
Public Hearing

before

SENATE EDUCATION COMMITTEE

“School Election Reform”

LOCATION: Committee Room 11
State House Annex
Trenton, New Jersey

DATE: March 8, 1996
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator John H. Ewing, Chairman
Senator John A. Lynch
Senator Gordon A. MacInnes



ALSO PRESENT:

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

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SENATOR JOHN H. EWING (Chairman): Good morning, ladies and gentlemen. I want to apologize for the delay.

The first individual this morning will be Rich DiPatri, Deputy Commissioner, New Jersey Department of Education.

DEPUTY COMM. RICHARD A. DiPATRI: Good morning, Senator Ewing, Senator MacInnes. I am Rich DiPatri, Deputy Commissioner, Department of Education. With me is Mike Azarra, Director of our Office of Finance. Also at the table are Donna Kelly and Nancy Kaplen, from the Attorney General's Office. Commissioner Klagholz wanted to be here today, but due to a prior commitment he was unable to do so. Of course, I am pleased to come before the Committee to offer the Commissioner's strong support for the reform of the State's school election process.

On behalf of the Commissioner, I would like to thank the Committee for holding this hearing on an issue of great importance to the people of New Jersey. As we work toward the creation of a new system of school finance, the reform of both the election of school board members and the school budget election process are two important changes that should take place.

As you know, the Department has presented its "Comprehensive Plan for Educational Improvement and Financing." In that Plan, it is proposed that the election of school board members be moved from April to November, while the vote on school district budgets would remain in April.

The rationale for our recommendation is simply that the current system does not serve the public interest very well. As you know, on the third Tuesday of April, the voters go to the polls to elect their local school boards

and to make a decision on their local budget. The problem is that on a year in, year out basis, very few people vote in these very important elections. In fact, in a good year, perhaps 15 percent of the registered voters will come out and cast their ballots.

Holding school board elections in April, separate and apart from the election of every other public official in the State, almost guarantees minimum public participation.

When only 15 percent of the registered voters turn out, versus more than 50 percent for most elections in November, the process, almost by definition, is highly political. Under the current scenario, it is possible for a particular interest to control elections by working to get a 6 percent or 7 percent turnout on one side.

There may be concerns by opponents of this proposal that moving elections to November will make the process too political. We believe that when the pros and cons are weighed, it is far more important to open up the process to much greater voter participation in November than to be concerned about allowing an already political process to remain political.

In the American system, surveying the will of the majority of the people is the way that we protect against fundamental abuses. The current system of school board elections has seldom produced an indication of the will of a majority of the citizens of a particular community. We should not have a system, as it now exists with school board elections, in which decisions affecting all citizens are made by only a few.

The Department of Education is also recommending a revision in the school budget election process. If we could, we would recommend moving

budget elections to the fall as well. However, given the fact that school districts need to know what their budgets will be well in advance of the coming school year, moving those elections is simply not practical.

In our Plan, we are proposing a process by which the Legislature, with the approval of the Governor, would define a thorough and efficient education based upon core curriculum standards. The definition would be reviewed and adjusted every two years.

Once the definition of thorough and efficient is set, along with a range of spending within the definition, then it would be funded at the same guaranteed level for every school district in the State. If a district chose to spend within that range, the budget would not have to go before the voters for approval.

We believe this change is necessary because the current way of defining T&E is convoluted and unfair to the voters and school districts alike. Under this process, T&E is undefined by the State when the school board proposes its budget. The voters vote on the entire proposal, including those things that are constitutionally guaranteed. If the voters reject the budget and the district appeals reductions, then T&E is defined by the Commissioner for purposes of reviewing that particular budget. Since the Commissioner's definition of T&E is unclear, inconsistent, and unstated, the voters have traditionally been overruled in 90 percent of the cases.

The question is not whether T&E can be defined or whether it can be distinguished from non-T&E. Constitutionally, that has to be done and it is being done now in budget appeals. The questions are whether it should be done after the fact on a case-by-case basis, or whether, in fairness to everyone,

it should be done up front, in full public view, and applied consistently to everyone.

The Department is also proposing that districts spending within the prescribed T&E range, but over the State mandated cap, may present a question to voters allowing them to exceed that cap. If that budget question is defeated, the school district would be permitted to appeal to the Commissioner, since the expenditure may be necessary for a thorough and efficient education.

School districts would also be permitted to spend above the T&E range, but that additional spending would have to be placed before the voters. If the voters rejected the additional spending, the school district would be permitted to appeal to their municipal governing body, but there would be no appeal to the Commissioner.

Changing the school board election procedures may have its opponents and you will probably hear from some of them this morning. We believe that our proposal is far better than the current system of a small number of voters making important decisions affecting thousands of citizens. It is simply time to adopt a process that encourages the most public participation.

Thank you for your patience. I will be glad to answer any questions.

SENATOR EWING: Have you any thoughts as far as the budget election as to where they would be held? I mean, would there have to be one in each voting district or polling place?

DEPUTY COMMISSIONER DiPATRI: Well, if you are referring to the recent amendment to the school election law, I think our position has been clear that it be the most practical and reasonable. Having it in all polling places isn't necessary. In fact, we said it should be consolidated, as has been done in the past. That is what we notified districts, too, and I believe that is happening now.

SENATOR EWING: How many places do they have them now, or are they going to have them, do you know?

DEPUTY COMMISSIONER DiPATRI: Well, I think it is individual in each location.

D O N N A K E L L Y: It goes to the most recent law, Senator, that was signed by the Governor, I believe, on February 29, making it clear that it is optional for the county boards of election to determine whether they will consolidate election districts for polling place designation.

I believe the majority of the--

SENATOR EWING: Push the red button, please. (brief discussion about microphones)

MS. KELLY: The majority of the counties in this State are going to consolidate for purposes of the April 16 elections for this year.

SENATOR EWING: Well, is there any minimum number? Could Newark just have one polling place in the budget?

MS. KELLY: No, I don't think they could. The law that is now in effect mandates that at a minimum, it is a 500-voter turnout minimum, so you can only consolidate election districts for polling place designations if it is no more than a 500-vote turnout. The way the law reads, that figure has to be

determined from the past two annual school elections. So there is some protection in the statute, in other words, and you don't have all these people going into one polling place and making it absolutely chaotic.

Certainly, for a city like Newark, assuming that they would still have school elections, or the city of, say, Paterson, with the number of registered voters you have in that city, you couldn't have one polling place, one voting machine. That wouldn't work out. So it is based on voter turnout. That will dictate the number of polling places and, you know, the number of voting machines and the number of board workers you need to process the voters.

SENATOR EWING: Okay.

Rich, about moving the budget elections to the fall as well, is more thought being given to that by the Department to see what we could do with everything else -- to see whether it could ever be done in the fall, or is it impossible?

DEPUTY COMMISSIONER DiPATRI: Well, we did discuss that. Anything is possible, as you know, but we don't think it is prudent or practical to do that, Senator. We did look at it. Mike and I had discussions after a few meetings about it last week. The difficulty is, because the school year is July 1 to June 30, it is either too far into the current school year, or too far in advance of the next one. So the proposal that we have suggested is to have, of course, the board member elections in November and the school budgets in the spring.

Our hope is, and our belief is that if, in fact, we do as the Supreme Court suggests, which is to bring it closer to equity, that the need for elections in the spring will be at a minimum.

SENATOR EWING: What do other states do? Do you have any idea? Does anybody have a better system?

DEPUTY COMMISSIONER DiPATRI: I don't know about that, but I believe there are about five or six states, all in the Northeast, I might add, that have votes -- a full vote on the public education budget. I believe they are: Vermont, New York--

SENATOR EWING: Do you mean on the November ballot?

DEPUTY COMMISSIONER DiPATRI: No, no, the vote on budgets. I thought that was your question. I'm sorry.

SENATOR EWING: Yes, but when do they vote on it?

DEPUTY COMMISSIONER DiPATRI: Oh, the time of the year?

SENATOR EWING: Yes.

DEPUTY COMMISSIONER DiPATRI: I believe it is in the spring, Mike, isn't it? (no response) Senator, I will check that out. I am not sure.

I don't know, Senator. I suspect it is in the spring as well, but I don't know for sure.

SENATOR EWING: On this point, you say the Department is also proposing that district spending within the prescribed T&E range over the State-mandated cap may present a question to voters allowing them to see the cap. Then you are going back to the old system again with the Commissioner deciding.

DEPUTY COMMISSIONER DiPATRI: Well, that would be the only case in which a district could appeal to the Commissioner, because if you don't-- Our belief, Senator, is that if you don't allow that possibility for growth within the range, then everyone is fixed at the point they are whenever the law would become effective. So they could never move comparatively, and yet might have a great need to do so, whether it is a need for a program that in that community is necessary and necessary for T&E. T&E is obviously not the same everywhere, and that is one of the reasons why we introduced a two-year process, rather than say, "This is fixed, and fixed for all time." So that if statewide the definition changes, we ought to make that clear for everyone.

In the same way, if a local community determines that it has a need to increase above the cap and has other local problems as to why that cap is exceeding -- and in 600 locations that can be any number of reasons -- we think it makes good sense to allow that flexibility. If the voters, however, have not been convinced, then the school district ought to have the ability to come to the Commissioner in that circumstance only and say, "This is absolutely essential," and make the case for them.

SENATOR EWING: Senator MacInnes?

SENATOR MacINNES: Thank you, Mr. Chairman.

Did the Department, in making the recommendation of moving the spring elections to November, take a look at the turnouts in the nonpartisan municipal elections that also occur in the spring? I don't know the answer to this question. I don't know what the pattern there is. I was just wondering if you looked at that at all.

DEPUTY COMMISSIONER DiPATRI: Senator, are you asking did we look at it, or did we look at the participation rates?

SENATOR MacINNES: Right. Did you just look and see if participation rates were noticeably higher in municipal nonpartisan elections which take place in the--

DEPUTY COMMISSIONER DiPATRI: I don't think we did, Senator. I know we talked about the possibility, and we thought that it was too late into the year to have an election and, in fact, chose not to go that route, but rather do it in November, when we think there is a greater participation rate and, I believe, a common election in every year -- there is an election in November.

SENATOR MacINNES: Right, that's true, in New Jersey anyway. I don't think it is true in any other states.

I was interested in your answer which suggested that the spring elections for budget approvals would be required in only a very few districts in all probability, given the T&E model that the Department is recommending.

The model that has been described by the Commissioner is illustrative according to Dr. Reock, and would put the budgets of three-quarters of the school districts in this State above the model, which suggests, assuming that most of those districts think that what they are doing is important educationally, that three-quarters of the districts today would be above the T&E model and, therefore, would have to hold an April election.

Now, if you have a small turnout with a school board being elected and a budget being approved, what is the Department's expectation of turnout when the issue is just the budget in April? Do you accept my view that, in fact,

most school districts in New Jersey would probably be having April elections if the T&E model advanced by the Department were adopted?

DEPUTY COMMISSIONER DiPATRI: To the first point, in terms of Ernie Reock and the 75 percent, I think it is highly speculative, and I would disagree with it unquestionably, only because I don't believe -- and I have told Ernie this when meeting with some municipal officials-- He did not consider a range in that factor. We talked repeatedly about a range, although it has not been set. So, whatever figure we chose for 1993-1994, there would be some range -- 2 percent, 4 percent, 6 percent, 8 percent, whatever it might be, and there has been discussion suggested to us that that range ought to be wide early on while we begin to try to rein in these wide extremes in spending. But let's assume it was 5 percent or 6 percent. Immediately, that would make those numbers suspect.

So our indications, whether you build in a 4 percent range, or a 6 percent, or an 8 percent, would surely not be in the 75 percent number.

SENATOR MacINNES: What does your 4 percent, 6 percent range refer to?

DEPUTY COMMISSIONER DiPATRI: Well, once the amount is set, Senator -- let's assume for argument's sake it is \$7000 -- then there has to be a range set by the Legislature in terms of what to deal with regional differences, differences in salary guides, where people are placed. So the range might be plus-- Let's take 5 percent, for example. So 5 percent above, 5 percent below, that would be the T&E amount. Okay?

Now, when Ernie Reock--

SENATOR MacINNES: So you could go up to \$7350 and \$6650.

DEPUTY COMMISSIONER DiPATRI: Right.

SENATOR MacINNES: If it were a 5 percent range that would be required. You're saying that if Dr. Reock had known that and had included that information, it wouldn't be three-quarters of the districts that would be above the model.

DEPUTY COMMISSIONER DiPATRI: That's right.

SENATOR MacINNES: Do you know what percentage it would be?

DEPUTY COMMISSIONER DiPATRI: No, we haven't even proposed--

SENATOR MacINNES: I mean, do you think it would be-- Would it be 4 percent, or do you think it would be 60 percent, given his numbers -- or 50 percent?

DEPUTY COMMISSIONER DiPATRI: I think it is a question that one has to make a judgment about. Particularly, it is an issue, I think, of high importance to the Supreme Court, because if you have a range of 20 percent, we are not talking about equity any longer, and parity. The wider the range, the greater the disparity.

SENATOR MacINNES: That seems to be unimportant in the Department's model, because the Department, in its model, already allows districts to go well beyond whatever the average is by local option. So that question--

You know, it was the testimony of the Education Law Center that the Plan is, therefore, flagrantly unconstitutional, in their view, because of that. Right? I mean, that's-- So if the range goes 20 percent, but you can still go

above whatever the T&E model is by local option, as far as the Court is concerned, according to my reading of it -- and I am not a lawyer -- it looks to me like it wouldn't be just the range that would get you in trouble, it would be the local option.

DEPUTY COMMISSIONER DiPATRI: Well, I think that is speculative, of course, as to what the Court might do. What I am suggesting is that there is a big difference, Senator, between being in the range, whatever it is set at--

SENATOR MacINNES: Right.

DEPUTY COMMISSIONER DiPATRI: --let's say it is 5 percent -- to be spending in that range, therefore it is T&E, therefore it is not subject to a vote--

SENATOR MacINNES: Right.

DEPUTY COMMISSIONER DiPATRI: --therefore it is guaranteed for every youngster, as opposed to it being above that.

SENATOR MacINNES: I understand.

DEPUTY COMMISSIONER DiPATRI: There is a big difference between those two. Therefore, to suggest that 75 percent are above that number, I think, is flat out wrong, and whatever it is-- There has to be a range. Everybody agrees.

SENATOR MacINNES: What number do you like for the percentage of school districts that would most likely be above the range if the Department's model were accepted today with a 5 percent range?

DEPUTY COMMISSIONER DiPATRI: What number do I like?

SENATOR MacINNES: Well, you are telling me not to rely on Dr. Reock, that he is flatly wrong -- I think is what you just said.

DEPUTY COMMISSIONER DIPATRI: That's right.

SENATOR MacINNES: So, in order for you to reach that judgment, you must be able to tell me approximately what percentage of district budgets are presently above the model that the Department has prescribed.

DEPUTY COMMISSIONER DiPATRI: I would say that I would talk in terms of overall dollars, you might be looking at 7 percent, 8 percent, 9 percent, in that range, statewide, total dollars that might be over that range. That is assuming a range of about 8 percent or 10 percent, somewhere in there. The range being 8 percent or 10 percent, therefore the excess of spending you are referring to would be somewhere in that same range -- 7 percent to 10 percent.

SENATOR MacINNES: So if you move the range from 5 percent to 10 percent, and you take all the dollars spent by all the districts, and divide it by all the kids in the State, you come up with a number on a per kid basis. You would think that when you apply that to each district, in only 7 percent, 8 percent, or 10 percent of the districts, you would be above--

DEPUTY COMMISSIONER DiPATRI: No, let me clarify that. I said 7 percent to 10 percent of the amount would be over that, total statewide spending. The number of districts I didn't answer. I would guess -- Mike, help me if I am way off -- I might say somewhere between 25 percent and 40 percent of the districts.

SENATOR MacINNES: So then--

DEPUTY COMMISSIONER DiPATRI: In the first year.

SENATOR MacINNES: Okay. Assuming that those districts are of a mind to try and keep above the model, that range would narrow in subsequent years -- right? -- I mean, as we work the system, and presumably, therefore, maybe the number of districts that would want to exceed the model would increase. Right?

DEPUTY COMMISSIONER DiPATRI: No. Our assumptions are different. It would be the reverse actually, Senator. That is, we think that if you establish the range and gradually decrease the range, there is a powerful incentive for districts to get within the box, as I refer to it--

SENATOR MacINNES: To avoid the election.

DEPUTY COMMISSIONER DiPATRI: --to avoid the election and to have what is defined as thorough and efficient education. We think that is the right incentive. That is our take on it. Whether it is right, you know, time will tell.

SENATOR MacINNES: Now, would you see the Department, by regulation, or the Legislature, by statute, setting the T&E range every two years? How would that work?

DEPUTY COMMISSIONER DiPATRI: That is correct. I would say that--

SENATOR MacINNES: No, I posed an alternative, so I don't know which way-- Which is correct?

DEPUTY COMMISSIONER DiPATRI: I thought you said the Legislature doing it.

SENATOR MacINNES: You would think the Legislature, every two years, would review the business and, on the recommendation of the Governor and the Commissioner, would say, "Well, we need to revise this upward in terms of the financial model." Is that what your view is?

DEPUTY COMMISSIONER DiPATRI: That is correct.

SENATOR MacINNES: Okay. Now, as you develop the model-- There has been a lot of controversy about this, and it might be a good opportunity to try and clarify it, because there is a lot you are throwing at us in terms of the Comprehensive Plan and the core curriculum, never mind the Court decision as the overlay for it.

SENATOR EWING: Is this on the elections?

SENATOR MacINNES: This is on the elections, right, because we are getting to the question of the number of districts that would be subject to the election. We are getting to the question of how the standard is set, thereby determining--

Do you want to narrow the discussion?

SENATOR EWING: Yes, more on the election dates and everything.

SENATOR MacINNES: I assume we are going to have a later opportunity to get to these questions?

SENATOR EWING: I think at some other hearing maybe.

Proceed, go on. Keep on.

SENATOR MacINNES: I was just trying to find out, Mr. Chairman, if we are talking about a whole lot of spring budget votes or a few. It does get pretty complicated pretty quickly.

Let me just ask this: Do you believe that the existence of a range that wasn't anticipated by Dr. Reock is the reason that his suggestion of three-quarters of the budgets being above -- already being above the-- Is that the explanation?

DEPUTY COMMISSIONER DiPATRI: Yes.

SENATOR MacINNES: Let me get off the-- Chairman Ewing hasn't quite promised me, but he has suggested that we are going to have an opportunity to get to the connections between the Comprehensive Plan and the core curriculum and the creation of the model, which is of great interest to me, at a later hearing.

You mentioned in your testimony that the present calendar allows for the possibility of organized groups to, by mobilizing, or organizing as little as 6 percent or 7 percent of the electorate, control school board elections. Do you have any evidence that that is going on? If so, is there any statewide pattern you are able to see in terms of what kind of groups are involved in it?

DEPUTY COMMISSIONER DiPATRI: No, none in particular. I just know of a few cases where it has been suggested that certain factions within a community are able to mobilize people to support that. Whether it was done by the teachers' association in that community or by a particular segment of the community that is able to mobilize people to come out to vote, they then control that end of the budget. I think it is just idiosyncratic. I don't think it is a statewide pattern, no.

SENATOR MacINNES: There is no pattern. This isn't motivated by a concern that the New Jersey Education Association is, through its local affiliates, able to mobilize and involve themselves in local school board

elections in such a way that they influence, across the State, the selection of school board members?

DEPUTY COMMISSIONER DiPATRI: No.

SENATOR MacINNES: It's not? Okay. All right.

I don't think I have any other questions, Mr. Chairman.

Thank you.

SENATOR EWING: Thank you, Rich.

Are you going to have anything to say?

NANCY KAPLEN: We were invited here by you, Senator, to address any questions you might have. We really don't have anything prepared. The Attorney General was not able to make it, but asked Donna Kelly and I to come.

SENATOR EWING: Senator MacInnes?

SENATOR MacINNES: I'm sorry, I do have a question that slipped my mind.

SENATOR EWING: You older people, you know--

SENATOR MacINNES: I know it. I was working on the core curriculum, and I became distracted.

November school board elections-- All of our November elections are partisan. We have a political process for selecting school board members now and, therefore, it is a political process, because it involves competition and votes.

I guess the original rationale for separating the school board elections, in addition to the budget rhythm, was to separate it from partisan consideration. Now you are going to have mayors on the same ballot and town

council members on the same ballot as the school board. The mayor and the town council play a role in budget reconciliation if the budget is put to voters. Why won't we see sort of a rampant connection between the partisan elections and the school board elections? Why won't the attitude, for example, about-- I don't know how to frame it, but why wouldn't one party try to cease an advantage over the other party by staking out a position on the school board or on the school budget, or whatever? Why wouldn't that just become, in your anticipation, sort of a regular part of the election season under your proposal?

DEPUTY COMMISSIONER DiPATRI: I think that is possible, Senator. Particularly when you are talking about 600 different communities, you are going to have a different effect throughout. Our belief is that there is an informed electorate. To my knowledge -- while not an expert on it -- I believe in Pennsylvania they have the same election at the same time and that it does not appear to make it overly partisan -- any more so. Now, that is our take on it. While it may be one of the disadvantages to make that change, I also don't think that when it was established -- as you were going back in history -- that the turnouts would be so low as they are now. They are just so low that that sort of prompted us to take a good look at it.

SENATOR MacINNES: But it is the same informed electorate that has the opportunity to vote in April that has the opportunity to vote in November. What is the difference?

DEPUTY COMMISSIONER DiPATRI: But they do not come out.

SENATOR MacINNES: Well, then they may just be indicating their satisfaction, and whatever, and staying at home, and saying, "I am in

agreement with the way things are going, and I don't need to vote today." I can't read what the electorate or the nonvoters in the electorate are saying. But, I mean, it is the same group of people that you are so confident about their judgment being important to include in November, exactly the same pool of eligible citizens in April.

SENATOR EWING: Yes, but you have the same thing when the Legislature runs by itself. Not many people come out. A lot more come out for a governor, and a lot more come out for a president.

SENATOR MacINNES: Well, then, that would argue that we should get rid of odd-year elections in New Jersey.

SENATOR EWING: Maybe we should.

SENATOR MacINNES: I mean, it seems to me that you are talking about your disappointment with the citizens. You're saying that not enough of them are voting, and that is really your basic reason for wanting to move it to November, where the citizens, through custom, or whatever, or because you have so many partisan offices being contested, are more likely to turn out. Right?

DEPUTY COMMISSIONER DiPATRI: I think there is higher interest in November than there is in April, for any number of reasons.

SENATOR MacINNES: Right.

DEPUTY COMMISSIONER DiPATRI: Some of that is public information, how many people are aware of an election, and so on. For those reasons, we believe it makes sense to put them together. Obviously, the options are clear.

SENATOR MacINNES: But you are not concerned about the prospect of increased partisanship in the selection of school board members.

DEPUTY COMMISSIONER DiPATRI: I think it was a consideration, Senator, and it should be a consideration. What we are suggesting is that when you weigh the two, we believe that a higher turnout for the election of board members in November outweighs that particular disadvantage.

SENATOR MacINNES: And that any time you can get increased numbers making the selection it is a better decision, or what?

DEPUTY COMMISSIONER DiPATRI: Yes.

SENATOR MacINNES: Even though you might make a case that the people who turn out in April are those who are genuinely interested in the local board of education and the school system, and pay attention to the issues and, therefore, are better informed in casting their vote, rather than those who might be in the voting booth for some other reason and have no information about the school district, no particular concern with it, and, therefore, cast an ignorant vote. But you are willing to take that chance?

DEPUTY COMMISSIONER DiPATRI: Yes.

SENATOR MacINNES: Okay.

Thank you, Mr. Chairman.

SENATOR EWING: Rich, a question I forgot to ask you is: When would you recommend that the school board members take office, in January?

DEPUTY COMMISSIONER DiPATRI: Probably January 1. We thought that even made good sense, because they would then be building the

budget for the subsequent school year on July 1. The way it is now in districts, new board members who take office in late April or early May, are taking over a budget that has already been adopted and voted on, or in a stage. We thought that was a good turn of new board members to take office.

SENATOR MacINNES: It is a State mandate. They have to open the school board building on a State holiday, with Senate counsel, Mr. Chairman.

SENATOR EWING: They would only have teachers there.

SENATOR MacINNES: Pardon?

SENATOR EWING: They would only have teachers.

SENATOR MacINNES: They would have to pay time and a half for the janitor. A State mandate.

SENATOR EWING: That is how they get extra--

SENATOR MacINNES: You guys have all sorts of tricks for increasing taxpayer problems.

DEPUTY COMMISSIONER DiPATRI: January 2, I said.

SENATOR EWING: A big election.

Thank you, Rich. Also, thank the General for sending some of her troops over.

MS. KELLY: I certainly will. Thank you.

SENATOR EWING: Linda Kassekert, NJEA.

L I N D A M. K A S S E K E R T: Thank you, Mr. Chairman, and Senator MacInnes, for the opportunity to appear before you today to discuss the proposed changes to the school election process that have been presented

in the Commissioner of Education's recommended Comprehensive Plan for School Funding.

Although there is currently no legislation before you dealing with this matter, the NJEA is concerned on a number of fronts about the proposals contained in this Plan.

At the outset, we believe that it is extremely important that the nonpartisan nature of school board elections be preserved. As you are aware, under this proposal the school board elections would be moved from the traditional April date to the day of the November general election. We believe that this is a mistake. School board elections are required to be apolitical, and there are very good reasons as to why they should be kept that way.

School board members should be thinking about what is in the best interest of the children and decisions should not be based on a particular partisan viewpoint. By moving the school board elections to November, we will be linking these nonpartisan positions with those seeking partisan office and the political parties. The efforts of these political parties and their endorsement and support of particular board candidates will be heightened and, more important, since all these candidates will be running for office at the same time, linkages between partisan council candidates and their respective political parties and nonpartisan school board candidates will more easily occur. If this does happen, what impact will this support have once the school board member takes office? Will he or she instead be taking their orders from a political party chairperson?

Proponents of this recommendation argue that school elections are already politicized and, therefore, moving the election to November could not

make matters much worse. We would have to disagree with this assumption. While some political parties do get involved in the current process by recommending certain candidates, moving this election to November would only exacerbate the situation. With the election held in April, there is, at the very least, some distance in terms of time from the November partisan races, and it is less likely that voters will be swayed by the efforts of political parties attempting to influence their vote.

With respect to the process to be utilized for dealing with school budgets, the Commissioner's proposal requires that only those portions above the T&E level be subject to voter approval. We believe that we must move very carefully in this area. Under such a scenario, it would be far too easy to begin pitting programs against one another. Many schools have been faced with the reality of having to consider charging for extra-curricular activities such as sports programs or band. If this is extended to other areas of the curriculum, such as advanced courses in math or science that may not be included in the T&E allocation, our students could be placed at a real disadvantage. We believe that education should be about moving our students up, not about ratcheting them down.

In conclusion, we ask that the Legislature move carefully in this area. We ask that the Legislature give careful consideration to the impact that moving school board elections to November will have on the independence of the board and their ability to make judgments that are based on what is best for education and their local district, rather than the dictates of any one political party. We believe that in the final analysis the election of school

board members and the preservation of their independence is best achieved by allowing school board elections to continue to be held in April.

Thank you.

SENATOR MacINNES: Thank you.

In terms of your concerns over the budgeting process that the Commissioner has outlined--

MS. KASSEKERT: Yes, Senator?

SENATOR MacINNES: --have you done any work on the Commissioner's model-- I mean, this is a potentially frightening sentence you have in here, such as advanced courses in math and science might not be included in the T&E allocation. Is that your reading of the Commissioner's Plan that it says advanced placement in calculus or physics courses are not a part of the T&E plan?

MS. KASSEKERT: We are still in the process of looking at the core curriculum standards and trying to translate them into what that means. In fact, we have had teachers going to a number of the public hearings to testify as to the particular subject areas that they are involved in, and to try to make an examination. That process is still not complete. We are hoping to have more information ready once the Appropriations Committee also starts considering the budget as well and as the core curriculum process moves forward.

So I can't tell you honestly that we know what courses would be included in the core curriculum and what courses would come out. It really depends on the local districts. Some districts are offering far and above what

we think would be in the T&E, but at this point, again, I think it is just hard to get a real clear reading on the core curriculum.

SENATOR MacINNES: It sure is hard to get a reading on the core curriculum, because it is unreadable in many parts of it. The social studies and the language arts sections of the core curriculum are not comprehensible. I don't know how anyone could design a curriculum around them. I don't know how anyone could design a 4th grade or an 11th grade or an 8th grade test to test the standards that are set in that core curriculum.

I am concerned that the core curriculum is the clue as to whether or not the T&E model is exceeded or not, because it seems to me that in the illustrative examples the Commissioner gave in his Comprehensive Plan-- It does not look like there is a lot of room for small class size and the kinds of things that might accompany advanced courses in math and science, as you suggest here.

Is that your reading?

MS. KASSEKERT: That is our reading. I would say that we are still continuing the process, and we are still-- You know, I am not a teacher by trade, so I cannot pretend to tell you that I understand every aspect of the core curriculum. That is why we have been so interested in getting our teachers to come out to the public hearings to talk about how you translate--

SENATOR MacINNES: The core curriculum should still be readable to someone who is not a teacher. This is a problem that goes beyond one's background. This is the English language we are talking about, and it is just not comprehensible, in big parts of it.

Have you read the core curriculum?

MS. KASSEKERT: Yes, I have, again and again, a couple of times.

SENATOR MacINNES: Oh, good.

Mr. Chairman, I will turn it back to you.

SENATOR EWING: Thank you.

Senator Lynch, do you have any questions?

SENATOR LYNCH: No, I don't.

SENATOR EWING: Do you have any thoughts on if the elections are put in November as to when the board members should take office? Do you say they should take office in January also, or no?

MS. KASSEKERT: Well, I don't have any comments with respect to that particular aspect. We are just concerned that if you move the elections to November, that that is going to greatly politicize the entire process. With them in April now, political parties may or may not get involved, but at least there is some distance between that and the November election. We are very concerned about having board members run at the same time as other partisan -- council members, members of the Legislature, and so on.

SENATOR EWING: Thank you very much, Linda.

MS. KASSEKERT: Thank you, Senator.

SENATOR EWING: Ira Marks, please, Hands Across New Jersey.

IRA L. MARKS, C.P.A.: Thank you, Senator.

I come before you as a member of the Executive Committee of Hands Across New Jersey, and also as a School Board member in Lawrence Township for the last four years. What has concerned me over the last four years has been the fact that so few people are voting on the school budget and for school board members, in many cases less than 10 percent. Yet, the school

budget represents, in many cases, 50 percent or more of the total property tax bill.

I am also concerned with the quality of school board members we are electing. I don't think the media does a very good job of presenting candidates for school election and the issues surrounding the school election. If bringing it to November would improve that and get more people interested in the school budget vote, then I think that would be a major plus.

There is also the savings of -- I don't know, I don't think this has been mentioned -- holding one election rather than two separate elections. I mean, there are a lot of election expenses involved in an April election, where very few people come out and vote. It is a big waste of money.

We also believe we should continue to allow the public to vote on the school budget. We also believe the public should be voting on the municipal budget. We don't see why the public shouldn't be voting on that budget either. The public should always have a say in these budgets.

I just want to mention, although it is not directly on the subject, that Hands Across New Jersey thinks it is important that we address issues presented through the Comprehensive Plan. We, like many others, have become very distressed when we look at the large increases in spending in New Jersey on education. We believe that the New Jersey education system is wasteful, excessive, and inefficient. We need to address more issues than just moving the election to November.

We need to address the elimination of tenure for administrators and teachers; we need to consider having a statewide salary guide; and we need to consider property tax relief. We need to bring the level of spending down.

Income taxes in this State -- and I talk to you as a C.P.A. -- are high relative to other states, when you consider that New Jersey does not allow the taxpayer to itemize deductions. So we have a situation where both property taxes and income taxes are high, and we have an educational system that is excessive, wasteful, and inefficient.

We believe these issues are the primary issues that need to be addressed.

Thank you.

SENATOR EWING: Are there any questions? (no response)

Thank you very much.

Jon Moran? (no response)

Judy Cambria? (no response)

Edwina Lee? Didn't recognize you with the new hairdo.

EDWINA M. LEE: I know. I changed the hair, Senator, and it threw you off. Good morning.

Thank you so much for the opportunity to address the issues that you raised regarding school elections. Let me commend you for initiating this dialogue on the issues of school reform, and, in particular, the school election process. It is in this content that I would like to address some of the recommendations that have been made by the Commissioner of Education's Comprehensive Plan for T&E.

The Comprehensive Plan offers a revolutionary alternative to the current manner of funding education. One suggestion included in this Plan is to select school board members in a November general election, while retaining

the April school election to determine the amount of taxes to be raised to support local spending above what is defined as the T&E amount.

Our members around the State have raised concerns about politicizing their election by adding their names to the November general election ballot. Board members, who are nonpaid volunteers, have clearly expressed their fears to us that their placement on the same ballot with Federal, State, and local candidates could create partisan implications.

New concerns arise, given the recent changes to school election law contained in S-874, consolidation of polling places, which was signed by the Governor last week, February 29.

Originally, A-1705, the school elections bill which was enacted last year, has been construed as requiring that all of the November general election polling places be used at the April school elections. Local boards and their business administrators reacted to the law by citing exorbitant unnecessary costs as a result of this interpretation of that provision.

The administration and the Legislature attempted to address these concerns with the enactment of S-874. However, we have been informed that at least two county boards of elections have already indicated their intention to continue operating all of the general election polling places, despite the authority given to consolidate. If other county boards of election adopt the same policy, this will have catastrophic consequences for many of our districts. This comes at a time when districts are already strained by tight caps, increased enrollments, and flat or decreased State aid.

I have raised some of our more immediate concerns about the process as it is currently understood. However, because the topic for today is

election reform and new concepts are being proposed, we can only raise questions in response to these proposals in order to clarify the issues:

1) If the proposal to move the school elections to November deals with school board elections only, will this change eliminate the need for the local taxpayers to reimburse the county boards of elections for conducting this election?

Our members would oppose any obligation to pay the November costs, since no other candidates bear such a burden.

2) If school budget approval remains as a separate election, can all the parties involved reach consensus on the ideal date to conduct the vote?

Current policy of this Association actually supports a budget vote on the third Tuesday in March. All potential dates are really predicated on notification by the State on local aid figures.

3) Is consideration being given to the elimination of a vote at all on the budget if the amount of the local budget is at cap or below?

Current policy of the Association supports the elimination of a local vote on the budget at or below cap, but supports the continuation of voter approval of budget decisions.

4) Are there provisions within the existing general election laws which can be utilized to ensure the separation on the ballot of school board candidates from partisan candidates?

Our membership would probably support specific legislation to address this.

5) The Commissioner's Plan suggests that defining thorough and efficient education would become the new threshold of per-pupil spending. If

that is the case, will a vote on a school budget be needed by local districts in order to fund the difference between State funding and what must be collected locally?

Board members have expressed concerns that T&E will be narrowly defined, thereby forcing a choice between elimination of some successful local programs or increased local taxes.

6) Does the Legislature support the Comprehensive Plan's proposal to eliminate budget appeals?

The Association endorses the availability of an appeal mechanism.

7) Is it the Legislature's opinion that any costs associated with school election reforms will be covered under State mandate/State pay funding guarantees?

Certainly, the School Boards' policy supports full funding of State mandates.

The Association welcomes an opportunity to provide this Committee with a direct response once the concepts for consideration have been outlined or agreed to.

I urge that this Committee schedule additional public hearings throughout the State. This will allow the widest basis of reaction and response to suggestions which may be offered here, or have been offered by the administration, or other sources.

Our commitment to the Legislature will be to canvas our members regarding the specific components of the proposal which emerge. We will take to our May Delegate Assembly any proposals which are on the table, and come back with our response.

I thank you for your time.

In response to a query I think, Senator, you made to the Department of Education earlier, we have data available on other states and when local elections are conducted and whether there is a public vote on the budget.

Thank you.

SENATOR EWING: Questions?

SENATOR MacINNES: I just have one question: Edwina, on point 6, you would like to see if a district exceeds the T&E model spending, puts its “excess” up for a vote, and it is defeated-- After it goes to the town council, you would like to see the Commissioner receive an appeal, or that would be available as an appeal, as it is presently?

MS. LEE: I can only respond to the existing framework of how school elections occur, and on the books, our policy speaks to having the Commissioner appeal local decisions. If we are talking about a paradigm shift and how we actually deal with school elections, we just need to know in the context of how an appeal would be addressed.

SENATOR MacINNES: Okay.

Thank you, Mr. Chairman.

SENATOR LYNCH: If you have a tight cap, a fairly tight cap now, do you really see the need for an election, if you are within the cap?

MS. LEE: Absolutely not, Senator.

SENATOR LYNCH: Do you agree with the current process that if you want to exceed the cap, you have to take it to the voter, and if the voter does not approve it, you can't appeal it to anyone?

MS. LEE: We have concerns regarding the inability to appeal to anyone. We would like to know whether or not that provision would remain in any new process that might evolve.

SENATOR LYNCH: So you do not agree with the current cap waiver law that says that if you want to exceed your cap, you have to go to the voter, and if they do not approve it, nobody else can? You don't agree with that?

MS. LEE: We think we need an opportunity to defend some decisions that have been made locally. There are two kinds of caps: one that has been determined by the Commissioner under T&E, and the other are caps that are put directly to the voters. If it is a voter cap--

SENATOR LYNCH: There is no T&E cap. It is a creation of the Attorney General and the Commissioner that says that there is a T&E cap, in effect, a waiver. They are not handed out very frequently, fortunately.

Do you understand that in this State, for instance, we are -- your people are handing out salary increases of around -- today, around \$400 million a year, and that a few short years ago, before the cap, it was about \$800 million to \$900 million a year? Do you understand that?

MS. LEE: I cannot argue the numbers. I know that salaries have gone down from 8 percent to about 4 percent.

SENATOR LYNCH: Does the School Boards offer any incentives or any alternatives or any ideas to us as to how you can bring the salary increases back into line with what is going on in the private sector?

MS. LEE: I think a number of suggestions have been offered, Senator. They deal with changes in management prerogatives that we believe

need to be put back on the table in terms of how we deal with the collective bargaining process.

SENATOR LYNCH: Changes in management prerogatives, such as?

MS. LEE: Well, we have said that what we need in order to make the system a lot more efficient and accountable, is to review some of the mandates that have been imposed upon local districts in terms of benefits we pay. Case in point: I think before you yesterday was yet another effort to move automatic increment. The bill that has been put before the Senate Education Committee talks about payment of automatic increment. Those things that encroach automatically on the salary scale which we are obligated to pay we would like to address, and have stopped, and perhaps reversed.

SENATOR LYNCH: I have no further questions.

SENATOR EWING: Thank you.

MS. LEE: Thank you.

Senator, if you would like the information about other states and whether or not they use elections, we can provide that.

SENATOR EWING: Could you get that to us, please?

MS. LEE: Sure.

SENATOR EWING: Carol Ferry, representing herself.

C A R O L F E R R Y: Senator Ewing, and other distinguished Senators, ladies and gentlemen: I am here-- Please bear with me. This is my first hearing of this nature. I am not a professional lobbyist by any means, nor do I want to be. I am a private citizen who has been extremely concerned about

the conduct of school elections for the past six years. I have written to many of you, and other State representatives, as well as municipal representatives.

I do not have children in the public school system, but I am interested and would like a voice. Today, there are many single individuals, childless couples, middle-aged couples who no longer have children in the public school system, grandparents, and senior citizens. All of us are impacted and must pay our share of the costs for schooling. I do not feel that any of us mind doing so, provided the money is spent wisely and we are achieving the results desired. We all have a vested interest.

Over the past eight to ten years, an imbalance has taken place with property taxes steadily increasing and property values decreasing or leveling off. In most communities, 50 percent-plus of our property taxes are the result of school funding and the rapidly increasing debt service for bonding. Many of us did not mind, and possibly could have been accused of having what is termed a "Pearl Harbor" mentality. We were a sleeping giant and did not pay attention nor wake up until the bombs hit. Right now, the bombs have hit us. It happened in my own community during the 1989-1990 budget. When the audit was done, we found out that our district had overspent \$1.3 million. We went from a 12 percent voter turnout to a 33 percent voter turnout, and have been going 33 percent to 45 percent since that time.

I think this is what is happening throughout this State. I have become friends by telephone of many people throughout the State now, and one of the common concerns is school elections, the conduct, the cost, being unprofessional. I personally have tried, for the past six years, to get a grip on the true cost of school elections. I cannot get it from this district, so I am

looking forward to this year, where they have to supply it, I believe, to the State Attorney General's Office, or to the Secretary of State's Office. I would like to see a breakdown on that, because I have seen architects built into the cost of a referendum, where they have a PR person who is going out and selling a bill of goods. This is a waste of taxpayer funds. I think we all deserve the relevant data to make an informed decision.

I have also seen, in a special referendum, for maintenance that had been deferred over the years-- Then the community got hit with a \$12.8 million referendum just for facilities updating.

In the snowstorm in February, where a lot of our senior citizens may have been out of the State or were not able to get out, we had a 33 percent voter turnout at that time.

The current school election system does not promote the wise expenditure of our limited human and financial resources. School districts are expending funds in a very discriminatory manner of target mailings. Those of us who are not part of the educational system are not receiving the same information. Parents, teachers, elected representatives, those within the school system are receiving these exclusive additions, first-class mailings, well in advance of the election, with applications for absentee ballots being mailed to former students. The remainder of us in the community are receiving postal customer mailings, which we may receive a few days before the election. If you are sick, if you are away and can't make it to the polls, it is tough luck.

The last place that this discrimination should be coming out of and teaching to our children is the school system. I thought by Federal law that was prohibited.

The general public is paying for all of these costs and, as I indicated, in the public referendum on buildings, it is a major concern. I know of a case right now that is before an administrative law judge where an architect has admitted that his PR person teaches school districts how to target the “yes” vote. We are paying for this, all of us.

Special elections for school districts have become a way of life and a waste of the educational funds. The creative financing of bonding is allowing school districts to defer the yearly maintenance, and then present, in our case, a \$12.8 million, and then a \$12.9 million referendum for maintenance. Items that were normally incorporated in the yearly budget are incorporated in the special referendum.

Last week, I read about a Hunterdon County community that had the same question six times, and it has been rejected. When a public question comes statewide, doesn't our State Legislature have certain guidelines that you must receive the information well in advance to be able to scrutinize it, have the public debate, and then it comes to the public statewide. If it is rejected, is there a time limit when that same question can come back again? I think that would be wise to have in school districts, too. In other words, people must get their act together and really review everything before they just throw something out. In our case, a couple of years in a row, we have had special referendums in February, so if it is rejected, it can come back again in April. That is really a waste of funds.

I have seen in my own community-- When I moved in, in 1985, we had less than \$700 -- I think it was about \$725,000 total debt for the community, which was for a new municipal building. Eleven years later, the

municipal government has long-term debt of \$12 million. Our school district, for two years, in the past couple of years, has a \$12.9 million maintenance referendum for the schools, and another \$37 million. Our small community is \$62 million in debt in 11 years. It is going on all over. This is something, really, that has gotten out of hand.

I also researched the use of absentee ballots just in Mercer County. This was pretty interesting to me, because I have a concern about the window of opportunity when people like myself receive information a couple of days before the election, or people who are away who want to vote, who have expanded where people can register to vote, but the window of opportunity on absentee balloting has closed in quite a bit, unless you are part of the educational “community.”

In 1993, in Mercer County, 434 applications were submitted, 251 voted. On some, I have heard the time line was because people just did not get them in time to get them back to be counted. In 1994, 306 requested, 277 voted. In 1995, which is contributed in some ways to the public being more aware, Easter holidays and also the so-called target mailings-- In 1994, it was 306. In 1995, it jumped to 1773, with 1517 voting. Something is going on, and it could be a combination of things.

A good commonsense avenue is to eliminate the duplicate voting process and not have our business offices in disarray. By combining with the November election, I don't think anything more is going to happen than what is happening now, other than the democracy will be increased of the American way with more voters participating.

There is a lot of concern about whether these elections would be political. They are not political now -- or, they are not nonpolitical now. Last night, I pulled out information which lists supporters of two candidates for our township committee. I also pulled out three years for school board members. There is no difference, ladies and gentlemen. It is the same. I think the elections could be held in November. Keep it nonpartisan, because you will have one section that is your partisan election. School board-- I would like to see fire thrown in there, too, which is getting less than 100 people out, and that is a major cost. I would like to see all of us, and I think it would take a combined effort throughout the State -- the State to be able to get their aid figures together by October. It is going to be great, but I think it can be done. This way, municipalities can get their aid figures. Right now, we are in March. Our municipal budget still has not been adopted, because of aid figures. That is not the way to run a business.

School districts the same way. I think we can get a better handle on our finances. Here is the true picture, folks. You can have it at municipal levels, county levels, school districts, and people, I think, will become more interested, because there is more information out there altogether.

I appreciate everyone trying to make change. I think change definitely is needed. I do not feel, by any means, that any rights of the voters should be taken away. I think there should be a voice, whether it is under cap, over cap, in between, or wherever, because community members may go to budget hearings on the school budget. They may not object to the dollar -- the bottom-line dollar figure. However, they may object to more costs going into administration and want to see more in the classroom. So it is a final way of

saying if they were ignored at a public hearing, you know, “I have another say in the matter.” It could also be on salaries and wanting more in the classroom, or more on maintenance of school buildings, so that you won’t get hit with a public question at a later point in time.

I think by more voter input, you will be able to get a better balance throughout the community, throughout the State.

I know I have skipped over and probably have left some things out, but I would like to see change. I think consolidation would be good, just as right now we have one collector of taxes, who covers county, municipal, schools, library taxes, whatever. I think one election could help to put everything together in a pile.

I know I have left some things out. I look forward to having a dialogue with you where I can express more concerns. Please do not take the right away from the general public.

Thank you.

SENATOR EWING: Thank you very much.

What were the figures you said you wanted to get ahold of, but you can’t get them? They won’t give them to you, or what?

MS. FERRY: Basically, sir, I have not been able to get one iota.

SENATOR EWING: Of what?

MR. FERRY: Of public information out of our district. I have been asking for--

SENATOR EWING: Do you mean out of the board of education?

MS FERRY: Yes.

SENATOR EWING: What figures do you want?

MS. FERRY: I have been trying to get, for the last six years, cost of elections, were any consultants, such as political consultants involved. I want to know how the money is being spent. I can't get it. I have been asking for, by State law 18A:19-15, I think it is, lists of consultants, which should be tallied for the year -- paid to date for this year, and for the previous year. I cannot get it.

SENATOR EWING: Let me ask Gene Keyek back there: Shouldn't this information be available, Gene?

EUGENE J. KEYEK, Ed.D.: (speaking from audience) Yes, it is available.

SENATOR EWING: Well, would you help this lady then?

MS. FERRY: Sir, Commissioner Klagholz has letters.

SENATOR EWING: Excuse me. Will you speak to Dr. Keyek. He runs the organization that these people belong to.

DR. KEYEK: (Dr. Keyek's response indiscernible; no microphone)

SENATOR EWING: If you do not get satisfaction, then come back to me and we will get the data for you, because that seems ridiculous.

MS. FERRY: Oh, it is. You have gotten copies of my letters.

SENATOR EWING: You talk to him on your way out. Give him your address, your name, your phone number, so he can follow through on it. If not, then you get ahold of me, John Ewing. All right? Then we will get it for you.

MS. FERRY: Okay. Thank you very much.

SENATOR EWING: It sounds almost like Newark.

Oh, I'm sorry. Senator Lynch?

SENATOR LYNCH: I think your testimony was well placed. I agree with most of the things you related to. I know it is very difficult to say that when you are taking the budget vote away from the voters -- the registered voters of a community, the taxpayers, it sounds like you are actually doing something that is removing them from the process. But when you look at the current scheme -- and I think that is the right word -- the voters who vote on the budgets really have no impact, even if they turned out 80 percent, because of the fact that most of it gets restored in one fashion or another. It becomes a major distraction. It goes to the governing body and then it goes to the Commissioner. At the end of the day, there is very little done as a result of the activity of the voter.

The voters, interestingly enough, have a great deal of input in terms of capital, and that is why they have developed other means of circumventing the voter with lease purchase plans, and so forth, and so on.

It is interesting when you look around the country that the overwhelming majority of the states do not have votes on budgets. When you compare New Jersey's per-pupil cost, which is the highest in the land, where we do have local vote on budgets, and you see that our per-pupil cost is 80 percent over the national average -- 80 percent over the national average -- it begins to make you wonder about what the vote on the local budget really means, other than having it become some sort of a distraction, which is precisely why, when I crafted the cap law of 1991, the votes on a cap waiver that goes to the voter are final. You can't appeal that to anybody.

So if you have a legitimate cap and you have to vote to expand the cap, which is the current law, the vote is binding. The voters' input is real.

You can't appeal that to the governing body. You can't appeal that to the Commissioner under that law.

I suggest that if you analyze what has been going on in this State, that the votes on the budget have been part of the problem, because it becomes a major distraction and it convolutes the process. It distorts some of the information that is going out. It needs to be made clear to the voters, who hopefully will come out in droves in November to elect people who are going to work on next year's budget and point out the very problems you are talking about.

In the meantime, if the State continues and even makes more rigid the current cap law, which has been functioning fairly well, I think you will have something that is more understandable. But I suggest to you that you analyze what has been going on with these budget votes as it compares to all the other states that have no budget votes. Why have they been able to hold their line better on bargaining, on salary increases, and on benefit increases as opposed to ours? Why do they have so many fewer districts per person, per population levels in the rest of this country as opposed to New Jersey?

I know it is not an easy one. I know some people who think that anyone who would be interested in taking the budget vote away from the residents is certainly not on the side of the residents. I suggest to you that the budget -- the whole budget dynamic today is being used by the entrenched interests to help to maintain the status quo and to perpetuate what has been going on inside of our school districts.

MS. FERRY: I can see two problems: One, our school boards are controlled by special interests, and there is no competition. That is a fear I

have if it is taken away from the voters. The other one on the elections and our local elected officials, I can use a little example where “What goes around comes around.”

An individual, a couple of years ago, ran for our local township committee for the sole purpose of overruling a community if a school budget was voted down. There was a conflict of interest. His wife was a teacher in the school district. However, it just came out in the newspapers recently, which is kind of unbelievable, that this person who now, last year and this year, has served as our local mayor, owes 1994 property taxes on a business office, and just paid off 1994 taxes on his home in our community, saying that, “Times are tough.”

Yes, times are tough, and a lot of us are facing it, but I urge you, please, do not take it out of the hands of the electorate.

SENATOR LYNCH: Just a last point on that: The way the system sets up today, by the time the voters, in most cases -- by the time the voters get engaged in this, most of the contracts have already been struck, or they have been struck for a three-year period. Over 80 percent of the budget in each town is salaries and benefits. The horse is out of the barn before it ever gets to the voter. So again, the process is specious, and when you analyze it, it is almost meaningless. You have to be electing people by the will of the voter, who are going to be doing the will of the voter in terms of the overall operation of the school district, particularly in assuring that it is being run efficiently for the benefit of the kids, and not for the interest groups that are at hand, and that there is going to be a legitimate bargaining table, because, indeed, by the time you go to the voter, that horse is really out of the barn.

MS. FERRY: Thank you, ladies and gentlemen, for your time.

SENATOR EWING: Thank you very much.

Dennis Jaffe, New Jersey Common Cause.

DENNIS JAFFE: Thank you.

I do need to preface my remarks with one comment in particular. It had been my mistaken impression -- understanding when I constructed my testimony for today that the budget election would also be moved to November. I will try to make some sense out of my testimony in those areas where I was mistaken.

What I tried to address in my testimony for today-- More than anything else, it was focused on the question that Senator MacInnes asked earlier today regarding the nonvoter. I do have some ideas with regard to why people are not turning out. I think that when we look at low turnout in April and look to November which is higher turnout, this discussion should focus on those reasons before we move forward.

As I spoke with a number of school reform activists in the past week regarding this very proposal, I heard excitement from them about taking time off from work, not only to comment on an idea aimed at increasing citizens' participation in the political process, but to actually participate in your formulation of the proposal. Common Cause applauds your approach on this matter.

To thoughtfully consider the proposal, Common Cause believes it is necessary to first examine the current school elections process. The issue that Senator Lynch raised earlier today regarding the joke on the voters throughout this State regarding school budgets being voted down and then the

cuts being restored, certainly has contributed to voters' cynicism about the process.

While the long-standing call by some to eliminate the budget vote may have sounder footing today with tighter budget caps, a move to eliminate this vote cannot be considered without providing real opportunity for the public to participate in the election of school board trustees and in budgets of districts which exceed the cap. We do not have that opportunity now.

By examining the causes for low election turnout, with then perhaps the rationale for the direction to be taken, it would be clearer. It is ironic that many talk about the need to keep politics out of education. It is time to stop making education elections a private event. We need more open politics in education. Consider for a moment that approximately 55 percent to 60 percent of local property taxes go toward education, and that approximately 25 percent goes toward municipal operations. Most municipal elections are the ones that are conducted around the issue of taxes, while there has been this long-standing education/political culture in this State that declares that education should be buffered from the public's political sentiments. Why?

Surely, we must endeavor to insulate education from special interest politics and partisan politics, and from patronage, and all of these occur today. Perhaps by holding school elections in November, the focus on the cost of education may force the debate on the source of school funding -- the property tax -- to be moved from the back burner to front and center status.

Regarding the question of negotiations that Senator Lynch asked about earlier, the question as to require of either -- possibly requiring by law, if that is possible, or, certainly, encouraging it, if negotiations were to take place for the same term of that package all at the same time, at the very least, there would be significantly increased attention and focus on what the product of those negotiations would be. Indeed, negotiations are private until the package is voted on, and that is inherently the problem.

Common Cause believes that more accountability is necessary in education. After all, it is the public that provides our school governments, and that is what boards of education are, with the means or the money to pay for the programs implemented in the school districts.

Democracy is a two-way street, but in school elections the road is not as nicely paved for the travel as are the regular elections. What are the differences? Go down the list of candidates. There are fewer contested school elections than regular elections. There is less candidate literature, and while too much partisan sniping literature in regular elections will not help to raise voter turnout, issue-oriented literature would. There is less literature -- period -- in school elections. There is lower candidate visibility. Fewer school board candidates campaign at the local supermarket than regular elections. There has historically been less election publicity, though this will change somewhat with sample ballots this year.

Finally, there are fewer voting hours. Less meaningful voter stimulation has been the cause for lower voter turnout. I might add that if the budget election especially, or both elections are continually held in April, it

must be changed from the 3:00 p.m. to 8:00 p.m. requirement to 7:00 a.m. to 8:00 p.m. It is absurd.

I read an article in The Trenton Times yesterday which admirably gave attention to voter turnout in school elections. I quote: "In Hamilton, where \$16,000 was spent on elections last year, there are 20 polling places." The amendment -- which I add for clarification -- was a reference to allowing for some consolidation -- "might save the school district from having to open any additional polling places. That is still uncertain, but some board members are in favor of consolidation in a town where about 10 percent of the registered voters cast ballots in school elections." There is the problem right there. People do not turn out, so instead of working harder to raise voters' interest level in the election, what we see, perhaps not all that commonly, are steps which are sound from a fiscally prudent perspective, but which have the effect of containing, rather than stimulating voter interest.

Why is it that school districts customarily consolidate polling places where turnout is traditionally low? Because voter turnout is so low that school officials, understandably, look at that cost as a target to reduce expenditures. When changed behavior -- in this case, where does a voter go to vote? -- is needed because of a changed polling location, voter turnout is automatically reduced, unless there is sufficient education to inform the voters about the change. Until this year, before sample ballots were required to be distributed, voters would receive a school budget flyer that would list the polling places on the back panel -- as Ms. Ferry said -- days, or perhaps a week before the election.

For too long the education political culture in this State has declared that politics out in the open is a bad thing for school districts. One result of that is people who regrettably and incorrectly perceive their lives as not being immediately affected by their community schools simply do not read these flyers. These are flyers concerning the school district, concerning policies, concerning budgets. To have election information on those kinds of flyers does not serve the public. They have not known when or where the election was, and the traditional campaign mailings, meet and greet the candidate at the local bakery and get out the vote mobilization efforts are simply a mini-fraction in many communities around this State.

In school elections, "GOVT" is either a four-letter word, or it shapes how the election process is actually held. Whether it is admitted or not, it is inescapable that the fear of defeated budgets has prompted a hard and fast stance to not wake up the voters at large by keeping the elections in April, without sample ballots, and with a paltry five-hour maximum on the polling hours. The opening of school elections at between 2:00 p.m. and 3:00 p.m. allows school districts to maximize the vote of those whom they see as most likely to vote for the budget. Such hours are particularly convenient for voters picking up their children from school, which is likely a voting location. Maximum hours allow for maximum participation.

With regard to the possibility of budget elections being held in November, perhaps in districts where budgets have historically been defeated, school officials could be found to be supportive of moving the school elections to November. The principal goal must be to eliminate the current process which is decided by too few people. Whether it is the NJEA or whether it is

the taxpayer advocates and the more fiscally conservative groups, the elections are too often decided by too few people. No matter which side you are concerned about, it is too few people and it is too few special constituency groups in the process manipulating the vote. By eliminating the budget vote in districts not exceeding the cap, such sentiment will, obviously, not be relevant.

November school elections will accomplish one thing more than any other: It will force school governance to be an issue to be considered by the entire community, thus Common Cause's support for this proposal. We believe that a more engaged public will result in better governance. Simply put, the public is not engaged under the current process, and that is why they are not turning out to vote.

As far as the concern that the elections would interrupt the November election during those extended voting hours, from 7:00 a.m. to 8:00 p.m., Common Cause believes that students from elementary to secondary school being exposed to elections is part of a good civic education. School officials may be inconvenienced in the November election by serving as host locations for polling places, but I don't hear any loud calls to move the elections out of the schools for the November election. Additionally, moving the election to November will result in less so-called interruption in the educational process. Perhaps school officials may find this aspect favorable.

As a State, we have not valued turning out voters in school elections. Among the vast majority of people who have not voted, indeed an overwhelming majority, I have heard, too frequently, since I first learned about the school elections process in 1988, "Oh, I forgot about the election. I didn't

know where to vote. I never vote in school elections.” The point is, if we are consolidating polling places, we are seeking to cut corners. If we are seeking to cut corners when it comes to participating in free elections, something is wrong.

Whenever talking about the school elections process, I am reminded of the time-honored adage: “If you build it, they will come.” A variation, “If they hold an election, they will come,” seems to summarize the attitude this State has held regarding school elections, except it is said with a wink and a nod to the public. Voters do not automatically turn out for an election just because it is held. For too long we have not valued voters’ participation in school elections. People are accustomed to being informed by the sample ballot shortly before all other elections that an election will be held between the hours of 7:00 a.m and 8:00 p.m., and virtually every year the polling place remains the same. If election turnout increases substantially this April, then it may be argued that the sample ballots were responsible.

There has been debate about the small pool of the electorate which customarily turns out in April elections. Some fear that holding the election in November will politicize the process in a partisan sense. The fear is not completely unfounded. There is some danger there. The many school board candidates may, indeed, be forced to be more independent of partisan politics than they are now for fear of incurring opposition during a November election, and the parties will arguably be more preoccupied with their own November elections, and will have less time and fewer resources to become involved in school board elections held at the same time.

We won't know the absolute answer until it would be in effect, but anyone who thinks the political parties aren't sponsoring candidates, or aren't endorsing the candidates today, even though that is illegal now, is either not being honest or is not knowledgeable about school elections.

Common Cause also urges that school board referenda be included in this discussion. Election dates are often picked by school boards based upon which month has historically produced the highest percentage of referenda approvals. How is this analyzed? Well, senior citizens have more difficulty turning out in the winter months with the snow. Senior citizens are seen in this State as more fiscally conservative and apt to vote against a school bond or a school board budget, hence school boards try to hold more referenda in the winter months.

The criteria must be increasing voter participation, not manipulating elections to maximize or minimize any particular political perspective. Bond referenda should be held the same day the school elections are held.

I read yesterday that the criterion used to consolidate school districts is if fewer than 500 voters in the last general election turned out. I am not sure if that is correct. If it is, is this is continued, this will lead to continued confusion. Determining whether consolidation can be done after each general election is an unnecessary burden. And changing the polling places from general election to April school elections causes enough confusion already. Changing from April school election to April school election would simply be too chaotic and will reduce voter turnout.

No matter when school elections are held, counties should bear the cost. Again, school elections are treated differently, like a stepchild, a second-class election. What is good for all other elections, including fire elections, is good for school elections. The costs should be consistently borne by the same source. It happens to be the counties.

It is time to shift control of school governance issues from the few to the many.

Thank you.

SENATOR EWING: Thank you very much.

Last, but not least, Gene Keyek.

DR. KEYEK: (speaking from audience) Senator, may I have our Executive Director, Mr. Meglis, join me at the table?

SENATOR EWING: Well, as a special consideration, yes.

DR. KEYEK: Okay. Thank you.

EDWARD MEGLIS: Good morning, Senator Ewing, Senator MacInnes. I guess it is still morning.

Just a few comments before I turn the testimony over to Gene. First of all, as you know, we have just gone through some rather sweeping election reforms, and we have changed the duties and responsibilities of school elections from Title 18 to Title 19, going into effect this April, sample ballots being one of the inclusions in the new election reform.

Questions were asked earlier, I think by Senator Ewing, about what counties and consolidation of polling places. First of all, consolidation does not necessarily mean consolidation from what was. It is going back to school election polling places, not consolidating those even further. But the

counties of Hunterdon, Monmouth, Ocean, Bergen, and Middlesex, to my knowledge, and from our constituents who have been calling us, have, at this point-- The county boards of elections have opted right now to utilize the general polling places, although the County of Middlesex is, in fact, consolidating or reducing the amount of machines that have to be utilized.

Just as a digression, we are concerned. One of the concerns we have, of course, is that we certainly want to see effective, efficient types of election processes, but we also, at this point in time, do not feel that commonsense prevails in some areas when you are going from possibly 10 to 40 polling places, when caps are, in fact, restrictive, and districts have already submitted budgets. This would, in fact, hit the taxpayer basically, whether it comes out of the school board's pocket or the municipality's type of pocket.

So I think what we are saying here is that since we have gone through some sweeping reforms right now and we haven't even seen the results of "voter turnout" because of the sample ballot requirement, that we ought to possibly just wait and see, number one, what happens this year, before we go on, secondly, to some more election reforms, and proceed cautiously to see what the outcomes may be.

Edwina Lee also mentioned that she gave you some information. We also did a survey, and the majority of states do not require a vote on raising their local tax levy or their millage levies within the respected states. So, really, New Jersey is, in fact, in the minority, rather than in the majority at the present time.

Again, as far as voter input or voters not having a say, just as a point of reference -- and I may be a little bit off on these percentages -- in

1995, approximately 22 percent of the school budgets in New Jersey were defeated. In 1994, approximately 49 percent of the school budgets were defeated. In 1993, again it was in the 40s, I believe 44 percent to 45 percent. So, in fact, voters have expressed, at times, their frustration, displeasure, whatever you want to classify it as, by going to the polling places and defeating the budgets.

Having said that, I will now turn it over to my colleague, who will give the remainder of our testimony.

Gene?

DR. KEYEK: Thank you.

The issue of school elections and the presentation of our school district budgets has been a topic of our Association for a number of years. We were participants in the process of developing the changes in the current election law, and we have been concerned about the lack of participation.

Perhaps I might just clarify an issue that is not on the testimony. In the process of notifying voters, the Committee should be aware that the board of education is restricted in sending out any type of literature which would ask voters to support a budget or candidates. They can only send out materials which are fact sheets.

Now, there are other groups which participate in that process, specifically, sometimes the PTA, sometimes a parent group, which will come out and send out literature which seems as if it comes from a board of education, but as far as the law is concerned, elections can be challenged if it is found that the board of education participated in an illegal process. In some cases, some referenda have been overturned because of that process.

We are opposed to the inclusion of any school district election requirements in a November general election. The election process has been changed with the requirements of sample ballots, and the results of that change should be evaluated before we move to further politicize the election process.

We agree with some of the statements made. You can't take politics out of the elections totally. It is there. There are parties in certain communities that support board members. We recognize that. However, recognizing the political realities, we have prepared a budget approval process which we feel will serve to meet the requirements of addressing the requirements of a thorough and efficient education, allow boards to meet the mandates currently in place, and provide the citizens of the community an opportunity for input about the quality of program they are able to support.

When we talk about our proposal, we are talking about a three-part budget. The Commissioner has proposed a two-part budget, a T&E budget and then an optional budget which goes above and beyond the requirements of thorough and efficient. We would suggest that there also be included a part of the budget which reflects the mandates which may not be included in the T&E budget.

As an example, the removal and the continual testing for asbestos. Is that part of the T&E budget? If it isn't, the board of education has no choice in the matter. There are many Federal requirements -- PEOSHA, environmental requirements. There are many requirements in special education over which the board has minimal control. So the thorough and efficient aspect, the mandate, then that part of the budget which the community feels should be voted on.

When we look at Exhibit A, very quickly, the Budget Approval Process, the first year in this process if the budget is approved by the voters, the tax rate, or the dollar amount, is established and serves as the basis for future funding. The tax rate, or dollar amount, will remain the same for future years, unless the board of education decides to present a request for a rate increase to the voters.

So what we are proposing here is a different concept. The total budget doesn't come before the voters. It is similar to some states where the millage increase is presented to the voters.

If the budget is defeated by the voters -- and this is our attempt to remove some of the political process from the budget defeat -- a three-member panel is designated to review the budget. The panel shall be composed of a representative from the board of education, a representative from the municipality, and a neutral third party appointed by the other two members. If there is no agreement, then the county superintendent of schools shall appoint the individual. The tax rate, or dollar amount, established by the committee shall serve as the basis for future funding, unless the board of education decides to present a request for an increase to the voters.

Year two and beyond: If the board of education is able to maintain the budget with the current tax rate, or dollar amount, in effect, then no vote is required. If the board of education requests an increase in the tax rate, or dollar amount, then the increase is presented to the voters. If it is defeated, then the process outlined in year one would take effect.

So, essentially, what we are saying is, there are items in the school budget over which the board of education has no control. If we are going to

implement the core curriculum and tie the core curriculum to a model which identifies specific costs, the board will have minimal control. If we are going to say that mandates can't be eliminated -- and, in many cases, mandates cannot be eliminated-- The School Boards Association, the PSA, and our organization completed a mandate study. When we discussed this with our total groups, there were very few of those mandates that we could recommend that would be eliminated. This is a difficult process. Boards need to be able, and the community needs to understand that the board has no control over the implementation of these mandates.

Now, in talking of members of the Department of Education, they have stated that they are concerned about how the board implements these mandates. So there are some boards that might go overboard in the implementation of a mandate, while other boards would stay with a minimum cost. That could easily be rectified by establishing a minimum cost. We would say that if are going to do asbestos inspections, as an example, here is the dollar amount that we are going to recognize. If you want to go above that, that is your choice. But this is the dollar amount that is set aside for this.

So this entire process gives everyone a better opportunity to understand the school budget.

A suggestion -- and I know that Senator MacInnes has raised this issue -- and one that our Association raises-- I asked Deputy Commissioner DiPatri before he left this morning if the Department is going to release their cost figures for the model, or when they are going to release them. He said he didn't know. If the model itself doesn't stand up to scrutiny, doesn't stand up to good cost accounting standards, our recommendation is that this

Committee, along with the Assembly Education Committee, turn to the Office of Legislative Services, along with all of the interested groups, and do an analysis of the model, requiring the Department to participate in that process so that we can identify if the costs they have defined are legitimate.

This is a concern we have, because we are too close to what the Department said and what the former Commissioner, Saul Cooperman, presented a few months ago -- the foundation figure, it just can't be coincidence. It raises questions in our minds. So we would like to ask the assistance of the Committee to be able to sit down with the Department, all those groups interested, and make a determination as to how the Department arrived at the calculation that they present in the model.

If they are accurate, then, fine, we will live with it, but we have some questions. As an example, in extracurricular activities, they came up with a dollar figure per pupil. Many of our business administrators did that calculation and said that would pay for the officials, and that is about it. So the dollar amount they have determined as to what is thorough and efficient needs to be examined.

In special education, the fastest growing segment of our budget, a cost analysis needs to be identified, needs to be examined. I think it is important for this Committee, so that when they continue with their work looking at a funding formula, they will have the most accurate cost figures available.

I think that just about concludes our testimony. I would be happy to answer any questions you may have.

SENATOR EWING: Thank you very much, Gene.

I don't think the other individuals who said they might be here -- George Gretsas, from Park Ridge, Jon Moran, and Judy Cambria, from the League of Municipalities -- are here.

Does anyone else in the audience wish to speak? (no response)

This will conclude the hearing. Thank you very, very much.

(HEARING CONCLUDED)