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# ***Committee Meeting***

of

## ASSEMBLY EDUCATION COMMITTEE

ASSEMBLY BILL Nos. A-457, A-677, A-2166, A-1732, A-2113,  
and SENATE BILL No. 256

*(Bills on various educational issues in the State of New Jersey)*

*and*

*“Testimony from Gordon MacInnes and the public  
on Abbott-related issues”*

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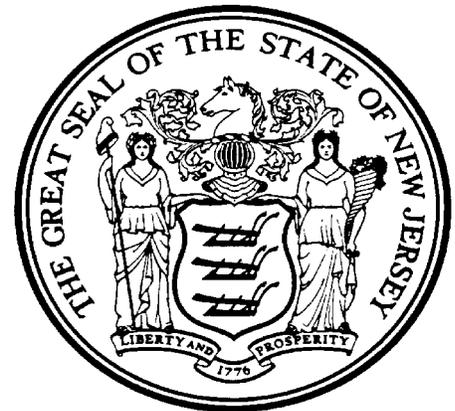
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**LOCATION:** Mario Drago School No. 3  
Passaic, New Jersey

**DATE:** May 23, 2002  
1:00 p.m.

### **MEMBERS OF COMMITTEE PRESENT:**

Assemblyman Joseph V. Doria Jr., Chairman  
Assemblyman Craig A. Stanley, Vice-Chairman  
Assemblyman Matt Ahearn  
Assemblyman Rafael J. Fraguela  
Assemblywoman Arline M. Friscia  
Assemblyman Paul A. Sarlo  
Assemblywoman Rose Marie Heck



### **ALSO PRESENT:**

Kathleen Fazzari  
Theodore C. Settle  
*Office of Legislative Services  
Committee Aides*

Maggie Manza  
*Assembly Majority  
Committee Aide*

Victoria R. Brogan  
*Assembly Republican  
Committee Aide*

***Meeting Recorded and Transcribed by  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey***

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## TABLE OF CONTENTS

	<u>Page</u>
Robert H. Holster, Ed.D. Superintendent Passaic Public Schools	1
Gordon A. MacInnes Assistant Commissioner Division of Abbott Implementation Abbott Implementation and Compliance Coordinating Council New Jersey Department of Education	3
David Sciarra Executive Director Education Law Center, and Member Abbott Implementation and Compliance Coordinating Council	7
Nancy Everett President Passaic Board of Education	28
Deborah Hudzik, Ed.D. Director of Curriculum Passaic Public Schools	32
Christine Krenicki, Ed.D. Director of Testing Passaic Public Schools	35
Barry Stein Director of Facilities Passaic Public Schools	37
Henry J. Lee School Business Administrator Passaic Public Schools	43
Frank D'Ambra, Ed.D. Special Education Passaic Public Schools	49
William Lewis	

## **TABLE OF CONTENTS (continued)**

	<b><u>Page</u></b>
Representing New Jersey Education Association	57
Gene Keyek Representing Association of School Business Officials	62
James Shoop Assistant School Business Administrator Passaic Board of Education, and Pupil Transportation Coordinator Passaic Public Schools	63
Wayne Dibofsky Representing New Jersey Education Association	69
Mary Mazzocchi Executive Director New Jersey Bus Owners Association	74
<b>APPENDIX:</b>	
Testimony submitted by Henry J. Lee	1x
Position Statement submitted by Wayne Dibofsky	3x
Position Statement submitted by Mary Mazzocchi	5x

## **TABLE OF CONTENTS (continued)**

**APPENDIX (continued):**

	<b><u>Page</u></b>
Position Statement submitted by Mary T. McElroy and Kathryn McGee Representing New Jersey Alliance of Catholic School Families	6x
Statement submitted by New Jersey School Boards Association	7x
lmb: 1-75	

**ASSEMBLYMAN JOSEPH V. DORIA (Chairman):** I'd like everyone to please take your seats. We're going to begin the hearing and Committee meeting. Everyone please take your seats. We're going to begin the meeting.

I'd like to ask everyone to stand. We're going to have a presentation of the colors by the students. So we would ask them to present the colors, then we'll have the pledge to the flag. So let us now have the presentation of the colors. (flag presentation) (participants recite Pledge of Allegiance) You can be seated.

I'd like to thank everyone for coming to this meeting. What I'd like to do is to begin first by introducing the members of the Committee who are here present and then we have some testimony. So I'd like to begin by introducing the members.

First, Assemblywoman Arline Friscia. We have Assemblyman Ralph Fraguela who is also our principal here in Passaic. We have Assemblyman Paul Sarlo who represents Passaic. We have Assemblyman Matt Ahearn. Vice-Chairman, Craig Stanley. And we have Assemblywoman Rose Heck. We also have the staff members who are here present. We have Maggie Manza from the Democratic Assembly staff; Victoria Brogan from the Republican Assembly staff. We have the Section Chief for education in the Office of Legislative Services and the Chief Committee Aide, Kathy Fazzari, and we have OLS staffer, Ted Settles.

What I'd like to do is ask Dr. Holster, the Superintendent, to make a few comments of greeting, and then we'll move forward.

**ROBERT H. HOLSTER, Ed.D.:** Thank you, Assemblyman.

Is this microphone on? (referring to PA microphone) How about this one? (referring to recording microphone) I'll use my teacher voice.

ASSEMBLYMAN DORIA: I think the one standing is the microphone. It's on.

DR. HOLSTER: Thank you, Assemblyman and Committee. I welcome you on behalf of the Passaic Board of Education and entire school community. This is truly an honor to have you in Passaic to host your educational Committee meeting. You're getting, firsthand, an opportunity to see how an Abbott district that's in full action takes place. We are, as you know, quite a large district approaching 13,000 students. We recognize, obviously, as a district that is mindful of the situation with the State and during the meeting after the testimonies, of course, we would ask respect if we could have an opportunity to share with you some of how your investment in the district, as far as resources, can be measured and can be demonstrated as working. We'd like to take some time to share that with you and perhaps to have a collegial kind of exchange as to the great things that can happen with proper planning, the timing, and of course, effective communication between the legislative body, the Department of Ed, as well as local districts.

Again, on behalf of the entire school community, particularly our children, we welcome you here. Thank you, again.

ASSEMBLYMAN DORIA: Thank you very much, Dr. Holster. Thank you.

I just want to thank Dr. Holster, the principal, and staff of Mario Drago School No. 3 here in Passaic. It's a pleasure to be here. I have to say that it's not very much of a common experience for Assembly committees to

go on the road. I think that it's a great idea. We should be doing more of this, and I very much want to thank Assemblyman Fraguela, who made the suggestion, and I think was an excellent suggestion; and Dr. Holster for agreeing to host this and, obviously, all the people of Passaic and all the teachers and administrators and children here in the Passaic school district. I almost said Bayonne. (laughter) That's what happens when you're mayor for so long. But it's a pleasure to be here and to have the opportunity.

What I'd like to do is we have with us -- we're very fortunate to have with us today someone who is very involved with the Abbott districts. He is the Deputy Commissioner (*sic*) in charge of Abbott districts. He's a former State Senator, an advocate for children on a continuing basis, and that's Deputy Commissioner MacInnes. I just want to ask Gordon to come up to speak to us about what's going on with the Abbott districts and any suggestions, comments, ideas that he has for the Committee. So I want to thank Gordon for being here and for taking his time to share some of his ideas with us, and that's Deputy Commissioner MacInnes.

**ASSISTANT COM. GORDON A. MacINNES:** Thank you very much, Dr. Doria. Do you go by doctor or just Chairman?

ASSEMBLYMAN DORIA: Joe's probably the best. (laughter)

ASSISTANT COMMISSIONER MacINNES: Joe, yes.

ASSEMBLYMAN DORIA: Thank you. Thank you, Gordon.

ASSISTANT COMMISSIONER MacINNES: Thank you very much for this opportunity, Mr. Chairman. I commend you for doing what you're doing, for being out of Trenton, and being in a real school in a real district and learning from people firsthand. It's a welcome change.

*Abbott* is vast. It's a product of 32 years of litigation. It's the product of nine different decisions by the New Jersey Supreme Court, plus how many? Five, and the predecessor *Robinson v. Cahill* litigation. All of us know about *Abbott*, and we know about it as a set of judicial opinions, a set of judicial directives to the State, to school districts, to the Legislature, to the governor. I think we now have an opportunity to see *Abbott* in a different light. The light that I think we should look at it is an educational opportunity. If you think about the problems that are characteristic of the *Abbott* districts, if you think about the problems of people who run schools or teach in the classrooms of *Abbott* districts, you know that they're starting with a tougher hand to play. You know that children who arrive for kindergarten do not have the same vocabulary. They don't have the same experience, the same notions, the ability to deal with ideas that kids who are arriving for kindergarten in, say, Ridgewood.

Whatever explains that difference isn't very important. The fact is that it exists, and the Supreme Court has recognized that. At first, they recognized that there was a fiscal problem, and we spent years fighting about that and dealing with it, and we've largely closed the gap in terms of the property tax no longer being the determinant as to whether or not a child is going to have a fair chance at a decent education. That debate is pretty much behind us.

Now we need to deal with the educational issues, not the fiscal issues. The Court has commanded that we start school early to deal with this problem. We start at age three with a high-quality early education. I put the emphasis on high-quality because that's the key. We can have day care where

kids are in safe and secure places while their parents are working and that they're taken care of and that nutrition is provided, and they're able to play. That's not the same thing as a high-quality early education where they're in a small classroom with 15 kids, a college educated, certified teacher with special preparation in early education. That's the key.

We want to follow that with small classes in the primary grades with a literacy-rich curriculum as ordered by the Court. If we do that, if we put together a pre-kindergarten through third grade program, we're going to produce a vast majority of kids in the Abbott districts who are going to be strong readers in Grade 3. That's the educational opportunity represented by *Abbott*. No other state is close to having this opportunity. No other state has the agreement on the policy.

It may be regrettable that this policy was set by the Supreme Court instead of the Legislature. As a former member of the Senate and as a former member of the General Assembly, I'm sorry that that's the case. But we do have a consensus that starting early with high quality makes sense. There's no other state that has gone to that length. And the second thing is we have most of the money that we need to do this well. Perhaps not every dollar, but we have most of it.

So now we've got to get the quality right so that three-year-olds are exposed to the kind of experience that they're not going to get anyplace else in the country. With large numbers of concentrations of poor kids in cities, this is our chance. If we do it right, do you know what we'll do? We'll close that achievement gap that people have been talking about for 35 years. That is an exciting, exciting dramatic possibility.

It's possible that we're in this situation for one reason, and that is, for the first time, we have a governor who actually looks to *Abbott* as a vehicle for achieving his educational goals. He ran for the office of governor. His most memorable pledge as a candidate was universal literacy by third grade -- every third grader reading on grade level. And by the way, if we can accomplish that given other good things that are going on in New Jersey, New Jersey will become the best educated state in the union. Not the best educated, diverse state in the union, not the best educated, complex place in the union, the best educated state, period, in the union. That's a huge payoff for everybody, and everybody benefits from the Abbott program.

Governor McGreevey has made possible for the first time after 32 years, if you can imagine that, the first time that we've had a collaboration instead of opposition with the plaintiffs in the *Abbott* litigation, and that is an interesting process. It's not a simple one, and it's not a easy one, but it's a valuable one.

David Sciarra, who is the attorney for the plaintiffs and who is the Director at the Education Law Center is here on my left. I know that if you would -- given him a chance to speak, and I -- mindful that he needs to leave to be in Newark-- If I could, Mr. Chairman, with your permission, I'd like to demonstrate this collaboration by allowing David to come forward and say a few words. Is that possible?

ASSEMBLYMAN DORIA: I'm very happy to have David Sciarra, the Executive Director of the Education Law Center come up and make a few comments.

ASSISTANT COMMISSIONER MacINNES: Thank you.

ASSEMBLYMAN STANLEY: This is unprecedented cooperation.

(laughter)

ASSEMBLYMAN DORIA: That's right.

**DAVID SCIARRA:** Wow. How about that?

Thank you, Gordon.

I will be brief. I do have to leave, but I want to echo everything that Gordon said, and I know he's going to say more about the specifics of what's going on. I'd just like to make a couple of points in terms of where we are now.

Before I do that, though, I want to echo something that Gordon said about the national implications of what we're now doing in the *Abbott* case, all of us, and that includes all of you in the Legislature. On February 9, *The New York Times* editorialized that the *Abbott v. Burke* decisions, all of these rulings, which has now put in place a set of programs and reforms, are the most comprehensive package of programs and reforms for the education of disadvantage children anywhere in the nation. *The New York Times* editorialized it. As a result of that, *Abbott v. Burke* was the most important educational ruling in the United States since *Brown v. Board of Education*. That is a humbling, impressive validation of what Senator MacInnes just said.

Let me just make three points. One, we have entered into what I would call a structured dialogue and relationship with the other side, with the Commissioner of Education, with Gordon as the person in the Department who is the point person on *Abbott*, the Commissioner of Human Services, EDA, and the Attorney General. We did that because the Supreme Court, for the last three years, if you have been following *Abbott*, our fights over *Abbott* have

not been about the programs themselves. We won adequate foundational funding. We won from the court, or we got from the court to order the implementation of preschool education, school reform and improvement, supplemental programs, school construction.

The fights we've been having over the last few years have been about what I call the details of implementation: how to implement these programs. We said in 1998, when the court issued its *Abbott 5* ruling to the prior administration, you cannot do this alone. These programs cannot be implemented by the Department or the administration alone. These are complicated, difficult, unprecedented challenges. We called on them to sit down with us, as the representatives of the other side, and not just us, but stakeholders who are involved in *Abbott* -- superintendents like Dr. Holster, school board members like some of them that are here, principals, parents and community representatives, preschool providers, Head Start programs; the list goes on and on and on.

Our plea was, in order to implement these court rulings properly and avoid further conflicts in court, we have to have a collaboration that consists not only of a collaboration between the parties, but also bringing in groups of stakeholders, experts, and others who are in the field, who understand these programs, and who can help guide DOE, the Department, EDA's response to these programs. Well, that didn't happen, unfortunately. And as many of you know, we had to trudge back to the Supreme Court several times.

But the point I want to make about this, though, is that the court was very clear in its last two rulings. The most recent, in February, on

preschool education. We had asked for the appointment of a special judicial branch member, a special master, to oversee the day-to-day operations of the Abbott programs because we were frustrated. The court said, “No.” The court has not retained jurisdiction. The court has made it clear now twice in its rulings that they wanted the parties to collaborate together on the details of implementation. They wanted the State to bring in the other stakeholders to help out so that these programs could be implemented effectively, and we would avoid ongoing disputes in court about how to implement these programs effectively. Well, that’s now been done.

The agreement that we have with the administration is to work in a structured way, to talk about how we’re doing, how the Department is doing, to assist them to give whatever help we can, to create work groups of stakeholders that can help fix the Abbott programs and get them moving and on a solid footing. And that’s essentially the agreement that we have.

I want to make two other points. One is we’ve acted quickly with the administration to address the problems of the budget and *Abbott*, and the agreement that we reached, which is now pending before the Supreme Court, will do two very important things in our view. Well, actually, three very important things. The first is it will continue forward and make major improvements in the preschool program. There’s additional funding, as you know, \$142 million in the proposed budget for preschool to help implement that program, but more importantly, a work group has been put together that’s going to be coming out with new guidelines on preschool by July that will set the course for program implementation in the coming year.

The second thing we've done is we've made sure that the foundational funding for the Abbotts remains at its constitutionally required level of being on par with what is spent in the suburban districts. We did agree to a one-year time out -- it's gotten a lot of press coverage -- on the supplemental funding part of *Abbott*, which frankly we've been complaining for three years in court is constitutionally defective and broken and needs to be fixed so that it reflects what the court wanted in 1998, which -- and let me paraphrase that. The court said if the Abbott districts -- if you're going to appropriate any more money beyond what the Abbott districts already have, we have to have a system in which districts can come forward and demonstrate need, and then you can be assured that the extra money you're appropriating is going to specific needs-based programs in specific districts like Newark, Trenton, Vineland, so forth, and so on. We don't have that protocol. The prior administration never set it up. We have a commitment from the new administration. We're working hard with them and others to develop that protocol so that it is in place by next year.

And lastly, my final point is we're working hard to try to fix the implementation of all of the Abbott programs. We have serious problems that weren't attended to over the last three years in school construction. As many of you know, in preschool, Whole School Reform, which is instruction the courts mandate for curriculum and instructional improvement, supplemental programs, the funding process, which I just talked about. There's a whole variety of these programs in which the framework that the State Department of Education has set up needs to be fixed. We're hard at work, and hopefully Gordon will talk a little bit more about that.

So what is my plea to you here today? It's to stay engaged with us. We absolutely have to have the Legislature's deeper engagement in the implementation of *Abbott* -- deeper understanding. I hope I have the opportunity to come back here again to talk to you about how the work is proceeding, to keep you informed about how it's going, so that we can move away from what I thought we had in the last three years, which is-- A lot of stuff happens in *Abbott* out there during the year, and it winds up landing with a thud on your desk when the budget hits. We've got to change that.

My pledge to you or challenge to you is to work with you so that we can keep you engaged in the process that's going on, keep you informed about the changes that are being made, so that not only you can be informed about the money that needs to be appropriated under *Abbott*, but more importantly, whether you can begin to be involved in where we're going now, which is what Gordon alluded to.

We've got to ratchet up the issue of accountability, accountability for the funding, and accountability for ultimately -- which is the core requirement of *Abbott*. And what we're ultimately interested in as the representatives of the children is to ensure that all of this funding and all of these programs, at the end of the day, results in improved student achievement and the closing of those achievement gaps which Gordon talks about.

So, I want to thank you, Mr. Chairman. Thank you members of the Committee. If you need any information from us, we're always available. I know many of you know that. I've worked long and hard with Assemblyman Stanley on these issues, given his direct involvement in the school management teams in the implementation of *Abbott* in the Irvington school district. So,

whatever we can do, we're available. Let's stay in touch. Let's keep the conversation going.

Thank you.

ASSEMBLYMAN DORIA: Thank you very much, David Sciarra.

MR. SCIARRA: Thank you.

ASSEMBLYMAN DORIA: Let me just say that I wholeheartedly accept the desire to have continued dialogue. I think we want that. The members of this Committee would like to continue that. We want to have an open door policy where anytime you have an issue that you feel we should be aware of, please feel free to call upon us. Whether we do it at a meeting or a hearing, committee meeting, or just in general discussion, I think it would be very helpful to everyone concerned. And we want to just tell you that we're here to work with you to try to move forward to make sure that the students of the State, especially the students in the Abbott districts, will succeed.

Does any member of the Committee have any questions?

Yes, Vice-Chairman Stanley.

ASSEMBLYMAN STANLEY: Thank you very much.

David, I appreciate all the work that you've done on behalf of the students, Marion Morehouser (phonetic spelling) before you. It's been an excellent journey or it's been a tough journey, let me say that. But we see some of the fruits of the labor. I'm very concerned right now in terms of the fiscal issues concerning the Abbott districts, and I'm wondering if even some of these cuts-- And I'm looking at a list of things that are being cut by a school that I actually sit on the school management team. Are some of these cuts putting us in a backwards mode right now? Are we losing ground? Because as I see

things that are being cut here, that we've really fought to make sure that they don't get cut any more. That 32 years, that was because every time there were cuts, a lot of times the Abbott districts ended up getting the bad end of the stick. And so now to see this situation, it's concerning for a lot of people. I represent Irvington and Newark, and we have some serious problems in both of those districts.

MR. SCIARRA: I'll take-- Is this on? (referring to PA microphone)

Let me answer that, and I know Gordon wants to follow up. But I'll answer it from our perspective because we represent the children statewide. The decision that we came to to support the application that the State made to the Supreme Court was a very difficult one for us, because it does require some belt-tightening in the Abbott districts this year for the first time in many, many years of receiving increases of court-ordered funding. We also recognize that it will require some limited reductions in districts under the formula that's before the court.

Let me make a couple points. One is that we've successfully in this agreement protected the preschool program. And for the first time next year, preschool will be funded at a total level of State aid of \$380 million in the Abbott districts. It's an increase of 142 million. For the first time since 1998, we'll be able to say with confidence, on behalf of those three- and four-years-olds that the Abbott preschool program is adequately funded. We're working on fixing the other aspects of that program.

The second thing we've done on the K-12 budget in this agreement is to maintain parity level funding, which is the foundational

funding for the K-12 program equal to what the suburban districts have, which is the court's benchmark. There's funding in the budget to maintain that. The area where we had trouble that's leading to this is something that we've been complaining about -- and you know this well, Assemblyman, since 1998 -- which is the supplemental funding part of *Abbott*. That's the court's mandate that if districts need, in addition to parity level funding and categorical aid and all of the other aids that they get, if there happens to be a need for additional programs or funding to meet those needs because of the unique needs in the Abbott districts, then the State was ordered to set up a clear and effective -- that's the court's words -- funding protocol. That at the end of the day, the Legislature would know that if it's appropriating any more money for the Abbotts, it would be tied to specific needs-based programs that the district presented.

The problem we faced and as we learned working with the State is we don't have that protocol, as it wasn't set up. There was a lot of supplemental funding and expenditures approved by the prior administration with literally no accountability. No accountability in terms of the needs-based programs that the districts presented that that was supposed to support and no accountability at the end of the day that the money that was being appropriated were going to support those programs. We simply faced a mess. We faced the irony of being in front of the Supreme Court now arguing that that very process should be stopped because it's unconstitutional and needs to be fixed.

So, when we talked about this with the administration, the decision was to stop that. It's the only part of *Abbott* that really is stopped. It's

the supplemental funding process beyond where we are now, in order to create a one-year period in which we'll work together with us and with others to come up with a new framework that will have the accountability that the court requires built into it.

Now, let me make a point on the cuts. We've limited the areas of reduction in this agreement to -- it's really a budget cap. Your K-12 budget is moved over to next year. You won't be able to get supplemental funding for increased costs, but you will be able to get supplemental aide or other support to maintain your budget. The way that's playing out in each district varies, and I don't know about Irvington and whether they've actually done the calculation now under the proposal that's before the court. They may have not done it correctly because the court hasn't issued its order yet, and Gordon has yet to issue new instructions about how to go back. It may turn out that some of the reductions you're talking about will not be as significant in Irvington. That's turning out to be true in some other districts. So I think you need to hold on for a minute and wait to see when the court acts, go back and look.

The final point I'll make on this is we've made sure its core components of *Abbott* are maintained, the standards-based education in every school supported by parity funding, the Whole School Reform programs that are in place by now have to continue, instructional facilitators, class size has to be maintained. The core has to be maintained. We've also said to central offices doing this, you've got to consider if you have to make any reductions, central office reductions, not just in the schools. And then when you sit down to the schools, look into the areas where you think you can get some

reductions for a year in consultation with the school management teams. That's part of the court order.

So my answer to you is we have concern, too, that some needed programs may get reduced as a result of this for one year. I'm not happy with that, but we felt given the overall problems we had with the district planning budgeting and funding process and the lack of accountability built into that, we had no choice but to say -- and given the budget problems, the enormous budget problems that the State faces -- we felt it was in the best interest of the children to call a halt to that since we've been arguing for that in court already, while we work with the administration to come up with new funding protocols next year.

I'm confident. I have to tell you, Assemblyman, that if districts that are doing this, that are following the way, working through this on the ways in which we've laid it out in the court opinion are finding that they can get the reductions they need to get to cover their cost of living increase for next year, which is really what is up for grabs, if you will, that amount. No particular programs are ordered cut here. It's just an amount that they have to cut in order to maintain their budget, K-12 budget from this year to the next. We're finding that most districts are able to do that with, frankly, very minimal impact on the schools and on needed programs in those schools.

Now I recognize we have problems in certain districts, in terms of unique problems in certain districts. I don't want to get into that here. Newark has a special problem for obvious reasons, as many of you know, but I'm confident. I'm also confident that we have to begin to build in a framework for budgeting and funding that we haven't had since '98, which the

court wanted, in which at the end of the day the State can assure the plaintiffs and all of you that all of the Abbott funding is being used effectively and efficiently -- that's the court's words -- to support programs that are effectively contributing to student achievement in the schools and classrooms, which is a protocol that we don't have.

I hope that answers your question, and I'll leave it to Gordon to follow up.

ASSISTANT COMMISSIONER MacINNES: Sure, that's all the time you're going to get.

ASSEMBLYMAN DORIA: Thank you.

Assemblywoman Heck wanted to make a comment.

ASSEMBLYWOMAN HECK: I just wanted to comment that a few years back we held a hearing in Hackensack -- we, Senator Ewing -- on the subject of education and public schools and how were we doing. Bus loads of people came into the auditorium in Hackensack. One stands clearly in my mind. There were about two or three bus loads of people from Newark who came in, even though the Abbott districts were getting more money and special attention, it wasn't getting to the classroom. That was way back when. It was horrendous. The superintendent of schools was there. He was pleading his case, but the parents made a difference in the way that money was given to the students. It's important for all of us to communicate with the parents, with the teachers, and with hearings such as this, Joseph. It's very important that we know where the difficulties are and make the needed changes.

For instance, in the Englewood/Teaneck area, there's a small group of women -- and I'd like you to see this program at some point, Senator

MacInnes. They are working with not only the children, but the parents on literacy. Because if the parents cannot help the children, there's a big, open blank space there where the child is not being looked at, not just in the school, but prior to school and after school. I think all of those things are important.

Again, with \$50,000 last year, we were able to help bring in 50 new students with language barriers and literacy problems. We're going to a graduation soon, and I'd like to invite you, and perhaps Joseph, to see this. It was a project for the Council of Jewish Women. It's exceptional.

ASSEMBLYMAN DORIA: Thank you. Thank you.

Any other comments from Committee members? (no response)

Again, our Commissioner MacInnes, Gordon?

ASSISTANT COMMISSIONER MacINNES: Do you want me to wrap up, Mr. Chairman?

Let me just mention a couple of things. I thought David was pretty good for a lawyer, didn't you? (laughter)

ASSEMBLYMAN DORIA: For a lawyer.

ASSISTANT COMMISSIONER MacINNES: For a lawyer.

A couple of things which bear on the conversation about accountability -- because this is essential if we're going to preserve the consensus -- which can become pretty fragile at times around the intuitively appealing nature of the *Abbott* remedies of starting early with high quality. Nobody can argue about the fact that three-year-olds deserve a chance in this society. They're not getting that chance right now. *Abbott* is a way for tens of thousands of them each year to get it and to get off to a right start and close that gap that is already very wide at kindergarten.

One of the groups that David mentioned, the collaborative groups, is looking at the issue of establishing the student data base for Abbott district students initially, but for all students in the state eventually. We hope that we will have something in place by September of 2003. This is important because we need to be able to follow children as they start through this process. We need to see if three-year-olds and four-year-olds are, in fact, benefitting from what is supposed to be produced by a high-quality early education. We need to see if there's a difference between the Bluebird Program that is sending kids to the kindergarten at Public School 19 and the Red Robin Program, which is sending kids to the same kindergarten. Are there differences? Are there differences that persist over time, and what does that tell us about quality of the early education programs, and what are we going to do about it?

We're going to look at the quality of problems immediately, but I want to mention that because I think that this is truly an investment. An investment which, from everything that we know and in more certain terms than about anything else in education, that if we do this right, the returns to everybody in the state will be huge. This is the best investment we can make. We need to show that that's the case.

Secondly, I'll mention that we are on a crash course because we really need to change the way that the Abbott districts are asked to budget and to make their proposals annually to the department. We have a working group that is looking at that. We're tying it to the core curriculum standards. That's what the court said, and that's what has really been missing in what has been set down to the districts by the State in the past. The core standards are supposed to be the proper benchmarks for what a fourth grader should know

or a second grader should know or an eighth grader should know, and that is to drive improvement in all schools in New Jersey, not just non-Abbott schools. We need to get that focus placed where it belongs instead of on models. And all the emphasis so far has been on adopting a model that somebody has developed down in Johns Hopkins or up at Cambridge or out in California, and now they're marketing that model, and it's on an approved list, and you adopt it, and we'll judge you by how well you implement that model.

That's not what the court asked for. And that's not what the Legislature has said. The court and the Legislature agreed. The core standard shall determine what we expect of our kids, not what some model developer has determined. So we need to make that shift and make that conversion, and we need to do it by this fall because we want it to influence how districts are asked to prepare their proposals and budgets for next year.

Mr. Chairman, you've been very generous with your time. I'm happy to take any questions that anybody might have, if any are occasioned.

ASSEMBLYMAN DORIA: Any members of the Committee have any questions?

Yes, Vice-Chairman Stanley.

ASSEMBLYMAN STANLEY: Thank you, Mr. Chairman.

I thank David for being clear with his answers with respect to some of the problems that we've had in the past with respect to supplemental programs. Our complaint really last year and in previous years was that the Department of Education had summarily dismissed all of the supplemental programs -- had a form letter and sent it back to district saying that your supplemental request is not approved. I think what we were hoping for is not

the cutting back of supplemental programs per se but, of course, a system through which they can be applied, reviewed, and evaluated.

And again, I'm hopeful that I am wrong, that maybe the districts were underestimating or overestimating the impact of the cuts. I know there was a lot of confusion as to whether the parity aide would make up for the difference. There are just so many different issues there.

ASSISTANT COMMISSIONER MacINNES: And it varies district to district, and I can't tell you what the precise situation is in Irvington. But as a general rule, what we're talking about across the state, since the Abbotts are being held to the same standard that the non-Abbotts are being held to -- which is no additional money, that's the standard -- the impact is really as a general issue the cost of living that David was talking about. It's about a 4 percent impact. That's what it should be statewide in any one district, because of the crazy way all of these different formula programs work out in any one district, the impact may be more dire. I can't say that Irvington is excluded from that category. I don't think, in fact, Irvington has submitted its budget yet in the revised form that we've requested. But if it has, it's not over because our criteria will be implemented in our review of the budget. The first standard is to protect class size reductions that have been achieved, to protect classroom instruction, and to preserve the core, instructional core, of Whole School Reform improvement programs that are underway. Those are the three most important things.

The other criterium that we're using is the central office shall not be spared. So we're going to look at this, and we'll make changes if necessary to protect the core of instructional programs in schools, and we'll have to help

districts find the money elsewhere. I say that simply, and I know it won't be simple, but that's our criteria.

ASSEMBLYMAN STANLEY: Yes. I've spoken with both superintendents, and I've asked them to itemize the cuts to central office, what their central office budgets are.

ASSISTANT COMMISSIONER MacINNES: We're going to be asking the same thing.

ASSEMBLYMAN STANLEY: I think that's very important as we go forward with advocating for our districts. I only want to ask -- this is my last question, Mr. Chairman -- and that is with respect to holding Abbott districts at the same level from last year. It gets a little confusing. I understand that they have to be equal in their per pupil expenditure -- I guess their regular core curriculum education expenditures with the I and J districts. The *Abbott* districts have to be equal to per pupil spending to the I and J district's student averages. Is that correct, or are we going to end up below that?

ASSISTANT COMMISSIONER MacINNES: No. The parity which is the court's requirement that the regular budget, K-12 budget, for the Abbott districts equal on a per student basis the average budget of I and J districts. We will hold to that this year and next year.

ASSEMBLYMAN DORIA: One question that's somewhat related, and I think one of the problems that I foresee in the future and I've been saying, is obviously as we deal with the 30 Abbotts, there are a second tier of districts -- the Sayrevilles, the Carterets, the Montclairs--

ASSEMBLYMAN STANLEY: The Bayonnes.

ASSEMBLYMAN DORIA: The Bayonnes. Yes, Bayonne is one of them. (laughter) North Bergen -- that are in a situation where they can easily fall into the same educational as well as financial difficulties that exist in the Abbotts. Have we begun to look at how we prevent that from happening in the next few years so that we don't find ourselves in a situation where we solve one problem and have now created a new problem? Because obviously, when you talk about the average spending for the I and J districts, many of the second tier districts are spending no where near the average for the I and J districts or the Abbott districts. And especially as the budgets get turned down and ballots and the various elections, what, if anything, can we begin to do to try to deal with that problem? And I understand money by itself is not the solution, and I readily put that up front.

ASSISTANT COMMISSIONER MacINNES: Right.

ASSEMBLYMAN DORIA: But how do we begin to deal with the problems that are existing as we begin to see, especially when we begin to see the criteria coming out of Washington, which I don't know necessarily are fair criteria in determination of failing schools, but yet Washington gives us no money to then deal with what they consider to be failing schools, which may not really be failing schools, but again creates the perceptual problem for a lot of these districts?

ASSISTANT COMMISSIONER MacINNES: Two-part answer, and I'll be real quick on it, Mr. Chairman. The first part of the answer is that this is something that is on our list. We've not turned to it yet, because we've got to get everything turned around in terms of all the regulations that need to really be done by July 1 in order to get the software tested, coded, and

everything. But this is on our list, and it's very high on our list, because we know this: the goal of having strong third grade readers won't be achieved if we don't deal with the kids who happen to be in Hillside or happen to be in Salem City or happen to be in Sayreville, as you say.

ASSEMBLYMAN DORIA: Bloomfield.

ASSISTANT COMMISSIONER MacINNES: And there are a lot of places and in some of the most affluent districts, that's the case, too. It tends to be concentrated at 100, or so, other districts beyond the Abbotts, and it would be crazy for us to say that the only kids who really deserve this constitutional education are kids who happen, by geographical accident, to live within the borders of the 30 Abbotts. So we're going to turn to that. I think the most important first step we can take -- and it's a long-term one. It doesn't address all the problems -- is to look at the early childhood program aid which does go to about 100 other districts and to begin working on the implementation of that and the quality issues obtained in those districts as the first step.

The second thing that we've agreed to do is to look at the qualification of all present Abbott districts and that second tier, should we be making some changes. Now that does become a money problem. It does become a money issue. I think, realistically, looking at what the governor and the treasurer are saying about this year and next year, it might be good for us to get started on thinking about that, but I don't think any proposal will see the light of day under these financial circumstances.

ASSEMBLYMAN DORIA: And I want to commend the department and the administration for maintaining the early childhood aid to

those districts. Because if that had been taken away, there would have been a major upheaval as it relates to the ability to provide for the early childhood programs to prepare the students to succeed and be able to read by the third grade. So that was very important, and it was something that I was very concerned about. I'm happy that we were able to maintain that. I have to commend the department for that.

Are there any other questions?

Yes, Assemblyman Sarlo.

ASSEMBLYMAN SARLO: Thank you, Mr. Chairman.

A quick question. The joint advisory council of DOE and the state Education Law Center, I guess they've met once or twice already? Do you know how many times they've met so far?

ASSISTANT COMMISSIONER MacINNES: Yes. I think we had our first meeting in February, and we've met monthly since then. This group oversees the work that we're doing in these working groups.

ASSEMBLYMAN SARLO: I mean, is progress being made -- the meaningful reforms -- I mean, meaningful discussions on the situations at hand?

ASSISTANT COMMISSIONER MacINNES: You know, it's a very helpful exchange, particularly between the departments that are represented on the council. Again, on the early childhood just as an example, the Department of Human Services licenses all of the providers of early education that are not themselves part of the school program -- the nonprofits typically that provide the programs for the three- and four-year-olds. They also provide the funding for the after-school portion of the programs in the schools

beginning next year and for the summer program. Well, that's a lot of things that need to be coordinated. And having the Commissioner of DHS on the council so that we can talk about those and other problems--

ASSEMBLYMAN SARLO: Getting input from everyone.

ASSISTANT COMMISSIONER MacINNES: Yes. And they're also responsible for Medicaid. Medicaid is a very good indicator, as you know, of poverty. If we can begin to identify kids earlier through their eligibility for Medicare, but that takes a lot of work and coordination. The council makes such conversations possible. I think it will lead to very helpful changes, in addition to its stated role in the executive order to oversee this process of banging away at the problems that we've inherited.

ASSEMBLYMAN SARLO: Thank you.

ASSISTANT COMMISSIONER MacINNES: Thank you, Assemblyman.

ASSEMBLYMAN DORIA: Any other questions from the members?

ASSEMBLYMAN STANLEY: Just a comment, Mr. Chairman.

ASSEMBLYMAN DORIA: Sure.

ASSEMBLYMAN STANLEY: I just want to really commend the administration and yourself, Gordon, for the work that you've done. Of course, we all have concerns, and we'll all be advocates for our districts and for the children in the State of New Jersey. I mean, that's what we're here for. But we do think it's really a breath of fresh air finally to have administration and the Education Law Center and departments working together to try to deal

with the issue of the education of our most -- I guess our most needy school children. I commend you and the governor for it.

Thank you.

ASSISTANT COMMISSIONER MacINNES: Thank you very much, Assemblyman.

ASSEMBLYMAN STANLEY: Thank you.

ASSISTANT COMMISSIONER MacINNES: Mr. Chairman, any time that we'd like to continue the conversation, I'm available, and I like traveling, so-- (laughter)

ASSEMBLYMAN DORIA: Thank you. Thank you very much, Gordon.

ASSISTANT COMMISSIONER MacINNES: Thank you, Mr. Chairman.

ASSEMBLYMAN DORIA: We appreciate that. Your comments were very enlightening, and we commend you and the department for the work you're doing. And obviously there's a lot more work to be done. But as long as we have the open dialogue, I think we move forward in the right direction.

So thank you very much for taking time out to come here today. Thank you.

ASSISTANT COMMISSIONER MacINNES: Thank you, Mr. Chairman.

ASSEMBLYMAN DORIA: At this point, Dr. Holster, would you like to come back again and maybe-- I know you have some of your people here in Passaic who would like to say some things.

DR. HOLSTER: Yes, I appreciate it very much.

However, I would like to introduce our President of the board who asked to come up--

ASSEMBLYMAN DORIA: Sure.

DR. HOLSTER: --and, of course, greet you also.

Nancy Everett. Ms. Everett, would you please come up?

**NANCY EVERETT:** Yes, good afternoon. On behalf of--

ASSEMBLYMAN DORIA: Would you repeat your name again for the--

MS. EVERETT: Yes. Nancy Everett. I am President of the Passaic Board and on behalf of the school board I would like to welcome you to the city of Passaic. We're very pleased to have you here with us this afternoon. I have some of my board members here. The Vice President of the board is here, Reverend Durham. Eugene Durham, if you could just stand? And Rafael Garcia. Carlos Sinnung.

We're all very proud to be part of the board. One of the things that we want to let you know is that in the city of Passaic we are very much encouraged, inspired, and we work with a passion and an energy and a commitment to our students. We are advocates for our children. We understand that there are things that we are working with to try to correct and some of those things-- And what I would like you to know -- the three things is that we have the passion, we have the energy, and we have the commitment. That's the positive side. The negative side is facilities, facilities, facilities.

We know that for a child to really get a good understanding, a good learning, a good education, not only do they have to have the best and qualified teachers, but they have to have an environment that they can thrive

in -- one that is conducive to learning. We encourage and we hope that you will think of us as you go forward at the State level. And understand that this is something that in Passaic we really do need better facilities.

Thank you again.

ASSEMBLYMAN DORIA: Thank you.

Excuse me, President Everett, do you want to come back? Vice Chairman Stanley wants to ask a question.

ASSEMBLYMAN STANLEY: Thank you very much, Mr. Chairman.

You mentioned facilities, and I think that's a big issue for a lot of the districts. I just wanted to ask you if you could just give us any indication on how facilities are going. I really should have-- I wish Gordon was still here. Gordon likes to travel. He ran out of here. (laughter) But I would like to ask you how are you in terms of your facilities plan and what seems to be the holdup?

MS. EVERETT: Well, we have a plan. The problem is we lack space in Passaic. We're running out of space. We're running out of areas to buy and to build. We have no land. The land is not here. The spaces that some of our children are learning in are really not conducive for learning. I can tell you that we have children-- Some of our children are actually sitting in classrooms that are next to a boiler room. Some of our children are sitting in classrooms that don't have windows, and we don't have light to look out of. This is not conducive for learning, and we are running out of space. We're trying to be as creative as possible. We have, as Dr. Holster has spoken about, a very large district. We don't see it getting any smaller. We want to start the

early. We know that as early as we can get children into the education system, the better off we are, but we lack-- There's a problem with elementary education because we don't have room. We don't have space. It's difficult.

ASSEMBLYMAN STANLEY: Is it space in the city that you're talking about or--

MS. EVERETT: Well, actually it's both. It's a combination. Even in the city of Passaic, it's just difficult. We're being very creative in trying to build and trying to look for areas that we can put classrooms, but we're almost running out of ideas. It's a really big problem.

ASSEMBLYMAN STANLEY: Are there any holdups that you see on the administration level or anything like that?

MS. EVERETT: You might--

DR. HOLSTER: Yes. What I would like to do is I asked several administrators to be very brief, but I think this is an excellent opportunity for the Committee to kind of walk the walk. You see, in Trenton, you pass laws. The Department of Ed mandates these into the district. Now your going to get an opportunity to hear from district people as to the strengths and the actual conditions we have to work under. That's why I asked several of our administrators. I think you should see correlations between what we're required to do between core curriculum standards, standards in general, facility needs, special ed needs. I would like us to take a couple minutes to share with you what we're encountering or the impact of what is being passed by the legislative body and, of course, by the DOE, as far as the mandates.

Facilities. This is where I believe really the horse should have come before the wagon. Facilities is the driving force in Passaic. We have,

under the present model that the State developed, 30 percent of our students in substandard conditions. This has been going on for a number of years.

We have 16 facilities. We only own 11 of them. We just opened up several of the trailers that were put on our property back in September, October. It has been disastrous when it comes to facilities. I would just like to have an opportunity for several people just to share-- You should understand the linkage between what's being mandated and what's actually happening in the field and that is in the schools. That is why I asked some of the administrators to share with you.

ASSEMBLYMAN DORIA: Why don't we do that right now.

DR. HOLSTER: I appreciate it very much.

Thank you, Madam President.

MS. EVERETT: Okay. Thank you.

ASSEMBLYMAN DORIA: Before you begin, I just have one question.

DR. HOLSTER: Sure.

ASSEMBLYMAN DORIA: What has been your growth for the last three to four years in the student body?

DR. HOLSTER: We average-- In fact, today we were talking about -- we had a meeting prior to this one. We average approximately 3 percent to 5 percent. I'm superintendent now for -- it seems like 100 years -- but about 9 years, and I started at 8200, and we're now approaching about 12,500.

ASSEMBLYMAN DORIA: And the last three years, about 1000 more students at least?

DR. HOLSTER: Yes. We, right now, presently have, I believe, about 800 students on a waiting list for early childhood education, because we can't house them.

ASSEMBLYMAN DORIA: Is that because the population of Passaic is growing or is that because the population of Passaic is growing?  
(laughter)

DR. HOLSTER: Yes. A combination of the population growing and also because with program opportunity people are shifting out of private into public. So it's a combination of both.

ASSEMBLYMAN DORIA: What's the population of Passaic, citizens?

DR. HOLSTER: Right now, it's about, I believe, 70,000, 75,000. It's hard to determine. It's a very mobile community. We have about a 30 percent average mobility rate in our schools.

ASSEMBLYMAN DORIA: That's high.

DR. HOLSTER: Very high.

ASSEMBLYMAN DORIA: Very high.

DR. HOLSTER: It's at least double, if not triple the state.

So with that, I would like to call Dr. Hudzik, who is our Director of Curriculum, to share with you just briefly about the impact of the core curriculum standards, what we call the framework for measuring standards basically.

Dr. Hudzik.

**DEBORAH HUDZIK, Ed.D.:** Thank you. It was very heartening to hear Commissioner MacInnes talk about what I think are perhaps the two

major initiatives in education reform, particularly in the Abbott districts, that being the preschool initiative as well as the early literacy initiative.

Earlier this month, I was at the governor's conference on literacy at Rutgers University, and it was very exciting to hear about the early literacy initiatives -- Reading First, as well as President Bush's emphasis on early literacy through the No Child Left Behind Act. This is a very exciting time in education right now, and I applaud this initiative. However, one of the questions asked of Commissioner Librera at the conference, I found rather interesting. That had to do with the issue-- This question, by the way, came from a staff member in Jersey City -- another Abbott district, I believe it was Jersey City -- in regard to Whole School Reform. The emphasis in Abbott districts, as you know, is Whole School Reform in terms of most of staff development funding, which I oversee in the Passaic school district. She asked how the early literacy initiative with its emphasis on staff development is going to tie in with Whole School Reform, when Whole School Reform is supposed to be the primary staff development initiative. He alluded to the fact that they were seriously rethinking the focus placed on Whole School Reform.

I have to be honest with you in saying that I was very extremely uplifted to hear his response. I want to stress to you my thoughts on the importance of seriously rethinking the Whole School Reform requirements for Abbott districts and focusing more on early literacy initiatives and the preschool initiatives where I think the money is better placed. Outrageous amounts of money, as you probably are well aware, have been spent on Whole School Reform models, and there's really no clear indication of how this will ever translate into improvement in academic achievement.

Academic component in many of the Whole School Reform models, not all -- Success For All is an academic model -- but many of them are rather vague, and there's no real clear connection to the New Jersey core curriculum content standards. We found that, in many cases, the implementation facilitators hired by many of the model developers to be ill prepared to assist us in affecting any real change in our schools, particularly in the areas of academic achievement.

One area, and I think Mr. Fraguela can attest to this, is that numerous staff members such as teachers, building principals, other staff members are required to attend out-of-state, one-week training sessions during the school year. Students are left with substitute coverage, taking them away from their teacher for an entire year. How does that translate into improvement in academic achievement. Those students are left, as I said, with substitute coverage and valuable classroom time is then wasted.

Lastly, I think we should really consider the issue of the full-time facilitator and his or her role in the particular building. I would like to mention, lastly, that this particular school, School No. 3, has demonstrated remarkable academic achievement over the past several years and is the only Category 4 school in this district. The recent standardized test scores in reading are at the 70th percentile or higher for Grade 3, and this is due to an outstanding faculty, as well as a strong administrator, Mrs. Addes, the Principal of this school, and their relentless emphasis on early literacy using a phonemic approach. We happen to stress the Orton-Gillingham method in this particular district. It gives me further proof that the commissioner's emphasis in the area of early literacy is definitely the way to go.

Thank you.

ASSEMBLYMAN DORIA: Thank you.

DR. HOLSTER: I would ask this time for Dr. Krenicki to come up, who is charge of our testing. We do a number of things with our test results. We just don't accept, file, and receive, and that's it. We analyze them and draw some conclusions from test results, which I think is very important. Results are filtered right down to the classroom teacher and used in ways of improving instruction. I think the key to what we're looking at is teaching and learning in the classroom. That's where the dollar has to be spent.

Dr. Krenicki.

**CHRISTINE KRENICKI, Ed.D.:** Good afternoon. In addition to the State testing program and the test that we give at Grades 4, 8, and 11, on the off grades, we test our students. We do that for a couple of reasons, obviously, but what we want to do is to see how well our programs are working. We look at the effectiveness of our bilingual program, our remedial program, our gifted and talented program. We look at after-school programs. We look at specialized programs like Camp Jump Start. But more importantly, what we do is on the off grade levels, we want to make sure our students do meet the *Abbott* regulation of reading by Grade 3. We look at our pre-K population, with which we're really proud.

I spoke to Assistant Commissioner MacInnes, and he was telling me he was very excited about his project of tracking pre-K children, and basically, that's what we've taken to do. We want to look at the effectiveness of licensed agencies or the programs that we are contracting with, with the

money that's being invested in these agencies to make sure that they are servicing our children in a highly qualified environment.

In addition to that, we do track our populations, our special ed population, our monolingual population. And then when we come to the State testing program and listening to Commissioner Librerer recently on TV, I truly believe that he is on target with those ideas with regards with the testing program. We need more diagnostic information so that we can use it for instructional purposes. We use our off grade testing for that reason. We use it in the classroom. The principals are excited. They use it for staff development. They use it for curriculum.

In addition to that, there are certain studies that the superintendent of schools asks for. He wants to know how Whole School Reform models are working in the district. We take a look longitudinally at the programs that have been in place. We have principals that are interested in their schools. They want to know how the seven feeder schools that come into these schools, how those kids are doing, how they do throughout their time with the receiving school. So we do a lot of analysis. But then when we come to the 4, 8, and 11, we don't have that kind of diagnostic information. I think that now with no child left behind, looking at Grades 3 through 8 and the new assessments that we have to take into account and, say, this districts -- well, what can you use and cull from this in order to improve classroom practices and student achievement?

Thank you.

DR. HOLSTER: Thank you.

Historically, standardized test results could be looked at in different ways. What we have found is we look at the process and, that is, not just the results. We found that students who have a greater length of residency in a district demonstrate greater success in our district. It's unfortunate that it's not reported that way. When you read about results in the paper, you hear eleventh graders, a certain percentage of students pass. It doesn't tell the whole picture though. Perhaps 30 percent of those who failed are only in our district eight months to a year. So that is something we're examining also, a profile approach to how we measure our students.

The next individual I'd like to call up for a moment or two is the issue of facilities. He could give you a quick overview of some of the issues we encountered with the EDA and the previous administration, Department of Education. With that, Mr. Stein, would you come up, perhaps, and share with the Committee?

**B A R R Y   S T E I N:** Yes, thank you.

Mr. Chairman, members of the Committee, thank you for this opportunity to speak on the Passaic facilities.

ASSEMBLYMAN DORIA: Your name again? I'm sorry.

MR. STEIN: Excuse me?

ASSEMBLYMAN DORIA: Your name?

MR. STEIN: Barry Stein, S-T-E-I-N.

In 1999, we submitted, as required, our facility plan. The plan called for six new schools, four elementary, two middle schools, major renovations to approximately five of our schools, which included additions, 1500 categories of code deficient, priority one health safety issues, and the

replacement of one new school which is a wood frame structure. For the amount of money it would need, it could not be brought up to code for the price. Since then the facility bill has taken over and the EDA was the authority charged with carrying out these plans. The problem is, at the same time, the early childhood plan to provide three- and four-year-old space was merged and not part of our original facility plan. It was funded with the ECPA funds. And at that time, the Department of Education was approving not only program space but money for construction so that we could get our three- and four-year-old pre-K programs up and running.

Passaic is three-and-a-quarter square miles. Most of it is so densely populated that there is absolutely no available space except along the river beds, which are in the flood zone and not buildable. However, there were some factory buildings. There were some pieces of property that we were able to identify for early childhood education. The problem came that, at one point, when the facility bill took place, the Department of Education was no longer allowed to fund construction. Hence, we were asked how many classrooms we needed, and we came to the calculation of approximately 88 classrooms that we needed for early childhood.

The response was that we will send you 88 temporary classroom trailers. Now, in three-and-a-quarter square miles with virtually no space to put schools, additions, or anything else. And if you drive along the Turnpike, and you see the trailer parks of containers, we couldn't do that with the TCUs. Right now, we have approximately 16 of these in place. We are not servicing three--

ASSEMBLYMAN DORIA: Sixty or 16?

MR. STEIN: Sixteen. One-six. Their answer was because we had, in 1999, a plan in for 58 classrooms as three additions: one addition to this school of 22, another school, 25, and one of our other schools, 7 classrooms. In 1999, we submitted that plan to the Department of Education, but we were told we had to wait for the facility bill to come in place, and they would build it for us. They told us in March of 2001 when our facility plan was approved that it would take too long for us to put up these additions, you're going to get trailers by September.

Well, we know that in Passaic our trailers didn't arrive way until after that, and we opened them up just recently in February and March. By that time, we could have had most of our additions up, running, and a permanent, clean, new space for our early childhood program. What's happening that I see personally and in discussion with the Department of Education, the Economic Development Authority, the DCA, the DEP, and all the other State agencies, the Treasury, all involved, is the fact that each one is acting as its own entity.

While the Department of Education approves many of our programs and the facilities that are required for them, once they're sent over to the Economic Development Authority, they take it over as this is their charge, we're the authority, and these are our rules, and this is what we're going to do. When I called the Department of Education, our manger, to try to find out what the status is of a project, what can we do, when it's going to happen, what are the schedules-- We don't know what to do for summer school this year because there are health safety projects that were promised last year that still haven't been done that might be done this year. We have

millions and millions of dollars of other health safety projects that were approved by the Department of Education but still not on the board for the Economic Development Authority, so we're in a real quandary because there is no real liaison that sits down between the Department of Education and the Economic Development Authority. I'm not talking about like high-level meetings on where we're going, but what the districts are really in need of. Like what's happening to Passaic? What the district manager of Passaic and the EDA project manager of Passaic should sit down monthly and discuss how can we go forward with this?

Next point. The facility bill has not allowed an emergency situation to be funded as it used to be funded by the Department of Education. The business administrator would declare it an emergency. The Department of Education would get the approvals, the board would approve. The district would go out, hire the architects, engineers, contractors, or whatever it would need, and solve the emergency. We could still do that, but we are not refunded back. There is no reimbursement process. So the Economic Development Authority has an emergent process. Their emergent process, which we declared at Lincoln Middle School in February because the brick facade is falling down, they can't do that for more than six months to eight months -- it will take them to do an emergent project. So, if I declare an emergency, the EDA backs off and says, "No, the facility bill doesn't allow us to refund you back for emergencies, only emergent."

I believe you might want to consider amending the bill or looking at it to help the districts because we've waited so long. Those little leaks have become floods. Those little stones have become giant boulders. Things are

happening. It's not happening quickly enough. And with repairs, as you know, if you don't attend to them in a specific manner in a specific time, they become major disasters. With our students, nobody wants to see anybody get hurt. But the procedures are not there. There's no outlying check list. There's no procedure. There's nothing in place that helps a district know what do we have to do? What do we have to submit? How can we go ahead and go forward without input from the State agencies back to us?

The other prohibition we have a problem with is the fact that we are not allowed, or should I say, it is not allowed for us to put capital project money into our capital project budget because all capital project's facility budgets are funded by the EDA. After 9/11 we had a very serious problem in Passaic. We were told by many agencies, federal and state, county agencies -- I'm talking about law enforcement. We should enhance our security in our buildings, as everybody should. But we're in a close, circular proximity to New York and Newark and other areas where they've identified problems.

It's a capital project to do a major security upgrade to a district, cameras, magnetic locks, swipe cards. These are all things that the district normally would budget for, obtain supplemental funding for, and we did get some supplemental funding for it. The problem with supplemental funding is by the time it's approved in May, it goes away by June 30, unless you can get a bid out real quickly, and that is almost impossible when it comes to a facility issue.

We're not allowed to install in our capital budget the needs that we need immediately. The problem is that the EDA, while they can do large projects at a very large scale, when it comes to small, capital projects, they're

not geared up for it. They just don't have either the manpower or the ability to do small -- what we call small -- might be \$100,000 or \$200,000. We call them small. They're not 20 million, 30 million, \$40 million additions, schools, and things like that.

ASSEMBLYMAN DORIA: Thank you. Thank you very much.

Let me just say something. This Committee will, during the summer, hold at least one, if not two hearings, on the entire issue of facilities and the ability of the EDA working with the Department of Education to implement the school facilities legislation. There are many problems. You're just presenting a number of them. We're aware that this problem is not unique to Passaic. It's a problem that exists in all of the Abbott districts, specifically because the requirement that EDA do the actual construction, but this problem exists statewide in non-Abbott districts also. So it's a problem that we in the Education Committee will be addressing. Many of us had concerns when the original legislation was implemented, concerning the ability of EDA, given the fact they were given no additional staff to implement this type of major instruction program. Unfortunately, they're a very, very competent agency with very good people, but unfortunately, they were given a job that they were not then provided the resources to perform and that has caused the difficulties. So this Committee will be holding hearings within the next month or two on the entire issue of school construction.

And at that time, Mr. Stein, I would very much appreciate it if you could come and talk to us in more detail about some of the issues that you just presented.

MR. STEIN: Absolutely.

ASSEMBLYMAN DORIA: Thank you.

MR. STEIN: Thank you for your time.

DR. HOLSTER: I just have two more I consider important here. One, of course, is fiscal, and the other is special ed. I would ask Mr. Lee, our School Business Administrator, just to share with you the nature of what he's going through in preparing our budget for 2002-2003 school year.

Mr. Lee.

**HENRY J. LEE:** Thank you, Dr. Holster.

Welcome to Passaic, members of the Assembly Education Committee.

The picture is not all rosy as Senator MacInnes and David Sciarra kind of indicated. They have indicated a lot of collaboration and everything is hunky-dory. Well, it's not all that hunky-dory. Abbott school districts have a greater level of responsibility. I recognize that because of the level of funding. If the budget were adopted that we have presented, it would be 89 percent. I recognize that. Nevertheless, we are held to tighter timelines, to greater scrutiny, to more requirements, and greater restrictions.

Examples: purchase order approval process where it was instituted that the Department of Education would approve all of our purchase orders. I have one of the SRIs. The SRIs that we have-- Mr. James Tork (phonetic spelling), our budget manager, he's very competent. Nevertheless, we find that that is intrusive. There's issues of fairness and respect. We have over 10,000 purchase orders that we process on an--

ASSEMBLYMAN STANLEY: What's a SRI?

MR. LEE: School review and improvement team specialist person something or other. (laughter)

ASSEMBLYMAN STANLEY: Thank you.

MR. LEE: SRI is a group of people that are here to help us. Yes. One of the three famous lines.

ASSEMBLYMAN DORIA: You mean, we're from the government, and we're here to help you?

MR. LEE: Yes. One of the three. (laughter)

The timelines that we have -- an example of a timeline that we had-- When we constructed the budgets, we were told on March 26 that they would like to have a budget that reflected the same level of the supplemental funding that we had, but they wanted that budget by April 1. The notice that we received was March 26, and they wanted the budgets by April 1, April Fool's Day. I don't think too many districts complied with that, too many of the Abbotts.

The transfer procedure is time-consuming. And again, there's some intrusive issues. There seems to be on our part a lack of collaboration in the decision-making process. Some of these things -- the Department of Education has issued memorandums. They've retracted memorandums. They've reissued them, start, stop, restart. Some of that, we feel, if they had collaboration from active practitioners, then that would not happen. If they'd talk to us a little bit more, that collaboration that was spoken about, if it exists, if there is some effectiveness or ineffectiveness associated with it, there's a lack of clarification on some of the directives that we're given.

We were intensively involved in this process called particularized need. Well, when a new administration came in, many hours of work in defending budgets was wiped out. We had set with a number of people in this room, administrators, because we worked closely and collaborated. Central administration collaborates with the schools. We developed a rationale of why we needed this and many, many hours were spent. It was just wiped out and they're not going to go with it.

I see you're nodding your head, Assemblyman Stanley, because you're probably familiar with that as an SMT member.

And then lastly, we're experiencing some issues with withholding of supplemental aid. We just have noticed that we're not getting our supplemental aid payments. We're not having cash flow problems, but I think I'm going to have budget problems at the end of the road.

The way we construct our budgets under the *Abbott* guidelines is we spend a lot of time. Our administrators use the budgets as a planning tool. The budget is carefully put together, thoughtfully constructed. To take it apart has to be the same kind of thoughtful, dismantling of that budget. We're in the process of doing that. It cannot be done easily. We have the cooperation of our budget manager. But nevertheless, there are some times it is time-consuming, and we are experiencing some problems. I'll tell you specifically about the impacts of that.

We are a -- special ed is coming up next -- but we are a high concentration special ed district. We have appealed our special ed costs. We have won those appeals, because we do have a high concentration of special ed, and we are experiencing now an additional high level of special ed in our

preschool population. When we got our approval for early childhood education, we were told to exclude our special education costs. We did. Our special education costs are about \$4 million that are now in our general budget. Now we find out that other districts have had their special ed costs for early childhood included in their budget, so we have petitioned that, but that's a wrinkle that we have to work out. That is a biggie; \$4 million taken out of our general fund would go a long way to addressing the K-12 spending level that we want to maintain.

Here are some of the impacts. We've had to reduce our force. All of our first-year, non-tenured staff members have been sent notices that they may not have employment next year. That's a lot of uncertainty in their lives. New positions and vacant positions are almost uniformly being taken out of our budget, we're not funding them. These positions include things like special education teachers for in-class support, parent liaisons, nurses, clerical staff, administrative staff, technology coordinators, guidance counselors, attendance officers, social workers. These people who were these positions that were budgeted we're not filling. Our objective was to maintain our live bodies. People that are currently working. We wanted to maintain our current work force.

So these positions that were model positions -- and I understand the arguments associated with the effectiveness of the models -- nevertheless, we geared up, and now we have to gear down. We've also had to eliminate some existing positions, positions that are already here. I don't want to really talk about some of these positions, because some of them are sitting in the room, and that's not fair. It's not a fait accompli. It's not done because the

superintendent has to make some decisions, and the Board of Education has to also act on these decisions, and some of them are controversial because -- I'll get to the wider controversy. I want to be quick and conclude this.

We've also had to eliminate programs, extended year programs, summer school, extended day programs, after-school, Saturday programs. We've had to eliminate those to come into the budget containment. Yet I still don't know if someone asked me-- I'm asked all the time by administrators, how much do you really need? I don't know. I'm just cutting the budget to a point where I'm working with them and cutting a budget to a point where we can operate. I don't know what the magic number is. When I've been asked-- I asked the Department of Education personnel, and they said, "We have a target number, but we can't tell you. We have worksheets, but we can't share them with you." That's part of our frustration and our ability to manage the district.

They say it's all dependent upon the Supreme Court case. Well, we need to know what the Supreme Court is going to say in order to find out whether we really want to participate in, perhaps, some litigation against this collaboration between the Education Law Center, and I believe our Board of Education has taken action to intervene on behalf of the children of the city of Passaic. So we've had to eliminate those programs.

Other things that are affected by this are class size. We've had to eliminate some class size reduction teachers. We've had to reduce our support for professional development. We've had to reduce our support to school-based management. We've had to reduce our support to some of the

supplementary areas like ESL and basic skills. We've had to address elimination and reduction in security technology and equipment.

Now, I am of the position that you don't come with problems, you also come with solutions. So a couple solutions. One is greater collaboration with the Abbott districts. We need that and some practitioners. We have made ourselves available for that purpose. Better communication between Abbotts and the Department of Ed. Improved technologies, specifically upgrading the DOENET system. I don't know if you're familiar with it. It's the system where we communicate with them. It's a DOS-based system. It's archaic. It's time-consuming. It's old.

Finally, we must have ability to seek additional funds. Our district has a large immigrant population. We have a large population of children coming in that may have special needs. If we construct a budget and all of a sudden these kids show up with special needs, and we have a budget constructed, and we don't have any place to go get that money, we have a problem. So the issue of an appeal, ability to appeal, which is not a part of the Education Law Center and Department of Education collaboration, hurts us. So whatever you can do to open the door so that there can be appeal. We're really here to demonstrate need. We've fought for our children. We've been in battles with the Department of Education about our kids and their needs. We're willing to continue.

Thank you for your attention to this conversation.

ASSEMBLYMAN DORIA: Thank you.

DR. HOLSTER: Thank you, Mr. Lee.

And finally, I would like to have just our supervisor, Dr. D'Ambra, come up about special ed.

**FRANK D'AMBRA, Ed.D.:** I'd like to thank the members of the Education Committee for giving us this opportunity to share some of our thoughts with you about our successes and our needs in the district.

In 1947, my fifth grade teacher said, "If you not sure what you're going to say, write it down so you make sure all your points are said." So I'm following her and in memory of her, I'm going to read some thoughts I'd like to share with you. I share the responsibility for developing a program for children in Special Needs with Mr. Lewis Freida (phonetic spelling), who is a supervisor of Special Ed, and his assistant, Ms. Blanche Harris (phonetic spelling), who is the assistant supervisor.

The Passaic school population of over 12,000 children includes 2325 classified children of whom only 1800 are being serviced in district facilities. The absence of additional classroom space for general and special education children requires that we bus 600 children to out-of-district schools every day. As the district struggles to meet the promise of the State Constitution to provide a thorough and efficient education for all of the children, psychologists, learning consultants, social workers, speech correctionists, and a host of other specialists -- some salaried and some by individual contract -- strive to properly identify a child's particular needs and match these with a placement that will best work for the child.

Special education teachers charged with the implementation of detailed and lengthy individualized educational programs, or IEPs, round out the compliment of individuals who seek to make that same constitutional

promise a reality for our special needs population. These professionals are not limited in their energy, commitment, and efforts to meet this promise. With past financial assistance from the State, the district has had many successes. But the current lack of compliant classroom space, properly certified candidates for employment, and the freeze in State funding cause us to wonder if delivery on promise must now be delayed.

We are meeting here today in one of the schools that has demonstrated and continues to demonstrate our ability to deliver on the promise to educate all of the district's children. Yet even this school is overcrowded and lacks a cafeteria. There are other successful schools in the district, but the physical plant in which children spend a third of their day is far less appealing, and in some cases, grossly inadequate. You heard earlier from the board president on some of the conditions.

Others are not as successful. We educate children in four substandard buildings and in one district school, which is almost 100 years old and is scheduled for demolition. Our middle school, built in 1909 and added to three times since then, is situated on less than a square city block, lacks any outside physical education facilities, and houses 1446 students in only two grades. It is the largest middle school in the state. We're waiting to build two more with that capacity funding that's been promised.

You know we are an Abbott district that relies on the State for significant financial aid. As a result of our State Supreme Court's decision to force the State to correct educational facility imbalance, the Legislature approved a State bond effort with a goal of attempting to bring Abbott districts to some level near parity with other more affluent, mostly suburban districts.

Yet today, 32 years after the *Abbott* case was initiated; twelve years after the Supreme Court issued its first decision and four years after its fifth decision, in which the Court ordered the State to implement remedial measures, not a single, new classroom has been built in Passaic. This, despite the identified need and the acceptance by the Department of Education of almost \$300 million in renovations and new building construction proposals.

As the overall student population has increased, so too has our special needs population. While general education classes have increased in average size with too many classes at or above 25 children in the primary grades, the IEP driven programs for special needs children have had to be met more and more by placement of children in out-of-district schools.

Ours is a largely Hispanic population, about 78 percent. It is also a highly mobile population, as you've heard. On average in the district, it's about 30 percent, which means that from September to June, fully one-third of the kids who are there in September are not there in June. These two conditions pose particular teaching/learning challenges for all students and for special needs children in particular. In order to respond to the language and mobility impact on learning, expensive special education related services, such as one-to-one teachers and one-to-one aides for students have had to be implemented.

Additionally, the Department of Education's not so recently changed requirements for speech correctionist certification have solely depleted the ranks of those entering this speciality. Combined with the almost total absence of bilingual candidates for these positions, the district has been forced to contract with private, more costly providers. The financial impact on

limited resources is obvious. In the past, we relied on supplemental funding to meet our increased demonstrated needs. Those are no longer available. So we have more students. We have increased tuition rates. We have increased transportation rates, all far in excess of what we anticipate is that 4 percent cost of living increase that we heard about earlier.

In all that we do in the Special Education Department, as Committee members are aware, we are supervised and monitored by the officials in the Department of Education. We are required to comply with the New Jersey administrative code which reflects federal law covering children with disabilities; a service which is required for the student and placed in that child's IEP must be provided. There is no such defense as there is no money available.

At a recent meeting with representatives of the Department of Education, Passaic administrators were reminded that when the federal law was passed requiring districts to provide identified services, "There was no ceiling." Despite the current financial plight, staff and material requirements, as well as tuition and transportation for out-of-district placed children are using more and more of the fixed number of dollars available for all the district's children. Passaic had adopted innovative organizational changes and teaching models, some recommended by the State Department of Education, including the inclusion approach which mainstreams special education children with additional accommodations, usually another teacher or an aide in the classroom. They have proven successful and in the long run may have a positive impact on the financing of special needs programs.

When the federal government mandated implementation of regulations which cover special needs, there was a promise but never a delivery of full funding. The significant balance has been left to you, the State's representatives, and to local taxpayers to supply. Nonetheless, day in and day out, our special and regular education teachers in Passaic produce many successes in providing thorough and efficient education for all the children in their charge. It is a fact about which we are very proud.

Finally, as we speak, the government officials in Washington, D.C. are discussing the reauthorization of the Special Ed Act, known as the Individuals With Disabilities in Education Act. We at the local level, and you, the members of this Committee together with your legislative colleagues, need to work with our representatives in Washington to assure a more equitable formula. When real needs have been made obvious, positive legislative help has been initiated. This meeting reflects our hope that the future will maintain and even solidify our important relationship.

Thank you.

ASSEMBLYMAN DORIA: Thank you.

DR. HOLSTER: I just want to thank you for this opportunity for allowing us to come before you and share what we as district people are encountering as a result of reform, as a result of the change in mandates, as a result of the collaboration that has taken place. We are an outstanding district. We are truly what we consider a model district, not only as an Abbott, but as a district in this state and invite anyone at the State level, or legislative level, to come and spend some time with us and to see the success that we're experiencing in Passaic.

Again, on behalf of the entire school community, I thank you for coming and allowing us to be the host of this very important meeting.

ASSEMBLYMAN DORIA: Thank you.

DR. HOLSTER: Thank you again.

ASSEMBLYMAN DORIA: Thank you very much.

Any comments, questions from members of the Committee?

Assemblyman Ahearn.

ASSEMBLYMAN AHEARN: No. I'll get it afterwards.

ASSEMBLYMAN DORIA: Vice Chairman Craig Stanley.

ASSEMBLYMAN STANLEY: I just wanted to also thank Dr. Holster and the Passaic school district for hosting this meeting. I've got some good friends in Passaic. I see one of them here, Blanche Harris (phonetic spelling), who's worked with myself and Congressman Payne in Essex County. I guess she gets around a little bit. Like Gordon, she likes to travel.

But thanks a lot. I really appreciate you hosting this hearing here today. Thank you.

ASSEMBLYMAN DORIA: Yes. Assemblyman Sarlo.

ASSEMBLYMAN SARLO: First, Mr. Chairman, I want to thank you for giving me the opportunity to sit on this Committee today. I'm not a regular member of the Education Committee, and especially since this city is part of my new legislative district, it was an eye-opener to hear some of the statistics here today.

Dr. Holster, my door is always open. I look forward to working with you and the entire educational community as we work through some of these problems over the course of the next couple of years.

ASSEMBLYMAN DORIA: Thank you.

Assemblyman Fraguela.

ASSEMBLYMAN FRAGUELA: Yes. Chairman Doria and members of the Committee, I want to thank you for listening to our plea and for being here today. It's very nice that the Chairman has accepted the challenge of coming into the district and seeing, in reality, what goes on. I want to thank my fellow administrators and supervisors and, of course, the administration and the board for making such a clear presentation about the realities of urban education, especially in the Abbott districts.

Thank you.

ASSEMBLYMAN DORIA: Assemblyman Ahearn.

ASSEMBLYMAN AHEARN: Yes. Mr. Chairman, I'd also like to thank you for the opportunity to substitute today. This is not a normal committee, but I did learn a great deal, some of which I'll take back to the Regulated Professions and Independent Authorities Committee that I am a member on, in terms of some of the shortages and special education and things like that. I'd like to take a look at that.

But again, thank you, and thank the board for having us here today.

ASSEMBLYMAN DORIA: Thank you.

Any other comments? (no response)

I just want to again thank Dr. Holster and the Passaic school board, President Everett, and all of those members of the school district who were here present for their testimony. I think this is very helpful. I think it sets a precedent. I'm hopeful that we can do this in other districts. So you are

the first, and we thank you for that, and we appreciate your input and your comments. I understand the difficulties, having been a president of a board of education at one point and now having been in the Legislature for 23 years, I've seen *Abbott* almost from the beginning. I was the president of the Board of Ed in 1976 when they closed the schools because of the *Abbott*-- Because at that time, *Robinson v. Cahill* and the issue of the income tax and the funding of the school districts -- so I have a long history in the process. And obviously, there's a lot still to be done, but we thank you for your diligence and for your commitment to the children. We are very appreciative of the opportunity to be here.

We have some bills, some Committee business which we will be doing. You're all welcome to stay as we do that. We have a number of bills that are on the agenda, and we will move forward with that at the present time. But again, thank you for hosting us and thank you for your hospitality and for the use of the hall, as they would say.

What we're going to do is, on the agenda, we're going to start with the last bill on the agenda, which is a Senate companion to an Assembly bill we've already released from Committee, and that's S-256, Bucco/Palaia. We've already released the Assembly companion bill, and hopefully it's going to be on the next board list. The Speaker has asked us. I'd also just to say for the record that we want to thank Speaker Albio Sires for allowing us to hold this meeting not in Trenton, but off campus, as we would call it, here in Passaic. I want to thank the Speaker for allowing us to do this. He understands the importance of education. He himself, having been an educator, understands the necessity of us being out in the field. So I want to thank the Speaker.

Senate Bill No. 256, Kathy or Ted.

MR. SETTLE (Committee Aide): Senate Bill No. 256 requires that when a student transfer from one school district to another school district, the district of last attendance must provide to the receiving district all information in the student's record concerning disciplinary actions taken against the student by the district and notify the receiving district if it has obtained any information concerning the juvenile offenses. In addition, the bill specifies that while written consent of the parent or adult student is not required as a condition of transfer of the information, written notice of the transfer shall be provided to the parent or adult student.

ASSEMBLYMAN DORIA: Thank you, Ted.

We have one witness who would like to testify. Bill Lewis from the NJEA. Bill. Yes, Bill.

**WILLIAM LEWIS:** I have a written statement, but NJEA supports this bill. We have for a long time. We think it's important, especially in today's age that as students move -- we've heard about the mobility of students in districts -- it's important for that receiving district to get proper information for two reasons: One, to alert the principal and staff as to the needs and circumstances that the new student requires; and secondly, to alert them to past behavior patterns and other things that that student may have been involved in.

So we support this bill, and we thank the sponsors for putting it forward. It will provide the necessary information for the principal, for the classroom teacher to know how to react and how to respond to new students who come in. And secondly, it will allow the district to plan properly to

provide services and help for that youngster as that youngster may need that help. So we urge your support for this legislation.

Thank you very much.

ASSEMBLYMAN DORIA: Thank you.

Any comments from members of the Committee? (no response)

If not, do we have a motion?

ASSEMBLYMAN STANLEY: So moved.

ASSEMBLYMAN DORIA: Second?

ASSEMBLYMAN AHEARN: Second.

ASSEMBLYMAN DORIA: Okay. Moved and seconded.

The roll call.

MR. SETTLE: Assemblywoman Heck.

ASSEMBLYWOMAN HECK: Yes.

MR. SETTLE: Assemblywoman Friscia.

ASSEMBLYWOMAN FRISCIA: Yes.

MR. SETTLE: Assemblyman Fraguela.

ASSEMBLYMAN FRAGUELA: Yes.

MR. SETTLE: Assemblyman Sarlo.

ASSEMBLYMAN SARLO: Yes.

MR. SETTLE: Assemblyman Ahearn.

ASSEMBLYMAN AHEARN: Yes.

MR. SETTLE: Assemblyman Stanley.

ASSEMBLYMAN STANLEY: Yes.

MR. SETTLE: Assemblyman Doria.

ASSEMBLYMAN DORIA: Yes.

The bill has been released from Committee. We post it.

The next bill to be heard is A-2113, Assemblywomen Greenstein and Watson Coleman.

MR. SETTLE: This bill increases the number of public members on the New Jersey Commission on the Holocaust Education from 19 to 23. The four additional members will be appointed by the governor.

ASSEMBLYMAN DORIA: Okay. This bill basically provides for an increase in the membership of the Committee. I don't think there's anyone who wishes to speak. (no response)

Okay, do we have a motion?

ASSEMBLYMAN AHEARN: So moved.

ASSEMBLYMAN DORIA: So moved.

ASSEMBLYMAN STANLEY: Second?

ASSEMBLYMAN DORIA: Second.

Okay, can we have a roll call.

MR. SETTLE: Assemblywoman Heck.

ASSEMBLYWOMAN HECK: Yes.

MR. SETTLE: Assemblywoman Friscia.

ASSEMBLYWOMAN FRISCIA: Yes.

MR. SETTLE: Assemblyman Fraguela.

ASSEMBLYMAN FRAGUELA: Yes.

MR. SETTLE: Assemblyman Sarlo.

ASSEMBLYMAN SARLO: Yes.

MR. SETTLE: Assemblyman Ahearn.

ASSEMBLYMAN AHEARN: Yes.

MR. SETTLE: Assemblyman Stanley.

ASSEMBLYMAN STANLEY: Yes.

MR. SETTLE: Assemblyman Doria.

ASSEMBLYMAN DORIA: Yes.

The bill has been released from Committee.

The next bill to be heard is A-457 by Assemblyman Robert Smith.

MR. SETTLE: This bill provides that a school district may enter into a contract that exceeds the maximum per student expenditure for nonpublic school transportation, currently at \$735, if it chooses to provide transportation for nonpublic school students who are not eligible for transportation services or who received in lieu of transportation payments. One note, the current law provides for a \$735 in lieu of transportation payment. Proposed budget language will keep that amount at the current amount of \$710.

ASSEMBLYMAN DORIA: Okay. We have Mary Mazzocchi, who represents the New Jersey School Bus Owners Association, who doesn't wish to speak but is in favor of the bill. And we have here Mary McElroy and Kathryn McGee, New Jersey Alliance of Catholic School Families. They had to leave, but they are also in favor.

Motion on the bill?

ASSEMBLYWOMAN FRISCIA: So moved.

ASSEMBLYMAN DORIA: Second?

ASSEMBLYMAN AHEARN: Second.

ASSEMBLYMAN DORIA: Roll call.

MR. SETTLE: Assemblywoman Heck.

ASSEMBLYWOMAN HECK: Yes.

MR. SETTLE: Assemblywoman Friscia.

ASSEMBLYWOMAN FRISCIA: Yes.

MR. SETTLE: Assemblyman Fraguela.

ASSEMBLYMAN FRAGUELA: Yes.

MR. SETTLE: Assemblyman Sarlo.

ASSEMBLYMAN SARLO: Yes.

MR. SETTLE: Assemblyman Ahearn.

ASSEMBLYMAN AHEARN: Yes.

MR. SETTLE: Assemblyman Stanley.

ASSEMBLYMAN STANLEY: Yes.

MR. SETTLE: Assemblyman Doria.

ASSEMBLYMAN DORIA: Yes.

The next bill to be heard is A-677, Chatzidakis and Bodine.

MS. FAZZARI (Committee Aide): A-677. And we're going to distribute some amendments to you right now. Currently, if a board of education has a prior negative experience itself with a bidder, it can reject that person if he's the lowest bidder. This bill will allow that if any board of education had one prior negative experience with a bidder or if the New Jersey Economic Development Authority, in the case of a contract for a school facilities project had a prior negative experience with that bidder, then a board of education would be able to reject the lowest bidder.

ASSEMBLYMAN DORIA: And these amendments have been accepted by the sponsors of the legislation, Victoria?

MS. BROGAN (Assembly Republican Aide): Yes.

ASSEMBLYMAN DORIA: Okay. So the amendments have been accepted by the sponsors of the legislation, and they are also acceptable, from what I understand -- the front office?

MS. FAZZARI: Yes.

ASSEMBLYMAN DORIA: So that there's some general acceptance of the amendments.

So we have two speakers on the bill. Gene Keyek from School Business Officials. Gene.

**GENE KEYEK:** Thank you, Mr. Chairman.

The Association of School Business Officials supports the bill. We have worked a long time in trying to get this to include -- (school announcement on intercom) That's okay. Having worked in a school district, I'm accustomed to that -- this to include negative experiences with other boards. The only question that we have, and we'd like to ask the Chair if the Chair would consider an additional piece of legislation. We don't want to stop this bill, but we're concerned about the identification of bidders. What we've had in the past, and many of my members have expressed this to me, is that you have a particular corporation which has been removed as a negative bidder.

ASSEMBLYMAN DORIA: And they change the name.

MR. KEYEK: And they change the name of the corporation or the principles set up another corporation or they use other people. I think somewhere along the way there's got to be a process by which we say that the principles of the corporation are also responsible and should not be permitted to bid on the project.

ASSEMBLYMAN DORIA: Again, that's something we'd have to work on. I don't disagree. There's some issues that would have to be dealt with as it relates to how you can legally do that. Corporations are easier than individuals, but I'll be happy to discuss that if you have some ideas and talk to counsel about how that could be done.

MR. KEYEK: Okay. Thank you very much, Mr. Chairman.

ASSEMBLYMAN DORIA: No problem.

We have James Shoop, from the Passaic Board of Education.

**JAMES SHOOP:** Good afternoon. My name is James Shoop. I'm the Assistant School Business Administrator for the Passaic Board of Education, and I'm here today to speak in support of A-677. As you know, this bill permits boards of education to disqualify a low bidder on a school facilities project when there have been two incidences of prior negative experience. As you know, the present law only allows the board of education to begin the process of disqualification if that board has had prior negative experience.

That means if a public work contractor has been disqualified in Irvington or in Bayonne or in Union City, the Passaic Board of Education could not disqualify that contractor, even though they know of its poor record. However, through the foresight of the sponsors and this Committee, it will now make it easier for boards of education to disqualify that contractor from hell that we've all had to deal with. So I do applaud your efforts.

Mr. Chairperson, if I may, you may or may not be able to tell by this tie, I'm also the Pupil Transportation Coordinator for Passaic, and I do thank Assemblywoman Heck for her bill A-1732. It is a get tough bill, and it's one that's needed. I thank you very much.

ASSEMBLYMAN DORIA: Thank you. Thank you.

Do we have a motion on this bill?

ASSEMBLYWOMAN HECK: Move the amendments.

ASSEMBLYMAN DORIA: First the amendments?

ASSEMBLYWOMAN HECK: Move the amendments.

ASSEMBLYMAN DORIA: Move the amendments,  
Assemblywoman Heck.

ASSEMBLYMAN DORIA: Second?

ASSEMBLYWOMAN FRISCIA: Second.

ASSEMBLYMAN DORIA: Seconded, Assemblywoman Friscia.

On the amendments?

MS. FAZZARI: Assemblywoman Heck.

ASSEMBLYWOMAN HECK: Yes.

MS. FAZZARI: Assemblywoman Friscia.

ASSEMBLYWOMAN FRISCIA: Yes.

MS. FAZZARI: Assemblyman Fraguela.

ASSEMBLYMAN FRAGUELA: Yes.

MS. FAZZARI: Assemblyman Sarlo.

ASSEMBLYMAN SARLO: Yes.

MS. FAZZARI: Assemblyman Ahearn.

ASSEMBLYMAN AHEARN: Yes.

MS. FAZZARI: Assemblyman Stanley.

ASSEMBLYMAN STANLEY: Yes.

MS. FAZZARI: Assemblyman Doria.

ASSEMBLYMAN DORIA: Yes.

Movement on the bill?

ASSEMBLYWOMAN FRISCIA: Move the bill.

ASSEMBLYWOMAN HECK: The bill is amended.

ASSEMBLYMAN DORIA: Move the bill. Assemblywoman Friscia moves it; seconded by Assemblywoman Heck.

MS. FAZZARI: On the bill, Assemblywoman Heck.

ASSEMBLYWOMAN HECK: Yes.

MS. FAZZARI: Assemblywoman Friscia.

ASSEMBLYWOMAN FRISCIA: Yes.

MS. FAZZARI: Assemblyman Fraguela.

ASSEMBLYMAN FRAGUELA: Yes.

MS. FAZZARI: Assemblyman Sarlo.

ASSEMBLYMAN SARLO: Yes.

MS. FAZZARI: Assemblyman Ahearn.

ASSEMBLYMAN AHEARN: Yes.

MS. FAZZARI: Assemblyman Stanley.

ASSEMBLYMAN STANLEY: Yes.

MS. FAZZARI: Assemblyman Doria.

ASSEMBLYMAN DORIA: Yes.

The next bill we have is a bill that I think is necessary. However, there are some issues that we have to deal with -- two versions of the bill. Actually, they're basically the same, right? The A-2166 by Assemblymen McKeon, Ahearn, Sarlo, and myself; and then A-1732 by Assemblyman Wolfe and Assemblywoman Heck. We will have some discussion of the bill. The issue that has come up, Assemblywoman Heck and Assemblyman Ahearn, is

the impact of this as it relates to the CDL license and what the CDL license, which is a federal requirement, how this integrates with it so that we don't find ourselves passing something that then can be overturned because of the CDL requirements.

I don't have a clarification of that. I don't think anybody has looked into that issue.

ASSEMBLYWOMAN HECK: Can we pass the bill, and if we have to make changes, do it on the floor with an amendment?

ASSEMBLYMAN DORIA: I would prefer that we discuss it here.

ASSEMBLYWOMAN HECK: Oh.

ASSEMBLYMAN DORIA: Because of the federal implications of CDL licenses.

ASSEMBLYWOMAN HECK: Do you want to hold it today?

ASSEMBLYMAN DORIA: I want to hold it. We'll talk about it today--

ASSEMBLYWOMAN HECK: Okay.

ASSEMBLYMAN DORIA: --but I think we need to get some clarification. I'd ask the staff to look into the whole CDL issue, because all bus drivers have to have a CDL license. A CDL license's requirements are established by the federal government. They set up screening requirements that include the whole issue of previous offenses and how those offenses impact. So I want to make sure if we pass something, we have the authority to be more stringent than the federal government. And I don't know if this is more stringent to be very honest. I don't know if anybody does know if it's more stringent.

ASSEMBLYWOMAN HECK: Apparently, there have been problems, so no one has paid attention to the CDL regulations. So whatever the problems are, they should be done and taken care of immediately.

ASSEMBLYMAN DORIA: We should do it. I don't disagree, and I think-- I won't put it up again.

ASSEMBLYWOMAN HECK: I think you agree, don't you, Matt?

ASSEMBLYMAN AHEARN: Yes, I'll comment.

ASSEMBLYMAN DORIA: Yes.

ASSEMBLYMAN AHEARN: I agree that we should take a look at this. As I spoke with you earlier, I ran into a situation on a land use matter involving a school bus company where, in response to a question from a board member, there was sworn testimony that there are background checks done. I was surprised because on this bill I was certainly surprised to hear that. But to the extent that we can legally regulate under the State law either an increase or within the same area, as an overlap, without federal preemption, I think is very important that we do it. I would like to get to the meat of this and make sure there are no technical problems with the bills and deal with it.

ASSEMBLYMAN DORIA: I think that you hit the crux of the problem, Assemblyman Ahearn. The issue becomes whether or not there will be a federal preemption here as it relates to the CDL license. As you know, CDL licenses have been in effect for a few years now, and there's issues as it relates to how they're being enforced. The question of enforcement that Assemblywoman Heck brought up, I think, is legitimate. I think that we need, and I commend you, obviously, and all the sponsors for the fact that we need to be doing something more in this area.

ASSEMBLYWOMAN HECK: Mr. Chairman.

ASSEMBLYMAN DORIA: Yes.

ASSEMBLYWOMAN HECK: May I suggest that if we do find something at the federal level that we put in an AR to make sure that they change.

ASSEMBLYMAN DORIA: Well, why don't we look into this. Can I ask -- Kathy, you, and the people in your area to maybe coordinate. Because I would think that this has to be coordinated with State government -- Law and Public Safety, sorry, Law and Public Safety -- so we can get a coordination because usually, traditionally, driver license issues go through another committee. But because this deals specifically with school buses, we find it -- it's within our Committee. I just want to make sure that we don't pass something that in the end we find out has no teeth. That's my big concern. I want to make sure we have teeth.

ASSEMBLYMAN AHEARN: I concur, yes.

ASSEMBLYMAN DORIA: Because I've seen many times in the past where we pass something, and then we find out that we don't have the authority, or we have the federal preemption issue, and then we create the impression amongst the public we've done something. But in the end, nothing has really occurred.

ASSEMBLYMAN SARLO: Mr. Chairman?

ASSEMBLYMAN DORIA: Yes, Assemblyman Sarlo.

ASSEMBLYMAN SARLO: Unfortunately, with the CDLs, there are so many of them out there, the accountability is not there as it would be through this piece of legislation.

ASSEMBLYMAN DORIA: You're absolutely right. I think that's the issue. And the issue is to make sure that we can create more stringent requirements than the federal government has established under the CDL license -- to make sure that we have that.

I know the NJEA had two issues concerning this legislation, and I think both of them are worthwhile. If I remember correctly, the two issues deal basically with the timing of the actual implementation for the individuals. Am I correct on that one?

**WAYNE DIBOFSKY:** (speaking from audience) That's correct, Mr. Chairman.

ASSEMBLYMAN DORIA: Why don't you come up, Wayne.

Wayne Dibofsky, representing the NJEA.

MR. DIBOFSKY: Thank you, Mr. Chairman. I may also request that last session, Senator Turner and Senator Singer had Senate Bill No. 508, which is identical to the bill you have in front of you. We did meet as a broad-based task force with the Department of Transportation and Motor Vehicles on the CDL issue. To this date, we still don't have an answer.

ASSEMBLYMAN DORIA: So that there have been discussions.

MR. DIBOFSKY: There have been discussions, and I would suggest that staff be directed to perhaps talk to the staffers of the Law and Public Safety Committee of last year where it was--

ASSEMBLYMAN DORIA: The Senate or the Assembly?

MR. DIBOFSKY: The Senate side.

ASSEMBLYMAN DORIA: Senate side.

MR. DIBOFSKY: Senate side.

ASSEMBLYMAN DORIA: And then you never got in any kind of feedback back from--

MR. DIBOFSKY: No, we did not.

ASSEMBLYMAN DORIA: When were these discussions? When did they take place?

MR. DIBOFSKY: These discussions were held probably January a year ago, Assemblyman.

ASSEMBLYMAN DORIA: January, a year ago?

MR. DIBOFSKY: Yes.

ASSEMBLYMAN DORIA: And there's been no final determination?

MR. DIBOFSKY: Not as far as I'm aware of.

ASSEMBLYMAN DORIA: And do you know what specifically was the issue that they were trying to make the determination on? The preemption issue?

MR. DIBOFSKY: Beg your pardon?

ASSEMBLYMAN DORIA: Was it the preemption issue?

MR. DIBOFSKY: Yes, it was.

ASSEMBLYMAN DORIA: It was the preemption issue.

MR. DIBOFSKY: Yes. So we may want to start there. And perhaps something has been resolved at this point, but I personally am not aware of it, Kathy.

ASSEMBLYMAN DORIA: Hopefully, we can move a little more quickly than that.

MR. DIBOFSKY: I certainly hope so. Because I will also tell you, when this legislation first came up in '98, as part of the discussions of the parent law of Chapter 31 or the public laws of '98, that was also one of the discussion points. So this has been around a lot longer than we would like. I agree with you, Mr. Chairman, that we ought to resolve it once and for all, that issue, along with two others, to which I will briefly speak to.

The intent of the law is excellent. Where we have serious, serious concerns is in the intent of making things better and safer for children is in the section of the legislation right in the beginning, which deal with the permissible nature of provisional school bus drivers for up to five months. We find that very, very disturbing that a school bus driver, before a criminal background check, has three months of provisional driving ability. And then under the law of Chapter 31, can gain an additional two months if the background check has not been completed -- gives him clearly three-fifths of the school year driving a school bus, potentially, with a criminal record. I think that needs to be strengthened because we are buying a pig in a poke if we are not really dealing with the real truth and need of this bill.

If the bill is to keep drivers who have criminal background records, drug and alcohol abuse problems, and poor driving records off the buses, we would certainly want to make sure that there are no provisional drivers on a school bus. We don't allow school employees to enter a school building until they have been properly checked. We would ask the same for school bus drivers. They are the first incidence of student availability when they get up in the morning and get on the school bus. That's the point of first purchase

for public schools. We think that needs to be strengthened to protect our children.

The second issue that we would ask is that there is a section in the bill that deals with expungements, and it's spelled out in the position paper. If my record is expunged due to a mis- or incorrect or accurate statement about my driving record, and I move to expunge my record, the Department of Education, in all due deference to them, in 14 days cannot make whole my record. The expungement of what made the inaccurate statement brought to bear against me as a school employee as a school bus driver will take me more than 14 days to get the Department of Education to respond to my requests. By then, I am now out of a job, out of a livelihood. And when the correction is made, there is no due process in the legislation that will make me whole again. What school district or what bus company will hire me under those pretenses?

We think there should be an aspect of due process built into this bill for employees who would like to be made whole because of poor or inaccurate record keeping. And far be it from I to say that the State Department of Education, the Department of Motor Vehicles, or anyone in government keeps inaccurate records, but at times they do. (laughter) And at times, my name may be on the wrong list, and I may be branded guilty forever where I am innocent for always.

Thank you, Mr. Chairman.

ASSEMBLYMAN DORIA: Thank you.

I don't know if your name is on the wrong list, Wayne. We'll find out. (laughter)

MR. DIBOFSKY: It depends on what list we're talking about, Assemblyman. (laughter)

ASSEMBLYMAN DORIA: There's a lot of lists. (laughter)

Those are two points well taken. I think we have to look at this.

I have one question, Wayne. When the bill went through the Senate, when they were discussing, were these in the original bill, or were these amendments that were placed in the original bill?

MR. DIBOFSKY: The amendments I'm addressing?

ASSEMBLYMAN DORIA: Yes.

MR. DIBOFSKY: Yes. Well, no. We asked for these amendments at that time.

ASSEMBLYMAN DORIA: The original bill was in the same form that the bill that we presently have?

MR. DIBOFSKY: Yes, it is, sir.

ASSEMBLYMAN DORIA: Okay. So that was the original form.

MR. DIBOFSKY: Correct.

ASSEMBLYMAN DORIA: Okay.

Gene Keyek.

MR. KEYEK: (speaking from audience) We support the concept, and we're anxiously awaiting to see what the final outcome will be.

ASSEMBLYMAN DORIA: Okay, Gene.

We've spoken to Wayne. And Mary Mazzocchi from the New Jersey School Bus Owners Association is in opposition, but she is not present. Oh, she is present. I thought before you weren't? Okay, sorry.

**MARY MAZZOCCHI:** Good afternoon. I'm Mary Mazzocchi from the New Jersey--

ASSEMBLYMAN DORIA: Why don't you use the microphone?  
(referring to PA microphone)

MS. MAZZOCCHI: Sorry. Mary Mazzocchi from the New Jersey School Bus Owners Association. I'm their Executive Director.

ASSEMBLYMAN DORIA: That's fine.

MS. MAZZOCCHI: I just wanted to say that although we support any legislation that enhances the safety of school buses and the quality of applicants, we feel that the current federal requirements and checks of school bus driver applicants supersede several of the proposed requirements regarding checks of driver records for alcohol and drug related motor vehicle violations that are listed in these Assembly bills.

ASSEMBLYMAN DORIA: There's no need to read the statement. If you have any comments, we can read the statement.

MS. MAZZOCCHI: All right. One of things that Assemblywoman Heck had mentioned was that it's not happening now or it's not happening to the satisfaction-- I do want to note that we have two-- We have a biannual motor vehicle inspection, and at that point, Motor Vehicle not only checks the vehicles, they come in and check our driver records to make sure that we are meeting all of those standards that are included. We do have preemployment drug testing. We do have random drug and alcohol testing. School bus drivers need to meet a much higher rate. The blood alcohol for alcohol testing is 0.04, as opposed as to what it is in a regular car. So we are

held to a higher standard already by the Federal Motor Carriers regulation, which is what we come under with a commercial driver's license.

ASSEMBLYMAN DORIA: Thank you.

Any comments from any of the Committee members? Any questions? (no response)

Thank you.

MS. MAZZOCCHI: Thank you.

ASSEMBLYMAN DORIA: We're not going to act on this piece of legislation today because of the fact that, at this point, there are a number of issues. We will be hearing it again in the future. So we will hold the bill as of this time. We will be discussing it with you Assemblyman Ahearn and Assemblyman Sarlo.

Any other business, any other comments from members of the Committee? (no response)

I want to thank all the members of the Committee, and especially the individuals, Assemblymen Sarlo and Ahearn, who were standing in today for Assemblyman Diegnan and Assemblyman Connors. We thank Assemblywoman Heck, who had to make a call, we thank her for standing in for Assemblyman Wolfe. We thank again the Passaic school district.

And at this point, I'd like a motion to adjourn the meeting?

ASSEMBLYMAN STANLEY: So moved.

ASSEMBLYMAN DORIA: Second?

ASSEMBLYWOMAN FRISCIA: Second.

ASSEMBLYMAN DORIA: Seconded, and the meeting is adjourned.

**(MEETING CONCLUDED)**