
Commission Meeting

of

SPEAKER'S COMMISSION ON EDUCATION: POLICIES, FACILITIES, AND REVENUE

"Focusing on special education in New Jersey"

LOCATION: Committee Room 6
State House Annex
Trenton, New Jersey

DATE: April 18, 2001
9:30 a.m.

MEMBERS OF COMMISSION PRESENT:

Assembly Speaker Jack Collins, Chair
Assemblyman Alex DeCroce, Vice-Chair
Assemblyman Kevin J. O'Toole
Assemblywoman Nia H. Gill
Assemblyman Joseph J. Roberts Jr.



ALSO PRESENT:

Theodore C. Settle
Office of Legislative Services
Commission Secretary

Haskell B. Berman
Christina O'Malley
Assembly Majority

Jennifer Sarnelli
Assembly Democratic
Commission Aide

Meeting Recorded and Transcribed by
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Commission Aides

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ASSEMBLY SPEAKER JACK COLLINS (Chairman): Good morning, everyone, and welcome to this hearing for the Speaker's Commission on Education. This is a hearing that is relating to special education and special education funding in particular. Let me just make a comment or two as to where we have been, though a number of people have come to these hearings.

After holding a number of statewide issue hearings, traveling all over the state, we on this Commission are focusing on a number of particular aspects of education. We are starting with special education, where we've held two hearings already, and we'll hold one more where we will slide a little towards vocational education. Then we also will be focusing on testing, curriculum standards, and then in the fall, the aspects of funding of education, how we do it now, and how we should possibly change that in the future.

I want to point out again, and my two congressional colleagues will understand this, and make it very clear that this is a Commission. It has no impact on the Education Committee of the New Jersey General Assembly. They have all the powers that they've always had. They are the Committee that would deal with any legislation. We are a hearing group, a Commission that is just reaching out to try and glean information.

And before I start today's hearing, I would like to welcome, once again to this hearing, my respected colleagues: First, to my left, the Vice-Chair of this Commission, Assemblyman Alex DeCroce; to his left, Assemblyman Kevin O'Toole; and to my right, one over, Assemblywoman Nia Gill. Assemblyman Joe Roberts will be joining us shortly.

And we will start today's hearing by having the pleasure of welcoming to this Commission hearing two United States Congressmen. First, and the first to testify, will be -- is from New Hampshire, Congressman Charles

Bass, who has taken the initiative on special education funding over a number of years. And, in fact, I had the honor of first meeting the Congressman at last year's Republican Convention in Philadelphia, when he was joined by our then Congressman Bob Franks in putting together legislation that I'm sure he will touch on today.

We are also honored, and a personal pleasure for me, since I enjoy this gentleman so much watching his career and I have such great respect for him, is our first-term Congressman right here from New Jersey, Congressman Mike Ferguson. After these two Congressmen make their comments and respond to any questions that we may have, we will then be joined by other members of the education community to deal with the same topic -- funding of special education. That's what we're focused on today.

So, Congressmen, thank you both.

And Congressman Bass, as a visitor to our state, we welcome you and look forward to your comments.

C O N G R E S S M A N C H A R L E S F. B A S S: Thank you very much, Mr. Speaker and Mr. Chairman. And I'd just like to say I understand that you made a decision recently to rejoin the real world. I appreciate that, and I want to say, as one who has served in the Legislature and the State Senate in New Hampshire, I want to wish you well. And I think it's a -- your service, obviously, has been outstanding here, and I wish you the best.

I would wish to submit my written testimony for the record, if that's okay, and I will simply paraphrase some thoughts that I have on the issue of IDEA, special education, and the funding issues associated with it. First of all, I will not talk about the history of IDEA. I'm going to assume that you all know about its inception in the early '70s. It's a court-driven program -- a U.S.

Supreme Court driven program. It was originally enacted with the concept that the average per pupil cost in excess of a baseline would be shared by the State and the states in the Federal government, and the ratio was established at a 40 percent ratio, not to exceed 40 percent. And there was considerable debate over how much of that 40 percent would be initially funded.

Well, as we know, ultimately, very little of it was funded. And up until about 1996, the funding level stood around 5 percent of the total cost. Since 1995, it has gone from 5 percent to roughly 15 percent, and the increase of -- for the last fiscal year was almost 75 percent of the entire funding for this program in 1994. However, that isn't 40 percent. And let me briefly summarize why I think that Congress should place full funding of special education at the top of its legislative agenda on education, and why I'm happy as a New Hampshire Congressman to travel to New Jersey. I would travel to any state in this country to push this issue, because I think it's so important, not only for New Hampshire, but for every school district and community in every single state in this country.

Now, special education is good education policy. It is important that handicapped children have equal access and equal opportunity to education with everybody else. But the problem is, is that the Federal government makes up most of the rules and provides almost none of the money to fulfill those obligations, and that is wrong.

SPEAKER COLLINS: Talk on, Congressman, talk on. (laughter)

CONGRESSMAN BASS: Especially when they say in statute that the funding should be at 40 percent and simply fail at getting anywhere near that statutory obligation. This is indeed the mother of all unfunded Federal mandates in this country. And I am pleased with the progress that has occurred

in this issue over the last four or five years, but we have a long way to go. And Congressman Ferguson and I agree that we need to establish new processes in order to achieve that 40 percent level.

Now, I've introduced a bill, which I know many of the members of the Education Committee of New Jersey are aware of, that would phase in special education funding as an entitlement over a six-year period or five fiscal years. Now, just very briefly, the Federal budget is about 25 percent discretionary spending, i.e., subject to appropriation, and the other 75 percent is mandatory, including interest on the debt, social security, Medicare, food stamps, Medicaid, and some other programs that are not subject to appropriation, but funding levels set by law. What I'm proposing is, is to phase in funding for this critical education program over a five-year period as a percentage of the total average per pupil expenditure each year, going up 5 percent per year.

Now, the beauty of this is twofold. Number one, as the funding increases, of course, it's a very expensive program, and it costs up to \$113 billion more over 10 years than current funding expectations. And that's real money, even on the Federal level. But secondly, obviously-- Secondly to that, it provides education relief in every state and town in this country. But thirdly, from a congressional and budgetary standpoint, what it does is, by moving special education from the discretionary to the mandatory side, it allows the Budget Committee, upon which I serve, to instruct the committee of jurisdiction -- in this case, the Education and Workforce Committee -- to reconcile the program to the budget requirement.

So what that means is, you force the Congress to make systemic programmatic revisions in special education to meet a budget requirement which

doesn't exist today. Right now, if you-- Special ed costs can go up indefinitely and nobody can control it at all, except for the Congress. And there's no incentive for Congress to make the program work, because they're not paying the bills. But if we say to the Education-Workforce Committee that we are funding special ed at 40 percent, but the total cost of the program cannot exceed Y, the number, then they have to change the law to make the program run better, and that impacts the total cost in every community around the country. Because special education is good education policy. There is a funding problem, but as we well know, there are also programmatic issues associated with this program that need to be addressed. And to the extent that we address those issues, we also say -- create a situation in which every community saves money on the education front as well.

So I want to thank you for inviting me to come down here today. I'm enthusiastically promoting my legislation, which now has over 50 cosponsors. I'm thrilled that the U.S. Senate now has a coalition. It seems to be pushing hard for mandatory, phased-in IDEA funding. I believe that we're on the threshold of making some very significant changes in this program that will have a salutary impact on every education budget in every community in this country.

I thank you for inviting me here today, and I'm glad to answer any questions.

SPEAKER COLLINS: Well, thank you, Congressman, for coming, and thank you for your enthusiasm. You are as enthusiastic as you were in Pennsylvania and when I first heard you speak on this issue, and as you said, you'd travel anywhere. We're glad you traveled to New Jersey.

What I would like to do for the Commission members is, why don't we hear from Congressman Ferguson, and then we'll just have a discussion somewhat similar as we did at our last hearing with these two gentlemen.

And with that in mind, Congressman Ferguson, welcome.

C O N G R E S S M A N M I C H A E L F E R G U S O N: Thank you very much, Mr. Speaker.

I, too, appreciate your leadership here in New Jersey over the last several years, particularly in your service as Speaker. And as someone who is born and raised in this state, I recognize the very, very hard work that you have committed to over the last years in your duty, as both a legislator and then as Speaker, to make New Jersey a better place. I salute you for it, and you certainly have a legacy to be proud of here in the Assembly, and here in Trenton, but you also have some very able folks who are going to be able to take the reins as you move on to, as Congressman Bass recognized, to the real world again. You're from the real world. You taught. You're a teacher and a coach and a farmer and someone who is very much connected to the real world, but certainly I appreciate your efforts. I appreciate the other members of the panel for having us here today as well.

I also want to welcome my friend, Charlie Bass, from New Hampshire. It's true. He'll go anywhere to talk about and to promote this very, very important issue. And I'm delighted that he is able to be here with us in New Jersey and very proud to host him here, because we here in New Jersey are very, very committed to our education system and making sure that it has the funds necessary for our kids to learn and succeed and grow and prosper. I'm very pleased to have an opportunity here to talk today also about the special education funding, IDEA.

And I've also introduced legislation. My chief Democratic cosponsor is Patrick Kennedy from Rhode Island. He and I have offered a piece of legislation which is somewhat different from Congressman Bass's, but I certainly salute Charlie's efforts and his great commitment over the last several years, as was mentioned. I'm a new member of Congress, but Congressman Bass has been a leader on this issue for years, and I'm delighted to have an opportunity to work with him. We've had many good constructive conversations about our goal which we certainly share in common, which is making sure that our Federal government keeps its commitment to funding special education costs.

In 1975, Congress opened the doors of learning to millions of children by approving landmark legislation mandating that kids with special needs receive the same public school education that every other young American enjoys. To cover this mandate, the Congress pledged to pay up to 40 percent of the costs for special education, which can be more than double the cost of educating other students, and frequently, frankly, they are two or three or four -- sometimes ten times the cost of educating a mainstream student.

But in the quarter century since the IDEA became law, the Federal government has not kept its word to families with special needs students. Rather than paying the 40 percent of the costs, Congress now pays just almost 15 percent of those costs. That means local schools are forced to cover the difference and to make difficult choices among worthy initiatives, such as hiring new teachers to reduce class size, paying teachers more, installing computers in classrooms or building new school facilities. And we know all of these needs are very, very real here in New Jersey.

Of course, working families also share in this burden, because increased local education costs often mean dramatically higher property tax bills. As a former teacher, I know firsthand the value of education and the importance of ensuring that all children share in the pride and promise of public education. That's why I've introduced, as my very first bill in Congress, legislation to guarantee that the Federal government lives up to its promise by funding 40 percent of IDEA costs over the next six years. This reform, HR-1330, is simply common sense and has attracted broad support from both Republicans and Democrats.

As I mentioned, my bill's chief Democratic cosponsor is Patrick Kennedy from Rhode Island. We also have the strong backing of a senior member of the House Education Committee, our own Congresswoman Marge Roukema. I've had an opportunity to visit Providence, Rhode Island, last week to do some work with Congressman Kennedy in drawing attention in his home district to this legislation and to this issue.

Before IDEA became law, only 20 percent of students with disabilities were educated in public schools. By 1970, only seven states provided education to more than 50 percent of their students with disabilities. And many states passed laws specifically banning certain students from public schools, such as students who were blind or deaf or emotionally disturbed. Worse, before the enactment of IDEA, 1 million children with disabilities were excluded from school altogether, and others were housed in psychiatric institutions that failed to address these children's educational needs.

Studies from the 1980s and '90s showed the percentage of students with disabilities completing high school has increased 64 percent. This success isn't limited to children's school years. Children with disabilities who graduate

from high school have a much greater likelihood of being employed than those without high school degrees, particularly those students who enroll in vocational education programs. And this success has come even here in New Jersey.

Today, IDEA serves more than 184,000 New Jersey students, ages 3 to 21, and over 6 million students nationwide. In the 7th Congressional District, which I represent, more than 15,000 students, or 14 percent of our district's students, qualify under IDEA at an estimated annual cost of over \$16,000 per student. That's more than twice the cost of educating our municipalities' other children. So the success of IDEA certainly has been dramatic.

According to researchers, 44 percent of all adults with a disability today have completed some college or have received a degree, compared to only 29 percent back in 1986. Still with all this success, more needs to be done. By not keeping its promise to fund 40 percent of IDEA costs, the Federal government is forcing local school districts to cut needed programs to cover the Federal IDEA underfunded mandate.

How has Washington's shortfall affected our local schools? Had the Federal government funded IDEA at the goal, 40 percent level, instead of the current 15 percent level, local schools nationwide would have had access to more than \$300 billion in additional funding during the last 25 years. With both the costs of educating students and the number of students with disabilities increasing, special education costs are consuming a growing share of our school budgets.

In New Jersey, the proposed State budget for next year is expected to provide \$910 million for special education, but New Jersey received less than 170 million from Washington for IDEA last year. Under my legislation, the

Federal government would meet its commitment and provide more than \$725 million in IDEA funding to New Jersey by the year 2007. In many ways, children with disabilities are among our most vulnerable citizens, but most of these kids can excel in education, and many become active participants in our communities. To ensure their long-term success, Washington must fulfill its promise to appropriately fund the cost of their education. Children with disabilities can achieve their dreams. We must allow every child to fulfill their potential and to give young people greater opportunities. To do that, Washington must fulfill its promise to fund more of the costs of their education.

Again, I want to thank the members of this Commission for inviting me to testify here today. I look forward to working with you and with the Legislature and with our colleagues all around the country to improve the quality of education for all our children and particularly, of course, our interests here in New Jersey to make sure that our schools are the best in the world. And I certainly want to thank the members of the Commission. I want to thank Congressman Bass for his great work on this issue, and I'd be delighted to answer any questions.

SPEAKER COLLINS: Well, thank you, Congressman. I appreciate your remarks, and you've already shown commitment to education here in New Jersey.

Colleagues?

ASSEMBLYMAN DeCROCE: Yes. Congressman Bass and Congressman Ferguson, how can we help you to get each of your bills moving in order to assure us that one day we will receive the funding that we all believe we should have? How can we do that?

CONGRESSMAN BASS: Pass a resolution urging us to pass the bill and see if you can get the Senators on board -- I don't know whether they are or not -- and the entire New Jersey delegation, which I know is inclined to support this effort. But what needs to happen in Congress is, Democrats and Republicans alike have to decide that they are going to make full funding of special education the highest, not higher, but the highest priority for Federal attention in elementary and secondary. Now, that's not uncontroversial. As you know, we have a dispute with the past administration over this issue, because they felt that school construction and teacher hiring should be of a higher priority.

My personal recommendation is that you ought to fund the existing programs before you enact, on a Federal level at least, new funding programs and meet those obligations first.

If the New Jersey Assembly were to do something like that, that would be helpful. Secondly, you need to look at your average per pupil expenditure, which is the highest in the nation -- at a hair under \$10,000 -- understanding that even if we did fully fund special education, New Jersey would only receive about 25 percent of the total average per pupil expenditure because of the way the formula is established. You might want to work with Congressman Ferguson and others on that issue as well, because there is a problem there.

CONGRESSMAN FERGUSON: I would certainly agree with all of Congressman Bass's recommendations. Opportunities like this are important, and they're good, because if we can continue to raise the awareness of people as to the need for this increased funding from the Federal level, I really believe legislation, like our bills, are win/win/win situations.

The first win is because we're helping special needs students, people who are really in need of the additional resources and educational opportunities. The second win is that all students benefit under this type of legislation, because it frees up otherwise scarce resources to be used for other educational purposes. As I mentioned, if schools need to hire more teachers or improve their facilities or technology, it frees up additional resources for local schools, which are already having a very tough time with budgets. We had our school board elections here yesterday, and we're voting on budgets. We see how controversial and how difficult school budgets have become.

But the third win is property taxpayers, people who are footing the bill for the difference in this underfunded mandate from the Federal government. So, if we are able to put it in those terms and how really everybody wins under this scenario, I think it would ratchet up the importance level on the priority pecking order in Washington. And that means both communicating with the administration, which is, I think, working hard to maintain fiscal discipline, but we do need to set priorities. And everything we talk about in Washington these days is about priorities. What do we do with these surplus dollars? How do we prioritize our budget?

And Congressman Bass has been wonderful on the Budget Committee in showing leadership on that. But if we can continue to raise people's awareness about this issue and to move this issue up on the priority list, I think we'll have some real success, because as mentioned, both of our bills have broad bipartisan support, some 50-some-odd cosponsors from both sides of the aisle. I think that's very, very important. It shows the direction that we're moving in this country. We just need to continue that progress.

ASSEMBLYMAN DeCROCE: Is there a specific committee that besides the fact that we probably, through the Speaker's leadership, will pass a resolution I would assume beyond that, if we send individual letters, are there any specific committees that they should go to so we can direct those letters?

CONGRESSMAN FERGUSON: Well, certainly, the Budget Committee needs to hear about it, because they are--

ASSEMBLYMAN DeCROCE: They have a friend at Chase Manhattan on that one.

CONGRESSMAN FERGUSON: Oh, okay. Yeah. Whether it's the Budget Committee or the Education-Workforce Committee-- Chairman John Boehner from Ohio chairs the Education Committee. He needs to hear from you. He's a good friend to many of us and is struggling with lots of different educational requests and needs. But I think the leadership needs to hear from us as well. So whether it's the chairman of these key committees, whether it's the leadership of the House, and the Senate -- we shouldn't ignore the Senate in this. They're moving on some fronts as well. My bill has companion legislation to a bill that's moving through the Senate. It's cosponsored by Senator Jeffords, who chairs the Education Committee; Senator Kennedy, who is the ranking member; and Senator Chuck Hagel, as well. That's good legislation on the Senate side. And I think if we can continue to communicate with our members of the House and Senate and with the administration about the importance of this legislation and this issue, I think we'll have some more success.

ASSEMBLYMAN DeCROCE: Thank you, Congressman. Thank you.

SPEAKER COLLINS: I have a question that I've asked continually, as I'm starting to try and put together in my own mind some things that New Jersey can do with regard to funding from the State level down to the local level with special education, and I'll ask it in two prongs. One, is there anything in either of your legislative initiatives that deal with the declaration of what a special education student is? I mean, of course, it's on the IDEA, but would the Federal government be involved in determining who these students are? And it leads to the second one. And this is a -- just a gut, mental statement from you back.

One of the things that I thought about was if the State were to take over, let's say, fully funding education from the local level, would it have an impact on the generosity, for lack of a better word, of the determiners of special ed students to say, "Look, you know, the State is going to pay. Little Jimmy has this little quirk, why don't we put him into a special education program?" Would the funding, taken away from local level, whether we do it or you do it, do you just think that it would expand the number of special education students as to what we now have, either way?

CONGRESSMAN BASS: First of all, Mr. Chairman, on the issue of definition, there are two subcategories. First, many states, and New Hampshire is one, and I suspect New Jersey may, as well, have enacted over the years their own overlay of special ed programs, requirements, and so forth, over and above the Federal standard. And you ought to review those and see how much they are adding to the cost of special education, whether or not they are really necessary, or not, and have a debate on that, which I'm sure would be quite lively.

Secondly, if you pass a bill that phases up on the Federal level special ed as a mandate and forces -- without a dollar figure, but a percentage figure -- the Congress to meet a goal, then they have to deal with the programmatic side -- the definition of a special ed student. Now, within that category, the problems really are on the extremes. You have a developmentally disabled child who really, for all practical purposes, is in a nursing home, but being paid for by the educational system. Is that providing an education? And on the other hand, you have these stories of parents who are gaining the system to send their perfectly normal children to private prep schools, because they know the system is working their way. In the middle are most of the other students who are really not affected one way or the other. That's what we need to address on the Education Workforce Committee on a programmatic level.

Were the state, second part of your question, to take over funding of special education, it would even out the inequities that may exist between small communities where 50 percent of the budget is -- is allocated to a single student. It's just outrageous what happens to the tax -- property tax base in these communities. And also you would achieve a more focused lobby, if you will, in Washington to more fully fund, because the Assembly, now, rather than the local school districts, would be responsible. You'd have another, you know, built-in advocacy.

The issue of overcoming, however, I don't agree with that argument, because you always have to remember that the locals are paying 60 percent and the State is paying 40. It's not the other way around. So every time they code somebody, they're going to be increasing their budget more than they are your budget. Or at present, as you know, at least on the Federal level, it's only 15. So I don't really-- As long as you keep the costs -- as long as the locals are

paying more than any other area or have more responsibility, then you have to figure out a formula and make sure that happens.

CONGRESSMAN FERGUSON: I would agree with what Congressman Bass has said. I would only add that if you are looking at changing the system in terms of having the State pick up the cost rather than the locals, and if the locals are still charged with identification, then there is a potential conflict of local officials or local decision makers, perhaps, be more generous in their ability or tendency to identify kids. And overidentification is an issue that I think we need to address and we need to look at, and I'm very proud that here in New Jersey we've spent as much as we do per pupil. I think it's important to invest in our kids' education. I don't think it's something we should be embarrassed about.

We were chatting about this before, how we have I think the highest per pupil expenditures in the country. I think that's a good thing. It shows our priorities. I just think we need to make sure that we are getting true bang for that buck. And we need to make sure that our achievement levels are also amongst the highest in the country if our spending is amongst the highest in the country. And I think all of us would agree that we're perfectly happy to continue to invest and spend more on our kids' education, as long as we know that our kids are learning and they're prospering and growing and maturing in a way that will help them meet the challenges of tomorrow.

So overidentification is an issue, and I would be concerned about it if we look at changes and reforming the way the program has been implemented, not because people have ill intentions, but simply because the incentives might not be there to act in a more fiscally responsible way. And I think if we can keep incentives that encourage people to act in a fiscally

responsible way, in addition to making sure that their first priority is looking out for the educational needs of that child, I think we can meet those challenges, and I would be less concerned about the issue.

CONGRESSMAN BASS: One other thing, Mr. Chairman, if I could amend what I said before. I do believe that if the State were supporting 100 percent of the cost of special ed, you might have an overcoming problem. But you need to remember that the coding process itself is not organized. The school boards don't have anything to do with it. The principals don't. This is one of their frustrations. It's actually done by independent advocacy; an IEP plan is put together. And I don't know whether you can organize -- that a school board can say, well, now, we're going to code everybody in the school here. It just doesn't -- the system just doesn't work that way. But you might need, if you were paying more than 50 percent of the cost on the State level, you might need some -- to build in some kind of a firewall in there that would prevent that problem from occurring.

SPEAKER COLLINS: I don't know that that should be the tail that wags the dog, a concern. But I ask it, and it sort of has formulated, and I surely won't take any time of showing my theories of education, but as a retired teacher-- Six family members of mine are in education -- let alone spending my life at the college level in education. I've always felt that the continuing conflict, particularly once I came up here and saw the cost aspects, is people in education, though not alone, but people in education care about kids. And so, there's a new idea, and wouldn't this be great for Jimmy or Mary.

The only problem, as I sit on this side, and having to post a budget for a vote or whatever, is what stops us as parents of dealing with all that we can for our children: The economic constraints we have as a mom and a dad. Well,

the same economic constraints, as you all know, the Congressmen and members of the Budget Committee, are on government. And so we get out there going along like, well, wouldn't this be great to have this new math program, but we don't have any money to do it. Well, we just have to get it.

And it's just something that -- one of the experiences I've had up here is, you learn. As you've already said, priorities is always it. And that's why I've just asked it each time to get a flavor, and I think you're on target with it.

One other question I have. And when I was recently in Washington for an NCSL Leader to Leader, this came up, and it was a little concern with me. It was not about special education, but would, in your minds, that this funding, if we were to get to whatever level it would be, would it be supplementing what's going on at the State level or would it supplant what we're doing? Would it be like, okay, we're going to give you this money, but you have to go further into dealing with special education students, or would it supplant some of the money that we're now spending, which we're getting from local districts, and so on? I saw it on some other issues that I was a little concerned about, and it was just terms that came up down there.

As you envision more money coming, will this supplant money we already have or will it supplement, either way?

CONGRESSMAN FERGUSON: I would just say, and obviously Congressman Bass may want to add to this as well, we need to make sure that we are helping the situation and not simply shifting costs around. If we are truly committed -- and certainly the spirit of my legislation and all of us who are concerned about this issue is to make sure that we're supplementing that funding and not supplanting. Because in the end, it won't really help our kids, it won't

help our taxpayers, it won't help our students if we are simply shifting costs around rather than actually increasing the funding that is necessary to give our kids the ability to learn.

So that is actually something that we're looking at more closely with regard to our legislation right now, to make sure that we are able to make sure that we're meeting the commitments that the Federal government has made over the course of years, and as frankly put, a mandate on the states. And I'm delighted that we've had an opportunity to work with so many other groups who you may be hearing from, and I'm sure you've heard from already, everyone from the National Education Association and the American Federation of Teachers to the Easter Seals, the Council for Special Needs Students, and so many other organizations which are so strongly supportive of legislation like ours, because they know that this would really have a substantial impact on our kids.

I think we are looking more closely at the issue of supplanting versus supplementing, because we have to make sure that we're not simply playing ledger games with resources, but we have to really make sure that these additional funds are going to make it into the classroom to help our kids.

CONGRESSMAN BASS: Well, I have to respond as a true budgeteer, a budget committee member. Obviously, if you implement full funding on a percentage basis, you are by definition supplanting. And one of my major issues relative to education in general, Federal versus State, has been that by fully funding special education, you return the ability to make local decisions about education priorities to the local level, because I don't think it should be that we necessarily have to spend more money on special education. That's a separate issue altogether. What we need to do is to make sure that 40

percent of that existing cost is paid for by the Federal government so that the local school district can use the other funds for the purposes that they were always designed to be used for, which is classroom construction, teacher hiring, curriculum development, and so on.

As a conservative Republican, I say let's get the Federal share up and then let New Jersey people decide whether they're going to spend more or less. They may spend more, but that's not our decision. And if we fund the program at 40 percent, obviously, it has to be supplanted, because then it would -- because percents are relative to 100 percent. And it is by definition only supplanted.

CONGRESSMAN FERGUSON: I would agree with that. And just to close and just to clarify, I guess, I would agree, obviously, and the numbers don't lie. I would only be concerned, and my concern would be that other folks who are funding these costs would then feel -- perhaps would feel the ability to place less of a priority on special education funding. And that is certainly not the spirit of our legislation or anyone who is involved and an advocate for this issue.

So clearly, the goal of our legislation and our bills is to make sure the Federal government is keeping its promise. And that is the goal, and I think that is our role as Federal legislators. And clearly, the other decisions and how these programs are implemented and funded will fall in your lap and on local decision-makers' laps. But clearly, the principle of making sure that we remain committed to this issue and making sure that we are providing the resources necessary is what I wanted to certainly make sure about, and that would be my concern, just to clarify some of the things that I had said.

SPEAKER COLLINS: Thank you.

Well, let me say this to both of you: We very much appreciate you coming here today. Nice to have you back in our home state, Congressman.

And Congressman Bass, for you to come, we really appreciate it. I think you put an idea into at least my mind, and Deputy Speaker DeCroce already says it looks like we'll have a resolution. We'll be talking to our delegations, both congressional and senatorial, and we'll see what happens.

Again, thank you very much. We'll just take a short break, so I can say goodbye to the Congressmen, and then we'll have the local representatives come forward.

(RECESS)

AFTER RECESS:

Well, we'll move to the -- Did they leave yet? -- well, I'll say it softly, to the more important panel of the day. (laughter) Oh, good.

We're really the local involvement, and I'd like to welcome our panel today. We have Bob Oldt, who's the School Business Administrator for the Moorestown school district. We have Calvin Cizek, who is Director of Special Services at Gateway Regional School System in Gloucester County. We have Ray Ford, who is the Director of Special Services for the Woodbury school district in Gloucester County. We have Barbara Gantwerk from the Department of Education. We're honored to have Mel Wyns, not that we're not honored by the other four, but when I looked down and saw Mel here, he wasn't on my list, but it's always great to have him here from the Department of Education.

And this is a simple issue that we're dealing with in the sense of what we're focused on. And Barbara has been with us at each hearing, and this will be a little easier for her also instead of going all over. Because what we really would like to hear from you today is -- and I don't even mind a horror story or two about the cost of special education and the impact on local districts -- what the possibilities are in a broad range of state support, where the Department may want to go, though, feel free to wait for another time. So it's not etched in stone, but just a conversation with the Commission members who are particularly concerned about special education and the cost, which can be so prohibitive -- doesn't mean it's wrong, but prohibitive.

And of course-- Well, we just heard from the two Congressmen who are trying to give us "full funding" based on Federal regulation. But as Congressman Bass pointed out, and explained to me upstairs, that under the current formula, New Jersey would be getting less money.

Let me use as an example, and I think this is somewhat interesting, because we spend so much per student, even at fully funding, we would be getting a limited amount of money. While on the other hand, Puerto Rico, which spends a lesser amount on students, if they were to get full funding, they will have their entire special ed paid for and cash on top of that. So I said, well, I have no problem with Puerto Rico or any other state, but -- any of the states -- but I'm concerned about New Jersey, and we would-- And this is an initiative we may look into in looking at the formula if we ever get the Federal help. Having said that, we are yours. Someone just start speaking.

Calvin, you leaned forward, so why don't you start. Anything you want to say. This will be open-ended with us interrupting, asking questions, and we thank you.

CALVIN CIZEK: Thank you. Can you hear me? Okay.

First of all, I would like to express my appreciation for being invited here. It's quite an honor. And Speaker Collins is a frequent visitor to our school and speaks a lot to our students, so we know him well.

I thought I'd just start it out. I wanted to respond to what Speaker Collins -- his question about economic incentive issues. I'm one of the local officials that has to make decisions on special education costs. And I'd like to limit my discussion, at least the out-of-district costs, which are a huge issue around this time, around budget time and elections. Frequently, when I submit my projections for out-of-district special ed costs for any given year to the superintendent, his first question to me is, "What programs are staffed; do we have to cut this year?" So there's a lot of-- It's high stakes, and it's a difficult and challenging business to try to figure out what your projections are going to be in terms of out-of-district costs.

Our out-of-district costs -- I have a chart here -- since 1990, have gone from a little bit over 200,000, and we're projecting somewhere in the neighborhood of 950,000 for next year. So, from a 10-year, 11-year period, it's increased dramatically. And the question is, I think, we need to answer is why. Why are the out-of-district costs going up so much, especially in the face of several countervailing forces? In the new IDEA legislation, for example, least restrictive environment, Barbara Gantwerk and the Department of Ed have drilled it into our brains that, you know, the least restrictive environment is the number one priority. We should be looking at bringing back these students from out of district rather than going out, which are very costly options. So what's happening?

I think to offer at least my limited perspective on this, coming from a small district in New Jersey, I think there are two forces, at least from my perspective in our district, that are contributing to these higher out-of-district costs. And just as a sidelight, in South Jersey, the out-of-district schools are doing a brisk business. This year in particular they're at capacity. Some of them are turning away kids, which is sort of unusual for us this year. So we're seeing the private schools doing great business.

So the question in talking to other directors, their costs are going up in our county. We did a survey, sort of an informal survey, to see how other districts -- whether just us or other districts, and everybody is experiencing higher out-of-district costs. So what's happening here?

And you talk about an economic incentive, Speaker Collins. Right now, you know, the economic incentive is not to send kids out of district. So why are the numbers going up and the cost going up despite the worst economic incentives that you can have to push -- to go in that direction? I have two theories to offer, and I'm not sure that they're statistically backed up, but I think that-- One theory is the Columbine incident a couple of years ago, and I think that schools are really sensitive now to safety issues. And I think that a lot of students that go out of district, or a number of them, are -- where administrators feel that there are safety issues, and they would be better served, in the interest of all students, to be in an out-of-district placement.

If I get a student with an intermittent explosive disorder, a diagnosis from a psychiatrist, I'm going to think twice about whether this student is going to remain in the building, despite all our attempts of least restrictive environment, giving conflict resolution, giving cooldown passes, and counseling, and everything else. You're going to think twice about this, because if he levels

some kid with a chair, or something like that, no one is going to want to hear about least restrictive environment or not being able to -- try explaining that to the community.

So I think schools-- And it's one thing that sometimes doesn't get reported when you go in front of boards saying, or the community saying, our out-of-district costs have gone up. The other thing to consider is, well, have we made our school safer as a result of that. And so I think that it's sometimes not communicated. And I think also in our community the number of challenging and involved kids just feels like it's increasing. I know in this last couple of years we're dealing with more and more kids that have behavioral, emotional kinds of issues. So it's a numbers issue as well. And I don't know what's happening from a societal standpoint. I'm certainly not going to communicate that here today, but I think those are two issues -- it's sheer numbers and also safety.

So we work real hard to try to keep our kids in district. You talk about economic incentive. You know, when the superintendent says to you, "How many staff positions are you going to cut," based on your out-of-district position, you have a real economic incentive. So I think those -- just to give you a little perspective from a "local" official and how we think about things.

ASSEMBLYMAN ROBERTS: Could I, Mr. Speaker?

SPEAKER COLLINS: Sure.

ASSEMBLYMAN ROBERTS: In terms of what is driving the fact that you have more out-of-district placements, it's the fear of having a potentially unsafe environment in the school. It's the increase in the number of students who are suitable for out-of-district placement. Is part of that mix -- is there any-- I have a sense that maybe parents have become more sophisticated

and more knowledgeable about fighting for what they think their children are entitled to. Have you seen any changes in that during the time you've been involved?

MR. CIZEK: Well, I'll answer that, and I'm sure some other panel members could answer that. But yes, I see an increase, for example, in parent referrals. We have a pupil assistance committee at Gateway that -- teachers or other staff members refer them to the pupil assistance committee to look and see what kinds of interventions we could put in place before referral to special education. I'm seeing an increase now in parent referrals, which we are, by code, have to take and evaluate. So that's the kind of thing that we're seeing.

And I think either Congressman Bass or somebody had mentioned that -- I think there is less of a stigma to special education, which may have been -- put the brakes on in the past, but now a lot of parents are seeking it out. And I think also in this environment with higher standards and the testing and those kinds of things, we've seen kids that are struggling, and parents are responding to that. And one of the avenues-- They want to get their kids help. And one of the avenues is special education.

ASSEMBLYMAN ROBERTS: Thanks.

RAYMOND FORD, Ph.D.: Okay. Thank you. My name is Ray Ford, and I'm representing the Woodbury Public Schools, and I'd also like to thank everyone for inviting us to participate in this forum today. If I could just pick up on your question for a moment and begin there.

I think all of us are experiencing an increase in the number of referrals to the child study team. I think that that is partly a function of the way IDEA has been revised, and I think it's also a function, partially, of greater sophistication on the part of parents. What we in Woodbury have been

experiencing is an increase in the number of referrals coming to us for preschool age children. That I think we have to look at in two ways. There are a large number of preschool age children who have definite needs and should be served by the local school district. We received many of those requests, and we service those children.

There are also a number of requests that come for issues that I would consider rather trivial, issues that may at some times better be dealt with in a home environment or through family-related issues in some way. So I think what I'm trying to say here is that although IDEA has been structured to allow for an increase in the number of referrals to the child study team, the majority of them are appropriate, but a number of them are not, at least in my opinion. Child study teams, as a result of that, have to spend a great deal of time separating out what is required, what's necessary, what's needed, for what may not be. And that occurs very early on at the preschool age.

I think we also see an increase in the number of referrals at critical benchmark points, too. For instance, with the testing movement in the state now, where we have students tested at grades 4, 8, and 11, we tend to see referrals coming to us at the end of third grade, at the end of seventh grade, and probably around tenth grade in high school. These referrals come because parents in their level of sophistication perhaps are recognizing that their students are going to have difficulty meeting the requirements of these tests. And through special education, it might be a way to address these particular issues.

More importantly maybe, I would pick up on a couple things that Cal said about out-of-district placements. My numbers for the last four years are very interesting in terms of out-of-district placements. One of the things that we in Woodbury have attempted to do is to increase the number of programs

in district so that we're not placing more of our students out of district. Over the last four years, our number of students placed out of district has remained relatively constant, around 55 to 60 students, somewhere in that range. Yet the amount that it costs for that same number of students has increased dramatically.

Four years ago, our out-of-district costs were approximately \$600,000 a year. This year, when we include those students who are in State facilities, as well as extended school year expenses, in the current year's budget, we are at approximately 1.3 million for the same number of students. So that is a rather dramatic increase over a relatively short period of time.

One of the major issues that we in Woodbury face as well is that we are a relatively small district. And being a relatively small district with very few ratables available to us in town because we are also the county seat of Gloucester County, the taxing issue and all funding issues in Woodbury become extremely problematic. For instance, yesterday our budget was defeated. We were asking for a 23-cent increase. Obviously, we were facing major difficulties. So today we go back, and we start planning over again, where are we going to go from here?

One of the reasons for this, of course, is because of the increased costs that special education -- it requires. For instance, in our projected budget for next year, it would have cost \$3.7 million to educate our special needs students. Of that 3.7 million, 1.6 approximately was being funded by State and Federal sources, leaving close to \$2 million which had to be raised in other ways. The amount that we were asking the voters to approve yesterday for local levy was approximately \$8.1 million. Two million of that nearly was for special

ed. So when you consider that nearly 25 percent of what we're asking the voters to fund is going to fund special ed expenses, it becomes very difficult.

SPEAKER COLLINS: Ray, how many students are in Woodbury district, and how many are impacted with that \$2 million?

DR. FORD: Yeah, that's a good question, Jack. As of the ASSA count in October, we had 302 classified students. That does not count those who are eligible for speech. It's only those who are classified for special ed. The total number of students in Woodbury is approximately -- it varies, but it's usually somewhere between 1650 and 1700 students. So you can see that we're a relatively small district with a relatively high rate of classification.

So we are also interestingly one of fifty-seven districts in the state that has been targeted for our -- the high number of students placed in restricted facilities, let me put it that way. I'm not quite sure that's the right language, Barbara--

BARBARA GANTWERK: It's close.

DR. FORD: --we're close to it. Okay. As a result of that, we applied for a grant and were successful in getting that grant. The purpose for the grant is to assist our district in placing students in a less restrictive environment, basically to place them into general education wherever and whenever possible with supports and services. We're getting \$200,000 to do that over the next 13 months. And that will be followed in a second phase by another 200,000 should we be successful over the following 15 months. Now, all of this is very helpful to us, and it's certainly money that we need, but as I see it, there are also certain problems that are created as a result of this.

In order for us to place more of our students in general education with supports and services, we need to look at bringing back some students from

out-of-district facilities. As we do that, we also need to look at increasing staff, providing extensive professional development for both regular education and special education staff to deal with these students and their issues. We also need to look at additional space in our district, which we really don't have, to create classrooms and environments where we can place these children. All of this leads to greater needs for case management responsibilities in the district and probably also will involve increases in the amounts of related services that we'll need to provide, particularly things such as increased counseling for children with behavior management issues and behavior management plans and that sort of thing for these same children.

My point with this is that over the next -- What is it? How many months, Barbara? -- 28, 38, I'm not sure.

MS. GANTWERK: Of the grant?

DR. FORD: The grant. The total time of the grant.

MS. GANTWERK: I think it's two and a half years.

DR. FORD: I think it's -- right. I think it's 28 months. Over the next 28 months, we will get that \$400,000 from the State to help us with all of this. But at the end of that 28 months, it will be gone, and the district then has the responsibility to pick that money up to continue doing all that we did through the grant, but to pick up the funding ourselves. So I see this as something that's going to be wonderful for us for a period of 28 months, and then a nightmare for me after that, because where am I going to get that money. You see? So there--

SPEAKER COLLINS: I think Barbara is going to tell us where you're going to get that money.

MS. GANTWERK: Yeah.

DR. FORD: I hope so.

SPEAKER COLLINS: She was getting all excited there, Ray.

DR. FORD: All right.

MS. GANTWERK: Mel, did you bring the money with you for me? (laughter)

Well, one of the ideas, and I think you mentioned it, Ray, was that you're going to bring back students who are now costing you a great deal in tuition and transportation. So that money should be then available to create options that may cost significantly less than tuition and transportation. So I think that's part of it. The money helps you do the start-up costs and the training and buying equipment, whatever it is, but that ultimately there is a shift. And we know that the most expensive placements are the out-of-district placements. That's what all the extraordinary aid applications are for. So we've had situations where a district will bring back seven children that were in-- This particular one was a program for hearing impaired. They brought the children back. They had been paying very high tuitions. The money allowed them to set up their own program, hire a teacher, hire interpreters, and it still cost them less.

So that's the hope, and the goal is a redirection to programs that are appropriate, beneficial to kids, and also might assist you. That's the hope we'll see, right?

DR. FORD: I would agree. That is the hope that we would see. I would just relate an earlier experience where we had a grant for an integrated preschool project for \$75,000, and it actually cost the district approximately \$150,000 to implement that program. So I think what I'm trying to say is that all of these things that are designed to assist us do, in fact, assist us for a period of time. It then becomes the responsibility of the district to pick these up, the

additional costs up. And I agree that we can save money by bringing kids back. I just don't think we've been able to demonstrate that we save enough money to really help us significantly.

SPEAKER COLLINS: Well, Mel, do you have the money or--
(laughter)

MELVIN WYNS: Do I have the money?

MS. GANTWERK: Show me the money.

MR. WYNS: Good morning, Mr. Speaker and members of the Commission. I don't have the money, and I'm often asked that question.

SPEAKER COLLINS: Well, thank you, Mel. (laughter)

MR. WYNS: And that's the usual response. What I would like to do this morning, though, is to tell you about the special education aid that is provided through our State formulas.

SPEAKER COLLINS: Okay.

MR. WYNS: Because I know you'll hear some concerns about the level of funding that the State currently provides and some of the specifics of the formula -- just so you have a basic understanding of the formula -- possibly where you might want to go in terms of recommendations with regards to specifics of the State funding formula.

Let me just say that it's interesting to me, when the issue of special education comes up, that from my perspective the thing that I hear about most is funding and/or lack of funding on the State's part, although the State's contribution for special education aid is significant. And I'll describe those levels for you in a moment.

In this state, special education aid has been established by statute through CEIFA, and the basic special education aid formula is in CEIFA. And

basically what CEIFA did was to establish four tiers based on the eligibility criteria for special education -- four tiers for categorical aid. Special education aid, Tier 1, funds related services. And you heard them referenced a moment ago as to the regards to related services, such things as counseling, physical therapy, occupational therapy, and so on. And currently in the next budget, Fiscal Year '02 budget, each related service -- and an individual student is eligible for up to four related services -- is funded at \$310 per service. So an individual student could qualify for four related services or a maximum of \$1240 for related services.

Now, students who are funded for related services are also funded under what we refer to as Tiers 2, 3, and 4. Tiers 2, 3, and 4 provide the basic funding for district resident students, based on their eligibility category. Basically tiers are groupings of eligibility categories for children who have been determined to be eligible for special education. Tier 2 is presumably those groupings which have the lowest associated cost per student -- is funded in Fiscal Year '02 at \$3260 per student. Now, within Tier 2 you may hear some discussion, as you proceed through your discussion on special education, about this thing -- or you certainly have received some letters, I'm sure, from your constituents about this thing -- called the PI penalty or the PI reduction.

Let me just tell you briefly what that is so-- What it does-- It's a provision in the statute, and I've provided you with a copy of the statutory language, which requires that the actual count of Tier 2 eligible students be reduced if the count is in excess of the State average classification rate. So the actual number of eligible Tier 2 students is not used to determine State aid if the district's averages has a count in excess of the State averages.

Now currently, through budget language, the reduction that is being made is only two-thirds of the statutory amount. But I would also alert you to the fact that this is a statutory requirement in CEIFA, that the process of reducing the Tier 2 count to a count that is two-thirds of the students above the State average classification rate isn't statute. It's not an administrative determination on the part of the Department not to count all the eligible students. So I'm sure you've heard some criticism about the PI penalty and how it impacts the number of Tier 2 students that are actually aided.

Okay. In special education, Tier 3, the per pupil State aid for Fiscal Year '02 is \$5975 per student. Now, you've also probably received some complaints or concerns with regard to the \$5975 per pupil amount. Let me just say to you that the per pupil amounts in the CEIFA, categorically, formula are established every two years in the biannual report on the cost of providing a T&E education.

And then the last biannual report, which was the March 15, 2000 report, the actual Tier 3 recommendation was for \$6607 rather than \$5975. And that recommendation, rather than being implemented in the next fiscal year, is being phased in over two years. So the recommended level there is slightly below what was established in the March 15th biannual report. The other amounts are the amounts that were established in the biannual report.

Tier 4, and this is the one we hear the most about, is -- the per pupil amount for Tier 4 is \$13,037 per student. This is for children who receive intensive services.

SPEAKER COLLINS: Mel, if I may, Tier 3 was 5900?

MR. WYNS: Fifty-nine-seventy-five. Yes, sir.

SPEAKER COLLINS: And Tier 4 is 13,000?

MR. WYNS: Yes.

SPEAKER COLLINS: There's no tiers in between?

MR. WYNS: There's no tiers in between.

SPEAKER COLLINS: Has there ever been a funding formula?

MR. WYNS: Yes. Prior to CEIFA, children were based upon their classifications. And the classifications that existed at that time were based on handicapping condition-- Essentially, it was program driven. There was an educable rate, a trainable rate, a multiply handicapped rate. You went through 13 or 15 different handicapping conditions, and there was a per pupil rate attached to each condition. Now the -- rather than the program, it's based upon your eligibility criteria, the criteria under the special education code that determined if the child was eligible for special education services. So there's a grouping and there are essentially three tier groupings, Tiers 2, 3, and 4, and then Tier 1, which provides additional aid for those same children who are in those other groupings for related services.

SPEAKER COLLINS: Go ahead, Barbara.

MS. GANTWERK: I just want to explain one thing about that, and why the change was seen as a positive one. In the old system, districts received funding based on the program the student was in. So let's say they were multiply handicapped, but they were in a regular class. They did not receive the funding for multiply handicapped. They received zero. And even if they had an aide or anything else, it was the placement that drove the categorical aid. Under this system, regardless of where that student is placed, they receive the aid, so that it's nonplacement based and removed any incentive to segregate and separate children, because districts were in a sense being penalized for including students in regular classes.

ASSEMBLYMAN ROBERTS: Wouldn't it have the potential, though, of the student ending up maybe in an inappropriate placement because the district can save money by-- I know the term isn't mainstreaming, necessarily, but if they can-- If they're going to get the money irrespective of where the student is, there may be a temptation not to invest in the student. Is that not an issue?

MS. GANTWERK: I don't think it's an issue. And as a result of this, we haven't heard about that happening.

ASSEMBLYMAN ROBERTS: Okay.

MS. GANTWERK: I think we've heard to the contrary that districts feel they can make decisions based on what the child's needs are rather than saying, "Well, if we put this child in a regular class, we're going to get zero."

ASSEMBLYMAN ROBERTS: And you think there's enough safeguards so that they're going to accurately evaluate the student's needs and the appropriateness of his placement?

MS. GANTWERK: I think there are safeguards, but there are always disputes. The system has procedural safeguards when there are disputes. But I think the Federal law also required states to have placement neutral funding systems, which we didn't have. So we had to demonstrate that our placement system -- our funding system did not drive placements. Now we really have a system that's placement neutral. We can say that. Are there no problems in decisions? I guess that could occur in any system.

One other thing about the placement system and the funding system is, typically the child study teams that are sitting there figuring out the

placement, for the life of them, could not explain this funding system, let alone understand it. So that sometimes--

ASSEMBLYMAN ROBERTS: Before you started to explain it, I was going to suggest that I was getting pretty confused.

MS. GANTWERK: It's very confusing. So what we've usually found is that the local decision-making team level, I don't know if you would concur--

DR. FORD: I agree.

MS. GANTWERK: --they don't have any idea about the system. Should I say that?

DR. FORD: The only time really that we have to worry about the system is in October when we do the count, and then we know whether the student is Tier 4, Tier 3, or whatever it happens to be. But other than that, those things do not drive child study team decisions at all.

ASSEMBLYMAN ROBERTS: If I could just interrupt one more time. Talking about the funding, was Tier 2 the categorization where it would be 300 or so dollars per--

MR. WYNS: No, that was Tier 1.

ASSEMBLYMAN ROBERTS: What is Tier 2?

MR. WYNS: Tier 2 are the children who meet certain other eligibility criteria to be determined as eligible. It is the tier where the children are grouped on the premise that these are the least costly programs. It's children who meet the eligibility categories for specific learning disabled, cognitively impaired mild, preschool disabled children, traumatic brain injury.

ASSEMBLYMAN ROBERTS: And the funding for that was what?

MR. WYNS: Three thousand, two hundred sixty dollars per student.

ASSEMBLYMAN ROBERTS: So, to amplify the Speaker's question, you go from 3000 to 5900?

MR. WYNS: You go to 3000, 5975, and to 13,037.

ASSEMBLYMAN ROBERTS: There's no gradations in the middle anywhere?

MR. WYNS: That's correct.

ASSEMBLYMAN ROBERTS: Okay.

SPEAKER COLLINS: Let me just turn to Ray. Should there be gradations in there, in your opinion?

DR. FORD: I don't really think there should be.

SPEAKER COLLINS: Okay.

DR. FORD: I think the present system addresses the needs very appropriately. So I don't see the need for any additional-- And that just adds additional layers the districts then have to deal with. And I would rather not see that kind of thing.

MS. GANTWERK: And one other thing to add is that we did try-- I mean, I think there was an effort to simplify. But Tier 4 is interesting, because Tier 4 has in it any student regardless of classification who receives intensive services.

DR. FORD: Right.

MS. GANTWERK: So that you can be in Tier 2 or you can be in Tier 3, but even if you should be in those tiers by classification, if you receive intensive services like a one-to-one aide, like nursing services, you know, extreme amounts of assisted technology, you're automatically in Tier 4 and get

the highest level of funding. So that's a catch-all to make sure that if you have a child with one of these other classifications or eligibility criteria, but they are receiving intense services, you still get the appropriate reimbursement.

DR. FORD: Could I just add to that, Jack? The problem-- I agree completely with what you're saying, Barbara. The issue, I think, comes when you're dealing with a student who has extreme needs. For instance, if you have a child who's placed in a facility and you're paying \$33,000 a year tuition and then you're paying transportation costs on top of that and probably other services somewhere along the way, the level of funding reimbursement at 13,000, or whatever it is, plus whatever additional money may come from someplace else, I don't think anywhere comes close to meeting the needs of the district in these particular cases.

And when Cal was talking earlier about the out-of-district expenses, these are all Tier 4 children for the most part. But when you look at tuitions for these children, between \$25,000 and \$30,000 and sometimes even higher than that, and add on the transportation costs and whatever else, \$13,000 doesn't go very far.

MR. CIZEK: Well, Ray, I'd just like to say that they're not all Tier 4 students. The majority of students that we sent out are classified ED or emotionally disturbed. That's under Tier 3. There are a few Tier 4 students that we have.

SPEAKER COLLINS: So are you saying that, and let's take severely emotionally disturbed -- whatever that means, I just made that one up -- and we send that child to a school that costs \$30,000--

MR. CIZEK: Right.

SPEAKER COLLINS: --that you would be getting 5975?

MR. CIZEK: The 5000. Yeah, unless they're receiving three or more related services, which the private schools have caught onto that a little bit and are helping us out in that regard once in a while. But I think that-- But there's other factors here. If you have-- I'll just give you-- You wanted some examples. We have one student who we had -- had an aide which was approximately \$15,000 with the aid. And then the next year really deteriorated and we had to send the student to Bancroft at \$40,000 with -- and they wanted an aide at 19,000. So that was, with transportation, looking over 60,000. We had a student that moved into our district after October 15 where you get your funding, and that student was sent to the CP Center at 32,000 plus transportation. So, in a relatively short period of time, you have two kids out of a \$950,000 out-of-district budget that are 100,000 right there.

SPEAKER COLLINS: Bob, how does Moorestown handle that?

MR. CIZEK: They send them to Gateway. No. (laughter)

ROBERT J. OLD T JR.: The Business Administrator always goes last in these discussions. The problem with the school funding formula is that it only provides support for a fraction of the costs. The costs in Moorestown-- I can give you a perspective over the last five years. In general, special ed costs are growing at a rate greater than any other area of our budget. Over the last five years, our total enrollment has increased by 26 percent, whereas our special ed enrollment has increased by 63 percent.

SPEAKER COLLINS: Just hold one second. We have Cal's -- one of his theories that it could be the Columbine concerns of safety and so on, and there could be a lot of others.

Barbara, why in Moorestown does it go from 26 percent to 63 percent?

MS. GANTWERK: I don't know. I mean--

SPEAKER COLLINS: That's the best answer you could come up with probably?

Well, Bob, why did that happen?

MR. OLDT: It's an awareness, a knowledge of more types of disabilities that exist today that didn't exist five years ago or weren't aware of five years ago, a more sophisticated parent clientele, who years ago shied away from having their children classified, and now look forward to specialized services. You have parent-student advocates who are organizing parents to ask for these services. So it's a number of factors, but it's real. Over the course of that time, our special ed costs have increased 94 percent over that five-year period, whereas our regular instruction budget has increased by 42 percent. The percentage of special ed students to total enrollment five years ago was 11 percent. Now it's up to 14 percent.

Now, how does this impact Moorestown's budget? Last evening we had a budget defeat, only the second one in over 16 years. The largest increased item in our budget this year was for special education, just about 1.59--

SPEAKER COLLINS: Let me just ask, since I haven't seen the papers this morning to see, you know, have the Gateway's budget passed?

MR. CIZEK: I don't want to know, because I don't want to get depressed.

SPEAKER COLLINS: You don't want to know. Woodbury's failed. Moorestown's failed. Why do you think it failed?

MR. OLDT: There were a number of factors, and I don't want to say that special ed was the primary factor.

SPEAKER COLLINS: No, and I didn't think you were. And you don't have to be that particular, but was it the increase, was there a particular item in there or--

MR. OLDT: It was the impact on taxes. We're opening a new school, so we have the impact of the cost of a new school. But the overall highest increase item, it was special education -- over a \$1.5 million increase for special ed alone. Now, when this budget goes to our governing body within the next week, it's likely that they're not going to reduce special ed areas, which means that the increases will come in nonspecial ed areas. Now, in any one year, that's not a problem. But if budget defeats become a pattern, one could assume that that would have an impact over time to our regular ed budget. Talking about private placements, we anticipate sending 138 students out of district next year to private and other public schools. The average tuition rate is \$25,500 for those students.

SPEAKER COLLINS: Bob, could you just name just quickly -- just quickly a couple of the schools that those students may go to, just so I can get a perspective? I'm sure Assemblyman Roberts would, too, since I assume they're South Jersey related schools.

MR. OLDT: I've got a two-page list -- Bancroft, Brookfield, Yale, Kingsway. I mean, they're kind of -- some of the programs where we send most of our kids.

SPEAKER COLLINS: Okay. All right. That's just what I was wondering. Okay.

MR. OLDT: There is a provision-- Now, the State aid to support the special education has increased in our district. There's no question about it, the dollars have increased, but it's still less than 40 percent of that total cost.

So it's not increasing at the rate that our expenditures are increasing. Extraordinary aid, that aid that's provided for those students who have costs that exceed \$40,000 -- in '98 and '99, we had four students who were eligible that exceeded \$40,000. The total tuition for those four students was \$332,000 and change. We received zero aid that year for those students. This year we applied for eighteen students whose tuition rates and costs exceed \$40,000 to the tune of \$1,026,156. Now, I'm not sure how much of that we'll receive. There's applications under review.

Last year's applications, we received half of what we were entitled to, so, I mean, to give you a perspective of how the costs are growing, at least in Moorestown.

MR. WYNS: Bob, I'd like to talk about extraordinary aid for a second, because I did mention that in the general discussion. I talked about the formula generally. But there is this category that you'll hear something about called extraordinary special education cost aid. There's a lot of concern expressed on the part of local school districts about this particular provision in the CEIFA law. And it goes right to Bob's point about receipt of funding or lack of receipt of funding.

Extraordinary special education costs aid is aid that's established for the high-cost placements. Now, the threshold that's established in the statutes is for costs in excess of \$40,000. Okay. However, the statutory provision requires that, one, districts apply. So it's usually an application based for an individual student. We receive approximately somewhere between 1100 and 1300 individual applications.

MS. GANTWERK: Mel, it was about 1500 last year, almost 1500.

MR. WYNS: Yeah. So it's a lot of paperwork. Also, the statute requires that the determination to grant a district's request or to receive extraordinary special education aid be based on a number of criteria, including the impact of the extraordinary costs in the district budget. So there's an implication in the statutory provisions that not all applications get funded. It isn't, in fact, a formula. Okay. So there's a lot of concern been expressed on the part of local districts about that particular provision.

The Department has, in implementing the statutory provision with regard to considering the impact on the district's budget, has primarily been looking at the district's available budget surplus and the ability of that surplus to fund these high costs as a determining factor for eligibility. The criteria have been changed in the last year so that all the applications with approved programs are funded at least at the 50 percent level, subject to the availability of the State appropriation. Now, the State appropriation in next year's budget will be \$15 million, which is a 50 percent increase over the \$10 million that's in the current year's budget. So that number will probably likely increase in the future.

One of the reasons-- Several things would cause that number to continue to grow. One is that the threshold, \$40,000, is fixed. That doesn't inflate. So, obviously, as costs inflate over a time, the dollars in excess of \$40,000 are going to grow. Another is the increase in the number of placements simply because the enrollments are growing. Another issue that impacts that -- it was also mentioned by a number of the speakers -- is the out-of-district placements, which are particularly expensive and often exceed the \$40,000 amount.

It would seem to me that if the Commission should look at the issue of State funding for special education from three separate perspectives, one would be the general special education aid formula, just special education aid generally. That's the basic \$911 million pot that -- the tier formulas, whether that's sufficient, insufficient, appropriate, whether the tier amounts are adequate, and so on.

The other is from the perspective of funding for these extraordinary high-cost placements, as a separate issue from the general special education aid formula. And the third issue is really the issue of special education transportation, which is a separate issue which I don't think should be-- It's an issue, but should not be an issue that should be probably confused with the other two issues. It's really a separate issue, although it's an issue certainly related to special education, but it's more of a transportation aid issue than a special ed aid issue in my humble opinion.

And much of the discussion and criticism we hear about special education is about the extraordinary high-cost placements. That's really only a fraction of the special education. It's 15 million out of 911 million. I think when Commissioner Gagliardi testified before the Commission he readily admitted that the \$911 million that the State provides funds approximately 50 percent of the cost. And I think that's pretty representative of what you've heard this morning -- 40 percent, 50 percent level. But I would point out to the Commission that even a 10 percent increase in the State's special education commitment would cost over \$90 million.

Certainly, we're at the point which in a fiscal year or two that we'll be talking about probably a -- likely a billion dollar commitment on the part of the State for special education. So special education funding has increased. But

if you look at the overall perspective with regard to special education funding over the last 10 or 11 years, it's basically kept pace with other education funding. Special education funding in Fiscal Year 2002 is 72.4 percent higher than it was in Fiscal Year 1992, while aid for other categories is 66.4 percent higher. So it's roughly grown at a rate -- let's say 10 percent higher than other rates, which is probably not comparable to what special education costs have done. It's basically kept pace.

MS. GANTWERK: If I may add one thing? One of the reasons that I said I don't know why there was such a increase is because that increase is way higher than what we see across the state. For the past, at least, eight years--

SPEAKER COLLINS: You mean Moorestown's increase?

MS. GANTWERK: Yes. Because the increase over the state has been commensurate with the increase in the total population, up until this December 2000. That's the first count that we've had a significant increase different from the increase in the total population, but we've had a pretty even keel for a long time. But now, we have seen an increase this year for the first time, and we are also looking at what could account for that.

SPEAKER COLLINS: Well, let me direct my attention to these three gentlemen. And here would be the proposition that I put forward. If you were in charge, you had the ability to -- let's just say one House, let's say you're in the Assembly -- and you could have 40 people join you with your idea, which would be enough to pass a bill, what should we do to alleviate the problem, not the cost of special education, because that's something that, as I just whispered to Haskell Berman of the staff-- I was just saying to my wife yesterday that as, and someone here mentioned it, as we learn more about people and issues and

challenges in special ed and as we have more challenges of Columbine or whatever else, who knows what's around the corner, as technology continues to improve in areas outside the human educable student, it's just going to cost more and more and more and more and more. We just know so much more.

So the cost will increase. I'm not worrying about that part. How should we fund this? Should we fund all of it? Should there be a percentage? Should we look-- It's yours. And we're going to take down notes, and maybe one of the three of us who are still here will steal your ideas and be elected governor some day, you never know.

MR. OLDT: Well, in view of the fact that this might get back to my district, I would advocate 100 percent funding, especially for special education. (laughter)

SPEAKER COLLINS: I had a feeling we would start at that. (laughter) And we're all for that, but what else?

MR. OLDT: But there really needs to be the accountability piece and how do we measure the effectiveness of these new programs, I mean, these new strategies. Discreet trial therapy is a strategy for autistic children that didn't exist, at least in our district, five years ago, and we've got close to half a million dollars budgeted for seven children in this year's budget. Now, that, I'm told, is a very effective way to deal with those students, and in the long run will actually save the district money, because these children will eventually move out of the program and not have to be dealt with in other ways. But I'm not aware of any evaluation of the effectiveness of these various programs, and then maybe that needs to be a part of this whole process.

SPEAKER COLLINS: That's why we're letting the business administrator start first this time, because you always say you go last. Then

we'll have those a little more committed-- You stay right on the track you're going, Bob. Anything else?

MR. OLDT: That's it.

SPEAKER COLLINS: You have the same power he does. What should we do? What bills should we put in?

MR. CIZEK: Well, the first -- as any good legislative group, probably what I would do is appoint a commissioner or a committee to study it. I think that it is not-- These folks to the left of me and all you folks that are struggling with this from a macro level on a daily basis, and we're down at a sort of a micro level and have that sort of view. But if I was at a larger level, I think that there is-- There is a lot of issues here that need to be sorted out. And what I would try to do is work together to look at some examples across the state -- and I'm sure Barbara Gantwerk has done this -- and see what kinds of things we can communicate to other districts just to get some cost savings in this area. And like I said, I tailored my remarks to the out-of-district costs, which is something that is very problematic for us at a district level to try to figure out on a yearly basis. I think that's what I would do first.

DR. FORD: Quite honestly, I don't know what I would do, but I have some thoughts. We've talked about the level of funding tiers and so forth. I think the system itself is basically an appropriate system, but what we're experiencing is that it's not funded at sufficient levels to give us the kinds of money that we need to operate sufficient programs for students. So I would look at maybe a system through which there would be an increase in allocations in each of those tier levels, at least temporarily, until we can come up with any other solution.

Secondarily, I think one thing that has seriously impacted my district and probably a lot of the smaller districts is the 3 percent cap that we all have to live with. The net effect of that is that as the special education costs go up, we still have to stay within the 3 percent cap for our budget. The only way that we're able to do that is if we eliminate or reduce programs for regular education students or other things from the budget.

So I think another thing that has to be looked at is this whole issue of the 3 percent cap, how it affects districts in an overall sense, and particularly how it's affecting the smaller districts where we have these extreme special education needs which are sapping the funds from the regular education system so that we can stay within the 3 percent cap. So I think that's an area that needs to be looked at.

SPEAKER COLLINS: Well, I don't want to speak for Assemblyman O'Toole or Assemblyman Roberts, but let me just address the cap. I voted for a cap, I think, the first year I was here 15 years ago. And then I voted on a cap for State funding one time, because we control that. And it was a political vote. In fact, the first one was a political vote, because people like to cap. I think caps are stupid. I think the capping aspects can be determined in every election. And when, I'll be honest with you -- when we were doing CEIFA -- it was sponsored by my running mate, Gary Stuhltrager -- we in the Assembly had no caps. The Senate wanted caps, and in a give and a take that was something that happened.

Now, that aside, let me ask you this question directly.

MR. CIZEK: Sure.

SPEAKER COLLINS: If we were to get rid of the cap-- Your budget just failed yesterday.

MR. CIZEK: Right.

SPEAKER COLLINS: If there were no cap, would any budget ever pass? You know, that's the question.

MR. CIZEK: I'm not sure. It's a very good question. I'm not sure that it would. I think the issue of 3 percent is the issue that we have to take a look at here. Maybe not the cap itself, but rather what is the level of the cap.

For instance, in Woodbury, if we're saying 3 percent is the cap, when we look at the increase in special education costs and simply combine that with the 4 percent to 4.2 percent, 4.3 percent pay raise for teachers, which also impacts benefits, it's impossible to stay within the 3 percent cap. So I'm not opposed to the idea of a cap, but rather maybe a realistic figure as to what that cap ought to be, which can vary according to time, I guess.

SPEAKER COLLINS: Well, I'm opposed to caps, and even if it fails every year, that's the way it goes. You'll eventually figure out, hey, we don't have a cap, but we have-- We have a cap, because these people are going to come vote.

And, Calvin, not to cut you off before you would even speak, but Mel, also, has made it very clear to me his position on caps. So you don't even have to speak for Gateway. (laughter)

Assemblyman O'Toole or Assemblyman Roberts? (no response)

Well, let me say this. We thank you all for giving us some perspectives, and I use the term perspective in the most positive sense. Because when you said, Bob, 100 percent funding -- sure, we all want that -- and we would like to give it to you. The challenges we face, just as you do, is making those decisions, how we do all this. It seems to me -- and I've said it to the two Congressmen in a private conversation we had before we came down, and

eventually, as you heard me say earlier -- sometime in the fall we're going to deal with funding, at least the discussion of it. Should it come off the property tax? Should it do this?

But in my mind, I believe that we can have an impact on property taxes and the whole idea of special education and what's happening to our students by putting some real energy and clout behind it with votes, for the state to do something different with special education, not just increase the 911 million, which surely is going to happen if you say a couple of years. It could even happen next year. But to look at-- The one that's most apparent always is that \$60,000 student. It gets everyone, whether you're in the business or quasi in the business or just reading the newspaper at home, whatever your job is -- holy God, \$60,000.

So they're easy to focus on, but it is something that I think we can do something with cutting some level of it off and won't impact property taxes. The only argument I see against it would be, it wouldn't be across the board. It could be, very honestly, it'll probably have a greater impact on some of the *Abbott* districts, whereby there's always that issue of what they get and proportionately compared to others. On the other hand, on the other extreme, since many of the *Abbotts* are our largest districts, are our smallest districts, where a \$60,000 student and school's out-- And I mean smaller than Woodbury or Gateway or Moorestown. But I do think we're going to have an opportunity, and your input today, at least, just kept me moving towards that goal. All I have to do is get 40 people in our House to agree with me.

Anything else? (no response)

Well, we'd like to thank you very much for being here today and for your input. And this meeting is adjourned.

(MEETING CONCLUDED)