
Committee Meeting

of

ASSEMBLY BUDGET COMMITTEE ASSEMBLY EDUCATION COMMITTEE

"Discussion on the Governor's new proposed school aid formula"

LOCATION: Committee Room 4
State House Annex
Trenton, New Jersey

DATE: December 27, 2007
10:00 a.m.

MEMBERS OF COMMITTEES PRESENT:

Assemblyman Louis D. Greenwald, Co-Chair
Assemblyman Craig A. Stanley, Co-Chair
Assemblyman William D. Payne, Co-Vice Chair
Assemblywoman Joan M. Voss, Co-Vice Chair
Assemblyman John J. Burzichelli
Assemblyman Joseph Cryan
Assemblywoman Joan M. Quigley
Assemblyman Gary S. Schaer
Assemblyman Joseph Vas
Assemblyman Joseph R. Malone III
Assemblywoman Alison Littell McHose
Assemblyman Herb Conaway Jr.
Assemblyman Patrick J. Diegnan Jr.
Assemblyman David R. Mayer
Assemblywoman Nellie Pou
Assemblyman Bill Baroni
Assemblyman Alex DeCroce
Assemblywoman Charlotte Vandervalk



ALSO PRESENT:

Michael J. Basarab
Philip N. Liloia
Kathleen Fazzari
*Office of Legislative Services
Committee Aides*

Mary Alice Messenger
Aaron Binder
Keith White
*Assembly Majority
Committee Aides*

Beth Schermerhorn
Jerry Traino
Natalie A. Collins
*Assembly Republican
Committee Aides*

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

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ASSEMBLYMAN CRAIG A. STANLEY (Co-Chair): Good morning, everyone. I want to welcome everyone here to the Joint Committee -- well, it's not the Joint Committee, but it's the meeting of the Committees of Education and Budget for the New Jersey General Assembly.

And we'd like to start with a roll call of the members.

MS. FAZZARI (Education Committee Aide): Assemblywoman Vandervalk.

ASSEMBLYWOMAN VANDERVALK: Here.

MS. FAZZARI: Assemblyman Baroni.

ASSEMBLYMAN BARONI: Here.

MS. FAZZARI: Assemblywoman Littell McHose.

ASSEMBLYWOMAN LITTELL McHOSE: Here.

MS. FAZZARI: Assemblyman DeCroce.

ASSEMBLYMAN DeCROCE: Yes.

MS. FAZZARI: Assemblyman Malone.

ASSEMBLYMAN MALONE: Here.

MS. FAZZARI: Assemblywoman Pou.

ASSEMBLYWOMAN POU: Here.

MS. FAZZARI: Assemblyman Conaway.

ASSEMBLYMAN CONAWAY: Here.

MS. FAZZARI: Assemblyman Mayer.

ASSEMBLYMAN MAYER: Here.

MS. FAZZARI: Assemblyman Diegnan.

ASSEMBLYMAN DIEGNAN: Here.

MS. FAZZARI: Assemblyman Schaer.

ASSEMBLYMAN SCHAER: Here.

MS. FAZZARI: Assemblyman Vas.

ASSEMBLYMAN VAS: Present.

MS. FAZZARI: Assemblyman Burzichelli.

ASSEMBLYMAN BURZICHELLI: Here.

MS. FAZZARI: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Here.

MS. FAZZARI: Assemblywoman Quigley.

ASSEMBLYWOMAN QUIGLEY: Here.

MS. FAZZARI: Assemblywoman Voss.

ASSEMBLYWOMAN VOSS: Here.

MS. FAZZARI: Assemblyman Stanley.

ASSEMBLYMAN STANLEY: Present.

MS. FAZZARI: Assemblyman Greenwald.

ASSEMBLYMAN LOUIS D. GREENWALD (Co-Chair):

Here.

ASSEMBLYMAN STANLEY: Thank you.

I'd like to ask Chairman Greenwald -- has some opening comments.

ASSEMBLYMAN GREENWALD: I want to thank everybody for being here. I wish everybody a happy holidays and a happy and healthy new year. Obviously, a very historic and important piece of legislation. I certainly look forward to hearing the comments that people-- I see many familiar faces in the audience who come to see us during budget time looking for a funding formula to be funded, or to have been replaced, or to exist. This is certainly a significant step in that process, and we look forward to hearing the input of those of you who we meet with on a year-in

and year-end basis, as well as from other residents who maybe we haven't heard from.

We have one piece of housekeeping to do. There are slips out there for those who wish to testify. If you have already pre-registered, please do not fill out a slip; you are not supposed to. But if you have come here today with the hope of testifying, we have slips out there. We would ask you to fill those slips out, and we will make sure that you are placed in order and called upon. We obviously have a very large room today. There are many people here. We will stay as long as is necessary to address all of the concerns and hear from the people who have joined us.

I will tell you -- this is much more distant than we are used to. I don't know if I like this, to be honest with you, but you seem very far away. But we want to thank you for joining us today and we look forward to hearing from you.

ASSEMBLYMAN STANLEY: Thank you, Chairman.

And I, too, want to echo, certainly, happy holidays. And normally, it's very unusual for the education community to be meeting at this particular time between Christmas and New Year's. But to see so many of you here just really speaks to the importance and the significance of this issue, probably the issue of the decade. It's certainly the issue of the new millennium. So we don't want to necessarily take up a lot of time right now.

I do want to say that this is certainly an issue very close to my heart, since 1995, my first election. School funding has been the number one issue of mine, and I'm glad to see that it now is the number one issue for the State. But we have the Commissioner before us -- the Commissioner

of Education. She is going to give us information on this proposed legislation. And Madam Commissioner, we're glad to have you here. Please proceed with your testimony.

LUCILLE E. DAVY: Thank you. Thank you all for having us here today. We're certainly very grateful to have this opportunity to discuss the new funding formula, which we are proposing to implement beginning in the next school year, which is Fiscal Year 2009. As I'm sure you all know by now, the formula invests an additional \$530 million State funding for New Jersey's K-12 public schools. And that amount will grow what is already a considerable amount of State support for public education.

This additional investment includes several unprecedented components that include the following: A significant expansion of support for special education that recognizes the actual cost of providing specialized education services for students who are disabled, including additional funding for extraordinary education costs for those children who are most severely disabled. It also includes additional resources which are allocated in the adequacy budget for every at-risk child in this state. And I would note that nearly half -- 49 percent -- of the children who qualify for free- or reduced-price lunch, right now in New Jersey, live in non-Abbott districts. And these resources then are allocated in the adequacy budget for each of them, regardless of where they live, to ensure greater equity and opportunity for success for all students.

In addition, it includes expanded educational opportunities for children throughout the state by providing additional support in communities whose taxpayers have had to bear a disproportionate share of

the burden in supporting local schools, because we have not had a school funding formula that has been implemented for the past seven years. This new funding formula will recognize changes in enrollment that have also not been accounted for since the 2001-2002 school year.

In addition, the Governor will implement a significant expansion of preschool educational programs by providing State funding for high quality, early childhood programs for every at-risk child in this state; a program that will be phased in over the next six years.

Three groups of school districts will benefit significantly under the new formula. The first is those districts whose populations have changed demographically. In other words, those with growing numbers of limited-English proficient students, or those whose children who are eligible for free- and reduced-price lunch have also grown. The second group is districts whose taxpayers have continued to provide a local fair share -- contribution for education that is above what is equitable when you compare those communities to other communities that are similar throughout the state. And the third group is those group of districts whose funding has remained the same over the last seven years despite increased enrollment. And that's from not having a formula to apply, to which those increased enrollment numbers would be applied.

Now, I have today a brief PowerPoint that we'll go through to describe a little bit of the work, a little bit of this history for those of you that may not be as familiar. I know many of you participated in meetings that we've had over the last several months. But for some of you, some of this may be a little bit new. We'll go through it relatively quickly.

We have not run CEIFA -- the old formula from the late '90s -- since 2001-2002. So as a result of that, enrollment and demographic changes, other changes to school districts have not been recognized through the formula. Up until last year, State aid had basically been frozen for most districts at the '01-'02 levels. Last year, the Governor included in the budget and the Legislature approved the largest increase since the 2000 school year.

We considered what was done in this current school year's budget -- the FY '08 -- a building block to a new formula. And the work that we are presenting today really completes that process by having an actual formula through which we can run these numbers, not only for next year, but for the years that go forward. Our goal is to have a fair, equitable, and predictable funding formula that's based on student characteristics in each community regardless of the geographic boundaries or the zip code of that community.

Now, a couple of important points to note before we get into the meat of the funding formula itself: The first is that according to the NCES study, that's national data collected for Fiscal Year 2005, New Jersey's per pupil spending was the highest in the nation. And you can see on the chart, at \$14,117. The U.S. average was \$8,700, so significantly lower than the per pupil spending in New Jersey.

The other additional point that I think is even more significant is the second point on this slide, which talks about the fact that as of FY '05 New Jersey had the fifth highest State aid per pupil. So on a per pupil basis, we were the fifth highest in the country, behind only Alaska and Hawaii, Vermont and Delaware -- four states I think which we would not

normally compare ourselves to, for reasons that Alaska and Hawaii are obviously not on the mainland and in a different circumstance, and Delaware and Vermont being too very small states when you compare them to New Jersey. So before we even add the additional \$530 million that the formula is contemplating for next year, before we even begin that, we are already, on a per-pupil basis, providing more State aid than all but four states in the country.

Now, to quickly go through the history of the development of the formula, the work really began in 2002 when the Department of Education, at the time, began some meetings to discuss how to create a new formula. Beginning in early 2003, professional judgment panels were brought together -- they're professionals from throughout the state -- to determine the kind of resources that would be needed to find the adequate resources that would be required to deliver education in the State's Core Curriculum Contents Standards for each child in New Jersey.

After that work was done, we issued a report on the cost of education last December. And then in the time period that followed that, we spent considerable time through public hearings, through meetings with legislators, and through meetings with stakeholders to take input on the report that we had put forward. And then we also had our work reviewed by a panel of experts -- and that was Allan Odden from the University of Wisconsin, Larry Picus from the University of Southern California, and Joseph Olchefske from the American Institutes for Research in Washington, D.C. They issued a report in January of 2007 that looked at the model that we were putting forward and compared it to other means of funding school districts throughout the country, as well as the evidenced-based model.

And we took into account the recommendations that they made in their report.

In addition to all of what I've said about taking input from stakeholders, legislators, working through the expert panel, we also engaged the services of three consultants who have worked with us in the Department over the last six months to really bring this formula to an end point, to the actual recommendation that we are making. And those three individuals were Susanna Loeb from Stanford University, David Monk from Penn State University, and Thomas Corcoran from Columbia Teachers College. Those three individuals worked on a consulting and advisory basis to us as we considered each element and as we considered all the input that we had gotten, to help us shape the final recommendation. Once we made a determination of what the professional judgment panel and resource allocation model would look like, we then worked to allocate the cost between State and local school districts.

I've gone through these slides already in a quick summary.

Now, I just want to highlight very quickly some of the changes that we made that were made as a result of what we put forth in December of 2006, to where we are today. Because I think these are really important points, because a lot of this came from either stakeholders, input from legislators, or input from the advisory panel, and the experts that we have engaged. There was a lot of criticism about the fact that we had used mean teachers' salaries to cost out our model. I'm sorry, median teachers' salaries. Instead, we have now used mean salaries throughout all of our work. And that again was a recommendation not only of stakeholders, but also of the Odden panel that issued a report last January.

New Jersey had traditionally only considered children who were eligible for free lunch to be in the category of at-risk students. And a recommendation had been made to us that we should expand that definition of at-risk to include free- and reduced-priced lunch eligible students. And in looking at that and in looking at New Jersey's high cost of living, etc., we agreed and now have included in the definition of at-risk all free- and reduced-price lunch students. So anywhere where there are resources for at-risk, it includes both free- and reduced-priced lunch.

We moved from six professional judgment panel models. They were used for different sized districting -- configuration of districts. We moved to one model that now recognizes the difference in cost between elementary school, middle school, and high school. Under the prior recommendation, we had different district configurations, but we were not recognizing the difference in costs as they increase as students go higher up in their schooling. So that it costs more to provide a middle school education than it does elementary, and then it costs even more to provide a high school education than it does an elementary or middle school education.

In addition, we made a change to the way benefits were calculated. We received a lot of concerns raised about our benefit calculation being a flat 20 percent across the board. We made an adjustment and now have divided up all staffing into two categories -- one is certificated and one is not certificated. For the certificated staff, we are adding to them the cost, the actual cost of the State Health Benefit Plan, as well as an amount for Worker's Compensation insurance. We are not adding in PERS and FICA, because those two payments are made directly

on behalf of districts by the State, and so there is no reason to add those in for certificated staff benefits.

Now, for the non-certificated staff, the State does not pay the PERS or the FICA directly, so we have added to each of their salary lines a PERS contribution, a FICA contribution, the State Health Benefits Plan, as well as Worker's Compensation. So we believe now in our costing out that the dollars that are in the model now better reflect the true cost of providing the actual benefits to employees.

In addition, there were concerns when the report was issued last year that we were using salary and unit costs from Fiscal Year 2005, and we have now updated the formula -- includes all current data. So it is now reflected, for both salaries and also any unit costs that are reflected, to have the most current data included.

We had in our initial proposal one at-risk weight. So one weight for additional resources for at-risk students, regardless of the concentration of children at risk in the community. And there were concerns that were raised. And so, when we looked at this, we made a decision that we would actually increase the weight based on concentration of poverty. So there's a flat additional amount of resources up to 20 percent of free- and reduced-lunch eligible children in a community. There's a flat additional amount. And then between 20 percent at-risk and 60 percent at-risk, on a linear progression, we increase that weight by 10 percent. And then at a concentration of 60 percent or above in a community of children at risk, there is then the maximum amount per pupil added onto the adequacy budget. You'll see, when we get to the slide with

the actual numbers, what those numbers look like, and I'll explain that when we get there.

I'm going to leave the discussion about special education -- oops, how do I go back? (referring to PowerPoint) I'm going to leave the discussion about special education, because we've got some very specific slides on that to talk about that, because there are two rather large changes in that. The first is that we are moving from only categorical funding to have categorical and wealth-equalized funding for special education. In addition, we're using a census model to look at how we provide cost calculations for special education requirements.

We have a new line added this year. It's a new categorical stream of aid, and that is for school security. We believe that in a post-9/11 world every school in New Jersey needs to have some resources to address school safety issues. And so there is a per-pupil amount included for that. And then in addition, for children at risk, on a sliding scale there are additional resources provided in the model. So that in communities where there are large numbers of children at risk, there will be adequate resources for the district to provide security guards and other measures that the district may deem appropriate.

We have also allocated two additional instructional aides for elementary schools where the concentration of children at risk is 40 percent or more. This is another change that we made, along with some of the others, to make sure that we were providing the elements of the *Abbott* court decisions that have been issued by the court over the past several years. We want to make sure that our formula addresses those elements and have it built right into the formula.

There was no amount included in our prior adequacy model for capital outlay or capital maintenance. We've now included a per pupil amount for capital needs, and that's built into each district's adequacy budget. There were lots of concerns raised about the geographic cost index that we were using to adjust the salaries and the other costs that went into the adequacy model. And what we did was then update that using census data. We are actually using what's called the *Taylor/Fowler Index*, and we're using the most recent data available, and we will continue to update that as we get updated census data in the future.

The vocational resources that were provided under the December 2006 model were based on FY '05 actual expenditures. There were concerns that the model was not providing adequate resources for vocational students. We've actually upgraded the weight for those students, and we've also built the vocational weight on top of the high school weighted amount, which you'll see in the chart that I show in a minute -- shows even greater resources for a vocational student. We believe it's more accurately reflecting the actual cost of providing vocational education programs.

There is also included now in the adequacy budget a supplemental amount of resources for professional development, as well as including the cost of having a coach or facilitator for each school in the district, that's built into the adequacy budget.

Now, this is the chart I was referring to earlier, which shows you the actual per pupil amounts and how the resources break down. As you can see, an elementary school child has a weight of 1.0, so that's the base amount for the whole rest of the model. And then we build off of that.

The middle school weight is 1.04, and so those resources for a middle school student get raised then to \$10,035. The weight for high school is 1.17, and so that raises those resources to \$11,289. And then the vocational is 1.31 plus the high school weight. So the vocational student now is added into the model at \$14,789. So as you can see, that's significantly higher than if you looked at -- compared to high school, or certainly down to the elementary base amount.

The box on the bottom left shows the at-risk weight and how we're handling that. As I indicated, it's a sliding scale from 0.47 to 0.57. And again, that's based on the free- and reduced-lunch percentage. So this is additional resources added on to the elementary, middle, or high school, and it ranges from \$4,535 for an elementary school students who's in the low classification, so up to 20 percent at risk, to an additional \$6,435 for a high school student who is in a district where there is 60 percent or more children at risk. And then there's a range of numbers in between those, based on the concentration of children at risk in the district.

For limited English proficient students, we add a weight of 0.5, so it's basically half of the base amount gets added on. So for elementary school students you add \$4,825 to the base, for high school students you add \$5,645 to the base for a student who is classified Limited English Proficient. For at-risk and Limited English Proficient student -- so a child who is LEP and also eligible for free- or reduced-price lunch, we add the at-risk weight, plus one-quarter of the LEP weight. And that was done by analyzing the resources that students got for the at-risk category and also the resources they got when they were LEP. There was a lot of crossover in terms of the resources that were needed for those students. So we didn't do

any duplication. Rather, we looked at what was different in the two of them and then combined them. So you see that the additional resources for an at-risk LEP child will range from \$5,741 to \$7,846.

The special ed census assumes a 14.69 percent classification rate. That is the actual State average for special education classification in New Jersey. And then we are using the actual average excess cost of providing special education programs to those students who are classified. So we're using actual costs. This is a major change from the prior system, which was done based on a tier system that only provided a fractional amount of the true cost of providing those programs. That, as I said earlier, that is now being provided in part through the adequacy budget, which is wealth equalized. And then in part -- one-third through categorical aid, which is aid that is provided to the districts independent of the wealth of the community. The total amount that had been applied for categorical aid in the past for special education was about \$975 million. Under this new model, that categorical amount will be around \$810 million going forward. However, in addition to the 810 million, there will be about \$450 million more in wealth-equalized special education aid. So as you can tell, that's a significant increase in the amount of aid that's being dedicated for special education. The large difference is that it will be provided -- the bulk of the addition is being provided to the low- and middle-income communities to help them cover the additional costs of providing those programs, which based upon wealth is obviously more difficult to do in a lower-income community.

We're doing a similar census-based model for speech, and that is assuming that 1.9 percent of the students, of the total enrollment in a

district, need speech services. And then we're using \$1,082, which again is based on the cost of providing those services for each of those students -- 1.9 percent of the students.

Now, this chart shows the range of the per pupil amounts without all the weights and all the extra verbiage there. Again you can see, for at-risk students, the range of resources from 14,184 for the low end of the elementary, as high as \$17,724 for an at-risk student at the high school level. And then the special ed and the speech amounts also get added to the middle and high school weights. So for a special education student at the high school level, there are additional resources similar with speech.

The vocational number at the bottom is the only number that is really just a base amount for vocational. If those students are at-risk or LEP, there are additional resources added on for them as well.

The next slide is just a little kind of algebraic representation of how the formula gets done. The base budget, at the bottom, you can see is 9,649, which is the base amount for people for elementary. And that gets added to the middle school -- a number of middle school students times the 1.04, which is the weight recognized for middle school, and then added to that is the number of high school students times 1.17, which is the high school weight. And then you multiply that -- obviously everything in the brackets, if you remember your algebra, do the brackets first -- multiply that times the 9,649. And that's how you come up with the base budget.

Similarly for at-risk, the calculation is done in a very similar way, only you multiply it by the at-risk weight, as you can see at the end. And then for LEP, we multiply it by the LEP weight. And then for those children who are combined, we multiply it by the combined weight.

The special education census formula is at the bottom. And it shows you how you take the total enrollment in a district -- 0.1469 is the census percentage. That's the average classified percentage statewide. The 10,897 is the per pupil amount, on average. And then the 0.67 is the wealth-equalized component for special education. And then we do the same thing for speech.

When we look at equalization aid and how that aid gets distributed, we are not making any changes to the way that aid is calculated. It's basically done based in part on the community's wealth and property value, and then in part, half and half, based on the community's income. The local fair share for each community represents what the community should be able to contribute in local property taxes to support schools. And when we apply this, we apply it equally across the board for every community in the state. Equalization aid basically equals the adequacy budget, as determined through the formula, minus the local fair share, as determined through the formula. Again, putting everyone in the state, every community on an equal playing field.

This slide shows at the bottom the way the local fair share is determined by using equalized evaluation times the property value rate, times 0.5 -- that's 50 percent. And then aggregate income times the income rate, times 0.5 -- so 50 percent for aggregate, for the income side of it.

Now, I talked a little bit about special education aid. I told you that we're making some changes to this by using the census approach, which is one that's used by other states and also the Federal Government. It's a flat amount per student that's based on average classification throughout the state. And in New Jersey, our average classification is

higher than most of the rest of the country, significantly higher in some cases. And we're also using our actual average costs, so that we're reflecting what districts actually spend to provide services to children who are classified with disabilities. As I indicated, a portion will be paid through equalization aid. That's part of that, as well as the other part will be paid categorical. So it's two-thirds equalization aid, one-third categorical aid.

And then we're making a significant change to the extraordinary aid that has been provided; and that is, we will fund 75 percent of extraordinary aid. And we're going to update the thresholds for students who are placed in separate placements out-of-district. And that is, in part, because of our need to address some litigation that we're involved in, in Federal Court. We are being sued for having an excess number of students placed in separate placements. We wanted to use the formula as a means to encourage districts not to place students in out-of-district separate placements. We really want to encourage opportunities for children to be in a least-restrictive environment, as Federal law requires, and we also want opportunities for them to have a chance to be mainstreamed with their non-disabled peers wherever possible. And so the extraordinary aid threshold for a separate placement is going up to \$55,000. That's \$40,000 adjusted for the cost of living, since the \$40,000 was put in place. And we will provide 75 percent of that amount in excess to each district, not with wealth -- not taken into consideration. So it's basically a categorical aid. So any community with a high-end disabled student will be receiving additional resources.

The census hybrid approach which we're using has a lot of advantages to it. Again, it provides an incentive for districts not to over-

classify students. It certainly recognizes some of the findings that Tom Parrish, who testified before the Joint Committee on School Funding about a year ago -- certainly recognizes some of the findings that he had in his report, where there's a lack of correlation between disability category and cost of providing the services. He also found that there's a lack of correlation between the District Factor Group and the percentage of students who are classified. So we have District Factor Groups A and B districts that have low classification rates. We also have A and B districts that have very high classification rates. We have I and J districts that have low -- well below State average classification rates, and we have some I and J districts that have well above State average rates. So there are no correlations that can be found based on District Factor Group or based on category and cost.

And so the belief is that by using a census model it gives you an opportunity to better address the overall needs of the students in the district. And the fact that none of these things correlate, if you actually provide the funding in a different way than the way that we had been providing it, in a fractional amount on a categorical basis, that you're not really compensating the costs the way you should. We believe this will provide a much more predictable level of special education funding for districts, and it should also minimize their administrative burdens in terms of reporting to us who's in what tier, providing paperwork, and all that kind of thing. We believe this is a better approach on a lot of different levels.

I explained the fact that we're adding security aid for the first time. That's \$70 per pupil for every student in the state, for every district in the state. It's a categorical amount. And then, in addition, we have an

amount that will be added on, that gradually increases to a maximum of \$406, based on free- and reduced-lunch concentration. And that's at 40 percent. It maxes out at \$406. Every district with 40 percent or more gets \$406 per pupil, in addition, built into the adequacy budget.

A few notes about charter schools, choice, and transportation. Charter school aid will continue to go from the district to the charter school. It will, however, now take into consideration the resources for children at risk, which previously charter school students who were at risk only received their regular foundation resources. So this will increase significantly the resources provided to charter schools for children who are at risk. In addition, a small percentage of that money -- 10 percent -- will remain in the sending district. The charter schools will get 90 percent, which is what the law currently provides.

There is money included here for school choice districts but, as I'm sure you know, that act expired, and so it has not been reauthorized. So at this point, for children who are currently in a choice district program, we're providing aid for them. But until the Legislature takes action to do something else with that program, if it decides to do that, there's no further expansion of that at this time.

Transportation aid is remaining pretty much the same as it has been, although we are updating mileage and enrollment counts. And when we've talked about this, and we've had some meetings with legislators and with stakeholders on this, we really held transportation the way it was for now. Because we believe that there's a pretty significant opportunity for us to look at transportation differently, perhaps to use a more regionalized model of delivering transportation services. That the CORE bill, I believe --

which was put into effect earlier this year -- the CORE bill really encourages us to look at shared services and to look at opportunities for efficiencies. We believe transportation is a prime opportunity for us to reduce costs. And so we're going to look at transportation separately and come back with recommendations on that at a future point in time.

I'll just talk very briefly about preschool, because I think this is perhaps the most exciting part of this program, and it's really a package here. Preschool aid is not included in K-12 formula aid. It's going to be provided separately, and it will be provided totally with State funding. But what it will do is provide preschool for every child who is at risk, regardless of where the child lives. In District Factor Groups A and B or those that are CD, with an at-risk concentration of at least 40 percent, we'll provide preschool for every child in the community. And then in every other community, CDs with less than 40 percent, and then every other district from DE up to J -- for every other child at risk, every other free- or reduced-lunch child will receive the opportunity to have high-quality preschool education. This is a very significant step on our part, basically because we know it has worked so well in the Abbott districts. We know that this is a good investment. But we also know that for every child who goes into K-12 with that gap closed, their prospects for success in the years that follow are much greater. And so if we can provide preschool for every child at risk, regardless of where he or she lives, we will then change the educational outcomes and the opportunities for that child when he or she gets to Kindergarten, regardless of the community. So it's really a benefit to the children, but it's also a benefit to those districts, who to this point have been receiving those children who are at risk without having these

opportunities, these early childhood opportunities, made available to them. So it is our expectation that now every child at risk will enter K-12, regardless of the district -- whether they're in Princeton, or Lawrenceville, or Pennsauken, or Carteret, or Rahway, or Roselle, or in Newark, or Jersey City, or Paterson, or Camden -- those at-risk children will all go to Kindergarten with that gap closed. This is a significant step for us in really ensuring that children leave K-12 prepared for the future. So we're very excited to have that included as part of this formula and this package.

Our timeline, as you all know obviously, is to get this done as quickly as possible. Hopefully during the lame duck session, so that we can provide these figures to school districts as they prepare their budgets for the next school year. As you know, this Legislature has been working on school funding since the Joint Legislative Session on Property Tax Reform in the Summer of 2006. In addition, we've held many meetings, many of you around this table have been at meetings with us over the past nine months to discuss various elements of this formula. We've taken lots of input from many, many individuals.

We are also going to be incorporating in this work the accountability features which the Legislature and the Governor have put in place over the past couple of years. The first being the new State monitoring system, New Jersey QSAC, or the Quality Single Accountability Continuum. That is our new means of monitoring schools and providing assistance to schools where outcomes are not what they should be. In addition, we're going to use the elements of the CORE bill, which the Legislature adopted back in April, which the Governor signed that month as well. We're going to be incorporating the increased authority and

responsibilities that are embedded in CORE as we implement the new formula. And finally, the School District Fiscal Accountability Act, which was adopted in 2006, which provides for fiscal monitors in districts where necessary, where the financial house is not in order. We're going to take all of those legislative enactments and use them as we implement the new formula to ensure that money is spent efficiently, to ensure the money is spent effectively, and to ensure that taxpayers' resources are spent in a way that they can be confident that their money is being used for the purpose it's intended -- and that is to make sure that children are prepared for success in the future.

Since we proposed the legislation, there's been a draft bill, I guess, available on our Web site that I'm sure you have all seen. We've heard some questions and there are some items in that bill that we believe require some clarification. So we're going to be proposing some clarification changes -- nothing of any great significance, but we'll talk about a few of those things now. Some of them will be addressed by just merely clarifying language that's currently contained in the draft. I'd like to talk about a few of those questions that we've heard to provide some clarity on what we intended. I think there are a few areas that people are not really sure of how it will be implemented, or what is intended or meant in the language.

First of all, we're going to clarify the provision regarding emergency rulemaking authority. And that will be to provide emergency rulemaking only during this first year, so that once this is adopted we can adopt regs right away and get them in place so they'll be ready for school districts to be able to use them as they prepare budgets, and then as the budgets get implemented in July of 2008. And thereafter, the regulations

will go through a normal Administrative Procedure Act process for adoption.

The draft also contains a reference to a review of the special education census methodology to determine if adjustments are needed in future years to address districts with high incidence of students with severe disabilities that require high-cost programs. That's a concern that we've heard people raise with regard to the census model. They've said, "What about these communities that may be magnets for children with more severe disabilities?" And I think what we're planning to do in the-- There is a reference in there now -- I think we're going to clarify that, and actually say that we will complete that study about high incidence by June of 2010. We're going to do something similar to what California did, just to check for the high incidence issue to make sure that's not the case. And then we're also going to look at that immediately, and look to develop some kind of mechanism to assist districts (video malfunction) that may have a high incidence right now and to provide for them a grant program--

ASSEMBLYMAN STANLEY: Excuse me, one second, Commissioner.

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN STANLEY: We're having a problem. We're getting fed video from someone else's hearing. Can we have OLS take a look at that?

Please continue, Commissioner.

COMMISSIONER DAVY: We're going to look at this immediately. We will not wait until 2010. We're going to do a study by June of 2010 to look at this high-incidence question. But between now and

then, we're also going to look to develop some kind of mechanism to assist districts where this might be the case. And so I just want to clarify that right out of the box. That's a concern that we've heard, and it's one that we believe certainly is one that deserves a look and a review on our part, and we will do that.

In addition, in terms of the provision requiring property tax relief, first I want to be very clear that that provision is intended to be limited to districts that are both spending over adequacy and contributing more than their local fair share. And so that narrows the pool of districts in that category down considerably. I also want to clarify that we're going to--

ASSEMBLYMAN GREENWALD: Commissioner, can you say that last part again?

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN GREENWALD: Say the last part one more time, please?

COMMISSIONER DAVY: The provision for required property tax relief is intended to be limited to districts that are spending over adequacy, or over what the adequacy budget said they should spend, and also at the same time taxing their community in excess of what their local fair share should be. So those two factors have to be present. So any district spending under adequacy: not in the mix; any district spending over adequacy but not taxing above the local fair share: also not in the mix. So it limits that group of districts.

I also want to clarify that we're going to propose a modification for those districts. The bill draft reads, its apportionment of aid increases over the first 2 percent. We're going to change that language to be the first 2

percent or CPI, whichever is greater. And that that would be used then to offset the growth in the property tax levy. So we'll move that from 2 percent to 2 percent or CPI, whichever is greater.

I think it's also very important for me to address the hold-harmless provision and the questions around adjustment aid. There's a great deal of misinformation about that. And I'm concerned because I think the bill is quite clear. On Page 21, Number 3, it says very clearly--

ASSEMBLYMAN CONAWAY: Which section?

COMMISSIONER DAVY: Page 21. It is section -- to get my glasses -- I think it's 16.

MS. ATTWOOD: Yes.

COMMISSIONER DAVY: Yes. Section 16, (3), on Page 21. This is very clear that there will be no changes in aid in 2011, 2012, and beyond. Section 4 below that says the only circumstance under which there could be a change, and that would be if enrollment or weighted enrollment changes are greater than 5 percent in a district over that three year period. And that's it. Those are the only cases where they'll be a change. So there will be no reduction in aid. Adjustment aid will continue throughout, from now into the future indefinitely. The adjustment aid will continue. It will only be adjusted if there is a significant change in student enrollment. That language means exactly what it says. That's the way the bill is drafted. Districts that are receiving adjustment aid will not have reductions at the end of the three-year period. And I think it's important for us to be very clear about that because there's a lot of misinformation. I'm not even going to say confusion, because I think that it's very clear in the language. But I

think people are saying something that is not what is written, so I want to be clear about that.

Adjustment aid provides an opportunity for us to transition districts to a unified funding system in a way that will not negatively impact them. And so that aid will not be changed going forward. So if a district receives \$10 million next year, \$3 million of which is adjustment aid, the district will continue to receive that aid going forward, unless there is a drop of 5 percent or more in enrollment. That's as plain as I can make that. There will be no other reductions.

Finally, in closing, I just want to recognize and thank the many education stakeholder groups who have collaborated with us, worked really hard with us over this past year-plus to get to this point. I also want to thank all of you in the Legislature. Many of you have worked very, very closely with us as well, as we've really worked our way through this process. We're grateful for the input that we've received. We're certainly grateful for the advocacy that we have heard on behalf of the education stakeholders and the children in our state. We're grateful for the commitment to work together to achieve a school formula that really ensures that every child has adequate resources that will allow each and every one of them to be prepared for success in the future. And again, I really do want to thank all of you for being here between Christmas and New Year's. I know there are lots of other things we would all be doing if we were not here today, so we are very, very grateful for the time that you're giving to us today.

Thank you.

ASSEMBLYMAN GREENWALD: Thank you, Commissioner.

ASSEMBLYMAN STANLEY: Thank you, Commissioner.

And let me say that this is a -- it was certainly a comprehensive presentation which you made. There are-- And some of us have seen it more than once, but it's always good to see it again -- might catch something else.

I just have a question with respect to a couple of things that you said. You mentioned that 49 percent of the special at-risk kids -- I'm sorry -- 49 percent of at-risk kids reside in non-Abbott districts. So I guess, conversely, 51 percent of the at-risk kids reside in the 31 Abbott districts. So that's where we have our most serious concentration of poverty. I just have some questions about whether this formula actually addresses the need in those districts that have the highest concentration of poverty. For example, I would imagine, and correct me if I'm wrong, if you run the table of schooling, if you just run it without any adjustments at all, according to the information I have before me -- I think was provided by the Department of Education -- Newark would lose somewhere around \$88 million, if it were not for the adjustment aid, if you just ran a calculation. So my question is, Newark is a State-controlled district -- has been under State control for -- since I've been in the Legislature anyway. The adjustment for Newark has to be \$88 million in order for Newark to simply come up with a 2 percent increase for this year over last year. What does that \$88 million represent? Does that mean that the Newark taxpayers are going to be burdened with-- Or, you know, if you ran a formula and didn't provide the adjustment, that the Newark property taxpayers would have to pick up \$88 million? Is that what that means?

COMMISSIONER DAVY: Well, as I indicated, Newark is not going to lose the \$88 million. That's what I was trying to clarify. They are

not losing \$88 million. So the Newark taxpayers are not going to have to pick up that amount. What I think we really tried to accomplish here is to ensure that every community in the state, every district, contributes a local fair share; and that we do that equitably across the state so that every community is contributing what it can afford, generated through the local fair-share formula that puts every community on a level playing field. In part, some of the reason for adjustment aid is the fact that the local fair share in a community is not reaching the levels that the formula says it should be. And so in answer to your question, that does account for some of the difference. In some cases, the district is providing significantly less than that. That's true of non-Abbott districts as well. But as I indicated, none of that money is going to be taken away from Newark, so the Newark taxpayers will not foot that bill in the future.

ASSEMBLYMAN STANLEY: The 2 percent that all the districts get -- in some cases, the 2 percent may not represent the cost-of-living contractual necessities. For instance, inflation, CPI is more than 2 percent. Will those districts have an opportunity-- Because this could be somewhat catastrophic when you're getting half of what the cost of living is, or half of what the CPI is. Would a district be able, other than going back to the Supreme Court and saying that this is inadequate, would the district be able to-- Would there be some mechanism for the district to come before the Department of Education or the Commissioner to request additional aid if they provide documented evidence that this is, in fact, not enough to cover fixed increases in contractual obligations?

COMMISSIONER DAVY: No. There will not be an opportunity for anyone to come to us for additional aid. The adequacy

budget model is our means for providing what's required, what's adequate resources. And in part, the local communities are going to have to contribute more, plus the districts are going to have to look very carefully at the way they spend money in terms of efficiency of and in use of resources, also maximizing opportunities for Federal resources. We know right now there are districts that are not obtaining all the special ed Medicaid reimbursements from the Federal Government that they could. Not everyone is maximizing their free- and reduced-lunch money. Not every district is using all of their Federal revenue through Title I. It's really important for all district to have to look at all of these issues together as a whole, and to make decisions based on that. The 2 percent that we're providing, as a minimum amount of increase for districts this year, is an attempt to really help them transition into the new funding formula. We believe that that will cover them. In addition, they're going to have to look at, I think, how they make their own budgetary decisions. Fortunately, we're early enough in the year for districts that are planning for next year, I think, to be able to look very carefully and make decisions accordingly.

ASSEMBLYMAN STANLEY: Thank you.

This reminds me of the quotation of "What is it for a man to gain the whole world and lose his soul." If we pass this legislation and a community like Irvington, which has one of the highest equalized tax rates in the state, or a community like East Orange, which also has one of the highest equalized tax rates in the state -- if they have to cut their education budget by \$20 million or \$40 million respectfully, I would imagine that we will end up back in court and we'll have the same type of situation as we have under CEIFA, where you're going to have a two-tiered system anyway.

But 2 percent, that just -- without any relief, without any thought of relief in State aid by the Department, seems to make-- It raises a red flag for me. I think that we should rethink that.

Thank you, Madam Commissioner.

ASSEMBLYMAN GREENWALD: Commissioner, I just want to be very clear, though, Newark, Jersey City, East Orange, Irvington, Paterson, Trenton, Camden -- none of those towns are losing a penny.

COMMISSIONER DAVY: No, they're not.

ASSEMBLYMAN GREENWALD: They're not losing one dime, not one cent.

COMMISSIONER DAVY: In fact, they're all receiving an increase.

ASSEMBLYMAN GREENWALD: They're getting a 2 percent increase?

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN GREENWALD: Minimum?

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN GREENWALD: Okay.

And the purpose of the adjustment aid is to offset any loss of revenue -- that the State has shifted funds in an effort to equalize the base. Is that correct?

COMMISSIONER DAVY: That's correct.

ASSEMBLYMAN GREENWALD: So what we have seen in my 12 years in the Legislature is this on-- And really, it's a 30-year problem -- is a spiralling effect. And what really led to the *Abbott* decision was suburban communities and rural communities raising taxes to provide

education that urban areas did not have, which created this spiral effect of property taxes that forced, after the *Abbott* decision, under the law of the State, to put more money into the 31 Abbott districts. That created a trigger effect every time the suburban districts raised taxes, which put more money over the wall to the Abbott districts that have now -- shifted an imbalance of State funding that has created, and some would suggest, a drive of New Jersey residents out of the state. Is that kind of how we end up here?

COMMISSIONER DAVY: Well, I think the balance has certainly shifted. When CEIFA was done in the late '90s, the Abbott districts' spending was significantly lower. And over the last 10 years, that balance has changed such that they now have resources that allow them to spend at among the highest levels in the state. And so I think, from an adequacy perspective, yes. I mean, we're trying to get balance on resources, but then also on local tax effort as well, so that we don't have some communities where people are taxed two and three times their local fair share, and other communities where people are not taxed at all at their fair share.

ASSEMBLYMAN GREENWALD: Okay.

What is the-- Do we have statistics that tell us the average class size in New Jersey -- in the classroom, teacher in front of a student -- elementary, middle school, and high school?

COMMISSIONER DAVY: I don't know that we have it with us. It's certainly on the School Report Card, so that kind of stuff is available on our Web site.

ASSEMBLYMAN GREENWALD: I think that would be helpful if the members had this. And some of the concerns that are out there are that this will result in increased class sizes. I don't see -- in all the paperwork, and the bill, and everything else that you've given us -- I don't see the impact of that if everyone is getting an increase in funding, why it should trigger, when we are spending the highest in the nation per pupil -- almost \$6,000 more than the other states in the country -- why putting more money in would trigger an increase in class size. But I'd like to see those numbers.

COMMISSIONER DAVY: Well, I think the other thing you should know is the adequacy model has built into it specific class sizes. That's in our Formula for Success report in one of the tables.

ASSEMBLYMAN GREENWALD: Well, I saw that. That was one of the things you shared with us, which is-- We're getting information from, as you can imagine, other groups within the community, and I'm just trying to verify that so that we have an understanding. Because the adequacy funding is based on per pupil in the district, as well as in the classroom.

COMMISSIONER DAVY: Yes. And we can provide more specific information on that to members of the Committees.

ASSEMBLYMAN GREENWALD: Now, you mentioned in your testimony the property tax relief measure, where districts are providing or spending over adequacy and are taxing in excess of their fair share. How many communities -- what is the total number of communities? How many school districts are there in the state, first of all?

KATHERINE ATTWOOD: How many school districts in the state?

ASSEMBLYMAN GREENWALD: Yes.

MS. ATTWOOD: Six hundred--

ASSEMBLYMAN GREENWALD: Six-eighteen?

MS. ATTWOOD: Yes.

ASSEMBLYMAN GREENWALD: Okay.

MS. ATTWOOD: And in terms of the way we'll want to look at it is, school districts receiving additional money under this law -- there's, I think, about two-thirds of the school districts are receiving, and that many kids are receiving -- are benefiting from this as well. The number of districts, I believe, that are spending over adequacy is slightly over half. I don't have--

ASSEMBLYMAN GREENWALD: But my question is, how many are spending over adequacy and in excess of the fair share that will trigger the property tax relief measure?

MS. ATTWOOD: Oh, I'm sorry. Excuse me. It's about 120 districts.

ASSEMBLYMAN GREENWALD: So 120 out of 618 will be mandated to give a portion of this. Now, are they giving all of it back or just a portion?

MS. ATTWOOD: Just a portion of it back. And again, it will help mitigate the tax increase. I don't think that will result in, necessarily, reduction.

ASSEMBLYMAN GREENWALD: Well, that is the goal.

MS. ATTWOOD: Yes.

ASSEMBLYMAN GREENWALD: I mean, make no mistake about it, that is the number one problem in the State of New Jersey, and it has affected school budgets in my entire lifetime. But it is only 120 out of the 618. How do you determine what percentage of the increase will go back to property tax relief? Is it the same in all of those 120 or is it determined by some other factor of adequacy compared to over-taxation?

MS. ATTWOOD: Well, the way the bill is proposed right now -- and I think the Commissioner mentioned that there would be an amendment to it -- the way it's proposed right now is that the first 2 percent -- and I think the Commissioner also said the higher of 2 percent or CPI would be used -- would be the first offset. But it is going to be very district-specific. Because the way the tax levy cap works is that everybody gets an automatic 4 percent adjustment on their levy from the prior year. And the amount that we're talking about would offset that amount of 4 percent that's being paid by levy or State aid. Everybody will still be able to spend up to 4 percent, but a portion of that would be offset by the additional State aid we're talking about.

ASSEMBLYMAN GREENWALD: Well, I just want to be very specific. My question is, on the 120 districts that meet both criteria, are they all going to have to give back the same percentage of their increase, or is it going to be district-specific, based on what they're spending and what their taxation is -- correct?

MS. ATTWOOD: It's the same percentage of the additional increase in State aid they'll be giving back.

ASSEMBLYMAN GREENWALD: Commissioner, you wanted to be very specific about this point in the legislation -- that nobody was

losing money. I will tell you, one of the confusions I think that is out there in the public is this notion of the three-year hold-harmless measure. Can you explain to the Committee and those that are here the difference between what that three-year hold harmless is and this adjustment rate?

MS. ATTWOOD: Oh, I'm sorry. Could you repeat that question? I'm sorry.

ASSEMBLYMAN GREENWALD: There has been talk in our briefings that there is going to be a three-year hold harmless. Is that not in the legislation any more?

MS. ATTWOOD: Oh, there's definitely-- It's actually hold harmless that continues beyond three years. What it discusses--

ASSEMBLYMAN GREENWALD: But there was talk that the hold-- There's no need for a hold harmless and a sunset on the hold harmless if it's never going away. So the question is, is there a hold harmless that will sunset in three years, where the money truly follows the child? Or is this adjustment rate that the Commissioner talked about going on forever, potentially? Which is it?

MS. ATTWOOD: I mean, the term is an adjustment aid, and the reason is to bring -- adjust districts up to their adequacy budget. And the thought is, as proposed, is that it would only be reduced after three years if the district received a significant reduction in enrollment aid. So it would not sunset unless there was a big reduction in enrollment.

ASSEMBLYMAN GREENWALD: All right. So I just want to be clear for the people that are concerned about this and are tracking this. There is an adjustment rate that will go on forever--

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN GREENWALD: --as long as the student population justifies the need for that money.

COMMISSIONER DAVY: Yes. The difference--

ASSEMBLYMAN GREENWALD: If we as a government solve some of the major issues like affordable housing in the State of New Jersey -- that is now, for young college kids who are graduating with degrees and can't afford a house in New Jersey-- If those young people that we are able to attract back to New Jersey buy homes in suburban communities, as opposed to urban areas, and, with that, ultimately have children; and the class sizes in these areas, that are affected by the adjustment rate, decrease dramatically, then the money will truly follow the child and there will be a sunset on the moratorium. But if we are successful, in redevelopment efforts, in trying to attract people to a quality of life in urban areas by environmentally sound public policy, encouraging growth near public transportation, and roads, and access; and there is an increase of young professionals that move into housing complexes in these Abbott districts and thereby, because we are now providing a quality of education in that area, student population increases, the adjustment rate will continue. But regardless, the concept is that the money will follow the child. If there's a need, if there's enrollment, the money will be there. If it drops dramatically, the money follows the child. Is that accurate?

COMMISSIONER DAVY: Yes. The difference is that for the first three years we will not look at any of that. So even if enrollment falls, aid will remain the same. At the end of--

ASSEMBLYMAN GREENWALD: Well, we will look at. We're going to track it to see what it's doing, but it won't affect the funding.

COMMISSIONER DAVY: Yes, but we're not going to take money away.

ASSEMBLYMAN GREENWALD: Thank you.

COMMISSIONER DAVY: At the end of the three years, if there's a significant drop in enrollment, then there could be an adjustment based on that enrollment. And that's the distinction between the two. For the first three years, we will not take money away for changes in enrollment. That's it.

ASSEMBLYMAN GREENWALD: In fact, they'll get increases.

COMMISSIONER DAVY: Yes. Definitely.

ASSEMBLYMAN GREENWALD: Right.

Okay. My last question at this point is-- I have to tell you, Commissioner, the number is staggering to me. New Jersey is spending \$14,117 per pupil, where the national average is 8,700. I mean, that is a staggering number. People in New Jersey, I would suspect, have no knowledge of that. When they look at their property taxes and wonder where the money is going, that is a very clear number. Now, my question is, does that \$14,100 include administrative costs?

MS. ATTWOOD: That number includes all costs. So it includes FICA, and pensions, and everything that New Jersey spends -- transportation, administrative costs -- all costs.

ASSEMBLYMAN GREENWALD: And that is the same for the \$8,700 for the other states?

MS. ATTWOOD: That's correct.

ASSEMBLYMAN GREENWALD: Can we get a breakdown of New Jersey's \$14,117, as well as the other states' \$8,700?

MS. ATTWOOD: Well, since it's national numbers, we can get you a breakdown, but -- where the national numbers are broken down, which I think is administrative support and other, we can get you that.

ASSEMBLYMAN GREENWALD: What portion of that \$14,117 is administrative cost?

MS. ATTWOOD: I don't know that off the top of my head. I'm sorry. But I can get you that.

ASSEMBLYMAN GREENWALD: We're going to be here for a long time today. Can somebody go get that information for us? I would like that answer before I leave here tonight.

MS. ATTWOOD: It's posted on the NCES Web site, but we could try to find somebody back -- to get that information.

COMMISSIONER DAVY: We'll get that for you.

ASSEMBLYMAN GREENWALD: Well, not everybody is here, I assume. Right? There's got to be somebody back there. Okay? All right.

MS. ATTWOOD: We're going to e-mail.

ASSEMBLYMAN STANLEY: Thank you, Commissioner.

Since you're getting information, there's just two pieces I'd like. One is the breakdown of what the adjustment aid for Newark and Irvington and East Orange represent, what part of that represents an increase in property taxes, and what part of that represents overspending by the

district, according to your formula, for both of those districts -- Newark and Irvington, just.

MS. ATTWOOD: I mean, we can get that for you. I mean, I'd have to look at the numbers, but they're on the spreadsheets. But there's a portion that they're under-taxing, and a portion that would be under their local fair share, and a portion that they're overspending. A good example, if you look at -- would be Jersey City, that is spending well under their adequacy budget, but they're not receiving any additional aid, and that has to do with their local fair share. But we can give you that specific breakdown.

ASSEMBLYMAN STANLEY: Okay. Thank you.

ASSEMBLYMAN GREENWALD: Commissioner, a number of members have questions. We're going to start with the Vice Chairman of the Budget Committee, Vice Chairman Payne, followed by Assemblywoman Quigley, followed by Minority Leader DeCroce, and then the Minority Budget Officer, Mr. Malone.

ASSEMBLYMAN PAYNE: Thank you, Mr. Chairman, Commissioner Davy.

Yes, it is rather unique and unusual for us to be celebrating -- spending our Christmas holiday here in Trenton. Obviously, that underscores the extreme importance of this issue, something that we've been grappling for a long time, certainly long before I came to the Legislature. And if my memory serves me correctly, that we've been debating this whole area of funding for some 30-odd years or more, and finally the Supreme Court has finally, some years ago, come up with their order, and that we have been pursuing this whole business of providing a

thorough and efficient education for our youngsters. However, what we have here today is an extremely complex formula, adequacy, etc., etc. Some of the terms are new and some of the terms that we're using now are new. However, I have to tell you that since there is no more important area for us to be involved in, none of us mind being here today to discuss this.

I've had some concerns about youngsters who, in this instance, reside in Abbott districts, for instance, however attend vocational schools. As an example: Essex County, we have a number of Abbott districts. However, when youngsters in the past have gone from Newark or some of the other Abbott districts, that attend the vocational schools, the money did not follow. I did introduce legislation some time ago to try to provide for moneys to follow the students. I think we deal with that in this formula, though. Could you please explain what the situation is now for Abbott youngsters who reside in Abbott districts who attend our vocational schools?

COMMISSIONER DAVY: Yes. Those resources now will be calculated based upon the profile of the child. So if the child is at risk, there will be additional resources in the vocational school. I think if you look at the numbers for Essex County Vocational School, I think that you see that reflected in the increase that they're receiving. I know that's been an area of concern for you, and it is one that we are finally addressing in the formula.

ASSEMBLYMAN PAYNE: Do we have a number? I believe that prior to this, the students had \$2,500, I believe, that was provided for the students that went to the vocational schools. I think that number has been increased. I'm not sure to what amount.

COMMISSIONER DAVY: The per pupil amount is in excess of \$14,700. That's just for a vocational child. But there are additional resources provided. For a child who's at risk, it ranges from \$20,095 to \$21, 224, depending on the concentration of children at risk. So at up to 20 percent it's \$20,095, and then at 60 percent and above it's \$21,224 per pupil, built into their budget.

ASSEMBLYMAN PAYNE: But if the same child -- let's say that that child does not go to vocational school but remains in the public school in that district, what's the dollar amount then? How does it change?

COMMISSIONER DAVY: Well, then it would be a range from \$16,595 to \$17,724. So that's for high school. So it's about \$3,500 to \$4,000 difference. It's an additional weight recognizing the cost of vocational programs being higher than a traditional high school program.

ASSEMBLYMAN PAYNE: I see. Up until now, however, that was not taken into consideration, correct?

COMMISSIONER DAVY: That's correct.

ASSEMBLYMAN PAYNE: The formula, I believe, is based upon the various factors for Abbott youngsters, etc., and that we have not in the past recognized these additional factors. When a child who resides in the city of Newark, going to Central High School, for instance -- X number of dollars. They were in an Abbott district, therefore they were receiving X number of dollars above and beyond a non-Abbott district. However, that same child going to a vocational school in Essex County, that money does not follow them. But you're telling me now, more money. But if that child stays in the Central High School now it will be \$16,000, or thereabouts, per child?

COMMISSIONER DAVY: Yes. Well, it depends on what the concentration is, and it's wealth equalized. But, yes, that's the resources for that pupil, depending on the concentration of children at risk.

ASSEMBLYMAN PAYNE: Okay.

A child opts to go to a vocational school. All the conditions exists within his community, that community of Newark where he goes to school, right, and it's all waiting there. I mean, right now we're awaiting the percentage of at-risk youngsters, etc., that comes closest to the formula now, right? So that same child, that's already weighted there. That's already in there, it's already in the student going to the Central High School. Now, I believe you said that now we are taking into consideration -- these same weights are now being applied to vocational school, when that student goes there now, correct?

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN PAYNE: In the past it wasn't, right?

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN PAYNE: But I don't understand. I don't think you mean that that same child now -- that more money would be spent in the vocational school for that same child, in the same conditions, as it would have been if he stayed in the--

COMMISSIONER DAVY: No, actually under the adequacy budget, it's recognized that vocational programs cost more, whether the child is at risk or not. And so the children in vocational schools now who are at risk get additional resources. We're also recognizing that even if the child is not at risk, a vocational program has a different cost level. This is really trying to get at the cost.

ASSEMBLYMAN PAYNE: That's excellent. That's excellent. The fact that we now recognize that costs vary from elementary school to middle school to high school, it's a revelation. But it seems to me that that's something that we should have recognized throughout the years. And I'm glad that we do recognize now that there are different costs. Could you explain to me just what kinds of factors are taken into consideration now? It costs more to educate a child, we're saying, in a vocational school. What are some of the additional kinds of costs that we recognize now in our vocational--

COMMISSIONER DAVY: It's basically the programs themselves, the cost of providing the programs, because it's usually different than a more traditional classroom setting. And vocational schools, in general, regardless of where they are in the state, tend to be higher cost programs, because of the nature of the specialized career-focused or tech-focused program that's being provided.

ASSEMBLYMAN PAYNE: I welcome that. I think it's fantastic that that is happening. Years ago, you see a lull going to vocational schools. I mean, years ago, many years ago, there were those who looked down upon youngsters who went to vocational schools. As a matter of fact, in those days, what often happened for students such as Bill Payne and other minority students is that the teachers just directed you to a vocational school; because I was told personally by my eighth grade teacher that, "You're never going to go to college." And I was sent against my will to a vocational school, at that time, to become a -- to work with my hands, etc. And that was the way it was at the time. Just as in later years most minority kids were categorized as special ed kids, all right, especially the

boys, etc. And I'm glad to see that we are finally getting to a point where we recognize that. But what's happening too is that we're beginning to recognize how valuable an education in vocational schools are, because many of the youngsters coming out of vocational schools now are being prepared -- more adequately prepared for the high-tech jobs that may be out there. I'm pleased to see that happen. And obviously, I have an interest in Essex County. I'm please to see that we are going to benefit somewhat from there.

This business about the security amount, I think it's mentioned -- \$70, the security amount that's added into the formula now. Could you elaborate just a little bit on that -- exactly what that is and what that means?

COMMISSIONER DAVY: Well, that's a per pupil amount for every child in the district. And the assumption is that the district will decide how they want to spend that, whether they want to provide security cameras, maybe a buzz-card system or something at the front entryway. It's an amount per pupil that goes to the whole district. And then there's an additional amount that's provided so that the districts can have security guards available where necessary, as well. And you know, that's an item that has certainly been part of the court's consideration in prior Abbott decisions. And so it was important for us to make sure that we addressed that here.

ASSEMBLYMAN PAYNE: How closely does this funding formula follow the mandates of the Supreme Court decision, the *Abbott* decision, to provide thorough and efficient education, etc., to make it to parity, etc.? How closely are we in line with that?

COMMISSIONER DAVY: Well, having a formula that we believed the court would determine was constitutional was very important to us. It's the reason why we're really at this point now where things are so far out of balance. So I think, in our mind, we've come very close. It was certainly part of our consideration in the shaping process, both in terms of the input that we took from stakeholders, as well as the changes and revisions that we made to the adequacy model that we put forward. We think it's very important for those resources to be included in here that we think the court will deem necessary. Because it's important, I think, for us to have a single, unified constitutional formula that gets applied to every community in the state.

ASSEMBLYMAN PAYNE: We have what I understand is a litigious society in which we live now. And almost in the back of one's mind we may be saying, "Well, if this doesn't work and we go to court, how are we going to make out?" And perhaps that's your fall-back position.

I hope that, as mentioned by the Chairman of the Education Committee, that we do not have -- present a formula that will just end up back in court, as it has over the years. We have repeatedly gone back to court because the administration has somehow, for some reason, been opposed to or certainly not -- has been reluctant to move forward on some of these areas, and therefore we end up going to court. And I certainly hope that we're not going down that path again, because we obviously cannot -- we can't afford that anymore. I mean, it's happened repeatedly over and over again, and I would hope that we in the Legislature and the administration will be on the same page, along with the stakeholders in the

community, and we'll be on the same page so we can provide the kind of adequate education that we need for our youngsters.

The last question I have, and I'm sure we discussed ad nauseum -- we do have in place sources for funding for the budget that we're presenting here? We are going to get it paid and have sustainability for it, correct?

COMMISSIONER DAVY: Yes. The Governor has already indicated that he will include the \$530 million to fund the first year of the formula in his budget that he'll present in a few months.

ASSEMBLYMAN PAYNE: Thank you.

As a member of the Budget Committee, I guess that will come to us and we'll have to grapple with that as well.

Thank you very much.

COMMISSIONER DAVY: Thank you.

ASSEMBLYMAN STANLEY: Assemblywoman Quigley.

ASSEMBLYWOMAN QUIGLEY: Thank you, Mr. Chairman.

And Commissioner, I commend you and your staff for all the work that you put into this. If this is the simplified formula, I'm really glad I never took a close look at the first one. (laughter) But I still have a million questions about this one. And I would like to start out by clarifying something that I thought I heard you say, but then when you answered Chairman Stanley's question it wasn't quite the same. Were you saying that instead of 2 percent to the former Abbott districts it was going to be the CPI or whichever was greater?

COMMISSIONER DAVY: No, that CPI -- 2 percent or CPI, whichever is greater -- is the portion of the funding that districts spending

over adequacy and taxing over their local fair share have to provide for property tax relief. This formula provides, in transition aid to every district, a minimum of 2 percent.

ASSEMBLYWOMAN QUIGLEY: Right.

COMMISSIONER DAVY: And that has not changed.

ASSEMBLYWOMAN QUIGLEY: All right. That's a major disappointment. I wrote down the wrong note.

I'd like you also to ask -- to explain to me in more detail, using Jersey City as an example, the hold harmless, because I don't feel it holds Jersey City harmless; and the local fair share, which Ms. Attwood referred to before. Because if it's deemed by the Department of Education that Jersey City taxpayers are not now paying their fair share, I don't think they're going to agree with you, and I want to know what the effect will be. Because for the last 20 years or so, Jersey City has been a State takeover district, meaning the State has set the budget, the State has expended the money, the State has made the rules, and now you're saying Jersey City didn't ante up enough and they're going to get stuck with the big increase. And then at the same time, you're saying you're going to lower property taxes, and that -- dissonance with me.

COMMISSIONER DAVY: Well, I think the major issue is, as I was explaining before, is trying to get equity in the contribution that taxpayers make from community to community. What we have done in the formula is apply the same rate to determine the local contribution, based on a community's property wealth and their income wealth. We're applying that to every community -- Abbott and non-Abbott -- and we are asking, then, each community to pay its local fair share. Now, in the case of some

of the Abbotts whose local fair share has been held constant for the better part of the last 10 or 15 years, their school tax rates were not raised during much of that time period. Their fair share is probably not at balance. And in the case, I think, of Jersey City that is exactly what we find. They are not, right now, contributing what the formula says, in an equitable way, the taxpayers of Jersey City should contribute. There are other communities in a similar circumstance where they're not paying their fair share.

The issue I think is also related to how much the district is spending, whether they're spending over adequacy or under adequacy. And certainly--

ASSEMBLYWOMAN QUIGLEY: But Commissioner, this is a balloon payment for the city of Jersey City. It's been like -- like you could go shopping after you leave here and use my credit card -- because the State is setting the budget, the State is setting the expenses -- but Jersey City taxpayers are being asked to foot the bill. And there's no parity in that, nor is it for Camden, or Paterson, or Newark. The State takeover districts must be treated differently.

COMMISSIONER DAVY: Well, first of all, Jersey City now is -- you know, in the process of being transitioned to local control. That's number one. Number two, Jersey City is not going to lose any aid. As I indicated earlier for Newark, Jersey City is not going to lose any money either. So Jersey City is going to keep all the aid that it is presently receiving. The issue for Jersey City is what happens going forward. So the taxpayers are not going to have a balloon payment tomorrow. We're not taking back the money that's in the model here for them for adjustment aid. They're going to keep that going forward. So that's not an issue. It is not a

balloon payment for Jersey City. We need to be very clear about that. It's not being taken back.

ASSEMBLYWOMAN QUIGLEY: But it is only a 2 percent increase, although the cost of living is significantly more than that. And since Jersey City is still under State control, we can't tell what contracts the State will negotiate that the city will have to pay for, what expenses the State will authorize that the city taxpayers will have to pay for. There's an absolutely inequity in all of this.

COMMISSIONER DAVY: Well, the State is not going to be negotiating contracts for Jersey City now. Jersey City is in control of Jersey City. They got their governance and they got their finance piece back.

ASSEMBLYWOMAN QUIGLEY: But we're still operating under the contracts that were negotiated, and they call for significant increases which 2 percent isn't going to cover.

COMMISSIONER DAVY: You know what, that's the reason for having transition aid, and that's the reason we're doing this over a three-year period. The cost of living right now is 2.89 percent, so we're basically giving Jersey City more than two-thirds of the cost of living. Again, because of the local fair share issue, it is true that the taxpayers in Jersey City -- like many other taxpayers throughout the state -- have had to now for many years, successively -- that they are going to have to begin to contribute more or work with their local district to reduce their costs as they deem appropriate.

ASSEMBLYWOMAN QUIGLEY: Well, I understand what you're saying. But when you say they're going to have to contribute more, it's going to be extremely difficult for many of the people that I represent to

do that. They appreciate the education their children are getting, but they can't always afford their fair share, because it's not always fair.

But let's switch to a couple of other subjects. Let's go the opposite extreme. Suppose we have a town that is receiving above adequacy aid. It's deemed that their fair share is -- they're taxing more than they should be. So a tax cut is mandated, but that district is still underperforming, or the people in that town say, "We want to spend more to give some luxuries to our children in education." Are we saying they do not have the right to do that?

MS. ATTWOOD: First of all, again, this is a stabilization of a tax levy increase, because everybody is allowed to increase up to 4 percent. And this would offset that initial increase. Secondary is, there's always built in, into the tax levy cap law, adjustments that districts can submit in, one of which is exactly what you talked about -- if a district was not achieving the Core Curriculum Content Standards, they can request the Commissioner to approve a waiver and the Commissioner can also adjust a higher levy. In addition, there's about several other adjustments that they can request for various fixed costs. And lastly, a local district always has the ability to ask the voters in a separate question. So for those voters in local districts that want to continue to spend, they have ample mechanisms through this process to continue that level.

ASSEMBLYWOMAN QUIGLEY: Okay. So there's a waiver process then for the districts that are getting too much money, but there's no waiver process for the districts that feel they're getting too little money?

MS. ATTWOOD: The process I talked about is for all districts in the state.

ASSEMBLYWOMAN QUIGLEY: Let me switch to other subjects, probably with simpler answers. Adult education -- not included in this budget at all. I'm a strong proponent of adult education. Not everybody has the opportunity to make it through high school because of their own personal situation. And if we don't give them the opportunity to be educated as adults, I believe we are failing as a state. The Constitution does not say a thorough and efficient education stopping at age 18. What are we going to do about adult education?

COMMISSIONER DAVY: Well, this is a K-12 formula. It doesn't have any preschool in it, it doesn't have any adult education in it; but I think Speaker Roberts and several other members have already talked to us and committed with us. We agreed to continue to fund adult education, but it would not be funded through a K-12 formula. It will be funded separately, much like preschool will be.

ASSEMBLYWOMAN QUIGLEY: Why? Why are we going to 3-year-olds in the formula, but not going to 19-year-olds?

COMMISSIONER DAVY: Three-year-olds are not in the formula. The money that's in this adequacy model and the figures that you've seen district by district do not include any dollars for preschool. That's going to be funded separately for preschool, because that is totally State funded. So that's done differently. Both ends of the spectrum, at the other end, are done separate from the K-12. This is only K-12 programs.

ASSEMBLYWOMAN QUIGLEY: I look forward to working with you on getting more money for adult education. I think it's vital. And I have questions on only one other subject. I know the charter schools are getting more money, but why are we maintaining that artificial barrier that

was created 10 years ago to see if charter schools would fail by giving them only 90 percent of what they need? Everybody else is getting 100 percent, charter schools, which in most cases have certainly proven their value, are getting only 90 percent.

COMMISSIONER DAVY: The Charter School law provides the 90/10 split. So if there are changes to be made to that, then that has to be changed. We're just basically applying that to the new formula. What we're recognizing is that the children who are at risk need to have those additional resources provided for them as they go to charter schools. That would be a separate issue.

ASSEMBLYWOMAN QUIGLEY: Thank you.

I look forward to working with you on a couple of more pieces of legislation.

COMMISSIONER DAVY: Thank you.

ASSEMBLYMAN GREENWALD: Commissioner, a follow-up to Assemblywoman Quigley. If you could provide for the members of the Committee, I think it would be helpful -- this notion that districts are being treated differently. I think we're in this position because, by court decision maybe, districts have been treated differently. It would be interesting for the analysis to see what is the property tax impact on the Abbott districts' funding portion for education. I don't want the overall property tax, because some of that's municipality. But when I get my tax bill, the mayor has made it very clear he wants only to be responsible for what he or she is in charge of. So they give me the pie chart. And I see the big chunk that goes to public education. I'd like to see that piece for what is the difference between a Jersey City and a Camden, the 31 Abbott districts that the

Assemblywoman has pointed out, compared -- what are their average compared to the average of the non-Abbotts.

COMMISSIONER DAVY: So you want us to provide the equalized school tax rate for the communities throughout the state?

ASSEMBLYMAN GREENWALD: The property tax rate, yes.

COMMISSIONER DAVY: The property tax rate equalized. Yes, we can provide that.

ASSEMBLYMAN GREENWALD: And I want to see over the course of time, because I think what we have been told and what I think we will see, and what has driven this in some respects, is that spiral effect that we talked about before. And because the State has been obligated to pay this, we are now asking them to pay 8 percent (indiscernible) value part. And many legislators have argued that when you invest in something yourself you have greater value in it. And maybe one of the things we need to do is make sure the people understand they are now contributing to this and, hopefully, it's success.

But I would like to see what that percentage is. And I think you will see the increase on property taxes for that portion much lower than in this area. And that is part of what I think the equalization is supposed to be about; so that we can get to a foundation point, an adequacy level, and then judge these districts fairly going forward and stop the finger-pointing between the Abbotts and non-Abbotts, which has been a huge-- I mean, if you follow this dialogue, you're seeing why it's taken 30 years to get to this point. (laughter)

COMMISSIONER DAVY: We'll provide that.

ASSEMBLYMAN GREENWALD: Okay.

I feel like telling everybody to put their PowerPoint away and take out their paper and pencils -- there will be a pop quiz on the formula.
(laughter)

We're going to go to Assemblyman DeCroce, followed by Malone, Cryan, and Assemblywoman Pou.

ASSEMBLYMAN DeCROCE: Thank you, Chairman.
Commissioner.

COMMISSIONER DAVY: Good morning.

ASSEMBLYMAN DeCROCE: I'd like to ask you a couple of things. Are you prepared to come back before this Committee after the numbers-- And by the way, are the numbers out to the different municipalities at this point? They are?

COMMISSIONER DAVY: The funding -- the amounts?

ASSEMBLYMAN DeCROCE: Yes

COMMISSIONER DAVY: Yes. They're on the Web site and we've distributed them.

ASSEMBLYMAN DeCROCE: Well, are you prepared--

ASSEMBLYMAN GREENWALD: How long have they been out there, Commissioner?

ASSEMBLYMAN DeCROCE: I'm sorry?

ASSEMBLYMAN GREENWALD: How long have they been out there, for the Assemblyman?

MS. ATTWOOD: I think since the 15th, around -- December.

ASSEMBLYMAN DeCROCE: Okay.

Are you prepared to come back before this Committee if the different districts don't agree with you, because they're not happy with the numbers?

COMMISSIONER DAVY: You know what, we didn't pull these numbers out of thin air. These are generated by the formula. They're based on the actual enrollment in the districts--

ASSEMBLYMAN DeCROCE: Okay.

COMMISSIONER DAVY: --the characteristics of the children being educated in those districts. Even though those algebraic formulas look complicated, they're really quite simple. You plug enrollment numbers and you multiply based on the different weights. So unless a district has a disagreement with the number of students that they've reported to us they're serving -- and that's taken from data that the districts have reported directly to the Department of Education during the months of October and November. So I don't know what that issue might be.

ASSEMBLYMAN DeCROCE: All right, Commissioner, let me ask you the \$64 question. You say it's going to cost an additional \$580 million.

COMMISSIONER DAVY: Five-hundred and thirty.

ASSEMBLYMAN DeCROCE: Five-hundred-thirty million, right? So for three years -- it's going to cost \$1,710,000,000 for the next three years. You're saying this--

COMMISSIONER DAVY: Actually, the years going forward are a little bit different. I'm not sure that it's going to be a match of \$530 million. I don't think we know that yet.

MS. ATTWOOD: It's about that.

COMMISSIONER DAVY: It's in that area.

ASSEMBLYMAN DeCROCE: I thought you said it would be the same for the next three years?

COMMISSIONER DAVY: Well, we're going to adjust for CPI and other things. And some districts are going to not get as much of an increase as they got this year, because they may have reached their increased maximum, etc.

ASSEMBLYMAN DeCROCE: Okay. Can you tell me where all this money is going to come from? Because we haven't heard from anybody where the executive branch apparently is planning to receive these moneys to put into this budget.

COMMISSIONER DAVY: Well, the Governor has indicated that in his calculation of the budget deficit for Fiscal '09 that he has included this amount of money or thereabouts in it as part of the deficit. And so, as he presents his budget for the next fiscal year, funding to support the funding formula will be included. I think if you look back over the last several years, we've always had increases for school aid. The question in the past has been: how are those increases distributed to districts throughout the state? When we did not have a formula, it was not distributed through a formula. But there have been increases I think just about every year since CEIFA was instituted, but CEIFA hasn't been run for the last seven, and so the aid has not been distributed through a formula.

ASSEMBLYMAN DeCROCE: So you're saying that the roughly \$3.5 million deficit we're facing -- this money is included in that deficit number.

COMMISSIONER DAVY: I think the Governor said \$3 billion. And I think, yes, the \$500 million-plus is included in that amount.

I'm sorry?

ASSEMBLYMAN GREENWALD: Let's not make it worse.
(laughter)

ASSEMBLYMAN DeCROCE: We'll see.

Okay. One other question. There are about 200 towns that are getting the equivalent of about \$10 or less on their quarterly bill. That's really not a lot in the area of tax relief. And how do you know that the districts are going to be able to show adequacy so that they get these \$10 bills on each quarter?

COMMISSIONER DAVY: I'm not sure I understand your question. I think that this is a wealth-equalized formula. It continues as a wealth-equalized model. That's what we've had in New Jersey in the past. It's calculating the adequacy budget quite differently than we have in the past, but it's a wealth-equalized model. And there's an understanding that every community does contribute a portion of the cost of providing an education. And wealthier communities are expected to contribute in a comparable way, based on percentage of property wealth and income, as every other community in the state. And that really means that those wealthier communities are not going to see as much aid from a formula like this as those that are not as wealthy. The lower- and middle-income communities certainly see the greatest increases that are generated by this formula. I think we've been very up front about that.

ASSEMBLYMAN DeCROCE: I think you have, but I don't know that I necessarily-- I may want to talk to you privately about some of

these numbers, certainly in my district. But that was a concern that I had, because \$10 a quarter just doesn't seem like a lot of money on a tax bill -- it's \$40 over the year. It's not much. So for tax relief purposes, this is a big problem. Somebody mentioned it here -- the biggest problem we face is tax relief in the State of New Jersey. Just as you see these towns that are getting 2 percent -- there's approximately 200 of them -- aren't going to be seeing a lot in the area of tax relief.

COMMISSIONER DAVY: I think that what we're trying to do here is make sure we have a formula that provides adequate resources to every community and that we do it based on the community's ability to contribute locally as well. There's an assumption here that there's a local contribution and a State contribution. As I indicated earlier, New Jersey already provides more State aid per pupil than every other state in the country except for Alaska, Hawaii, Delaware, and Vermont. And so we're already, on a per-pupil basis, providing a significant amount of State aid.

ASSEMBLYMAN DeCROCE: Let me ask you the last question I wanted to ask at this point. How do we obligate future legislators to pay this money? Because this is what we're planning to do. If you're telling me that for the next three years you're figuring this roughly about 500-plus million will be put into this formula, how do we obligate the third year to the new Legislature? How do we do that?

COMMISSIONER DAVY: I think every time the State adopts a funding formula we're really doing the same thing. And this was done under CEIFA, back in '97, and it was done with QEA back in the early '90s, and it was done in the formulas that preceded that. We can't obligate a future Legislature. What we have is a formula. And what we've told you is

that in order to implement the formula it will cost X dollars. I think the Governor has been very clear that he's committed to funding the formula and will work with the Legislature to help make that happen. As I said before, there have been increases for school aid in every budget, you know, I think as far back as any of us can remember. And the question is, do we have a formula through which that aid and those increases get distributed, or do we do it on an ad hoc basis? And a formula -- having a workable formula, a single, unified formula, gives us an opportunity to have a way to distribute the aid and those increases in a fair and equitable way across the entire state.

ASSEMBLYMAN DeCROCE: Thank you, Commissioner. Thanks.

ASSEMBLYMAN GREENWALD: Commissioner, following up on Mr. DeCroce's point there, and one thing that is interesting. Again, I think we know our district's the best. A town that I represent was considered one of the wealthiest towns when the *Abbott* district decision came down -- Cherry Hill. It's a town that has gotten very little increases in State aid over the last 15 years. About 9 percent of its budget is State funded, the rest comes from the property tax base. By readjusting this formula and taking another look, you see a migration of residents from four communities that have relocated to Cherry Hill. They are receiving a 10 percent increase because of the change in dynamic.

Other towns -- the town that I live in, Voorhees, when you run the formula they get a 2 percent increase. And I think that is the equalization of this. It is readjusting the funds based on current day conditions, which we had not had. And that's why I've asked you privately,

in our meetings -- we need to be able to back up those numbers and show the evidence that document those numbers to prove its case, that this is truly based on money following the student.

COMMISSIONER DAVY: We're working on a district-by-district print-out. We're still kind of -- what would you call it? -- putting the finishing touches on it. We expect to have that shortly, per your request.

ASSEMBLYMAN GREENWALD: Assemblyman Malone, followed by Cryan, followed by Baroni.

Thank you, Commissioner.

ASSEMBLYMAN MALONE: Thank you very much, Mr. Chairman, Commissioner. And I would also like a copy, Lou, if you get that copy. I'd appreciate it -- a copy of that material.

ASSEMBLYMAN GREENWALD: Joe, when I receive that, we're going to share it with every member of the--

ASSEMBLYMAN MALONE: All right.

ASSEMBLYMAN GREENWALD: I've already asked the Commissioner to make sure that she distributes that. I just want to have an understanding of it, so -- more educated on that.

ASSEMBLYMAN MALONE: Commissioner, thank you for the time you spent the other day on the phone. I guess one of my major questions is, how do we explain this inside baseball process to the average person on the street? Because really, as Assemblywoman Quigley said and others, it is very difficult to try to translate this information into a two-, or three-, or four-minute conversation with a person on the street. And if our intention is not to be able to do that, I think we've accomplished that task.

If it's our duty to try to come up with an explanation, I think we need to find a way, through the Department, to come up with a way of explaining this formula in a way that the general public can understand what we're trying to do. In real terms, I could ask you, for Jackson and other communities, why are they receiving, what they're receiving, without getting into too much jargon, without getting into too much in-the-weeds kind of stuff. People just don't want to hear about that. They want to know why are their towns and their school districts getting what they're getting. So if we could work on that, I'd really appreciate that in the next couple of weeks.

COMMISSIONER DAVY: We actually have that in the works. What it really amounts to is, each district's adequacy budget is calculated based on the profile of the students, and that's whether there's free- or reduced-lunch, LEP, etc. And we will provide a community-by-community sheet that includes those figures -- the population numbers, the student enrollment numbers; and then how the adequacy budget gets calculated, and then the fair share, how that's gets calculated.

ASSEMBLYMAN MALONE: That leads me to the next question, Commissioner. The individuals who determine the adequacy number were the professional judgment group that you had. Can you get -- supply us with the material that they used to make the determination as to what that number should be for the elementary school, for the middle school, and for the high school, so that-- Hopefully, it's not three inches thick. But if there's a summary sheet as to how your panel of experts got to the position of understanding how they came up with the proficiency number, I'd appreciate it.

COMMISSIONER DAVY: Well, let me say this. They did not come up with the figure. They did not come up with the number. What they did was determine the resources -- how many teachers, how many aides, how many reading specialists, how many principals, etc.

ASSEMBLYMAN MALONE: Then who put the dollar amount to that number?

COMMISSIONER DAVY: Then the Department staff took the -- based on actual salary figures of what we pay these folks today, applied those numbers. That, sort of, Phase II of the process. Remember from the PowerPoint, Phase I was determining what the resources were, and then Phase II was costing it out. And that's all in the report, this one.

ASSEMBLYMAN MALONE: Okay. So you took the data that you got statewide and backed into a number for the adequacy number?

COMMISSIONER DAVY: I don't think I would call it backing it in. If it said six teachers, we put in the average teacher's salary into the teachers. If it said three aides, we put in the aide salary.

ASSEMBLYMAN MALONE: So the expert panel determined that per number of children you need six teachers to be able to do what they need to do to be able to educate.

COMMISSIONER DAVY: Yes. For all the resources, whatever they were.

ASSEMBLYMAN MALONE: Okay. All right. Okay.

Whatever information you could supply on that, I would appreciate. Okay?

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN MALONE: The security aid that we will be supplying to school districts -- if the security is not used-- Is it required to be used totally for security, or can a school district make the determination, "I need" -- use 50 percent of it, and the rest of it can be used--

COMMISSIONER DAVY: It is not restricted. It can be used in any way.

ASSEMBLYMAN MALONE: If, in fact, it is not restricted, what is the basis for even doing it if it is basically a slush account or a non-determined cap account?

COMMISSIONER DAVY: Well, all the money that we provide is unrestricted. None of this goes into buckets and you're told, "You can only use the money in this bucket for this." I think what it is, is a recognition that in every community there are issues around school security. Certainly the work that Director Cañas has been doing with the County Prosecutor's Offices and the county superintendents, and all of the superintendents in turn -- all the work that we've been doing -- I think there's a recognition that every district has some security issues that need to be addressed. And this is a means of providing that to every school district. If they've already purchased cameras with their own taxpayer dollars, well then they don't need to buy cameras. Then maybe they will use this for something else that they didn't buy before because they spent their money on cameras. If they want to put a buzz-card system in or a swipe-card system, to know the comings and goings of folks in and out of the front door, they could do that as well. Some of the high schools actually have students now with IDs, where the kids buzz themselves in. And so they know who's in attendance, etc.

ASSEMBLYMAN MALONE: Do we, at the State level, have a particular protocol for safety within the State of New Jersey that this number is linked to?

MS. ATTWOOD: Well, this number was linked to the professional judgment panel that came up with it.

ASSEMBLYMAN MALONE: Okay. But there is not specific security protocols in the State of New Jersey that is mandated by your office?

COMMISSIONER DAVY: Well, there are lots of security protocols in place that we've been working on with Director Cañas, and the State Police, and the Attorney General's Office. There's been a whole review. Actually, when Governor Codey was in office, he started that review, building by building, of safety issues. So there's a lot of protocols in the way we want districts to both check for their security issues as well as prepare teachers and students for security impacts.

ASSEMBLYMAN MALONE: Because I remember when we did-- Because I think you were there when Cañas and the Governor came to a school in Bordentown about the Comprehensive Security Plan. And what I would think would be something the Department should take a look at, if you're going to give money for security -- you should have to implement that security plan that you've adopted, and that money should basically-- And I fully understand that there are some schools that may need different types of security for different reasons. So I would hope that the Department look at the uses and the utilization of those moneys in an appropriate fashion, to make sure that the security protocols are met in the particular school districts that need the security. If you're going to give

more security money to the children that are at risk, it's obvious that the security needs in those buildings must be greater. So we should make sure that they are being implemented to protect the children, that's all.

COMMISSIONER DAVY: Well, that's part of the role, certainly, of the county superintendents in implementing CORE. But also, just recently, we issued a new memorandum of agreement that has to be entered into between local school officials and local law enforcement. And that again was done in collaboration with Director Cañas, and Attorney General Milgram, and the Department of Education. It is a requirement, really, for them to have a plan together -- local law officials and the school officials -- to address these kinds of security issues. So there is a requirement that they put some of these measures into place, and there's an agreement that has to be signed. And there are expectations and requirements for districts under that agreement. Our county superintendents have been involved in that process as well, and we'll continue to monitor that. We're very concerned about security, absolutely.

ASSEMBLYMAN MALONE: The information you gave us about the preschool situation -- and I think it went back to somebody who asked a question about the age of 3 and 19, and whether it's preschool or adult education. The cost of preschool and mandating -- explain to me who is required to have preschool at this juncture, based on the new formula?

COMMISSIONER DAVY: Well, the new formula will contemplate that, within six years, districts will make available -- we're not going to mandate it. You can't require parents to send their 3-year-old to school. We're going to require districts to make available high-quality

preschool opportunities for every at-risk child, free- and reduced-lunch eligible.

ASSEMBLYMAN MALONE: In many communities, where are they going to find the facilities and pay for the teachers to be able to house these school facilities for preschool children? This is going to be an immense burden on many school districts to house them and have properly certified people taking care of these children. Has that been factored in, in any way, shape, or form, in this formula?

COMMISSIONER DAVY: Well, it's one of the reasons there's a six-year phase in. What we've done is really looked at our experience in implementing high quality preschool in Abbott districts. And it took about five years to get that fully up and running with certified teachers and age-appropriate, researched-based curriculum, etc. So it would be our expectation that it would take a similar amount of time. Again, we're not going to require that districts build a building to handle preschool. They can do this in partnership with existing providers in the community. They can do it in partnership with the YMCA. What they'll have to do is make sure that it meets the kind of quality standards that we have been able to produce in Abbott districts. And we've done that in partnership with the Y, with Head Start, with community providers, and in-district programs as well.

ASSEMBLYMAN MALONE: Ramping up, starting this year over the next six years, what do you estimate the cost will be for this new initiative of preschool?

COMMISSIONER DAVY: The total increase in the cost -- because there are dollars right now already being invested for many of these

children -- whether they're in Abbott pre-K, some of them are in ECPA programs, some of them are in Head Start, etc. -- is about \$310 million more, when it's fully ramped in six years from now.

ASSEMBLYMAN MALONE: Okay.

Have there been any provisions made in some of the areas that have pilot properties, as to the fact that the pilot properties do not pay school tax? Is there a factor as to community obligation to pay for the schools if, in fact, they have pilot projects or programs within the community?

COMMISSIONER DAVY: That's not included in here, although I know that Commissioner Doria is looking at the pilot agreements throughout the state. He's actually collecting data on that.

ASSEMBLYMAN MALONE: So theoretically, a rich person who may be living in a pilot project, in some cases, could be paying less than their fair share of educational dollars into -- whether it's Newark or Bordentown, or anybody, anyplace else? If there's a wealthier person living in a pilot project--

COMMISSIONER DAVY: Well, their income is included in the calculation, but if the property is a pilot project, then it's not included in the property wealth calculation.

ASSEMBLYMAN MALONE: Okay. But there are also towns losing those tax dollars. Forget your formula, they're losing school tax dollars also.

COMMISSIONER DAVY: The town, if it's a pilot project -- my understanding is, is that the town does not collect the school tax on the

property. It collects a payment in lieu of taxes. I think that's why it called a *pilot*.

ASSEMBLYMAN MALONE: Okay. All right.

So there's no provisions in this thing to take a look at the pilot issue?

COMMISSIONER DAVY: There are no provisions in the funding formula to do that, but I know the Governor and Commissioner Doria are already looking at that.

ASSEMBLYMAN MALONE: Somebody else asked if we are intending to go to court to get the prior approval on this so that we don't have to go and drag this thing through the mud for the next six to eight months.

COMMISSIONER DAVY: Well, I think that when we went to the court back in May of 2006, and we represented to the court that we would come forward with a new funding formula, there are court decisions sort of on the books right now, and this would--

ASSEMBLYMAN MALONE: Okay. But it's my understanding, through talking to you and the Governor, that you're going to initiate a revisiting of the new formula to the Supreme Court to avert additional litigation over the next year.

COMMISSIONER DAVY: I think that we have to take the formula to Court, because right now we don't have a formula and the Court has to decide if it's constitutional or not.

ASSEMBLYMAN MALONE: That's good.

And this is another request I made, and this is my last question, Mr. Chairman. If we could have a list of all the communities in the state

and what they're paying on a per-pupil basis for education within their school districts?

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN MALONE: Okay.

Mr. Chairman, thank you very much.

ASSEMBLYMAN GREENWALD: Commissioner, just-- A pilot program, they are making payments in lieu of taxes. Call it a tax, call it a payment, but it's a deal that's been negotiated by a local governing municipal body, correct?

COMMISSIONER DAVY: That's my understanding, and it's permissible under existing law. I don't know that much about them.

ASSEMBLYMAN GREENWALD: If those individuals are paying income taxes, if they are wealthy individuals, then they don't -- they're not allowed to forgo their income taxes. And that comes to the State, and the money here is paid for primarily through income taxes.

COMMISSIONER DAVY: Yes. And their income is also factored into their community's wealth calculation.

ASSEMBLYMAN GREENWALD: Right, okay.

Assemblyman Cryan, followed by Assemblywoman Pou, and then Senator-elect Baroni.

ASSEMBLYMAN CRYAN: Thanks.

And good morning, Commissioner. A lot of what I was going to ask, to be candid, was done by Assemblyman Malone. I also want to follow up on the pilot to begin with, and also use abatements as well. Not just pilots, but there are, in some cases, abatements that we should also factor in there as well -- which may have a positive outcome for a particular area --

that others have contributed as a result of that, in terms of school formula, and aid, and so on. So I'd ask that you include that as well. I also think, to both Chairs, that we should explore that consistently, maybe through legislation, to make sure that that's something that we understand every year -- as to what we're paying as a state in terms of equalized property value. That's something we should know. It's part of the Budget Committee when we look at aid and other things to cities. That was a suggestion.

COMMISSIONER DAVY: Assemblyman Cryan, if I could just clarify. I don't have the information on pilots and all that.

ASSEMBLYMAN CRYAN: I know you don't.

COMMISSIONER DAVY: Oh, okay.

ASSEMBLYMAN CRYAN: I know you don't.

COMMISSIONER DAVY: Okay.

ASSEMBLYMAN CRYAN: I understand that. But the deal is, is that we allow municipalities to provide either pilots or abatements -- sometimes good, sometimes bad -- but the rest of the state, at least through an education formula, gets to pay that formula. And at some level or another that's -- you need to factor everything in when we ask whether something is fair or not. That's all I would say.

That being said, I wanted to go back to-- I really want to explore the preschool issue, but I wanted to go back to the 9,649, which is the most fundamental number in this. I know you've gone over it, and I read most of this stuff. But I still -- could you, one more time, Lucille -- 9,649, which is the base number for everything for the elementary school.

How is that actually derived? Which I know you've gone over it a couple of times, but I still don't--

MS. ATTWOOD: Well, the details of actually how it totals into that number is an appendix in the report. And it was derived by -- I can give you the exact page if people have the report with them. The details of that number start on Page 34 of the report.

ASSEMBLYMAN CRYAN: Page 34?

MS. ATTWOOD: And actually, on Page 35, you'll see it all added up on the left-hand column under *elementary*--

ASSEMBLYMAN CRYAN: Right.

MS. ATTWOOD: --and how it totals to the bottom -- of 9,649.

ASSEMBLYMAN CRYAN: Okay.

MS. ATTWOOD: And the first column on this table, which indicates the number of resources -- those were the items that the professional judgment panels identified. Not the costs, but the number of teachers, as well as some of the additional costs you see at the bottom -- supplies and materials, etc.

ASSEMBLYMAN CRYAN: Right, okay.

MS. ATTWOOD: And then the second column, the unit cost, or the other costs, are what the Department applied based on the most recent information, as we said, on mean salaries. That unit cost also includes the benefits that were added on, not at a 20 percent allocation as we originally had, but on a -- allocating based on percentages and health benefits. And the detail of that actually is another appendix.

ASSEMBLYMAN CRYAN: Right.

MS. ATTWOOD: And then the total cost is in the right, and you add them all up. And you see the total school cost -- we add in the total district cost, which is actually on the previous page, totals that 1,994 -- and that comes up with your base amount.

ASSEMBLYMAN CRYAN: The weights -- you know, this formula is really 9,649 in weights. Again, one more time -- because that's really what it is -- take me through how the weights were actually determined. And I'll refer you to your own PowerPoint, Page 13, or even the page you're on -- the Limited English Proficiencies at 0.50. Can you take us through each of the weights in terms of how they were determined, because this is the formula really, right?

MS. ATTWOOD: Well, I think it's important to also mention that-- Because if you look at Page 36, we can look at actually the LEP weight. Because the professional judgment panel LEP weight actually was 0.47, although we came up with 0.50 -- is the recommendation for the weight for that particular category. And that was due to comments we've received as well as the Odden report of 0.5 weight, even though the PJP panelists were actually below that. But you'll see how the 0.47 was determined, again by resources and then costed out. And then you compare -- once you've costed out those additional resources for those LEP students, you compare that to the regular student and the difference is the weight. So the PJP panelists came up with 0.47 as the weight, the recommendation is 0.50.

The same can be held true for the at-risk weights, which gets a little bit more complicated on the next page, on 37, because it does change based on concentration. And it goes to actually two pages -- Page 37 to

Page 38. It details it out. But again, you'll see that the PJP weights for the at-risk concentrations were lower than the recommendation. In fact, the highest PJP weight, it looks like, was 0.46. And our recommendation is 0.47 to 0.57, based on concentration.

ASSEMBLYMAN CRYAN: Can you explain to me -- as I look at Page 37 and 38, for example, security guards are in here, but yet there's a separate security formula.

MS. ATTWOOD: That's a very good point. They're actually-- You can't see on here, but on the Web page-- They are on here because the PJP panelists identified them, but we didn't add them into the total. They are pulled out of these totals, and that's how we calculated the base \$70 per pupil, as well as the concentration increase to the 406, based on increases and at-risk concentration. So they're on here for illustrative purposes, so you can see it. But you'll see that they are backed out, they're not included in the totals.

ASSEMBLYMAN CRYAN: For example, looking on Page 37, bottom right-hand corner, a million twenty-four: there's the 331,000 for security guards -- is not in that addition?

MS. ATTWOOD: I'm trying to think whether it's in there or it's backed out later. But in the final number, it is not in the addition. I'd have to look at this. Let me--

ASSEMBLYMAN CRYAN: Is there any other listings that you put into the weights and/or the base formula that have been added on as a different aid calculation later, like security? Is there anything like that in these?

MS. ATTWOOD: We added in the district-wide -- I think it was in the PowerPoint, for instance, a \$20,000 for professional judgment, as well as one coach and facilitator per school. And those were added into the district-wide resources.

COMMISSIONER DAVY: Those came out of the Odden report, that was one of the recommendations that he made in that -- well, actually, the panel of three made in the report. And again, working to ensure that we're addressing what the court has asked us to do in the Abbott decisions, a lot of the adjustments were made to make sure that we were addressing all of those issues.

ASSEMBLYMAN CRYAN: Now, in the formula, if this Legislature adopted it, is there any flexibility in this legislation to change the weights? Do you have any discretion later? Does anybody else have any discretion? Does the State Board?

COMMISSIONER DAVY: What we're providing for is a revisit -- you revisit what goes into the adequacy model, every five years, although I think the first time it's after three years, and then every five years thereafter. And actually, that may be a change that we're going to propose -- to do the first one after three years, and then every five years thereafter. We're trying to do the five-year tie-in to the census information so that we can do cost changes and that kind of thing. We will, every year, adjust the district enrollment numbers, and rerun it, and make CPI adjustments, and that kind of thing. But in terms of saying that this model said 22 teachers were necessary, and maybe we find out that really it's better to have 24 teachers, you'll do that after three years the first time, and

then every five years thereafter, where you'll revisit the actual resources that get included.

ASSEMBLYMAN CRYAN: Okay. One other question on this, and then I want to go to preschool. In Section 4, the State Board of Education shall review and update the Core Curriculum Content Standards every five years. Do you do that now, or does the State Board?

COMMISSIONER DAVY: The State Board does.

ASSEMBLYMAN CRYAN: The State Board does it. Because I'll just make it -- this is an editorial. Having gone in front of that Board a couple of times, where they don't ask you any questions and they don't take any of your input, I sure as hell hope somewhere along the way we change that process. Because that is a brutal, brutal process there with that State Board. It's, frankly, arrogant. They just take your statements, and then could care less and don't do any follow-up. I sure hope, as we take a look at this process, we fix that as well.

Let me switch you to Page 16 of the bill. You have these numbers elsewhere, too. It's on preschool, which is what I wanted to focus on. It's Section D, 16, 4d -- the 2009 preschool per pupil aid amount shall be 11,506 for in-district, 12,934 enrollment in a licensed child-care provider, and 7,000 in Head Start. First of all, the difference in those numbers is staggering. As we've talked, and you said to Assemblyman Malone, the idea here isn't to build new buildings for preschool. The idea is to use the proper facilities. I was hoping you could comment on these costs, because they're so far -- they're much higher than 9,649. I know it's preschool, but do you think that there should be some level there? Could you comment on these costs? And also, as you see moving forward, is there

a percentage that we should look for as to how many kids should be in a licensed child-care provider, versus Head Start, versus the others, and what kind of weigh factor that has?

COMMISSIONER DAVY: Well, let me start by, that this is an at-risk program in and of itself. So that 9,649 is based on a regular ed pupil. This is considered at risk. This is for children at risk, right?

ASSEMBLYMAN CRYAN: Right.

COMMISSIONER DAVY: I mean, that's what it's intended for.

ASSEMBLYMAN CRYAN: Right, this is the at-risk group.

COMMISSIONER DAVY: So this really matches more to the upper end of the resources for at-risk kids at the upper grades. These numbers are based on our actual experience in providing preschool in Abbott districts to this point. There is a little variation between in-district and provider programs, because there's some things that districts don't pay for directly. We pay for some things for districts directly -- FICA, PERS, and things like that. They don't often have rental costs, where a provider might have rental costs. There is definitely a difference in the cost, but there is also -- one could say there is benefits as well. If they're not enrolled in the State Pension System, they're not going to get a pension down the line.

ASSEMBLYMAN CRYAN: Oh, I understand.

COMMISSIONER DAVY: You know what I'm saying, there's lots of variations. Right now it's 15 children per class, that's the way it was designed. I think that the -- certainly class size is an important element to us. Head Start has as many as 18 students in a classroom. So it's one of

the things that I think we need to look at, because we certainly don't want to have a problem where Head Start programs are not eligible to be part -- especially if they're going to have certified teachers. The critical piece for us here--

ASSEMBLYMAN CRYAN: But there's nothing in this bill that mandates class size, right?

COMMISSIONER DAVY: No, no. Anything that we do around the program provisions will be done through regulations, and those are going to parallel, to a large extent, what we've done in Abbott districts. We just want to ensure high quality.

ASSEMBLYMAN CRYAN: A couple of other questions, and then I'll finish up. You mentioned that all the aid is going to go into a district in one bucket. Is that right?

COMMISSIONER DAVY: The K-12 aid will go in in one bucket, yes.

ASSEMBLYMAN CRYAN: K-12 aid.

COMMISSIONER DAVY: Not preschool.

ASSEMBLYMAN CRYAN: How do you audit that? How do you-- You know, when you send everything in in one pile, how do you follow up?

MS. ATTWOOD: I mean, that's the importance of the accountability provisions and the outcomes. I mean, the whole CORE and QSAC is looking at outcomes in a school district. And when the outcomes are doing well, or not doing well, that's when you would look at the specific expenditures. But in New Jersey, we have historically and we continue to provide the aid on an unrestricted level, and it reduces the burden some of

having to track specific expenditures or specific revenues. They still have to provide the outcomes, and that's what's critical on the accountability side.

ASSEMBLYMAN CRYAN: When I read this thing -- and I'm not going to tell you I understood all of it, but the accountability portion of this in this formula -- I mean, can you define that for us?

COMMISSIONER DAVY: Well, we believe that there's other laws. This is not standing on its own.

ASSEMBLYMAN CRYAN: Right.

COMMISSIONER DAVY: That between CORE, and QSAC, and the School District Fiscal Accountability Act that the Legislature has already put--

ASSEMBLYMAN CRYAN: Right.

COMMISSIONER DAVY: --all these pieces in. I think there's a reference in here to those acts in a brief statement. But with -- QSAC really governs how districts are monitored now, and what happens if they're not performing at levels they need to perform at; and also provides us with an opportunity to direct how resources are spent and that kind of thing. Similarly with CORE, I think you've given the new executive county superintendents a great deal of authority with respect to how dollars are expended.

ASSEMBLYMAN CRYAN: I want to follow up, and then one last point on this bill. And that's in the last sentence of that page, 16: "shall appropriate preschool aid in a special revenue fund for expenditure. In the event that any preschool aid is not expended during the budget year, the aid may be carried forward." Why?

COMMISSIONER DAVY: Go ahead.

MS. ATTWOOD: Well, first of all, that's a -- it's a special revenue fund, so that's-- It's actually what the term of -- carrying forward and keeping the moneys. But the aid certainly -- there's a couple different components. If, in fact, the school district has been paid for 20 kids, for instance, and they only receive 15, just like every other aid category of additional aid, that will be adjusted in a subsequent year, and the aid will be adjusted, as I just said. However, if the school district was able to provide for 20 kids -- the provision for those 20 kids, but at a lesser cost, they're going to be able to keep those funds and be able to either augment their K-12 program or to be able to extend to other preschool kids who are ineligible. So in other words, if they could provide this in a more efficient manner, those moneys are going to be able to be held for them to be able to provide and supplement their other programs.

COMMISSIONER DAVY: We want to promote efficiency here. Because we don't want to penalize them. And as Katie said, we will adjust if they wind up not serving, which is what we've been doing now with Abbott districts.

ASSEMBLYMAN CRYAN: Okay. Two other points -- one on the CORE and then one on the final-- The CORE -- say in transportation aid, and I'll give you an example. Three out of four communities couldn't be any more happier with this formula -- Kenilworth, Roselle Park -- these are rim districts that -- they're finally starting to see, you know-- And as we talk about inside baseball, or any other baseball, the sport I hear around my district -- in the last couple of weeks is, "Hey, about time," is what I'm hearing. "How about some fairness out there?" in some cases. Obviously, I have a concern with an Abbott district, Elizabeth, as well.

But the CORE and the county superintendents -- like when you get to transportation aid, there's no reason for us to have transportation in all those districts -- in a commonsense, logical manner -- when you're geographically the same way as we are. We're tightly packed. Is there anything -- I didn't see it -- but is there anything in the formula here, or as a result with CORE, that incentivizes or makes -- use transportation as a basic thing -- makes it more efficient? That we don't -- shared services, for lack of a better way to put it, inviting these things -- is there anything in here with that?

COMMISSIONER DAVY: There's nothing in here yet. That's one of the things that CORE requires the new executive county superintendents to look at. And it's one of the areas that we actually held some meetings on during the Summer. And we got buy-in from stakeholders and from legislative members who attended those meetings -- an agreement, really, that we ought to look at a more regionalized transportation delivery system. We have some really good examples of this around the state right now. There's a couple of good ones up in Warren and Morris counties. Some real nice things going on in Bergen and other places.

What we wanted to be able to do was bring all that information together after we gather it county by county, and then present a means of really doing transportation radically differently. What we thought was, for all students transported out of district there ought to be coordination, whether it's to nonpublic, charter, vocational, you name it. This is a non-instructional area. We ought to spend as efficiently as we possibly can in that.

ASSEMBLYMAN CRYAN: And you believe that this formula will also limit-- Because some of the percentages are like, in the bill, some of the percentages are really high. Like on Page 12, the average classification rates -- it's on the bill on Page 12, which are phenomenal. Special ed -- I mean, 14.69 percent of general service pupils will be classified. Right?

COMMISSIONER DAVY: That's how we do the special education census calculation. And that is based on the actual current State average special ed classification.

ASSEMBLYMAN CRYAN: I don't have anything that backs this up, but a lot of people feel that kids get classified in special ed rather quickly. I don't have any data that backs that up, except talking to parents and administrators alike, who see a pot of money in special ed. You mentioned earlier that this formula now basically deincentivizes people to do that. I didn't understand when you said it, because looking at the formula it's all weighted based on classification. So could you explain that?

COMMISSIONER DAVY: Well, we think it removes the incentive because it's based on an average amount. So if you want to classify twice that number of pupils, we're not going to provide you with twice the aid for that. You're going to get a pot of resources based on the average cost to provide the services and the average number in the state. Now, if you have a lot of low-end students, so children who may need just a little bit of extra help during the class day, you may be able to classify twice as many students and still provide that within the budget. Similarly, if you have a lower classification rate, but they're a higher end, you may need the

full pot, even though you have 8 percent classified rate, as opposed to the 14.69.

ASSEMBLYMAN CRYAN: So the district that talks about where they get a kid, a child, mid-year who costs a fortune, right or wrong, \$40,000, \$50,000, \$60,000, this formula will deal with that.

COMMISSIONER DAVY: Well, that is a different issue. Because the extraordinary aid for the more severely disabled student, the high end--

ASSEMBLYMAN CRYAN: Right.

COMMISSIONER DAVY: --students is done on a reimbursement basis. It's categorical aid, but it comes later in the year. In fact, we haven't even done it yet for the current school year. We haven't calculated the extraordinary aid yet. That gets done in March. So there will be adjustments for that, for the extraordinary category above and beyond what's into this 14 percent times the average per pupil amount.

ASSEMBLYMAN CRYAN: Okay. I know I'm out of time.

NJ SMART, is that a big help for this formula, or does it matter at all here?

COMMISSIONER DAVY: Well, I think it's a help for a lot of reasons, not the least of which is collecting the data, obviously, in the student population, knowing where children are when they move from one district to the next, but also in terms of following outcomes and looking at progress, and being able to find out -- does preschool really make a difference when kids get to third grade to fourth grade to eighth grade, etc. Yes.

ASSEMBLYMAN CRYAN: I'll ask, through the Chair, that we get -- as you get it, can you show us, as people who have to now come up with a half a billion bucks-- I can't wait for this budget. I mean, this is going to be some ride over the next few months, to put it mildly.

The outcomes are what-- I don't want to pass this bill and then not see outcomes. I want to be able to get that as a legislator and understand it -- that what we're doing is providing not just dollars, but results. And I guess what I want to ask, through the Chairs, is that, as on an ongoing basis, that you provide that to the Committee at some level that we can understand; that the investment we're making today and the investment we will make is going to show some results as a result.

COMMISSIONER DAVY: Absolutely. We have that data on preschool for some districts that were counting and kind of classifying all of this before we had NJ SMART in place. So we've got some of that that we can show you right away.

ASSEMBLYMAN CRYAN: Like West New York and some of those towns are really big on that. It's the old (indiscernible), there's no stop with this, as the sixth graders at West New York test just as well as the sixth graders in Far Hills, which is one of the most amazing statistics that I've seen.

COMMISSIONER DAVY: We have some very impressive results. When this money is well invested, we'll have great outcomes.

ASSEMBLYMAN CRYAN: Thank you. Thank you, Commissioner.

COMMISSIONER DAVY: Thank you.

ASSEMBLYMAN CRYAN: Thank you for your work on this.

COMMISSIONER DAVY: Thank you.

ASSEMBLYMAN GREENWALD: Assemblywoman Pou, followed by Assemblyman Baroni, Diegnan, and Voss.

ASSEMBLYWOMAN POU: Thank you, Chairman Greenwald.

Good afternoon, Commissioner.

Let me begin. I'd like to take us -- I'd like to do this in a certain format. I'd like you to turn your attention to the package that you referred to earlier, that Assemblyman Cryan was speaking -- was referring to, Page 30. I want you to turn to Page 34, though. And in Page 34, I'd like to use the example, just kind of staying on that same topic here, the cost per student. And I'm just going to use your exact same formula that you talked about. And I'd like to ask that we focus on the high school category just for the purpose of our example and our discussion. In your appendix in Table 2, it talks about resources and base costs. The high school -- you used an average high school model, of an average student population, of 1,640. In those school districts, and I will use the city of Paterson as being one of the largest within my district, we have several high school model school districts. We have a school that is well beyond the 1,640 -- I'm not referring to that particular school, because I understand how the math-- All we do is go along with the formula. I understand how the math is done. I'd like to, however, use the example of a smaller high school, with a smaller or lesser number of students. And even if -- and we're not talking -- I'm just going to use the (indiscernible) -- we're not talking about additional growth in population. We're talking about the same student population. We're not talking about the equal number of actual

schools. We're talking now about a brand new high school. The way this formula and the way the model, the calculation is tabulated, it would provide you -- if I did nothing but apply the formula -- it provides you with a cost per pupil for a high school with that, but it does not provide you with the overall expenditure of opening a brand new high school. In particular, we have the new high school that is about to open -- I believe now it's September, the coming year -- the International High School. It's a smaller high school, 530 students that's going to go into that school. And how does your model, based on the actual cost, provide for-- Again, I'm not talking about additional students. I'm talking about making sure that our overcrowded classroom size, students that are being transferred to one existing overcrowded school to the new school -- how are they to provide for the necessary administrative costs and the operations of a new school? And I'm not including costs that we know falls under the Schools Construction category -- I'm not talking about equipment. I'm not talking about all the things that go into classrooms -- desks. I'm talking about an administrator. I'm talking about a counselor; I'm talking about custodians -- all of the resources that it takes in the opening of a school, of a new school.

COMMISSIONER DAVY: Let me say two things. First of all, we have in the past provided adjustments or aid for the opening of a new school, for costs that are sort of one-time cost adjustments. So I would anticipate that we would do something similar to that going forward, although I don't think that's yet determined. But we've done that in the past, and I would anticipate that we would continue doing that.

Secondarily, what I would say is that--

ASSEMBLYWOMAN POU: Commissioner, I'm sorry, if I may just-- So is it true that that particular -- the example, or the question I've just asked, that particular matter is not referred to or dealt with or implied in this new legislation that you're proposing?

MS. ATTWOOD: Well, I think what the Commissioner is talking about are the incremental increases that occur when you're opening a new school facility. What is implied in here is that the resources for those children -- and I understand what you're talking about but -- because they may not be needing that extra principal, even though they have the number of kids that would support that extra principal, because they don't have the school. But they are being funded as if that extra principal is there. So when that school--

ASSEMBLYWOMAN POU: No. Tell me how that's happening right now.

MS. ATTWOOD: It's based on the number of students. For instance, a middle school of 400 students would receive-- I'm sorry. Elementary school, 400 students, would be allocated one principal under the formula.

ASSEMBLYWOMAN POU: Right.

MS. ATTWOOD: So if that elementary school was an 800-student school, it would actually be allocated money for two principals.

ASSEMBLYWOMAN POU: That's not what I'm-- I'm using the converse example. I'm using the reverse example. I'm sorry. I'm saying if you use your model -- and I'm just going along with everything you're saying. If we did nothing but use the mathematical figures that you're referring to, and you're using the model of average high school enrollments,

student enrollment, of 1,640; and of that 1,640, the personnel that you're referring to, at the administrative recommended model, by your professional panel -- whatever? -- your professional judgment panel suggested, then how-- And I'm using a smaller figure, because I'm actually giving you a true example of what's going to be happening in the city of Paterson. How are we going to pay for or provide for the resources of opening a brand new school with no additional increase in student enrollment? So those 800 students that you referred to already has a principal. But let's say that that number exceeds the number of classrooms because it's overcrowded. You now have to take that-- Let's just use simple math. You divide it in half. You take 400 of those students, you put them in the new high school. So you have teachers, because it allows it and, I understand, that's covered under the cost per student. But you don't have the cost out -- the cost out does not include the overall administrative costs for the brand new school. That's what I'm referring to.

COMMISSIONER DAVY: I think it depends on how many students are moving to that school, where they're coming from. Because the model for a high school-- And again, this gets at thorough and efficient. So it's not done district by district on each district's school configuration. It is based on certain assumptions, so that you can operate the schools efficiently. If there are 3,000 children in one of those high schools right now, and 500 of them are leaving to go to a new high school--

ASSEMBLYWOMAN POU: Correct.

COMMISSIONER DAVY: --built into that 3,000 high school students is the equivalent of almost two full principals and six assistant

principals, under the model. Because for 1,640 students, you would get a principal and three assistant principals.

ASSEMBLYWOMAN POU: Correct.

COMMISSIONER DAVY: So if you've got 3,000 students there, even though you only have one principal, you're already getting funding for almost two principals. So the district has to make those determinations within the district. If they decide that they want to operate 10 high schools of 500 kids, instead of three high schools of 1,600 each, that's a local district decision. They may not be able to have a principal and three assistant principals funded through this model in every one of those buildings. But I would say that that's also not an efficient use of the resources. That's a decision that they make, then that may be a decision that they're making, which means they're going to have to do something else differently, or raise more money locally to provide for that. That's a different question, though, than the opening/start-up costs of a school, which I want to be clear on. We're looking at how we will address that.

ASSEMBLYWOMAN POU: Okay. Well, I'm glad to hear that, because I'm sure that that's going to be something that we're going to be very closely following in order to make sure that the -- especially as we move forward with the school construction facility plans, that all of the school districts throughout the State of New Jersey have been asked to do -- and rightfully so -- that they are provided with the necessary resources in order for them to operate those particular new schools. However, I would point out that-- And the resources that you referred to-- I'm trying to go back to something that you said. Let me just move on, using that same example.

Oh, I got it. I remember now. Yes, I understand what you've just described -- and again I'm using Paterson as the example -- but let's now take in mind, and I'm now going to pick -- bring into our discussion some of the comments that Assemblywoman Quigley made reference to. There are only three State takeover districts in the State of New Jersey, all of which are operated and funded and approved by the State of New Jersey and the Department of Education. These particular State-appointed districts' budgets, as well as every single expenditure, line item, has been approved by the Department of Education. In my opinion, I'm assuming -- and I'm relying on the confidence in the Department as well as the school district -- that that was approved on the basis of their particular need, and based on the fact that they had justifiably indicated that this is what they needed in order for them to properly educate the children of Paterson, Jersey City, and Newark. In doing so, now the State, including the brand new school-- Because if I use your last statement and say, "Well, they have the choice of making -- changing that and using their resources more efficiently or otherwise," that would then go -- put in question whether or not the State has absolutely looked upon those budgets and has approved those budgets based on those very same standards that you've now indicated. So I would question, where's the discrepancy? Are these schools provided for with the necessary resources and adequate resources? And if so, that's been so approved by the State for the last X number of years. Or are we now saying we're going to change the rules, but the standard that was acceptable before by the State is -- now the State is questioning as to whether or not their existing approval is really one that should not have happened in the first place?

COMMISSIONER DAVY: Well, first of all, the budget last year for Paterson -- Paterson took a 3 percent increase and that was a flat 3 percent increase. So we did not go line by line through the Paterson budget for last year. The other thing I would say though is, now that QSAC has been implemented the school improvement and district improvement plan for Paterson will really guide a lot of the decision making, as we move forward. In addition, Paterson is right now in the process of negotiating its next set of contracts. And all of these factors have to be taken into consideration as we move forward. The improvement plan that the district has to have, because of the achievement levels of the children in that community right now, will dictate how some of their resources get spent. And while the district has been in State takeover, so to speak, those budgets have been done locally by the people in the district, with the local folks making the decisions about how they want to do this. I think community people have always wanted to have involvement in that decision making. What I feel pretty--

ASSEMBLYWOMAN POU: But if approved by the State, though. But approved each and every year by the State.

COMMISSIONER DAVY: Well, we basically approve every district's budget in order to give them their State aid.

ASSEMBLYWOMAN POU: But in this case, more so in Paterson, because we're a State takeover district.

COMMISSIONER DAVY: Well, I think that going forward we will be doing that work quite differently, both as it pertains to the QSAC Bill, as it pertains to CORE, and also as it pertains the School District Fiscal

Accountability Act, because Paterson also has a fiscal monitor under that act.

ASSEMBLYWOMAN POU: I understand that.

Earlier you mentioned about how -- to respond to Assemblywoman Quigley's comment with regards to Jersey City moving away into -- and having more local control; that is obviously not the case in the city of Paterson. That being currently the situation, how are we going to look in terms of -- and you mentioned Paterson is in the process of negotiating contracts -- does the current 2 percent increase allow for all of those other anticipated changes and proposals that you're well aware of, that we may not be aware? That, in fact, may have an impact on the schools -- district funding, based on the 2 percent amount that is indicated. And again, this is something that the State will have to approve in this upcoming year.

COMMISSIONER DAVY: Well, I guess the short answer is that the 2 percent is certainly transition aid, and they're going to keep all the other aid that they currently receive under the formula, and that will continue. Paterson is currently not raising its local fair share, so the expectation would be that the community will be asked to contribute more to help get to the local fair share.

ASSEMBLYWOMAN POU: I would point out, Commissioner, that if you go back -- we can't turn back the hands of time for the last 12 or so, maybe, years. But in the last four years, the city of Paterson has increased its tax levy by, I believe, 7.4 percent. And as you know, this--

COMMISSIONER DAVY: The school levy? The city levy?

ASSEMBLYWOMAN POU: The tax levy. Compounded by the fact that it's-- That's just on the municipal aid tax levy. If you used the county equalization rate that you refer to in your overall proposed budget, you're now looking at a 24 percent tax increase that has increased in the last three years. If you compared that to the county equalization rate, separate from the municipality, I would venture to say, as it's been pointed out here by some of the other members, if we had to increase the tax levy for the city of Paterson beyond what they've already incurred -- which is county equalization increases, 24 percent; Paterson in the last year, 7.4, but in total has been a total increase of 12 percent -- I don't think that the taxpayers, based on their income-driven guideline and poverty guideline, can afford to have any further increase. So how do we talk about increasing that tax levy to meet the school district funding response?

COMMISSIONER DAVY: Well, I think that's why there's going to be adjustment aid. I mean, there's no expectation that Paterson has to, overnight--

ASSEMBLYWOMAN POU: But no more than 2 percent?

COMMISSIONER DAVY: No. But I'm saying that they'll also be held harmless going forward. I think there's an assumption that no district, overnight, will have to raise the total local fair share. Right now -- and I have -- the latest data we have here in front of us is 2006 data. Paterson's school tax is 54.5 percent of the State average as a school tax rate. And so that is significantly lower than the average, which means that half of the towns in the state are at the average or above, and they're at 54 percent of that. So that's even further below.

ASSEMBLYWOMAN POU: Does that keep in mind the income -- the ability of the local share from -- the taxpayers ability to pay?

COMMISSIONER DAVY: Well, this is the equalized school tax rate, what they're currently contributing locally to support their schools, as a percentage of what other communities in the state do. We have communities in the state that are providing 150 percent of the State average.

ASSEMBLYWOMAN POU: I understand. But that's because we're State takeover. That amount is only-- It's controlled by the fact that we're currently under State control. Otherwise, that figure would not have been -- the 54 percent would not be what its current share would be.

COMMISSIONER DAVY: Actually, that doesn't have anything to do with takeover. There's no connection between aid and school takeover.

ASSEMBLYWOMAN POU: If you look in terms of what the school levy has been since its takeover-- It's been \$36 million for the last 10 years, or so, whatever it is. The point being, is that that was not done by the municipality. That was controlled by State takeover funding category, that's what I'm referring to.

COMMISSIONER DAVY: Well, the local share could have been raised by the community. That could have been done. But the bottom line is: that's the adjustment that needs to be made now; is the fact that it wasn't raised for the last 12 years. It does have to begin changing, because the State can't provide to a subset of communities greater than their fair share, while we don't provide enough to everyone else to stick to the fair share. That's the balance that we're really trying to achieve. And

our expectation is that using CORE, and using QSAC, using the Fiscal Accountability Act, and working with the local district and the community, that that's what we have to try to achieve. That's the reason why we have transition aid, it's the reason why we have hold-harmless aid, is to make sure that those impacts are not -- do not negatively affect the local community.

ASSEMBLYWOMAN POU: Just so--

ASSEMBLYMAN GREENWALD: Assemblywoman, do you have a lot more, or--

ASSEMBLYWOMAN POU: I just have two other questions.

ASSEMBLYMAN GREENWALD: Because we'll come back.

ASSEMBLYWOMAN POU: Okay. I appreciate it. Give me just one more minute. Thank you.

ASSEMBLYMAN GREENWALD: All right. Thank you.

ASSEMBLYWOMAN POU: Thank you, Chairman.

Let me move on -- and we can come back to this later on -- but let me move onto another subject, something that's been talked about here and I know you've responded in a number of different ways. But for the purpose of getting further clarification, because everyone seems to be interested and concerned about that, if we could go back to your original reference to Page 21 in the bill. And it makes -- in Section 3, it talks about the adjustment aid. That adjustment aid on page -- just before that, Page 20, Section 16, which is a new section. It makes reference to all of the different categories that currently exist, right now, that every single different school is getting, whether it's supplemental aid, extraordinary aid, all of those things. When we talk about hold harmless and are using the

adjustment rate, those adjustment rates include and don't take away any of the supplemental dollars that currently-- So if our budget today in any of our school districts is XYZ dollar, plus they got, during that school year, a supplemental aid allocation and all -- whatever other type of aid, but I'm just going to stick to the supplemental aid -- that total dollar amount is included in the adjustment aid for today's calculation.

COMMISSIONER DAVY: Yes.

ASSEMBLYWOMAN POU: And that total amount for '08-'09 is increased along with the regular aid and supplemental aid, and it increased by 2 percent--

COMMISSIONER DAVY: At least 2 percent.

ASSEMBLYWOMAN POU: --in '08 and '09. Well, they will be at 2 percent.

COMMISSIONER DAVY: Well, but some are getting a lot more than that.

ASSEMBLYWOMAN POU: No, I know.

COMMISSIONER DAVY: Right.

ASSEMBLYWOMAN POU: I understand that.

COMMISSIONER DAVY: At least 2 percent.

ASSEMBLYWOMAN POU: But I'm saying, but no less than 2-- No, don't scare me now.

COMMISSIONER DAVY: Right.

ASSEMBLYWOMAN POU: It's bad enough.

All right. And then in '10 and into '11, year 2010 and 2011, we now move to whatever that aid is, plus the 2 percent -- that adjustment

rate is -- it's an accrual. You're not reducing it. So it -- in essence, that aid continues in perpetuity, if you will.

COMMISSIONER DAVY: Yes. In provision--

ASSEMBLYWOMAN POU: Unless the change -- and I understand about the changes of 5 percent or less in terms of the growth -- change in the growth population. I understand that.

COMMISSIONER DAVY: Well, in Part 2, it also says that they're-- When we re-run the formula, if they're entitled to more, they'll get more.

ASSEMBLYWOMAN POU: No, I got it.

COMMISSIONER DAVY: But they won't get less--

ASSEMBLYWOMAN POU: Right.

COMMISSIONER DAVY: --than what they got in the '08-'09.

ASSEMBLYWOMAN POU: But those figures include all of the aid--

COMMISSIONER DAVY: Yes.

ASSEMBLYWOMAN POU: --that they're currently receiving today. So it's not their base budget, and includes everything else.

COMMISSIONER DAVY: Right. Absolutely.

ASSEMBLYWOMAN POU: Okay.

Thank you, Mr. Chairman. I'll come back.

ASSEMBLYMAN GREENWALD: Assemblywoman, thank you.

Assemblyman Baroni, followed by Assemblyman Diegnan, Assemblywomen Voss and McHose.

ASSEMBLYMAN BARONI: Thank you, Mr. Chairman.

And Commissioner, thank you very much for your time this morning and now into this afternoon. More importantly, thank you for -- during the course of this development of this formula, contrary to some of the text that I've seen from some folks who, I think, are going to come after you, you have been very open and you have been very inclusive when it comes to development of this process. It's a lot more time we've got to go to get this done. But initially, both you and the Governor's Office have been very open to people on both sides of the aisle, and I'm grateful for that.

I actually think there's two questions presented to us that we have to answer: One, is this proposal the right policy for New Jersey's school funding formula? And number two, what about the process that we are asked to go through in the next number of days to implement that statute into law? And I want to take the two questions separately, if I could. There's been a discussion from my colleagues about the specific questions in the bill. And you and I have had an opportunity, both in a group, to discuss the policy, and individually about my district -- so I'm not going to discuss some of those questions. And my colleagues have done a great job and will continue to do that.

I'd like to ask you a bigger -- a bigger sort of legal question. We are here because the Constitution of our State requires this Legislature to provide for a thorough and efficient system of free public education. Do you believe that this formula that is in this legislation achieves that constitutional mandate?

COMMISSIONER DAVY: Yes, I do. Although I think that, at the end of the day, it will be the New Jersey Supreme Court who makes

that determination. But, yes, our goal was to put forth a formula that would provide adequate resources so that each child would get a thorough and efficient education.

ASSEMBLYMAN BARONI: What is the basis for your conclusion that this statute matches constitutional requirements?

COMMISSIONER DAVY: Well, although I am a lawyer, I don't practice law as the Commissioner of Education. So I want to be careful how I frame this. The way I would say, and I guess in my layman's terms, would be that the process that we have used to determine what resources are required to meet the educational needs of every child to teach them the Core Curriculum Context Standards, including children who are at risk, who have special needs, or children who are Limited English Proficient -- that the system that we have used to determine those adequate resources meets the expectations of the Constitution.

ASSEMBLYMAN BARONI: I understand that, because obviously you wouldn't be here. You wouldn't be providing this document if you didn't believe it.

But actually one of the folks -- who I assume is either going to be speaking later, but provided written testimony -- from Richard Shapiro -- represents a number of Abbott districts. A line from his -- I thought it would be helpful -- and again, I'm quoting it, not necessarily agreeing with it, but I'm quoting it -- "It is striking that the Legislature and the public have not been provided with any legal analysis from the administration to show that this new funding formula satisfies the Supreme Court's constitutional tests." Has the Attorney General of this state opined that

this statute -- the proposed -- that what we here today, this proposed bill -- is constitutional?

COMMISSIONER DAVY: I don't think it's appropriate for me to discuss the advice from the Attorney General's Office or what the opinion is. I think what I would say is that we have developed this formula very closely with input from the Attorney General's Office.

ASSEMBLYMAN BARONI: With great respect meant to you -- and you know that I have immense respect for the Attorney General -- we are being asked to fulfill our constitutional requirement as a Legislature to pass a school funding formula. What I'm asking for is the fact that the Attorney General, or the Chief Counsel, is saying, "We believe this to be constitutional," and here's why. I understand. I've read the bill; I understand the Constitution; I've read these *Abbott* cases. We have a role in the constitutional mechanism of this state as to whether or not a school funding formula is constitutional. Do you believe it to be constitutional? The Governor, we assume, believes it to be constitutional. We need to know it's constitutional. And if there is a document, if there is an opinion from the Attorney General to the Governor or the Commissioner of Education, this Legislature needs that opinion.

COMMISSIONER DAVY: Well, we do not have a written opinion, if that's the question. I'm sure that we could ask--

ASSEMBLYMAN BARONI: So no written opinion exists to say, "This proposed legislation is constitutional"?

COMMISSIONER DAVY: Not to my knowledge do we have an official Attorney General's opinion that says that, no. Certainly not to us.

ASSEMBLYMAN BARONI: I think that raises some significant process questions. And I'm not asking you to opine on its constitutionality, but I think it is a legitimate role for this Legislature to ask that question.

COMMISSIONER DAVY: Well, I think it's fair to say that certainly we would not be moving this forward. The goal is not to go to court and have the court say, "It's not constitutional." I think what I've told you is that we have developed this every step along the way with the Attorney General's Office participation -- every step along the way--

ASSEMBLYMAN BARONI: And I believe that.

COMMISSIONER DAVY: --with all of the decisions that we have made. And so I don't think we're here contemplating a formula that there isn't agreement-- I think, at the end of the day, it's going to be the court's determination. But I think it's safe for us to say that, "Yes, the Attorney General's Office believes this is constitutional." Otherwise, we would not be moving it forward to the Legislature. We do not have a written opinion to that effect.

ASSEMBLYMAN BARONI: I think we need one.

COMMISSIONER DAVY: Okay.

ASSEMBLYMAN BARONI: Because I think that to say the administration thinks it's constitutional, and we hope to say the court thinks it's constitutional -- we need to have it constitutional, whether that's the Office of Legislative Services or the Attorney General, I think it's relevant. But the reason why I asked the question is, let's assume for the sake of argument that the Attorney General has opined that, "Yes, this is constitutional." I think that's a fair assumption. The current formula, the

current CEIFA formula -- do you believe that there are children in New Jersey, in schools in New Jersey, that are not receiving a thorough and efficient education?

COMMISSIONER DAVY: Well, we haven't run the current formula for seven years, so we don't have a formula in place right now.

ASSEMBLYMAN BARONI: Do you believe, therefore, that there are children--

COMMISSIONER DAVY: I think that there are children in the state who currently are not getting adequate resources. That's why we're putting forth a formula that we believe provides that, yes.

ASSEMBLYMAN BARONI: Again, I'm not putting words in your mouth. Because I think this is a really important point. It's not, we need a new school funding formula because we may need to have one. It's not that we need a new school funding formula because budgetarily we have to do it. It's not just that we need a new school funding formula because the *Abbott* cases -- and we've told the court, based on these 31 districts. We may need a new school funding formula because there are children in New Jersey who are not in the *Abbott* districts who are not receiving a thorough and efficient education.

COMMISSIONER DAVY: I think we have said many times, right from the beginning of this discussion, that there are lots of children with needs -- free- and reduced-lunch, at-risk, LEP, etc., whose needs are not being met in a system, right now, which is actually not a funding system. It is an ad hoc system that basically has 31 districts provided for through a series of court decisions, and then kind of the rest of them without any formula. So, yes, I think that we need a formula to ensure that

all the children in this state have the resources that will allow them to receive a thorough and efficient education.

ASSEMBLYMAN BARONI: Because some of them aren't now.

ASSEMBLYMAN GREENWALD: Assemblyman, I think she's answered the question.

Let me see if I can cut to the root of it. I think the problem is, the children are receiving a thorough and efficient. The problem is, what is the source that is funding the thorough and efficient? That is ad hoc, as I'm hearing the Commissioner.

ASSEMBLYMAN BARONI: Well, it's not providing--

ASSEMBLYMAN GREENWALD: The State is funding the 31, property taxes are funding the other--

ASSEMBLYMAN BARONI: Right.

ASSEMBLYMAN GREENWALD: --and this is to get off of that spiral that is causing a financial crisis in New Jersey.

ASSEMBLYMAN BARONI: Well, that is actually not what I'm hearing. So are you saying that every kid in New Jersey has a thorough and efficient education? We just were paying for it the wrong way? Because that's not what you just said.

COMMISSIONER DAVY: You know, I think that that's a district-by-district issue. Are there children in this state somewhere who are not, because of the way their community can't provide the resources or the State doesn't? I would venture to say, "Yes." How many does that--

ASSEMBLYMAN BARONI: I think--

ASSEMBLYMAN GREENWALD: I've been waiting my lifetime for someone to define thorough and efficient education. I think

we're on the cusp of it right now. (laughter) So can somebody define what thorough and efficient is?

ASSEMBLYMAN BARONI: Well, wait. I think--

ASSEMBLYMAN GREENWALD: Now just -- Bill, tell us what it is and then we can know whether or not we're meeting it.

ASSEMBLYMAN BARONI: The point is, we wouldn't-- Chairman, we wouldn't just be-- It's not just that we're not paying for it the right way.

ASSEMBLYMAN GREENWALD: Okay. What is thorough and efficient education?

ASSEMBLYMAN BARONI: The point is, Mr. Chairman, that there are students in this state -- you represent some, I know I represent some -- that aren't getting a thorough and efficient education.

ASSEMBLYMAN GREENWALD: Which is what?

ASSEMBLYMAN BARONI: A thorough and efficient education means every child in New Jersey is going to have an opportunity to succeed. And the courts, in every case from *Robinson* to the present-- And the reason why this Commissioner and her Department of Education have worked so hard to come up with this formula is not just that we need to reallocate the money coming from what pot. It's that there are kids in this state who are going to school and aren't getting a thorough and efficient education. And it's the reason why -- I think the emergent nature of the reason why this needs to move quickly is that I think we may have an unconstitutional school funding system in this state, and it's the reason why I think we do need to move this forward.

COMMISSIONER DAVY: Well, there's a series of cases winding their way through the courts right now -- the Bacon districts are currently in the Appellate Division making that very same claim. I think that we need a formula that ensures adequate resources for children regardless of geographic boundaries, which is the way the current system works. If you live in an Abbott district, then you have lots of resources provided. If you don't, you do not. You know, where the line is drawn of -- between whether you're getting thorough and efficient or not -- because your community is paying more and folks in the community are taxed to the *nth* degree, versus communities where they're unwilling or unable to do that -- I think is a fine line. But I'm not sure that that's a distinction. We need a formula to ensure that there are adequate resources provided in a fair and equitable way for every child in this state.

ASSEMBLYMAN BARONI: And you believe this formula that you've presented does that for us?

COMMISSIONER DAVY: I do.

ASSEMBLYMAN BARONI: The second question then is, if we do have this situation that is time-sensitive and educationally need-sensitive-- There's a lot of criticism that we've read in the documents, and we've seen in the press, and we're going to hear about for the next whatever number of people who testify, that this process is moving too fast. Some say, "We only got this formula a couple of weeks ago. Why the rush? Why do we have to do it now?" Commissioner, you're not going to be sitting there when these folks are going to throw those banana peels at you. Why do we need to move this so fast?

COMMISSIONER DAVY: Well, I think if we don't get this done soon we will not have it in time for districts to plan for the next year, number one. I think it's also clear that the current system, which doesn't allocate money through any formula, doesn't take into consideration enrollment growth, changes in the demographics of communities, doesn't serve our children. We're really long overdue to have a formula that we can apply that treats every community fairly and equitably on the resource side and also on the local fair share side. And so, in my view, we're passed the day when this needed to be done. I think that there are communities that need the relief, they need the additional aid from us, and we need a formula that recognizes all the changes -- the demographic changes, the enrollment changes, and the fact that every community needs to contribute its fair and equitable share. We need to provide some relief through a formula for communities that, to this point now, have just been paying a far disproportionate share. This helps us bring balance to the system. And frankly, given the competition of the 21st century, every year that passes -- you know, children only do third grade once and fourth grade once, and for every year that we don't get this done and that we don't do the work that we need to do, that's another year that children don't leave our system prepared as they need to be to be competitive. Sure, they probably leave, many of them -- well, some of them -- very well prepared; but many of them probably may be just where they need to be, but not where they could be. And if they're going to be competitive in the future, they really need for us to ensure that they learn all that they need to master in the K-12 system, so they can go to college or go into the workforce and compete with others --

not only from around their neighboring communities now, but from around the world.

ASSEMBLYMAN BARONI: Commissioner, my final question. Given the complexity of this bill, however, given the important, emergent, potentially constitutional questions, can we afford to wait?

COMMISSIONER DAVY: I do not think we can afford to wait. I would also say that the issues-- Folks who disagree with the way we're funding special education -- to me that's a policy call. You either believe or you don't believe that there should be some wealth-equalized aid for special education. We could debate that for another 10 years. It has nothing to do with the way we calculate the resources. So a lot of these issues that are of concern to folks could be debated for years and years and years, going forward. I don't think we can afford to do that. We've waited far too long to get where we are today. I think we have a resource model that we've been very transparent about, that we've taken input on, that we have revised to reflect not only the input from education stakeholders and advocates in New Jersey, but from experts around the country, from legislators. We've taken a lot of input and we've made a lot of changes to reflect those concerns that people have raised.

ASSEMBLYMAN BARONI: So we can't really afford to wait?

COMMISSIONER DAVY: I don't think we can afford to wait another day, no.

ASSEMBLYMAN BARONI: Thank you, Commissioner.

COMMISSIONER DAVY: Thank you.

ASSEMBLYMAN BARONI: Thank you, Chairman.

ASSEMBLYMAN GREENWALD: Commissioner, just-- For those who say that this is being rushed through, this process began in June of 2002?

COMMISSIONER DAVY: Yes. Well, the Department began the conversations. The PJP panels actually came together in January of 2003 -- they began their work. And then the work went forward from there.

ASSEMBLYMAN GREENWALD: My chronology is: June of 2002 the Department of Ed hosted a conference to discuss school finance policies; October 2002, the Department entered into a contract with Augenblick; in December of 2002 through March of 2003, the Department of Personnel worked with Augenblick to conduct successful school districts analysis; in January of 2003, the first Professional Judgment Panel met -- they met again in February of 2003, they met again in March of 2003. Panel members were county superintendents, county business administrators, assistant commissioners, members of Whole School Reform, principals, superintendents, school business administrators, school board presidents, existing principals -- a number of superintendents, actually -- assistant superintendents, assistant support for business personnel. They met throughout those years. Is that accurate?

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN GREENWALD: Then we had a special legislation session, not this Summer but the previous Summer, where eight recommendations were put into place -- seven of those eight are in this bill. But the Legislature met all Summer. People were able to come in and

watch the hearings. They were publicized. They were reported, the results were reported. People came in and testified before the Committee.

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN GREENWALD: There were also, at that same special session, another nine recommendations for accountability and monitoring -- eight of those nine have already become law.

COMMISSIONER DAVY: That's true.

ASSEMBLYMAN GREENWALD: So those eight moved faster than this funding formula?

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN GREENWALD: Okay.

ASSEMBLYMAN STANLEY: Commissioner, I just have a quick question. What does the Governor say is the time frame for getting this done in time to get it to the districts?

COMMISSIONER DAVY: Well, I think the Governor has indicated that he would like to see the funding formula adopted so that it can be signed into law in time for us to provide school districts with these figures, for school aid for next year, in the preparation of their budgets. Obviously, the sooner we get that done, the better. What I would add is--

ASSEMBLYMAN STANLEY: But what is the dates that the Governor says? Is it by January 7, is it by February 1, is it by February 15?

COMMISSIONER DAVY: Well, I think the Governor--

ASSEMBLYMAN STANLEY: Has the Governor given a date, as far as when it has-- Or for your purposes, when does it have to be done so that districts get it in time for their budgets? What is the drop-dead date?

COMMISSIONER DAVY: Well, school aid figures have to be announced by the end of February.

ASSEMBLYMAN STANLEY: Okay. All right. No, that's-- Yes.

COMMISSIONER DAVY: But I think what we have said is that they're doing their planning now. And the other thing I would say is that, as Chairman Greenwald has pointed out, this Legislature, through a Joint Committee on School Funding, has actually spent quite a bit of time on this issue. Most of the recommendations that were the result of the work that that Joint Committee did are embedded in the school funding formula. So this is an ongoing process. In my mind, we're at the end of the line of that work. And to wait and start this with a new session, many of whom in the Legislature will not have had the benefit of any of that work, I think -- I'm not sure that, timing-wise, that makes more sense.

ASSEMBLYMAN STANLEY: Yes. Well, Commissioner, just -- and not to contradict anything that's been said already, this process started before many of the members who are here now got here. And as much as I would like to be part of something that's going to be historic and good for the State of New Jersey, I would just assume not be part of something that I think may be inadequate, may lead us to court. Haste sometimes makes waste. We've just-- I don't know who's seen this formula before three weeks ago, who's actually seen this legislation before a week ago. So we talk about -- and we're very cerebral -- about what we need in schools, and there are a lot of formulas and so forth that are out there, and I've been part of the education community here in this state and nationally for the last 12 years. But it's another thing when you see a piece of legislation and that

legislation has to be changed somewhat before it's actually introduced. So, I mean, I just want to put this in the proper perspective. Not that everybody has followed this for the last six or seven years since you started working on this, but what we have before us is relatively new with respect to a bill and a proposed piece of legislation to many of us.

COMMISSIONER DAVY: I would just say that I think the fundamental underlying principles of using a weighted model, based on adequate resources determined by professionals in the field, as opposed to someone else, has really been part of this right from the very beginning. The specifics of the language, certainly, in the bill draft are new, but the underlying foundation of what we're doing here has certainly been out in the public domain now for at least a year, probably more, closer to a year and a half.

ASSEMBLYMAN STANLEY: I understand that, Commissioner. This is a dollar-driven exercise. And until we see the dollar, that's when the start -- the clock really starts ticking on something like this. And then you have to make comparisons between what reality is and what the formula calls for.

But I take what you say in the sense or in the spirit that we're all trying to get to the right place. We need to do it as soon as possible, but we should be very deliberative in how we do that.

Thank you.

ASSEMBLYMAN GREENWALD: Assemblyman Diegnan, followed by Assemblywomen Voss, McHose; and Burzichelli.

ASSEMBLYMAN DIEGNAN: Commissioner, first of all, I want to congratulate you on taking on a Herculean task and putting some

logic to it. And I agree with you totally -- it's formula driven. It is based on facts -- that are debatable, as proved here today -- as opposed to supposition, and I just want to congratulate you on a job well done.

However, I just want to discuss with you a little bit what you referred to as the property tax relief portion of the bill, which I guess is Section 37.

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN DIEGNAN: And my understanding is 120 districts have been identified as falling into that group. And I think the preface was *only* 120 districts. But as I calculate it, that's about a quarter of the districts. Logistically, how will it work? If you fall into those two categories -- you exceed both the tax levy and the definition of adequacy, how will the tax relief logistically work for the taxpayers of that municipality?

COMMISSIONER DAVY: Well, I'm going to defer to Katie to explain this, because I'm not as good with the facility of the words on cap and everything else. But I'll let her do that.

MS. ATTWOOD: I think, first of all, it's not going to be a separate rebate check or something like that, when I think there was a lot of misunderstanding originally. What it would be doing would be an offset to the allowable levy increase that, currently, law allows each school district to implement. They don't have to spend up to the increase, but they can. So the increase in every school district is allowed to be 4 percent of levy. Plus there are several automatic adjustments and several other waivers that can exceed that. So the calculation would offset that first 4 percent by whatever amount that's required for that school district, which does vary for each

school district. While the percentage is the same, everybody is getting different State aid amounts, so the actual amount of the levy offset would differ for each district. And you would calculate that 4 percent growth and then reduce that by the amount of the State aid that's being provided. So everybody still gets to increase by that 4 percent; it's just a portion of it will be paid by State aid and a portion of it will be paid by their levy. So it's an offset to the levy gross. So instead of the levy going up 4 percent, it may go up 3.2, or 3, or 2. It depends on the district.

ASSEMBLYMAN DIEGNAN: Let me just ask you in terms of something that I find a little bit more understandable -- the tax point. Let's say with the 4 percent cap that equated to a tax point increase of 20 points. And my understanding is, it's automatically either going to be CPI or 2 percent. So the difference between the CPI or 2 -- let's use 2 percent, just hypothetically -- 2 percent. And if they were a 10 percent district, 8 percent therefore of the State aid -- which might equate, let's say, to five tax points -- would be reduced from that 20 percent -- that 20 tax point increase? So it affected -- the increase would only be 15 points?

MS. ATTWOOD: I mean, I can't necessarily follow your tax point, but--

COMMISSIONER DAVY: I think that's how it would work. It would reduce the amount of increase in the taxes locally, so that you would apply the additional aid to offset the levy.

ASSEMBLYMAN DIEGNAN: Okay. And if the district exceeds the other 2 points you talked about -- over adequacy and the excessive tax increase -- regardless of the amount of exceeding, they're all treated the same?

MS. ATTWOOD: That's the way it's proposed at this point. If you are exceeding, not--

ASSEMBLYMAN DIEGNAN: So if you're exceeding by \$1,000, you're going to lose potentially 8 percentage points of State aid?

MS. ATTWOOD: I think that's a really good clarification. Not only would we not reduce -- only for those districts that are spending above their local fair share. In no place would any districts be actually reduced below their adequacy budget. So they're only slightly spending above adequacy, and it kicks them into that above-adequacy, and 10 percent, and this requirement. The requirement to offset would never bring them below their adequacy. And there are some districts, when you look at that, that would fall into that. So those districts that you're talking about would not have to drop below the adequacy spending amount.

ASSEMBLYMAN DIEGNAN: Okay. But if they're way over adequacy and just barely over the tax rate -- the second aspect of it -- then they would lose a full 8 percent -- hypothetically using that model.

MS. ATTWOOD: It's very rare that somebody's way over adequacy and just slightly spending over their local fair share. Normally, they go hand in hand. But we would never reduce you below your local fair share amount. So in your hypothetical situation, it would not drop them below that.

ASSEMBLYMAN DIEGNAN: And there's no consideration given to the nature of the particular-- I'm thinking, for example, let's say you had a district that had a lot of senior staff that are at the top of the scale, as opposed to a district that has a lot of junior staff. There's no consideration of that type of factor being uncontrollable, let's say?

MS. ATTWOOD: Oh, I think adding income into the whole formula is part of the ability to address the fact that there are some communities that may be property wealthy but income poor.

ASSEMBLYMAN DIEGNAN: No, I'm talking about the staff, I'm talking about a salary. They have senior staff that's at the top of the scale, as opposed to another district that has not that. And I presume the purpose here is to increase the efficiency. Here they just have more senior staff -- they may be a more efficient district, but their payroll costs are significantly higher. No consideration of that type of variable?

COMMISSIONER DAVY: Not separately. I think that that often varies. I mean, you may have teachers that are more senior. The administrators may be less senior. You can't adjust for every one of those items. I think when you do it based on averages you attempt to get as close to that as you can.

ASSEMBLYMAN DIEGNAN: I mean, just as a comment-- I mean, I support the legislation, but this gives me pause. Because there's a lot of districts that are being affected by this. And my -- I don't want to be parochial, but in my particular district, three of our towns are affected -- East Brunswick, Metuchen, and my hometown of South Plainfield. All three of those towns specifically are identified because of their great education system. That's why people want to live there. And it almost seems as though we're taking it from column A and putting it into column B, and I just have a little bit of difficulty--

COMMISSIONER DAVY: Well, there's a lot of different reasons why they could be over adequacy. And the one that you raise is one of them. But there are many other circumstances that can lead a district to

be in a situation like that. We know that there are lots of very small districts that are over adequacy, and you know, part of that is because smaller districts are not as efficient. This is built on a model of a larger-sized district. Again, to sort of drive in a policy direction, I think what the Legislature has asked through CORE is that we look to have K-12 districts and districts that can operate efficiently through shared services or other consolidation. I think we tried to implement the policy that we believe the Legislature was driving at, as well, through other pieces of legislation.

ASSEMBLYMAN DIEGNAN: I'm not going to belabor this point, because everybody has questions, and I've mentioned this to other members of staff and to the Governor's office. The only part about this that I think is a little bit unfair is this aspect of the formula was, I think, unanticipated. At least to me it was unanticipated. And I don't know if there's a way of holding harmless the districts for three years -- if we can even do like a one-year notice and say, starting with next year, "If you exceed these two particular aspects this is what is going to happen." But to have the formula imposed and then take the money right back from these districts, to me, I think is a little bit short-sighted.

COMMISSIONER DAVY: Well, I think we have to note -- we're not taking their money back. They're still getting the money. This is a question of how much their levy is going to increase. They also have an opportunity to come in for a waiver or to do a second question. So those options are still available to the local district. I think we have to be careful how we couch this. We're not cutting their aid in any way.

ASSEMBLYMAN DIEGNAN: Well, you're redirecting a portion of the aid for the supposed intention of property tax relief, which obviously we all agree. I understand your purpose. Okay.

Thank you.

ASSEMBLYMAN GREENWALD: Commissioner, the Assemblyman's point is a valid point from this. If you're trying to help these people run a better business, so to speak, giving them notice -- the more communication the better. That's something that we may want to consider.

Assemblywoman Voss, followed by Assemblywoman McHose, and then Mr. Burzichelli.

ASSEMBLYWOMAN VOSS: Thank you.

I admire you, Commissioner, for your fortitude and perseverance in this matter, because it's not an easy thing.

I'm just going to ask a few questions for clarifications. I think you just said that it is permissible for there to be a second question on the school board elections. Is that permissible? Because there are many towns who are finding it extremely difficult with the 4 percent cap. So if they wanted to spend taxpayers money for some additional -- it is permissible to have that second question?

COMMISSIONER DAVY: Yes. Yes, it is.

ASSEMBLYWOMAN VOSS: Okay. Because that was an area that was somewhat unclear.

Now, another question -- because special ed is a major, major expenditure -- and if I understand correctly, every community is going to begin at 14.9 percent for special education, whether they need it or not,

right? So if a community only has 2 percent of their children-- I mean, if they only have a few children and it only is 2 percent, they will still get the 14.9? But what happens to a community that has the very, very large percentage of children who need special ed? And I know that the intent here is to not over-classify kids. But having been in education for over 40 years, I know that very rarely are kids classified if there isn't a need. And so even if a community has a tremendous number of children with special needs, they're still only going to get 14.9 percent. Where is the money going to come to help those other children?

COMMISSIONER DAVY: That's one of the things that I talked about in my testimony earlier this morning. First of all, just because the percentage is over 14-point -- is it 69?

MS. ATTWOOD: Eight-nine.

COMMISSIONER DAVY: Eight-nine. Just because the percentage is over doesn't necessarily mean that their costs are over, because it depends on the needs of the children who are classified. The amount of resources provided to the 14.89 percent of pupils is a very generous amount, and certainly more than is required for children at the lower end of the classification spectrum. So that's the first element -- that you could have fewer students classified and the costs could be equal to a district that has more students classified to the average. It just depends upon the kind of services that are being provided to them.

So let me give you an example: Let's say there's 100 students in district *A*, 20 percent of them are classified, and they all cost \$3,000 each. In district *B*, only 5 of them are classified, but they all cost \$25,000 each. The resources that are required are different. The second district

costs more to provide the services to a smaller number of pupils. But given that, what I said earlier is, we are going to provide a mechanism for districts that for whatever reason appear to have a higher percentage of the higher-end disabilities. So the educational needs of the children that they're serving are at the higher cost end. We're going to provide a mechanism to, perhaps through a grant program or through some kind of a program, to provide some adjustments for them. In addition, by June of 2010, which is basically after two years of doing this, we're going to have a study completed, and a report done, and recommendations made that will address the issue that I think you're raising. What if we do have a situation where there are districts that have greater than the average and costs greater than the average? We'll make recommendations to make an adjustment. Because I think that we agree with you. If that's the case, then we will need to do something to change that.

ASSEMBLYWOMAN VOSS: I mean, just as a point of reference, we have legislation that says a special needs class can only have a certain number of students, and therefore you have one teacher who may only be dealing with six or seven students during the course of a day. So that's very cost-prohibitive. And what about some of the districts where there are children who are in dire poverty, who have family situations, who really need special education that will transcend the 14.9 percent? I mean, we have to take that into consideration. I don't know any special needs program that could be administered for, say \$5,000 or \$3,000. I mean, I just want to raise that point, because this to me is a big gap in the formula.

The other thing that I wanted to talk about is the children whose special needs transcend \$40,000. And I don't know what the

number is in the state, but it's got to be in the thousands. And I know some of my communities have children who have to be sent, because they're so severely handicapped. They cost hundreds of thousands of dollars. Now, correct me if I'm wrong, the town will pay the first 40,000, then the State will pick up 75 percent of the cost above the 40,000 -- let me just finish, because I want to make sure I had this absolutely clear in my head -- and then the town will have to pick up the 25 percent of the excess that the 75 percent doesn't cover. I don't know if I've said this clearly enough, but--

COMMISSIONER DAVY: No, I understood. Actually, the town will pick up the first 40. The student will receive -- in the census model, there'll be money for that child. Two-thirds of it will be wealth-equalized, one-third will be categorical. So there will be some percentage of the first 40,000 provided through State aid. Depending on whether the district gets wealth-equalized money or not, that amount will vary. But then, you're right, yes -- above 40 for an in-district, non-separate placement, and then above 55 for a separate placement -- the State will pay 75 percent of those costs, and then the district would pay 25 percent.

ASSEMBLYWOMAN VOSS: Okay. I hate to ask this, but where's the money coming from for these special programs? I mean, do we have--

COMMISSIONER DAVY: It's included, again, through an estimate. It's included in the 530 million that we're talking about. We haven't even done the extraordinary aid for this year yet -- we do it in March of each school year. So we're basically using last year's amounts that we paid out last year to estimate. But that is built into this formula, and it is a piece that we consider to be an important piece to really assist the

districts, on a categorical basis without consideration as to wealth, to assist those districts to provide the high-cost placements for the more severely disabled students.

ASSEMBLYWOMAN VOSS: Okay.

Just a few more things. I want to echo what Assemblyman Payne said about vocational education, because I think this is very, very important to the well-being of our State. And I want to verify the fact that the money will follow the child in an Abbott district if the child opts to go to a vocational school. Is that correct?

COMMISSIONER DAVY: The vocational school will receive the resources the child would receive if he or she were just attending the regular school district and not going to vocational school, yes.

ASSEMBLYWOMAN VOSS: Wait, wait. I want to make sure that if -- let's say in the Abbott district or the districts that are being assisted, let's say \$17,000 is being provided for that child's education in the public school. And right now this child wants to go to a vocational school. Will that \$17,000 follow the child to the vocational school?

MS. ATTWOOD: Yes. It would depend on whether it was a shared time or full time. But if it was a full time, the actual money would go directly to the vocational school. And in fact, if it's a shared time it would too. But half of it would go to the vocational school and half of it would stay with the district. If it went to the vocational school, the money would actually be increased because the cost of educating that even half-time child in a vocational school is higher.

ASSEMBLYWOMAN VOSS: Okay. That's very, very important.

I received hundreds and hundreds and hundreds of letters -- and this is only a little part of the iceberg (indicating letters) -- from people whose children attend charter schools. And am I correct that at the present time the charter school only receives the amount of money that the public school would get, and if now this formula goes through the child's charter school will get 90 percent of its funding?

COMMISSIONER DAVY: Right now, they basically get 90 percent of what we would, I guess, equate to base funding. Under the formula, they will get 90 percent of the base funding, but also the additional at-risk amount. So that for children who are free- or reduced-lunch eligible, if they go to a charter school, those additional resources will go with them to the charter school. That is a significant difference. It will still be 90 percent and not 100 percent, but it's always been 90. That's what the law provides.

ASSEMBLYWOMAN VOSS: All right.

And now, if the child is in an Abbott district, will 90 percent of the funding that the Abbott district gets go to the charter school?

COMMISSIONER DAVY: Yes, if the child is at risk.

ASSEMBLYWOMAN VOSS: Can you tell me why it's only 90 percent? I mean, why does the district keep the 10 percent?

COMMISSIONER DAVY: I think that was done in the law when the law was passed in the mid '90s.

ASSEMBLYWOMAN VOSS: Yes, I don't know.

COMMISSIONER DAVY: That's before my time.

ASSEMBLYWOMAN VOSS: Okay.

One last question. I agree -- and I know this is not part of this formula, this is only K-12 -- but your last page of your presentation talks about the pre-Kindergarten, which is very, very important to the well-being of our children. And hopefully we're going to be putting together a formula that will fund these. However, my question is that we may have the funding, but we don't seem to have a curriculum. And if these children are going to do well, there has to be some kind of a curriculum that all children who go to preschool will have, so that at the end -- just like we do with the Core standards -- at the end of such and such a time this child will recognize colors, be able to say the ABCs, be able to count from one to 10, or whatever; so that we know that they have a body of knowledge, and that they are not being placed in these pre-Kindergarten facilities like babysitting services. Okay? And I just wanted to say that, because it's very important to, I think, the progress that the children in our state meet.

COMMISSIONER DAVY: We do have a requirement. And the regs will have that. We have a requirement that there be a research-based, early childhood education curriculum in place. It's the same thing that we've done with the Abbott districts. It's been very successful. It is important for us to have the appropriate curriculum because, you're right, if this is just babysitting, then the investment is not going to pay off.

ASSEMBLYWOMAN VOSS: But we have people who will oversee these facilities to make sure that what needs to be done is being done?

COMMISSIONER DAVY: We will do what we have done with the Abbott district programs. There's a master teacher built into this system, as well, that's funded through the program. It's very important --

this is significant investment. But besides the money investment, this is a huge payoff for the future of these children. And they're only going to get one shot at preschool. So we have to make sure we do it right. So it's very, very important that we ensure that the programs are of high quality. It's important to us and it's important to the children.

The other thing I would add: You mentioned earlier about special education children, particularly in communities where there are high numbers of children in poverty and at risk. What we have found is that high-quality pre-K helps reduce the incidence of children who are classified. Because when they get to Kindergarten ready to learn to read and the gaps are closed, then they become stronger readers and all of the other educational components fall into place. And we don't classify them because they didn't learn to read, because they started so far behind. So there's, I think, benefits that we will see from early childhood investments on that end.

ASSEMBLYWOMAN VOSS: This is something that I would like to work on, but I get very concerned when we haven't been able to define *thorough and efficient*. We need to define what is high quality material for these children. So I would like definitions, because then our money will be spent wisely and well, I think.

Thank you.

COMMISSIONER DAVY: Thank you.

ASSEMBLYMAN STANLEY: Assemblywoman McHose.

ASSEMBLYWOMAN LITTELL McHOSE: Mr. Chairman, I think we should allow everyone in the audience to stand up and stretch, because these poor people have been here-- (laughter)

But thank you. I appreciate, Commissioner, your patience and being here. And I have several problems with this new formula. You know, you and I have spoken before, and-- My biggest concern about this legislation is that it's a preemptive attempt by Governor Corzine to do something before the State Supreme Court again assumes legislative and executive powers in the matter of school funding. I have had a frustration, which I have voiced here in this Committee, with the court systems; and now for 34 years we've had the courts who have meddled in our education and school funding system, with the result that we have the most unequal school funding system in America. And I think that we shouldn't boast that we have the fifth highest State aid in the nation, the highest per pupil spending.

And this continued meddling has actually contributed on a bigger scale to our slide in other areas of -- really embarrassment. The 49th in the nation in terms of economic competitiveness. It really has an effect on many aspects of our lives. So, so much of our property taxes are spent on education that we have created a class of economic refugees who can't afford to live in New Jersey. Every day in my district I hear people say, "We're moving to Pennsylvania. We can't do it. We can't afford to live here any more." It's forcing people from their homes and from their families and their home state, and sometimes their adopted state, too. But it's just undemocratic. The courts have assumed the role of elected governor and the Legislature. It's wrong. And I'd like to see the State and the residents of the state say, "Enough." We need to elect our judges, establish a recall system like our neighbors in Pennsylvania. The problem is

that this funding formula gives little or no relief, as you heard from my colleagues, with regard to property taxes.

In one of my towns, \$15 per quarter on an average tax bill over \$8,300 is nothing. I mean, that's not an impact at all. We've suffered through an increase in our sales tax to pay us back for a little bit of a Homestead Rebate. I mean, the people of New Jersey are smarter than we assume in government. And we sit here today and we talk about this bill -- that it's important and that it must be rushed through, and I just don't see the point. We haven't funded the CEIFA formula in the past six years. We have continued to add to this disproportionate system of Abbotts versus non, which continues even with this new formula, especially when we're continuing to rely on the wealth-based system; and the fact that we continue to have many unanswered questions.

And I can appreciate that you really believe in this bill and that you believe in what you've done. And I know that you've put in hours of work on this. But I just feel that unless we have a constitutional change with regard to the way we fund education, and allow the voters the opportunity to talk about this and vote on it on a ballot, I just don't think that we're going to say and -- instill confidence in the people that our government is truly of the people, by the people, and for the people. I feel that there are some things in this bill that really are lacking.

Again, you and I have talked about the preschool education. I have some major issues with that. Number one, how we're going to fund it. Number two, the fact that in the past there has been a requirement that there be a partnership with the private sector and with existing preschools in the state -- that are a large employer, quite frankly, in many parts of the

state. I feel that this new formula doesn't require that, it recommends it. And it almost puts the onus on the superintendent to make the decision: Will I make a little preschool for the 3- and 4-year-olds right here in my own school and staff it with teachers that are part of my system already, or could I partner with existing preschools? And I think the superintendent would say, "Hey, I would like to make my school a little bit bigger." So that concerns me greatly. And I would like to hear you address that.

And specifically, I have some language in the bill that would address that; and I can give that to you separately. But again, I just think that we sit here today and we don't address things, like I said, about the property taxes. I'd like you to address-- In places like Jersey City and Newark, where land has been actually tax-abated -- property has been given to places where schools are placed -- will that continue to happen? Because if we're sitting here looking for sources of revenue, which we have so many unanswered questions as to where this revenue is going to come from, tax abatement is a big issue.

So I appreciate you listening to my ranting, but as you can see I'm frustrated by this process. I'm here. I've been working for the last couple of days, much to the chagrin of my family, but I really believe strongly that we do have an obligation to do this. But I'm disappointed in the results. So if you could touch upon a couple of those questions, I'd appreciate it.

COMMISSIONER DAVY: Well, first of all, with respect to preschool, the districts will make the determination locally. And in some cases, superintendents may say they want to do this in-house. If they've got the space to do it, that's fine. For communities that are going to serve the

entire community, I think that would be difficult to do. For places where they have a handful of children that need to be served, they may or may not want to get involved in that. I think that determination will be made by them. I think that our experience in the Abbott districts is that preschool providers have been incorporated into the process and, in many cases, provide the programs. We have data on the fact that the quality -- as long as the high quality is there, and certified teachers, and age-appropriate curriculum -- research-based, etc. -- that the quality outcomes are matched, whether they're in an in-district program or in a private provider program. So I think if superintendents might be worried about that, I think we could certainly show them data on that. We're going to let that be a local decision, however, and communities will decide that with input from their local community, whether it's taxpayers, parents, members of the board, etc. They'll make that decision.

You mentioned at the outset, I think, your concern that we were doing this without the court, I think, ruling on it, or saying it was constitutional. I think that this is the only way to do this. We have to put forth a formula. I think the court has really been waiting for this -- probably now for about three decades -- for a formula that it could find is constitutional and actually does ensure that children in our poorest communities have adequate resources to be educated to New Jersey's Core Content Standards. I think when we went to the court back in May of 2006, we were very clear that as soon as we finished our work on a formula that we would bring it back to the court for their review and approval. I think the last three formulas that have been found unconstitutional were done in a similar way. They were put together, they were put forth, the

Legislature adopted them, and then the court reviewed them. I don't think there's another way to do that, frankly.

I also would say that I think we could work another 10 years to try to find the perfect way to do this. Unfortunately, this system is so far out of balance at this point because we haven't had a formula, because we have had an ad hoc system that hasn't treated all districts fairly. We haven't run CEIFA, as you pointed out. I think it's time for us to have a formula. And that while this may not do every single thing that everybody thinks they would like to see done, I think several people have said that it's certainly meeting the needs of our expectations. It's certainly a step in the direction of providing equity across the state without having two separate groups of districts, but rather treating everyone fairly.

With regard to your question about abatements, and pilot agreements, and things like that, I believe those are all permissible through legislation, and there's nothing that we can do in a school funding formula to address that. I think that's something that would have to be done separately by the Legislature. Certainly our attempt to equalize not only resources, but also local fair share, is intended to ensure that all communities have a stake in their education system and that all of them contribute in a fair and equitable way.

ASSEMBLYWOMAN LITTELL McHOSE: But the question I have in reading through this document, though, is there's confusion. And I realize -- I appreciate the presentation. But the adequacy formula seems flawed to me. And again, we're basing it on the census-based, wealth-based, and it continues to elicit problems that cause this to be in direct contrast with the administration's hope that the dollar follows the child. And I

don't see that happening if you continue to use these formulas that strictly go on wealth-based.

And again, getting back to the fact that for the past 30 years we've had this unequal distribution of money, we have created poor -- people who have become-- We have districts that are spending the money on their own districts. We are also paying for other districts. And it's just -- it continues to be out of control. I've talked about this before -- that we don't address the Abbott situation. I've had a bill in since I've been in the Legislature to fund the Abbott districts at the statewide average cost per pupil, and it goes nowhere. I realize that. But things like this, there are solutions and there are opportunities for us to make changes and incremental changes that I think we just haven't had the courage to do politically. And I wished that this would be a more courageous plan, and I'm sorry it's not. But if you could talk about that adequacy formula, because that to me is flawed.

COMMISSIONER DAVY: Well, we believe the formula actually does ensure that there are adequate resources for children regardless of the community in which they live. Under the prior system, if children lived in Abbott districts, they were ensured of getting additional resources. And if they weren't, they didn't get those resources. What we've tried to do here -- and you know, money following the child may not be the right terminology to use. It's really looking at the resources of the child and the characteristics of the children in the community, and basing resources on that, on the makeup of the children in a given community; and looking at all communities in the same way, regardless of whether we're talking about Camden, or Pennsauken, or Rahway, or Elizabeth, or Hillside, or

Jersey City, or West New York, or North Bergen. It doesn't matter where the communities are, it's the characteristics of the children within those communities who are being educated in the school district. And that's being applied across the board, across the state.

We believe, not only through the professional judgment panel process that we went through, but also through the input that we've taken from educational advocates, educational and professional organizations in the state, as well as education experts around the country-- We've taken all of that input and we have basically put forth a model that we believe addresses all of the concerns that have been raised. And we do believe that, in fact, the model produces adequate resources for each child based on the child's needs.

The issue that I think you may be talking about is how the local fair share gets determined. Because the State will not provide the same amount per pupil to every child in every community, nor should it, because there are communities that are more able to provide support for children than others. And that's what this recognizes, that based upon a community's wealth and ability to contribute, while we'll ask everyone to contribute, we'll ask them all to contribute the same relative amount, relative to their wealth through property and wealth through income. And we believe that that's the fairest way to ensure that all children have equal resources and equal opportunity.

ASSEMBLYMAN STANLEY: Thank you, Commissioner.

Members, I'm just going to ask -- as my uncle was saying, that the Budget Committee generally spends a lot of time on questioning. The Education Committee generally is a lot more expeditious. I would just like

to ask if all of the members could exercise a little bit of discipline with respect to their commentary, be direct with questioning of the Commissioner, because I'd like for you all to get your questions in. And if the Commissioner could be succinct with her answers. We're at the 2:00 era, and we've got 40 people who want to testify. Well, you know, let me leave it at that.

ASSEMBLYWOMAN LITTELL McHOSE: Well, I did ask for the seventh inning stretch before I started. So you didn't answer me, but maybe you weren't awake.

But thank you, Commissioner. I appreciate your thoughtful answers, and I look forward to continuing to work with you.

Thank you.

Thank you, Mr. Chairman.

ASSEMBLYMAN STANLEY: Thank you.

Assemblyman Burzichelli.

ASSEMBLYMAN BURZICHELLI: I think I'm the last one, aren't I, Mr. Chairman?

ASSEMBLYMAN STANLEY: No, you're not.

ASSEMBLYMAN BURZICHELLI: No, not quite, not quite.

Thank you.

Good afternoon, Commissioner.

COMMISSIONER DAVY: Good afternoon.

ASSEMBLYMAN BURZICHELLI: A lot has been asked, so the questions that I had in my mind to direct have been exercised to an extent. I do want one point of clarification. In districts formerly called *Abbott*, now called, I think, *SDA*, as referred to in the legislation, what

happens to the potential for school construction and the obligation of the State in those areas?

COMMISSIONER DAVY: There's nothing in this bill that deals with facilities. That will all be handled by the Legislature when the new facilities act, or reauthorization, or whatever, comes forward in the coming months.

ASSEMBLYMAN BURZICHELLI: Through the Chair, I thought I had read that the construction in the Abbott districts still had to be paid for 100 percent by the State, known formerly as Abbotts. I'm not going to reach for the bill at this point, maybe I just read that.

COMMISSIONER DAVY: There's nothing in the bill about facilities.

MS. ATTWOOD: The only thing in the bill about facilities is amending some technical amendments on references to the new funding law, as well as the definition that you just talked about. But nothing in it changes the way the funding is being provided or determined.

ASSEMBLYMAN BURZICHELLI: Well, that's why I raised that question. Because as this whole process moves forward and eventually finds its way, likely, back to the court, one of the areas I think it's going to be about -- those kind of commitments in districts that have been formerly referred to as Abbott, and that have the greatest challenge. That that advantage -- maybe it's not correct to use the word *advantage* -- but that resource is still intended to be there. And I think that goes to the argument that the work done here is very, very thorough and-- Although Assemblywoman McHose, who I have great respect for, said she didn't find this to be courageous, I find this to be thorough at this juncture.

Now, we have an expectation it's going to be challenged. Some of the testimony we're going to hear later this afternoon is going to take some specific issues. But I think that at this point in time, we've had a lot of advantage. When the first Abbott was rendered -- what? -- '85 or so, and as the only tool the court has -- the only tool, advantage of the court at that time, to remedy was money. And the court didn't have the advantage of looking at how resources could be spent -- potential for outcome, of what could occur in a classroom. This was all recently developed over this last decade. So I think we've had some advantages that I think -- they're going to work to our favor in the long haul here, especially for the kids; which is what this is supposed to be about.

And I would say, as I close here -- the Chairman has asked me to be brief -- but if there's going to be an area of change in an area of criticism, it's going to probably come to a focus of where the weights are, and did we weight enough in the language side? Is there enough weight related to a concentration of children at risk -- which I think there's an excellent effort made here, with the 20 percent and moving to the 60 percent, and recognizing that the environment that is occurring in those circumstances will require additional resources. So I think a great deal of thought has been done here. And I know, Commissioner, this work started in advance of you. I came here in 2002. This process began in 2002. I'm very pleased, having served on one of the Committees in the special session, to see that the work of the special session is reflected in this legislation. And I think that we have learned from everything that's happened in front of us, with how the court has spoken and given us direction, recognizing the real world that's happening in the classroom.

So I'm very optimistic that this may not be the final step, but this is a very good step. And if there's going to be challenges that come, I think it's going to come within how we have, again, structured the weights. And if, in fact, fine-tuning adjustment has to be made in certain areas, it's where the weight in the formula is addressed.

With that, I'm going to close. But I'm going to say thank you, Commissioner, for your diligence, and to the entire staff, to bring us to this point. And we just keep working. But I also agree that time is of the essence. And I will say now and I will likely speak again later, this appears to some to be rushed because maybe where we're going isn't where they want us to go. But I don't find this to be rushed at all. This has been a work in progress. It's been deliberate. It has been thorough. When you look at the names of who served on these advisory boards and these professional judgment panels, it's a cross section of New Jersey and experts from great areas. I just think that we have demonstrated considerable effort here, and I think we're making the right step at the right time.

So thank you, Commissioner, for the effort.

And Chairman, that's as brief as I can be.

COMMISSIONER DAVY: Thank you.

I appreciate your recognition of our staff, because this has been an effort of a lot of people in the Department -- a team of folks who have worked very, very hard with folks in the Governor's Office, with folks outside, with our advocacy organizations, and educators throughout the state. It has been a true team effort.

ASSEMBLYMAN STANLEY: Thank you, Commissioner.

Thank you, Assemblyman Burzichelli.

And anybody who wishes to stretch can feel free to leave and go stretch and come back in. It will be a long time before we get to you.

Assemblyman Conaway.

ASSEMBLYMAN CONAWAY: I'm still awake, Mr. Chairman.

I wanted to add my own congratulations, if you'll permit, to you, Commissioner, for the gargantuan task that you have undertaken -- mind you, undertaken most successfully.

I have to point out that it is a two-phased process, and we've had comments about funding and how we're going to raise money, but that really is not-- This bill carries a lot of water, but it doesn't carry the water of how we're going to fund it and what's going to happen to the budget process. It needs to stand on its own feet.

We have had -- and I think Chairman Greenwald has successfully sort of shut down this canard that this is a rushed process. It's been here since 2002, as has been mentioned. And as one who chaired -- or co-chaired the Committee that looked at the school funding formula, I'm very pleased to see that many of the recommendations that have been on the public record since the Fall of '06 -- have been available for people to see for over a year -- are incorporated in this bill. And so, I think -- I hope that we'll not return to this question of whether or not we're rushing this thing through. Indeed, I can't remember the last time that a bill has gone out to all members of the Legislature, or has been made available to them, or the administration has made the effort to speak to everybody about what's in the legislation coming forward, as this administration has done.

The question of constitutionality has come up -- and I got a little constitutional lesson over there. My recollection of the lessons around

the Constitution are that legislatures act within the imprimatur of constitutionality (indiscernible). Our actions are said to be constitutional, just as the Governor's actions are, and of course the court is left with the decision of determining whether or not what the Governor has done or what the Legislature has done isn't that constitutional. But that question-- I think we do need to return to it, because it's the foundation of some questions I have.

One, has the Attorney General -- and you may not know this, and we're not supposed to ask questions you don't know the answer to -- but have the Attorney Generals in the past generally proffered an opinion as to the constitutionality of these bills prior to them being passed in the Legislature or before some court challenges has been brought -- in your view, in your -- to your knowledge?

COMMISSIONER DAVY: I don't know the answer to that.

ASSEMBLYMAN CONAWAY: Fine. I suspected not, because those things -- who'd put things on the record that might be problematic (indiscernible) if you did come to court?

But the question of constitutionality is important. One of the things that I think distinguishes this process is that we are talking about a unified form of that, that will be applied to everybody equally. And I think that's a very important thing. We don't have 26 funding categories in this bill. We haven't jiggered this bill to meet the various political demands out there. It's going to be applied to everybody equally, and I think that's going to be an important test. Would you agree? That's a question there of constitutionality. So we're going to apply it across the board. And I asked

that question because we have heard questions regarding this question of local share, how districts are going to be funded going forward.

And some more additional point, if I may. We haven't run any numbers on updating enrollments in at least five years. Isn't that right?

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN CONAWAY: We haven't updated our wealth equations in at least five years. And of course, over that five-year time, we have had towns, many of them well known here, who have seen increases in wealth and increases in income, and so we would expect that their burden is going to change because they have, under new, updated numbers -- are now going to be viewed as having increased wealth and increased income. And that would be appropriate. And certainly, one might argue, it would be inappropriate to find some way to treat those folks, who've seen this wealth and income growth, differently for whatever reason, because it might actually make this process, this bill, constitutionally infirm. Isn't that a reasonable conclusion to draw from what we know about what the courts have done?

COMMISSIONER DAVY: I think it is, yes.

ASSEMBLYMAN CONAWAY: Yes.

So one of the things that I think -- the message that is in this legislation, as I look at -- I mean, I look at Assemblyman Baroni's district -- 10 percent and more in all of these towns here. I see many of the districts, and it doesn't-- As I look at them, I don't see Republican districts or Democratic districts. I see-- As you look, I see districts in the suburbs. I see Somerset with marked increases in their funding. My district, not as well as Somerset did, but we've seen increases there. I've seen increases in

Middlesex County where, as I said, where -- in Mercer County where all the towns got very marked increases. So Democratic districts, Republican districts. That to me suggests that the formula has been applied and the numbers have been produced without regard to some political notion of who should get and who should not. Would you agree with that?

COMMISSIONER DAVY: That's absolutely the case, yes.

ASSEMBLYMAN CONAWAY: And what we've done, and which the Republican administrations and others have done, we have decided that we are going to base this formula, and how we apply aid on -- with the notion that a district's towns will bare the load that they can bare. That is -- I don't know if that's a Democratic principle or not -- Republicans have done it certainly -- but it is certainly infused in this bill. And we recognize, as someone suggested, if we go to a per pupil basis of funding, we will be right back in the same constitutional mess that has lead us, after 30 years, to have a funding formula that does not work for kids. Isn't that right?

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN CONAWAY: Now, my last question really pertains-- And I mentioned this to you before, but I just wanted to bring it up and put it on the record: Section 27. And this has to do with what happens as children are perhaps transferred from one district to another for whatever reason -- perhaps they have come under the supervision of the Division of Children and Families, or have other issues where they have moved around. And the bill -- and there's no change here -- has suggested that the money should really follow the child. I happen to represent a town, Willingboro, where -- and I've heard over the years -- that they have

been very much impacted by the burden of foster care in their communities. They have a number of children there who are in foster care, and have had apparently a lot of difficulty in making sure that money has tracked to their town to help support the education of children there. Many of these children have special needs. I see this as a help to them. But I think one thing that's not here, that we might consider if we have time to do it, or perhaps in a separate legislation, is to deal with the question of making sure that the money actually follows to the child in these instances. It seems that that's left to the district, and the districts have difficulty in, I guess, grabbing money from other districts to account for in-migration of children coming from elsewhere. And I think I would just put it on the record that we need to address that problem, because it certainly very negatively impacts the educational program -- a source for the educational program in a major town in my district.

COMMISSIONER DAVY: We've noted that.

Thank you.

ASSEMBLYMAN STANLEY: Assemblyman Schaer.

ASSEMBLYMAN SCHAER: Thank you, Chairman Stanley.

Just a few points to reiterate what everyone's been saying, and that is my compliments to you, Commissioner, on a phenomenal job on a tremendous, gargantuan enterprise. It certainly reflects a very, very serious commitment.

A few points, if I may. Number one, I'd also like to thank both Chairman Stanley and Chairman Greenwald, because they distributed to all the members the National Center for Education statistics -- the table by state, which shows, in fact, that New Jersey spends more per dollar per

pupil than any other state in the country. But I would also suggest that that same chart shows that at 9.31 percent, we're the fourth highest in terms of expenditures for administration and the largest in dollars per pupil for administration. Consequently, the percent of dollars that actually go to classroom instruction make New Jersey number 38, not number one. And I quote the statistics here, and I don't do it with pleasure.

The other point that I would make, before one or two questions, if I may, Madam Commissioner, is that my understanding is that this is an education bill. It's not a tax relief bill. It's not a tax rebate bill.

ASSEMBLYMAN CONAWAY: Excellent point.

ASSEMBLYMAN SCHAER: Because of the way some of the calculations are done, 120 towns will receive some small funds back. But the purpose of this bill is not to lower my taxes in terms of my property taxes, am I correct? The purpose of the bill is education, isn't it?

COMMISSIONER DAVY: I think that's a fair way to characterize it, especially given the fact that there are other pieces of legislation, like the rebate bill, in place to address that. I think that -- the hope here is that it does provide tax relief, in that additional State aid going to communities that are currently paying in excess of their fair share. That begins to help kind of change the balance in the community where the State is paying more. As this thing is implemented over the next few years, for districts that are going to receive more money through the formula -- you know, they're capped at 10 or 20 percent right now for this first year -- as they receive more going forward, the assumption would be that there likely could be more relief in some places than they might see right out of the gate.

ASSEMBLYMAN SCHAER: I do thank you.

Can I ask about you about those percentage numbers? Every district receives at least 2 percent, no one receives more than 20 percent.

COMMISSIONER DAVY: Yes.

ASSEMBLYMAN SCHAER: Why?

COMMISSIONER DAVY: Well, the belief is that the best way for us to put new money into the system is to do that in a method that phases that money in to the district. Certainly, you want thoughtful planning on the district's part, if they're going to take the money and invest it in new programs or in doing something differently. By phasing it in, I think you give the district a better opportunity to absorb the resources and use them wisely. And also, if some of this money will go to tax relief, it gives you an opportunity to phase that in, as well.

ASSEMBLYMAN SCHAER: I hear.

My problem is with the second number -- the 20 percent number. That is, it seems to me if one is coming up and developing an educationally solid plan, that should have its basis, indeed, on education first, and on dollars a distant second. Why are we capping the 20 percent when, in fact, it might be necessary to provide 25 percent or 30 percent to ensure equalization with many of those districts? And by the way, none of my districts, to be clear, is part of that.

COMMISSIONER DAVY: You know, I think past experience shows us that giving folks a large pot of money right out of the gate and kind of putting it on the table, and say, "Here, go spend it," you get more money--

ASSEMBLYMAN SCHAER: Commissioner, excuse me? I promise you that if you give me \$10 million I'll be very judicious with how I spend it. Why aren't we having that same confidence in our superintendents?

COMMISSIONER DAVY: You know what, I think that our past experience shows us that it's very easy to spend the money on a lot of different things when there's a lot of money available, particularly a lot of new money available. And I think CEIFA had a similar kind of cap -- actually at 10 percent increase in aid -- in the past. So there is some history in doing it that way. I think it's really important that we do this in a way that the money gets used very wisely. And frankly, if a district does invest in a new program or in doing something differently, it'd be good to see how that's working before maybe you go deeper into expending money in that way.

ASSEMBLYMAN SCHAER: But the plan, as outlined, does not provide for an increase for those districts who, in fact, should be getting 30 percent, or 40 percent.

COMMISSIONER DAVY: Well, they'll get more in the next year. They're not capped out. Each year they'll get the additional amount until they get to their maximum.

ASSEMBLYMAN SCHAER: In the same way that everyone will, but that won't make up for the fundamental disparity which currently exists.

COMMISSIONER DAVY: No, no, no. They will catch up. Because they'll continue to get the maximum amount each year when other districts are just getting whatever they're entitled to under the regular

adjustments of the formula -- CPI, etc. Those districts will continue to get the additional aid to close that gap. They're not maxed out forever at the 20.

ASSEMBLYMAN SCHAER: In terms of the increases that we can look forward to, in terms of geographic cost adjustments, the full-day preschool adjustments, the excess cost for general and special ed, service pupils, etc. -- will there also be adjustments to special education from the 40/55? Will we see adjustments to that in the ensuing years of this proposal? Or are they capped at 40 and 55?

MS. ATTWOOD: Any review of that would also be part of the list of the adjustments in the five-year report.

ASSEMBLYMAN SCHAER: So they will be covered by CPI as well?

MS. ATTWOOD: Each year, no, no. I'm sorry. They would not be increased. I do not think the proposal increases them, except in five years they would be reviewed.

ASSEMBLYMAN SCHAER: And what is the methodology for not increasing them? Their costs certainly have increased exponentially far greater than normal education costs, haven't they, in the past years?

MS. ATTWOOD: Certainly a proposal we could put forward would be to increase those thresholds each year. Historically, those have not been increased. But under this legislation, at least they will now be revisited every five years, where in the last legislation it wasn't part of anything that was revisited.

COMMISSIONER DAVY: And since the Department -- the funding would be for 75 percent of the excess costs. Assuming the costs go

up, the district would be getting 75 percent of the increased costs. So to that end, there would be an adjustment to keep up with their increases.

ASSEMBLYMAN SCHAER: Well, the 75 percent would certainly be so, but it's not covering the base costs, which are covered by the State.

Another question if I could, and forgive me for taking so very long. I understand that this bill does not include construction. I recognize that fully. Nonetheless, the bill, on Page 14, does talk about A and B school districts and CD school districts -- concentration at risk, 40 percent or more, etc. We're calling upon these districts to put in place these programs. I recognize the bill stands on its own, but nonetheless, one cannot be devoid of another. What is the accommodation where there is not enough room in a given district for preschool? Will we have that 40 percent at-risk basis?

COMMISSIONER DAVY: That's why the option is there. The district doesn't have to bring all these children into a district building to provide the program. It can be done in a lot of different ways -- in partnerships with other organizations, with other community providers, with the YMCA, etc. There are lots of different ways for that to be done. The district does not have to provide this space in-district.

ASSEMBLYMAN SCHAER: But is it logical to assume that there are some districts that might not have that kind of an infrastructure, that kind of a social or cultural infrastructure that would afford that?

COMMISSIONER DAVY: That's the reason why we have a planning year, for next year, to be able to look at this working with our staff at the Department. We're also in the process, right now, of doing a needs

assessment, community by community, in the state. That was included in the Governor's budget this year for us to assess what's needed, and what's available in districts throughout the state. So between that needs assessment and then the planning process that we'll go through, through the '08-'09 school year, we will address the issues that you're raising. My assumption would be that between now and the end of 2009 -- the school year that ends in June of 2009 -- that there will be movement on the facilities side and that, if appropriate, districts will be able to incorporate that.

ASSEMBLYMAN SCHAER: One of the fundamental bases of this program, at least in regard to special education, seems to be bringing the children back in-district -- and you're nodding your head. So good, thank you.

What does one do when one has a hundred special needs children? Obviously, each one of these children -- their particular individual needs are far-reaching and very different in many cases from another. How is it that a moderate-size school district can appropriately and adequately educate such a diversity of children within a relatively limited resource?

COMMISSIONER DAVY: Well, these are more resources than they've ever received from the State, first of all, for special education. This is a significant increase in State funding for special education programs. That's number one. It may not be the case district by district, but overall there's a lot more State dollars going into special ed.

But the other piece that I would talk about is the county office change, with the new executive county superintendents and the more

regional or county-based approach. One of the elements of the CORE bill is for the executive county superintendent, with the staff, to study the needs -- the special education needs of the children within that county -- to assess the program needs, and then to work with districts. Because you're right, a district may have a hundred students, they may have many different, varying needs. It may be that the district itself won't provide the program for every one of them. It may be that in partnership with neighboring districts they might provide a program -- one in my district, one in your district, one in Katie's district -- and then I serve your children; you have those needs, etc. And then it could also be that some of our ed service commissions and county special services districts would provide those programs in the district.

ASSEMBLYMAN SCHAER: Will the executive special superintendent -- whatever the term is, forgive me -- will they be able to enforce that?

COMMISSIONER DAVY: I don't know what you mean by enforce it, but they have power to -- over budgetary issues. They're required to look at the efficiency in delivering all of these services. So if they determine that the way the district is doing the service delivery right now is not the most efficient, the expectation would be that they will work with the district to bring about a more efficient means of delivering it. Again, I would hope that we would do this on a collaborative basis, again with the best interest of the child -- in ensuring that we meet the child's educational needs -- at the top of our priorities.

ASSEMBLYMAN SCHAER: Both the Education Law Center and the Garden State Coalition of Schools have both stated that they have

been looking for and not received the underlying information that serves as the basis for the premises in the report. Specifically, the Garden State Coalition said in one of their reports, “Historically, the State has not had the ability to compile and organize data to determine either the effectiveness or the efficiency of programs. There’s little knowledge which programs work and why.” Do you have any comment on that matter?

COMMISSIONER DAVY: Yes, a couple of things. First of all, we now finally have a statewide, student-level database, so we actually will be able to follow the progress of students throughout the state in a way that we’ve not been able to this point.

The second thing I would say is, we actually have a study underway, right now, with folks at Rutgers University, looking at the way resources are allocated in schools that perform above expectations and districts that perform below expectations. We are gathering that data.

And the last thing I would say is that I believe that the new monitoring system, through NJ QSAC, allows us to look at district performance in a very different way, and to work with districts to address shortcomings in a very different way in terms of looking at how you actually impact and make change that will improve student outcome. So there’s a lot of new initiatives in place, that were not here in the past, that we will use together with the formula to address the issues that you raised.

ASSEMBLYMAN SCHAER: But to the largest degree, that information has not been available, and consequently has not in any way helped shape the bill that you see before us?

COMMISSIONER DAVY: Well, we certainly did in the case of preschool, because we had a lot of data on that and we have a lot of

experience in evaluating that work, including having outside folks evaluate that. I think that's the reason why we used the professional judgment panel process to determine the resources. That's one of the things we asked our professionals to provide for us in their reflection and deliberation.

ASSEMBLYMAN SCHAER: Good, good.

Thank you, Mr. Chairman.

Thank you, Madam Commissioner. Thank you very much.

ASSEMBLYMAN STANLEY: Thank you very much.

Assemblywoman Vandervalk.

ASSEMBLYWOMAN VANDERVALK: Thank you very much.

I appreciate the Commissioner staying as long as she has, and your very detailed answers, good explanations.

There's one new approach that you're taking in here which I'm glad to see, and that's the geographic cost adjustment. I think that's a very worthy addition. However, I don't know how you arrived at the actual differentials. When I look at Bergen County, the differential between Bergen County and the lowest cost of living in the state, according to your formula, is only a 15 percent differential. And yet, I have had several groups point out to me that it really should be like a 34 percent or a 35 percent. The New Jersey School Boards Association talked about the costs in special ed, and they used some numbers. And when you do the math, it turns out to be a 33 percent differential. And there's a corporate relocation company that talks about the cost of living in one part of the state versus another, and that's also in the mid-30s. So, while I appreciate there is a differential that you've placed in the formula in the bill, I really would like you to take another look at that, because I don't know how you determined

the individual counties and their cost of living. I think there's an inaccuracy in there, and I really would appreciate a second look at that.

COMMISSIONER DAVY: Well, we could certainly give you a more detailed explanation. It's based on the Taylor/Fowler index, which is a nationally accepted index, and it uses census data from 2000 and 2005 to arrive at these numbers. I, frankly, couldn't give you a detailed explanation of that, but we certainly could provide that for you.

ASSEMBLYWOMAN VANDERVALK: Thank you.

In the area of special ed, it's-- I find it very, very problematic, that that is the only area where you really do not stay with true costs, where you go to a percentage. You are discounting what you reimburse for special ed. You're discounting that. You only have a two-third amount that you allow in your formula. And then you carry it forward, and then you apply a wealth factor on top of that yet. So twice you're saying, within your calculations, that special ed is not going to get its full fair share. And I think behind everything there was -- what I'm hearing today -- is that there was an attempt to be fair, to be just, to be in character with the reality of what's happening. And yet, with special ed, it's a real problem. I mean, these are our most vulnerable children. And I know you're going to say that the children will not be lacking in the services -- and that will be true, because the individual areas will make sure the children will get the services. But the ramification is in the -- there's no tax relief. It is a tax increase. There's -- the people in the area that have a heavy population of special ed. And I don't think it runs true across-- I don't think the percentage-- And I understand why you have to go with the percentage to some extent, that 14.8 percent, whatever it is.

COMMISSIONER DAVY: Six-nine.

ASSEMBLYWOMAN VANDERVALK: I understand that and the census basing. I understand that. But still, there are some school districts that are really going to feel the pinch because over the years they have developed a reputation in providing excellent services for special ed students, and they now will be penalized for that.

COMMISSIONER DAVY: Can I just address that? Because that's why we talked about, at the beginning. We are going to look at that, both through a study -- to address the very issue that you're raising: if, in fact, a community, for whatever reason -- it's near a hospital that has really good medical services that serve children with a specific disability, and therefore parents locate to that community as well, and the district then has great programs -- and so it just becomes a magnet. We're going to look at that: both through a study, that we'll do by June of 2010; but also, between now and then, we are going to look at this. And we're not sure what mechanism we'll use yet, perhaps through a grant program where, if that is the case, we will look to provide some adjustment for those communities. I think-- There's a lot of pieces here where we're making a lot of assumptions in terms of districts saying, "This will not be enough. This isn't going to work, etc., etc." What we know is the facts of what we have before us. And that is, right now, the tier system provides a very small percentage of the real cost of providing these services. So for the lowest income communities, that becomes a very big burden.

So the current system doesn't work well either. This is a change. This is an opportunity to do this differently. We are recognizing the actual costs of providing these services. We're not giving folks just a

fractional amount. It is true that we're doing it part categorical, and that is-- Everybody will get that, regardless of wealth -- that one-third for special ed will go to every community regardless of their property and income wealth. The two-thirds additional amount is wealth equalized because it really does recognize that the lower-income and middle-income communities need more help through State aid to provide those services. Then at the upper end, however, for those students who are most severely disabled, for whom the costs are the highest, we are going to provide, again, categorical aid for those extraordinary costs.

So we believe that this is a big step forward in terms of addressing the true costs. All that notwithstanding, however, to address a concern that you're raising -- which we've heard from folks in the education community -- we will do the study, and we will also have some kind of mechanism to address communities where that may actually be the case so that they're not negatively impacted as a result.

ASSEMBLYWOMAN VANDERVALK: Did I hear you say 2010, or did I hear wrong?

COMMISSIONER DAVY: We will do the study, basically, by the end of two years of implementation of the formula. The formula will be in place for '08-'09 and '09-'10. By the end of that second school year, we will study the issue and then come forth with recommendations, if some are necessary as a result of the study, to address this concern.

ASSEMBLYWOMAN VANDERVALK: I thank you for that, but I-- It's always hard to wait.

One question along that line. You mentioned -- if it's over 40,000 cost -- it's in-district; and for an out-of-district placement, it's over

55,000. What happens if it's over 40,000, but it's an out-of-district placement?

COMMISSIONER DAVY: It's based on the differential of the costs, and I'm going to let Katie give you a little more information. And it's not just in-district, out-of-district. It is separate placement. A separate placement is one that both the Federal Government doesn't permit at high percentages -- and we're kind of being monitored by the Feds because we place so many children in separate placements. But also, we are in Federal Court now being sued by several organizations for having a large number of students placed in separate placements. So we are really trying to encourage more opportunities for children to be educated, as they should -- as the law requires, and as they should be -- in a least-restrictive environment wherever possible.

MS. ATTWOOD: Yes. And I just wanted to expand upon -- and I think we spoke about it before -- but the reason that we've increased it from 40,000 to 55,000 is the application of the CPI, since the time CEIFA was originally passed, to grow that number. I know that corresponds to the question asked. It had not ever been adjusted, which is why in this proposal the thought is to adjust that in an incremental basis every five years. But at 55,000, it would be the cost of a 40,000 when the original funding proposal under CEIFA was passed. The reason that there is a differential is because when we reimburse costs for out-of-district separate placements, it's the full tuition amount that's included in the amount that we reimburse. So that would include administration support, maintenance and operations. And for private schools, it includes, actually, pensions and mortgages, which the State does not cover for a private school for the

disabled. And in-district, when the program is run, we reimburse only for those direct instructional costs which -- not for the principal, not for the construction, not for-- And in fact, when we had the same threshold, it was unequal, because it was actually reimbursing more for those separate full tuitions than the in-district. So we're trying to equate and level the playing field on the amount that we're reimbursing; at the same time, updating the threshold to today's dollars.

ASSEMBLYWOMAN VANDERVALK: One final question -- maybe it's more of a statement. In the application of the wealth factor, again there was so much said earlier about trying to have a formula and a plan that's fair. And when you implement the wealth factor, you get into a real sensitive area, because it may be considered a wealthy community, but you're going to have senior citizens living there, you're going to have new families, two-income earners. You're going to have people who are definitely not wealthy, living in a wealthy community. So their taxes within that municipality -- their taxes are going to go up because of that wealth factor. And yet, it's not properly applied to their own personal circumstances. I couldn't help but think someone, way earlier today, mentioned affordable housing, and the same thought ran through my mind. You're having people come into an area that have -- they need the housing, and it's being built for them, and they're low income. And now they're going to have their taxes increased because they have some wealthy neighbors. And that's just not fair. So I would ask again that you take a look at that. I don't know how you're going to do that, but the whole concept of a wealth factor in my mind is wrong. And I don't think there is any way you can apply it fairly.

Thank you.

COMMISSIONER DAVY: Let me just point out, if the housing is low-income housing, it's most likely assessed at a much lower value, and so the taxes would be proportionate to the property value associated with the housing. The other thing that I would say is, I think that the Property Tax Rebate program is also focused on providing the greatest amount of rebate to the lower-income families. There's also a Senior Freeze program in place for seniors who qualify. So I think there are other elements in place that help address those concerns, although obviously the ones that you're raising are also valid.

ASSEMBLYWOMAN VANDERVALK: If I may, I know I said that was the last question -- but this is definitely the last. Is a county special services school district considered an out-of-district placement?

COMMISSIONER DAVY: If it's a separate placement, if there are no children who are not disabled being educated in the same building, it is, yes.

ASSEMBLYWOMAN VANDERVALK: But this would be a county special services school district -- the whole school is for special services, coming from a larger geographic area, say a county.

COMMISSIONER DAVY: Yes. And it's one of the things that we're going to look at. Because again, through CORE and the idea that we ought to be addressing special education services perhaps on a more regional basis, or have opportunities for districts to come together and share some of those services so students can be educated in the least-restrictive environment-- It's something we're going to look at addressing, because we

do believe that those programs that are of high quality ought to be included wherever possible.

ASSEMBLYWOMAN VANDERVALK: Thank you.

ASSEMBLYMAN STANLEY: Thank you, Assemblywoman.

That concludes the questions from the members of the Committee.

And thank you, Commissioner. We certainly appreciate your endurance. And Assemblyman Payne wanted to know if you wanted to take a break -- it's just the end of the first round of questioning. (laughter) No, we're just kidding.

But, no; we certainly thank you.

COMMISSIONER DAVY: Thank you.

ASSEMBLYMAN STANLEY: We'll now take testimony from Joyce Powell, from the New Jersey Education Association.

Thank you again, Commissioner.

The Commissioner is going to vacate the premises.

J O Y C E P O W E L L: I almost had to give the Commissioner a grade.

Is this on? (referring to PA microphone)

ASSEMBLYMAN STANLEY: Yes. Welcome.

MS. POWELL: Thank you, Mr. Chairman and members of the Joint Committee. Thank you for the opportunity to be here today to testify.

Two weeks ago, I testified before your Senate colleagues and I pointed out to them the areas of the bill that the NJEA supports. And there are many provisions of the proposed school funding legislation that you have before you that we do support. Certainly we applaud the expansion of

at-risk students to include free- and reduced-lunch. We applaud the efforts in broadening the definition of at-risk, as I said, to the free- and reduced-lunch, and to ensure that preschool education will be available. We know that, through research, that preschool education is an investment in all of our futures, and that certainly is commendable. We understand that that will take some time, but we are very pleased to see that in the legislation. The funding of full-day Kindergarten as well -- that's a positive aspect. And we know that when students are ready to learn and have those opportunities, their academic achievement has improved.

Well, while we're not certain -- and I think that we've heard, this morning -- I think we've heard a lot of concern about the methodology of dealing with the adequacy model. We do appreciate that the Department has made a number of adjustments, such as using the mean calculation rather than the median teacher salaries in order to accurately reflect the actual cost of providing public education. And over the last several days -- we received the bill last Thursday as well -- over the last several days, we have shared our concerns with the Department and with the administration. And we appreciate their willingness to not only listen, but to help in resolving some of those concerns and to work towards addressing them.

For example, while we fully understand the legitimate desire of the administration and this Legislature to address New Jersey's overreliance on property taxes, we must be assured that all school districts are able to pay for inflationary adjustments to their operating budgets. Therefore, we are pleased to see that the CPI adjustment will be added to the school

funding formula to allow those districts to receive an amount of funding to address those inflationary costs.

With respect to the special education aid -- and I know you've had many questions about that -- we had many concerns as well. I'm a special educator. I understand the high costs and the needs and the diverse population that we deal with on a regular basis. And NJEA has a long-standing policy that we believe that special education aid should be categorical. It's also a well-known fact that families move to certain districts within New Jersey because they have a special needs child. They seek to live in a district that will offer a high-quality, specialized program. And those districts' needs must be taken into account, and we see that there will be some adjustment made.

A census driven formula that is partially wealth equalized must also provide some built-in protection for districts which cannot fit into a one-size-fits-all type of category and model. And we know that there is high incidence, high severity special education populations, and we must take all of that into consideration.

Certainly, I think as others will express, we are also concerned about the ability of our Abbott districts to continue to provide and maintain existing programs that have proven to be successful in our Abbott districts. We have been able to narrow the achievement gap. We've been able to raise student achievement and to narrow -- closing the achievement gaps. And we know that our Abbott districts have been successful. We have some schools that are struggling within those districts, but for the most part our Abbott districts, the ability for us to fund those districts, have been very successful. And I can tell you that, as you know, NJEA will monitor

this very closely. We will monitor this extremely closely, and we certainly will identify any areas. And if the formula has any kind of a deleterious effect on those districts and our ability to continue to provide the high-level and high-quality programs, we will bring that to your attention immediately. And I know that you've worked well with us in order to provide the kinds of funding that we need for those districts. However, I would also say that whatever the terminology we use to identify these districts in the future, whether we call them *Abbotts* or call them *SDAs*, I know that we must ensure that we never retreat from the educational commitment and the social justice that their students, and basically that all students in New Jersey, so genuinely deserve.

We understand that the State must continue to fund the costs associated with opening new buildings. I think that's also been -- some of the concerns that have been raised here this morning. But particularly, in those districts, we want to ensure that they're not forced to choose between a modern, safe facility and proven programs for their students that attend those schools.

The Commissioner addressed a couple of our concerns, particularly the one about the one-year adoption. We certainly want the APA process to be put in place. We understand the need for immediate regulations. She also addressed the review of the special education census funding methodology, by putting in that date certain of June 2010 as the date. We appreciate that. We think that that study should be completed by that point in time so that any adjustments could be made.

The draft legislation also requires that the adequacy amount be reviewed every five years. And given some of the concerns, obviously, that

we've heard this morning, and some that we have expressed in relating to the actual costs, we would recommend that it be reviewed every three years -- that that be shortened to a three-year time period so that adjustments could be made.

And we hope that this legislation meets the needs of the administration and the objectives laid out by the administration. Because, as has been stated so eloquently, New Jersey -- it's far beyond the time of the need for a new funding formula. We have worked on this for a very long time. Many of us have been involved for many years, at this point in time. We have had a tremendous amount of input. I think that the Commissioner also stated this when she said, "We could debate for the next 10 years about some of the factors that may have been utilized in determining the formula." I think that those are things that we could debate for a long time. But we must have a formula that provides a rational basis for distributing aid to ensure that we provide a thorough and efficient education for all of New Jersey's students, whatever their need and wherever they live in our state.

NJEA supports this legislation, as has been mentioned. I don't know that there's ever going to be a perfect school funding formula. But you know that we will let you know if there are implementation problems as they arise.

School funding reminds me somewhat of a Russian novel. It's long, it's boring, and -- I'll take a liberty here -- in the end, no one is happy. So I don't think it actually -- that's not the actual quote, but certainly we recognize that the passage of this legislation is only the beginning. The adjustments will have to be made as we begin to live with a new formula,

and we may even discover ways to improve upon it. And as I said, I know that we will make sure that you have our suggestions as we go forward. And we want to assure you that we are committed partners, as we have been during this process. We are committed partners for that process in the future.

Again, thank you for your very kind attention, for your patience. As you can see, this is an issue that -- I have about 20 folks from throughout the state who normally would be on holiday. And I know that there are other folks here that are tremendously committed to ensuring that we provide the very best services possible for the students -- and for the citizenry of the New Jersey, because of their caring and their commitment regarding public education.

And so I commend all of you for the time that you're spending on this, as well as the folks that are here -- with addressing their issues, because all of these issues are extremely important to every one of us.

Thanks again for your very kind attention. Have a happy, and healthy, and safe New Year.

ASSEMBLYMAN STANLEY: Thank you.

Thank you, Joyce. I appreciate your testimony.

The next panel that we're going to bring forward includes Paul Bellan-Boyer, from the St. Matthew Church in Jersey City; Ben Coates, Living Word Fellowship Church in Gloucester Township; Ron Heim from Cherry Hill/Pennsauken; Diane Brake; and Myron Orfield, who is, I believe, available via teleconference. So if those persons would come forward.

Fantastic. Perhaps we can-- You can decide amongst yourselves who would go first. Maybe we can have a spokesperson for the group, and maybe we can proceed that way.

Please.

P A U L B E L L A N - B O Y E R: Thank you, Honored Chairmen, distinguished members. I'm Paul Bellan-Boyer, the Parish Deacon at St. Matthew Lutheran Church in Jersey City, speaking on behalf of the New Jersey Regional Coalition, a faith-based and grassroots organization of over 125 member-congregations and organizations representing thousand of families and cities and suburbs, from Atlantic City to Wyckoff, Abbott and non-Abbott districts.

Fair housing, equitable school funding, property tax reform, and access to quality education are issued that have unified our membership throughout the state. Less than two months ago, we held a meeting of 1,500 people at First Baptist Church of Lincoln Gardens, where we received commitments from legislative leaders to move quickly to advance education funding reform before the current session--

ASSEMBLYMAN GREENWALD: Reverend, if I could? Is that your testimony that's standing there? Can you just hand that out to us or give it-- I'm sorry, Reverend. He'll take it.

MR. BELLAN-BOYER: At that time, we also challenged the Governor to do the same -- to move this. Two weeks ago, we jam-packed another hearing room here in the State House to provide testimony in support of better fair-housing policy and an end to regional contribution agreements. In that testimony, we strongly agreed with Speaker Roberts, Majority Leader Watson Coleman, and the urban mayors that school

funding must support fair-housing policies. In the words of Mayor Palmer, there “has to be incentives for suburban towns to create affordable housing, including an offset of school costs.”

The current school funding system with its overreliance on property taxes is driving segregation and tax, housing, and income disparities between communities. It destabilizes many of our older communities and drives middle- and working-class families out of the state, while putting the greatest pressure on some of the most economically diverse towns and districts. That is why we have called for an end to the endless talk and debate, and seek to support action now.

We believe that the proposal before this body today represents a huge step forward and addresses key principles that we have been consistent in calling for. Reform needs to support and reward economic and racial diversity by distributing new State aid based on the demographics of each district, including the number of low-income students and those with special needs, as this proposal does. Reform needs to address the deep and growing disparities in property taxes and tax rates between districts in the same region, as this proposal begins to do. Reform needs to base the formula on the district’s ability to pay -- this does, but we have some reservations about the way it does this, which we will address. Reform needs to hold harmless at current levels the Abbott districts, as this proposal does. And reform must be enacted quickly before the end of the current legislative session, as it appears the Governor and legislative leadership are committed to do.

Like many here today, we have questions and concerns. But rather than opposing the proposal, we will make constructive suggestions

that we believe will improve the formula. We also believe that the taxpayers, children, and communities that have suffered under the current system cannot wait longer for real reform. Let's be clear, the bad school funding policies we're talking about here are not the result of the Abbott decision, nor do we see the massive State funding for poor districts as the problem. Instead, it's our State's overreliance on property taxes that is the problem.

Abbott opened the door to dramatically increased levels of State funding for schools. What we need is more State funding for more school districts, and especially for those with a limited tax base and greatest or growing racial and economic diversity. The new proposal begins to address the imbalance in State aid and the tremendously destabilizing advantage that the high tax-base towns have in the current system.

It has been mentioned that this is a long process. In September of 2006, we appeared before the Joint Legislative Committee on Constitutional Reform and the Joint Committee on School Funding. And we're glad to see that many of those recommendations that we made have been included in the current proposal. While billions are being spent to support school districts in the most distressed and poverty-ridden towns, most of the economically diverse suburban school districts are suffering from rising costs and mounting tax rates. The discrepancy between the richest and poorest districts is unconscionable. At least the Abbott districts are receiving funds to meet the needs of the poorest children in our state. By contrast, most of the wealthiest districts are not educating any poor children.

Now, we've stated that the Abbott districts should be held harmless and are glad that this plan does that. We'll continue to support high levels of State aid to Abbott districts as long as they continue to be poverty-impacted. However, we must also create incentives to reduce the high percentage of poverty in those districts, and look to a day when we no longer have segregation in our state so extreme as to justify and require the current levels of Abbott funding.

We need to realize, as this plan does, that there are many towns, many places that are not Abbott districts -- from Pennsauken, and Paulsboro, to Winslow Township, and Cherry Hill, to Hamilton, and Ewing, to Bloomfield, and Belleville, to Union, and Kearney -- these towns have increasing numbers of low-income kids and not enough tax capacity to support their education fully. These communities should be receiving substantial State support. And those districts that are not as diverse as they could be should have an incentive to promote greater diversity. While the wealthiest and most exclusive towns can and should do more to promote open housing policies, we also recognize that tying State aid to the number of low-income children -- as this proposal does -- will, over time, encourage more open housing and act as a carrot to the Mount Laurel stick.

Most of our districts have limited and shrinking per-pupil school revenue capacity. The vast majority of our districts -- over 80 percent of the public school students -- fall below \$15,000-per-student revenue capacity by tax base. And over half the New Jersey students are in districts with less than \$10,000-per-student capacity. What we need most is the expansion of State funding of schools based upon revenue capacity,

with special consideration for the needs of challenged students, as this proposal does.

However, it only partly takes into consideration revenue capacity based on property taxes. The other half is based on income. We think this is one of the few flaws in the proposal, because New Jersey schools aren't funded from income, as they are funded from property taxes. Some towns that are racially and economically diverse, such as Montclair and Maplewood-South Orange, will be punished for their diversity over time, and it will be a disincentive for built-out and constrained towns like Glen Ridge, Princeton, and Haddonfield to do more to encourage economic diversity.

So we'd urge that a reform of this system take more reliance upon tax capacity rather than income. We can provide the Committee with maps and figures to show how the current system skews funding, and Professor Orfield will provide testimony and explain this further.

But overall, the Regional Coalition believes that the proposed new school funding schedule, as outline by Commissioner Davy, begins to address the great chasm of neglect that has existed for too long in our state.

At our public meetings, thousands of people have called upon the Legislature to enact these kinds of changes. The Governor made a commitment that there would be a new school funding proposal this year to this Legislature. The Senate and Assembly leaders promised to act on it before the current session ends. When our leaders keep their promises, we must commend them and help them see those promises through.

This was not an easy year for our Governor. In addition to all the politics, he survived a near-fatal accident, yet has kept his promise and

come through with a proposal based largely on recommendations from the joint legislative process, a process that many of us were skeptical of.

The Regional Coalition believes that the time for action is now. Tax reforms in the school funding formula implemented last year were only a small down-payment on the necessary reforms needed.

Some will argue that this plan does not do enough to guarantee Abbott funding into the indefinite future. Others will say that despite a multiyear public debate on the need for change, more time is needed for study. Yet further delay will continue to have an adverse impact on nearly half the at-risk students in the state.

If those who are opposed to this proposal have a better idea of how to reform school funding and win broad enough support in the Legislature, they should make their proposal. But without a better plan, they should get behind the Governor and work with the Legislature to get this done before this sessions comes to a close, and before the political and policy deck is reshuffled yet another time.

It's important that the perfect not become an enemy of the good. If we can improve this plan, we should. But reform needs to be done right, and it needs to be done right now, and it can be. This plan is a giant step forward, and it's principles should be adopted immediately.

I will now turn this over briefly to my colleagues to say something about their communities, and then Professor Orfield.

ASSEMBLYMAN GREENWALD: Ladies and gentlemen, before we do that, I'm just going to ask for everyone at the dais, and for people that are in the audience, with all -- and I say this with the greatest respect -- please be respectful to the people that are behind you and have

yet to testify. We promise you that we will read this. We also promise you that our staff will download this so that every member of the Legislature receives copies of this. We don't need you to read it to us. It will drag this on. And it's harder for us to maintain the attention to the issue of such importance. We would rather entertain a conversation with you. And so if you would please-- If you are comfortable with that, we would ask that you please communicate with us in a dialogue, as opposed to reading to us prewritten statements.

If anyone in the audience who has signed up to testify has statements, we will send a staffer to my right, your left. And if you could give them your testimony, they will distribute it to the members.

And again, I'm going to ask you to do the same thing. Please don't read to us, but talk to us, if that's possible. So with that--

MR. BELLAN-BOYER: Let me suggest, Mr. Chairman, that we bring Professor Orfield into the conversation. Because that's what he is prepared to do best.

ASSEMBLYMAN GREENWALD: Thank you very much.

Thank you, Professor. Welcome.

M Y R O N W. O R F I E L D J R., E S Q.: (via video conference)

Thank you very much.

Can everyone hear me just fine?

ASSEMBLYMAN GREENWALD: Yes, we can.

Can you hear us?

MR. ORFIELD: Yes, I can hear you perfectly well.

ASSEMBLYMAN GREENWALD: Can you hear me now?

(laughter)

Go ahead, Professor.

MR. ORFIELD: Thank you very much.

My name is Myron Orfield. I am a law professor -- Associate Professor at the University of Minnesota Law School.

I had the privilege to be a member of the Minnesota legislature for 12 years, both in the house and senate. And my scholarly work and my time in the legislature was very much working on issues like this.

I did a lot of work with Tom Luce, who is with me here, on the New Jersey school aid formula. It's been the subject of scholarly research, also research that we have done together with the New Jersey Regional Coalition, which is speaking here today.

We've been very interested in fiscal issues in New Jersey municipalities and school districts. And, most recently, we developed school aid simulations for reform that were very much like the ones that you have before you today. Our work showed that New Jersey school districts rely much too heavily on property taxes for revenues. Compared with other states, New Jersey ranked second highest in the United States in property tax revenue per pupil, second in property tax revenue as a percentage of personal income, and third highest in the United States in property tax revenue as a percentage of total school district revenue. All of this data is based on work that we did in 2002 with the New Jersey Regional Coalition. So it's a little bit dated, but I believe the same issues are basically true today.

Some people-- Most people will agree that New Jersey's school funding formula is not working. But too many critics focus solely on the 31 poorest districts that receive special funding, the Abbott districts. This

ignores the larger number of school districts confronted with the responsibility to educate large numbers of poor students with very limited local resources and far too little support from State government. Some of the smallest amount of poor (video malfunction) in the country, in terms of these issues. Dramatic disparities in the ability of school districts to raise revenue -- what we call *revenue capacity* -- illustrates this. Our measure of revenue capacity includes the State and Federal aid that a district already receives, and uses an average tax rate to calculate the district's ability to raise revenue from property taxes, much as the proposed system would.

Statewide, the revenue capacity of the 95th percentile school districts, in 2002 -- the districts with capacity greater than 95 percent of all districts -- was more than three times greater than the capacity of the 5th percentile districts. And this is after accounting for what the districts receive in State and Federal aid.

Disparities aren't the only problem that we found. The current system also does a poor job of compensating school districts for the extra cost associated with high- or moderate-poverty rates in schools. Statewide, there were 92 non-Abbott school districts with a greater-than-average poverty rate, districts with more than 29 percent of their elementary students eligible for free- or reduced-cost lunch. In these districts, the overall poverty rate was nearly five times the rate in the other non-Abbott districts: 46 percent in poverty compared to 10 percent. However, the revenue capacity, per-pupil, of the high-poverty districts was 2 percent less than the low-poverty districts, and 7 percent less than the statewide average. The current aid system is failing to compensate many school districts for the costs of serving large numbers of poor students. In New

Jersey, these high-poverty, non-Abbott districts include places like Hackensack, Bayonne, and Kearney. In central New Jersey, they include Freehold Borough, Hamilton Township, Red Bank Borough. In South Jersey they include Pennsauken, and Winslow Township, and many others. All of these districts would benefit substantially from the reforms that you have before you.

In addition, the current school aid system clearly shortchanges many other districts with significant, although below-average, poverty rates. For instance, in North Jersey, the West Orange and Clifton school districts had free- and reduced-cost lunch eligibility rates of 23 and 14 percent. But State aid only brought their revenue capacities, per-pupil, up to 20 percent below the statewide average. In central New Jersey, East Windsor Regional and Woodbridge Township each had free- and reduced-cost lunch eligibility rates of about 20 percent. But today, State aid only brought their revenue capacity up to 21 and 29 percent below the statewide average. In South Jersey, Gloucester Township had a free- and reduced-cost lunch eligibility rate of about 28 percent, but State aid only brought their revenue capacity up to 28 percent below the statewide average. All of these districts would benefit substantially from the proposed changes in the legislation.

We believe that the proposed new school funding system would be a significant improvement over the current system. It takes several important steps to improve school funding in New Jersey. It would ensure that very high-poverty districts, now covered by the Abbott decision, would continue to receive the substantial amounts of State support they need. It would provide other very high-poverty districts not covered by Abbott with equivalent treatment, in the long run, by linking aid directly to the

characteristics of the students the district serves. This linkage would also improve the treatment of moderate- and high-poverty districts that are shortchanged by the current system. It reduces the difference in the ability of school districts to raise revenues by directly accounting for local tax bases. It reduces the incentives against allowing reasonable amounts of affordable housing that moderate- and high-poverty income places now face.

This is a substantial step in the right direction. I believe that it stabilizes the State-supported system of education in New Jersey by broadening its base significantly to recognize the characteristics of the older, more struggling suburbs. It has limitations. All legislative acts, in all state school reform systems, have limitations in place. But this one is moving in a rational direction. And it has the importance of doing justice to many of the older suburban places; holding harmless and improving slightly the Abbott districts; and creating a substantial, more durable basis for New Jersey's commitment in school funding.

The opportunity seems to be to act now. I've been in the-- I was in the legislature for a dozen years, and I know it's very infrequently that a governor brings a proposal like this to the legislature with strength behind it. Very often, the good will and the good intentions to do a perfect job prevent a state from taking substantial actions that rationalize its system. And I think you have an opportunity to act. This measure improves the equity of the school formula system in New Jersey. It recognizes the struggle and stress of the older suburbs. And it moves toward, more powerfully, a rational and stable system.

Thank you for the opportunity to testify. I'd be happy to answer questions. I appreciate the opportunity to be involved.

ASSEMBLYMAN GREENWALD: Professor, thank you very much.

If I could, would you please-- Could you provide the Committee a copy of your statement? We don't have a written--

MR. ORFIELD: Yes.

ASSEMBLYMAN GREENWALD: Thank you, sir.

Are you still--

MR. ORFIELD: I think we--

ASSEMBLYMAN GREENWALD: Go ahead.

MR. ORFIELD: I think we've also sent maps. I think the Committee has the--

ASSEMBLYMAN GREENWALD: We have the maps. But you highlighted some key points I think could be used as examples. And we would like to do that. And your testimony would be a nice backdrop for that.

MR. ORFIELD: We'll e-mail it to you right away.

ASSEMBLYMAN GREENWALD: Thank you, sir.

Are you still a member of the legislature?

MR. ORFIELD: I am not. I retired -- stopped being a member of the legislature.

ASSEMBLYMAN GREENWALD: It didn't have anything to do with your school funding formula by any chance, did it? (laughter) I'm just kidding.

MR. ORFIELD: I was involved as much as an individual legislator can.

ASSEMBLYMAN GREENWALD: Thank you, sir. Thank you for your time. Thank you for your diligence on this.

Thank you.

MR. ORFIELD: Thank you.

ASSEMBLYMAN STANLEY: I'd like to call up Chris Emigholz, from New Jersey Business and Industry; and Martin Perez, Esq., from the Latino Leadership Alliance of New Jersey.

C H R I S T O P H E R E M I G H O L Z: Good afternoon.

Thank you for this chance to testify.

My name is Christopher Emigholz. I'm the Director of Education and Workforce Development Policy for the New Jersey Business and Industry Association.

And on behalf of our 23,000 members around the state, we are supportive of what the Governor and Commissioner have presented. And we think this proposal will do a lot to correct a lot of the school funding inequities and issues that we have in the state.

I'd first like to, one, commend all the people in the Governor's Office and the Department that have worked so hard to make this a reality, and move this, and get this closer to happening.

And I'd like to start-- A lot of people ask -- and it's kind of almost a pet peeve -- but, "Why does business care? Why does business get involved in education?" Why do we care about how we fund our schools? First of all, we are the consumers. And we see in our workforce that the quality is not necessarily what we want. And we heard this from some of

the legislators and in the interaction between the Commissioner. But we need to improve quality, and we need to maintain what we're doing well, and we need to improve what we're not doing so well. And our employers are constantly complaining and saying, "You know what? We're paying all this money." And that's the other, second part -- we care -- is, we're taxpayers. We're paying all this money into the system, and yet we don't see the quality. And so we need a good school funding system to make sure we have quality, but also make sure the taxpayers of the state are protected. And I think this formula goes a long way toward controlling those costs, but also making sure that we're getting the quality that we all need to keep this economy moving forward.

BIA, as we started years ago talking about school funding, had five points that we wanted to make sure were considered in this new formula. Number one: We wanted a substantive change, and we think we have that in this formula. Things are different, and there are some new ideas that are being considered that I think are good ones that should be taken by the State.

Number two: We wanted more accountability within the system. And while we support a lot of the new accountability mechanisms that have been done recently -- especially like the fiscal monitor that was talked about, NJQSAC that was talked about, and the CORE bill we've talked about -- all of which we supported strongly, we would have liked to have seen more accountability infused into this, where efficiency and effectiveness could be part of funding. That's not here, but we still think there's a lot of accountability that's new in the system, and we want to see if

that works. And I think there's a lot of potential for it to work. So we think there is momentum there.

The third point we had is, we wanted to see one unified formula. And the Commissioner, the Governor -- they probably (indiscernible) this initiative here, where there is one formula. We've gotten rid of the multiple streams that maybe didn't have the education rationale. There's one formula.

And this goes to our next point, in terms of the amount of money: One formula, where there's an amount of money that was deemed, through research, and through study, and through a lot of time, to figure out -- "You know what? This is what we should spend. It's not too little, it's not too much. There's a rationale for it." And we might not all agree with how that rationale came. But there is some reasoning that went behind how much money we should spend, and that's a good thing. We're not just throwing money at a problem. We're not just saying, "You know what? We need more, because we want more. We need more, because there is some research here that said we need more. And this is what we need, not more than that." And I think that's a good thing.

And our last point that we are pushing for is: We want to see more money following the student -- a greater degree of that. And I think this formula does that. Whether it's money following the student through charter schools, through vocational schools that we talked about earlier. And that's happening here. But maybe simply -- and something that's not been happening -- is money following the students for where there are enrollment decreases or increases. And I think this formula is going to go toward that and be a step in the right direction for that.

So our five points -- many of which were hit on in this formula. And we thank the Governor, and the Commissioner, and the Department for that.

Beyond that, we're also really supportive of the increase in early childhood education. It's one of the investments that research has shown -- that it yields dividends. It actually pays off. And it's something that's going to improve the workforce -- the more we invest in early childhood education.

The one caveat I have for that is-- We want to make sure that if we're expanding early childhood education, we want to make sure we don't crowd out the private sector. It's an important part of our economy. Many successful businesses are in the early childhood education sector. And we want to make sure that they're not put out of work, they don't go out of business because of this expansion. Include them. And I think the Commissioner talked about -- we want to include them. We want to make sure there's an effort made to include them and not push them out.

And, lastly, the tax relief component in here: Again, this is not about tax relief, it's about a quality education. But the tax relief should be a part of this. We need to balance taxes with quality education. We can't just think about one or the other, because we're going to do something wrong then. We don't want to think about all cost, because if we do that we forget about the quality, which is equally important. But we can't just think about quality and throw in more money, and more money, and more money. Taxpayers -- and Chairman Greenwald said it so well -- that's the most important thing in the state right now. Taxes are too high. Property

taxes are too high. We need to do something to fix that, and I think this formula could go toward that.

So we'd like to see this get done as soon as possible. Lame duck would be great.

Thank you for your time. And I wish you all a Happy New Year.

ASSEMBLYMAN STANLEY: Thank you, Chris.

ASSEMBLYMAN GREENWALD: Thank you.

ASSEMBLYMAN STANLEY: Mr. Perez.

And perhaps you can summarize your testimony, because we have copies of your testimony.

MARTIN PEREZ, ESQ.: Yes.

I've been waiting here for a while, so I would like to engage in a dialogue, as requested by Mr. Chairman.

First of all, I would like to congratulate the Legislature. Gives us a little bit of reassurances to taxpayers when we see our Legislature's hard work during the Christmas season. So I would like to congratulate you for that.

We've had the opportunity to review the legislation, as well as have discussed with the Commissioner of Education and the Governor -- the different documents. After evaluation of these documents, our overall conclusion is that the proposed legislation before you is a positive step in the right direction. However, while the fundamentals of a fair formula are there, we also conclude that there is considerable room for improvement.

In my document I presented for you, I divided the document in two halves. First, I presented the positive aspects of the proposal, and they

are listed there. I'm just going to highlight it. And then the second part is the suggestions for improvement of the act. I would like to mention that we support the end of the Abbott districts, because it allows access to 49 percent of the at-risk schoolchildren who do not reside in the Abbott districts. We also agree with the preschool opportunities widening, contained in the new legislation. As well, I think the great concept of -- money should follow the child is a positive step. Also, we have to agree with the -- that we are very supportive that the act is being enrollment based. Now-- And, also, the other aspect that is positive is that it finally gives a real -- 90 percent of funding to the charter schools. That's long overdue.

Those are the positive aspects of the legislation.

Now, how we can improve this formula: I think that one of the ways we can improve this legislation is that-- I don't see in the legislation any mechanism to ensure that this money -- this added money is going to go straight to the schools and to the schoolrooms, instead of going to the administration and the district administrations. It is important that we create that mechanism. I don't see it in the legislation. I think that you should do a little bit of work. Money should follow the child to the classroom -- not to the school district -- to the classroom.

Secondly, I think that the other thing I would like to highlight is that we also believe that there should be a provision for open enrollment, both within the district as well as beyond district boundaries, where neighboring districts have capacity. At-risk children deserve an opportunity to immediate access to performing schools, which would be able to really

give a chance for the legislation that, in order -- for truly the funding to follow the child, the child should have access to -- have an open enrollment.

Third: I would like to -- and this is the most important point that I would like to make, to conclude. We seek a disclosure requirement that will serve the dual objective of accountability and parent engagement. Specifically, we believe that a provision should be made for annual disclosure to each parent of their child's weighted student profile. The document will advise the parent of the funding that follows their child to their child's school, the programs that are supposed to be provided for that child due to the weights assigned to the child for being at risk or being LEP. It should also be given the last aggregated State test results for the school, advising the parent in plain language what percentage of the students of the school are proficient in English, math, science, and what percentage are not proficient or are failing.

And finally, the individual child's most recent desegregated test results should be given to the parents so the parents can -- will understand the areas, in the various subjects, where the child is weak or strong. The disclosure of a genuine measure of student achievement helps focus all stakeholders on the objective of public education, while signaling to the parents that their child is a value -- is valued, and that the school maintains a high expectation for educational outcomes of the child. It is important that the parents be engaged in this process of making the schools accountable. And I don't see any measure for that. I think that you should take a look.

Finally, I would like to mention that we understand there are some people that are worried about the timeline of this. And some of them

have some good reasons. But we believe firmly, without hesitation, that we cannot wait any longer to correct inequities. There's plenty of room for improvement in the formula. But we believe that the children cannot be made to wait any longer, and that the Legislature should roll up its sleeves and provide for all of our children without delay.

So I thank you. And I wish you a very good, Happy New Year.

ASSEMBLYMAN GREENWALD: Mr. Perez, thank you.

Assemblywoman Pou, did you have a question?

ASSEMBLYWOMAN POU: No, I--

ASSEMBLYMAN GREENWALD: You're good?

ASSEMBLYWOMAN POU: I have a copy of the testimony. I just didn't have that before.

ASSEMBLYMAN GREENWALD: Okay. Very good.

ASSEMBLYWOMAN POU: Thank you.

MR. PEREZ: Thank you.

MR. EMIGHOLZ: Thank you.

ASSEMBLYMAN STANLEY: Thank you very much.

I'd like to call up Ruth Lowenkron, from the Education Law Center; Rich Shapiro represents the Abbott districts; and Paul Tractenberg, from the Institute on Education, Law, and Policy.

Welcome. And you can start when you're ready.

R I C H A R D E. S H A P I R O, E S Q.: Thank you for the opportunity to appear today.

I appear today on behalf of 11 Abbott districts whom I represented in the Supreme Court -- before the Supreme Court -- and other proceedings affecting the Abbott mandates.

I think there are two overarching questions. I've provided copies of my testimony. I'm not going to repeat what's in the testimony, but I think there are two overarching questions that I raise.

One is: Why does this have to be passed in lame duck session, when there's so much uncertainty about the bill? And two is: What is the actual impact of the bill on Abbott districts and other districts in the state? And I will develop this in the form of explaining to you what I think are the seven myths about the bill that have to -- and about the new funding formula -- that have to be explored before you can pass this with any degree of confidence.

I had five in my testimony, and there are two more that came up during the Commissioner's testimony. The first myth is that this is a school funding formula. It is not. It is a school -- a number of school aid figures with adjustments from now into the foreseeable future. This is QEA warmed over. Because in QEA, the Court found it was unconstitutional because the funding was dependent on discretionary decisions by the Governor and the Legislature over time. It did not provide a fully established funding formula that would assure the necessary funding. This is the same as QEA. It's not a funding formula, it's State aid figures with adjustments that are designed to mask what the impact would be if there was really an actual funding formula.

The myth number two is: the money follows the child. It doesn't. The Commissioner made that clear today. The money follows the district. The money goes into a big pot in the district. There's nothing in this bill that the -- to suggest that the incremental value for at-risk students would be applied for programs to serve at-risk students in those districts.

There's nothing to ensure that the money tracked into the classroom, or into programs and services, will be distributed in a way that provides those programs and services that disadvantaged children need in the non-Abbott districts. It's money following the district. The idea that money follows the child -- which has been parroted over and over again -- was blown apart today, frankly, by the Commissioner's testimony when she said it's a big pot that goes to the district, which the district can decide how to spend.

Now, what assurance does this provide for any disadvantaged child -- that gets the at-risk increment in a non-Abbott district -- that that child is going to get anything? The money could actually go to improve the regular education program. The fundamental flaw of this formula, as I will try to explain in more detail in dealing with these myths, is that it ends up penalizing the disadvantaged children in the state, in Abbott and non-Abbott districts alike. Because there is no assurance that they're going to get the funding. And we know the Abbott children are going to get reduced funding. It's going to affect the special education funding in a disastrous way for children with special education needs. And it's going to erode the quality of preschool education, which is trumpeted now as a nationwide program that gets nationwide acclaim. It's going to be dumbed down under this formula. And I will explain that in a minute.

Myth number two is that the money follows the child. It doesn't. It follows the district.

Myth number three is that the Abbott districts, and the districts getting a 2 percent increase, are held harmless. Now, I heard the Commissioner say there's a lot of disinformation there about the hold-harmless provision. The Commissioner read you the statute, but she didn't

read you the key provision in the statute, which is 21 -- on Page 21, it's Paragraph 2. For the 2009-2010, 2010-2011 school years, a school district shall receive adjustment aid in an amount to ensure the district receives the greater amount of State aid calculated for the district, pursuant to the provisions of this act; or the State aid, other than adjustment aid, received by the district for the 2008-'09 school year. In essence, Year 1: a district gets 2 percent. And I'll explain in a minute why that's not an increase. And Years 2 and 3 are, essentially, flat funding. There is nothing to hold the district harmless, even under the Commissioner's and the Governor's own standard of hold harmless, in Years 2 and 3. It's a myth. The hold-harmless provision itself for Year 1 is a myth. There's nothing for the districts that get 2 percent -- whose fixed cost might be above 2 percent, whose increase in contractual salaries might be above 2 percent, whose increase in health benefits might be above 2 percent, whose increase in utilities might be above 2 percent -- will not get more than 2 percent. You heard the Commissioner say that. There's no provision for a district -- an Abbott district or a non-Abbott district -- getting 2 percent in 2008-'09, to show in 2008-'09, 2009-'10, 2010-'11 that their fixed cost -- put aside the cost-of-living adjustments -- that their fixed cost, that they have no discretion over controlling, will be -- will fall within the 2 percent; and if it's above 2 percent, that the districts will get the funding. This applies to every district getting 2 percent in 2008-'09. You'll get flat funding in 2009-'10, and flat funding in 2010-2011. You will not be held harmless. The Abbott districts will not even get the COLA provision -- the COLA adjustment that the Department has decided are presumptively required in the past several years. The 2 percent is under that.

The fourth myth-- That was the third.

The fourth myth is that we have to take our -- we should rush this through because it's been fully vetted. It has not been fully vetted. From February 2007 to November 2007, the significant work on what you have before you was done. We have not gotten the figures that were considered by the Department during that period. We have not gotten the results of the advisory panel that the Department commissioned during the Summer, that they relied on. We don't know what recommendations of the advisory panel were followed, what recommendations were not followed, what input they had. We don't know whether this was ever presented to the three experts who gave reports critical of the funding formula in February, and whether they have now agreed that the funding formula meets their criticisms. There's a lot of information. We don't know what the actual impact is of the hold-harmless figures, or we don't know what the impact is on the local share of school districts that are going to have to make up what they lose under this formulaic approach, which is actually State aid plus adjustments.

And we also don't know something that's very critical. And with all due respect to Assemblyman Conaway, I taught constitutional law at Rutgers and at Seton Hall as an adjunct. And there is a vast difference between where you are now and a bill that's entitled to the presumption of constitutionality. You are now in a remedial phase of litigation. The Court has already pronounced that prior acts of this Legislature, in so far as they affect the Abbott districts, are unconstitutional. The Court has already told you that if you come up with a new funding formula, it has to meet certain standards to substitute for parity and needs-based funding, which are the

hallmarks of the Abbott decision -- which are being eliminated by the new funding formula. It is shocking that you do not have a legal opinion on the constitutionality of this bill, under the standards established by the Supreme Court from Abbott II through Abbott XV. There's no-- There are very specific standards that this Legislature has to meet. You have a constitutional obligation to meet those. There's not a presumption of constitutionality attached to this in the same way. If it doesn't satisfy the Court's standards-- It has to meet those standards. And for you not to have a legal analysis by the Attorney General, or by OLS, or by anyone else to tell you, "Here are the specific standards established by the Court, and this does or does not meet them," is shocking. And to pass this bill without that legal analysis, and just say, "We'll let the Supreme Court sort it out," is not a responsible act of the Legislature.

The last analysis we had, of removing designation from the -- of the Abbott districts was prepared by, of all people, Commissioner Librera, when there was talk about the -- removing the Abbott designation. And he said there are two things that have to be done. One is: The socioeconomic status of the community has to be changed so that it no longer qualifies. And two is: You have to establish that the local tax share can pick up whatever amount the State funding now eliminates. You don't even have that. And that is a cursory legal analysis of the standards. The standards in QEA say you can't have discretionary decisions based on-- You can't have funding for Abbott districts based on discretionary decisions. This bill builds that in. Adjustment aid is nothing more or nothing less than a discretionary decision by the Legislature, every year, to decide whether it's

going to add that additional amount that will make this formula palatable to the different districts.

The fifth myth is in the bill's preamble, which actually is a cruel hoax on the Abbott districts. The bill's preamble says that Abbott districts will have sufficient funds to continue those Court-identified programs, positions, and services that are proven to be effective. The truth is that we do not have any data from the DOE on what programs have proven to be effective, and what their costs are -- what their present costs of those programs are in the Abbott districts -- and whether the Abbott districts will have the funding to provide those programs under the new funding approach. So to have that language in to suggest that there is not going to be dismantling of programs is--

ASSEMBLYMAN CONAWAY: Which language?

MR. SHAPIRO: It's the language in the bill's preamble that Abbott districts -- in the bill's preamble -- that Abbott districts will have sufficient funds to continue those Court-identified programs, positions, and services that are proven to be effective. It's clearly stated in the bill's preamble.

There's no one in this room that could honestly make that statement without data from the Department showing that that's true or not. At least don't perpetrate a fraud on the Abbott districts by telling them something that isn't true, unless you have the data to establish that. And you don't. And the Department has not provided you with the data, and the Department has not shown that programs that are proven to be effective in the Abbott districts will continue to be implemented and will continue to be provided for those children.

Finally, my last myth is that the expansion of other districts -- of a preschool program -- will result in quality preschool. It will not. What you have is a dumbing down of preschool. Preschool, up to this point, has worked because it's been needs-based. It's reached-- It's become subject to nationwide -- an object of nationwide acclaim, because it's needs-based. It responds to the needs of the 3- and 4-year-olds in the Abbott districts. The program that will now be trotted out to the districts -- the non-Abbotts and the Abbotts alike -- will not be needs-based. It will be based on a formula. There's no provision in this bill for a valid district -- a new district implementing preschool, or an old Abbott district that's continuing preschool -- to provide for the needs of the children if they exceed the formula. You're substituting a cookie-cutter approach, a one-size-fits-all approach for a needs-based formula that has worked in the past. You will dumb down preschool, because preschool cannot be funded, in a quality way, at the level in which this formula proposes. And it will result in an erosion of the quality of preschool -- the one program that everyone on either side of the aisle, on either side of the issue, will say has proven to be effective. It's proven to be effective because it's needs-based, and it responds to the needs of the 3- and 4-year-olds who are going to participate in that program. It is not formulaic. In fact, the Supreme Court, in the Abbott VIII decision, criticized a formulaic approach to preschool because it was not needs-based.

So what you're going to do is, you're going to press down the amount of money that districts can get for preschool, you're going to erode the quality. So this great promise of expanding this great program is a myth. It's going to result in a program that's not going to have the quality

of the present program, and it's going to be trotted out to school districts as if it's going to be the same program that the Abbott districts had, when it is not. It's going to be a diluted program, a diluted version of the Abbott districts.

So I started off with saying why does this -- my testimony would explain why I think this cannot be passed in a lame duck Legislature. There are seven myths. Two of them came up today. There are new myths coming out every day. This is being spun in a way that will undermine the quality of education in this state, will undermine the advances in the Abbott districts, will undermine the preschool program, will undermine the services and programs for special education services. And it's, in my view -- and since we heard the Commissioner's belief -- in my view, patently fails to satisfy many of the standards established by the Supreme Court. I don't predict Supreme Court decisions. I can only go on the principle of: If they follow the precedent, this formula does not survive constitutional scrutiny.

Thank you very much. (applause)

ASSEMBLYMAN GREENWALD: Mr. Shapiro, can I just-- Is this way off, in your mind, then? Or is it, with some fine tuning -- meets constitutional-- Because some of your advocates have said to us, privately, that we're not far off, there's a lot of good in this.

MR. SHAPIRO: Well, I don't know who said that to you privately.

ASSEMBLYMAN GREENWALD: I'm not trying to put words in your mouth. That's why I'm saying it's advocates -- you know, people that represent the Abbott districts and others. They're concerned about the previously negotiated contracts. But they believe the concepts in the bill,

and the goals behind the bill, are worthy, and that this is not far off. Is your mind that this is just an absolutely failed exercise in five years, and cannot be recovered, and we need to start over?

MR. SHAPIRO: Well, let me tell you why--

ASSEMBLYMAN GREENWALD: You paint a gloom and doom picture.

MR. SHAPIRO: Yes.

No, I think it's way off, and let me tell you a couple reasons why, beyond what I've already said.

Your figures here -- your average per-pupil figures here are below the statewide average. So you're starting off with a base-pupil amount -- an average base-pupil amount that is below what districts are currently spending. It's far below what the lighthouse districts, the I and J districts, are spending. And we know that they provide a quality education. So you're starting off by dumbing down a lot of the spending for certain districts that are-- So that, to me--

ASSEMBLYMAN GREENWALD: Well, spending-- The one--

MR. SHAPIRO: So if you adjusted--

ASSEMBLYMAN GREENWALD: Mr. Shapiro, I understand your point.

Let's just be clear about-- One thing I think we can prove is, spending more does not mean better quality.

MR. SHAPIRO: I agree.

ASSEMBLYMAN GREENWALD: So spending less does not, by definition, mean dumbing down. It may mean that there are better ways

to do this. Because you're cross-referencing your comments. And that's--
And I just want to get--

I want to be clear on a couple things. You're saying not to vote for this in lame duck. You're saying we're nowhere near voting for this. We need to scrap this and start over.

MR. SHAPIRO: No.

ASSEMBLYMAN GREENWALD: Okay. You just said it's not close.

MR. SHAPIRO: No, it's not close.

ASSEMBLYMAN GREENWALD: Okay.

MR. SHAPIRO: But I didn't say you have to start over. I said there are some fundamental principles--

ASSEMBLYMAN GREENWALD: All right. What components of this are salvageable, in your mind?

MR. SHAPIRO: Well, I think we have to know a lot more. We have to know how they arrived at these base amounts, because if the--

ASSEMBLYMAN GREENWALD: Sir, have you read the bill?

MR. SHAPIRO: I've read it three times, yes.

ASSEMBLYMAN GREENWALD: Okay. My point is-- I'm not trying to complicate things. I'm trying to be able to gauge and advise our members on where we are.

You've said it's not even close.

MR. SHAPIRO: Right.

ASSEMBLYMAN GREENWALD: So that, to me, is a layman saying, "Scrap it and start over."

MR. SHAPIRO: No, I didn't mean--

ASSEMBLYMAN GREENWALD: Okay. What components of it, since you've read it three times, are salvageable and form a framework that we can build upon?

MR. SHAPIRO: If you had a truly developed -- appropriately developed base pupil amount, this would be salvageable. If you had at-risk numbers that demonstrated, that documented that they were really based on what needs are, that would make it salvageable -- to add to that.

ASSEMBLYMAN GREENWALD: So this is more about getting more clear data.

MR. SHAPIRO: If you had special education needs that were actually based on the needs of districts and the needs of children, and not based on some census data that is applied, again, like a cookie-cutter to the districts, that would make it salvageable.

If you provided for needs-based funding beyond what the formula provided, that would make it very salvageable, because what that would allow the districts to do is, if the -- when they have these fixed costs that aren't meeting what their needs are, or they have cost-of-living increases that exceed the 2 percent-- I'm not saying, "Throw money at them." I'm saying, "Give them what they need to maintain what they have until we see what the funding formula does." But to say that-- To sit up here and say Abbott districts will be held harmless when they're getting 2 percent -- which doesn't cover COLA and doesn't cover fixed costs, and flat funds in Years 2 and 3 -- is not true. It's not held harmless, by any stretch of the imagination.

ASSEMBLYMAN GREENWALD: Okay.

MR. SHAPIRO: There's no definition of *held harmless* in this bill.

ASSEMBLYMAN GREENWALD: So what we need, in your mind, is more clear data that backs up these numbers.

MR. SHAPIRO: Yes.

ASSEMBLYMAN GREENWALD: Which is why--
I don't know if you were here for all of the Commissioner's testimony--

MR. SHAPIRO: I was, and I appreciated that.

ASSEMBLYMAN GREENWALD: --where I asked the Commissioner for a breakdown, district by district, so that the community in which I live, Voorhees -- where I can tell you, Mr. Shapiro, every month somebody knocks on my door, or if I'm out working in my yard -- asks me, am I selling my home. They inevitably have a child with autism or special needs, and they're trying to take advantage. As a layperson who is not in the school system -- although I'm in the Legislature, I don't have my fingers on all the numbers in the school system -- I would think that we have a large number of special needs children, and that my community has become a magnet for children with special needs.

My district is getting the 2 percent increase. Cherry Hill is getting a 10 percent increase; but apparently they have spent over the two criteria and need to give money back to the taxpayers. I've asked the Commissioner for every district in the state -- to provide me the data showing me the number of children with special needs, the number of children on free- and reduced-lunch. My largest growing population is the Asian community -- immigrant Asian community, English as a second

language. You know Cherry Hill, you know that district, you know that to be true. The Filipino community in Gibbsboro, in Voorhees -- you know that to be true.

I want to see how those numbers back into that for every district in the state. If I have that information-- Now, that sounds like a formula to me. But, again, you've got a vast-- What makes that not a formula, if those numbers can be documented, and those numbers are then tracked, money and funds, to those districts, and it is the same for every district around the state? What makes-- That may not be a formula that you like, but is it not a formula?

MR. SHAPIRO: No.

ASSEMBLYMAN GREENWALD: Okay.

MR. SHAPIRO: Because they couldn't do that, because they would have to put in all this adjustment aid that would make it palatable. They couldn't run the formula. If you asked them to run the-- And what about your--

ASSEMBLYMAN GREENWALD: Well, that's what we've asked them to do. And they're going to get-- And you're right, there is adjustment aid. I think my understanding of the adjustment aid, though, is so that we don't flip the switch over night and have programs that are established in school districts around the state, and then close the door on the -- or put them in the darkness, so to speak. And so that what we're going to try to do is track, for the next three years, what is the success of those programs, and what is the migration of students from those programs into neighboring districts, ring districts, other communities, or those who

stay in the Abbott districts. So that is my understanding for the need of the adjustment aid.

MR. SHAPIRO: No, my understanding for the need of adjustment aid, very frankly -- since we're being frank here -- is to get the votes to pass this bill. Because if you ran the formula--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Bribery.

MR. SHAPIRO: And if you ran the formula, you would not be so ready to pass the bill. If you looked at--

ASSEMBLYMAN GREENWALD: Well, I would be.

MR. SHAPIRO: If you looked at the--

ASSEMBLYMAN GREENWALD: But, Mr. Shapiro, let me ask you-- I would be, because I don't represent Abbott districts. And the vast majority--

MR. SHAPIRO: I'm not talking about Abbotts.

ASSEMBLYMAN GREENWALD: Okay.

MR. SHAPIRO: I'm talking about the non-Abbotts, too. And I'm talking about the impact on their tax base and the kind of effect it will have two and three years out for your districts that are getting 2 percent. That's not 2 percent. And it's flat funding in 2009-2010, 2010-2011.

Why, if their fixed costs are 5 percent -- why shouldn't there be a mechanism in the bill for them to come back to the Department and say--

ASSEMBLYMAN GREENWALD: There is, there's a waiver provision.

MR. SHAPIRO: No, there isn't. No, there's nothing. There's a waiver-- There's no waiver that allows a showing of need. She said that

today. The Commissioner was asked that specific question by, I think, one of the--

ASSEMBLYMAN GREENWALD: The waiver applies for what?

MR. SHAPIRO: The waiver applies for the 4 percent cap. It doesn't apply for a district whose needs are not being met by the so-called *hold harmless*, which is not hold harmless.

So, I mean, let's-- We've gotten into a vocabulary that masks the reality. The reality is that the districts getting 2 percent are going to get a cut next year. There's no way of masking that. You can call it-- There's no way of masking the fact that after -- and if you read the language of the bill -- after next year, Years 2 and 3, they're going to be flat funded at 2008-2009 levels. And then in 2010-2011, it continues in perpetuity, as she said, except for districts whose enrollment decreases. But the districts that got 2 percent are still going to only get the 2 percent in 2008-2009, are going to get flat funding in Years 2 and 3, and they're going to be flat-funded for every year out there.

ASSEMBLYMAN GREENWALD: So if, as the Legislature then, in 2009, '10, '11, and the out-years, elect to put more money into education -- like we do, for instance, with charity care. Charity care gets cut every year. And then we have figured out a way to negotiate with the administration -- because of the need, as the second largest employer-- And those uninsured being 1.4 million in the state is an issue of importance, in a bipartisan effort, to this body -- we put that back in. If we do that-- If you are hearing from these members that education and property taxes are the number one issue in the state, and we're not going to allow that to be flat-

funded -- we are going to put that money back in -- how can-- I don't know how you can say, when I can't sit here and say--

MR. SHAPIRO: That was exactly what you said in QEA. In QEA you said every-- Now, I don't know how many members were around for the passage of QEA.

ASSEMBLYMAN GREENWALD: I wasn't, thankfully.

MR. SHAPIRO: But it went through the same way. I'll tell you, this was a bill that was rammed through the Legislature in a matter of days. And what that bill did was leave the future decisions to meet needs in districts to the discretion of the Governor and the Legislature in future years. And that was a fundamental, constitutional flaw in the bill. That's the reason it was struck down as unconstitutional -- one of the reasons.

So all I'm saying is, all you're doing is trying to mask what you should be doing, which is-- What you should be doing is getting the data that establishes these figures are reliable and justifiable, that spending -- an average per-pupil spending of approximately a thousand dollars less than the statewide average, and less than -- much more less in the I and J districts -- does reflect what is needed to accomplish a thorough and efficient education. I haven't seen that.

Now, I've been involved in this issue for the several years that everyone else has been involved in it. I haven't seen the data. We were promised, this time around, when the formula was finally released in November, that all the data would be forthcoming. And we still haven't seen it. We don't know what the impact on your local property taxes are going to be. Thanks to the *Star-Ledger*, we know it's not going to be much

in many districts. But we don't know, from the Department, what numbers they've run.

Why is this a secret? Why is it-- Why should we be here, in the middle of the Christmas holidays, talking about a bill that the administration wants to pass within two weeks and asking for basic information that's necessary for an intelligent decision on this bill? I don't understand that.

ASSEMBLYMAN GREENWALD: Well, let me just say this to you, sir: I don't agree with everything you said, but you make some valid points.

Did you contact my office on any of this information prior to today?

MR. SHAPIRO: No.

ASSEMBLYMAN GREENWALD: That would have been helpful. I would have asked this questions of the Commissioner. Honest to God, I would have. Everyone who is behind you, who deals with me all the time, will tell you that's what we do.

So when you talk about in *secret*, in all honesty, this would have been very helpful to me.

MR. SHAPIRO: Yes.

ASSEMBLYMAN GREENWALD: Let me just finish.

MR. SHAPIRO: No, I distributed it before the hearing because I hoped that people would have-- And, in fact, Senator-elect Baroni referred to my testimony. So I assumed from that, that most people had--

ASSEMBLYMAN GREENWALD: It's an interesting choice. I like Bill a lot. But of all the people for you to give this to -- to give it to Bill, and not to the Chair of the Committee--

MR. SHAPIRO: I know. I gave it to your aide.

ASSEMBLYMAN GREENWALD: It's an interesting choice. It's a fine choice on your part.

MR. SHAPIRO: I gave it to your aides.

ASSEMBLYMAN GREENWALD: Okay.

MR. SHAPIRO: I gave it to your aides, and they put it on the chair behind Assemblyman Stanley.

ASSEMBLYMAN GREENWALD: Listen, I would have appreciated-- I say that (indiscernible). I would have appreciated you reaching out to-- I hope you will after today.

I'm going to take your testimony, and the points that you make, and I'm going to sit down with the Commissioner and try to get answers for myself, for you, and for the members of the Committee.

I will say to you, a lot of people have privately come up to us and said, "Why are you meeting today, two days after Christmas?" For most of New Jersey, it's a work day. It's not a national holiday, December 27. We end this session, and we come in with an historic overhaul of new members coming in.

I said it before, I was elected in 1995. The number one issue was state property taxes, and the affordability of education, and the funding formula that didn't exist. Why anybody would want to leave the Legislature without addressing this problem-- I mean, literally, I would work 24/7 to get this thing done.

MR. SHAPIRO: I agree, but--

ASSEMBLYMAN GREENWALD: That's why I asked you, is it salvageable?

MR. SHAPIRO: But would you work 24/7 to end up with a bill that ends up penalizing the most disadvantaged students in the state, the children with disabilities and the children who now attend, and will attend, preschool? I don't think so.

ASSEMBLYMAN GREENWALD: Certainly not, sir.

MR. SHAPIRO: And I think until you know -- until you have the assurances that that's not going to be your legacy -- your legacy is going to be a fair funding formula -- fair, reliable funding formula for everyone in the entire state, and not something that's--

ASSEMBLYMAN GREENWALD: No, but, sir, if I wait for a funding formula that satisfies everyone in the state, it will never happen.

MR. SHAPIRO: No, no, I didn't say satisfies. I said a fair and reliable funding formula for everyone in the state, not that satisfies everyone, and not a funding formula that really is -- results in deep, deep cuts for our poorest, most disadvantaged, and special needs children. I don't think you want that to be your legacy.

ASSEMBLYMAN GREENWALD: Mr. Shapiro, look, certainly no one does.

MR. SHAPIRO: I would much rather have you take a couple extra weeks, with the new Legislature, to assure yourself that what I'm saying may not be exactly as it appears. They may have answers for it.

ASSEMBLYMAN GREENWALD: So if we vote for this in January -- just not before a lame duck -- you're okay with it, even though the people who will be voting on it will have only seen it for two weeks.

MR. SHAPIRO: No.

ASSEMBLYMAN GREENWALD: You said, "Wait two more weeks and vote for it."

MR. SHAPIRO: No, I said that you don't -- you can't get that--

I meant to say--

ASSEMBLYMAN GREENWALD: Okay.

MR. SHAPIRO: If I misspoke, I misspoke. But what I think you need is more information. You need an analysis of the constitutionality. You have an independent obligation to pass a constitutional bill. It's not just something for the Supreme Court to sort out afterwards. And so I think you need-- There's a lot of information I specify in my testimony. And I think you need to know what the impact is going to be on your local districts, both educationally and in terms of their local share.

ASSEMBLYMAN GREENWALD: Thank you, sir.

Mr. Payne.

ASSEMBLYMAN PAYNE: Mr. Chairman--

Mr. Shapiro, one of the things that you did say is that you don't understand how we, as a Legislature, could move forward on this legislation without having a legal opinion that would be invaluable assistance to us, correct? We should, in fact, have a legal opinion, either

from OLS or from the -- legal opinion from a body? That's necessary? That's essential?

Your original impression that I-- The original impression I got was that this -- no matter what we do, this is doomed, there is absolutely nothing that would salvage this legislation. There are some weaknesses in it. I think your primary concern is that we have not been able to have -- to analyze the data, which the Department says they have, that would justify many of the assertions in this legislation. Is that correct?

MR. SHAPIRO: Yes, and that's why I think that the idea that this has been fully vetted, and we spent seven years on it -- five years on it, or whatever -- is a myth. Because, in fact, the critical information came out over the last nine months, none of which -- well, a lot of which has not been shared -- I won't say none of which -- but a lot of which has not been shared.

ASSEMBLYMAN PAYNE: I raised the question with the Commissioner as to whether or not the Department and administration is anticipating that this will, in fact, go before the courts, again, as it has done in the past. And I believe--

In your opinion, do you believe that if we move this legislation -- pass this legislation, as it is -- that we will, in fact, end up before the Court again?

MR. SHAPIRO: Well, my understanding is -- from the little I've heard about this -- is that the administration plans to bring the bill before the Court. Because under the current set up -- and this is where I differ from Assemblyman Conaway. Under the current set up, there are judgements in place in the Abbott decisions that bind the State.

Now, to have those judgements -- to have relief from those judgements, or to vacate those judgements so that this bill could go forward, you'd have to get the Court to say, "This bill is tantamount to the parity and needs-based remedies we've prescribed in the Abbott decisions." It can't be-- If it just -- the bill just goes forward-- You have the Abbott decisions that say certain things have to be done, and you have this bill. And it seems to me that you're asked to choose. You're asked to choose between an act of the Legislature and a constitutional decision of the Court. And I think the constitutional decision of the Court trumps the act of the Legislature until the Legislature or the administration can get the Court to relieve the State from the prior judgements.

ASSEMBLYMAN PAYNE: You think that this legislation, the way it's written now, is in contradiction with the Court's mandates?

MR. SHAPIRO: Well, I think there are a variety of mandates. And I think that it violates numerous mandates, yes -- the most fundamental mandates in many of these decisions, actually. And that's why-- If you were writing on a clean slate, I would be right with Assemblyman Conaway. There's a presumption of constitutionality. Let it pass. Let the people who want to challenge it be able to show that it's unconstitutional. But you're not. Your writing in an Abbott framework, with a lot of legal standards, where the Court says, "Only if the bill satisfies these criteria will it pass constitutional muster." And under those circumstances, it seems to me -- getting back to your first comment, Assemblyman Payne -- it seems to me that you need to know what those standards are. And I'd be happy to do it for you, but I don't think you'd adopt my opinion. (laughter) And you need to know what those standards

are and whether this bill satisfies those standards. And I don't think you know that. With all due respect, there is no reason why you should. But someone should be presenting that to you.

ASSEMBLYMAN PAYNE: So based upon what we have, and knowing what the Court mandates are, is it your opinion that this legislation simply will not pass muster, having it the way it is now? There's no way of predetermining what the Court is going to rule. Is that right?

MR. SHAPIRO: There's no way to predetermine what the Court-- And I would never venture a guess -- as to do that. But if I look at the precedence, and I put this -- the template of the legal precedence on top of this bill, it does not satisfy those, in my opinion.

ASSEMBLYMAN PAYNE: My last comment -- question is -- whether or not this bill, or no bill, has a far greater negative impact upon providing education to the children of the State of New Jersey or not -- whether--

MR. SHAPIRO: See, I don't think you need the bill to deal with the issue that is most important, which is getting more money to the districts that have not gotten the appropriate share in the past. I think you have-- I think basically the bill -- although it's called a *formula* -- is really a bunch of State aid figures with adjustment aids to do that. I think that's been done in the recent past, and it could be done in the future, while you work through, more systematically, what a constitutional bill and a bill based on -- and evaluate the data that went into this bill.

So I think that you don't need this bill -- this whole change -- to really address some of the more immediate issues. And it would give you more time to study the more long-term issues that I think are, at this point,

uncertain to all of us. And I admit, I'm-- Because I can't-- I haven't seen the data, so I can't say anything about the data. But I know that if the data were there, I would think we'd have it; or if the data to support it were there, I would hope we'd have it. And I don't see it.

ASSEMBLYMAN PAYNE: I would certainly expect that the Department has the data to back up what they've stated here. I certainly would not think that they would come before this body, or anybody else, without data that substantiates.

MR. SHAPIRO: Yes, and I hope so, and I hope we can see it.

ASSEMBLYMAN PAYNE: Thank you.

ASSEMBLYMAN GREENWALD: Mr. Conaway.

ASSEMBLYMAN CONAWAY: I am trying to make sure that I understand all that you've said. You've said a lot. You, of course, testified before the Joint Committee on School Funding Formula in the Summer and Fall of '06. And among what I have been able to glean from the number of things that you have said is that it sounds like you're indicting the process.

Now, I am certain -- of not a lot, perhaps -- but I'm certain that it was clear that the aim of the Joint Committee, and the aim of the Department -- I'm stretching way back -- was to develop a formula for the rest of distribution of aid to schools.

Now, I've heard you say -- call the formula *formulaic*, and that it won't produce--

MR. SHAPIRO: I said it's a myth that it's formulaic.

ASSEMBLYMAN CONAWAY: It's a--

MR. SHAPIRO: It's a myth that it's formulaic.

ASSEMBLYMAN CONAWAY: It's a myth that it's formulaic.

Are there--

So you agree that a formula needs to be produced in order to rationally distribute aid. Is that--

MR. SHAPIRO: I don't have any problems with that.

ASSEMBLYMAN CONAWAY: Okay.

MR. SHAPIRO: And I also don't think that this-- When I testified before the Joint Legislative Committee, you made a point of -- and I appreciated -- that money will follow the child in the new formula.

ASSEMBLYMAN CONAWAY: Yes.

MR. SHAPIRO: Money does not follow the child here.

ASSEMBLYMAN CONAWAY: Let me just-- I got your answer.

I'm going to try to ask fairly -- not often my questions are really succinct -- but I want to make sure that I'm asking the question most specifically.

You also said that-- You mentioned something about a needs-based system. And as I listened to you state that, and looked at what the Department and we've tried to do with this -- is that we have looked at the various needs out there. And we mentioned--

And the Commissioner explained -- or Ms. Attwood did -- you look at a base funding. The professionals gave us sort of a format for deciding how much money that would be. And that was described. I don't remember whether you disagreed with that or not. And then we-- There were inputs and other resources that were brought to bear to educate children who have various special needs. And if you look at the difference, you then get a factor. And the hope is, by doing that, you could then apply

that factor broadly so that you could have a rational basis for distributing aid for children based on their particular needs, not on a--

So is that process -- is that part of the process infirmed? Is it something that is wrong?

MR. SHAPIRO: Yes, it was--

ASSEMBLYMAN CONAWAY: It is.

MR. SHAPIRO: It was not-- The professional judgement panel approach -- as we testified in-- When the funding -- when this first came out in December of last year, the professional judgement panel approach was not followed. All you have to do is look at the most recent study in Pennsylvania to see how a professional judgement panel approach is conducted and compare that with what occurred in New Jersey.

ASSEMBLYMAN CONAWAY: We went through that.

MR. SHAPIRO: We went through that in detail, and it's not--

ASSEMBLYMAN CONAWAY: Just let me -- next question.

Now, you're aware -- and you referenced that we've had a number of experts -- national experts all over the country -- different groups, different consultants who were brought in not only to develop this formula, but then to review the formula.

I knew this question was coming on, but I thought we can-- At some point you have to-- Isn't there a point when -- if experts are continually brought in -- that you're just sort of finding the experts that agree with whatever opinion you have? That is, we have looked at this formula from different perspectives. We looked at the successful schools formula. There was concordance. We had folks review the formula that did a cost-function approach. We have gotten -- among these papers -- advice

about the formula -- or a review of the formula, based on that. We've had people come in with an evidenced-based approach and apply that to what the Department did.

All of those things-- And, indeed, the report suggested that many of the substantive things that were done in the bill met a standard. Every once in a while they called for more funding. Sometimes it was under, sometimes it was over. But by and large, there was concordance. And, indeed, one of the things that I thought was important about what the Commissioner has done here in this latest draft is incorporate many of the things in that last review, again, of nationwide experts who have developed school funding formulas for other jurisdictions -- other states. Some of those suggestions were taken into our formula: moving from a median to an average, as an example; looking at this question of professional development and how we bring in aides and different things -- all brought in as a result of the criticisms that were made by, again, another panel of experts.

So what I'm trying to figure out in listening to your comments and criticisms is: How would-- And I know you want us to wait. But beyond wanting us to wait, how would you-- It seems to me that you're asking us to do this process differently than the way it's been done over the last five years. And also, I have to say, there was certainly ample opportunity over that time, particularly with the hearings that we had in the Summer and Fall of '06, to suggest that we ought to be doing this entirely different.

MR. SHAPIRO: I did.

ASSEMBLYMAN CONAWAY: I have to say--

MR. SHAPIRO: I did, and I also-- We also proposed--

ASSEMBLYMAN CONAWAY: And what is that? So tell us what that is.

MR. SHAPIRO: Well, I also was instrumental in drafting legislation to get a new cost study, which the -- an objective cost study, which the administration fought and which did not move through the Legislature. Because our position was: Let the chips fall where they may. This is not a PJP process. By the way, those experts never saw the special education piece. Those experts, in February, never saw the preschool piece. We still don't know what this advisory group -- this mysterious advisory group-- I know we know the three people who were on it, but we don't know what they did during the Summer, what they recommended, what they didn't recommend.

So there's a lot of information I don't know about, where we have purported-- And this is precisely what the Supreme Court said was problematic in CEIFA -- when you had purported experts who express views that are undisclosed, you can't find that very reliable.

So what I'm saying is, I, from Day 1 -- the first day I testified -- through working with Assemblyman Stanley and his Committee on trying -- and testifying on a funding formula, on a cost study there -- I have tried. And I represent the Abbott districts, but I'm saying, let the chips fall where they may, but do it fairly. Do it reliably.

ASSEMBLYMAN CONAWAY: Now, you mention--

MR. SHAPIRO: No, if I could just finish.

ASSEMBLYMAN CONAWAY: You mentioned the word *fairly*.

MR. SHAPIRO: Can I just finish?

ASSEMBLYMAN CONAWAY: You talk about the base funding formula. You know that that average figure of \$14,000-and-change represents an aggregate figure for educating kids in a district. That actually takes account of not only base funding, but for the number of children in that particular district who may have special needs, or have LEE (*sic*) issues, or whatever. So that \$14,000 formula that you strike -- that you say is vastly different from the base formula -- well, that \$14,000 formula -- we're building to that.

MR. SHAPIRO: Do we know that? I don't know that. I mean, I have not seen figures that break out the regular education costs in those districts to demonstrate that what you're saying is accurate. It may be, it may not be. But all I'm saying is--

ASSEMBLYMAN GREENWALD: Mr. Shapiro, all I can tell you is, the Commissioner answered our question today that that statewide average of per-pupil spending included everything from special education, to pension and administrative.

MR. SHAPIRO: Show me the numbers. That's all I ask for. Show us the numbers that support what she is saying. I don't understand why these numbers aren't out there.

ASSEMBLYMAN CONAWAY: Just a couple more questions.

You mentioned, on special education as an example, that this was sort of pulled out of thin air. Now, the Commissioner sat here today--

MR. SHAPIRO: I didn't say that.

ASSEMBLYMAN CONAWAY: Well--

MR. SHAPIRO: I didn't say that.

ASSEMBLYMAN CONAWAY: Well, you said that--

MR. SHAPIRO: I said that--

ASSEMBLYMAN CONAWAY: Okay. Repeat what you said then. You certainly disagreed with the numbers on special education.

MR. SHAPIRO: I said that the special education numbers were not vetted by the experts in February. And when I spoke in my testimony about the special education numbers, I said that the special education numbers are based -- are not based on the needs of individual districts or the needs of individual children. They're based on a cookie-cutter approach, or a one-size-fits-all approach, that is contrary to what special education funding should be. I never said that they were pulled out of thin air. I know exactly where they came from. And where they came from is a flawed methodology that was tried in Pennsylvania, that now is reaping terrible results for kids in special education programs, that has been highly criticized in Pennsylvania. But you don't hear that. You only hear the sugarcoating.

ASSEMBLYMAN CONAWAY: I read about the Pennsylvania formula. And to be fair, what is being done here is, we're talking about a hybrid formula.

Now, you mentioned that the-- And this formula is based on actual cost and spending. The categorical formula -- and I don't know if you believe that is the right way to do things -- but it basically is, whatever your requirements are, let's spend up to that without any assessment of what happens in outcome, whether or not it--

MR. SHAPIRO: That's not how it works though.

ASSEMBLYMAN CONAWAY: --meets the Federal requirement to educate kids in the least restrictive environment, whether or

not we're getting good value for our money in or out of district. And it may be-- You might argue that this doesn't do all of those things.

MR. SHAPIRO: With all due respect, that's not how it works. There will be other people here who will testify about special education, but I don't think that's the way it works.

ASSEMBLYMAN CONAWAY: My only point is that we're going to spend another additional \$300 million to \$400 million in that category funding. And so when you say that the special education program -- and I don't know your exact words -- but clearly, education wise--

MR. SHAPIRO: No, you're going to be-- Have you found out how much you're going to save from special education now? I don't know if it's new dollars.

ASSEMBLYMAN CONAWAY: No, no, no, you said savings. I didn't mention savings.

MR. SHAPIRO: It's not--

ASSEMBLYMAN CONAWAY: I talked about spending.

MR. SHAPIRO: Do you know if it's new dollars or if it's just a reshuffling of old dollars?

ASSEMBLYMAN CONAWAY: The Commissioner said-- And when I met with her on this a couple of weeks ago, we talked about this. And what she said to me then, and what she said before this Committee, was that we will -- that additional moneys will be spent -- I don't know the exact number -- between \$300 million and \$400 million. That's what she said. And the reason that's being done is to give folks in the special education community some assurance that we are not sort of robbing money from the special education pool of money that is there. I don't

know how increasing funding for something means that people are going to end up being robbed of funding.

MR. SHAPIRO: Well, I don't know. I haven't seen the numbers.

ASSEMBLYMAN CONAWAY: I'm just -- what she said.

Now, you mentioned similarly -- and I do want to get to this point, and I will let it go. I am trying to figure out how it is -- actually two questions, but -- how it is-- If districts are being held harmless, and people--

MR. SHAPIRO: They're not.

ASSEMBLYMAN CONAWAY: --argue about whether or not you included CPI or other things--

MR. SHAPIRO: How can you say they're being held harmless?

ASSEMBLYMAN CONAWAY: If you are--

MR. SHAPIRO: How can you say they're being held harmless?

I ask you.

ASSEMBLYMAN CONAWAY: When I say held harmless--

MR. SHAPIRO: You say they're being held harmless, but that's--

ASSEMBLYMAN CONAWAY: No one is going to receive any less money.

MR. SHAPIRO: No, they're going to receive--

ASSEMBLYMAN CONAWAY: Let me just-- I'm just going to go by what the -- what I read of the bill; what the Commissioner said and what the Governor said.

MR. SHAPIRO: Read the language in the bill.

ASSEMBLYMAN CONAWAY: People are not going to-- I'm going to go to the language in 16, too, by the way.

How is it that there's going to be disaster?

MR. SHAPIRO: Because--

ASSEMBLYMAN CONAWAY: Funding is being held harmless. And, indeed, you might not like the growth in there, but how is it going to be disaster, where programs, all of a sudden, stop happening--

MR. SHAPIRO: You want to know why?

ASSEMBLYMAN CONAWAY: --when we haven't taken the funding and cut it by a third? How does that happen?

MR. SHAPIRO: You want to know why? I'll tell you why.

ASSEMBLYMAN CONAWAY: I'd love to know it.

MR. SHAPIRO: Because I've seen it happen in the Abbott districts over the past few years with the presumptive budgets. When the presumptive budgets are set at a certain amount, and the fixed costs -- the costs over which the district has no control -- exceed that amount -- for example, when you have a 2.89 percent increase, and your fixed costs are 7 percent, that money comes out of programs, that money comes out of teachers, that money comes out of services, that money comes out of positions.

ASSEMBLYMAN CONAWAY: And the Commissioner sat here, did she not--

MR. SHAPIRO: It's not a zero sum gain.

ASSEMBLYMAN CONAWAY: Didn't she say that, throughout this process, there will be opportunities for districts to come in--

MR. SHAPIRO: No.

ASSEMBLYMAN CONAWAY: --who have had -- who have difficulties with certain aspects of this to receive waivers to deal with health-care costs?

MR. SHAPIRO: No. She answered--

ASSEMBLYMAN CONAWAY: Didn't I hear her say that?

MR. SHAPIRO: She answered the exact opposite. She was asked specifically the question: whether districts that have needs that exceed the 2 percent can come in and show the Department that they have needs exceeding the 2 percent, and she said no. The waiver has to do with tax -- local property taxes. So she said-- She answered that precise question. She said no.

So now, every district that's getting a 2 percent increase, that has fixed costs above 2 percent, will have to cut programs and services to meet those fixed costs. They have no discretion on those fixed costs. You have to increase salaries according to contracts, you have to pay for utilities, you have to pay for health benefits, you have to pay for a variety of other fixed costs that don't -- the district can't change.

If we're going to say hold districts harmless, have a true maintenance budget, then give them what their nondiscretionary increases and fixed costs are so that they don't have to rob Peter -- programs, services, and positions -- to pay Paul -- fixed costs that increase.

ASSEMBLYMAN CONAWAY: Last question, Mr. Chairman. I'm done.

Going back to 16, Paragraph 2: At the top of the paragraph it talks about multiple years -- '09-'10, and then '10-'11. And I'm looking for the word *flat funding* in there to try to figure out where that is.

MR. SHAPIRO: Well, it's not--

ASSEMBLYMAN CONAWAY: I mean, you said it over and over again. I'm trying to figure out what that means.

MR. SHAPIRO: They didn't say flat funding.

ASSEMBLYMAN CONAWAY: I know.

MR. SHAPIRO: Because flat funding would be a death knell. What they say is, the districts will receive the same amount of State-calculated aid, calculated for the district, pursuant to the provisions of the act. That doesn't apply, then, to the Abbott districts, because -- I'm on Page 21-2 -- or the State aid, other than adjustment aid received by the district for the 2008-'09 school year. To me, when the aid in 2009-2010 and 2010-2011 is the same as 2008-2009--

ASSEMBLYMAN GREENWALD: Gentlemen, excuse me for one second. Staff has a comment from OLS.

MS. FAZZARI: I just want to say that that phrase, "other than adjustment aid," was actually a drafting error. That should actually say, "other than educational adequacy aid." Because educational adequacy aid--

ASSEMBLYWOMAN POU: Kathy, I can't hear you.

MS. FAZZARI: I'm sorry.

That phrase, "other than adjustment aid," was actually a drafting error. That should actually say, "other than educational adequacy aid." Because educational adequacy aid is calculated further down in that paragraph. And that's recalculated every year. So that really should not say, "other than adjustment aid."

MR. SHAPIRO: It doesn't change it. It says other-- You're disqualifying that. You're saying it's the State -- act of the State aid. You

could say anything in there. You could say other than Santa's elves. But it doesn't matter, because it's the State aid received by the district for the 2008-'09 school year -- shall be the same in 2010-2011 -- 2009-2010, 2010-2011. That doesn't say anything about aid increasing over--

MS. FAZZARI: No, but in '08-'09, they're getting the 2 percent increase.

MR. SHAPIRO: Excuse me?

MS. FAZZARI: In '08-'09, they're getting the 2 percent increase.

MR. SHAPIRO: Right, and that's flat funding in '09-'10.

MS. FAZZARI: Oh, I thought you thought they weren't--

MR. SHAPIRO: My point is--

MS. FAZZARI: I thought you were saying they weren't getting the 2 percent increase.

MR. SHAPIRO: No, my point is, they're getting a 2 percent increase, which is not an increase, which is a cut in 2008-'09. And on top of that, they're getting flat funding of that cut in 2009-2010 and 2010-2011. That's what the bill says.

ASSEMBLYMAN GREENWALD: Assemblyman.

MR. SHAPIRO: It doesn't say *flat funding*, it says, "You're not going to get more in 2009-2010 and 2010-2011 than you got in 2008-2009." That's flat funding.

ASSEMBLYMAN GREENWALD: Mr. Shapiro, okay.

Mr. Malone.

ASSEMBLYMAN MALONE: Mr. Shapiro, calm down.
(laughter)

Look--

MR. SHAPIRO: I have to take a breathing break.

ASSEMBLYMAN MALONE: I know.

MR. SHAPIRO: I also want to know, from Assemblyman Greenwald, who was trying to buy his house. Because I've been trying to sell my house for two years, and I was going to ask him to send the person up to me. (laughter)

ASSEMBLYMAN GREENWALD: Where are you moving?

MR. SHAPIRO: Montgomery Township.

ASSEMBLYMAN MALONE: Look, it almost seems as though you're actually attacking the integrity of the Governor and the Commissioner, and that they have some nefarious purpose for doing this.

I may disagree with the Governor on issues involving the -- with some of this formula. But in talking to him, and talking to the Commissioner, they're very passionate about this. They believe they're doing the right thing. I strongly believe that there is no formula that would satisfy the Education Law Center.

MR. SHAPIRO: I'm not with the Education Law Center.

ASSEMBLYMAN MALONE: Or any group.

Would there be any formula that would satisfy--

MR. SHAPIRO: I already told you that there would be. I've said there would be, if you had -- if you provided for amounts -- formulaic amounts that were fairly and reliably determined by a proven process, not by the truncated PJP process in New Jersey. Look at Pennsylvania. That was a fair and reliable process.

ASSEMBLYMAN MALONE: Yes, but that goes to--

MR. SHAPIRO: And then, if you allowed districts whose needs exceeded that formula to seek additional funding, you would be able to address the funding needs of the State. And that would apply to all districts, not just Abbott districts.

ASSEMBLYMAN MALONE: I'm going to make the assumption--

MR. SHAPIRO: And can I just say, I do not question motives. I learned, from a long time ago, you do not question people's motives. You don't know what people's motives are. I question their actions, I question the legislation, I question the testimony today of the Commissioner by what she said, not by her motives. I don't profess to know their motives. And I want it to be clear, I'm not questioning anyone's integrity. I do question the solution that they've come up with, as to whether it is a fair, reliable, and constitutional solution to a problem in New Jersey.

ASSEMBLYMAN MALONE: And I go back to the point that Assemblyman Greenwald made about contacting somebody if you had some reservations about some of these aspects so they could have been--

I wouldn't know you if I--

MR. SHAPIRO: But I testified before you when-- Do you remember the Assembly Education Committee? I testified, and I gave my testimony in, and it was exactly along the lines that I've said today. And I said this eight months ago.

So, I mean, I'm not coming-- I'm not a Johnny-come-lately on this. I've been involved in this for years. And I've been actively involved before the Legislature for the last nine months. And nothing I'm saying today contradicts anything I've said before. And everything I've said today

was perceived by me from what I saw before. So this is just an output of what I said before.

So I really do feel that-- I came early to get my testimony distributed. I apologize for not contacting you individually. I don't know, in my role as special counsel, whether that's even an appropriate thing for me to do. I know it's appropriate--

ASSEMBLYMAN MALONE: And you are special counsel to whom?

MR. SHAPIRO: The 11 districts that are on the face of my testimony. But I represented up to 16 or 17 Abbott districts at one time or another.

ASSEMBLYMAN MALONE: And let me ask you just a general--

What is all of this legal wrangling costing the taxpayers of the State of New Jersey?

MR. SHAPIRO: I'll tell you-- You mean legal wrangling -- my representation of these Abbott districts?

ASSEMBLYMAN MALONE: Yeah, all of it.

ASSEMBLYMAN GREENWALD: Not you personally.

ASSEMBLYMAN MALONE: I mean the whole legal aspect of it.

MR. SHAPIRO: I have absolutely no idea.

ASSEMBLYMAN MALONE: How many tens of millions of dollars?

MR. SHAPIRO: I have absolutely no idea. But if you want to save some money, you would have a constitutional formula rather than pass

this one (applause) and have it go before the Supreme Court, and have the Attorney General and other people spend additional money.

ASSEMBLYMAN GREENWALD: Ladies and gentlemen, really.

ASSEMBLYMAN MALONE: And it's my--

ASSEMBLYMAN GREENWALD: Hold on one second, Joe.

People are working very hard on this. They've been working for a long time. It's not appropriate. We are trying to learn and understand this.

And, Mr. Shapiro, I have great respect for what you've done. Joe is mimicking my comment, which is-- I learn far more by interaction. This is probably not the best interaction I could have. It would be better in my office. I would appreciate it if this is not going to be the end of this, as much as we would like. It would be helpful for me if you came to meet with me, because these are fair-- I haven't heard one question here that's not a fair question to you, sir. I haven't.

MR. SHAPIRO: I agree.

ASSEMBLYMAN GREENWALD: There is frustration, because a lot of time and energy has been put into this. And we are trying to get it right. And I think in many respects, while our results are strong in education amongst our children, we're not doing it as efficiently as we could. We are strangling people to death on property taxes, and we're trying to figure out a better way to do that, and meet, where we can, even better results. That's the only goal that we're trying to get here, in all honesty.

MR. SHAPIRO: I appreciate that. And I guess-- I apologize for getting worked up. But I do bristle at the suggestion that I'm appearing here for the first time today, raising comments that--

ASSEMBLYMAN GREENWALD: Sir.

MR. SHAPIRO: --when I testified on numerous occasions, worked very hard to get an objective and a reliable cost study -- which Assemblyman Stanley worked very hard to try to do. And we were thwarted by the administration, who vigorously opposed the bill. Why was the administration concerned, eight months ago, about a cost study -- a vigorous, reliable, objective cost study that would have been completed in September? You would have had that before you by the time you considered this bill. It was opposed, and yet the numbers don't get trotted out until November and December.

ASSEMBLYMAN GREENWALD: Sir, again, you know something? Had you come to meet with me, and you shared that with me, maybe I could have asked that question. Okay? We're going to try-- We're going to need that information. I asked, I think, a similar question -- which you appreciated -- which we're going to try to get the answer to.

So we really need the audience to -- because there are other people that still have to testify. Please be respectful.

MR. SHAPIRO: I'm sorry.

ASSEMBLYMAN GREENWALD: Okay.

ASSEMBLYMAN MALONE: I'm assuming we're going to have a meeting some time next week to do this bill and vote on this bill.

MR. SHAPIRO: I understand you've been scheduled for New Year's Day. (laughter)

ASSEMBLYMAN MALONE: I would appreciate any input you could give between now and next week. If it so happens it's either the Education Committee or the Budget Committee, I'm on both. I would very much like to hear specifics so I could have that in my thought process.

ASSEMBLYMAN MALONE: Thank you very much.

MR. SHAPIRO: Thank you very much.

ASSEMBLYMAN STANLEY: Let me just say something.

ASSEMBLYMAN GREENWALD: Go ahead, Mr. Stanley.

ASSEMBLYMAN STANLEY: Thank you.

Mr. Shapiro, is there any scenario that you could envision this formula going forth, without it -- without having to go to the Supreme Court? In other words, is there anything -- are there any adjustments that we can make to the formula, or the language in the bill, that would address concerns over the next three years, as we take time to look at and do an assessment of these calculations and how they actually -- how they will actually impact school districts in our state and the provision of a thorough and efficient education? Are there things that we can put in here that would satisfy your constituents, as well as maintain what seems to be a satisfactory solution to many of the other, I guess, 570 districts in the state?

MR. SHAPIRO: Well, for one, you have to have the opportunity for needs-based funding for both the preschool program and for K-12. If the amounts that are in whatever the numbers are -- the State-aid figures plus the adjustments -- are insufficient, you need that provision to give the -- those districts whose fixed costs and other costs exceed the 2 percent or exceed flat funding -- have the opportunity to show need and to get additional funding.

In the Abbott districts, you need-- The Commissioner, today, was very candid about the fact that in the past years there has been a separate stream of funding for new facilities. And the Assemblywoman asked a number of questions about that. But there is no separate stream of money that's been guaranteed for new facilities that come on line. And there are a lot of costs associated with new facilities.

For example, Elizabeth has three new facilities coming on line -- \$23 million. Unless there's a separate stream of funding, that's \$23 million that has to be cut out of programs, services, and positions to fund the cost -- the incremental cost of new facilities.

You also-- I'll let the special education people speak to the special education provisions, because I think there are some problems there. But if you got a way-- If you got into a needs -- an opportunity for needs-based funding for districts whose needs cannot be met, you could be moved forward while giving those districts the opportunity to show additional needs.

And I think most of the Abbott districts are asking that you-- If you're going to maintain-- If you're going to say *hold harmless*, maintain the current level of program, services, and positions. Don't say *hold harmless* and actually force the districts to cut. So if you wanted to have a truly maintenance budget -- until you could see how this formula played out -- allow those districts to have a maintenance budget for the next few years, with the opportunity, as I said, to appeal. One way is building nondiscretionary increases in expenditures; the so-called *fixed costs*. Build that in so districts would get that increment, not just a 2 percent or a flat, arbitrary amount.

And so if you did that, and you dealt with this separate stream of funding, that would give us some opportunity to -- and dealt with the special education needs -- that would give us some opportunity to have the funding formula, or whatever it is -- the State aid figures with adjustments -- go into effect; get some sense, operationally, of how it will work; and yet not -- and yet truly hold districts that are going to be suffering shock -- hold them harmless over the next few years.

ASSEMBLYMAN STANLEY: Thank you, Mr. Shapiro.

Paul Tractenberg.

PAUL TRACTENBERG, ESQ.: Yes, thank you.

I appreciate being here.

I'm actually wearing my Education Law Center hat. And you have a statement that was submitted by the Education Law Center.

David Sciarra, the Executive Director, had the good judgement to have an unbreakable family commitment, which took him to a warm climate. (laughter) So I'm here in his stead.

I'm not going to repeat or even hit high points of the statement. You have it. It's, I think, very straightforward. I also did some talking points this morning, and I'm not going to use those either.

What I am going to do -- to show you I both paid attention to the discussion earlier and also actually found it a really interesting exercise-- I think Chairman Greenwald's suggestion of dialogue, and the preference for dialogue, has begun to pay off.

My only problem is, I think we're at the beginning of the dialogue, not at the end of it.

ASSEMBLYMAN GREENWALD: Paul, take as much time as you need.

MR. TRACTENBERG: Excuse me?

ASSEMBLYMAN GREENWALD: Never mind. Go ahead.

MR. TRACTENBERG: I have-- There were some moments of stunning clarity, I thought, this morning, and I want to emphasize a few. I'll use a little poetic license, but there were questions asked by all of you and responses by the Commissioner. And these are in no particular order, but I think they will permit me to kind of summarize what I wanted to say anyway.

Question one was: Where will the money come from? Answer: Don't worry, it's included in the deficit. (laughter) I'm seldom speechless, but that exchange rendered me speechless.

Question two--

ASSEMBLYMAN GREENWALD: Excuse me, sir.

Just so you understand -- because there are people here -- do you understand what that means?

MR. TRACTENBERG: I understand.

ASSEMBLYMAN GREENWALD: You do? Because you say it facetiously.

MR. TRACTENBERG: No, no--

ASSEMBLYMAN GREENWALD: What it means is that we are not constitutionally allowed to pass a budget with a deficit. So we will either have to cut other programs -- many things that we have argued for, like funding for charity care for the uninsured, cancer research and treatment facilities, some of the expansion of the autism programs -- to

continue to fund public education and the increased need for this. And it's the inevitable tug-of-war, that we have been dealing with for 30 years, on property taxes and education versus everything else. And that number is growing. And it's why this funding formula is so important. And it must be balanced upon getting it right.

So it's not being paid for in deficit spending. We will have a balanced budget. And many of the people in this room who are involved in other causes will come and argue that those causes should be funded as well, and make sure we do so with no new taxes and no new fees.

MR. TRACTENBERG: No, I understand that. All I'm saying is that--

ASSEMBLYMAN GREENWALD: What it means is, it's included in the Governor's projected budget that has a \$3 billion deficit, as we sit right now, before our work is done by the end of January. And it will not-- There will not be a \$3 billion deficit when we're done.

MR. TRACTENBERG: Right. But it means we don't know where the money is going to come from. But we assume it will come from somewhere.

ASSEMBLYMAN GREENWALD: And it also means that this is a top priority. This is the number one priority that will be funded before anything else.

MR. TRACTENBERG: Question two: How do we explain the formula? I think Assemblyman Malone said, "If I had four or five minutes with somebody, how would I explain it." The answer, I think -- and this is extrapolating -- is: Despite the rhetoric about a unified formula, there is no formula, and it's certainly not unified.

Let me explain. I went through the numbers of districts and used the adjustment aid category as one benchmark of how you -- funding districts. And I found there are 230 districts, representing about 37 percent of all the districts in the state, whose funding is determined by the adjustment aid, not by the formula. Secondly, you've got, I think, 335 districts whose funding is capped either at 10 or 20 percent. So they're not getting full formula aid either. So, by process of elimination, that means there are 52 districts that are actually getting their full aid through the formula. To me, that's not a unified formula.

Beyond that, the second largest line item in the funding for education is the adjustment aid category. That's over \$850 million. The Commissioner talked about how there was a \$530 million increase in funding. But if you leave aside for a moment adjustment aid, that means the formula, if left to work its own way, would produce a \$320 million reduction in State funding of education. So there's a lot of weight being placed on adjustment aid.

I guess we're assuming it's going to be approved and appropriated not just this year, but for virtually all of time, because the Commissioner said adjustment aid -- although she called it *transition* aid, and it was originally called *hold-harmless* aid -- is going to be a permanent part of the formula, which means a succession of Legislatures are going to have to adopt it.

If they don't-- If the formula is actually permitted -- a unified formula is permitted to go into effect-- Attached to the statement I submitted on behalf of the Education Law Center is the first year consequence for the Abbott districts. Under the formula, if adjustment aid

isn't included, they will lose \$605 million. Now, a little more than half of that will go to a reduction in State education aid. The balance -- about \$285 million -- will be distributed, presumably, to other districts.

Now, you might think that's a fanciful notion that the Legislature might choose, in difficult financial times, not to appropriate adjustment aid -- \$850 million worth. The only thing that makes it less than fanciful is what's creating the main sense of urgency about adopting this new formula in lame duck. It's that the State has not funded CEIFA for the last six years. And I've been involved in this since 1970. I could give you a litany of occasions in which the State failed to fully fund its own school aid formulas. So it's hardly an exceptional and unusual event.

In point of fact, if CEIFA had been funded-- And the issue of constitutionality is floating around. CEIFA was found, in Abbott, to be constitutional -- or at least not to be found unconstitutional, as to all the non-Abbott districts. So it's not the Court saying CEIFA couldn't be funded.

Ernie Reock did a study, from my Institute at Rutgers, in which he found that if CEIFA had been funded over these last six years, it would have produced about a billion dollars of State aid for the very districts we're now justifiably concerned about because they're not getting enough State aid. I would suggest we might not even be here today if CEIFA had been fully funded.

So I think there's a context in which these issues have to be considered.

Question three -- a question that Rich Shapiro mentioned -- how does money follow the child? Well, that slogan, as you may know,

came from a study, among other places, that the Fordham Institute did. Their concept of money follows the child was: How does it get into the classroom? It's sort of the old, Federal categorical funding, Title I -- that that money has to supplement, not supplant, local money. It's got to be used for the children whose needs generate the funding.

We have nothing like that here. It becomes, as the Commissioner made clear, an unrestricted pot of money that goes to the district, and the district has the discretion to use it for whatever it chooses, subject only to this vague kind of remote notion that QSAC will correct all in the end, that that will be the monitoring that will make sure the at-risk kids actually get at-risk money spent on their education. I know quite a bit about QSAC, and I'm saying that's not a reliance I would comfortably place on QSAC.

Question four that was asked: How did you arrive at the key elements of your formula? And I think it's fair to say the Commissioner's answer was, "Mainly we relied on the professional judgement panel process." That strikes me as curious. The professional judgement panel, as the Commissioner indicated, met almost five years ago. The Commissioner also indicated there's going to be a change in the pace at which the adequacy budget elements are considered. Instead of waiting five years, she's going to do a three-year review. Well, the whole adequacy budget in the bill is based on five-year-old information from those professional judgement panels. So I think there's a threshold problem with that.

Will this act pass constitutional muster? Like Rich, I'm not prepared to predict how the Court will rule. But I do want to say I've been-- This is the fifth school funding law I've been involved with. The

first four all were determined, at least in part, to be unconstitutional. And thinking back over that long process, it struck me that there were a couple of elements that were true of all those statutes -- or at least most of them.

One was, they were passed in haste, without adequate numbers and adequate consideration. And two, they tended to be a top-down approach. That is, a judgement was made about how much we can afford on education. And from that judgement, we backed into a formula. In one of the formulas, we had to wait for -- I don't think we called them *at-risk* students, but the same concept. And it was like .231784. And somebody said, "Well, how did we arrive at that number? I didn't know we had the capacity to be that precise." And they said, "Well, we figured out how much money we could put into that pot. We divided it by the number of kids we thought had that problem, and we just ran it out to multiple decimal places." We can't do that. That's a kiss of constitutional death.

What Abbott succeeded in doing was reversing that and building from the bottom up. That is, the Abbott model -- which I think is a good prescription for a statewide school funding model -- is to say, "Let's look at kids, let's identify their needs, let's find programs that meet those needs, let's figure out how those programs -- how much those programs cost -- and then let's go out and raise the money." That I would suggest, despite the rhetoric to the contrary, is not the way this has happened here. The Commissioner talked about -- when asked about constitutionality, she said, "I think our process will hold up. I think the Court will affirm it."

I want to tell you about one aspect of the process which bears directly on this. There's an ongoing litigation -- talk about the cost of pursuing this -- in which the State Department is defending against an

OPRA lawsuit by the Education Law Center -- Open Public Records Act. They've lost at the trial court, they've recently lost at the Appellate Division. I understand they're planning to appeal to the State Supreme Court. What is this about? It's about not giving up documentation that would show the different formulas that they considered and the different runs that they did of those formulas, which presumably led to the selection of the formula that is in this bill. But we're not given the information to compare it.

What does the State say is the reason why it won't release it to the public -- and I'm quoting -- "It might stir controversy and discussion." (laughter) Now, that's obviously something we want to avoid at all costs, right (laughter), discussion and controversy? The Appellate Division, two weeks ago, in its opinion, rejected that argument and said that the administration's desire to keep this background information private -- and I quote from the Court -- "Bespeaks a lack of confidence in the ability of our citizens to digest and analyze the potential consequences of the choices this State must make."

And these are hard choices. They're complicated choices. I think today's hearing demonstrated, as well as anything could, how complicated and difficult the choices are, and how crucially important it is to have the requisite information. Because without the right information, and without an open process, we're not going to wind up with the best choices.

ASSEMBLYMAN GREENWALD: Gentlemen, I need you to turn your mikes off.

RUTH DEALE LOWENKRON, ESQ.: Good evening.

Thank you for allowing me to testify. I'll be as brief as possible, recognizing there are a number of people behind me.

My name is Ruth Lowenkron. I'm an advocate at the Education Law Center. I've come to speak about the aspects of special education in the funding formula -- in the funding bill, I should say -- that I am very concerned about -- and that I believe the thousands of persons with disabilities in the state, with whom we have contact in one way or another, are concerned about -- and bring those concerns to you.

There are others in the audience who will speak at greater length. I'll be brief. And I've submitted written testimony on it.

But I do want to underscore some of the sentiments that my colleagues here have expressed, with respect to the concerns about how the funding bill affects the Abbott districts.

I handed it to a woman moments before I stayed here. (referring to written testimony) Here is what it looks like now, with my daughter's hang-man on it. But it has my name on it.

As Mr. Shapiro and Professor Tractenberg have said to you, we are very concerned about rushing this through lame duck. I understand the other side of the story. We, too, are very concerned that the rights of children be addressed, that we need to have some certainty, that districts need certainty with the budgets. We're certainly aware of that.

We are also aware of the long time that has been spent talking about it. But on the other hand -- considering the many years that have been taken discussing, generally, issues about funding -- how long is it that we have this bill, and we keep hearing-- Every other sentence, it seems to

me, is, “Oh, wait a minute. That’s a typo, that -- we need an amendment,” and so on there. And it seems inappropriate.

I have my little daughter here today. I want to show her democracy in action. That’s not democracy in action when there’s an attempt to rush things through. And I think that’s of great concern to the disability community; and especially of great concern to the disability community because, again, contrary to the suggestions that were made by the Commissioner earlier about how this whole formula, as she calls it, was vetted, and how much input was solicited, there was virtually no input solicited from the disability community. Specifically, the Department of Education said that the experts should not review the special education aspects of the formula. So there has been very, very, very little attention paid to the special education piece of the formula.

And on the other hand, not to repeat in too great a length, but as Mr. Shapiro alluded to, you have our neighboring state of Pennsylvania, among a few others, that have utilized the census model and have not done well with that census model. What is the-- What are we trying to achieve with the census model? The idea is that we should have a reduction in classification. Now, how we could achieve that, I don’t know. Because it doesn’t aim to lessen the amount of inappropriately classified children, which then you would say, “Okay, that makes sense. That’s how we’re going to have fewer classified children -- inappropriately classified.” But it just reduces the number of money -- the number of dollars that go to children. So you are not going to see, if you see a reduction, an appropriate reduction in classification. And what happened in Pennsylvania? There

wasn't even a reduction at all, but rather there was an increase. So it had absolutely no effect as intended.

And the other thing is that, of course, what happens is the local share increased. And that is a piece-- I know we say this is only about education, not about trying to rebudget for the State. But certainly we want to be attuned to the fact that when this census model, that does not take into account the individual needs of children with disabilities, was tried in Pennsylvania, in fact what happened was state money went down, yes indeed; but district -- local costs increased. And we do not want to see that here in the disability community. And I don't imagine you legislators want to see that either, because I'm sure you're hearing from your constituents with disabilities that this is not the way to go.

They're also-- The disability community is also concerned, again a bit echoing what my colleagues are saying with respect to the constitutional muster that this funding formula must pass-- We are concerned that this is also going to be violative of the special education laws. The special education laws are very clear in ensuring that individuals with disabilities have their rights met, and have their rights examined and honored on an individual basis, hence the words *Individuals with Disabilities Education Act* -- the title of the act. And to do otherwise, in our opinion, would run afoul of the law. Of course we might make great assumptions that somebody is picking up the tab, but why isn't the State not the one appropriately picking up the tab for children with disabilities -- concerned about their individual needs rather than going by a census model, and some average percentage of children, and some average costs?

By the way, one of the things that I want to point out that really gets very little attention is the fact that when you are talking about the money for the extraordinary aid, that money is not even representative of the average costs. So even when we think we are dealing with average costs, we are not dealing with average costs, because we were told by the Commissioner that -- in the session in the Governor's mansion -- that, in fact, that \$40,000 and \$55,000 number is calculated based on the -- all-- I'm sorry, I'm confusing things. Excuse me. When we talk about the statewide average that we have, that average does not take into account any expenses over \$40,000 or over \$55,000, with the assumption that that's taken care of in extraordinary aid. So the statewide average -- again, not looking at the individual needs -- but the statewide average cost that is set forward -- the dollar amount that's set forward in the bill is not truly an average, because it only takes into account costs below the \$40,000 mark, which is impossible since we know it's not going to be funded at 100 percent.

And that's another -- to adopt Mr. Shapiro's words -- another myth -- that we are seeing an increase in extraordinary aid costs. In fact, CEIFA mandates a 100 percent funding of extraordinary aid. So for the Commissioner to say that we're going to see an increase in funding for extraordinary aid leaves me a little bit concerned. Because from 100 percent to 75 percent is clearly a decrease. How much in fact it will be funded is another question. But it's surely a decrease in what the mandate is.

Just a few more things, real briefly. One thing I feel compelled to weigh in on is the Commissioner's suggestion that the special education

portion of the formula is an attempt -- it seemed to me she was saying, and I hope I don't say it incorrectly -- but that this seems to be a response to litigation regarding segregation of children with disabilities in this state. As you might guess, the Education Law Center is involved in that lawsuit. I can tell you for sure we -- my co-counsel -- were never consulted about this. And I can tell you for absolute sure that we do not see this as responsive to the concerns that are raised in that lawsuit. So to the extent that there is any thought that the disability community believes that this will be effective in addressing the concerns raised in that lawsuit, I want to dispel that notion.

I think that at this point, the last thing I wanted to say is -- just to sum up two-- Again, what we hear so much is that what we're looking at is the concerns of the individual child -- again, that mantra that the money follows the child. But to underscore that that couldn't be further from the truth for the disability community -- the specific language in the preamble that State aid is to be provided for every school district based on the characteristics of the student population. But again, please bear in mind, for that large population of children who are the most disadvantaged, that is absolutely not true. And, again, we are concerned that that is then very much in violation of the mandate to look at the individual needs of children with disabilities.

ASSEMBLYMAN GREENWALD: Thank you.

Professor, you made a point on-- You would set up the funding formula, if I understand you correctly -- I want to make sure I understand it -- how many children do we have, what are their needs, special education

needs and the like. That comes to this amount. And then figure out how you pay for that. Is that what you would recommend?

MR. TRACTENBERG: Yes. I think--

ASSEMBLYMAN GREENWALD: I'm just trying-- Is that what you would recommend?

MR. TRACTENBERG: Yes.

ASSEMBLYMAN GREENWALD: Okay. Right now, we're spending about a hair over \$20 billion on public education, Kindergarten through 12th grade. Our entire budget is \$33 billion. We obviously couldn't pay all of that in State funds. So you would then allocate, based on fairness, how much of that should come from income tax, and spread out on an equalized basis how much should come from property taxes, and then look at possibly what other states have done -- local purpose taxes and the like? Is that what you would recommend?

MR. TRACTENBERG: Well, one thing that's in my statement which I did not say, but is germane to your point, is, I think the-- My prediction is that the inevitable effect of this proposal will actually be to reduce the State share of education costs and increase the local share. And that's because I think it comes back to the base rate. I mean, the reason we have so much adjustment aid is because the base rate is so much below what so many districts are currently spending.

And to the extent that adjustment aid may be expendable, that's going to put the -- a lot of districts -- 230 of them -- to a really tough choice. Do they cut programs to the degree of their adjustment aid, or do they raise that locally, or do they do some of both, which I suspect won't be the result? And so I think there are, in this proposal -- in my view -- the

seeds of actually increasing local property taxes in the name of balancing the State budget.

ASSEMBLYMAN GREENWALD: Thank you.

Nellie.

ASSEMBLYWOMAN POU: Just a clarification, Mr. Chairman.

Professor, I just want to-- At the end of your report -- the last page -- it talks about a projected aid shortfall. Could you take a look at that and explain to me how you arrived at-- I understand how the first one -- the one before that -- how you arrived at that amount. You're just using the first-year adjustment dollar amount for every district. I guess you only have the Abbott districts here.

MR. TRACTENBERG: Right.

ASSEMBLYWOMAN POU: But then, in '09, '10, '11 -- and you have the two-year cumulative and the three-year cumulative. Some of the figures that you're showing here are astonishing. So if you could just help me to understand how you-- Are you applying a cumulative 2 percent for each year thereafter, and multiplying that to get you at that figure? Is that what you're doing? Because you go from 2, to 4, to 6 percent.

MR. TRACTENBERG: Well, let me try to explain what the two tables show. Table 1, which is the simpler table, simply says, "What if there weren't any adjustment aid available to the Abbott districts?" And if what they got was purely the formula--

ASSEMBLYWOMAN POU: But they are. We're not dealing--

MR. TRACTENBERG: Well, until the money is appropriated, nobody, I think, can quite say they are or they will be.

It's just an illustration of how the formula -- which is advertised as a unified formula -- would come down on the Abbott districts if they weren't saved by, or protected by, the adjustment aid.

The second table is totally different. The second really picks up on the point Rich Shapiro made, which is: What started out being called *hold harmless* is not really hold harmless. And it assumes that you'll have adjustment aid, that it will be a 2 percent increase in Year 1 and then flat funding in Years 2 and 3, and it compares that -- the result -- to certain assumed actual increases. And I think it just uses 4 and 6 percent.

ASSEMBLYWOMAN POU: Actual increase based on what? What are you--

MR. TRACTENBERG: Well, the fixed cost point that Rich was making.

ASSEMBLYWOMAN POU: So what figures did you use to come to that assumption? What are-- Did you just pick a-- How were the numbers picked, in terms of your assumption?

MR. TRACTENBERG: No, we took the current level of funding and said, "Okay. What if next year, instead of it going up by 2 percent or none, it went up by 4 percent or by 6 percent? What would the shortfall be?"

ASSEMBLYWOMAN POU: What did? What went up?

MR. TRACTENBERG: If the cost -- the fixed cost.

ASSEMBLYWOMAN POU: The fixed cost.

MR. TRACTENBERG: Right.

ASSEMBLYWOMAN POU: Okay. I'm just trying to follow.

MR. TRACTENBERG: So we're comparing what money would flow to the districts in State aid, under the so-called *hold harmless*, versus what the actual costs would be. And the difference is the shortfall.

You looked puzzled.

ASSEMBLYWOMAN POU: Yes, I am. Only because, aren't you then not almost doing the exact same thing that you're accusing the Commissioner of doing -- of having placed certain assumptions without having all the facts there?

I'm trying to-- I thought I was following you originally. You were talking about a cumulative figure between what the adjusted rate -- aid is, based on the first year. And I understand that. But then that's a cumulative figure from 2 percent thereafter, which is not what you've just said. Actually, you're projecting what may be a hypothetical fixed cost, but you're not using any facts to-- You're not-- You're assuming that there may be a 6 percent increase of certain fixed costs by Fiscal Year '09, which is -- I'm looking at your very first column. Just take your first column and go right across. You're doing the exact same thing for Fiscal Year '10, '11. And then, if you use that, some of these figures range anywhere from a minus \$5 million to a minus \$120 million by Year 3, which doesn't seem to show any real understanding of how you arrived at such a high number.

MR. TRACTENBERG: Well, what we're saying is, none of us knows now precisely what the increase will be in fixed costs or other costs that the districts will experience. So we're simply projecting, what if we assume a relatively low number of 4 percent and a bit higher number of 6 percent? How would it play out? How would flat funding affect those districts? How much loss in real buying power would be caused by it?

ASSEMBLYWOMAN POU: Okay.

MR. SHAPIRO: Can I speak briefly to that point?

ASSEMBLYWOMAN POU: Yes.

MR. SHAPIRO: In the 2007-2008 school year, the Department set a number of 3 percent as the presumptive increase.

ASSEMBLYWOMAN POU: Okay.

MR. SHAPIRO: So they set-- That was a number that they based-- Every district would get a 3 percent increase. That's not-- That was based on cost-of-living and their own adjustment. Those districts that had needs greater than 3 percent, or felt that they wanted to participate in the appeals process, could seek more money. Eight districts did, and they were able to show fixed costs in excess of 6, 7 percent. And that would have resulted in cuts in programs and services.

This year, the Commissioner said in her testimony that the COLA is 2.89. So you know from the outset that districts that are getting 2 percent are getting .89 less than the cost-of-living adjustment, without even calculating the fixed costs. In a lot of these districts, the fixed costs, when you look at contractual salaries, are between 4 and 5 percent, sometimes even more.

ASSEMBLYWOMAN POU: Is that part of your definition of the fixed costs -- as contractual?

MR. SHAPIRO: That's a nondiscretionary increase in-- Nondiscretionary increases in expenditures are what I call *fixed costs*.

ASSEMBLYWOMAN POU: Mr. Shapiro, I thought -- and I'd like to hear the end of your statement -- but if you would just define the full definition of *fixed costs*. I thought it was fixed costs like utility increases,

insurance, medical health benefits. That's what, to me, talks about fixed costs. Contractual costs are not a fixed cost. That's a negotiated--

MR. SHAPIRO: Not in the second and third year. Not after the contract has been negotiated.

ASSEMBLYWOMAN POU: Okay.

MR. SHAPIRO: So that's what I'm talking about.

ASSEMBLYWOMAN POU: All right. Okay, I accept that. I understand.

MR. SHAPIRO: Obviously, at some point-- So nondiscretionary-- I'm talking about nondiscretionary increases. I'm not talking about going into a new contractual discussion -- although the Department's CEIFA law says the Commissioner is not supposed to interfere, in any way, in the contractual process. Setting a cap is interference.

But you look at nondiscretionary increases and contractual salaries, you look at utilities, you look at insurance, you look at health benefits. There are other-- There may be rental costs, leasing costs that the districts have that increase. There are a variety of costs. Those, in many districts -- I can tell you from experience over the past 10 years of representing individual Abbott districts under the Abbott process -- those costs have increased by 5, 6 percent a year. Districts that have chosen to not seek that funding have done it because the requirements are so onerous to seek additional funding over the presumptive budget amount that they don't want to be bothered by that. But it has resulted in reductions in those districts' budgets. You can look at a Paterson, you can look at a Jersey City, that have been in 3 percent -- that have taken the presumptive

increases. They've cut programs and services as a result of that, because their fixed costs exceed 3 percent.

So I think-- And this year the Commissioner already agreed that 2.89 is the cost-of-living adjustment, and only 2 percent of that will be met.

ASSEMBLYWOMAN POU: I appreciate the clarification.

Thank you.

Thank you, Mr. Chairman.

ASSEMBLYMAN GREENWALD: Thank you, everyone.

Okay. Next we have representatives from the charter schools: Norm Atkins, Jessani Gordon, Shelley Skinner.

N O R M A T K I N S: Good evening -- I think it's evening.

Norman Atkins. I'm the Co-Founder of North Star Academy Charter School, in Newark.

I'm happy to be here. I'll be brief.

North Star Academy is one of the first charter schools in New Jersey, founded 11 years ago. It has consistently been one of the highest-ranking, nonselective urban schools in the State of New Jersey. The investment that this Legislature and State have made in charter schools like North Star have been paying off. All of our seniors go off to college. We've been closing the achievement gap.

And we're growing in numbers. We're 750 students this coming Fall, four campuses -- two middle schools, a high school, and an elementary school. And we have 2,000 students on the waiting list. We expect that over the next five or six years we'll be 1,500 students. And we expect that over the next five or six years there will be as many as 4,000 to

6,000 students -- it will be about 4,000 this fall and over the years -- about 6,000 students in Newark in charter schools, which will make it close to 15 percent of the population.

You've heard from a lot of our parents through the phone and through letters over the past week or so. And that's because over the past bunch of years, parents have noticed that in charter schools in places like Newark, we're getting about \$0.50--

ASSEMBLYMAN PAYNE: Excuse me, do you have your testimony?

MR. ATKINS: I don't.

ASSEMBLYMAN PAYNE: You don't have--

MR. ATKINS: Right. Fifty to 60 cents on the dollar over these years. And parents are frustrated with that. And this new funding formula remedies that situation tremendously.

So we stand here in very strong support of the funding formula for the following reasons: One, it's based on the needs of students. And there are high incidences of low-income students in charter schools like North Star. We're talking about 80 to 90 percent of our students are low income. It is way more equitable than anything that we've had before. It means roughly \$3,000 to \$4,000 more per student, per year, for charter public schools like North Star. And it's rational and sustainable. So as we grow over time -- as the enrollment grows to the numbers that I mentioned, the funding formula will work.

It is not perfect. There are flaws. But by and large, this funding formula is fair and equitable for the students in our schools. And we strongly urge you to support it.

ASSEMBLYMAN STANLEY: Thank you very much.

JESSANI GORDON: Good evening.

My name is Jessani Gordon. I'm the Executive Director of the New Jersey Charter Public Schools Association.

Thank you very much for this opportunity to present testimony today.

As Norman said, we believe that a new funding formula is urgently needed and long overdue. And, in general, we charter schools support the new formula. We think that its needs-based provisions are a substantial improvement over the old T&E concept in CEIFA. And we applaud the administration and the Legislature for having the foresight and the fortitude to introduce such meaningful changes to how education is funded.

The new school funding formula numbers haven't been released -- or have been released for the districts. But actual funding figures for charter schools aren't available yet. We've been told that charter schools, overall, will do very well in the new funding formula, and we're very grateful that the administration has taken a huge step toward funding charter schools equitably with traditional school districts. We support the broad goals of the new funding formula and the Governor's stated policy to, "Provide a fair, equitable, and predictable funding formula based on student characteristics, regardless of zip code."

Our concerns relate to specific language in the proposed bill that applies the formula to charter schools. So I'd like to take this opportunity to share with you three of our biggest concerns.

The new funding formula retains the 90 percent limit on funding that follows a child to a charter public school. So charter schools will not be funded equitably. It's time for New Jersey to provide a fair and equitable funding formula based on student characteristics, regardless of zip code and regardless of whether the student attends a district or a charter public school.

And because charter schools have to pay their facilities costs out of their program budgets, the 90 percent is really closer to 75 percent of the districts' budgets. This is a significant and unfair disadvantage that charter schools must bear. While most charter schools have been able to operate successfully on only a fraction of what traditional public school districts spend, this situation is not sustainable for others. Many charter schools have established foundations and other revenue-generating sources, not to pay for class trips or athletic equipment, but for programming and operations that serve students in the greatest need of an educational opportunity.

Number two: Under the current funding formula, special education is funded at the same level for students attending charter schools as those attending the district. Under the new proposed formula, two-thirds of the special education aid for charter schools students would be funded at 90 percent. This would result in a lower level of special education funding for children attending a charter. This language is a departure from current statute, to the detriment of special education students who attend charter schools.

And number three: Under the current funding formula, categorical aid has been funded at 100 percent. Under the new proposed

formula, security aid -- which is a categorical aid -- is now funded at 90 percent. There is no justification provided for this. Why is a charter school child's security less valuable than that of a child attending a district school?

After 10 years of operation, New Jersey's charter public schools have proven that they work. They provide public school choice, increased levels of accountability, and innovative methods of educating children. Overall, assessment scores are good. In some schools they're spectacular. On average, charter schools outperform the districts and have been acknowledged nationally for closing the achievement gap among our inner-city youth.

Today is a new day in New Jersey's public education history. CEIFA is being rewritten to provide fairness and equity for schoolchildren, a huge step forward for New Jersey's children. It's also time to ensure that children attending charter schools enjoy that same right. Now is the time to ensure that 100 percent of the funding follows the child and address what is, in fact, a 75 percent spending level for charter schools.

Thank you for this opportunity.

And I have actually marked up the language in the proposed legislation reflecting the changes that we would like to see.

Thank you very much.

ASSEMBLYMAN STANLEY: Assemblyman Diegnan has a question, followed by the Assemblyman.

ASSEMBLYMAN DIEGNAN: Probably Joe is going to say the same thing.

My understanding, from the testimony of the Commissioner earlier, is that that's statutorily incorporated in the creation of the charter

schools -- the 90 percent level. So we would actually have to correct that legislation, as opposed to change the language in this. That's my understanding. Right?

ASSEMBLYMAN CONAWAY: That's right.

ASSEMBLYMAN DIEGNAN: Isn't that correct?

MS. GORDON: Well, when I look at the proposed legislation, all the charter school language is in that -- in this proposed bill. And there are many changes made to that. So it seems to us that you could make the changes that you saw -- that you wanted to make within the context of this bill.

ASSEMBLYMAN DIEGNAN: Maybe we could have, on the last--

MS. GORDON: I mean, in the current--

ASSEMBLYMAN CONAWAY: You could do a lot of things, but we're not going to do it.

MS. GORDON: Under the current formula, we get categorical aid at 100 percent. And in this -- in the new proposed legislation, they've made many, many changes, including making -- giving us 90 percent of some of the categorical aid categories. So by the same token, it would stand to reason that you could make the change from the 90 percent to the 100 percent. That's my thinking.

ASSEMBLYMAN STANLEY: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Through the Chair, I'd like to ask, as a follow-up to Assemblyman Diegnan, that we ask OLS if you could take a look at that and get back to us in the next few days as to what options we

have there. I think a lot of us want to at least discuss and explore this idea of this arbitrary 90 percent.

You have a mark-up, you said, for us?

MS. GORDON: Yes, I do.

ASSEMBLYMAN CRYAN: Okay. Could you make sure we get it? I think it's safe to say the members have an interest in that.

MS. GORDON: Okay.

ASSEMBLYMAN CRYAN: I guess just one other quick thing.

Can you explain the security-- I listened to you, and I admit I didn't get it all, which is hard to believe. (laughter) The security thing again -- the charter-- Could you go through it real quick?

MS. GORDON: There's an amount that has been -- that's being provided to provide security aid for all schools.

ASSEMBLYMAN CRYAN: Right, the 70.

MS. GORDON: And it's a categorical amount, which means that it's going to be applied across all schools at 100 percent. However, in the new proposed language, for charter schools it says that they will get only 90 percent of the security aid that's being provided.

ASSEMBLYMAN CRYAN: Okay. So you're in the same position with the 90 percent.

MS. GORDON: Yes.

ASSEMBLYMAN CRYAN: Everything is 90.

Do you run into-- One last question. Do you run into any-- The Commissioner talked about, today -- about giving a lump sum of money. And I buy into your-- I've bought into your argument, where

you're only getting 75 percent based on, frankly -- taken off the top, so to speak.

Do you have any concerns about that and about applying-- In other words, as I understood the Commissioner today, literally they're going to give the districts a lump sum of money, as opposed to all the various categories. I have some concerns about that.

Do you have any, as a result of-- Because your money essentially goes to the district, then goes to you, doesn't it?

MS. GORDON: That's correct. It flows through the district.

ASSEMBLYMAN CRYAN: Okay. Do you have any concerns about audibility, or traceability, or anything as such?

MR. ATKINS: It appears to me that the money follows the child in the legislation. We don't have a lot of concerns about it. There are some questions in special ed. But by and large, it's pretty good on that issue.

ASSEMBLYMAN CRYAN: Wanted to know.

Thank you.

Thank you, Chairman.

ASSEMBLYMAN STANLEY: Assemblyman Payne.

ASSEMBLYMAN PAYNE: Mr. Chairman, when the question was asked a little while ago, there seemed to be a difference in opinion.

You were shaking your head like this, and she was saying no, everything is not covered. Do you agree-- Was the answer the same? I believe the question that--

MR. ATKINS: I think, as a technical matter, Jessani runs the Charter Association. And it's true that 90 percent is nine-tenths of 100

percent. The reason why I was nodding my head is because I think this is historically important legislation. It's not perfect, as I said before, for everyone. And if we get 90 percent of a much higher number, for low-income kids especially, it will be very important for us to be able to sustain our schools. And to ask for 100 percent in light of it -- especially as people have mentioned that we have 620 districts in the State of New Jersey -- just seems to go past where we need to go at this moment in time.

ASSEMBLYMAN PAYNE: Thank you. I didn't know whether you were disagreeing with what her answer was-- As you sat next to her, you were saying yes, and she was saying no. And I just want to make sure we're on the same page.

MR. ATKINS: Yes.

ASSEMBLYMAN PAYNE: This gives me an opportunity to also-- This security business -- this aspect of the formula. I don't know whether-- You're not the right people to ask this question about -- what went into creating that part of the budget? I don't know what goes into that. What percentage do you get, as far as the security goes? Is it 90 percent?

MS. GORDON: Ninety percent. That's correct.

ASSEMBLYMAN PAYNE: Ninety percent.

What goes into that? How do they come up with that formula -- how to create the security aspect of it? And do we get the same amount of money in the-- Does it vary? For instance, does it vary from district to district? It depends on the at-risk, the concentration, etc.

It's curious to me. Because if we know-- The recent history here in this country in the last five years, or 10 years, or so -- we're talking

about security -- true security. Let's talk about the killings, for instance, of youngsters in schools, all of which have been in suburban areas. For instance, the going in on -- what is out west -- Columbine and places like that, and then on forward.

When we're talking about security, who is measuring whether or not-- As a matter of fact, in the recent killings-- Assemblyman Stanley mentioned -- asked the question as to whether or not the youngster who did the shooting at the Virginia Tech, I believe it was -- whether anyone was looking into the possibility of those youngsters, those students -- certainly on a college level -- but who have some kind of mental problems. It seems as though this youngster had been lost in the system, and therefore he ended up killing people.

The violence that exists in-- And I suppose this security budget has to deal with protecting students in the schools. Is that part of the whole thing? I suppose that's what it is.

How do we take into consideration these mass killings, mostly in suburban or rural school districts? How do we identify that? How do we protect youngsters from that? And in the State of New Jersey, we do have the full range of communities like that. I'm wondering whether or not -- and in taking into consideration this security thing-- I think we're looking at those kinds of screening devices, or whatever else it takes to secure people. But how do we provide true security for people to avoid those kinds of unique situations that have occurred and that we think about? Again, something seems to exist within the urban -- suburban, rural community that causes some students to take out massive lives. And this, if you stop and think about it, has not happened in any of our urban schools,

which is a curious phenomenon, I think. And I wonder whether or not this whole security formula has taken that into consideration.

You're not the right people to ask, I don't suppose. But you--

ASSEMBLYMAN STANLEY: Assemblyman Pou.

ASSEMBLYWOMAN POU: Thank you, Chairman.

I wanted to follow up on Assemblyman Cryan's question with regard to the charter schools and the special education. I think the question was asked: if you had any problem with -- or any concern with the existing proposed legislation. And your answer was, no, that you seemed -- considering the changes, that you were happy with that. I'm paraphrasing.

MS. GORDON: Well, we do have--

ASSEMBLYWOMAN POU: Let me-- I'm sorry.

MS. GORDON: Oh, okay. I'm sorry.

ASSEMBLYWOMAN POU: My specific question though is: What's the percentage of-- Public schools are required to provide special education for all children in our public school districts. Is that also true for charter schools? And if so, how -- what's the percentage of students that attend the charter schools that are under the special education component? Is there a large number? Is there-- Do we have any idea what that percentage is?

MS. GORDON: Charter schools are required to provide the services for special education students, just like the district schools are.

ASSEMBLYMAN PAYNE: Put your mike on, please. (referring to PA microphone)

ASSEMBLYWOMAN POU: What's the percentage? Do you have any idea?

MS. GORDON: I don't--

MR. ATKINS: North Star Academy, which are the four campuses-- We're 9 percent right now. We make it our goal to try to get students toward general education -- least restrictive environment -- as quickly as possible. But 9 percent of our students are classified at our school.

MS. GORDON: But it varies dramatically from school to school. We have some schools that are magnets for special education students. So it's very hard to generalize, because each school is so different.

ASSEMBLYWOMAN POU: But you have-- We, actually-- No, that's-- I don't know. Does it apply-- Are you-- Do you have the right to reject a student from being accepted into your charter school?

MR. ATKINS: You can't. It's a random lottery. You get who you get.

ASSEMBLYWOMAN POU: Okay.

MR. ATKINS: For a student who cannot be accommodated in an environment, you have the same situation as you do in a regular district, which is to put a student in an out-of-district placement. And the law actually discusses that a little bit. It's fairly arcane in New Jersey compared to other states.

ASSEMBLYWOMAN POU: Okay. Thank you very much.

Thank you, Chairman.

ASSEMBLYMAN STANLEY: Thank you.

Assemblywoman Voss, and then Assemblywoman McHose.

ASSEMBLYWOMAN VOSS: I think that maybe my question--

We have a law for school resource officers. And I'm wondering if school resource officers could also be used in charter schools. Generally speaking, the school resource officer is paid for by the community, by the community police department, and it doesn't come out of any of the funds that are used for the schools. So I'm just wondering if that is something that charter schools can also take advantage of.

MR. ATKINS: We're not currently entitled to those resources.

ASSEMBLYWOMAN VOSS: I just was-- It was a question that I--

MR. ATKINS: We wouldn't turn it away.

ASSEMBLYWOMAN VOSS: It would be a very good thing, let me tell you. (laughter)

MR. ATKINS: Yes, that would be fantastic.

ASSEMBLYMAN STANLEY: But this security aid -- this is the first time you're getting this aid in charter schools?

MR. ATKINS: We've never gotten any security aid. And this would all be new for the charter schools, yes.

ASSEMBLYMAN STANLEY: Very good.

Assemblywoman McHose.

ASSEMBLYWOMAN LITTELL McHOSE: Thank you, Mr. Chairman.

One question about special ed: We have a situation in my district where a charter school in Sparta is actually-- There are instances where participating towns don't actually have the number of students applying to be placed in-- So we have sort of the opposite problem, where

there are spots available. And when the town kids don't apply, it then opens up to other communities surrounding.

We have a situation in Montague, where the sending district for the high school is actually Port Jervis, New York. So the kids go out-of-state to high school, which I know is very unusual, but it does happen. Parents in Montague are concerned about that. And they have-- This charter school happens to be located on the campus of our vocational high school. And a lot of the kids tend to go from the charter school right into the vocational school. What has occurred is that a large number of students from the Montague School District have had special education needs. It has put an undue burden on the charter school. So I might have missed -- and I apologize -- what you said about the special ed costs. But are there situations where-- You don't have specific caps or anything to do with controlling the number of special ed students that come in. Is that true?

MS. GORDON: That's correct. But the point that I was making with regard to special ed is that, under the current proposed legislation, two-thirds of the special ed costs now, we will -- charter schools will get at 90 percent. In the past, they got the special ed costs at 100 percent, because they were categorical. That's a categorical aid category. And that's changed under the new legislation. So that's-- So the special ed students who will be attending charter schools will be at a disadvantage from those who are attending the district schools, because they won't be getting 100 percent.

ASSEMBLYWOMAN LITTELL McHOSE: Okay. Thank you for that clarification.

Thank you, Mr. Chairman.

ASSEMBLYMAN STANLEY: Thank you.

We're going to move ahead to the next group.

Thank you very much, panel.

We have the early childhood educators: Cecilia Zalkind, the Executive Director for the Association for Children of New Jersey; Barbara DeMarco, from the New Jersey Child Care Association; and Daniel Santo Pietro, Executive Director, Hispanic Directors Association.

C E C I L I A Z A L K I N D, ESQ.: Thank you.

I'm Ceil Zalkind. I'm the Executive Director of the Association for Children of New Jersey. We're a statewide child advocacy group in Newark. We publish the Kids Count reports, and we have been deeply involved in preschool implementation in the Abbott districts.

My testimony is being circulated. I'm not going to go through it. I think listening to your questions and comments today, I don't have to convince you of the value of preschool. ACNJ believes that this part of the school funding formula is probably the best and most exciting aspect of the proposal.

There's ample evidence nationwide, but also right here in the Abbott districts, of the long-term, high success for children who've had two years of preschool. And there are many features of the proposal that include those components that we think are critically important to a high-quality preschool program. And I have listed those here in my testimony.

What I wanted to address very briefly are some comments about the actual proposed legislation and the preschool section. One is that we're concerned a bit about the funding. The funding amounts that are in the bill right now are based on the actual cost of preschool now. It is

prorated, depending on whether programs are provided in the school district, in community child care, or in Head Start. We think those are solid amounts. They're solid amounts, because they're based on actual need. This was not a formula. When preschool was created 10 years ago, the Supreme Court rejected Governor Whitman's cap on how much should be spent and said, "We are not basing a program on what we're going to provide. We want to base it on the needs of children," which is how we arrived at these figures. That's very important. We think that's exciting for next year. But we're worried about the out-years. And without this attention to the actual needs of the children, we're concerned that the quality of this program cannot be maintained. A provision to reexamine this, a provision for districts to come forward and be able to demonstrate particularized needs, I think, would solve that problem. That's number one.

Number two: The proposed legislation calls for a goal of enrolling 90 percent of children. Again, this is not a mandatory program for parents. A parent does not have to enroll their child, the district has to provide the program. I'm sorry, what's required now is 90 percent in the Abbott districts; the proposed legislation lowers that to 80 percent. Many of the Abbott districts have met their target of 90 percent. And our question is: Why would you lower the goal? If we have districts that have reached 90 -- that's a goal. A district may not meet it, but to lower that goal right at the start is not something that we think is a good idea.

Number three -- and this issue came up in your questions this afternoon. We're very concerned about the provision in the proposed legislation that talks about districts being able to utilize the preschool

funding for K-12 under certain circumstances. Those circumstances are not spelled out in this legislation. You only have to look back to when CEIFA was first enacted and the category of early childhood program aid was first created. It gave school districts five years of preschool funding with no strings. And many of those districts did not spend that money on preschool. We don't think that that should happen. There needs to be some clarity around that provision, or better yet, to have that provision out. One of the reasons that preschool has worked is that it's been fully State funded. It has been targeted to preschool, at least in the Abbott districts -- they are not permitted to use it for K-12. This would be an important provision to maintain if we want to maintain the same high-quality program.

Number four: We are strongly committed -- and you'll hear that from people sitting to my right. We are strongly committed to what's been called in other states a *mixed delivery* system that utilizes school districts, community providers, and Head Start. To us, that's the most effective for parents and for children. And it is the most efficient and cost-effective way to provide preschool.

And we would like to see the inclusion of community programs being more than a suggestion to superintendents, but to have some teeth behind it, where districts have to demonstrate that they have gone out and assessed what programs are in their community. And even more important, we believe that if districts are going to have a phase-in opportunity -- which this bill calls for, and we support -- we don't think preschool can be provided overnight -- community providers have to have that phase-in opportunity, as well.

If you look at the Abbott experience, many of the children started out in community programs where the teachers did not have a BA and certification. The Supreme Court gave those districts four years for teachers to obtain the BA and certification. No one thought it could happen. And actually, four years later, more than 85 percent of the teachers had a BA and certification.

We think that community programs have to have an opportunity and financial support to come up to the standard that the Department of Education is talking about for preschool: reducing class size, bringing teachers up to credential, establishing a curriculum. That's important if we're serious about including the community programs.

And the last comment I would make -- and this is not addressed in the legislation -- is that when you look at preschool, you're looking at a very different implementation model from any other aspect of public education. The Department of Education has taken on a more hands-on role. Their Division of Early Childhood has been both an accountability division to make sure that not only the money is well-spent, but that there's accountability around program quality. They've held districts accountable to that, and they've been a wonderful resource for technical assistance to work with districts. It's a very different role that the Department of Education has taken on. We think-- We're very excited about this prospect of expansion, but it has to come with that State support, both in terms of the support, the technical assistance, as well as the accountability.

And let me close by saying, again, that we think this is the best part of the preschool -- of the funding proposal. To give all kids, especially

disadvantaged kids, the best possible start is a benefit not only to them, but to us as a state, as well.

Thank you.

And I'd be glad to answer questions or follow up with these specific comments later.

ASSEMBLYMAN STANLEY: Thank you, Ms. Zalkind.

BARBARA DeMARCO: Good evening.

I'm Barbara DeMarco, and I'm here today on behalf of the New Jersey Child Care Association. The NJCCA represents approximately 4,200 Department of Children and Families licensed, for-profit, and not-for-profit community-based preschools in this state.

I need to emphasize that these providers are not babysitters. These providers are community -- are providing services in a community setting and meeting every single one of the DOE's quality standards, or they wouldn't be allowed to partner with the school districts in the Abbotts and any other program that the DOE funds.

The remainder who are out in the community meet the Department of Children and Families' licensing standards, which also require accreditation, in many cases; head teachers who are certified in early childhood, etc.

So, again, these are not babysitters. These are licensed, community-based centers that are striving to meet the DOE's standards in many, many cases.

The plan to expand preschool for the state's most needy 3- and 4-year-olds is well-intended, and it's a goal that is laudable. However, these goals must be practical, and they must work with the current preschool

infrastructure. This is why we must ask that the law for expanding preschool require the school districts to partner with the community rather than replace the community. And this is what the Abbott decision says: that the Abbott districts need to partner with the community when practical. So if there are community centers out there who want to strive to meet those standards -- those very high standards -- of the DOE, they should have that opportunity, and they should be allowed to partner. We should not duplicate and/or replace what is already in the community.

Currently, the Abbott districts that are partnering with the community do that at a rate of about 70 percent. So 70 percent of those kids are being served in community settings. And I think Ceil would tell you that the programs are really working, and working well, and have the support of the ACNJ, as well as Rutgers' institute of early care and education research. Ultimately, that is the direction we want to go.

But right now, there are about 102 other districts that are funded for preschool. And they follow a very different requirement. That requirement strictly says that they are strongly encouraged to partner with the community. Well, what has happened in those cases is, many times, the superintendents -- who have the ultimate decision in this -- will say, "Put those kids in classrooms that are part of the school, rather than partner with the community." What ends up happening is that the community centers then are made to compete with the public school. It's something that should not happen, especially when the New Jersey child care industry is a \$3.8 billion industry that employs 82,000 individuals, who are mostly women. And we shouldn't be moving them onto the public payroll.

Our second request is that laws and regulations governing the expansion incentivize the owners and operators of privately owned preschools to participate. These private providers need to use their existing facilities. They need to be able to incorporate their current staff with the DOE's staffing requirements -- including the four-year degree teachers -- so individuals currently employed do not lose their jobs. And they need the ability to treat this undertaking as a business rather than a taxpayer-funded grant program.

We also support the money following the child to the community center.

Finally, we believe that this program -- the decision should be made by the State, not the superintendents. And I'll give you an example of why. There were two statements that appeared in the newspaper recently, one in the *Star-Ledger*, one in the *Atlantic City Press*. And the one was from a Superintendent in Vineland. And Mr. Ottinger said, "From a cost-effective standpoint, the only way to go is to collaborate with private centers." The second is from the Superintendent of Somerville, who states, "We would prefer to do it ourselves, frankly. We have the staff, and we have the intervention services. Let's just say I'd be leery." Well, if I'm a community provider in Somerville, I'm thinking I better close up shop. And if I'm the one in Vineland, I'm thinking, "I have an opportunity here to serve more kids, partner with the community, get the most bang for the buck for the taxpayers. And that's the way to go."

So, right now, the way it's implemented is disparate. And we would really encourage the Legislature not to duplicate, not to reinvent the wheel, and to utilize the community-based centers that are willing to meet

the quality standards that the DOE has, rather than putting this in the public school infrastructure.

Thank you.

ASSEMBLYMAN STANLEY: Thank you very much.

DANIEL SANTO PIETRO: Good evening.

ASSEMBLYMAN STANLEY: Good evening.

MR. SANTO PIETRO: I'm Daniel Santo Pietro, the Executive Director of the Hispanic Directors Association.

I'm delighted to be here with my colleagues. I think we have a very similar message. But I want to throw a couple of extra things in here.

First of all, lowering the bar to 80 percent-- Let me take a step back. I think the preschool section of this bill needs a lot of work. It would be one of the reasons why I would say, "Please be careful about rushing through this."

Let me explain. The 80 percent that Ceil mentioned-- What that-- We have an experience, for several years, of doing outreach and reaching some of the hardest-to-reach parents to convince them to enroll their children in preschool. It took a lot of work, but it was very important because those are the children who need preschool the most. If you lower it down to 80 percent, one of the things you're doing is telling the districts, "We don't have to make outreach to reach that hardest-to-reach parent. We can be satisfied with whatever percentage -- how close we can get." So it's very important, it seems to me, to get that bar raised back to 90 percent in this bill.

Secondly, I don't see any idea -- and I listened to the Commissioner very carefully when she talked about preschool -- of what the

plan is to achieve this expansion. Now, we've been talking about the mixed delivery system. Let us remember, 70 percent of the children that are scoring better on their third grade tests went through community preschools. We've got a proven track record here. How do we just forget about that when we start expanding? It would be a terrible mistake. I'll even go further. It will be-- It will do damage to working families if you go out and expand preschool, and cause many of the private centers to go out of business so that they can't provide that extra service that most of these parents need, which is more than the six-hour day that is conceived of under preschool.

So we have to be very careful. And if you don't mandate some of this -- I think we've already heard this -- we're going to see that happen. We saw that with Abbott. We saw some superintendents who were very reluctant to expand preschool until they could "build their own facilities." Now, what happened: children went without preschool. And that was when there was some money for facilities. Let me just say that you really need to look at the -- that factor if you're going to expand preschool practically.

And one point that I think begs clarification: The amount of money that's budgeted in this bill for community providers is higher than in-district programs. But be careful. That is -- pays for everything. That pays all the expenses of that preschool program. The in-district program doesn't include a lot of expenses, which goes to the regular school budget. So from the taxpayers' viewpoint, the community providers are actually giving you a more, I would say, cost-effective product.

And then, if you factor in the facilities aspects-- I remember when Abbott was starting, we raised this point. You could be talking about

an additional billion dollars of resources that would be necessary to build facilities that already exist in private centers. So we must be very, very careful, at this point in time, of how we expand preschool and make sure we don't have that happen.

And if I could just say a few words very quickly on accountability: What really bothers me about accountability in the legislation is, I don't see one single word about trying to empower parents. I don't see any approach -- not even a hint -- of an idea of how we could strengthen our whole accountability approach. Because QSAC isn't going to do it. I agree with all the previous comments. But I'll tell you, get these parents empowered, get them organized.

I'll even throw one at you that I hope no one will get too upset about. Many states are allowing parents to vote, regardless of their particular status, once they've established residency and have children in schools. It's a concept whose time has come, and I think New Jersey really needs to look at. That's very important to our Hispanic parents, because most of them are put in situations where they're important stakeholders, but they can't vote for a school board or a school election. And that is counterproductive to accountability.

And the last thing I'll say is that I really think you've heard a lot about the idea of the promise of Abbott. Certainly, whatever happens in this legislation-- Some people talking about -- we're ending Abbott. But you can't get rid of the promise of Abbott. And I would urge you to look very carefully. Ask yourselves three questions: Are these resources adequate to educate every child? I think you've already heard the arguments about the base rate and everything else on top of that base rate.

I've been asking how the limited English proficiency weight was calculated. No one could tell me. And I think I heard the answer today. We've probably figured out how many English-proficient kids we have, how much money we're willing to spend, and we backed into it. So will that produce the kinds of programs we need? That's a very important question.

And when resources follow the child, are we really reducing inequities? Because if we aren't -- if we aren't really dealing with inequities, then obviously we've failed.

And I would lastly just throw out the idea that, hopefully, a school funding bill would elevate the expectations of our educators. And I don't see that in any of this. What has concerned us, just as a symptom, is overclassification -- I think someone has mentioned that today -- of minorities into special ed. This is a symptom of lower expectations. We suffer a 40 percent dropout of Hispanic children overall. That's unacceptable. Expectations are a big part of it. And I hope when you pass this bill -- which I hope will be in the near future -- you'll take that into account.

Thank you so much.

ASSEMBLYMAN STANLEY: Thank you very much.

ASSEMBLYMAN GREENWALD: Doctor Conaway.

ASSEMBLYMAN CONAWAY: Very quick.

You mentioned that when the moneys first came down to begin to advance preschool programs in the Abbott districts, there was a lag in making sure that the community providers were -- had capable staff to deliver the kind of thorough-going program that would deliver the results that everybody wants.

What's happening now? This is clearly an initiative that the Governor and the Commissioner feel very strongly about, and many of us here feel very strongly that that ought to be advanced -- part of making sure that we get resources to children based on their needs.

Are community providers across the state raising the level of their staff now in preparation for a future demand? Is there a mandate requiring that these community providers have certain qualifications among their staff currently?

MS. ZALKIND: I think that's in progress. In this year's budget, there was a \$10 million preschool expansion initiative. That's underway in the Department of Education. The RFP is out, and the proposals are being considered now. And I think, long-term, it's designed to enable community programs and Head Start programs to come up to the Abbott standard, particularly around class size, curriculum, and teacher credentials.

In the Abbott districts, the Court set a very short timeline for preschool implementation. It basically told the State, programs had to be in place in two years. So the Abbott districts had to work with community programs. But that came with support for the teachers. There was a significant scholarship program that enabled teachers to go back to school -- teachers in community programs. And it came with some support. We think that's what's needed here, as well.

You know, we agree with the Commissioner that this is not going to happen overnight, that districts are going to need time to implement. Six years does not seem like an unreasonable time to come up to a full program. But we would hope that the community programs would

have the opportunity -- a scholarship program, for example -- available to their teachers.

I think we're looking at almost 10 years of Abbott preschool at this point. I think the community programs see the future. To have Barbara sitting here-- Ten years ago, her Association opposed the idea of certified teachers, as we were talking about before we came to testify. So I think the community programs see that. They want to come up to that standard. But the funding that they are receiving as a licensed child care center -- not a preschool program -- it makes that very difficult. So we think any phase-in plan should not be focused solely at the districts, but should include the community programs as well.

ASSEMBLYMAN CONAWAY: Thank you.

MS. ZALKIND: Thank you.

ASSEMBLYMAN GREENWALD: Thank you.

ASSEMBLYMAN STANLEY: Thank you, panel.

And, again, I'm just going to ask if we could have as brief testimony as possible and allow members to ask questions if they will. If they don't have to, necessarily, that's even okay as well.

I'm going to ask James Harris, the President of the New Jersey State NAACP, to come forward with Anton Wheeler, if he's still here. He is the Chair of the Political Action Committee, NAACP; Jerome Harris, Chairman, New Jersey Black Issues Convention; Herb Glenn, Newark NAACP; and Kelly Francis, from the Camden County NAACP.

Okay. Why don't you go first, Mr. Harris?

JAMES E. HARRIS: Good evening.

My name is James Harris, and I am the President of the New Jersey State Conference of the NAACP, the oldest and largest civil rights organization in the country. I represent 40 branches of the NAACP throughout the State of New Jersey.

My statement is being passed around. And I just want to make some very brief observations.

Number one: The NAACP would request that this bill not be passed in lame duck. It's much too important to have just a few hours of discussion, particularly since, when we were here a couple of weeks ago, there was nothing in writing but figures. And today we have a proposed bill, but the bill still has not been introduced. And as I understand it, some changes are still being made.

If it has taken Abbott 30 years to get to this point, then this Legislature can do whatever it needs to do to come up with the funding mechanism or process so that we don't rush through legislation that will probably lock in place, for the next five or 10 years, a funding formula that may be disadvantageous to an awful lot of people in the State of New Jersey.

And I just want to remind us why we're here. You know, I listened all day, and I really commend the attention that you've given to all of the speakers, because it's been an extremely long day. But the reason why this whole discussion about Abbott versus non-Abbott is important is because of a systematic violation of the Constitution. The Abbott language is the result of a Court decision. So the Commissioner and the Governor can take the language out, but the concept remains.

I was talking to the Governor, and he keeps talking about the 49 percent of the free- and reduced-lunch eligible students in the rest of the state. Well, that leaves 51 percent of all of the poor kids in this state in 31 school districts. Out of 618 school districts, 31 enroll 85 percent of all of the students in the state of -- African-American, and Latino, and poor students in the state. So we have no objection to adding funds to those young people who deserve the funds.

So our formula from the NAACP's position is: Abbott-plus, yes; Abbott-minus, no. It is not necessary or right -- both on a moral level and a legal level, as far as I'm concerned -- to take away from students who have a demonstrated need. Because it was the Supreme Court that mandated Abbott. And from the NAACP's standpoint, we have to go to the Court to get fair treatment. And the Legislature has failed over and over again to fund what the Court said was necessary for a thorough and efficient education.

The second issue is this whole issue of hold harmless. Does anyone in the room, in any of your districts, have a school district that negotiated a contract with the teachers' union that called for a 2 percent increase? (laughter) And if not, then we're talking about less money to do, in this formula, what is being done this year. So if we-- I mean, I think several of the other speakers have talked about this whole notion of 2 percent.

I looked at the-- I tried to find the numbers when I was here before, and the only thing I had was more pieces of paper. And I realized there is a difference between what people say they're going to do and what gets imbedded in legislation. So I just want to make the appeal that when

we talk about 49 percent of the students being outside-- We have no objections to that. Every child who needs to be supported through public funds ought to get the support. But it ought not to be at the expense of the urban Abbott districts.

And, unfortunately, no one wants to talk about the racial composition of this discussion. When 85 percent of the students in the State of New Jersey attend 31 school districts, we've got a problem. And the problem has been that the moneys for the Abbotts was necessary because of the Court. It was not the students, nor the legislators, in the Abbott districts that caused the money not to go to these other districts. That was a decision that was made at the legislative and the administrative level. And I think that's really important.

But my brief comment is, please do not rush this legislation, because it's so important.

And I understand from people at the State Department-- They say, "You have to have it in place by mid-February." Well, my calendar says this is December 27. So you still have time to do something credible, while giving the public the opportunity of really looking at the legislation. Because we still don't have legislation, we have a draft. And things that are drafted can get changed real quickly. And a couple of words can make the difference in the opportunities of young people throughout the state. So please remember that this is an important thing that should not be rushed through.

Thank you.

ASSEMBLYMAN STANLEY: Thank you, President Harris.

Mr. Harris, perhaps.

JEROME C. HARRIS: Thank you, Mr. Chairman.

It's a pleasure to be with you. It's been an instructive day.

The New Jersey Black Issues Convention is a 25-year-old organization of organizations representing about 35 statewide black organizations. It was founded by a former member of this Legislature, Donald Tucker. And I can't help but think that you would hear his voice very loudly today around some of the issues that are being raised, particularly the early childhood education program. Maintaining the quality of those programs, making certain that the resources that need to be available -- and ramping them up -- become very important.

Donald also probably would talk about the political reality -- the fact that people who are in urban centers vote disproportionately Democratic. And that's a problem, because we don't have enough interaction with the Republican party. And, quite frankly, some people are looking at this issue -- and I'm bringing to you comments that are not necessarily things that just I feel, but things that I'm hearing from my colleagues -- that there is a certain weariness with doing right by the cities. There's a sense of fairness, and there's a sense of inequity.

Certainly, everyone is pressed by the situation of tax reform, tax overburden, overreliance on property taxes. But the children who live in the cities, the children who have to bear disproportionate poverty -- who have benefited from the investment in early childhood education, beginning to benefit from the investments in the middle school and high school quality programs of effectiveness -- will, if we're -- if the analysis that shows, that suggests that the hold harmless is not a maintenance budget -- will receive -- will see those programs cut -- impacted in a negative way. We ask

that you consider putting into the legislation a truly hold-harmless provision, a maintenance provision. I think we heard it be talked about earlier today. It would be helpful.

It's also critical that this cost basis be addressed sooner than later. Even if you feel compelled to act based on the numbers that you have now, I would suggest that you go ahead and put in place, perhaps in honor of the outgoing Chairman of the Education Committee, that cost study that he proposed before. Do it now. Perhaps proceed -- but do it now so you have that as a basis, perhaps, for making the adjustments and working with the Department of Education.

My comments I'll close with this: Adequate funding is important, programs and programmatic reform are important, facilities are important, accountability is important. I heard the Commissioner say over and over again, and the Governor say over and over again, that the QSAC, CORE, and fiscal accountability legislation enacted by this Legislature will provide the basis for ensuring we have accountability and good programs moving forward.

We saw a \$60,000 study come forward several months ago saying the Department has deficiencies, it doesn't have the capacity to carry out those pieces of legislation. And from looking at the proposed legislation, the Department is being given additional responsibility. I haven't heard discussion about where those resources are going to come from.

I'm not at all envying the job of the Commissioner. I've seen her, over the last six months, working very hard, both to make a difference in the districts, working back on policy, and being available to the

community to help understand how she would lead the Department. The fact is, attention to the implementation -- the resources at the Department -- I believe this is as important as our discussion here about the dollars to be distributed to this formula. Failure on the part of this Legislature to take that into account -- to make certain that resources are available, and that the Department has the capacity to do the job to support what was 31 districts who had this need for education reform and accountability, now 200-plus districts-- That's a leap in the amount of work that needs to be done. They need the resources.

And finally, I'll just say, in my opinion -- only having read once through, lightly, the proposed formula -- this is not yet a formula for success. It needs more work. And I urge you not to move it in a lame duck session.

Thank you.

ASSEMBLYMAN STANLEY: Thank you, Mr. Harris.

Mr. Glenn or Mr. Francis, anything to add? (affirmative responses)

Fantastic. (laughter)

COLANDUS FRANCIS: Good evening, Chairpersons, members of the Committee -- Assemblypersons.

My name is Kelly Francis, also known as Colandus Francis. I'm serving as President of the Camden County Branch of the NAACP for the past, I would say, 10 years. I've been a member of that branch for the past, I guess, 50 years, since I was in high school. And I am a resident of the city of Camden -- retired, but I still stayed in the city of Camden -- and educated in the Camden School District, graduate of Camden High School -

- two sons who are graduates of Camden High School, and a daughter who went through the Camden School District system; and also two grandsons. So there are three generations that have been educated in the Camden School District. My two grandsons are now in college in Delaware. So I have been a beneficiary of an excellent education, and so have my sons, my daughter, and my grandsons.

But there is one thing that has not been-- I guess there have been some comments about it. But one of the major issues in the city of Camden is schools -- school construction. Initially, in 1999, when Camden submitted its facilities construction plan, it called for 39 projects. About 60 new schools were to be built, and the rest were to either be expansion of schools, existing schools, or rehabilitation of schools. Now that has been pared down to five projects in the city of Camden, that are going forward, out of 39 originally proposed. In fact, we have lost a school because two schools in Camden had to be demolished because of faulty construction. The Early Childhood Development Center was demolished; and a Lanning Square School, which was built 40 years ago, was demolished. And only one school has come on line since 1999. So, in effect, the city of Camden has lost one of its schools.

And something else that has happened is, that by this whole school construction process having been suspended and curtailed, we have, in the city of Camden-- Just about every elementary school has trailers in its courtyard. This is how overpopulated our schools are. Every elementary school has trailers in the courtyard. Our kids are being educated in trailers because there is not enough classroom space in the city of Camden. A lot of our students are, on a daily basis, transported to surrounding communities

to find additional classroom space. One of the towns where we send our students is Mount Ephraim, which is a suburban town, because--

ASSEMBLYMAN STANLEY: Mr. Francis, you know that the school funding formula that we're -- that's been proposed does not cover construction.

MR. FRANCIS: I understand that.

ASSEMBLYMAN STANLEY: All right.

MR. FRANCIS: What I'm saying is that we should think about resolving the outstanding issue of school construction before we come up with another funding plan. Because if you don't have adequate classrooms or schools for the existing students, there's going to be a problem in this new formula, or this new bill.

And, of course, we are leery of any kind of new legislation that's passed in haste. Because we have been the victims of the MRERA, Municipal Rehabilitation and Economic Recovery Act, for the past five years, which has been a disaster. And you haven't heard all the facts about that. But in the five years of the takeover legislation, our municipal budget has gone from \$9 million to \$62 million this fiscal year. Sixty-two million dollars is our fiscal deficit this year. And also, of course, our school budget has increased about \$50 million or more during that period of time because of the unchecked and -- low-income housing that continues to be built in the city of Camden. There is no one who is considering the impact that all of this low-income housing that's being built in the city of Camden -- even though there are no new schools being built.

So all of this will really impact, as far as this new legislation is concerned. Because the additional moneys that are being required for all of

the new housing-- Low-income particularly -- just low-income housing is being built. And that will also impact this formula because more funds will be required, because there will be more students coming into the Camden school system. You can build housing much faster than you can build schools. I mean, this is a fact. We still have had only one school built in the past eight -- nine years, since we first presented our facilities plan in 1999. But a thousand or more new housing units have been built. And it's been all low-income housing, which means more school children per household.

But in any event, my position -- our position is the same as the State NAACP -- State Conference of branches. And we urge you not to pass this legislation at this time, because it is fraught with all kinds of problems, as we see it.

ASSEMBLYMAN STANLEY: Mr. Glenn, very quickly, if you could.

HERBERT GLENN: Yes, thank you very much.

ASSEMBLYMAN STANLEY: Thank you.

MR. GLENN: I really appreciate this opportunity. I was one of the first people here, so I am definitely interested in making sure I have my say.

It's very humbling and intimidating to sit before you my first time, to give you an understanding of how I feel about the power that you have to make a decision over the future of the students and the children that I represent.

I am here in support of the President of the State Branch of the NAACP. As the Political Action Chair of Newark -- which is the city that

has the largest membership of the civil rights movement -- I am very encouraged to let you know that today is evidence of how people can get involved; and understanding what's going on is very important. And I really appreciate being here.

I believe that five years of preparation and two weeks of evaluation does not add up. It just does not add up. And we need, really, to find time to spend, to recognize that we don't need to rush this situation as quickly as many of you have already gone on board to give us an understanding, that you're willing to do.

Having a formula is a good thing. But before the formula can be assumed equitable, we must consider the interest of the communities that need it the most. We are committed to providing a thorough and efficient education for all. We concede to the fact that this model is a hypothetical assumption that needs to be evaluated fully before approval. The complexity of this proposal needs more than just a blanket approval based on the confidence of the members who have worked to create the plan.

We should be very tolerant and patient with this direction we are being asked to adopt. It is unfair and not practical to rush this process, due to the changes we are faced with involving our leadership structure and new representation that needs to have time to also digest this theory of financial parity.

The adequacy budget formula, within itself, is mind-boggling, if not confusing. If this proposal is as promising as it has been explained, then it is imperative that we not be forced to approve its relationship to a

standard that will represent our constituency for a future that is certain to benefit from its influence.

We have waited this long for such an anomaly to occur. Give us time to realize its value and importance to provide a thorough and efficient education for all of our children.

Don't rush this proposal through lame duck for the sake of -- risking the future of our families who deserve to have input into this decision-making process. We realize overwhelmingly, rather (*sic*) the formula make any sense or not, the Democratic majority is eminent, and we concede to its power of persuasion. We also realize that New Jersey is leading the country with decisions that are necessary to right a wrong that has been created historically based on race and economic income.

This is not the case of robbing the wealthy to give to the nonwealthy. It is an effort to commit our resources to the ability to perform the request of the founders of this great State. Let us work together to achieve success for everyone.

We encourage and invite you all to -- don't consider passing this proposal in the lame duck session.

Thank you very much.

ASSEMBLYMAN STANLEY: Thank you very much, panel. We appreciate your testimony and appreciate your patience in waiting to testify today.

We're going to call the Garden State--

ASSEMBLYMAN PAYNE: Chairman.

ASSEMBLYMAN STANLEY: Assemblyman Payne, I'm sorry.

Assemblyman Payne, you had a comment or a question.

ASSEMBLYMAN PAYNE: I did have a comment.

Just to comment -- and that is that you've been here all day, and you've heard others that have expressed similar kinds of reservations. In fact, Mr. Shapiro was one of them, and some others who have made other kinds of reservations about this rush to have this legislation passed. And you heard the Chairman of the Budget Committee, at least -- Lou Greenwald -- ask Ms. Davy -- Commissioner Davy -- for some additional information so that we can, in fact, have an opportunity to at least look a little bit further into this proposal that's been presented to us. And you can rest assured that we will get that information expeditiously and will share the information we get with you so that we can be further informed about where we're going with this.

Thank you very much for your testimony.

ASSEMBLYMAN STANLEY: Thank you, Assemblyman Payne.

We're going to call up the Garden State Coalition: Linda Nelson, Garden State Coalition Board Member; Bob Copeland, Piscataway Superintendent; Eleanor Doyle, Summit Board President; and Bernard Josefsberg, Leonia Board of Education.

L I N D A N E L S O N: Through attrition you have us right now.

Thank you.

And I do thank you for giving us just a few minutes.

I know that we did submit our testimony, so I will try to just hit the high points, because there have been a few things said today that do concern me.

I am Linda Nelson. I'm the Vice President of Scotch Plains-Fanwood Board of Education. I've been a board member for eight years. And I am one of the Vice Presidents for Garden State Coalition.

Obviously, when you say Garden State Coalition, you usually think of Lynne Strickland. If any of you have worked with her, you know that it would take something very important to take Lynne away from Trenton at this time. And that something important was a grandchild in California who really wanted to see her at Christmas. But she has been following your testimony and your hearing all day today on the Internet. So you are out there in cyberland.

We do appreciate the chance to speak with you because we are concerned, not with the bill itself or the fact that we don't like this particular bill. One of the concerns is that we feel there is a lot in it that will, as it plays itself out, have a big impact on school districts of all different income levels -- District Factor groupings. And until you know exactly the answers to all those questions, it's a little worrisome that you would take a movement on something that has really only been in the public domain for three weeks. And I know we've spoken a lot -- all from this morning, to this afternoon, to this evening -- about how this isn't something that is new, that it is something that you've worked on for a long time. But speaking about the need for a new funding formula for several years is different than having a chance to thoroughly vet what has been proposed.

There are several provisions in the formula that we are concerned about. One of them-- The first being that the districts spending above the adequacy level should be required to return their State aid to the

local taxpayers. And one of the points discussed here today was that only -- and I was very disturbed by that word -- only 120 districts will be affected by this requirement. Why would we start out knowing that we're adopting a formula that is going to have such a negative impact on a good number of districts -- obviously not a majority, but a good number? But we do know that approximately 380 districts, according to the DOE advocacy model, are already spending too much over. And history repeats itself. Because when CEIFA was first proposed and developed, 315 districts were found to be spending too much by that model. And I can't help but think those who don't learn the lessons of history are doomed to repeat them. And if we're not comfortable with CEIFA, and we adopted it, and then now, as it's played itself out-- Why would we adopt a formula that we know approximately 60 percent of the districts will be impacted by?

It raises questions. Does the State deliberately underestimate the actual cost of education in New Jersey, and if so, why? Won't such underestimating inevitably lead to a leveling down of education -- quality of education in our state? Why would we start out with a formula that negatively impacts over half the school districts in New Jersey? Are we setting up communities for a big tax hit next year? Because we are at a Catch 22. We've had seven years of flat funding, and now you're giving funding that you are then going to make us immediately turn around and give back to the taxpayers. But at the same time, we have many programs that have been mandated over the past five or six years that CEIFA has not implemented. So we kind of go around in this circle.

One of the big concerns for my district, and many districts like ours, is the fact that any special education aid is basically the only State aid

that we get. And if special education aid is changed from categorical, which it has been for 40 years -- basically, that's an aid that follows a child -- to a wealth-based, you're going to have a big impact on dozens, if not hundreds, of districts in this state. Because we all know that if you provide an effective special education program, you attract special education students to your district. And I absolutely deny the -- reject the idea that various school districts will deliberately categorize children as special education in order to get the funding. How counterintuitive would that be? In my district, we spend \$12 million in special education, and we get back \$3 million -- just under \$3 million. So why in the world would we want more special education students? We don't make a profit on that.

Funding should follow the child, which it has done for 40 years in New Jersey. And that brings us to the hold-harmless provision. Lost aid of any sort in districts will result in loss of programs. There will be cuts in programs. So when you use the term *harm* or *harmless*, you have to be concerned, because we do know that that 2 percent increase -- which is such a minimal increase -- will play a -- as it plays itself out over the next two to three years, will be flat again.

And I'd like to just take a moment here to explain to you how that will -- how this formula will impact on my district. Under the proposed formula, Scotch Plains-Fanwood would receive an additional \$400,000, our first increase since 2001-2002. But in these same six years, our enrollment has grown over 600 students, and our special education population has increased by 195 students. So the aid that we will get next year-- We will actually, per-pupil, receive less for our special education students than we did seven years ago.

But considering that that formula -- which did not make us whole -- was an increase, we were happy for any additional revenue. But under the adequacy penalty, we must now return \$300,000 to the taxpayers, leaving a net increase of \$100,000. And the Commissioner talked about-- Well, basically we were being told that we are overtaxing our population. We are a community that had basically no commercial or industrial tax ratables. We receive only the special education State aid, to the tune that our local taxpayers have to pay -- shoulder the burden of about 93.5 percent of our special education. We are a regional-- So you would say to us, "Well, you should regionalize." We are regionalized. We have been regionalized for over a hundred years. We are one of less than 20 K-12 districts that are regionalized in the state. And yet we get no financial help for that, no recognition in any way. And we are the ideal size. When you look at the formulas, we are 5,500 students. So we should not be adopting a formula that will automatically hit us very hard right at the beginning.

I would just like to--

ASSEMBLYMAN GREENWALD: Linda, can I just ask you--

MS. NELSON: Certainly.

ASSEMBLYMAN GREENWALD: So your-- The money is going to be required to go back to the taxpayers. So the taxpayers will see some property tax relief. Your budget is going to be capped. What will you do?

MS. NELSON: We will be left with \$100,000 increase to try and deal with that 4 percent cap on our -- on increasing tax revenue. And what we've done-- What we did last year was cut programs and staff.

ASSEMBLYMAN GREENWALD: And what about at administrative levels?

MS. NELSON: Part of what we cut were administrative. We cut a supervisor, and we cut an essential office position.

ASSEMBLYMAN GREENWALD: And what staff did you cut?

MS. NELSON: Several teachers.

ASSEMBLYMAN GREENWALD: Can you get me, and we'll share it with members of the Committee, a copy of what was cut?

MS. NELSON: Yes.

ASSEMBLYMAN GREENWALD: And the breakdown of the costs?

MS. NELSON: Yes, I would be happy to do that.

ASSEMBLYMAN GREENWALD: And your budget? And what it was last year, and what you anticipate it to be this year because of the cost increase?

MS. NELSON: Yes, I would be happy to do that.

ASSEMBLYMAN GREENWALD: One other thing. The State passed a law, actually, that dealt with the elimination of the unnecessary State mandates. Have you seen that?

MS. NELSON: Have I seen the law?

ASSEMBLYMAN GREENWALD: Yes. It's yes or no.

MS. NELSON: I am familiar with it. I have not actually seen the law.

ASSEMBLYMAN GREENWALD: Okay. I would just like you to take a look at it and see how it impacts the-- I mean, you made a point

about the mandates, which we've heard, and we, through that special session, tried to address the issue. And I'm curious if--

MS. NELSON: Well, you're using the term *unnecessary* mandates. And, certainly, that was what I hesitated over. There are mandated programs that I'm sure are valuable, that we can't get rid of. But every year brings new mandates in different forms, and they all cost money.

ASSEMBLYMAN GREENWALD: That's why I'd like to see what the impact of that is and how it has addressed your district -- use that as a pilot example for us to see whether or not we need to go further on that.

Look, I have argued that if we create a mandate and don't fund it, then districts shouldn't be obligated. It should be a business decision on their part whether or not they want to fund it or not. Basically, if we don't fund it, it's a theory that we think is quality. But if we don't have the money to fund it, then we shouldn't mandate it upon the district to do so. But that may be the next step for us.

Assemblyman Schaer.

ASSEMBLYMAN SCHAER: Thank you, Mr. Chairman.

You've had an increase of 600 students, you've said?

MS. NELSON: Over 600, yes.

ASSEMBLYMAN SCHAER: How many administrators have you added to the staff?

MS. NELSON: Added? None.

ASSEMBLYMAN SCHAER: With an increase of 600 students, you did not add additional supervisory staff?

MS. NELSON: No.

ASSEMBLYMAN GREENWALD: Can we see those? I'd like to see those numbers as well.

MS. NELSON: Our enrollment numbers?

ASSEMBLYMAN GREENWALD: I want to see the enrollment numbers, the staff numbers, the supervisor numbers.

ASSEMBLYMAN CONAWAY: And outcomes.

MS. NELSON: And, I'm sorry, what was the last part?

ASSEMBLYMAN CONAWAY: Outcomes. Because outcomes really determine-- That drives what happens with this money -- if people are performing to standard or not.

MS. NELSON: So you want our -- and our test scores?

ASSEMBLYMAN GREENWALD: Yes.

MS. NELSON: Okay.

Just in conclusion, I want to make sure we-- There are a lot of questions that we don't feel everyone has enough information about -- certainly the public -- in order to pass this so quickly.

We don't know what money will be committed to school funding; where it will come from; how the formula will grow year to year; what renewable resources, if any, will be set aside; what guidelines will be used to assign aid in subsequent years, such as in CEIFA with the consumer price index, or 3 (*sic*) percent, whichever is greater.

So, anyway, I thank you for your attention.

ELEANOR DOYLE: Hello.

My name is Eleanor Doyle, and I'm the President of the Board of Education in Summit, New Jersey.

I welcome the questions about actual details and data, because I just want to give you a flavor of what it's been like to live in an I and J district over the past six years.

Just to give you an idea of what our district is like, we have approximately 4,000 students, which is a little bit lower than what is supposed to be the optimum size. But we do have a K-8 district with about 4,000 students. Several years ago, our administration was given an award for being an especially cost-effective set of administrators. We do have a per-student cost that is exceeding the national average, but certainly well-below the State average. I would suggest that the adequacy number is really what is going to cause us the most concern under this new formula.

For the past six-- Well, currently our budget is about \$55 million a year, and we receive -- have received traditionally, and will receive under this new law -- approximately 5 percent of that 55 million, despite the fact that our community sends over \$100 million in income taxes to the State. We receive only special education aid under the existing formula, as well as the new formula. And that aid amounts to 17 percent of the total cost of providing special education, and only 5 percent of our total budget. So our community funds nearly 95 percent of the total cost of education from local property taxes.

We have not-- In fact, we have been far less than any dimension of profligate in our spending over the past six years, especially since there has been no increase in the State aid. I've actually watched our district comb through the budget, tighten our belts, and reduce costs at every possible moment. Last year, when we were hit with the 4 percent

limitation on tax increases, we had to cut \$2 million in programs from our budget in order to be able to get underneath that cap.

ASSEMBLYMAN GREENWALD: What programs did you cut?

MS. DOYLE: We cut our entire gifted and talented program at the elementary level, we cut a number of sports programs, and -- I'm sorry, I'm not prepared to give you the list, but I certainly will get list to you.

ASSEMBLYMAN GREENWALD: Yes, could you get us a copy of that?

MS. DOYLE: I definitely will.

ASSEMBLYMAN GREENWALD: What is the gifted and talented program in the elementary schools?

MS. DOYLE: We had a gifted and talented resource teacher at the elementary levels that provided a language arts gifted and talented pull-out program, as well as a math pull-out program.

ASSEMBLYMAN GREENWALD: A foreign language program in elementary school? Is that what that is?

MS. DOYLE: No, no, no, a language -- English.

ASSEMBLYMAN GREENWALD: Oh, okay.

MS. DOYLE: Language arts.

ASSEMBLYMAN GREENWALD: So expressive writing.

MS. DOYLE: Exactly.

ASSEMBLYMAN GREENWALD: Okay.

MS. DOYLE: Exactly. And we cut that from our budget. There were a number of other programs that we cut from the budget, as well. But I will provide that list to you.

ASSEMBLYMAN GREENWALD: Can you provide, if you could, that dollar amount associated with each item--

MS. DOYLE: I certainly will.

ASSEMBLYMAN GREENWALD: Thank you.

MS. DOYLE: As I said, we currently receive only 5 percent of our budget from the State. However, we have a minority and at-risk population that exceeds 20 percent of our student population. Even with that population, we have been benchmark schools at all three levels for the past four years, and we were recently -- our high school was recently selected by the *U.S. News and World Report* as one of the top 500 high-performing high schools in the nation. And so even as money has been dwindling, and we have been trying to hold down our property taxes, we've been able to make great strides in closing the achievement gap and maintaining quality.

I submit to you that under this new proposal, when we couple what the State deems to be -- or the Department of Education deems to be an adequacy amount, coupled with the 4 percent limitation on tax increases, we will have no choice but to continue cutting. In fact, the numbers of this new law would require, next year, that we cut over \$6 million from our existing budget, which is an 11 percent decrease. I maintain that we will not be able to maintain quality in our district, but rather will see that quality diminish significantly, especially over time.

I trust that you're familiar with the experience in California a number of years ago, when California, in a very short number of years, went from having some of the very best public schools in the country to some of

the most struggling today. It's clear that that is what we're headed for in New Jersey if we go through with this current formula.

The other area that we have particular concern about is the equalization of special education, which you've heard a lot about today. But I did want to point out one thing that I think hasn't been said today. When we equalize special education, and couple that with the lower adequacy amount, and the 4 percent tax increase, we will have no choice but to take money from regular education programs and put those to the mandated special education programs. That will pit community members against community members. We will have members of the community resenting the fact that more money is going for these children with real, proven special needs that are not being given to the regular education students. That's not what we want to set up in the state.

ASSEMBLYMAN GREENWALD: I'm surprised you don't already have that problem. I represent I and J districts, and we already have that problem.

MS. DOYLE: We do have that problem to some extent, but it's only going to be exacerbated to an ugly level, I think.

ASSEMBLYMAN GREENWALD: Let me ask you this. You obviously don't get any aid now.

MS. DOYLE: Right.

ASSEMBLYMAN GREENWALD: And you're saying, I guess, you don't get any aid under the new formula.

MS. DOYLE: Right.

ASSEMBLYMAN GREENWALD: So what do you recommend?

MS. DOYLE: In addition to not getting any aid, now you're telling our community that 11 percent less than what we spend now is adequate to provide education.

ASSEMBLYMAN GREENWALD: So what would you recommend?

MS. DOYLE: For districts like mine, that pay over 90 percent of their local schools through local property taxes, I would suggest that you leave us alone, that you take the Department and all of their mandates-- I will tell you that having to go through the QSAC -- the new QSAC report is an extraordinarily cost-driven and ineffective process. We have more reports that are due, from the Department of Education, than I can even name in this one sitting. All of those costs drive the administrative costs that you are concerned about. I would suggest that somebody look at the Department of Education and the efficiency with which they deliver the services that they deliver. (applause) I suggest that for districts like mine, you leave us alone.

ASSEMBLYMAN GREENWALD: So you're not asking for any additional money. You're just saying less supervision and bureaucracy.

MS. DOYLE: I'd love some additional money, but certainly to the extent that I don't think--

ASSEMBLYMAN GREENWALD: But you're not really asking for that.

MS. DOYLE: I'm not asking for that.

ASSEMBLYMAN GREENWALD: You're just saying less supervision, less bureaucracy.

MS. DOYLE: And leave us alone. And don't tell us that what we're doing now is way overadequate.

ASSEMBLYMAN GREENWALD: Mr. Cryan.

ASSEMBLYMAN CRYAN: I just have a couple quick questions. Fifty-five million for 4,000 students? Is that right? Is that what your budget is?

MS. DOYLE: Fifty-five million for 4,000 students.

ASSEMBLYMAN CRYAN: So a little bit less, but around \$14,000 a student.

MS. DOYLE: A lot less, actually, when you factor in the amount of special education.

ASSEMBLYMAN CRYAN: Well, four times 14 is 56.

MS. DOYLE: We are funding 17-- We are getting only 17 percent of the actual cost to deliver special education.

ASSEMBLYMAN CRYAN: But your budget-- You have 4,000 kids, and it's \$55 million. Okay. Four times 14 is 56.

MS. DOYLE: I don't disagree with that.

ASSEMBLYMAN CRYAN: Well, roughly \$14,000 a kid -- per child, right?

MS. DOYLE: On average.

ASSEMBLYMAN CRYAN: And that's not enough?

MS. DOYLE: But I think that it's-- Part of the problem in this whole area is trying to apply averages to specific instances.

ASSEMBLYMAN CRYAN: Well, here's the thing that I resent a bit. You know, the I and J districts are the reality of why Abbott is -- why there's such a cost differential in Abbott. I and J tie the formula. So the

idea that you don't have any accountability is, in my view, whether you like it or not -- the Supreme Court says you do. Because you-- Every I and J district in the state has driven the cost that this Budget Committee, and that these Committees, have had to deal with, right or wrong. And we've heard from all varieties. You have as big a stake in this as anybody else. Whether you like it or not, whether you agree, you do. Because that's what I-- You're appointed by the mayor, right -- the school board in Summit?

MS. DOYLE: Yes, we are.

ASSEMBLYMAN CRYAN: And at \$14,000 a child, on an average -- which now you're going to say is not the real average-- That's not enough?

MS. DOYLE: I'm sorry, but I have to disagree that it's \$14,000 a child. We have special education students who cost \$100,000.

ASSEMBLYMAN GREENWALD: Every district does.

ASSEMBLYWOMAN VOSS: Right. That's the point.

ASSEMBLYMAN CRYAN: Every district does.

MS. DOYLE: I understand that, but on average--

ASSEMBLYMAN CRYAN: So how many do you have?

MS. DOYLE: I'm suggesting that we have quality schools that deliver quality programs at an average of \$14,000 a student.

ASSEMBLYMAN CRYAN: Right.

MS. DOYLE: I'm also suggesting that that cost could be reduced significantly by looking at some of the mandates that come from the Department of Education--

ASSEMBLYMAN CRYAN: I couldn't agree with you more.

MS. DOYLE: --and the things we have to deliver, too.

I don't think that anybody in the state is looking to drive adequacy. We want to drive quality. We have some of the best schools in the country now. I don't think that we want to put in a system that gives us merely adequate schools.

ASSEMBLYMAN CRYAN: And, respectfully, although they're not here -- I, as a resident of Union County, although not of your community -- I can tell you that the property tax bill is also a big concern. And I know it is in your county, because I hear it all the time.

MS. DOYLE: I'm certain.

ASSEMBLYMAN CRYAN: And I would venture to say that there are some folks in your town who might say, "You know what, \$14,000 is enough. If they're going to give me some back, you know what, I damn well deserve it, because I paid enough into it." So we need to look at both factors in that, as well.

MS. DOYLE: We're not giving anything back to the taxpayers. We got a 2 percent increase, despite 20 percent at risk.

ASSEMBLYMAN CRYAN: And you cut -- and you made a valued choice on programs, which you have an obligation as a board member to either discuss with the community-- You could raise it through a local fund, if you had to, or make other valued choices. But isn't that what this entire crisis is really about; about making choices on costs?

MS. DOYLE: But actually I'm not--

ASSEMBLYMAN CRYAN: I mean, I would argue that-- I've got to tell you, \$14,000 a child-- You're doing okay.

MS. DOYLE: I know that I am.

ASSEMBLYMAN CRYAN: And the idea that you're suffering, or that this formula is going to-- It just doesn't fly with me.

MS. DOYLE: I'm sorry. I respectfully disagree -- that what you're asking us to do is cut 11 percent.

ASSEMBLYMAN GREENWALD: Madam, your point is that you won't be able to spend the \$14,000, you're going to have to cut 11 percent from that. So you're going to be down.

MS. DOYLE: Absolutely.

ASSEMBLYMAN GREENWALD: And it's going to pit neighbor against neighbor because that can't come--

ASSEMBLYWOMAN VOSS: From special ed.

ASSEMBLYMAN GREENWALD: --from special education, because they're protected.

ASSEMBLYMAN CRYAN: You're going to be down to what, about \$12,000 -- about \$13,000 a child, right?

UNIDENTIFIED COMMITTEE MEMBER: Twelve-six.

ASSEMBLYMAN CRYAN: Twelve-six. That's not enough either?

I'll tell you, my district spends \$8,900. It's in your community. We'd take \$12,600 in a heartbeat. A lot of communities would. And the idea that you can just come in and say, "Leave us alone--" I and J is the reason we're debating \$532 million here today. I and J drives Abbott today. Don't come in and say, "Leave us alone." You're part of this.

MS. DOYLE: I would submit that I and J districts drive the quality in this state. We have closed the achievement gap. We drive the quality in this state.

ASSEMBLYMAN CRYAN: And three of the four communities who -- in my district who -- one of which comes close to bordering you, it's a town away -- finally get some relief under this. And the idea that there are winners and losers, I guess, is part of it. But you need to appreciate the fact that for many communities, \$12,600 -- even if you lost the money -- \$14,000 today -- for most of the state, it's not only enviable, it's desirable, and everybody would want it.

MS. DOYLE: I absolutely--

ASSEMBLYMAN CRYAN: So I couldn't disagree with you more.

MS. DOYLE: I respectfully understand that position. I'm simply-- And I certainly think that the districts that receive less than that deserve more than that. I'm not asking for money. I'm simply asking that we be left to maintain the quality in our district that we've been able to deliver.

ASSEMBLYMAN GREENWALD: I will tell you-- Do you know what the debate is? The irony about this is: there is no uniformity. And maybe that's what the formula is trying to drive, some baseline uniformity. Because, historically, a community like yours has the ability to choose to raise their rates to that level, which is why you're an I and J district. Other communities can't, which is how-- It really comes back to 618 school districts, in many respects -- which is why the Scotch Plains example, as a regional school district -- is why it's a fascinating. I'd like to get the data so we could have a better understanding of it. It's not as simple as "leave us alone," because not every school district will run well unchecked.

The question about the mandates is an interesting-- If we're asking you to cut your rates by 11 percent, I'd be curious to see what mandates we put on you, and whether or not they should be revisited to help you cut your mandates by 11 percent.

MS. DOYLE: And I will certainly provide that.

ASSEMBLYMAN GREENWALD: At the same time, it would be interesting to see some of the programs that have been selected to be provided. Because while they may be wonderful programs, or they may be programs that someone in the district wants, what Mr. Cryan is saying -- which is what we hear all the time -- some of it is just more than we need, or than-- And that is the struggle. People in the school systems-- Money should not be an object. Quality education -- it should be the better -- we should provide the best. That is coming to a crossroads -- and it has been for years -- as to what can the State afford. And that's-- And I think what Mr. Cryan is saying is, the I and J districts drive the Abbott districts' funding, which is driving this spiral on property taxes, that is now driving -- for the first time in our history -- residents out of the state who are taxpayers. And that is going to cause an even further pinch on our finances. That's the dilemma that we're in. That's what the debate is about.

MS. DOYLE: I certainly understand the fiscal problems that you're facing. And I don't think you have a--

ASSEMBLYMAN GREENWALD: It's not just us really. One point I'm trying to get across to people, as we travel the state with this, is you're all in it together.

MS. DOYLE: Of course we're all in it together.

ASSEMBLYMAN GREENWALD: We're all in it-- It's not our fiscal problems. It is our fiscal problems driven by a need to keep up with the property tax problem, which is driven by the cost of public education, which is driven by 618 school districts. We're all in it together.

MS. DOYLE: And I, quite frankly, don't know why the school system in the State should be penalized because the State has been unable to manage its fiscal house for 30 years.

ASSEMBLYMAN GREENWALD: Let me say to you-- Well, that's a great point. Our budget went up 1.5 percent last year. Now, spending went up dramatically because of the need to keep up with the funding for the pension, the Social Security payments that are negotiated by the school boards that we pay; the reality of the property tax burden that is really being used to offset-- Many of the people in your community got benefits from the rebate program.

That is why. It's not the State's inability to manage our budget or keep up with our finances. It's a burden that we all share that is centered around this property tax problem. And unless we are going to have an honest conversation about it--

We're not sacrificing education. We have to look at everything across the board. We have to look at, quite honestly, have we as governments, at every level, created programs that we couldn't afford? Did we, as many Americans do day in and day out, spend and buy things that we just can't afford, as great as they may be? As great as they may be, we just couldn't afford them. And that's what-- It's a reevaluation. It may almost be reevaluating and starting over at a new start point, and then trying to manage this better. But that's really where we are.

MS. DOYLE: I appreciate that. But I also appreciate that this has been a very long-term problem, and I don't understand why we should be subjected to having to diminish the quality that we have in our schools in order to solve this bigger problem. I am not asking--

ASSEMBLYMAN GREENWALD: Because it's at the crux of the problem.

MS. DOYLE: I certainly understand that other--
It's at the crux of the problem?

ASSEMBLYMAN GREENWALD: The largest cost of our property tax bills are public education. What's the largest percentage of your property tax bill?

MS. DOYLE: It is education. It certainly is education.

ASSEMBLYMAN GREENWALD: Okay.

MS. DOYLE: But what's more important than education?

ASSEMBLYMAN GREENWALD: The ability to afford to live in the state so you can take advantage of the quality education that we offer. If you can't afford to live here, you can't participate in the programs that we offer. And if the programs that we offer are so generous that we can't afford them, we have lived beyond our means.

MS. DOYLE: I barely think that spending \$12,000 on a student, per year, is a gross amount to be spending. I respectfully disagree with Assemblyman Cryan.

ASSEMBLYMAN GREENWALD: Well, what is the average property tax in your town?

MS. DOYLE: I'm sorry, I don't know that figure.

ASSEMBLYMAN CRYAN: I can tell you this. It's 80 -- it's the lowest equalized value outside of Mountainside, which doesn't have a school district, in Union County -- 80 percent of the state equalized value in the municipal-- And it's one of the lowest in the schools. So the reality is, when you look at the statewide average in a rich city like Summit -- it's the wealthiest town in Union County -- it's the second-lowest equalized tax rate in the entire county.

The point is that you could always-- When you look at your tax rate and-- The things that we talk about, as a community -- whether it's in East Orange, that we talked about earlier, and the cities -- where the equalized tax rates are getting higher and higher -- the reality is that Summit is essentially underpaying, no matter how much you want to say that you don't want anybody else involved.

MS. DOYLE: I'm sorry. What are we underpaying?

ASSEMBLYMAN CRYAN: Your statewide-- I'll give you this when we break. I'll give you this document -- which is-- We're looking at the total amount of equalized tax value for every community. And in Summit, it's 80 percent. For example, in the township of Union, where I reside, it's 123 percent of the State average. So in other words, when you look at wealth, and income, and property taxes, you guys have the opportunity, even under this formula, to raise your tax levy significantly. And you have the wealth to do it.

MS. DOYLE: But doesn't that reflect-- Does that not reflect the fact that we have almost a 20 percent population of economically disadvantaged students in our schools?

ASSEMBLYMAN CRYAN: It reflects your wealth and ability to provide. What it reflects is that not only are you lower, but it reflects -- to the Chairman's point -- your in this with us. You're in this as part of I and J's formula, and you're in this as part of an entire state. Which is the comment that drives me most insane.

ASSEMBLYMAN STANLEY: Thank you.

I just, if I may -- and then Assemblyman Conaway has a question--

Has the State given you -- because evidently, what drives this is the fact that you're spending more than the State says is adequate. That's what drives this.

MS. DOYLE: Correct.

ASSEMBLYMAN STANLEY: Now, what-- Has the State given you any indication at all of what -- where you're overspending, with respect to adequacy?

MS. DOYLE: No, absolutely not.

ASSEMBLYMAN STANLEY: That just gets back to, really, some of the nuts and bolts that we really need to investigate with respect to the formula itself. We need to be able to identify, we need to be able to look at a district -- and Summit is not a K-8 district, it's not a K-9 district, it's a K-12 district. Is that correct?

MS. DOYLE: Correct.

ASSEMBLYMAN STANLEY: So it doesn't-- So it shouldn't have any real administrative -- overreliance on administration, etc.

MS. DOYLE: We don't.

ASSEMBLYMAN STANLEY: As a matter of fact, I'd like to see what your administration percentage is. Because I think that would be helpful to the Committee.

And there ought to be answers to what's the difference between this hypothetical adequacy figure and what a district like Summit is doing. Because I'll tell you, this state is the number one state in reducing the achievement gap in the country. And that's due to some of the programs that we see in districts like Summit. But it's also due to some of the things that we've done with respect to Abbott and the funding there.

Now, I would hate to see some of these things disappear because of a formula that may dictate that we're taking dollars away from areas where we've seen some marked improvement and, in fact, leadership in the nation.

So, I mean, I understand the questions of my colleagues. I think they're sincere questions, I think they're important questions that need to be answered. But I think that question also needs to be answered. What is Summit providing-- Why is their district so off-kilter from what the Department is proposing is an adequate budget? I think that's a fair question.

MS. DOYLE: Thank you.

ASSEMBLYMAN GREENWALD: Mr. Conaway.

ASSEMBLYMAN CONAWAY: I appreciate the struggles that you are undertaking. And I think they're struggles that all districts have. One of the questions -- just broadly answer -- rhetorical -- before I get to my main point -- is that districts are going to be asked, depending on where they sit, to manage the funds that they have. We have, because of the

demand for property taxes -- put in this 4 percent cap. And folks are going to have to manage their way around that 4 percent cap. Because the public has been quite clear in telling us that we have to do something about these property taxes. It's been quite clear about that.

And indeed, when you look at this bill-- While we haven't been able to provide for some kind of an offset to levy for everyone, we do provide it for a class of districts that are both having excellent outcomes in their education, as you do, and also have great burden on your taxpayers, as you also do. And as I think Assemblyman Cryan suggested, your folks in town, I think, are going to be very pleased to have some of that money back.

Now, the one thing that I think Lou suggests, and others, is that we still have a tradition of very strong local control. And while there will be this money being returned, you will have the opportunity to go out to your public with a second question, and place certain programs in there and ask that that be funded. But what that does is remove -- because of the I and J bar that we have, the tie that we have -- it will remove that funding -- of course we're not doing Abbott now -- but it would remove some of that from the burden that we all share. Because, as we have been told by the courts, the money that we spend on education is shared money, which is why -- and because the Court has said it's shared money -- which is why we're able to move it around to deal with the inequities that we see in society based on income and class. So at least you do have the opportunity to put some of these programs in a second question and to be able to fund it.

But this question of how folks manage is something that everyone has to ask. My problem is, we have been asking it of middle-class districts forever -- to deal with flat, or reduced funding, or funding that hadn't kept pace. We are applying the same standard across every district, including the Abbotts. And there are a lot of folks saying, "We don't want to do that." I sat here and had to listen to fixed costs until I was blue in the face, when the person who said that knows very well that fixed costs like health and energy costs are things that you can get a waiver for.

Now, if everybody gets a waiver, there's no reason to have a waiver process. People ask for management. You put your application in, and you get it if you're doing what you need to do, or you don't get it. And management means that some people get approved for the waivers, and some people don't, so that we can protect the taxpayer dollar. But that is the way the process has been designed to try to protect taxpayer dollars, allow wealthy districts to use second questions to keep their spending up if they desire; but also give an opportunity, if they also desire, to return that money to the taxpayers who have told us over and over again that they're overburdened.

So you are having difficulties with management, but all is not lost, I guess, is what I'm trying to say.

MS. DOYLE: Well, except that I respectfully just want to make a few things clear. First of all, as to the second question, my understanding is that we are not permitted to put anything in the second question that is already geared toward delivering a thorough and efficient education. So there are very limited circumstances under which you can use a second question to supplement your budget.

The second thing is, under the fixed cost waiver-- For example, last year-- Right now, the fixed cost waiver for health education (*sic*) is limited by the amount to which the State Health Benefits Plan has increased year over year. Our health-care costs last year, because of some very unusual experience we had, exceeded a 25 percent increase. That 25 percent increase, in large part, is what drove -- in part -- our \$2 million cut. But this year, coupled with the adequacy amount, the fact that we more than likely will not have a second question eligible -- because we won't be asking for any programs that are not driven by the thorough and efficient, or core curriculum standards -- we will have to cut 11 percent from the budget to stay within the adequacy of a 4 percent tax cap.

ASSEMBLYMAN CRYAN: Did you apply for the waiver on the 25 percent increase? Because that sounds, to me, extraordinary.

MS. DOYLE: No, we can't. There's not a waiver for that.

ASSEMBLYMAN CONAWAY: On extreme health-care cost increase?

MS. DOYLE: No, there is no waiver for that.

ASSEMBLYWOMAN POU: Repeat what you just said.

MS. DOYLE: The only waiver you can get from the 4 percent tax increase for health is the percentage by which the State Health Benefits Plan has increased. So last year, for example, the State Health Benefits Plan increased 6.9 percent. Our health costs increased by 25 percent. And we could only take the 6.9 percent.

ASSEMBLYMAN CRYAN: I got it. I understand what you are saying.

Thank you.

MS. DOYLE: Thank you.

Thank you very much.

ASSEMBLYMAN STANLEY: Thank you.

I'm going to ask the panel of New Jersey Principals and Supervisors, New Jersey School Boards Association, and New Jersey Association of School Business Officials, and New Jersey Association of School Administrators to come forward: Debbie Bradley, Maureen Schea, Michael Vrancik, Bruce Quinn, and Tom Dunn.

But I want to recognize Assemblyman Payne.

ASSEMBLYMAN PAYNE: Mr. Chairman, thank you.

While the group is -- the panel is coming forward, I would just like to point out that some of you may know that Congressman Donald Payne was here earlier. He didn't have an opportunity to testify. However he does have a statement here that I'd like to read into the record.

It says, "Good morning. My name is Donald Payne, and I live in Newark. Let me comment on how impressed I am to see so many Assemblypersons; State educational and other governmental officials; and community and educational groups such as the NAACP, PTAs, NJEA, and others. It is a very impressive showing. Let me wish all of you Happy Holidays.

"Some of you may wonder why I, a member of the United States House of Representatives, would take the time to come to this State hearing to comment on proposed legislation affecting education funding for children in the State of New Jersey.

"Frankly, I believe every issue that affects the citizens of our state is my concern, whether on a State or a Federal level. In fact, I testified

before the State Senate Committee several years ago to offer my support for pending legislation sponsored by Assemblyman Payne that called for the divestiture of the State Employee Pension Funds from companies doing business in the Sudan, where genocide is still being committed. I am also proud that New Jersey is the first state in the union to legislatively abolish capital punishment, a move that has been applauded nationally.

“My concern for the education of our children is based on my early career as an elementary and high school teacher. I know from personal experience the value of providing a solid educational foundation for our children. There is no greater investment we can make than the investment in the education of our children.

“My role as a member of the House Education and Labor Committee has enabled me to become aware of the educational standing of children throughout the United States, as well as in countries around the world. As you know, today we live in a global village, therefore we must compete globally. I know that we must continue to work to ensure that our children in New Jersey and around the country receive the education necessary to enable the United States to compete with other countries. As we know, we have fallen behind in some of the subject areas, especially in the high-tech area. Our House Education Committee has been holding hearings throughout the year on the reauthorization of No Child Left Behind -- Federal legislation that attempts to assist states in attaining higher educational achievement for its students.

“I know the effort today to develop a fair and adequate funding formula to educate every child is complex and difficult. But I am confident that this administration and Legislature will create a fair formula for all

students. In the end, we must be sure not to take from some to give to others. All children must be provided all the necessary resources to prepare them for meaningful roles in the future. And I am sure that is your goal.

“Congressman Donald M. Payne, 10th District.”

ASSEMBLYMAN STANLEY: Thank you, Assemblyman Payne.

The panelists, you can proceed.

Welcome. Thank you for bearing with us this evening.

DEBRA J. BRADLEY, ESQ.: Thank you, Chairman Stanley, and members of the Committee.

I appreciate you taking the time to hear us at this late hour, and I'll be brief. I'll just summarize our comments. We have submitted a written statement.

Our Association represents school principals across the state in all types of school districts, whether they're suburban or rural; or low-, middle-, or high-income. So we share your goal of having a unified school funding formula that meets the needs of all of New Jersey's diverse student populations.

Today, we have to join in the comments of many of our colleagues within the education community on the issues of adequacy, special education funding, and the bill's potential negative impact on educational programs and services in certain school districts. We do believe that special education should be categorically funded based upon actual costs. This will help our districts better serve our most vulnerable students.

On the issue of adequacy -- that has been a very controversial one over the last two years of this process -- we believe it should be revisited

more regularly than the five-year period in the bill. And we're pleased to hear the Commissioner is moving that up to a three-year cycle.

The one thing that isn't mentioned in the bill, that we think should be, is that public input should be required. If we're relying on an adequacy number that was the result of a professional judgement panel, there should be a built-in process for professionals and the public to also provide continued input into that adequacy number into the future.

The last issue I'd like to focus on today, with most of my time, is the issue of the early childhood provisions of the bill. First, let me state our strong support for the Governor's priority of expanding the option of high-quality preschool to more children in need across the state, not only children residing in Abbott districts. The national research, and New Jersey's educational outcomes, are clear. High-quality preschool is a critical and effective tool in addressing the needs of children at risk and preparing them for educational success. We strongly support the goals of the bill in this area.

But principals do have some concerns with the proposal as it has been envisioned. First, the proposal fails to adequately address current Kindergarten needs across the state for our 5-year-old student populations. Many willing and needy school districts are currently unable to provide full-day Kindergarten opportunities for children in the communities.

It is our understanding that about half of the current District Factor Groups C and D districts offer full-day Kindergarten. We believe that it's insufficient to mandate the establishment of preschool for 3- and 4-year-olds in these communities where no full-day Kindergarten exists to follow through on the preparation of these young students.

The proposed formula does address this issue in one very positive way. And for the first time in New Jersey, the costs of full-day Kindergarten have been factored into the adequacy formula. In the past, districts were only half-way funded in CEIFA, by .5 percent, even if they did provide a full-day Kindergarten program. We believe this is a positive step forward, but it doesn't go far enough to assist school districts who want to provide this full-day program.

The first issue is the one mentioned by Assemblyman Malone earlier, which is the facilities issue. Kindergarten and early childhood programs have certain facilities requirements that must be met, including a bathroom in each classroom and a sink. Since the school construction program has stalled, districts that were willing to provide expanded preschool and full-day Kindergarten have been stymied in their efforts by an inability to provide the appropriate spaces. Others have faced difficulties in finding appropriately certified staff.

In order to meet the goals of this expanded early childhood investment, we must assist all districts who wish to provide full-day Kindergarten, with a priority to districts with high concentration of at-risk students. Otherwise, the success of the proposed preschool expansion investment will be compromised once an at-risk child reaches Kindergarten.

We made some recommendations in our testimony. I think the most important one for your recognition is, first of all, funding must be available for start-up costs for full-day Kindergarten and preschool -- the legislation represents the start-up costs needed for preschool, but that may also be necessary to help districts make that leap.

And the second one is that funding for full-day Kindergarten should be made available to districts in the first year that the program is actually implemented. Right now, districts receive the money the year after the program has been provided.

We also need some flexibility in the planning and budgetary process to determine how and when to phase in full-day Kindergarten and preschool programs, and in what order. As long as districts can meet the target date in the bill, which is set at 2013-2014, districts should be able to look at their local needs and their advantages and decide which program makes sense to provide first.

We would appreciate these changes being considered in the legislation.

Thank you.

ASSEMBLYMAN STANLEY: Thank you, Debra.

Yes.

BRUCE M. QUINN: Good evening and thank you.

I'm Bruce Quinn, from the New Jersey Association of School Business Officials, representing business officials across the state.

Understanding the hour -- and we've given you written testimony -- there are two points that we'd like to go over with you tonight.

First, there appears to be a double cap system in place, and we'd like some clarification with that. In addition to the 4 percent property tax cap which was enacted, Section 28 of the bill -- on Page 33 of the draft -- still calls for the 2.5 percent or CPI cap on the total budget. And this will impact the ability of districts who are spending below adequacy to achieve

adequacy through new programs. So that may be something that the Legislature wants to take a look at.

And finally, the use of income: The income factor really leads to disparate results. The property factor really serves as a statewide equalized property tax of nearly a dollar per a hundred dollars of assessed value. The income factor establishes a flat income tax rate of about 4.5 percent, which is supposedly applied to all taxpayers. But when applied, it really doesn't. It gets translated into property taxes, applied evenly to all in a town, regardless of income level. Towns with a higher concentration of commercial and business properties will have lower tax rates, because there is no corresponding income. People living in similar houses pay the same rate, regardless of the income, as long as they live in the same town. If you live in a different town, even if spending less, you could be taxed higher because of a different factor regarding income. This all comes from schools having only the ability to tax property for their fair share. If we really seriously want to consider tax reform and fairness, we should consider changing that.

There is much in the legislation to be commended, but these flaws should be amended.

Thank you.

ASSEMBLYMAN GREENWALD: Thank you, sir.

MICHAEL VRANCIK: Good evening.

My name is Michael Vrancik. I'm the Director of Governmental Relations for the State School Boards Association, a nonpartisan federation of the state's local boards of education.

I just have some very brief points. Most of the things that I was going to say in a prepared statement have been changed, or questions have been answered, that I had, listening to the testimony earlier on today.

We have two outstanding policy issues, that I think have been addressed, that we share with many of the other associations. The first is the issue of special education aid not being wealth-equalized, but being -- remaining a categorical program. I think the panelists who were up here before made the argument -- and several others that will probably follow will continue to make the argument -- that making special education aid a wealth-equalized program will reduce and eliminate, to a large degree, a lot of aid that some districts get, and only get, from the State, because they don't get any other aid.

The bigger issue for us isn't the relative wealth of the districts, it's the fact that we're creating a wealth equalization of a program that benefits the kids who are the special needs kids. And that's an overarching issue for our members that transcends what districts they're from, or how wealthy or not wealthy they are.

The second issue is the issue that Bruce just made about a long-standing policy we have about using income -- or not using income, rather, but just property wealth as the basis for the calculation of the local fair share.

Beyond that, I think I second the comments made by Chairman Greenwald and others, that a lot of the information we've gotten in order to digest and analyze this legislation was given to us in ways that didn't clarify some of the issues that have come out since we've gotten a copy of this bill last week.

In particular, when the aid figures were released for all the districts, it was unclear how much and what districts were going to have to return some of the money in the form of property tax relief. I've gotten questions from a lot of my members about how that works. And I'm hard-pressed to explain that to them, because I don't have the data from the Department of Education. So we've also asked for that information. And it would be very illustrative to everyone, I think, to understand how this formula works.

Jumping off from that, another question that we've had, in looking at the legislation, has to do with what happens down the road when districts-- I live in a district that spends below the adequacy level. So we'll get an increase that we'll keep, at least for the time being. But moving forward, when districts get to adequacy, based on how their local fair share is calculated and whether they're spending below or reaching what their local fair share should be, what happens to those districts? Does this formula envision a point in time when everybody's reached that magic state, where they're spending at adequacy, and they're taxing at their local fair share? Will they cease to receive any additional aid, except for enrollment? It's assumed, but it's not clear.

The other issue that Bruce made about the tax caps is a question that we had in the context of which one supersedes the other. Clearly, they're both still there. I'm just not sure how that works.

And the last one, I guess, is just an observation. I know a bunch of board members have met with Assemblyman Schaer recently. And we expect, in the next several weeks and months, to be meeting on a regular basis with all of you in your districts to talk about this thing.

Because I think, as Assemblyman Greenwald and others have said -- and Assemblyman Cryan -- there are a lot of issues behind this about what is adequate. And are we spending more than we can afford? I think the point that Paul Tractenberg made earlier -- about the comparison of the large portion for adjustment aid, and what that says about the adequacy level -- I think is a different way to put a mirror on the question that Assemblyman Greenwald asked, about: Are we spending beyond what we can afford? And what does that mean for districts? And how do we work through this in the context of what the State can afford, and what we can afford as taxpayers?

I appreciate the chance to testify. And hopefully this is the beginning of an ongoing dialogue.

Thank you.

ASSEMBLYMAN GREENWALD: Mike, if I can, I just want to thank you and your members -- principals, the superintendents, the school boards. We're trying to really dig down into a lot of these issues. But your members volunteered on these judgement panels. And that's what I think a lot of the public doesn't understand. Over the course of time, people from all cross sections volunteered, and your people stepped up, as well, to add their insight from an educational standpoint, as well as from an operations standpoint, and really weighed in on a lot of the revisions that are in this and a lot of the proposals that were made.

So that is why I feel we are all in this together. And if we don't--

Mike, you and I have talked many times. If we don't all work on this together, you're never going to get there.

But you all -- you deserve credit for participating in this process with us. And while it may not be all of what we all want, we're trying to make strides in the right direction.

Thank you.

MR. VRANCIK: Thanks.

MS. BRADLEY: Thank you.

ASSEMBLYMAN STANLEY: The next panel is Brenda Considine, from the Coalition for Special Education Funding Reform; Peg Kinsell, from SPAN; Gerard Thiers, from ASAH; Art Ball, from COSAC; Jennifer Halper, from New Jersey Association of Protection and Advocacy. And actually, a person who was supposed to come up with the last panel -- Ron Lee, Newark School Board -- school business administrator -- should come up with this panel, as well.

Thank you.

BRENDA CONSIDINE: As our coalition gathers, I'll get started in the interest of time.

My name is Brenda Considine, and I'm here tonight on behalf of the Coalition for Special Education Funding Reform. I do have prepared comments.

I'll just start by saying it's ironic that you would begin tonight again talking about the PJP process and how folks were included on that. Because part of the experience of the special ed community, coming into this, is having not been part of the process. No one from the special education community was part of the PJP process. And we believe the ball started rolling there. All along, special education was almost treated as an afterthought.

And what we're seeing now are the major stakeholders and the disability community reacting in unison, which is unusual. You hear us all saying the same thing, that we've got big problems with the way special education is structured. And it began at the beginning, because we were not at that table.

In fact, the special ed community worked very, very hard on another group called the Special Education Review Commission. And Art Ball vice-chaired that Review Commission. They developed a report with over 96 recommendations. And it is my bet that very few of you have seen that report or know of its recommendations, because none of them are reflected in this report.

ASSEMBLYMAN GREENWALD: Can I just ask you--

I don't know if you know these people. Does anyone know a Dr. Carole Kernan, Director of Special Services, Summit Public Schools?

MS. CONSIDINE: No.

ASSEMBLYMAN GREENWALD: Okay.

Or Dr. Ted Kozlik, Director of Special Services, Westfield Public Schools? They were on the February 20 and 21 Professional Judgement Panel.

MS. CONSIDINE: There were school district representatives.

My point was that the advocacy perspective, and a perspective of disability advocates, was not involved in any way.

ASSEMBLYMAN GREENWALD: Okay. I don't-- I mean, look, there were a lot of people that wanted to be involved. I don't know if they were bringing the special education needs perspective from school districts. I'm sure it's not enough.

MS. CONSIDINE: Right.

Our Coalition is made up of 10 organizations that are concerned with the interests of kids with disabilities. I'll start by saying that we very much appreciate the Governor's interest in equalizing services for all kids and the additional money that we do see earmarked for special education.

We're not looking at the numbers for next year, though. We're looking at the formula that's driving those numbers, and we have some big concerns. Early on, folks said, "Is it just a matter of tweaking, or are we looking at a complete revamp?" And to be candid, from our perspective, it is not a matter of tweaking. Every element of the special education funding system is changed under this proposal, and every element of the change are things that our Coalition cannot support.

We have gone on record as being concerned about a wealth-equalized model. We think it's going to, over time, diminish the quality of services and hurt districts that are doing a good job. In fact, last Fall, the Governor issued grants for districts to develop in-district autism programs. And a good number of them are going to see cuts in special education funding. So they've developed these magnet programs, families are moving there, and they're going to have special ed cuts. It just doesn't seem like those two policy directives are fitting together very nicely.

We're concerned with the way in which aid is calculated. For the first time in New Jersey, there is no relationship between the child's disability and the amount of State aid that that child gets. And while the statewide average is certainly much simpler, it's not going to capture the broad variation in differential costs that you may see in a child. A child

with a learning disability versus a child with severe autism getting the same flat amount of money is just not going to be a good match for most districts.

ASSEMBLYMAN GREENWALD: How many states do this statewide average?

MS. CONSIDINE: Statewide average-- I'm glad you asked. The statewide average is \$10,890. And we actually take issue with the way in which that was calculated. As we're understanding it, the Department averaged only those costs up to \$40,000, leaving out almost 13,000 students who have tuition in excess of that amount. So when you look at that average, you chopped off the far end of that bell curve, and we believe the average is artificially low.

ASSEMBLYMAN GREENWALD: My question though is, how many states use the statewide average?

MS. CONSIDINE: I want to say 10.

ASSEMBLYMAN CONAWAY: The census model.

MS. CONSIDINE: Oh, in the census model.

ASSEMBLYMAN CONAWAY: In other words--

MS. CONSIDINE: Like 10 or 12.

ASSEMBLYMAN GREENWALD: Okay.

The Governor did say -- and I don't -- I'm not -- I don't have anyone from his Office here. But there is a significant increase in funding for special education costs that he is going to use to address the issue of those students of \$40,000 and above, which has not been done up until now. We've done it one time.

MS. CONSIDINE: The extraordinary costs provision, as you know, funds districts who have individual students who have costs in excess of \$40,000.

ASSEMBLYMAN GREENWALD: Which has not been funded up until now.

MS. CONSIDINE: Well, CEIFA currently requires that that be funded at 100 percent.

ASSEMBLYMAN GREENWALD: CEIFA hasn't been funded.

MS. CONSIDINE: Which is, again, sort of what--

ASSEMBLYMAN GREENWALD: I mean, you're getting nothing right now. And he-- From what he has shared with us in his briefings, is that a significant portion of that is going to be funded.

MS. CONSIDINE: As I mentioned -- and I'm not a financial analyst by any stretch of the imagination. In fact, I have a child with a disability.

ASSEMBLYMAN GREENWALD: Sure. But why would we be against that, though? If you're getting nothing now, the promise of something which materializes nothing, compared to a commitment of something that gets you something significant-- Help me understand.

MS. CONSIDINE: Our Coalition, unlike many of those who you've heard testify today, didn't look at the numbers for this year, because we know that the numbers can change, depending on how they're funded. What we're looking for is a policy and a formula that makes sense and that has some sticking power, that's going to be able to sustain a policy directive that the Department says they're trying to move toward.

So we aren't looking at next year, we're looking at 10 years from now, and whether the formula, and the principles behind the formula, are consistent with what we believe to be best practice. And that's why we're here at, what, 7:30, concerned like the rest of you. I appreciate that you're all still here.

ASSEMBLYMAN GREENWALD: Dr. Conaway.

ASSEMBLYMAN CONAWAY: You know, we have been--

I'm glad you're here to talk about this. Assemblyman Greenwald raised the point that I was going to make, that there is commitment from this Governor. And I think when you look at the Governor and the leadership in the Legislature, there has been a very strong commitment to the -- I don't know if this is the correct term -- *disability community* -- but to address the needs of people that have challenges. And while it is a-- And it certainly is true, as Assemblyman Greenwald has pointed out, a significant something in this case has got to be better than nothing.

And so what I hope, as folks come up and make their testimony -- just some basic thoughts about what we're doing. Because you talked about a structure over time. One of the things that is a part of the way we fund education, generally, is that we have this idea that communities should bear burden according to their wealth and incomes -- which we use 50-50. But it should bear according to what they can bear. And we apply that across the regular education program. And so if we shouldn't apply that in any way -- and remember, we're only talking about one-third of the moneys, because the two-thirds will remain as -- will be on the census base, and the

one-third-- I'm mixed up. One-third -- two-thirds a census base, and one-third categorical.

So we're doing this hybrid system. People kept talking about Pennsylvania and the census. We're not doing Pennsylvania. We're doing something different than what Pennsylvania did, and have also committed to reevaluating that program in the near term, rather than in 10 years, as you've just mentioned.

So should we have a wealth-based system in education-- Because we have it for regular ed, shouldn't it be for special ed? If you don't like this hybrid model -- census and categorical -- tell us how we should do it. Presumably -- I shouldn't put words in your mouth -- but maybe you want us to do all categorical, or continue the way we're going. And some people have made that argument.

If you want to do categorical, please tell me then-- Because if you look at court cases that are going forward, they're challenging what we're doing. If you look at the increases in costs that we've seen here, if you look at, as the Commissioner pointed out, the wide variability in how kids are categorized -- which seems to know no correlation between wealth and poverty -- would suggest that we don't have a classification system that works. Can you tell us how you would do the classification so that we could have a categorical program that might work better than it's working now?

MS. CONSIDINE: Sure. Actually, when Tom Parrish testified before your Committee, one of the things he talked about was using a severities index. He did, as the Commissioner said, indicate that the current tier model is not a good proxy for funding, but talked at length

about a severities index that looked at the services students are receiving and linked that to the amount of funding that they receive. And our Coalition -- I'm sure all of you have gotten our position paper, because I know we've sent it on a couple of occasions -- recommended that, at the outset: that it not be wealth-based, and that we do stick with a multileveled system, but use it -- one that bases it on severity of a child's disability, as opposed to these artificial tiers.

ASSEMBLYMAN CONAWAY: Okay.

MS. CONSIDINE: We also went on record indicating that wealth-based funding would disproportionately affect districts that may have already developed quality programs. We believe that general ed aid is appropriately wealth-equalized, but that disability adds equally to the cost of a child's education, no matter where they live, and that that should be funded without regard to local property wealth.

ASSEMBLYMAN CONAWAY: But what's the theory?

ASSEMBLYMAN GREENWALD: Just so you know--

ASSEMBLYMAN CONAWAY: I mean, theoretically, why would we do wealth-equalization on the one hand and not on the other? I mean, what is the reason not to do that?

MS. CONSIDINE: I'll move it beyond theory. Children with disabilities are, first and foremost, children. And so you wealth-equalize based on the fact that they are children. They are students. The other things, like every other part of this education funding plan, is categorical. The only kind of aid in this entire plan that is no longer fully categorical is special education aid. We believe that if money is to follow the child, it should be categorical and not wealth-based.

ASSEMBLYMAN CONAWAY: I'm sorry, but you're mixing up some terms here.

When we talk about equalization, we're talking about the shared responsibility and how the burden is going to be split between the local community and the State. What you said -- the categorical is not on that continuum. It's a different question that you're asking there. I think you're doing an apples and oranges thing.

MS. CONSIDINE: Well, let me rephrase it then. I guess what I meant to say is that we believe general education aid should be wealth-equalized, but that special education costs add equally, no matter where you live, and that those additional costs should not inappropriately affect a district's-- Our belief is that you wealth-equalize for general education and that special ed is categorical.

ASSEMBLYMAN CONAWAY: So they're just different. That was the question I was asking -- is why? And what is-- I mean, theoretically, why make-- Why do we make the change? Because my whole point with this funding formula in general -- and I've heard all sorts of things today -- is that we really have to apply it broadly, and that every -- that eventually we need to move to a unified formula, where-- You are Person A. You come with limited language proficiency. You have a learning disability. We don't have anything for gifted and talented, but throw that in there. Maybe eventually-- And we add up all of the issues that you have, and then there's a number that you need to adequately fund that education. And that money goes with the school.

Now, are you saying it's not possible for us to do that?

MS. CONSIDINE: Well, I actually think we're agreeing. Maybe I'm using the wrong kind of nomenclature. You're describing limited English proficiency and other kinds of things that are counted and funded. And that's actually what we're recommending. We're recommending that special education students be counted like they are now and funded like they are now.

ASSEMBLYMAN CONAWAY: No change.

MS. CONSIDINE: Well, with the exception of using the severities index, which would seem to make more sense and be a better match.

And I don't mean to monopolize the field here, because my colleagues certainly have more detailed comments.

ASSEMBLYMAN GREENWALD: Let me just-- I want to clarify for the panel though-- The Governor, when he briefed us -- I just doubled checked it -- has committed to 75 percent funding over the \$40,000, where we have been running at 23 percent now.

DAVID J. ROSEN: It's over \$55,000.

ASSEMBLYMAN GREENWALD: And it's over \$55,000.

MR. ROSEN: The new one--

ASSEMBLYMAN GREENWALD: Is over \$55,000.

MR. ROSEN: It was 23 percent over 40, now it's 75 over 55.

ASSEMBLYMAN GREENWALD: Seventy-five percent over 55.

ASSEMBLYMAN SCHAER: I thought it was 29 percent. I thought under CEIFA we were paying 29 percent.

MS. CONSIDINE: Our Coalition is aware of the fact that CEIFA has not been funded. I mean, there's no disagreement about that.

ASSEMBLYMAN GREENWALD: And that's my point. My point is, it's like you're--

MS. CONSIDINE: If you were to have funded--

ASSEMBLYMAN GREENWALD: If it's fantasy, it doesn't exist to me. But if it's real-- But your concern is that it's only -- the commitment is only there for a year. You don't see anything that projects out beyond that. Is that what-- And it's okay. I mean, you're not taking us at our word. You're not the first person to say that. (laughter)

MS. CONSIDINE: I mean, Washington, D.C., promised 40 percent funding of IDEA--

ASSEMBLYMAN GREENWALD: No, I can't-- They're nuts up there. There's nothing I can--

MS. CONSIDINE: --in the '70s. If they were to come back and say, "We're going to fund it at 20 percent," I think states would have a problem if they reduced their commitment. I think that's--

ASSEMBLYMAN GREENWALD: Well, we've gotten 17. I mean, I'm going to tell you, if they told me, "We would give you--" Maybe I'm in the same position. If they told me they would give us 20, and they actually gave us 20, as opposed to telling us they were going to give us 40 percent, and we're getting -- one year we got 11, and we're getting-- I would take the 20. Because I'd rather be able to plan and know what I'm getting.

MS. CONSIDINE: Right.

ASSEMBLYMAN GREENWALD: Does anyone else have anything else to add?

MS. CONSIDINE: We have Gerry Thiers, another member of our Coalition; and Art Ball and Peg Kinsell.

ASSEMBLYMAN GREENWALD: And Assemblyman Schaer has a question as well.

ASSEMBLYMAN SCHAER: It's not really a question, Mr. Chairman.

Thank you.

I just wanted to-- I'm a little bit disturbed that the advocacy groups were not brought into the discussion with the Department. I don't understand how conversation is not a good thing. All right? And I wanted to suggest, respectfully, that perhaps you and Chairman Stanley might consider writing a letter on behalf of all of us, to the Commissioner, commending her and requesting that such a meeting be held.

ASSEMBLYMAN GREENWALD: And I think-- We're going to-- I've already planned to reach out and call her. I want to hear what she has to say as to why this took place.

MS. CONSIDINE: We have been participating in stakeholder meetings that began taking place last Summer. They were not substantive, in terms of details about the report.

Our further concern with regard to the special ed components of this is that the PJP process, as I said, did not include our community. The Department then hired outside researchers to look at the Augenblick report, and specifically requested that all three of them not look at special education. It was in the language of the RFP that they not look at special ed.

They then hired consultants this Summer to review special ed that never issued a report. And so we're going on an hour's worth of video comments.

ASSEMBLYMAN GREENWALD: Let me tell you why -- I think it would be helpful to us if you could just bullet point, for us, those questions. And then Assemblyman Stanley and myself, on behalf of the Committee, will send a letter and ask for a response by-- If you could get that to us tomorrow--

MS. CONSIDINE: Yes.

ASSEMBLYMAN GREENWALD: --we will send that and ask for a response by Tuesday.

MS. CONSIDINE: Thank you.

Gerry.

GERARD M. THIERS: Hi, I'm Gerry Thiers, with ASAH, which is formerly known as the Association of Schools and Agencies for the Handicapped. We're a statewide Association with 132 State-approved private schools in New Jersey, educating 11,000 students with disabilities. The students have severe disabilities that dramatically impair their ability to learn in other settings.

We applaud, again, the -- we also appreciate the effort that was made in the areas of, like, providing additional funding and also for the expansion of preschool services.

But we have to agree with Brenda -- and we're also part of the Coalition -- that the-- This is a major change in special education that's being brought upon us very quickly. The use of a census-based system, while more predictable for districts, may shortchange the districts that have

large number of high-cost students. New Jersey will be moving from a complicated system of calculating aid based on the four-tier system to a very simplified one that assumes that all special education students have the same educational needs.

Surely there's some middle ground. And perhaps we could look at a severities index that Brenda had suggested, or even another category that would provide additional categorical funding for students that have severe needs. This would at least acknowledge that educating our most challenging students is very expensive, and will help the districts to fulfill their responsibility.

The proposal to distribute the majority of special education aid based on district property tax wealth ignores the individual needs of these students, as was mentioned earlier. While we understand that the Governor and the Department seek to provide more State aid to poor- and middle-income districts, special education funding should not be used for this purpose.

The dual threshold for extraordinary costs funding that is proposed -- it's \$40,000 now, and the Department proposes \$40,000 for in-district programs, and then \$55,000 for out-of-district -- is meant to support the development of local district classes for students with severe disabilities. The Department claims that districts can show only their program costs when applying for in-district extraordinary aid, while they can show both program and administrative costs for out-of-district programs. Therefore, the dual -- you know, the higher costs for out-of-district.

But while in-district programs certainly have administrative expenses, the difference is not \$15,000. Districts which educate special education students from other districts charge an average of \$37,000 per student. The average per-student cost in an approved private school -- for example, in many -- in a special services district -- is about \$41,000, when you adjust it to a 180-day school year. The in-district programs -- they only exceed their average tuition by \$3,000 in order to apply for extraordinary aid. The out-of-districts will have to -- they will have to go \$14,000 above the average tuition in order to apply for extraordinary aid. So you have districts in a real bind here, because many of their -- the placements they make out-of-district are severe children that are high-cost. And they will not receive-- The reality is that many of them are out-of-district right now. And while we support the concept of trying to build up the in-district capacity, that's not going to happen right away. So there should be something done there in the short-term: either lower the threshold -- the \$55,000 threshold -- or phase it in -- like go first year, \$45,000, second year, \$50,000. Because this will not happen overnight. These programs are very expensive and very difficult to set up. It won't be easy. And other folks have talked about space problems and getting the start-up funding to do it. So it will take much more than a year to start these within the district.

One thing we want to make clear, as well, is that over the past couple of years there's been debate about funding -- that private schools are more expensive than other options, other types of special ed programs. This isn't true. We did a study, and we included costs that have been mentioned here, such as pension, Social Security, retirement, health benefits,

construction, debt service, etc. And when we looked at these costs, the average, per-student cost to the taxpayer for a local district program that educates special education students -- and including those that receive students from other districts -- is actually \$54,000. So there are offsets to this. It may cost a little bit more to send a child to a private school further away from the district, but the reality is that we're -- the private special education costs really are no more expensive than other programs. We just wanted to make you aware of that.

As Brenda said, special education advocates have not had any real input into this process until the end -- right now. We ask that you take more time in considering the substantial changes that the Governor has proposed.

Thank you.

ASSEMBLYMAN STANLEY: Thank you very much.

Next.

ART BALL: It's 7:26, so I'm going to try to be as brief as possible.

My name is Art Ball. I'm here on behalf of COSAC, New Jersey Center for Outreach and Services for the Autism Community. I'm also here on behalf of a 19-year-old daughter. She's been getting special ed and early intervention since she was 6 months old. So I have a personal stake in this whole thing.

Brenda mentioned earlier the Special Education Review Commission. I mean, this was not a slapdash thing. It was commissioned by the Governor by legislation. There were approximately 30 people on this: special education experts, parents. Joyce Powell, of the NJEA, was the Chairperson, I was the Vice Chairperson. We met for eight months, and we

developed a series of 66 recommendations covering everything regarding the delivery, the cost, and the quality of special education. After eight months, we delivered a report to the Governor, to the Legislature, and to the Department of Education. That report was delivered in April, so we like to think there was certainly enough time for the recommendations from that report to at least be included somehow. Quite honestly, looking at the information that came out from the Department of Education, it doesn't look like they were considered at all.

The main concerns we have are, quite honestly, a number of the things that have already been mentioned. When we begin talking about funding special education based on a statewide average, we are going completely away from what special education -- Federal and State law and regulation -- has been about for 30 years. It talks about individual attention. How can we talk about -- at this particular point say this is what it costs? If it costs more to educate children than what the statewide average is, what do we do? What do we ask a district to do?

I was interested before, because the Commissioner seemed to be suggesting that some of the aid is not going to come down. And it won't depend on where -- on the district you live in. We're talking about the money follows the child. Then I heard a number of people on this Committee who commented on how favorable that seems to be. Frankly, that's the way we've been doing it in special education for a long time. You get funded. The tier system: it isn't perfect, but at least what it does is recognize that, as you go up the tiers, the significance of your disability may become more, but the cost that you get from the State may be a little bit more to reimburse you for some of that.

It seems that, as everyone was praising the fact that money follows the child -- is a good thing in general education -- why are we now, for the first time, doing away with it in special education? It doesn't seem to make all that much sense to me.

The other area that is of major concern is -- and this is primarily because we're talking-- I'm here talking about children with autism. As we all know, children with autism, a lot of times, need a very intensive and very expensive program. If they get that, they may be able to be mainstreamed perfectly, and you would never know the difference between them and somebody else who never had a diagnosis of autism. We need to provide that for them.

Our concern is: When we talk about setting different tiers, when we talk about a threshold of \$40,000-- Once we go beyond that, then we're talking about funding either 75 or, as CEIFA now requires, that we fund 100 percent of everything above \$40,000. For children with autism, it is oftentimes necessary to go out of the district. Is that what parents would like? No. But if the expertise is not there in-district, we applaud the districts that will go out-of-district to search for the expertise of the program that's going to work best for that child. Is that sometimes going to cost \$55,000? Is that going to cost more? It very well may. Would we prefer to have that child with autism stay in-district, in an inappropriate program and then languish forever? No, we really would not. So what we're suggesting is: We don't believe that there should be a two-tier system of \$40,000 for in-district programs and 55 for out-of-district programs. We would prefer that it all stay at \$40,000. Whether we talk about funding it at 75 percent or 100-- Well, frankly, we would love to have it funded at

100 percent so that the cost does not become a factor in whether or not a child with autism receives an appropriate education.

Again, for children with autism, it's much more important that they receive the appropriate and right education at the right time, than where exactly that service is delivered.

ASSEMBLYMAN STANLEY: Assemblywoman.

ASSEMBLYWOMAN VOSS: I just want to echo what Art said. The trend now is -- and I'm sure very many people know that one out of 60 boys born in this state will probably be diagnosed on the spectrum with autism. And in the country, they say one out of 155. Whatever it is, it's a huge number. We can't really educate these children with autism effectively in the local schools. I know that the trend is going for in-district placement. But I know-- What we're doing up in Bergen County is, we've started several schools for autistic children. And they would be sent from the towns in the area. In fact, we just opened one up in Ridgewood not too long ago. And this is where, as Art said-- If early intervention occurs, these children can eventually be mainstreamed, can be very, very productive individuals. But it has to start early, and it has to be very intense, one-on-one.

And we can't have special education thought of as: \$20,000 is going to be applied to each child, and they're going to get services. There isn't a one-size-fits-all. I know, I'm a parent of a special needs child. And every child has to be dealt with on an individual basis. And the costs are very, very different for each child. That's why we have IEPs, Individual Education Plans. And these things-- I think many people who look at education funding do not take into consideration: If we do special ed

correctly we will have very productive citizens from the children who have special needs. And in the long run, it will be more cost-effective for the entire state as time goes on. Because they won't need the special services that they may need from Human Services later on in life.

So please think of special ed as something that really, really has to be dealt with in a totally different way than the other aspects of education.

ASSEMBLYMAN CONAWAY: I just-- You mentioned that-- I'm just here looking at Section 13 of the formula. And it is a formula that has, as we have done in the rest of the bill, cost factors for -- whether it be LEP, or other special needs, or at-risk. There is a number in here that says how many kids you have in the district, and what that factor is that is going to be applied for that child, just as we do in other things. So I don't know that it's quite fair to say that we are not accounting for individual needs as we have done with other parts of the formula. Because this is very much like other parts of the formula, where we have done these things.

I guess the question is: How do you-- Are you involved-- Are any of your groups involved in the case that's I guess pending in the courts, taking New Jersey to task for its out-of-district placements? As I understand it, one of the reasons that court case has been brought is that parents are concerned about the number of these out-of-district placements. And I know that we are outliers across the country, in terms of these kinds of placements. And they drive costs.

Do you agree with that? Do you think that that case ought to be bought-- Is New Jersey, in your view, inappropriately placing students

out? And if we are, how do we deal with that problem in the context of this formula?

MR. BALL: One of the things I'd like to mention is, when we talk about-- You mentioned, before, apples and oranges. If you lived in the state of Maryland, there are 23 counties in the state of Maryland. There are also 23 school districts in the state of Maryland. That's a state that's probably 80 percent the size of the State of New Jersey. So in order for you to be educated in-district, you go anywhere that is within the county in which you live.

Look at New Jersey. We have 618 school districts. You can go two miles and be out-of-district. So a lot of times, when people begin talking about the fact that we're educating too many people out-of-district-- We may be doing just as good a job, in terms of how far away we send that child to get the appropriate education -- wherever that service happens to be. However, in New Jersey -- because it's too -- our average school district is somewhere around 12 miles-- The state of Hawaii is one school district that's 6,000 square miles. So there is no way that you could send the child, in Hawaii, out of school district. If we're going to have this debate, and we're going to talk about this in the way we should, then we really need to make sure that we're considering all of the -- what makes our state so unique.

Again, I suggest that the reason we are doing so badly may be because of the fact that our home rule in 618 school districts may be getting us in dutch.

ASSEMBLYMAN CONAWAY: Yet, somebody is bringing the case. I mean, the advocates of the community -- ACLU. I don't know if

you folks are involved -- your groups are involved in it. But somebody is bringing the case. Whether your out-of-district, going two miles or not, somebody is concerned about that two-mile hop, and they're bringing New Jersey -- they're holding New Jersey to task for these out-of-district placements. So which is it?

My point is, that is an issue we're going to have to face, just as we faced the Abbott decision and everything else. How do we address that? I mean, we could lose that case. Then what do we do then?

P E G K I N S E L L: I'm Peg Kinsell, Statewide Parent Advocacy Network.

We are one of the plaintiffs in the case. So in the effort of full disclosure, I didn't want to not mention that.

SPAN is the federally funded parent training information center under the Individuals with Disabilities Education Act. And we are part of the Education Law Center case on disproportionality and the least-restrictive environment. So from a policy perspective, Assemblyman Conaway is absolutely right. We are thoroughly committed to a least-restrictive environment, and issues surrounding inclusion, and the disproportionality issues that have been a problem in New Jersey.

The issue around the census model here, though-- Part of the problem with -- and kind of what Ruth had said earlier -- is that we don't think that the census model is necessarily the solution to-- We agree with the policy direction. We don't think that the data-- We don't think they have the data to necessarily support the movement to a census model. We don't think they necessarily know why some issues -- some districts are so high in their classification rates, and some districts are so high in placement

rates. And they haven't had the kinds of studies and the kinds of really scientific look at those issues.

The districts that have been targeted for disproportionality are one thing. Other issues around clusters are -- families clustering around medical facilities, or private programs, specialized programs because of specific disabilities-- A district that is near and dear to my heart, because it happens to be where I live in Burlington County, has 19 percent classification rate. It also happens to be very close to military installations - - and military installations that have exceptional family member programs, that-- When they actually PCS -- or move -- military families, they check facilities to see if they have nearby medical, nearby school districts, nearby special ed facilities for family members that have disability. Is that a reason that there's a cluster of kids with disabilities there too?

So we're not quite-- We're not convinced at all that a census-based approach is the way to go, as far as the funding formula, because there's just not the data. The Department has not done the data collection that it needed to, to arrive at these numbers.

But I did want to answer that question.

ASSEMBLYMAN GREENWALD: Thank you.

MS. KINSELL: I mean, as far as the issues surrounding disproportionality in a lot of districts, we certainly agree. We absolutely want to attack it on a policy basis. We don't want to attack it as just an overall, "We're going to take the money from you," and not have it targeted to specific districts for specific reasons, and just an overarching thing.

We also have a problem with districts that have-- I have some listed in my testimony that I just kind of randomly picked out. A district

that had 10,000 students, and their classification rate -- 100 of those kids were classified with autism. Was it a cluster because it was-- I don't want to publicly say some of the districts that I list in there. But 100 of those students were classified with autism. Was it because of some kind of cluster there? I don't know what the reason was. But that's an impact on a local district that, I don't know, was teased out when they were trying to throw these numbers together.

Those are some of the concerns we have.

And I'm also not convinced if there is some rationale between that 14.7 percent and districts that are well below that 14.7 percent -- why we just give them special ed aid for kids they don't have.

ASSEMBLYMAN CONAWAY: They won't.

Never mind.

MS. KINSELL: Sure.

MS. CONSIDINE: I just want to jump in real quick on the census issue.

I placed a call to Tom Parrish, who is on vacation in Baja right now. But I talked to him a little bit about the census model and asked him why he recommended that. He admitted to me that he didn't realize how many districts New Jersey had and said that the census model programs tend to work better in states that have large districts. And he gave Maryland as an example, with 20-some-odd districts, or states that have very well-entrenched regional services, like California. He was actually unaware that New Jersey had 611 (*sic*) independently operating school districts.

ASSEMBLYMAN CONAWAY: He ran away screaming, probably.

ASSEMBLYMAN GREENWALD: Okay. Does anybody have anything else to add?

MR. BALL: Yes, I'd just like to, if I could, just respond very quickly.

Assemblyman, when you were talking about the lawsuit--

ASSEMBLYMAN GREENWALD: Art, quickly, because there are others that are still waiting.

MR. BALL: Okay.

ASSEMBLYMAN GREENWALD: Thank you.

MR. BALL: Again, COSAC is not one of the plaintiffs in the lawsuit, but we do support the idea. We would love for children to be educated in their own school, in their own district.

Again, for us, what is most important is that the appropriateness of the education be there first before we look at the location.

ASSEMBLYMAN GREENWALD: Thank you.

MS. CONSIDINE: Thank you very, very much.

ASSEMBLYMAN STANLEY: Ron, I had you in the back row. Why don't you come up to the front and give your testimony?

Ron Lee, Business Administrator from the Newark Public Schools.

ASSEMBLYMAN GREENWALD: Let me just see a show of hands who is left to testify in the room.

Okay.

And you're all signed in? (affirmative responses)

Go ahead, Ron.

Are you all on the same issue at this point now, or separate issues?

R O N A L D L E E: Good morning -- good afternoon, I should say -- or good evening, actually. (laughter) I lost track of time.

ASSEMBLYMAN GREENWALD: When you say good morning, we're going to-- (laughter)

MR. LEE: I was here in the morning.

ASSEMBLYWOMAN VOSS: A few more hours.

UNIDENTIFIED COMMITTEE MEMBER: Morning might be right.

MR. LEE: I'm sorry. That was actually a Freudian slip.

I'm here as the representative for the Newark Public Schools. I am the School Business Administrator there.

I want to thank you for allowing me to provide some testimony.

ASSEMBLYMAN PAYNE: Do you want to give your name?

MR. LEE: I'm sorry?

ASSEMBLYMAN GREENWALD: Your name.

ASSEMBLYMAN PAYNE: Your name.

MR. LEE: Oh, I'm sorry. Ronald Lee, from Newark Public Schools.

Thank you for allowing me some time to testify before you regarding the newly proposed school funding formula.

I was here to hear the Commissioner's presentation -- at least most of the Commissioner's presentation, and those before me, so I won't

repeat some of the things that were said before me. But I do have some issues and concerns.

Although our district supports any initiative that seeks to fairly fund New Jersey's neediest students -- and actually all students, regardless of their location -- the laudable efforts should not result in reducing funding to any of the other needy school districts protected by the Abbott constitutional mandate.

The administration is seeking, in lame duck, an approval of a controversial new school funding formula that, by many accounts, will eviscerate the funding promised to school districts under the *Abbott v. Burke*, New Jersey Supreme Court decision.

Although the actual formula -- which in some accounts has been made public but has not been made public; and based on press releases of the State aid amounts, the formula seems to add \$532 million to school State aid in FY 2008-2009. In addition, it is reported that no school district would receive less than 2 percent in their State aid in FY '08-'09. According to Commissioner Davy, the purpose of the formula is to provide funding that is fair to all.

One of the things that we have concern over-- And what I've heard today was, we seem to be -- and I'm hoping this is not the case -- shortsighted in thinking about what will happen in FY '08-'09. Richard Shapiro, and the group, and Dr. Tractenberg was here before you -- talked about what would happen after '08-'09. And actually you would think that, representing an Abbott district, that all I cared about was an Abbott district. But if you look at the formula, this formula has a serious impact on both Abbott and non-Abbott school districts. In fact, the formula will actually

reduce aid in 247 districts in the state. Now, there are only 31 Abbott school districts, so there are approximately another 230-plus districts who would be affected by the formula.

What I'm concerned about is that whoever developed the formula -- that when the formula was developed, and when they saw 247 school districts, and when they saw that the 31 Abbott districts collectively would lose \$500 million -- that they said the formula made sense. When you look at-- And I heard, and someone questioned, is this a property tax relief bill? You can-- I mean, that's apples and oranges; half-a-dozen of one, a dozen of the other. The question is-- There is some property tax relief in the bill.

The other issue that I say this formula does is, it tries to reduce -- and not saying that's the wrong thing to do -- reduce the per-pupil spending in New Jersey. We've looked at what other states around the country are spending, and we are trying to reduce, suppress, what districts are spending in education.

Now, one of the problems that we have is what the gentleman before me talked about. But no one is willing to address the issue. In New Jersey, we have 600-plus school districts. We talk about -- that students go out-of-district for special education. We talk about, in Abbott districts -- or some districts -- that they don't have the capacity to address the educational needs within their districts because of school building limitations. But they can't cross student-district lines.

The prediction is that the formula will ultimately reduce \$327 million out of school State aid. Moreover, approximately \$860 million was added in '08-'09 in an obvious attempt to win legislative approval and to

disguise that many of the districts, including non-Abbott districts, would lose aid under the new formula. My question to you is: Why would a formula predict school districts losing aid, and over 247 of them losing aid? And those that are gaining aid -- and I've had discussions with my counterparts in other districts, including non-Abbott districts, who are receiving their 20 percent -- and they don't know what the 20 percent -- and how it is supposed to be applied.

We heard from the Commissioner that part of the increase in State aid for those districts are to apply to the 4 percent cap that they have in their tax levy. But the rest, if there is any remaining-- They don't know what -- any strings that are attached to that.

I heard someone ask today: What happens, and why was it capped at 20 percent? And what happens in the future years? The questions we need to ask, and the information we have requested, asks for what are -- and how would the formula look for school districts in Year 2 and Year 3?

Now, we see in the bill that for those districts who are getting 2 percent -- and Mr. Shapiro clearly stated that, and hopefully you understand that -- that next year, and the year after, we will be flat funded. We will not gain any additional school aid.

The question I have also is: Why was 2 percent and 20 percent-- Where did those numbers come from? Are they arbitrary? Why couldn't it have been 4 percent and 15, or some other percents? Why 2 and 20?

The formula will have a disastrous effect on districts like the Newark Public Schools. And I'm going to talk about what that means for

us. Under the formula, without the additional aid -- or without the additional bump-up to get us up to the 2 percent -- we would have lost \$73.7 million. When those types of reductions are realized, it will result in the reduction and elimination of the Supreme Court-mandated programs that require supplemental and educational programs. Moreover, the reductions will result in a layoff of teaching staff, nonteaching staff; increased class sizes; the reduction or elimination of after-school programs, Summer programs, literacy and math tutors, guidance counselors, social workers, parent liaisons, and security guards. This reduction would come at a time when the Newark Public Schools are finally seeing unprecedented gains in student achievement.

Those achievements have been recognized by the State Department of Education. Over the last three-- Over the last seven years, we've realized a 34 percent increase in our language arts test scores. Now, we know we still have some ways to go, but there is-- We have closed the achievement gap. We realized a 127 percent increase in our math scores in grades three to five. We've met the benchmark, also, in that area. We've realized a 29 percent increase over the last four years in language arts in grades six through seven. In math, on the GEPA, a 42 percent increase in the last two years, and we've also met the benchmark. In the last three to four years, we've realized a 100 percent increase in our science scores. Our graduation rate has increased 66 percent over the last seven to eight years. That can be, and is mostly, attributed to the Abbott constitutional mandate and additional dollars that we were allowed to receive under the Supreme Court mandate.

Now, I am not here to pit our Abbott against non-Abbott. What I am here to say is that the State has missed an opportunity to keep the Abbott mandate whole, but find the additional dollars to address those needs in other districts, and not propose something that takes away from Abbott districts.

Now, some of you may say, "Well, this bill says that you'll get a 2 percent." Well, that 2 percent increase is not adequate. It is well below -- or it is below the consumer price index and is unacceptable. For the past two year, in the Newark Public Schools, we were flat funded in '06-'07, and we received a 3 percent increase this year in '07-'08. Those revenues were insufficient to maintain the programs that were -- that led to the success that I previously mentioned.

As a result, the district had to reduce costs, and programs, and staffing of \$41 million in '06-'07, and \$28.3 million in this current year. The reduction led to numerous position reductions, including those in the instructional area. A 2 percent increase, or a \$13.9 million increase proposed for next year, would not cover the basic increase in nondiscretionary costs. And I heard a conversation of what those were, and I think you had a definition. But in salaries--

And let me talk about salaries. As a State-operated school district, our contracts are approved by the Department of Education. As a matter of fact, for this school year -- or for the last contract -- the contract was actually approved by the Governor's Office. That contract for '07 -- '08-'09 calls for a 4.3 percent increase. But this funding formula is only giving us 2. Increases in benefits, increases in utilities, increases in tuition, charter schools-- We are not adversaries of charter schools; we welcome

them. But over the last two years-- I said we got a 3 percent increase in State aid in this school year, which was \$19 million. The charter school increase this year was \$9.8 million. That left less than \$10 million for the regular K-12 traditional public schools for increases. That's why we had to reduce some of our programs and positions.

Lastly -- and I didn't know Mr. Shapiro was going to mention this in his testimony -- but this formula sounds like the weighted redistribution efforts made under the QEA act. You know, many of you have children -- adult children, or teenage children. I always have conversations with mine that those things that they think are new are actually things that we had when we were their age. What someone did -- what appears to have been done -- is just dusted off an old formula.

In 1994, the Supreme Court rejected a similar QEA funding effort and confirmed that, for these special-needs districts, a thorough and efficient education is an education that is substantially equivalent to those afforded in wealthier districts.

Again, I'm going to cut my testimony short, because I know it's been a long day. But we are urging the legislators to reject the newly proposed funding formula, or at least postpone your vote so that we could have a conversation and a discussion of what it means not only for '08-'09, but what it also means going out into the future.

Thank you for your time. And if there are any questions, I'll entertain questions.

ASSEMBLYMAN GREENWALD: Mr. Lee, thank you.

Do we have a copy of--

MR. LEE: Yes, I did give a copy of--

ASSEMBLYMAN GREENWALD: Okay. Thank you.

MR. LEE: Thank you.

ASSEMBLYMAN GREENWALD: Is there a Derrell Bradford, with Excellent Education for Everyone? (affirmative response)

Derrell will be followed by Judith Cambria and Lindy Wilson.

Is Ms. Cambria and Ms. Wilson in the room -- League of Women Voters?

UNIDENTIFIED SPEAKER FROM AUDIENCE: They left.

ASSEMBLYMAN GREENWALD: They left.

Is Wendi Patella here, with New Jersey Council of County Vo-Techs?

Wendi Patella?

Anyone from the County Vo-Techs? (no response)

How about an Irene Sterling, with Paterson Education? (affirmative response)

Irene, you're next.

How about Bill Sellar? (affirmative response)

Bill, you're after Irene.

So we're going to Excellent Education for Everyone, Paterson Education Fund, followed by Bill Sellar, who is a parent.

Okay.

Is there a James Edwards in the room? (no response)

Okay. Thank you.

I apologize.

Go ahead. Red is on. (referring to PA microphone)

DERRELL BRADFORD: Great.

Good evening, Chairman Greenwald, Chairman Stanley.

I'm lobbying hard to have my name tag changed from *visitor* to *resident* at this point. (laughter) It's been a very long day. I really appreciate your time.

I've got to tell you, we've been for this formula since before there was a formula. I know a lot of you have talked to our staffers and allies about something that emulates this. And we think this is a dynamic first step -- a very good step in the right direction. But there's something that I've heard in today's testimony -- that I have not heard in the testimony of people today. And I think it's very important, because it's a real paradigm shift in how we view what we're paying for in New Jersey.

This is a formula that puts children at the top, and it puts districts below them. What we had before put districts at the top, and it put children below them. In a successful implementation of this formula, you will essentially turn every school in the state into a charter school -- funded with different operational budgets on an annual basis, predicated on the combined weighted dollar amount that the students in those individual schools are able to draw. We think that's a good thing. We think that's an excellent thing, actually. We think that's a great way to drive accountability. We think that combined with an effective student-level database-- You may have your own questions about whether or not the Department can actually implement that effectively, but that gives us an opportunity to identify schools that serve very specific kinds of populations of students, both efficiently and effectively, and a chance to really replicate and scale those schools out.

There are people who I really don't agree with -- a lot of what they said today. But I was very surprised to hear Richard Shapiro and Paul Tractenberg say something that we think is critical to making this formula work -- to ensuring that it actually drives reform and doesn't just tabulate and distribute the way we pay for schools in New Jersey differently. And that is some provision to make sure that children are -- that budgets are figured at the school level. As this currently exists, you will tabulate the weight of all the students in a school district, special needs or not; you will send that money to a central district office; then you will have no way to guarantee or ensure that the money defined or allocated for a specific student with a specific weight makes it to that child's school and makes it into that child's classroom. This is a very good formula in the absence of that. But to make it excellent, to really ensure that individual schools are delivering the service that you're paying for, for individual students, we have to make sure that there is some provision that ensures that the money actually gets to the classroom, and actually gets to the individual school.

Along with that, I really do want to add, we're very supportive of the extra weight for high concentrations of poverty. We think that's an evolution of Abbott, frankly. Because this is a state with a lot of changing demography. And there are districts that may represent those sorts of profiles in the future that currently don't. We also think that just a weighted formula is a great way to address the fact that there are students all across the state who have similar issues as children in Abbott districts, but who, just by virtue of their zip code, never receive those benefits.

But I do want to be very clear about something we do have an issue with. The extra weight on concentrations of poverty, we think, is

perverse incentive to cluster children into concentrations of poverty. Because when you do that, the formula marks them up immediately. And that's also what we have now. We have very high concentrations of poverty, and we spend exponentially more because of the concentration of poverty. We think that this is an opportunity to essentially leverage the spirit, but not the implementation, of Mount Laurel. These students are going to garner extremely high weights. They will be very valuable to neighboring districts that have better-performing schools. They will be very valuable to school districts that have declining enrollment that are interested in bringing in children that they have services for and, essentially, making a fair amount of money on each and every one of them; all the while reducing the concentration of poverty in the sending district, and working very hard toward something we've never really addressed with any school funding formula -- and that is integrating schools. We do have a constitutional command on integration. We do have some of the most segregated schools in America.

All that said-- And I will finish, unless anyone has questions.

I would urge everyone else to consider one thing. Other people are talking very -- have spoken about accountability. And I think we really need to figure out what that means. I mean, is it a test-score benchmark, is it variable, is it programs and inputs? Because I've heard a lot of talk today about how we can -- "We have to have these programs, we have to have these people, we have to have their faces in the classrooms in front of these children," which in no way guarantees that any of these children are receiving anything remotely akin to the level of education that we're paying

for. I mean, I really have to take issue with these achievement numbers in Newark.

Okay. Newark had 46,000 students in Year 2000. It has 42,000 now. It had a \$600 million budget, and now it has a billion-dollar budget. It has an average teacher salary of \$80,000. And for a \$300 million increase over the last five years, 4th Grade reading scores have increased 1.9 percent. Okay. There are seven high schools in Newark, where between 63 and 93 percent of the juniors and seniors cannot pass our 8th Grade skills battery exit exam.

ASSEMBLYMAN GREENWALD: Let me say this.

MR. BRADFORD: I'm sorry.

ASSEMBLYMAN GREENWALD: That's got nothing to do with the formula. Stay on-- It's late. People have been waiting a long time. This is not about bashing individual districts.

MR. BRADFORD: Stay on the message, I know. I didn't mean for it to--

ASSEMBLYMAN GREENWALD: Let's focus on the formula.

MR. BRADFORD: Yes, Chairman.

I'm very supportive of the formula. But I do want to make sure that whatever the provisions are -- that this Committee, this Joint Committee, and your opposite numbers in the Senate pass -- has something so that the people in New Jersey, more specifically the families in these districts, can point to an outcome and know that their children have received the cogent, competent delivery of the education that you guys are organizing this funding formula to pay for.

Thank you very much.

I appreciate your time.

ASSEMBLYMAN GREENWALD: Thank you very much.

Is there a Dr. Patrick Martin in the room also? (affirmative response)

Doctor, you're after Mr. Sellar.

This is Ms. Sterling?

I R E N E S T E R L I N G: Yes, and I'm joined by Dr. Jonathan Hodges, who is a member of our School Board.

ASSEMBLYMAN GREENWALD: Doctor, welcome.

J O N A T H A N H O D G E S, M.D.: Thank you very much.

ASSEMBLYMAN GREENWALD: After, again, Ms. Sterling is Bill Sellar, followed by Dr. Patrick Martin, and then Rosemary Bernardi.

Is Ms. Bernardi in the room? (affirmative response)

Thank you.

MS. STERLING: I brought this because it was my favorite Christmas present, but I'm finding that I'm wearing it because, as I look at the school funding formula's proposed impact on my community, which is Paterson, I realize I'm going to be doing a lot of bake sales -- \$40 million worth this year, over three years \$120 million that we don't have, that this formula does not give us -- that we would have had, had the Abbott remedies stayed in place.

And what's important for me, as an organization that raises money to help the schools, is the ability for us to continue to graduate kids in Paterson. Prior to Abbott, we graduated under 50 percent of our kids. Right now, with the Abbott support, we are graduating over 60 percent of our kids. And what's important to all of us as citizens about that is, every

time we graduate a child, we reduce the number of young people who go to jail and spend their lives in the incarceration cycle, we reduce the number of families who get welfare, we reduce the number of families who use our hospital for charity care, and we increase the number of people paying into our Social Security system. It's important that this progress continue. And that's what the formula has got to deliver for us.

I'll give you Dr. Hodges.

DR. HODGES: I'm a member of the Paterson Board of Education, and I'm also Chair of the Urban School Boards.

I really wanted to talk tonight not about asking for more money, but sort of explaining how we're seeing this formula and its impact.

Now, when the Legislature, in the '80s, saw the problem of failing schools, they decided they had to do something, and they rushed out and created the takeover law. Now, the time wasn't spent to develop the takeover law appropriately. And here we are, almost two decades later, and we still have those very same districts in takeover. But the rush at the time was to do something.

With the Abbott ruling, you faced the school construction obligation. And the rush after that was to do something. And what you did was create the SCC, and the lack of guidelines, and the lack of appropriate accountability which led to \$8.6 billion worth of loss. We, in Paterson, still have the worst facilities in the State of New Jersey.

Many of you listened and heard our schools were shut down this year because of facilities problems, fire code violations. If we have our 20 schools built, we will lose funding -- which we heard today when the Assemblywoman asked her excellent question to the Commissioner of

Education -- we will lose funding if we try to open those schools. We will not be able to fund the cost to decrease the size of our current overcrowding, if you happen to have the money to open up these brand new schools.

ASSEMBLYMAN GREENWALD: Doctor, let me say this to you. We've heard that testimony.

And what I would like to do, in all honesty, is-- We need a clarification, because the school construction funding issue is another issue that has been presented to this Legislature, from the Governor. And I think we need more clarification on how he is going to wrap that in or exclude it from the formula, if they're looking to penalize school districts.

So let's focus--

DR. HODGES: The point I was going to be making is not the construction itself, but the rush to do something, which led to the debacle which leaves us only two new schools in 10 years. And it's because of the rush that we're suffering.

And so now we're facing a new major educational reform package, during Christmas recess, and you're again telling us, "We've got to do something." And we have a history of, when we try to do something, we don't necessarily spend the time, put the effort, do the study, do the research to do the right thing. And the impact on our children has been substantial.

We've had four -- I mean three superintendents in four years in Paterson. We've had \$50 million squandered in Paterson. And now the Governor and the Commissioner of Education want to take our current superintendent away from us and bring in somebody new -- not because the

current one is failing educationally, but because of political manipulation. And what we're now seeing with all of this going on is a formula that does not address the educational needs that are in front of our district. And we're seeing a State Legislature which is again preparing to do something and not taking the time to go to the people who are immediately impacted to find out what is the correct thing to do. That's what our concern is.

We want you to delay the process until you can tell us what those numbers are going to mean in Paterson. I can't go back to my district and say, "Well, we're going to have this much money," because I don't know. I don't know what 2009 is going to look like, 2010 is going to look like. I can only guess. And without that firm information, you're going to create another debacle down the road.

So, in conclusion--

ASSEMBLYMAN GREENWALD: Doctor, can I ask you, who is Mr. Anthony Campisi, from Paterson?

DR. HODGES: Anthony Campisi works for our school district in--

MS. STERLING: Office of Abbott.

ASSEMBLYMAN GREENWALD: All right. He was a part of this professional judgement panel.

DR. HODGES: Right.

ASSEMBLYMAN GREENWALD: That was five years ago.

DR. HODGES: Okay.

ASSEMBLYMAN GREENWALD: You know, I have to tell you, I understand. The only issue that I take with this entire process today is this notion that we have rushed this. And with all due respect to

everybody who is in education -- that we're doing this during Christmas break -- December 27 is not a national holiday. New Jersey is working today. They are working. This is not a rush. Education may take a break from -- this week between New Year's. We work. And I am telling you that when -- my frustration is that a process that started five-and-a-half years ago, that is the central focus of every issue in the State of New Jersey, that we have been told by everyone we need a funding formula that is funded, that is now being-- It has not been rushed.

You can -- and you have every right-- And your focus on: What is the impact for the school children of Paterson, and whether or not this funding formula meets that need -- that's what I want to hear. The fact that someone suggests that we are doing this in the dark of night, that we have ramrodded this through, that we are doing this in an uneducated fashion -- not that you've said today, but has been suggested -- that is unfair to us, and it is unfair to these people who have been here since 9:00 this morning.

DR. HODGES: I am not -- as have I.

ASSEMBLYMAN GREENWALD: I have to defend these people in this process, Doctor.

DR. HODGES: I am not saying that you are rushing.

ASSEMBLYMAN GREENWALD: Okay.

DR. HODGES: What I'm saying is, there are enough questions on the table that, to go ahead and move this quickly--

ASSEMBLYMAN GREENWALD: Doctor, you're right. And it's late. And I don't want to get into a tit-for-tat. But as you sit here right

now, you have no idea how much money you're going to get next year under this current formula. You have no idea.

DR. HODGES: Which is precisely my problem.

ASSEMBLYMAN GREENWALD: Right. But this one -- this funding formula gives people an idea. You may not like it, but it gives somebody an idea of what they're going to get.

Now, there will be winners and losers. And that's where--

We can delay this for six more months. In six months from now, somebody will be sitting here saying, "You can't go yet, because you have not analyzed the impact on my district." There will be-- When this formula, a formula, the formula passes, there will be winners and losers. This is about trying to create a base. And what I want to hear is the impact -- where this impact fails children; not just necessarily even in your own district, but statewide. Because that's what this is about. We are all in this together, Abbott and non-Abbott, special needs kids and mainstream children.

DR. HODGES: Well, then let me focus on some of the areas it will fail children.

ASSEMBLYMAN GREENWALD: Okay.

DR. HODGES: Just today, when-- And I'll repeat it again. When Assemblywoman Pou asked the Commissioner: What happens if we try to open a new school? And her answer was: you're going to be forced, in essence, to reallocate funds -- because you don't have any ability to raise funds; or our tax base will be requested to increase funding. Now, we can't do that. And so our choices are going to be to make substantial cuts in educational programs and personnel; plus, at the same time, be asked to

address the NJQSAC regime and the Federal regulations, in terms of average yearly progress.

ASSEMBLYMAN GREENWALD: Federal rights are outside of our control. We appreciate it. I'll call Congressman Pascrell, and tell him you'll call him tomorrow. (laughter)

DR. HODGES: You're asking the impact on our children, this is the impact.

So the concern is funding cuts, funding being held -- as you say -- harmless at 2 percent, when we have a 5.25 percent teacher contract, when we have rising energy costs, when we have rising costs to open up a new school to address severe overcrowding and severe facility problems that are already on the table. These are things that are going to have a dramatic impact on our district.

ASSEMBLYMAN GREENWALD: Doctor, I will tell you, the issue that you raise that has given me the most concern -- I think other members here -- I think is the issue on school construction. There are schools that are dilapidated and are falling down. They should become beacons of hope for the community and, really, the center of our communities. We should not be discouraging construction of those facilities because of past mistakes at the SCC. And it's more than it was rushed. There was greed and abuses at the SCC. Okay? That's the real problem.

Now, we need to address many schools that weren't built. That issue has to be addressed, and it has to be combined, without having an impact on educational funding. And my understanding from people who are in the Governor's Office, they have-- I think that message is getting

through, and they are talking to us about revisions. And that's why we're having this hearing -- so that we can address those issues and get some comfort level and confirmation.

DR. HODGES: And all I'm asking you to do is take the appropriate time--

ASSEMBLYMAN GREENWALD: Absolutely.

DR. HODGES: --to get the--

And that's our message. Please take the appropriate time, because those impacts are grave and, in our case, very significant.

ASSEMBLYMAN GREENWALD: And that is a valid point that we understand.

Thank you.

DR. HODGES: Thank you.

MS. STERLING: And come to Paterson for the bake sale any time you'd like.

ASSEMBLYMAN GREENWALD: Thank you.

I like chocolate chips. (laughter)

MS. STERLING: I make great ones.

ASSEMBLYMAN GREENWALD: Mr. Sellar.

Mr. Sellar is followed by Dr. Patrick Martin, who will be followed by Rosemary Bernardi.

B I L L S E L L A R: Good evening, ladies and gentlemen.

I'm Bill Sellar. And I promise I will be the quickest speaker you have tonight. (laughter) And I'd like to thank you for this opportunity.

While I'm testifying not on behalf of any organization, I have been involved in special education for many years as a parent. I've been

involved for almost three years as a parent member for the State Special Education Advisory Council; and as the New Jersey PTA's Special Education Chairman, I was its representative to the Special Education Review Commission -- which submitted its report to the Legislature and the Governor earlier this year. That was mentioned by several people.

And I'm gravely concerned over several things. One is the proposed funding -- over this funding formula, the process that's being used, and how the aid for special education is being calculated. I'm concerned over the timing and the speed at which this legislation is trying to be passed. It was introduced two weeks ago, and the Governor would like the legislation approved within the next two weeks. I feel that this is a short time frame, especially with a major holiday in the middle. And you're not giving the public adequate time to analyze, review, and comment on this formula.

Also, as a member of the State Special Ed Advisory Council, one of our functions is to advise the Commissioner on special education and how it's going to pass out money -- or distribute funds. The Council got its first glimpse of the special education funding last week at our meeting. We had been asking, since September, and were told, "Okay, when it becomes public, you'll get it." So just another hint of -- not a lot of people have been included in this process, who probably should have been included much earlier.

Now, the aid for special education-- I'm concerned about the categorical aid and the extraordinary aid. One of the goals of the Governor's funding formula is to base State aid on the characteristics of the students in that district. And this appears to be the case for students

considered at risk and those with limited English proficiency. But this is not the case for special education. Currently, districts use the categorical aid model, in which students are classified into one of four tiers. And these tiers are based on the complexity and the costs associated with the child's disability. The Special Education Review Commission supported the continued use of this system and recommend reviewing this system to more accurately reflect the costs of students in the four tiers.

Unfortunately, the Governor's plan will change this and base the aid on the total number of students in the district, and the average State classification rate of 14.69 percent, and the average excess cost of educating a child with a disability. This is totally opposite of how the State is proposing to calculate the aid for at-risk and limited English proficiency students, which is based on the district's actual enrollment.

This issue was raised last week at the State's Special Education Advisory Council meeting. And the Department's response was that it's not really a concern, because they felt most of the local districts' classification rates were close to the State average. However, based on the information on the Department of Education's Web site, there are districts that vary significantly from the State average. Helmetta, in Middlesex County, has a classification rate of 3 percent, while Deal -- I think they're in Monmouth County -- has a classification rate of 54 percent. Both of these are considered -- Deal has, I believe, 33 students total, and I think maybe 14 of them are classified. It's a very small district, but a very high classification rate.

I'm also concerned about the calculation of the extraordinary aid for the students with the most severe disabilities. This new plan would

reimburse districts 75 percent of the allowable costs over \$40,000 for in-district and over \$55,000 for students placed in separate placement. Now, the intent of this \$40,000 versus \$55,000 threshold is to provide incentives to districts to educate students in the least-restrictive environment with their typically developing peers, and to take into account administrative costs that districts are not allowed to include when calculating what goes into their special education costs. But these administrative costs are also paid, in the form of tuition, to an out-of-district placement.

According to the 2005-2006 New Jersey School Report Card, the average per-pupil administrative cost for the 10 districts with the highest administrative cost is \$4,615, one-third of what the formula is seeking to remove from the allowable special education costs for administrative purposes. I'm not quite sure where they got this \$15,000 difference.

I'm also concerned with the formula using the term *in-district* and *separate placement*, as these terms are not mutually exclusive, and neither are *out-of-district* and an *inclusive setting*. Some districts run their own segregated program, where disabled students are never given the opportunity to interact with their typically developing peers. However, they'll get reimbursed for anything over \$40,000. Conversely, some districts -- both local and county special services districts -- accept students from other districts into their own inclusive educational programs, where students are educated with their typically developing peers. Clearly, these students are sent out-of-district, but they are educated in a nonsegregated setting.

If the intent of the \$15,000 difference is to promote inclusion, then it should be based on the percentage of time a student is educated with their nondisabled peers, and not if they are educated in or out of districts. And, also, what prompted that lawsuit that's been talked about is not so much in-district and out-of-district placement, but the percent of time that children are educated away from their typically developing peers. The complaint is that they're being educated 100 percent of the time only seeing special education children. They're not mainstreamed for art, or music, or gym, and they could be -- that couldn't happen.

So if you have any questions--

ASSEMBLYMAN GREENWALD: No.

Mr. Sellar, we have already contacted the Commissioner and asked them to have a meeting with the representatives of the special education group. It should come as no surprise that the Department thinks they've been working with them over the course of the last year. I have not been, nor has any member of this Committee been, a part of those meetings. So they will work that out, and hopefully people will come to some understanding.

Thank you.

MR. SELLAR: Thank you.

ASSEMBLYMAN GREENWALD: Rosemary Bernardi.

Rosemary will be followed by -- is there a Robert Magnuson?

UNIDENTIFIED SPEAKER FROM AUDIENCE: There was a doctor--

ASSEMBLYMAN GREENWALD: I'm sorry?

PATRICK W. MARTIN, Ed.D.: Patrick Martin?

ASSEMBLYMAN GREENWALD: Oh, Patrick Martin. I'm sorry.

DR. MARTIN: Am I next?

ASSEMBLYMAN GREENWALD: Yes.

Rosemary, followed by Dr. Patrick Martin.

Doctor, come forward and sit at the dais. You can come on up. She doesn't bite.

R O S E M A R Y B E R N A R D I: I don't bite. (laughter)

I've been here all day.

ASSEMBLYMAN GREENWALD: So Ms. Bernardi, followed by Dr. Martin.

Is there a Robert Magnuson? (affirmative response)

Sir, you're after Dr. Martin.

MS. BERNARDI: Thank you.

My name is Rosemary Bernardi.

I want to thank you for allowing me to speak today. I am President of the Evesham Township School Board. That's located in Marlton, in Burlington County. We're a K-8 district.

My comments here today, though, reflect my own views, not on behalf of the Board. I am a little nervous though, I am an I district.

So Assemblyman Cryan, please--

ASSEMBLYMAN CRYAN: Go ahead.

MS. BERNARDI: I'm not asking for more money, so I'm okay.

Under the new formula, my district will not see any additional money from the State except for the additional 2 percent. Our enrollment is leveling off, along with our ratables. We are the fourth largest K-8

district, with just under 5,000 children. Our special education population exceeds the federally funded new limit of 14 percent. We have 20 percent of our students receiving some type of services, whether it be speech to full out-of-district placement.

I testified last -- I guess it was last week or the week before -- before the Senate Budget-Senate Education Committee. And we talked about-- Our district is a model district. We believe in inclusion. We brought back an autism program because we had so many kids out-of-district. We brought it back, not just because it was a cost savings, but also because we were providing a good program. And we share Assemblyman Greenwald district's issue. People move into our district because we have such a great special education program.

The other thing about our district is, according to a spreadsheet, there are too few families in Evesham that make above the State average. However, we have two over-55 communities in town that are paying at least \$8,000 a year for property taxes.

The reason I'm here today-- I have, actually, two comments I guess. And it really follows up with Assemblyman Greenwald's first comment. Isn't this whole formula really to address the property tax issue? And for our district, this formula will not address it for our district. It will not provide property tax relief. Two percent of additional State aid is, I think, less than \$300,000. Divided over how many people we have in town -- I mean -- it's fractional. It's not enough for a pizza. So it's not significant property tax relief for us.

The other issue, that would be a follow-up issue just for Assemblyman Greenwald's perspective, is: you talked about the State -- the

funded mandates -- State mandates that are not funded. It's not just those. It's also the court system that we have to deal with. The courts-- You know, we have cases such as -- like the Toms River sexual harassment case. Well, we have to put in programs now to provide district training for sexual harassment. We have to provide for kids, for our teachers. So there are court cases that also impact, not just the Department of Education mandates. So it's court cases that also impact and add programs -- add more restrictions to our district -- that we have to provide certain services.

There are two points -- I'm sorry -- I want to make. Our high school system is part of the Lenape Regional System. Lenape Regional -- I think it's 5,000 kids, so it's a 9-12. They are going to receive an additional 10 percent in State aid. However, on Page 45 in the new funding formula, 8 percent of that is going to have to go back to tax relief because of the new formula. Well, 8 percent of this-- We only got \$1.5 million. Eight percent of that-- It's not a significant amount to go back for tax relief. Lenape Regional School District has had several years of failed budgets. So they've had to go before town and council and asked for a reduction of State aid -- reductions in the budgets. We've had reduced AP classes. We do not have a selection of AP honor classes. So you will see that decline in programs and services at the high school level. So I ask that you might relook at Page 45 -- not making that a requirement that if we are over adequacy, that it does have to go back for tax relief.

The second reason I'm here is that -- for Page 33, you talk about -- under Section D-- And the reason -- is about--

ASSEMBLYMAN CONAWAY: Thirty-three?

MS. BERNARDI: Page 33, under Section D -- when we talk about -- you calculate your budget; and they add language not to submit the budget to the voters. I don't know how many of you have been through a budget process. The reason I got started in this whole thing-- I mean school budget process. Sorry.

The reason I got started six years ago is, I walked into my first school board meeting. I was very (expletive deleted) off because our school district -- our election -- it didn't pass, and it went before town council. And I thought, "Why is it before town council? This is-- First off, that makes it a political issue. And second off, the reduction was \$7 per assessed -- the taxed house." So I thought, "Seven dollars, through all that process--"

And so I got started. I started going to the school board meetings, and then I ended up doing a pro-budget group. Well, when you run the campaign for promoting the budget, you start in January and you don't end until the third Tuesday in April. Well, if your budget fails, you're actually continuing that process until May.

Now for those-- I don't know if you know the statistics in terms of how many people come out to vote. Well, we have less than 5 percent of our population -- of 24,000 registered voters -- come out to vote. And the reason I bring this point up is that someone asked -- and I forget who it was on this side -- when they asked about -- "Well, if your budget is within the cap, you can raise the second question." Well, the second question now, per legislation as of last year, you have to have a super-majority pass that second question. When you only have 5 percent of your registered voters come out to vote, there's no way in hell you're going to get a super-majority. I'm sorry.

I apologize, I'm a little punchy tonight. (laughter)

ASSEMBLYMAN GREENWALD: That's your kind of girl.

ASSEMBLYWOMAN VOSS: Tell it like it is.

MS. BERNARDI: So anyway, the reason I wanted to address Page 33 of the legislation -- to share my story -- is really: Give us some help. For those school districts like ours, that have kept their spending low throughout our growth years-- We had our growth years in the 1990s. We built our schools through referendums. We built our capital improvement projects through surplus -- prior to 1701, when we had surplus, we could save for capital improvement items.

We want-- I'm asking that you might consider adding language that if the tax levy is either flat, or decreased, or part of that 33 (*sic*) percent, that you allow it just to pass, do not have it go out to the voters. Give the school districts-- And if the school administrators and the boards make the difficult budget decisions ahead of time to put together a flat, decrease, or within a cap, let us take that time and energy that we would spend from January to April and put it toward finding more efficiencies within our district.

So it's not a money item that I'm asking for. I'm just asking for additional language that perhaps you would consider -- adding that. And the reason I bring--

ASSEMBLYMAN GREENWALD: Ms. Bernardi, just so you know, we have that legislation in right now.

MS. BERNARDI: Oh, you do? I'm sorry.

ASSEMBLYMAN GREENWALD: A number of us are either prime or co-sponsors on that legislation. We have to get--

MS. BERNARDI: Oh, it would be separate?

ASSEMBLYMAN GREENWALD: I'm sorry?

MS. BERNARDI: It would be separate than the--

ASSEMBLYMAN GREENWALD: Separate piece of legislation.

Yes, you don't have to do everything in this piece of legislation.

MS. BERNARDI: Well, the only reason I bring that up is because it was specific in that paragraph on 33 that it goes to the voters. So if you--

ASSEMBLYMAN GREENWALD: This actually-- This legislation actually came out of the Summer session a year-and-a-half ago, that many of us signed on, drafted, prime sponsored, and co-sponsored as part of the debate. Now, I don't know that it will be a part of this, but it's certainly something that we can add to the debate.

MS. BERNARDI: Well, that would be a huge-- It would be just a really-- For the I districts, or districts that--

ASSEMBLYMAN GREENWALD: We did it just for the-- Not just the I districts, for every district that has gone through this very same angst and aggravation. And the encouragement was, try to solve your problems yourself.

MS. BERNARDI: Right.

ASSEMBLYMAN GREENWALD: And that's what we're-- And we would like to promote that -- some of us.

MS. BERNARDI: Yes. And the example I use-- I don't know if you're familiar with Shamong Township. I think it was two years ago, their school district -- they put together -- I don't know if it was flat or a

decreased amount. It went out to the voters, and it failed. So they put forth a solid budget, and the voters decreased it. They had to go before town council. And of course it becomes political at that point in time. And they actually took money out. And I thought, if you're going to put forth the time and effort-- I'm a school board-- I'm an elected official. I represent the people. If I-- The body of nine of us are there. If we stamp it, it's good. Let it go.

Sorry.

ASSEMBLYMAN GREENWALD: It's interesting how you feel that way about your nine, but the 120 of us can't (laughter) -- we don't get that same--

If we stamp this, it's good. I don't know what you're worried about.

MS. BERNARDI: Well, see--

ASSEMBLYMAN GREENWALD: No, listen, it's fine. Don't worry about it.

MS. BERNARDI: You know what? You don't have to go to the voters. (laughter) I have to go to the voters so--

ASSEMBLYMAN GREENWALD: Believe me, we go to the voters every two years. (laughter)

MS. BERNARDI: All right. So that's the only thing.

If you agree to look at Page 45, where we have the issue where certain districts have to return some of that additional State aid-- For Lenape Regional High School-- It's a regional high school. We have large numbers. Our special education population is aging out into their system,

so they're getting an increase in special ed. We could use some relief there; and also, if you could do the budget votes.

I apologize.

And thank you for your time.

Do you have any questions?

ASSEMBLYMAN GREENWALD: Thank you, ma'am.

Dr. Martin.

DR. MARTIN: I welcome this opportunity to speak this evening.

My name is Dr. Pat Martin, and I'm the Superintendent of Schools in Ringwood. Ringwood is in Passaic County.

I wanted to talk about two concerns I have. And the first one is process and lack of information. Three weeks ago I got a phone call in my office from a newspaper reporter who wanted to get my reaction to getting 2 percent. That's how I found out that this whole thing was in play. He wanted to get an emotional reaction from me, because we got the minimum in Ringwood.

I gave him no reaction, but I immediately started calling up superintendents that I know throughout the state. And they were just as surprised as I was that this was in play. And therein lies my first concern.

Throughout today's hearing, you've talked about how this has been a process of several years in the making, and that nobody should be surprised that this is happening. I want to be careful to ask the world to manage things the way I would, but I think it would have been fair if last Summer, for instance -- six months ago -- the superintendents were pulled together on the county level, or the State level, and said, "Look, this is

coming down the road. This is going to happen now in the next half-year. And this is what you're slated, district-by-district. This is what we see you'll probably be getting. So you need to get ready for that. And now is the time to ask questions, now is the time to involve your town or your city in the process. Because this is coming, and let's all get in on it, and work on it."

ASSEMBLYMAN GREENWALD: Dr. Martin, just so you know, the committee report was issued last December, statewide, which had most of this as recommendations.

DR. MARTIN: And I guess that's-- Therein lies my frustration. I don't doubt that.

ASSEMBLYMAN GREENWALD: I mean, that's a year ago. And the Superintendents Association for the State of New Jersey has been involved with this every step of the way.

DR. MARTIN: What I'm here to tell you is that--

Let me go to my next step. We started talking, among the superintendents, about how the calculations were made for each one of the districts. And there was broad-based confusion. No one really had it. I decided to call the State Department of Education for an explanation of how Ringwood's 2 percent was figured. I figured that was my job, because I have to represent the taxpayers of Ringwood. And I wanted to know how the calculation was made, what was taken into account, to get us to the 2 percent. And what I was told was that they were going to get that to the county superintendents, and there would be a meeting in the future where those explanations would be made. In other words, nobody could tell me on the phone, right then and there -- or nobody could direct me to

somebody who could say, "Okay, Dr. Martin, this is how it was. Ringwood has this figure, Ringwood has this calculation, and that brought us to the 2 percent." To this day, nobody has brought us together and given us the calculations so that we can compare and go back to our constituents.

ASSEMBLYMAN GREENWALD: Doctor, I've said this a number of times today. When the Commissioner briefed us on this in groups, the first question I asked her was, "I want the documentation that supports why my town that I live in and represent, Voorhees, is getting 2 percent; why Cherry Hill, where I was born and raised, is getting 10 percent; and why Waterford, which is a smaller, blue collar community, also in my district, is getting 20; and why Haddonfield was getting 2."

DR. MARTIN: Right. I asked the same thing.

ASSEMBLYMAN GREENWALD: We should be getting that. And as I said, it will be shared with every legislator in the State of New Jersey.

DR. MARTIN: But here is my frustration, and then I'll let it go.

ASSEMBLYMAN GREENWALD: Yes.

DR. MARTIN: If we're this far along in the process, and this is due to be voted on in several weeks--

ASSEMBLYMAN GREENWALD: Let me ask you this. If you get the information--

DR. MARTIN: I just think it's important for me. See, I feel the necessity to go to the citizens of Ringwood and say, "Look, we're getting 2 percent." They're going to ask me, "All right. How was that figured?"

How come the town next door is getting 10?" just the way you did, just the way I did.

ASSEMBLYMAN GREENWALD: Well, let me ask you this. If we get that--

DR. MARTIN: As I sit here right now--

ASSEMBLYMAN GREENWALD: I understand. I agree.

DR. MARTIN: I can't explain it.

ASSEMBLYMAN GREENWALD: Let me ask you-- That's why I asked the very same question. I asked that question Friday of last week. If we don't get the information, there's going to be a real problem here with the Legislature. I can guarantee you that. She said again today that they're providing it to us. If that information adds up and makes sense, and my hometown gets 2 percent and your town gets 2 percent, is that going to be okay then?

DR. MARTIN: Well--

ASSEMBLYMAN GREENWALD: If it's justifiable, based on the facts in the formula -- how many special needs kids, how many free- and reduced-lunch, how many kids with English as a second language, what is your enrollment-- If it makes sense--

DR. MARTIN: But I want to be careful to say, I think that's important to get that to our taxpayers and our citizens.

ASSEMBLYMAN GREENWALD: Absolutely.

DR. MARTIN: And if it makes sense to them-- But I think they should have a fair chance to ask questions, too.

ASSEMBLYMAN GREENWALD: Well, they're going to want more.

DR. MARTIN: Just to point out why this is so significant, in Ringwood, with the 2 percent: What that means to us is \$70,000 more. And I have to say we're very appreciative of that. Seventy thousand dollars is \$70,000. However, if it was 10 percent, it would be \$350,000. And if it was 20 percent in our town, it would be \$700,000. Now, even at the 10 percent, that would mean to our constituents, to our voters, they wouldn't have to raise property taxes at all this year.

ASSEMBLYMAN GREENWALD: Right.

DR. MARTIN: Zero increase for them. They're going to want to know-- If it's 2 percent, and it's fair, and it's across the board, and they can compare, and it's -- they very well may say, "Okay, fair is fair."

ASSEMBLYMAN GREENWALD: If they get 2 percent--

DR. MARTIN: But I think they should have the chance to examine it.

ASSEMBLYMAN GREENWALD: But if they get 2 percent because their special education needs are less than the neighboring community that is getting 10, their free- and reduced-lunch -- they have less free- and reduced-lunch than the neighboring community who is getting 20 -- English as a second language is nominal compared to the neighboring community who is getting 10.

DR. MARTIN: Yes.

ASSEMBLYMAN GREENWALD: That, to me-- That's what I'm assuming I'm going to see.

DR. MARTIN: I guess what I'm saying is that I want to express my desire as Superintendent of Schools to have a chance to meet with the community, and lay that out for them, and give them time to

digest it, and then to respond back to me so that I can respond back to you. I don't want to tell them that on the eve of the vote and say it's fair.

ASSEMBLYMAN GREENWALD: Well, when you do your vote-- When your budget is presented, how much time do they get to comment?

DR. MARTIN: A month.

ASSEMBLYMAN GREENWALD: Okay. There's a month.

DR. MARTIN: No, no, but I'm-- If this is voted on in January-- And I don't-- As I sit here right now, I don't have the information you and I are talking about. I can't compare with other districts. I'm not really sure how, frankly, I got the 2 percent -- not really. And I've asked the State Department to explain it, and they can't explain it.

ASSEMBLYMAN GREENWALD: There's a member of the Governor's staff that is sitting right outside here. It's another thing for her to get -- to make sure that we have -- so that we can present to the people.

DR. MARTIN: Okay.

ASSEMBLYMAN GREENWALD: They want to know.

DR. MARTIN: All right. Now I will move on.

ASSEMBLYMAN GREENWALD: We're delivering these things instantaneously, Doctor.

DR. MARTIN: I'm with you.

I want to move on real quickly.

The other thing that came up twice today was the idea of an appeals process. I think it's very important that schools -- that communities have a chance to appeal for special circumstances. For instance, in Ringwood, our boundaries are tight because of the Highlands Act. And we

have very few ratables. In other words, we can't expand our tax base. So all the taxes go on the existing taxpayers. They fall on the existing taxpayers. We feel that's a circumstance that somebody might look at and say, "They're different from another community that's getting the 2 percent."

Another thing that Ringwood has -- a special circumstance-- Also mentioned today, which I thought was really interesting -- was the senior staff fixed asset. We spend more for education partially because we have a senior staff. Our teachers don't retire at a young age, and that's one of the attributes of the Ringwood district. But we pay for that. That's a fixed cost, which is a good fixed cost. But it makes us, again, a little bit different from the school down the road that's getting 2 percent. And all I'm saying is that I think it's important that we have somebody to reach out to and say, "Our circumstances are a little different from that guy. Can you review it?"

The third thing is that, in Ringwood -- it's one of the few towns in New Jersey -- we have no sidewalks in the entire town -- none. And we have no stoplights in the entire town. It's part of the charm of our community. But that means every single child in our school district gets bused, every single one. So it doesn't necessarily mean that we're spending wildly on administrators we don't need, and we're buying things we can do without, and we're wasting money. Not necessarily. We're spending money-- All that goes into costs per-pupil. But, again, an appeals process would give us the chance to explain our circumstance and perhaps move us into the 10 percent range if someone would deem that appropriate.

So all I'm saying is that I really feel, for the lack of a chance to even explain our circumstance, it's kind of a one-size-fits-all. And

sometimes one size doesn't fit all when it comes to children and public schools.

The last piece -- I think we already talked about -- was the timing. I do think it's appropriate, with something this important, that people, citizens -- not just the school community, but citizens -- and I speak for the people in Ringwood -- be given time to clearly understand what's at stake here, be given time to ask questions so that they're comfortable before we move into a vote on something this important.

Thank you very much.

ASSEMBLYMAN GREENWALD: Doctor, thank you.

Robert.

R O B E R T M A G N U S O N: Yes.

Good evening.

ASSEMBLYMAN GREENWALD: Robert--

Is there a Barbara Heisler-Williams in the room?

UNIDENTIFIED SPEAKER FROM AUDIENCE: No.

ASSEMBLYMAN GREENWALD: No.

Jonathan Marshall? (no response)

Elizabeth Smith? (no response)

Okay. So Barbara Heisler-Williams is not here, Jonathan Marshall is no longer here, Elizabeth Smith is no longer here.

Steve Latz is here. Steve is with Citizens Budget Advisory Committee.

How about Trayun (phonetic spelling) Gaskins? (no response)

Audrey Jackson, with ACORN? (no response)

So we have Robert and Steve left.

Robert, thank you.

MR. MAGNUSON: Yes, sir.

Thank you, Mr. Chairman.

My name is Robert Magnuson, and I'm the Chief School Administrator of the Oxford School District. We're located in the 23rd Legislative District, in Warren County. Actually, if you look at that mural above the Chairman's head, that's pretty much what the Delaware Water Gap looks like from Oxford. We are a K-8 district.

I wanted to come tonight and speak a little bit about what we have done in the face of what we consider to be inefficient -- or insufficient State funding over the last few years. We share teachers with other districts. We share transportation costs with our high school, with the Warren County Special Services District, and with the Sussex County transportation co-op. We share far too many services to mention, at this late hour, with our local municipality. We run our district with the bare essential administrators. I'm also a school principal. Our vice principal also takes care of all the child study team responsibilities, and our business administrator also serves as the board secretary. We apply for every grant that we can. We offer a minimal amount of after-school activities, simply because we just can't afford to spend more money for after-school programs. We can't afford to put in place a full-day Kindergarten, even though we know that it would certainly make our students more secure as they went through their educational process. We offer a part-time music program. We know what that's doing to our students, in terms of limiting their ability to the arts. We struggle to keep our building repaired on a daily basis. We are fiscally responsible for more than 480 students in our

district. Even though we're a K-8 district, we pay tuition to the vo-tech, to Warren Hills High School, and we pay tuition to numerous special education facilities around the state.

Those are the things that we can't control -- the transportation and tuition costs. However, they're part of the Governor's plan labeling us as above adequate in our per-pupil costs. We're just a little bit over a thousand dollars in our adequacy levels. So we were given 10 percent. And I had a big smile on my face for what amounted to a few days, until I got to Page 45 in this legislation, which says I'm going to have to give 8 percent back.

We've done everything that we can over the last few years to cut costs, to run our district at the bare minimum without hurting the students in the Oxford Central School. With giving 8 percent back, and with only a 2 percent increase for next year, we're looking at around \$46,000 additional State aid in our budget. We will have to cut teachers, we will have to eliminate programs. And it will have a lasting effect on a little school district like ours.

Currently, we-- Our cost-per-pupil amount is just over \$10,000 per student.

ASSEMBLYMAN GREENWALD: How many students?

MR. MAGNUSON: Right now, in the building, we have 302 students. But we're responsible for another 180 students that we pay tuition to the vo-tech, and to the Warren Hills High School, and then to a few special ed students as well.

ASSEMBLYMAN GREENWALD: Assemblyman Schaer.

ASSEMBLYMAN SCHAER: What towns surround Oxford?

MR. MAGNUSON: Oxford is bordered by Belvidere, Washington Township, Mansfield Township, Washington Borough, Franklin Township.

ASSEMBLYMAN SCHAER: And are those about similar size?

MR. MAGNUSON: For the most part, yes, sir.

ASSEMBLYMAN GREENWALD: What county?

ASSEMBLYMAN SCHAER: It's late, so you'll forgive me if I'm not -- if I'm unpolitically correct. And I didn't say it when Dr. Martin spoke a moment ago. And he is from my home county of Passaic, and he's got 1,400 students.

This educational plan, if I may, Mr. Chairman, is -- or should not be about tax reform and tax relief. It should be about education.

MR. MAGNUSON: Yes, sir.

ASSEMBLYMAN SCHAER: But I think that at some point, all of our municipalities have got to look at themselves and determine the efficacy of running a school district with 302 students in a building or 1,400 students in a building, and the feasibility of joining with neighboring municipalities, especially when they are of similar size, and eliminating -- by doing so, eliminating some administrative staff, which would dramatically lower the requirements, assuming that administrators are making \$80,000, to \$100,000, to \$150,000 -- I'm not sure what it is. In a school district of 480 children, eliminating \$100,000 is a lot of money on a per-student basis.

MR. MAGNUSON: Which was done in--

ASSEMBLYMAN SCHAER: I hear what you're saying. I really do. And I sympathize with it. And I've been quiet for most of this

evening on most of these subjects. But I think at some point we've got to understand that this proposal -- and I'm not happy with this proposal.

I'm going to lay it out to you. Right now, I don't think I can vote for it. But I've got to tell you that we've got to be coming up with some better answers than simply: we need more money. There's got to be-- Municipalities have got to look squarely at themselves and determine how they can begin saving money.

I'm from an Abbott school district. There is waste, there is abuse, and we can't deal with it anymore. And forgive me, but to have functioning school districts of 300 children, where we have three administrators between them probably making \$300,000 to \$400,000--

MR. MAGNUSON: Two hundred and seventy.

ASSEMBLYMAN SCHAER: Two hundred and seventy-- That's a lot of money. And by bringing together and merging with other municipalities, in terms of the school district, we can save a lot of money.

MR. MAGNUSON: In the face of that pipedream, some years down the road, what do we do now? And what we do now is-- We're over the adequate rate published by the State, simply because we have tuition and transportation costs that we never had before.

ASSEMBLYMAN SCHAER: Forgive me, but one of the things I think we can say -- and we have to say it to our voters who have to approve these budgets -- locally, as well as statewide, as well as county, regionally -- that, "You know what? We have a choice. You have a choice. And the choice is: We can either pay the extra dollars that we need, because they don't fit into the State's formula--" and although the State's formula is by no means perfect, at least it's a formula, and it has some

degree of fairness. “And we have a choice. We can have a school, and the school can say *Oxford* on it, and you can take pride in that, or we can merge with another school, with another system, and we can call it Oxford-Belvidere, or Belvidere-Oxford, or we can change it every year so that both towns feel good.”

I think at some point the choice is not with the State anymore. At some point, people have got to take it upon their own shoulders. Dr. Martin has got to be in contact with other principals and superintendents in Passaic County. He should be asking them why there is not a group of them finding out together why he is not getting the information.

And I don't mean to speak badly of (indiscernible) period, or certainly not while he is here.

And forgive me, sir. At some point the answer is not just with this State body, it's with the local municipalities, as well.

I'm sorry.

Thank you, Mr. Chairman.

ASSEMBLYMAN CONAWAY: I just want to be brief.

As I listened to what you said, one of the things that impressed me -- you tried to get this testimony last Summer -- two Summers ago, I guess -- about these efficiencies, and the way that you've been running your school system. And it sounds like you've been doing everything you needed to do. But this year, you're going to have a problem. And I'm wondering what's different about this year? Have you been cutting teachers, or cutting staff, or cutting administrators the whole time, and now you're falling off a cliff because you've done everything that you can do? What's causing you

to say, as you-- Because you said you were going to have to lay off teachers, I think. Is that what you said?

MR. MAGNUSON: In the long run, yes, sir.

ASSEMBLYMAN CONAWAY: In the long run.

Okay. Do you anticipate laying off teachers, if this bill passes--

MR. MAGNUSON: If this passes the way it is--

ASSEMBLYMAN CONAWAY: --and you get this funding as outlined in this thing here? You're going to lay off teachers in '08-'09?

MR. MAGNUSON: Yes.

ASSEMBLYMAN CONAWAY: How many?

MR. MAGNUSON: Probably anywhere from two-and-a-half to three.

ASSEMBLYMAN CONAWAY: And that will result in what for your classes?

MR. MAGNUSON: Class sizes will go up.

ASSEMBLYMAN CONAWAY: From, approximately -- ball park.

MR. MAGNUSON: Well, probably into the mid-20s.

ASSEMBLYMAN CONAWAY: Mid-20s.

MR. MAGNUSON: I know that's not obnoxious when you certainly compare it with a lot of other districts in the state.

ASSEMBLYMAN CONAWAY: No.

MR. MAGNUSON: It may-- It will require us to eliminate teachers who currently teach -- possibly eliminate teachers who currently teach programs face-to-face with students and require a classroom teacher to teach, for example, Spanish -- a language, or something like that.

ASSEMBLYMAN CONAWAY: Thank you.

ASSEMBLYMAN GREENWALD: Thank you, sir.

MR. MAGNUSON: Thank you very much.

ASSEMBLYMAN STANLEY: Mr. Steve Latz can come forward, from the South Orange-Maplewood School District, I believe.

If you want to join him, Assemblywoman Jasey, you're welcome to come up with him.

ASSEMBLYWOMAN MILA M. JASEY: (speaking from audience) He does very well on his own.

ASSEMBLYMAN STANLEY: Very good. I know that for a fact.

Mr. Latz.

STEVE LATZ: Thank you for the opportunity to speak.

My former board colleagues always accuse me of wanting to get the last word in. And I guess, by no design of my own-- (laughter)

I'm tremendously impressed that you're all here and very much engaged on this. And it encourages me that that's so, that there is still deliberation and debate on this subject.

I come tonight actually representing the South Orange-Maplewood Education Funding Committee, which is a group of private citizens formed several years ago to deal with the severe problem of education funding in South Orange-Maplewood. Lindy Wilson, the League of Women Voters, is also a founding member of that.

I spent nine years on my board, from 1997 to 2006, and was on the finance committee every year for the last three years -- chairman of the finance committee. In my last six years on the board in South Orange-

Maplewood, we cut the equivalent of \$20 million in programs and services, or related efficiencies. Meaning, our \$100 million budget, right now -- if it expanded at a rate to preserve a maintenance level budget, would be \$120 million right now. So we're no strangers to the need to control costs. And we also know that when you do so, sometimes you hit a homerun and control costs with no impact, and sometimes you produce a severe impact.

And what I want to talk about -- and I'll be as brief as possible -- is the impact of this proposal on my district -- but why I believe that my district is emblematic of many districts across the state and why I think this plan needs more time, more discussion, more consideration, and substantial changes. And I'll talk about what some of them are. I don't think they're changes that you can make in the few days remaining in this legislative session.

I want to start out by saying that looking at this plan -- and I've read the whole bill, and I've read all the materials as we've gone along over the last 18 months -- I don't think this is a funding plan, I think it's a cost-control plan. As a cost-control plan, I think it's brilliantly conceived and will have its intended impact to control costs. But I think that will come at the expense of the quality of education -- not just in my district, but in many districts across the state -- to the point where I think we might break some things very badly.

The first thing you have to ask when you look at a model like this is what its purpose is. And this one has been kind of mixed. We can't really be clear. In some veins, the Commissioner talks about it in cost-control terms. And when you read the bill, it comes out very clearly as a way to control costs.

On the other hand, it's talked about as an adequacy model: what it really takes in districts across the state to deliver a thorough and efficient education as defined by the Core Curriculum Content Standards, meaning a child has to pass the HSPA in 11th Grade. And that's not, for those of you who've delved into this-- That's not an easy test. I'm not sure all of us could pass it if we had to take it tomorrow.

I'm familiar with pretty much every dollar in my local district's budget, having gone through it year, after year, after year. And when I looked at the model, I looked at the -- on Page -- what is it -- 33 here. I looked at the staffing, and I said, "Well, this isn't a bad model. It's a step forward, that they've actually specified the staffing levels necessary." And I said, "Interestingly, our staffing is below this model." We're actually in violation of the model, not in a major way, but we have trimmed, and trimmed, and trimmed. And we don't have technology aides in the elementary schools. Our total teachers are a little bit-- Our average class size in the elementary schools is up in the 20s. The model here, if you calculate it, is about 19 students per class.

So I said, "Why then," when the *Star-Ledger* reported it, "is our spending per-pupil \$2,000 higher than the model calls for?" And I spent a day and I played around with it. And finally the obvious became obvious to me -- finally. And that is, the cost of teachers in this model is the statewide mean. And that cost is somewhere-- And they're projecting a cost for next year, and I only have our average teacher cost benefit loaded for this year, but comparing our average cost this year to their cost next year, we're \$12,000 higher per teacher. And when I totaled that out across our whole staff, voila, I discover why our spending per-pupil is \$2,000 higher.

And here's the question I want to pose to you that nobody's been able to answer me: Are we supposed to, somehow, cut our teachers' wages to conform to the model so that we can staff at the model? And the obvious answer, everybody said, is no. We couldn't do that, even if we wanted to. And if we were able to legally, we would rapidly lose the quality staff that we have. I think everybody understands that.

So this is a real dilemma. This model-- And I have longer remarks that I've thrown away. But all of this process-- This is an entirely rational process, as the Commissioner has described, with all the input and all the computation, everything else, if you accept the premises. But the premises are fundamentally flawed. And the basic premise is that you can hire teachers at the statewide average rate. By my estimation, that doesn't work for about two-thirds of the districts in the state.

So we come out of the door, and two-thirds of the districts in the state are defined as being in violation of the model, in terms of spending. We are overspending. And we've heard that the Governor thinks-- And I sat with Commissioner Davy in a meeting a few weeks ago. And I know she believes that the wealthy districts are overspending by over a billion dollars, and the Abbott districts are overspending. And the model proves it. Except the problem is that in most of the Abbott districts, and in my district and every place north of, I think, Piscataway, you can't hire teachers for this rate, except in some maybe very tiny districts.

ASSEMBLYMAN GREENWALD: Steve, what did she say to that?

MR. LATZ: Pardon me?

ASSEMBLYMAN GREENWALD: That's a great point. What did she say to that?

MR. LATZ: We didn't get as much of an exchange as you've had here today with everybody. And I think it would be useful if this kind of a dialogue continues. Because I think we might not just improve the model to the point where I might be able to support it, and we might actually have something workable, but I think it would help make the point the Assemblyman just made, that there have to be -- there's some limit. There have to be some controls. And some advocates of education haven't necessarily -- because they're fighting so hard on behalf of their constituents -- haven't necessarily acknowledged that point. I think there has to be that give and take.

So this is the fundamental contradiction here.

And I want to talk a little bit about the next question that I ask myself: Is there really new money in this bill? The Governor has said there's \$530 million in new money, but they also said, up until -- and I don't want to impugn anybody's integrity or question their motives. But I will say that up until the bill was published on the Web last Thursday, we were being told that our district was getting a 10 percent increase.

ASSEMBLYMAN CONAWAY: It says that here.

MR. LATZ: South Orange-Maplewood.

Now, we are getting a 10 percent increase; but of course, because of the provision for districts overspending adequacy, you have to give it back in taxes. We're not really getting that increase, in terms of education. So I think it was a little bit misleading, to say the least -- to tell us we were getting an increase.

So the next question I ask is: Well, is there really \$530 million in new money in this bill? And I want to submit to you -- and I've only heard these rumors, so I can't attest this as fact. But my district has to give back, according to the language of the bill, \$530,000 of the \$680,000 we're getting in an aid increase. Okay? And that represents one-tenth of 1 percent of the \$530 million in supposedly new money that is coming in this bill. And interestingly, that money is tax relief. And all tax relief is good, so I'm not complaining about that.

I am wondering -- and I've heard rumors -- that it may be that this \$530 million consists of money that will be used in similar form, when you take it across all districts having to give back aid to offset their tax levies -- that it may, in fact, be coming out of the pot of money in the budget that is allocated for tax relief in a variety of forms. So I think one thing you want to know for certain is, is this really new money? Is it really in excess of what was spent in the budget before?

Let me say one thing further -- and other people have said it. People have been talking about: "We need this bill, because CEIFA is broken." And certainly there are a lot of problems with the formula in CEIFA. But the real problem-- Let's be frank, the real problem is, the State is broke. And the State hasn't been able -- you haven't been able, because you have to balance the budget every year -- to put new money into the CEIFA formula. And you heard testimony -- and I've actually read his analysis -- Professor Reock did a very good analysis that showed -- and he knows the formula better than anybody, and he has all the data -- that, in 2005, CEIFA was underfunded by \$800,000 (*sic*). Some observers now say

that it's underfunded by about \$1.5 billion, if you were to run the formula and there's a guarantee of money in there.

Now, look at-- The new bill supposedly provides \$530 million in new money, but \$800 million of the aid that's being dispensed is characterized as adjustment aid. It's not aid that is guaranteed by the formula. And so if the intention-- And in the original intention, adjustment aid was only guaranteed for two years; and then they made it three, because we were asking, "What happens in Year 3?"

So if you take away this \$800 million in adjustment aid -- which I think is the intention of this legislation over time -- then what you're left with is not a bill that's putting in \$530 million of new money, but a bill which is really running a deficit of some \$300 million -- \$270 million. And if you take a bill at that level of spending, and contrast it with what CEIFA mandates -- which is \$1.5 billion -- let's just say a billion dollars more than we're spending right now -- this is a bill to save the State money. And fundamentally, it's a bill, in my view, that is an attempt -- and it's a very brilliant attempt, I think, but one that I can't support -- to remove the State's legal obligation up and down the line. If the number of special ed kids increases, the State is off the hook. It's using an average rate. If there are more particularized needs in the Abbott districts, the State is off the hook, because there is no more Abbott.

And I submit that this is not just a problem for the special ed community, and it's not just a problem for the Abbotts, but it's a problem for all of us. In South Orange-Maplewood, we are bordered by four Abbott districts. And the families that move into our towns many times come from the Abbott districts, trying to find a better system for their kids. And we're

then faced with meeting those unmet needs of kids who started out in schools before there was any Abbott relief, sometimes, or in schools that aren't yet working very well.

And so if you break the Abbott districts because of this, essentially flat funding -- 2 percent is essentially flat funding in my view -- you're not just going to break the Abbotts. You will break the districts immediately bordering the Abbotts, like South Orange-Maplewood. You will break all of those A and B districts, which this plan claims to help, whose main immigration, in many cases, comes not from other countries, but from the Abbott districts. And you will very likely break all of those towns who are characterized as (indiscernible) suburbs, which represent something like 50 percent of districts in the state, who are located in some proximity to our cities and who also get students.

So our problem-- We really can't think of our problems as separate. They're really all together. And what I really think we need to do to make this work is: Number one, the teacher's salary-- The problem with the teachers' salaries here is that the regional cost adjustment is kind of a charade. And I think if you were to call Bill Fowler to testify here -- and his name has been bandied about as being the designer of the model that they used -- he would be appalled that his name was used in connection with this regional cost adjustment. Because the 4.6 percent we get for Essex County doesn't begin to make up that discrepancy in salaries.

So what you really need to do is, you need to take the average salary in the county, over the State average salary, and that gives you the ratio by which you need to do a cost adjustment to figure out whether a district is spending (*sic*) or not.

Anyway, I could go on.

ASSEMBLYMAN GREENWALD: It sounds like a countywide school district.

MR. LATZ: I could go on, but I won't. I will try to supply you with a resumé of my written remarks which, by the time I got to speak, were somewhat off. I will provide you with some data on our district, hopefully, in tomorrow's time frame.

But I strongly urge you, if this thing is a good bill, if this thing has merits that people in the state can support once they fully understand it, then this can even pass in the next Legislature. And there are too many things about this that raise cause for concern that I think will create serious problems.

I know they'll create problems for my district. I can already see we will be subject -- because we're a victim of the wealth calculation -- will be subject to, essentially, flat funding on into the indefinite future.

So thank you very much for the opportunity to testify. If you have any questions, I'll be happy--

ASSEMBLYMAN GREENWALD: Steve, I just want to-- The one point you make about new money and old money, fictitious money-- Our understanding from staff is that if every penny of these districts that are being asked to send money back -- and they're not asking for every penny. In your case, for instance, it's not every penny. It totals-- If every penny went back, it was \$52 million. So I don't see this as some ruse out there.

Now, the question is-- This is going to be new money into the system. And as you've heard the Governor -- and there was much debate

today about: the State is facing a projected \$3 billion deficit. And we're always running somewhat short. We will have to cut other things.

Now, I don't see in this framework that that would be anything that is connected to property tax relief, because of the issue at hand and what the electorate told us in this last election. But it will be other things. And that comes back to the question of: What are we spending, and what should we be spending it on, and are our priorities where the voters want our priorities to be? So that will be the debate and question.

Thank you.

MR. LATZ: And your question is whether we're spending beyond our means. And we may well be spending beyond our means. And rather than continuing to insist that local districts do the impossible, we need to think about one of two things. We need to think about reducing the Core Curriculum Content Standards to make them more manageable within the context of the time and resources we have.

Or -- I will give you a very radical suggestion to close out your session. You haven't heard this from anyone before. Cut the length of the school year. If you have kids in school, you know that the first week or two in September, because of the heat -- and certainly all of the days in June -- are generally wasted. Not much happens. And if you cut the length of the school year, you could actually hold the cost of salaries flat if you cut a few days off every year, and actually allow the State to catch its breath.

ASSEMBLYMAN GREENWALD: Somewhere my children are cheering for you right now, Steve.

MR. LATZ: Thanks a lot.

ASSEMBLYMAN GREENWALD: Steve, nice job.

Thank you.

(MEETING CONCLUDED)