

ANALYSIS OF THE NEW JERSEY BUDGET

**DEPARTMENT
OF EDUCATION**

FISCAL YEAR

2004 - 2005

NEW JERSEY STATE LEGISLATURE

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DEPARTMENT OF EDUCATION

Budget Pages..... B-3 to B-9; B-24; B-65 to B-67; C-14; C-21 and C-22; C-27 and C-28; C-34; D-75 to D-106.

Fiscal Summary (\$000)

	Expended FY 2003	Adjusted Appropriation FY 2004	Recommended FY 2005	Percent Change 2004-05
State Budgeted	\$7,497,235	\$8,283,528	\$8,727,641	5.4%
Federal Funds	703,131	836,458	854,665	2.2%
<u>Other</u>	<u>24,213</u>	<u>32,750</u>	<u>33,773</u>	<u>3.1%</u>
Grand Total	\$8,224,579	\$9,152,736	\$9,616,079	5.1%

Personnel Summary - Positions By Funding Source

	Actual FY 2003	Revised FY 2004	Funded FY 2005	Percent Change 2004-05
State	502	523	562	7.5%
Federal	225	242	304	25.6%
<u>Other</u>	<u>180</u>	<u>189</u>	<u>202</u>	<u>6.9%</u>
Total Positions	907	954	1,068	12.0%

FY 2003 (as of December) and revised FY 2004 (as of September) personnel data reflect actual payroll counts. FY 2005 data reflect the number of positions funded.

Introduction

The Department of Education is responsible for the governance of the public schools, the system under which instruction will be provided to over 1.46 million students in FY 2005. The department's responsibilities include allocating over \$7.2 billion in State public school aid to local districts in FY 2005, exclusive of pension and social security costs paid by the State on behalf of teaching staff members. Under the "Comprehensive Educational Improvement and Financing Act of 1996" (CEIFA), the Department of Education is responsible for the development of a framework of educational guidelines, the core curriculum content standards, that define what constitutes a thorough and efficient education. Using these guidelines and the funding provisions of CEIFA, the department is responsible for calculating each year the amount that each district is required to spend to provide a thorough and efficient education for the students in its district (the district's T and E budget), and to calculate the amount of aid the State will provide to each district and distribute that

Introduction (Cont'd)

aid, calculate the amount of the T and E budget that has to be raised by a local tax levy, and oversee local district operations including a review and audit of local district budgets. With respect to the calculation of aid as required under CEIFA, the last time the CEIFA formula was used to allocate aid was for the 2001-02 school year. In FY 2004, a new line item of aid, Consolidated Aid, was calculated based on a certain per pupil amount using the projected October 2003 resident enrollment. In FY 2005, a new line item of aid, Additional Formula Aid, has been calculated by providing each district a 3 percent increase over the total State aid it received in FY 2004. Again, the Abbott and school choice districts are the exception, with the Abbott and all but two of the school choice districts receiving a State aid increase greater than 3 percent.

Key Points

- The total recommended FY 2005 budget for the department (excluding federal and other funds) is \$8.728 billion, an increase of \$444.1 million (5.4 percent) over the FY 2004 adjusted appropriation of \$8.284 billion. Direct and indirect State aid to local districts totals \$8.66 billion, comprising \$6.62 billion in formula and supplemental program aid, \$716 million in other school aid, and \$1.32 billion in local school employees' pension and benefits payments. The department's operating budget is \$59 million.
- Nearly all districts will see a 3 percent increase in State aid. This is accomplished by keeping allocations of nearly all aid categories at the FY 2004 level and adding a new category which equals 3 percent of the sum of the others that are frozen.
- As in FY 2003 and FY 2004, and with certain exceptions noted below, the department did not calculate the proposed aid amounts for school districts by using the aid formulas found in CEIFA. The recommended FY 2005 budget provides that each school district will receive the same amount of State aid in FY 2005 as it did in FY 2004 in the following aid categories: Core Curriculum Standards Aid; Supplemental Core Curriculum Standards Aid; Early Childhood Program Aid; Demonstrably Effective Program Aid; Instructional Supplement Aid; Stabilization Aid; Stabilization Aid 2; Stabilization Aid 3; Large and Efficient District Aid; Aid for Districts with High Senior Citizen Populations; Regionalization Incentive Aid; Adult and Postsecondary Education Grants; Bilingual Education Aid; Special Education Aid; County Vocational Program Aid; Transportation Aid; Aid for Enrollment Adjustments; and Consolidated Aid. In addition, each school district will receive Additional Formula Aid as described below.
- The recommended FY 2005 budget provides a new category of aid, Additional Formula Aid. Additional Formula Aid for non-Abbott districts recommended for FY 2005 totals \$100 million. This aid is provided to each non-Abbott district as follows: the sum of the total State aid amount payable for the 2003-04 school year in the aid categories of Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Early Childhood Program Aid, Demonstrably Effective Program Aid, Instructional Supplement Aid, Stabilization Aid, Stabilization Aid 2, Stabilization Aid 3, Large and Efficient District Aid, Aid for Districts with High Senior Citizen Populations, Regionalization Incentive Aid, Adult and Postsecondary Education Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, School Choice aid, Aid for Enrollment Adjustments, and Consolidated Aid is multiplied by 1.03 to provide each district with a 3 percent increase in State aid. School choice districts whose projected enrollment for school year 2004-05 is less than the projected enrollment for school year 2003-04 received the three percent increase on the total amount of aid in the above categories, but their school choice aid for school year 2004-05 is based on the projected school choice enrollment for

Key Points (Cont'd)

the 2004-05 school year. Accordingly, the percent increase for these districts is less than three percent.

- Nonpublic School Aid recommended for FY 2005 increases by three percent, from the FY 2004 adjusted appropriation of \$97.7 million to the recommended FY 2005 appropriation of \$100.1 million. With the exception of the per pupil amount for Nonpublic Technology Initiative aid, all other per pupil amounts for the nonpublic aid line items are recommended to increase in the FY 2005 budget (see budget language page D-87 and pages 26 and 27 of this document). The FY 2005 estimated enrollment numbers for the various nonpublic aid programs remain the same as the revised FY 2004 enrollment numbers (see page D-83).
- Recommended FY 2005 budget language (see page D-106 in the budget and page 48 in this document) again changes the dates for making school aid payments to the 8th and 22nd of each month, September through June, and provides that 5 percent of the total aid to be paid to each district will be paid on those dates with the last payment in June subject to the approval of the State Treasurer. The recommended FY 2005 budget suggests that the final school aid payment in June of 2005 will be shifted to the following year's State budget (see budget page D-84, Growth Savings--Payment Change line item), and that one of the twenty State aid payments received in FY 2005 will be an amount which is 1/20th of the payments due in FY 2004. The "Growth Savings--Payment Change" recommended for FY 2005 remains at \$5 million. Since this amount is less than 1/20th of the increase in direct State aid for FY 2005 (1/20th of \$190 million = \$9.5 million), it appears that the growth savings is under total by \$4.5 million.
- In the FY 2005 recommended budget, the department combines Abbott v. Burke Parity Remedy Aid and Additional Abbott v. Burke State Aid into a single line item, Education Opportunity Aid. The recommended FY 2005 appropriation for Education Opportunity Aid is \$1.103 billion, an increase of \$100 million over adjusted FY 2004 Education Opportunity Aid of \$1.003 billion. The adjusted FY 2004 Education Opportunity Aid amount of \$1.003 billion includes a supplemental appropriation of \$89 million. On April 19, 2004 the Administration proposed a transfer of \$110.8 million to the Additional Abbott v. Burke State Aid account in lieu of the \$89 million supplemental appropriation for FY 2004 in the FY 2005 recommended budget. The part of the Education Opportunity Aid amount which has been calculated to provide resources to equalize spending between the "I" and "J" districts and Abbott districts (see budget language page D-88) totals \$907 million which leaves less than \$200 million for Abbott supplemental aid in FY 2005. Abbott supplemental aid in each of the prior three budget years, FY2002 to FY 2004, has totaled more than \$300 million.
- The recommended FY 2005 appropriation for Abbott Preschool Expansion Aid is \$182 million, an increase of \$40 million over the FY 2004 adjusted appropriation of \$142 million. Abbott Preschool Expansion Aid is provided to the Abbott districts to enable them to meet the Supreme Court's directive that the districts be aggressive in identifying and enrolling all children resident in the districts who are of preschool age (Abbott VI). A recent Appellate Court decision found that the State was not exclusively responsible for funding all aspects of the Abbott preschools, but rather their expansion (Docket No. a0886-03, decided March 12, 2004). Although the Abbott preschool enrollment has grown from 29,800 in the 2001-02 school year to 37,600 in the FY 2004 school year and is projected to grow to 42,400 in FY 2005, this represents only 77 percent of the total population of preschool students in the Abbott districts according to the 2000 decennial census.

Key Points (Cont'd)

- The recommended FY 2005 budget provides \$607 million for local school district retiree's post retirement medical benefits. No specific amount is recommended for FY 2005 State aid for the employer's contribution to the Teachers Pension and Annuity Fund on behalf of local school districts. Budget language (see page D-101) provides that the amount of the State aid for the employer's contribution to the Teachers Pension and Annuity Fund will be determined by the State Treasurer and be credited against the Benefit Enhancement Fund balance created pursuant to P.L.2001, c.133.
- The Governor's FY 2005 budget recommends \$135 million in new line item appropriations. The FY 2005 recommended appropriation for Additional Formula Aid is \$90 million (see commentary above). The FY 2005 recommended appropriation for High Expectations for Learning Proficiency is \$5 million, for Positive Achievement and Cost Effectiveness, \$5 million, for Early Launch to Learning Initiative, \$15 million, for Above Average Enrollment Growth, \$5 million and for NJ After Three, \$15 million. With the exception of Additional Formula Aid, the budget does not provide any detail on the criteria for determining eligibility for the other new aid programs but leaves this to the discretion of the commissioner through the commissioner's adoption of regulations.
- The recommended FY 2005 appropriation for the Office of School Choice is \$19.97 million, an increase of \$2.6 million over the adjusted FY 2004 appropriation. The Office of School Choice line item funds school choice aid (increase of \$1.4 million in FY 2005) and Charter School Aid (increase of \$1 million in FY 2005).
- The recommended appropriation for Facilities Planning and School Building Aid is \$275.1 million, an increase of \$36.6 million over the FY 2004 adjusted appropriation. The increase is due to a recommended FY 2005 appropriation of \$152.9 million for the School Construction and Renovation Fund, an increase of \$45.1 million over the FY 2004 adjusted appropriation of \$107.8 million. The School Construction and Renovation Fund appropriation is used for debt service on the bonds issued under the "Educational Facilities Construction and Financing Act."
- Budget language (page D-106 and pages 49 and 50 of this document) provides the commissioner with the authority to reduce the State aid of a school district if that district's administrative cost per pupil exceeds a calculated weighted average for administrative cost per pupil of the school districts in its region. The regions into which the commissioner divided the State in the reorganization of the department are used for the calculated administrative cap. The calculated caps for each region are as follows: northern, \$1,489; central, \$1,368; and southern, \$1,358.
- Federal funds are estimated to total \$854.6 million in FY 2005, an increase of \$18.2 million (2.2 percent) over the FY 2004 estimate of \$836.4 million.

Federal funds for special education are estimated to total \$321 million in FY 2005, an increase of \$18.9 million (6.3 percent) over the FY 2004 estimate of \$302.2 million.

Federal funds for Title I (NCLB) are estimated to total \$331.15 million in FY 2005, an increase of \$66,000 over the FY 2004 estimate.

Key Points (Cont'd)

- The estimated public school resident enrollment for FY 2005 is 1,465,668, an increase of 23,910 (1.7 percent) over the revised FY 2004 total of 1,441,758.
- The estimated FY 2005 average per pupil support per local budgets, and State Aid including core curriculum standards aid, debt service, transportation aid, all categorical aid and pension/Social Security contributions is \$13,670, an increase of \$449 (3.4 percent) over the revised FY 2004 average per pupil support of \$13,221.

The average local share of the estimated FY 2005 average per pupil support is \$7,337, an increase of \$204 (3.3 percent) over the revised FY 2004 average local share amount of \$7,103.

The average State share of the estimated FY 2005 average per pupil support is \$5,827, an increase of \$212 (3.8 percent) over the revised FY 2004 average State share amount of \$5,615.

The average percent local share of the estimated FY 2005 average per pupil support is 53.7, no change from the revised FY 2004 average percent local share.

The average percent State share of the estimated FY 2005 average per pupil support is 42.6 percent, an increase of .1 percent over the revised FY 2004 average percent State share of 42.5 percent. (Note: this increase is due to a reduction in the support from federal funds).

Background Paper

- Special Education: State and Federal Requirements and Aid p. 58-72

Program Description and Overview

Department of Education Operations

The recommended FY 2005 appropriation for Department of Education operations is \$59.1 million. In addition to this amount from the General Fund, budget language, page D-88, provides that "an amount not to exceed \$14,686,000, shall be transferred [from the Education Opportunity Fund] to the Department of Education's operating budget, subject to the approval of the Director of the Division of Budgeting and Accounting, for the purpose of managing and supervising implementation of Abbott remedies." The same section of budget language provides that unexpended balances in the Abbott v. Burke Parity Remedy Aid account as of June 30, 2004, is appropriated to the Education Opportunity Aid account and is to be transferred to the Department of Education's operating budget for the same purpose. In FY 2004, the amount of funds from the Abbott v. Burke Parity Remedy Aid account used for the department's operating budget was determined pursuant to State Board of Education regulations, N.J.A.C. 6A:24-1.4(m). These regulations provide that each Abbott district board of education budget an amount equal to two percent of the district's Abbott v. Burke Parity Remedy Aid for use by the department for the purpose of managing and supervising implementation of Abbott remedies. In FY 2004, this totaled approximately \$14 million.

The Department of Education's primary and immediate objective is to realize the goal that every child will read at or above grade level by the end of third grade. The department has been reorganized in an effort to move certain operations of the department closer to district operations. The State has been divided into three regions: Southern, Northern and Central, with an assistant commissioner in charge of each region. The county superintendents are placed under the assistant commissioner of their region.

A continuing major task for the Commissioner of Education in FY 2005 and each year thereafter is compliance with the federal law, "No Child Left Behind Act of 2001" (NCLB). Under the federal law, there are certain key implementation deadlines (for an update on the State's compliance with the requirements of NCLB, see the responses to discussion point 1).

- By the fall of 2002, states and districts were required to issue report cards to the public which, in part, provide information on achievement in math and reading/language arts, on both an aggregated basis and disaggregated by race/ethnicity, disability, socioeconomic level, gender, migrant status, and limited English proficiency. The New Jersey Report Card is available online at www://education.state.nj.us/rc/index.html and provides the information required under the NCLB, including the disaggregated assessment scores where there are at least 20 students in the category.

Other requirements under the federal law include:

- the adoption of a single statewide accountability system (using the 2001-02 school year as the base year) for defining "adequate yearly progress" for all public school students (including charter school students) based on academic indicators -- reading/language arts and math and eventually science (a major component of this accountability system, the NJ Standards Measurement and Resource for Teaching -- NJ SMART -- is being field tested in FY 2004 and is scheduled for full implementation by October of 2005 when the student-level data collection for this system will replace ten department reports currently administered).

Program Description and Overview (Cont'd)

- test students in grades 3 through 8 annually, and once in grades 9 through 11 annually, in reading or language arts and mathematics beginning in 2005-06. Beginning in 2007-08, test students in science at least once during each of the following grade spans -- 3-5, 6-9 and 10-12 (the NJ Assessment for Skills and Knowledge, NJ ASK, was administered to all students in grades 3 --as a field test-- and 4 in March 2003. It was administered again in March of 2004. There was no field test of Statewide assessments for grades 5, 6 or 7 in 2004);
- by the year 2002-03, State plans must demonstrate that school districts will provide an annual assessment of the English proficiency (oral, reading and writing skills) of all limited English proficient students;
- develop a plan to identify and address the schools and districts which are "under-performing." The time line for implementation of this plan is related to the implementation of the adequate yearly progress measures. Once implemented, a school that is identified as not meeting adequate yearly progress measures for two consecutive years must be identified as "needing improvement." Technical assistance is to be provided to these schools and school choice options must be provided to students in these schools. Additional and more severe consequences are faced by any school that fails to meet adequate yearly progress for four consecutive years and again for five consecutive years; and
- participation, beginning in the 2002-03 school year, in the National Assessment of Educational Progress testing every other year in grades 4 and 8 for reading and mathematics (this was done in 2003 and New Jersey students achieved the third-highest average scale score in fourth-grade reading (225) and fifth-highest scale score in fourth-grade math (239) in the nation, according to the NAEP results).

A major program responsibility of the Department of Education is to develop and recommend appropriation amounts for State aid to school districts and to determine how the appropriated amounts are to be allocated. Under the "Comprehensive Educational Improvement and Financing Act of 1996," P.L.1996, c. 138 (C.18A:7F-1 et seq.)(CEIFA), provision is made for an ongoing review of the core curriculum content standards. It is through conformance with these standards, that CEIFA envisions the offering of an educational content in the school which will "ensure that all children are provided the educational opportunity needed to equip them for the role of citizen and labor market competitor in the contemporary setting." The State Board of Education has adopted revised academic standards in six content areas: Math; Science; Language Arts/Literacy; Visual and Performing Arts; Comprehensive Health and Physical Education; and World Languages. In addition, the State Board of Education has adopted standards in two new content areas: Technology Literacy and Careers Education; and Consumer, Family and Life Skills.

As part of this review, the Commissioner of Education is to develop and establish efficiency standards which define the types of programs, services, activities, and materials necessary to achieve a thorough and efficient education. CEIFA requires the Governor, after consultation with the commissioner, to recommend to the Legislature through the issuance of the biennial Report on the Cost of Providing a Thorough and Efficient Education (Biennial Report) certain per pupil amounts to be used in calculating the costs of providing a thorough and efficient education in all districts in the State. Based on these per pupil amounts and an amount initially set in CEIFA for Core Curriculum Standards Aid, adjusted each year in accordance with annual percent changes in enrollment as projected by the Department of Education, and the CPI, the department develops and recommends to the Legislature appropriations which are required to provide aid to and for the

Program Description and Overview (Cont'd)

school districts. The March 2002 Biennial Report which under CEIFA was to have been effective for the FY 2004 budget states: "We continue to hear concerns regarding the adequacy and fairness of CEIFA. To address these concerns, the department has begun a deliberate and collaborative process of meeting with a cross section of stakeholders to explore options for revising the current funding system. It is our plan to have a final proposal completed in time for fiscal 2004-05." This proposal has not yet been presented to the Legislature and the FY 2005 recommended funding for school districts, with the exception of the increases resulting from Consolidated Aid in FY 2004 and Additional Formula Aid recommended for FY 2005, remains at the FY 2002 level.

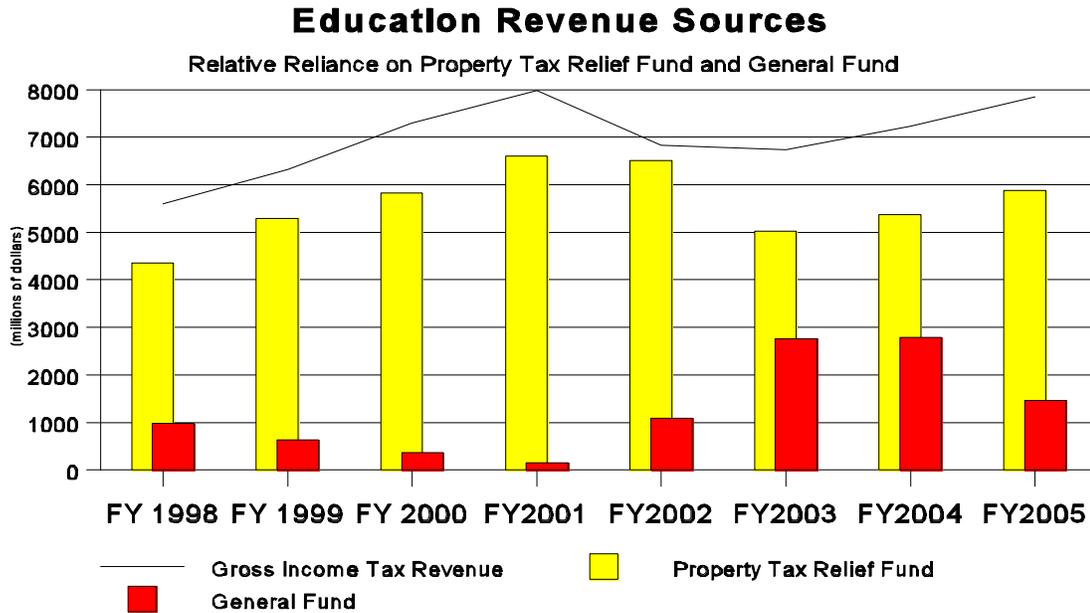
Education Funding

In FY 2005, the total recommended appropriation from all sources for the Department of Education is \$9.6 billion. This includes \$8.7 billion in State funds -- \$5.88 billion from the Property Tax Relief Fund, \$2.85 billion from the General Fund -- plus \$85.5 million from federal funds and \$33.8 million from "other funds." The total recommended FY 2005 appropriation from State funds of \$8.7 billion represents an increase of \$444 million (5.4 percent) over the FY 2004 adjusted appropriation of \$8.3 billion.

The principal source of revenue for department funding and for aid to school districts is the Property Tax Relief Fund, which is the Fund into which receipts from the Gross Income Tax are deposited. Deposits into this Fund may be used only for property tax relief. The other major source of funds for State aid to school districts is the General Fund. Depending on the recommended total appropriation needed for funding thorough and efficient education and categorical and special aid programs and the receipts from the Gross Income Tax, appropriations from the General Fund change (see Figure 1). As can be seen from Figure 1, between FY 1998 and FY 2001 appropriations to provide State aid for education were increasingly derived from Gross Income Tax revenues. However, in FY 2002 and continuing with the revenue estimate for FY 2004, lower revenues from the Gross Income Tax have meant that greater reliance had to be placed on the General Fund to provide State aid for education. For FY 2005, however, the reliance on the General Fund declines as the revenue from the Gross Income Tax is estimated to increase.

Program Description and Overview (Cont'd)

Figure 1



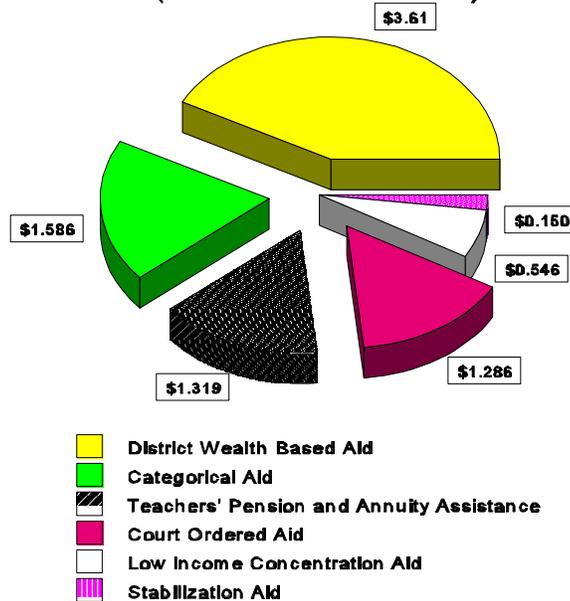
State Aid To Or On Behalf Of Local Districts

Under CEIFA, the Department of Education is responsible for recommending (through the annual budget) how the revenues available are to be distributed to school districts to achieve a

Figure 2

Major Categories of State Aid

(in Billions of Dollars)



Program Description and Overview (Cont'd)

thorough and efficient education. Figure 2 charts the major categories of State aid to or on behalf of local districts from State funds that in FY 2005 total \$8.497 billion. A summary of each of these categories follows.

School Aid Based on District Wealth

The greatest amount of State aid distributed to local districts is based on a district's relative wealth (equalized property value and aggregate income) and its resident enrollment -- **Core Curriculum Standards Aid**. The recommended FY 2005 appropriation for Core Curriculum Standards Aid (CCSA) is \$3.1 billion. The Governor's budget recommends that CCSA be distributed using the district wealth factors used in FY 2002 rather than current data. The calculation of a district's CCSA is determined first by calculating the total amount available for CCSA. Then based on a district's wealth relative to all other districts in the State and the district's resident enrollment, a calculation is made to determine each district's CCSA entitlement, if any. The Governor's budget recommends that CCSA be distributed using the district wealth factors used in FY 2002, rather than current data.

Another wealth-based program is **Supplemental Core Curriculum Standards Aid (SCCSA)**. SCCSA is given to those districts with a high concentration of low-income pupils and a minimum equalized tax rate that exceeds by at least 10 percent the minimum equalized tax rate for the State as a whole. The FY 2005 recommended SCCSA appropriation is \$251.8 million which provides assistance to communities to stabilize the tax impact of significant changes in enrollment and wealth; however the districts scheduled to receive this aid in FY 2005 are limited to those districts which qualified for this aid based on the calculations for the FY 2002 Appropriations Act.

The other wealth-based aid provided to districts is debt service aid. The recommended FY 2005 **debt service aid** is \$275.1 million. Under the "Educational Facilities Construction and Financing Act," P.L.2000, c.72, debt service aid for districts was restructured as follows:

Prior issuance of debt. Local district debt issued for projects approved prior to July 18, 2000 (the effective date of P.L.2000, c.72), will continue to have debt service aid calculated as in past fiscal years, in the same proportion that Core Curriculum Standards Aid is to a district's T and E budget (regular education); for FY 2005 this amount is \$122.2 million.

Projects approved after July 18, 2000. For final eligible costs of school facilities projects approved by the commissioner after July 18, 2000, a school district may choose to receive a one-time up-front grant for the project or debt service aid. The minimum amount of aid provided for up-front grants will be 40 percent of the final eligible costs and, for debt service aid, 40 percent of principal and interest costs on school district bonds issued to finance final eligible costs. For FY 2005 this amount is \$152.9 million, which is the appropriation to the School Construction and Renovation Fund.

Categorical Aid

The biennial Report on the Cost of Providing a Thorough and Efficient Education issued in March of each even numbered year, in addition to recommending the T and E amounts required for a thorough and efficient education, also recommends the per pupil amounts required to support the costs of categorical and other special aid programs. The per pupil amounts recommended in the report are considered approved for two successive years beginning one year from the subsequent July 1, unless the Legislature adopts a concurrent resolution stating that it is not in agreement with all or any part of the report. As indicated earlier, the per pupil cost factors

Program Description and Overview (Cont'd)

recommended in the March 2002 Biennial Report have not been implemented. Aid amounts recommended for FY 2005 remain the same as for FY 2002, except for the line item **Consolidated Aid** first implemented in FY 2004 and the new line item for FY 2005, **Additional Formula Aid**. The recommended FY 2005 amount to be distributed as Consolidated Aid in FY 2005, \$148.53 million, is the same amount distributed in FY 2004 (a combination of the Consolidated Aid line item of \$130.1 million and \$18.4 million from the Adult and Postsecondary Education Grants line item). Additional Formula Aid provides all public school districts, with certain exceptions, with at least a three percent increase in cash State aid. Abbott districts for which parity aid is calculated are recommended to receive State aid increases greater than three percent (see pages 33 and 34 of this document for budget language on the calculation of parity aid). School choice districts, with the exception of two, also are recommended to receive State aid increases greater than three percent (see page ss for budget language describing the calculation of school choice aid).

Teachers' Pension and Annuity Assistance Aid

The State pays, on behalf of local school districts, the full employer's share of Social Security taxes and pension contributions for members of the Teachers' Pension and Annuity Fund (TPAF). The State also pays the cost of post-retirement medical benefits for teaching staff and certain other district employees who retire with at least 25 years of service. The recommended FY 2005 appropriation for Teachers' Pension and Annuity Assistance is \$1,318.9 million, an increase of \$134.8 million (14.4 percent) over the FY 2004 adjusted appropriation of \$1,184 million. The two largest budgeted components that comprise this State aid to school districts are Social Security taxes and post retirement medical benefits. The employer's pension cost contribution would also require a significant appropriation, except that the contribution is being charged against the Benefit Enhancement Fund. Budget language (page D-101 and page 42 of this document) provides the State Treasurer with the authority to determine the level at which to fund the pension cost contribution of the State to the Teachers' Pension and Annuity Fund. No specific amount is recommended as was done in FY 2004, nor has the State Treasurer yet provided information on the State pension cost contribution amount needed in FY 2005 as certified by the TPAF actuary, as also was provided in FY 2004.

Aid Programs for Districts with High Concentrations of Low-Income Pupils

Two additional programs provide aid to districts with high concentrations of low-income pupils. **Early Childhood Program Aid (ECPA)** is provided to all school districts meeting certain low-income pupil concentration rates for the purpose of providing full-day kindergarten, preschool classes and other early childhood programs and services for all the pupils in the district. The aid is calculated on a per pupil basis in accordance with the amounts set in the Biennial Report. Districts which have a low-income pupil concentration equal to or greater than 20 percent and less than 40 percent of modified enrollment receive aid in FY 2005 in the amount of \$506 per **district** pupil based on projected enrollment for the 2001-2002 school year. Districts which have a low-income pupil concentration equal to or greater than 40 percent receive aid in FY 2005 in the amount of \$817 per **district** pupil based on projected enrollment for the 2001-2002 school year. The per pupil amounts were revised in the March 2002 Biennial Report but have not been implemented in the calculation of ECPA.

Demonstrably Effective Program Aid (DEPA) is allocated for the purpose of providing instruction, school governance, and health and social service programs to students in the schools which qualify within a district. **Schools** qualify for this aid by having a low-income pupil concentration equal to or greater than 20 percent and less than 40 percent of the school's enrollment or by having a low-income pupil concentration equal to or greater than 40 percent of

Program Description and Overview (Cont'd)

the school's enrollment. Districts with a **school** or **schools** in the first category, are recommended to receive aid in FY 2005 in the amount of \$327 per pupil in the **qualifying school** or **schools** based on projected school enrollments for the 2001-2002 school year (the last year for which the department calculated this aid); districts with a **school** or **schools** in the second category, are recommended to receive aid in FY 2005 in the amount of \$463 per pupil in the **school** or **schools** which qualify based on projected school enrollments for the 2001-2002 school year. The per pupil amounts were revised in the March 2002 Biennial Report but have not been implemented in the calculation of DEPA aid.

Early Childhood Program Aid and Demonstrably Effective Program Aid are important components of the State's efforts to achieve reform in all districts having low-income pupil concentrations, especially the Abbott districts. Information provided by the Department of Education shows that for FY 2005, \$330.6 million is allocated to districts for Early Childhood Program Aid, of which \$231.9 million (70.1 percent) is allocated to Abbott districts and \$97.7 million (29.9 percent) is allocated to the other districts (department totals add up to \$329.6 million). For FY 2005, \$199.5 million is allocated to districts for Demonstrably Effective Program Aid, of which \$121.6 million (61 percent) is allocated to Abbott districts and \$77.5 million (39 percent) is allocated to the other districts (department totals add up to \$199.1 million). These aid amounts have not changed since FY 2002.

Court Ordered State Aid

Education Opportunity Aid is a new line item in the FY 2005 budget. It combines and replaces **Abbott v. Burke Parity Remedy Aid** and **Additional Abbott v. Burke State Aid**. Part of this aid is distributed to the Abbott districts as a result of **Abbott IV** in which the New Jersey Supreme Court required that additional State aid be provided to the Abbott districts to increase the per pupil regular education expenditure in each of those districts to the level of the average per pupil regular education expenditure of the District Factor Groups "I" and "J" districts, the 119 highest wealth districts in the State. In **Abbott V**, the court also provided for **Additional Abbott v. Burke State Aid**, requiring that half-day preschool programs for three- and four-year olds and full-day kindergarten be implemented in the Abbott districts, along with other ancillary programs, the purpose of which is to address the special educational needs of children coming from low-income and urban neighborhoods. The Court directed the commissioner, upon receipt of demonstrated need from the district, to make efforts to secure and provide the necessary funding. For FY 2003 and FY 2004, the Court permitted the State to provide funding to the Abbott districts at a level to maintain each district's prior year budget plus cost of living increases. The Abbott districts have contested the department's decisions concerning the amounts awarded under **Additional Abbott v. Burke State Aid** in FY 2003 and the definition of "maintenance budget" and, as a result of the department's definition, the amounts awarded under **Additional Abbott v. Burke State Aid** in FY 2004.

The recommended FY 2005 appropriation for the other court-ordered aid, **Abbott Preschool Expansion Aid**, is \$182.4 million, an increase of \$40 million over the FY 2004 adjusted appropriation of \$142.4 million. In **Abbott VIII**, the Court required that the department, along with the Abbott districts, be more aggressive in seeking out children of pre-school age to be enrolled in the Abbott preschool programs. Total recommended FY 2005 court-ordered aid for Abbott districts is \$1,286 million. Since the final amount of the **Additional Abbott v. Burke State Aid** for FY 2004 has not been determined, it is likely that FY 2005 court-ordered aid will be higher than the amount recommended. See Background paper, pages 55-79 of the budget analysis for the Department of Education for FY 2004, for a history of Abbott district funding under CEIFA.

Program Description and Overview (Cont'd)

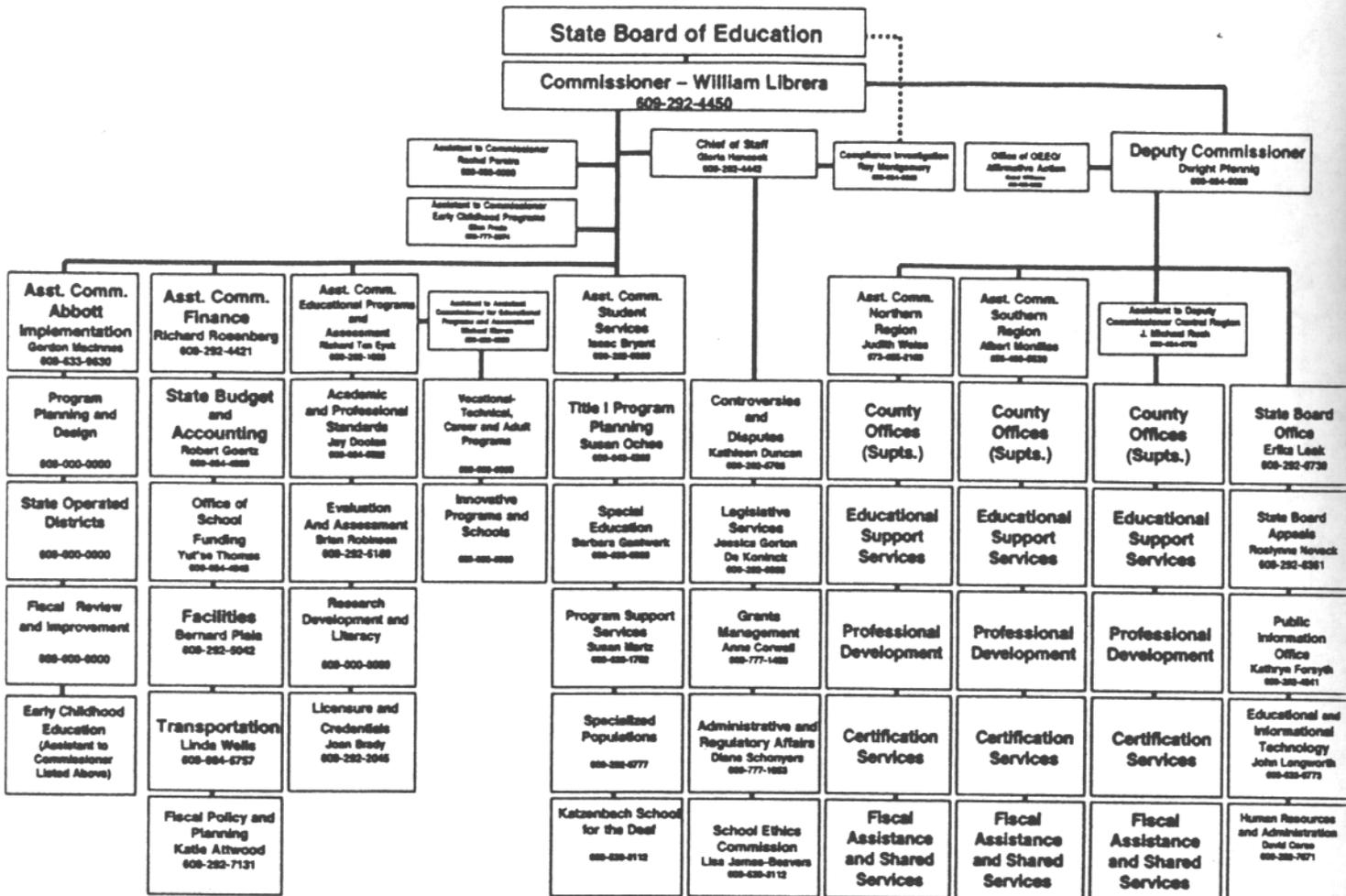
Stabilization Aid

Under CEIFA a provision is also made for **Stabilization Aid**. In recognition of the fact that the adoption of a new school aid formula in 1997-1998, as well as annual fluctuations in school district wealth and enrollment, would result in some districts receiving less State aid compared with the prior year than needed to continue to plan and function effectively, and that some districts might receive a greater increase in State aid compared to the prior year than that for which the district could effectively plan and budget, provisions of CEIFA permitted the department to calculate aid to provide relative stabilization in the amount of State aid a district receives from one year to the next. In addition, the Legislature has acted each year to provide additional Stabilization Aid. Stabilization Aid 2 was provided to ensure that no district would receive State aid in the budget year which represented a decrease greater than 2 percent of the State aid received in the prebudget year. Stabilization Aid 3, provided for the first time in FY 2002, held all districts harmless from a decrease in State aid in the budget year (FY 2002) compared with the prebudget year (FY 2001).

Other stabilization aids include: Large Efficient District Aid, Aid for Districts with High Senior Citizen Populations and Regionalization Incentive Aid.

The recommended FY 2005 appropriation for all forms of stabilization aid is \$150.3 million, the same as in FY 2004.

Organization Chart



Fiscal and Personnel Summary

AGENCY FUNDING BY SOURCE OF FUNDS (\$000)

	Expended FY 2003	Adj. Approp. FY 2004	Recom. FY 2005	Percent Change	
				2003-05	2004-05
General Fund					
Direct State Services	\$57,731	\$62,133	\$59,059	2.3%	(4.9)%
Grants-In-Aid	9,377	9,443	11,269	20.2%	19.3%
State Aid	2,473,259	3,015,823	2,778,027	12.3%	(7.9)%
Capital Construction	811	0	0	(100.0)%	0.0%
Debt Service	0	0	0	0.0%	0.0%
Sub-Total	\$2,541,178	\$3,087,399	\$2,848,355	12.1%	(7.7)%
Property Tax Relief Fund					
Direct State Services	\$0	\$0	\$0	0.0%	0.0%
Grants-In-Aid	0	0	0	0.0%	0.0%
State Aid	4,956,057	5,196,129	5,879,286	18.6%	13.1%
Sub-Total	\$4,956,057	\$5,196,129	\$5,879,286	18.6%	13.1%
Casino Revenue Fund	\$0	\$0	\$0	0.0%	0.0%
Casino Control Fund	\$0	\$0	\$0	0.0%	0.0%
State Total	\$7,497,235	\$8,283,528	\$8,727,641	16.4%	5.4%
Federal Funds	\$703,131	\$836,458	\$854,665	21.6%	2.2%
Other Funds	\$24,213	\$32,750	\$33,773	39.5%	3.1%
Grand Total	\$8,224,579	\$9,152,736	\$9,616,079	16.9%	5.1%

PERSONNEL SUMMARY - POSITIONS BY FUNDING SOURCE

	Actual FY 2003	Revised FY 2004	Funded FY 2005	Percent Change	
				2003-05	2004-05
State	502	523	562	12.0%	7.5%
Federal	225	242	304	35.1%	25.6%
All Other	180	189	202	12.2%	6.9%
Total Positions	907	954	1,068	17.8%	12.0%

FY 2003 (as of December) and revised FY 2004 (as of September) personnel data reflect actual payroll counts. FY 2005 data reflect the number of positions funded.

AFFIRMATIVE ACTION DATA

Total Minority Percent	27.0%	27.4%	28.1%	----	----
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Significant Changes/New Programs (\$000)

<u>Budget Item</u>	<u>Adj. Approp. FY 2004</u>	<u>Recomm. FY 2005</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
Additional Formula Aid	\$0	\$90,000	\$90,000	—	D-85

Additional Formula Aid is a new line item in the FY 2005 recommended budget. The \$90 million appropriation represents 3 percent of the formula aid provided to nonAbbott districts in FY 2004. In contrast to the distribution of Consolidated Aid in FY 2004 (an increase of \$50 million for nonAbbott districts, but excluding districts in the district factor groups "I" and "J"), all nonAbbott districts, with a few exceptions, will receive a 3 percent increase in their formula aid. The exceptions are the school choice districts, most of which will receive an increase in aid which is greater than 3 percent, but two of which will receive less than 3 percent. School choice districts whose projected enrollment for school year 2004-05 is less than the projected enrollment for school year 2003-04 will receive the three percent increase for FY 2005 based on their formula aid for FY 2004, but based on the projected school choice enrollment for the 2004-05 school year will receive less school choice aid in FY 2005 than in FY 2004. Accordingly, the percent increase for these district, is less than three percent.

High Expectations for Learning Proficiency	\$0	\$5,000	\$5,000	—	D-85
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The High Expectations for Learning Proficiency Aid is a new line item of aid and is directed toward low-income nonAbbott districts requiring additional resources to improve student achievement. The recommended FY 2005 budget contains language (see page D-87 of the budget and pages 29 and 30 of this document) that indicates that certain economic factors may be used to qualify districts for this aid, such as, low-income concentration, equalized property valuation per pupil and measures of academic performance, including Statewide assessments, graduation and dropout rates. In addition, a brief description of this new line item on page D-75 indicates that 25 school districts will receive awards of \$200,000. However, the budget language on page D-87 indicates that the commissioner is to have the authority to develop the criteria and adopt regulations by which this aid will be disbursed. The fact that the commissioner will not have the authority to do this until the Annual Appropriations Act is signed into law, suggests that this aid will not be part of the school district budget voted on in April.

Positive Achievement and Cost Effectiveness	\$0	\$5,000	\$5,000	—	D-85
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Positive Achievement and Cost Effectiveness is a new line item of aid and is directed toward school districts demonstrating high levels of academic achievement while incurring low education expenditures. There is language in the budget (page D-88 and page 30 of this document), that provides the commissioner with the authority to develop the criteria and adopt regulations by which this aid will be disbursed. Similar to the new line item discussed above, the budget language would suggest that districts that receive this aid will not have it included in the school district budget voted on in April.

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2004</u>	<u>Recomm.</u> <u>FY 2005</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
Education					
Opportunity Aid	\$1,003,414	\$1,103,414	\$100,000	10.0%	D-85

Education Opportunity Aid is a new name for two line items included in previous budgets, Abbott v. Burke Parity Remedy Aid and Additional Abbott v. Burke State Aid. The recommended FY 2005 appropriation of \$1.1 billion represents an increase of \$100 million (10 percent) over the FY 2004 adjusted appropriation. Of the \$1.1 billion in the recommended FY 2005 appropriation, \$907 million is to be distributed to the Abbott districts through the formula for parity aid (see budget language, page D-88 concerning equalizing spending between Abbott and "I" and "J" districts). This represents an increase of \$203 million (28.8 percent) over \$704 million, the amount required for Abbott v. Burke Parity Remedy Aid in FY 2004 (under FY 2004 budget language, the total amount of Abbott v. Burke Parity Aid was funded from a combination of the line item amount for Abbott v. Burke Parity Remedy Aid and a portion of the line item amount for Additional Abbott v. Burke State Aid). The FY 2004 adjusted appropriation for Education Opportunity Aid of \$1,003,414,000 combines the FY 2004 appropriations for Abbott v. Burke Parity Remedy Aid (\$512,656,000) and Additional Abbott v. Burke State Aid (\$401,758,000) plus a supplemental appropriation of \$89 million. On April 19, 2004 the Administration proposed a transfer of \$110.8 million to the account in lieu of the \$89 million supplemental appropriation.

Abbott Preschool					
Expansion Aid	\$142,400	\$182,400	\$40,000	28.1%	D-85

The recommended FY 2005 appropriation for Abbott Preschool Expansion Aid is \$182.4 million, an increase of \$40 million (28.1 percent) over the FY 2004 adjusted appropriation of 142.4 million. This aid is provided to Abbott districts under Abbott V, in which the Supreme Court ordered the State, along with the Abbott districts, to be more aggressive in identifying children of pre-school age to be enrolled in the Abbott preschool programs. Abbott Preschool Expansion Aid is to provide for the costs associated with the expansion of Abbott district preschool since the 2001-02 school year. Actual enrollment for the 2001-02 school year was 29,824 and grew to 36,465 in the 2002-03 school year, an increase of 6,641 or 27.9 percent. Enrollment for school year 2003-04 is projected at 37,600, an increase of 1,135 or 3.1 percent. The FY 2005 recommended budget projects an enrollment of 42,400, an increase of 4,800 or 12.8 percent. The projected enrollment for school year 2004-05 represents an increase of 12,576 or 42.2 percent over school year 2001-02 and also represents approximately 80 percent of the eligible preschool population according to the Application for State School Aid numbers and approximately 77 percent according to the 2000 census data.

Early Launch to					
Learning Initiative	\$0	\$15,000	\$15,000	—	D-85

The Early Launch to Learning initiative is a new line item in the recommended FY 2005 budget. The recommended appropriation of \$15 million is for the purpose of substantially offsetting the cost of expanding access to high quality preschools for low-income four-year olds in participating nonAbbott districts. Information on the department's web site indicates that the anticipated appropriation of \$15 million would fund the participation of approximately 4,000 low-income

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2004</u>	<u>Recomm.</u> <u>FY 2005</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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children. Districts will have to compete for these funds. Forms for the application are available on the web site, http://www.nj.gov/njded/ece/elli/op_plan.doc and are due by May 5, 2005. Districts are told that funds are subject to approval of the FY 2005 budget. According to the web site the funds can be used only for a four-year old preschool program, including the expansion of existing half-day four-year old programs funded under early childhood program aid. However funds from ELLI cannot be used for the costs of existing programs. Under this initiative, districts may charge tuition to parents of children who are not considered low-income. However, current law at N.J.S. 18A:44-4 requires that the expenses of preschools "shall be paid out of any moneys available for the general fund expenses of the schools, and in the same manner and under the same restrictions as the expenses of other schools or departments are paid. . ." Budget language (see page D-89 and pages 37 and 38 of this document) provides that "such funds as are necessary for the support of two staff persons to administer the program shall be transferred to the Office of Early Childhood Education in direct state services, subject to the approval of the Director of the Division of Budget and Accounting." No budget language is proposed to provide details on the program, the criteria to be used to select districts and the amount of aid a district will receive, if awarded a grant.

Above Average

Enrollment Growth	\$0	\$5,000	\$5,000	—	D-85
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The Above Average Enrollment Growth Aid is a new line item in the FY 2005 recommended budget. The recommended FY 2005 appropriation is earmarked for school districts which have experienced enrollment growth which is "substantially greater than the State average enrollment growth." The Statewide average enrollment growth between FY 2002, when district enrollment was last used in the calculation of State aid, and FY 2005 is 5.1 percent. Since FY 2002, many districts have experienced enrollment growth which is above this average. Recommended budget language (page D-89 and pages 38 and 39 of this document) requires that for receipt of aid these districts will have experienced enrollment growth that is substantially greater than the State average enrollment growth according to a formula to be developed and administered by the commissioner who is also to adopt regulations for this purpose. The budget language for this new line item, as for the other new line items, indicates that the regulations adopted by the commissioner are to become effective immediately upon filing with the Office of Administrative Law, notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Again, the fact that the commissioner will not have the authority to take those actions until the FY 2005 Appropriations Act is signed, suggests that the aid will not be part of the school district budget voted on in April.

Nonpublic School Aid:

Nonpublic Textbook Aid	\$11,652	\$12,271	\$619	5.3%	D-85
Nonpublic Handicapped Aid	\$27,536	\$26,789	(\$747)	(2.7)%	D-85
Nonpublic Auxiliary Services Aid	\$32,506	\$34,912	\$2,406	7.4%	D-85

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp. FY 2004</u>	<u>Recomm. FY 2005</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
Nonpublic Auxiliary/Handicapped Transportation Aid	\$3,436	\$3,610	\$174	5.1%	D-85
Nonpublic Nursing Services Aid	\$13,954	\$14,636	\$682	4.9%	D-85
Nonpublic Technology Initiative	\$8,118	\$7,900	(\$218)	(2.7)%	D-85
Total Nonpublic Aid	\$97,202	\$100,118	\$2,916	3.0%	D-85

The recommended FY 2005 appropriation for Nonpublic School Aid is \$100.1 million, an increase of \$2.9 million (3 percent) over the FY 2004 adjusted appropriation of \$97.2 million. The increase results from increases in the per pupil amounts recommended for each of the separate aid programs that make up total Nonpublic School Aid, except Nonpublic Technology Initiative Aid. The number of nonpublic students estimated for FY 2005 remains at the same level as the revised number for FY 2004 (see FY 2005 recommended budget, page D-83)

Payments for Institutionalized Children -- Unknown District of Residence	\$22,952	\$21,400	(\$1,552)	(6.8)%	D-86
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The adjusted FY 2004 appropriation of \$22.9 million for Payments for Institutionalized Children -- Unknown District of Residence represents \$17.2 million appropriated in the FY 2004 Annual Appropriations Act plus a supplemental appropriation of \$5.7 million not yet approved. The recommended FY 2005 appropriation is \$21.4 million, a decrease of \$1.6 million (6.8 percent) from the adjusted FY 2004 appropriation of \$23 million.

Teacher Quality Mentoring	\$2,000	\$2,500	\$500	25.0%	D-86
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The recommended Teacher Quality Mentoring appropriation for FY 2005 is \$2.5 million, a \$500,000 increase (25 percent) over the adjusted FY 2004 appropriation of \$2 million. Funds under this program are provided to school districts for use as stipends for experienced teachers serving as mentors of first year teachers. First year traditional route and special education teachers are required to pay a mentoring fee of \$550. The mentoring fee for alternate route teachers is \$1,000. In FY 2004, school districts received prorated amounts of \$565 for each alternate route teacher mentored and \$285 for each traditional and special education teacher mentored. The number of actual FY 2004 and projected FY 2005 first year teachers is as follows:

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp. FY 2004</u>	<u>Recomm. FY 2005</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
Type of New Teacher		Actual FY 2004		Projected FY 2005	
Traditional Route		3,270		3,400	
Alternate Route		1,730		1,817	
Special Education		314		330	
Total New Teachers		7,318		7,552	
State Aid added by Legislature in the FY 2004 Annual Appropriations Act:					
Formula Amelioration Aid	\$313	\$0	(\$313)	(100.0)%	D-85
Seton Hall Prep -- Expansion	\$250	\$0	(\$250)	(100.0)%	D-85
St. Peter's Prep -- Field Remediation	\$250	\$0	(\$250)	(100.0)%	D-85
East Brunswick High School -- Renovation and Equipment	\$200	\$0	(\$200)	(100.0)%	D-85
Swedesboro-Woolwich School District -- Extraordinary Enrollment Growth	\$500	\$0	(\$500)	(100.0)%	D-86
Chad School Foundation	\$500	\$0	(\$500)	(100.0)%	D-86
School District of Trenton -- Security	\$1,500	\$0	(\$1,500)	(100.0)%	D-86
Montclair Board of Education -- Minority Student Achievement Network	\$1,000	\$0	(\$1,000)	(100.0)%	D-86
Englewood Implementation Aid	\$1,300	\$0	(\$1,300)	(100.0)%	D-86
Total Special Aids	\$5,813	\$0	(\$5,813)	(100.0)%	8

The FY 2005 recommended budget does not include 9 district or school specific items which were added, or increased by the Legislature in the FY 2004 Appropriations Act. This represents a decrease of \$5.8 million from the FY 2004 adjusted appropriation. The American Civil Liberties Union of New Jersey had challenged the decision to provide aid to Seton Hall Prep and St. Peter's

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp. FY 2004</u>	<u>Recomm. FY 2005</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
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Prep because it claimed that providing aid to these two religious institutions violated the Establishment Clause of the United States Constitution and the "No Preference" Clause of the New Jersey Constitution. An agreement was reached between the ACLU-NJ and the department that the funds would not be released. The challenge to the provision of aid to St. Peter's Prep was dropped by the ACLU after it was determined that the FY 2004 funds for St. Peter's Prep would be used for environmental clean-up to protect the surrounding community from chemicals which were present on the site before the school bought the land and that could seep into the surrounding land.

Direct State Services:

Statewide Assessment

Program	\$13,225	\$16,225	\$3,000	22.7%	D-98
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The recommended FY 2005 appropriation for the Statewide Assessment Program is \$16.2 million, an increase of \$3 million (22.7 percent) over the FY 2004 adjusted appropriation of \$13.2 million. The increase in funding for the Statewide Assessment Program results from the federal requirement to administer Statewide assessments to public school pupils in Math and Language Arts/Literacy in grades 3 through 8 and in one of the grades 9 through 11 by the school year 2005-06. As of FY 2004, Statewide assessments have been administered in grades 3, 4, 8 and 11. Statewide assessments still have to be developed and field tested in grades 5 through 7 in order to meet the assessment requirements under the federal "No Child Left Behind Act of 2001".

Governor's Literacy

Initiative	\$8,250	\$6,650	(\$1,600)	(19.4)%	D-98
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The FY 2005 recommended appropriation for the Governor's Literacy Initiative is \$6.65 million. This represents a decrease of \$1.6 million (19.4 percent) from the FY 2004 adjusted appropriation of \$8.25 million.

Grants-in-Aid:

Summer Academy for

Professional Development	\$0	\$2,000	\$2,000	—	D-98
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The Summer Academy for Professional Development is a new line item in the FY 2005 recommended budget and will provide \$2 million in grants to establish regional summer programs for teachers in those urban centers where over 50 percent of students obtain a New Jersey high school diploma through the alternative Special Review Assessment System. The program is intended to assist teachers to increase the number of students passing the high school proficiency assessment.

Office of School Choice	\$6,537	\$7,969	\$1,432	21.9%	D-99
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Charter School Aid	\$5,500	\$6,500	\$1,000	18.2%	D-99
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Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp. FY 2004</u>	<u>Recomm. FY 2005</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
Charter Schools -- Council on Local Mandates Decision Offset Aid	\$5,300	\$5,500	\$200	3.8%	D-99
Total School Choice/Charter School Aid	\$17,337	\$19,969	\$2,632	15.2%	D-99

The recommended FY 2005 appropriation for School Choice/Charter School Aid is \$19.97 million, an increase of \$2.6 million (15.2 percent) over the FY 2004 adjusted appropriation of \$17.3 million.

The recommended FY 2005 appropriation for School Choice Aid is \$7.97 million, an increase of \$1.4 million (21.9 percent) over the FY 2004 adjusted appropriation of \$6.5 million. The increase in aid reflects an increase in total projected school choice enrollment from 766 in FY 2004 to 929 in FY 2005, an increase of 163 pupils (21.3 percent). Currently, a school choice district operates in 15 of the 21 counties.

The FY 2005 recommended appropriation for Charter School Aid is \$12 million, an increase of \$1.2 million (11.1 percent) over the FY 2004 adjusted appropriation of \$10.8 million. State aid for charter schools is used for: (1) the payment of State aid to any charter school which operates a full-day kindergarten program in an Abbott district (pursuant to P.L.1999, c.385, this aid category was to end after the 2000-2001 school year but has been continued in FY 2002 and each year since through budget language and is recommended for continuation in FY 2005); and (2) the payment of State aid as required under P.L.1995, c.426 on behalf of charter school students who come from a resident district in which 90 percent of the maximum T & E amount is less than 90 percent of the program budget per pupil amount (the resident district is only responsible for paying the lesser amount and the State pays the difference).

In addition, budget language (page D-102 and page 44 of this document) will provide for the distribution of \$40 for each student enrolled in a charter school. In FY 2004 charter schools were provided Consolidated Aid as part of the categorical aid which follows charter school students from their district of residence to the charter school. The appropriation for Consolidated Aid was derived from Distance Learning Network Aid, Academic Achievement Award Aid, a portion of the Adult and Postsecondary Education Grant Aid and an additional appropriation of \$50 million. The provision of Consolidated Aid to charter schools was subsequently challenged since it is not a categorical aid under CEIFA. For FY 2005, charter schools will not receive Consolidated Aid but will receive \$40 per student as an approximation of the categorical aid amount for Distance Learning Network Aid which was one of the categorical aids that followed students from their district of residence to the charter school.

Recommended FY 2005 budget language (page D-102 and pages 44 and 45 of this document) provides for an additional appropriation for Charter School Aid in an amount which is needed to distribute aid equal to the difference between the per pupil T & E amount for a given grade level and the program budget per pupil amount of an Abbott district when that Abbott district's program budget per pupil amount is below the T & E amount. The department estimates that an additional

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2004</u>	<u>Recomm.</u> <u>FY 2005</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
<p>\$6 million dollars will be needed to fund the provisions of this budget language. Under current law, a charter school receives the lower of either 90 percent of the program budget per pupil amount or 90 percent of the maximum T & E amount. A district's program budget is equal to the sum of core curriculum standards aid, supplemental core curriculum standards aid, stabilization aid, including supplemental stabilization aid and supplemental school tax reduction aid, designated general fund balance, miscellaneous local general fund revenue, and the district's general fund tax levy. With respect to the items included in the calculation, none of the aid items has increased since FY 2002 (parity aid which has increased is not part of this calculation). At the same time, the department has used the increased T & E amounts as recommended in the Biennial Report for the purpose of the calculation of charter school payments. Since FY 2002, the last year the T & E amount was used to calculate core curriculum standards aid, the T & E amount has increased by at least 7 percent. The fact that Abbott districts have not been required to increase their general fund tax levy, and the department has a requirement that Abbott districts have a surplus not greater than 2 percent has meant that Abbott district program budgets have remained relatively flat. As a result, the payments made to charter schools in the Abbott districts have also remained flat.</p>					
School Building Aid					
Debt Service	\$1,599	\$955	(\$644)	(40.3)%	D-99
School Building Aid	\$129,101	\$121,272	(\$7,829)	(6.1)%	D-99
School Construction and Renovation Fund					
	\$107,850	\$152,921	\$45,071	41.8%	D-99
Total Facilities Planning and School Building Aid					
	\$238,550	\$275,148	\$36,598	15.3%	D-99

The recommended FY 2005 appropriation for Facilities Planning and School Building Aid is \$275.1 million, an increase of \$36.6 million (15.3 percent) over the FY 2004 adjusted appropriation of \$238.6 million.

School Building Aid will subsidize debt service costs on district debt issued for school facilities projects approved prior to July 18, 2000, the effective date of the "Educational Facilities Construction and Financing Act," other than retroactive debt service funding provided under that law and except as noted below. Similar budget language is recommended in FY 2005. The FY 2005 recommended appropriation of \$121.3 million, a decrease of \$7.8 million (6.1 percent) from the FY 2004 adjusted appropriation of \$129.1 million, reflects a decrease in debt service obligations.

The recommended FY 2005 appropriation for School Building Aid-Debt Service is \$955,000, a decrease of \$644,000 (40.3 percent) from the FY 2004 adjusted appropriation of \$1.6 million. This reduction is due to the decrease in debt service obligations due to the scheduled retirement of a portion of the debt of the three remaining school building aid programs enacted by the Legislature pursuant to P.L.1968, c.177, P.L.1971, c.10 and P.L.1978, c.74. It is anticipated that, based on the payment schedules for the bonds, the appropriation for this aid program will decrease annually until the bonds have been fully paid.

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp. FY 2004</u>	<u>Recomm. FY 2005</u>	<u>Dollar Change</u>	<u>Percent Change</u>	<u>Budget Page</u>
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Appropriations for the School Construction and Renovation Fund were moved from the Department of the Treasury to the Department of Education in the FY 2004 Appropriations Act. The recommended appropriation for FY 2005 for the School Construction and Renovation Fund is \$152.9 million, an increase of \$45.1 million (41.8 percent) over the FY 2004 adjusted appropriation of \$107.8 million. The FY 2005 appropriation will be used for State debt service payments on the approximately \$2.4 billion of Economic Development Authority bonds issued to date. The table below provides information on how the proceeds of bonds issued through 2003 have been used.

	Abbott Districts	Vocational School Districts	All Other Districts	Unexpended Proceeds	Total
2001 Series A through 2003 Series F Bonds	\$674,775,737	\$21,730,328	\$512,423,762	\$158,229,629	\$1,367,159,456
Teachers' Pension and Annuity Fund -- Post Retirement Medical	\$424,035		\$524,979	\$100,944	23.8% D-99
Social Security Tax	\$611,143		\$632,100	\$20,957	3.4% D-99
Minimum Pension for Pre-1955 Retirees		\$1	\$1	\$0	0.0% D-99
Post Retirement Medical Other Than TPAF	\$65,384		\$82,012	\$16,628	25.4% D-99
Debt Service on Pension Obligation Bonds	\$83,512		\$79,779	(\$3,733)	(4.5)% D-98
Total Teachers' Pension and Annuity Assistance	\$1,184,075		\$1,318,871	\$134,796	11.4% D-99

The recommended FY 2005 appropriation for Teachers' Pension and Annuity Assistance is \$1,318.9 million, an increase of \$134.8 million (11.4 percent) over the FY 2004 adjusted appropriation of \$1,184.1 million. As can be seen from the breakdown of the total, the post-retirement medical costs for TPAF (increase of 23.8 percent) and other than TPAF (25.3 percent) are the items of greatest increase. The FY 2004 budget noted that of the \$481.9 million due to be paid to the TPAF for normal and accrued liability costs, approximately 20 percent or \$96 million was to be paid directly from excess actuarial assets in the Benefits Enhancement Fund created by P.L.2001, c.133, while the rest of the payment is postponed. The FY 2005 budget does not appropriate a specific amount to fund the pension cost contribution by the State to the Teachers' Pension and Annuity Fund.

Significant Changes/New Programs (\$000) (Cont'd)

<u>Budget Item</u>	<u>Adj. Approp.</u> <u>FY 2004</u>	<u>Recomm.</u> <u>FY 2005</u>	<u>Dollar</u> <u>Change</u>	<u>Percent</u> <u>Change</u>	<u>Budget</u> <u>Page</u>
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Instead, budget language appropriates the amount determined by the State Treasurer for that purpose.

New Jersey After 3	\$0	\$15,000	\$15,000	—	D-99
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New Jersey After 3 is a new initiative of the Governor for which an appropriation of \$15 million is recommended in the FY 2005 budget. Budget language (page D-101 and pages 42 and 43 of this document) indicates that there will be a New Jersey After 3 Advisory Committee and there will be a New Jersey After 3, Inc. Also, the language states that these funds will be available only upon the State Treasurer and a grant recipient entering into a grant agreement. The funds may be used for programs, activities, functions and facilities consistent with the recommendations and proposals of the New Jersey After 3 Advisory Committee.

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Notwithstanding any provision of law to the contrary, the amount appropriated hereinabove for Formula Entitlement Amelioration Aid shall be allocated to any K-8 school district whose 2001-2002 projected enrollment growth exceeded 8 percent and whose 2001-2002 transportation aid cash payment was reduced to zero due to a 2000-2001 deferred reduction resulting from the recalculation of the district's 2000-2001 stabilization growth limitation. The amount provided to each district as Formula Entitlement Amelioration Aid shall equal the total amount of the 2000-2001 deferred reductions and shall be included in the calculation of the spending growth limitation for the 2003-2004 school year pursuant to section 5 of P.L. 1996, c.138 (C.18A:7F-5).

No comparable language.

Explanation

Formula Entitlement Amelioration Aid was a one-time State Aid adjustment for one school district. This language provided additional State Aid in FY 2004 equal to the amount of a reduction in State Aid deferred in the 2000-2001 school year and then imposed in the 2001-2002 school year. Due to the fact that the 2001-2002 school year was the last year the department used the CEIFA formula to calculate school aid, the imposition of the deferred reduction was continued in the 2002-2003 school year and would have continued in the 2003-2004 school year absent this language. Once the funds were restored in school year 2003-2004, similar language is not needed.

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Notwithstanding the provisions of section 14 of P.L.1977, c.193 (C.18A:46-19.8) for the purpose of computing Nonpublic Handicapped Aid for pupils requiring the following services, the per pupil amounts shall be: **[\$1,185.64]** for an initial evaluation or reevaluation for examination and classification; **[\$355.50]** for an annual review for examination and classification; **[\$901.06]** for speech correction; and **[\$785.81]** for supplementary instruction services.

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Notwithstanding the provisions of section 14 of P.L.1977, c.193 (C.18A:46-19.8) for the purpose of computing Nonpublic Handicapped Aid for pupils requiring the following services, the per pupil amounts for the 2004--2005 school year shall be: \$1,225 for an initial evaluation or reevaluation for examination and classification; \$380 for an annual review for examination and classification; \$930 for speech correction; and \$826 for supplementary instruction services.

Language Provisions (Cont'd)

Explanation

The recommended language for FY 2005 increases the per pupil amounts used to compute Nonpublic Handicapped Aid, the first increase since FY 2000. For FY 2005 the per pupil amount for an initial evaluation or reevaluation increases by 3.3 percent; for an annual review for examination and classification, 6.9 percent; for speech correction, 3.2 percent; and for supplementary instruction services, 5.1 percent. Overall, nonpublic aid is recommended to increase in FY 2005 by 3 percent.

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Notwithstanding the provisions of section 9 of P.L.1977, c.192 (C.18A:46A-9), the per pupil amount for compensatory education for the 2003-2004 school year for the purposes of computing Nonpublic Auxiliary Services Aid shall equal **[\$739.60]**.

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Notwithstanding the provisions of section 9 of P.L. 1977, c.192 (C.18A:46A-9), the per pupil amount for compensatory education for the 2004--2005 school year for the purposes of computing Nonpublic Auxiliary Services Aid shall equal \$856.25.

Explanation

The recommended language for FY 2005 increases the per pupil amount for Nonpublic Auxiliary Services Aid by \$116.65 (15.8 percent) over the FY 2004 per pupil amount. This represents the first increase in this per pupil amount since the FY 2000 budget.

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Notwithstanding the provisions of section 9 of P.L.1991, c.226 (C.18A:40-31), the amount appropriated hereinabove for Nonpublic Nursing Services Aid shall be made available to local school districts based upon the number of pupils enrolled in each nonpublic school on the last day prior to October 16, 2002

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Notwithstanding the provisions of section 9 of P.L. 1991, c.226 (C.18A:40--31), the amount appropriated hereinabove for Nonpublic Nursing Services Aid shall be made available to local school districts based upon the number of pupils enrolled in each nonpublic school on the last day prior to October 16, 2003 and the rate per pupil shall be \$74.25.

Explanation

The total recommended FY 2005 Nonpublic Nursing Services Aid is \$14.6 million, an increase of \$682,000 (4.9 percent) over the FY 2004 appropriation of \$13.9 million. The FY 2005 recommended language establishes a per pupil amount for Nonpublic Nursing Services Aid of \$74.25. The number of pupils estimated to be provided nonpublic nursing services in FY 2005 is 197,114, the same as the revised FY 2004 number.

Language Provisions (Cont'd)

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No comparable language

The amount hereinabove for Extraordinary Aid shall be charged first to receipts of the supplemental fee established pursuant to section 2 of P.L.2003, c.113 credited to the Extraordinary Aid Account.

Explanation

This recommended FY 2005 budget provides that the amount appropriated for Extraordinary Special Education Costs Aid will first be funded through the receipts of the supplemental fee a grantor is to pay for each conveyance or transfer of property pursuant to section 2 of P.L. 2003, c.113 (C.46:15-7.1). The FY 2005 estimate of revenue for this supplemental fee is \$275 million, \$70 million of which is estimated to come from a proposed change in the rate structure for the supplemental fee. The recommended FY 2005 appropriation for Extraordinary Special Education Costs Aid is \$52 million, the same as the FY 2004 appropriation. The FY 2004 appropriation covered approximately 99.5 percent of the extraordinary special education costs (costs for individual classified pupils which exceed \$40,000) eligible for payment under section 19 of CEIFA. The FY 2005 recommended appropriation will cover 74.1 percent of those costs.

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No comparable language.

Additional Formula Aid shall be provided to each "non--Abbott" school district in an amount that equals 3% of the total State aid amount payable for the 2003--2004 school year for the following aid categories: Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Early Childhood Aid, Instructional Supplement Aid, Demonstrably Effective Program Aid, Stabilization Aid, Stabilization Aid 2, Stabilization Aid 3, Large Efficient District Aid, Aid for Districts with High Senior Citizen Populations, Regionalization Incentive Aid, Adult and Post--Secondary Education Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, School Choice, Aid for Enrollment Adjustments, and Consolidated Aid.

Language Provisions (Cont'd)

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Notwithstanding any other law or regulation to the contrary, the amount provided to each district as Consolidated Aid and Additional Formula Aid shall be included in the calculation of the spending growth limitation pursuant to section 5 of P.L. 1996, c.138, (C.18A:7F--5).

Explanation

The recommended FY 2005 language establishes the State aid category of Additional Formula Aid to be allocated to non-Abbott school districts. The recommended FY 2005 appropriation for Additional Formula Aid is \$90 million. The aid will equal 3 percent of the amount of State aid that the district received in FY 2004 for the aid categories listed. The recommended budget language also provides that Consolidated Aid, first provided in FY 2004, and Additional Formula Aid are included in the calculation of a school district's budget cap for the 2004-2005 school year.



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No comparable language.

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The amount appropriated hereinabove for High Expectations for Learning Proficiency aid shall be distributed to "non-Abbott" school districts requiring additional resources to improve student achievement. Economic factors, such as the low-income concentration rate, equalized property valuation per pupil and measures of academic performance, including performance on statewide assessments, graduation rates and dropout rates may be among the criteria used to qualify districts for this award. Notwithstanding any provision of P.L. 1968, c.410 (C.52:14B--1 et seq.), the Commissioner of Education shall be authorized to develop the criteria for distributing this aid and shall adopt regulations that shall be deemed adopted and effective immediately upon filing with the Office of Administrative Law.

Explanation

The FY 2005 recommended appropriation for High Expectations for Learning Proficiency is \$5 million. The High Expectations for Learning Proficiency Aid is a new initiative of the Governor for non-Abbott districts. The recommended FY 2005 budget language provides that the aid will be

Language Provisions (Cont'd)

distributed to non-Abbott school districts requiring additional resources to improve student achievement. The language outlines certain factors that may be used as criteria for the distribution of the aid such as: low-income concentration rate; equalized property valuation per pupil; and measures of academic performance, including performance on Statewide assessments, graduation rates and dropout rates. The recommended budget language provides the commissioner with the authority to develop the criteria and to adopt regulations. Under the budget language, these regulations will be considered adopted and effective immediately upon filing with the Office of Administrative Law, notwithstanding the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C.52:14B-1 et seq.). Descriptive language elsewhere in the Governor's recommended FY 2005 budget (page D-75) states "[n]onabbott districts with a large number of children in poverty will receive \$5 million to develop and implement strategies for enhanced teaching and learning. Awards of \$200,000 will be distributed to 25 school districts."

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No comparable language.

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The amount appropriated hereinabove for Positive Achievement and Cost Effectiveness aid shall be distributed to school districts demonstrating high levels of academic achievement while incurring low education expenditures. Notwithstanding any provision of P.L. 1968, c.410 (C.52:14B--1 et seq.), the Commissioner of Education shall be authorized to develop the criteria for distributing this aid and shall adopt regulations that shall be deemed adopted and effective immediately upon filing with the Office of Administrative Law. Upon receiving this award, districts will be expected to share information about their practices with the State and other districts.

Explanation

The Positive Achievement and Cost Effectiveness Aid is a new initiative of the Governor in FY 2005. The FY 2005 recommended appropriation for Positive Achievement and Cost Effectiveness Aid is \$5 million. The language provides that the aid will be distributed to school districts demonstrating high levels of academic achievement with low education expenditures. The language does not provide specific criteria for what constitutes high student achievement and efficiency standards. Rather, the commissioner is given the authority to develop criteria for distributing this aid and promulgate regulations which are to be deemed adopted and effective immediately upon filing with the Office of Administrative Law, notwithstanding the provisions of the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.). Descriptive language (page D-75) indicates that this aid is to be used for "districts that have delivered high student achievement while meeting defined efficiency standards, and are willing to serve as models and guides for other school districts."

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The Commissioner of Education shall not authorize the disbursement of funds to any "Abbott district" until the commissioner is satisfied that all educational expenditures in the district will be spent effectively and efficiently in order to enable those students to achieve the core curriculum content standards. The commissioner shall be authorized to take any necessary action to fulfill this responsibility, including but not limited to, the adoption of regulations related to the receipt and/or expenditure of State aid by the "Abbott districts" and the programs, services and positions supported thereby. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.), any such regulations adopted by the commissioner shall be deemed adopted immediately upon filing with the Office of Administrative Law. [The commissioner may deduct from the State aid of any "Abbott district" the expenses required to manage, control and supervise the implementation of that State aid.] In order to expeditiously fulfill the responsibilities of the commissioner under Abbott v. Burke, determinations by the commissioner hereunder shall be considered to be final agency action and appeal of that action shall be directly to the Appellate Division of the Superior Court. [The unexpended balance as of June 30, 2003, in the Abbott v. Burke Parity Remedy account is appropriated for the same purpose and with the same conditions as are applied to the fiscal year 2004 appropriation for this purpose.]

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The Commissioner of Education shall not authorize the disbursement of funds to any "Abbott district" until the commissioner is satisfied that all educational expenditures in the district will be spent effectively and efficiently in order to enable those students to achieve the core curriculum content standards. The commissioner shall be authorized to take any necessary action to fulfill this responsibility, including but not limited to, the adoption of regulations related to the receipt and/or expenditure of State aid by the "Abbott districts" and the programs, services and positions supported thereby. Notwithstanding any provision of P.L. 1968, c.410 (C.52:14B--1 et seq.), any such regulations adopted by the commissioner shall be deemed adopted immediately upon filing with the Office of Administrative Law. In order to expeditiously fulfill the responsibilities of the commissioner under Abbott v. Burke, determinations by the commissioner hereunder shall be considered to be final agency action and appeal of that action shall be directly to the Appellate Division of the Superior Court.

Explanation

The FY 2004 and FY 2005 budget language establish the authority of the commissioner to disburse funds to Abbott districts. The language deleted from the FY 2004 language for FY 2005 has been moved to a separate section of budget language in the FY 2005 recommended budget (see next item in this analysis).



Language Provisions (Cont'd)

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No comparable language

Of the amount appropriated hereinabove for Education Opportunity Aid, an amount not to exceed \$14,686,000, shall be transferred to the Department of Education's operating budget, subject to the approval of the Director of the Division of Budget and Accounting, for the purpose of managing and supervising implementation of Abbott remedies. In addition, the unexpended balance as of June 30, 2004, in the Abbott v. Burke Parity Remedy account is appropriated to the Education Opportunity Aid account and shall also be transferred to the Department of Education's operating budget, for the same purpose, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

This recommended FY 2005 budget language encompasses the two provisions deleted from the previous section of FY 2005 budget language. In FY 2004, the commissioner was authorized to deduct from the State aid of any Abbott district the expenses of the department associated with the supervision of Abbott State aid. Regulations of the State Board of Education provide the authority for the department to take up to 2 percent of the amount distributed to each Abbott district as Abbott v. Burke Parity Remedy Aid for the purpose of managing and supervising implementation of Abbott remedies. Instead, the recommended budget language transfers \$14.7 million of FY 2005 Education Opportunity Aid for this purpose. This budget language also appropriates the unexpended balance from the Abbott v. Burke Parity Remedy Aid account to the Education Opportunity Aid account and from there to the Department of Education's operating budget for use in managing and supervising implementation of of Abbott remedies. The unexpended balance in the Abbott v. Burke Parity Remedy Aid account in each of the last three budget years has been approximately \$3 million. Therefore under this language the amount provided the department for managing and supervising implementation of Abbott remedies may be as much as \$17.7 million.

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Notwithstanding any other law to the contrary, [State aid for] each "Abbott district" whose per pupil regular education expenditure for [2003-2004] under P.L.1996, c.138 is below the estimated per pupil average regular education expenditure of districts in district factor groups "I" and "J" for [2003-2004] shall be increased. The amount of increase shall be appropriated as the sum of Abbott v. Burke Parity Remedy aid and an amount of Additional Abbott v. Burke aid such that the increase is fully funded, and] shall be determined as follows: funds shall be allocated in the amount of the difference between each "Abbott district's" per pupil regular education expenditure for [2003--2004] and the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for [2002-2003] indexed by the actual percentage increase in the per pupil average regular education expenditure of districts in district factor groups "I" and "J" over the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for [2001-2002]. In calculating the per pupil regular education expenditure of each "Abbott district" for [2003-2004], regular education expenditure shall equal the sum of the general fund tax levy for [2002-2003], Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P.L.1996, c.138 (C.18A:7F-10); enrollments shall initially be those resident enrollments for preschool through grade 12 contained on the Application for State School Aid for [2003-2004] indexed by the district's enrollment growth rate used to determine the estimated enrollments of October [2003]; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full-day kindergarten enrollments. State aid shall

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The amount appropriated hereinabove for Education Opportunity Aid will provide resources to equalize spending between "I" and "J" districts and "Abbott districts," and provide aid to fund additional needs of "Abbott districts". Notwithstanding any other law to the contrary, Education Opportunity Aid will be provided to each "Abbott district" whose per pupil regular education expenditure for 2004--2005 under P. L. 1996, c.138 is below the estimated per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2004--2005. The amount of aid shall be determined as follows: funds shall be allocated in the amount of the difference between each "Abbott district's" per pupil regular education expenditure for 2004--2005 and the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2003--2004 indexed by the actual percentage increase in the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2003--2004 over the per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2002--2003. In calculating the per pupil regular education expenditure of each "Abbott district" for 2004--2005, regular education expenditure shall equal the sum of the general fund tax levy for 2003--2004, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P. L. 1996, c.138 (C.18A: 7F--10); enrollments shall initially be those resident enrollments for preschool through grade 12 contained on the Application for State School Aid for 2004--2005 indexed by the district's enrollment growth rate used to determine the estimated enrollments of October 2004; enrollments shall be calculated at their full--time equivalent and reduced by

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be adjusted upon receipt of resident enrollment for the "Abbott districts" as of October 15, [2003] as reflected on the Application for State School Aid for [2004-2005]. State aid shall also be adjusted based on the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for [2003-2004]. In calculating the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for [2003-2004], regular education expenditure shall equal the sum of the general fund tax levy for [2003-2004], Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P.L.1996, c.138 (C.18A:7F-10); enrollments shall be the resident enrollment for preschool through grade 12 as of October 15, [2003] as reflected on the Application for State School Aid for [2004-2005]; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full-day kindergarten enrollments in districts receiving Early Childhood Program Aid.

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preschool and one half of full-day kindergarten enrollments. State aid shall be adjusted upon receipt of resident enrollment for the "Abbott districts" as of October 15, 2004 as reflected on the Application for State School Aid for 2005--2006. State aid shall also be adjusted based on the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2004--2005. In calculating the actual per pupil average regular education expenditure of districts in district factor groups "I" and "J" for 2004--2005, regular education expenditure shall equal the sum of the general fund tax levy for 2004--2005, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid and all forms of stabilization aid pursuant to section 10 of P. L. 1996, c.138 (C.18A: 7F--10); enrollments shall be the resident enrollment for preschool through grade 12 as of October 15, 2004 as reflected on the Application for State School Aid for 2005--2006; enrollments shall be calculated at their full-time equivalent and reduced by preschool and one half of full--day kindergarten enrollments in districts receiving Early Childhood Program Aid.

Explanation

The FY 2005 recommended budget language on Abbott district parity reflects the decision of the Department of Education to combine into one line item, Education Opportunity Aid, amounts displayed as two line items in previous budgets, Abbott v. Burke Parity Remedy Aid and Additional Abbott v. Burke State Aid. Abbott v. Burke Parity Remedy Aid is court ordered to equalize regular education spending between the Abbott districts and the "I" and "J" districts. Additional Abbott v. Burke State Aid has funded programs and services required in individual Abbott districts based on the particularized needs of those districts as demonstrated to and approved by the commissioner. This language establishes the formula for the calculation of parity aid for the 2004-2005 school year. The FY 2005 appropriation of Education Opportunity Aid is \$1.103 billion. The department has calculated the amount of State aid required to equalize Abbott regular education spending with the "I" and "J" districts to be \$907 million in the 2004-2005 school year. This would leave only \$196 million to fund those programs and services formerly funded through Additional Abbott v. Burke State Aid which in prior years has been at least \$300 million.

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The amount appropriated hereinabove for [Additional Abbott v. Burke State Aid will provide additional resources to "Abbott districts" to meet the State's obligation to fully fund parity and approved "Abbott" preschool expansion. The remaining funds appropriated] will be used for the award of [discretionary] funding to "Abbott districts" [to maintain the] programs, services and positions [from the prior year] that the [commissioner] determines are essential to the provision of a thorough and efficient education in those districts. Before the [Commissioner of Education] establishes the [discretionary] award, he shall determine whether some or all of the additional funds sought can be achieved by reallocating non-instructional expenditures or achieving economies and efficiencies in the delivery of services and programs. If the commissioner determines that the district does have available such reallocations or achievement of economies and efficiencies, the commissioner shall direct that the district undertake those steps and use those funds to support, in part or in full, the requested programs and services. The [discretionary] award shall be adjusted based on the annual audit filed pursuant to N.J.S.18A:23-1, and other financial statements and information, of each "Abbott district" that has requested [Additional Abbott v. Burke State Aid]. Any district that fails to submit the required documentation or fails to submit its annual audit by November 15, 2003 may have its State aid withheld upon the commissioner's request to the Director of the Division of Budget and Accounting. In making any adjustment to the [discretionary] award, the commissioner shall consider all of the district's available resources and any appropriate reallocations, including, but not limited to, a reallocation of the district's undesignated general fund balances in excess of two percent.

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The amount appropriated hereinabove for Education Opportunity Aid will also be used for the award of supplemental funding to "Abbott districts" for programs, services and positions that the Commissioner of Education determines are essential to the provision of a thorough and efficient education in those districts. Before the commissioner establishes the amount of the supplemental award, he shall determine whether some or all of the additional funds sought can be achieved by reallocating non--instructional expenditures or by achieving economies and efficiencies in the delivery of services and programs. If the commissioner determines that the district does have available such reallocations or achievement of economies and efficiencies, the commissioner shall direct that the district undertake those steps and use those funds to support, in part or in full, the requested programs and services. The supplemental award shall be adjusted based on the annual audit filed pursuant to N.J.S. 18A:23--1, and other financial statements and information, of each "Abbott district" that has requested these discretionary funds. Any district that fails to submit the required documentation or fails to submit its annual audit by November 15, 2004 may have its State aid withheld upon the commissioner's request to the Director of the Division of Budget and Accounting. In making any adjustment to the supplemental award, the commissioner shall consider all of the district's available resources and any appropriate reallocations, including, but not limited to, a reallocation of the district's undesignated general fund balances in excess of two percent.

Language Provisions (Cont'd)

Explanation

As in the previous FY 2005 recommended language on Abbott parity, this language on the funding of Abbott district supplemental programs and services reflects the decision of the Department of Education to combine into one line item, Education Opportunity Aid, the amounts displayed as two line items in prior year budgets, Abbott v. Burke Parity Remedy Aid and Additional Abbott v. Burke State Aid. The recommended language continues the requirement included in the FY 2004 language that the commissioner determine that supplemental funds are awarded to an Abbott district for programs, services and positions essential to the provision of a thorough and efficient education. The FY 2005 language eliminates the requirement that these be programs, services and positions from the prior year. This change reflects the fact that for the 2003-2004 school year, the Supreme Court had approved that supplemental funding be provided to the Abbott districts in such amounts as was necessary to maintain the programs, services and positions approved as part of the district's 2002-2003 budget plus actual documented increases in non-discretionary spending and reduced for such inefficiencies that the commissioner could identify (maintenance budget). The court has not limited Abbott districts to maintenance budgets in the 2004-2005 school year and therefore reference to prior year programs, services and position has been deleted. As of April 12, 2004, the Additional Abbott v. Burke State Aid account indicates that of the original amount appropriated in FY 2004 (\$401.8 million), \$193.1 million has been transferred out of the account (to the Abbott v. Burke Parity Remedy Aid account) and \$28.25 million has been transferred into the account, for a total of \$236.9 million. Of this amount, \$236.8 million has been expended. On April 19, 2004 the Administration proposed a transfer of \$110.8 million to this account in lieu a projected supplemental appropriation of \$89 million.

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Consolidated Aid shall be distributed to each district in district factor groups "I" or "J" in an amount equal to the total of the amount allocated to the district in 2002-2003 as Distance Learning Network Aid, aid for approved adult high schools and post-graduate programs, and academic achievement rewards and to all other districts at the greater of the total of the amount allocated to the district in 2002- 2003 as Distance Learning Network Aid, aid for approved adult high schools and post-graduate programs, and academic achievement rewards or the amount calculated at a rate of \$109.72 per pupil based on the resident enrollment contained on the Application for State School Aid for 2003-2004 indexed by the district's enrollment growth rate

No comparable language.

Language Provisions (Cont'd)

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used to determine the estimated enrollments of October 2003. Notwithstanding any other law or regulation to the contrary, the amount provided to each district as Consolidated Aid shall be included in the calculation of the spending growth limitation pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5). The amount distributed as Consolidated Aid shall be appropriated as the sum of the amount hereinabove for Consolidated Aid and \$18,399,000 of the amount hereinabove for Adult and Postsecondary Education Grants.

Explanation

The FY 2004 Appropriations Act established a new aid category of Consolidated Aid. This aid was funded through a combination of funds used in FY 2003 to fund three aid programs, Distance Learning Network Aid, Rewards and Recognition and the non-county vocational school component of the Adult and Postsecondary Education Grants (\$18.4 million). In FY 2005, Consolidated Aid is being distributed to districts under budget language (see page D-105) that provides that each district will receive no less of a total State aid amount payable for the 2004-2005 school year than the sum of the district's total State aid amount payable in the 2003-2004 school year. Consolidated Aid is one of the items listed as making up the total State aid amount payable in the 2003-2004 school year. In the FY 2005 budget, however, the amount recommended for the Consolidated Aid line item is not sufficient to make the same payment for Consolidated Aid as is being made in the 2003-2004 school year; an added \$18.4 million from the Adult and Postsecondary Education Grants line item is required. The last sentence in the FY 2004 language provided for the distribution of that amount from the Adult and Postsecondary Education Grants line item as Consolidated Aid.



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No comparable language.

p. D-89

From the amount appropriated hereinabove for Early Launch to Learning Initiative, such funds as are necessary for the support of two staff persons to administer the program shall be transferred to the Office of Early Childhood Education in direct state services, subject to the approval of the Director of the Division of Budget and Accounting.

Language Provisions (Cont'd)

Explanation

The Early Launch to Learning Initiative is a new line item in the FY 2005 recommended Governor's budget. The FY 2005 recommended appropriation for the Early Launch to Learning Initiative is \$15 million. No budget language is proposed to provide details on the program, the criteria to be used to select districts and the amount of aid a district will receive if awarded a grant. According to information on page D-75 of the FY 2005 recommended budget, the appropriation is to expand high quality preschool access for about 20,000 low-income four year olds in non-Abbott districts. The anticipated appropriation of \$15 million would fund the participation of approximately 4,000 low-income children. Districts would have to compete for these funds. Forms for the application are available on the web site, http://www.nj.gov/njded/elli/op_plan.doc and are due by May 4, 2004. Districts are told that funds are subject to the approval of the FY 2005 budget. The funds can be used only for a four-year old preschool program, including the expansion of existing half day four-year old programs funded under Early Childhood Program Aid. However, funds from the Early Launch to Learning Initiative cannot be used for costs of existing programs. Under this initiative, districts may charge tuition to parents of children who are not considered low-income. However, under a current Commissioner of Education interpretation of N.J.S.18A:44-4, a school district is not permitted to charge tuition for a district offered preschool. The fact that the commissioner will not have authority to promulgate regulations for the distribution of this aid until the FY 2005 Appropriations Act is adopted suggests that districts receiving this aid will not be able to include it in their budgets voted on in April, 2004.

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No comparable language.

2005 Budget Recommendations

p. D-89

The amount appropriated hereinabove for Above Average Enrollment Growth aid shall be distributed to school districts experiencing enrollment growth substantially greater than the state average enrollment growth rate according to a formula to be developed and administered by the Commissioner of Education. Notwithstanding any provision of P.L. 1968, c.410 (C.52:14B--1 et seq.), the commissioner shall be authorized to develop the criteria for distributing this aid and shall adopt regulations that shall be deemed adopted and effective immediately upon filing with the Office of Administrative Law.

Explanation

Above Average Enrollment Growth Aid is a new line item in the FY 2005 Governor's recommended budget. The recommended appropriation for Above Average Enrollment Growth Aid is \$5 million and is for school districts that have experienced enrollment growth which is "substantially greater than the State average enrollment growth." The Statewide enrollment growth between FY 2002, when district enrollment was last used in the calculation of State aid, and FY 2005, is 5.1 percent.

Language Provisions (Cont'd)

The budget language authorizes the commissioner to develop and administer a formula for determining which districts are eligible for this aid and to develop the criteria for distribution of the aid. This is to be done under regulations adopted by the commissioner which are to become effective immediately upon filing with the Office of Administrative Law, notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). Again, the fact that the commissioner will not have authority to promulgate regulations for the distribution of this aid until the FY 2005 Appropriations Act is adopted suggests that districts receiving this aid will not be able to include it in their budgets voted on in April, 2004.



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p. D-89

Notwithstanding any other law to the contrary, Special Education Aid for pupils classified as **[eligible for day training]** shall be paid directly to the resident school district; provided however, that for pupils under contract for service in a regional day school operated by or under contract with the Department of Human Services, tuition shall be withheld and paid to the Department of Human Services.

Notwithstanding any other law to the contrary, Special Education Aid for pupils classified as severe cognitive impairment shall be paid directly to the resident school district; provided however, that for pupils under contract for service in a regional day school operated by or under contract with the Department of Human Services, tuition shall be withheld and paid to the Department of Human Services.

Explanation

The change in the recommended FY 2005 language from "eligible for day training" to "severe cognitive impairment" reflects the current terminology for this educational disability.



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p. B-43

No comparable language.

The amount appropriated hereinabove for Extraordinary Special Education Costs Aid in excess of the amount appropriated for the same purpose in fiscal year 2003 shall be used to achieve property tax relief in the 2003 or 2004 local tax year.

Explanation

The FY 2004 language was added by the Legislature when it increased the appropriation for Extraordinary Special Education State Aid for the FY 2004 budget. The amount appropriated in FY 2004 in excess of the amount appropriated in FY 2003 was \$37 million. Since the funds were added after the date on which school district budgets are approved, the additional State Aid was specifically directed toward property tax relief.



Language Provisions (Cont'd)

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p. B-48

From the amount appropriated hereinabove for the Governor's Literacy Initiative, there is allocated \$250,000 for a grant for the Learning Through Listening program at the New Jersey Unit of the Recording for the Blind and Dyslexic.

No comparable language.

Explanation

The language for fiscal year 2004 allocating \$250,000 to the Learning Through Listening Program at the New Jersey Unit of the Recording for the Blind and Dyslexic from the amount appropriated for the Governor's Literacy Initiative was added by the Legislature. The Governor's FY 2005 budget does not recommend similar language.

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p. D-100

No comparable language.

From the amount appropriated hereinabove for the Governor's Literacy Initiative, such additional sums as are necessary to fund grant agreements with eligible school districts for the continuation of reading coach services may be transferred to the Governor's Literacy Initiative account in grants-in-aid, subject to the approval of the Director of the Division of Budget and Accounting.

Explanation

The FY 2005 recommended language authorizes the transfer of funds to the Governor's Literacy Initiative grants-in-aid account. Some of the reading coaches who worked outside of their own district during the initial year of the Governor's Literacy Initiative Program have agreed to continue as a reading coach in their own district and the department has agreed to fund these positions. Funding for these positions which goes to local school districts cannot be from Direct State Services but must be appropriated from Grants-In-Aid.

Language Provisions (Cont'd)

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No comparable language.

p. D-100

Receipts from the State Board of Examiners' fees in excess of those anticipated, not to exceed \$700,000, and the unexpended program balances of such receipts as of June 30, 2004, are appropriated for the operation of the Professional Development and Licensure programs.

Explanation

The State Board of Education adopted new regulations for the licensing of teachers and other professionals employed by school boards. Included in these regulations are increased fee amounts for licensure. The recommended FY 2005 budget language provides that receipts that are in excess of those anticipated, not in excess of \$700,000, are appropriated for the operation of the Professional Development and Licensure Program.



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p. B-49

In addition to the amount appropriated hereinabove, \$8,764,000 in fiscal year 2004 debt service payments attributable to the School Construction program shall be paid by the Economic Development Authority from resources available from unexpended balances.

No comparable language.

Explanation

This language in the FY 2004 Appropriations Act permitted the use of resources from unexpended balances from the Economic Development Authority to be used for debt service payments attributable to the School Construction program.



Language Provisions (Cont'd)

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p. B-49

Notwithstanding any provision of law to the contrary, in addition to the amount appropriated hereinabove for the Teachers' Pension and Annuity Fund - Post Retirement Medical, [\$96,375,000 from amounts] in the Benefit Enhancement Fund [established in N.J.S.18A:66-16, shall be applied to pay the normal cost contribution by the State for the Teachers' Pension and Annuity Fund].

2005 Budget Recommendations

p. D-101

Notwithstanding any provision of law to the contrary, in addition to the amount hereinabove appropriated for the Teachers' Pension and Annuity Fund -- Post Retirement Medical, there is hereby appropriated an amount as determined by the State Treasurer to fund the pension cost contribution by the State to the Teachers' Pension and Annuity Fund, payment for which shall be credited against amounts on deposit in the Benefit Enhancement Fund created pursuant to P.L. 2001, c. 133, section 1.

Explanation

The FY 2005 budget does not appropriate a specific amount to fund the pension cost contribution by the State to the Teachers' Pension and Annuity Fund. Instead, budget language appropriates an amount as determined by the State Treasurer for that purpose and provides that this amount will be credited against amounts on deposit in the Benefit Enhancement Fund. No information is provided on the amount on deposit in the Benefit Enhancement Fund. This is in contrast to the FY 2004 budget which noted that of the \$481.9 million due to be paid by the State to the TPAF for normal and accrued liability costs, approximately 20 percent or \$96 million was to be paid directly from excess actuarial assets in the Benefit Enhancement Fund created by P.L. 2001, c.133, while the rest of the payment was postponed.

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No comparable language.

2005 Budget Recommendations

p. D-100

The sums provided hereinabove for New Jersey After 3, Inc. shall be conditioned upon the State Treasurer and the grant recipient entering into a grant agreement; shall be available for grants and reasonable administrative costs of New Jersey After 3, Inc. and shall be available for funding programs, activities, functions and facilities consistent with recommendations and proposals of the New Jersey After 3 Advisory Committee.

Language Provisions (Cont'd)

Explanation

New Jersey After 3 is a new initiative of the Governor for which an appropriation of \$15 million is recommended in the FY 2005 budget. The recommended language indicates that there will be a New Jersey After 3 Advisory Committee and a New Jersey After 3, Inc. Also, the language states that these funds will be available only upon the State Treasurer and a grant recipient entering into a grant agreement. The funds may be used for programs, activities, functions and facilities consistent with the recommendations and proposals of the New Jersey After 3 Advisory Committee. No details are provided concerning the New Jersey After 3 Advisory Committee, New Jersey After 3, Inc., who is eligible for the grants and the criteria upon which grants will be awarded.



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Notwithstanding the provisions of P.L.1999, c.413 (C.18A:36B-1 et seq.), for purposes of the calculation of [2003-2004] choice aid, the projected enrollment of choice students shall be the sum of the actual choice students reported in the October 15, [2002] Application for State School Aid inflated by the choice district's growth rate and the new choice students [as reported on the Notice of Intent to Enroll forms] and the estimated second cycle enrollment for the [2003-2004] School Year.

Notwithstanding the provisions of P.L. 1999, c.413 (C.18A:36B--1 et seq.), for purposes of the calculation of 2004--2005 choice aid, the projected enrollment of choice students shall be the sum of the actual choice students reported in the October 15, 2003 Application for State School Aid inflated by the choice district's growth rate and the new choice students accepted during the first application cycle and the estimated second cycle acceptances for the 2004--2005 school year.

Explanation

The recommended FY 2005 budget language changes the method of projecting the number of choice students for the upcoming school year. School choice aid is based on projected enrollment of these students. Instead of including students reported on the Notice of Intent to Enroll form, the projection will use those students accepted during the first application cycle.



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p. D-102

Notwithstanding the provisions of section 2 of P.L.1999, c.385, amounts appropriated hereinabove for Charter School aid shall be used to distribute aid to any charter school which operates a full-day kindergarten program and which is located in an "Abbott district" in

Notwithstanding the provisions of section 2 of P.L.1999, c.385, amounts appropriated hereinabove for Charter School aid shall be used to distribute aid to any charter school which operates a full--day kindergarten program and which is located in an "Abbott

Language Provisions (Cont'd)

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accordance with the formula contained in section 1 of P.L.1999, c.385, except that "KPP" which is defined therein as the amount paid by the district to the charter school for each kindergarten pupil pursuant to section 12 of P.L.1995, c.426 (C.18A:36A-12), shall be the sum of the amount paid by the district and the State to the charter school for each kindergarten pupil; and to distribute aid to charter schools pursuant to the provisions of subsection d. of section 12 of P.L.1995, c.426 (C.18A:36A-12).

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district" in accordance with the formula contained in section 1 of P.L. 1999, c. 385, except that "KPP" which is defined therein as the amount paid by the district to the charter school for each kindergarten pupil pursuant to section 12 of P.L. 1995, c.426 (C.18A:36A--12), shall be the sum of the amount paid by the district and the State to the charter school for each kindergarten pupil; to distribute \$40 for each student enrolled in the charter school; and to distribute aid to charter schools pursuant to the provisions of subsection d. of section 12 of P.L. 1995, c.426 (C.18A:36A--12).

Explanation

The FY 2005 budget language provides for the distribution of \$40 for each student enrolled in a charter school. In FY 2004 charter schools were provided Consolidated Aid as part of the categorical aid which follows charter school students from their district of residence to the charter school. The appropriation for Consolidated Aid was derived from Distance Learning Network Aid, Rewards and Recognition Aid, part of the Adult and Postsecondary Education Grant Aid and an additional appropriation of \$50 million. The provision of Consolidated Aid to charter schools was challenged since it is not categorical aid under CEIFA. For FY 2005, charter schools will receive \$40 per student as an approximation of the categorical aid amount for Distance Learning Network Aid which was one of the categorical aids that followed students from their district of residence to the charter school.

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No comparable language.

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p. D-102

Notwithstanding the provisions of section 2 of P.L.1999, c.385, in addition to the amounts hereinabove for Charter School aid, there are appropriated such sums as are necessary to distribute an amount equal to the difference between the per pupil T&E amount for a given grade level and the program budget of an "Abbott district" when that "Abbott district's" program budget is below the T&E amount, subject to the approval of the Director of the Division of Budget and Accounting.

Language Provisions (Cont'd)

Explanation

Recommended FY 2005 budget language provides for an additional appropriation for Charter School Aid in an amount which is needed to distribute aid equal to the difference between the per pupil T & E amount for a given grade level and the program budget per pupil amount of an Abbott district when that Abbott district's program budget per pupil amount is below the T & E amount. Under current law, a charter school receives the lower of either 90 percent of the program budget per pupil amount or 90 percent of the maximum T & E amount. A district's program budget is equal to the sum of core curriculum standards aid, supplemental core curriculum standards aid, stabilization aid, including supplemental stabilization aid and supplemental school tax reduction aid, designated general fund balance, miscellaneous local general fund revenue, and the district's general fund tax levy. With respect to the items included in the calculation, none of the aid items has increased since FY 2002 (parity aid which has increased is not part of this calculation). At the same time, the department has used the increased T & E amount as recommended in the Biennial Report for the purpose of the calculation of charter school payments. Since FY 2002, the last year the T & E amount was used to calculate core curriculum standards aid, the recommended T & E amount has increased by at least 7 percent. The fact that Abbott districts have not been required to increase their general fund tax levy and the department has required Abbott districts to have a surplus not greater than 2 percent has meant that Abbott district program budgets have remained relatively flat. As a result, the payments made to charter schools in the Abbott districts have also remained flat. The department estimates that an additional \$6 million will be needed to fund the provisions of this budget language.

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p. B-50

The unexpended balance as of June 30, 2003 in the Charter School Aid account is appropriated. No comparable language.

Explanation

The FY 2004 language appropriated the unexpended balances as of June 30, 2003 in the Charter School Aid account. These funds were then reappropriated to the Charter School Aid account in FY 2004 in addition to a new FY 2004 appropriation of \$5.5 million for a total of \$8.7 million. This total has been reduced by \$2.5 million (transfer and reserve) and all but \$358,076 of the balance of \$6.2 million has been expended.

Language Provisions (Cont'd)

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No comparable language.

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p. D-102

Notwithstanding the provisions of section 2 of P.L.1981, c.57 (C.18A:39--1a) and any other law or provision to the contrary, the maximum amount of nonpublic school transportation costs per pupil provided for in N.J.S. 18A:39--1 shall equal \$751.

Explanation

Under the provisions of section 2 of P.L.1981, c.57 (C.18A:39-1a), the State is required to increase the amount of nonpublic school transportation costs per pupil each year in direct proportion to the increase in the State transportation aid per pupil in the year prior to the prebudget year compared to the amount for the prebudget year (compare the amount for FY 2003 to FY 2004) or by the CPI, whichever is greater. The maximum nonpublic school transportation costs per pupil is the amount within which a school district is obligated to provide transportation services to an eligible nonpublic school pupil. If transportation cannot be provided within that amount, then the parent or guardian of the pupil would receive an aid in-lieu-of transportation payment in that amount. This budget language would permit the State to keep the amount of nonpublic school transportation costs per pupil at the same level as in FY 2004, \$751, instead of increasing it by the amount of increase in the CPI (the State transportation aid per pupil for school districts has not increased since the FY 2002 budget).

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No comparable language.

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p. D-101

Notwithstanding the provisions of N.J.S. 39:3B-1.2 and N.J.S. 39:3B-1.3 or any other law or regulation to the contrary, the amount appropriated hereinabove for School Bus Crossing Arms will be provided to the owners of newly manufactured vehicles equipped with a crossing control arm with a manufacture date of 2004 or later, as noted on the vehicle registration, upon submission to the Department of Education of a complete application for reimbursement within one year of the vehicle purchase date.

Language Provisions (Cont'd)

Explanation

P.L.1996, c.96 (C.39:3B-1.1 et seq.) which became effective on August 6 of 1996 requires that every school bus in operation on that date and every new or used school bus purchased after that date be equipped with a crossing control arm. The law provides that the agency or public or nonpublic school which owns its own school buses or a school bus contractor is eligible for reimbursement for the cost of the crossing control arm in the amount of \$300 per school bus which is retrofitted and \$200 for each newly-manufactured bus. This recommended FY 2005 budget language provides that as of the beginning of the fiscal year, reimbursements will only be made in the case of school buses with a manufacture date of 2004 or later, and that the application for reimbursement must be submitted to the Department of Education within one year of the vehicle purchase date. Since the law was originally enacted in 1996, it is the feeling of the department that buses in operation on August 6, 1996 and those newly-manufactured prior to 2004 have had sufficient time to seek reimbursement.

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p. B-52

Notwithstanding any other law or regulation to the contrary, each district shall receive no less of a total State aid amount payable for the 2003-2004 school year than the sum of the district's total State aid amount payable for the 2002-2003 school year for the following aid categories: Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Early Childhood Program Aid, Instructional Supplement Aid, Demonstrably Effective Program Aid, [Rewards and Recognition], Stabilization Aid, Stabilization Aid II, Stabilization Aid III, Large Efficient District Aid, Aid for Districts with High Senior Citizen Populations, Regionalization Incentive Aid, [Distance Learning Network Aid], Adult and Postsecondary Education Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, School Choice and Aid for Enrollment Adjustments, taking into consideration the June 2003 payment made in July 2003.

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p. D-105

Notwithstanding any other law or regulation to the contrary, each district shall receive no less of a total State aid amount payable for the 2004--2005 school year than the sum of the district's total State aid amount payable for the 2003--2004 school year for the following aid categories: Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Early Childhood Program Aid, Instructional Supplement Aid, Demonstrably Effective Program Aid, Stabilization Aid, Stabilization Aid 2, Stabilization Aid 3, Large Efficient District Aid, Aid for Districts with High Senior Citizen Populations, Regionalization Incentive Aid, Adult and Postsecondary Education Grants, Bilingual Education Aid, Special Education Aid, County Vocational Program Aid, Transportation Aid, School Choice, Consolidated Aid and Aid for Enrollment Adjustments, taking into consideration the June 2004 payment made in July 2004.

Explanation

The FY 2005 recommended budget language assures that the amount of cash State aid payable for the 2004-2005 school year to each district will be no less than the total cash State aid payable to the district in the 2003-2004 school year. The changes in the language reflect the payment of Consolidated Aid in FY 2004 as opposed to Rewards and Recognition Aid and Distance Learning Network Aid.

Language Provisions (Cont'd)

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p. B-53

Notwithstanding the provisions of section 8 of P.L.1996, c.138 (C.18A:7F-8), five percent of the total payments to local districts for [Abbott v. Burke Parity Remedy Aid.] Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Special Education, Transportation, Early Childhood programs, Demonstrably Effective programs, Instructional Supplement, Bilingual, County Vocational Educational program, other aid pursuant to P.L.1996, c.138, and Consolidated Aid, as provided by the Department of Education to the local school districts for the [2003-2004] school year in the [2003-04] General Fund and Special Revenue Fund State Aid Payments Schedule, shall be paid on the 8th and 22nd of each month from September through June, with the last school aid payment being subject to the approval of the State Treasurer.

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p. D-106

Notwithstanding the provisions of section 8 of P.L.1996, c.138 (C.18A:7F--8), five percent of the total payments to local districts for Education Opportunity Aid, Core Curriculum Standards Aid, Supplemental Core Curriculum Standards Aid, Special Education, Transportation, Early Childhood programs, Demonstrably Effective programs, Instructional Supplement, Bilingual, County Vocational Educational program, other aid pursuant to P.L.1996, c.138, School Choice, Consolidated Aid and Additional Formula Aid, as provided by the Department of Education to the local school districts for the 2004--2005 school year in the 2004--05 General Fund and Special Revenue Fund State Aid Payments Schedule, shall be paid on the 8th and 22nd of each month from September through June, with the last school aid payment being subject to the approval of the State Treasurer.

Explanation

The recommended FY 2005 budget language continues the change in dates for monthly State aid payments to school districts first adopted in the FY 2003 Appropriations Act. This pushed payments from the 1st and 15th to the 8th and 22nd of each month, September through June. The language also provides, as does the FY 2004 Appropriations Act, that the last school aid payment in FY 2005 is subject to the approval of the State Treasurer. Based on FY 2005 appropriation levels, this is an indication that the June 22, 2004 school aid payment will be pushed back to July, 2004, which falls into State fiscal year 2005.

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p. B-53

From the amounts hereinabove, such sums as are required to satisfy delayed June [2003] school aid payments are appropriated and the State Treasurer is hereby authorized to make such payment in July [2003].

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p. D-106

From the amounts hereinabove, such sums as are required to satisfy delayed June 2004 school aid payments are appropriated and the State Treasurer is hereby authorized to make such payment in July 2004.

Language Provisions (Cont'd)

Explanation

This language would authorize the use of FY 2005 school aid appropriations to make the final June FY 2004 school aid payment. Recommended school district State aid for FY 2005 is to increase by \$190 million. Since one of the 20 State payments to be made in FY 2005, the delayed June FY 2004 payment, is at the lower level of FY 2004 State aid payments, 1/20 of the \$190 million increase in State aid will not actually be paid to the districts in FY 2004. The amount appropriated as Growth Savings -- Payment Changes is \$5 million. 1/20 of \$190 million is \$9.5 million.



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No comparable language.

p. D-106

Notwithstanding any other law to the contrary, any school district receiving a final judgment or order against the State to assume the fiscal responsibility for the residential placement of a special education student shall have the amount of the judgment or order deducted from the State aid to be allocated to that district.

Explanation

The FY 2005 recommended language provides that when a school district receives a final judgment against the State for the State to assume the fiscal responsibility for the residential placement of a special education student, the State may deduct the amount of the judgment from the district's State aid. According to the department, when such a judgment occurs the district may actually have the resources to offset the cost or can apply for extraordinary aid and has not done so. The language will give the State the ability to direct the district to exhaust those other remedies rather than pick up 100% of the cost and make sure that the State is the last resort for payment after the exhaustion of all possible available alternatives.



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No comparable language.

p. D-106

Notwithstanding any other law to the contrary, the Commissioner of Education may reduce State aid to a school district in which the "2004-05 Proposed Budget" per pupil "Total Administrative Costs" as shown in the "Advertised Per Pupil Cost Calculations" report

Language Provisions (Cont'd)

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of the district's budget for the 2004--2005 school year exceeds the 2002--03 actual average per pupil administrative expenditures plus one standard deviation inflated by 6.09 percent for districts in its region. The State aid reduction shall not exceed the amount of the excess or the amount of State aid awarded to the district for fiscal 2005. The administrative expenses of non--operating districts and county vocational districts shall not be used in the calculation to determine the average education expenditures and such districts shall not be subject to a reduction of State aid. The commissioner may, upon receipt of a revised district budget or Comprehensive Annual Financial Report, recalculate a district's 2004--2005 per pupil "Total Administrative Costs" and assess the district with an additional reduction or relieve the district of a previously imposed administrative spending State aid reduction.

Explanation

The FY 2005 recommended budget language provides the commissioner with the authority to reduce the State aid of a school district if that district's administrative cost per pupil exceeds a calculated weighted average administrative cost per pupil of the school districts in its region. The calculated caps for each region are as follows: northern, \$1,489; central, \$1,368; and southern, \$1,358. The language excludes county vocational school districts and non-operating districts, but not county special services districts from this cap. The budget language also indicates that actual 2002-2003 administrative expenditures will be used in the calculation. These are the expenditures reported in the March 2004 New Jersey Department of Education Comparative Spending Guide. Since these are expenditures for the 2002-2003 school year, they are inflated by multiplying them time 1.0609 (6.09 percent or the CPI increase over two years).

Discussion Points

1. After two years of experience with the federal "No Child Left Behind Act of 2001" (NCLB), some states are looking closely at the costs of implementing the provisions of this act. In fact, the Council of Chief State School Officers (CCSSO) has contracted with Augenblick, Van de Water & Associates, a national consulting firm, to work with some of these states in order to understand the costs of implementing NCLB. As part of the contract, the firm is required to provide a list of items for which NCLB requires additional or expanded programs or services. The RFP for this contract identified some of these items as follows: developing, administering, scoring, reporting on and maintaining Statewide assessments for pupils in grades not already part of a state's Statewide assessment program (included in this is the development of standards for those grades); establishing, implementing, administering and maintaining a single accountability system; identifying schools in need of improvement because they have not made adequate yearly progress (AYP) based on the progress indicators established by the department and establishing school choice programs and related interventions for pupils in these schools including the provision of supplemental services and busing; identification of highly qualified teachers and a procedure to assist existing teachers to meet the requirements of a highly qualified teacher; the development of a district level report card; and raising the level of student performance to the proficient level on the Statewide assessments as required on an annual basis.

- **Question:** Please provide the State's schedule for meeting the requirement to have Statewide assessments in math and language arts/literacy administered in grades 3-8 and grade 11 by the year 2005-06 and in science administered not less than one time during grades 3-5, 6-9 and 10-12 by the year 2007-08 and indicate where the State is currently in relation to that schedule. With the schedule, please provide information on the development of the Statewide assessments, including any alternative assessments required or permitted, and the cost associated with the development of each assessment. Please provide an estimate of the total cost to the State to fully implement the assessment requirements of NCLB for math and language arts/literacy by the school year 2005-06 and for science by the school year 2007-08, including the cost to administer, score and report on the results of these assessments. Please provide an estimate on the annual cost, once fully implemented, of maintaining, administering, scoring and reporting on the assessments. What portion of the costs provided in your estimate above, are covered with federal funds (please provide this information on an annual basis).
- **Question:** Some states are joining together in developing statewide assessments in order to save on costs. Has the department considered this as an option, and if so, with what result? If not, why not?
- **Question:** Please provide an update on the status of the Student Data Handbook and the NJ SMART initiative, including implementation schedule, the cost to date and the expected annual cost to operate, maintain and use NJ SMART. What changes, if any, will NJ SMART make in the way data is collected, stored and used and in the accuracy, consistency and timeliness of the data compared with current data collection, storage and usage practices?
- **Question:** With respect to AYP, please provide: the adequate yearly progress indicators adopted by the department out to the year 2013-14 when all students are to be at 100 percent proficient; an analysis of the assessment results from the Spring of 2003; for schools identified as "in need of improvement," please indicate the number of years for which they have been so designated, their compliance with the requirement to notify parents of this status and offer school choice and supplemental services, the number of

Discussion Points (Cont'd)

students opting for either school choice or supplemental services; an update on the State's compliance with the requirements regarding each school, including monitoring districts to see that they are fulfilling their responsibilities, reviewing each district's progress toward AYP and making the results public, and providing technical assistance to districts not making AYP; a list of providers of supplemental services; a list of districts which have been recipients of either block or competitive grants under the 2 percent set aside of Title I, Part A funding and the amount of each grant; the total cost (State and district) to provide for school choice, including transportation, and supplemental services and to develop and distribute the required school district report card. Please provide information on the annual amount of federal aid provided to meet the requirements of these provisions of NCLB.

- *Question:* For each Title I school, please provide a chart showing the total number of teachers and the number who have met the requirements for "highly qualified teacher," the total number of classes and the number of classes taught by a "highly qualified teacher." For each non-Title I school, please provide information showing the progress the district is making to meet the NCLB requirements for "highly qualified teacher" by the end of the 2005-06 school year. Please provide the same information in regard to the paraprofessional staff for these schools. As required under NCLB, a letter to parents of students enrolled in Title I schools was to have been sent out by the school district. Has this been accomplished by all school districts required to do so? What has been the total cost to date, State and district, to implement these requirements? What does the department estimate the total cost, State and district, will be to fully implement these requirements? Please provide the amount of the annual federal aid received by the State to implement these provisions.
- *Question:* By the end of the school year 2013-14, all students assessed in math, language arts/literacy and science are to be 100 percent proficient. Please comment on this goal, the major issues faced by the State to achieve this goal, the department's strategy for achieving this goal and the potential cost to the State.

2. Under Abbott v. Burke, 164 N.J. 84 (May 2000), the court held that "[w]hen a district no longer possesses the requisite characteristics for Abbott district status, the Legislature, the State Board and the Commissioner may take appropriate action in respect of that district." Abbott VII at 90. Under the provisions of subsection k. of section 4 of the "Educational Facilities Construction and Financing Act," P.L.2000, c.74 (C.18A:7G-4), "[b]y March 1, 2002 and every five years thereafter, the commissioner shall recommend to the Legislature criteria to be used in the designation of districts as Abbott districts. The criteria may include, but not be limited to: the number of residents per 1,000 within the municipality or municipalities in which the district is situate who receive TANF; the district's equalized valuation per resident pupil as equalized valuation is defined in section 3 of P.L.1996, c.138 (C.18A:7F-3); the district's income per resident pupil as district income is defined in section 3 of P.L.1996, c.138 (C.18A:7F-3); the population per square mile of the municipality or municipalities in which the district is situate; and the municipal overburden of the municipality or municipalities in which the district is situate as that term is defined by the New Jersey Supreme Court in Abbott v. Burke." The last time a study of district factor scores was completed was 1993 using census data from the 1990 decennial census. Data from the 2000 decennial census is now available to update the previous study.

Discussion Points (Cont'd)

- **Question:** Please provide: a list of school districts showing their District Factor Group designation based on data from the 1990 and the 2000 decennial census; the criteria the department has used to respond to the requirements of section 4 of the "Educational Facilities Construction and Financing Act;" and the results of applying these criteria to develop a revised list of districts to be designated as "Abbott" districts. Please provide an estimate of the impact the revised list of districts would have on State aid under Educational Opportunity Aid and Preschool Expansion Aid and total expenditures under the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et seq.).
3. Under a recent New Jersey Supreme Court decision, March 18, 2004, the Court directed the Department of Education to: 1. ". . . calculate for each Abbott district the difference between the preliminary adjusted budget figures and the invalid adjusted final budget figures issued by the DOE, including any necessary further adjustments on the completion of the appellate process; and 2. Because only three months remain in the 2003-2004 budget year, the DOE shall reserve twenty-five percent of the amount calculated in accordance with Paragraph 1 to be available to each Abbott district as Additional Abbott v. Burke State Aid pursuant to this Court's Order of July 23, 2003, Abbott XI, . . ." Abbott v. Burke, 177 N.J. 596 (2003). The Governor's proposed FY 2005 budget shows a total of \$1.003 billion for the adjusted Educational Opportunity Aid (combining Abbott v. Burke Parity Remedy Aid and Additional Abbott v. Burke State Aid). This total includes an anticipated FY 2004 supplemental appropriation of \$89 million.
- **Question:** Given the Court's decision, what does the department anticipate will be the total amount of Educational Opportunity Aid provided to the Abbott districts in FY 2004? Please provide this information by district and broken down as Abbott v. Burke Parity Remedy Aid and Additional Abbott v. Burke State Aid. The amount spent in FY 2002 for Additional Abbott v. Burke State Aid was \$367.6 million and in FY 2003 was \$336.9 million and will be over \$300 million in FY 2004. Given the Court's decision regarding preliminary budget figures for use in computing supplemental aid in FY 2004, the fact that for FY 2005 there is no longer an agreement from the Court for the department to fund Abbott districts at a maintenance budget level, that Abbott v. Burke Parity Remedy Aid, while not shown as such, is \$907 million in FY 2005, and that the amount spent in each of the three prior budget years for Additional Abbott v. Burke State Aid has exceeded \$300 million, does the department anticipate that the recommended Educational Opportunity Aid appropriation of \$1.103 billion, which includes less than \$200 million for supplemental aid, is sufficient? If so, please provide the reasoning. If not, please provide an estimate of the total cost of Educational Opportunity Aid in FY 2005 and any additional funding that will be required beyond the level in the recommended budget.
4. In July of 2000, the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-1 et al.), was signed into law. That law, which established procedures for the approval and financing of new school facilities projects, provides that Abbott district school facilities projects and projects for Level II districts and districts with a district aid percentage of 55 percent or greater are required to be constructed by the New Jersey Economic Development Authority (EDA). All other school districts may construct school facilities projects on their own or may opt to use the services of the EDA.

Discussion Points (Cont'd)

- *Question:* Since you provided this data last year in response to discussion point 8, how many school facilities projects have been approved in Abbott districts and non-Abbott districts respectively? How many school construction projects have begun actual construction in the Abbott districts and non-Abbott districts respectively? Please provide this information by district, including dates and costs, on school facilities projects indicating the status of the application in the approval process and whether actual construction has begun.
- *Question:* Please provide a summary to date of the total school facilities projects that have been approved in the Abbott, non-Abbott and county vocational school districts and the costs of these projects (for the non-Abbott and vocational school districts provide cost information showing State share and local share).
- *Question:* With respect to the summary provided above and the provisions of subsection a. of section 14 of the "Educational Facilities Construction and Financing Act," P.L.2000, c.72 (C.18A:7G-14), that "The aggregate principal amount of the bonds, notes or other obligations issued by the authority shall not exceed: \$100,000,000 for the State share of costs for county vocational school district school facilities projects; \$6,000,000,000 for the State share of costs for Abbott district school facilities projects; and \$2,500,000,000 for the State share of costs for school facilities projects in all other districts," please indicate, for projects in the Abbott districts, county vocational school districts and all other districts, the total amount of funds which have been committed to date. To what extent do the projects for which funds have been committed represent the total number of projects under consideration in each of the categories? Given the experience to date for costs of school facilities projects, what is your estimate of the total cost including projects for which a commitment has been made and those under consideration in the three categories for which an aggregate principal amount of bonds, notes or other obligations may be issued if there were no statutory cap on the bonding?

5. In the Department of Education's response to FY 2004 discussion point 10, concerning the State Auditor's report on the City of Vineland Board of Education, it was stated that an audit process was to begin in the Spring of 2003. "In each district, [preschool] providers will be randomly selected for intense audits and specific providers will be selected in addition based on the following indicators: 1) failure to submit the required federal audit to DHS; 2) failure to pay payroll or any other taxes; 3) complaints from employees; and 4) nomination by the district based on lack of timely data provision" (see the department's response, discussion point 10, page 1 of 3). In addition, in response to further parts of discussion point 10, the department provided information on the steps it had taken to implement tighter and clearer budget controls, including: the requirement for a financial management system that provides timely, accurate, current and complete disclosure of all financial activities related to the Agreement, in accordance with Generally Accepted Accounting Principles (GAAP);" guidance to Abbott districts to assist their community providers in the completion of an operational budget which would include the separation of costs according to funding source; and instructions concerning how to report certain expenses such as wrap around or summer services beyond the 180-day minimum school year and the use of Early Childhood Program Aid. Recently, newspaper reports of some of the audits (based on 2001-02 fiscal year data) indicate that serious irregularities have been found in the way State funds have been managed and spent by preschool providers under contract with the Abbott districts. Responses on the part of the providers appear to indicate that the requirements for a financial management system that provides "timely, accurate, current and complete disclosure of all financial activities in accordance with GAAP" has not been clearly communicated to or rigorously enforced in relation to these providers.

Discussion Points (Cont'd)

- **Question:** Please provide a complete list of the providers selected for audit according to the basis for the provider's selection. For each preschool provider, please provide the following information: the school district for which it provides services; the number of children enrolled and the number of classes; the educational cost per child; and the administrative cost per child. For those providers selected at random (therefore representative of the providers as a whole), what conclusions does the department make concerning the use of a financial management system meeting the standards indicated above? Is there clear evidence of an operational budget that separates the costs according to funding source and that certain expenses, such as wrap around or summer services and the use of ECPA funds, are being reported in a manner consistent with the department's directions?

6. Pursuant to P.L.2001, c.356, the department is to calculate extraordinary special education aid for costs incurred by school districts in the school years 2002-03 through 2004-05 by using a formula which differentiates costs for an individual student over \$40,000 and up to \$60,000; costs over \$60,000 and up to \$80,000; and costs over \$80,000, and multiplies those costs by varying percentages to arrive at the total extraordinary special education aid per student to which a district is entitled. The number of applications for extraordinary special education aid has increased each year since the 1997-98 school year, when the number of students for which aid was received was 946. The number of applications for aid for the 2001-02 school year was 3,647, and for the 2002-03 school year, 5,440. The recommended FY 2005 appropriation for Extraordinary Special Education Costs Aid is the same amount as the adjusted FY 2004 appropriation, \$52 million.

- **Question:** For the school year 2003-2004, please provide for each district and pupil in that district whose special education costs are greater than \$40,000, the total special education cost of that pupil, the provider of the special education services, the calculation of the aid to which the district is entitled under P.L.2001, c.356, and the amount of aid the district will receive under the budget language on page D-105 which provides the commissioner with the authority to apportion the amount appropriated for any State aid item which is not sufficient to fully fund the cost of that item.

7. The Governor's Literacy Initiative is recommended to continue in FY 2005. This will be the third year of its operation. For this program, the results of the Elementary School Proficiency Assessment (ESPA) were used to identify schools to be targeted for reading assistance activities. Based on this, schools that had more than 15% of their students performing at the "partially proficient" level were targeted for initial coaching efforts.

- **Question:** Please provide information for FY 2002-03 and FY 2003-04 on the Governor's Literacy Initiative as follows: each school targeted for reading assistance activities and that school's district; the number of reading coaches; for each reading coach, the schools and school districts in which the coach provided or is providing reading assistance activities (the name of the coach is not necessary); for the schools involved in the FY 2002-03 school year, the scores on the 2002 and 2003 Language Arts/Literacy Statewide assessment; and the number of reading coaches from FY2002-03 who continued in FY 2003-04, either in their own district or in other districts.

8. At the same time as the Governor's Literacy Initiative was started, the State was the recipient of a federal grant, Read First, New Jersey. Over five years, the grant amount totals \$118 million. Certain Title I school districts (LEAs) are eligible to participate and may receive funding for three years with a possible extension beyond that time.

Discussion Points (Cont'd)

- **Question:** Please provide the districts and school or schools within the district which have been selected to participate in the federal grant. For each district provide: the date on which the district began its program; the amount of federal aid it has received to date and the total amount it is scheduled to receive; the number of reading coaches assigned to each district; and for each school the student scores on the 2002 and 2003 Language Arts/Literacy Statewide assessment.

9. The FY 2005 budget contains recommended appropriations for the following new line items in the department's budget: Additional Formula Aid (\$90 million); High Expectations for Learning Proficiency (\$5 million); Positive Achievement and Cost Effectiveness (\$5 million); Early Launch to Learning Initiative (\$15 million); Above Average Enrollment Growth (\$5 million); and New Jersey After 3 (\$15 million). With the exception of the Additional Formula Aid, for which budget language provides the detail on how this aid will be distributed, budget language for each of these other new line items provides the Commissioner of Education with the authority to develop the criteria for distributing the aid in these new line items and to promulgate regulations that, notwithstanding the provisions of the "Administrative Procedure Act", P.L.1968, c.410 (C.52:14B-1 et seq.), would be considered effective immediately upon filing with the Office of Administrative Law.

- **Question:** In order for the Legislature to make an informed decision regarding the new line items of aid, please provide the criteria that will be used to distribute aid under each of the new line items, other than Additional Formula Aid, the districts or agencies likely to be affected and the amount of aid each district or agency is likely to receive.
- **Question:** The Legislature has granted the Commissioner of Education authority to adopt regulations which become effective immediately upon filing with the Office of Administrative Law in relation to the Abbott districts knowing that there is a history of appeal to the courts. Why does the commissioner consider it necessary to bypass the procedures for adopting regulations established in the "Administrative Procedure Act" for these new line items?

10. Under the Governor's Reorganization Plan No. 001-2004, responsibility for Adult Basic Education/English as a Second Language programs currently in the Department of Education are transferred to the Department of Labor. The "plan" does not transfer responsibility for the General Equivalency Diploma (GED) testing and the Adult High School Program or the evening schools for the foreign born, which, according to the "plan" are to "remain in the Department of Education." Under budget language in the FY 2004 Appropriations Act, Adult and Postsecondary Education Grant aid for high schools was appropriated and distributed as part of Consolidated Aid. Students enrolled in adult high school programs were not included in a district's resident enrollment for the purposes of calculating Consolidated Aid, nor were districts with adult high school programs provided aid according to the per student amount of \$1,443 for 2001-02 recommended in the March 2000 Biennial Report on the Cost of Providing a Thorough and Efficient Education, the last year in which CEIFA formulas were run. At least one school district board of education has decided that since the adult high school program is no longer being funded, even though Adult and Postsecondary Education Grant Aid appears as a line item in the department's budget, it can do away with the adult high school program under its base budget and include funding for the program as a separate item for approval by the voters of the school district when the school district budget is voted upon in April, 2004.

Discussion Points (Cont'd)

- **Question:** Please provide the department's plans regarding the continuation of adult high school programs, GED programs and evening schools for the foreign born as programs to be administered in the department. While State funds for the GED program help to meet the federal requirements for a 25 percent match of federal funds and the State provides matching funds for the evening schools for the foreign born, the adult high schools were dependent on State funding under CEIFA which has now been discontinued. What plans, if any, does the department have to provide funding for these schools per CEIFA or any other formula?

11. Last year, in response to a question regarding the funding formula for charter schools (discussion point 3), it was indicated that the department had begun an extensive review of the "Comprehensive Educational Improvement and Financing Act of 1996," P.L.1996, c.138 (CEIFA) and that the funding for charter schools, as well as school choice, would be included in the review.

- **Question:** Please update the Legislature regarding the status of the department's review of the CEIFA formula and provide information on simulations of new approaches for the distribution of State aid.

12. In the FY 2005 Governor's recommended budget, language (page D-106) provides the commissioner with the authority to reduce the State aid to a school district if that school district's administrative spending per pupil exceeds a calculated weighted average administrative spending per pupil for the region in which that district is located. The language excludes county vocational schools and non-operating districts, but not county special services districts, from this administrative spending cap. The data to be used for this calculation is the school year 2002-03 actual average per pupil administrative expenditures from the New Jersey Department of Education March 2004 Comparative Spending Guide.

- **Question:** Please provide each region's administrative spending cap. For each region provide a list of the school districts which exceed the cap. Since the language is permissive, what plans does the commissioner have to impose a cap once the budget is adopted? Since school district budgets will have been voted on by the time the Appropriations Act is adopted giving the commissioner the authority to impose such a cap, what options, if any, will school districts have to adjust budgets to meet the cap?

13. In September of 2003, the department announced that the DOE, the Marie H. Katzenbach School for the Deaf and the College of New Jersey would participate in an eight month study to explore a partnership between the three entities to increase the quality of education at the school. The timeline presented with the announcement indicates that a interim report would be available for the executive steering committee by February, 2004.

- **Question:** Please provide an update on the progress of this study, including potential budget implications, if any.

Background Paper: Special Education: State and Federal Requirements and Aid.

Budget Pages.... C-27; D-82 and D-83; and D-86

New Jersey has a long history of providing special services for a child whose disability or disabilities make it difficult for that child to participate in the system of "thorough and efficient education" in this State. This background paper first provides a brief history of the development of the State legislative and regulatory framework under which this aid was initially provided and a brief overview of the federal regulatory framework which now preempts state law. Then this background paper provides a more detailed description and analysis of State and federal aid covering the eight years since State special education aid was first calculated under the provisions of the "Comprehensive Educational Improvement and Financing Act of 1996" (CEIFA) P.L.1996, c.138 (C.18A:7F-1 et seq).

Background

State Legislative History

In 1911, legislation was enacted in New Jersey¹ which required boards of education to "ascertain what children, if any, there are in the public schools who are three years or more below the normal" and to establish a special class or classes where 10 or more of these children were resident in a district. In addition, boards of education which determined that there were 5 or more children who were blind or 10 or more children who were deaf or hard of hearing were required to provide special classes for these children limited to 10 in a class. Finally, districts were also required to provide "special equipment and facilities adapted to the accommodation, care, physical restoration, and instruction of children of school age who are physically handicapped to such an extent, or who possess such chronic organic defects, diseases, or bodily deformities that they cannot, in the opinion of an orthopaedic surgeon of recognized standing or of the director of medical inspection or of the medical inspector of the school district, be properly accommodated in the classrooms regularly or usually provided; such special facilities shall include, when recommended or approved by the commissioner, (a) home-teaching, bedside instruction, and transportation, (b) the payment of tuition in and transportation to special classes for physically handicapped children, or maintenance while being away from home to attend a special class, in another school district, and (c) scholarships in vocational and technical schools; . . ." In 1912, the Legislature recognized that to require special classes would also cost more and provided the "sum of five hundred dollars for each teacher employed in a special class for the instruction of blind, deaf, or crippled children or for children who are three or more years below the normal." The maximum amount apportioned for high school teachers in the regular classroom was \$300 and for elementary school teachers, \$200.²

By enacting this legislation, New Jersey was among the earliest states to require that local school districts provide special services for children with special needs with respect to learning. This set the framework for the debate which continues to this day: how to ascertain, classify and educate those who need additional services in order to learn effectively and how much to pay for those additional services.

¹P.L.1911, c.234. Compiled Statutes of New Jersey, First Supplement 1911-1915. General School Law: Revision of 1903 with Supplements and Subsequent Acts, section 158.

²Id., section 94.

Background Paper: Special Education: State and Federal Requirements and Aid (Cont'd)

In 1954, three bills sponsored by Senator Beadleston were enacted as P.L.1954, cs.178, 179 and 180. These laws covered persons in the age range of 5 to 20 inclusive. They established three categories for classifying persons who were considered mentally retarded -- educable mentally retarded, trainable mentally retarded and not educable or trainable; and multiple categories for physically handicapped. The bills required districts to: conduct thorough examinations, whether as a separate district or in cooperation with other districts; and provide suitable facilities and programs of education and training including special classes if needed, whether in the school district or by sending to another school district or by the provision of individual instruction or training at home. By creating a classification of "not educable or trainable," New Jersey did exclude some children from the public education system in the State. "The superintendent of schools, or the principal of the school in a district where there is no superintendent, may, upon the advice of the examiner making the diagnosis and classification required under this act, refuse to admit, or having admitted, exclude any child whose mental retardation is so severe that he had been diagnosed and classified as not trainable under section 2 of this act."

"Any child so refused admission or excluded shall be re-examined, upon the request of the parents or other person having custody and control of the child, after a period of 1 year shall have elapsed from the date of the last previous examination. . . ." For such children, the State bore no further responsibility for education services to the family.

Section 5 of P.L.1954, c.178 (C.18:46-71.5) was amended by section 5 of P.L.1966, c.29 to require that "whenever a child shall be confined to a hospital, convalescent home, or other institution in New Jersey or an adjoining state and is enrolled in an educational program approved under this act, the board of education of the district in which the child is domiciled shall pay the tuition of said child in the special education program upon determination in the manner provided in this act, that it is advisable for the child to be so confined."

In 1967 when Title 18A was enacted, these sections of law were carried forward as 18A:46-1 et seq. The term "handicapped" was used now to refer to any person within the age group 5-20 who was in need of special services to participate in the State's education system. However, handicapped persons were still classified in the same three categories introduced under the Beadleston acts. It was not until amendments were made to N.J.S. 18A:46-9, by the "Public School Education Act of 1975," P.L.1975, c.212, that the classification of certain children was changed from "not educable or trainable" to "eligible for day training." In the same act, N.J.S. 18A:46-13 was amended to provide that it was "the duty of each board of education to provide suitable facilities and programs of education for all the children who are classified as handicapped under this chapter except those so mentally retarded as to be eligible for day training pursuant to N.J.S.18A:46-9." For these students, a new section of law was added by this act, N.J.S.18A:46-18.1, which read, "It shall be the duty of the State board in concert with the Department of Institutions and Agencies to provide suitable facilities and programs for all the children who are classified as eligible for day training."

While these changes were taking place in the public schools, a significant change with respect to special education took place for the nonpublic schools with passage of legislation which extended State aid to nonpublic schools for the provision of services to the handicapped, P.L.1977, c.193 (C.18A:46-19.1 et seq.) and the provision of auxiliary services, P.L.1977, c.192 (C.18A:46A-1 et seq.).

P.L.1977, c.192 (C.18A:46A-1 et seq.) provided auxiliary education services to children ages

Background Paper: Special Education: State and Federal Requirements and Aid (Cont'd)

5-20 enrolled in nonpublic schools: compensatory services related to computation and communication skills; supportive services for children of limited English-speaking ability; and home-instruction services. Under this act, it is the responsibility of the public school district in which the nonpublic school is located to provide for the receipt of auxiliary service for children residing in the State and enrolled full-time in that non-public school. Additional State aid is provided to the public school district, initially determined by finding the Statewide average for furnishing similar services to children in public school and finally in, 1996, under CEIFA, by determining dollar amounts or a weight to be used in relation to the T & E amount.

P.L.1977, c.193 (C.18A:46-19.1) provided examination, classification and speech corrections services for children enrolled in a nonpublic school and required the school district in which the nonpublic school was located to provide such services. Additional State aid was also provided to the public school districts to implement these provisions. Initially, aid was provided to the districts based on the amount of aid appropriated in that act, and subsequently in the budget, and the number of pupils in each district eligible for these services. Under the "Quality Education Act of 1990," P.L.1990, c.52, the amount of aid received by a district for nonpublic handicapped students was determined by using cost factors for providing certain kinds of services multiplied by the foundation amount and the number of students receiving those services. P.L.1996, c.138 s. 75 (the legislation enacting CEIFA) established a dollar amount for each of four kinds of services: for an initial evaluation for examination and classification, \$990.73; for an annual review for examination and classification, \$297.06; for speech correction services, \$786.70; and for supplementary instructional services, \$752.41. For FY 2005 the recommended dollar amounts for these services are: initial evaluation for examination and classification, \$1,225; an annual review for examination and classification, \$380; for speech correction services, \$930; and for supplementary instructional services, \$826.

Further refinement of the treatment of children in State facilities was provided by the enactment of "The State Facilities Education Act of 1979," P.L.1979, c.207 (C.18A:7B-1 et seq.). The purpose of this act was to provide a thorough and efficient education for children in all State facilities. Local school districts were required to pay the tuition for the education provided in State facilities, which was funded, in part, through increased State aid and an amendment to the definition of "resident enrollment" in section 3 of the "Public School Education Act of 1975" to include each child in State facilities in the enrollment count of that child's district of residence. This was revised further by P.L.1992, c.129 which amended N.J.S. 18A:46-13 and made the local school districts, instead of the State board in concert with the Department of Institutions and Agencies, responsible "to provide suitable facilities and programs of education for all of the children who are classified as handicapped under this chapter."

With the enactment of the "Comprehensive Educational Improvement and Financing Act of 1996," a shift in how handicapped students were classified took place. The previous model, called a "medical model" by the Report of the New Jersey Legislative Task Force on Special Education (p. 10), was changed to avoid "overburdening children with disability labels." In its place, a tier system was developed which considered the types of special education services a child needed to participate in a free and appropriate education in the least restrictive environment. Under this act, appropriate education was to be defined in terms of the core curriculum content standards and related assessments.

Two further legislative changes have taken place, one impacting the way federal aid is provided to nonpublic schools and the other impacting the calculation of aid under subsection b.

Background Paper: Special Education: State and Federal Requirements and Aid (Cont'd)

of section 19 of CEIFA, extraordinary special education aid.

When amendments to the federal "Individuals with Disabilities Education Act" (IDEA) regulations were promulgated in 1997, States were required to spend federal dollars for students in nonpublic schools as follows: calculate the proportion that the number of nonpublic school children with disabilities aged 3-21 residing in the school district's jurisdiction is to the total number of children with disabilities residing in the school district aged 3-21 and multiply that proportion times the amount of the federal grant received by the district. This calculation was repeated to make a similar determination with regard to the grant for children ages 3 through 5 inclusive. Since New Jersey provided State aid since 1977 to nonpublic schools for special education purposes, the State Department of Education requested clarification concerning this requirement -- were districts required to spend that proportion from the federal grant or just that dollar amount? Until such time as the clarification was received, the State Department of Education allocated federal dollars to the nonpublic schools in the proportional amount. The federal Department of Education subsequently ruled that the federal law required only that a dollar amount equal to the proportionate amount need be spent for services to nonpublic students, not that it had to be federal dollars. After this ruling, the department revised the allocation of federal aid dollars for special education, so that if the State aid amounts provided under P.L.1977, c.193 (C.18A:46-19.1 et seq.) were sufficient to meet the proportionate requirement, federal dollars could be retained by the public school district rather than used for nonpublic services. The Legislature overturned the department's decision with its enactment of P.L.2001, c.230 (C.18A:46-19.10); "State funds appropriated pursuant to P.L.1977, c.193 (C.18A:46-19.1) to provide special education and related services to students enrolled in nonpublic schools shall not be included by a school district in the calculation of the minimum funding requirement for nonpublic students under the Individuals with Disabilities Education Act, 20 U.S.C. s. 1400 et seq."

Under subsection b. of section 19 of CEIFA, P.L.1996, c.138 (C.18A:7F-19), a district was able to apply for extraordinary special education aid under three circumstances: when the cost of providing education for an individual classified pupil exceeds \$40,000; when a district has to educate an extraordinary number of classified pupils; and when a district is ordered to make a high cost placement by a tribunal of competent jurisdiction. Under the provisions of this subsection, a district's application was reviewed by a panel established by the commissioner based on specific criteria in the law. Under P.L.2001, c.356 which amended subsection b. of section 19 of CEIFA, two of the three situations under which a district could seek extraordinary special education aid were deleted as well as the requirement for a review of a district's application. Now a district can apply for such aid only in the situation where the cost of providing education for an individual classified pupil exceeds \$40,000 and a district has only to make an application which details the expenses incurred on behalf of the particular classified pupil for which the district is seeking reimbursement. As in the original provisions, aid received under this section of law is to be recorded as revenue in the current school year and paid to the district in the subsequent school year. In addition, under P.L.2001, c.356, extraordinary special education aid for costs in excess of \$40,000 incurred for an individual classified pupil by a school district in the school years 2002-2003 through 2004-2005 is to be calculated as follows: State aid for any individual classified pupil whose costs are in excess of \$80,000 shall be provided to a district as the sum of 80 percent of the costs in excess of \$80,000 plus \$26,000 (70 percent of \$20,000 and 60 percent of \$20,000); State aid for any individual classified pupil whose costs are in excess of \$60,000 and equal to or less than \$80,000 shall be provided to a district as the sum of 70 percent of the amount in excess of \$60,000 and equal to or less than \$80,000 and \$12,000 (60 percent of \$20,000); and State aid for each individual classified pupil whose costs are in excess of \$40,000 and equal to or less than \$60,000

Background Paper: Special Education: State and Federal Requirements and Aid (Cont'd)

shall be provided to a district in the amount of 60 percent of those costs. For the school year 2005-2006 and thereafter, the district is to receive additional State aid equal to 100 percent of the costs in excess of \$40,000.

Federal Legislative History

The following brief description of the development of federal law with respect to handicapped students is from a report of the Center for Special Education Finance whose work is supported by funding from the Office of Special Education and Rehabilitation Services in the federal Department of Education.

The Federal presence in elementary and secondary education in general, and special education in particular, was negligible until the 1960s. In 1966, hearings before an ad hoc subcommittee of the House of Representatives Education and Labor Committee revealed that only about one-third of the 5.5 million children and youth with disabilities in the country were being provided appropriate special education services. According to the committee report, the remaining two-thirds were either totally excluded from public schools or "sitting idly in regular classrooms awaiting the time when they were old enough to 'drop out.'" Federal programs directed at children with disabilities, the Committee reported, were "minimal, fractionated, uncoordinated, and frequently given a low priority in the education community" (House Report No. 72-611, June 26, 1975, p. 2).

As a result of these hearings, Congress added Title VI to the Elementary and Secondary Education Act (P. L. 89-750) in 1966, establishing a two-year project grants program to assist the States in educating children and youth with disabilities. Allotments were based on the population of exceptional children age 3 through 21 in the State. The Elementary and Secondary Education Amendments of 1970 repealed Title VI as of July 1971 and created the Education of the Handicapped Act (EHA), P. L. 91-230. EHA consolidated a number of separate Federal grant programs related to children with disabilities under one statute. This new authority, the precursor of the current IDEA, was the first free-standing statute written expressly for children and youth with disabilities.³

The requirements for providing special education to all students with disabilities are organized around six principles contained in the federal "Education for All Handicapped Children Act of 1975," (20 U.S.C. s. 1400 et seq.) and, as amended in 1997, the "Individuals with Disabilities Education Act" (IDEA). The six principles set forth in IDEA are: a free appropriate public education (FAPE); appropriate evaluation; individualized education program (IEP); least restrictive environment; parent and student participation in decision making; and procedural safeguards.

Free Appropriate Public Education (FAPE). This is defined in IDEA as follows: The term "free appropriate public education means special education and related services that -- (A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary, or secondary school education in the State involved; and (D) are provided in conformity with the

³<http://www.ed.gov/pubs/OSEP95AnIRpt/ch5a-1.html>

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individualized education program required under section 614(d)."

Appropriate Evaluation. This involves the use of "evaluation procedures that assure all children with disabilities are appropriately assessed for purposes of eligibility determination, educational programming, and individual performance monitoring." The amendments in 1997 added a new dimension to the understanding of "appropriate evaluation" by emphasizing that a child should not be subjected to unnecessary tests and assessments, nor should a school district be saddled with the additional expenses of unnecessary tests and assessments. These same amendments focused the evaluation on the gathering of "information related to enabling the child to be involved in and progress in the general curriculum, or for preschool children, to participate in appropriate activities."

Individualized Education Program (IEP). As provided in federal law, "the term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, written, and, as appropriate, revised in accordance with Section 614(d)." The development of the IEP and its implementation and ongoing revision, as appropriate, is the focal point of the provision of education and related services to each child with a disability. Federal law sets forth what must be included in the IEP, who is to develop the IEP and the school district's obligation to provide the special education and related services identified in each child's IEP.

Least Restrictive Environment (LRE). The IDEA's first option for providing education for students with a disability is that they are "most appropriately educated with their nondisabled peers and that special classes, separate schooling, or other removal of children with disabilities from the regular education environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily" (20 U.S.C. s.1412(a)(5)(A)). Critical in determining the least restrictive environment is the IEP team (child study team). If the IEP developed by the child study team can provide that the LRE for the student is the general education classroom (with supplemental aids and services, if necessary), subject to the approval of the parent, that will be where the student is educated. However, if the child study team determines that the student cannot be satisfactorily educated in the general education classroom, then an alternative placement must be considered. "Accordingly, schools have been, and still are, required by law to ensure that a continuum of alternatives is available to meet the needs of children with disabilities for special education and related services. This continuum includes special classes within the school to instruction in hospitals and institutions."

Parent and Student Participation in Decision Making. The law has always required the participation of a student's parents in developing the student's IEP. Parents have to be notified concerning the IEP development, given an opportunity to provide input and must give consent before the IEP is finalized. With the inclusion of the requirement to provide for transition services in the IEP of a student 14 years and older, input of a student in the ongoing review of that student's IEP must be part of the process.

Procedural Safeguards. The law contains procedural provisions which: protect rights of students and parents -- basically to ensure that school districts cannot act unilaterally; ensure that information is provided to parents and students -- access to the information they need in order to make informed decisions; and that mechanisms are in place to provide for the resolution of disagreements between the interested parties.

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A change in federal law with major impact on states' provision of education services to individuals with disabilities came in the beginning of 2002 with the enactment of the federal "No Child Left Behind Act of 2001" (NCLB). Under this federal law, as implied by the name, all schools are required to meet adequate yearly progress measures as determined primarily by the performance of their students in grades 3 through 8 and grade 11 on annual Statewide assessments in math and language arts/literacy. Reporting on adequate yearly progress of student performance is to be disaggregated by certain subgroups, among which is a subgroup of students with disabilities. The federal law requires 95 percent of a school's students in a given grade with a disability, as defined under IDEA, to take the Statewide assessments, unless the number is small enough to make the report unreliable. These students are held to the states' standards for proficiency. In addition, states are required to make reasonable accommodations and adaptations for students with disabilities by creating alternative assessments. Prior to the implementation of the federal law, the State reported on the Statewide assessments in the categories of "regular education," "special education," and "limited English proficiency," and only the scores of the regular education students were considered in looking at the extent to which the students in a particular school and school district were performing at a proficient level, even though the scores of the other groups were reported.

State Aid for Special Education

Since the 1997-98 school year State special education school aid provided to public school districts under section 19 of the "Comprehensive Educational Improvement and Financing Act of 1996" (CEIFA), P.L.1996, c.138 (C.18A:7F-19), and to nonpublic schools under section 14 of P.L.1977, c.193 (C.18A:46-19.8) and the language of the annual Appropriations Acts, has increased from \$666.8 million in FY 1998 to \$1,077 million in FY 2005, an increase of \$410.4 million (61.5 percent). During this same period, the cost of living index has increased less than 16 percent.

Table 1: State Aid for Special Education (\$000)

	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	FY05 (proposed)	Pct Chng
Public*	\$642,429	\$711,065	\$772,384	\$864,983	\$1,009,120	\$1,009,120	\$1,046,120	\$1,046,120	62.8%
NPublic	\$24,337	\$26,364	\$27,155	\$27,155	\$29,864	\$30,741	\$30,741	\$30,999	27.4%
Total	\$666,766	\$737,429	\$799,539	\$892,138	\$1,038,984	\$1,039,861	\$1,076,861	\$1,077,119	61.5%

*Includes transportation aid for special education students. For FY 2001-02 and subsequent fiscal years this amount has not changed since the department has not calculated transportation aid since the 2001-02 school year. For nonpublic school students, the amount includes transportation for handicapped and auxiliary services.

Under the "Comprehensive Educational Improvement and Financing Act of 1996," a tier classification system was established to set per pupil costs for determining categorical special education aid for districts. Tier I is the category used to represent "related services," under the federal definition of special education, that a person classified in the other Tiers is eligible to receive. An individual may receive up to four related services. Under federal law, "related services" means transportation, and certain developmental, corrective, and other supportive services. The supportive services include: speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling,

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orientation and mobility services, and medical services (for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children. 20 U.S.C. s. 1402 (22).

Pursuant to section 19 of CEIFA, the per pupil dollar amounts for the classification tiers used in determining State aid for special education, were fixed as a proportion of the unweighted per pupil T&E spending amount for FY1998. For tier I, the weight is 0.0223; tier II, the weight is 0.4383; for tier III, the weight is 0.8847; and for tier IV, the weight is 1.12277. Under CEIFA, the per pupil dollar amounts for FY1999 were increased by the increase in the cost of living (CPI). For subsequent years, the cost factors are those established in the Biennial Report on the Cost of Providing a Thorough and Efficient Education, unless changed by the Legislature. The last school year for which special education aid was calculated was 2001-02. For that year, the Tier III per pupil amount recommended in the Biennial Report (March 2000) was \$6,607. It was reduced to \$5,975 in the FY 2002 Appropriations Act. Table 2, below, provides information on the changes to the cost factors for the Tiers from FY 1998 to FY 2004.

Table 2: Tier Cost Factors FY 1998-FY 2004

Tier	FY98	FY99	FY00	FY01	FY02*	FY03	FY04	% Change FY98 to FY04	% Change FY 00 to FY04
I	\$150	\$154	\$300	\$305	\$310	\$310	\$317	111.3%	5.7%
II	\$2,945	\$3,024	\$3,155	\$3,207	\$3,260	\$3,260	\$3,329	13.0%	5.5%
III	\$5,945	\$6,104	\$4,207	\$4,276	\$5,975	\$5,975	\$6,101	2.6%	45.0%
IV	\$8,250	\$8,470	\$12,620	\$12,827	\$13,037	\$13,037	\$13,312	61.4%	5.5%

The two major cost factor increases above (Tier IV in FY 2000 and Tier III in FY 2002) took place after research by the department on the actual cost experiences of school districts, as reflected in statements in the March 1998 and March 2000 Biennial Reports.

The March 1998 Biennial Report, based on a study done of the Tier IV actual expenditures and intensive services provided to pupils with disabilities, recommended that the following pupils be included in Tier IV:

- pupils meeting the criteria for Eligible for Day Training
- Pupils meeting the criteria for Autistic
- Any pupil receiving one or more of the following intensive services -- individual instruction; pupil:aide ratio of 3:1 or less; high level assistive technology; extended school year; intensive related services; interpreter services; personal aide; residential placement for educational purposes; and individual nursing services

The March 2000 Biennial Report recommended that the cost factor for Tier III be increased from \$4,276 to \$6,607, an increase of 54.5 percent. This recommendation was based on an audit of actual expenditures by the districts which showed that the actual expenditures for Tier III pupils were approximately 60 percent of the expenditures for Tier IV pupils, while the cost factor for State

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aid being provided to the local districts was only 33 percent of the Tier IV cost factor. The actual increase in the cost factor for Tier III (\$5,975) brought the per pupil cost for Tier III to 45.8 percent of the Tier IV cost factor and represented a 39.7 per cent increase over the FY2001 Tier III cost factor.

Table 3 indexes the cost factors to provide information on their relative costs over this period of time, FY 1998 to FY 2004. Tier II is used as the base and its value is divided into the cost factors for the other Tiers for each year.

Table 3: Index of Tier Cost Factors (Relative Cost of Special Education Aid)

Tier	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Tier II Cost	\$2,945	\$3,024	\$3,155	\$3,207	\$3,260	\$3,260	\$3,329
Tier II Index	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Tier III	2.02	2.02	1.33	1.33	1.83	1.83	1.83
Tier IV	2.80	2.80	4.00	4.00	4.00	4.00	4.00

As shown in the above table, in FY 1998, State aid for pupils classified as Tier III was a little more than twice the aid for pupils in Tier II and State aid for pupils in Tier IV was almost three times as much as for pupils in Tier II. A major change in the relative amount of State aid provided for pupils in different Tiers took place in FY 2000 and then again in FY 2002. In FY 2000, State aid for pupils in Tier III relative to pupils in Tier II decreased. In FY 2000, it was one and a third times greater than that provided for Tier II pupils. However, State aid for pupils in Tier IV was now four times that provided for students in Tier II and that ratio of State aid has remained at that level since. For pupils in Tier III, the relative amount of State aid per pupil increased in FY 2002 approaching twice the amount of aid provided for pupils in Tier II.

Table 4 provides information on the proportion that pupils classified for special education services make up of total resident enrollment.

Table 4: Special Education Pupils as a Percent of Total Resident Enrollment

	Oct 97	Oct 98	Oct 99	Oct 00	Oct 01	Oct 02	Oct 03
Special Ed	150,572	157,211	163,343	172,116	180,085	187,959	195,020
Resident Enr	1,247,164	1,269,671	1,292,459	1,314,084	1,344,190	1,366,001	1,381,925
Percent	12.1%	12.4%	12.6%	13.1%	13.4%	13.8%	14.1%

Prior to considering in more detail the distribution of classified pupils by tier and grade level, this table presents an overall perspective on State enrollment and the percent that classified pupils make up of that enrollment. The number of pupils classified as special education students (Tiers II through IV) has increased from 150,572 on the October 1997 Application for State School Aid (ASSA) forms to 195,020 on the October 2003 ASSA, an increase of 44,453 (29.5 percent). At the same time, total State enrollment grew by 134,164 pupils (10.8 percent). Since the base numbers from which growth percents are calculated are quite different, it is useful as well to consider the change in proportion that classified pupils make up of the total State enrollment. In

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October 1997, special education pupils comprised 12.1 percent of total enrollment. In October 2003, special education pupils comprised 14.1 percent of total enrollment. Additionally, as the percents are considered over the 7 years of enrollment data in the table, the increase in the percent that special education pupils make up of total enrollment shows a steady and consistent increase. As will be seen in the tables that follow, this steady and consistent increase in special education pupils over time and their allocation to the different tiers has significant cost implications for the State and local districts going forward.

Table 5: Number of Pupils Classified by Tier, SY 1997-98 to SY 2003-04

Tiers	Grade	Oct 97	Oct 98	Oct 99	Oct 00	Oct 01	Oct 02	Oct 03	Pupil change	Percent Change
II	Elem	43,254	43,592	41,586	40,104	38,172	36,594	35,829	(7,425)	-17.2%
	Middle	30,359	30,926	32,072	32,682	32,942	33,092	32,211	1,852	9.0%
	H.School	38,007	39,166	39,739	40,759	41,420	43,009	44,009	6,002	15.8%
	Total II	111,620	113,684	113,397	113,545	112,534	112,695	112,052	432	0.4%
III	Elem	11,289	12,432	13,318	15,786	18,044	19,723	21,129	9,840	87.2%
	Middle	6,607	7,488	8,224	9,851	11,793	13,483	14,744	8,137	123.2%
	H.School	10,881	12,769	12,889	13,907	15,248	16,972	18,676	7,795	71.6%
	Total III	28,777	32,689	34,431	39,544	45,085	50,178	54,549	25,772	89.6%
IV	Elem	4,453	6,345	9,335	11,518	13,765	15,381	17,028	12,575	282.4%
	Middle	1,898	1,851	2,650	3,290	3,945	4,400	5,172	3,274	172.5%
	H.School	3,824	2,642	3,530	4,219	4,756	5,305	6,224	2,400	62.8%
	Total IV	10,175	10,838	15,515	19,027	22,466	25,086	28,424	18,249	179.4%
Overall Total		150,572	157,211	163,343	172,116	180,085	187,959	195,025	44,453	29.5%

As shown in Table 4, Statewide there has been an increase of 44,453 (29.5 percent) in the number of pupils classified for special education services. Within this overall increase in the number of classified pupils, it is instructive to consider the changes, numbers and percents, in the different Tiers. The number classified as Tier II has increased by 433 pupils (.4 percent); the number classified as Tier III has increased by 25,772 pupils (89.6 percent); and the number classified as Tier IV has increased by 18,249 pupils (179.4 percent). Considering the dynamics within this table of the overall change in pupils classified for special education services -- the changes in numbers at different grade levels and in different tiers -- the State and local school districts face considerable and constant increases in the costs associated with providing those services. The least costly tier, Tier II, has little growth over this time; in fact there has been a decrease in the number of pupils classified in this Tier at the elementary school level (entry point into special education services). In contrast, the elementary school numbers in Tier III and Tier IV have increased by 87.2 and 282.4 percent respectively. Again it is important to note that these are students who most likely will remain in those tiers throughout their school life and that the trend shown in the table for increases in these tiers and at the elementary level portends dramatic increases in costs in the future.

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Another way to consider the changes in the number of pupils classified into the different tiers for purposes of providing State aid for special education is to consider changes in the proportion that the pupils in each tier make up of the total number of classified pupils over time.

Table 6 provides information for each year on the number of pupils in each tier as a percent of the total number of classified pupils. Table 7 provides information on the percent of total classified pupils by tier for the elementary grade level. This could be considered the entry level for classification purposes and changes in how these pupils are allocated between tiers over time has significant implications for State aid and local district costs.

Table 6: Pupils in Each Tier as a Percent of Total Classified Pupils, All Grade Levels

Tiers	Oct 97	Oct 98	Oct 99	Oct 00	Oct 01	Oct 02	Oct 03
II	74.1%	72.3%	69.4%	66.0%	62.5%	60.0%	57.5%
III	19.1%	20.8%	21.1%	23.0%	25.0%	26.7%	28.0%
IV	6.8%	6.9%	9.5%	11.1%	12.5%	13.3%	14.6%
Total	150,572	157,211	163,343	172,116	180,085	187,959	195,025

Table 7: Pupils in Each Tier as a Percent of Total Classified Pupils, Elementary Grade Level

	Tier	Oct 97	Oct 98	Oct 99	Oct 00	Oct 01	Oct 02	Oct 03
Elementary Level	II	73.3%	69.9%	64.7%	59.5%	54.5%	51.0%	48.4%
	III	19.1%	19.9%	20.7%	23.4%	25.8%	27.5%	28.6%
	IV	7.5%	10.2%	14.5%	17.1%	19.7%	21.5%	23.0%
Total Elementary Pupils		58,996	62,369	64,239	67,408	69,981	71,698	73,986

Table 6 shows that the proportion of pupils classified in the more costly tiers, Tier III and Tier IV, is increasing relative to the proportion of pupils classified in the least costly tier, Tier II. Table 7 looks specifically at the distribution of pupils among the tiers at the elementary grade level. The results here are even more dramatic. The data reflect a change in how pupils in the early grades are classified. The proportion of pupils is decreasing in the least costly tier, Tier I, and increasing in the more costly tiers, Tiers III and IV. This has long term cost implications for the State and local districts, since these students are likely to remain in these classifications for the duration of their school life.

In addition to State aid for special education, under CEIFA, additional State aid has been provided as extraordinary special education aid. Table 8 provides information on extraordinary special education aid under CEIFA. As shown in the table, while the average cost per individual classified pupil whose costs are in excess of \$40,000 has increased only by about 3 percent, the number of individual classified pupils whose costs are in excess of \$40,000 has grown dramatically since the 1997-98 school year, from 946 to 7,212 in the 2003-04 school year. With this growth in number, the total cost in excess of \$40,000 has also grown, from \$12,916,298 in school year 1997-98 to \$109,643,705 in school year 2003-04.

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Table 8: Extraordinary Special Education Aid Under CEIFA

Measure	Costs Incurred in School Year							Percent Change 1998-2004
	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	
Applications	946	944	1,434	2,199	3,647	5,440	7,212	662.4%
Total Cost	\$50,756,298	\$51,630,749	\$78,625,619	\$121,115,977	\$201,366,186	\$299,258,118	\$398,123,705	684.4%
Cost > \$40,000	\$12,916,298	\$13,870,749	\$21,375,316	\$33,155,977	\$57,806,186	\$81,658,118	\$109,643,705	748.9%
State Aid	\$10,000,000	\$10,000,000	\$10,000,000	\$15,000,000	\$15,000,000	\$52,000,000	\$51,999,868	420.0%
Avg Cost/Appl	\$53,654	\$54,694	\$54,830	\$55,078	\$55,214	\$55,011	\$55,203	2.9%

State extraordinary special education aid has not kept pace with the growth of costs, even with the increased appropriation of \$37 million in FY 2004. The extraordinary special education State aid provided in FY 2004 through budget language in the FY 2004 Appropriations Act for extraordinary special education costs incurred by school districts in FY 2003 provided 99.5 percent of the aid required (\$52,267,547) under the provisions of current law, subsection b. of section 19 of CEIFA (C.18A:7F-19). The recommended FY 2005 extraordinary special education aid (\$52 million) will provide 74.1 percent of the extraordinary aid required (\$70,209,371) under current law. Beginning with the costs incurred in FY 2005 and thereafter, current law will require the State to fund the total extraordinary special education costs for an individual classified pupil in excess of \$40,000, which in FY 2003-04 was \$109.6 million. Under current law, as enacted in 1996, costs in excess of \$40,000 are considered for extraordinary special education aid. If that value were inflated by the Consumer Price Index, the value as of July 2003 would have been \$46,181.

So far, this paper has looked at the amount of State aid provided for special education services. In addition to State aid, the costs of local school districts for special education services have been increasing. While data on these costs is not complete, available data has been used to estimate the total cost of providing special education services for the 2003-04 school year as follows:

Table 9: Audited Total Costs for Special Education

Year	Audited Costs	State Aid	Local Cost
1997-98	\$1,527,703,087	\$767,121,590	\$760,581,497
1998-99	\$1,561,220,688	\$848,802,710	\$712,417,978
1999-00	\$1,737,561,616	\$906,848,810	\$830,712,806
2001-02	\$2,390,092,505	\$1,028,389,249	\$1,361,703,256
2002-03	\$2,681,191,413	\$1,028,389,249	\$1,652,802,164

Data for the school year 2000-2001 is not included. State aid for the 1997-98 through 1999-00 school years includes special education aid and an estimate of the amount of district transportation aid that goes for special education students. State aid for the 2001-02 and 2002-03 includes special education aid and the amount of district transportation aid that goes for special education students according to the CEIFA formula calculations.

This table shows the cost of providing special education services which are in addition to regular education costs. Of interest is the growing dependence on local school boards for these

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costs. The data used for total costs are the audited school district data, i.e., they reflect actual, not budgeted, school district expenditures. In addition, Abbott v. Burke Parity Remedy Aid is calculated by comparing per pupil regular education expenditures in each Abbott district with the average per pupil regular education expenditure of the districts in district factor groups "I" and "J". Special education aid is not included as a component of regular education expenditures, but a district's general fund tax levy is included. Abbott districts, under court order, are the only districts in the State that have not been required to increase their general fund tax levies in the past several years. To the extent that local district costs for special education are increasing (see the growing disparity between State aid for special education and the total costs for special education in Table 9), local districts have to increase their general fund tax levy. In turn, for the purposes of calculating Abbott v. Burke Parity Remedy Aid, this will increase the disparity between an Abbott district's per pupil regular education expenditure and the average per pupil regular education expenditures in the districts in district factor "I" and "J" with the result being a greater amount of Abbott v. Burke Parity Remedy Aid. For FY 2005 the recommended amount of Abbott v. Burke Parity Remedy Aid is \$907 million. This represents an increase of over \$200 million (28.6 percent) from FY 2004 Abbott v. Burke Parity Remedy Aid.

Federal Aid for Special Education

Table 10 provides information on the amount of federal aid the State has received each year FY 1999 to FY 2004. The information, with the exception of FY 1999, shows federal aid provided for special education in public and nonpublic schools.

Table 10: Federal Aid for Special Education

Schools	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	Pct Change
Public	\$116,094,872	\$137,451,872	\$145,790,134	\$204,588,651	\$224,870,393	\$268,406,556	131.2%
Nonpublic		\$9,823,965	\$9,683,460	\$14,242,360	\$14,661,026	\$17,195,507	75.0%
Total Aid	\$116,094,872	\$147,275,837	\$155,473,594	\$218,831,011	\$239,531,419	\$285,602,063	146.0%

Local school districts receive federal funds under two sections of the federal law, "Individuals with Disabilities Education Act;" one for children aged 3-21 (20 U.S.C. s.1411) and a separate preschool grant for children aged 3-5 (20 U.S.C. s.1419).

"The maximum amount of the grant a State may receive under this section for any fiscal year is--

(A) the number of children with disabilities in the State who are receiving special education and related services--

(i) aged 3 through 5 if the State is eligible for a grant under section 1419 of this title; and

(ii) aged 6 through 21; multiplied by

(B) 40 percent of the average per-pupil expenditure in public elementary and secondary schools in the United States. (20 USCA s 1411).

Federal law and regulations also determine the amount that local school districts are to spend for children with disabilities in **nonpublic** schools by calculating the proportion that the number of nonpublic school children with disabilities aged 3-21 residing in the school district's

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jurisdiction is to the total number of children with disabilities residing in the school district aged 3-21 and multiplying this proportion times the amount of the federal grant received by the district. This is repeated to make a similar determination with regard to the grant for children ages 3 through 5 inclusive.

As enacted, IDEA committed Congress to provide funding for up to 40 percent of special education costs in the states based on the calculation using the national average per pupil expenditure in public elementary and secondary education. However, even with the increases in recent years, the federal government currently funds only about 15 percent of the national average per pupil expenditure in public elementary and secondary schools in the United States. Additionally, when a comparison is made between the national average per pupil expenditure and the per pupil expenditure in New Jersey, the dollar amount of federal aid for special education received by New Jersey would have to be increased by 152 percent to make it equivalent to the average New Jersey per pupil expenditure. Another way of describing this is that while the federal government is funding special education services at about 15 percent of the national average per-pupil expenditure, federal aid for special education services in New Jersey funds only about 10 percent of New Jersey's average per pupil expenditure.

The Future of Special Education in the State

The following points summarize the material presented in this background paper:

- The proportion of total State enrollment that is classified is steadily increasing;
- Of the number of students being classified each year, the proportion being classified in the more costly tiers is steadily increasing, with the most rapid increase in Tier IV, the most costly tier;
- The cost ratios relating the different tiers have remained constant since FY 2001-02. However, the changes in the cost factors in the Biennial Report are not reflected in changes in State aid for special education;
- The number of special education students whose costs are in excess of \$40,000 is increasing dramatically;
- The costs for special education are increasingly being borne by local school districts which impacts on the calculation of Abbott v. Burke Parity Remedy Aid;
- Federal aid for special education, while it has increased in the last three years still only funds special education at a level which is below the 40 percent commitment contained in the original legislation; and in light of the federal formula for funding special education in the states, every dollar New Jersey receives is actually worth about \$.67 with respect to the average per pupil expenditure in New Jersey; and
- The State, along with all other states, faces a considerable amount of uncertainty and costs with respect to its schools and districts meeting the requirements for adequate yearly progress under the federal "No Child Left Behind Act of 2001," and

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uncertainty with respect to potential new requirements under the reauthorization of the "Individuals with Disabilities Education Act" now being considered in Congress.

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The Legislative Budget and Finance Officer is the chief fiscal officer for the Legislature. The Legislative Budget and Finance Officer collects and presents fiscal information for the Legislature; serves as Secretary to the Joint Budget Oversight Committee; attends upon the Appropriations Committees during review of the Governor's Budget recommendations; reports on such matters as the committees or Legislature may direct; administers the fiscal note process and has statutory responsibilities for the review of appropriations transfers and other State fiscal transactions.

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Individuals wishing information and committee schedules on the FY 2005 budget are encouraged to contact:

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