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# *Committee Meeting*

of

## JOINT LEGISLATIVE COMMITTEE ON PUBLIC SCHOOL FUNDING REFORM

*"The Committee will hear invited testimony by Molly A. Hunter, Director of the National Access Network at Teachers College, Columbia University; and Michael Griffith, education finance consultant to the National Conference of State Legislatures"*

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**LOCATION:** Committee Room 11  
State House Annex  
Trenton, New Jersey

**DATE:** August 22, 2006  
1:00 p.m.

### **MEMBERS OF JOINT COMMITTEE PRESENT:**

Senator John H. Adler, Co-Chair  
Assemblyman Herb Conaway Jr., Co-Chair  
Senator Gerald Cardinale  
Assemblyman Brian P. Stack  
Assemblyman David W. Wolfe



### **ALSO PRESENT:**

Kathleen Fazzari  
Theodore C. Settle  
*Office of Legislative Services*  
*Committee Aides*

Jacqueline Burke  
*Senate Majority*  
Mary Alice Messenger-Gault  
Keith White  
*Assembly Majority*  
*Committee Aides*

Brian Alpert  
Christine Shipley  
*Senate Republican*  
Beth Schermerhorn  
Thomas Neff  
*Assembly Republican*  
*Committee Aides*

***Meeting Recorded and Transcribed by***  
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Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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**SENATOR JOHN H. ADLER (Co-Chair):** Ladies and gentlemen, good afternoon. Welcome back. We took one week off, and that's going to be the exception rather than the rule for this Committee, which I think is going to meet at least once a week and probably, as September rolls around, and October, twice and maybe even three times a week. But thank you for your indulgence as we took one week off.

We have a quorum here, and we're going to have other members arriving, as they arrive. But I think it's Chairman Conaway's and my intention to start promptly, these meetings going forward, symbolically conveying the sense of urgency we both feel and the other members of the Committee feel. And so please note that those members of the Committee who aren't in attendance when we begin will, through the archives and through the video conferencing and through other mechanisms of modern technology, have access to what's discussed and what's learned in these hearings.

With that, if I -- I would ask all of you to just take a minute to check your cell phones and beepers and clock radios and boom boxes -- whatever you've got with you -- and if you could just turn them to vibrate or off so that our witnesses today and the members of the Committee can direct their attention to the dialogue that's going on, as we educate ourselves about the critical issues facing us on this school funding conundrum.

With that, Chairman Conaway, welcome.

It's all yours.

**ASSEMBLYMAN HERB CONAWAY JR. (Co-Chair):**  
Welcome, Chairman Adler. Thanks for your opening comments and

reminding the public of the urgency with which we are undertaking the task of reforming funding for schools.

We are privileged today to have with us Ms. Molly A. Hunter, who is the Director of the National Access Network, Teachers College at Columbia University, where she has been working diligently on school reform, school funding, how the judicial district process interacts with those governmental efforts. She has practiced, in the past, education and employment law in New York City, working on behalf of employees and in discrimination cases. She's also -- is a CPA, and she's worked in auditing and consulting for Ernst and Young in the past. She received her J.D. from New York University School of Law and a Bachelors of Arts degree from Chatham College of Pittsburgh, Pennsylvania.

Ms. Hunter, welcome, and we invite you to enlighten us today.

**MOLLY A. HUNTER, ESQ.:** Thank you.

Senator Adler, Assemblyman Conaway, and members of the Committee, and ladies and gentlemen, it's my pleasure to be here today at this meeting of the Joint Legislative Committee on Public School Funding Reform. I have been asked to provide a national perspective on the many school funding cases that are going on around the country and have been for some time.

I will give a brief historical background, which I think is helpful in understanding the roots, the origins of this particular group of cases. And I will also give a bit of a -- kind of an anatomy, a brief skeleton if you will, of what these cases look like when they are brought to trial. And then I will talk just generally about some of the trends, and the court decisions, and remedial orders -- rather generally. And then I welcome your questions.

Historically, the earliest school funding case I've been able to find was actually in Massachusetts, in 1819. But that was a rare anomaly. They don't start showing up again until, I think, 1923, in Ohio. And there were only a few in the early and mid-20th century. Of course, *Brown v. Board of Education* was decided in 1954, and that case had a lot to do with getting a better educational opportunity for students who did not have access at that time. And I mentioned *Brown* especially because this group of school funding cases that has now been with us for the past 35 years or so are, in a sense, the progeny of *Brown*. The first cases were brought in the late '60s and early '70s by civil rights attorneys, again looking for better educational opportunities for low-income and minority students, typically brought on behalf of urban or rural students.

The cases were brought in state courts and Federal courts, and the original Federal court case was -- the famous one was *Rodriguez*, decided by the U.S. Supreme Court in 1973. And the Court decided -- said that education is not even mentioned in the Federal Constitution, that education is not a fundamental right under the Federal Constitution. And in a footnote, Justice Marshall indicated that the litigants might want to go to state court, under state Constitutions. And they certainly did. The *Rodriguez* plaintiffs were from Texas. They went to the Texas state courts, and they happened to win there. And litigants have been going to state courts ever since. In fact, these cases have been filed in 45 of the 50 states, and there are over 20 that are currently active on the court docket in one way or another. So you see that it's a widespread phenomenon.

I would like to mention the Web site *schoolfunding.info*, which is the best source of information on this particular body of information, and

we work hard to keep it up-to-date -- so if you or staff would like to consult that at any time for more details. There's a state-by-state map. Click on any state and get the background of litigation and related issues for that state.

ASSEMBLYMAN CONAWAY: Can we hear that Web site again, please?

MS. HUNTER: *schoolfunding.info*.

Now, the first cases that were brought in the late '60s, early '70s -- and, in fact, they dominated throughout the '70s and '80s -- were what are called *equity cases*. They were typically looking for equal per pupil funding, equity of funding. And the state defendants -- the states are always the defendants in these cases -- the state defendants won most of those cases -- about two-thirds, and the plaintiffs won about one-third.

Now, that trend shifted significantly beginning in 1989. And since then, it's been just about the reverse -- the plaintiffs have been winning at least two-thirds of these cases and the state defendants about a third. Part of the reason for that--

ASSEMBLYMAN WOLFE: Excuse me? Could you repeat that please?

MS. HUNTER: The wins and loses shifted significantly beginning in 1989. Since then, the plaintiffs have been winning at least two-thirds of these cases in the states, the balance. And there are a number of reasons for that, which I'll talk about later.

The state constitutional education articles are key to these cases, and so I want to give you just maybe two minutes of real survey-course-in-the-extreme of history, of where these came from. The original

education articles were actually in the Colonial Charters. And then when colonies became states in the late 18th century, they were put in those original constitutions. The rationale behind them being that education is critical for preservation of democracy and freedom. And that theme has persisted throughout our history.

When states that were territories and becoming states, particularly in the West, wanted to become states, they were required to provide for education. They were required to have an education article in their constitutions. In some states, those that had not yet put education articles into their constitutions did so by the late 19th century, when the proponents of the common schools movement won the day. It was a popular movement calling for educational opportunity for all, and for rich and poor to be on equal footing in the schools -- the idea that, again, education was important to citizenship and employment.

The education-- I'll move on, then, to an anatomy of one of these cases -- a kind of a skeleton. So the state constitutional education articles are key. They are really the rock upon which these cases stand. And then the state learning standards also -- those have been adopted in the last 15 or 20 years by all of the states. And they are called academic content standards, student learning standards; but whatever they're called, all of the states adopted them. They also vary in the level of detail and in the quality, but by and large, they are explaining what students need to know and be able to do at the various levels of their -- through their educational process. And they are geared to capable citizenship and employment in the 21st century. So they tie back to these educational articles and kind of bring them into the modern era. And so the evidence

coming into the court is not only the state education articles, but the state standards, which give them a much more modern tilt.

And this is where I think the standards-based reform has been an important contributor to these school funding cases, in this since-1989 time frame, where they are based on an adequacy theory. So plaintiffs are seeking “adequate” resources or adequate funding for the schools, and adequate opportunity for an adequate education. This is a common thread, and largely tied in to the state standards. And the state standards have actually changed the questions that people are asking oftentimes, now, about school funding. This may be a simplified version, but prior to the state standards, the questions were, “Well, how much money do we have to distribute and how do we distribute it? What categorical do we support? What school districts are we more or less funding?” But with the standards, the questions are almost turned on their head, because the question is, “Okay, the students need to meet these standards. What do the schools need to offer them in order to give them that opportunity? What kind of capacities do we need to build and maintain in the schools?” And then that generates the question, “Well, how much does that cost?” And then that generates the answer of, “Well, I guess that’s about how much funding we need.” And so you can see that it, in some ways, turns the funding questions on their head.

Now, that kind of questioning is what comes into these cases. And I do want to mention there are a few other causes of action sometimes. It’s not always just based on the educational article of the state constitution. Sometimes there are equal protection arguments. People are looking, also, for equity funding. Sometimes in the past, there have been

Title VI causes of action, the Federal Civil Rights Act. Those have pretty much been negated now by recent U.S. Supreme Court decisions. But there are occasionally other causes of action.

But now, once people actually get into court, prior to trial there are some threshold questions: “Is this a justiciable question or is it a political question?” That’s often the argument. The plaintiff says this is justiciable, it’s part of the court’s responsibility to interpret the Constitution, and so on. The defendant says that this is really a political question and that the court has no business in this area. And the state courts, by and large, have found this to be justiciable, so then we move forward into a trial. At trial, one of the early issues is always, what is the standard we’re trying to measure? What is the Constitution telling us? What is the standard? The plaintiffs argue for a higher standard, so that it’s easier for them to show a constitutional violation. Defendants argue for a lower standard.

For example, in North Carolina, at that trial, they have something called the *Standards of Learning*, and that’s-- Their standards -- and also their assessments are tied to those standards. Other states use that terminology. Some states use this terminology *Regents standards*. And the terminology really doesn’t matter, but there are standards, and assessments tied to them. The plaintiff said that the standard should be meeting those Standards of Learning, passing those assessments at least at grade level, and the state argued for a lower standard -- that the next step down, as to -- coming close to, but just short of, those standards was sufficient. So that’s the kind of argument that goes on.

Well, there's a lot of evidence that's brought in on inputs and outcomes. What kinds of inputs: teaching quality, class size, facilities, and -- facilities in terms of the qualities and what they have, such as laboratories and science labs in high schools, but also whether there's overcrowding. And the outcomes tend to be graduation rates, test scores. Sometimes evidence comes in about how the students do after graduation. Do they need remediation in college? Are they able to hold jobs and so they qualify for jobs that are available in their localities?

So the plaintiffs argue that the inputs are inadequate, and the defendants argue that they are sufficient. The plaintiffs argue that the outcomes are less than what they should be, and that they are an indication that students are not getting a sufficient opportunity; the defendants argue that the outcomes are really okay, and that there's really no deficiency here. Or on the other hand, there is an argument also about responsibility. The states sometimes argue that it's the school districts' responsibility and they're wasting and mismanaging. And the plaintiffs argue that even if the school districts are in some way mismanaging or being wasteful, that that's the state's responsibility as well -- that it's up to the state to oversee these entities who are typically referred to as entities of the state.

Now, the last issue that comes up in these cases -- and there are sometimes excessive evidence around issues of poverty or ELL students, English language learners -- but the last issue that comes up is actually the causal link. So if the inputs are somehow insufficient, if the outcomes are somehow insufficient, is that linked to the state education finance system? So that is then a final question in these cases.

Now, once these trials have been held -- and some of them are eight days long; some of them are eight months long, believe it or not -- the court decisions-- I want to just indicate briefly some of the kinds of decisions that the courts, generally, are making. Only four states have found the issue not to be justiciable. So the states do move forward to trial. The courts do find the state responsible, including overseeing the school districts in case they are mismanaging. The courts do cite the constitutional provisions, and the constitutional conventions, and the language there -- about citizenship, and preservation of freedom and democracy -- as it reinforces how important education is; and then, of course, talk about employment and a competitive, now, global economy.

They refer to the standards, typically, and they set what-- Even if they use terms like *minimally adequate* -- that the inputs and outcomes need to be minimally adequate -- they're really talking about a pretty high minimum these days. Because in the 21st century, even a minimal education typically requires things like algebra, and maybe elementary statistics, and a much more sophisticated knowledge of English language arts, and being able to communicate, and so on. So the court sometimes look to what jurors are expected to do, look at what voters are expected to decide on, and what level of education is needed to really do that well.

Sometimes the courts lay out education essentials: typically, teaching quality, sometimes class size, certainly facilities that are at least decent and support the state's learning standards, and other essentials. High-quality preschool is a much more popular item than in passed year, that is mentioned more and more in the cases.

The question of *money matters*: The courts find overwhelmingly that money matters in education. And the plaintiffs argue that money matters. Defendants sometimes argue that money doesn't matter, in the sense that more money won't help these kids, these kids can't learn or won't learn. But the courts typically find that -- overwhelmingly, actually, find that money does matter.

And I do want to mention that these cases don't seem to be decided on the red state/blue state basis. Some of the recent decisions were in North Carolina, Kansas, Arkansas, Montana in favor of plaintiffs. These are not really red state/blue state kinds of issues.

Now, the remedies that the courts order: typically, in the first instance, the courts are deferential, actually, to the legislative and executive branches. They say the state needs to remedy this constitutional violation, but they are not terribly prescriptive in what the state has to do. But if it comes back to the high court on a compliance issue, they typically do become more and more prescriptive, more and more directive. Sometimes they do give what they call *guidelines*. It might have to do with facilities or teaching quality, might have to do with property taxes or some particular provisions in a funding system that they find particularly difficult. And they ordinarily award an adequate funding -- not necessarily equitable funding, although that comes in once in a while.

Only five states' courts have ordered cost studies. That doesn't seem to be critical, though, because a lot of states are doing these cost studies. I think the latest count of states who are either doing them or have done them is 38. So they're becoming ubiquitous out there. And the courts do sometimes order accountability, and they're looking for

accountability, meaning the money should be used well, should be used efficiently, should get to the lowest-performing schools and build the capacity of those schools. And as I said, sometimes they do come around to more specificity, particularly if there's a second round in the courts.

So this is just a brief sketch of the national perspective on school funding litigations.

I welcome any questions.

Thank you.

ASSEMBLYMAN CONAWAY: Thank you.

I think we will have questions of this witness while she's here.

I'll start my side with Assemblyman Wolfe. Do you have any questions for Ms. Hunter?

ASSEMBLYMAN WOLFE: Yes, I do.

Thank you very much. That was an excellent presentation -- very short and also very factual.

I just have a question, as you conclude your remarks: Would you say that there is any specific path that has a proof of success or a criteria for success in most of these court cases? I mean, how do they gauge, once a decision is made, how -- what type of criteria is used whether success is being met or not met -- by the courts or by the legislatures?

MS. HUNTER: Well, I think that typically the courts have enough in their decision that-- You see, the decisions range so much across the states that I can't say, well, if you do *A*, *B*, or *C* -- *A*, *B*, and *C*, necessarily you'll meet your particular set of criteria. The court in Arizona, for just to use an example, said that the state had to make sure that all school facilities were of such a quality that they would support the state's

student learning standards. And so the state went through a whole process to figure out what was really necessary and wasn't necessary in schools to support those standards. And then they passed a law that required the state to go through that exercise. It also required them to fund, for all school districts, that minimum level. Now, it also allowed other districts, some districts, to use local funding to go above those standards. But no district was allowed to choose to go below. So that was a very straightforward decision and a narrow focus, because that case was only focused on facilities, which is rare.

Sometimes there are specific provisions that courts point to, for instance something called *local option budgets*. And sometimes the law allows districts to use their wealth to generate a lot of local funding for schools, and those school districts that don't have that wealth are kind of left behind. Very often, the states try to ameliorate that kind of a situation, and usually they're able to satisfy the court that they have done that. And one way, that I find fascinating, that a few states at least have done, they've managed to tie the bottom to the top in a sense -- the high-wealth districts to the low-wealth districts -- so that as one moves up the other isn't necessarily equal, but moves up with them. So you might see them moving up in parallel. And that seems to give a lot of sustainability to the outcome.

So I feel like I haven't really answered your question, because it depends on a court decision, but usually they do have a enough specificity there that you can look back and say, "Well, they're looking for *A*, *B*, and *C*, and they might like to have *D*, but that might not be necessary."

ASSEMBLYMAN WOLFE: Yes. The reason I asked that question is because, as you are aware, we don't really have that criteria in

New Jersey. We just basically have an obligation through the court to provide money, with nothing there to really say what's to become of that money. And hopefully, that's something you could help us with.

MS. HUNTER: Well, New Jersey is unusual in that many of these cases are brought by only a handful of school districts, and they may be all rural and they may be all urban. But typically, the remedy, the court order -- because they're finding the constitutional violation that applies to the state -- the remedy is statewide. So if nine rural school districts bring a case and the court finds a violation, they'll say, "Well, the school funding system, broadly, for all the state has to be revised."

Here in New Jersey, the case applies only to 31 specific districts. Now, that covers a large portion of the population, but it's different in that regard.

ASSEMBLYMAN WOLFE: Thank you.

Thank you, Mr. Chairman.

ASSEMBLYMAN WOLFE: Assemblyman Stack?

ASSEMBLYMAN STACK: Thank you, Mr. Chairman.

I'd also like to thank Ms. Hunter for an excellent presentation. My question was similar to that of Assemblyman Wolfe, so you did answer it.

Thank you very much.

MS. HUNTER: Okay.

ASSEMBLYMAN CONAWAY: Senator Cardinale, any questions for the witness, please?

SENATOR CARDINALE: Thank you, Mr. Chairman.

In the time frames that these cases have been brought, it's my impression -- and I'd like to know if that's accurate -- that New Jersey was among the first where this kind of court action was taken. Is that correct?

MS. HUNTER: That is correct, yes.

SENATOR CARDINALE: What is, sort of, the median in terms of numbers of years that these decisions have been coming down in other states?

MS. HUNTER: Well, it's true, New Jersey is a bit of an outlier in that regard. It can take time with courts to bring the case. The discovery process can be longer or shorter; the trial itself. But once the high court issues a decision on these cases, it can take-- The remedies in Massachusetts and Vermont were very quick; in Kentucky, less than a year; in Arizona and Texas, four years. And there was kind of a dialogue back and forth -- the legislature enacted something, the court said, "Well, you don't really quite have it there." It was a relatively collegial process, if I can put it that way. In Kansas, it took a couple of years to get a remedy, and it was very contentious -- just as a contrast. That was extremely contentious. And I would say, in Arkansas it has taken a couple of years at least. And some of the remedies are phased in over time. So they might be phased in over two years, or three, or four. And I think the longest phase-in I've seen was Massachusetts, which was seven years, so that the changes are actually phased in.

But New Jersey has had a number of decisions over a number of years, and that's the exception rather than the rule.

SENATOR CARDINALE: You mentioned that there were four states where the courts said that this is not a court matter.

MS. HUNTER: Yes.

SENATOR CARDINALE: That this is not your district. Yes, my mouth is dry. And what states were those?

MS. HUNTER: Those states were Rhode Island, Pennsylvania, Illinois, and Florida. Now, the Florida Constitution has since been changed. The education article has been strengthened. Now it calls for the high-quality education. So I don't know if a follow-up suit might be brought there. And you know how we lawyers are, we can be very creative. So any of those states, someone else might bring a case and say, "Well, right, that's what you said then, but here's a different situation." But those four states are the four.

SENATOR CARDINALE: Has anyone, any organization monitored the improvement or lack of improvement in the educational outcomes in states where courts have involved themselves in what are essentially financial decisions?

MS. HUNTER: There certainly have been studies. Typically, the studies focus on one state at a time, as opposed to trying to do something nationally, because there are too many factors. So that people who are at Syracuse University, or Columbia University, or University of Pennsylvania, and many other locations -- they might look at Kansas before the changes were enacted, look at the inputs and the outcomes, look at what change was enacted, and then try to look at similar inputs and outcomes some number of years later to say, "Well, what has been the change?" Certainly that's been done regarding the implementation of a remedy in Kentucky. I think that that's probably being done now in New Jersey. Certainly the facilities cases are the simplest. I mentioned Arizona

before. It's much simpler to go out and see some of the amazing new buildings in -- especially in poor, rural, and remote areas in Arizona. But these studies are done. What the -- they're typically done by Ph.D.'s, and of course they come with caveats. They say, "Well, we see an improvement here or there," but they always reiterate that there are many factors at play. So for instance, if the scores in a particular state are flat, but the state's demographics have changed dramatically over the period of time they're looking at -- perhaps poverty levels have gone up, particularly for the students; perhaps there are many, many more English language learner students, and so on -- the analysis has to take those kinds of things into account. So, yes, those studies are being done -- have been done, are being done, and I'm sure will continue.

SENATOR CARDINALE: From one of the things you said, I get the impression that the courts sort of think that new buildings are somewhat equivalent to a good educational outcome. Is that -- did I get the right vibe from what you said?

MS. HUNTER: Well, actually, no. I'm sorry if I misrepresented it. I sometimes talk about facilities because that's a simpler issue. If you're talking about teaching quality and class size and curriculum, sometimes that's not as simple and concrete as a facility. So it's sometimes easier for a court to say-- For instance, in New York, the court found that the facilities were inadequate, but it was very simple -- in some ways, was a simple analysis. The state's standards required students to pass a high school science course in order to get a high school diploma. And there were 31 high schools in New York City that had no science lab. So that kind of example I tend to give because it's so easy. But, no, they see facilities as

only one of many factors. And I think, in fact, if you had to rank the factors, they would see teaching -- the courts seem to feel that teaching quality is number one.

SENATOR CARDINALE: In general, as a result of these court decisions, is there a demonstrable cost-benefit relationship that can be determined to be on the positive side?

MS. HUNTER: I'm not sure that most of these studies are doing a cost-benefit analysis. They are looking to see if their student achievement is improving -- if students are getting access to a more rigorous curriculum, if their test scores are going up -- and there is significant evidence that that is happening. But even the school finance experts -- I don't think that they-- I haven't -- they haven't really-- I really wouldn't call it a cost-benefit analysis. There are people who are saying, in writing, that perhaps in some places and in some instances that an investment in better health care for students -- particularly, say, dental and vision -- would give more of a boost to student achievement than would vast access to a more rigorous curriculum or some other way of spending the money. The only area that I am aware of where there's been a significant cost-benefit analysis done is with high-quality preschool. That has been done in a number of places, and continues to be done. There are many analyses. It's a little more direct, it seems; it's a little easier to see the payback over time. It does take years, of course, to see the payback, but the cost-benefit analyses are being done with that particular program.

SENATOR CARDINALE: Thank you.

MS. HUNTER: Thank you.

SENATOR ADLER: Ms. Hunter, thank you so much.

First of all, I guess I'm somewhat relieved. I think of myself as just a New Jersey person, and forget to look at the rest of the country. And I guess I'm somewhat relieved to know that there are other states that have struggled with this legitimate dilemma of providing some home rule, some local decision-making, and yet at the same time meeting a constitutional and moral mandate to educate every child without regard to their economic abilities. And so I'm, I guess, relieved to hear that it's going on. Other states have the same angst and the same frustrations to some large degree. The question we have to answer, ultimately -- it's the question I'm going to pose to you for -- as a reference point for New Jersey to follow, perhaps. If you could tell me what state has done it best -- to meet the constitutional obligation to educate children under -- whether it's thorough and efficient, whether it's called *adequate*, whatever the standard established by the language of the people of that state through it's Constitution. If you could tell us what state has done it well and met the obligation to kids, met the obligation to taxpayers, met some of the concerns that Senator Cardinale just raised in terms of accountability, and outcomes, and value for the money being spent for whichever child, in whatever part of whatever state. If you can give us a sense of what states have come closest to doing it right. Not only that's what we have to accomplish -- and to the balance, the cost issues, and the constitutional issues, and the moral issues and accountability issues and the outcomes goals. So if you could maybe direct us. I know you're a lawyer, not an education expert, but you've looked to lots of different states. Is there a state that we should look to, or set of states we should look to, for guidance as to setting up a different and better funding formula for New Jersey?

MS. HUNTER: Well, that's a very interesting question. And I wouldn't refer you to any one state. I think that there are a few states that might, depending on what is most of interest to you, might help you.

SENATOR ADLER: All those things are an interest to me.

MS. HUNTER: Yes, right.

I would say that Vermont seems to have a long-lasting resolution of their case that seems to be satisfactory to the people of Vermont. Now, whether that would be appropriate here is not for me to say.

SENATOR ADLER: I know a lot of the members are familiar with that state's formula; but if you could just inform me, what does Vermont do well that New Jersey could replicate in some way?

MS. HUNTER: Well, they do something what's often called *district equalizing*, so that an equal tax effort will generate equal tax revenues for a particular location. So they're really taking into account the wealth differences. And the state is actually providing them the difference between what a-- If a municipality can raise a certain amount of money at a certain tax rate, a different municipality may be able to raise less, and then the state makes up the difference.

In Maryland, they actually--

SENATOR ADLER: Can I stop you?

MS. HUNTER: Sure, go ahead.

SENATOR ADLER: Just in Vermont, do they set a benchmark as to how much you're supposed to spend per kid or per district, and they catch up the poor districts to the level of the richer districts? Do they tie the poor to the rich, as you described some states do -- and I think New

Jersey kind of does that to some degree with the poorest and the richest. How do they do that, so that-- Is there a figure that's set by the state, Board of Ed, by the state Department of Education, by the courts, by somebody?

MS. HUNTER: As in many states, they did come up with a foundation amount. Many states do that. That's a very common approach. They come up with a foundation amount and to try to adjust that over the years, as inflation and other things impact that amount. And I'm not an expert on the intricacies of that formula. I'm sure that there are people who are, and even the next speaker may be. And so I'd rather defer on that. But they certainly have a mechanism in place that if-- They said, if you raise your property taxes  $X$  amount, you will generate -- you, along with the state's help, if you're a low-income district, will generate the same amount as the wealthier districts.

Now, I'll mention Maryland only because they have simplified the formula. Many states -- California claims to have over 100 formulas within its formula; New York about 50. And many states have very complicated and complex formulas. And Maryland simplified theirs down to, I think it was only seven or eight major categories and major calculations. And that may be of interest to you, it may not, but there's one example where they were able to simplify it. And it -- so it makes it just easier for more people to understand.

Now, in Kentucky -- Kentucky is one of the states that does tie the bottom to the top. And they have a rather equitable funding system, so that the range of spending is rather narrow. And the highest-wealth districts are not, in fact, the highest-spending districts, but the range is

relatively narrow. That has been sustained over a number of years. Now, there are complaints. Of course, there were the enormous revenue shortfalls in recent years, and most states were heavily impacted by that, and Kentucky among them. So the funding of that formula lagged in that time frame. They have begun putting more money into it just this year. But it has been sustained over a number of years, about 15 years, and it has been equitable -- I guess 16, going on 17 years -- and it has been highly equitable. So you see that, depending on the state, there are going to be different priorities; and you may have different priorities.

Now, some of the trends over decades of time: states have tended to take on a larger portion of the funding so that we're maybe around 50 percent these days on a national level. And it was much more a local responsibility many years ago. So-- But of course, there was a little bit of a push back on that, again, with the major revenue shortfalls. The local portion in many states became a little larger, and the state portion a little lower.

So, again, I'm not sure that I've answered your question. I think if you're looking -- New Jersey and Massachusetts are a couple of the states where funding does go into the low-wealth districts; and the equity there is better than it is in, for instance, New York and Illinois, where the differences among the low- and high-minority districts are enormous. I would not recommend California, (laughter), let me say that, which is very complex and which doesn't seem to support a strong education system at this time.

SENATOR ADLER: For those states that are tied, either by legislative formula or by some court dictate tying the funding for the

poorest districts to the funding for the richest districts-- Has there been a way to avoid the dilemma or resolve the dilemma that New Jersey seems to face, in which our richest districts want to have freedom to spend their money based on raising the money, principally locally -- but a little bit of state money, not nearly enough, but principally locally -- and our courts have said that we have to have our poorest districts keep pace with our richest districts -- maybe a year behind, but still generally keeping pace -- so that for the state budget it's a tremendous burden? Because unfortunately, in New Jersey, there are many, many kids in the poorest districts and not enough kids in the richest districts. I think we'd all love to have all our kids be in the richest districts. But-- So, it's a fiscal burden for the State to finance public education for those poorest districts that are tied to the richest districts. Has there been a mechanism devised, in any state where the poor and rich districts are linked, to slow the spending in the rich districts in a way that has not affected education quality -- which is something we care about very much -- but which doesn't exacerbate this State fiscal burden, where the many more poor kids have to be funded by the State to keep pace a year behind the richest districts?

MS. HUNTER: Boy, that opens up so many questions. I think that -- I mean, the easy answer is: just grow the economy. Right? But that's not so easy. If the economy is growing and growing, we're all happy.

And I guess some places have started to look at some of the components. Health-care costs are in our school budgets. And those are typically very -- have very high inflation associated with them. But I'm not sure that anyone has actually solved that yet.

I understand that there is another Committee dealing with pension reform here. And that might help, again, with the school budgets, if your pension dollars are in your school budgets.

I almost want to defer to the next speaker, who may have more specific answers for you on this. And I'd be happy to do some research and get back to you. But I don't want to speak off the cuff. This isn't necessarily my area of expertise.

SENATOR ADLER: If you're willing to do any research on it, I think that would be enormously valuable to us, or at least to me personally.

And, secondly, you and I spoke before this hearing, but I'm going to ask this question publicly. Would you be willing to look at any draft reform legislation that we come up with that might revise our school funding formula, and give us a sense, based on your knowledge of New Jersey and other states, whether it would pass constitutional muster?

MS. HUNTER: Absolutely.

SENATOR ADLER: Thank you.

MS. HUNTER: I'd be happy to.

SENATOR ADLER: Good answer. (laughter)

ASSEMBLYMAN CONOWAY: I just had a few questions. In getting -- I guess on taking off on what Chairman Adler has mentioned about this tie between the highest and the low-- Is that an unusual construct by a court -- to tie spending by the lowest to the high? I mean-- And, again, in following what the Senator has said -- and, I guess, as a corollary question -- I would bet that there is--

See, the link, it seems from my standpoint -- and disagree with me if you will -- that the link between spending and quality is not

necessarily -- is not a linear one. And it seems to be -- it could be argued, and perhaps it has been shown and proven in other jurisdictions -- that those districts that spend the most are not necessarily getting the highest quality of education, or maybe they're spending too much. So to tie the spending to those districts that might be very inefficient, that might be spending money on things that go well-beyond what they ought to -- those districts generally have a lot of -- the children who live there generally have a lot of other advantages that will help them on aptitude tests, and getting into college, etc., all those various things that parents can buy for them.

I mean, is it a sensible policy to tie our spending to the highest districts? Have other states done that? And I imagine those states that have done it find themselves in our problem, as the Senator has pointed out -- that we have no way-- And, politically, how do you tell somebody who wants to spend their money, even if it's unwise, to stop doing that so that we can fix a budget problem that's driving us, really, under?

MS. HUNTER: Well, you are in a -- you are representing a dilemma there. I think that part of what happens to motivate this tying together-- And they're not necessarily-- In some states, they're not necessarily tied at an equal level, but at a level that -- so that they move up together, assuming that the direction is up, which it typically is -- that they move up together, rather than--

What happens in some states where they don't do that is that you have a recurring crisis, because the lower-wealth districts tend to fall behind. And so then there is a crisis to try to catch them up, to get them up to some level of adequacy. And then, if the mechanism isn't there to keep them moving up all the time, they again tend to fall behind. So that's

what the intent of these mechanisms is, to avoid that kind of recurring crisis and recurring lack of quality for those particular kids.

And the -- one of the other things that impacts it is that, typically, those districts have more high-needs students. So that the programs for kids coming out of poverty who, without the programs to help them, would start school a couple of years behind -- that's a cost that in the higher-wealth districts, as you mentioned, the parents are probably paying for -- preschool, for instance. And, also, for the English-language learner students, there are, typically, added costs.

So, you see, there are several factors involved. And I think that the mechanisms that tie the low to the high are not real common. There are some states doing that, but not all, by any means. And some states just have a tradition, a kind of a history of that. I mean, in Iowa, it's -- the idea is, "Well, of course, we fund all our schools pretty much the same." But that's just the tradition in some states, not all.

And the states that do not have either that kind of a tradition or this mechanism to tie them together, they do encounter these recurring crisis. So I'm afraid I'm not being very helpful.

ASSEMBLYMAN CONOWAY: Well, you mentioned -- used the word *crisis*. I mean, if-- Have states said, for instance, "We're going to set a standard that is--" And we've done that here. We have a CEIFA standard. We have these core curriculum standards that we want people to meet. And it seems to me that in any system you'll have those that fall below and those that rise above. I and J Districts, I would think, typically are above both, in terms of their ability to meet those standards and exceed them; and also above in terms of their spending.

Now, because another district may fall behind doesn't necessarily mean they're going to fall behind some standard -- a CEIFA standard -- or that it is less than what the I and J might do. But if they're at that standard, it doesn't mean we're doing badly by them as a State. I mean, have courts looked at this question of-- Have they pegged the standard to something other than at the very highly level -- say 75th percentile with spending, let's say, so that you have something that's a little bit more realistic for a school system -- a State system -- that has districts across a broad range?

MS. HUNTER: Well, the courts don't typically tie to a particular percentile of spending. They're more interested in the quality of education. And so if a district is spending less but meeting standards, that's not a problem. But the-- Typically, these cases are brought on behalf, again, as I said, of the low-income, urban or rural students who are in situations where there are just obvious shortcomings. Twenty percent of students -- of teachers in a school district might be uncertified, for example. They may not be able to use the gymnasium or the auditorium because it's unsafe. They may not have enough textbooks for kids to ever take them home, and on and on.

So it's that kind of missing opportunity that the court is more interested in. They don't-- They're not concerned about whether the schools are spending at the 50th, or the 95th, or the 25th percentile, in terms of spending. But in terms of providing kids with access to Algebra, and Geometry, and Spanish Language, or French, or something-- Those kinds of things do have consequences for those kids, in terms of their opportunity.

I mean, there are some schools in California that do not offer the curriculum that is required for students to take just to apply to the University of California. And so that's the kind of thing that a court would find problematic, as you can imagine.

ASSEMBLYMAN CONOWAY: You mentioned-- Do any states-- And just a sort of quick answer on this one, because I know there are a couple of other questions. But do any states fix the tax rates for their localities, in terms of-- I mean, I guess they find ways of coming up with an effort -- a local effort. But do any states go so far as to fix this rate for everybody across the state?

MS. HUNTER: There are states that have adopted a statewide property tax rather than the local property taxes. They typically do allow localities to add, depending. They may have a mechanism or various rules about that. But there are certainly states that have gone to a statewide property tax.

ASSEMBLYMAN CONOWAY: And have those states had problems -- more problems than other states that have not done that? Is there more stability in that rate? Is there-- Are there things to commend that kind of a process?

MS. HUNTER: Well, I think the experience has varied, to some extent. And certainly the Robin Hood approach has not worked, where if-- For instance, in Texas they had a Robin Hood system for a number of years, where there was a state level of property tax. And the high-income districts actually had to spend -- send some of their local property tax revenues to the state to be distributed to the low-wealth districts. And that was -- has not -- has only been adopted by one other

state, which has since done away with it. And it has just recently -- the funding system in Texas has been changed away from that. And that generates a certain amount of resentment, I think.

But that's not necessary. You can have a state level -- a statewide property tax rate without requiring that kind of sharing.

ASSEMBLYMAN CONOWAY: Because equalization is always going to mean that the state is going to-- I mean, if the state does equalization, they're always talking about pulling money, and sending it -- as we do here -- to districts that don't have the property wealth, or income wealth, to fund those schools to a level that we would think adequate.

MS. HUNTER: Yes.

ASSEMBLYMAN CONOWAY: I mentioned that word *adequate*, I guess, for a reason. It seemed to me, in reading the articles here, that there is sort of a trend in this litigation to look at questions of adequacy. And I would think that those questions would get rather thorny, because the courts might get in a position to say, "You're not actually spending enough money on schools to meet standards." I mean, are they going to-- Are the courts going to look at a standard in that case and say, "The standards are here; you're not spending enough--" or somebody is going to bring this case, I guess -- "You're not spending enough to meet those standards," and have the court, perhaps, be rather interventionist in dealing -- on this adequacy issue, which I think is the other thing that is sort of coming down the pike in litigation in this area.

MS. HUNTER: That has happened in a few states. Typically, the court tells the state that there's a constitutional violation, lays out a few guidelines, and the state complies. If it keeps coming back to the court, the

court, in a few states, have ordered the state to expend certain amounts of money, increased by a certain amount or a range. Sometimes it's a range of amounts. The courts say, "Well, it looks like it's between this and that. And you need to increase the spending by that amount." So it does, sometimes-- That's the exception, not the rule, by any means. But it does, sometimes, come down to that kind of a direction, yes.

ASSEMBLYMAN CONOWAY: Assemblyman Wolfe.

ASSEMBLYMAN WOLFE: Yes.

Dr. Hunter, thank you, again. And I-- You said something that I paid particular attention to, and I'm sure my colleagues did. You were talking about the inputs -- some of the criteria. And you talked about success of the preschool programs. And I think, nationally, New Jersey's preschool programs have received some very good grades, recently. And I think that's something that we can all be proud of.

But I just, really, have two really quick questions. Earlier, I had asked a question, and Assemblyman Stack also agreed with that particular question. And that question really was that the courts really don't have any criteria to measure success. They basically have said, "Provide the moneys." So in that case, have any states put a sunset provision on when that funding stops, or how that funding stops, or is it just continuous? Once -- it goes on year, after year, after year?

MS. HUNTER: Well, typically, the funding systems are set up to continue year after year. I'm not sure that-- It's a matter of building and maintaining capacity in schools. So I'm not sure. Maybe I'm not understanding your question clearly.

ASSEMBLYMAN WOLFE: I'm saying, in the absence of criteria that indicates positive movement has been made, what -- at what point does the funding cease, or at what point does the funding, say, ratchet down?

MS. HUNTER: Right. I think that the typical criteria that are looked at are things like graduation rates and test scores that tie to the state standard, not just test scores generally.

Now, of course, I haven't mentioned NCLB much, but that comes into play, too. There's a certain pressure there that might, despite a state deciding that the funding levels are now okay and we can proceed accordingly, there may be pressure from NCLB. So I don't think I have an answer for you. I'm sorry. (laughter)

ASSEMBLYMAN WOLFE: That's okay. We'll look for the answer then.

I have another question regarding facilities. I'm sure you're aware that the State is mandated to provide 100 percent of the costs for the facilities in the Abbott districts. Are there any other states that require that type of arrangement, but do not provide 100 percent funding for the other districts?

MS. HUNTER: Oh, facilities funding, of course-- That's a whole-- Those are typically funded very differently from operations. And there are probably still 10 states that provide no facilities funding, even though the trend over the years has been for states to assume more and more of that responsibility. So that's quite exceptional.

The only state where the state actually provides most of the facilities funding -- states -- would, I think, be Arizona and New Mexico. In

every other state, besides the 10 that don't provide anything, and the two that provide almost all -- oh, and Hawaii, I'm sorry -- the three that provide almost all. The other states have such a range of coverage that the state may pitch in a little for the lowest-income districts, particularly rural districts that don't have the ability to generate the kind of -- they just don't have bonding capacity and so on. Or, in some states, it's a rather rich state investment. New York, Illinois -- they typically provide a significant amount of facilities funding. One hundred percent-- As I said, there are only three states that really go there.

ASSEMBLYMAN WOLFE: Thank you.

ASSEMBLYMAN CONOWAY: Thank you very much for your presentation.

With that--

Oh, Senator Cardinale.

SENATOR CARDINALE: Thank you, Mr. Chairman.

I was only going to ask one question, but now I'm going to ask three.

MS. HUNTER: Wow.

SENATOR CARDINALE: Isn't Hawaii unique in that funding is not really tax money, that that comes from a foundation from some philanthropy that created the facilities funding, or the largest portion?

MS. HUNTER: Oh, for facilities in Hawaii -- you may be right. The operating side is certainly tax money. I don't know about the source of the facilities funding in Hawaii.

SENATOR CARDINALE: When I visited Hawaii--

MS. HUNTER: Ah, you learned that.

SENATOR CARDINALE: --they told us that all of the school facilities are funded by a foundation, a trust that was left by some fairly wealthy plantation owners. So that would explain why that is 100 percent.

MS. HUNTER: Well, there's your solution. I wish. (laughter)

SENATOR CARDINALE: It seems to me that--

ASSEMBLYMAN CONOWAY: It would be the Cardinale Foundation.

SENATOR CARDINALE: Okay. If you can make do with that, it will be very happy -- this town. (laughter)

It seems to me that these constitutions in these various states are probably not all worded identically. But, yet, the courts seem to be largely coming closer and closer to decisions that are all going in the same direction. Is that a correct impression I get from your testimony?

MS. HUNTER: Yes, that is a correct impression. And I think that the reason for that is that the wording itself is not so critical as to -- as the wording of the constitutional convention, and so on, when the decision was made to add an education article. There's usually a lot of very strong language about how critical education is to democracy, and freedom, and so on and so forth. And that's what the courts are-- They're interpreting the constitutional provision on the basis of these kinds of historical documents. So they are overwhelmingly in that one direction, yes.

SENATOR CARDINALE: Wouldn't you draw a conclusion from-- Wouldn't it be reasonable to draw a conclusion from that, that the courts are not really interpreting the constitution, but rather making public policy, which they think is better than the public policy being made by the legislature and the governor?

MS. HUNTER: Well, they're usually not looking at the current policy, as they're looking at historical documents in terms of deciding what the constitutional education article means. I think that that's the -- from their prospective, that's what they're doing.

SENATOR CARDINALE: Aren't you saying the same thing I am, except you're saying it like a lawyer, and I'm saying it like an ordinary person? (laughter)

MS. HUNTER: No, probably not. (laughter)

SENATOR CARDINALE: Is New Jersey unique? The kind of situation that we have in New Jersey-- And as I see the situation in New Jersey, what it does is, it allows 31 of our districts to spend at a rate which is, in many cases, higher in dollars than the highest spending districts from which that spending formula is derived, and, simultaneously, being able to almost entirely abandon any of their own obligation to provide funds for education.

In other words, city *X* gets to spend \$20,000, whereas maybe the highest spending district is in the \$17,000, \$18,000 range, per pupil, of course -- \$17,000 -- providing almost entirely 100 percent of its own funding. And city *X* is providing 5 percent of its own funding, maybe less, maybe more -- maybe a little more. But in most cases, less than 10 percent.

Is this a unique result of a court decision, or is this typical of what the courts are doing in these other states? Because I think you have presented that there is a wide range. While they're going in a particular direction, there's a wide range of how the various courts have dealt with it.

MS. HUNTER: Well, I think that there is typically a wide range of the percentage of funding that comes from the state versus local.

Even where there's a statewide property tax, that set rate generates vastly different amounts from different districts, depending on the wealth. And most, if not all, states have some wealth equalization in their formulas so that the wealthiest districts may be tending to get 5 or 6 percent of their money from the state, while the poorest districts may be getting 80 or 90 percent from the state. So that kind of mix is not unusual. New Jersey may be further on the -- on one end of the spectrum than most, but it's not an unusual kind of difference because of this wealth equalization that has come--

SENATOR CARDINALE: And those so-called poor districts are able to spend, at a rate per pupil, higher under that scenario than the rate per pupil in the districts which are getting minimal aid?

MS. HUNTER: No, I think that that is unusual. It's not unique, but it is unusual. And, again, the reasoning involved has to do with the high needs of the students in those districts. But even with the wealth adjustments in wealth equalization, and the much higher percentage of state funding going into the lower-wealth districts, they are not typically able to spend more.

Now, I would like to mention one other thing that New Jersey is unique in. New Jersey has the highest high school graduation rates in the nation, significantly above most, and the highest graduation rates for minorities -- far and away above most.

ASSEMBLYMAN CONOWAY: Let's clap for that. (applause)

MS. HUNTER: And it's not a paper diploma. It's a serious diploma that requires a certain number of courses, and so on and so forth.

So one can certainly compliment New Jersey in that regard. It's well-deserved.

SENATOR CARDINALE: Thank you.

MS. HUNTER: Thank you.

ASSEMBLYMAN CONOWAY: Thank you, Ms. Hunter, for your testimony, and your help, and your promise of future assistance to us as we make our way through this process.

Next we have, joining us from Denver by a video link -- and there he is, for those of you -- on the screen in the upper right -- Mr. Michael Griffith. He is an education finance consultant with the National Conference of State Legislatures, who is generously paying for this video link setup so that we might have the benefit of Mr. Griffith's expertise.

Mr. Griffith has had a long career in research and study on issues related to education finance, adequate school funding, charter schools, educating at-risk and special needs students. He has authored or co-authored a number of studies on government funding formulas, and early learning and intervention programs -- for early learning in states.

Before joining NCSL, he worked with the Education Commission of the States, where he was a policy analyst and, particularly, worked in education policies in the states of Kansas, Minnesota, and South Carolina. He is well-studied, well-versed in these issues. He, by the way, has an MPA from Ohio State University and a Bachelors of Arts from James Madison College at Michigan State University, and is currently studying for his master's in Education.

With that, please join us, Mr. Griffith.

**MICHAEL GRIFFITH:** (via video conference) Hi. Thank you. Can you hear me well?

**ASSEMBLYMAN CONOWAY:** Yes.

**MR. GRIFFITH:** Great.

I'd like to thank you for inviting me. And I'd also like to thank NCSL for making this possible.

I'm actually not an employee of NCSL. But I'm a consultant that they have hired for the day to help you out with the current funding questions you have.

I'd like to keep my presentation pretty short, because I can tell you have an awful lot of questions on various issues. And so I'd like to keep my presentation to about 15 minutes, and then reserve the rest of the time for questions.

My main purpose in my presentation is to let you know what's going on around the country, and how New Jersey fits into these situations, and how do they compare, in both their funding level and the way they fund schools, to other states.

Comparing New Jersey to national averages in what's going on across the nation is somewhat difficult, because New Jersey doesn't look like a typical state in a lot of different ways. So what I've tried to do is put together a collection of states that do look a lot like New Jersey. Those are states that are in the mid-Atlantic, Northeast, or Midwest, that are large states, that have urban populations, that have a tradition of local funding and local control, and also tend to fund their schools at or above the national level. Those states are: Connecticut, Illinois, Massachusetts, Michigan, Ohio, and Pennsylvania. You'll notice New York isn't included

in there. And, often, in comparisons you'll see New York and New Jersey being compared. The difference with New York is that it is so much larger than New Jersey. And the city of New York, because of its size and its special needs, tends to make it very noncomparable to the State of New Jersey.

It comes as no surprise, I'm sure, that your state has an awful lot of school districts and a large student population. What that means is that you have a large amount of small, highly populated school districts. New Jersey has the highest student-to-square-mile ratio in the country -- or I should say smallest. It is the most densely populated state in the union. And it's only rival is D.C. What that means is, you're talking about a lot of urban and, sort of, old rim suburban school areas that exist. There is also a decent amount of, sort of, larger, suburban school districts and not that many rural districts. Again, this should be no surprise to anyone there.

When you look at the number of students attending school districts in your state, it's about 2,300 students per school district in New Jersey. In the comparable states, it's about 2,000. In the states -- and the national average is about 3,100. The reason, again, for the big difference is the number of school districts that exist in your state. There are 593 school districts in New Jersey. The national average is about 307 or so.

What we see in the states that are comparable is, the tradition of small school districts has meant that the schools tend to be -- have the same borders as the local cities, or townships, or villages. Once you get outside of the Midwest and the Northeast, school districts tend to have the same borders as counties. So when you look at a school district in, say,

Nevada or New Mexico-- There are only 16 in the state of New Mexico, I think 25 in the state of Nevada.

It will also come as no surprise that New Jersey spends the most per student. There are several different ways to look at this -- look at expenditures. What I'm using are the numbers from the National Education Association, that put New Jersey spending at \$11,500 a student. You can also look at a number that includes capital costs and some other things that puts New Jersey spending at about \$14,000. But because of the difficulties with comparing state-to-state on capital spending, I pulled that out. And we're just looking at what we would call operational expenditures.

The national average is about \$8,500, so close to 50 percent less than New Jersey. But when you look at the comparable states, it's almost \$10,000 per student. Again, New Jersey is above the comparable states. Some of that can be explained by the unique costs -- higher costs that are generated in New Jersey due to the fact that a large amount of New Jersey schools are centered around Philadelphia and New York City urban areas, which are very high-cost areas. But a lot of that is explained through your history, and the fact that New Jersey has traditionally been generous with their education spending.

The majority of spending in the state does come from local sources. In New Jersey, about 39.4 percent of spending comes from the State sources. That's much below the national average, which, nationally, 53.2 percent of the spending comes from state sources. But when you look at the comparable states, New Jersey is pretty much on track. The comparable states that I have outlined -- about 45 percent of the spending comes from state sources. But when you take Michigan out of that

(indiscernible) the same number as New Jersey. And we can talk about Michigan in a little bit. Michigan used to look a lot like New Jersey in the way they funded schools. But they made some major changes in '94 that moved funding away from locals and moved it toward the state.

The logical sort of progression from understanding that the funding is coming locally is that property tax will be higher. Local funding tends to almost solely be generated by property tax; or usually, in some states, small taxes or small fees are used. But the vast majority comes from property tax. New Jersey leads the nation in property tax per capita.

There are other ways you can measure property taxes: property tax per value of property that exists, or through income. Pretty much any measure you look at -- New Jersey is on the -- number one or number two on the property tax burden. But when you look at taxes, overall, New Jersey actually is not at the top. There are other states -- about seven or eight other states that are above New Jersey. And New Jersey is about within the national average. And the national average is \$102 of taxes for ever \$1,000 of income. New Jersey is at \$104. That number is somewhat deceptive, due to the fact that that \$2 difference -- between what New Jersey's tax rate level and the national tax rate level -- equates to about an additional \$670 million more going to New Jersey State and local government from their tax effort.

But, again, it's not that far from the norm, from the average. And actually, if you look at New York State, it's \$135 per \$1,000. So you're talking a huge difference between New York State and New Jersey, and the sort of tax levels that they're paying.

The funding formula that New Jersey uses -- or actually is within statute, although it is not used right now -- looks like the normal funding formula that we see in most states. We would refer to this as a *foundation* or *base funding formula*.

The idea under one of these formulas -- under a base or foundation formula -- is that you find a number that you feel is the correct number for educating an average student, at an average school, without special needs, and you put a cost amount to that. Say it's \$6,000. You then take that as your foundation dollar amount. The wealthier schools would get less than that \$6,000 from the State, the poorer schools would get more. In some extreme cases in states, you would see nearly 100 percent state funding to cover that \$6,000 for the average student in the average school. In the very wealthy states, there are school districts within a state -- you would see almost nothing coming from the state, maybe 5 percent or less of that \$6,000 coming from state funds; the rest would have to be covered by local.

What you do then is, you adjust that \$6,000 -- that base number, whatever it is -- up or down, based on student needs. So a student in special education might receive 25 percent or 50 percent more than that base number. A student who is identified as at-risk would also receive an extra weight. You could provide weights for students who attend rural schools, which tend to be more expensive, or a student who attends an urban school, which tend to be more expensive. And the adjustments can take place for just about anything.

You can also put it in there for students who are attending special types of programs because they have special abilities: gifted students,

for instance, or students attending courses that, you know, are seen as more expensive, like Physics or Chemistry.

Twenty-four of the states around the country use this type of a system. It can look very different from state to state, but it is generally the same idea. What you're trying to do in a system like that is distribute money to those students in those school districts who need it most, and then to allow freedom by those school districts -- both wealthy, and poor, and the whole spectrum -- to decide what to do with those funds. Because, usually, they are not tied into specific programs.

What's put onto those, in addition, are what we would refer to as *categorical funds*. These are funds for certain projects, for certain services, such as after-school programs. If you felt that was a necessity, you would make sure that there would be extra funding for an after-school program for school districts. And you would treat that as a categorical, outside of the traditional, foundation formula.

There are, then, a dozen or so states that use sort of a modified version of this foundation formula. What they do is they have -- either the dollar amount varies from school district to school district, or they've gotten kind of away from using this. And California would be a perfect example. And Molly Hunter talked about this earlier. California has a foundation formula that distributes money. But as the years have gone by, they've added more and more categorical funding mechanisms. So now there are over a hundred categorical funding mechanisms to California's foundation system. The foundation formula itself only distributes a small percentage of the money. The vast majority now goes to the specific funding category

programs. So these foundations are the basic system that most states use. If you put those two together, it comes to about 36 states.

There are seven states, mostly located in the South -- although Washington and Idaho do this also -- that use what you could deem as a *teacher allocation system*. It could also be called a *staff allocation system*. There are several different names for this. The idea is, the state determines the adequate number of teachers per student, and the adequate number of staff per school, and so forth and so on. And then they fund for those positions to go to those school districts, again, based on a sliding scale.

So let's say they find a school district that has a hundred students. They deem that 25 students per teacher is the correct amount. So that school would get four teachers. They would then say the average teacher salary this year is \$50,000. So that's \$200,000 of teaching funds -- teacher funds that will go to that school. Then they decide how wealthy you are, or how poor you are, and have a sliding scale about how much of that \$200,000 will be covered by the state.

You take that for every category within the school. So you would look at teachers, you would look at counselors, you would look at special ed teachers, such things as principals, and so forth and so on. And each one of those-- There is a formula to tell you how many of those your school gets. Then there is another formula to say how much of their salaries the state will cover.

This was done in the South for a very specific reason. There was a feeling that many of the school districts were being underfunded. And even those who were receiving adequate funding were not spending them on the students. So the states came up with this very prescriptive

system to make sure there are an adequate number of teachers, and principals, and other staff in each school.

Once they figure all that out, then they come up with another formula that pays for all the other costs, essentially. But those other costs-- And it's always important to remember, teacher salary and benefits, in almost every state, cover about 65 percent of the cost. When you take other costs -- other staffing costs into account, it's about 80 percent of the cost. So what you're left with for the others -- for supplies, for equipment, for energy cost -- is about 20 percent or so. It varies a little bit from state to state. But we've seen it be pretty consistent there.

Another formula system that exists out there -- in Massachusetts and Wyoming -- you'd think of as the *dollar allocation system*. It looks a lot like the foundation system, but what you're talking about is-- You're looking at each, sort of, phase within a student's school day, and trying to cost that out. So you would say each student will receive so much money that shall go to teaching. Each student then will receive so much money that goes to their teachers' professional development, to their own supplies, to their own after-school activities, so forth and so on. And you try to cost each of those items out. Then you come up with a total per student. And, again, the amount that the state contributes to the school district varies on the school's wealth. It looks a lot like the foundation amount, except for it's a little more detailed in the way it comes about.

Massachusetts did this years ago as sort of an experiment. And it's worked for them so far. Wyoming did this due to a court order that said that there were to be specific dollar amounts to go to specific programs.

And the state had to prove that the money was going to each school, based on what the courts had said the money should go for.

You also have a couple other systems that are out there. Delaware uses a very complicated combination of the teacher allocation system and the foundation formula. They've had sort of a mixed bag of results with it. They're fairly happy with it. But it's a very complicated system that has become more complicated as the years have moved on.

Hawaii is a single school district, so they do not have a traditional funding formula in place. Molly was explaining that they fund 100 percent of facilities at the state level. And someone had mentioned that there's actually a fund that exists to fund their facilities. All of that is on a state level, because it's a single school district.

Pennsylvania and Rhode Island actually have a system that New Jersey now looks like. And in Pennsylvania and Rhode Island, they have essentially scrapped their school funding system. And what they've come to is a system that -- you get the amount of funding that you got in a previous year, increased by an inflation amount. What that does is, that benefits those school districts that have shrinking student populations. If you know you're going to get 5 percent more funding this year than you got last year, and you have 10 percent fewer students, you will have more money per student to spend. So it benefits those school districts, whereas it penalizes those school districts that have increases in student population.

New Jersey now looks like this, because they have sort of-- You have essentially moved off of your funding formula for all the non-Abbott school districts.

I'd also like to make a point, and it gets to some of the questions that were asked at the end of the preceding-- Does anyone have a system that kind of takes -- looks differently, and funds those poor districts differently than they fund all the other districts? And the answer is: there are. In fact, all the comparable states that I pointed at -- each have different funding mechanisms for what they deem as unique school districts. In Pennsylvania, they have a different funding system for Pittsburg and Philadelphia. In Michigan, they have a different funding system for Detroit. Illinois has a different one for Chicago. In Ohio, they've broken up the school districts in five different categories. Those in each category, essentially, have different ways that they are funded.

So what is done with the Abbott districts is not that unusual. And, in fact, in none of those cases -- well, with the exception of Ohio -- was a court order mandated, mandating this funding system. The funding system sort of grew up organically, naturally.

What do you want to look for then? And someone talked about, earlier, what's the best state funding system that exists? Well, what you're looking for when you're looking for a good funding system is one that's adequate; that funds all their students at a level that allows them to achieve state standards; that's just -- so it provides those districts that are low-wealth with enough funding so that they can be, if not equal to the rest of the districts, at least that they have a fighting chance to be within the norm; that's flexible. You don't want to be -- provide too many dictates on how schools need to operate. You should allow them to choose to spend their money differently, because one size does not fit all when it comes to school funding. It's straightforward so that it's predictable in the future --

you don't want a system like New York's or California's, where you cannot figure out what you're going to be getting next year; and it produces educational results.

The one state that I would say comes closest to matching all of this is Maryland. Molly Hunter pointed this out. And I think it needs repeating, in a way, that their system was originally established with several adequacy studies that they had undertaken. The adequacy studies said, "You need to spend this amount per student," and they made the effort, then, to make sure that every student got at least that dollar amount that was set forth in the studies. It provides additional fundings to those low-wealth school districts, especially those districts right around the D.C. area, that are low-wealth and high-need, that look very much like the Abbott districts.

It is flexible in the sense that -- Molly had explained this -- they eliminated-- They used to have 25 or so categorical funds. They eliminated all but about six. And so they greatly simplified their school funding system. It's straightforward. It's very predictable. You can see what's coming from one year to the next. And it has tied on-- They have attempted to tie on the additional funding to additional student achievement.

And what they've done with each school district in the state is, the school districts -- before they can get this additional funding provided in this new formula -- have to come up with an educational agreement with the state. And the educational agreement is different for every school district. But it basically is setting the bar for certain graduation rates, test score rates, student attendance rates.

Now, the question is -- and they really haven't settled this 100 percent in Maryland yet -- what happens if the school districts don't meet the standards that they've agreed on in the contract with the state? That will be something in the future to see. Will they allow school districts to go a couple of years without meeting the agreement, or will they pull back funding, will they terminate contracts for those superintendents who -- running (indiscernible)? It's yet to be seen, but at least -- I would say, Maryland's system is not perfect, but it looks very good and it meets a lot of these different criteria.

And that's it for my formal presentation. I'd like to take any questions you may have.

ASSEMBLYMAN CONOWAY: Yes, thank you for that thorough-going presentation, and for helping us understand where New Jersey fits in across the nation.

Thanks, again, to NCSL. I understand this is the first time such a presentation has been conducted -- here in New Jersey, certainly. And we on the Committee want to thank NCSL for their expertise in helping with your testimony today.

Questions from the Committee? (no response)

Oh, my goodness.

Gosh, I was listening, so I didn't take down questions.

SENATOR ADLER: Maybe ask the same question of him, if he'd look at this--

ASSEMBLYMAN CONOWAY: Go ahead.

SENATOR ADLER: Mr. Griffith, I'm wondering if you could make the same commitment that Molly Hunter made to us a few minutes

ago. She was very gracious and agreed to look at any legislation -- not any legislation-- But this Committee is likely to draft some legislation that would revise New Jersey's school funding formula.

I wonder if, as we go along with this process of drafting-- I wonder if you'd be willing to look at it and just give us your comments, maybe see if it's comparable to some other states, see if it seems deficient, educationally or constitutionally, or if you see some policy gaps in it that we might close before we actually try to implement it. So I guess what I'm hoping is that we can send you something, and you could give us your thoughts on whether it makes sense.

MR. GRIFFITH: Sure. I'm willing to help in any way I can.

You did have a question earlier about tying wealthy and poor districts together.

SENATOR ADLER: I did.

MR. GRIFFITH: Would you like me to go on a bit about that?

SENATOR ADLER: That would be great. I'm actually very curious about that. So, yes, you could share that with me.

MR. GRIFFITH: You are the only state that directly ties the wealthy to the poor where, essentially, they hold the same fate, you could say. As the wealthy districts move up, so do the poorest districts. There are states that have systems that share revenue between sort of the wealthy districts and everyone else. Molly kind of talked about this with Texas, in the revenue sharing.

The system that is used in Vermont shares revenue with the wealthiest to the poorest districts. But they're not directly tied in with each other. What you have that's the closest looking thing to New Jersey are

states like Montana, where the court has ruled the wealthy districts cannot spend beyond a certain dollar amount, the poor districts have to be able to spend at least to a certain dollar amount. But, again, that does not tie the two groups together.

The situation you have, now, in your state is not-- The idea that, right now, you're spending about 58 percent of your money on these 31 districts, even though they only encompass about 23 percent of your student population-- That, in and of itself, is not necessarily bad. But where the difficulty lies in your system is that as the wealthy districts continue to spend uncapped, the Abbott districts are brought forward. This means that you've had these groups spending at a greater rate of increase, every year, than your budget is growing.

So even though, right now, you're at about 60 percent of the spending going to Abbott districts, within five to seven years, 70 percent of your spending will go to Abbott districts. You can keep taking that forward to within, say, 30 years -- 90 percent or so of your spending will go to the Abbott districts. That's a direct consequence of you having tied the wealthiest to the poorest. And I say *you*, I know that's a court order -- that it's essentially ordered that. But no one else has that situation. So I don't know -- I went a long way around to get to an answer for you -- but I don't know if that helps at all.

SENATOR ADLER: I have to tell you, I think you have exactly the answer I needed to hear. My question to Ms. Hunter was exactly on that point -- was really the dilemma we face as State policy makers, where if the poorest are tied to the richest, we either have to cut the poorest -- which I'm personally not willing to do, morally or constitutionally -- or we have to,

somehow, slow the growth in spending in the richest. So I'm curious to hear what Montana did to accomplish that, and how that's worked educationally.

MR. GRIFFITH: Well, (indiscernible) Montana. There are actually several states. And this is a result of the equity lawsuits that went through in the '70s, and up into the '80s. The courts ruled that all school districts, in certain states, have to spend within a certain amount of each other. And you can think of it-- Some states set up very hard caps. Other states set up sort of soft caps. In Montana, there's a little leeway, if you're the wealthiest districts, to spend a little more, but not much. In a state like New Mexico, there is a very hard cap about the maximum you can spend and the minimum you get. So the wealthiest districts to the poorest districts look very similar in New Mexico. It's the same with Nevada.

That's about the only way you can do it. If you really want to sort of create equity like that, or if you want to do something like slow down the spending within the wealthiest districts in your state -- is to set up a cap system of some sort. Now, the cap can be based on a lot of different things: growth from one year to the next, it could be set on a solid dollar amount, a per-student amount, so forth and so on.

I think that's difficult, because you also don't want to limit the ability of these school districts, if they want to spend more money, to spend more money. There is, actually, with--

SENATOR ADLER: Well, I'm not sure I agree with that premise either.

Just so you understand, our constitution -- our statutory charge here is to figure out ways to maintain an excellence in education while

finding property tax relief measures and reform measures that are sustainable over a period of time.

So I'm not sure I necessarily agree with the notion that we will have to buy into allowing the richest districts to keep spending whatever they want. Because there are consequences for the taxpayers in their communities and, at least under our current formula, for the entire state. So I'm not sure I accept the premise of that last answer.

Are there-- Do you have, like, a good analysis that you could share with us of experiences of other states in terms of soft caps, and hard caps, and dollar limitations that you just described?

MR. GRIFFITH: Do I have a written study? Is that what you're asking?

SENATOR ADLER: Yes, is there--

MR. GRIFFITH: You know, I don't, but someone else may. And let me see if I can find that. And I'll forward it to the people at NCSL. And they can get it to your staff.

SENATOR ADLER: That would be enormously helpful.

ASSEMBLYMAN CONOWAY: Assemblyman Conaway, again, Mr. Griffith.

Do you-- I was-- The thought went right out of my head.

SENATOR ADLER: Do you want me to come back again?

ASSEMBLYMAN CONOWAY: Yes, please.

SENATOR ADLER: I'm sorry, he was just vamping for me.

Thank you.

John Adler, again.

Does Maryland have any-- Tell me about Maryland, how the formula works. And tell me particularly what caps Maryland uses, if any, or what limitations it has on spending, if any? How has it worked in Maryland.

Then we'll go to the question about education outcomes.

But tell me about the financing aspect for just a minute, please.

MR. GRIFFITH: Maryland, actually, works well so far. One of the difficulties they had is, they tried to institute in 2001, right as the economy was on a downturn. So they don't have sufficient funding, right now, for what they wanted. But what the--

The system they came up with is -- they went out and did two different adequacy studies. They had two different contractors go out and look at what is an adequate amount needed for school districts to meet state standards. The studies came up with two different answers. And they took the lower number as the minimum everyone can get. So they make sure that every school district gets at least what the lower cost study said. Then they turned around and said no one can spend more than what the higher study said, per student -- on a per-student basis.

So that's the way they create the cap. They look at it as an adequacy cap that they've created, and not an equity cap -- what's happened in a lot of other states where they simply were looking at equalizing everybody. There is a rationale, they feel, for why you get a minimum or maximum spending amount.

They then turned around and said, "We will try to fully fund this for everyone." And what happened, again-- The economic downturn in 2001 kind of took away from that. They're about 85 to 90 percent of the

way of fully funding it. But I think the real results will come. And they can start measuring school districts once they hit 100 percent, which I think they will be in the next year or two.

SENATOR ADLER: As long as you're going to ask NCSL to find information on caps, I wonder if you could ask somebody to cross tab that with education outcomes for students, and retention and attraction of high-quality faculty and administrators. Because I think the concerns some people would have if we cap spending is that somehow, either currently or prospectively, we lose good teachers, and supervisors, and principals, and superintendents. So I wonder if there is a way for you to look at the faculty aspect of it, the educators aspect of it, and the outcomes per student aspect and see if there's any correlation -- based on, I understand, a limited period of years in which states have been trying the soft and hard caps, and dollar limits.

Can I ask you to ask NCSL to find that out as well?

MR. GRIFFITH: Okay, sure. We'll see what we can find on teacher retention, and sort of-- There are a couple of states that I know we can target, and look at, and figure out for you.

Michigan being another one-- Michigan set an extremely hard cap. When they changed their funding system, they told school districts, "You will get what you got in 1994, increased by an inflation amount." The inflation amount over the years has been about 4 percent. Well, the wealthy school districts around the Detroit area were spending increases from 8 to 12 percent a year. So what's happened is, their growth has been greatly cut back. And they're some of the school districts that have experienced having to let go of teachers, having to cut programs, even

though they're in wealthy areas, because they've been given this hard cap of what you can spend from one year to the next. So that's another one. If I can find something on Michigan for you -- about the ramifications of doing something like that.

SENATOR ADLER: Thank you so much. I appreciate it.

ASSEMBLYMAN CONOWAY: Mr. Griffith, my question -- I got it back.

In your experience of looking at these funding systems across the states, have you had occasion to observe districts which have managed to do -- to consolidate? I mean, we are awash and sinking because of all of these darn districts we have here in the state. And we need to decrease them.

Have you seen districts or states be able to bring about this consolidation? And what's that process been like?

MR. GRIFFITH: Well, consolidation is always a really tough process. Arkansas, when they came through with the court order to say that they needed increased spending per student, the state of Arkansas basically said, "We will not increase spending until we look at consolidation." And they went through and they found candidates for consolidation pretty quickly. Actually, within a very short period of time, they identified a dozen or so school districts that needed to be consolidated. And they said, "This is going to happen." There was really no talk in the public. There was no debate. There was no vote within the school districts. The state simply went in and consolidated them.

In states like Kansas, they've been talking about this for years. So what they did is, they went out and did a study. And it made a lot of

sense. They looked at those school districts that were-- They looked at performance and spending in every school district in the state. And they said, "Let's look at those school districts that are underperforming and overspending. They are candidates for consolidation." And they identified six to eight school districts that were candidates for consolidation that were -- fit those two criteria. They also identified Wichita as a school district that needed to be broken up, because it was high-spending and low-performing. They never did anything about that: They never consolidated any of the districts, they never broke up the Wichita school district, as a political consideration.

The idea is-- I mean, consolidation, in some ways, makes sense. In some ways it doesn't. And it's more a political debate nowadays, as opposed to a fiscal debate. If you wanted it to be a fiscal debate, then I would suggest you go through and have your Department of Ed do something like that, where they identify low-performing, high-spending school districts. That seems to make the most sense, and that's a good, logical starting point.

After that, though, you get into all the issues of consolidation. And it's difficult, even in states like North and South Dakota, where we're talking about school districts that have less than 50 kids right next to each other -- you can't get them to consolidate. So I think some of these school districts in your own state that might have 1,000, 2,000 kids -- and you think they're candidates for consolidation -- I think it's a lot more difficult to do than to talk about.

ASSEMBLYMAN CONOWAY: As a follow-up, did Arkansas find that it saved money? I mean, one of the reasons that I suggest that we

ought to do that -- listening to folks around the state, and sort of the commonsense wisdom of it -- maybe it's not born out in the facts. But has Arkansas seen that they have been able to save some moneys, significant moneys, with the consolidation that they've undertaken?

MR. GRIFFITH: They save some money. One of the-- Obviously, the immediate savings result in not having as much staff to oversee the school districts. When you consolidate two, you only have one superintendent, an assistant superintendent, something like that, as opposed to the multiple staff from having two different districts. There's a certain cost that's born out in the savings from ordering supplies and equipment.

The truth is, unless you're consolidating school buildings themselves -- say, closing them down and putting students in different buildings -- going, say, from five schools in one district, five schools in another district -- combine those and only having eight school buildings as opposed to the 10 you had before -- you're not going to witness a significant savings.

Again, most of the cost, as we talked about, comes from teachers' salaries and benefits. And there are costs associated with things like administration. But it's not significant enough.

What a lot of states do is, they try to offer benefits to those school districts that voluntarily consolidate. And what they do is say, "We'll give a you bonus for two, three, four years. So you will be held harmless, essentially. But after that period, then we have to start witnessing savings. And so we're going to cut the amount that we're funding you."

That's had mixed results. It's been-- It's enabled some school districts in places like Iowa to consolidate.

I'll be honest with you. When you start talking consolidation, you're talking the rural school districts, mostly west of the Mississippi. You don't talk about it that often anymore on the east coast or in the Midwest. It has to do with the fact that those school districts tend to be much smaller. Out here, you don't have a lot of rural populations that are disappearing, which is the problem west of the Mississippi. And so there's not a lot of good examples east of the Mississippi to talk about.

ASSEMBLYMAN CONOWAY: Assemblyman Wolfe.

ASSEMBLYMAN WOLFE: Thank you for your presentation, Mr. Griffith.

I just have a question to follow up on what Senator Adler had asked you regarding Maryland, which you seem to portray as a similar system we might look at very seriously. And I'm wondering, do you have any data on -- of the educational costs in that state, what percent is born by the state, what percent is born by the local property taxpayer?

MR. GRIFFITH: You know, I don't have it off the top of my head, but I can get that for you and make sure that you have it. It's much more state-supported than your own State. And I'm thinking they're close to the norm, around 50 percent or so from state funding, 42 to 43 percent from local; and then 7 or 8 percent from the Feds. They seem to fall within the national norm kind of thing.

And the new system actually moved them -- because it was a commitment by the state to put more funding into the system -- so it moved it more toward the state side, and sort of away from the local side.

They also have a unique thing in Maryland. There are only, I believe, 23 districts in the entire state. And they are countywide districts. So what happens in those districts is, you have, within their -- each district, you have poor cities, wealthy cities, and a lot in between. And so there is, essentially, revenue sharing between them, within those places. And so it does even out, sort of, the funding between the wealthy areas of the state and the poor areas of the state. So it looks a little different, again, from New Jersey.

ASSEMBLYMAN WOLFE: Thank you very much.

ASSEMBLYMAN STACK: Mr. Griffith, if I may. You mentioned, I believe, Ohio as an example where they have a five-tier system -- I believe. Is that the state that you mentioned? You said it's divided, basically, into five tiers?

MR. GRIFFITH: Yes.

ASSEMBLYMAN STACK: Okay. Is there any way of moving from one tier to the other in that state? Once you're set in those tiers, is there any type of an evaluation process that's set up? Can you move from one tier to the other?

MR. GRIFFITH: You can move from one tier to another. It was set up on a whole system that the courts tried to establish and the legislature tried to put together to figure out where everyone's needs were, and where everybody's ability to pay was. And so it was a combination of the density of your school district, the wealth of your school district -- were you rural, or urban, or suburban. To move up to the top tier -- I wouldn't call it the top tier -- but the number one tier that they have there would be very difficult, because that's Cleveland, and Columbus, and Cincinnati.

And I think you have to have a population over 350,000 or something like that.

The other tiers, though, could be pretty fluid. If you move from, say, being a rural district to being a suburban district -- which happens an awful lot -- you could move from one tier to the next. If your population decreased or your wealth increased you could, again, move from one tier to the next. The tiers aren't as separated as the Abbott versus non-Abbott in New Jersey. It's a much subtler sort of grade, up and down, between them. But there is fluidity between those areas.

ASSEMBLYMAN STACK: Thank you.

SENATOR ADLER: Gerry.

SENATOR CARDINALE: Thank you very much. You've given us a very lucid presentation. And you covered a great deal of ground. And I'm glad that Senator Adler asked a question, because it kept you here a little longer, and it gave us some time to think of other questions.

We have a system in New Jersey where we have very wealthy districts and very poor districts. And we also have districts that are in between those. We have not paid any attention at all, in the course of today, to the districts in between. And while the wealthy districts seem to set the standard for spending in the poor districts in New Jersey, those who are in between seem to get left out. Has this situation occurred in other states as a result of any of these court decisions, or even without court decisions, in terms of any legislative enactments? And has anyone tried to equalize that? And if so, what have they done?

MR. GRIFFITH: Well, no one has a system as dramatic as New Jersey's. If you're the 32nd school district -- and, I'm sorry, I don't

know the name of that 32nd district -- you're caught in a situation where the one below you is benefiting greatly under the Abbott situation, but you are not sharing in that wealth at all.

And as Molly Hunter put it before, usually when these court cases have been brought, what they talk about is supplying more money to the poor districts. But they do it in steps. As the 32nd and the 31st districts -- in most other states -- there's only a small difference between one and the other. Here, there's a dramatic difference.

And as I was saying, if you look at the numbers, the Abbott districts are taking a higher and higher percentage of total funding each year. That leaves less and less for those school districts, just like you're talking about, in the middle. The wealthy districts can make it up from their end. It's those in the middle that are the ones receiving fewer and fewer of the State funds.

If you look over the past five years, I believe the districts -- the non-Abbott districts have only received a 1 percent increase per year in their funding. That's a huge difficulty for them. And it's an even greater difficulty for those non-Abbott districts that are not the wealthiest, that are -- have a growing student population. Because not only are you only getting a 1 percent in your total amount, but as your student population grows, you're actually getting less on a per-student basis.

So it's a situation that -- I can't really point to another state and say, "They look like this. They look like New Jersey." Because, like I said, everybody else sort of has a ramped-up system that gradually increases as you move up.

SENATOR CARDINALE: Senator Adler talked about the potential for capping the spending in the wealthiest districts. We arrived at the situation in which we are today over a series of a number of steps. But at the beginning of this process, the now-Abbott districts were all spending something on education. And in terms of the total percentage of the cost per-pupil, I suspect it was greater than the percentage that they're paying today in the cost per-pupil, because, in some instances, they're paying almost nothing toward their own educational system.

Has anyone, in any other state, discussed that there needs to be a floor so that even the poorest district has to contribute a certain percentage of their tax base -- something based on their tax base -- to the cost of the education of their own children?

MR. GRIFFITH: The majority of states have some provision that requires local spending. And it's usually based on a sliding scale based on your property wealth -- often, your property wealth per student attending school. And then they set that as sort of your minimum local contribution.

In some cases it is extremely low, because, you know -- especially for poor, rural districts -- that doesn't affect New Jersey as much -- but they have very little property wealth to capture. And so their minimum contribution is pretty low. But it is still a minimum contribution that exists.

Now, what also -- and this is my understanding of Abbott -- even if your property values go up, your local contribution does not necessarily increase that greatly. So Hoboken, for instance, that has had a large increase in property values over a period of time, does not necessarily

have to make up the difference in their local contribution. And, on that, I might be wrong.

Again, most states-- If you looked at a Hoboken, in another state, as the property value goes up, their local contribution would have to increase at the same rate.

SENATOR CARDINALE: You've answered my next question, as well as the prior question. (laughter)

SENATOR ADLER: And stirred the pot.

SENATOR CARDINALE: I want to thank you very much for that.

I just want to reemphasize something which I believe you presented to us, particularly when you spoke about Wichita. Obviously, when someone reviewed Wichita and said, "We need to break it up," that's the opposite of regionalization. Was that because they believed that the size of that district made it inefficient?

MR. GRIFFITH: Yes. You know, the term is *diseconomy of scale* -- that you get to a certain size, and you no longer are cost-efficient at delivering a quality service. And Wichita, they felt in this study, was an example of a school district that had become that way. They didn't feel that way about Kansas City, which is an equally large school district -- but they felt that they were able to efficiently deliver their service in that size school district.

It's something we've seen around the country. And I couldn't give you the magic number of the size of a district. But district costs are very high for small districts, and they decrease as you move up in the size of

a district until you hit a certain point. Then they start to increase in the cost of providing an education on a per-student basis. And we tend to see--

I mean, obviously, there are the places like New York City, Chicago, L.A. that are extremely large and have very unique situations. But we've also seen that in school districts. And the number that's used is around 30,000 or above. Once you start to get beyond that, you have a diseconomy of scale.

SENATOR CARDINALE: Do you know what the population of Wichita, is off hand?

MR. GRIFFITH: I couldn't tell you off the top of my head. I'm sorry.

SENATOR CARDINALE: Thank you very much. I'm sure we can get that.

Thank you very much for your presentation.

SENATOR ADLER: Mr. Griffith, thank you so much for your indulgence of a bunch of naïve and sophisticated questions -- sophisticated by Senator Cardinale, naïve by me. (laughter) And thank you for, really, your expansive knowledge of what's worked and what hasn't worked around the country.

I'm sure we're going to take you up on the offer, that I forced upon you, to volunteer more time and analyze more things for us. But I think we really have already learned from you. I'm counting on learning more from you as we go forward.

So, really, truly, thank you very, very much for your time and insights today.

MR. GRIFFITH: Thank you.

SENATOR ADLER: And, ladies and gentlemen, I think we're done for the day.

Hearing no objection from Chairman Conaway, we're adjourned.

Thank you so much.

**(MEETING CONCLUDED)**