.

There is a very small district not far from Trenton, called the Lumberton School District, the Florence E. Walter School. The State's formula computed out about \$11,500 for the Florence E. Walter School, Lumberton School District. They didn't create a new program that stopped programs that were going on, they just took the \$11,500. No one was hired. No programs were purchased. No materials were effected. But, they took the money from the State of New Jersey.

Now, the same thing can very easily happen if you move from the State compensatory ed situation to all the categorical aid situations under

special ed and especially to the \$8 million that you may be looking forward to from the Federal Government next year. And, it happens through the misinterpretation of some of the very testimony that Ms. Scambia gave today, from the Newark Board of Education, when the Board of Education has to move quickly on a decision.

Take the concept of mainstreaming. We, I think, provided you with a little policy blurb on mainstreaming from our Association. Mainstreaming has been used to do just the opposite of that which it was designed to do. It was afforded to bring better education and more services to children. As a result, I got calls all throughout this year and last year - long before mainstreaming even became a mandated type of idea - where school districts took the term of mainstreaming, fired their special education teachers and specialists, ridded themselves of the special ed area, and threw all of the special ed and the special need students into the regular classroom. The teachers who, without in-service, without preparation, had no understanding or no ability whatsoever to teach the special ed child but, moreover, the regular, or the so-called "normal" students, were at the chaos and disorder of a class that could not be taught properly.

Mainstreaming has become one of the most abusive situations in education and it will become, under this new Federal law, even more abusive if the State, in one way or another, does not enforce the direction that the monies go to in the district. To do that, you not only need a new formula, as far as throwing the categorical aid situation out of the window, but you need the enforcement procedure to stand behind whatever formula you come up with so that monies going into a district end up in programs for kids and are not just monies sitting around in a budget amortizing or earning some kind of an interest.

SENATOR WILEY: Thank you both for your testimony. There seems to be some cross currents as to how decisions are made locally, whether educational judgments are being made soundly or whether they are being made for financial gain. There is an apprehension, not just in your testimony and Dr. Reilly's testimony, but from others, that the incentive to get funds by classifying is actualizing itself somewhere around the State. Many people have spoken of the incentive but no one has told us of actual cases. But, we presume that one might lead to the other and a distrust of the sufficiency of a monitoring system to detect that, or a distrust of the uniform conduct of the people who are responsible for classification. That is understandable. We are dealing with human beings.

On the other hand, I hear a recommendation for full dependence on a 100% reimbursement of actual cost to all of the districts in the State, dealing with the same human beings we were dealing with in the first instance. And, I hear, also, that mainstreaming is taken to excess, even though this kind of runs contrary to the financial interest of the district. I don't get a clear feeling of what we are being told, I guess.

Are you content, really, to recommend 100% reimbursement of actual cost and rely on monitoring and not be concerned that it would get away from us?

DR. REILLY: I think, Senator, that there seems to be a wide consensus of opinion, among most of the groups and individuals who have commented here today insofar as I have been able to observe, that the present system is not operating in the best interest of special education children - or there

are broad suspicions that need to be investigated thoroughly that serious problems are going to occur, if they have not done so already. There seems also to be a general agreement that the answer to this is to go back to something approximating the system that existed earlier on the general theory that if you base reimbursement on actual excess expenditures, you will create a general incentive to do what is best for the child involved. It is called special education. It is a very special and relatively small group of pupils who perhaps because of the problems they have already suffered, deserve some special consideration.

I think that the general thrust of the suggestions is that this area needs to be investigated much more thoroughly than it has been already so that some of these questions can be answered and perhaps the report that is anticipated from the Department, later on this year, will answer some of those questions. That is our hope anyway.

SENATOR WILEY: I agree on the concern. I was interested particularly-- It is obvious we don't have all the answers. The question is, can we arrive at something that would bring more gains and fewer losses in the operation? No system is perfect. I am interested in the suggestion of 100% reimbursement of actual cost. When we have a distrust of the-- I am not talking about anybody else; I am talking about myself. None of us want to create a system that is dependent upon human good will because we don't always find it.

DR. REILLY: True.

SENATOR WILEY: We want some controls put into it. Fifty-fifty funding in the past presented a few problems. On the high side, it presented the problem that it was easy for a district to fund it. They would fund it fairly well. And, in a district that was poor, where it was difficult to fund it, they wouldn't fund it at all. So, you look for some way to get some fairness and meet the interest of the kids.

Going to 100% funding, I think -- well, I am repeating myself; I think I just said it. Are there other ways? Can you use some, for instance, kind of sharing formula that would reflect local capacity - a separate equalized funding system for special education on top of the equalized system for the non-special cost of education?

DR. WALKER: That would certainly be a possibility that we, of course, haven't specifically considered, Senator. The equalization aid plan, as Mr. Starkey pointed out this morning, to some extent, does something like that but I think what you are probably referring to is a specific special education equalized add-on system. That would certainly be a possibility. It may be revealed, ultimately - and it may well be true - that there is no perfect system for dealing with the whole problem and no system that will satisfy everyone and that will eliminate every problem. But, I would say, just as a quick response, that perhaps something along the lines that you suggest would be certainly an improvement upon the present system and there seems to be a broad agreement that the present system isn't adequate to the task. So, we have to find something better.

SENATOR WILEY: Okay. Thank you very much. Are there any questions from the members of the Committee? Assemblyman Martin.

ASSEMBLYMAN MARTIN: Mr. Chairman, the question I have relates to page six of the presentation. I see where the NJEA says - this is in the middle

of the page on comp ed and weighting factor - "We have never been able to determine precisely how the .11 factor for compensatory education came into being." I was wondering, since we have the Department of Ed represented here perhaps they could explain it, or maybe one of the Committee members, other than myself, could explain it.

SENATOR WILEY: Do you want to comment on that, Herb, as to the origin of the .11?

The question was, in the presentation of Dr. Reilly there was a question as to the origin of the .11 weighting for compensatory education. Off hand, do you recall--

MR. STARKEY: There was no way under either compensatory or bilingual to relate the factors to any actual cost. It was an arbitrary beginning point unrelated to cost data for which there would have been none. It was tied to roughly half of the rate of payment for Title I students, which I believe at that time was \$300 and the factor for state compensatory was put in at roughly one-half that much. But, there was no inference that that was the actual cost until you got into the program. But, you wouldn't be able to know.

ASSEMBLYMAN MARTIN: One other thing. This is a question to NJEA. As I understand it, your criticism of the - and you are not the only ones who have expressed this point - formula in 212 is the abuse, or possible abuse, of the weighting system, tending to encourage over-weighting. It is not the formula itself, then, per se, that you are objecting to but to the potential abuse, or the actual abuse of it. What I am asking is, if a method could be devised to prevent that abuse, would you then find fault with the formula?

DR. REILLY: Our general assertion is that that type of approach tends to create incentives and disincentives to do certain things that are not in the best interest of children. I think your question is, is it conceivable that somehow or other those possible abuses can all be anticipated and dealt with? Would we then find any fault with the idea of a weighting system? I see that as sort of a theoretical question. It seems that the problems are built into the structure of the approach. I think I would have to answer that if all of the potential problems the system would create could be dealt with, then we would have no further objection to it. But, that process would seem to change the system.

ASSEMBLYMAN MARTIN: Well, what assurance do we then have if we went to full funding, as Senator Wiley was talking about a few moments ago? What assurance would we have that even with full funding you wouldn't still have an abuse insofar as maybe the funds were not being used to do what you and others want them to do?

DR. REILLY: A full funding approach would require controls, obviously, and I couldn't guarantee that there would be no problems in seeing that abuses, perhaps of a different kind, did not occur. But, the consensus of thinking seems to be, at this point that while perhaps not perfect, a full funding of actual excess cost approach with some kind of control mechanism, perhaps an improved monitoring system, would serve the purpose of providing special children with services better than the approach we have now, which involves classification. Of course, there are some other attendant problems with that, with the system involving classification, such as, as has been mentioned, the simple act of classification itself and the possible negative

implications that that carries in the community for certain children and families and so on.

ASSEMBLYMAN MARTIN: How would you avoid the probability, under full funding, of a district saying that they need 2x amount of dollars instead of x, since the monies in full funding would assure them that they could get what they asked for?

DR. REILLY: I think the only answer to that question is some kind of control mechanism which I am, quite frankly, not prepared to outline in detail today. That would have to be, as several other parties who have testified have mentioned, some method of monitoring and inspection to make sure that there were not abuses of a full funding system. That situation existed, I would think, to some extent under the previous system, which was a partial reimbursement of actual cost. I think at least one or two persons who have testified today have indicated there were some abuses then. So, it would be logical to anticipate that there might be some abuses. But, I would have to say, again, that it appears on the whole that kind of a system would offer advantages over the present system, given that it would not be perfect, it would not solve all of the problems.

We certainly think it is worthy of serious consideration by the Committee and in the studies that we presume, from the statements that have been made, are being done by the Department of Education, directed toward determining whether or not changes are necessary in Section 20.

ASSEMBLYMAN MARTIN: What would be your most important point in giving the benefit of the doubt to - if I can put it that way - full funding, as opposed to the present formula, assuming that you had a device mechanism to prevent abuse under either system?

DR. REILLY: Well, perhaps the most important point - there are several - responding quickly, I think, would have to be that a full funding of actual excess cost system would not create a disincentive to -- Well, perhaps I should rephrase that. It would avoid a situation in which state aid for this purpose was reduced and for some reason, perhaps involving the local funding situation or local attitudes, or whatever, a district determined to make less of an effort than it had in the past on behalf of the special students who are in that district, or perhaps lost an incentive to operate an outstanding program which they had in the past because that kind of support was available.

MR. WALKER: Assemblyman Martin, it may do something else too. Right now, no matter how sophisticated a formula you can base the categorical aid weighting factors on, you still, at best, I think, revert to Mr. Starkey's answer that you are dealing with an arbitrary type of situation in establishing a percentile, or a fraction part of refunding under the categorical aid. What the full funding will do will be to move away from the capriciousness of saying that one handicapped is worth more money than another handicapped, or that multiple handicaps are worth more money than other handicaps and perhaps move toward a more equitable distribution of serving the child, not for what will get them money but serving the child for that which the child needs, in terms of their real handicap. I think that is one of the features that you may remove with the full funding system.

ASSEMBLYMAN MARTIN: But, isn't that judgment almost as arbitrary as

it is, as you say, under this system? I don't quite get the distinction. Maybe there is a distinction, but I don't quite get it. What, in effect, you are saying, as I read you, is that the local district in making its determination under full funding -- that decision would be more valid, more in the interest -- as you put it -- of the child than under the categorical aid formula. And, frankly, I lose that distinction.

DR. REILLY: Under a system that is based on a sort of tandem relationship -- that is, it takes into consideration local needs, the local situation, and matches or replaces local efforts -- would seem to encourage doing the proper thing for these students more so than a system which grants a certain amount of aid, based on head counts, based on state average expenditures. That system, in the opinion of many persons, apparently, seems to create an atmosphere in which you are paid a fixed amount -- almost a head count bounty -- and there is than an incentive, perhaps, to have the largest possible classes and if you have other financial problems to run the cheapest possible program -- if I might use that term -- or the less expensive, less adequate program because the amount of reimbursement or support you are receiving from the state is not directly related to what you are doing for these students. It doesn't really take that into consideration. It is based on grants and it is based on the number of children that you can count, rather than what you are actually doing for them.

SENATOR WILEY: Assemblyman Burstein.

ASSEMBLYMAN BURSTEIN: Dr. Reilly, given the fact that we have to live within the limits of available resources, have you made any computation of what the cost to the state would be in the event we went to a full reimbursement program, either in the total amount for special ed costs, which I believe Mr. Starkey estimated at \$193 million for the current fiscal year, or talking in terms only of the direct categorical assistance of about \$77 million?

DR. REILLY: I do not have a precise figure available right now but I am sure that could be -- If the Department has not already done that, I am sure that such a figure could be provided to the Committee in short order. I don't have it right at the moment.

ASSEMBLYMAN BURSTEIN: I assume that we would consider that somewhat significant?

DR. REILLY: I would agree that that would be somewhat significant.

SENATOR WEILY: Senator Dumont.

SENATOR DUMONT: Dr. Reilly, on page 6 of the statement, you say, "The State Board has revoked the option for local boards to set the standards through which students are admitted to compensatory education programs." Do you know why the State Board did that?

DR. REILLY: I was not present for the discussion, Senator, but it is my understanding that the State Board apparently felt that in some cases districts were setting the standards at too high a level and placing too many students in compensatory education programs and there apparently was some feeling that that was inappropriate. So, the decision has apparently been made to set statewide limits in order to -- in certain districts -- reduce the number of children who would qualify for compensatory education programs. That may not be entirely correct.

I would certainly defer to Mr. Walker on that. Were you involved in that?

MR. WALKER: I think that is right. A lot of what has been happening is, school districts in order to receive more monies realized that they stood to gain by articulating their reports to the State in qualifying those numbers of students who should receive compensatory ed. Therefore, they rushed in and established standards that were higher than perhaps should be from standardized tests and other assessment devices administered locally and threw their numbers way up.

Part of the Commissioner of Education's reaction to that was the fact that so many districts were receiving much more money from the State just because they had a skilled administrator who would play the form game and districts where children had real needs weren't manifesting numbers of children to receive the compensatory ed funds. In essence, the need of the child wasn't determining it, but the skillful articulation of the form-filling-out was.

SENATOR DUMONT: When was this done, do you know? Do you know when this was done by the State Board?

MR. WALKER: Gee, I don't have a time factor on it. It was recently decided, or adopted, by the Board.

SENATOR DUMONT: You can also argue the other way: Since when has the State Board necessarily been better able to decide those things than a local board can in its own school system? I know a lot of districts are going to lose considerable money in compensatory education in the '78/'79 year from what they are getting in '77/'78. It doesn't seem necessarily to be related to much of anything, other than the fact that there is an effort to get the compensatory education money up from \$57 million to \$73 million, or thereabouts.

MR. WALKER: Sir, there is also a consideration at the State level of moving additional compensatory ed funds toward the results of the statewide test. That would be giving money to school districts whose children performed poorer than other districts. They would receive more monies. Then you will have a movement, under the T & E law that talks about expansion and better education for kids, for school districts to benefit from more State monies by having them do poorer on examinations administered statewide, which is anti-excellence in a nutshell, all to get the state funding. That is another development that has been discussed and has been looked into by the State.

SENATOR DUMONT: Well, some of the school districts that are going to lose are the ones that did well on these comparative tests and they, of course, are not urban school districts so they get cut under this kind of solution in '78/'79.

I can say, very frankly, I don't think highly of that system.

MR. WALKER: Back two years ago, when we fought that statewide test, part of our legal argument was that it, very easily, could develop or design into a funding mechanism, erroneously so. The State said in their testimony and in their brief that that would never happen because you can't do that from a test. But, apparently now under the T & E and under different compensatory ed programs, that is a definite consideration of the State Department of Education and, perhaps, this Committee can even help and address itself to that issue as well.

SENATOR DUMONT: Well, in that case, I am glad I voted against the minimum statewide testing. Thank you.

ASSEMBLYMAN EWING: I can't believe that any teacher that is a member

of your union or any other union - or independent teacher - if they are really, truly interested in the child would now try to get him to fail in order to get their district more money. I gather you are implying this.

MR. WALKER: No, sir. NJEA with its 86,000 some teachers would never imply that. People who work for someone, more often than not, will obey an administrative order and we have documentation and information relevant to that same situation now that has been given out at Board meetings. Cape May City, for one, at its last meeting, instructed its administrators to tell and inform and direct teachers to teach directly toward that test, in terms of moving from good and high scores and moving into mediocrity because it is a funding possibility.

ASSEMBLYMAN EWING: I would like to make a request that your organization give us any information you have available - every bit of it.

MR. WALKER: We would be delighted. Thank you, sir.

ASSEMBLYMAN EWING: How many more others than Cape May?

MR. WALKER: I have about 13 or 14 districts documented as of this time.

ASSEMBLYMAN EWING: I would like to have them given to our Committee.

MR. WALKER: I will forward them directly to you.

SENATOR WILEY: Mr. Porado?

MR. PROADO: Mr. Chairman, if I may, on behalf of the Department of Education I would like to have that information shared with the Department of Education also.

SENATOR WILEY: Sure.

ASSEMBLYMAN EWING: I think we ought to get some people up on charges.

SENATOR WILEY: We will circulate the information. Mr. Starkey?

MR. STARKEY: May I make a statement? In regard to the fact that some districts presumably did not spend their money for compensatory for the purpose for which it was granted, we are still in the end of the first year and you don't handle audits until the year is over. I don't think it should be inferred that those districts are necessarily-- I can't answer what is going to be done but I am sure the Department has plans to check this at the conclusion of the year. It could even be possible that they will have to return money.

SENATOR WILEY: Okay. Thank you, gentlemen, we appreciate it.

Mr. William Hodes of the Education Law Center, Newark.

W I L L I A M H O D E S: I am William Hodes from the Education Law Center. We are a public interest law firm in Newark and in Philadelphia and some of the particular areas that we have been involved in are the areas that I think the Committee is involved in today, namely special education and school finance reform. I think the testimony that we have had today has shown the link between those two issues today, that in fact, underlying all of the testimony today really is a question as to whether the special education funding should be an exception to the equalizing rule or not.

I think people who are familiar with the work of the Education Law Center may be surprised to find that in today's hearings -- In yesterday's papers we were suing the Commission of Education and the State Board of Education. Today, in these hearings, we generally support the approach that the Department has taken in its analysis of the problems, although we do object to the formula and the way it is worked out. The reason that we essentially agree with the

Department's position is that our main objection to the formula, as it now exists - or to the whole categorical aid program - is that it is anti-equalizing. As Assemblyman Martin pointed out, I think that the real underlying issue is whether, under the Robinson vs. Cahill case, such an exception should be made.

I think our main quarrel with Mr. Starkey's testimony is that it doesn't go far enough. The answer is not that it does have some equalizing effect combined with the rest of Chapter 212. Our position is that categorical aid should be abolished entirely and that there should only be a single equalization formula. I think just at the very end, Senator Wiley, you were suggesting the possibility of having an equalization formula for special education and another formula for education generally. That is one possibility. Our system, that we propose at the end of the document that I have handed you today, goes that one step simpler, I think. Basically, what our system will do it take the entire special ed costs, consider them as no different from anybody else's cost and multiply them by the same weighting factors and the same equalization factor that the general budget is weighted for. If we stop there, that would, of course, solve the district-to-district financial inequality problem, as the rest of the statute does. But, it would not solve the problem of the presence in some districts of harder to educate children -- for example, more comp ed children, more handicapped children, more bilingual children, and so on. So, in our system we also want to add a moderate amount of pupil weighting to try and ease some of the inequities also.

Now, before I get into a little bit deeper explanation of how our program works, just let me hit one or two points that have been mentioned by others concerning problems with the present system. I think they have not been fully aired.

Number one, of course, is that the formula itself is anti-equalizing. None of the other speakers have alluded to that and that is our main concern with it. A child in Newark generates, under this formula, the same number of dollars as a child in Princeton or any place else, and that is a major weakness.

Now, many of the speakers this morning-- In fact, the more dedicated they were to the cause of special education - which the Law Center is also and many of our cases have been in that area - the more they feared that by not having more money go into the categorical aid formula the services simply would not be provided at all. You heard today a parade of horrors as to the services being cut, and so on. The assumption is that if it is a mandated program but is not paid for by the State, it simply will not be provided at all. I think that is where the real philosophical difference comes in.

It is our position that those same dedicated people should bend their energies to insuring that those programs are provided and are made to be quality programs, regardless of where the funding comes from. And, to assume that because a district is not getting State funding for a program it will not be provided is to give up in advance. It is defeatist. It is cynical. And, it simply shows a lack of courage. Rather, what those people should do is, come budget time, they should openly take on the battles that they already fight now because as the last speakers pointed out, there is no real targeting mechanism in the law. Even when the aid is coming in, you still have to fight for it to make sure that your programs -- that the money that has been generated by the

categorical weights does not go elsewhere, that they should carry on those same fights. And, in the end, the reason why we come out in favor of totally abolishing a special fund for special education is that New Jersey is probably the one state in the country where the traditions of special education - there may be a couple of others, but this is certainly one of the states - is so strong that it would be possible for special education children, their parents, and their advocates to, in effect, wrest those dollars out of the general budget.

In connection with that, I just want to point out, once again, that Mathematics, English, American History, and Gymn - all of those programs - are "mandated programs." In each of those cases, come budget time, in effect, those monies are put aside and no one even talks about cutting those programs. And, people who are math teachers, or whatever, do not feel the need to come to Trenton and say, "You must give us a special mathematics formula because otherwise there will be no math." Rather, their position is so firmly entrenched that they are confident that their programs will exist.

Now, I suggest that, in fact, special education does have that same favored role already, a role that is much more favored, for example, than extra curricular activities or foreign languages, for example. So, what we are really talking about here - and I know that in local districts it will cause dissension and in-fighting for pieces of the budget - is priorities. The fact that special education is a mandated program means that regardless of the amount of state aid that you are getting, if you are a high wealth district and you are not getting enough state aid, then you may, in fact, have to choose between an extra foreign language course and special education. And, if it comes down to that choice, the state already has mechanisms to insure that the choice will be on special education, not on the other things. And, if it comes down to the even more unthinkable, perhaps the football team will have to be cut, or something else.

Now, I suggest that, in fact, it will not come to that, that if it is made clear to those districts - or any district - that it simply must fund Math and it must fund Gymn and it must fund American History and it must fund Special Education, that it will get those out of the way in its budget first and then go on to make its priorities.

Another point that others have raised: We are in favor of doing away with the system entirely so that the September 30th count date will not concern us. But, to the extent that it still exists, I just wanted to point out that those who opposed it, have not brought forth their strongest argument and that is, when you talk about a child entering after September 30th, you are not talking about September 30th of the current school year but anytime after September 30th of the last school year which includes the entire school year.

I will give you an example to illustrate that. If, in September, 30, 1976, or the day thereafter, a child entered the school, not only would the district receive no funds and have to provide services for that child for the rest of November, December, January, and so on, of that school year, but the district would receive no funds for that child for the entire 1977/'78 school year because that count date governs all of the money for the ensuing school year.

Also, on the question of out-of-district placements and the discrimination

between public placements and private placements, in the document that you have before you, we go so far as to say that this area is so glaring that it cannot be explained other than by inadvertence.

I have been informed by Mr. Starkey, during the break, that the theory behind that - of providing an extra weight to private schools and not to public school placements - is that it was assumed that children who are assigned to a private school are not counted in the public school's enrollment. Now, that is a rational reason, it just happens to be incorrect, because a child who is placed by a public school in a private school is still carried on the rolls and, therefore, does get ordinary equalization aid to the district.

We also have in here - when you talk about the categorical weight it is a side issue but it is an issue that is related to all of Chapter 212 - the fact that there is no provision made for the profoundly retarded, what used to be excluded from schools as neither trainable nor educable and is now termed eligible for day training but still specifically excluded from the school's responsibility. So, it is correct that there is no weight for that. On the other hand, all of Chapter 212 and its amendments to the Beadleston Act have not adequately picked up the cost. In fact, during the last year the Department of Education and the Department of Human Services have been tossing the ball back and forth and there has been very little progress in that area.

Now, as to our system, that we propose in place of the present categorical weights, our system - as we say on the top of page 6 - will do four things: It will be equalizing in the Robinson vs. Cahill sense and it will also equalize in terms of hard to educate children being concentrated in a district - that is number one. Number two, it will provide money that is linked to special services actually being provided. That is both a monitoring point and - a lot of speakers have raised this point and we agree with this - it will not deal with averages but, rather, it will deal with actual services being provided. It will lessen the significance of the handicap label because we will rely on a smaller number of classifications based on the level of service being provided, regardless of the child's disability and it will produce more consistent and less arbitrary results - again, going back to instead of using averages we use a sort of on-going monitoring situation.

In connection with that, I should add again that New Jersey already has in place, already functioning, a network composed of county and regional people whose only job is to monitor special education activities. It is possible that they are overworked. It is possible that the system has loopholes in it but, nonetheless, the notion that if you simply provide the money the districts will run away with it -- I think there are some fears that that might happen in practice, but the answer for that is rather to beef up the monitoring system which already exists.

Now, our idea is that on December 1st, under the present Chapter 212, there is a pre-budget review. The exact powers that the county superintendent has in reviewing those budgets are not entirely clear in the statute but it is our theory, based on past decisions of the Supreme Court - and the whole tenor of the Act is - that the county superintendent has more power than to simply cast a disapproving glance, but, rather, can say, "Just based on what is written here on December 1st, I can say now that this budget will not be satisfactory" and

to mandate changes right on the spot before it is sent to the voters, or before it is sent to the town in a Type I district.

In our theory, while that process is going on, the county supervisors of child study, which is the counterpart to the county superintendent in each county, will at the same time do a review of the special education budget. This review will be based on past experience in this district on whether the district has, in the year that is just past, provided satisfactory services or is already a district that is being pressured to provide more services so that one would expect a budget increase and it would also be based, particularly, on a detailed, estimated count of the children to be served in the following year. Now, this count, it is true, will be estimated but it is our experience that they will be able to do a relatively accurate, though estimated, count. The reason for this is that many of the children, of course, will simply be carried on from their present program into the next year, without a substantial change in their program. It should be possible for them to do a rough estimate, based on experience as to how many new children are either moving into the district or, coming up through the lowest grades, will be newly classified. In any event, the County Supervisor of Child Study will review the budget and require that certain changes be made if the budget is not satisfactory.

Now, instantly, if this system is put into effect this will quell many of the fears that the previous speakers have had, that special education money will be lost in the total budget, because I think that this area and compensatory education and bilingual and the others can be segregated out as early as December 1st and left inviolate.

Now, as I said, the second step in the normal Chapter 212 process is that each district counts its entitlement to equalization aid and it must be put out on the table very bluntly, that the whole purpose of it is that districts that are property rich will get substantially less money. They now get less money than they got previously and that was the whole reason that there was the Robinson litigation. That is the whole reason for those sections of Chapter 212, as Assemblyman Martin pointed out.

I think that by taking away categorical aid, you would, indeed, lessen the total number of dollars that would be going to property rich districts and you would be increasing, slightly, the number of dollars that would be going to property poor districts. As Mr. Starkey pointed out, a place like Newark and Camden, and so on, is already receiving 80% of the child study team cost, for example. Now, when Ms. Scambia testified - who, incidentally, was formerly one of those County Supervisors of Child Study and who has been involved in the monitoring situation and who is one of the most dedicated that we have come across - and compared the costs that Newark was receiving this year versus last year, I think there was a fallacy in her testimony and that of the others in that they failed to take into account - as Mr. Starkey urged you to take into account - that things like the child study team, although not picked up in the weights are, in fact, in a place like Newark, picked up by 80%. In Newark, if you provided all of the cost through an equalization formula, its total might go down slightly but since money would be freed-up from other areas which would be getting less special education money, it would allow you to fix the equalization level at a higher level.

Now, you could end the system there and it would, I think, well serve

the goal of fiscal neutrality. It would well serve the strict equalizing of resources. But, there is another equalization that has to be done and we believe that that can only be done through a mild version of the old pupil weighting that would be built into the top of this.

In our system it would not be necessary - in response to the criticisms which we share, that the rigid classification system creates wrong incentives and so on - to base pupil weighting on each of the handicaps. Rather, as we say on page 7, we just, as an approximation, thought of six, namely supplementary and speech instruction as one level of services that are being provided; resource room is number two; home instruction is number three; special class larger than nine; special class smaller than nine; and out-of-district placement. Now, you say, "Where does the figure nine come from?" It just seemed to be a break-off point as to the difference between a "largeish" special education class and a smaller one. Those figures were strictly used by way of example and certainly are subject to redoing.

Now, those pupil weightings will be based on the tentative count that had been made on December 1st of the number of special education students and, of course, this could be easily expanded to compensatory education, vocational education, and bilingual as well, thus abolishing all of the categorical aids.

The district would then count its single equalization aid formula and it would get that aid, as it now gets it, in 10 equal installments. As a minor technical amendment, we suggest that the 10 installments not run from September to June but, rather, one month earlier, from August to May to allow start-up cost.

Then, finally, to answer the questions that have been raised about having your entitlement decided a full 12 or 13 months before the school year even starts and the possibility of people moving in and out, we, in our system, ask for a second actual count in April and do a recalculation of the entitlement and then either adjust upwards or downwards in the last installment. Since the State is going to be giving districts their equalization aid in 10 monthly checks anyway, there is absolutely no reason, with a minor bookkeeping adjustment, they could not adjust that at the end.

So, I think there are still some kinks in that system and it will most definitely require vigilance not only on the part of the County Supervisors of Child Study and not only of people on the State level, but it will also require that special education PTA's and people like the various dedicated special education personnel that we have heard from today come out into the open and insist that programs that are needed must be funded and must be put there right on the top line of the budget along with the other so-called mandated programs. We propose this system not unaware that there are risks in doing that, but, as I said before, we think that New Jersey is probably one of the best places to take that risk and the system has so many other features that are in keeping with policy, generally, that we are convinced that overall it is a worthwhile package for the Committee and the Legislature to consider.

SENATOR WILEY: Thank you very much. You are banking on the fact, I presume, that the money that would be shifted from - to use today's examples - Teaneck to Newark by virtue of that program -- What did you say, it dropped from 600 to 400? This would drop them down to zero if it is a minimum aid

district.

MR. HODES: No, it would drop them down to -- assuming that nothing else has changed in the formula, it would drop them down to either 10%, 12%, or whatever their--

SENATOR WILEY: Of their special education costs?

MR. HODES: No. Oh, of their special education costs, it would never drop them to zero; it would drop them to the same proportion that their present budget is now under the equalization aid, which is roughly about 8%, as Mr. Starkey said. Most are around 10%, 12%, or 13%, as the lowest.

SENATOR WILEY: You are banking on the fact that money shifted - to use the example of Newark - would be sufficient to allay Ms. Scambia's concerns, or experience, about what happens when needs compete in the setting of a board of education. She is telling us that at their present funding level - 80¢ out of the dollar - special education can't be depended upon to come first, unless the funding is categorical.

MR. HODES: I am not relying on the Board of Education of Newark, or any other place, to do that instantly without grumbling and without monitoring. We are, in fact, putting our faith, as I said, in a system of controls that is already in existence and, I think, which can be strengthened. It is not out of keeping with all of the rest of the monitoring that should be going on throughout the whole T & E process. And, I think, particularly the significance of the December 1st pre-budget review has not been grasped. We haven't really had a December 1st go-by yet in which there has been a full experience with that system in effect. I suggest that if well in advance of December 1st it is made clear, not only to the district but particularly to the county superintendents, that their review is not meant to be perfunctory but is meant to be one of the key monitoring devices in the whole system, I think then, in fact, the fears will be allayed because boards will have no choice. They will simply be told "This budget is unacceptable. By your own count you must have the following personnel and you must have the following services and that money comes first." It would not be limited to special education. There would be a whole series of those and I see no difference, really, between that and, as I mentioned, American History, which is also a mandated program.

I think a county superintendent could, in fact, say, "Just looking at your program I can see that you don't really have an American History program and I am not going to approve this budget."

SENATOR WILEY: Thank you, Mr. Hodes. Other members of the Committee have not had an opportunity yet to ask questions. I must step out briefly and Assemblyman Burstein will preside. Thank you.

ASSEMBLYMAN BURSTEIN: Are there any other questions by the Committee? Assemblyman Ewing?

ASSEMBLYMAN EWING: I would just like to ask where Paul Tractenberg is now.

MR. HODES: He is part-time staff attorney with us and he is also teaching at Rutgers Law School.

ASSEMBLYMAN EWING: Oh, he is back there teaching?

MR. HODES: He is back there teaching. One of the courses he teaches is an education law seminar.

ASSEMBLYMAN BURSTEIN: That question is ruled out of order. (laughter) Assemblyman Martin, do you have any questions?

ASSEMBLYMAN MARTIN: Mr. Hodes, on page 7 one of your recommendations is that the formula be changed to set up six categories?

MR. HODES: By way of example.

ASSEMBLYMAN MARTIN: Yes, by way of example and you don't cite any weights for them. Isn't there the likelihood that this system would be no less susceptible to abuse than the present system?

MR. HODES: Well, it would be less susceptible because there would be fewer places to run to. There would be fewer discrepancies. In our view, the disincentives, or the abuses, there are in the present system - and we agree with all of the testimony on that-- We would like to add that where the abuse will come in, will not be in the Gross case. For example, I think we said earlier in the document that obviously nobody is going to put a blind child in a deaf class and expect to get away with it just because it is a higher weight. Rather, moving a child from one category to another will be in the areas where it is a close case anyway.

By choosing categories that are not linked to subtle differences in the child's I.Q., or subtle differences in how the child is behaving, but rather observable differences in what is really the best total program for the child, I think we can keep that to a minimum. We will not eliminate it. For example, if it is a close question whether the child belongs in a resource room or should be in a special class, larger than 9, let's say - which, as a matter of fact, in practice are not all that different, those two that I mentioned to you - I think there would be some - if the weights were significantly different - incentive to push the child one way or another.

There is one other built-in safeguard for that and that is, since you are doing only a preliminary count on December 1st and there is a second count on April 1st, one built-in weapon, if you will, of the county and regional monitoring group is that they can threaten to and actually take away a weight on April 1st if they find that a child was improperly placed. If the child was in "X" category throughout the year and should have been in a different category, I think it is not out of the question that the county people could actually say, "For counting purposes, I am going to count this child as if he were in the proper program so that your ploy of trying to get more money will fail." Whether they will be able to be that sophisticated and it can get that detailed I am not sure, but I think it is certainly well within the realm of possibility.

ASSEMBLYMAN MARTIN: On page 2 - your last full sentence says, "It is obviously true that special education children require more money to educate - but there is no school finance reason why that money should come from the State." Doesn't that run counter to the implications of the court decision in Botter?

MR. HODES: No, I probably should also have underlined the word State. In other words, there is no reason-- It must come from somewhere within the borders of the State of New Jersey but there is no reason whatsoever why it has to come from the coffers of the State Government in Trenton. Rather, our whole point is that once you say the services must be provided and the State mandates that the services be provided, that does not answer the question; it only asks the question, "Shall that money be paid by the local districts or shall it be paid out of Trenton, or shall it be paid in some kind of ratio?" Our school finance answer is - or, our Robinson vs. Cahill answer is - that the ratio

by which you pay those programs should depend on relative school district wealth.

Maybe I didn't say that properly, but that certainly-- I think what I wanted to say is exactly the way you have been saying it throughout your questions to the various witnesses today.

ASSEMBLYMAN BURSTEIN: Thank you very much, Mr. Hodes.

Our next witness will be Frank Dolan, New Jersey School Boards Association.

F R A N K    D O L A N: Good afternoon. My name is Frank Dolan. I am not, as many of the people have this afternoon, a professional in the field of special education, rather I am an interested citizen. I am the Chairman of the Special Education Committee of the State School Boards Association. Last may be best because I have had the opportunity, like you, to listen to a great deal of testimony all day from a great number of people.

I come up with something of an impression. I come away with the impression that Mr. Starkey has told us, at least on an average, statewide, money has been made at least available to keep the State contributions in the special education area to a goal level. However, we have heard from the people on the firing line, the folks in the school districts, that it just does not really seem to be working that way.

I would love to believe that a system, such as has been described to us by the last witness before this Committee, could work, that in reality special education could be mandated in the same way as arithmetic and history. But I don't think our history shows that way.

In the preamble to S-6, Senator Williams' landmark Public Law 94-142, he takes note of the fact that over half of the special education children in the United States receive inadequate education.

In 1974, the Congress of the United States passed the Rehabilitation Act, with Section 504, so-called these days, the civil rights for the disabled. It took the disabled citizens of the United States three years, and lying outside of Mr. Califano's office for thirty days, to get those rules and regulations published. I don't really think we are in a climate where special education funding can be considered in the same fashion as arithmetic funding or mathematics funding.

The New Jersey School Boards Association believes that the use of average weights to reimburse each of the varying classifications of the handicapped has actually caused a regression in the quality of services being provided to our handicapped students. Before Chapter 212, districts were reimbursed 50 percent of the total cost of special education programs, including all of the factors which we have talked of today - the child study teams, salaries, and other portions of fixed costs. Now, since these costs are not included as before, most districts are receiving less special education aid than they had previously. We believe this is contrary to your intentions when you enacted Chapter 212.

In a report of this Committee to the New Jersey Legislature, dated June 13, 1974, the Committee said in a section entitled, "Full Funding of Categorical Program Costs," "There is no doubt that a number of other kinds of pupils, because of some handicap, do require additional expenditures if they are to have an equal opportunity to succeed, and there is no doubt on the part of the Joint Education Committee that the State should accept this responsibility. For specified types of categorical pupils, the Committee recommends full State funding of the special costs required."

The additional cost factor system has not done this. For the 1976-77 school year, districts filled out reimbursement forms, the A4-2 forms, and the new categorical aid forms. In most cases, districts would have received more special education aid under the old method. Jersey City, which is where I was born, for example, would have received \$2.4 million using the A4-2 method, and only received \$2.09 million under Chapter 212. The district in which I live now, Bordentown Township,

would have received \$80 thousand and actually did receive \$30 thousand.

Of course, we have heard arguments that we are receiving more equalization aid than before. But, of course, that equalization aid is if you are under the 65th percentile of pupil spending in the State. However, we are also faced with caps which preclude expansion of items, such as child study teams and also - and I think this is the crux of the problem - force a conflict between the needs of regular education students and special education students.

This aid has been compounded by the use of September 30th as a cut-off date for establishing the number of children being served. Many students are placed in special classes throughout the year and the costs for these children must be borne by local districts. In Jersey City, there were 149 additional placements between September 30th and December 31st alone, resulting in a cost of more than \$300,000. Statewide it is estimated that close to 17,000 children were placed after September 30th. This cut-off date also has had the effect of inhibiting placement since no State aid is available for children placed after September 30th. Therefore, we strongly support Senator Scardino's S-3012, which would correct this situation.

We attempted today, incidentally, to find out a little bit about that plus and minus situation, that these would all work out in the wash. We, unfortunately, were not able to get a good firm figure from Jersey City. However, in preliminary discussions in this area with the child study team supervisors, we got the general feeling that that same situation of possibly losing 10 percent, gaining 90 percent, is pretty true statewide. I think we are in a situation where those pluses and minuses would work out if the special education population were static. It is not, as you have heard all day. It is growing.

The New Jersey School Board Association feels that there are a number of philosophical as well as technical deficiencies with the reimbursement formula in Chapter 212. We note the following problems:

First, the formula promotes the classification and labeling of children. The more youngsters classified by a district, the more a district will receive in categorical State aid. Research demonstrates that classifications and labels carry certain negative evaluative components and labeling emphasizes the child's already existing difficulties. The treatment of the problem becomes contingent upon the label instead of upon the child's individual needs and abilities. In the context of making educational decisions, the use of classifications such as "retarded," "socially maladjusted," "neurologically impaired," is of little significance. Labels provide little insight into how to remediate a child's learning deficit. They are best forgotten wherever possible.

I would like to just depart from my prepared text for a moment to tell you that this summer I had the fantastic experience of being a part of the New Jersey Conference on Handicapped Individuals, where several thousand of New Jersey's disabled citizens got together to discuss administrative and legislative problems to their solutions. One of their most definitive recommendations was to do away with labels to the maximum degree possible, to treat them on an individualized basis.

I couldn't help but feel, while listening to the testimony of the principal of Branch Brook School today, for her. We have one label, "orthopedically handicapped," which covers such a fantastic range, from that of a student who is possibly an amputee who needs little, if any, supportive services to allow him to function in a mainstream environment, all the way up to an extraordinarily severely involved

orthopedically handicapped student who requires physical and occupational therapy as a legitimate part of his educational program. For one statewide average to come and say, it costs x dollars to educate an orthopedically handicapped child, I think is at best naive.

Secondly, the new formula can lead to a misclassification of youngsters. Children could be classified according to the category which will reimburse the district the most amount of money. Children who are classified with a specific classification, such as neurologically impaired, could be reclassified as multiple handicapped by adding a second classification. For many children this is not only a possibility, it may even be justifiable. The difference in the weights are explained in my testimony, and that subject has been discussed here all day.

Third, local school districts could be tempted to fill special education classes to the maximum size allowed by law. Increased special class enrollment would mean increased State aid. The more youngsters classified and placed in a classroom, the more categorical aid the system would receive for that class.

We have in our testimony here a quote from the educational professional magazine, "Phi Delta Kappan," of a special education teacher admitting that she had fifteen students in a class and the district merely puts the students there because they need the money. I have no way of knowing where that quote came from. I sincerely hope it is not from New Jersey. But I really also sincerely believe the current system can lead to that class of abuses.

The student-teacher ratio for special education should be low for effective implementation of an individualized program to meet the needs of each child. With the maximum placement of students, teachers could be placed in the role of a babysitter instead of a teacher. Our goal should be to help these youngsters in remediating or compensating for their deficits, returning them to the mainstream of the regular school or preparing them for the time when they leave school. How can a teacher adequately prepare these children when he or she is asked to work individually with fifteen emotionally disturbed children at any one time?

The New Jersey School Boards Association would like to point out the following technical difficulties with the existing formula:

First, there are presently no provisions for State aid for special education students placed in resource rooms. Resource rooms were encouraged and even recommended by the State Department as the least restrictive environment for a special child. In addition, new federal legislation, Public Law 94-142 and Section 504 of the Rehabilitation Act, mandates the children must be served in the most normal possible setting. The New Jersey School Boards Association strongly supports Senator Dumont's legislation, S 3155, which would correct this problem.

We haven't heard a lot today about what Section 504 of the Rehabilitation Act does and I am not sure we know totally, completely, what Section 504 will do. But I am pretty positive that its effects on what we have spoken of today will be manifest. For example, it is stated in Section 504 of the Rehabilitation Act that geographic placement becomes a factor in determining least restrictive placement. What that says to me is that the local board who previously had been able to fulfill its responsibility by tuitioning students out will now have the responsibility to set up programs within their district. We are going to see start-up costs, particularly in the area of the orthopedically handicapped. Section 504 tells us now that unless there is some other mitigating problem, you will educate orthopedically handicapped

students in the local school district. That is going to mean architectural changes. These changes will have absolutely no relationship to any demographic factor we have talked about. Therefore, I think that the implementation of 504 is another factor strongly mitigating against the use of statewide averages when speaking of special education.

Second, reimbursement for the cost of the child study team has been eliminated since supposedly the team serves all children. We believe this is an erroneous assumption. It is Chapter 46 of Title 18A which mandates that a district must have the services of a child study team, and that purpose is related to handicapped children. Not all children in a district are seen by the team, but rather only those believe to be handicapped. In addition, once a child is placed, the team has follow-up responsibilities, such as re-evaluations and assisting the teachers of handicapped children.

Prior to the enactment of Chapter 212, local school districts received a percentage of the cost of salaries for the team. These salaries account for a large part of the total special education budget. With the elimination of State fiscal reimbursement for salaries for the team, the incentive for boards of education to hire will be eliminated. We have heard mentioned all day the effects of 94-142 on that. I would like to emphasize those. At the present time, we are told that we must evaluate children once every three years. Public Law 94-142 will state each handicapped child must be re-evaluated on an annual basis. Therefore, we do see a definite increase in the requirements for child study teams. Yet, faced with caps on school budgets, it will be very, very difficult for a local board to try and make that decision, whether it is more reasonable to fund for an additional child study team or fix the roof or whatever else is necessary.

The third technical problem is that schools will be financially rewarded for sending classified children to private schools since there is an allowance of an additional cost factor of 1.0 for each child so placed. This tuition weight does not apply to State or district-operated programs. Districts that send youngsters out of the district to other appropriate public school classes or State-operated facilities are being discriminated against since they do not receive the 1.0 factor that would be paid if they sent the youngsters to private schools.

Fourth, due to an interpretation by the Attorney General, districts only receive reimbursement for children that are placed in a special class. Therefore, if you have a child who is identified by the child study team as orthopedically handicapped and it is recommended that that child remain in the regular classroom, but receive supplemental physical therapy, the district will not be able to receive any reimbursement for that child. They will only receive reimbursement if the child is placed in a special class. This creates an untenable situation since the child is capable of functioning in a regular class and, in fact, it would probably be a violation of Section 504 of the Rehabilitation Act to place him elsewhere. Nevertheless, the child does require physical therapy which is an additional cost to the district which should be reimbursable, but is not.

The New Jersey School Boards Association strongly recommends that the Joint Committee on the Public Schools replace the additional cost factor formula in Chapter 212 with an excess cost formula approach.

We specifically recommend an excess cost formula approach which would establish three categories of special education reimbursement: one for district-operated

programs; one for tuition students; and one for resource rooms, supplemental instruction and homebound instruction.

The testimony tells you the method by which we would calculate our aid for district-operated programs. I am not going to go through it again. But, in essence, what it amounts to is you would calculate all of the costs for education of the special student, subtract what it costs you to educate another child in your school district, and the difference would, of course, be the excess cost of special education.

We have heard, I am sure, very, very valid commentary that this presents a difficulty that school districts will run away with, that we would need to have some form of control to assure that we don't have excess services being provided. I submit that we have that kind of control already existent. First of all, under Public Law 94-142, we have an expanded system of individualized educational program required for each child. In the past - and I see no reason why it could not be re-instituted in the future - the county child study teams reviewed the plan for each child and approved it. We have no objection to a system which would only allow reimbursement for expenses which were approved as necessary and adequate by a review agency, such as the county child study team.

We also would have no serious objection to guidelines which might be written in on subjects of child study teams, that you have no more than a certain amount per population. But we honestly feel that the excess cost formula is the only approach that will allow for the adequate funding of the special education student.

The methods for computing the cost for resource rooms, supplemental instruction and homebound education would, of course, have to be different since the district cost per pupil would not be subtracted, these children being a part of the regular classroom program.

Under the New Jersey School Boards Association proposal, the State would truly be assuming the excess cost of educating our handicapped students. When an average reimbursement is used statewide, it is impossible to assume the full excess cost on an individual basis.

In summary, I look at special education as a continuum all the way from the mainstream to the residential placement. Each student should be placed on that continuum in the situation closest to the regular classroom that his or her handicapping condition would allow.

The New Jersey School Boards Association opposes any system which would introduce economic factors into that placement process; and we feel that any weighting formula, no matter how carefully devised, introduces such a factor. We would like you to consider a different system, which we believe will tend toward the goal of individualized treatment for our disabled students. Thank you.

(Written statement submitted by Mr. Dolan can be found beginning on page 28x)

ASSEMBLYMAN BURSTEIN: Thank you, Mr. Dolan. Like Diogenes in the search of truth, I guess, I have been trying to find out from those who have suggested a different system of funding today whether they have made any computation of what that differing system of total reimbursement would mean to the State in the way of added costs. Do you have any such figure?

MR. DOLAN: Sir, I honestly have no quarrel with what Mr. Starkey and Mr. Porado have said earlier. I believe their numbers are perfectly correct. We know

what special education should cost on an average basis. Therefore, I cannot see, if the statistics are all right, why it would mean a great deal one way or the other if we approach it on an individualized basis or we approach it on an average basis. I am sure that the only thing that doing it on an individualized basis will accomplish is to do away with inequities in the system.

ASSEMBLYMAN BURSTEIN: I am not quite sure that that answers me and I am not sure that the figures that have been presented to us earlier by Mr. Starkey reflected an answer to the question. I think that the figures that we had earlier today show the amount now being spent by way of State aid under the current categorical program. What I am seeking is some answer to the question of what the total amount of State aid would then be were we to go to a full reimbursement formula as you have suggested, in other words, subtracting only from the total cost for the special needs child, whether they are in mainstream or in a separate class or whatever their category may be, and that mathematical difference then being the amount that the State would be required to pick up. If you took all those children in the State, in the various categorical areas, plus those in the mainstream who are not in a specialized class, but are simply under the category that was discussed earlier, and particularly by the psychologist from Englewood, what would that mean in the way of additional cost to the State, if any?

MR. DOLAN: Sir, I think I understand your question and the only additional cost that I feel would be involved would be the cost of child study teams which are certainly the main item not currently in the equations by which the Department of Education calculates their weights. I believe that the mathematics which were used in coming up with the weights probably do have fair validity on a statewide basis and probably do give a reasonable estimate of the total cost statewide of educating disabled students, child study team costs aside.

ASSEMBLYMAN BURSTEIN: So, if you added on the child study team cost, over and above the way in which we do it now, namely, by the equalization aid which picks up at least some part of that, that would represent the total additional cost?

MR. DOLAN: I believe, sir, you would certainly be in the right ball park.

ASSEMBLYMAN BURSTEIN: Are there any other Committee questions?

Assemblywoman Muhler.

ASSEMBLYWOMAN MUHLER: This isn't a question for Frank Dolan; actually, I think it is the Department of Education that would be able to give us the answer to your question, Assemblyman, as to what the cost factors would be if we were to go to the other formula instead of the equalized formula - if we were to go to reimbursement. Maybe they could get us those figures. I certainly wouldn't expect them today.

MR. DOLAN: Thank you for graciously getting me off a hook.

MR. STARKEY: I will answer it this way, that the theory the initial year would be carried out, providing you are assuming that the average cost for the categories and classes would follow. When you get over into the supplemental and the resource rooms omitted - and there are other costs that I would have to study -- but the big problem which is an "if" is: What does a school district do when it is setting up its budget for the next year when everyone knows that the State is paying the costs of whatever? What does it do immediately to class sizes. That is pure speculation and I don't think anybody can come up with that impact.

MR. DOLAN: Except, Mr. Starkey, first of all I would hope it does an honest

thing. Secondly, as I said, I have no quarrel whatsoever with the thought of reimbursement for approved expenses; that is to say - and we have heard a couple of times today that we need monitoring and there is no argument about that - that at the same time that the budget goes forward to the County Superintendent, he give it the very, very hard look it deserves. If some district is putting in costs which are not justifiable to provide reasonable education for the disabled students, then it should not be reimbursed.

ASSEMBLYMAN BURSTEIN: Anyone further? Senator Dumont.

SENATOR DUMONT: You are aware of this decision by the State Board taking away the option of local boards to set standards for admission of students to compensatory education programs?

MR. DOLAN: Yes, sir.

SENATOR DUMONT: How do you feel about it?

MR. DOLAN: I don't have a decent enough background, Senator Dumont, to be able to tell you whether the State Board was in my opinion responding to a sufficient abuse of the system. I am familiar with what happens in my own local school district. I believe we treated it honestly. I am friendly with many other school board members throughout the State and most of my friends, I believe, treated it honestly and were doing right and proper and appropriate things in setting the standards on a local district level. However, as I say, I do not have any statewide feeling for the extent of the abuse which the State Board of Education was supposedly responding to. I suppose my gut reaction - and that is the best I can give under these circumstances - is ---

SENATOR DUMONT: Is the Association satisfied that such abuse was going on, or is it something you are going to discuss at length in whatever you call it - is it your delegate assembly? - to see whether or not you are going to abide by it or you are going to contest it?

MR. DOLAN: Sir, we are at the present time attempting a statewide study to gather this kind of information for our next delegate assembly. I believe my gut feeling is probably the gut feeling of the Association, that it has not been proven to me that those kinds of abuses existed that would have justified taking away that power from the local level.

SENATOR DUMONT: I wouldn't think that it would be the type of thing that your Association would take lying down unless there were real justification for such a decision having been made. Thank you.

MR. DOLAN: Thank you.

ASSEMBLYMAN BURSTEIN: Any further questions from the Committee?

(No response.) Then with the thanks of the Committee, Mr. Dolan, and my commendation for having had the good sense to be born in Jersey City, we dismiss you with thanks.

We have an added starter for testimony, Margaret Angeli. Will you be good enough to identify yourself.

M A R G A R E T A N G E L I: My name is Margaret Angeli. I am an interested parent and am from Teaneck, also in your district, Assemblyman.

I have four special education children. I have actually six children. One happens to be gifted, which complicates the family somewhat. I have a child who is in a regular special education class of neurologically impaired children. I have a child who is receiving supplemental instruction; another child in private school

who is receiving private tutoring, and my fourth child is a pre-school child, who has been picked up by the federally funded project High Scope. This fourth child, my youngest, is multiply handicapped. So I have been observing today's hearing and listening to these professional people and these representatives of organizations and have been very impressed with what they have had to say. And I thought you might be interested in hearing how someone who lives with it feels.

My oldest son, who is 12, would be going into a resource room at the junior high level next year if the resource rooms are funded, and I am assuming that they will be. To be in a resource room in Teaneck means that you cannot spend more than, I believe, two hours a day in the resource room. The rest of the time the child is mainstreamed. He has not as yet been mainstreamed in anything except art and gym. It is going to be somewhat of a surprise for him to spend the majority of his day out of the shelter of the neurologically impaired class. However, I realize that this was a choice made by the Department. We do have a neurologically impaired class at that age level. But his ability is considered such that he will be able to cope.

Along with River Edge, I have to say that I find most of my children could be considered multiply handicapped besides the one who is actually classified as such, in that children with perceptual impairments or neurological disability or multiple brain damage or whatever you want to call it, all seem to have some emotional hangups. Two of my children have undergone psychotherapy for a certain length of time. I could use some occasionally.

I would strongly urge that you consider seriously what was presented to you by Mr. Shore this morning. Naturally, I am somewhat prejudiced in his favor since he takes care of the welfare of my children. I am very interested in the early intervention which I have seen work marvelously with my youngest child who is now four, who at two and one-half began in this High Scope program, receives intensive speech and language aid, and has made tremendous progress. She has a way to go. She has several other handicaps, among them gross motor deficiencies and perceptual impairment. But I see progress in all my children and I urge you to consider what was stated about the weighting of children per handicap.

I have many friends who are in special education PTA's. There are perhaps 300 children, Mr. Shore said, in special education in Teaneck. We have a core group of perhaps 29 parents who are aware of what is going on in Trenton. We send out newsletters. We consider Teaneck to be one of the aware towns of the State and yet it is amazing how little they understand what you are doing down here. It is difficult to understand some of the T and E legislation. It is very difficult to understand why we have a cap that refuses to allow us to have summer school. It is very hard to tell people who cannot afford to send their children to remedial programs that their handicapped kids won't be going to a program this summer. These are things that the cap has, I believe, engendered. We have our minimum aid district - I believe 10 percent. For some of these children, summer school is really an essential of their lives. It is not only that they learn, but it is a socialization thing. It is going to be sadly missed. Fortunately, the township is picking up a recreation program for the afternoon, but there will be no transportation provided.

I also agree, with regard to the child study team, that they are invaluable. If they had not taken my child at two and one-half or sent the school psychologist

to my home when I read about this program and inquired about it - and she spent approximately three hours just sitting watching my daughter, watching the things she could and could not do - I know that this child would not be where she is today with the possibility of a future without having to end up in special education later on. As I said, this was a federal grant. It is something, I assume, that the federal government hopes Teaneck will pick up. It is a seed type thing.

I would strongly urge that teachers who are going to receive mainstream students be somehow sensitized to the needs and emotions of these children and that they tell the children in their classes beforehand perhaps that they are receiving a child who needs a little extra something. Children, as we all know, can sometimes be very cruel, but so can adults. I am afraid that the gentleman from - was it the Educational Law Center? - is a little idealistic when he thinks that adults won't vote for the football team over the handicapped because it will happen - it does happen. They don't mean to be that way, but they just cannot perceive why so much should be spent on such a small group of people.

The parents of the gifted - and I am the parent of one gifted child - want things for their children as well. They deeply resent not having programs for their children. I know their feeling in that regard.

I just wanted to say it was most interesting listening and I am very happy that you had this hearing. I will be very glad to take back to Teaneck what I have learned here today and I beg you to give some thought to your funding. I can't speak budgets; I am not a budget person. I know what my taxes are. But, aside from that, I just hope that you can find some better formula than having to have my child in a class with always the maximum number, instead of what might be optimal for that child at this particular time. Thank you.

ASSEMBLYMAN BURSTEIN: Are there any questions by the Committee? (No response.) Thank you, Margaret, very much. It gave us a very fine perspective and kind of wrapped up this whole day, I think, for the Committee. We do thank you.

Is there anyone else here who wishes to be heard? (No response.)

Are there any Committee persons who wish to be heard? (No response.)

Then, having completed our testimony, this hearing is concluded.

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FISCAL OBJECTIVES OF CHAPTER 212, P.L. 1975

1. TOTAL DOLLARS OF STATE SCHOOL AID IN 1977-78 TO EQUAL 40% OF TOTAL SCHOOL EXPENDITURES.

Achieved -

<u>Total State Aid</u>	\$1,259,412,128 *	= 40.3%
<u>Total School Expenditures (Est.)</u>	3,126,000,000 *	

State Aid in 1974-75 was \$806,684,078\* or 31.4% of total expenditures of \$2,567,000,000.\*

\* Includes state contribution to Teachers' Pension and Annuity Fund.

2. INCREASE EQUALIZATION PROGRAM SUPPORT AND DECREASE NON-EQUALIZING AIDS TO MOVE CLOSER TO FISCAL NEUTRALITY AND ABILITY FOR ALL DISTRICTS TO PROVIDE A THOROUGH AND EFFICIENT EDUCATION.

Achieved -

1974-75

Equalization Aids	\$254,000,000 =	42.5%
Non-equalizing Aids	<u>343,000,000</u> =	<u>57.5%</u>
 Total Aids Revised by Chapter 212	 \$597,000,000 =	 100 %

1977-78

Equalization Aids	\$679,000,000 =	70.6%
Non-equalizing Aids	<u>283,000,000</u> =	<u>29.4%</u>
 Total Aids Revised by Chapter 212	 \$962,000,000	 100 %

- A. Minimum aid reduced from \$230 million to \$49 million.
- B. Save Harmless aid reduced from \$7.5 million to \$.5 million.
- C. Transportation Aid increased from \$43 million to \$86 million. 100% increase in 3 years due primarily to 100% of approved costs rather than the former 75%.
- D. Categorical instructional program support increased from \$62 million to \$147 million plus increased support payable through "E".
- E. Equalization aid increased 176% from \$227 million in 1974-75 to \$626 million in 1977-78.

3. PROVIDE A METHOD TO REDUCE DISPARITIES IN PER PUPIL EXPENDITURES AMONG DISTRICTS WHICH ARE ABOVE AVERAGE IN PROPERTY WEALTH AND/OR SPENDING LEVELS AND DISTRICTS THAT ARE BELOW AVERAGE. THIS IS TO OCCUR WITHOUT DECREASING THE TOTAL STATE-WIDE AVERAGE SUPPORT LEVEL FOR SPECIAL EDUCATION.

A. Evidence of Disparity in Special Education Expenditures from Sample of Representative Districts Ranked by Property Wealth

Table 1 - Comparison of Medians of Day School Cost and Special Education Costs in a Sample of Low and High Wealth Districts, 1975-76

<u>Low 7 Districts By E.V. Per Pupil</u>	<u>E.V. Per Pupil (1)</u>	<u>Day School Cost/Pupil (2)</u>	<u>Avg. Cost/Pupil Special Classes * (3)</u>
Camden	\$20,401	\$1,290	\$2,014
Newark	22,395	1,530	2,612
Salem City	25,767	1,505	1,892
Trenton	26,785	1,518	3,076
East Orange	35,999	1,454	1,823
Deptford	44,358	1,315	2,099
Pennsville	<u>50,179</u>	<u>1,521</u>	<u>2,646</u>
MEDIAN	<u>\$26,785</u>	<u>\$1,505</u>	<u>\$2,099</u>
<u>High 7 Districts By E.V. Per Pupil</u>			
Hamilton (Mercer)	\$58,755	\$1,263	\$2,635
So. Orange-Maplewood	78,448	1,758	None
Ewing Twp.	83,011	1,604	2,367
Lawrence (Mercer)	106,450	1,765	4,999
Princeton	145,749	2,228	9,453
Linden	155,982	1,723	2,959
Englewood Cliffs	<u>263,958</u>	<u>2,715</u>	<u>3,549</u>
MEDIAN	<u>\$106,450</u>	<u>\$1,758</u>	<u>\$3,254</u>

Percentage High 7 Median  
Is above Low 7 Median 17% 55%

NOTE - This study should be expanded to a 10% representative sample of districts.

\* Pupils in Special Classes (A.D.E.)

B. All special education expenditures not covered by additional cost factors are included as part of the net current expense budget and districts receive equalization aid for such costs.

- (1) In addition to the \$77,000,000 of direct categorical aid to special education, there is approximately \$36,000,000 of equalization aid paid for costs of special education.
- (2) Equalization aid is paid for child study teams, for resource rooms and for all costs beyond the per pupil allotment which is based on the State average additional cost.
- (3) Equalization aid covers an average of 31% of all special education costs listed in item (2) above. It provides as high as 93% of such costs in Audubon Park and Winfield, 80% in Camden, 76% in Newark, 71% in Trenton, 70% in Paterson and 64% in Jersey City. A few other State support equalization aid percentages are: Englewood, 10%; Cherry Hill, 22%; Willingboro, 68%, Elizabeth, 29%; Toms River, 26%; Dover, 33%; Asbury Park, 64%; Woodbridge, 12%. All districts with property wealth above \$87,000 per pupil receive the minimum of 10% subject to a maximum State support limit of the 65 percentile of net current expense budgets per pupil.

C. Total State support for special education in 1977-78 is 59% of estimated special education expenditures compared with 56% in the last year of the former law.

	<u>1974-75</u>	<u>1977-78</u>
(1) Estimated Expenditures for Special Education	\$155,000,000	\$193,000,000
(2) Direct Categorical Aid	62,000,000	77,000,000
(3) Balance of Costs in Net Current Expense Budget	93,000,000	116,000,000
(4) Total Net Curr. Exp. Budget	1,700,000,000	2,157,000,000
(5) Special Educ. Share of N.C.E.B.	5.47%	5.38%
(6) Equalization Aid (and Min.Aid)	460,000,000	675,000,000
(7) Share of Equal. Aid to Spec.Ed.	25,000,000	36,000,000
(8) Total Estimated Special Ed. Aid (Item 2 plus Item 7)	87,000,000	113,000,000
(9) Spec.Ed.State Aid as a Percent of Spec.Ed. Expenditures	56%	59%

D. The average State support percentage for special education under Ch. 212 is 59% of expenditures compared to 33% for other instructional programs.

	<u>State Total</u>	<u>Special Education</u>	<u>State Total Less Special Ed.</u>
(1) Direct State Aid	\$1,009,000,000*	\$113,000,000	\$ 896,000,000
(2) Est. School Dist. Expend.	2,876,000,000*	193,000,000	2,683,000,000
(3) State Aid as a Percent of Expend.	35%	59%	33%

\*Contributions of State to Pension Fund are not part of local district expenditures

Division of Administration & Finance

June 9, 1977

STATE SCHOOL AID DISTRIBUTION BY MAJOR ACCOUNTS

	Bateman-Tanzman Law 1974-1975	By Appropriations Act Expended 1975-1976	Chapter 212 Laws of 1975 1976-1977	Chapter 212 Laws of 1975 1977-1978
Current Expense Formula	\$226,817,299	\$319,359,800	\$ 569,898,262	\$ 626,104,891
Minimum Aid	229,833,092	111,400,000	54,639,464	48,557,501
Save Harmless (Current Expense)	2,457,898	-	1,084,816	456,797
Capital Outlay Aid )				2,234,358
Debt Service Aid Type 2 District )	32,140,565	22,324,213	46,300,179	31,820,951
Debt Service Aid to Munic. Type 1)				19,295,358
Transportation Aid	43,324,399	44,850,788	77,914,193	86,409,877
1975 Act - Categorical Aids:				
Special Education			73,114,284	77,669,288
Compensatory Education			33,002,999	57,192,627
Bilingual			4,536,719	6,294,115
Local Vocational			4,076,775	4,416,331
Other Provisions			1,500,000	1,710,000
Atypical Pupil Aid	<u>62,102,930</u>	<u>62,604,818</u>	<u>see above</u>	<u>see above</u>
Total of Aid Programs Changed by Chapter 212	\$596,676,178	\$560,539,619	\$ 866,067,691	\$ 962,162,094
Other Categorical Aids	42,446,461	41,373,030	46,203,560	46,891,460
State Pension Fund Contributions	<u>167,561,439</u>	<u>196,358,709</u>	<u>217,157,007</u>	<u>250,358,574</u>
Grand Total	\$806,684,078	\$798,271,358	\$1,129,428,258	\$1,259,412,128
Total School Expenditures (including Pension Contributions)	\$2,567,000,000	\$2,746,000,000	\$2,914,000,000 (est.)	\$3,126,000,000 (est.)
Percent of State Support	31.4%	29.1%	39.1%	40.3%

Revised June 14, 1977  
Division of Administration and Finance

EQUALIZING AND NON-EQUALIZING STATE AID DISTRIBUTIONS

	Bateman-Tanzman Law 1974-75	Chapter 212 1976-77	Chapter 212 1977-78
<u>Equalizing (C.212)</u>	<u>\$ 253,870,799</u>	<u>\$ 616,198,441</u>	<u>\$ 679,455,558</u>
Current Expense Formula	226,817,299	569,898,262	626,104,891
Building Aid	27,053,500	46,300,179	53,350,667
<u>Non-Equalizing (C.212)</u>	<u>342,805,379</u>	<u>249,869,250</u>	<u>282,706,536</u>
Minimum Aid	229,833,092	54,639,464	48,557,501
Save Harmless (CE)	2,457,898	1,084,816	456,797
Save Harmless (D.S/C.O.)	5,087,065	-	-
Transportation Aid	43,324,399	77,914,193	86,409,877
Special Education	62,102,930	73,114,284	77,669,288
Compensatory	-	33,002,999	57,192,627
Bilingual	-	4,536,719	6,294,115
Local Vocational	-	4,076,775	4,416,331
Other Provisions	-	1,500,000	1,710,000
Total Chap. 212	<u>596,676,178</u>	<u>866,067,691</u>	<u>962,162,094</u>
Other Categorical Aids	42,446,461	46,203,560	46,891,460
Pension Fund Contrib.	<u>167,561,439</u>	<u>217,157,007</u>	<u>250,358,574</u>
Total Aid	\$ 806,684,078	\$1,129,428,258	\$1,259,412,128

## Equalization Aid as a:

% of Chapter 212 Aid	42.5%	71.1%	70.6%
% of Total Aid	31.5%	54.6%	54.0%

Note: The 1975-76 school year has been omitted because the distribution was based on arbitrary appropriations unrelated to the Bateman-Tanzman Law or Chapter 212, Laws of 1975.

May 19, 1977

Division of Administration & Finance

THE FOLLOWING WAS SUBMITTED BY BERNARD SHORE:

-3-

Special Education Classes and Tuition

<u>Handicap</u>	<u>Old Formula Aid per Pupil</u>	<u>New Formula Aid per Pupil</u>	<u>Loss or Gain per Pupil Under New Formula</u>
<b>Teaneck Classes:</b>			
Neurologically Impaired	\$1,418.	\$1,596.	\$ + 178.
Educable	1,683.	798.	- 885.
Trainable	2,133.	1,431.	- 702.
Resource Room	3.38 hr.	- 0 -	- 3.38 hr.
<b>Public Schools - Tuition:</b>			
Emotionally Disturbed	1,100.	1,913.	+ 813.
Multi. Handicapped	1,450.	1,913.	+ 463.
Auditory Handicapped	1,275.	2,078.	+ 803.
<b>Private Schools - Tuition</b>			
Emotionally Disturbed	2,194.	3,418.	+ 1,224.
Neurologically Impaired	2,100.	3,102.	+ 1,002.
Trainable	2,208.	2,937.	+ 729.

NORTH JERSEY SPECIAL EDUCATION ADMINISTRATORS ASSOCIATION

S.E.A.A.

Report to: The Joint Committee on the Public Schools  
Assembly Chamber  
State House, Trenton  
June 15, 1977 10:00 a.m.

1. Overview and Background Information

Thomas J. Scharf  
Director of Special Services  
West Orange Public Schools  
West Orange, New Jersey 07052  
201-736-1200

2. Report of S.E.A.A. Reimbursement Survey

Leonard Margolis, Director  
Bergen County Region III Special Education  
Closter Plaza  
Closter, New Jersey 07624  
201-768-3541

R E C O M M E N D A T I O N S

The North Jersey Special Education Administrators Association (S.E.A.A.) recommends that the Joint Committee on the Public Schools consider the following recommendations:

1. Authorize and direct that a comprehensive study be made of all school districts in the state of New Jersey to determine:
  - a. if the new categorical system of reimbursement has brought about a significant personnel reduction in child study teams.
  - b. whether the categorical weighting system encourages labeling to increase state reimbursement to school districts.
  - c. if the categorical system of reimbursement tends to perpetuate self-contained special education classes at a time when the federal direction is toward mainstreaming.
  - d. if professionals involved in special education feel that New Jersey should strive toward achieving a financial reimbursement system which is "program based" or "pupil based."

2. Write and secure passage of legislation which would again provide a reimbursement formula for the cost of operating Child Study Teams.
  - a. Individual Child Study Team Members.
  - b. Special Education Administrators.

Responses or further questions concerning this presentation should be directed toward either of the above participants or:

William B. McIvor  
Acting President  
S.E.A.A.  
Region VI Special Education  
Leonia Middle School  
Broad Avenue  
Leonia, New Jersey 07605  
201-461-9100

District: 56 Responses were received from the following counties:  
Bergen, Essex, Somerset, Middlesex, Passaic

Names and titles of individuals  
completing questionnaire:

Superintendents, Board Secretaries,  
Child Study Team Chairpersons

Return completed questionnaire to:

William B. McIvor  
Region VI Special Education  
Leonia Middle School  
Broad Ave.  
Leonia, N.J. 07605

Due no later than June 6, 1977 -

- (1) If the old Beadleston formula (50% of program costs) were used in calculating spec. aid for the 75-76 school year, rather than the existing categorical weighted formulas, your district would have received (less or more) reimbursement.

If actual calculated aid for 75-76 is significantly more or less than you would have received applying the old Beadleston formula, indicate % of change.

41.56 % aid increase or decrease (underline).

Comments:

Mean decrease of all data reported.  
No district reported any increase in special education aid.

- (2) Since the present funding formula does not reimburse districts for child study Teams, there is concern that districts will be forced to cut, or otherwise reduce Team services. Has this development affected Team services in your district? Yes 23 No 33 (check one).

Comments:

- (3) The Legislature and State Accounting Office have maintained increased general school aid, and compensatory education funds have the effect of reducing local educational costs and, therefore, should enable districts to increase expenditures in special education. Agree 4 Disagree 52 (check one).

Comments:

- (4) Note the number of special education pupils on your rolls after September 30. You are probably aware the present system bases reimbursement on the September 30th count, therefore, children placed or dropped after that date do not effect reimbursement. The critical question is do districts generally end up with more pupils, or a net gain in their special education population after September 30?

# \_\_\_\_\_ pupils placed after September 30.

# \_\_\_\_\_ pupils terminated after September 30.

# \* \_\_\_\_\_ net gain or loss in special education enrollment as of May 77.

Comments:            \* Average loss 4  
                               Average gain 15

Losses: 4, 8, 2, 2

Gain: 2, 18, 52, 8, 1, 2, 4, 36, 24, 3, 4, 30, 8, 15,  
 3, 1, 3, 5, 5, 4, 2, 115, 15, 3, 7, 5, 38, 4, 8, 2, 4,  
 13, 52, 1, 4, 10, 7, 3, 100, 8, 3, 2, 6

- (5) In your judgement, is the requirement to justify reimbursement claims in terms of definitive special education categories, educationally valid and conducive to thorough and efficient education of the handicapped?

Yes 3 No 53

(N.B., Categories carry variable weights and apply only to self contained programs which could encourage restrictive placement; categorical aid units ignore the reality of secondary and concomitant handicaps; maximum class sizes are encouraged since pupils rather than program costs are reimbursed).

Comments:



## POSITION STATEMENT ON CATEGORICAL FUNDING

The New Jersey Education Association is increasingly concerned about the effect upon children, both normal and special, and their families and their teachers of the present method for funding special education.

### SPECIAL EDUCATION

Prior to implementation of Chapter 212, districts were reimbursed 50% of their special education costs two years later. All expenses associated with special education were included. There seems to have been general agreement that the system was logical, but inadequate.

The "Report of the Joint Education Committee to the New Jersey Legislature" in 1974 recommended that the State assume full-funding of the "excess costs" of special education; i.e. the cost beyond the amount expended on a normal pupil. The implementation of this concept, however, involved statewide averaging of costs to produce a fixed factor for each of the categories of special education.

Several problems deriving from the new system have become apparent during the first year of its implementation.

### PROBLEMS WITH PRESENT FUNDING SYSTEM

The present system, as outlined in Section 20 of Chapter 212, tends to encourage placement of children in restrictive environments in order to generate additional state school aid. Recently enacted federal legislation, P.L. 94-142, encourages placement of children in least restrictive environments. The federal legislation is clear concerning the fact that the least restrictive environment for many children will be an institution or a self-contained special education class, but the present system could be in conflict with federal regulations in some situations.

### PLACEMENT IN RESTRICTIVE ENVIRONMENTS AND NEW FEDERAL REGULATIONS

The administrative code provides maximum class size requirements for special education. A fixed-weight aid system tends to encourage districts to place as many children as possible in each class in order to generate as much state aid

### POTENTIAL CROWDING OF CLASSES

(OVER)

as possible from a fixed expenditure. There is an incentive to expand permissible class sizes by one-third through use of aides. Many school districts apparently did not fill special education classes to maximum levels under the old system if such did not seem in the best interests of the particular children involved.

Section 20 does not provide funding for child study teams and diagnostic services, although reimbursement for 50% of these expenditures was available under the prior system.

CHILD STUDY  
TEAMS

Section 20 does not provide permanent funding for resource room programs which represent a less restrictive, intermediate step between the special education class and the regular school program. NJEA supports separate legislation, such as S-3155, which calls for establishment of a permanent resource room factor, consistent with the thrust of recent federal legislation. We also wish to state our belief that strict class size limitations are essential to the success of resource room - "mainstream" plans.

PERMANENT  
FUNDING FOR  
RESOURCE  
ROOMS

Speech and supplementary instruction are reimbursed on the basis of total children served without careful specification of how the children are served. The possibility for abuse is obvious.

SPEECH AND  
SUPPLEMENTARY  
INSTRUCTION

Differing fixed weights for the several impairments tends to create an incentive for misclassification which would increase revenue to the district but would be detrimental to the interests of many virtually helpless children.

POSSIBLE  
MISCLASSIFICATIONS

Section 20 provides an additional weighting of 1.0 for each pupil placed in a private school or institution, in addition to the weight of the disability. This situation would seem to create an incentive for placement of children in private institutions rather than in public institutions or in district programs. The private institutions might be considerable distances from the child's home in some cases. These conditions conflict with P.L. 94-142 which requires that every effort be made to provide special education in public institutions close to the child's home.

PRIVATE SCHOOL  
INCENTIVE -  
POTENTIAL CONFLICT  
WITH FEDERAL  
REGULATIONS

Payment of a fixed sum for each child placed in a special education class or program, or in an institution tends to create an incentive to operate the least expensive acceptable program rather than the program which the children need.

EMPHASIS ON  
MONETARY  
CONSIDERATIONS

The system thus elevates monetary considerations at the expense of educational considerations.

Section 20 bases special education aid on enrollment in programs as of the last day in September. This has created a problem involving children who are classified or who transfer into the district after the crucial date. Pressures may arise under certain circumstances to delay classification until the following year. The effect upon a particular child whose residence is moved frequently could be disastrous. Urban children seem to have a particular problem with frequent relocation. In any case, there is certainly no incentive for prompt diagnosis and treatment after the last school day in September under Section 20. Districts which assume their responsibility apparently receive no aid for the entire year.

ENROLLMENT  
DEADLINE  
PROBLEM

Special education aid entitlements are based upon enrollments during the prior year and the burden of any program expansion therefore falls upon the taxpayer or other areas of the budget in the first year. The previous system was similar in this regard, but the introduction of budget caps has made program expansions especially difficult in many districts. Some provision should be made to assist districts which are faced with necessary program expansions through a current funding plan based upon estimates, or some similar measure.

PRIOR YEAR  
FUNDING  
PROBLEM

Section 20 imposes a system which is based upon statewide averages. The system is thus arbitrary in that it ignores local variations in needs and cost factors. To do so in a State as diverse as New Jersey must raise serious questions about the efficacy of Section 20.

LOCAL  
VARIATIONS

NJEA has some questions about the rather complex method used to determine the weighting factors which the Department of Education has submitted for the 1978-79 school year. The stated intent of the Joint Education Committee in its 1974 report to the Legislature was a system which would fully fund the excess costs of special education. In actual practice, our investigations indicate that less than one-half of the costs involved in providing special education are actually included in the figures used to derive the weights. These are the costs of special education classes and resource room programs. Such costs as child study teams and diagnostic services are not included. It seems odd to us that such items would represent over half the total cost

CALCULATION OF  
WEIGHTING  
FACTORS

(OVER)

of special education. We have also been unable to secure a satisfactory explanation of why weightings for perceptually impaired, neurologically impaired, and chronically ill were reduced. We urge that every effort be made to verify the figures being used to calculate the weighting factors.

We also wish to emphasize that the method used to derive the weights tends to cement what is rather than to encourage what ought to be.

The Department of Education has argued that concerns about the actual calculation of weighting factors are not of crucial importance, if we understand correctly, because the logical revisions which might occur would tend to increase the factors and thus reduce the proportion of total state school aid which is equalized. This result raises, in what is apparently the Department's considered opinion, the specter that the Supreme Court will once again intervene in legislative affairs if the proportion of nonequalized aid is increased, no matter how meritorious the objective. The Department also correctly argues that some special education expenses not covered by categorical aid are funded through equalization aid.

However, there is much at stake here. We are considering the fates of a relatively small group of children, about 2.5% of the school population, who have suffered the misfortune of a physical or mental impairment which makes it difficult or impossible for them to fully participate in regular school programs. The Department of Education seems so far to have taken the position that the best plan for funding special education is the plan which produces the highest proportion of equalized state aid. The New Jersey Education Association feels that the best plan for funding special education is the plan which is maximally beneficial to this group of special children who are perhaps the most deserving of all. There is no means through which any plan which does not serve this purpose can be seen as supportive of the Constitutional mandate.

We grant that the weighting system prescribed by Section 20 is probably more easily administered than many other possible approaches. We are concerned, however, that the mindless operation of an arbitrary system creates incentives and disincentives, primarily financial, which are detrimental to the welfare of both special children and normal children. Isolation of special children in highly restrictive environments is abhorrent when they can profit from a different experience. Wholesale relocation of special children into normal class-

ADMINISTRATION  
OF THE PROGRAM

rooms which are not prepared to receive them and which are incapable of meeting their needs is equally repugnant.

The New Jersey Education Association has adopted a NJEA POLICY policy which calls for full State funding of special education as an ideal solution to this particularly sensitive problem. We feel that a system for full-funding of actual excess costs in each district would be a reasonable approximation of our ideal at this time. We appear to be in agreement with most other observers in this respect, except the Department of Education.

The calculations for determining the correct amount of aid should be relatively simple under a full-funding of actual excess cost plan. We recognize that controls would have to be in effect in order to avoid abuses. Such controls would have to provide for special problems or they would result in a system little better than the current one.

The Department of Education's concern that any reduction in the proportion of equalized state aid would be considered intolerable by the Supreme Court appears to be carefully considered and we respect their cautions. However, it may also be argued, in our opinion, that meeting the needs of this very special group of children is a purpose which transcends such consideration as the precise proportion of equalized state aid. A special child in any district who is denied a full educational opportunity or who is sent far away from home for schooling is a tragedy, and no amount of statewide equalization statistics will make it any less so.

CONCERNS  
ABOUT  
EQUALIZATION

The New Jersey Constitution does not say that a certain percentage of state school aid must be equalized. The Constitution says that every child must have access to a thorough and efficient system of education. We also wish to emphasize that a full-funding of excess cost plan envisions additional state funding and there would thus be no decrease in the amount of equalized state aid.

In the short term, we have already stated that we support the recommendations which the Governor has sent to the Legislature for categorical aid weightings. For the future, we urge that full consideration be given to the concerns we have raised and the suggestions we have made, and that the Department of Education consider our concerns as it prepares the comprehensive report on this subject scheduled for release in August.

The New Jersey Education Association feels that the crucial factor in this discussion is that the sincere

A CRUCIAL  
FACTOR

(OVER)

efforts of the organizations and individuals involved result in a system for funding special education which is more responsive to the needs of special children than Section 20, and which protects all children from unnecessary disruption of their learning experience. Whether this is best accomplished through a full-funding system, a full-funding of excess cost system, or innovative modifications of the present system which have a substantially similar effect should be the subject of intensive study as soon as possible.

The compensatory education portion of the categorical aid system has drawn much attention recently, largely because the result of its operation varied significantly from what was anticipated. The controversy over compensatory education funding is a classic example of the malfunction of an arbitrary system based upon weighting and enrollment statistics, and arguments made on behalf of changes in special education funding are therefore generally applicable.

COMPENSATORY  
EDUCATION

We have never been able to determine precisely how the .11 factor for compensatory education came into being. We have also questioned why no revision in the factor has been recommended and have been told that sufficient information upon which to base such decisions is not yet available. We assume that the Department of Education will have more information on this subject in the near future.

THE COMPENSATORY  
EDUCATION  
WEIGHTING  
FACTOR

NJEA is concerned about recent changes in the compensatory education funding system enacted by the State Board of Education. The State Board has revoked the option for local boards of education to set the standards through which students are admitted to compensatory education programs. These changes appear to significantly reduce the amount of state aid to which many districts will be entitled during 1978-79. A similar problem affects a different set of districts for the 1977-78 school year.

RECENT  
CHANGES  
BY THE  
STATE BOARD  
OF EDUCATION

NJEA feels that it is important to prevent further problems in the area of compensatory education in order to avoid negative experiences which may create an atmosphere in which it will be difficult or impossible for this potentially very valuable program to be successful. Measures such as S-3134 are directed at stabilizing funding for compensatory education and NJEA endorses such efforts. Funding for compensatory education should not be mercurial at this crucial point in the program's development.

STABLE  
FUNDING  
IMPORTANT

As a final caution, NJEA recommends that the A CAUTION compensatory education should not result in excessively restrictive environments for these children, but that those remedial measures which are clearly necessary be taken. Special attention must be given during this formative period in order to be sure that abuses resulting in misdirection of available resources do not occur or are quickly dealt with if they do occur.

JPR/lid: 6/15/77



NJEA POLICY STATEMENT  
ON MAINSTREAMING

*At the NJEA Delegate Assembly on January 22, 1977, the following statement on mainstreaming was adopted from a recommendation of the NJEA Committee on Exceptional Children.*

Every exceptional child should be educated in the least restrictive environment in which his/her educational and related needs can be satisfactorily provided. Because there is a continuum of educational settings which may be appropriate for an individual student's needs, programs such as resource rooms; learning centers; and special education classes should be administered in a manner conducive to individual and group growth.

Appropriate inservice instruction in classroom management and techniques of integration of the special education child within the confines of a normal classroom should be provided teachers and administrators.

Mainstreaming puts a premium on interaction between the special education teachers, the regular classroom teachers, and the child study teams. Accordingly, mainstreaming demands understanding and sensitivity.

Educators recognize the responsibility providing children with a full educational program. The concept of mainstreaming is suffering from abuse. In too many instances, what is called mainstreaming is nothing but abandonment of established special educational programs. Special education learning centers, child study team assistance, help for regular classroom teachers, and other facilities must be maintained for the benefit of handicapped children.

Student confidentiality and protection should accompany any disclosure process of cumulative records involved in mainstreaming. Classroom teachers of specific grade levels should be directly involved in the determination process of mainstreaming. Maximum class sizes of regular classrooms into which handicapped children may be placed should be developed as strict guidelines for the child study teams. Maximum hours during the school day for such placement should be developed and followed. Maximum numbers of handicapped students for each regular classroom should also be established.

The educational needs of students is the vital criterion. This need can best be met by a free-flowing integration of mainstreaming. Such integration demands an even more elaborate structure of special education teachers and regular classroom teachers. Any decision to reduce professional staff under the guise of "mainstreaming" does not serve the interests of the students.

There should be direct classroom teacher involvement in the decision process to reexamine and classify student placement in special education programs whenever conditions by judgment of professional educators so warrant. Any classification or diagnostic process should not stereotype students for three-year periods. It should, instead, be an ongoing review.

School districts should develop safeguards to guarantee that mainstreamed pupils not be placed in situations which exceed their physical and mental capabilities and in settings which may be injurious to them.

Special education teachers should share in the responsibility of daily academic scheduling. The special education teacher should be an important participant in any scheduling process.

Anyone teaching handicapped children should be a fully-certified classroom teacher. Auxiliary personnel must not serve in any capacities that directly teach children, but should assist the teacher to effectively manage the classroom and the educational program.



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Joint Committee on Public Schools

June 15, 1977

Statement of W. William Hodes  
Education Law Center, Inc.

My name is William Hodes. I am appearing today on behalf of Education Law Center, Inc., a public interest law center with offices in Philadelphia, Pennsylvania, and Newark, New Jersey. Education Law Center represents education consumers - students, parents, and community groups - in matters concerning the quality and accessibility of public elementary and secondary education. We are involved in test case litigation, technical assistance to various agencies (including local school districts and the Department of Education), and a variety of consumer education activities, such as workshops and publications.

Since its inception in 1973, ELC has been heavily involved in both areas that concern the Joint Committee today - school finance reform and special education. In both areas, we have attempted in all our activities to link together programmatic accountability and fiscal fairness and responsibility.

In the spring of 1975, for example, we critiqued the Department of Education's long-standing method of calculating tuition rates for nonpublic special schools, and achieved a wholesale revision of the formula. We believe that the kind of in-depth policy analysis brought to bear there is equally applicable to the question of funding special education services in the public schools generally.

If we have one overall point to make today, it is that a funding formula must be based firmly on openly stated and consistently applied policy considerations. If the policy is to provide reimbursement for "excess costs," then true excess costs

21x

Trustees:

David Adler  
Homerzella Blackwell  
Elizabeth Boggs  
Patricia DeCarlo  
Sylvia Dunn

Daniel E. Farmer  
Miriam Gafni  
Hon. Sidney Goldmann  
F. John Hagele  
Dennis E. Haggerty

Martin L. Haines  
Judith E. Harris  
C. Willard Heckel  
Diane Hilser  
Cynthia Jacob

Joseph P. Moore  
Ralph Neibart  
Rev. Alfonso Roman  
Milton Schwebel  
Gayle Viale

Director:

Michael S. Lottman

must be calculated. If the policy is to favor "least restrictive" or "most normal" placements, then the formula must not put a premium on placing each extra child in a special class. Otherwise, the tail wags the dog.

It is also important to bear in mind that there is no necessary link between the State's "mandating" a certain level and quality of services, and the State's paying for them. Math, American history and gym, for example, are "mandated" programs, yet there is no special funding, and districts receiving little general state aid must foot the bill alone. It is defeatist to accept the argument that programs will not be provided unless the State pays for them. Rather, we insist that the programs be provided, then worry about which group of taxpayers pays.

Admittedly, it is difficult to assess a special education funding formula in absolute terms, because it can be measured on so many different scales. A formula can be equalizing or anti-equalizing; it can promote or impede monitoring and accountability; it can generate average or actual figures; and it can reimburse after the fact or it can provide for direct grants in anticipation of services. A formula can fund by categories of children, programs, personnel, or a combination thereof, and in each case the categories can be finely or grossly delineated.

Many features of a funding formula are not mutually exclusive, so that even when the desired policy goals are clearly understood and clearly articulated, the formula may carry out some policies better than others, and be wholly inadequate in other areas.

The particular combination of features embodied in Chapter 212's categorical aid formula has produced an unsatisfactory whole. We have the following quarrels with it.

1. The formula is anti-equalizing on a statewide basis.

This is the most obvious feature - it stands out because it is at odds with the rest of Chapter 212. The statute generally assumes that property rich school districts do not need (or do not "deserve") State funds to mount their educational programs. It allots these districts zero dollars for debt service and budgeted capital outlay (N.J.S.A. 18A:7A-19) and only a token amount for current expenses (N.J.S.A. 18A:7A-18(c)). Categorical aid, however, is paid to districts regardless of need, on a child-by-child basis.

It is obviously true that special education children require more money to educate - but there is no school finance reason why that money should come from the State.

Another reason is frequently assigned - that unless a speci-

fic fund is established for educating exceptional children, they will be shortchanged, and "their" money used for the general school population. The present categorical aid program does not quell these fears, however, and that failure is actually a second major defect, as discussed below.

2. The categorical aid program has no "targeting" feature.

Although special education categorical aid is frequently discussed as if it were a "special fund," there is nothing in the funding scheme that makes it so. School districts were awarded categorical aid on the basis of the September 30, 1976 count, for example, and may claim that money without any showing of how they will spend it in 1977-78.

In practice, a school district could not abolish its special education programs in 1977-78 and expect to go undetected, but that is a function of New Jersey's well established county and regional system for monitoring special education services, not a function of the funding formula.

The lack of any accountability system that ties dollars awarded to programs carried out means that exceptional children and their advocates will have to fight in each school district to ensure that their programs are fully funded, regardless of the amount of state aid.

Frequently these special education consumers will win those battles and assure that adequate services are provided, but that will always be in spite of the categorical aid formula, not because of it.

3. The rigid classificatory scheme interferes with the proper placement of children and creates disincentives to place them in the "least restrictive" environment.

This point has been made by others, and need not be spelled out at length.

It is unlikely that a deaf child will be placed in a class for the blind, of course, but it is certain that in close cases decision-making will be greatly influenced by the dollar signs. This will be most noticeable in the pairs perceptually impaired-neurologically impaired, socially maladjusted-emotionally disturbed, and educable mentally retarded-trainable mentally retarded.

As the New Jersey School Boards Association pointed out, the "multiply handicapped" label is also subject to great abuse. This is because almost every child with a serious enough handicap to be considered for special class placement (no more than 25%

of all the classified youngsters) can be found to have at least a minor second disability.

The decision to place in a special class at all will also be influenced to a great degree by fiscal considerations. The point is not that there will be too many children in a particular class, for that is not the fault of the funding formula, but of the special education regulations. Rather, the problem is that there will be some who don't belong there at all. If a district already has a class half full, the incremental cost of adding another child is near zero, yet the child brings in a full additional share of State dollars - to be used elsewhere. The class size may still be quite appropriate, but it may have been a close question whether the child would have been better off in a regular class with supplemental help.

4. The September 30 "count date" produces random windfalls and hardships.

Criticisms of the September 30 cut-off date have typically not brought to light its full impact.

If a child is classified and begins receiving services shortly after the count date, the school district not only receives no money for this child for the rest of the year, but also receives nothing for the entire next school year as well. The local district bears the cost for almost two full years - costs which can be particularly heavy if there are start-up costs for new and expanding programs.

Windfalls can occur if counted children move out of a district any time after September 30 in the current year, all the way through the end of the next school year. A child who is counted in September, 1976, for example, will bring the district a full allotment for 1977-78. If the child leaves the district one fourth of the way through that second year, the district will have received a 75% windfall for that child's "weight."

Ironically, the September 30 count date for categorical aid is nowhere to be found in the statute, but has been assumed, because that date is relevant for calculating equalization aid aid in some cases, N.J.S.A. 7A-18(b)(2).

The fluctuation in overall school population during a school year is likely to be much smaller than fluctuations in the population of classified and served handicapped children. Using a single count day for the general population therefore produces less arbitrary results, and may be acceptable generally but unacceptable for special education.

5. The formula favors private out-of-district placements over placements in a nearby public school.

This error in the formula is so glaring that it can only be explained by inadvertence. When this section was written (Approved Private School tuition, an extra weight of 1.0), the Legislature perhaps did not know that the out-of-pocket expense to the sending district is roughly the same, regardless whether the receiving school is public or private.

Since our policy and law rightly favor public placement, there is no possible reason to keep this discrimination, which creates a heavy incentive in the wrong direction. Depending on what other changes are made, this extra tuition-related cost factor should either apply to all out-of-district placements, or none.

6. The method used for counting "excess costs" undercounts to a significant degree.

Since we urge abolition of the whole categorical (pre-service entitlement) approach, we need not dwell long on inaccuracies in the counting method itself.

Suffice it to say that while the A4-2 forms, which generate the figures for special education costs, do credit special education students with a pro rata share of everything from administrators' salaries to janitors' salaries to heating oil and debt service, they do not attribute any amount for the services of gym, art, music and shop teachers. This, when combined with the exclusion of all child study team costs, results in unrealistically low total cost figures.

When one subtracts the average cost of educating the regular school population, one naturally arrives at an unrealistically low excess cost figure.

7. The formula, following the rest of Chapter 212, makes no adequate provision for the profoundly retarded.

There is no cost factor for retarded children "eligible for day training," and indeed, local school districts have no responsibility for them, N.J.S.A. 18A:46-13, as amended. The statutory command that the State Board and the Department of Human Services jointly provide appropriate programs, N.J.S.A. 18A:46-18.1, has been ignored in practice.

There is no good reason for this discrimination. School districts should be required to provide or purchase the proper services, with or without special state aid, as other policies dictate. State facilities now in existence, or to be developed,

can simply charge tuition in the manner of receiving public school districts. Trade-offs between aid due and tuition owing can be handled at the bookkeeping level.

In place of the present "categorical program support" for special education, we propose a system that will do four things. It will be equalizing in terms of both relative school district wealth and relative intensity of educational problems in the district; it will provide money that is linked to special services actually being provided; it will lessen the significance of the child's "handicap" label; and it will produce more consistent and less arbitrary results.

Stated most simply, we propose that categorical aid be abolished, and that districts receive State aid for special education in the same proportions as they receive equalization aid. Monitoring will be accomplished through pre-budget review and normal administrative procedures. In addition, the total sum due a district for special education will be subject to revision late in the school year, depending on actual experience.

1. On December 1, when County Superintendents are engaged in pre-budget review, the County Supervisors of Child Study make an independent review of the proposed special education budget, and independently mandate necessary changes. This review must be based on services provided in the past and estimates of future needs, and must be wholly without regard to what level of State support is anticipated.

2. As part of the budget-making and review process, each district will develop an assumed or hypothetical "count" of special education students and their placements for the following year. This count will help the Supervisor of Child Study determine whether the proposed budget is satisfactory, and also will be used to determine the district's entitlement to aid, subject to later revision.

3. When the district's equalized valuation per pupil is being calculated, pursuant to Chapter 212, the total valuation is not divided simply by resident enrollment, but instead by a "weighted enrollment" that takes into account "costlier-to-educate" children, including exceptional children. (Obviously, the system can easily be extended to include compensatory, vocational and bi-lingual education). A district with more such children will have a smaller equalized valuation per pupil, and will thus be entitled to more equalization aid. The hypothetical count done around December 1 will generate the "weights" in the first instance, also subject to revision later.

4. The weights to be assigned should not be different for each classification of handicapped child, but should be function-

ally related to approximate levels of cost. Strictly by way of example, and without even attempting to guess at the appropriate figures, we suggest that only six weights may be enough: 1) supplemental and speech instruction; 2) resource room; 3) home instruction; 4) special class larger than nine; 5) special class of 9 students or less; 6) out-of-district placement.

5. All state aid will be paid (in ten installments) on the assumption that the budget as approved will be followed, with the assumed numbers of weighted pupils. The ten installments (for all aid) should not run from September to June, but from August to May, to allow for immediate cash flow needs in September.

6. During the first week in April, each district will recalculate its weighted student population, recalculate its State support ratio and recalculate its entitlement to equalization aid. Adjustments, upwards or downwards, will be reflected in the final installment, paid on May 1.

We believe the system suggested cures most of the defects we find in the present one. The most serious objection likely to be raised is that property rich districts will not mount adequate programs unless paid by the State to do so. As stated earlier, we do not accept that dire prediction, and insist that whatever pressures result in there being math programs in such districts must result in there being adequate special education programs as well. The present system also relies heavily on those pressures, for, as we have noted, there is no targeting of categorical aid anyway.

Happily, New Jersey has a strong tradition of special education, and has already in place and functioning a network of county and regional personnel whose only task is the monitoring of these services.

We are grateful for the opportunity to appear today, and are ready at any time to discuss our suggestions in more detail with the Committee or its staff.



# NEW JERSEY SCHOOL BOARDS ASSOCIATION

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## TESTIMONY

PRESENTED TO THE JOINT COMMITTEE ON THE PUBLIC SCHOOLS

JUNE 15, 1977

by

FRANK DOLAN

GOOD MORNING. I AM FRANK DOLAN, CHAIRMAN OF THE NJSBA SPECIAL EDUCATION COMMITTEE AND I AM VERY PLEASED TO BE HERE TO TESTIFY THIS MORNING.

CHAPTER 212 OF THE LAWS OF 1975, SECTION 21 REQUIRES THE GOVERNOR RECOMMEND ANY REVISIONS IN THE ADDITIONAL COST FACTORS USED FOR REIMBURSEMENT FOR SPECIAL EDUCATION WHICH HE DEEMS PROPER. IT IS THEN UP TO THE LEGISLATURE TO REVIEW THESE RECOMMENDATIONS. AS PART OF THAT REVIEW, THE NJSBA STRONGLY URGED THE LEGISLATURE TO REVIEW THE ADEQUACY OF USING ADDITIONAL COST FACTORS TO REIMBURSE SPECIAL EDUCATION. WHILE WE UNDERSTAND THAT SUCH A DRASTIC CHANGE IN THE FORMULA COULD NOT BE UNDERTAKEN AS PART OF THAT REVIEW, WE ARE PLEASED THAT THE JOINT COMMITTEE ON THE PUBLIC SCHOOLS IS HOLDING A PUBLIC HEARING ON THIS ISSUE.

THE NJSBA BELIEVES THAT THE USE OF AVERAGE WEIGHTS TO REIMBURSE EACH OF THE VARYING CLASSIFICATIONS OF HANDICAPPED HAS CAUSED A REGRESSION IN THE QUALITY OF SERVICES BEING PROVIDED TO OUR HANDICAPPED STUDENTS. BEFORE CHAPTER 212 DISTRICTS WERE REIMBURSED 50% OF THE TOTAL COST OF SPECIAL EDU-

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CATION PROGRAMS. THESE COSTS INCLUDED THE CHILD STUDY TEAM, ALL TEACHERS' SALARIES, SUPPLIES, AIDES, SUPERVISORS, PLUS A PROPORTION OF THE COSTS FOR HEALTH SERVICES, ADMINISTRATION, MAINTENANCE, FIXED CHARGES, SPECIAL PROJECTS, AND CAPITAL OUTLAY. THE WEIGHTS THAT HAVE BEEN ESTABLISHED FOR CATEGORICAL AID HOWEVER DO NOT INCLUDE THE COST OF THE CHILD STUDY TEAM, TEACHER AIDES, NEW PROGRAM COSTS, ETC. SINCE THESE COSTS WERE NOT INCLUDED AS BEFORE, MOST DISTRICTS ARE RECEIVING LESS SPECIAL EDUCATION AID THAN THEY HAD PREVIOUSLY. THIS IS CONTRARY TO THE INTENT OF THE LEGISLATURE WHEN THEY ENACTED CHAPTER 212.

IN THE REPORT OF THE JOINT EDUCATION COMMITTEE TO THE NEW JERSEY LEGISLATURE DATED JUNE 13, 1974, THE COMMITTEE SAID, IN A SECTION ENTITLED "FULL FUNDING OF CATEGORICAL PROGRAM COSTS", "THERE IS NO DOUBT THAT A NUMBER OF OTHER KINDS OF PUPILS, BECAUSE OF SOME HANDICAP, DO REQUIRE ADDITIONAL EXPENDITURES IF THEY ARE TO HAVE AN EQUAL OPPORTUNITY TO SUCCEED, AND THERE IS NO DOUBT ON THE PART OF THE JOINT EDUCATION COMMITTEE THAT THE STATE SHOULD ACCEPT THIS RESPONSIBILITY. FOR SPECIFIED TYPES OF CATEGORICAL PUPILS, THE COMMITTEE RECOMMENDS FULL STATE FUNDING OF THE SPECIAL COSTS REQUIRED."

THE ADDITIONAL COST FACTORS HAVE NOT DONE THIS. FOR THE 76-77 SCHOOL YEAR DISTRICTS FILLED OUT REIMBURSEMENT FORMS (A4-2) AND THE NEW CATEGORICAL AID FORMS. IN MOST CASES DISTRICTS WOULD HAVE RECEIVED MORE SPECIAL EDUCATION AID UNDER THE OLD METHOD. JERSEY CITY FOR EXAMPLE WOULD HAVE RECEIVED \$2.4 MILLION USING THE A4-2 METHOD, WHILE ONLY RECEIVING \$2.09 MILLION UNDER CHAPTER 212.

THIS AID LOSS HAS BEEN FURTHER COMPOUNDED BY THE USE OF SEPTEMBER 30TH AS A CUT-OFF DATE FOR ESTABLISHING THE NUMBER OF CHILDREN BEING SERVED. MANY STUDENTS ARE PLACED IN SPECIAL CLASSES THROUGHOUT THE YEAR AND THE COSTS

FOR THESE CHILDREN MUST BE BORNE BY THE LOCAL DISTRICT. IN JERSEY CITY THERE WERE 149 ADDITIONAL PLACEMENTS BETWEEN SEPTEMBER 30TH AND DECEMBER 31ST ALONE, RESULTING IN A COST OF MORE THAN \$300,000. STATEWIDE IT IS ESTIMATED THAT CLOSE TO 17,000 CHILDREN WERE PLACED AFTER SEPTEMBER 30. THIS CUT-OFF DATE ALSO HAS THE EFFECT OF INHIBITING PLACEMENT SINCE NO STATE AID IS AVAILABLE FOR CHILDREN PLACED AFTER SEPTEMBER 30TH. THE NJSBA STRONGLY SUPPORTS S-3012, WHICH WOULD CORRECT THIS SITUATION.

THE NJSBA FEELS THAT THERE ARE A NUMBER OF PHILOSOPHICAL AS WELL AS TECHNICAL DEFICIENCIES WITH THE REIMBURSEMENT FORMULA USED IN CHAPTER 212. IN THE PHILOSOPHICAL REALM WE NOTE THE FOLLOWING PROBLEMS:

FIRST THE FORMULA PROMOTES THE CLASSIFICATION AND LABELING OF CHILDREN. THE MORE YOUNGSTERS CLASSIFIED BY THE LOCAL SCHOOL DISTRICT, THE MORE A DISTRICT WILL RECEIVE IN CATEGORICAL STATE AID. RESEARCH DEMONSTRATES THAT CLASSIFICATIONS AND LABELS CARRY CERTAIN NEGATIVE EVALUATIVE COMPONENTS AND LABELING EMPHASIZES THE CHILD'S ALREADY EXISTING DIFFICULTIES. THE TREATMENT OF THE PROBLEM BECOMES CONTINGENT UPON THE LABEL INSTEAD OF UPON EACH CHILD'S INDIVIDUAL NEEDS AND ABILITIES. IN THE CONTEXT OF MAKING INSTRUCTIONAL DECISIONS, THE USE OF CLASSIFICATIONS SUCH AS "RETARDED," "SOCIALLY MAL-ADJUSTED," "NEUROLOGICALLY IMPAIRED," ETC. IS OF LITTLE SIGNIFICANCE. LABELS PROVIDE LITTLE INSIGHT INTO HOW TO REMEDIATE A CHILD'S LEARNING DEFICIT. THEY ARE BEST FORGOTTEN WHENEVER POSSIBLE.

SECOND, THE NEW FORMULA COULD LEAD TO THE MISCLASSIFICATION OF YOUNGSTERS. CHILDREN COULD BE CLASSIFIED ACCORDING TO

THE CATEGORY WHICH WILL REIMBURSE THE DISTRICT THE MOST AMOUNT OF MONEY. CHILDREN WHO WERE CLASSIFIED WITH A SPECIFIC CLASSIFICATION, SUCH AS NEUROLOGICALLY IMPAIRED, COULD BE RECLASSIFIED AS MULTIPLE HANDICAPPED BY ADDING A SECONDARY CLASSIFICATION. FOR MANY CHILDREN PLACED IN SPECIAL CLASSES THIS MOVE WOULD NOT ONLY BE POSSIBLE BUT ALSO JUSTIFIABLE. DISTRICTS CATEGORIZING CHILDREN MH (PRIMARY HANDICAP - NEUROLOGICALLY IMPAIRED, SECONDARY HANDICAP - PERCEPTUALLY IMPAIRED) WOULD BE ABLE TO USE A 1.27 MULTIPLIER IN CONTRAST TO AN .85 WEIGHT USED FOR NEUROLOGICALLY IMPAIRED.

THIRD, LOCAL SCHOOL DISTRICTS COULD BE TEMPTED TO FILL SPECIAL EDUCATION CLASSES TO THE MAXIMUM SIZE ALLOWED BY LAW. INCREASED SPECIAL CLASS ENROLLMENT WOULD MEAN INCREASED STATE AID. THE MORE YOUNGSTERS CLASSIFIED AND PLACED IN A CLASSROOM, THE MORE CATEGORICAL AID THE SYSTEM WOULD RECEIVE FOR THAT CLASS. A SPECIAL EDUCATION TEACHER ADMITTED, "IT MAKES NO SENSE TO HAVE FIFTEEN CHILDREN HERE, BUT THE DISTRICTS KEEPS TELLING ME WE NEED THE MONEY AND THERE'S NO OTHER PLACE FOR THESE STUDENTS TO GO." (PHI DELTA KAPPAN, 523, 1974)

THE STUDENT TEACHER RATIO FOR SPECIAL EDUCATION SHOULD BE LOW FOR EFFECTIVE IMPLEMENTATION OF AN INDIVIDUALIZED PROGRAM TO MEET THE NEEDS OF EACH CHILD. WITH THE MAXIMUM PLACEMENT OF STUDENTS, TEACHERS WILL BE FILLING THE ROLE OF BABYSITTER INSTEAD OF TEACHER. OUR GOAL SHOULD BE TO HELP THESE YOUNGSTERS IN REMEDIATING OR COMPENSATING FOR THEIR DEFICITS, RETURNING THEM TO THE MAINSTREAM OF THE REGULAR SCHOOL OR PREPARING THEM

FOR THE TIME WHEN THEY WILL LEAVE SCHOOL. HOW CAN A TEACHER ADEQUATELY PREPARE THESE CHILDREN WHEN HE/SHE IS ASKED TO WORK INDIVIDUALLY WITH FIFTEEN EMR YOUNGSTERS AT ANY ONE TIME?

THE NEW JERSEY SCHOOL BOARDS ASSOCIATION WOULD ALSO LIKE TO POINT OUT THE FOLLOWING TECHNICAL DIFFICULTIES WITH THE EXISTING FORMULA:

FIRST, THERE ARE PRESENTLY NO PROVISIONS FOR STATE AID FOR SPECIAL EDUCATION PUPILS PLACED IN RESOURCE ROOMS. RESOURCE ROOMS WERE ENCOURAGED AND EVEN RECOMMENDED BY THE STATE DEPARTMENT AS THE LEAST RESTRICTIVE ENVIRONMENT FOR A SPECIAL CHILD. IN ADDITION, NEW FEDERAL LEGISLATION PL 94-142 AND SEC 504 OF THE CIVIL RIGHTS LAW MANDATE THAT CHILDREN MUST BE SERVED IN THE MOST NORMAL SETTING POSSIBLE. THE NJSBA STRONGLY SUPPORTS S-3155, WHICH WOULD CORRECT THIS PROBLEM.

SECOND, REIMBURSEMENT FOR THE COST OF THE CHILD STUDY TEAM HAS BEEN ELIMINATED SINCE SUPPOSEDLY THE TEAM SERVED ALL CHILDREN. THIS IS AN ERRONEOUS ASSUMPTION. IT IS THE CHAPTER 46 OF TITLE 18A DEALING WITH SPECIAL EDUCATION WHICH MANDATES THAT A DISTRICT MUST HAVE THE SERVICES OF A CHILD STUDY TEAM AND THE SOLE PURPOSE OF THE TEAM IS RELATED TO HANDICAPPED CHILDREN. NOT ALL CHILDREN IN A DISTRICT ARE SEEN BY A TEAM BUT RATHER ONLY THOSE WHO ARE BELIEVED TO HAVE A HANDICAP. IN ADDITION, ONCE A CHILD IS PLACED THE TEAM HAS FOLLOW-UP RESPONSIBILITIES SUCH AS RE-EVALUATIONS AND ASSISTING THE TEACHERS OF HANDICAPPED STUDENTS.

PRIOR TO THE ENACTMENT OF CHAPTER 212, LOCAL SCHOOL DISTRICTS RECEIVED A PERCENTAGE OF THE COST OF SALARIES FOR THE TEAM. THESE SALARIES ACCOUNT FOR A LARGE PART OF THE TOTAL SPECIAL EDUCATION BUDGET. WITH THE ELIMINATION OF STATE FISCAL REIMBURSEMENT FOR SALARIES FOR THE TEAM, THE INCENTIVE FOR BOARDS OF EDUCATION TO HIRE WILL BE ELIMINATED. CHILD STUDY TEAM MEMBERS, EVEN THOUGH THEY ARE MANDATED, WILL BE REDUCED FROM FULL-TIME SERVICE TO PART-TIME SERVICE OR WILL BE HIRED ON A PER CASE BASIS. SUPPORTIVE HELP BY THESE INDIVIDUALS AND SPEECH THERAPISTS WILL BE REDUCED OR BECOME NONEXISTENT. THE ROLE OF THE TEAM WOULD BECOME THAT OF PSYCHOMETRICIANS, MERELY TESTING AND PLACING CHILDREN WITHOUT FOLLOWING THROUGH WITH APPROPRIATE SERVICES.

THIS PROBLEM HAS BEEN FURTHER COMPOUNDED BY THE PASSAGE OF FEDERAL LEGISLATION PL 94-142, WHICH WILL REQUIRE REEVALUATION BY THE CHILD STUDY TEAM EVERY YEAR INSTEAD OF EVERY THREE YEARS AS NEW JERSEY STATUTE CURRENTLY REQUIRES. THIS WILL DRASTICALLY INCREASE THE NEED FOR MORE CHILD STUDY TEAMS, YET MANY BOARDS HAVE BEEN FORCED TO REDUCE THEIR TEAMS SINCE THERE IS NO LONGER ANY STATE FUNDING.

THIRD, SCHOOLS WILL BE FINANCIALLY REWARDED FOR SENDING CLASSIFIED CHILDREN TO PRIVATE SCHOOLS SINCE THERE IS AN ALLOWANCE OF AN ADDITIONAL COST FACTOR OF 1.0 FOR EACH CHILD SO PLACED. THIS TUTION WEIGHT DOES NOT APPLY TO STATE OR DISTRICT-OPERATED PROGRAMS. DISTRICTS THAT SEND YOUNGSTERS OUT OF THE DISTRICT TO OTHER APPROPRIATE PUBLIC

SCHOOL CLASSES OR STATE-OPERATED FACILITIES ARE BEING DISCRIMINATED AGAINST BECAUSE THEY DO NOT RECEIVE THE 1.0 FACTOR THAT WOULD BE PAID IF THEY SEND YOUNGSTERS TO PRIVATE SCHOOLS.

FOURTH, DUE TO AN INTERPRETATION BY THE ATTORNEY GENERAL DISTRICTS ONLY RECEIVE REIMBURSEMENT FOR CHILDREN THAT ARE PLACED IN A SPECIAL CLASS. THEREFORE, IF YOU HAVE A CHILD WHO IS IDENTIFIED BY THE CHILD STUDY TEAM AS ORTHOPEDICALLY HANDICAPPED AND IT IS RECOMMENDED THAT THAT CHILD REMAIN IN THE REGULAR CLASSROOM, BUT RECEIVE SUPPLEMENTAL PHYSICAL THERAPY, THE DISTRICT WILL NOT BE ABLE TO RECEIVE ANY REIMBURSEMENT FOR THAT CHILD. THEY WILL ONLY RECEIVE REIMBURSEMENT IF THE CHILD IS PUT IN A SPECIAL CLASS. THIS CREATES AN UNTENABLE SITUATION SINCE THE CHILD IS CAPABLE OF FUNCTIONING IN A REGULAR CLASS AND IN FACT IT WOULD BE A VIOLATION OF SEC. 504 OF THE CIVIL RIGHTS LAW TO PLACE HIM ANYWHERE ELSE. HOWEVER, THE CHILD DOES REQUIRE PHYSICAL THERAPY WHICH IS AN ADDITIONAL COST FOR THE DISTRICT THAT SHOULD BE REIMBURSABLE, BUT IS NOT.

THE NJSBA STRONGLY RECOMMENDS THAT THE JOINT COMMITTEE ON THE PUBLIC SCHOOLS REPLACE THE ADDITIONAL COST FACTOR FORMULA IN CHAPTER 212 WITH AN EXCESS COST FORMULA APPROACH.

WE SPECIFICALLY RECOMMEND AN EXCESS COST FORMULA WHICH WOULD ESTABLISH THREE CATEGORIES OF SPECIAL EDUCATION REIMBURSEMENT.

ONE FOR DISTRICT-OPERATED PROGRAMS  
ONE FOR TUITION STUDENTS  
AND ONE FOR RESOURCE ROOMS, SUPPLEMENTAL  
INSTRUCTION AND HOMEBOUND INSTRUCTION

UNDER OUR FORMULA, AID FOR DISTRICT-OPERATED PROGRAMS WOULD BE CALCULATED IN THE FOLLOWING MANNER. ALL DISTRICT COSTS FOR SPECIAL PROGRAMS WHICH ARE DIRECTLY RELATED TO SPECIAL EDUCATION WOULD BE TOTALLED. THESE WOULD INCLUDE SPECIAL EDUCATION TEACHER SALARIES, AIDES, THE CHILD STUDY TEAM, THE SALARY OF THE SPECIAL EDUCATION SUPERVISORS, ADDITIONAL SUPPORTIVE SERVICES (I.E. THERAPY) AND SUPPLIES, IN ADDITION TO THOSE REQUIRED BY THE REGULAR PROGRAM.

THESE COSTS MUST FALL WITHIN THE EXISTING (AND NEW IF NECESSARY) GUIDELINES ESTABLISHED BY THE DEPARTMENT OF EDUCATION (I.E. MAXIMUM AND MINIMUM CLASS SIZE, CHILD STUDY TEAM RATIOS, LEAST RESTRICTIVE PLACEMENT, ETC.). BEFORE A DISTRICT COST WAS ESTABLISHED IT WOULD BE APPROVED BY THE COUNTY SUPERINTENDENT'S OFFICE AS PART OF THE DECEMBER 1 BUDGET REVIEW. SUPPORTIVE DATA AS WAS PREVIOUSLY REQUIRED WITH THE A4-2 FORMS WOULD BE SUBMITTED. (THIS IS NOT BEING DONE WITH THE CATEGORICAL WEIGHTING FORMULA.)

ONCE ESTABLISHED, THESE APPROVED EXPENDITURES WOULD THEN BE DIVIDED BY THE NUMBER OF STUDENTS SERVED IN THESE CLASSES. THIS WOULD GENERATE A PER PUPIL COST FOR DISTRICT-OPERATED SPECIAL CLASSES. SUBTRACTED FROM THIS AMOUNT WOULD BE THE DISTRICT'S PER PUPIL COST WHICH WOULD GENERATE THE EXCESS COST PER PUPIL FOR SPECIAL EDUCATION. THIS FIGURE MULTIPLIED TIMES THE NUMBER OF CHILDREN SERVED WOULD GIVE THE TOTAL EXCESS COST OF SPECIAL EDUCATION FOR DISTRICT SPECIAL CLASSES WHICH WOULD BE REIMBURSED 100% BY THE STATE.

THE SAME TYPE OF FORMULA WOULD ALSO BE USED IN TUITION PAID FOR SPECIAL EDUCATION STUDENTS. THESE TUITION RATES MUST FALL WITHIN RATES ESTABLISHED PURSUANT TO 18A:46-21. TUITION REIMBURSEMENT WOULD ALSO INCLUDE ANY TUITION PAID TO A STATE OR LOCAL OPERATED PROGRAM. (THIS IS

NOT CURRENTLY BEING DONE UNDER CHAPTER 212.)

THE THIRD REIMBURSEMENT WOULD BE TO CALCULATE THE ACTUAL COSTS FOR RESOURCE ROOMS, SUPPLEMENTAL INSTRUCTION AND HOMEBOUND INSTRUCTION. THE DISTRICT COST PER PUPIL WOULD NOT BE SUBTRACTED FROM THESE COSTS SINCE THESE CHILDREN ARE PART OF THE REGULAR CLASSROOM PROGRAM.

UNDER THE NEW JERSEY SCHOOL BOARDS ASSOCIATION PROPOSAL THE STATE WOULD BE TRUELY ASSUMING THE EXCESS COST OF EDUCATING OUR HANDICAPPED STUDENT FOR ALL DISTRICTS. WHEN AN AVERAGE REIMBURSEMENT IS USED STATE-WIDE IT IS IMPOSSIBLE TO ASSUME THE FULL EXCESS COST OF AN INDIVIDUAL BASIS.

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