

SENATE, No. 3758

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 16, 2019

Sponsored by:

Senator JOSEPH PENNACCHIO

District 26 (Essex, Morris and Passaic)

Senator VIN GOPAL

District 11 (Monmouth)

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District 38 (Bergen and Passaic)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Co-Sponsored by:

Senator Oroho

SYNOPSIS

Provides for direct State payment of cost of special education and related services for certain students.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/11/2019)

1 AN ACT concerning payment for the costs of certain special
2 education students, supplementing chapter 46 of Title 18A of the
3 New Jersey Statutes, and amending P.L.2007, c.260 and
4 P.L.2003, c.113.

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

8
9 1. (New section) Sections 1 through 10 of P.L. ,
10 c. (C.) (pending before the Legislature as this bill) shall be
11 known and may be cited as the “Fairness in Special Education
12 Funding for Student Success Act.”

13
14 2. (New section) The Legislature finds and declares that:

15 a. The federal “Individuals with Disabilities Education Act”
16 (IDEA), 20 U.S.C. s.1400 et seq., guarantees that a student with a
17 disability will have access to a free appropriate public education in
18 the least restrictive environment possible given the child’s
19 individual needs.

20 b. The federal government provides funding to states and
21 school districts to offset the additional costs that school districts
22 inevitably incur when providing special education and related
23 services to these students. The IDEA gives the Secretary of the
24 United States Department of Education the authority to provide
25 states and school districts with grants in an amount up to 40 percent
26 of these excess costs.

27 c. Historically, the federal government has failed to appropriate
28 sufficient resources to provide states and school districts with the
29 maximum amount of funding authorized under the IDEA. In recent
30 years, federal appropriations have provided for less than 20 percent
31 of the excess costs incurred in educating students with disabilities.

32 d. Similarly, State support for special education has
33 consistently fallen short of promises made. Despite State law
34 mandating that school districts be reimbursed for a portion of the
35 cost of educating particularly high-cost special education students,
36 the State’s appropriations acts have consistently failed to provide
37 funding sufficient to provide for the full reimbursement established
38 under that statute.

39 e. While federal and State government have failed to provide
40 resources for the provision of special education services in the
41 manner that has been promised over the years, school districts
42 continue to be responsible for educating all students with
43 disabilities so that they may reach their full potential and live
44 successful and fulfilling lives. In meeting this obligation, school
45 districts are often forced to make unconscionable choices between

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 special education programs and the services provided to other
2 students.

3 f. It is time for the State of New Jersey to finally meet its
4 obligations to students with disabilities and their families by
5 providing greater resources to ensure that they all have access to the
6 free appropriate public education required under federal law. At the
7 same time, the State must provide adequate oversight to guarantee
8 that these students are educated in the least restrictive environment
9 so that they may have the greatest opportunity to learn and grow
10 with their peers.

11 g. The most effective means to accomplish this goal is for the
12 State to assume the responsibility for entering into contracts with,
13 and making payments to, providers of special education and related
14 services to students with disabilities who require the most
15 expensive services. Such a system would provide a substantial
16 increase in State financial support for school districts to meet their
17 obligations, provide actionable information and transparency
18 regarding both quality and cost effectiveness of providers across the
19 entire spectrum of placements and maintain equity in the provision
20 of these services throughout the State.

21

22 3. (New section) As used in sections 1 through 10 of P.L. ,
23 c. (C.) (pending before the Legislature as this bill):

24 “Final contract cost” means an amount not to exceed the actual
25 cost of providing the special education and related services to a
26 student with a disability that are detailed in the student’s
27 Individualized Education Program. This amount shall not exceed
28 the certified tuition rate. The final contract cost shall also include
29 related services such as home-based services or after school
30 programming that is being provided by other entities. In the case of
31 a provider that is the school district in which the student with a
32 disability resides, the final contract cost shall be determined by a
33 calculation completed in a manner consistent with standards and
34 procedures promulgated by the State Board of Education.

35 “Projected contract cost” means the estimated cost of providing
36 the special education and related services to a student with a
37 disability that are detailed in the student’s Individualized Education
38 Program. These costs shall not exceed the tentative tuition rate. In
39 the case of a provider that is the school district in which the student
40 with a disability resides, the projected contract cost shall be
41 determined by a calculation completed in a manner consistent with
42 standards and procedures promulgated by the State board.

43 “Provider” means the entity that will provide the special
44 education and related services to a student with a disability under a
45 contract entered into pursuant to the provisions of P.L. ,
46 c. (C.) (pending before the Legislature as this bill).

1 4. (New section) In the first full school year following the
2 effective date of P.L. , c. (C.) (pending before the
3 Legislature as this bill), a high needs placement shall include any
4 combination of special education and related services, including
5 residential and extended school year services, that are included in a
6 student with a disability's Individualized Education Program in
7 which the projected contract cost for the school year exceeds
8 \$55,000. In subsequent school years, the cost threshold shall be
9 adjusted pursuant to the provisions of subsection b. of section 4 of
10 P.L.2007, c.260 (C.18A:7F-46). For the purposes of this section,
11 the cost of providing transportation services shall not be included in
12 the cost to determine if a student with a disability requires a high
13 needs placement.
14

15 5. (New section) a. Beginning in the first full school year
16 following the effective date of P.L. , c. (C.) (pending
17 before the Legislature as this bill), the Department of Education
18 shall assume the responsibility of entering into a contract with, and
19 making direct payments pursuant to that contract to, a provider of
20 special education and related services for a student with a disability
21 who requires a high needs placement.

22 b. There is established in the Department of Education the
23 Office of High Needs Placement Funding. The commissioner shall
24 appoint a director of the Office of High Needs Placement Funding
25 and assign such staff as may be necessary to perform the functions
26 of the office.

27 Upon receipt of the necessary information from the school
28 district, the office shall enter into a contract with a provider for the
29 provision of special education and related services for a student
30 with a disability who requires a high needs placement pursuant to
31 the student's Individualized Education Program. The office shall be
32 responsible for making payments pursuant to all such contracts in
33 10 equal monthly payments beginning on the first business day of
34 October of each school year. In the case of a contract that is
35 entered into after that date, the payments shall be made in equal
36 monthly payments for the remainder of the school year. Payments
37 for summer and extended year programs shall be paid on a monthly
38 basis following submission of an invoice for services rendered.

39 The initial payment for each student with a disability in a high
40 needs placement shall be based on the projected contract cost.
41 Payments made to a provider shall be adjusted to account for any
42 difference between the projected contract cost and final contract
43 cost as determined after the conclusion of the school year. The
44 commissioner shall determine a schedule under which any
45 underpayment shall be paid to the provider, or any overpayment
46 shall be refunded to the State by a provider.

47 c. The office shall establish and maintain a directory of
48 providers, which shall include all placement options including in-

1 district placements, out-of-district public placements, and private
2 placements, that offer a range of special education and related
3 services. The directory shall include, but need not be limited to, the
4 most recent quality rating assigned to the provider pursuant to
5 subsection d. of this section and comparative costs among providers
6 for providing equivalent services. The comparative costs shall
7 allow for an accurate comparison of the true costs of providing
8 services for both public and private providers across the entire
9 spectrum of placement options and include costs incurred in the
10 provision of special education and related services that are paid on
11 behalf of the provider and are not included in the projected or final
12 contract cost. These cost shall include, but need not be limited to,
13 pension and other retirement benefit costs, the cost of health
14 benefits, and facilities costs.

15 d. The office shall implement the quality rating system
16 developed pursuant to paragraph (1) of subsection b. of section 6 of
17 P.L. , c. (C.) (pending before the Legislature as this bill)
18 for all providers located in the State. The office shall develop a
19 schedule that ensures that each provider undergoes a quality rating
20 review once every three years. Nothing in this subsection shall
21 preclude the office from reviewing a provider on a more frequent
22 basis.

23

24 6. (New section) a. There is established in the Office of High
25 Needs Placement Funding, the High Needs Placement Committee.
26 The committee shall include the commissioner, or a designee, the
27 State Treasurer, or a designee, and 15 public members appointed as
28 follows: seven members appointed by the Governor; two members
29 appointed by the President of the Senate; two members appointed
30 by the Minority Leader of the Senate; two members appointed by
31 the Speaker of the General Assembly; and two members appointed
32 by the Minority Leader of the General Assembly. The appointed
33 members shall include representatives of providers, special
34 education advocates, and other individuals with expertise in the
35 development, delivery, and budgeting aspects in the implementation
36 of Individualized Education Programs by both public and private
37 providers. The appointed members of the committee shall serve
38 without compensation, but may be reimbursed for necessary
39 expenses incurred in the performance of their duties.

40 b. The committee's responsibilities shall include, but need not
41 be limited to, the following:

42 (1) developing a quality rating system for all providers located
43 in the State that assesses the providers' performance in terms of
44 measurable outcomes in providing special education and related
45 services to students with disabilities who require a high needs
46 placement;

47 (2) collecting, analyzing, and reporting data regarding the
48 provision of special education and related services, including trends

1 occurring before and after the effective date of P.L. , c. (C.)
2 (pending before the Legislature as this bill);

3 (3) in the event that the committee's analysis determines that
4 school districts are either identifying students as requiring special
5 education and related services at an inappropriately high rate or are
6 failing to provide services in the least restrictive environment,
7 identifying the root causes of these conditions and providing
8 recommendations to remediate these occurrences;

9 (4) examining the impact of P.L. , c. (C.) (pending
10 before the Legislature as this bill) on the overall cost of high needs
11 placements, including changes in the share of students with
12 disabilities that require high needs placements;

13 (5) conducting a longitudinal study of students with disabilities
14 who cease to require high needs placements. At a minimum, the
15 study shall examine the rate at which students cease to require high
16 needs placements due to: the cost of implementing the
17 Individualized Education Program no longer exceeding the cost
18 threshold; the student no longer requiring special education and
19 related services; the student graduating from high school; the
20 student dropping out of school; and the student reaching the
21 maximum age for receiving special education and related services.
22 The study shall also analyze postsecondary education and
23 employment outcomes for these students; and

24 (6) examining the threshold criteria used to define "high needs
25 placement" including whether the threshold criteria should reflect
26 high needs program elements such as staffing ratios in addition to
27 or instead of a dollar threshold.

28

29 7. (New section) a. When developing an Individualized
30 Education Program and determining the provider that will provide
31 the special education and related services for a student with a
32 disability, all decision-making shall be done in a manner consistent
33 with the provisions of the "Individuals with Disabilities Education
34 Act," 20 U.S.C. s.1400 et seq., chapter 46 of Title 18A of the New
35 Jersey Statutes, and regulations promulgated thereto. The decisions
36 shall ensure that a student with a disability is educated in the least
37 restrictive environment and in a manner that ensures that the
38 services are provided in an effective and efficient manner. The
39 school district shall consult the information included in the
40 directory of providers established pursuant to subsection c. of
41 section 5 of P.L. , c. (C.) (pending before the Legislature as
42 this bill) in determining the provider that will implement the
43 Individualized Education Program most efficiently and effectively.

44 b. Upon the completion of a student's Individualized Education
45 Program and the selection of the provider that shall provide the
46 special education and related services, the school district shall
47 determine if it anticipates that the cost of implementing the
48 Individualized Education Program will qualify as a high needs

1 placement. In the event that the school district anticipates that the
 2 costs will qualify as a high needs placement, then the district shall
 3 forward the Individualized Education Program to the Office of High
 4 Needs Placement Funding.

5
 6 8. (New section) a. For each student with a disability who has
 7 a high needs placement and is a resident of the school district, the
 8 Commissioner of Education shall deduct from the State aid payable
 9 to that district an amount equal to the high needs deduction as
 10 calculated pursuant to subsection b. of this section.

11 b. For each student with a disability who has a high needs
 12 placement, the high needs deduction shall be calculated as follows:

13 $HND = RegEd + SpeEd + SpeCat + SecCat;$

14 where

15 $RegEd = (((Eq_a + Gfl) \times RegEdPer) / WENR) \times STDWGT;$

16 $SpeEd = ((Eq_a + Gfl) \times SpeEdPer) / SPEENR;$

17 $SpeCat = Spe / SPEENR;$

18 $SecCat = Sec1 + Sec2;$

19 Eq_a is the amount of equalization aid payable to the school
 20 district in the budget year;

21 Gfl is the general fund tax levy raised by the school district in
 22 the prebudget year;

23 $RegEdPer$ is the percent of the school district's adequacy budget,
 24 as calculated pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-
 25 51) that is attributable to costs other than the special education
 26 census costs, as defined in that section, in the budget year;

27 $STDWGT$ is the weighted enrollment of the student with a
 28 disability after applying the weights for kindergarten enrollment,
 29 middle school enrollment, or high school enrollment, pursuant to
 30 section 8 of P.L.2007, c.260 (C.18A:7F-50), and the at-risk weight,
 31 LEP weight, and combination weight pursuant to section 9 of
 32 P.L.2007, c.260 (C.18A:7F-51) that are applicable to that student;

33 $SpeEdPer$ is the percent of the school district's adequacy budget,
 34 as calculated pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-
 35 51) that is attributable to special education census costs, other than
 36 costs attributable to speech-only pupils, as defined in that section,
 37 in the budget year;

38 Spe is the amount of special education categorical aid payable to
 39 the school district in the budget year;

40 $Sec1$ is the security categorical aid per pupil amount pursuant to
 41 section 14 of P.L.2007, c.260 (C.18A:7F-56);

42 $Sec2$ is the at-risk security categorical aid per pupil amount
 43 pursuant to section 14 of P.L.2007, c.260 (C.18A:7F-56), except
 44 that $Sec2$ shall equal 0 for any student with a disability who is not
 45 an at-risk pupil pursuant to section 3 of P.L.2007, c.260 (C.18A:7F-
 46 45);

47 ENR is the number of resident students in the district as defined
 48 pursuant to section 3 of P.L.2007, c.260 (C.18A:7F-45);

1 WENR is the total number of resident students in the district
2 accounting for, as applicable, weights for the students' grade level
3 and status as an at-risk, bilingual, and combination pupil, as defined
4 in section 3 of P.L.2007, c.260 (C.18A:7F-45); and

5 SPEENR is the number of resident students in the district who
6 are classified as a student with a disability pursuant to chapter 46 of
7 Title 18A of the New Jersey Statutes.

8 c. For each student with a disability who has a high needs
9 placement and is a resident of the school district, the Commissioner
10 of Education shall deduct from the State aid payable to that district
11 an amount equal to any federal aid awarded pursuant to the
12 "Individuals with Disabilities Education Act," 20 U.S.C. s.1400 et
13 seq., and the "Elementary and Secondary Education Act of 1965, 20
14 U.S.C. s.6301 et seq., attributable to that student.

15 d. The amount deducted from a school district's State aid
16 payable pursuant to subsections a. and c. of this section for an
17 individual student shall not exceed the projected contract cost for
18 that student. If the total amount to be deducted from a school
19 district's State aid payable pursuant to subsections a. and c. of this
20 section for all students is greater than the amount of State aid
21 payable to the district, the district shall pay to the department the
22 difference between the amount to be deducted and the State aid
23 payable to the district.

24
25 9. (New section) In the first full school year following the
26 effective date of P.L. , c. (C.) (pending before the Legislature
27 as this bill), a school district shall receive extraordinary special
28 education costs aid pursuant to the provisions of section 13 of
29 P.L.2007, c.260 (C.18A:7F-55) as that section read prior to the
30 effective date of P.L. , c. (C.) (pending before the Legislature
31 as this bill).

32
33 10. (New section) The State Board of Education shall adopt
34 regulations, pursuant to the "Administrative Procedures Act,"
35 P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions
36 of this act. Private schools approved by the Commissioner of
37 Education who are providers of high need placements shall not be
38 subject to regulations of the State board concerning fiscal and
39 operational requirements as a condition of reimbursement of the full
40 contracted costs pursuant to P.L. , c. (C.) (pending before
41 the Legislature as this bill).

42
43 11. Section 2 of P.L.2007, c.260 (C.18A:7F-44) is amended to
44 read as follows:

45 2. The Legislature finds and declares that:

46 a. The Constitution of the State of New Jersey states that the
47 Legislature shall provide for the maintenance and support of a
48 thorough and efficient system of free public schools for the

1 instruction of all children in the State between the ages of five and
2 eighteen years. (N.J. Const. art. VIII, sec. 4, par.1).

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

9 c. Although the Supreme Court of New Jersey has held that
10 prior school funding statutes did not establish a system of public
11 education that was thorough and efficient as to certain districts, the
12 Court has consistently held that the Legislature has the
13 responsibility to substantively define what constitutes a thorough
14 and efficient system of education responsive to that constitutional
15 requirement.

16 d. Every child in New Jersey must have an opportunity for an
17 education based on academic standards that satisfy constitutional
18 requirements regardless of where the child resides, and public funds
19 allocated to this purpose must be expended to support schools that
20 are thorough and efficient in delivering those educational standards.
21 In turn, school districts must be assured the financial support
22 necessary to provide those constitutionally compelled educational
23 standards. Any school funding formula should provide State aid for
24 every school district based on the characteristics of the student
25 population and up-to-date measures of the individual district's
26 ability to pay.

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

35 f. The decisions in the Abbott cases have resulted in frequent
36 litigation and a fragmented system of funding under which limited
37 resources cannot be distributed equitably to all districts where at-
38 risk children reside, instead dividing the districts sharply into
39 Abbott and non-Abbott categories for funding purposes without
40 regard to a district's particular pupil characteristics and leading to
41 needlessly adversarial relationships among school districts and
42 between districts and the State.

43 g. In the absence of a clear, unitary, enforceable statutory
44 formula to govern appropriations for education, crucial funding
45 decisions are made annually, in competition for limited State
46 resources with other needs and requirements as part of the annual
47 budget negotiation process, utilizing many different classes and

1 categories of aid, leading to an uncertain, unpredictable, and
2 untenable funding situation for the State and school districts alike.

3 h. This act represents the culmination of five years of diligent
4 efforts by both the Executive and Legislative branches of State
5 government to develop an equitable and predictable way to
6 distribute State aid that addresses the deficiencies found in past
7 formulas as identified by the Supreme Court. Working together
8 toward this common goal, the Department of Education and the
9 Legislature engaged nationally recognized experts in education
10 funding and provided significant opportunities for stakeholder
11 involvement and public input to assist in formulating and refining a
12 comprehensive school funding model that has been validated by
13 experts. The formula accounts for the individual characteristics of
14 school districts and the realities of their surroundings, including the
15 need for additional resources to address the increased disadvantages
16 created by high concentrations of children at-risk.

17 i. The formula established under this act is the product of a
18 careful and deliberative process that first involved determining the
19 educational inputs necessary to provide a high-quality education,
20 including specifically addressing the supplemental needs of at-risk
21 students and those with limited English proficiency (LEP), and a
22 determination of the actual cost of providing those programs. The
23 formula provides adequate funding that is realistically geared to the
24 core curriculum content standards, thus linking those standards to
25 the actual funding needed to deliver that content.

26 j. In recognition of the unique problems and cost
27 disadvantages faced by districts with high concentrations of at-risk
28 students, it is appropriate to reflect in the formula a greater weight
29 as the district's proportion of at-risk students increases. In addition,
30 the new formula recognizes the disadvantages of an expanded group
31 of students by including in the definition of at-risk those students
32 who qualify for free or reduced-price lunch. Expanding the
33 definition of at-risk students in this manner will significantly
34 increase the resources flowing to districts with high concentrations
35 of these low-income students.

36 k. In light of the demonstrable, beneficial results and success of
37 the current Abbott preschool program, it is appropriate to build
38 upon this success by incorporating in the formula an expanded high-
39 quality preschool program for all children who qualify for free and
40 reduced price meals in all districts. It is appropriate for the formula
41 to acknowledge that at-risk children do not always receive the same
42 educational exposure at an early age as their peers and to provide
43 the additional resources necessary through high-quality preschool to
44 prepare every child to learn and succeed.

45 l. **It** is appropriate to reflect in this formula the inherent value
46 of educating a child in the least restrictive environment and,
47 whenever possible, in that child's neighborhood school alongside
48 his peers. The new funding formula should provide incentives for

1 keeping classified students in district.】 (Deleted by amendment,
2 P.L. , c.) (pending before the Legislature as this bill)

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

8 n. In recognition of the potentially wide variability in special
9 education costs, even for the same category of disability, from
10 district to district, it is appropriate for the new funding formula to
11 mitigate the impact of that variability by establishing a census
12 model based on the actual Statewide average excess cost of
13 educating special education students and by providing for an
14 increase in State aid for extraordinary costs incurred by districts.

15 o. It is imperative that any new school funding formula work in
16 conjunction with the key school accountability measures that have
17 been enacted in recent years to promote greater oversight,
18 transparency, and efficiency in the delivery of educational services.
19 These accountability measures include the New Jersey Quality
20 Single Accountability Continuum, the "School District Fiscal
21 Accountability Act," P.L.2006, c.15 (C.18A:7A-54 et seq.),
22 P.L.2007, c.63 (C.40A:65-1 et al.) which established the duties and
23 responsibilities of the executive county superintendent of schools,
24 and P.L.2007, c.53 (C.18A:55-3 et al.).

25 p. Together with a renewed legislative focus on and
26 commitment to providing sufficient means to maintain and support
27 a high-quality system of free public schools in the State, a new
28 funding formula supported by significantly increased State
29 resources will ensure compliance with all statutory and
30 constitutional mandates. Districts that were formerly designated as
31 Abbott districts will be provided sufficient resources to continue
32 those Court-identified programs, positions, and services that have
33 proven effective while being provided the flexibility to shift
34 resources and programmatic focus based on the needs of their
35 students and current research.

36 q. The time has come for the State to resolve the question of
37 the level of funding required to provide a thorough and efficient
38 system of education for all New Jersey school children. The
39 development and implementation of an equitable and adequate
40 school funding formula will not only ensure that the State's students
41 have access to a constitutional education as defined by the core
42 curriculum content standards, but also may help to reduce property
43 taxes and assist communities in planning to meet their educational
44 expenses. The development of a predictable, transparent school
45 funding formula is essential for school districts to plan effectively
46 and deliver the quality education that our citizens expect and our
47 Constitution requires.

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

1 12. Section 4 of P.L.2007, c.260 (C.18A:7F-46) is amended to
2 read as follows:

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

8 The Commissioner of Education shall develop and establish,
9 through the report issued pursuant to subsection b. of this section,
10 efficiency standards which define the types of programs, services,
11 activities, and materials necessary to achieve a thorough and
12 efficient education.

13 b. By September 1 of 2010 and by September 1 every three
14 years thereafter, the Governor, after consultation with the
15 commissioner, shall recommend to the Legislature through the
16 issuance of the Educational Adequacy Report for the three school
17 years to which the report is applicable:

18 (1) the base per pupil amount based upon the core curriculum
19 content standards established pursuant to subsection a. of this
20 section;

21 (2) the per pupil amounts for full-day preschool;

22 (3) the weights for grade level, county vocational school
23 districts, at-risk pupils, bilingual pupils, and combination pupils;

24 (4) the cost coefficients for security aid and transportation aid;

25 (5) the State average classification rate for general special
26 education services pupils and for speech-only pupils;

27 (6) the excess cost for general special education services pupils
28 and for speech-only pupils; and

29 (7) the **【extraordinary special education aid thresholds】** high
30 needs placement threshold established pursuant to section 4 of
31 P.L. , c. (C.) (pending before the Legislature as this bill).

32 The base per pupil amount, the per pupil amounts for full-day
33 preschool, the excess costs for general special education services
34 pupils and for speech-only pupils, and the cost-coefficients for
35 security aid and transportation aid shall be adjusted by the CPI for
36 each of the two school years following the first school year to
37 which the report is applicable.

38 The amounts shall be deemed approved for the three successive
39 fiscal years beginning from the subsequent July 1, unless between
40 the date of transmittal and the subsequent November 30, the
41 Legislature adopts a concurrent resolution stating that the
42 Legislature is not in agreement with all or any specific part of the
43 report. The concurrent resolution shall advise the Governor of the
44 Legislature's specific objections to the report and shall direct the
45 commissioner to submit to the Legislature a revised report which
46 responds to those objections by January 1.

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

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

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

5
$$SE = (RE \times SEACR \times AEC \times 1/3) \times GCA$$

6 where

7 RE is the resident enrollment of the school district or county
8 vocational school district;

9 SEACR is the State average classification rate for general special
10 education services pupils;

11 AEC is the excess cost for general special education services
12 pupils; and

13 GCA is the geographic cost adjustment as developed by the
14 commissioner.

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

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

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

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

47 (3) In those instances in which a pupil is educated in a separate
48 private school for students with disabilities and the tuition for an

1 individual classified pupil exceeds \$55,000, for tuition costs in
2 excess of \$55,000 a district shall receive extraordinary special
3 education State aid equal to 75% of the amount of that excess in
4 accordance with the provisions of paragraph (4) of this subsection.

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

7
$$EA = ((ADC - \$40,000) \times .90) + (((AIC - \$40,000) + (ASC -$$

8
$$\$55,000)) \times .75)$$

9 where

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

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

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

18 (5) The receipt of extraordinary special education State aid for
19 an individual classified pupil shall be conditioned upon a
20 demonstration by the district that the pupil's Individualized
21 Education Plan requires the provision of intensive services,
22 pursuant to factors determined by the commissioner. **】** (Deleted by
23 amendment, P.L. , c.) (pending before the Legislature as this
24 bill)

25 c. **【**In order to receive funding pursuant to this section, a
26 district shall file an application with the department that details the
27 expenses incurred on behalf of the particular classified pupil for
28 which the district is seeking reimbursement. Additional State aid
29 awarded for extraordinary special education costs shall be recorded
30 by the district as revenue in the current school year and paid to the
31 district in the subsequent school year. **】** (Deleted by amendment,
32 P.L. , c.) (pending before the Legislature as this bill)

33 d. **【**A school district may apply to the commissioner to receive
34 emergency special education aid for any classified pupil who
35 enrolls in the district prior to March of the budget year and who is
36 in a placement with a cost in excess of \$40,000 or \$55,000, as
37 applicable. The commissioner may debit from the student's former
38 district of residence any special education aid which was paid to
39 that district on behalf of the student. **】** (Deleted by amendment,
40 P.L. , c.) (pending before the Legislature as this bill)

41 e. The department shall review expenditures of federal and
42 State special education aid by a district in every instance in which
43 special education monitoring identifies a failure on the part of the
44 district to provide services consistent with a pupil's Individualized
45 Education Plan.

46 f. The commissioner shall commission an independent study of
47 the special education census funding methodology to determine if

1 adjustments in the special education funding formulas are needed in
2 future years to address the variations in incidence of students with
3 severe disabilities requiring high cost programs and to make
4 recommendations for any such adjustments. The study and
5 recommendations shall be completed by June 30, 2010.

6 g. A school district may apply to the commissioner to receive
7 additional special education categorical aid if the district has an
8 unusually high rate of low-incidence disabilities, such as autism,
9 deaf/blindness, severe cognitive impairment, and medically fragile.
10 In applying for the aid the district shall: demonstrate the impact of
11 the unusually high rate of low-incidence disabilities on the school
12 district budget and the extent to which the costs to the district are
13 not sufficiently addressed through special education aid and
14 extraordinary special education aid; and provide details of all
15 special education expenditures, including details on the use of
16 federal funds to support those expenditures.

17 (cf: P.L.2007, c.260, s.13)

18
19 14. Section 2 of P.L.2003, c.113 (C.46:15-7.1) is amended to
20 read as follows:

21 2. a. For each conveyance or transfer of property, the grantor
22 shall pay a supplemental fee of:

23 (1) (a) \$0.25 for each \$500.00 of consideration or fractional
24 part thereof not in excess of \$150,000.00 recited in the deed;

25 (b) \$0.85 for each \$500.00 of consideration or fractional part
26 thereof in excess of \$150,000.00 but not in excess of \$200,000.00
27 recited in the deed; and

28 (c) \$1.40 for each \$500.00 of consideration or fractional part
29 thereof in excess of \$200,000.00 recited in the deed, plus

30 (2) for a transfer described in subsection (b) of section 4 of
31 P.L.1975, c.176 (C.46:15-10.1), an additional \$1.00 for each
32 \$500.00 of consideration or fractional part thereof not in excess of
33 \$150,000.00 recited in the deed which fee shall be collected by the
34 county recording officer at the time the deed is offered for
35 recording, except as provided by subsection b. of this section.

36 b. The supplemental fee imposed by subsection a. of this
37 section shall not be imposed on a conveyance or transfer that is
38 made by a deed described in section 6 of P.L.1968, c.49 (C.46:15-
39 10) or on a transfer described in paragraph (1) or paragraph (2) of
40 subsection (a) of section 4 of P.L.1975, c.176 (C.46:15-10.1).

41 c. The proceeds of the supplemental fees collected by the
42 county recording officer pursuant to subsection a. of this section
43 shall be accounted for and remitted to the county treasurer. An
44 amount equal to \$0.25 of the supplemental fee for each \$500.00 of
45 consideration or fractional part thereof recited in the deed so
46 collected pursuant to this section shall be retained by the county
47 treasurer for the purposes set forth in subsection d. of this section,
48 and the balance shall be remitted to the State Treasurer for deposit

1 to the Extraordinary Aid Account, which shall be established as an
2 account in the General Fund. Payments shall be made to the State
3 Treasurer on the tenth day of each month following the month of
4 collection.

5 d. From the proceeds of the supplemental fees collected by the
6 county recording officer pursuant to subsection a. of this section
7 and retained by the county treasurer pursuant to subsection c. of this
8 section, a county that received funding in State fiscal year 2003 for
9 the support of public health services pursuant to the provisions of
10 the Public Health Priority Funding Act of 1977, P.L.1966, c.36
11 (C.26:2F-1 et seq.) shall, at a minimum, fund its priority health
12 services under that act in subsequent years at the same level as the
13 level at which those services were funded in State fiscal year 2003
14 pursuant to the annual appropriations act for that fiscal year as the
15 Commissioner of the Department of Health and Senior Services
16 shall determine. In any county, amounts of supplemental fees
17 retained that are in excess of the amounts required to be used for the
18 funding of the county's priority health services under this subsection
19 shall be used by the county for general county purposes.

20 e. The Legislature shall annually appropriate the entire balance
21 of the Extraordinary Aid Account for the purposes of providing
22 [extraordinary special education aid pursuant to section 13 of
23 P.L.2007, c.260 (C.18A:7F-55) and] "Municipal Property Tax
24 Relief Act" extraordinary aid pursuant to section 4 of P.L.1991,
25 c.63 (C.52:27D-118.35).

26 f. Every deed subject to the supplemental fee required by this
27 section, which is in fact recorded, shall be conclusively deemed to
28 have been entitled to recording, notwithstanding that the amount of
29 the consideration shall have been incorrectly stated, or that the
30 correct amount of the supplemental fee, if any, shall not have been
31 paid, and no such defect shall in any way affect or impair the
32 validity of the title conveyed or render the same unmarketable; but
33 the person or persons required to pay that supplemental fee at the
34 time of recording shall be and remain liable to the county recording
35 officer for the payment of the proper amount thereof.

36 (cf: P.L.2007, c.260, s.80)

37
38 15. This act shall take effect immediately.
39
40

41 STATEMENT

42
43 Under this bill, the State would assume the responsibility of
44 entering into a contract with, and making payments to, entities that
45 provide special education and related services to certain students
46 with disabilities. If a school district anticipates that the cost of
47 providing the special education and related services included in a
48 student's Individualized Education Program (IEP) will exceed

1 \$55,000, then that student is considered to require a high needs
2 placement. A school district would forward the IEP to the newly-
3 created Office of High Needs Placement Funding within the
4 Department of Education. That office would be responsible for
5 entering into contracts with, and making payments to, providers of
6 the special education and related services for these students. The
7 office would make 10 equal monthly payments, starting on the first
8 business day of October of that school year. Payments for summer
9 and extended year programs will be paid on a monthly basis
10 following submission of an invoice for services rendered.
11 Additionally, the office would be responsible for:

- 12 • establishing and maintaining a directory of providers of
13 special education and related services, including information
14 regarding performance and cost; and
- 15 • implementing a quality rating system that will be developed
16 for providers, ensuring that each provider undergoes a
17 quality rating review at least once every three years.

18 The bill establishes a High Needs Placement Committee in the
19 Office of High Needs Placement Funding. The committee members
20 will include the commissioner and State Treasurer, or their
21 designees, and 15 public members. Seven of the public members
22 will be appointed the Governor, and the Senate President, Minority
23 Leader of the Senate, the Speaker of the General Assembly, and
24 Minority Leader of the General Assembly will each have two
25 appointments. The committee would be responsible for:

- 26 • developing the quality rating system that will be used by the
27 office to assess the performance of providers in terms of
28 measurable outcomes in providing special education and
29 related services to students who require a high needs
30 placement;
- 31 • collecting, analyzing, and reporting data regarding the
32 provision of special education and related services;
- 33 • providing recommendations in the event that the
34 committee's analysis determines that school districts are
35 identifying students as requiring special education and
36 related services at an inappropriately high rate or failing to
37 provide services in the least restrictive environment;
- 38 • conducting a longitudinal study on students with disabilities
39 who cease to require a high needs placement; and
- 40 • examining the threshold criteria used to define "high needs
41 placement."

42 Under the bill, a portion of the cost of educating students who
43 require a high needs placement would be supported by deducting a
44 portion of a school district's State aid payable by an amount of the
45 general fund tax levy, equalization aid, special education
46 categorical aid, and security categorical aid attributable to those
47 students. The State aid payable to a district would also be reduced
48 by the amount of federal funding awarded under the "Individuals

1 with Disabilities Education Act” and the “Elementary and
2 Secondary Education Act of 1965” attributable to the students. In
3 the event that the amount to be deducted exceeds the district’s total
4 State aid payable, then the district would pay the difference to the
5 State.

6 Under current law, extraordinary special education costs aid is
7 awarded to school districts as a reimbursement of costs incurred in
8 the prior school year in educating individual special education
9 students whose costs exceed certain thresholds. This bill eliminates
10 this category of State aid. However, in the first year in which the
11 State would assume the costs of high needs placements, the State
12 would continue to provide the extraordinary special education costs
13 aid reimbursement for costs incurred in the prior school year.