
Committee Meeting

of

ASSEMBLY ENVIRONMENT AND SOLID WASTE COMMITTEE

"Testimony regarding State mandates imposed upon local entities"

LOCATION: Committee Room 14
State House Annex
Trenton, New Jersey

DATE: September 20, 2010
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman John F. McKeon, Chair
Assemblyman Reed Gusciora, Vice Chair
Assemblywoman Pamela R. Lampitt
Assemblyman Charles S. Mainor
Assemblywoman Denise M. Coyle
Assemblyman Scott Rudder



ALSO PRESENT:

Carrie Anne Calvo-Hahn
Office of Legislative Services
Committee Aide

Kate McDonnell
Assembly Majority
Committee Aide

Natalie A. Collins
Thea M. Sheridan
Assembly Republican
Committee Aides

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

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ASSEMBLMAN JOHN F. McKEON (Chair): Welcome to everyone.

I'm sorry, we were actually doing the people's business next door. So we're a little bit tardy and I apologize for that. I know a lot of people have other places to be and go, so we're going to try to move in the most streamlined way that we can.

Can I ask to take a roll call, please?

MS. CALVO-HAHN: Yes.

Assemblyman Rudder

ASSEMBLYMAN RUDDER: Here.

MS. CALVO-HAHN: Assemblywoman Coyle.

ASSEMBLYWOMAN COYLE: Here.

MS. CALVO-HAHN: Assemblyman Mainor.

ASSEMBLYMAN MAINOR: Here.

MS. CALVO-HAHN: Assemblywoman Lampitt.

ASSEMBLYWOMAN LAMPITT: Here.

MS. CALVO-HAHN: Assemblyman Gusciora.

ASSEMBLYMAN GUSCIORA: Here.

MS. CALVO-HAHN: Chairman McKeon.

ASSEMBLYMAN McKEON: Present.

Just as a matter of logistics for the Committee, we are meeting a week from today again at 10:00 a.m. I'm not exactly certain other than it will be in this building, somewhere or the other. At that time we plan on putting out an agenda that will have items for action. Most of the focus will be on the several pieces of legislation that are out there that deal with and will revamp the current commission on mandates -- to be able to

expand and to move that in a direction to allow municipalities and boards of education to have more access, as it relates to the issue of mandates, and for relief where that's appropriate. So that's the direction this Committee will be going in -- our charge from the Speaker, and dealing in general with mandates.

I also note that a part of our charge will be to deal with consolidation and merger issues -- we will, and we will discuss at the conclusion of next week's Committee hearing as to exactly the scheduling as to that component.

The last piece is that I'm sure we all had ideas from the last round of hearings that we had on municipal mandates, as to legislation that we may be interested in to find some relief from the things that we heard. We may or may not have those listed -- a few items -- next week for action, but over the next several months there will be additional legislation that has come from these hearings that are ongoing, that will move in that direction.

As it relates to what will come forward today from the education community, in a similar way, there are certain bills that are already out there that deal with some of these issues that I'm sure we'll hear about and will be raised. Whether or not they'll be heard, necessarily, by the Education Committee or per our charge with the Speaker, and end up back here, will remain to be seen and is more logistical. But make no mistake about it: We are going to continue to work hard in our charge to deal with this important part of the piece of the puzzle as we do our best to poise the education community for success in dealing with the 2 percent cap that's now in place.

We have a number of invited witnesses. To all of you -- and I won't name you all -- but you're probably sick of my voice over a bunch of conference calls. I think we had six on Friday alone. And again, thanks to the amazing staff, partisan and nonpartisan, for your work in proceeding with that. I thank you all for the time that you've given us. I know you've testified in a lot of different places, whether it was the Red Tape Review Commission, whether it was the Education Committee proper, on some of these issues. And we thank you for that.

I'm going to-- Before I call the first witness -- and I'll give any of my colleagues the opportunity if they'd like to say a few words before we proceed -- one issue that has come up from everybody's perspective, that I've at least spoken to, has to do with the voting for the school board budgets. We could talk about that, probably, for hours and hours today alone. I'd prefer that we didn't, although you're certainly all welcome to raise that. Because it seemed to be the number one priority, whether it was teachers, whether it was superintendents, or principals, or any of the advocacy groups that-- Look, if we're going to deal with a 2 percent cap, why is it that there should be an election to get that approved? I, 100 percent, agree with you. The law already has a provision for spending beyond cap. As we know, we could take that to the voters. And if that is the way it goes, so be it. But to have an election when you hit 2 percent, in April, is just superfluous, inappropriate in my view. I know Assemblyman Wisniewski has a piece of legislation out there dealing with this now, and I'm very hopeful that that will move to avoid that kind of election this April. It's expensive and it's unnecessary. If you hit the 2 percent cap, you should be fine.

So with that, any of my colleagues care to comment? (no response)

Good. Okay, thanks.

New Jersey Principals and Supervisors -- Debbie Bradley.

Debbie.

I'll try to let you get a sip of water there, Deb. (laughter)

DEBRA BRADLEY, ESQ.: Good morning, Mr. Chairman and members of the Committee.

I'm Debbie Bradley, the Government Relations Director at the New Jersey Principals and Supervisors Association. And we thank you for the opportunity to address the issue of mandate relief for schools in these difficult economic times.

I've given you a pretty detailed statement, so I don't want to go through it in big detail, but I would like to highlight a few of the major points.

One of the things that I've given you, as well as our statement, is a list of mandates that we believe should be considered for potential relief or modification, or even elimination. And I've also attached a piece of work done by the Department of Ed in various Committees. Over the past year or so, individuals have brought up the fact that in New Jersey sometimes we exceed our Federal mandates in the area of Special Education, and the Department of Ed put together a listing which I've attached to this testimony.

The first thing I would like to address is kind of the nature of mandate relief in schools. We welcome the Legislature's current focus on mandate relief. In our experience, there are many requirements imposed

by statute, regulation, or State policy that are unfunded or underfunded, that impose overly burdensome requirements on school districts, or are redundant or inefficient when applied to school operations.

However, we want to note that relief from these mandates is often practically unavailable for schools based upon the public's or the government's expectations. Often mandates are federally based and are a prerequisite for the receipt of Federal dollars.

As our students prepare to compete in the global economy, the bar for school quality and student achievement is ever-rising, and that leads to actually more mandates, as we go forward. By their very nature, schools play a unique role in our society, and as public institutions they're the first access point for our children to our system of government and the concepts of good citizenship. And they've also become an increasingly important piece of the social safety net. We're required to provide student health services, to provide programs to address the needs of low income families, and to serve as a conduit for access to other government services.

In recent times, we have been increasingly called upon by the Legislature as a tool in public health prevention efforts. A quick glance at the curriculum mandates for health and phys ed in our schools shows required instruction on alcohol, drugs, steroids abuse, domestic abuse, dating abuse, gang awareness, nutrition, healthy lifestyles, and the like.

As a result, we just want to raise the point that any discussion of mandate relief in our schools often faces opposition. Several years ago when the Education Mandate Review Commission developed a list of mandates to remove, the effort largely failed, as only a handful of mandates were actually removed. So what we're going to encourage is that -- if you all

grab your political courage as you enter the world of mandate relief in public schools.

The first major issue our members would raise to you is the issue of how we monitor our schools. In 2005, the Legislature enacted a new State monitoring law -- New Jersey QSAC -- with the announced purpose of streamlining and simplifying the educational quality review process by adopting one set of standards for all districts. And some of that has been successful. Under QSAC, districts are required to meet district performance review indicators in five areas. The areas are operations management, instruction and program, governance, fiscal management, and personnel -- every three years. The law used to be that you were monitored on a seven-year cycle. And that's kind of the crux of our issue -- is that the amount of time that's required by the current process, the amount of staffing that is used, the amount of documents that we have to produce that have already been submitted to the Department in other areas, is overly burdensome to do every three years. In addition -- and our concern with it is not where a school is having issues. The beauty of the current monitoring system is that it's meant to identify districts that are having problems and give them quick intervention. And that is a very positive piece of this.

What we're recommending to this Committee is that we look at districts that are high-performing, that are, admittedly -- have gone through the process and the Department has found them to be high-performing districts, to allow them to do a three-year (*sic*) monitoring cycle. Sort of the concept of earned autonomy: We're doing the job, let us have a break in terms of constantly, constantly reviewing ourselves.

ASSEMBLYMAN McKEON: Debbie, what percentage, if you know, would fall into that category, versus ones that would continue on the three-year cycle?

MS. BRADLEY: I honestly don't know, but I will be happy to find out.

ASSEMBLYMAN McKEON: Is it more than half? I would assume, like probably--

MS. BRADLEY: I would assume, yes.

ASSEMBLYMAN McKEON: I would hope so, I'm just--

MS. BRADLEY: Our second case on that is to look at the number of indicators that are required. When this originally started out, we had five categories of indicators. Now, I believe, there are multiple pages of indicators that schools have to meet, and some of them are required in other forums. So we're looking for a little assistance on streamlining that process and kind of refocusing what the original intent of the legislation was.

Our second concern is the area of Special Education. We understand that many of the protections in our current Special Education law and code are necessary--

ASSEMBLYMAN McKEON: I don't want to throw you off. Could I just stop you?

MS. BRADLEY: Yes.

ASSEMBLYMAN McKEON: How long has that regulation been in place? About 10, 15 years?

MS. BRADLEY: QSAC?

ASSEMBLYMAN McKEON: Yes.

MS. BRADLEY: Five years.

ASSEMBLYMAN McKEON: Just five years?

MS. BRADLEY: But it started out, it was kind of phased in. Originally it was passed in '05, then it was developed, then there was a pilot program. So it was '06, I think, the pilot started.

ASSEMBLYMAN McKEON: And when did it shift from a seven-year cycle to a three-year cycle?

MS. BRADLEY: Probably about three years ago, I would say. It used to be a seven-year cycle, and the reason for the change was to keep everyone more accountable more often, and to get quick intervention into districts.

ASSEMBLYMAN McKEON: But so that I understand, that's why I just surmised it was around for at least 10 or 15 years. The cycle never ran, the first seven-year cycle? If it's only--

MS. BRADLEY: Well, now, it's a three-year cycle. It's been an ongoing process for years, where districts would go through a seven-year cycle, but then the law changed. And there was a re-jigging of the calendar for districts, and now we're on this three-year cycle.

ASSEMBLYMAN McKEON: Okay, I'm sorry for throwing you off. Please continue.

MS. BRADLEY: That's okay.

Again, our second concern is Special Education. We believe that many of the protections in our current law are there for a good reason. Both Federal and State laws govern the provision of these services to students, and we fully support and work diligently to provide these services to our students with disabilities. Addressing costs and regulations in this

area is necessarily difficult. However, since the cost to educate, support, and transport our disabled students are mandatory, continually rising, and often outside local district control, we believe the Legislature should examine these areas of cost savings and efficiencies that don't compromise the quality of services -- and that's the key balance.

We've attached the list of code that goes beyond Federal requirements that the Department developed, but we believe that one of the big cost areas here is the area of due process and litigation. We believe that we should explore different systems of dispute resolution; perhaps alternative dispute resolution procedures in these cases is something to look at. Currently, also, New Jersey law places the burden of proof in Special Ed due process matters on the local board of ed to defend its placement decision, not on the parent challenging the placement -- that's a change in law recently which is not federally required. Districts are also responsible -- and this is a Federal requirement -- to pay parents' attorney's fees where they prevail in an issue that's litigated. But the structure itself leads us to the point where boards of ed are constantly settling cases to avoid litigation costs. And that continually raises administrative costs in local districts.

So what our recommendation in this area is, is to establish -- I know we've done this before, but -- a Special Ed cost study commission, because it's such a delicate area and an important area to look at.

We also believe we should revisit the issue of the burden of proof of litigation in Special Ed matters. I'm moving that to the parent, and we should explore alternative dispute resolution processes.

And from this point on in my comments, I just have a few other areas. But there are pieces of statute that are around that cause us to raise

costs. And one example of this is transportation. Current law requires that we maintain a seat on the school bus for every child attending a school who lives more than two or two-and-a-half miles from the school. The provision fails to take into account students who don't ride the bus, or students who drive to school. We would like the ability to have, in those types of cases, have the parent sign a waiver or an authorization that the school district would not be responsible for holding a seat for that student that he's not going to use. One of our members indicated that by changing that requirement alone, his local district would reduce the cost of five school buses.

The other thing in the area of transportation is the Legislature current law also forestalls the use of school buses after 12 years in operation. The law is blind to the reality that today's buses can operate well beyond the 12-year time frame, safely, with regularly scheduled maintenance. Last session, this Legislature passed a piece of legislation that would have expanded the use of buses into a 15-year cycle, with scheduled maintenance being upheld. And it was passed by both Houses, but it was pocket vetoed by Governor Corzine, so we would like to see the Legislature revisit this issue.

Other areas is the area of student health. Currently the law requires districts to conduct a myriad of tests on students on a regular basis. However, enactment of New Jersey family care legislation requires parents to ensure that their children have private insurance or insurance through this program. We believe that students should have these services no matter what, but we should at least look at any overlap between those

programs to see if schools are providing health screening and other services that are already being provided.

And also we have a concern with the fact that in recent years the Legislature has added healthcare services, and actually asked for nonmedical staff to provide these services, such as the recent legislation on diabetes. And the concern that we have with that is that non-medical staff are being ask to volunteer to provide diabetes management services but there's no training attached, and was no funding for training. So that happens.

And the last general area I'd like to mention is the whole issue of curriculum mandates -- the issue of what should be taught in our schools. It's been an ongoing debate for decades, and as learning grows and new fields and developments take place, we add more and more to the curriculum. Generally speaking, the State Board is responsible for the core curriculum and content standards. But in addition to that, the Legislature often adds, based on specific circumstances or a specific issue that's arisen; and often, the legislation is well-intended and its content is appropriate. But the concern is that we keep adding more curriculum mandates to a course, or to a school day, and there is just not enough time or that's something already covered by the core curriculum standards.

So we would ask that there be a moratorium on any new curriculum mandates in our public schools, and to require a local impact statement if the Legislature strongly believes that new curriculum mandates are required.

Other areas that are mentioned in here are records storage -- schools are required to store records for long periods of time and sometimes

permanently, and it costs us money to store those files -- and the area of the school budget election that you've already mentioned.

So that's the gist of my recommendations, and I thank you for hearing me out.

ASSEMBLYMAN McKEON: I want to allow Committee members to ask you questions. There are a few areas that I wanted to highlight: On moratorium on curriculum mandate: Just from stakeholders I spoke with, they talked about phys ed -- notwithstanding those areas that you identified before that go beyond athletic or sports, per se -- and they mentioned the foreign language requirement, pre-high school. Do you have a position on that, or any thoughts?

MS. BRADLEY: We support that. We believe that the early grades is an important time to be learning a foreign language. It's kind of when our children's minds are a sponge. So I know that in a lot of schools they've taken a different approach where it's more of a culture-type course. But maybe we need to revisit. I'd be happy to bring it to our Committee, but I know that, as an Association, we supported the early language grades.

ASSEMBLYMAN McKEON: We don't need to take a ton of time-- Excuse me, I didn't mean -- we don't need to take a ton of time now on this, but I understood from speaking to some of our smaller districts in my own legislative District that they are actually allowed to use the Rosetta Stone.

MS. BRADLEY: I think so; some of them are, yes.

ASSEMBLYMAN McKEON: So there is no direct teacher per se. It's computer software.

MS. BRADLEY: Yes.

ASSEMBLYMAN McKEON: I just found that to be interesting.

MS. BRADLEY: Yes, yes.

ASSEMBLYMAN McKEON: Something that had come -- I don't know if you have a position on it -- it had to do with prevailing wage. It's a different issue, but the ceiling on that -- I believe it's only \$2,000 for Boards of Education?

MS. BRADLEY: This is outside my area.

ASSEMBLYMAN McKEON: It is. We'll have others that will get there.

MS. BRADLEY: Okay.

ASSEMBLYMAN McKEON: Similarly, with Special Ed -- and I know that Gerry Thiers will probably testify later, will bring it up -- issues on the budgeting for Special Ed, where there can be an additer to an individual cost, up to three years?

MS. BRADLEY: I'm not familiar with that--

ASSEMBLYMAN McKEON: All right, we'll hear that from other witnesses.

MS. BRADLEY: --to respond.

ASSEMBLYMAN McKEON: Pam, it looked like you had questions. I'm sorry.

ASSEMBLYWOMAN LAMPITT: My question is this, is that I briefed through your testimony and listened to what you had to say. My concern is, is that from the Association of Principals and Supervisors, that you didn't approach anything that had to do with operational management of the system itself, and the streamlining of operational management -- from

record keeping to the controls and the measures that a principal and the supervisors would need to take. Are there additional measures that are out there that are a concern?

MS. BRADLEY: Well, a lot of the business side is not what we do -- the business operation side of-- That's really the school business official and the superintendents. And we're more directly involved in the things I did mention: the curriculum, the monitoring, those types of pieces. We do have some additional recommendations in the area of discipline that were attached. So that's kind of our bailiwick -- is what we're teaching, how we're teaching, State testing--

ASSEMBLYWOMAN LAMPITT: Yes.

MS. BRADLEY: We had some recommendations in there about allowing us to use certified substitutes. But because of time I couldn't get into all of them. And also this was something-- The recommendations that are in here are the recommendations that we had at a preliminary meeting to discuss areas. So I'm sure if there were specific areas you'd like us to look into, I can focus our membership that way.

ASSEMBLYWOMAN LAMPITT: Well, that would be helpful.

MS. BRADLEY: Okay.

ASSEMBLYWOMAN LAMPITT: I mean, you know, I look at things and say, what's here? I always look at what's not here as well.

MS. BRADLEY: Right.

ASSEMBLYWOMAN LAMPITT: So if you could provide that--

MS. BRADLEY: Be happy to.

ASSEMBLYWOMAN LAMPITT: --that would be good.

MS. BRADLEY: Okay.

ASSEMBLYWOMAN LAMPITT: In addition to that, if, per se, a lot of these new mandates were relieved -- okay? -- where would the cost savings, and how significant do you think the cost savings would be for a particular municipality?

ASSEMBLYWOMAN LAMPITT: Which particular mandates?

ASSEMBLYWOMAN LAMPITT: Taking the largest one, taking--

MS. BRADLEY: Well, take the QSAC piece.

ASSEMBLYWOMAN LAMPITT: Yes, exactly -- take the QSAC piece. How significant do you think would be the cost savings?

MS. BRADLEY: I don't have a dollar figure. I could try to calculate one for you from a District. But I can tell you that depending upon the size of the District and what their self-assessment process was -- because they have to develop a Committee and meet over time -- it took significant amounts of staff time, like hundreds of hours, and duplicating costs, putting together materials, all of those types of things. And part of that is, it's a cost savings; and in terms of this being a huge amount of money, the other side of it is not monetary, it's refocusing folks' energy on education, not on the paperwork side of things.

ASSEMBLYWOMAN LAMPITT: As we're focusing, I mean, part of this school (indiscernible) is all about the property tax issue, so I'm trying to continue to drill down to: where's the property tax savings, where are we going to find the savings? So for everybody sitting in the room, I think that a question is going to be: Where are we going to find property tax relief in anything that you're presenting here today? Because if it's not

going to provide property tax relief, then it's just shifting the burden, or shifting the responsibility -- well, that's something that we can address. But we really need to focus on the property tax issue. So it's significant to be able to formulate what the dollars are, where the savings are going to be attributed. If we're creating these mandates, and we're managing the time that it takes to actually denote issues and write down some of the regulations and everything else, and that's all we're doing is documenting and documenting and documenting, then if we release this significant burden of this documentation process, then there has to be property tax savings.

MS. BRADLEY: Okay.

ASSEMBLYMAN McKEON: Thank you, Assemblywoman.
Assemblywoman.

ASSEMBLYWOMAN COYLE: Thank you.

Deb, I'd like to go over, too, some of the monitoring that your referred to. Moving-- Your example you gave of moving high-performing districts from three to seven years, I would be interested in knowing not only, as Assemblywoman Lampitt said, what those savings would be, but which are high-performing districts -- but what are the criteria to determining a high-performing district? And what are the criteria for a low-performing district? And should there be a middle tier there? You know, the district that's just below whatever your criteria happened to be for high-performing, that maybe that would be -- I think would probably be pretty significant incentive to get to high-performing so that they don't have to do the mandates. The feedback that I get from my school districts is the amount of time the mandates take of staff. And I think your point is

exactly right: It deters them from the focus of education. It deters them from the classroom, because they only have so much time to do them.

I would be interested in what the criteria would be, and should there be a third-- Should we just go-- Should there just be high-performing and everybody else, or-- I would welcome your comments there.

MS. BRADLEY: Well, it's a little bit more specific than that. It's more of a defined piece. Each district is put on a continuum based upon these five categories, and then the indicators within each category. So you have to be 80 percent or higher to be high-performing in every category.

ASSEMBLYWOMAN LAMPITT: Of the 81 categories?

MS. BRADLEY: That's the State's-- Yes. In the five main areas, you have to be 80 percent of meeting all the criteria to be high-performing. So it's districts that are doing their jobs well that are still continuing to be (indiscernible) to the system when, in fact, they've shown they're doing the job.

ASSEMBLYWOMAN LAMPITT: And is 80 percent -- that seems like a high number to me.

MS. BRADLEY: It's in the law.

ASSEMBLYWOMAN LAMPITT: Is that an (indiscernible) number? Okay.

And then, should there be one category below high-performing that still is meeting educational standards and needs for our children?

MS. BRADLEY: Well, I think what we were trying to do in our recommendation is balance this, because obviously districts can have an area where they are a little weak, and we want to know what that is and we

want to be given intervention and assistance, and we want to be accountable for it, and we want to improve it. So it's not so much finding out what category a district's in, it's making sure that the ones that are meeting all the standards at least have earned the autonomy not to have to go through this so often at the cost that's involved.

There's a reason for why they would be if they're having issues or they're low performing. It triggers things. They have to do a corrective action plan, there's monitoring--

ASSEMBLYWOMAN LAMPITT: Sure, right.

MS. BRADLEY: There are all kinds of things.

ASSEMBLYWOMAN LAMPITT: And there should be.

MS. BRADLEY: Exactly.

ASSEMBLYWOMAN LAMPITT: And that should absolutely happen.

MS. BRADLEY: Exactly.

ASSEMBLYWOMAN LAMPITT: Yes, I'm just looking more towards the district that's very close to high-performing -- not near your low-performing criteria. If there should be another category -- I'm just interested in your opinion on that.

MS. BRADLEY: I think that where we're coming from is we think that it would be appropriate to do this for the high-performing districts.

ASSEMBLYWOMAN LAMPITT: Okay, thank you. I'm just looking for additional cost savings.

MS. BRADLEY: Thank you.

ASSEMBLYMAN McKEON: Thank you very much.

Any further questions? (no response)

I appreciate it very much, Debbie.

Tom Dunn, New Jersey Association of School Administrators.

Tom, thank you.

T O M D U N N J R.: Good morning, Mr. Chairman, and good morning, members of the Committee.

Realizing that there's a lot of testimony to be given today, and realizing we're in tight quarters -- it's like sitting at somebody's Thanksgiving table here; everybody is so close together. We submitted some information last week, and we have more information that we are willing to share. But for the purposes of today's testimony, I've submitted an outline of broad areas that superintendents in the State of New Jersey feel could--

ASSEMBLYMAN McKEON: Tom, I want to stop you. Is Acting Commissioner Hendricks here?

A C T I N G C O M M. R O C H E L L E H E N D R I C K S (off-mike): Yes, right here.

ASSEMBLYMAN McKEON: I just wanted to acknowledge you. I was looking-- No wonder I couldn't find you; I'm looking around back there (laughter). I want to acknowledge your presence and thank you, and we're going to call you eventually. We'd like to get through some of this testimony. Is that okay with you?

A C T I N G C O M M I S S I O N E R H E N D R I C K S (off-mike): Absolutely; it's very helpful for me to hear.

ASSEMBLYMAN McKEON: Thank you very much.

I apologize.

MR. DUNN: No apology necessary.

New Jersey's chief education officers recognize the challenging economic environment that our state and nation face. Therefore, we strongly support measures that allow school districts and schools to focus on their core mission. And we define that core mission as educating New Jersey's over 1 million public school students in safe, secure, and effective classrooms.

To that end, we would ask this Committee, and the Legislature in general and its leadership, to consider the following recommendations. And many of these have already been mentioned by Debbie Bradley, and I'm sure you're going to hear them again for other people who will testify today.

Number one would be to streamline the process and timeline for QSAC -- that's the monitoring system that we just spent several minutes talking about.

We'd also advocate that you relax and/or eliminate State education requirements that exceed Federal law. If you have a special needs youngster, New Jersey is a great place to be because the rules and regulations, generally speaking, exceed those of the Federal government and make for much greater cost for providing services to the special needs population. Given these economic times, that might be an area to look at.

We'd also ask that you relax and/or eliminate requirements in high-need districts for class size, full-day kindergarten, language and math literacy.

We would ask that you do not pass any new unfunded mandates or new programs.

We support legislation preventing the State Board of Education or the Acting Commissioner from developing and implementing new initiatives for school districts that require reallocation of current district funds. We recognize that funding is going to be tight not just for this current school year, but also going forward at least for the near future.

We would ask to delay implementation of existing mandates, if unfunded, and place certain programs like the High School Redesign on hold until the current economic environment changes.

And we would ask that districts be allowed to provide maximum budget flexibility.

I recognize that these are broad areas of concerns that, perhaps, are not as specific as you'll hear from other people today. But we think these are the major areas where money can be saved, going forward.

And I thank you for your attention.

ASSEMBLYMAN McKEON: Tom, thanks. And if you're not the person to do it, that's fine, but to the delay in implementing the mandates on High School Redesign-- Again, from stakeholders, I heard a lot about that. Can you give a little more detail on that, as far as requirements?

MR. DUNN: I think the idea of redesigning high schools to make the high schools more effective for our students is certainly a good thing. But there are a lot of hidden costs in the implementation of this High School Redesign which dictate course requirements that are going to mandate a lot of extra spending in the short term, if the program moves ahead as it's currently designed. We think a big cost is going to be in school construction, because we don't think that there are enough

specialized classrooms, particularly in the science area, to currently meet the needs of the kids who are already in the system.

ASSEMBLYMAN McKEON: And I apologize for not knowing, but was that program created legislatively, or is it one that's promulgated through--

MR. DUNN: Well, I think it's been recommended by the Department, but I think there has been legislative action taken in order to do it, yes.

ASSEMBLYMAN McKEON: I'm sorry, Assemblywoman, did you have--

ASSEMBLYWOMAN LAMPITT: No, I mean-- Speaking about the High School Redesign Act: I know that it was a mandate, and I know it's a burden placed upon-- But it's one of those sort of things -- if we stop paying our bills today and we only pay the minimum amount on credit cards, then we're not going to progress forward. We have to seek above and beyond to be able to excel and to be able to move our students forward in a direction. And to stop the High School Redesign Act I think is really being very short-sighted from the aspect of moving them through into higher education. In higher education here, we're seeing too many kids who need remediation; and stopping the progressive growth of K through 12, I think, is just going to continue that negative process. And I don't think-- We should be looking elsewhere. So I would not be in support of doing-- Holding back on the Redesign Act at this point.

MR. DUNN: Yes, it would be very difficult to argue with that point of view. We are approaching it, though, from the point of view that the costs that are going to be associated in the short term with that are

going to be significant. Given the economic situation in the state today, we think that we should simply postpone for a period of time. I mean, I'm a big proponent of pre-school education; and I think if we were to advance pre-school education, make it available for all kids in the state, we would reap tremendous benefits, going forward. But I would have to take the same position on that, that to build the necessary classrooms to make that happen -- given the economic times that we face right now, we would suggest should be postponed. But I think you make an excellent point.

ASSEMBLYMAN McKEON: Can I-- I'm sorry, please -- just follow up?

ASSEMBLYWOMAN LAMPITT: No, go ahead.

ASSEMBLYMAN McKEON: Don't want to cut you off.

That's an issue from 30,000 feet -- there's no question.

MR. DUNN: Right.

ASSEMBLYMAN McKEON: I guess maybe I was confusing it with something I had heard as it related to continued-- You might have a school that's nonconforming to the current classroom structure size and other components of the facilities. Now, they're life safety issues or they just wouldn't be allowed to continue.

MR. DUNN: Right.

ASSEMBLYMAN McKEON: But nonetheless, on an annual basis, architectural plans, a submission still has to happen. The four walls haven't changed. So that was something I had heard that was very bureaucratically driven; that there was an annual report having to be provided by nonconforming schools that were very costly; and professional

fees, with architects and otherwise, that if nothing's changed, why should that have to continue?

MR. DUNN: Well, I think there are two separate things, though--

ASSEMBLYMAN McKEON: They certainly are, now that I understand it.

MR. DUNN: I'm not 100 percent sure. We took it from the perspective of implementing the High School Redesign. I think what you're referring to is there is a facilities update every year that have to be done by districts. I think that, to some degree, is burdensome; it's a bureaucratic exercise that has to be undertaken by everybody, whether they're going to build right now or not. So I think--

ASSEMBLYMAN McKEON: That's the Facilities Accommodation Plan.

MR. DUNN: I think so.

ASSEMBLYMAN McKEON: I was just confusing the nomenclature, which is why we went down that path. I apologize.

MR. DUNN: That's education.

ASSEMBLYMAN McKEON: Assemblywoman.

ASSEMBLYWOMAN LAMPITT: One of your points, Tom-- You wrote: Provide maximum budget flexibility. To me that means like a whole lifeline of ambiguity, of giving more and more and-- I'm not really so sure giving more budget flexibility is what the residents and the people of the State of New Jersey are looking for. Certainly-- I've been on Council in my town, and having a budget being defeated, and having to look at one of the school budgets -- it becomes a bucket of money. It truly is a bucket of

money. And there are line items for utility costs, and for books, and for everything else. But truly these budgets within the schools become a total single-line budget, and I'm not so sure what more budget flexibility you're looking for.

MR. DUNN: Well, what we're referring to here is that there are mandates imposed by the State; mandates imposed by the Department on how you have to account for money. And to move money to an area where you may want to spend it, particularly in times now, is a bureaucratic nightmare.

ASSEMBLYWOMAN LAMPITT: Can you give us an example?

MR. DUNN: I'm not talking about asking for additional money, but what I'm saying-- Once a budget is approved, as things change -- if you have an abnormally high number of retirements and you generate surplus, and you want to move that money to another area, we're just looking for giving individual building principals and the central office more flexibility, being able to use that money, being able to use it quickly. I think that unless you're in that situation, you don't realize how things get slowed down -- resolving budget differences with executive county superintendents, if you are a former Abbot District having to deal with the State -- it just takes time and time, and if things aren't done in--

ASSEMBLYWOMAN LAMPITT: I think what would be helpful is that instead of having one line, I think you really drill down a little bit further, because I think people want accountability, and I think we're all demanding accountability now. And to be able to have budget flexibility is not something that I think anybody really wants to go out to

the public and say we should be giving the school boards more budget flexibility. So if you could really drill down to some of those specifics, that would be very helpful.

MR. DUNN: Yes, we can certainly do that for you.

ASSEMBLYWOMAN LAMPITT: Okay.

MR. DUNN: And we would be happy to do that.

ASSEMBLYMAN McKEON: Other questions for the witness?
Reed.

ASSEMBLYMAN GUSCIORA: Tom, can you give us the status on the State's reimbursement of school districts for extraordinary costs related to out-of-state tuition for special needs students?

MR. DUNN: I think in order to get reimbursed when you have to spend an excess of \$40,000--

ASSEMBLYMAN GUSCIORA: And is that-- Is the State, in fact, reimbursing you for--

MR. DUNN: Not to the best of my knowledge, no.

ASSEMBLYMAN GUSCIORA: Not? It is not?

MR. DUNN: Not, not.

ASSEMBLYMAN GUSCIORA: So a district is on their own, I guess.

MR. DUNN: No, I'm not trying to imply that the district's on its own, but I know, over the years, there have been problems with getting reimbursement for extraordinary costs.

ASSEMBLYMAN GUSCIORA: One district in my-- One school district in my district -- they are paying \$175,000 a year to send one

student out of state. I just didn't know what the status of what the State's reimbursement of schools--

MR. DUNN: I think once you-- I wouldn't object to the Department jumping in. I think once you exceed that threshold of \$40,000, then the State begins to pay.

ASSEMBLYMAN GUSCIORA: And they are doing that?

UNIDENTIFIED MEMBER OF AUDIENCE: Yes.

ASSEMBLYMAN GUSCIORA: Okay.

And you also said you wanted flexibility on world languages. How do you envision that flexibility?

MR. DUNN: I think the Chairman mentioned this before. We're one of the few countries where we seem to put the emphasis on learning a second language in secondary education. Kids have the facility to pick up a language much earlier than that, and in many other countries a second language is taught, literally, from the time a youngster starts school. I just think all of the-- There should be many ways of beginning to teach children a second language, not necessarily just through the classroom.

ASSEMBLYMAN GUSCIORA: Are you advocating abandoning that requirement, that children learn from the early years through high school -- a world language?

MR. DUNN: Would I abandon it?

ASSEMBLYMAN GUSCIORA: Are you advocating that we abandon that policy?

MR. DUNN: I think that school districts and schools should be given the flexibility, again given the economic times, to make those

choices themselves, and not have one-size-fits-all mandate from the State on that.

ASSEMBLYMAN McKEON: I appreciate it. We might, depending on what we move out of Committee next week, in the form of the Commission, we might see if we can give them the imprimatur to help make those decisions, based on districts that--

MR. DUNN: That would be great.

ASSEMBLYMAN McKEON: --want to move in that direction. I appreciate your testimony.

Any other questions? (no response)

Seeing none, I'm going to ask that Michelle Roemer from the Association of School Business Officials-- Michelle.

Michelle, thanks for spending so much time last week-- Thank you for that. We might get into some of the nitty-gritty of a few of these things on prevailing wage ceilings, and some other stuff where we could be of immediate help. Thank you.

MICHELE D. ROEMER, Ed.D.: Good morning.

First, I'd like to thank the Chairman and the Committee for giving us the opportunity to bring forth some of those items that we believe-- Mandates that are somewhat burdensome and erroneous for school districts to deal with.

I have eight items that we'd like to address very quickly.

Vote on school budgets: Chairman, I know you mentioned that everyone said vote on school budgets, but I want to make a couple of points here. The 2 percent cap is not on the entire budget. The 2 percent cap is only on your tax levy. So therefore, if you are a very wealthy district, you

end up with 2 percent -- you have no State aid. If you're a district that does not receive a lot of taxes, maybe at 10 percent, you're talking 2 percent on 10 percent of their budget -- which, in some cases, could be very minimal. Did I get that through?

ASSEMBLYMAN McKEON: This is now like Eddie Murphy in "Trading Places." (laughter) You have to go really slow.

DR. ROEMER: Okay. The 2 percent--

ASSEMBLYMAN McKEON: This is orange juice-- (laughter)

DR. ROEMER: Two percent is just on your tax levy. So if I were a \$20 million district, and received no State aid, and \$20 million came from the taxpayers, I would get a 2 percent, or \$400,000 increase. If I were a district that received 50 percent in taxes and 50 percent in State aid, my 2 percent would be based upon the \$10 million that I would have, or \$200,000. If I was one of the districts that was heavily funded by State aid and very little taxes -- let's say, \$1 million -- only that \$1 million would be subject to-- They would be able to raise their budget by that 2 percent. So we're talking, out of \$1 million, maybe \$20,000? That's where we see-- We wanted to get that point across, to make sure everyone understood. It's not a flat 2 percent on the entire budget; it's based upon tax levy.

Did we get the oranges and the--

ASSEMBLYMAN McKEON: I think I have it.

DR. ROEMER: Okay.

ASSEMBLYMAN McKEON: I'm still mulling the whole issue as it related-- Basically, there's not a lot of districts, sadly, especially now, that get a good percentage of State aid. But the ones that do--

DR. ROEMER: They're going to be-- They're the ones that are hurting the most, because they're not allowed to increase their budgets as greatly as--

ASSEMBLYMAN McKEON: It's just 2 percent on their amount, versus the whole amount.

DR. ROEMER: Yes, yes.

ASSEMBLYMAN McKEON: But they do get that amount -- I don't mean to say for free -- but their local taxpayers aren't paying that.

DR. ROEMER: No, no. Their local taxpayers-- With the new law in place, there's only a few waivers that school districts can go through: pensions, health insurance and, of course, debt service, if they went that route.

One of the questions that did come up was spending in excess of caps. And I know New Jersey School Boards Association may be speaking to this, as far as: If a school district wanted to exceed their cap and we didn't have a vote, would it go in November? And our position is that school districts would then have to wait and live within their cap until such time in November, recognizing the fact that anything that's put out as a second question cannot not be T&E. So that those things that are going out are those things that a district may want in excess of what they're doing. And we know that the voter turnout for school board elections, at the most, comes up to 15 percent of the voters. I know in the district that I was in, if I got anywhere between 5 and 7 percent we were happy, and that was with, maybe, 14 to 15 meetings with the community.

And the one thing that we do know -- we took a survey, but it was based on a couple of years ago, that school districts could save between

\$10 million and \$15 million if the school board elections were eliminated, since we now have the cap.

One other thing that ties to the school board elections is advertising the budget in the newspaper. It's expensive for school districts and, basically, everyone is required to put their budget up on their web site to begin with; as well as advertising, letting them know that if anyone would like a copy of the budget, call the business office or stop in and we will give you a copy of the budget.

The next one is State arbitrators and mediators -- this was mentioned at the Red Ribbon Commission -- that we believe that State mediators and arbitrators need to respect the caps that we have. When this first came into play, we were under 4 percent cap. Now we're under the 2 percent cap. And it's very difficult for a school district to go through a whole year of negotiations to get to mediation and arbitration, and to come out with a decision that isn't in the best interest of the taxpayers which the Board of Education was pushing.

The third one is the burden of proof for Special Education needs. Deb Bradley spoke to it, and so did Tom Dunn, so I just want to express that that is one of our concerns also.

The fourth one is worker compensation. School districts are the only places where an individual can go out on workers compensation, receive 100 percent of their salary, plus more, because we are responsible for paying the taxes of that individual. So an individual -- and I'm just going to use a number -- \$20,000. Someone goes out, they're out for the whole entire year. For a district to pay the 30 percent, it would be about an additional \$6,000, knowing that you've already placed somebody into the

position where the worker is not there -- whether it's a teacher, whether it's a custodian, whether it's a secretary in the office. That has become burdensome, and it is NJSA 18A:30-2.1.

ASSEMBLYMAN McKEON: Let me ask you a question on that.

DR. ROEMER: Yes.

ASSEMBLYMAN McKEON: Do you have statistics at all as it relates to how often that happens?

DR. ROEMER: We don't have any statistics. It's something that could certainly be surveyed, but it's not something that is collected. Each individual school board can use either a private insurance broker, or can be a part of a (indiscernible), or be part of School Boards Insurance Group.

ASSEMBLYMAN McKEON: But I've heard this, not only from you, but from others: It's an issue.

DR. ROEMER: It is.

ASSEMBLYMAN McKEON: This happens to people-- I mean, God bless, the last thing I would do in a million years is malign anybody who works within the education system, but there are a number of people who are without motivation to return. They actually make more money for the year that they are out on comp.

DR. ROEMER: Yes. They're out for the first year, yes. And that can sometimes become burdensome. And we don't know when it's going to happen, so therefore a school district would have to come up with additional funding in that area, moving some monies around in order to cover that.

The fifth one is prevailing wages.

ASSEMBLYMAN McKEON: The Assemblywoman has a question.

ASSEMBLYWOMAN LAMPITT: The question is, is that the nine senior public higher education institutions -- their workman's comp issue is that it's negotiated by the State. So our question is, is each one of these workman comp-related issues, are they negotiated by each individual municipality?

DR. ROEMER: No, no. This is in code, it's in statute.

ASSEMBLYWOMAN LAMPITT: State.

ASSEMBLYMAN RUDDER: State law.

DR. ROEMER: It's not something that we can say, "Oh, let's give them 50 percent" and we don't have to pay--

ASSEMBLYWOMAN LAMPITT: So you have absolutely no say-- Each municipality has absolutely has no say in the workman's comp-related issue.

DR. ROEMER: We have no say except for trying to bring them back and working, in that regard.

ASSEMBLYWOMAN LAMPITT: Right.

DR. ROEMER: Prevailing wages -- you had asked that question. Municipalities are a little over \$14,000 a year. When they need to do a project that is-- With regards to construction, renovations, those types of things, school districts are at \$2,000. And I will tell you that many school districts have smaller projects that exceed the \$2,000, whether it's renovations of the bathrooms, making them handicapped accessible, or whatever, or more handicapped accessible. And we're stuck at that \$2,000

limit. And we have to pay prevailing wages, we must collect documents from the contractor indicating he is paying prevailing wages. And that, again, can sometimes become burdensome and costly to school districts. We're eliminating a lot of the local electricians, plumbers that we would be able to use, and, to be honest with you, if they're in your community, they really want to give you a break. They know what schools are about, and they want to come in and say, "Hey, we'll just do it for this amount." But we can't.

ASSEMBLYMAN McKEON: I just don't see the reason-- Prevailing wage -- different issue; we're not going to get into how people might feel about that. But as it relates to the disparity between the municipal side and the education side, that doesn't seem to be logical.

DR. ROEMER: No, we've requested this on numerous occasions: Can we be equal with the municipalities?

The three items -- the last three items that I'm going to just talk about briefly are things that come along with the accountability regs that were just passed -- 23A -- travel regulations. Record keeping is phenomenal for a school district, especially when those expenditures represent less than 1 percent of an operating budget. School districts and their employees certainly recognize where we are with the economics of today, and sending them out, getting them professionally developed, developing new programs where you're going to turn key -- they were all in place with many school districts prior to the travel regulations. There's a personal tracking and accountability program that all school districts must have. We're not arguing the fact that it should be there. What we are arguing is that we believe it goes a little too far. It requires school districts, if they could, to go

back from the start of school, when a school district came into effect. So we'll have people going back 20 years trying to figure out what positions they were in, how they were changed. We're asking for it to just change so that it's moving forward from the date of the accountability regs, as far as the information that we have to collect. And we certainly can leave it to our auditors who come in and do an accounting. We do internal controls, we do standard operating procedures now, and they both focus on those types of issues that the personal tracking accounting system also brings into play.

And then the last one: For the smaller districts, any district with three or more school buildings was required, and is required, to maintain an electronic, automated work order system for their school districts. That, in itself, purchasing a work order system, could run \$20,000 to a school district. That doesn't seem a lot, but if you're in a small district with \$2 million, \$3 million, \$20,000 is an awful lot. Then it's every year, maintaining it, with a maintenance fee.

The other two issues that Deb Bradley had brought up: We agree with them on the monitoring cycle -- making it a seven-year cycle. And I'm speaking from the facility's point of view. Because each year we do have to monitor our facilities and report to the State on a State form where our facilities stand, as far as 100 percent compliance, and then there's a number of items that are 80 percent compliant. We do that on an annual basis anyhow.

I think that about sums up what we as school business officials (indiscernible) -- and I represent about a little over 600 school business officials -- on some of these issues that we see from the financial side.

ASSEMBLYMAN McKEON: Can I go back-- Again, these issues are-- We're getting into the weeds on them. On the work order system: Do you have a recommendation on the size of the district where that might not--

DR. ROEMER: No, we're not sure where that came from, and why there was a need for that. Local school districts made that decision, and had been making that decision, themselves as far as if they needed one, if they didn't need one. I'll give you an example: I was in a school district with six buildings. Our facilities department functioned well enough where we did not need a automated system. We had a procedure in place, and that procedure worked pretty well, in my estimation, until such time as we had to bring in the automated system. I'm not sure if there was much efficiencies brought to the school district, or savings, because of that.

ASSEMBLYMAN McKEON: How long has that been in place?

DR. ROEMER: It was required as of July 1 of this year; but it came out in accountability regs, so many school districts were working towards that and trying to get that into their budgets in the last two or three years, knowing that this was coming about. I'm not sure if they all did, because of finances.

ASSEMBLYMAN McKEON: Any questions, Committee?
Reed? (no response)

You were terrific; thank you.

DR. ROEMER: Thank you.

ASSEMBLYMAN McKEON: There were a lot of good ideas.

DR. ROEMER: Thank you. If we can answer anymore questions, please know that we are at your disposal.

ASSEMBLYMAN McKEON: You've all been terrific and continue to give us areas to consider. It's a balancing act for all of us, right? There's policy issues behind all these things.

We've got Lynne Strickland, Garden State Coalition of Schools.

LYNNE STRICKLAND: Good morning. Thank you very much for giving us the opportunity--

ASSEMBLYMAN McKEON: Good morning, Lynne.

MS. STRICKLAND: --to have some input here.

ASSEMBLYMAN McKEON: It's good to see you in person.

MS. STRICKLAND: Likewise -- up close.

And I am Lynne Strickland. I'm Executive Director of the Garden State Coalition of Schools. Today we represent approximately 100 school districts -- a statewide organization from Bergen County to Camden County. We're a grassroots advocacy group. I'm one of the only full-time staffer at the Garden State, and we have parents, board of ed members, and school administrators who are volunteers. And altogether we represent about 300 (*sic*) students throughout the state.

We've had a focus on education mandates for as long as Garden State's been established, which was 1992. And we have a bit of a track record in being involved in it.

I've attached some things to our testimony -- really as information -- on the couple of pages: the Red Tape Review Committee; and some excerpts from the Education Mandate Review Commission, which we sat on. And Debbie is right: Most of those initiatives didn't get off the ground, really. Which goes to show you how complex it is with the

constituent groups or advocacy that comes behind each mandate you're going to be dealing with.

But I think the timing is much better now to really have this conversation. And we're glad you've provided us with the opportunity and for keeping this discussion alive and current, and that mandates once again don't kind of fall by the wayside.

I have a list that the Garden State has worked on and it's actually a list that dates back to just Christmas of this year -- December of this year. But some of them have been taken on, so I'll try to note that.

One of the things that was-- For instance, when you're talking about curriculum requirements -- and this has happened. We have the high school finance -- the literacy requirement. It was a graduation requirement -- you had to have a course in high school finance. And the department put really a hold on that. So that responded to some of the issues that our members had raised, whereby they could provide finance information to students but they didn't need to have a separate class. And I can tell you that some of the estimates -- there were going to be \$100,000 to do that because of class size issues and scheduling. So that's an example of something that can compound itself.

School accountability regulations: As ASBO said, we concur with that -- a time-consuming effort on that. But we also believe firmly that schools need to be accountable for what they're doing.

We have something that I haven't heard yet. This is actually the flipside of a mandate. We'd like to have something called a *fiscal note* required, when legislation is drawn up, that gets into the impact on the local property taxpayer. Right now you're required to do a fiscal note for State

costs above \$100,000, or the sponsor may request one at any time on the State side. But we're saying take a look at the impact on local property taxes. It's just part of the discussion issue. Hopefully we would be having it at the legislative table on the cost of new legislation.

We have, at the bottom of our first page, 4 percent cap fixed cost issue. Well, now it's a 2 percent cap. And we would like the Legislature to consider applying the same cap to State-approve your legislative services that are outside of a district's control, such as private providers. These are steep costs, and when you have a 2 percent cap on the rest of your budget, even your tax levy, as was pointed out, it can be very limiting.

We'd like you to take a look at the last best offer. We know that that's been talked about, and putting that back on the table for school boards -- we think that's an important tool in negotiating that can level the playing field, and also move education ahead in a local district that's not tied up with a contract that can't be resolved.

ASSEMBLYMAN McKEON: Just a comment, for everybody coming up. Excuse me-- On last best offer: I believe the Budget Committee has been charged to look into that aspect of how municipalities control costs; same on the municipal side with the current interest arbitration for public employees. So I appreciate you bringing that up; we understand that's the biggest part of the budget, and many have thought that that was a good system for that last best offer. But the Budget Committee is going to deal with that, per se, for everybody's sake.

MS. STRICKLAND: Thank you.

The Council on Local Mandates, you mentioned. So you're going to be looking at legislation on that.

ASSEMBLYMAN McKEON: Next week.

MS. STRICKLAND: And that's great; we're glad to see that happening. That will be-- That should help quite a bit.

Long-range facilities plan. There's a long-range facilities plan that's required, I think, every three to five years, that's more intense and more complex than the annual check off. We'd like that to be revisited, because many districts feel that it's so complex they go out and they feel they have to hire an architect, which increases their cost (indiscernible).

Mediators.

ASSEMBLYMAN McKEON: Can I just stop you, there?

Pam, can I impose on your expertise there?

ASSEMBLYWOMAN LAMPITT: Sure.

ASSEMBLYMAN McKEON: That's a separate-- Sorry.

ASSEMBLYWOMAN LAMPITT: I'm sorry -- You caught me off-guard.

ASSEMBLYMAN McKEON: I apologize.

Talking about the long-range facilities plan.

ASSEMBLYWOMAN LAMPITT: Right.

ASSEMBLYMAN McKEON: Different than the-- Seemed like it was educational planning that had come up before. Do you have any thoughts on that? I don't know--

ASSEMBLYWOMAN LAMPITT: As it applies to the K through 12, it's the SDA versus the-- And higher education, it's a whole different level of planning. So the SDA-- Maybe the Commissioner can

even enlighten us a little bit more about the planning, the long-range planning and facilities.

ASSEMBLYMAN McKEON: Okay; I'm sorry I did that to you.

ASSEMBLYWOMAN LAMPITT: That's okay.

ASSEMBLYMAN McKEON: I apologize.

MS. STRICKLAND: Good, that would be even a help to us, too.

ASSEMBLYMAN McKEON: Great. We'll put that on the list for the Acting Commissioner Hendricks to talk about.

MS. STRICKLAND: Good.

We would like, in terms of the mediation process-- Right now, mediators do not have to take into consideration, as a requirement, the economy. And we'd recommend that that be brought into the mediation sessions.

Nonpublic services. The Mandate Review Commission also recommended strongly exploring the possibility of centralizing administration of nonpublic services on a countywide or regional basis. Right now, district by district, they have to administer nonpublic services, such as transportation, technology, nursing, and nursing services. And this takes time and, as we know, time is money. And perhaps the suggestion is: at the county level to take this on, properly coordinate it, be more efficient; costs less all the way around.

The prevailing wage issue that you were talking about before: We also have that same recommendation to align it with the municipality and not to have it two different ways for schools and municipalities in terms

of the cost threshold. And, in addition, we want to bring up to your attention that if a parent, or a booster group, wants to donate something to the district as simple as work on a snack shack or at the athletic complex, something like that, the donor -- and that would be the donor, who would be a professional contractor -- would have to be paid prevailing wages. They're not allowed to donate their time, and we really think that's worth taking a look at.

ASSEMBLYMAN McKEON: It absolutely is.

MS. STRICKLAND: And it sends the right message. Somebody in the community wants to donate, or probably reduce the cost to, as we also mentioned.

QSAC -- same thing that you heard. Please lengthen it to seven years for high-performing districts. There was-- In the old monitoring system that you were talking about before, trying to get in past history, I think it used to go for 10 years when a district passed with flying colors. QSAC brought it down to three -- QSAC is a different way, really, of looking at it, too. It's more functional. It's a good approach. But when you pass, and you pass at 80 percent on each indicator, it's time to let them go for seven years, and we hope you would consider that.

ASSEMBLYMAN McKEON: Are you privy to that information on the number of non-failing--

MS. STRICKLAND: Well, you asked the question, and we were chatting at the bench over there (laughter). Somehow we got in the same bench, and we think it's around 80 percent or so that are high-performing. That may be a little high, but it's a high number. And I might also point out it's not only going to save the local districts a lot of time and

effort and money, it's going to save the State, because the State has to send out a team to every district that has this done. They have to have QSAC training of the employees at the local level. Then the State also has to evaluate it all. So there's a two-fer there that would be a benefit.

An item that's brought up, that's a little bit different, on transportation costs -- and everything that's been said about transportation we agree with in terms of revisiting, too. But this is to allow school districts that own their own buses to compete with private carriers for Special Education runs. Currently, in order to form a jointure -- which you have to do with another district if you're going to provide transportation for them in special ed -- the districts who have the buses must also have children going to a private provider or a provider at a different location. Which means that you can have Special Ed buses, but your children-- You may want to join in with the district next door to you, or in your county and pick up other children. Unless they're going to the same location, you're just not allowed to do it. You're not allowed to form a jointure with them when they give you the vehicle, literally and figuratively, to do it. And we think that's worthwhile taking a look at, because the districts sit there sometimes with buses -- special ed buses that have down time, and why not use them? And saving money on both ends. It would probably be cheaper than contracting out to the private bus company.

ASSEMBLYWOMAN LAMPITT: Can I just ask a question about that.

ASSEMBLYMAN McKEON: Please.

ASSEMBLYWOMAN LAMPITT: Isn't it the amount of time that a child spends on the bus that really is the overarching requirement?

MS. STRICKLAND: My understanding was that, in terms of being able to form the jointure, it has to have children going to the same place.

ASSEMBLYWOMAN LAMPITT: But ultimately, if we were to change things, could it be a time limit spent on the bus?

MS. STRICKLAND: I suppose so.

ASSEMBLYWOMAN LAMPITT: Okay.

ASSEMBLYMAN McKEON: Thanks.

MS. STRICKLAND: And school budget vote -- you heard that. We're concerned about the complexity of having to vote on a special question in November. Timing is very tough on a local school budget because, obviously, it's set on a fiscal year. And having to go halfway through the year before you might know if you're going to be able to provide a program-- There are programs such as full-day kindergarten that would have to be a special question, because T&E doesn't require full-day kindergarten, so that is a deal.

ASSEMBLYWOMAN LAMPITT: Chairman, may I make-- Just a quick question.

Quick question, quick comment: We all speak about the November elections, we're all focused about the November elections. One thing that's a real observation that really should be denoted is that the teachers' convention happens that particular week. And if we want to create regular participation and better participation, then we need to be working more as a cohesive group and maybe, quite possibly, the teachers' convention needs to evolve into another date range so that we can get better participation. Because we all know that, albeit the fact that a lot of

families take off and so vote by mail, even though it's a strong emphasis and everything else, we're still not getting the participation we need because we're drawing away the people who we actually need to be out there voting. So it's a point I just wanted to make on record, which is maybe we should be looking at the teachers' convention.

MS. STRICKLAND: We also have on our list, also, the same thing about the work place injury, as ASBO brought up.

And finally, Special Ed is something, actually, that could have been at the very top of our list, too. The costs in Special Education, not the programs -- Debbie said it very eloquently about: we're not talking about lessening any of these services that are provided to the children in need. But we need to take a good look at the cost of Special Education. One of our districts in Marlboro believes that it's about 27 percent now of their regular operating budget, and it's only going to, probably, increase as the caps bring other things down.

We suggest also that we revisit and review the list-- We call it the list of 78, which is where the State mandates exceed the Federal mandates. There were 78 in 2007, which is the list we've been working off of.

I will also say this: There are probably things on that list that are very -- that are needed. We have at Garden State now -- we have a committee working on this and few other issues -- the cost as well. And evaluating the list is not-- You're not going to X through every single one of those without, maybe, reconsidering that. But there are issues on there that could be revisited for sure, and seen as possible reduction or elimination.

The out-of-district placements for Special Education kids -- we think the fee should be capped. This kind of coincides with what we were saying before. Anything in excess of 2 percent you might look at capping for outside services. But the out-of-district providers don't have any correlation to what the school district budgets are and the restrictions they're facing.

And burden of proof -- please revisit. Take a look at that. That was something that the Feds passed in 2007, and New Jersey reversed that and put the burden of proof back on the district. And the legal-- We do have very large issues with the legal fees and how to handle that best.

So that's it in a nutshell. I actually, probably left a few out. Extraordinary aid. I just wanted to clarify what I think it was, when you were asking before, Assemblyman. The extraordinary aid payments were made to districts this August. And it is those districts that have extraordinary costs per pupil that exceed \$40,000. And they're being reimbursed for, really, the prior year, because you don't know what's happened until the year's gone passed.

Thank you.

ASSEMBLYMAN McKEON: Lynne, thank you very, very much.

Any direct questions for Lynne? (no response)

That was a great report -- very specific.

MS. STRICKLAND: Thank you.

ASSEMBLYMAN McKEON: And we will endeavor to work around some of those issues.

ASSEMBLYMAN GUSCIORA: I don't know if it's more appropriate: you or the school boards. But I'm interested in whether somebody's tracking how many students are being sent by tax-exempt properties to the local schools. In Princeton, about 60 kids a year are coming from tax-exempt properties, from the Institute for Advanced Studies, from the Seminary. Princeton University, actually, pays for the school board portion, but there are many tax-exempt properties -- Lawrence School sends a similar number -- and I'm wondering if somebody in the state is tracking how many students from tax-exempt properties are going to our public schools.

MS. STRICKLAND: I can answer for Garden State Coalition -- we are not. I understand it's really a significant issue, but I'm not in Princeton. School boards may have some information on that for you.

ASSEMBLYMAN GUSCIORA: Thank you.

MS. STRICKLAND: Thank you.

ASSEMBLYMAN McKEON: You know, Reed, I was thinking: That's an interesting issue at Rutgers. There must be hundreds--

ASSEMBLYMAN GUSCIORA: Yes.

ASSEMBLYMAN McKEON: --if not a thousand. I wonder how it's handled.

Mike-- Where's Michael Vrancik?

Michael, thank you, again, for your time and professionalism in providing us information up to this point.

M I C H A E L V R A N C I K: Thank you, Mr. Chairman, members of the Committee.

ASSEMBLYMAN McKEON: Let me just get your report in front of me. Thank you.

MR. VRANCIK: My name is Mike Vrancik; I represent the New Jersey School Boards Association. Most of what I have to say has already been said.

I guess while it's fresh in everybody's minds, I want to respond to Assemblyman Gusciora. This issue of tracking the students who are sent tuition-free: I don't know the number right now, but I know that local boards talk about this all the time, and I could probably quickly get a number for you. It's not an issue just in Lawrence -- it's an issue up in Middlesex County -- there are a lot of students that faculty, properties on the Rutgers campus that-- It's the same issue. And there are pockets around the state where this is a big issue. So it's not just limited to Lawrence.

ASSEMBLYMAN GUSCIORA: Oh, I know that. I know it's a problem all over the state, but I want to know-- I was wondering if somebody is tracking that. I know that Senator Turner has a bill; I have a bill in the Assembly. But I think it's not fair that when we have tax-exempt properties and we're sending children, such as 60, to local school boards and at the end of the day when we're all trying to save property taxes, the rest of the town has to make up for that.

MR. VRANCIK: Well, exactly. I mean, it's not a zero-sum game. That's not free-free, it's just added to the burden of everybody else's property tax bill. So what I need to do is reach out to the other districts and compile a number. I'll get back to you.

ASSEMBLYMAN GUSCIORA: Thanks so much.

MR. VRANCIK: In the context of my testimony, I wanted to talk about a couple of things. Special Education is at the top of the list, in particular this issue of the burden of proof. I think that the way that circumstances work now, local districts come with an individualized education program. Oftentimes, that becomes the basis for litigation by parents who don't believe that the plan put together by the district is adequate to meet the needs of their children, often rightfully so. The question, though, becomes: Where does the burden of proof lie? I think this is a cost driver for local districts because oftentimes the fear of litigation, the fear of the cost associated with the time involved to prove, conclusively, that everything they've done is educationally appropriate, drives them to, basically, go ahead and say, "Whatever you need this plan to be, it is," which leads to costly out-of-district placements and other things that I think wouldn't happen if the burden of proof was shifted to the parents.

ASSEMBLYMAN McKEON: Mike, let me just share a-- There could be days of hearings on burden of proof--

MR. VRANCIK: Absolutely.

ASSEMBLYMAN McKEON: --so I'm not going to get into that.

But let me share this with you: If you speak to advocates, they will say that it's stacked against them to start with because-- I mean, you know that. I'm telling you, you know, but for everybody's purposes. Because really, the interdisciplinary team that makes the decisions are mostly board of ed employees, so, therefore, that's who gets to make the decision. That for the most part, a lot of people -- parents -- it may be

expensive for a school district because they're dealing with 50 of these, but one parent with one kid who doesn't have a lot of money doesn't have a lot of money for lawyers. So what's the solution? And by the way -- small, wealthier districts? They say-- By the way, every parent has a lawyer. They come to the IEP meetings with attorneys. So how do we get to something that's fair?

MR. VRANCIK: I guess-- I think it might have been the first person who testified today, who talked about the possibility of creating some kind of an alternate route, a mediation process, perhaps administered by DOE, that would create a scenario where if there was a disagreement over the IEP, rather than going to formal court proceedings, there's some opportunity to have an independent review to suggest changes or options that could be incorporated, to come to closure without going to court.

We did a study several years ago on Special Education costs because, consistently, it's the thing that board members are most concerned about; because as a percentage of our local district budgets, it's larger than average. And, obviously, our ultimate solution was to suggest that the State pick up the entire cost. I think in this case if, in fact, there could be a mediation program, that would be great. I think if there was some way for the State to assist local districts in the cost of legal proceedings, or perhaps lend deputy attorneys general or something like that, it might change the circumstances. I think there are probably many instances where the individualized education plan is perfectly appropriate, but someone has decided that they desire this particular service for their child, and unless they get it they're not going to be satisfied. I completely agree with you, though: There are other instances where the parents have a complete right

to move forward, and I think that there needs to be a way to address the fact that a lot of decisions are made based on what this cost is going to be. And local boards weigh the several hundred-thousand-dollar cost of that, especially in the context of a 2 percent levy cap now. Because nobody's paying, at the State level, the cost of going through these court proceedings.

ASSEMBLYMAN McKEON: Again, I know we have the advocates who are going to speak, and at the end of the day we've got to come up with something on this. Is it Delaware? There are a couple states -- and I would love to hear input from people who have a lot more knowledge than all of we do -- as to other states and systems that are fair to everybody, but are not as bureaucratic and expensive, God knows.

MR. VRANCIK: I've heard often from board members that if there was some kind of alternate route, some kind of mediation--

ASSEMBLYMAN McKEON: Delaware and New York -- those are the two places.

MR. VRANCIK: Yes, that would be a great alternative. Because, legitimately, there are reasons for disputes, but there needs to be a way to resolve them without spending a lot of money that is particularly scarce now.

One of the other things we have in our testimony talks about the change in the way that the special ed formula works. It uses, for a portion of the special education aid, the average number of students statewide in individual districts who receive special ed. I think it's 14 or 15 percent now. If you're in a district that has a higher-than-that average number of special ed students, you have to come up with the balance of that portion of your special Education money on your own. I think we'd

like to see some changes in the law that considers districts that are far above that average.

The next thing I wanted to talk about, quickly, is accountability regs. As you're all aware, two years ago there was a special session. The Legislature came up with the School District Accountability Act. At a time when there's a lot of focus on reducing costs at the local level that don't hurt the classroom, but cutting administrative overhead, we polled our superintendents and school business officials and we had about two-thirds of the districts respond. And we estimated that the cost of the accountability regs was somewhere around \$4 million to \$5 million annually. So it added costs. We're not saying that districts shouldn't be accountable, but some of the additional reporting requirements weren't in lieu of other ones, they just added to the burden. And we're pressured to reduce administrative overhead, and we're trying to find ways to get this going.

At the very end of our report, and the next section I want to talk about -- shared services -- we did a study with the Rutgers Institute of Education for Policy in Newark about three years ago. And we had a volume that's at least this thick (indicating) on the existing shared services programs in the state. A lot of those don't get a lot of discussion because it's already built into the base -- it's already savings. We're looking for new savings. I think in the context of shared services, the money that the State provides to do studies is really geared towards municipalities, not school districts. They're precluded from getting any of the money that's administered through DCA. I know it's not a lot. We're thinking a lot about shared services that extend between municipalities and school

districts, as opposed to just school districts and school districts. And I think that we're recommending that a look be taken at ways to facilitate that, even if it means a minimal amount of money for districts to do the feasibility studies, to begin some more intense dialogues with other levels of local government.

Last, but not least: the Governor's Red Tape Review Commission referenced a lot of things that other people have talked about, specifically in the areas of last best offer and some of the other collective bargaining points that would -- although they're not mandates -- would go to free up local tax dollars. And we'd strongly support the Legislature taking action on implementing some of those recommendations.

And that's my testimony.

ASSEMBLYMAN McKEON: Michael, thank you very much.

Anyone have specific questions for Michael?

ASSEMBLYWOMAN LAMPITT: Just a quick question.

ASSEMBLYMAN McKEON: Of course, Assemblywoman.

ASSEMBLYWOMAN LAMPITT: Just a quick question, Michael.

Thank you for your testimony. It seems like the school districts are in Catch-22 with special education.

MR. VRANCIK: Yes.

ASSEMBLYWOMAN LAMPITT: You want to be accountable so that you can get the funding necessary, but yet showing the accountability shows the responsibility for providing the services necessary. So it becomes a Catch-22. And my concern is that, at the end of the day, it's about the kid, it's about the child.

MR. VRANCIK: Right.

ASSEMBLYWOMAN LAMPITT: It's about providing education for the child. And Assemblyman McKeon commented on Delaware and New York. I know that Massachusetts is another state that has a significant amount of children who are being brought up with special education, and their needs -- and their needs try to be met. Have we benchmarked ourselves against any other state?

MR. VRANCIK: Well, that's a hard question to answer. I think a couple of years ago there was a lot of press about the fact that 1 in 150 kids is autistic. In New Jersey, it's 1 in 75. I submit that the reason for that is less that's there something wrong in New Jersey than there is that we--

ASSEMBLYWOMAN LAMPITT: We became a mecca for special education.

MR. VRANCIK: --go over and above what the Federal government requires, so that a lot of people from other states come to New Jersey because they know they're going to get excellent programs. And I think a lot of our board members are proud of the programs the districts provide. The question now becomes, with the 2 percent levy cap: What's the wisdom of Solomon to decide what you dispense with in order to live within that 2 percent levy cap?

ASSEMBLYWOMAN LAMPITT: Because of the Federal mandates you're now providing more of your budget toward special education than you are to the mainstream child.

MR. VRANCIK: Well, I think we, in many instances, go beyond the Federal mandates. Hence, the fact that there are more autistic

kids receiving services in New Jersey, perhaps, than in other states. The way we define and look for ways to take care of these kids I think points out that we have a very compassionate system, but it's a very expensive one. And I don't think anybody's suggesting that we want to retrench, but we're trying to figure out ways to reduce costs. And a lot of districts, I think, are very reluctant to pursue court appeals of individual education plans.

ASSEMBLYWOMAN LAMPITT: Right.

MR. VRANCIK: Because even though there's a possibility they believe they're right to begin with, if they lose they're going to pick up this cost; and it's taking money out of the classroom and away from these kids.

ASSEMBLYWOMAN LAMPITT: Right.

MR. VRANCIK: And they don't want to do that.

ASSEMBLYWOMAN LAMPITT: You might not have the answer to this, but maybe it's a profound question that we all should be asking: I know that here in the State of New Jersey we've been very focused about trying to diagnose and provide the medical coverage necessary so that there's earlier detection of an autistic child, and knowing the fact if you catch the autistic child at a much earlier age that their growth potential, their learning potential, is far greater.

MR. VRANCIK: Yes.

ASSEMBLYWOMAN LAMPITT: Has the education system been able to see any evidence of that as of yet?

MR. VRANCIK: That's a hard one to answer. I mean, I think this is such a relatively new issue, in a context of years and years worth of data on special education generally. I don't know if anybody at DOE can

even answer that one -- whether we see -- we've been doing this long enough to know that we've made an improvement.

ASSEMBLYWOMAN LAMPITT: Thank you.

ASSEMBLYMAN McKEON: Thank you very, very much.
That was very--

MR. VRANCIK: Thank you.

ASSEMBLYMAN McKEON: Oh, Reed has a question.

I was just going to comment on the exchange. I'm, as we all are, I'm proud of-- It's not perfect, but what we do as a State to support persons with special needs, it's something great about New Jersey and laudable. Hopefully where we can get to isn't necessarily to take services away, as much as look at pieces of tha, like the struggle through the courts, if need be, to reform it to save money and not hurt anybody.

ASSEMBLYMAN GUSCIORA: Along tracking -- are we tracking the amount of charter schools that have failed in New Jersey? Trenton, for instance: I think seven to nine charter schools, since the inception of charter schools, have failed; and that results in a big cost to taxpayers, moving kids back and forth. What I'm also concerned about is the proliferation of charter schools competing against successful schools. Princeton has a charter school, arguably one of the top 10 school systems in the state. And then you have a charter school competing with it, and then you have a proposal to start a second charter school -- the Mandarin School. So I'm wondering if somebody's looking at the fiscal impact -- if there's any negative -- about just open-ended allowing charter schools to proliferate. But are we also looking at the ones that failed?

MR. VRANCIK: To the question of whether we're looking at the ones that failed: I would turn that question over to the Department. I know they do keep track of that.

And there are successful charter schools, and there are also charter schools that don't make it.

ASSEMBLYMAN GUSCIORA: Undoubtedly.

MR. VRANCIK: I guess Senator Ruiz had a hearing, and I think a bill is up later this week on the idea of creating a second-tier authorizer, that being Rutgers, to authorize charter schools in addition to the Department of Education. We did some research and we found that, across the country, about half the states allow local school districts to authorize charter schools. The idea there being that, rather than creating an antagonistic relationship, it's a cooperative relationship. And, perhaps, local districts being in the front seat in terms of working with local charter schools would create a situation where they might be better and more successful, because they would be working in concert with the school district; as opposed to the situation you mentioned in Princeton that I'm familiar with.

But in terms of the number: On average, how many charter schools did start in a given year, succeed, and how many fail? I'd let DOE answer that question.

ASSEMBLYMAN GUSCIORA: Well, I'm looking at it cost-wise, because at the end of the day taxpayers are going to foot the bill for these failures. And moving on, I just hope that the State is watching this or seeing how much this costs taxpayers in the long run.

MR. VRANCIK: I believe that they are.

ASSEMBLYMAN McKEON: Okay, Michael, thank you.

Any other questions? (no response)

Okay, now I spoke through the week with Joe Hancock. I don't see that he's here -- with PTAs? He didn't know if he could make it, but he had provided some information to us, and I think was going to be providing some written testimony from the perspective of the State Association of PTAs.

The American Federation of Teachers -- Peter Guzzo and Donna Chiera? Again, they didn't sign in. We spoke to them, they were invited, and again, might have had a logistical problem. And I don't see that they're here.

Acting Commissioner? Are you ready for us?

Before we get into mandates, we have a few questions on Race to the Top. (laughter)

ACTING COMMISSIONER HENDRICKS: No! This was going so well.

ASSEMBLYMAN McKEON: I was going to say nobody even said a word on the thing. Only kidding.

ACTING COMMISSIONER HENDRICKS: I was almost catatonic when you said that.

ASSEMBLYMAN McKEON: Oops! Gotta go!

ACTING COMMISSIONER HENDRICKS: Well, I hope it's still morning, I'm not quite sure.

ASSEMBLYMAN McKEON: We're doing well, actually. We got through an awful lot of people.

ACTING COMMISSIONER HENDRICKS: We're doing well?

ASSEMBLYMAN McKEON: It's just a few minutes before 12 noon.

ACTING COMMISSIONER HENDRICKS: Well, first of all, let me thank you all very much for the opportunity to come and share with you. And particularly, I appreciate the opportunity to hear from our stakeholders and the testimony they shared.

In light of timing, I am going to modify my formal remarks. I certainly think that the work that was initiated by the Governor's Red Tape Committee set the stage for a lot of the conversation, and some of the recommendations certainly put forth in the reform -- the tool kit to reform a lot of these issues. So I would encourage everyone to look at that and to take those very, very seriously.

But I do want to talk about a couple of things the Department is doing currently to address the burden of mandates and the inefficiencies that come as a result of that.

One of the things that's currently underway is we've established a QSAC Review Committee. That Committee is headed by Executive County Superintendent Robert Bumpus, and they will be looking at all aspects of QSACs to see what the strengths and weaknesses are, and to reconsider what needs to be done to make them a more efficient tool.

In addition to that, one of the subcommittees is being led by our Assistant Commissioner, Willa Spicer, to look at the integration. You know we talk about a single accountability system, but it really hasn't lived up to what, I believe, the Legislature envisioned with that respect.

So the work of that committee will inform a major revision in self-evaluation of that tool so it could be better used by our districts. And

we'll include, obviously, stakeholders from the field and I look forward to their input on that.

The other area is NJ SMART. We've had a lot of data collections, as you know -- ASSA collections, fall survey collections -- and all these are separate and apart. It not only leads to inefficiencies, and it's burdens to the districts, but it also means we get mixed data and we don't have the quality data that we want. So we anticipate eliminating the fall survey, and then look forward to making similar adjustments with ASSA. We believe these things will also bring some immediate relief to our districts.

There are a couple of other things that I probably could go into, but I think I'd rather hear from you. I will say this: We want to encourage, where we can, flexibility. We have equivalency in waivers options; they have not been used as much recently, at least I would say in probably the last decade or so, than in my early years in the Department where we saw much greater use of equivalency waiver. Certainly with districts that are high-performers, we'd like to provide more flexibility, and you've heard that a lot from those who preceded me with respect to, particularly, QSAC and extending the amount of time before which they have to go through that monitoring process again.

The strength of that, also, is for those districts that are really struggling and need intervention and support, it allows the Department to also focus our resources and target the services that they need. So overall we think those are very wise and doable things that we could begin to move forward and implement immediately.

Some of the high-stakes areas around cost: You've heard they are challenges. Special education consistently emerges as one of those areas that people want us to pay some attention to. It's one, as I think everybody said, in which New Jersey does extraordinarily well. It is a caring and compassionate system. We don't want to sacrifice the quality of services, but we must find more effective ways to meet those needs of the students who we're trying to serve.

I can remember hearing from -- I believe it was some of the Commissioners for Special-- I should say the Commissions for Special Services. And one of the things they talked about is the role that they could play in some cost (indiscernible) -- whether or not they should have first right of refusal; where they fit in; where, certainly, local services fit in; how we adjust the cost for private providers. I mean, these are real challenges and things that I think we all would look forward to collaborating on and working together to pay some attention to how we can be more efficient there.

And then I just want to mention, because charter schools came up: One of the things that we have been encouraging is to find ways in which charters and districts can work together. Certainly those that currently exist, around things like shared professional development opportunities, shared space where we have underutilized spaces, and even the extent to which charters could begin to drive some, I would call, *economic growth* in some of our more distressed communities. I don't want us to look at everything as competitive, but rather as an opportunity to create meaningful educational change and transformation. That's not the way it was set up initially -- it was you versus us. But I'm hoping that dialogue can

also be one of the things that changes as we go forward, keeping in mind that real educational change occurs because parents are empowered and choice becomes a real factor in that. And I think people also talked about ways in which districts can play a role in creating that kind of interface.

I just want to leave it as some brief remarks, as I said. I moved away from my formal comments; I don't know if I've upset Chris -- I hope not. (laughter) But certainly to open it up to questions to the extent that I can be responsive to those questions.

ASSEMBLYMAN McKEON: Reed.

ASSEMBLYMAN GUSCIORA: Commissioner, how much did the 10 charter schools that failed in Trenton cost taxpayers in the State of New Jersey?

ACTING COMMISSIONER HENDRICKS: I'd have to actually do an analysis. And I think that's a legitimate question and one worth us looking at. I think the-- And there's another side to that coin, but let me first try to look at that and get back to you with a response.

ASSEMBLYMAN GUSCIORA: Okay.

And then secondly, should we be encouraging charter schools to compete with successful school districts, such as Princeton? Can Princeton afford or need two charter schools to compete with the public school system; and don't we endanger, lessening the quality of education in the public education system that's already there?

ACTING COMMISSIONER HENDRICKS: Well, I think that needs a fuller analysis and it's certainly the kind of thing we're looking at. But let me give you an example: Princeton already has a charter school, as you know.

ASSEMBLYMAN GUSCIORA: And they want another one.

ACTING COMMISSIONER HENDRICKS: Yes, but the one that's there has not diminished the quality of the Princeton Public School system, and it's provided increased opportunities for families. I think the competing interests are not only between the districts and would-be charters, but what we mean by choice, and how do we drive school change and innovation. I think these are all legitimate questions, but I want to make sure that we contextualize those questions so that we look at what are the ways that we drive the kinds of change in a cost-effective way to meet the 21st century needs of students. And that is a real challenge for us.

People talked about High School Redesign, and so my approach is: Let's hear what the stakeholders have to say; let's look at how we can customize things so that there is that added flexibility. But I do honestly believe that for education to look like it needs to look for the 21st century, competitive choice opportunities are critical. And that starts all the way back with our county vocational schools, which were, really, first choice. And we had choice, with in-districts around magnet schools. We now have the inter-districts choice legislation that you all passed and the Governor signed. So I think these are ways in which we empower communities and transform communities. I don't think we've used the tools as effectively as we could. And I think that's something we can do together, going forward.

ASSEMBLYMAN GUSCIORA: I'm all for competition. And I know that in our urban schools where they're failing our kids -- I don't know if the answer is, then, just to allow unregulated charter schools, which were built in the City of Trenton at taxpayers' cost -- only to have them fail

and then disrupt the lives of the students and the parents who had to then find other, alternative ways to educate their kids. So right there, I think there needs to be safeguards in place.

And then, also, in a successful school, I beg to differ with you on the Princeton experience. At the end of the day, it's still a cost to taxpayers; and you still, then, have to build another facility, have two janitors -- I mean, compounded by how big the facilities are -- nurses, and the like, where that, at the end of the day, is costing more and more for taxpayers. So I know that charters may be the answer in certain school systems, but completely unregulated or to just allow them to go out there, at the end of the day, is going to be costly to taxpayers.

ACTING COMMISSIONER HENDRICKS: Let me just answer your comment. Unregulated anything is problematic, so I certainly agree with you there. One of the things that we're doing: We are in partnership with the National Association of Charter School Authorizers to look at best practices around authorizing. I mean, the key is, obviously, if you authorize you want the school to stay open. The good side of what New Jersey has done: If the schools are not working we have been very aggressive, unlike many states and other authorizers, in closing those schools. I think your concern about making sure that the ones that we authorize really can be successful is a critical component, and that's why we want to make sure that we're using best practices, going forward, in terms of our own authorizing.

In terms of the need: Maybe it's something that we can all talk about going forward, so that, perhaps as you said, in struggling communities, where the system isn't turning around fast enough, that we

want to promote growth or support growth at a more accelerated rate; and think about what choice looks like in districts that are high-performing districts.

ASSEMBLYMAN GUSCIORA: Thank you.

ASSEMBLYMAN McKEON: Commissioner -- and again, you've been enough on the spot for 10 people in the last few weeks. But you started -- maybe this goes back to your formal remarks that you were going to make -- you started in focusing on the Governor's tool kit. I've looked through that, and I don't see anything that has dealt with a lot of what came forward today. And I'm not talking about the last best offer. But what are you specifically referring to that we should look at from an educational perspective and mandates?

ACTING COMMISSIONER HENDRICKS: Well, honestly, the first thing that came to my mind was the last best offer. But I think wherever we can look at issues around contract negotiations -- I think that really is kind of the heart of a lot of the work for the school districts. There may be some other things -- I mean, prevailing wage issues come up, when the districts have a much lower threshold -- \$2,000 threshold -- versus municipalities around \$14,000--

ASSEMBLYMAN McKEON: I agree with that.

ACTING COMMISSIONER HENDRICKS: But I appreciate that.

ASSEMBLYMAN McKEON: But that wasn't in the Governor's tool kit that I saw. I saw-- The only thing that I thought related to education was the last best offer, which is significant because that's the biggest piece of the expenditure when it comes to it.

ACTING COMMISSIONER HENDRICKS: Well, I think of it more generic in terms of the 2 percent cap and looking at those toolkit elements with respect to that. But I'm going to leave that to the Legislature to focus on and work with the Governor. And certainly we will do what we can from our end to support the kind of reforms that we think are going to create efficiencies within State government that there are more resources to be distributed more effectively.

ASSEMBLYMAN McKEON: Again, I'm going to reiterate that I really appreciate you being here and sharing with us. That means a lot to the Committee and to me personally. And if you're not prepared on this question, I'm not trying to-- It's related to special ed, and it's just something that had come up in some discussions that I had had. And I'm sorry to the folks -- I'm bringing it up now because some folks I talked to from the AFT had brought it up, and other stakeholders.

Within the classroom, there may be a special needs student who has an aide assigned to them. And assuming that's done for good reason -- just give that as a given -- a lot of times there might be a classroom of 25, of which three of the children in that classroom have aides. And I've heard teachers and others say that becomes disruptive to the education process; that there are the teacher, plus three aides on top of that -- it's almost like people are walking into each other. You've got four, so to speak, adults in the room. It becomes distracting to the other kids who might be looking at these other old people who are in their classroom. And I'm just wondering what your thoughts-- Is there a process? Can there be a waiver for that?

ACTING COMMISSIONER HENDRICKS: I think those are the kinds of things that we're open to having some real conversations about -- where we can introduce some flexibility with some of the mandates that we have. I think that's a concrete example of something we'd want to look at and give some consideration to.

ASSEMBLYMAN McKEON: I'd be interested-- You know, we're going to start to put together some pieces of legislation, but I'd be greatly interested in what you, what the Department feels about that issue itself.

ACTING COMMISSIONER HENDRICKS: One of the things that I think we're beginning to do -- and QSAC was designed to do -- was to make sure that we're introducing best practices. So that oftentimes best practices can also be the most efficient practices. They're not always that, but I think that would part of the dialogue I certainly would want to have, not only within the Department, but certainly again, with the practitioners -- the people who actually have to live with the things that we mandate, or that we provide what I call *superordinary guidance* for.

ASSEMBLYMAN McKEON: When is the internal QSAC Commission going to come out with its recommendations?

ACTING COMMISSIONER HENDRICKS: I don't know quite the timelines, but I would hope sooner rather than later. We're just putting that committee together, and that's certainly something, once the committee has its hearing, I'd love to get back to you with some timelines.

ASSEMBLYMAN McKEON: We might also ask -- just something that I'm interested in, on the -- and I'm sure we all are -- on the special ed system of assignment and appeal. Are there any thoughts from

you or from the Commission as to how to move that in the direction where it's accessible and, finally, making it affordable for both sides?

ACTING COMMISSIONER HENDRICKS: There have been some conversations in the Department, and certainly with the stakeholders that have been meeting with our Office of Special Education and the Division under Barbara Gantwerk's guidance. And certainly this is something, I think, we all are very anxious to address, and find more effective and efficient ways to provide those services. The litigation costs alone are extraordinary -- you've heard that from everybody here. So if we can find more effective ways to get at that and save some resources for our districts, we certainly would want to be able to do that.

ASSEMBLYMAN McKEON: Okay.

Please.

ASSEMBLYWOMAN COYLE: I'd just like to know, for the record: There are quite a few things that we heard here today to determine our tool kit bills: not only just a last best offer, but A-2959, allowing multiple organizations to file complaints -- we heard testimony regarding the people would like to have that; 2960, collective negotiation for school employees -- well, that's the last best offer; 2961 authorizes county superintendents to require looking at shared services. There's a whole list here and I'm not going to belabor it, but there's probably about seven things on the tool kit that we heard testimony that people would want today. (Indiscernible) thank you. As the lone Republican sitting at the table, so-- (laughter)

ASSEMBLYMAN McKEON: I'm the lone Democrat.
(laughter)

ASSEMBLYWOMAN COYLE: Yes, it's just the two of us, John. You're right! (laughter) How dare you do that! (laughter)

ASSEMBLYMAN McKEON: We're even. Try to move a vote now.

ASSEMBLYWOMAN COYLE: Let's vote! (laughter)

ASSEMBLYMAN McKEON: If it was you and me working on it, I'm sure we'd compromise appropriately.

ASSEMBLYWOMAN COYLE: We would have it figured out. We'd have a negotiation.

ASSEMBLYMAN McKEON: We'd have it figured out.

ASSEMBLYWOMAN COYLE: Right. But I actually do think that the transition team's report, that many of the tool kit bills have emerged from -- we've heard repeated testimony on that. And I think the one that you actually spoke of earlier that said the Budget Committee -- the last best offer, and especially binding interest arbitration -- if we don't change the binding interest arbitration laws in this State to reflect what the economy is out there, these laws are-- We will continue to struggle. They are, as you mentioned earlier, the largest cost factor for our districts.

ASSEMBLYMAN McKEON: There's no question that that's a big piece, and I think that we'll get those addressed. But as it relates to a lot of the specifics -- with due respect -- I'm not expecting--

ASSEMBLYWOMAN COYLE: Even the special ed.

ASSEMBLYMAN McKEON: Listen: It's our job to come up with ideas and rules, so I'm not faulting the Governor, but I don't-- Beyond the last best offer, and the Mandates Commission--

ASSEMBLYWOMAN COYLE: Oh, no, no, no, no.

ASSEMBLYMAN McKEON: Well, the Mandates Commission-- That's what we're here for.

ASSEMBLYWOMAN COYLE: Right.

ASSEMBLYMAN McKEON: Burzichelli has a bill, Scalera has a bill -- that will be before this Committee next week.

ASSEMBLYWOMAN COYLE: And it's also a Republican bill, so it's good.

ASSEMBLYMAN McKEON: Which will consolidate-- We're going to consolidate them all.

ASSEMBLYWOMAN COYLE: We'll get together on it.

Yes, go on Commissioner. Excuse us. We usually get along very well. (laughter)

ACTING COMMISSIONER HENDRICKS: I think you do great together. (laughter)

ASSEMBLYMAN McKEON: Are you finished?

We will consolidate those. It will be a bipartisan effort next week, I can assure you that's the case.

But there's a lot, to me, some very specific ideas that we can move on here. And I really would elicit the cooperation of the Department beyond the tool kit issues that are out there. We kind of have our own tool kit here that was framed today very, very well by the stakeholders, and that's what I'd like us to focus on. And then, whether it might be the Education Committee that will hear and release some of these bills, as might be proper, or whether it will be this, as part of our charge -- we'll see.

ACTING COMMISSIONER HENDRICKS: I just want to be able to thank you all for a couple things: One, to allow me to sit and hear

from the education community on these critical issues, because this is just the second week (laughter) -- and it's a lot of things that we really want to be able to do and move forward around education reform. And there's nothing more central than making sure that our districts have the resources they need to do the job.

So I want to thank you for the work in this Committee: to really cut through the red tape and the mandates so that we can get to the core issues, and really support what is essential in education.

And then the other thing is, I want to thank you for acknowledging-- My reality has been, during these two weeks, I feel like somebody trapped in a video game, trying to run the race and grab up all the goodies that you need to survive, and so that you have a long enough life to do the things that you really want to see done.

I love being in education; I'm dedicated to meeting the needs of children. And so to those of you who are doing any work to help us meet the needs of the children who we serve in this state, I say thank you, and you will be hearing from me and the team as we go forward.

ASSEMBLYMAN McKEON: Thank you again, very, very much, for your input and for your continued cooperation in the future.

The last group, if you will, of witnesses that have been invited and we're looking forward to hearing from, is Brenda Considine from the Special Educational Funding Coalition; Peg Kinsell, from the Statewide Parent Advocacy Network; Liz Shea is here from the ARC of New Jersey; and Gerard Thiers, as I mentioned Gerard before, from the Association of Schools and Agencies for the Handicapped.

If there's not enough room, we can have two at a time -- however you all want to proceed.

BRENDA CONSIDINE: Hi, I guess while Peg is handing out her material, I'll start.

My name is Brenda Considine. I'm the coordinator of the New Jersey Coalition for Special Education Funding reform.

ASSEMBLYMAN McKEON: Welcome, Brenda.

MS. CONSIDINE: Thank you, thank you very much for the invitation to be here, and thanks for the time you spent with us last week on the phone.

ASSEMBLYMAN McKEON: It's been a pleasure.

MS. CONSIDINE: Our coalition formed in 1996. We're comprised of 10 major statewide organizations concerned with special ed funding. We're a nonprofit organization advocating for kids with disabilities, and collectively we represent about 10,000 families and students.

Our goal is to see a statewide funding formula that is efficient, transparent, predictable, flexible, adequate and placement-neutral.

The issue of mandates is very complicated. There's a 40-year history of a lot of these rules and laws and statutes and local practice. Most of the rules, I'll tell you, were put in place for one reason, and that was to protect kids against practices that weren't working for them. Most were hard-won. I'm going to go into a little bit more detail, and so are Peg and Gerry.

ASSEMBLYMAN McKEON: That's fine.

MS. CONSIDINE: But I just wanted to first give you an overview of where we we're coming from and what we hope to accomplish. Our coalition has gone on record with an unlikely message: We've said that it's not a matter of more money, it's a matter of smarter money. We really do believe that there's enough money in the system right now to educate kids with disabilities well and appropriately, but we need to really look at how that money's being spent, where it's being spent, and where the priorities are. We think there are smart ways to save money.

The Assemblywoman mentioned benchmarking and data. We strongly urge New Jersey to conduct a scientifically validated longitudinal outcome study to take a look at adults who, as students, received Special Education services. We invest millions and millions of dollars every year in the education of students with disabilities, but we lack an objective data to indicate what the service markers were -- the variables that made a difference in the lives of these kids. We are making policy decisions based on assumptions, not based on data.

Secondly, we urge New Jersey to conduct an independent study of the full, actual cost of special education. Our coalition formed in 1996 during the Whitman Administration; this was something that we advocated then, it was part of SEFA, a piece of it was part of SFRA. It's never happened. There have been legislative mandates to have this happen. Even now the Commissioner's Office is required to have reported back to you guys back in June. It didn't happen. So we really would urge that before we start taking a look at mandates and sort of trimming around the edges, that we do a comprehensive study looking at the full, actual excess costs.

Data available from NJDOE shows a very irregular set of data on public school tuition rates for self-contained classes, and no objective cost data whatsoever on the full, actual excess costs of inclusive programs. So we're making policy decisions about bringing kids back into the districts because it's going to save money -- we don't know that that's the case. Gerry Thiers is going to testify about the cost of private schools compared to the full, actual cost to taxpayers to educate similar kids in public programs, and you will be surprised at what we learned.

The third thing that we recommend is an immediate moratorium on the construction of any new, public school building designed specifically for kids with disabilities. You'd think, why on earth would a coalition for kids with disabilities oppose new buildings? We don't think money should be spent on new public buildings for kids with disabilities. We think public schools in neighborhoods should be thinking about ways to serve kids locally. You talked about transportation costs? A self-contained, segregated public program in Sayreville that cost the taxpayers millions of dollars, now today, and in bond money in the future, is not a tax-saving way of serving kids with disabilities.

ASSEMBLYMAN McKEON: (Indiscernible)

MS. CONSIDINE: No, not at all. It does nothing, really, to increase local capacity -- all those kids that go out, the local district will not learn and develop capacity locally to serve those kids.

A couple of points raised by my colleagues from the Garden State Coalition and School Boards on shared services. We are in complete agreement. We really do want to see more in the area of shared services. Public-private partnerships should be developed to really take advantage of

some of the talent that's here in New Jersey. We would urge the Legislature to require DOE to coordinate and regionalize transportation. Just a case in point: I'm aware of a situation in Mercer County in which four students with disabilities from neighboring school districts were all sent to the same self-contained school, and each of those children had their own bus. Now, the parents actually said, "Can they all be on the same bus, because they're friends?" And they really lived only nine minutes apart, but it was four different districts. And they were told that there were administrative reasons that that couldn't happen. So that just seemed kind of backwards if you're looking to save money and do what's right for kids.

The other point is that we would encourage that the Department of Education do everything they can to facilitate effective general ed, pre-referral, and intervention and to keep kids out of the special ed system who might not need to be there.

My colleague on School Boards raised an issue that I wasn't completely prepared to talk about, and that is reforming the funding formula altogether. And that is really the main pillar of our work. We strongly oppose the current census-based funding formula, and would urge very strongly taking a look at returning to a tiered system based on the actual number of students, not based on the census formula. We think it's not working for kids, it's not working for districts. We've heard from our colleagues everywhere that it really has created something of a problem.

I'm going to turn over the four main points that we've been talking about with regard to special ed to Peg and my colleagues: the issue of burden of proof, private school re-billing, kids in out-of-state programs, and other things.

But just as an aside on the burden of proof: I talked to a couple of special ed lawyers and they'll tell you that very, very, very, very few cases are won or lost on the provision of burden of proof. It's a legal nuance that becomes significant when a case is almost too close to call. Burden of proof really has not made or broken very many special education decisions in New Jersey.

And another point that I just wanted to clarify is that districts do not need legal counsel in some of these matters. Many times parents walk in with no legal counsel, so the idea that they have to be litigated is not entirely correct.

So I guess with that, I will hand it over to Peg.

P E G K I N S E L L: Good afternoon. I'm Peg Kinsell; I'm the Public Policy Director at the Statewide Parent Advocacy Network.

I didn't prepare any remarks because I was kind of waiting to see how we went here. I did include our brochure, because I was very excited to be here and I wasn't sure if I would ever have the introduction to the Assembly Environment Solid Waste Committee again. I guess maybe I will though.

I also, because we're a nonprofit, wear hats -- two hats -- and I co-direct the Military Family Support 360 Project, which is federally funded to support military families at the joint base of kids with disabilities. So we're doing a special ed piece down at McGuire, Fort Dix and Lakehurst too. So this is something we're immersed in all the time. SPAN is funded through the IDA -- the Individuals with Disabilities Education Act. Every state has to have a federally funded parent training information center, and we just happen to be New Jersey's. So that's the commercial.

Burden of proof. Burden of proof is something that -- and I include it-- I started to write testimony, and then I said, "You know, the Department of the Public Advocate put together such a great white paper, and was so much more eloquent than what I'm going to write. I'm just going to include that because it helped tell the story and sell the message two years ago when the Assembly voted on a bipartisan bill with only five no votes to pass burden of proof."

ASSEMBLYMAN McKEON: Can I-- I didn't mean to stop you there; you take as much time as you would like.

MS. KINSELL: Sure.

ASSEMBLYMAN McKEON: I don't plan on revisiting burden of proof as an issue. What the future will hold in that regard, as it might relate back to these issues; is a different story. I'm more interested in a better system--

MS. KINSELL: Okay, that we can talk about.

In an IEP meeting, when you walk in, it's-- The parent has an equal role as a member of the team, but that's it -- they have one vote, okay? So depending on your knowledge, depending on your advocacy skills, depending on if you have support from spouse, family members, an advocate -- depends on how the experience goes from the first time around, throughout. If you have to go into court, burden of proof aside, especially if you go in pro se, you can imagine what standing in front of an ALJ by yourself can be like. If you go into mediation, it can be an interesting experience. Sometimes school districts bring attorneys, sometimes not. So we would be happy to sit down and talk about a less-traumatic experience for families, too.

Now, I'm somewhat familiar with Pennsylvania, and I'm somewhat familiar with New York, and after the conversation I got more familiar with Delaware this weekend. In New York they have hearing officers that tend to be retired administrators from school districts, which would tend to make parents a little more wary because of the history of where they come from. In Delaware, they do an interesting thing, which is have a panel. And the panel is appointed by the Department; an attorney heads the panel so there's legal expertise. Then there's a parent or educator, someone who has some expertise but doesn't work for the department, school district, or has no bias. And then a third person to hear these cases.

In Pennsylvania, hearing officers are also usually some kind of retired administrators. But Pennsylvania has a two-tiered system so that you can appeal to a panel, and that can drag things out and expand (indiscernible) -- so let's just leave Pennsylvania out for a little bit.

In New Jersey we actually have a hearing panel system already, in the early intervention procedural safeguard system, that are trained and have kind of that same set-up as Delaware. So it may be a place to explore. And one of the beauties of the early intervention system is that if the parent doesn't bring an attorney into the process, the provider can't bring an attorney.

ASSEMBLYMAN McKEON: Just out of curiosity--

MS. KINSELL: Sure.

ASSEMBLYMAN McKEON: --if that was given finality, that early intervention-- I know by its nature it's early intervention, right? But if that system was just given finality of decision, would that be something acceptable to the disability community?

MS. KINSELL: I don't know that-- I think the Feds still give-- The Federal procedural safeguards still give you an appeal to the 3rd Circuit, so I think--

ASSEMBLYMAN McKEON: You know what? We could never cut that out, so I'm good with it.

MS. KINSELL: Right. Just, honestly-- But to me, with -- is a one-tier, single-tiered system that way? I think that would be a lot more gratifying of a conversation.

ASSEMBLYMAN McKEON: I mean -- and the last thing I'll do is cut you off -- but to direct you on the issue: Are you familiar with the New York system?

MS. KINSELL: Yes.

ASSEMBLYMAN McKEON: That doesn't sound like a happy yes.

MS. KINSELL: I think parents are wary of retired educators or administrators holding that in their hand, singly. Now, that seems to be what happens in the rest of New York state. New York City is a little different -- it is more judicial in its nature.

ASSEMBLYMAN McKEON: I'm asking because I don't know. In New York, is it a retired educator that sits on a special panel?

MS. KINSELL: In the rest of the state. In the City it seems to be a--

ASSEMBLYMAN McKEON: Forget about the City for a moment.

MS. KINSELL: Well, that's what I mean. That's the feedback I got from our counterparts in New York. I had a little bit of turnaround to do on it.

ASSEMBLYMAN McKEON: Okay.

MS. KINSELL: That's all I know so far.

ASSEMBLYMAN McKEON: I didn't know you were concluded.

MS. KINSELL: No, no, I mean, as far as-- If I thought, the one that would be responded to the most positively would probably be more of a Delaware model--

ASSEMBLYMAN McKEON: Delaware model.

MS. KINSELL: --or something that more mirrored our early intervention model here in New Jersey.

ASSEMBLYMAN McKEON: Okay.

ASSEMBLYWOMAN COYLE: Just, if I can, Mr. Chairman.

What is it that you-- We heard the Delaware model mentioned a couple of times today. What is it that you like about the Delaware model that you like better than the New Jersey model? What are they doing that you think is being done better?

MS. KINSELL: Well, if we had to change the New Jersey model from the ALJ, I think it's a lot more family friendly, first of all. I think the decision doesn't rest just on one person. And if-- Although advocates for a very long time have wanted ALJs that were a little bit more attuned to educational law and weren't hearing 80 different kinds of administrative cases, at least they're decisions are based in law. Sometimes hearing officers who are retired administrators tend to have a bias towards

what their career was for the last 20 or 30 years, to our way of thinking. So that would be troublesome.

ASSEMBLYMAN McKEON: You know, again, I don't know if-- Were you finished? I'm sorry.

ASSEMBLYWOMAN COYLE: Yes, I am. Thank you.

ASSEMBLYMAN McKEON: And please jump back in.

But I hear from stakeholders that it's the same with the ALJs. There are certain ALJs where they'll just say, "Forget it; I know how they're going to find," and other ALJs--

MS. KINSELL: Sure, that goes on on both sides of the fence. Although--

ASSEMBLYMAN McKEON: Absolutely, absolutely.

MS. KINSELL: Quite frankly, school districts prevail like 72 percent of the time.

ASSEMBLYMAN McKEON: Is that the percentage?

MS. KINSELL: Yes.

ASSEMBLYMAN McKEON: But, you know, who knows how many are settled just with the thought of not wanting to--

MS. KINSELL: Well, let me just clear that up, too, a little bit.

Settlements that happen, parents that retain counsel and have settlements happen get no attorney fees. So it's not always school districts trying to cut their losses. There's a lot more idiosyncrasies to some of the conversations than have kind of been put forth on, as you can imagine. But a parent who goes through all this process for sometimes six months and then gets a settlement at the very last minute, all those attorney fees they

have to swallow, because obviously if the attorney fees aren't part of the settlement agreement -- none of that.

ASSEMBLYMAN McKEON: The best legislators are the ones that can recognize that the stakeholders have forgotten more than we know, and to try to listen a little bit and be wise in what we do. So I appreciate what you're saying.

MS. KINSELL: Thank you.

I just want to say one other thing about-- Because I was afraid the mandate list was coming up. But our-- And I was able to briefly testify at the Red Ribbon (*sic*) Review Panel. Anyway-- And the four pages of wonderful regulations-- I just want you guys to understand as we look through them: First of all, a lot of them aren't cost drivers. Second of all, on a Wednesday afternoon before the holiday break, at 3 o'clock in the afternoon, 72-odd parents and advocates trudged up to Trenton right before their holiday break because-- I'll never forget these families going, "How can they do this to us before a holiday, during all the holiday parties at school, and try to get us to a hearing at the State Board of Education at 3 o'clock to come and talk to them about these regulations?"

And New Jersey did a good job -- the State Board of Ed. Some of the regulations, we have benchmarks in our kept goals and objectives -- that exceeds a Federal reg. Well, you know what? That's a good regulation, and it doesn't cost a lot of extra money. We kept transition at 14 instead of 16, so our kids with disabilities actually hit a natural transition age like our typical students. You know what? Not a cost driver and it's a good regulation.

Kids with disabilities who have behavioral issues and are sent out of school, are sent to interim alternative educational settings. The Feds made it 45 school days; in New Jersey we keep it calendar days so that these kids aren't out in the streets for a whole marking period. Is that a good regulation? You better believe it. In fact, endorsed by police departments all the way across the country, because guess who the last kids they want out on the streets for a whole marking period is? And guess where an interim alternative educational setting is most times in New Jersey? Home instruction. So those kids are, for a whole marking period, with no supervision. So you know what? That was a good thing New Jersey did -- not a cost driver. So please, please: Reach out to all the stakeholders and give careful consideration to some of these things that people are just going, "Oh, these mandates."

That's all I have to say.

ASSEMBLYMAN McKEON: Both wonderful advocates, and compelling. You gave us much to think about. I know I'm going to try to work on something, personally.

MS. KINSELL: Thank you.

ASSEMBLYMAN McKEON: Maybe my colleague will join me, as it relates to the system of making these decisions and making it, again, accessible, cost-effective, and bring finality. But not with -- weighted toward one side or the other.

MS. KINSELL: Absolutely, and we stand ready to help.

I included-- Because of the aide and the paraprofessional piece, I copyrighted Passaic City, because they had a great, kind of, whole set up for what they do with their paraprofessionals, so you understand. Because

that kind of follows the student around, and the three aides in the classroom. I thought we needed to flesh that out a little bit. So they had on their web site job description, job requirements, and the whole breadth of what some of these paraprofessionals do, depending on what the student's needs are. So I think maybe that kind of needs to get fleshed out a little bit too.

ASSEMBLYMAN McKEON: When we-- I don't know if you were on the call or not, but when we talked a little bit about this, could you see a formula of some type being employed with the number of aides in a given classroom? And making sure that they didn't just put (indiscernible).

MS. KINSELL: There is a pretty reasonable formula. Now, the only thing that may happen is if a student has a one-on-one aide who is assigned to them for a particular reason. So that a student who may have mobility issues, or may have behavior issues, or may have communication needs and may need that kind of one-on-one; but that really is the exception, and not the rule so much.

ASSEMBLYMAN McKEON: Right.

MS. KINSELL: And that will come outside of that count for the classroom. But you know, those classroom counts are up to 9, 12 -- I mean, I could send you the code but it's not-- Unless it's a classroom of severe or profound or autism, those counts are really up to 9 or 11, depending on the age. I'll send you the exact breakdown.

ASSEMBLYMAN McKEON: Could you--

MS. KINSELL: Yes.

ASSEMBLYMAN McKEON: --just explain that to me. I just want to make sure I am understanding.

I'm not talking about a classroom that's dedicated to special needs students, but a mainstreamed classroom. And you say that's a pre-described formula already?

MS. KINSELL: Absolutely, absolutely.

ASSEMBLYMAN McKEON: So there is a limit--

MS. KINSELL: It's right in the code.

ASSEMBLYMAN McKEON: --on the number of--

MS. KINSELL: Yes, it doesn't kick in -- 9 to 11, I think, depending on-- I'll tell you in a minute.

ASSEMBLYMAN McKEON: Are you talking about the age of the student, 9 to 11?

MS. KINSELL: The count.

ASSEMBLYMAN McKEON: The count.

MS. KINSELL: Right.

Go ahead.

MS. CONSIDINE: I was going to say, just as an aside, on the issue of there being three or four or five special needs kids with paraprofessionals in a general ed classroom, literature doesn't support that as best practice. Best practice takes a look at more natural environments, where in the general population you might expect one or two children with a significant disability who might need that level of support to be in a particular grade. You wouldn't expect them to all be in the same classroom unless it's a different kind of model, unless it's an in-class resource support.

ASSEMBLYMAN McKEON: As a practical experience, at least I can speak to my own District, which is West Orange. I don't know if that's the case.

MS. CONSIDINE: Many districts try to group the kids because there's one teacher who says, "Yes, I'll take those kids," or they might have an in-class resource center support. But if that's the case, there are rules in the department's regulations that describe how many of those kids can be in a classroom, and how many aides. It might just be that the district is writing an IEP that includes a one-to-one paraprofessional for every kid who goes in there because the teacher says, "I can't have a child who needs toileting help, and a child with behavior problems, and a child with reading problems; give me an aide." I would suggest that perhaps it may just be not best practices, as opposed to any kind of systemic problem with the code, or lack of rules or oversight.

And I'll turn to my colleagues, because I--

MS. KINSELL: Right now, a self-contained autism class, every two -- the third kid -- there'll be an aide assigned to the classroom. But--

ASSEMBLYMAN McKEON: Self-contained. But this is mainstream, and I guess, whether or not it's best practices or not, it's maybe acceding to the wishes of the advocate -- the parent -- in granting an aide; and then not having a child who should be segregated or is certainly not eligible for out-of-district placement.

MS. CONSIDINE: Unfortunately, one of the things that we see happening as districts try to pull kids back in, which is a good thing -- to gets kids back in the district and get them support. The kind of pro forma response is, "give them an aide, give them an aide, give them an aide." And that may not be the best way of doing it, either for the teacher, the student, or the other kids in the classroom, as you are hearing.

MS. KINSELL: And that's not something from -- like Brenda said -- from a best practice, what we call *hovercrafts* -- if there's not a real reason, is because it's not a natural-- But again, if the transition for a student in is to have -- need to have prompts, need to have behavior support, need to have communication and those--

ASSEMBLYMAN McKEON: You see, that's exactly what you said -- you just point your finger on it and it's just kind of coming back to me: that's what's happening. In order for the districts to-- And again, I can speak to one, but I can't imagine they're all that unique. For them to meet a goal, if you will, to bring more students back into the schools as opposed to either out-of-district or segregated placements, aides are being added. And so then they've got more aides walking around the schools now than teachers.

MS. CONSIDINE: The solution we're finding -- if you look at the literature -- is really more on teacher capacity, co-teaching models, lots of other ways supporting kids than just pumping aides into the classroom. And I can see how that would be very challenging. If I'm a teacher trying to educate 18 kids--

ASSEMBLYMAN McKEON: From everybody's perspective.

MS. CONSIDINE: --three with disabilities, and I've got four adults in the classroom.

ASSEMBLYMAN McKEON: That's exactly-- And that's happening.

MS. CONSIDINE: That's a district practice and not really, I don't think, a systemic -- or issue that can be fixed with regulatory--

ASSEMBLYMAN McKEON: Well, I'm very appreciative of your opinion on that regard. Thank you.

MS. CONSIDINE: I know Gerry had a comment.

MS. KINSELL: I agree. I mean, there's a capacity for professional development, some kind of piece that needs to-- It's not something I'm seeing hugely, but--

ASSEMBLYMAN McKEON: Okay, thank you.

MS. KINSELL: Thank you.

ASSEMBLYMAN McKEON: That concludes the list of invited-- Oh, Gerry, I'm sorry. I called you before, and then I thought maybe you absented yourself.

GERARD M. THIERS: Thank you.

ASSEMBLYMAN McKEON: Again, Gerry, thank you for the time you spent.

MR. THIERS: Thank you, Mr. Chairman, for the opportunity to speak on this important topic.

ASAH, which used to stand for Association of Schools and Agencies for the Handicapped, serves 135 private special ed schools throughout the state. Private special education schools are meant to be alternative service-intensive settings for special ed students with complex educational needs. Our schools mainly serve students with severe autism, multiple disabilities, severe behavior problems, learning disabilities, and severely medically fragile students.

While private schools are mainly regulated to the State's Special Education code and businesses services code, there are scattered references in various public school regulations that Department of

Education applies without any consistency or uniformity. These scattered references and desk regulations create a confusing array of requirements which alter the underlying purpose of approved private schools. The excessive regulations have, in effect, turned the schools into mini-public school programs.

The State can save money and reduce overly burdensome rules in special ed by eliminating many State requirements. One example is that the State has applied highly qualified teacher requirements in No Child Left behind to private schools, even though the schools are specifically exempted in the law, including those like ours that have publicly placed students. This creates a difficult and costly situation in which the students must hire content certified teachers regardless of the instructional level of the classes offered. Cognitively impaired teenage students, for example, must have content teachers to teach subjects such as mathematics, language arts, and science, even though the class may be taught at a second-grade level.

One of my colleagues, Dr. Bruce Ettinger at the Children's Institute in Verona, succinctly framed the problem recently to the Governor's Red Tape Review Commission. He described one of his high school students who spends time each day crawling on all fours and roaring like a bear, often relating to other children in a menacing manner. The immediate priority for this student is to address his behaviors and develop communication and social skills rather than having to meet the requirements of world language and biology. Hiring all subject-area certified teachers is very expensive, and requires even more staff to support their instruction with additional special education personnel.

I want to point out that many of our schools use subject area teachers -- we've used them for a long time. And we offer challenging academic programs to help prepare students for successful careers. We routinely do outcome studies and I would be happy to provide more information about that. Our teachers have always been fully certified and they often have higher degrees.

One of the issues we know you are considering is private school re-billing costs. The current system, used by both public and private special ed receiving schools, requires an accounting reconciliation at the end of the fiscal year. Simply put, every year the Department gives special education schools tentative tuition rates based on the previous costs. The final or certified rate developed at year end frequently changes due to fluctuations in enrollment. A school with 100 students in a \$40,000 tentative tuition rate -- remember, here we're speaking of kids with very complex disabilities -- may have a surplus if their average enrollment goes up to 110 students. Conversely, if they have a deficit -- then, say, they could have a deficit if their enrollment is only 90.

Enrollment is difficult to predict due to several factors: the students move; they return to the district; they move to different programs; or at times, for medically fragile students, they pass away, sadly.

When a school reports a surplus, it's required to return the money to its sending district on a pro-rated basis. If a school has a deficit, it can re-bill the sending districts for the amount that eliminates the deficit. This system was developed over 20 years ago, and it's one of these closed-circle accounting systems that reconciles everything at the end of the year. This was developed by the Department of Ed.

ASAH has proposed to the Governor's Office a new regulatory system for the private schools that would not require any audit adjustments at year end to reconcile surpluses or deficits. The tuition charged by the schools would solely be contractual arrangements with sending districts, with certain maximum limits and the constraints imposed by the current economy. The private schools would assume the risk of charging rates without making year-end adjustments.

I'd like to make one final comment: For years the Legislature -- many legislators -- have assumed that in-district and regional public special ed programs were less expensive than private schools. Public school education tuitions and costs appear to be lower because some of their expenses are paid by State and county tax dollars. I think in the State budget there's like \$3 billion allocated just for teacher pension, social security, and lifetime medical costs.

In 2007 we conducted a study that used data from the New Jersey District Report Cards, the tuition rates of public special education receiving schools, and salary information from the NJEA. The study -- which included State-funded pensions, Social Security, and retiree health costs -- showed that the private special ed schools are no more costly to taxpayers than comparable public in-district and regional programs. Private school tuition rates cover all costs, including facilities, administrative costs, staff benefits, and salaries.

I'm not saying this because we're trying to disparage public programs. Rather, I just say it because we caution you to not make policy decisions based on assumptions. Private schools should remain as one of the options available to child study teams and parents.

I just want to conclude by saying that we support Lynne Strickland's call from the Garden State Coalition for a look at transportation. I think that's very important, giving districts more flexibility and, as Brenda brought up, in many cases it's this silly bureaucratic rule that prevents districts from pooling their resources to develop a better transportation for special ed students.

I also agree with Mike Vrancik from School Boards and his concern about reexamining the census-based funding system, as well, because many wealthier districts still end up with students that could be very expensive. A child who has a severe disability and requires residential care could cost \$200,000. And no matter what district you're in, that's a big hit. So we think that the Legislature should look at that system and develop a system that's more tailored to what each student needs, where the money would follow the student based upon their educational needs.

Thank you very much.

ASSEMBLYMAN McKEON: Thank you very much.

Before you go, I want to make sure I understand a couple of things. I thought there could be as much as a three-year lag on the tuition costs for a special needs student.

MR. THIERS: The private school, if they have a surplus, must return the money in the next fiscal year. Because of the way the system works, Mr. Chairman, our audits are submitted to the Department in October after the year. So next month the audit for the 2009-10 year will be submitted to the Department for each school. Once they develop the costs, the allowable per-student cost, and that's struck -- then if there's a

surplus, then the private school has to return it in the 2010-11 year -- this year.

ASSEMBLYMAN McKEON: That's where that lags comes to?

MR. THIERS: Right. Now, in a deficit situation, if a private school is rebilling a district, then the district has two years to return the funds to the private school; because the Department wants to give them enough time to put it in their budget for, say, 2011-12. And so the district would return the money at that point.

Many private schools, the deficits are very small. And because we do a lot of fund raising -- golf tournaments, all kinds of different events -- they don't rebill districts for small amounts. But when things are significantly out of whack in terms of the enrollment projections -- and certainly the situation over the past couple of years has been very tumultuous with kids leaving and coming, districts trying to open their own programs, etc. -- it's very difficult to predict enrollment. So if there is a significant drop in enrollment, then the school may re-bill districts.

ASSEMBLYMAN McKEON: Would you-- How is it we go backwards a step? From reimbursement versus re-billing, how much-- Is that about a 50-50 kind of a thing? Does your total-- Every school would be different, but is it about as much back charged, as much as given back -- reimbursed?

MR. THIERS: It used to be about 50-50, but I think there's more re-billing now than surplus, simply because of declining enrollment. There's a reduction in enrollment across the board in all out-of-district placements as well as in private schools.

ASSEMBLYMAN McKEON: And do you think the system can continue to work as designed if it's -- once tuition is set, this is what you pay, and then that's it? There's no back charging or, for that matter, no reimbursement.

MR. THIERS: Yes, we think it will work as long as schools carefully calculate their rates. It is a risk, but we're trying to respond to concerns by districts that have very low margins right now with the 2 percent cap.

ASSEMBLYMAN McKEON: Sure.

MR. THIERS: We're trying to help them by just giving the rate upfront to them and saying this is the rate, and we're not going to come back and charge more later.

ASSEMBLYMAN McKEON: But just so I understand: If I'm putting together a school budget, and in part of that is special ed, they are able to predict their budget -- take away the issue we're now discussing -- they set their budget knowing the number of students who are going to be out-of-district placements in that particular year. And if they're looking for predictability, not to be backcharged on that, then you could work with that.

MR. THIERS: Yes.

ASSEMBLYMAN McKEON: Okay. All right, that's really important to know, and I appreciate it.

MR. THIERS: Thank you very much.

ASSEMBLYMAN McKEON: Any other questions for the witness?

ASSEMBLYWOMAN COYLE: No. (laughter)

ASSEMBLYMAN McKEON: That concludes our invited guests. I don't know that anybody else has signed up or wishes to be heard; they are welcome to be. (no response)

Seeing none, just in conclusion: many, many thanks to all who contributed. I lot of my colleagues had other public responsibilities today and were, for the most part, here for a good portion of the testimony. We'll share with them, through written testimony, what it is that they didn't hear.

This Committee will convene at 10 o'clock a week from today. To whit, we will have for action a comprehensive bill that deals with State mandates and the ability to access, in a much greater way, the current mandates commission. So that will be something that we will have accomplished, and we will further, from this hearing today, hopefully come up with some variety of issues. There are some big, big ticket issues that will be handled in one way; there are others, to me, that I've picked off, that I think that we can make a difference real quick. And we will get those in the hopper and try to move those along before this calendar year is concluded.

ASSEMBLYWOMAN COYLE: Thank you.

ASSEMBLYMAN McKEON: Thank you very much. It's a pleasure to be together, as always. (laughter)

Take care everyone. Thank you.

(MEETING CONCLUDED)