

ASSEMBLY, No. 4692

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED NOVEMBER 26, 2018

Sponsored by:

Assemblyman EDWARD H. THOMSON

District 30 (Monmouth and Ocean)

Assemblyman SEAN T. KEAN

District 30 (Monmouth and Ocean)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Co-Sponsored by:

Assemblywoman DiMaso, Assemblymen Wirths and Space

SYNOPSIS

Eliminates use of census-based funding of special education aid in school funding law.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/21/2019)

1 AN ACT concerning State funding for special education and
2 amending P.L.1996, c.138 and P.L.2007, c.260.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 5 of P.L.1996, c.138 (C.18A:7F-5) is amended to
8 read as follows:

9 5. As used in this section, "cost of living" means the CPI as
10 defined in section 3 of P.L.2007, c.260 (C.18A:7F-45).

11 a. Within 30 days following the approval of the Educational
12 Adequacy Report, the commissioner shall notify each district of the
13 base per pupil amount, the per pupil amounts for full-day preschool,
14 the weights for grade level, county vocational school districts, at-
15 risk pupils, bilingual pupils, and combination pupils, the cost
16 coefficients for security aid and for transportation aid, **the State**
17 **average classification rate and** the excess cost for general special
18 education services pupils, **the State average classification rate**
19 **and** the excess cost for speech-only pupils, and the geographic cost
20 adjustment for each of the school years to which the report is
21 applicable.

22 Annually, within two days following the transmittal of the State
23 budget message to the Legislature by the Governor pursuant to
24 section 11 of P.L.1944, c.112 (C.52:27B-20), the commissioner
25 shall notify each district of the maximum amount of aid payable to
26 the district in the succeeding school year pursuant to the provisions
27 of P.L.2007, c.260 (C.18A:7F-43 et al.), and shall notify each
28 district of the district's adequacy budget for the succeeding school
29 year.

30 For the 2008-2009 school year and thereafter, unless otherwise
31 specified within P.L.2007, c.260 (C.18A:7F-43 et al.), aid amounts
32 payable for the budget year shall be based on budget year pupil
33 counts, which shall be projected by the commissioner using data
34 from prior years. Adjustments for the actual pupil counts of the
35 budget year shall be made to State aid amounts payable during the
36 school year succeeding the budget year. Additional amounts
37 payable shall be reflected as revenue and an account receivable for
38 the budget year.

39 Notwithstanding any other provision of this act to the contrary,
40 each district's State aid payable for the 2008-2009 school year, with
41 the exception of aid for school facilities projects, shall be based on
42 simulations employing the various formulas and State aid amounts
43 contained in P.L.2007, c.260 (C.18A:7F-43 et al.). The
44 commissioner shall prepare a report dated December 12, 2007
45 reflecting the State aid amounts payable by category for each

EXPLANATION – Matter enclosed in bold-faced brackets **thus** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 district and shall submit the report to the Legislature prior to the
2 adoption of P.L.2007, c.260 (C.18A:7F-43 et al.). Except as
3 otherwise provided pursuant to this subsection and paragraph (3) of
4 subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47), the
5 amounts contained in the commissioner's report shall be the final
6 amounts payable and shall not be subsequently adjusted other than
7 to reflect the phase-in of the required general fund local levy
8 pursuant to paragraph (4) of subsection b. of section 16 of
9 P.L.2007, c.260 (C.18A:7F-58) and to reflect school choice aid to
10 which a district may be entitled pursuant to section 20 of that act.
11 The projected pupil counts and equalized valuations used for the
12 calculation of State aid shall also be used for the calculation of
13 adequacy budget, local share, and required local share. For 2008-
14 2009, extraordinary special education State aid shall be included as
15 a projected amount in the commissioner's report dated December
16 12, 2007 pending the final approval of applications for the aid. If
17 the actual award of extraordinary special education State aid is
18 greater than the projected amount, the district shall receive the
19 increase in the aid payable in the subsequent school year pursuant
20 to the provisions of subsection c. of section 13 of P.L.2007, c.260
21 (C.18A:7F-55). If the actual award of extraordinary special
22 education State aid is less than the projected amount, other State aid
23 categories shall be adjusted accordingly so that the district shall not
24 receive less State aid than as provided in accordance with the
25 provisions of sections 5 and 16 of P.L.2007, c.260 (C.18A:7F-47
26 and C.18A:7F-58).

27 In the event that the commissioner determines, following the
28 enactment of P.L.2007, c.260 (C.18A:7F-43 et al.) but prior to the
29 issuance of State aid notices for the 2008-2009 school year, that a
30 significant district-specific change in data warrants an increase in
31 State aid for that district, the commissioner may adjust the State aid
32 amount provided for the district in the December 12, 2007 report to
33 reflect the increase.

34 b. Each district shall have a required local share. For districts
35 that receive educational adequacy aid pursuant to subsection b. of
36 section 16 of P.L.2007, c.260 (C.18A:7F-58), the required local
37 share shall be calculated in accordance with the provisions of that
38 subsection.

39 For all other districts, the required local share shall equal the
40 lesser of the local share calculated at the district's adequacy budget
41 pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51), or the
42 district's budgeted local share for the prebudget year.

43 In order to meet this requirement, each district shall raise a
44 general fund tax levy which equals its required local share.

45 No municipal governing body or bodies or board of school
46 estimate, as appropriate, shall certify a general fund tax levy which
47 does not meet the required local share provisions of this section.

1 c. Annually, on or before March 4, or on or before March 20 in
2 the case of a school district with an annual school election in
3 November, each district board of education shall adopt, and submit
4 to the commissioner for approval, together with such supporting
5 documentation as the commissioner may prescribe, a budget that
6 provides for a thorough and efficient education. Notwithstanding
7 the provisions of this subsection to the contrary, the commissioner
8 may adjust the date for the submission of district budgets if the
9 commissioner determines that the availability of preliminary aid
10 numbers for the subsequent school year warrants such adjustment.

11 Notwithstanding any provision of this section to the contrary, for
12 the 2005-2006 school year each district board of education shall
13 submit a proposed budget in which the advertised per pupil
14 administrative costs do not exceed the lower of the following:

15 (1) the district's advertised per pupil administrative costs for the
16 2004-2005 school year inflated by the cost of living or 2.5 percent,
17 whichever is greater; or

18 (2) the per pupil administrative cost limits for the district's
19 region as determined by the commissioner based on audited
20 expenditures for the 2003-2004 school year.

21 The executive county superintendent of schools may disapprove
22 the school district's 2005-2006 proposed budget if he determines
23 that the district has not implemented all potential efficiencies in the
24 administrative operations of the district. The executive county
25 superintendent shall work with each school district in the county
26 during the 2004-2005 school year to identify administrative
27 inefficiencies in the operations of the district that might cause the
28 superintendent to reject the district's proposed 2005-2006 school
29 year budget.

30 For the 2006-2007 school year and each school year thereafter,
31 each district board of education shall submit a proposed budget in
32 which the advertised per pupil administrative costs do not exceed
33 the lower of the following:

34 (1) the district's prior year per pupil administrative costs; except
35 that the district may submit a request to the commissioner for
36 approval to exceed the district's prior year per pupil administrative
37 costs due to increases in enrollment, administrative positions
38 necessary as a result of mandated programs, administrative
39 vacancies, nondiscretionary fixed costs, and such other items as
40 defined in accordance with regulations adopted pursuant to section
41 7 of P.L.2004, c.73. In the event that the commissioner approves a
42 district's request to exceed its prior year per pupil administrative
43 costs, the increase authorized by the commissioner shall not exceed
44 the cost of living or 2.5 percent, whichever is greater; or

45 (2) the prior year per pupil administrative cost limits for the
46 district's region inflated by the cost of living or 2.5 percent,
47 whichever is greater.

1 d. (1) A district's general fund tax levy shall not exceed the
2 district's adjusted tax levy as calculated pursuant to sections 3 and 4
3 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39).

4 (2) (Deleted by amendment, P.L.2007, c.260).

5 (3) (Deleted by amendment, P.L.2007, c.260).

6 (4) Any debt service payment made by a school district during
7 the budget year shall not be included in the calculation of the
8 district's adjusted tax levy.

9 (5) (Deleted by amendment, P.L.2007, c.260).

10 (6) (Deleted by amendment, P.L.2007, c.260).

11 (7) (Deleted by amendment, P.L.2004, c.73).

12 (8) (Deleted by amendment, P.L.2010, c.44)

13 (9) Any district may submit at the annual school budget
14 election, in accordance with subsection c. of section 4 of P.L.2007,
15 c.62 (C.18A:7F-39), a separate proposal or proposals for additional
16 funds, including interpretive statements, specifically identifying the
17 program purposes for which the proposed funds shall be used, to the
18 voters, who may, by voter approval, authorize the raising of an
19 additional general fund tax levy for such purposes. In the case of a
20 district with a board of school estimate, one proposal for the
21 additional spending shall be submitted to the board of school
22 estimate. Any proposal or proposals submitted to the voters or the
23 board of school estimate shall not: include any programs and
24 services that were included in the district's prebudget year net
25 budget unless the proposal is approved by the commissioner upon
26 submission by the district of sufficient reason for an exemption to
27 this requirement; or include any new programs and services
28 necessary for students to achieve the thoroughness standards
29 established pursuant to subsection a. of section 4 of P.L.2007, c.260
30 (C.18A:7F-46).

31 The executive county superintendent of schools may prohibit the
32 submission of a separate proposal or proposals to the voters or
33 board of school estimate if he determines that the district has not
34 implemented all potential efficiencies in the administrative
35 operations of the district, which efficiencies would eliminate the
36 need for the raising of an additional general fund tax levy.

37 (10) Notwithstanding any provision of law to the contrary, if a
38 district proposes a budget with a general fund tax levy and
39 equalization aid which exceed the adequacy budget, the following
40 statement shall be published in the legal notice of public hearing on
41 the budget pursuant to N.J.S.18A:22-28, posted at the public
42 hearing held on the budget pursuant to N.J.S.18A:22-29, and
43 printed on the sample ballot required pursuant to section 10 of
44 P.L.1995, c.278 (C.19:60-10):

45 "Your school district has proposed programs and services in
46 addition to the core curriculum content standards adopted by the
47 State Board of Education. Information on this budget and the

1 programs and services it provides is available from your local
2 school district."

3 (11) Any reduction that may be required to be made to programs
4 and services included in a district's prebudget year net budget in
5 order for the district to limit the growth in its budget between the
6 prebudget and budget years by its tax levy growth limitation as
7 calculated pursuant to sections 3 and 4 of P.L.2007, c.62
8 (C.18A:7F-38 and 18A:7F-39), shall only include reductions to
9 excessive administration or programs and services that are
10 inefficient or ineffective.

11 e. (1) Any general fund tax levy rejected by the voters for a
12 proposed budget that includes a general fund tax levy and
13 equalization aid in excess of the adequacy budget shall be submitted
14 to the governing body of each of the municipalities included within
15 the district for determination of the amount that should be expended
16 notwithstanding voter rejection. In the case of a district having a
17 board of school estimate, other than a Type II district with a board
18 of school estimate in which the annual election is in November, the
19 general fund tax levy shall be submitted to the board for
20 determination of the amount that should be expended. If the
21 governing body or bodies or board of school estimate, as
22 appropriate, reduce the district's proposed budget, the district may
23 appeal any of the reductions to the commissioner on the grounds
24 that the reductions will negatively impact on the stability of the
25 district given the need for long term planning and budgeting. In
26 considering the appeal, the commissioner shall consider enrollment
27 increases or decreases within the district; the history of voter
28 approval or rejection of district budgets; the impact on the local
29 levy; and whether the reductions will impact on the ability of the
30 district to fulfill its contractual obligations. A district may not
31 appeal any reductions on the grounds that the amount is necessary
32 for a thorough and efficient education.

33 (2) Any general fund tax levy rejected by the voters for a
34 proposed budget that includes a general fund tax levy and
35 equalization aid at or below the adequacy budget shall be submitted
36 to the governing body of each of the municipalities included within
37 the district for determination of the amount that should be expended
38 notwithstanding voter rejection. In the case of a district having a
39 board of school estimate, other than a Type II district with a board
40 of school estimate in which the annual election is in November, the
41 general fund tax levy shall be submitted to the board for
42 determination. Any reductions may be appealed to the
43 commissioner on the grounds that the amount is necessary for a
44 thorough and efficient education or that the reductions will
45 negatively impact on the stability of the district given the need for
46 long term planning and budgeting. In considering the appeal, the
47 commissioner shall also consider the factors outlined in paragraph
48 (1) of this subsection.

1 In addition, the municipal governing body or board of school
2 estimate shall be required to demonstrate clearly to the
3 commissioner that the proposed budget reductions shall not
4 adversely affect the ability of the school district to provide a
5 thorough and efficient education or the stability of the district given
6 the need for long term planning and budgeting.

7 (3) In lieu of any budget reduction appeal provided for pursuant
8 to paragraphs (1) and (2) of this subsection, the State board may
9 establish pursuant to the "Administrative Procedure Act," P.L.1968,
10 c.410 (C.52:14B-1 et seq.), an expedited budget review process
11 based on a district's application to the commissioner for an order to
12 restore a budget reduction.

13 (4) When the voters, municipal governing body or bodies, board
14 of education in the case of a school district in which the annual
15 school election has been moved to November pursuant to subsection
16 a. of section 1 of P.L.2011, c.202 (C.19:60-1.1), or the board of
17 school estimate authorize the general fund tax levy, the district shall
18 submit the resulting budget to the commissioner within 15 days of
19 the authorization.

20 f. (Deleted by amendment, P.L.2007, c.260).

21 g. (Deleted by amendment, P.L.2007, c.260).

22 (cf: P.L.2013, c.280, s.1)

23
24 2. Section 2 of P.L.2007, c.260 (C.18A:7F-44) is amended to
25 read as follows:

26 2. The Legislature finds and declares that:

27 a. The Constitution of the State of New Jersey states that the
28 Legislature shall provide for the maintenance and support of a
29 thorough and efficient system of free public schools for the
30 instruction of all children in the State between the ages of five and
31 eighteen years. (N.J. Const. art. VIII, sec. 4, par.1).

32 b. The State, in addition to any constitutional mandates, has a
33 moral obligation to ensure that New Jersey's children, wherever
34 they reside, are provided the skills and knowledge necessary to
35 succeed. Any school funding formula should provide resources in a
36 manner that optimizes the likelihood that children will receive an
37 education that will make them productive members of society.

38 c. Although the Supreme Court of New Jersey has held that
39 prior school funding statutes did not establish a system of public
40 education that was thorough and efficient as to certain districts, the
41 Court has consistently held that the Legislature has the
42 responsibility to substantively define what constitutes a thorough
43 and efficient system of education responsive to that constitutional
44 requirement.

45 d. Every child in New Jersey must have an opportunity for an
46 education based on academic standards that satisfy constitutional
47 requirements regardless of where the child resides, and public funds
48 allocated to this purpose must be expended to support schools that

1 are thorough and efficient in delivering those educational standards.
2 In turn, school districts must be assured the financial support
3 necessary to provide those constitutionally compelled educational
4 standards. Any school funding formula should provide State aid for
5 every school district based on the characteristics of the student
6 population and up-to-date measures of the individual district's
7 ability to pay.

8 e. New Jersey's current public school funding formula,
9 established under the provisions of the "Comprehensive Educational
10 Improvement and Financing Act of 1996," (CEIFA) P.L.1996,
11 c.138, has not been used to calculate State aid for public schools
12 since the 2001-02 school year. Any new school funding formula
13 should account for changes in enrollment and other significant
14 developments, providing relief to those districts that have
15 experienced substantial enrollment increases.

16 f. The decisions in the Abbott cases have resulted in frequent
17 litigation and a fragmented system of funding under which limited
18 resources cannot be distributed equitably to all districts where at-
19 risk children reside, instead dividing the districts sharply into
20 Abbott and non-Abbott categories for funding purposes without
21 regard to a district's particular pupil characteristics and leading to
22 needlessly adversarial relationships among school districts and
23 between districts and the State.

24 g. In the absence of a clear, unitary, enforceable statutory
25 formula to govern appropriations for education, crucial funding
26 decisions are made annually, in competition for limited State
27 resources with other needs and requirements as part of the annual
28 budget negotiation process, utilizing many different classes and
29 categories of aid, leading to an uncertain, unpredictable, and
30 untenable funding situation for the State and school districts alike.

31 h. This act represents the culmination of five years of diligent
32 efforts by both the Executive and Legislative branches of State
33 government to develop an equitable and predictable way to
34 distribute State aid that addresses the deficiencies found in past
35 formulas as identified by the Supreme Court. Working together
36 toward this common goal, the Department of Education and the
37 Legislature engaged nationally recognized experts in education
38 funding and provided significant opportunities for stakeholder
39 involvement and public input to assist in formulating and refining a
40 comprehensive school funding model that has been validated by
41 experts. The formula accounts for the individual characteristics of
42 school districts and the realities of their surroundings, including the
43 need for additional resources to address the increased disadvantages
44 created by high concentrations of children at-risk.

45 i. The formula established under this act is the product of a
46 careful and deliberative process that first involved determining the
47 educational inputs necessary to provide a high-quality education,
48 including specifically addressing the supplemental needs of at-risk

1 students and those with limited English proficiency (LEP), and a
2 determination of the actual cost of providing those programs. The
3 formula provides adequate funding that is realistically geared to the
4 core curriculum content standards, thus linking those standards to
5 the actual funding needed to deliver that content.

6 j. In recognition of the unique problems and cost
7 disadvantages faced by districts with high concentrations of at-risk
8 students, it is appropriate to reflect in the formula a greater weight
9 as the district's proportion of at-risk students increases. In addition,
10 the new formula recognizes the disadvantages of an expanded group
11 of students by including in the definition of at-risk those students
12 who qualify for free or reduced-price lunch. Expanding the
13 definition of at-risk students in this manner will significantly
14 increase the resources flowing to districts with high concentrations
15 of these low-income students.

16 k. In light of the demonstrable, beneficial results and success of
17 the current Abbott preschool program, it is appropriate to build
18 upon this success by incorporating in the formula an expanded high-
19 quality preschool program for all children who qualify for free and
20 reduced price meals in all districts. It is appropriate for the formula
21 to acknowledge that at-risk children do not always receive the same
22 educational exposure at an early age as their peers and to provide
23 the additional resources necessary through high-quality preschool to
24 prepare every child to learn and succeed.

25 l. It is appropriate to reflect in this formula the inherent value
26 of educating a child in the least restrictive environment and,
27 whenever possible, in that child's neighborhood school alongside
28 his peers. The new funding formula should provide incentives for
29 keeping classified students in district.

30 m. It is also appropriate to recognize in the formula the need for
31 all schools to incorporate effective security measures, which may
32 vary from district to district depending upon the at-risk student
33 population and other factors, and to provide categorical funding to
34 address these important requirements.

35 n. **【In recognition of the potentially wide variability in special**
36 **education costs, even for the same category of disability, from**
37 **district to district, it is appropriate for the new funding formula to**
38 **mitigate the impact of that variability by establishing a census**
39 **model based on the actual Statewide average excess cost of**
40 **educating special education students and by providing for an**
41 **increase in State aid for extraordinary costs incurred by districts.】**
42 (Deleted by amendment, P.L. _____, c. _____) (pending before the
43 Legislature as this bill)

44 o. It is imperative that any new school funding formula work in
45 conjunction with the key school accountability measures that have
46 been enacted in recent years to promote greater oversight,
47 transparency, and efficiency in the delivery of educational services.
48 These accountability measures include the New Jersey Quality

1 Single Accountability Continuum, the "School District Fiscal
2 Accountability Act," P.L.2006, c.15 (C.18A:7A-54 et seq.),
3 P.L.2007, c.63 (C.40A:65-1 et al.) which established the duties and
4 responsibilities of the executive county superintendent of schools,
5 and P.L.2007, c.53 (C.18A:55-3 et al.).

6 p. Together with a renewed legislative focus on and
7 commitment to providing sufficient means to maintain and support
8 a high-quality system of free public schools in the State, a new
9 funding formula supported by significantly increased State
10 resources will ensure compliance with all statutory and
11 constitutional mandates. Districts that were formerly designated as
12 Abbott districts will be provided sufficient resources to continue
13 those Court-identified programs, positions, and services that have
14 proven effective while being provided the flexibility to shift
15 resources and programmatic focus based on the needs of their
16 students and current research.

17 q. The time has come for the State to resolve the question of
18 the level of funding required to provide a thorough and efficient
19 system of education for all New Jersey school children. The
20 development and implementation of an equitable and adequate
21 school funding formula will not only ensure that the State's students
22 have access to a constitutional education as defined by the core
23 curriculum content standards, but also may help to reduce property
24 taxes and assist communities in planning to meet their educational
25 expenses. The development of a predictable, transparent school
26 funding formula is essential for school districts to plan effectively
27 and deliver the quality education that our citizens expect and our
28 Constitution requires.

29 (cf: P.L.2007, c.260, s.2)

30
31 3. Section 4 of P.L.2007, c.260 (C.18A:7F-46) is amended to
32 read as follows:

33 4. a. The State Board of Education shall review and update the
34 core curriculum content standards every five years. The standards
35 shall ensure that all children are provided the educational
36 opportunity needed to equip them for the role of citizen and labor
37 market competitor.

38 The Commissioner of Education shall develop and establish,
39 through the report issued pursuant to subsection b. of this section,
40 efficiency standards which define the types of programs, services,
41 activities, and materials necessary to achieve a thorough and
42 efficient education.

43 b. By September 1 of 2010 and by September 1 every three
44 years thereafter, the Governor, after consultation with the
45 commissioner, shall recommend to the Legislature through the
46 issuance of the Educational Adequacy Report for the three school
47 years to which the report is applicable:

- 1 (1) the base per pupil amount based upon the core curriculum
2 content standards established pursuant to subsection a. of this
3 section;
- 4 (2) the per pupil amounts for full-day preschool;
- 5 (3) the weights for grade level, county vocational school
6 districts, at-risk pupils, bilingual pupils, and combination pupils;
- 7 (4) the cost coefficients for security aid and transportation aid;
- 8 (5) **【the State average classification rate for general special**
9 **education services pupils and for speech-only pupils;】** (Deleted by
10 amendment, P.L. , c.) (pending before the Legislature as this
11 bill)
- 12 (6) the excess cost for general special education services pupils
13 and for speech-only pupils; and
- 14 (7) the extraordinary special education aid thresholds.

15 The base per pupil amount, the per pupil amounts for full-day
16 preschool, the excess costs for general special education services
17 pupils and for speech-only pupils, and the cost-coefficients for
18 security aid and transportation aid shall be adjusted by the CPI for
19 each of the two school years following the first school year to
20 which the report is applicable.

21 The amounts shall be deemed approved for the three successive
22 fiscal years beginning from the subsequent July 1, unless between
23 the date of transmittal and the subsequent November 30, the
24 Legislature adopts a concurrent resolution stating that the
25 Legislature is not in agreement with all or any specific part of the
26 report. The concurrent resolution shall advise the Governor of the
27 Legislature's specific objections to the report and shall direct the
28 commissioner to submit to the Legislature a revised report which
29 responds to those objections by January 1.

30 (cf: P.L.2007, c.260, s.4)

31

32 4. Section 9 of P.L.2007, c.260 (C.18A:7F-51) is amended to
33 read as follows:

34 9. a. The adequacy budget for each school district and county
35 vocational school district shall be calculated as follows:

36
$$AB = (BC + AR \text{ Cost} + LEP \text{ Cost} + COMB \text{ Cost} + \text{【SE Census】}$$

37
$$\text{SE Cost}) \times GCA$$

38 where

39 BC is the district's or county vocational school district's base cost
40 as calculated pursuant to section 8 of this act;

41 AR Cost is the cost of providing educational and other services
42 for at-risk pupils as calculated pursuant to subsection b. of this
43 section;

44 LEP Cost is the cost of providing educational and other services
45 for bilingual education pupils as calculated pursuant to subsection c.
46 of this section;

1 COMB Cost is the cost of providing educational and other
2 services for pupils who are both at-risk and bilingual as calculated
3 pursuant to subsection d. of this section;

4 **【SE Census】** SE Cost is the cost of providing programs and
5 services to general special education services pupils and speech-
6 only pupils as calculated pursuant to subsection e. of this section;
7 and

8 GCA is geographic cost adjustment.

9 The GCA shall be the geographic cost adjustment developed by
10 the commissioner and revised by the commissioner every five years
11 in accordance with receipt of census data.

12 b. AR Cost shall be calculated as follows:

13
$$\text{AR Cost} = \text{BPA} \times \text{ARWENR} \times \text{AR Weight}$$

14 where

15 BPA is the base per pupil amount;

16 ARWENR is the weighted enrollment for at-risk pupils of the
17 school district or county vocational school district, which shall not
18 include combination pupils; and

19 AR Weight is the at-risk weight.

20 For the 2008-2009 through 2010-2011 school years the at-risk
21 weight shall be as follows:

22 for a district in which the concentration of at-risk pupils is less
23 than 20% of resident enrollment, the at-risk weight shall equal 0.47;

24 for a district in which the concentration of at-risk pupils is equal
25 to 20% but less than 60% of resident enrollment, the at-risk weight
26 shall equal the district's $((\text{at-risk \%} - 0.20) \times 0.25) + 0.47$; and

27 for a district in which the concentration of at-risk pupils is equal
28 to or greater than 60% of resident enrollment, the at-risk weight
29 shall equal 0.57.

30 For subsequent school years, the AR weight shall be established
31 in the Educational Adequacy Report.

32 c. LEP Cost shall be calculated as follows:

33
$$\text{LEP Cost} = \text{BPA} \times \text{LWENR} \times \text{LEP Weight}$$

34 where

35 BPA is the base per pupil amount;

36 LWENR is the weighted enrollment for the bilingual education
37 pupils of the school district or county vocational school district,
38 which shall not include combination pupils; and

39 LEP Weight is the bilingual pupil weight.

40 For the 2008-2009 through 2010-2011 school years the LEP weight
41 shall be 0.5. For subsequent school years, the LEP weight shall be
42 established in the Educational Adequacy Report.

43 d. COMB Cost shall be calculated as follows:

44
$$\text{COMB Cost} = \text{BPA} \times \text{CWENR} \times (\text{AR Weight} + \text{COMB Weight})$$

45 where

46 BPA is the base per pupil amount;

47 CWENR is the weighted enrollment for pupils who are both at-
48 risk and bilingual;

1 AR Weight is the at-risk weight; and

2 COMB Weight is the combination pupil weight.

3 For the 2008-2009 through 2010-2011 school years the COMB
4 weight shall be 0.125. For subsequent school years, the COMB
5 weight shall be established in the Educational Adequacy Report.

6 e. **【SE Census】** SE Cost shall be calculated as follows:

7 **【SE Census】** SE Cost = (**【RE x SEACR】** SEENR x AEC x 2/3)
8 + (**【RE x SACR】** SPEONLY x SEC)

9 where

10 **【RE** is the resident enrollment of the school district or county
11 vocational school district;

12 **SEACR** is the State average classification rate for general special
13 education services pupils**】**

14 SEENR is the number of general special education services
15 pupils included in the school district's or county vocational school
16 district's resident enrollment;

17 AEC is the excess cost for general special education services
18 pupils;

19 **【SACR** is the State average classification rate for speech-only
20 pupils**】**

21 SPEONLY is the number of speech-only pupils included in the
22 school district's or county vocational school district's resident
23 enrollment; and

24 SEC is the excess cost for speech-only pupils.

25 **【For the 2008-2009 through 2010-2011 school years the State**
26 **average classification rate shall be 14.69% for general special**
27 **education services pupils and 1.897% for speech-only pupils. For**
28 **subsequent school years, the State average classification rates shall**
29 **be established in the Educational Adequacy Report.】**

30 For the 2008-2009 school year the excess cost shall be \$10,898
31 for general special education services pupils and \$1,082 for speech-
32 only pupils. The excess cost amounts shall be adjusted by the CPI
33 in the 2009-2010 and 2010-2011 school years as required pursuant
34 to subsection b. of section 4 of this act. For subsequent school
35 years, the excess cost amounts shall be established in the
36 Educational Adequacy Report, with the amounts adjusted by the
37 CPI for each of the two school years following the first school year
38 to which the report is applicable.

39 (cf: P.L.2007, c.260, s.9)

40

41 5. Section 13 of P.L.2007, c.260 (C.18A:7F-55) is amended to
42 read as follows:

43 13. a. Special education categorical aid for each school district
44 and county vocational school district shall be calculated as follows:

45 $SE = (\text{【RE x SEACR】} \text{SEENR} \times AEC \times 1/3) \times GCA$

46 where

1 **【RE is the resident enrollment of the school district or county**
2 **vocational school district;**

3 **SEACR is the State average classification rate for general special**
4 **education services pupils】**

5 SEENR is the number of general special education services
6 pupils included in the school district's or county vocational school
7 district's resident enrollment;

8 AEC is the excess cost for general special education services
9 pupils; and

10 GCA is the geographic cost adjustment as developed by the
11 commissioner.

12 For the 2008-2009 school year the excess cost shall be \$10,898 for
13 general special education services pupils. The excess cost amount
14 shall be adjusted by the CPI in the 2009-2010 and 2010-2011
15 school years as required pursuant to subsection b. of section 4 of
16 this act. For subsequent school years, the excess cost amount shall
17 be established in the Educational Adequacy Report, with the
18 amount adjusted by the CPI for each of the two school years
19 following the first school year to which the report is applicable.

20 b. Extraordinary special education aid for an individual
21 classified pupil shall be available when the student is educated in a
22 general education classroom, special education program, including
23 but not limited to a resource program or special class program, or
24 any combination of general education and special education
25 programs and services, subject to the requirements and thresholds
26 set forth in this section.

27 (1) In those instances in which a pupil is educated in an in-
28 district public school program with non-disabled peers, whether run
29 by a public school or by a private school for the disabled, and the
30 cost of providing direct instructional and support services for an
31 individual classified pupil exceeds \$40,000, for those direct
32 instructional and support services costs in excess of \$40,000 a
33 district shall receive extraordinary special education State aid equal
34 to 90% of the amount of that excess in accordance with the
35 provisions of paragraph (4) of this subsection.

36 (2) In those instances in which a pupil is educated in a separate
37 public school program for students with disabilities and the cost of
38 providing direct instructional and support services for an individual
39 classified pupil exceeds \$40,000, for those direct instructional and
40 support services costs in excess of \$40,000 a district shall receive
41 extraordinary special education State aid equal to 75% of the
42 amount of that excess in accordance with the provisions of
43 paragraph (4) of this subsection.

44 (3) In those instances in which a pupil is educated in a separate
45 private school for students with disabilities and the tuition for an
46 individual classified pupil exceeds \$55,000, for tuition costs in
47 excess of \$55,000 a district shall receive extraordinary special

1 education State aid equal to 75% of the amount of that excess in
2 accordance with the provisions of paragraph (4) of this subsection.

3 (4) Extraordinary special education State aid for an individual
4 classified pupil shall be calculated as follows:

5
$$EA = ((ADC - \$40,000) \times .90) + (((AIC - \$40,000) + (ASC -$$

6
$$\$55,000)) \times .75)$$

7 where

8 ADC equals the district's actual cost for the direct instructional
9 and support services in an in-district public school program as set
10 forth in paragraph (1) of this subsection;

11 AIC equals the district's actual cost for direct instructional and
12 support services in a separate public school program as set forth in
13 paragraph (2) of this subsection; and

14 ASC equals the district's actual cost for tuition paid to a separate
15 private school as set forth in paragraph (3) of this subsection.

16 (5) The receipt of extraordinary special education State aid for
17 an individual classified pupil shall be conditioned upon a
18 demonstration by the district that the pupil's Individualized
19 Education Plan requires the provision of intensive services,
20 pursuant to factors determined by the commissioner.

21 c. In order to receive funding pursuant to this section, a district
22 shall file an application with the department that details the
23 expenses incurred on behalf of the particular classified pupil for
24 which the district is seeking reimbursement. Additional State aid
25 awarded for extraordinary special education costs shall be recorded
26 by the district as revenue in the current school year and paid to the
27 district in the subsequent school year.

28 d. A school district may apply to the commissioner to receive
29 emergency special education aid for any classified pupil who
30 enrolls in the district prior to March of the budget year and who is
31 in a placement with a cost in excess of \$40,000 or \$55,000, as
32 applicable. The commissioner may debit from the student's former
33 district of residence any special education aid which was paid to
34 that district on behalf of the student.

35 e. The department shall review expenditures of federal and
36 State special education aid by a district in every instance in which
37 special education monitoring identifies a failure on the part of the
38 district to provide services consistent with a pupil's Individualized
39 Education Plan.

40 f. **【The commissioner shall commission an independent study**
41 **of the special education census funding methodology to determine**
42 **if adjustments in the special education funding formulas are needed**
43 **in future years to address the variations in incidence of students**
44 **with severe disabilities requiring high cost programs and to make**
45 **recommendations for any such adjustments. The study and**
46 **recommendations shall be completed by June 30, 2010.】** (Deleted
47 by amendment, P.L. , c.) (pending before the Legislature as
48 this bill)

