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# Public Hearing

before

## SENATE EDUCATION COMMITTEE

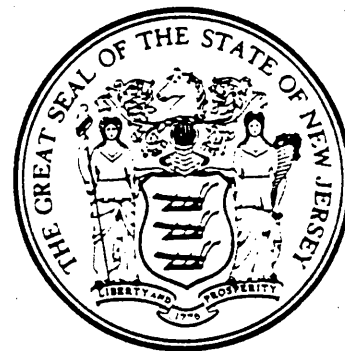
"State mandates for the public schools"

**LOCATION:** Committee Room 8  
Legislative Office Building  
Trenton, New Jersey

**DATE:** September 21, 1994  
10:00 a.m.

### MEMBERS OF COMMITTEE PRESENT:

Senator John H. Ewing, Chairman  
Senator Joseph A. Palaia, Vice-Chairman  
Senator Gordon A. MacInnes



### ALSO PRESENT:

Darby Cannon III  
Office of Legislative Services  
Aide, Senate Education Committee

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**Hearing Recorded and Transcribed by**  
The Office of Legislative Services, Public Information Office,  
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JOHN H. EWING  
Chairman

JOSEPH A. PALAIA  
Vice-Chairman

ROBERT J. MARTIN  
JOHN A. LYNCH  
GORDON A. MACINNES

## New Jersey State Legislature

SENATE EDUCATION COMMITTEE  
LEGISLATIVE OFFICE BUILDING, CN-068  
TRENTON, NJ 08625-0068  
(609) 984-6843

### NOTICE OF PUBLIC HEARING

The Senate Education Committee will hold a public hearing on the following subject:

**"STATE MANDATES FOR THE PUBLIC SCHOOLS"**

The hearing will be held on Wednesday, September 21, 1994 at 10:00 AM in Committee Room 8, Legislative Office Bldg., Trenton, NJ.

*Persons wishing to testify should call Mary C. Lutz at (609) 984-6843.*

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Assistive listening devices available upon 24 hours prior notice to the committee aide(s) listed above

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SENATOR JACK H. EWING (Chairman): All right. Senator Palaia is ready, so we can now start.

Can we hold the conversations outside? Thank you.

Now, I'm delighted to see the number of people who are willing to talk today. As you know, many of you realize we sent a questionnaire out, that our staff, Wendy Lang, had made up. We got the answers back. How many did we get back so far?

MS. LANG: (Senate Majority Staff) Approximately 300.

SENATOR EWING: Three hundred or so came back. I hope there are still more coming in. If any of you want to get other replies from your districts, I hope you give out copies to the individuals to fill in those questionnaires and give us their thoughts, because this is going to be an ongoing process, as far as we are concerned.

In the Committee, we're gradually developing more and more changes in the mandates, with the whole idea in mind that some of them are so old and archaic that they are no longer necessary and also, very costly. I'm sure we're not going to agree on all the things that people would like to see taken out of the mandates, but we certainly, I'm sure, will agree on many.

Senator Palaia, do you want to say anything?

SENATOR PALAIA: No, Mr. Chairman, I would like to hear from the people.

SENATOR EWING: Senator MacInnes, would you like-- Are you running this year, or would you like to make a campaign speech?

SENATOR MacINNES: I'm here to represent the people, Senator.

SENATOR EWING: Oh, okay. (laughter)

SENATOR MacINNES: I don't even know what you are referring to.

SENATOR EWING: At last, we have somebody from the minority party that wants to represent the people. (laughter)

SENATOR PALAIA: I've got to use that line. I'm here representing--

SENATOR MacINNES: I enter into it in a very bipartisan spirit. I'm sorry it is not reciprocated. (laughter)

SENATOR EWING: It's wonderful of you to come down. The first is Dr. Harry Galinsky.

**HARRY A. GALINSKY, Ed.D.:** Thank you, Senator. Let me just begin by commending this Committee and its Chair for addressing an issue that I think is long overdue.

In May of 1993, the former Commissioner of Education, Mary Lee Fitzgerald, appointed a Code Review Commission, which she asked me to Chair. On October 26, we presented our findings to the State Board of Education and the Commissioner. We held exhaustive hearings similar to the kinds of things you've done. We solicited mandate identifications and so on. In fact, to add to the list of what you are getting now, I would suggest that the State Department has three appendixes listing very specifically what people came and submitted to us. But I would like to take the opportunity to just hit some highlights of the concerns.

SENATOR EWING: Excuse me. How many people -- I mean, where did the people come from that came before your group? Did you travel?

DR. GALINSKY: All across the State.

SENATOR EWING: Did you travel across the State?

DR. GALINSKY: Yes.

SENATOR EWING: Where did you have your hearings?

DR. GALINSKY: We had a major, all-day hearing in Trenton, and we had some subhearings around the State, nothing to the extent that I think that you have, but we had a very broad based committee. I think we had some extensive input, and I think the people on the Committee who were very, very familiar with the Code review process were very, very helpful for us.

You know, some of the comments that I'm going to make, obviously, are comments that you've made before, that there is a belief and, I think it's a truism, that the public schools in

New Jersey are overregulated. As a result, what occurs is that there is little differentiation in the Code between successful and unsuccessful schools. You know, we hold out a standard of compliance typically based upon the fact that what we want to assure, or the State needs to assure itself that the health and safety and educational standards will only be met at a particular level, and there is no opportunity for those people who are producing the results to have any flexibility.

In fact, the process in New Jersey as compared to any other state, I think, would indicate that you have a situation where Trenton has tried to micromanage in many cases, over 600 school districts and 2200 schools. In fact, that just doesn't work. So we essentially have said to the State Board of Education that Code and legislation should shift this emphasis from a process to results orientation.

I mean, what's going on in the world today is very clear, with all the changes in the corporate sector and many reform movements is that people are saying, "It isn't as important how you get there, but in fact, identify the kinds of performances you want from children and unleash the creative energies of a lot of people to accomplish it." The Code really doesn't permit that.

One of the things I'm going to comment on a little later is the effect of legislation and how Code has to play that out in a way in which sometimes the intent of the legislation is really not reflected in the Code, which eventually is development. The ability of the Legislature to have oversight of, "this is what we meant," and "here is what is happening," there seems to be a disparity" is something that needs to be looked into.

The Committee came up with a series of belief statements, which I think philosophically we would urge that this Committee considers as it drafts changes or legislation.

One, we believe that every school building in the State of New Jersey must be held accountable for providing

students with the constitutionally mandated thorough and efficient education. So there is nothing that we're talking about that takes away from that, that there ought to be establishment of a substantial standard which evaluates quality and performance based upon student achievement, and it is preferable to a system that relies on procedural rules which may or may not result in well educated students. If I follow a process to the letter, and you come in and monitor me and you check off that I've done everything that the Code has said but the kids are not learning, what have we accomplished?

So we can point to the fact that we have followed the law. We've been technically right, but in fact, there is no change. I don't think that education is going to improve immeasurably if, in fact, we don't shift to the result orientation, to hold people accountable for results, have fair high standards, and then give them the opportunity, in fact, to get there. You have a mechanism in this State for those districts, which, in fact, fail to produce results, and it's the kind of thing that I think in the long term will change the climate in the State. We believe we have an overprescriptive Code, which again, I say, emphasizes process over results.

There are three examples, I think, of what I'm attempting to say. The report is available to the Committee, and I don't want to read it to you. We cited three examples, either in Code or in legislation.

One was the Pupil Assistance Committee which eventually has been changed as a result of our pointing it out. The Pupil Assistance Committee was Code which was developed that said every school must set up a committee to take a look at kids who may possibly be referred for special education rather than immediately having them be addressed by a child study team. That was a good intent, but they went beyond that and said who should be on that committee and when they should meet. They gave you such a restrictive process that you couldn't deliver on the process. "Now that's insanity," we kept saying. We're not

fighting an idea that there ought to be a Pupil Assistance Committee, because that, in fact, can cut down the number of eventual classifications. You've got 2200 schools. How can you design a process that everybody carries out? In many cases, it had an enormous financial burden in terms of having to release people, small districts having to get child study team members over there, to sit on there.

It has been a disaster, but that eventually changed, and we now have a process in which we're saying, "You have to have a Pupil Assistance Committee; submit your plan to the county superintendent." No problem with that. You should have some oversight. If I say to you, "I don't want to do it by route A, I want to do by route B." I have no problem with someone taking a look at what route B is and having someone from the State standpoint say, "Yes, that has the potential of accomplishing it."

The second example that we used was a requirement for an instructional certification, the mentorship, in which everybody now who graduates through the regular program or through the alternate program has to have a mentor, and that is not wrong. But it was so prescriptive of how the mentor should work, releasing them, releasing the mentorship and so on down the line that people, the result was-- I can tell you, right now, the overwhelming majority of school superintendents like myself, who are in a good position of having an enormous number of applicants for jobs, were hiring people who already had been certified that didn't have to go through that process.

And what the sad result is, young, bright people coming out of colleges were put at a disadvantage, because the local board had to go through this laborious and inefficient process of providing a mentorship program. So that there needs to be release.

Finally, one that came out of the Legislature -- I've spoken before the Education Committee very often on this -- and that's the bilingual legislation.

You know, in 1975, the Legislature acted appropriately to deal with a major influx of what at that particular time was immigrants from Cuba and particularly from Puerto Rico into the country and in particular into the urban areas in this State.

They developed a bilingual legislation which caused by law that anytime you had 20 or more students in the school district -- not in a building, in a school district, K through 12 -- this had to set up a class to teach them all the subjects in the language they bring to school.

Now, I was in Hoboken at the time. I had the first bilingual program in the State, and for those children at that particular time, many of whom came to the schools uneducated even in their own language, there was good success. So I'm not here to tell you that the bilingual approach is inappropriate. What I am saying to you, for the only example that we have in this State, right now, that there is only one way to teach a child. You wouldn't vote for any bill that said there was only one way to teach reading. You wouldn't vote for a bill that said there was only one way to teach math, but you have legislation, right now, that says, you cannot address the needs of children who are not English speaking, unless you do it this way.

In Paramus, 25 percent of my population comes from non-English speaking families that represent 57 different languages. I cannot pronounce the names of half those languages. There are no teachers that are certified in those languages. So right now-- I have to tell you, over the years, I've been an educational bandit. I've had to find ways to serve the kids and somehow circumvent a law which was absurd.

You know, right now, and I hear rumors that there may be some legislative proposals that come out that may provide some amendments to that, but the amendments -- I need to say, because I may not get the opportunity to say it to you again -- the amendments will permit some of the flexibility that is on, right now, but that really doesn't address a more fundamental

need here, and that is that districts should have the opportunity to have the flexibility that even the amendments won't give them, of dealing with the kinds of children that they get.

I get children in Paramus that come in, non-English speaking. In a year or two they are in the Honor Society and they are going to MIT. The parents are violently opposed to their children being taught in the language that they bring to school. They've come to this country, they're bright, they're educated, except for that one element, which is English. So that we still need a much broader base if the interim is an amendment, but I think down the road and I understand the political nature of it-- But children in this State ought to not be held hostage, because there are fears out there that somehow we're going to abolish bilingual education. We ought to not abolish it; it ought to be just one of the options that school educators have, and hold them accountable for the results that they get.

SENATOR MacINNES: Would you retain bilingual in Paramus, if it were not a requirement?

MR. GALINSKY: The answer is, it would be one of the options I would use, given a certain type of student.

SENATOR MacINNES: For you to introduce--

DR. GALINSKY: The answer is yes, if the needs of the child were matched by a bilingual approach.

SENATOR MacINNES: Well, what is your view on that? Are they better matched by a bilingual approach, or by an immersion approach, or by English as a second language approach?

DR. GALINSKY: My own experience has been, if children come to school uneducated, if you're getting children who have had little schooling whatsoever, then a short period of bilingual education so that they can develop the skills in the language that they bring to school is very appropriate.

SENATOR MacINNES: Okay.

DR. GALINSKY: If children come to school educated in their own language, and know how to read Spanish, right--

SENATOR MacINNES: I understand.

DR. GALINSKY: --then there are many successful programs in which they will move much more quickly into fluency in English than the bilingual program as it stands right now. The history of it has been that it retains children in that program far longer than is necessary. The opportunity to bring them out, now, by regulation is so difficult, because it needs the bilingual teachers' recommendation. You can almost see that -- classes disappearing, if I recommend. So you have a situation which is a no win for children.

SENATOR MacINNES: So the problem is not just having bilingual as one approach of several available to a school district, but that the present law prescribes a process which is, in your view, self-defeating, too.

DR. GALINSKY: Absolutely.

SENATOR MacINNES: So that what might happen is that the cut would be made on the basis of education that the kid brings, whatever language he or she speaks, and that bilingual might survive for those with very little preparation in their native language for academic courses. But that still presents you with the same problem with trying to find people who are competent in the native language. Right?

DR. GALINSKY: Yes, but I think the dimension of the problem would be significantly reduced. You could, under those circumstances, and I would say much as the alternate situation, have a certified English as a second language teacher working with a fluent bilingual aide so that, in fact, you can work with what I would anticipate, small groups.

You see, the urban areas have such large numbers and concentrations of it that the argument about cost efficiency is there. In my district, if I have 27 Korean students who don't speak English, from kindergarten to 12th grade, I'd have to have three or four teachers. I'm not putting kindergarten kids with

ninth graders. So you're going to have kindergarten, first and second; you may have four of them, you need a teacher. You'd have kids in the fourth, fifth and sixth grade. You cluster kids fairly close to age group. You get to the high school, they've got to teach in the language, so you need someone who is fluent in Korean, certified, and can teach physics, United States history.

I've been successful, but I'm not a magician. You just don't get them.

SENATOR MacINNES: Right.

DR. GALINSKY: So we've been educational bandits, as I've said. We've found ways to get around the law.

SENATOR EWING: Harry, have you seen a copy of the bill yet?

DR. GALINSKY: No.

SENATOR EWING: Well, we'll send you one.

DR. GALINSKY: I'd appreciate it.

SENATOR EWING: Because, you know, what I'd like you to do--

SENATOR PALAIA: I'd like to have your input.

SENATOR EWING: What?

SENATOR PALAIA: I would like to have his input?

SENATOR EWING: Yes, sure. And see what changes you'd recommend, so maybe we can do it all at one time.

DR. GALINSKY: I would be delighted to work with the Committee.

SENATOR EWING: It has been co-sponsored by Senator Palaia and Senator MacInnes and myself.

SENATOR MacINNES: Can I just ask one more question on this?

SENATOR EWING: Oh, certainly.

SENATOR MacINNES: One of the complaints about the present approach is that it ignores parental wishes regarding the kind of language instruction. How important is that in your mind, in terms of the Legislature, in correcting this situation

-- including in a revised law the opportunity for parents to have a say in what kind of instruction their kids receive?

DR. GALINSKY: I think it is crucial.

SENATOR MacINNES: You do?

DR. GALINSKY: Absolutely.

SENATOR MacINNES: Whereas, you might not in the case of what approach should be taken to teach those same kids calculus or algebra, allow for parental choice, in this case you would.

DR. GALINSKY: Well, in many ways, at least the examples that you gave, there is parental choice. You know, kids choose courses on the high school level, we don't mandate. They have no--

SENATOR MacINNES: No, no, I'm saying how the instruction is carried out.

DR. GALINSKY: Oh, I'm sorry. You're right.

SENATOR MacINNES: You wouldn't want that to happen.

DR. GALINSKY: No.

SENATOR MacINNES: In arguing this with somebody who would be opposed to parental choice, what distinction would you draw between Spanish or calculus, or English for a non-English speaking child -- as an area where parental choice is merited or as the other is not?

DR. GALINSKY: You know, I guess the analogy that comes to my mind most quickly is the process you have with referrals to a child study team. If a district feels that this approach is an approach to solve the problems that the kids present to you, is the most appropriate, and the parents don't agree, we have a process in the State in which a parent can oppose it. There is a review process that the State sets up which, eventually, there is a decision on whether or not the parent gets their point of view across and so on. I believe you could have a similar situation set up.

SENATOR MacINNES: Let me just press this a little bit further. In that particular case, there are also some Federal

statutes that now impinge on the situation, right, in terms of parental rights to pursue. There is litigation, and the courts seem to be very sympathetic to parents versus school districts. They're Federal requirements, are they not, when it comes to bilingual?

DR. GALINSKY: Yes, but--

SENATOR MacINNES: Is that material, in trying to work out a solution to this problem?

DR. GALINSKY: What I think you'll find is that New Jersey exceeds the Federal requirements to an extent that no other state in the country--

SENATOR MacINNES: Is that true?

DR. GALINSKY: Absolutely true.

SENATOR MacINNES: Okay.

DR. GALINSKY: We could live with the Federal standards. If that became your standard in this State, you would have an enormous amount of flexibility.

SENATOR MacINNES: Just tell me the difference then. What does the Federal require?

DR. GALINSKY: Well, the Federal requirements require that the students who present you with a non-English speaking persona, that you develop an appropriate approach to it. They, in fact, in the language talk about giving students the opportunity of bilingual. In New Jersey, we've already put numbers in, and you know--

SENATOR MacINNES: I know. Okay.

Thank you, Mr. Chairman.

SENATOR EWING: Why shouldn't there just be an immersion course for everybody when they come to this country -- I mean, to come into the schooling system, period?

DR. GALINSKY: One of the things I caution the Committee in, because I get emotional about it, as well as some of you, is that there have been abuses across the country, in which kids have been thrown into classes -- the old sink or swim.

You're going to find some of your fellow legislators who will argue with you, because they may have had some experiences themselves in life where they came to a school, were thrown into a classroom without that kind of support. "You are in America, learn English." So that is a far cry from what we are talking about. So that they point that out.

This is what is going to happen. If you do away with this, people are going to be worried about money. They're not going to give the resources. Kids are going to be thrown into a classroom and many of them are not going to make it.

In fact, if they are thrown into a classroom, total immersion without English as a second language support service and so on, many of them will not make it. So you have to guard carefully to the very popular notions out there. "You've come to this country, English is the language, everybody else learned it," you know.

As I go back to my roots in Hoboken, where that was a port of debarkation for many immigrants, that many kids didn't make it, and they were quitting school, because they were not given the support.

So we have to be careful of the extremes that people talk about and ensure whatever is there, that that cannot happen and should not happen, that there ought to be an approved approach that the County Superintendent looks at, which ensures that every kid-- I mean, in present legislation, if you have less than 10 kids, you don't even have to provide any services at all. There is the absurdity of it.

SENATOR EWING: Giving parental approval is something that maybe they could demand that they want their child to continue to be taught in Urdu, and what the hell are you going to do then? I don't think it should be the parental--

DR. GALINSKY: Well, I guess the spin I had on the parental choice in which was presently there, that they could opt out, not that they would demand it.

In other words, the parental choice is not to participate in a bilingual program, versus a parent choice to demand it. No, I absolutely would oppose a parental demand. I'm saying the school--

SENATOR EWING: Can you separate that?

DR. GALINSKY: Sure you can.

MR. CANNON: So he can opt out--

DR. GALINSKY: That is what is presently--

SENATOR EWING: Okay. All right.

Yes, Senator?

SENATOR PALAIA: First, Harry, congratulations, so far on a great educational career.

DR. GALINSKY: Thank you so much.

SENATOR PALAIA: Really you've--

SENATOR MacINNES: Except for the fact that he left Morris School District.

SENATOR PALAIA: I know. The point is, I think,--

SENATOR EWING: That's when he went ahead. (laughter)

SENATOR PALAIA: You bring a voice of reason that I like, because you are not really far out; you get right to the point.

One of the most important things, I think, we were talking about this morning that you brought up, as we have, every student in your classroom is an individual. The 611 districts are all individual, too, Harry, as you know.

DR. GALINSKY: Absolutely.

SENATOR PALAIA: Well, the point is, the word to use is flexibility. To me, I think we have to provide more flexibility for the different school districts, but along with that, Harry, I was disturbed with a couple of questionnaires that came back that said, "Let's do away with monitoring completely."

DR. GALINSKY: I'm opposed to that.

SENATOR PALAIA: That's what I wanted to hear from you. Are you opposed to something--

DR. GALINSKY: I am absolutely opposed to that. I think that the State investing billions of dollars in education, held to the responsibility of having a "thorough and efficient education," needs to have oversight. The oversight in my opinion is much more reasonably expected by taking a look at the results.

You've got a whole process of establishing standards in this State going on, and that the State then ought to take a look at those districts that are getting the results that are out there and take their meager resources and shift them into a more aggressive monitoring process to those districts or schools which, in fact, are not getting results, and give them the kind of support and modeling that is out there.

SENATOR PALAIA: You see, Harry, what you said there, too, is important. You said, "Give them the support," because many of the school districts -- some of the school districts can really not help themselves--

DR. GALINSKY: Absolutely.

SENATOR PALAIA: --because of economic and social problems that they are having within the district. So just to blame them and say, "Hey, come on. Bring those scores up," without some help or relief from the State isn't fair to them either.

DR. GALINSKY: Let me tell you, we proposed from the various associations to the various commissioners that if they would provide flexibility -- and the burdens in the districts, and you can remember some of them in terms of time and resources -- to comply with rules and regulations. I can tell you story after story. We spent \$150,000 to put bathrooms in kindergartens, four bathrooms, and you've heard the story. We went to a full-day kindergarten.

I had a building with four empty classrooms. I wanted to put four more kindergartens in them. I had bathrooms from here to that camera, outside the door. The State says, "It has to be in the room." I said, "Look, the intent of the law was you

wouldn't want a kindergarten kid wandering down a hall in a large building." That made sense, okay.

If I can comply with that intent, I'll hire an aide, a full-time aide, which I am not required to do, who will be in there and do a lot of other things, and every time a kid needs to go, she'll walk that child eight feet to go to the bathroom and bring them back. I cannot do it, the Code says.

So as a result, we had to put in-- By the way, by putting the bathroom in the classroom, we cut down the space, so the number of students that you could put in was reduced. So this laborious love of code and no deviation and no flexibility and the inability sometimes of the State Department, even agreeing with you, "I'm sorry, Harry, but we cannot do it," is the kind of lack of flexibility. So we talk about waivers always with, "are you meeting the intent" and "is there some oversight going on." So you don't abuse it. I mean, that's got to be a key in there, because there will be abuses.

SENATOR PALAIA: That is why I am in favor of the monitoring process.

DR. GALINSKY: Absolutely.

SENATOR PALAIA: As long as the monitors have an open mind as to not just results and be blinded by just results. They have to look at what brought those results on.

Another question, Harry, that has to come up is: What kind of testing can we do to show the results? Because I feel that the public has every right to see some improvement, if we're going to be spending billions of dollars here.

Show me something. I'd like to ask you the question, you know, what can we do?

DR. GALINSKY: Well, there is no question that the issue of assessment and demonstrated results is extremely controversial, because, you know, if we all agree on standards and then we agree on how we're going to demonstrate those standards and it's a level of playing field, then the public has a right to know how their kids are doing. You have a right to

know how the money that you're supplying is invested. I don't think the field is opposed to that at all. I don't think the field is opposed to that at all.

I think that you would get-- The one point I wanted to make before was, we're entering or have entered, certainly, an era of limited resources that nobody can look forward to unlimited support. So we need to have more creative ways to solve it. If flexibility was built into-- You'll have a lot of successful school districts -- I say this, successful school districts -- who are relieved of many of the burdensome time and task, who will be willing on a volunteer basis, would go in and help on task forces to go into districts or schools that are not successful at little or no cost whatsoever.

We talked, when Saul Cooperman was the Commissioner and when Mary Lee Fitzgerald -- we talked about that sort of thing. There are models out there that are successful, and people who are practitioners, not university professors, who would go in and work with a district that wants to improve.

Quite often, the monitoring team, Joe, those people who are on it don't have the long history of their own educational expertise. I mean, to the degree that they can monitor, they do well. To the degree that they can make suggestions for changes of improvement, many of them cannot do well, because they don't draw from a wide basis of a successful educational experience. I mean, the--

SENATOR PALAIA: That's why I don't believe in that standardized test, because I believe in the individual moving himself.

DR. GALINSKY: There's a lot of assessment going on, portfolio assessment, product production, things of that sort. It is not an easy solution. We all look for them, but it has got to be addressed.

SENATOR PALAIA: I know that. I'm looking for individual assessment to raise themselves up.

DR. GALINSKY: Right.

SENATOR PALAIA: To look at standardized, I don't buy that.

Thanks, Mr. Chairman.

SENATOR EWING: Thank you.

SENATOR MacINNES: Well, one last question. Now, you are saying that there are a bunch of people in the State who are running good school districts. If they were freed from some of the State requirements, they could use their time to go into other school districts that are not performing up to snuff and help those districts, but they are, in fact, models of effective educational programming.

Why have we been, for 30 years, trying to improve performance in cities that do not have the benefit of educating large numbers of kids who come from middle-class homes, with middle-class orientations, with middle-class views about education? You're saying that there really has been an answer all these years, and that if we had just collected people together and sent them in, we could have taken care of this problem?

DR. GALINSKY: Senator MacInnes, I never said that. What I said, that there are successful practices in New Jersey that could be models, that many of the people in urban areas -- and I spent 22 years of my life in an urban area -- are overwhelmed--

SENATOR MacINNES: I know that.

DR. GALINSKY: --with the incredible impact of what children have to bring to school.

SENATOR MacINNES: I agree with that.

DR. GALINSKY: And that what works in Paramus, may or may not work in Newark. I understand that. But I do know that the support services that the State is able to generate for them are meager at best. But there are people out there with urban experience; you have models in the State of districts dealing with urban kids that are very successful.

Hackensack, in my county, has a large minority population. Teaneck has a large minority population -- very successful approaches in dealing with similar kinds of kids. The issue in the urban areas is more than just the schooling. The problems there are so overwhelming, quite often, that the academic aspect of it pales in significance.

SENATOR MacINNES: To survive--

DR. GALINSKY: So I don't have a solution, you know, to the enormous problems that they bring to schools, but I--

SENATOR MacINNES: Here's the reason I pose the question that way, because I hear a line that is easy to fall into of a point of view that, you know, that the explanation for just about every problem you want to select for -- of a problem in New Jersey, whether it's job creation or education, is the fact that the State is doing too much by way of nit-picking regulations. I don't disagree that there aren't lots of examples of stupid regulations. Let's call it what it is, an overregulation. But that doesn't mean that if you get rid of these things that we're going to have the answer to these problems which have bedeviled us for a long time. The way you stated it, it sounded like, you know, if we could just have a little more time and pack up and send these guys into Paterson, we could wipe this thing out in a couple of months.

SENATOR PALAIA: Senator MacInnes.

SENATOR EWING: A couple of months?

SENATOR PALAIA: Senator MacInnes, it's a small part in a very large problem, but you're right.

SENATOR MacINNES: I want to put it in perspective. That's why-- That's all I want, I want it in perspective. You're not going to--

DR. GALINSKY: To me, my response was a little side venture in terms of an incentive. There is no way, in my mind, that the abolishment of all regulations for successful school districts and their release from that, and spending time in Paterson will produce dramatic results. All I'm saying is that

if you take the picture of what is available to help Paterson right now--

SENATOR MacINNES: Right.

DR. GALINSKY: --what's available is oversight on what they're doing wrong. That's what's available. We have a pretty good technique of going in to say, "You're not doing this right and so on." But nobody has a catalog of options for them to deal with the kinds of problems they deal with. All I'm saying is -- and I tried to sketch it in the overall view of limited resources and what, you know, there is -- you could tap some people.

SENATOR MacINNES: But isn't it implicit-- This gets off the subject-- I just want to-- But I think it's important.

SENATOR EWING: We've got to keep moving.

SENATOR MacINNES: I understand that, Mr. Chairman. I'm just going to make this one last observation.

Isn't it implicit in the State Department making a recommendation to take over a school district that the State Department does have the answers for these educational problems? Never mind the purchasing, personnel hiring, and all of those things. But isn't it implicit that they're saying, "Hey, listen. You guys haven't done it, you've missed the level three test."

DR. GALINSKY: I think what's implicit, in my opinion, is that when the State takes it over, on a basis of zero to ten, it's a one or a zero, that the State can move it within five years to a four or five.

SENATOR MacINNES: Okay.

DR. GALINSKY: Which is measured against what may have been a significant improvement, while measured against other districts will still may be mediocre. I think that is what is implicit.

SENATOR PALAIA: Agreed.

SENATOR EWING: Well, you know, the State taking over gets rid of the crooks and things, which was not the case with

Paterson. Paterson was more of a management problem. That is certainly not true in Jersey City and Newark, when we do take it over. I mean, there is just, you know, outright corruption and you know.

DR. GALINSKY: Thank you.

SENATOR PALAIA: Harry?

SENATOR EWING: Harry, just one other thing. Do other states have as many mandates in as we do or not, from talking to others?

DR. GALINSKY: My experience on the national scene is that New Jersey, without a question, is the most overregulated state. You have models which I brought to three Commissioners, states like Utah and Washington that have opportunities to waiver, to waive regulations in return for results.

Jim Caulfield and I represented New Jersey in the Time for Results Project, and the whole theme of it when Lamar Alexander was Chair with then Governor Clinton and Governor Kean was, "We'll make a deal with you. The deal is, you identify those rules and regulations and mandates and blocks that are preventing you from getting the results. We'll remove them for you, and you -- on a condition, you give us results." And it was going to be a five year project. "We're not going to give you any money."

And I was asked to report to the Governors' Association's Conference four years later, and I said, "You kept one promise, you didn't give us any money." (laughter) There hasn't been one rule or regulation -- every one we brought to the Governor, you know, was we couldn't do it. It got mired down so-- My fear is that people of good intention in this room, as you're faced with those vested interests who originally fought to get legislation in, will, in fact, back away from being heroic and making the kinds of change that need to be made. I just hope that we have enough courage here to make the hard decisions to help kids.

SENATOR EWING: Well, you have three courageous men, right here.

DR. GALINSKY: I know that. And I know them well, and I agree with you.

SENATOR EWING: Thank you very much.

DR. GALINSKY: Thank you so very much.

SENATOR EWING: Thank you for the picture.

DR. GALINSKY: My pride.

SENATOR EWING: Dr. Pfennig, North Plainfield Board of Education.

**D W I G H T R. P F E N N I G, Ed.D.:** Good morning. I'd like to thank the members of the Senate Education Committee for affording me the opportunity to speak with you today. I'm speaking to you as a Superintendent of North Plainfield Public Schools, but also as a member of the NJASA Legislative Committee, and also as a very concerned citizen of Middletown Township, New Jersey.

In addressing the issue of State of New Jersey funding the mandates which were placed upon school districts, I have three areas of concern. And I might add that the North Plainfield School District also did submit 13 items to your Committee for review that cost us, outside of funding that was provided, pretty close to \$4 million a year out of our regular budget. So I preface my remarks by saying that we did submit the list.

I'm concerned about current mandates which are not fully funded. I'm concerned about new mandates, which we are hearing about on occasion and sometimes see some copies and drafts that have been proposed for school districts, really over the last two weeks. And then the mandates which I consider nickel-and-dime mandates, things that, if you look at them on the face of it, they don't become very important, because they're not large amounts of money. But as school districts face them over the years, they do add up and they do cost the local taxpayers a substantial amount.

The issue of local taxpayers contributing to the funding of educational programs which are not fully funded by the State of New Jersey is an argument that we've placed forward in North Plainfield, now, probably for three years, very strongly. We have spoken with members of the Senate Education Committee and we've spoken with other members in the Assembly, and it deals with the lack of a funding formula in the State of New Jersey, something that I know that you're working on, as well as a number of other people.

But what happens to some school districts is, in the areas of categorical aid they begin to get involved in substantially raised costs over the years because of student enrollment in specifics, such as special education, bilingual education, and we're still working under the dollars in terms of either Federal or State subsidies that are 1990 dollars or 1991 dollars, since the aid has been frozen.

In a district like North Plainfield, that causes a considerable burden to the taxpayers, because since we're working on those levels and we have the experience -- and I'll use bilingual education as an example -- an increase of over 100 students over three years, we're still working on 1990 or 1991 funds, and the money we must use to run those mandated programs comes out of the regular budget.

We continually hear the argument from our constituency that we are taking away from programs in the rest of the district. Well we have not taken away programs, but I have to tell you, it has caused an additional tax burden for the taxpayers of North Plainfield.

Basic skills instruction is another area, as well as special education over the past three years, where we've had the experience of not getting increased funds, being at frozen funding levels and having to pass on the cost of those increased programs or program increases to the local taxpayer.

New mandates, which have the potential of raising local taxes to support public schools where those which have the

potential to divert regular education dollars to special program interests, I think, should be put on hold until the State mandate/State pay issue is resolved.

We've heard of a few things over the last couple of weeks that have concerned us greatly. The issue of bilingual education-- And I will not reiterate many of the points that Dr. Galinsky made, but appropriately so, some of the new regulations may end up costing school districts such as North Plainfield additional dollars, in addition to alleviating some problems in flexibility of program. So we're caught in the paradox of trying to be diverse and face our population and deal with them appropriately. Yet, if we have to run programs in other languages for lesser amounts of pupils, as we've heard we may have to do, we may have some problems in funding.

We cannot match Paramus. We have a 40 percent minority population. We have about a 31 percent population from other lands, about 23 percent is bilingual. We only have 56 languages: we cannot match the 57 of Paramus. I think that speaks of the problem, because we are substantially smaller than Paramus.

We are a school district of 2600 students, and we represent some 56 languages. So, for us to run programs in all of those languages, if the regulations are so mandated, that is going to be extremely difficult.

SENATOR MacINNES: How many of the 56 languages have 20 kids?

DR. PFENNIG: We only have one with 20, but we have several that are in the teens and, you know, we're looking at 15--

SENATOR MacINNES: That might creep into 20.

DR. PFENNIG: We do a Spanish bilingual program right now. The Vietnamese will probably creep into 20, and the Gujarati will also.

SENATOR MacINNES: But right now, you have one language group.

DR. PFENNIG: We have one. We have one.

SENATOR MacINNES: That's all, out of the 56.

DR PFENNIG: Right.

SENATOR MacINNES: That triggers the requirements. So that is the only one that really--

DR. PFENNIG: It triggers the requirement for bilingual education, but we are servicing a good many of the other populations in ESL. Right.

SENATOR MacINNES: Oh, I understand that, but I just -- in terms of the State mandate, which is what we're here to talk about, you only have one language where that is triggered.

DR. PFENNIG: Correct.

SENATOR MacINNES: Even though, the 56 is the total number of foreign languages.

DR. PFENNIG: It was also my understanding, and I haven't seen the bill, and I will also request a copy of it, that some of the changes in bilingual education on the State level may require that we service under 20. If we have to do that, we may have some problems.

SENATOR MacINNES: I don't think anybody wants to go in that direction.

DR. PFENNIG: Yes. The other new mandate that came to pass deals with the issue of assessment over the last two weeks. We've been told by the State Department of Education that by December 1, we now must provide the assessment scores of all students grades K through 12. We realize and we also support regulation in terms of monitoring of school districts, because there is a substantial amount of aid that does go that should be monitored by the State Department of Education.

I also support, and the Board of Education in North Plainfield, and all of the people that I know, some sort of results oriented education going on in the State. However, if it's a blanket statement, then we must provide this data for the State of New Jersey in the terms of achievement test scores. There are going to be some problems.

Number one, not all of us are using achievement tests on every grade level. There was no plan given for reporting alternative assessment scores to the State of New Jersey. If we have to come up with another plan -- and I'm sure the other districts in the State will be saying the same kinds of things -- to report that, that will be, perhaps, time consuming and cost consuming.

The other element is that many districts use second year versions of EWTs for testing 9th grade students instead of an achievement test, because we want to prepare them for the HSPT that they will face in 11th grade. So we would take the previous year's 8th grade test, use it for next year's 9th grade, do some kind of assessment, and make an evaluation on remediation.

If we are using that instead of an achievement test, and the State is demanding that we do an achievement test on 9th grade, we have a choice. We can either use just the achievement test or we need to double test our students. If we have to put in an achievement test when we're trying to remediate according to State standards in the EWT, it is going to be at some cost to the district. Testing costs are quite high these days.

Twelfth grade students, as well, are not tested in most cases, since they are graduating. Most of them have been remediated and are going through the SRA process if they have not passed HSPT. But in most cases, 12th graders are not tested other than that. So I think if we had to put in the testing program mandated for seniors, again, it's a cost that should probably be avoided.

SENATOR MacINNES: What form does this proposed mandate take for testing at each grade level?

DR. PFENNIG: Right now, I haven't seen the mandate take any form, other than a requirement from the Department of Education to report these results by December 1, and we received that last week.

SENATOR MacINNES: The requirement is that, if you don't have the results, because you don't test each year-- Do you have to test by December 1?

DR. PFENNIG: We have-- No, that has not been said. They have not given any indication as to how to handle that problem.

SENATOR MacINNES: So the mandate is only that, if you do test, then, please, give us the results.

DR. PFENNIG: The mandate was to -- or the mandate or the direction from the State Department of Education -- was to report all test scores on all grade levels.

SENATOR PALAIA: Tests and results?

DR. PFENNIG: Right.

SENATOR MacINNES: Right. But my point is that if you don't test on every grade level, the requirement of the Department does not say, then, please be sure you do test on every grade level.

DR. PFENNIG: It doesn't say it yet. But since they're going to do a school to school comparison, and since I firmly believe that that would be the first step in, perhaps, addressing some issues with vouchers, I think that that will be a mandate that comes along the way. That's my own personal belief.

SENATOR MacINNES: You're predicting the future and--

DR. PFENNIG: Well, the thing is that within the last two weeks we received that. I think the problem is, when you look at it in an age of deregulation -- we've all been hearing about deregulation over the last several weeks -- to get that in an era of deregulation seems contradictory.

SENATOR MacINNES: It does, if it is leading where you say it is. I just cannot believe that Commissioner Klagholz, with all of his public statements on deregulation, has suddenly turned around and authorized a release of a new burdensome requirement on school districts.

DR. PFENNIG: Well, I have to tell you, when I was sitting at Somerset County roundtable, that was the feeling of every superintendent. They were also quite surprised.

SENATOR MacINNES: It is surprising.

DR. PFENNIG: The issue of bilingual education, I would add one element, because we've had the mandates, and Dr. Galinsky addressed it eloquently in terms of the alternate route for teacher certification. I think part of the problem with bilingual education, if the standards become more stringent, will be finding candidates to teach.

I don't know how to answer that because I'm not sure the people exist, number one, who speak certain languages that have teaching certification, but certainly it's going to be most difficult. I think I'd like to reiterate that point.

SENATOR EWING: What happens now, when a child comes in and speaks one of these languages, if we have nobody?

DR. PFENNIG: If we have no one in North Plainfield, we address it through many of these same methods Dr. Galinsky mentioned. We have also an intensive ESL program. If we have no one in a bilingual program, we have, obviously, to have the student in the ESL program.

SENATOR EWING: But what if you have somebody and you don't have anybody who can speak that language?

DR. PFENNIG: Well, you try to communicate as best you can, because the ESL, English as a second language teachers are trained to deal with all languages, not just one in particular, and that is difficult.

In North Plainfield, we also have a Port of Entry Program, where we do some intensified English immersion for those students who speak no English at all. We do that for bilingual, as well as ESL students. What we do there is mainstream students through a portion of the day, but do intensive English instruction during a certain period of time to acclimate the students to the school.

We've had many students come to us from Latin America and South America, a heavy Spanish population who have had no experience with school at all. It's a lot different process to explain to people exactly what a city block is and a school building is, before you get into the business of educating people.

I would not like to see a full immersion program, because I don't think that is the answer. I wouldn't like to see the abolition of the bilingual program. I think the issues of the days of old-- We hear the argument quite often, too, in North Plainfield, that we need to go back and teach everyone in English as we did years ago, and that would be the solution. If you go back to the turn of the century and even up into probably the 1960s, the success rate, as Dr. Galinsky mentioned, was minimal. The dropout rate was very high for non-English speaking students.

The main difference is-- The largest difference is that we had a society during those years where people could find work, find jobs and have success. In our society, today, that doesn't exist, and I think that is a major portion of the problem.

Finally, I'd like to address what I refer to as nickel-and-dime problems. They come upon us usually on short notice. They come upon us at times when we're not ready. One of my favorites was the reproduction of the TPAF letter from Governor Whitman that had to be distributed to all school personnel with the order to reproduce it, so that basically her stance on the TPAF and the movement of pension moneys during that time when legislation was being considered was made clear. We had to reproduce that letter in the local districts. For North Plainfield, we made a point of raising that with the Governor and saying that was a problem. But I would imagine other districts that have much larger personnel populations, well over what we have, had problems with that, as well.

It seems that through the deregulation--

SENATOR EWING: What was the cost to you?

DR. PFENNIG: The cost for us was \$141, but costs to other districts-- The fact that someone in government can pass you documents to reproduce for your staff to, in effect, pass out for political reasons, I don't think is the proper use of educational funds.

SENATOR MacINNES: Did you reproduce the Senate Democratic position on that, as well? (laughter)

DR. PFENNIG: No, we didn't.

SENATOR MacINNES: You didn't?

DR. PFENNIG: No.

I don't recall--

SENATOR MacINNES: It doesn't sound like it is fair.

SENATOR EWING: No, he was tipped off. Don't worry.

DR. PFENNIG: I don't recall receiving it.

The other piece of that is, along with deregulation in the State Department of Education, many materials which we distribute to staff members and to the community, we also must reproduce. And I think that is a burden to the local taxpayer.

When the school report card was being distributed -- and my understanding is it's not coming out in its past form -- but in past years, we were given one copy per school, and we had to reproduce those documents for the entire community.

Now, while many schools have money in their budget to -- and they still used it for that purpose -- to reproduce documents to let the public know how they were doing on an annual basis whether it be in a form of a newsletter, a chart, a graph, whatever it was, the reproduction of the State Department of Education material was certainly not something that was budgeted. For the three years we had to produce it; we had to produce it for the entire community and those who asked. We gave it out through students; the mailing costs would have been absurd. But there were some districts, I understand, that did mail it. There were other districts who produced additional

copies and certainly had a larger burden than in North Plainfield.

But I think these are the kinds of nickel-and-dime things that when you begin to add them up, if they were to go away, it certainly wouldn't hurt any school district. Certainly, we're in favor of reporting those things to the community, but I think that we've had our means of doing it, and to receive edicts from Trenton that say, "Please, do this," and receive only one copy is quite a burden. It would be a burden for Trenton to recopy. I mean, that's incredible.

SENATOR EWING: To go back to the letter, that went to the teachers didn't it?

DR. PFENNIG: Yes, it did.

SENATOR EWING: How many teachers do you have?

DR. PFENNIG: We have about 268 certified staff members that it went to.

SENATOR EWING: It cost you 50 cents a letter?

DR. PFENNIG: Well, we put in the time that it would cost for sorting out the list, preparing the envelopes, getting them in with the paychecks and things of that nature. So it is labor costs along with--

SENATOR EWING: Well, you've got the envelopes already, because they get their paycheck in an envelope. Right?

DR. PFENNIG: But you didn't receive them in any kind of-- Right.

SENATOR EWING: And you most probably have a window envelope, so you see the name through that.

DR. PFENNIG: They had to be distributed by school, sorted, and gone through it and whatnot.

SENATOR EWING: Yes, but you were doing that with the checks anyway.

SENATOR MacINNES: So it only comes to \$136, Jack.

SENATOR EWING: No, I think it was closer to \$88.

DR. PFENNIG: But the checks don't come with the letter. You have to match the check to the letter. They don't come in the order that we distribute our checks.

The point is to me, a very simple one. I don't think we should be asked to do things of that nature. While that is a minor point, I think the other points of these nickel-and-dime items do add up over a period of years and during the school year.

I hope, as we go through deregulation over the next several months, I think, that is a good thing to do.

I think, as we've looked at Commissioner Klagholz and he's taking a look at all the rules and regulations dealing with education, that is something that is very positive that's been needed for a long time. I don't know how long that's going to take because I have a feeling, you know, when we try to go through three policies a night in a board meeting, it is pretty tough.

So all of the regulations at one time, it is going to take a few years. But I certainly hope that some of the burdens can be relieved in terms of the local taxpayers.

Thank you.

SENATOR EWING: Any questions? Questions, Joe?

SENATOR PALAIA: No.

SENATOR EWING: Thank you very much.

Eileen Smith-Stevens.

**E I L E E N S M I T H - S T E V E N S:** Senator, I'm Eileen Smith-Stevens, the Superintendent of Wall Township Public Schools and President of the New Jersey Association of School Administrators.

I want to thank you and your Committee, not only for this opportunity to speak with you about burdensome and cumbersome State mandates and their costs, but for the message that you have sent out to all of us, that you're even interested in examining the issue of State funding or State mandates and their funding. I do have to reiterate, and I'm sure you will

hear this from every person who brings you testimony, our concern in the school districts with flat funding and increasing student populations.

We, for example -- and I think what you want is to put a human face on these figures -- in the Wall Township school district in the last three years, where funding has remained flat, our student population has increased by 13 percent. So we have an incredible burden as does, I guess, everyone else who comes before you, but it gives us the opportunity to tell you about it.

As far as State mandates, there are a few things that I would like to bring to your attention. Of the five that I have submitted to you for your consideration, this summer there were others that I did not at that time--

One that creates a problem for us in school districts was the requirement to vaccinate certain employees against hepatitis B through the bloodborne pathogens. Now, I understand that this is a safety and health issue. However, that requirement came to us after budgets had been struck, and every school district had to then vaccinate certain employees and educate them about the impact of hepatitis B and bloodborne pathogens.

The cost to us in Wall Township was \$19,360 that we had not anticipated. There is an easy way to fix that. If it is important to all of us to protect our employees against hepatitis B, then we ought to require that they come to us, that we hire people with those vaccinations. We require a Mantoux test. If this is a new concern, a new safety issue, then, instead of expecting school districts on limited budgets to vaccinate people, we ought to require it of employees, at least prospectively, if we cannot do it after the fact.

In need of some review, also, are the regulations governing aid-in-lieu-of-transportation. We publish and the State publishes a certain figure for aid-in-lieu-of-transportation, and transportation carriers know

what that figure is. So our experience has been that the amount that you can get a bus for is 52 times the aid-in-lieu-of. You know, how many children you can fit on that bus. So, if there could be some way to examine the way we are conducting business--

SENATOR MacINNES: It's the marketplace. This is what happens when you use the marketplace, right?

MS. SMITH-STEVENSON: Exactly. Right.

SENATOR MacINNES: Competitive.

MS. SMITH-STEVENSON: Well?

SENATOR MacINNES: This is for private school transportation?

MS. SMITH-STEVENSON: That's right.

SENATOR MacINNES: Thank you.

MS. SMITH-STEVENSON: Yes, primarily private school transportation.

Another one, when you said the market, what we are doing when we publish tuition ceilings for private schools -- and this is usually private schools who offer special education -- and we publish a tuition ceiling, we are doing nothing but encouraging free enterprise at the expense of the public taxpayer.

SENATOR MacINNES: Explain that a little bit.

MS. SMITH-STEVENSON: If you know that you can charge \$30,000 to educate an emotionally disturbed youngster, and you're running a business--

SENATOR MacINNES: Right.

MS. SMITH-STEVENSON: --are you going to charge \$25,000?

SENATOR EWING: Yes, we do it at Princeton Child Development.

MS. SMITH-STEVENSON: Good for you.

SENATOR MacINNES: Is that a profit or a nonprofit organization?

SENATOR EWING: Nonprofit.

SENATOR MacINNES: Well, she's talking about entrepreneurs.

MS. SMITH-STEVENSON: See, I'm talking about profit.

SENATOR EWING: Profit. Oh, we're looking into that. That will be coming up when we get this task force set up for special education.

SENATOR MacINNES: Right.

Who publishes the guideline figures? Is that the State or is that--

MS. SMITH-STEVENSON: The State Department.

SENATOR MacINNES: Okay. It just turns out that private schools providing this service always match the ceiling.

MS. SMITH-STEVENSON: It certainly appears like that to us.

SENATOR PALAIA: Interesting.

MS. SMITH-STEVENSON: Another one that I'd like to bring to your attention -- and my statements may not be so popular here -- this is the Audio Visual Aids Commission. By statute, every district is required to belong to the Audio Visual Aids Commission. Each county has one, and they provided in the past very good AVA services -- 16 millimeter films when they were expensive, those kinds of things. Now we're paying that same fee to receive videos that could be and certainly, in the future, will be much better communicated to school districts in a technological fashion through cable, through voice video data communication. That needs to be seriously examined.

SENATOR MacINNES: What does it cost you, Wall Township, to belong to-- These are organized on a county basis?

MS. SMITH-STEVENSON: Yes, they are. About \$10,000, just under \$10,000. I could buy a lot of videos for that and own them.

SENATOR MacINNES: In addition to that, when you have somebody already who pays attention to these things in terms of the programming that is available, so that is an expense that you're already incurring. This is just, now, supporting a service which may have outlived its usefulness.

MS. SMITH-STEVENSON: That's at least my contention, yes, and needs some examination.

SENATOR MACINNES: All right.

MS. SMITH-STEVENSON: Over and above that, some of the other areas that I recommended that you look at was the Employer Trip Reduction Program sponsored by the Department of Transportation. Those of us who employ more than 100 people in one place have to--

SENATOR EWING: That's a Federal law. That's a Federal problem that they've come up with. We've gotten letters on that about what are schools going to do.

MS. SMITH-STEVENSON: I guess, communicated to us--

SENATOR EWING: We've gotten letters on that about what are schools going to do.

MS. SMITH-STEVENSON: Right. Yes. And we had--

SENATOR EWING: You'll have to run school 24 hours, and people can come on in at certain times.

MS. SMITH-STEVENSON: Right. Or have all the teachers come on the bus with the children. You know, tell the high school students they may not drive to school. Although, interestingly, we weren't directed to, in any way, control the students' vehicle use, only the employees' vehicle use.

SENATOR MACINNES: That's an interesting point.

MS. SMITH-STEVENSON: You know, when you're dealing with public employees, controlling their vehicle use is just one of our small challenges.

The cost of that -- and I understand that this was Federal and passed through you, or through the State -- filing fees, time, labor and the threat of penalties for noncompliance, all with no relation to our primary mission of educating children--

The School Ethics Commission -- I read recently in "School Board Notes" that the School Ethics Commission had passed a resolution to send show cause orders to approximately 200 school officials who had not filed their disclosure forms.

Now somebody, obviously, has to do all this work. That seems like an incredible expenditure of money when 200 officials have not complied with the Ethics Commission procedures. The annual filing in every district, processing multiple forms in local-- It has to be local and statewide cost. It costs approximately \$900 to \$1000 a year in staff time, by my estimate in a larger school district. I cannot imagine what it must cost the State just to file 200 show cause orders and then deal with them after that. So that is something that I would certainly recommend that you look at.

I am not saying that an Ethics Commission is not a good idea, that we all need to be ethical and have high ethical standards, but I don't know that our State employees need to be commissioned to track that.

Provisional teacher program, wherein members of the school district-- This is an induction program for provisional teachers. I personally am very proud of the new teacher induction program in the Wall Township schools. It goes far beyond what is required by the State.

However, the paperwork and the excessive requirements in personnel for new teachers are another cost to us that I would certainly like to see remedied. We must supply a district support team for every provisionally certified teacher to share responsibility for supervision of that teacher, assisting the provisional teacher, at least nine times during the first year. Those people have to be relieved of their teaching responsibilities. We have to negotiate a mentoring fee with our teachers' union.

I've done this before. I've been inducting new teachers for years and have done a very credible job. If they weren't good, we helped them to become better. If after three years they weren't, we didn't continue their employment. The law provides us with that opportunity.

This has caused us to have to hire more administrators. Everybody carries on about the number of

administrators in school districts. I didn't have enough K through 12 supervisors to provide the continual supervision and the reports after 20 days-- No, after 30 days, 60 days and 90 days, multiple reports have to be filed with the Department of Education on these provisionally certified teachers.

SENATOR MacINNES: Has there ever been any evidence in your experience that the Department of Education reads these reports?

MS. SMITH-STEVENSON: I have had none. No.

SENATOR MacINNES: Have you ever received an inquiry from the Department of Education--

MS. SMITH-STEVENSON: No.

SENATOR MacINNES: --that says, "Gee, what about Ms. Adams, here. She doesn't seem to be grappling very well with her alphabet approach in second grade." Nothing like that ever comes--

MS. SMITH-STEVENSON: I have had none. In fact, in my experience, I have not had very much response from any bureau that I have filed reports with. I can see that they probably don't have the time to do that. That goes back to the creation of requirements that people have neither the time, the money, nor the interest, it would appear, to follow up.

SENATOR EWING: You don't think it is necessary to do it at all?

MS. SMITH-STEVENSON: I do not. I think you need to trust your local school administrators and your local boards of education to hire the best and to support the best possible people they can. Which of us in this business would not want to do that?

SENATOR EWING: Well, I think up in Newark and places like that, they don't want to.

MS. SMITH-STEVENSON: The next comment that I'd like to make is about the health and safety and physical education requirement, the 150 minutes of instruction required by statute, when there are no State mandated requirements for any other

instructional area. What kind of a message is that? When we're living in a time where everyone says we're not spending enough time on instruction and the only requirement we have is for 150 minutes of health, safety and physical education, which requires additional periods of physical education, sometimes at the expense of the students taking other electives.

SENATOR MacINNES: If that requirement was not in place within Wall Township, would you offer physical education courses as an elective, rather than as a mandated course?

MS. SMITH-STEVENSON: I would like to see them offered as an elective from about grade 7 through 12, especially where you have competitive sports, where you have students involved-- I know that boards have the option to allow students to opt out if they are involved in a competitive sport season. Most sports don't--

SENATOR EWING: Yes, but most superintendents won't go along with that.

MS. SMITH-STEVENSON: That's right.

SENATOR EWING: They're scared to.

I had legislation in to -- when you're in a major sport, you didn't have to take phys. ed. You can imagine all the phys. ed. teachers that wrote, and we couldn't get it through.

SENATOR MacINNES: You couldn't get that through?

Well, do you have a large number of students at the high school level who are not taking advanced placement courses because -- or anything like that -- because of the P.E. requirement?

MS. SMITH-STEVENSON: No, I wouldn't venture to say that we have a large number, but I do know that scheduling constraints-- It goes back to being crowded, as well. When you have many more students than you can handle in particular sections, you have to draw limits and say, if there aren't 10, we cannot run this. Then there are the competing interests like, you must take health, safety and physical education.

SENATOR MacINNES: Okay.

MS. SMITH-STEVENSON: Why don't we say you must take French IV?

SENATOR MacINNES: Well, it would be a good start if we said you had to take a foreign language.

MS. SMITH-STEVENSON: Yes, at all.

SENATOR PALAIA: Or Urdu.

SENATOR MacINNES: Or Urdu.

MS. SMITH-STEVENSON: I'll just make a final comment.

SENATOR MacINNES: I shouldn't have taught you the name of that language. (laughter)

MS. SMITH-STEVENSON: On emergency provisions for the accommodation of school pupils and substandard facilities, it will become apparent to you that each of us had our own particular concerns. While I do not have a bilingual population to deal with, I do have an exploding school population. Any attempts that have been made to try to accommodate those in substandard, temporary accommodations -- buildings, off-site buildings -- have just created a nightmare for us in applications, paperwork, approvals, being told that we would only have approval for a year when you know that you cannot remedy a school building situation in a year's time.

I also experienced a great deal of conflict between the Bureau of Facilities Planning Services and the county superintendent. Those of us in the field want to know who's in charge. Who do we go to to get answers that enable us to accommodate the students who are there? And to do it-- We want to do it legally; nobody wants to do it illegally. We want to do it legally and correctly, but we need help from the people who are supposed to be helping us.

SENATOR MacINNES: There's a conflict in the answers you get or-- Is that what's happening?

MS. SMITH-STEVENSON: Yes, sir.

SENATOR MacINNES: They're all reading the same Code and giving you different answers?

MS. SMITH-STEVENSON: Yes, sir.

And it appears to be a kind of turf question. You know, many times you do not want to go the full route of all the way to the Bureau of Facilities Planning when it is a simple change of use for-- Well, ordinarily the county superintendent can handle change of use. But when you have seven schools, every one of them has a change of use, and then it magnifies into something that the Bureau of Facilities Planning Services feel they ought to be handling.

SENATOR MacINNES: I see.

MS. SMITH-STEVENSON: So I would really appreciate any help that you can give us in these areas and in the others.

Once again, let me reiterate that what you're doing is very encouraging to us, and we look forward to some results from it.

SENATOR EWING: Results would be encouraging. Let's see the results.

MS. SMITH-STEVENSON: Oh, good, are you promising those, Senator?

SENATOR EWING: Thank you very much. It's been fascinating.

SENATOR PALAIA: Thanks, Eileen.

SENATOR MacINNES: Thank you.

SENATOR EWING: You know, what we'll do also is, once we come up with some legislation, we will probably have a dog and pony show around three or four areas to get additional input to see if we're going in the right direction.

MS. SMITH-STEVENSON: Great.

SENATOR MacINNES: Is that what we used to call a public hearing? (laughter)

SENATOR EWING: In this administration we call it dog and pony, because we have a lot of polo and stuff up in our -- and dog shows. (laughter)

SENATOR PALAIA: We're going to the dogs, so it's the same thing.

SENATOR MacINNES: Beagling. We're going to go up and beagle in Somerset.

SENATOR EWING: Bassetting.

MS. SMITH-STEVENSON: I think you'll find that anything that the Education Association -- I know the School Administrators Association -- anything we can do to help with that we'll be only too glad.

SENATOR EWING: You've been a big help. Thank you.

Andrew Eubanks, Franklin Township Board of Ed, Gloucester County.

**A N D R E W R. E U B A N K S:** First of all, I'd like to thank the Committee for inviting a school business administrator to discuss some of the areas that are concerning that area of education, as well as the instructional area.

Our district, Franklin Township in Gloucester County, is a K to 6 district and we, too, responded to questionnaires relative to the mandate survey. So I'm not going to-- I may highlight some of them, but I'd like to go into a couple of other areas that are also a concern.

As has been discussed, in funding it has been decided that, I believe, that the districts will start taking over the responsibility of payment of pension, Social Security for their staff. If that is, in fact, true, as well as -- not necessarily Social Security, because that is a Federal regulation -- contributions for pensions, maybe the boards might like to have an opportunity to investigate other ways of providing pension plans for their staff.

There are, obviously, in the corporate sector, numerous types of plans that are offered to staff. If, in fact, they're going to be required to make a contribution, maybe they need to be able to design a plan that might accommodate their individual district needs.

I am also a member of our local regional school district board of education. This next comment may be contradictory to that, but maybe we ought to look at it to see

whether we can -- should require all school boards to be a member of a school board association.

Our local district spends in excess of \$11,000 on membership dues, quite honestly, with very little coming from it. There are other professional associations out there relative to policies, allowing and giving the board updates for new legislative laws that-- There's a lot of duplication, quite honestly, in the various professional organizations.

Thirdly--

SENATOR MacINNES: Are there any organizations that provide assistance directly to members of the school board that are incumbent?

MR. EUBANKS: There could be. There are services, now, with-- I'm thinking of relative to negotiations--

SENATOR MacINNES: Whatever.

MR. EUBANKS: --would come -- could be handled through New Jersey ASBO.

SENATOR MacINNES: I don't know what that is?

MR. EUBANKS: It's the Association of School Business Officials.

Those type of things. They're just, quite honestly, my opinion--

SENATOR EWING: Do they have the staff to do it though?

MR. EUBANKS: You know, transfer of them over.

SENATOR MacINNES: What's the thing you have to pay for, then?

SENATOR EWING: So then the money would go to them.

MR. EUBANKS: Well, the dues would be an individual member dues. You have a lot of administrative costs. New Jersey "School Board Notes," I mean, published in that document. I mean, again, you've heard testimony relative to the publication of documents and things. There are repetitive documents being sent out with the same information from the various professional organizations relative to education.

The third item, and you've heard this before and I'm going to bring it up again, a treasurer of school moneys position. I feel, quite honestly, that that particular position, especially, in our district-- We spend \$5000 for a treasurer of school moneys, where the individual does nothing but reconcile a bank account.

If it is the intent to ensure accountability in the districts, then at least require the treasurers to have the same qualifications as the people who they are reviewing.

SENATOR EWING: I would suggest to you-- On that bill, we're all for it and I think we'll release it from the Committee, again. But I would check with John Rocco -- Assemblyman Rocco, who is the Chairman of the Assembly Education Committee, and see what his feelings are on it, whether they will move it.

MR. EUBANKS: I mean, now-- I can understand and I'm not naive enough to know why it is still there -- things along those lines. I think that the implementation of GAAP -- the upgrading of the qualified school business administrators and districts. I think, quite honestly, that it's -- the educational money is not well spent.

Another concern that I have relative to the School Ethics Commission, they've recently issued an edict that-- I don't know what kind of authority they have, but they're saying that school board members that have spouses that may be a member of NJEA cannot participate in negotiations, even in other districts. I think that puts school boards at a very great disadvantage, especially those that do not go out and hire independent individuals to do their negotiations for them.

The board that I'm a member of, I am on the negotiations committee. My wife is a teacher. Obviously, I would now not be allowed to do that.

It's also my understanding that administrators who have spouses on as members of NJEA or unions, could not even sit at the table. I think that is really putting the school board

at a disadvantage. I think that they've, for whatever reason-- I'm not sure why they've put this out. I think that they're reacting to something that may not be a statewide problem.

Also, I would like to reiterate, nonpublic transportation cost -- let me expand that -- nonpublic aid, period. If it is the intent of the Legislature to disburse those funds, then disburse them directly to the nonpublic schools and let them be accountable for it. Why come to the back door, quite honestly, and put additional administrative burdens on the public school system?

I'm a part-time business administrator for a nonoperating school district in Gloucester County. We have to contract out for nonpublic textbooks for a nonpublic school in the borough. Although the district receives State funds, they do not receive State funds for the administrative fee that goes along with that. There are other costs involved with those programs, other than the actual purchasing of services. It's a disservice to the nonpublic school, quite honestly, because it really, you know, they would probably prefer to process those textbooks on their own. They may want to also provide -- have the ability to provide Chapter 192, 193 services on their own, rather than requiring -- forcing a nonpublic -- the public school to make those arrangements.

It just seems like every year there is another service that the public schools have to provide for nonpublic institutions. Textbooks, it started with textbooks, supplementary aid and basic skills aid and now nursing.

Our district alone over the last two years has spent \$236,000 in transporting nonpublic students to their schools in busing, whether it be a contracted busing or aid-in-lieu-of.

SENATOR EWING: How much was that reimbursed?

MR. EUBANKS: Nothing. I mean, it's part of our normal budget, it's part of our operating budget.

SENATOR EWING: You didn't get any of that money from the State?

MR. EUBANKS: Not in--

SENATOR EWING: You didn't get any of the money from the State?

MR. EUBANKS: No, no, no. There is a portion of the aid that we get for transportation cost. You're absolutely-- Quite honestly, the transportation budget does not correlate with transportation aid any longer, as you're well aware. I mean, the change in funding is not like it used to be. Seventy percent is no longer out there -- seventy percent and ninety percent. So it's just--

SENATOR MacINNES: Excuse me, you're--

MR. EUBANKS: --in the administrative costs to make those arrangements. We have to issue checks to all these parents for aid-in-lieu-of, go out to bid for nonpublic routes. It's just a lot of extra time and effort spent that if, in fact, it's the intent to ensure that those students are cared for, then let the nonpublic schools do it themselves.

SENATOR MacINNES: Question, if I could?

SENATOR EWING: Sure.

SENATOR MacINNES: I thought that in terms of the cost for nonpublic students' transport that you're right about the administrative costs not being covered by State aid, but I thought that the transportation costs were covered dollar for dollar by State aid. That's not the case?

MR. EUBANKS: With this-- Quite honestly, Senator, I'm going to be honest with you. With no formula at this point, it's difficult to know with the change in numbers. We send up with our SSA transportation report for the last two years. The dollars that we've been reimbursed had-- Those numbers reported have no correlation with those reports.

SENATOR MacINNES: I thought it was that the State would pay \$760 or \$840 or some number.

SENATOR EWING: Six seventy five, I think.

MR. EUBANKS: Six hundred and seventy five.

SENATOR MacINNES: Six hundred and seventy five.

SENATOR EWING: We limit it; we cut it off at that.

SENATOR MacINNES: Okay. Six hundred and seventy five dollars, per semester, per year.

MR. EUBANKS: But--

SENATOR EWING: Not per semester, per year.

SENATOR MacINNES: Per year?

SENATOR EWING: Per child.

MR. EUBANKS: Per student, per year. Except that with the new funding formula, the State has no concept of what the numbers are.

SENATOR MacINNES: Well, wait.

MR. EUBANKS: Because they're not using the SSA reports as a funding source.

SENATOR EWING: I know, but--

SENATOR MacINNES: Wait, don't you say, "Look, I got 147 kids that we're transporting to nonpublic schools." Then you multiply that by \$675 and then you have a number that the State pays you for--

MR. CANNON: It's been frozen, that's the problem. It's been frozen.

SENATOR MacINNES: So, in terms of the State aid for this purpose, it's been frozen along with special education and everything else.

MR. EUBANKS: Oh, yes, a foundation HS.

SENATOR MacINNES: All of those.

MR. EUBANKS: Yes, sir.

SENATOR MacINNES: So, if you have additional parochial school students, in your district, as an example, then, that has to come from your budget.

MR. EUBANKS: Yes, sir.

SENATOR MacINNES: And you have no leeway as to deciding that you would rather put the money into expanding-- Well, you're nonoperating. Is that district--

MR. EUBANKS: No, no, no. I'm a full-time business administrator at an operating district. I'm also a part-time administrator at a nonoperating.

SENATOR MacINNES: Oh, I see. So you have no choice about that, you have to pay the \$675 and that has to come from the local budget.

MR. EUBANKS: Or be able to contract around in a lesser amount. Yes, but that service has to be provided.

SENATOR MacINNES: Right.

MR. EUBANKS: Yes, sir.

Additionally, this is what has been termed a nickel-and-dime item with one of the prior-- This may not sit well with attorneys, but numerous boards have solicitors that are employees, receive a paycheck for their services, which allows them to be -- allows them to qualify for health benefits, as well as qualify for a member of the pension plan, PERS.

SENATOR EWING: Who, the board attorneys are?

MR. EUBANKS: Oh, sure.

SENATOR MacINNES: Yes.

MR. EUBANKS: Quite honestly, I think that that's not right, and again, I don't think that that's educational dollars well spent, quite honestly. I know--

SENATOR MacINNES: That's a statutory--

MR. EUBANKS: I'm sorry.

SENATOR MacINNES: That's a statutory possibility that's degraded.

MR. EUBANKS: I don't believe it's that. No, no. I think the board has-- If you want to put mandates out, mandate that it shouldn't happen.

SENATOR EWING: Right.

SENATOR MacINNES: That's what I meant. But right now, by the way this occurs though, is that the board is mandated to retain the lawyer as an employee--

MR. EUBANKS: No, sir.

SENATOR MacINNES: --or they choose to and there is prohibition against that.

MR. EUBANKS: They choose to, that's correct. My point is that maybe if you want to put a mandate, it's maybe a key. I'm not saying all mandates are bad. If you want to create a mandate, say that it shouldn't happen.

SENATOR EWING: It shouldn't. I couldn't agree more.

MR. CANNON: There's a minimum salary, I believe, that triggers enrollment in the benefits program.

SENATOR EWING: Yes, but you can make damn sure that there isn't any lawyer that's not getting less than the minimum.

MR. EUBANKS: Not for health benefits, not for health benefits, sir. You know, you can have a solicitor that makes the minimum of \$1500, which is the minimum, but you may pay \$8000 in health benefits.

MR. CANNON: Right.

SENATOR EWING: Fifteen hundred, that's just a one night meeting. (laughter)

SENATOR PALAIA: Jack, behave yourself.

MR. EUBANKS: Well, you can equate health benefits cost to their per diem, and probably you would-- If you eliminate the health benefits and not require them to come to all meetings, you would make out well.

SENATOR MacINNES: Could CPAs qualify under the same. I mean, if they do the audit could they -- and it costs \$8000 for the audit -- could they qualify for this, as well.

MR. EUBANKS: I'm not sure, sir. They're not--

MR. CANNON: It's hours per week, a requirement, also?

SENATOR MacINNES: Well, a CPA could spread it out over a long time. The guy who delivers the furl oil--

MR. EUBANKS: So it's just an item of cost to a board that, quite honestly, does not benefit the children and that's -- it's not-- You know, if I can rechannel any money into a classroom, I'll do it in a minute. These areas make it very difficult.

Again, I'd like to bring up the bloodborne pathogen training and vaccinations. That's one of the areas that we also reported as an additional mandate that is costing boards money. If, in fact-- That's certainly a health issue, but there are a lot of health issues out there that are not.

SENATOR EWING: What do you think would happen if we required them to have the vaccinations and everything before they can apply for the job? Do you think that would cut down in the number of applicants?

MR. EUBANKS: I think, it may cut down--

SENATOR PALAIA: No.

MR. EUBANKS: I wouldn't think so. I wouldn't think so.

SENATOR PALAIA: I wouldn't think so, either.

MR. EUBANKS: I mean, we're requiring them for a Mantoux test, we're requiring them for fingerprinting, which goes up every year. There's a lot of requirements for the public education employee.

SENATOR EWING: Well, some of them are necessary.

MR. EUBANKS: Oh, yes. I am not saying that they're not necessary. I'm just saying that there are a lot out there. Then I go down the checklist every time, every employee we have, to make sure they have the various documents. But it's just a cost, and with the three stages of vaccination, it's expensive.

SENATOR MacINNES: Why was this put in? Excuse me, I'm a rookie. Why was this-- (laughter) Well, I've only been here eight months. I don't know much.

What's the origin of this?

MR. EUBANKS: Well, I'm not sure. Obviously, dealing with children with body fluids, it's a potential--

SENATOR MacINNES: It's an HIV driven thing or is it--

MR. EUBANKS: HIV. Yes, it's the hepatitis B. Yes.

SENATOR MacINNES: Hepatitis B.

MR. EUBANKS: Quite honestly,--

SENATOR MacINNES: Was there an outbreak of it among teachers or something?

MR. EUBANKS: Oh, I'm not sure.

SENATOR EWING: You mean, AIDS.

SENATOR MacINNES: No, no, it's hepatitis B.

MR. EUBANKS: Quite honestly, in an elementary district, all teachers are potentially exposed. High school maybe not, but in elementary, especially in the primary grades, no question about it.

Again, I'd like to bring up pupil assistance teams. Although, that's an instructional area, it does require a lot of additional time and cost; either substitute time, if the committee is meeting during the day, if they're not, if they're meeting during noninstructional hours then they will pay -- the boards will require to pay the staff.

SENATOR EWING: But didn't I gather from Harry Galinsky that--

SENATOR MacINNES: That's been cleaned up a little bit, right, with the revised regulations and the--

SENATOR PALAIA: Yes.

SENATOR EWING: All sorts of help, because you have less of the child study team involved, then.

SENATOR MacINNES: Well, there is much greater flexibility in how they're going to address the needs of kids who are--

MR. EUBANKS: According to my superintendent, we're required to have one child study team member, one classroom teacher, a classroom teacher that -- the classroom teacher for the student that is in question--

SENATOR MacINNES: That was changed. That's been changed.

MR. EUBANKS: --as well as the building principal.

SENATOR MacINNES: That's been changed.

MR. CANNON: That's been changed.

MR. EUBANKS: It has?

SENATOR MacINNES: Yes.

MR. CANNON: It's not a mandate. Right.

MR. EUBANKS: Great. Okay. Super.

Maybe. (responding to comment by member of audience)

No, I wouldn't suggest that. No. Not mine.

SENATOR MacINNES: You didn't hear that, did you?

MR. EUBANKS: Maybe some, but not mine.

SENATOR MacINNES: I didn't say that.

SENATOR EWING: Let Andrea do it before she goes.

SENATOR MacINNES: Andrea said that.

MR. EUBANKS: They're the items that I thank the Committee for allowing me to express my concerns, as well as some concerns--

SENATOR EWING: Did you write those on one of the questionnaires?

MR. EUBANKS: Yes.

SENATOR PALAIA: Good, because they were good points, very good points.

MR. EUBANKS: There are a lot of noninstructional costs out there that maybe the money, if-- School boards have been a whipping boy for several years now. There are quite a bit of inequities relative to governmental entities' requirements.

I thank you for allowing us--

SENATOR EWING: Thank you very much.

MR. EUBANKS: --for allowing myself and the rest of the individuals that have testified the opportunity. I wish you well in your task, as I'm sure it's very difficult.

Thank you.

SENATOR EWING: Well, thank you very, very much.

SENATOR PALAIA: Thank you, good testimony.

SENATOR EWING: Lynn Strickland, Larry Feinsod.

You're all by yourself tonight?

**L Y N N     S T R I C K L A N D:** You're just getting Lynn Strickland.

SENATOR EWING: Good, it will be quicker. (laughter)

MS. STRICKLAND: I don't want you to be intimidated by this. I promise not to read it all.

Dr. Feinsod was called to his district, and he asked me to speak for him. What I'm going to do with this is hunt and peck a little bit through. There are three separate testimonies here. They're kind of a composite of testimonies we have given before on State mandate/State pay that Dr. Feinsod is addressing today. He addresses the general issue in ACR-77. But also, there are some specifics, so I'll pull out some of the specifics and bring what we think are some significant facts and feelings to your attention.

By the way, since the inception of Garden State Coalition of Schools, mandates has been one of its front runner issues. Mandate relief is very important to our school districts, and we feel that by addressing mandates you will be offering flexibility, both fiscal, and personnel and program, and we applaud your efforts.

I'm going to start by saying my name is Lynn Strickland, Director of Garden State Coalition. I'm representing Dr. Larry Feinsod, who is President of Garden State Coalition, as well as Superintendent of the Madison School District.

His testimony today is on behalf of the property taxpayers of Madison and the 100 suburban school district members of the Garden State Coalition. Representing nearly 200,000 children, the Garden State Coalition is unique in that its participating members are not only superintendents, but board members, as well. As such, the Coalition truly represents school and community at the same time.

Dropping down, Dr. Feinsod, goes on to say the imposition of mandates with no fiscal support for our schools erodes the program for all the students. Mandates without State support translate into higher property taxes. Without doubt the cost of special ed. mandates are bringing some districts to

their knees. There is simply not enough money left in many school budgets after special education mandates are met to support regular programs in a thorough and efficient manner.

This has the negative ripple effect of having to increase budgets even where programs are already being cut. I understand that you've introduced legislation recently to sponsor a special education task force. We're very pleased that you're going to look into that. We offer our assistance at any time.

There are also a number of mandates that are of noneducation origin and can be dealt with more straightforwardly. Now, these are going to start to fold in on each other, as you hear from all the various education community members, such as the right to know, fire alarm retrofits, bloodborne pathogens, publishing of school budgets in full detail.

Let me just make a mention on that. There's a Senate bill out now, Senate Bill No. 7 on municipal mandate relief. They have 13 or 14 items that they're dealing with in that. One of them is publishing municipal budgets in a summary form, as opposed to a full detail. We had heard from several of our districts about this concept a while ago. One of the southern districts estimates that \$900 to \$1200 per district might be saved if you could publish simply a summary of the school budget in the paper with pointers to the local board. A consistent form would have to be supplied by boards of education throughout the State -- so it would be apples to apples. But, perhaps, a summary of the school budget really should be looked at. It takes man power time. And for the average citizen, seeing it on paper is less confusing if you have a few bullets of what was last year, what is this year, your pluses and minuses in terms of personnel and program capital. I think it's a worthwhile item to consider.

We're concerned about asbestos legislation, underground storage tanks, and the health insurance coverage

dual spouse. That is also something that is mentioned in Senate Bill No. 7. I'm not entirely clear on that, but I do believe that's when you have a married couple working in the system and the benefits program requires full coverage on both, whereas you could get a dependent situation. I think that Senate Bill No. 7 suggests a 50 percent buyback on that, so it would save the district money and the coverage would still be full, because you'd get it on your spouse's.

The other thing that's in S-7 is the right to know as annual training, right now, supplied to school. Not supplied, schools have to either contract out for it or train their own staff and take staff out of the classroom to complete the training, which means they have to hire substitutes to go in the classroom. It's kind of an onerous thing. S-7 writes it up so that the new staff would be required to be trained upon entry. But continuing staff-- Originally, I think, they set it at a five-year turn around, then it got down to three and maybe, now, the Senate is talking about a two-year turn around, but that would be quite a relief.

I'm just going to skip to Mark Smith, who was the past President of Garden State and just bring some salient points to your attention on that. He's specifically talking about Westfield, so it gives you some good examples. During the three years of level State funding for special ed., for example, the number of students in Westfield in mandated special ed. programs has increased 22 percent. With reductions in general state aid, level funding of special ed., type caps, and increasing enrollments, the challenge of State funding mandates has been particularly difficult for transition aid districts, such as Westfield.

If you turn the page over, you'll see a list, and he has -- he and his business administrator -- put cost figures next to them. Asbestos legislation, the initial compliance was \$650,000 and it costs \$50,000 annually at this point to maintain. Bloodborne pathogens: \$40,000 initial, and \$6000

annually now. That's just in Westfield alone. The Right To Know: initial compliance, \$60,000 and an annual expense of \$30,000. So these, I think, are some figures that would help you, as you're going along here.

Finally, the other thing I want to bring to your attention is the next -- right after Mark's testimony is a letter to Assemblyman Richard Bagger, from the mayor of Westfield.

This is what's happening in our Garden State communities, we are beginning to-- I am-- First off, let me preface this by saying I'm the sole staff of this organization, it's very grassroots. We meet monthly, we have 21 representative trustee districts, so one out of five of our districts or so sit on our board and make decisions and this is what I'm trying to impart to you.

What is also happening now is, we're beginning to cross rough a bit, with the towns. Our concerns, the common denominator of not being leveled down, maintaining a quality education, but also, understanding of where the taxpayer sits, comes to all of our minds.

In this letter, the mayor of Westfield goes on to say, "If the State of New Jersey believes something is so important that it must be mandated, then the funds must also be provided by the State. This is perhaps even more important for school financing, than municipal.

"In Westfield, around a third of our budget comes from local property taxes. But an astonishing 88 percent of the cost of running our school system is imposed on local property owners. What concerns me most of all, and this reappeared during the Supreme Court arguments over school funding, is the wealthy community mentality.

"Certainly, Westfield, Summit, Ridgewood, and other municipalities have wealthy individuals and multimillion dollar residential properties, but we also have, as you know, a lot of retired and lower-income people struggling to continue, residing

and maintaining in their communities, and maintaining modest cape cods and large, turn of the century homes that require heat, maintenance, and tax bills in the thousands. These people, many retired, many single, most with limited incomes are house poor.

"The wealthy community mentality which denies their communities such as Westfield, State, municipal and/or school aid on the assumption that they are personally wealthy is as inappropriate for them as it is for those struggling economically in the inner cities. All of which is to emphasize the need for all school districts to get help when programs and capital improvements are mandated by the State."

Lastly, there is something from Hackensack in the back. I'm not going to read that to you. But the Hackensack testimony was before the Assembly Appropriations Committee. They really get into-- It's a powerful statement about a changing community that is a transition aid community, among other things. It's a CD in terms of the DFG, Department of Ed assignments.

SENATOR MacINNES: It's a CD in terms of the DFG.

MS. STRICKLAND: Yes.

SENATOR MacINNES: What does that mean?

MS. STRICKLAND: Well, have you heard of-- It goes-- The DFGs, District Factor Groups, go from A to J and it's socioeconomic differentiation. They use it in the Supreme -- the Abbott v. Burke. IJ originally were the affluents. Okay.

SENATOR MacINNES: All right.

MS. STRICKLAND: Okay. So you might want to read that when you have some time. They have some figures at the very end that shows what happened with mandated costs. Their special ed. since '88, '89 went from \$3 million to \$7.6 million. Their funding is nearly level for those years. What happens is the cuts into what I call the majority student programs become significant. Special education is a great need, there is no doubt about it. The majority of students have great needs, too.

The class sizes are increasing in these districts, as a result of money -- for good reason of going in another direction and that State not compensating, as they originally mandated in their town.

That's our statement for the moment. Any questions?

SENATOR PALAIA: No. Thanks, Lynn.

MS. STRICKLAND: Thank you very much.

SENATOR EWING: Any questions? (no response)

Thank you, Lynn.

MS. STRICKLAND: You're welcome.

SENATOR EWING: Mr. Murray Blueglass, Superintendent of Mahway. (no response)

SENATOR PALAIA: Next case.

SENATOR EWING: Dr. Francis Heelan, Manville.

**F R A N C I S X. H E E L A N, Ed.D.:** I am also an executive member of NJASA and a member -- active member of the Foundation Aids District. We're a C district factor grouping and we just missed it -- the AB. So consequently Newark, which had spent over a \$1000 per student above us, is now about \$3000, so there is a very wide gap even between Newark. We would hope to someday come up to what the poor districts spend.

I would just like to begin by saying to this group that I believe it was Jefferson who said, "That government governs best that governs least." I think it's a terrific thing that you're going to look into how to cut back on government. I know I probably raised some eyebrows. But Ronald Reagan did try this, and I understand he cut it back from about 94,000 to 42,000 in regulations, basic regulations in the Federal government. Unfortunately, it's probably gone beyond that. Now it has gone back up since then.

A few things that I will mention. There were some excellent suggestions that have been made here. One is the DEPE and some of the problems, you know, a bit of a horror story there, that happened. On occasion, we do have to use needles and the question is one of the storage. We had placed it in the

nurses office in a locked compartment, in cans that you couldn't get into, high up, and then what we do is bring it once a year to our physician, and he would dispose of them.

Well, apparently DEPE has these other regulations in which we have to register each school and it costs us several hundred dollars that we have to pay, which I think is a total waste. Then we have to have a bus come around, some sort of special vehicle, about twice a year. Well, the total cost is about \$400, but it seemed so ridiculous that they apparently made a sweep when they were going to be streamlined -- they heard they were going to be streamlined and they made a sweep of different school districts.

I call this governmental extortion. We were one of the ones that they came into. They found us, apparently, not in compliance with one of these regulations. So they were going to fine us \$50,000 per day, per building. I said, "Are you serious." That's \$150,000 in a small district, you know, a \$10 million budget. We were going to pay \$150,000 each day. So what do you want us to do? So at any rate we--

SENATOR MacINNES: What form did that take? Did you actually receive a letter that said that that would be the fine for not complying correctly with the needles?

DR. HEELAN: Yes, we received letters.

SENATOR MacINNES: Could you send me -- I'd love to see a copy of that?

DR. HEELAN: Okay. I'll look for the letters and what they said.

SENATOR EWING: That's all changed though.

SENATOR MacINNES: What?

SENATOR EWING: That's all changed with the new administration.

SENATOR MacINNES: Yes, I'd just like to see the letter. It's so hard to believe that anybody would send a letter like that.

SENATOR EWING: It is hard to believe.

DR. HEELAN: We had to take it to the attorney. We negotiated it down. They said we had to pay at least \$5000, so it did come down after negotiations and through our attorney.

SENATOR EWING: But even \$5000.

DR. HEELAN: To \$5000, we negotiated it down, so we pay now -- we paid \$1700 to get them off our back. Then we also have to pay these fees, various fees for these things when we have about one or two needles per year, which we had an excellent system of storage without governmental interference.

Okay, going down to other things: I also would like to reiterate some things that have been mentioned, coming near the end, of course. Physical education is always a bone of contention with me that we spent the 150 minutes. At least in New York State it was 120 minutes. It wasn't quite as bad. New Jersey is even worse, with another 30 minutes per week. It just seems like that sort of mandate that imposes it on-- And I know what you're up against in terms of the lobby. I've gone through it in New York State, as well. It seems impossible. It's a sacred cow. You don't realize how powerful it is, and the lobby groups seem to be controlling in that whole area and the crying and the shedding of tears that goes on.

But if we had to advance in education, in public school districts, I think we have to seize back if not all of that time to make it an elective, at least maybe cut back the time to some reasonable amount. With all of the pressures that are on in the curriculum, that seems to be an absurdity.

Some others that I would mention, while I'm on the area of curriculum mandates. I noticed that you did pass one on Holocaust studies. I think that it is very exclusionary and it discriminates against all of the other holocausts that aren't included and seemed to be a political thing about which holocaust got in there. Apparently, the Armenians also got in there. So it is a disservice to others and kind of restricts in the area of history what has really gone on with Ruandans and Bosnians, Cambodians, Sudanese, Ukrainians and whole tremendous

amounts of people when you have a holocaust, and also one that is very dear to me.

This was passed on the 150th anniversary of the Irish Holocaust, in which millions had been killed by the English and starved out. It wasn't a potato famine. In the 1840s, '50s and '60s, there was plenty of food in Ireland, and it was taken out by what I refer to, as the evil empire, the English Empire.

So I just think that by restricting it to a certain Holocaust, it's kind of myopic. Along with that. Well, I just--

SENATOR EWING: But Frank, the board makes up the curriculum.

DR. HEELAN: Excuse me?

SENATOR EWING: The boards make up the curriculums, so the boards could put something in about whichever one they want to.

DR. HEELAN: Okay. I haven't received clarification. I know Paul Winkler is going to come around, but the way I read it, it was just like about four that were included and the rest were--

SENATOR EWING: It's up to the board.

SENATOR MacINNES: But none were excluded.

SENATOR EWING: What?

SENATOR MacINNES: There were no--

SENATOR EWING: No exclusions. I say it's up to the board to decide what they want to put in.

DR. HEELAN: Didn't the law include, like, four?

SENATOR MacINNES: No.

DR. HEELAN: No. Okay.

Moving right along--

SENATOR EWING: We'll send you a copy of the law.

DR. HEELAN: Okay, good. I appreciate it.

I know you've made various changes and we're waiting to hear what the new monitoring process would be. Well, I mean, it's out there, of course. We have copies of it. But in terms

of how it's going to be enacted, I understand there are some changes. But I would say that there are, I think, better ways. I know it has cut back on a lot of the picayune nonsense that formerly had characterized, so that we have to dedicate a year and a half to practically nothing else. To salvage our careers, we have to dedicate a year and a half prior to the monitoring process to going over each one of these, measuring the inches of books stored. If it is a closet and it has to be 18 inches, and if it's within 17 inches, then you failed monitoring and this sort of thing, but it does--

If you can cut back on that anyway you can. At least restrict it, so that we don't have to go through a lot of nonsensical paperwork, which is not really necessary and doesn't really improve education for students.

Let's see, another-- A few others I think were excellent. The bilingual one was, I think, impossible, and there were shock waves that went through Somerset County. The administrators, when we heard there were 94 districts that it was not going to be approved and then it was said, there are two in Somerset County that have to get bilingual programs and everyone said, like Judas, "Is it I." You know, would you please get us the names of those who are on the hit list.

So it's-- I think that has to be looked at realistically in terms of getting some sort of -- to try to get, in particularly the larger districts -- it doesn't impact mine so much. But I certainly know Paramus and some of the others, it's an impossible, impossible thing to implement.

I also mentioned GAAP -- I don't really believe that had been mentioned here -- the new accounting system. I know it's mandated. I know we're about the last in the nation to do it, but it has been a tremendous additional cost of-- We've had to pay for another one and a half persons to do much of the accounting.

Quite frankly, my business administrator had been a controller for one of the Fortune 500 companies, and he has a

good deal of difficulty with it, too. Quite frankly, you feel like you've lost some control, because, I guess it was a little simpler, more simplistic, the old system with less digits. You didn't have 15 to 21 digits in which you're trying to figure out where this is placed. So now, you need specialists and people -- you have to depend on them more to find out what's really going on.

Special education, of course, I must mention that, again. I know you've been hearing that. But we've just been hit. It was not in our budget of \$10 million in Manville School District; with a student that's going to amount, with peripheral costs, in the area of \$200,000. This happened in the summer time, similar to Greenbrook, I know also--

SENATOR EWING: Yes, we're working on those.

DR. HEELAN: On Greenbrook? Good.

There would be no increased funding for it. It has nothing to do with paying room and board and everything else in the world. That has nothing at all to do-- You know, maybe the medical profession or somebody else would like to pick up on it.

Building codes, I can just say, they are-- It's very difficult here the way it goes even to get certain permits. We have difficulty getting a permit to put up some simple lights on the football field, not real football lights, but just for the practice field for the band and others. There's been such a dispute, it's been carried on for two years.

Finally, we'll have to contract out and probably pay a lot more money than if we did it ourselves, which we'd like to do, which would be several thousand dollars. Now, we'll probably have to pay double or triple that in order to have the liability go someplace else than on the -- directly on the school district.

SENATOR EWING: What was that you said, you cannot put them up yourself?

SENATOR PALAIA: Portable lights.

DR. HEELAN: Yes, portable lights to put up for practicing, for the band practicing on the field.

SENATOR EWING: Well, who said you couldn't do it?

DR. HEELAN: Well, we're told that we can do it, but then we have a great deal of liability, if anything happens to it.

SENATOR PALAIA: Additional liability.

DR. HEELAN: Then after we do it, the local officials -- building code officials will come in and might disapprove of what has been done. So it's just so much blockage that we'll probably--

SENATOR EWING: Yes, but that's up to the local officials then. You ought to work that out with them to see if they'll approve it first, and then see what we can do down here. If you want some help on it, Frank. I mean, that's--

DR. HEELAN: Yes, we've--

SENATOR EWING: Also, talk to your insurance agent.

DR. HEELAN: Well, we've tried, but it's seems to be very complicated, even with attorneys.

SENATOR EWING: Well maybe so, but I mean, don't complain about it if you haven't gone and exhausted all attempts to try to get it rectified. You have to go to your insurance agent to see if they will -- you know, if there is an additional liability in there or is it covered in your policies already. I cannot believe it's not already covered.

DR. HEELAN: Okay, in general I would say though, even though I know it's come up to the spatial requirements for classroom space, it is not as stringent, having worked for a good number of years in New York State, it's not at all-- You had asked about other states, and I do know that it's not nearly as stringent in New York State, as it is here, in terms of the specific requirements and what you have to go through even when you're doing renovations of science labs, which we've recently done.

I think those are really the major ones. Of course, Social Security, there are some in the Federal level and that, of course, does affect us. I'm very concerned about ADA, the American Disabilities Act. A person hired even with a past history of drug addiction or alcoholism must be retained, whether he or she does the job or not. There are some ridiculous regulations in there that are just incredible to believe.

SENATOR EWING: Who gave you that part, they had to be retained?

DR. HEELAN: It's part of-- I can check it, I can get back to you on that one.

SENATOR EWING: Yes, would you.

DR. HEELAN: But I have gone to a conference in which that was stated. They said to be very careful about who you hire, because if someone had a former drug addiction, whether you knew about it or not, and then it comes out, then he can lay a claim to the job and you cannot release him, whether the job is being done or not. You're responsible for that individual.

Another one is, that has been mentioned -- Trip Reduction Act and the Clean Air Act. I'd just like to point out -- and that's the Federal government, I know -- but the impact of the paperwork has been tremendous on some districts and is just totally outrageous. I mean, your mouth just falls open when you read this and you say, "Where are these people living?"

SENATOR EWING: Do you have over 100 teachers?

DR. HEELAN: No, we're separating it in different ways so that-- We're on the border, we're actually on the border of it. But we don't have 101 buildings. But what I'd just like to say that the-- I think it's just part of this whole -- DEPE and the whole Federal organizations that shouldn't cut back on this environmental myths that are being propounded of the global warming and of the hole in the ozone layer that is accounting to so many of these bureaucratic jobs in government, and I think it's about time that you look into it. It's getting the full

support of the media to substitute for different wars, because, now, we have a great war down there, so I guess, we don't need to emphasize it.

Okay, so that's really some of the major things that I would like to say. The OSHA law is another one. Certainly, there is more harm than good that's done by these mountains and room fulls of paperwork that is incomprehensible to any human mind.

So I think, to get back the government to a sensible view, I think it's really time to try to reduce it, and that's difficult to say to people that are dependent on getting reelected by the amount of laws that they pass.

I'm not saying that they're not all good laws. I think certainly the safety seat belt is one that I can point to, having been in an accident after that.

So I'd just like to end up by saying that -- repeating that, that government governs best that governs the least. So I really appreciate that the Senate Education Committee is looking back, is looking to alleviate some of these onerous regulations that are just crushing to the school districts.

Thank you very much.

SENATOR PALAIA: Thank you.

SENATOR EWING: Thank you.

SENATOR PALAIA: We have Barbara Adams, Concerned Women for America. Is she here?

Barbara?

**B A R B A R A A D A M S:** Thank you for the opportunity to come and speak today. My name is Barbara Adams, and I am the Legislative Liaison for Concerned Women for America here in New Jersey.

Concerned Women is the largest nonpartisan politically active women's group in the nation, with over 600,000 members. Many parents have concerns about what is taught to their children. Among the 12,000-plus members of CWA here in New Jersey, we get many concerns raised that suggest the existing

mandates are not interpreted and implemented uniformly across the State. In addition, many of the mandates impose restrictions on the local districts that take away from the quality level of academic instruction.

The mandates we have regarding what is taught to our children have some areas of confusion. For instance, what is the difference between the core course proficiencies and the content standards. There is a definition for content standards, but none is to be found in the mandate for core course proficiency.

To add even more confusion, Dr. Klagholz, our Commissioner, is quoted in the April 1994, "NJEA Review" as saying, "How do core course proficiencies relate to curriculum content standards? Why do we have both? I've asked that question and haven't heard a satisfactory answer yet." It would appear that a large amount of duplicate work and wasted time and money was spent inventing at least one of these documents.

Since the core course proficiencies have already been approved, it would make sense to drop the content standards and let the individual districts use core course proficiencies as a guide to set their curriculums.

We are concerned that all students be taught the same material across the State, so as to offer an equal education. This should still allow the districts to establish their own methods of implementation, to achieve the intended objectives of the core course proficiencies.

We would propose a thorough study of all the mandates in order to remove those that cause unnecessary duplication of tasks, which we have a lot of, extreme cost measures being placed on the districts and the taxpayers and eliminating those that are not related to academic content and proficiency.

We would like to see a tightening up of mandates that poses a wide range of interpretation. An example of the wide range of interpretation is the mandate that requires the teaching of New Jersey history. In some districts, this is

limited to an emphasis of New Jersey's early history while studying the 13 original colonies. Other districts provide a full unit on the entire history of New Jersey.

Another example relates to last year's hearings on the abstinence bill. Students testified, "Although the mandate called for the teaching of abstinence, the teaching ranged from lip service to nothing at all."

As a teacher, I spend less time teaching academics than what I have when I have to teach all the other mandates that are required. I've been a teacher of junior high for 20 years. When I go back and look at my lesson plans from 10 and 15 years ago, which I saved, I am losing at least 45 minutes to an hour a week in academic teaching because we have to give time for all of these mandates, one of which was listed was the 150 minutes for the comprehensive health program. We have so many mandates put on us that we don't have time to teach the academics that are necessary for the students in the State of New Jersey to really become qualified people that know what they're talking about and know how to perform in our society.

We have another example of problems in interpretation of the mandate. We were talking earlier about there is no flexibility in some of these. We have a Gifted Program in our district and that's a mandated program. The Gifted Program, to be in it is determined by teacher recommendation, your CAT scores and your IQ test. Now, they have set a number for each of those things -- for the CAT scores and the IQ test -- and that was set by the district. But that was done by the interpretation of what the mandate has said.

If a child has an 89 raw score in one section of their CAT, they're automatically disqualified from the Gifted and Talented Program, even if they have a straight A in every subject and teacher recommendation. The flexibility needed in interpreting these mandates has got to come down to the districts, so that they cannot discredit a child because of one

point. This has happened in a number of occasions, in a number of districts.

SENATOR MacINNES: The State has the 89--

MS. ADAMS: No, the district interpreted the mandate. The mandate is unclear. The gifted and talented mandate is unclear as to how do you make a decision as to who qualifies. So this district, in particular, set a certain number. Does the child become ungifted all of a sudden, if they get an 89 on a math raw score, instead of a 90?

I don't think so, you don't lose giftedness because you don't do a certain number on a test, on a standardized test.

SENATOR MacINNES: Well, at some point, you have to set a standard.

MS. ADAMS: That's true.

SENATOR MacINNES: There is always going to be a child who is going to miss by one point, and that argument, therefore, will stand wherever the standard is set. Right?

MS. ADAMS: Except for the fact that you have other criteria that should also come into weight.

SENATOR MacINNES: Right.

MS. ADAMS: When that child, for instance, misses by one point on the CAT, the rest of the criteria becomes irrelevant.

SENATOR MacINNES: But you wouldn't want the State to try and rectify that interpretation by setting a stricter standard, would you?

MS. ADAMS: No, but if the State is going to enforce a Gifted and Talented Program, which we do need because there are many students that need to be challenged, then they need to allow the district some flexibility in determining who is qualified for this particular program.

SENATOR MacINNES: They have, and the district in your case has chosen to use that flexibility.

MS. ADAMS: Well, this is not my district. This is something that has come to me from one of our parents.

SENATOR MacINNES: Whatever district you're using has chosen to use that flexibility that uses a rigid standard. That's the district's choice. That's what happens when choice is given.

MS. ADAMS: What happens to your multiple assessments then? If the child doesn't do well in the other ones, we throw them out.

SENATOR MacINNES: I'm not trying to defend them. I'm just -- you said, you wanted the districts to have the flexibility. This district has chosen to use that flexibility to apply a very rigid standard. That's what district choice is all about.

MS. ADAMS: That's true.

SENATOR MacINNES: The results can be unsatisfactory.

MS. ADAMS: That's true.

SENATOR MacINNES: So that's what happens.

MS. ADAMS: That's why we would like to see all of the mandates reviewed. We don't want to see -- because there are many antiquated mandates. Now, this particular one is not necessarily antiquated, but we would like to see many of the -- all of the mandates reviewed with the process of getting rid of those that are just being time consuming.

The next one is the money. If the State determines to impose a mandate, districts are not going to be able to come up with the money. If the State imposes it, then the State needs to come up with the money to make it work.

As a taxpayer, I resent the fact that the State comes in and tells my district, "You have to do this," and then my taxes have to go up. We have seen this happen on a number of occasions.

SENATOR MacINNES: Would you apply that even to health and safety questions?

MS. ADAMS: I think it would have to be a determination on the health and safety. There has been discussion about -- earlier that we had heard about the

bloodborne pathogens. Where something like that is concerned, absolutely not. It is too important an issue and a lifesaving issue to not be.

SENATOR MacINNES: So you draw a line.

MS. ADAMS: Yes, there would have to be a line drawn for that.

I also wanted to mention something about the assessments. In the mandates it calls for, on a certain yearly timetable, that certain assessments must be in place. Well, those assessment cannot be in place if the money is not there to put them in place. But if they're not in place, then the district is in violation of not doing it, because this is already a law, this is supposed to take place. So, when we go back, when you go back to revise these mandates, you have to keep in mind you have to have realistic mandates that we can work with, and that has not been the case.

Something that was timely was in the paper yesterday in our Courier-Post. There was this article called, "Statute Tries to Bridge Gap in Knowledge." "Do you know who Commodore John Barry was, besides having a bridge named after him? You should, according to State law.

"Last Tuesday, September 13, all the public schools in this State were supposed to observe Commodore John Barry Day, with special lessons and activities. Most schools did nothing.

"Technically, they violated the State statute. It requires school administrators on September 13 to assemble pupils in their charge and to conduct such exercises and instructions as shall tend to acquaint such pupils with the achievements of Commodore John Barry and honor his memory. But don't worry, nobody will get in trouble. It's not enforced, it's not something we monitor. We don't even send out a reminder. There are many other things we need to do that are much more important." Then it goes into a discussion of who he was.

If we have so many mandates similar to these on our books, how are we supposed to take the kids out of class and assemble them -- which is how this mandate is apparently written -- assemble them and give them instruction on Commodore John Barry?

We are now taking away more time that should be spent in the academic classrooms. Take Commodore John Barry in all of your history and social studies classes and discuss him on September 13, if that is when they want it done. But don't remove an entire school to go into an assembly to learn about one person. You're taking away the quality time that teachers have to spend helping their students to become better students than what they are.

I think we have a lot of mandates sitting on our books like these, which we really would very much, from Concerned Women, like to sit down and work with you in accomplishing the revisions of these mandates. We are working right now with Commissioner Klagholz, and have been for a long time, in just reviewing these core course proficiencies and content standards to try and see why there are even two sets and throughout the mandate one area calls for the core course proficiencies in order to graduate from high school. Another area says, if you cannot meet these, then go to the content standards and maybe you can graduate from that. You cannot have two things that have nothing -- that don't have that connection and have it clear. Nobody knows why we even have two.

SENATOR PALAIA: Thanks, Barbara.

MS. ADAMS: Thank you.

SENATOR PALAIA: Kathleen Hintze, a parent from Westfield.

**KATHLEEN HINTZE:** Good morning.

SENATOR PALAIA: Good morning, Kathleen.

MS. HINTZE: My name is Kathleen Hintze. I am a concerned parent.

SENATOR PALAIA: Hintze, I'm sorry.

MS. HINTZE: That's fine.

SENATOR PALAIA: I mispronounced that, my apologies.

MS. HINTZE: I say Hintze, like in ketchup.

SENATOR PALAIA: Okay.

MS. HINTZE: I live at 8 Floral Court in Westfield with my husband and my two daughters. They're both students at Westfield High School. The oldest is a senior and the youngest is a freshman.

My main concerns today are regarding two mandates that have directly affected my daughters and the family in general. The first one that I'd like to tell you about is the American history mandate.

My concern is that my daughter is required to take this one particular course. The name of the course is called "American Issues." The problem relates to the resource materials and the contents that are being used in this class. I spoke with my daughter's guidance counselor to determine if my daughter could be removed from this class and replace the course with a course that deals with historical facts of American history, rather than value laden, biased controversial materials and information that contradicts our family and Judeo-Christian values.

I was told the State requires two years of an American history course, with two years of American history courses with which I have no problem. But I learn that the local district can determine the course and also its content. I also understand that my daughter has no choice in this matter and will not receive her high school diploma this June if she does not take this course.

These are brief passages from the sources of information that were xeroxed and given to my daughter just recently. This is excerpted from the "Dialectic of Sex" by Shulamith Firestone: "I shall not outline a system that, I believe, will satisfy any remaining needs for children after ego concerns are no longer part of our motivation.

"The proportion of the population will automatically, will be automatically a select group with a predictably higher rate of stability, because they will have had a freedom of choice, now generally unavailable.

"Today, those who do not marry and have children by a certain age are penalized and find themselves alone, excluded, and miserable, on the margins of society in which everyone is compartmentalized into lifetime generational families, chauvinism and exclusiveness their chief characteristics.

"Only in Manhattan is a single living" -- I guess, she left out a word -- "person even tolerable, and that can be debated. Most people are still forced into marriage by family pressure, the shotgun economic consideration and other new reproductive consideration and by family pressure. The shotgun economic consideration and other new reproductive unit--"

Some of this just doesn't even make sense, I think the teacher must have typed it herself and copied it. Let's see what else.

"But though it will still be structurally sound, we must be aware, as long as we use natural childbirth methods, the household can never be a totally liberating social form.

"A mother who undergoes a nine month pregnancy is likely to feel that the product of all that pain and discomfort belongs to her. 'To think of what I went through to have you.' But we want to destroy this possessiveness along with these cultural reinforcements, so that no one child will be a priority favored over another. So that children will be loved for their own sake."

Then we go on to say, "But women have no special reproductive obligation to a species." Now, if that is true, then the male gender is going to be in deep trouble. That's all I'll read.

There's also another set of xeroxed papers that comes from a book entitled "American Families in Transition:

Historical Perspectives on Change" by Tamara K. Harrison (phonetic).

SENATOR PALAIA: Is this a State requirement, Ms. Hintze, that the children have to take that history issues?

MS. HINTZE: This is mandated. Yes, this is mandated.

I, in an attempt to find out more about these writings and the authors, went to the library. There's a database there, and I did find some information about these two authors. Their writings were published in 1970 and they do not appear on any of the bookshelves in any of the New Jersey libraries -- public libraries. The companies that printed these books are not mainstream, and the books can only be purchased directly from the publisher. It's my contention and my husband's that this course, if made available to the students, should be an elective and not mandated.

I am asking you for your help, because when I withdraw my daughter, she will not receive her high school diploma in June. She is not given a choice. There is no other course that she can take and this was a course that was apparently made by the local school board.

My other concern is the Early Warning Test. In the early part of March of this year, the Early Warning Test was administered to eighth grade students throughout the State. Because we're aware of the State mandate regarding this test, my husband and I began to investigate the possibility of our 8th grader, who was at that time a student at a local parochial school, being eligible to take the Early Warning Test with the public school children. We began asking two years prior to this occasion if my daughter would be able to take this Early Warning Test.

We began at the level of the Westfield High School guidance office, but never received any answers from high school administrators. A couple of months prior to the 1994 Early Warning Test, we realized it was necessary to communicate with the assistant superintendent of schools. He never returned my

phone call until after he spoke with the principal of our parochial school, where my daughter had been attending, because she was also concerned about our eighth graders taking this test.

When he finally returned my call, he gave me no reason for the test not being available to my daughter. He said that only students entering the high school in September would be given the opportunity to take this test and he said-- and I asked him the reason why, and he said, "That's just the way it's done."

At that point I told him I would have to be in touch with the New Jersey Department of Education. That seemed to be fine with him. At that point, I wrote the following letter to Dr. Jerry DeMauro, Commissioner of the Statewide Assessment Test Unit of the Department of Education.

I won't read the whole letter, but just what my main concerns were regarding this test. "I am concerned about this issue for two main reasons. First, as a taxpayer supporting the public schools, my daughter should have the opportunity to take this test with public school students and not be discriminated against because she is a parochial school student. The second reason is that my oldest daughter attended ninth grade at a local parochial high school and transferred to Westfield High School. At that time, we were informed when she was a sophomore that she would have to take the Early Warning Test -- the eighth grade Early Warning Test.

"Consequently, her academic schedule was disrupted when the test was administered. When the test results were returned a couple of months later, she was well into her sophomore year and was traumatized by the fact that her schedule, again, had to be disrupted to accommodate the class required for remediation, giving her nine full periods per day and no time for a lunch break. There was no doubt that this problem could have been avoided if we would have been aware of this issue prior to eighth grade graduation.

"I'm sure you understand the importance of this issue; therefore, I would appreciate you answering the following questions."

I asked them if there is a State law that specifically prevents private school students from taking the Early Warning Test and also, if there is a specific law or regulation prohibiting nonpublic school students from taking the Early Warning Test in the spring with the public school students?

I also asked him if my child, who has no learning disabilities be exempted from taking these tests considering the fact that neither the private schools nor colleges require them and also, if there is a State law that requires all public school students to take the Early Warning Test and HSPT?

Dr. DeMauro did return an answer by letter, and he gave me a copy of the State mandate, which I won't read. I will give you copies of that. Dr. DeMauro did promptly answer my letter, but, obviously, could do nothing to assist us with our problem.

We then got in touch with a private attorney who told us we could bring suit against the town. We didn't choose to pursue this legally at that time, but we did continue to contact others in an effort to solve our problem.

My husband contacted the Governor's office. They in turn put us back in touch with the Department of Education. We contacted the Westfield School Board attorney, the superintendent of schools, who said that he was not aware of this. I know for a fact that's not true, because when my husband and I met with him prior to this issue, on another issue, I had talked about this problem about the Early Warning Test. He said to me, "Oh, your daughter can take the test with our kids." Needless to say, she did not have that opportunity.

SENATOR EWING: Ms. Hintze, excuse me for interrupting. Is this -- you're talking about mandates now?

MS. HINTZE: Yes.

SENATOR PALAIA: Yes.

MS. HINTZE: So we contacted Assemblyman Bagger's office. He in turn talked to his aide and she came to Trenton and spoke with Dr. DeMauro, and she, after speaking with him, expressed her sensitivity to our problem and also said that she made it known to Dr. DeMauro that we, as parents, had a right to be angry about this fact, and that something should be done on a legislative level pertaining to the Early Warning Test.

Also, please be aware that the private school children are also at a great disadvantage when they take this test, because -- and I understand this from reliable sources and people whom I know, who are eighth grade teachers in public schools -- the public school children are very well prepped for this course.

When the Superintendent of Schools learned that we'd contacted Assemblyman Bagger, he asked my husband why we found it necessary to do that and then told us that my daughter would be given the Early Warning Test in April or June, which would allow enough time for the results to be returned before the start of the school year so that we could avoid the same problem that we had with my older daughter. A copy of these letters are also included.

Consequently, June came and went. We heard nothing about the test, and also be aware that we had already enrolled our daughter at Westfield High School as a student, prior to the administering of the Early Warning Test in March to assure them that our daughter would, in fact, be a student at the high school.

Finally, on July 12, a couple of days prior to our leaving for summer vacation, we received a letter from the Assistant High School Principal saying that they would administer the test on July 26, 27 and 28. We found this rather disturbing, because this was one of the reasons why we thought it made more sense to make the test available in the spring, when it wouldn't interfere with summer vacation and the child's inability to think over the summer.

MS. HINTZE: Well, this is--

SENATOR EWING: But I cannot -- you know, we cannot take the time -- there are other people who want to testify -- regarding a personal problem there in your district.

MS. HINTZE: But the personal problem relates to the mandate. The mandate does not say that nonpublic school children cannot be tested. This is our problem.

SENATOR EWING: You feel they should--

MS. HINTZE: We feel that our daughter has been deprived the right to take this test.

SENATOR EWING: But she's in a private--

MS. HINTZE: She was deprived the right to take it at the time the other school-- You had left, so you didn't hear the whole testimony.

SENATOR EWING: No.

MS. HINTZE: But my older daughter was taken out of class when she was a sophomore in high school, when she transferred from another school. She had to take a remediation class in math, because the Early Warning Test results stated that she had a weakness. Now, we were trying to avoid this with my second daughter and we had been in touch with the State and the town two years prior to this.

SENATOR EWING: Well, you feel then that the Early Warning Test should be able to be given to anybody in a private school, as well, at the family's request. Is that what you're saying?

MS. HINTZE: Yes, but--

SENATOR EWING: Well, that's what you're requesting.

MS. HINTZE: This is what I was requesting from Dr. DeMauro. I wanted to know if we were, you know, if there was any reason why she couldn't take the test. There was nothing in the mandate that said that excluded nonpublic school children.

SENATOR EWING: Well, there was nothing that--

MS. HINTZE: So maybe the mandate needs to be more specific.

SENATOR EWING: But there was nothing in the requirement that it would include nonpublic.

MS. HINTZE: But then, this needs to be clarified.

SENATOR EWING: Fine.

MS. HINTZE: Okay, that's what--

SENATOR EWING: That's just what we'll-- Yes, Marianne, what--

**M A R I A N N E E. R H O D E S:** (speaking from audience) The Department then has no jurisdiction over nonpublic schools so a mandate--

SENATOR EWING: That's right.

MS. RHODES: --cannot apply to a nonpublic school unless somehow it was specified in law. That isn't the case at the current time.

MS. HINTZE: Okay, but I'm making you--

SENATOR EWING: Mrs. Hintze, what she is asking for is that when we do the changes, whatever change we do, then, in the mandate, we would include that any child in the private sector could take the Early Warning Test.

MS. RHODES: That is the consideration, obviously, approached.

MS. HINTZE: That's right.

That's what I'm requesting because we are getting sent around in circles.

MS. RHODES: But that also (indiscernible) a lot of far reaching implications.

SENATOR EWING: Oh, there's no question, that's just something we'll have to discuss and see whether there's any feasibility to it.

MS. HINTZE: Well, so does everything else. You know, it needs consideration. That's what I'm asking.

Thank you very much.

SENATOR EWING: Robert Walker, Superintendent of Kittatinny Regional.

**ROBERT G. WALKER, Ed.D.:** Mr. Chairman, members of the Senate Education Committee, I'd like to thank you for the opportunity to come here today to testify regarding mandates in education.

My name is Robert G. Walker. I am Superintendent of Kittatinny Regional High School, Hampton, New Jersey, Sussex County. My experience and credentials include 27 years in education in New Jersey, 10 years as Superintendent, 9 years as Principal, 5 years as Assistant Principal and 3 years as a teacher. I served on both the Sussex County Vocational School Board and also the County Ed. Service Commission. I was fortunate enough in '93 to be selected as one of the top 100 administrators in the State by the National School Boards in the nation -- by National School Boards.

There are a number of mandates, in my opinion, that need to be eliminated. However, I'll only focus on four or five and be brief at that. As you know, we have 920 pages of statutes, and I hope you can reduce that by 25 percent. I also have a box over here that will be my last point, and we'll talk about the box last.

First off, most of the points that I have, have already been mentioned. I think Eileen Smith-Stevens did an excellent job of focusing on most of those areas. The physical education mandate, N.J.S.A. 18A:35, requires two and a half hours of physical education each week, and we need to eliminate that.

In our school district we're a six-year school district -- high school district, 7 through 12. We'd like to offer foreign language in seventh and eighth grade. We cannot with that requirement. We've even gone to a nine-period day and like most schools shortened class periods up to 40 minutes and lengthened the school day. Forty minutes is too short really, but in order to get in technology and other areas that we also wanted to offer, we did come up with a nine-period day and a

number of districts throughout New Jersey have copied our format.

But we'd like to go even further. We'd like to be able to offer foreign language in seventh and eighth grade, and with the physical education 150 minutes, or it's actually two and a half hours per week, we cannot cut that back.

SENATOR EWING: But what if those students are in a sports program, they're playing football or baseball or the basketball season -- they would be practicing wouldn't they. They wouldn't be able to take the additional French course or something.

MR. WALKER: No, this would be during the school day. In other words, we might say we're only going to offer physical education for seventh grade, Monday, Wednesday and Friday. On Tuesdays and Thursdays they can access language. It just--

SENATOR EWING: Would you cut it out completely or cut down the number of minutes?

MR. WALKER: No, I would cut it down, I would not cut it out completely. Available already on statute is, where you can give credit to athletes and waive their participation in gym.

SENATOR EWING: That's right.

MR. WALKER: That's fine, but then you get all kinds of splinter groups that say, "Well, what about my kid in ballet and what about my kid that is in this or that." So anyway we need -- that's reform, it's a first on my list, not the most important, but surely that we need to allow local school some opportunity to make some decisions regarding what the communities want. I know my community and I surveyed them, we got a pretty good response. They want foreign language.

So moving along in the area of transportation we heard other comments about transportation. This one you didn't hear, 18A:39-1, we're required -- and I'm a rural part of New Jersey, I have 125 square mile district, that's a pretty good size district. Now, we're required in that part and all parts of New

Jersey to provide transportation for anybody outside two and a half miles of the district. That's required, even if the student drives to school, you still have to have a seat on the bus.

SENATOR EWING: Seat on the bus, right.

MR. WALKER: We have to come up with some options here to eliminate that, so that the roster is revised and you can delete students where parents sign off and say, "My child will be driving to school, my child needs a parking space not a bus seat."

SENATOR EWING: Then what happens when the child's car breaks down and the family cannot afford to repair it. Then what do you say, you don't come to school?

SENATOR PALAIA: They would have to take the bus.

MR. WALKER: I think that kind of provision can be worked out. That's going to be isolated. When you have 200 drivers for example, you're going to have isolated situations. Right now, we're saving 200 seats on buses that are vacant.

SENATOR EWING: How many buses?

MR. WALKER: I have 27 buses. Out of a \$10 million budget, I spend nearly a million on transportation. So, if I could cut out two bus routes -- half that number -- two bus routes that should save me \$20,000 a year.

SENATOR EWING: Well, if you have some ideas of how we can still have the safety valve, let us know. Because, I mean, I say, that problem comes up as to what happens--

MR. WALKER: Sure, I think there has to be some mechanism for parents that would work with school districts to opt to sign that we don't have to assign them a seat, unless the vehicle breaks down. Because then you start off at the beginning of the school year with a more realistic picture of who really needs transportation.

Some kids, during the school year, will get their license and, of course, they will be moving out, too. Some kids will lose their license. But overall that's a problem that

we've discussed at the regional superintendent's level that we all know that we're paying money for portions of empty buses running up and down the roads, and when we're talking about cutting costs that's an area that I think if we fine-tune it, and I'll work with you and give you some recommendations.

SENATOR EWING: Yes, let us know if you've got a solution on how we can actually work, so in the emergencies a student can come to school.

MR. WALKER: Sure, I think there is a way.

SENATOR EWING: Good. Then add me.

MR. WALKER: We talked briefly, or other people gave testimony, about this Employee Reduction Program, ETRP, and it is Federal, but it has significant impacts on school districts and it will rob educational dollars.

The cost of compliance-- And you should know this. It is coming out of our State Department; it is not coming from the Federal government. What I got was about -- it's got to be at least a half a foot of material, so far, and a number of disks and, you know, what a disk can hold. I have to, as a superintendent, survey everybody and then I have to come up with a targeted number of reductions.

I'll give you an example: I talked to the Vernon superintendent. It's a larger district. They have 400 drivers driving, 400 drivers in the district driving individual cars. In two years, they will have to reduce that to 238, an impossibility, you don't need it.

SENATOR EWING: Those are students or teachers?

MR. WALKER: Teachers.

SENATOR PALAIA: Teachers.

MR. WALKER: Well, now there is this mandate of Employer Trip Reduction Program where you are going to have to-- It's ridiculous.

SENATOR EWING: No, we're going to be working on that and see.

MR. WALKER: Let me share with you, we got these lists of certified planners -- planners that I guess were unemployed before. They took a course from the State and now they are certified, so that they can look at our plan and charge us \$3000. Multiply that by the number of districts. Let's just say there's only 300 districts, half of the numbers that are affected, times that, times 3000. That's all that money being poured out of education into the planners. And the planners are telling us right off the bat, you'll never accomplish the goal, so you're going to get penalized.

Interesting enough -- I said I was from Sussex County. Sussex County is trees. It's a bedroom community with no industry, a few canoes going down the Delaware, a lot of recreation. Our ozone level is serious, serious enough to be included where Cape May County, Warren County, and Atlantic County, their ozone level is better than Sussex County. It doesn't fit, because we don't have a Parkway, we don't have any kind of major highway, a Route 80. We don't have an Atlantic City Expressway and we don't have the traffic.

SENATOR EWING: No, but you've got the winds blowing from the west to the east, from the industrial centers out there, and that has a big effect on it.

MR. WALKER: Okay. Sounds good. (laughter)

Warren County is right next to us, but you know, it's just one more thing that is going to sap education dollars.

Someone already mentioned the mandate of belonging to New Jersey School Boards. They've been a valuable tool in, obviously, for helping us on a number of issues. But it's a mandate. It is the only mandate that I know of where you have to belong. For a school of 1000 students, it costs us \$11,000, and it's a mandate. There is no mandate that requires us to belong to Ed. Service Commission -- permanently, forever.

SENATOR EWING: What about the audio visual?

MR. WALKER: No mandate. You can withdraw from, as far as I understand because I -- with a three-year notice, you

can withdraw. We withdrew from our County Ed. Service Commission about 10 years ago, because, again, they didn't state -- state--

SENATOR EWING: Is that the audio visual one that the lady was talking about earlier today?

MR. WALKER: Yes, audio visual, right. We were paying \$5000. Each county has their own. They also have these commissions, these service commissions. All right.

SENATOR EWING: Yes, all right.

MR. WALKER: And we gave our notice there to withdraw also. That kind of flies in the face of what the Commissioner is saying right now. The Commissioner is telling everybody, "Gee, there ought to be regional purchasing and regional busing."

Well, last year we had our busing, just our special ed., handled through the Regional Ed. Service Commission. This year we're handling it and we saved \$60,000. So we're going to have to be very careful if we legislate anything that requires boards to belong to Ed. Service Commissions, because if they're not really managed effectively, we can be losing more dollars and taking away my management.

SENATOR EWING: But we're not mandating anything.

MR. WALKER: Right. But it has been suggested that that's the wave of the future by the Commissioner.

My last point, and I was very happy to hear you talk about forming a committee on special education. N.J.S.A. 18A:46 legislation, especially in the area of special education, has left the public school very much vulnerable, since it was originally crafted to encourage litigations for the purpose of correcting abuse. It's old now. The abuses have been corrected, in my opinion, and today it serves more as a barrier for most school districts in providing appropriate education for kids, making decisions appropriate for educational programs.

If you look in 18A there is a section under this thing, under special ed. where they even have a committee that

its job is to promulgate more rules and regulations. We don't need it in special ed., by any means.

What you end up finding, and I'm sure the administrators throughout New Jersey would concur with my comment, that certain parents are abusive of the process, as well as attorneys, and that's where your child study team spent all the time. They tend to spend their time in mandated mediation conferences with the State, mandated ALO hearings, countless days and weeks filling out interrogatories, reviewing records, identifying expert witnesses, and giving depositions.

A parent can simply call the State and make a complaint, and you are into investigation and mediation, and we've had it happen every month for almost two years. What's the end product of that? The end product of it is that your students -- the majority of students -- are being denied the services they should be getting. When I look at special education the way it is working today, it is the ultimate in peer choice. If you're a parent of a special education child -- of a child -- parent of a child, you can change that program and cause things to happen almost on a daily basis.

We had a situation I have to share with you, with a parent that we've been in litigation over two years, and that parent this summer refused to come in and work with us on an IEP. So school comes, there's no program for the child, so she contacts the State, so we're into a hearing. I can give you a full page of what has happened since September between hearing, between Judge Weiss, it goes on and on.

The point of the story is there are many, many laws at the Federal level that safeguard the rights of special education children. The laws that I refer to, and I'll refer to only three or four: the 1975 Education for all handicapped children, EHA; the 1986 Handicapped Children Protection Act, ACPA; and due process clause of the 14th Amendment of the United States Constitution and civil rights law. They all protect the rights

of special education children or children that have classifications.

Our district, like many in New Jersey, has had an ongoing experience of not only being dragged through the State Department system, the State courts, but the Federal courts. The cost involved has been enormous. It's a story not told to the public. There's 25 pounds of cost in this, regarding only two students, both siblings. The cost of this box right here is well in excess of a half a million dollars. (displaying box) I'm not talking about putting them in schools. I'm talking about straight out litigation cost, more than a half a million dollars.

SENATOR EWING: Probably 80 percent went to the lawyers.

MR. WALKER: Absolutely, all of it did. All of this is legal cost, I'm saying. Then, after placement comes the burden of the community to pick it up for the next six, seven, eight years. You cannot tell the public this, you cannot go out to the public and--

SENATOR EWING: We've got -- we're forming a group to look into special education. There is no question--

MR. WALKER: I'd love to serve on that committee. Having had that experience of being in Federal Court three times, and it's still ongoing.

So your challenge is really great, but I admire the work you've done, John, and your leadership here and I've been here before. I'm sure that the task that you're about to undertake, with the Governor's support, you'll accomplish it and make a difference and I thank you.

SENATOR EWING: Thank you very much.

MR. WALKER: Thank you.

SENATOR EWING: Gene Keyek.

SENATOR PALAIA: This will be brief. It will be brief. Come on, Gene.

SENATOR EWING: Dinner will be served in about four hours. (laughter)

SENATOR PALAIA: I'm buying lunch, Gene, if you're brief. (laughter)

**EUGENE J. KEYEK, Ed.D.:** Oh, okay. Half a page, let me start.

Obviously, you have already been made aware that the various associations have been working on a mandate issue for a number of months. I know that Judy Peoples will address where we are at the current time. I want to keep my comments, as the Senator has asked, brief, just so that you understand where the association is coming from.

First of all, we don't view all mandates as being bad. You see, there are certain times when mandates are essential, some are necessary. In our experiences, we find that not all boards necessarily act in the best interest of children at certain times. So therefore, if it wasn't mandated, there are certain times when things would not get done for children.

But mandates can and should be controlled, that, I think, is our initial point. People need to understand that a school budget cannot be cut in the same manner that a State budget can be cut. There are issues that need to be addressed that meet the needs of children. It is not as easy to cut a school budget as it is any other budget that is there.

Regulations sometimes don't reflect the intent of legislation. Senator Palaia and I addressed this with the Medical Waste Act. I don't think it was a Senator's intention that schools be included, but through the auspices of DEP, for whatever reasons, schools got included into the medical waste fiasco. I think that's the only way that we could address that.

Again, New Jersey tends to be far more restrictive in the implementation of Federal regulations and Federal laws than most states. Prime example, we've just finished a meeting over in Pennsylvania with the Clean Air Act and the Employee Reduction Program. Pennsylvania has a 1000 employee limit for

the first phase, then they drop down to a 100 employee. We called the New Jersey DEP to find out why New Jersey requires 100 in the first phase, because no one is going to read all of those, when you take 100 employees in every school district submitting that report. That was the option of DEP and that is the direction they opted to go.

So, you know, there is some flexibility in the Federal regulation. However, New Jersey chose to follow the most restrictive interpretation.

SENATOR EWING: Have you checked with the DEP recently?

MR. KEYEK: Yes, we talked to--

SENATOR EWING: I mean, are they thinking of changing them.

MR. KEYEK: No, sir. We talked to Nicole Cardinale and we were told -- Ed Neglis, our director -- was told by Nicole that's what's required. The only thing they did do was to give the schools a three-month dispensation in the survey, because the schools weren't in session at that time.

So those are the kinds of things that we're dealing with when we look at mandates. Now, I do have some suggestions for the Committee to consider and these came from the committee, our association committee.

First of all, there should be a sunset provision for all mandates included in the legislation. We recognize there are times when legislation is necessary, but it should not be an ongoing piece of legislation. It should be, in some manner, sunset, so that it can be reviewed at a future date. We should look at legislation currently to sunset all current mandates. At least that puts in some mechanism for all of the current mandates to be evaluated and reviewed. I think that's an essential ingredient.

SENATOR EWING: Well, Gene, they're being reviewed now by the Department.

MR. KEYEK: Right, okay. But I think it still requires some teeth to it that it says that even the current mandates need to be reviewed by a certain schedule, so that as is you identify them, as we provide you with that report, there are certain mandates that should be reviewed now. Some can wait. Obviously, the one on Commodore Barry doesn't even need to wait. That could be eliminated quickly.

Another suggestion, that all sponsoring legislators will sign off on regulations when implemented. So that, Senator Palaia, if you sponsor a bill, you get the regulation from the organization or from the Department that is required to implement. The regulation cannot be implemented until you as a sponsor sign off on the reg. What that does is to ensure that the intent of your legislation is incorporated into the regulation, because there are too many times when we sit here, we see and listen to the discussion on the legislation, and then, when we get the regulation to implement, there is no comparison between the two. So I think it's incumbent upon the agency to come back to the legislator and say to you, "Is this what you meant when you wanted this piece of legislation?" I think that is a crucial item.

Encourage Congress just through any one of the resolutions to establish some of the procedures or the same procedures for Federal programs. I know that you cannot change Federal legislation, but I think that as a body from the State of New Jersey that you have enough clout to be able to say to Congress, we need to begin to look at what we're mandating from the Federal level. We need to be able to say that these are the provision that should be done. I think those same kinds of things can be.

There should be a waiver process in every regulation for extenuating circumstance. No piece of legislation mandating a particular activity should come out without some provision for waiver. It just cannot be absolute, there are too many circumstances.

Then finally, strengthen the sunset review process. Don't allow the bureaucrats to do the sunset review. Because essentially what you're saying is, if you review this, you're going to put yourself out of a job.

So we need to look at cost analysis of the program over the life of the program. What did this cost us? Was there a cost benefit to this? We need to have inclusion of indirect benefits. We need to have a survey of issues completed by those impacted by the mandate. The agency has to go back out to the people who are impacted and ask, "Did the mandate meet its purpose?" We need a rationale for the continuation of the mandate and not just because someone is going to lose a job.

Finally, there has to be a legislative oversight process for the continuation of any mandate.

SENATOR EWING: Don't you feel it is also part of your organization's responsibility, after us -- to changing mandates?

MR. KEYEK: Oh, we do, Senator. We do. We have been working on that in--

SENATOR EWING: Well, fine. It's an ongoing process we can go through.

MR. KEYEK: It is an ongoing process, and that's probably one of the roles and the most important roles, I think, the associations play in terms of making you aware of our concerns about what does go on.

My final comment: Please proceed with caution, because this is an opportunity that comes very seldom, where we can sit and look at all mandates, and I would not want to see us rush headlong into doing something which could create problems further on down the line. I think that the type of hearing that you're holding, the input from a variety of people, is an essential ingredient. I'm glad to hear that you said, when the legislation is being considered or developed, that we will also have an opportunity for further input.

Thank you very much.

SENATOR EWING: Thank you.

Marianne, do you-- No, I think she's due over-- Aren't you due over at the sexual harassment in education, or something?

MS. RHODES: I made it through that, Senator. Fifteen years--

SENATOR EWING: But isn't that-- Aren't they having a hearing on that today?

MS. RHODES: I'm not involved in that. I don't know. I know we're -- the State Board of Education is having a hearing today on the State safe schools initiative at three o'clock -- the violence issues.

SENATOR EWING: No, this is at noontime over at room 319, I thought.

MS. RHODES: Senator Ewing, on behalf of Commissioner Klagholz and the Department, we appreciate the opportunity to share with the Committee the activities of the State with regard to addressing the issue of unnecessary and burdensome regulations. I want you to know that I took copious notes.

Commissioner Klagholz applauds your efforts, and he looks forward to working with you on this. I think the information that you're gathering here, as I sat and listened to the testimony, is very, very informative, and I am certain that sharing of information will be key to our concerted effort in making progress on this issue.

I think, I shared with you, also, the fact that several reporters have asked, "Is this going to result in any reduction in mandates this time?" I think we can all say definitely, yes, with the concerted effort, with the Governor, with Executive Order 22, which required the Department to review all of the regulations and report to the State Board of Education, by December 31, 1995, recommendations for revision change and elimination. With that concerted effort and the work of the Legislature and the State Board, I think that we definitely will see a tremendous amount of progress, and we look forward to working with you on this.

As you know, the State Board did adopt a resolution and that resolution directed -- acknowledged the Commissioners review of the -- comprehensive review of the regulations, and they also intend to use the Code Review Report -- Task Force Report -- chaired by Harry Galinsky, as the basis for the initial review. So they acknowledge the work of the Code Review Committee, which was really established by the State Board over a year and a half ago, I believe.

The State Board also is going to be having hearings, and they're going to invite public testimony at their regularly scheduled public sessions that they have monthly. So, during the month of October, November and December, they will be inviting public testimony on the issue of the regulatory reform process and any mandates that the public believes should be eliminated or revised.

So we look forward to working with you. As I indicated, I will share with Commissioner Klagholz the information that you have gathered today, and we look forward to getting the transcript and applaud you in your comprehensive efforts.

Thank you.

SENATOR PALAIA: Thank you, Marianne.

SENATOR EWING: Thank you.

Judith Peoples.

SENATOR PALAIA: We know her.

SENATOR EWING: We've seen her before.

**J U D I T H   B .   P E O P L E S :** Judith Peoples, New Jersey School Boards Association. Senator Ewing and members of the Committee, we thank you for your attention to this expansive issue and for this opportunity to hear, on a firsthand basis, testimony from people who have to deal with local mandates.

As you know, mandates are being addressed on many levels. In addition to the survey which you've distributed and this hearing, the Governor and the State Board of Education have requested the Commissioner of Education to review New Jersey

Administrative Code applicable to education with an eye to removing unnecessary mandates.

The New Jersey School Boards Association, the New Jersey Association of School Business Officials, the Principals and Supervisors Association, the Association of School Administrators are developing a comprehensive list of State and Federal statutes, code, and regulations which impact our local school districts. The first phase should be completed by the end of the month. The New Jersey School Boards Association looks forward to working with you as solutions are proposed to address mandates which do not contribute in a meaningful way to the education of the children in New Jersey. We think that the comprehensive list, which we are compiling, which is far more comprehensive than anything that anyone has ever undertaken and certainly more comprehensive than a review of New Jersey Code on schools will be valuable information that I know the Senator will appreciate.

SENATOR PALAIA: Thanks, Judith.

MS. PEOPLES: Okay.

SENATOR EWING: Thank you.

Murray Blueglass.

MS. LANG: He's not here.

SENATOR EWING: Not here.

Okay. Tom Jannarone.

SENATOR PALAIA: He's not here. (laughter)

Oh, there you are, Tom.

SENATOR EWING: Just because you're so short you cannot see--

SENATOR PALAIA: Yes, I couldn't see him, I couldn't see him.

**T H O M A S J A N N A R O N E:** Stand up, John.

SENATOR EWING: He couldn't see you over there, he's so short.

MR. JANNARONE: Have the two of you compared heights?

SENATOR PALAIA: I mean, Mr. Paul Bunyan over here.

SENATOR EWING: At least I got my cushion today.

MR. JANNARONE: I'll be brief, Senator. I didn't really come here this morning with the idea of testifying since I've been working with Harry Galinsky on that committee and working with Judy Peoples and Gene on this comprehensive review of the statutes and the mandates.

But in listening to the points that people pointed out this morning, I just thought maybe I'd add four things -- mention four things that haven't been mentioned this morning.

Perhaps, I've mentioned these before to you, and I know, Joe, that I have mentioned a couple of these to you and corresponded with you about it.

SENATOR PALAIA: We've talked about it.

MR. JANNARONE: One is state school facilities money, and that's the money-- That's a statute, and I think it was originally enacted -- I don't remember the citation -- but it was originally enacted by Governor Byrne, and what happens with that is that state school aid to local school districts -- part of that money is siphoned right off the top and goes to the Department of Corrections and other State facilities to pay for the educational cost of pupils from that district that are in a State facility.

Now the problem-- There are two problems with that, and it really needs to be looked at. One is, there is no auditing or control of those costs that I'm aware of. So, whatever the agency is, let's say it's the Department of Corrections and they come up with a cost of -- their cost they say for educating a pupil -- and it may be \$10,000 or \$11,000 -- that gets passed right on to the school district, and this primarily affects urban districts the most in the State. That's why I'm mentioning it.

In Asbury Park, for example, when I was Superintendent there, I think the last several years it was \$458,000 alone. It was taken right off the top of State aid that went to various facilities, for kids in facilities.

Now, in the last couple of years a question has come up where the money-- We learned that the money that was earmarked for educating those pupils in State facilities was siphoned off, I guess, through a budget amendment which was approved by the Office of Management and Budget. They took the money that was originally state school aid and used it to plug other holes in their budgets.

SENATOR EWING: I just put a bill in yesterday, I guess it was whenever we were here last.

MS. LANG: Monday.

SENATOR EWING: Monday. To stop that.

MR. JANNARONE: Great.

SENATOR EWING: Because I'm working on prison education with Ike Ballard, and I have somebody on my staff on a temporary basis. We're visiting all the prisons just on the education part of it and sitting down with their supervisors and people like that. This is one of the things that came up. So there is a bill in to stop that, that the money can only be spent and not be transferred.

MR. JANNARONE: That would be great.

SENATOR EWING: As one way and also--

MR. JANNARONE: Can you add to that that we get the \$10 million back that they used over--

SENATOR EWING: Also the fact, I've gone to the AG, who is researching it now -- about a young person who is in the county jail waiting to be sentenced on a State thing, not just a county problem, and they're not being educated either.

MR. JANNARONE: Right.

SENATOR EWING: So we're looking at that to get the ruling from them as to what money can be spent on those.

MR. JANNARONE: I'm glad to hear that, Senator.

The second area that I wanted to mention to you is the whole State Health Benefits Program and their -- and that's -- the benefits are a big cost.

The way the State health benefits works is that if you have somebody who is employed 20 hours a week or more, then they must be enrolled in the State Health Benefits Program. There is no flexibility within the program, so in many districts there are multiple family members that are enrolled within the State Health Benefits Program because there is no flexibility. You cannot deal with that either through negotiations or through offering of a cafeteria plan or any kind of an approach other than complying strictly with what health benefits does.

To use my own district, for example, in Asbury Park both my wife and I are employed in the district. The board was paying double premium for us, which they really didn't need to do if State Health Benefits was more flexible, but there is no alternative. And the coordination of benefits really doesn't amount to anywhere near what the premium is for the two employees.

That's just one example, and there are hundreds of examples across the State. So the whole area of State health benefits, while it isn't in 18A or it isn't in the Administrative Code, really needs to be looked at. I guess there would be significant savings to not just Boards of Education, but to public employers across the State.

The third issue I wanted to mention to you is that of monitoring and, again, speaking for the urban schools and the special needs districts, there's a separate system of monitoring for the special needs district, which should be combined. And in conjunction for the whole monitoring system there are special needs districts that are fully certified. They meet all the State requirements, yet they're still -- because they're poor it's mandated that they do educational improvements plans, that they have school-based planning teams and a whole system of monitoring and regulations that don't exist for other school districts, and for -- in terms of cost and elemental fairness, you know, there shouldn't be a duplicate tracking system.

The last area is one, Joe, which I -- you probably just received a letter from me in the last day or so, which is on Medicaid. We had a meeting with Commissioner Waldman and Commissioner Klagholz on Monday about this. The bottom line is that I guess the Governor and the State Treasurer said, okay, we're going to take 90 percent of the Federal reimbursement under Medicaid for services that the school districts are providing -- we'll take 90 percent at reimbursement and give the school districts 10. Now, there has been a revision since I wrote that letter to you, where it's 85/15.

The way it works it is that there are students who are Medicaid eligible that are receiving special education services that are eligible for reimbursement from the Federal government whether it's a psychiatric service or speech therapy, or physical therapy or occupational therapy. Many states around the country are developing plans and agreements with Medicaid so that they would get a Medicaid reimbursement.

Now, where it has worked successfully around the country -- the split between the State Treasury and the local district has been either 100 percent to the local district, who is the service provider, or a 90/10 split where 90 percent goes to the local district and 10 percent goes to the State.

In two states that I can think of, where they have approached it the way New Jersey is, they have failed miserably. Iowa, for example, they appropriated \$10 million in the State Treasury on, I think it was a 90/10 split, with 10 percent going to local districts, and they actually -- because there is no incentive for the local district to assume the additional burden of doing the tracking, the record keeping that is necessary -- they actually took in, I think, about \$500,000 where they anticipated \$10 million, or there was a potential there for much more than \$10 million.

Now in New Jersey there's a potential, I think, for about \$106 million, and my concern is that the mandate -- the way we were approaching in New Jersey, again, by mandating that

there would be a parental consent form signed by every special education parent, that the local school districts now are going to have to go out and get that consent form signed off by the parent. That's going to be a problem. That's a mandate that's imposed in New Jersey only, is my understanding of it.

Secondly, by giving the local school district then 15 percent of the reimbursement, my concern is that it is not going to work. Now, there are other problems involved with it, but we're working -- I think we can work those out between the agencies, such as getting a manual together, getting, you know, the forms together, so there will be less -- as minimally burdensome as possible. Those are mechanical things that I think can be worked out. But there is going to be less of an initiative to work it out on a 90 or an 85/15 split.

SENATOR EWING: Who gets the 85?

MR. JANNARONE: The State budget, as my understanding is that \$45 million of the State budget for Human Services is anticipated revenue to come from Medicaid reimbursement.

SENATOR EWING: But wait a minute, the Medicaid reimbursement is for a child that needs special ed.

MR. JANNARONE: Yes.

SENATOR EWING: So how-- The State's not giving him the special ed. are they?

MR. JANNARONE: That's right.

SENATOR EWING: Well, then why would the--

MR. JANNARONE: Well, the argument that-- You're asking me to defend the State for something that they did that I don't agree with. But I think the argument is that well, they provide special education aid, they provide categorical aid to districts. Therefore, then, they should get part of it. I agree with that part of it.

SENATOR EWING: Oh, I see. So that it's going -- it's going there in through-- Okay.

MR. JANNARONE: But they're not providing anywhere near close to 85 percent of the funding to cover special

education services, particularly since we had the categorical aid frozen at '92, '93 level. So while I understand the rationale and conceptually I may agree with that, but it's certainly not elementally fair to do it based on a 85.

SENATOR EWING: But what is the break down, do you think?

MR. JANNARONE: Well, I looked at it a couple of years ago in Asbury Park, so this is just my estimate. It was less than 50 percent. We were spending twice the amount of money on special education services that we were receiving from the State in State aid.

My guess is since that was in '92/'93 that I looked at that -- actually it was '91/'92 I looked at that -- and I'm sure it's substantially less than that today. So I think, in order to do it on that conceptual kind of an arrangement, somebody should look at what the costs are. I think that can be done relatively simply. But now each month that goes by they lose the opportunity to apply for the Federal reimbursement, so now they're working-- The Department of Human Services and the Department of Ed are working to get the forms together and the manuals and all of that, but they don't have them, they're still in a formative stage. But the big issue is the amount of the reimbursement, the split on the reimbursement.

So anyway, those were the four things that were different than what you've heard already. The things that you've heard already, I agree. I don't think I heard anything that I disagreed with. So good luck to you.

SENATOR PALAIA: Thank you, Tommy.

SENATOR EWING: Thank you.

Anybody else wish to be heard? Yes?

Did she sign a slip?

MR. CANNON: No.

Sharon Larmore from Trenton, I believe.

**S H A R O N D. L A R M O R E, E S Q .:** Thank you, Senator Ewing. My name is Sharon Larmore, and I'm the Assistant Legal

Counsel for the Trenton Public Schools. Doctor Bernice Venable is our Superintendent, and she directed me to come here this afternoon to first indicate to you that we recently received a copy of your survey. We will complete it and return it.

SENATOR EWING: Recently?

MS. LARMORE: Yes, we just recently received it. So we will return the information to you.

Just briefly, she wanted me to mention that our district has experienced an increase in student enrollment this year. I think we are up approximately 600 students, and she is concerned about costs and increased funding for that. But as I said, we will get you the specific information and see that you have the information you need.

SENATOR EWING: Thank you very much.

SENATOR PALAIA: Thank you.

SENATOR EWING: Give my best to Bernice.

MS. LARMORE: Yes, I will.

**(HEARING CONCLUDED)**