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# *Committee Meeting*

of

## JOINT COMMITTEE ON THE PUBLIC SCHOOLS

*"Testimony on the Educational Adequacy Report"*

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**LOCATION:** Committee Room 16  
State House Annex  
Trenton, New Jersey

**DATE:** February 19, 2013  
10:00 a.m.

**MEMBERS OF COMMITTEE PRESENT:**

Senator Ronald L. Rice, Co-Chair  
Senator Linda R. Greenstein  
Senator Samuel D. Thompson  
Assemblyman Benjie Wimberly  
Assemblywoman Bettylou DeCroce



**ALSO PRESENT:**

Melanie Schulz  
*Executive Director*

Sharon M. Benesta  
*Chief of Staff*

*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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**SENATOR RONALD L. RICE (Chair):** Good morning.

Let me, first of all, thank those who are here, and thank the Committee members who have responded. I know there's been, since the hurricane, a lot of confusion about meetings here at the State House and throughout the state. And I also know-- And I want to thank the members of the Joint Committee on the Public Schools for the work they have been doing with the subcommittees -- travelling into various districts to hold hearings. And I want to thank the Co-Chairs as well as the Chairs of those subcommittees. There is a lot of work to be done.

This is a meeting of the full legislative Joint Committee; although all the members are not here, this is what it is. And we want to try and get some information today dealing with the Education Adequacy Report.

Now, I believe that we asked the Administration to come over -  
- Melanie?

**MS. SCHULZ (Executive Director):** No.

**SENATOR RICE:** Okay. And so this is going to really be from those who are being impacted one way or the other by the report. It's also for those of you who have been studying the report -- we want to hear from you as to, more or less, your critique, the good and the bad, from your perspective, and what it means to young people throughout the state.

And then subsequent to this meeting, we'll be inviting the Administration -- I mean, the Department of Education before the Committee to hear from them. I know that oftentimes it's difficult to get meetings with the Administration; I don't know why that is. For the record, this is the Joint Committee of the Public Schools and, by statute, the

Administration has the responsibility legally to come before us and give us information and updates and various reports. In fact, for the members who are here, we have not had a report -- which is due to the Legislature annually from the Department of Education -- since 2008. That's the last Administration report. The report for 2009, to date, on QSAC is not before us.

And so I don't want to deal with the politics of it, because I think that's easy to do. We need to deal, as a Committee, with the substance of it in a bipartisan manner. And at some point in time we'll make another request for various meetings to get these updated reports which are required by law. And we'll do that from a bipartisan perspective.

So with that being said, let me have a roll call on who's here, Melanie.

MS. SCHULZ: Senator Rice.

SENATOR RICE: Here, yes.

MS. SCHULZ: Senator Thompson.

SENATOR THOMPSON: Here.

MS. SCHULZ: Assemblywoman DeCroce.

ASSEMBLYWOMAN DeCROCE: Here.

MS. SCHULZ: And Assemblyman Wimberly.

ASSEMBLYMAN WIMBERLY: Here.

SENATOR RICE: Okay, for those who may not know it, I am the Co-Chair of the Joint Committee on the Public Schools. I'm Ronald L. Rice, New Jersey State Senator. I represent the 28th Legislative District. The Co-Chair, who is not here, is Assemblywoman Connie Wagner. We do have subcommittees, in terms of our structure that we organized years ago.

I thought it was the right thing to do; therefore, it takes some of the burden off the total Committee working with other committee structures that we have. But it also gives us a chance to move around the state and have conversations with the constituents, as well as with education officials, on specific subject matters.

I know that the-- For your information -- you may want to write this down -- I know that there's a meeting coming up and it will be advertised -- and maybe Melanie can tell us the date -- that Assemblywoman Connie Wagner is going to continue the virtual cyber school conversation. And I know that I requested, and he has asked, to hold a subcommittee hearing on the school facilities so we can determine what progress we're making and really where we are. We expect a lot of things to happen this year that may not have happened in the past and they may not happen next year. But we need to know where and what does it mean as it relates to new school construction, emergent projects, and just some of the things that have to be, really, more or less rehabbed.

And also we're back into-- Of course, it's budget time; we're back into the whole update on quality education, and hopefully the Commissioner will come before our Committee to let us know what direction he's moving in. We read a lot of things in the paper. We have not heard what those directions mean to the Abbott Districts -- or SDA Districts -- which is really the primary area of oversight of this particular Committee.

So with that, we're going to start the hearing. And our first-- First of all, Melanie, would you just indicate what they should do here for Committee meetings? Which Committees they are, subcommittees?

MS. SCHULZ: Okay. Next Wednesday, February 27, there will be a Joint Committee meeting on preschool early education, school breakfast program, and at-risk meals. On March 5 we're hoping to have the Subcommittee on school construction. And on March 19 we will have our final meeting on the virtual online blended learning subject.

SENATOR RICE: Okay. Before we get started, do any members have any comments you want to make, before we start the hearing? Senator? Assemblywoman? (no response)

The first speaker this morning we're going to hear from is David Sciarra from the Education Law Center.

Welcome, David.

**DAVID G. SCIARRA, ESQ.:** Senator and members of this Committee, it's a pleasure to be here this morning.

Thanks for inviting me to talk about the school funding formula and the Education Adequacy Report. I think, as many of you know, we've been involved in this issue for way too long, and were deeply involved with the Legislature in 2008 when the School Funding Reform Act was passed with bipartisan support, and we've continued to work with legislators on making sure that the formula moves forward in a proper way.

So I want to make a couple general points, and then very quickly make a few points about the issues regarding the Education Adequacy Report as they pertain to the upcoming budget.

So the first thing I want to say is really a congratulations to the Legislature -- to the members here and the entire Legislature -- for the School Funding Reform Act itself. I mean, we do a lot of work around the country and I can tell you that our school funding formula is, perhaps, the

most fair and equitable in the nation. Many states are struggling with school funding right now; there's litigation going on in states all across the country, including Texas and Colorado and California and Kansas. Legislators are struggling with how do you figure out the cost of delivering rigorous educational standards to all kids, particularly at-risk kids, low income students, English language learners, students in high poverty settings, and students with disabilities. And you know, frankly, we, through your efforts, have now what is considered to be the most fair and equitable and thoughtful rigorous school funding formula in the nation. So I think we should take credit for that -- everybody should take credit for that.

The second thing I want to mention is about preschool. You know, President Obama announced his preschool initiative last week, and I think that should be a source of pride for this Legislature. Because the preschool program that is now embedded in the school funding formula was the basis for the President's proposal for the nation -- the kind of unified delivery system with Head Start programs, childcare centers, and public school classrooms unified around a set of rigorous standards, funded through our State finance formula based on the cost of delivering those programs, is really what President Obama's talking about for the entire nation. And I think we need to get behind that because new Federal funding for preschool would help us accomplish one of the unfulfilled goals of the School Funding Reform Act, which was to expand the program that is now in the 31 former Abbott Districts to other high-needs districts across the state and to low-income students across the state. But our pre-K program is the envy of the nation. I think this Legislature should take pride in that.

The third thing I want to thank the Legislature for is defending the formula, since it was enacted in 2008, from changes that are arbitrary and not really based on the actual operation of the formula. And last year-- Last year's budget was very difficult. The Governor proposed, essentially, a school aid adjustment formula -- school aid that was based on the formula adjustments that we're dealing with now. Those were part of the budget that-- The Governor tried to use the budget to get through those changes and some additional changes that, frankly, require legislative amendment -- such as moving from single enrollment count to average daily attendance; changing adjustment aid. Those are things, frankly, that, in our three-branch system of government, rests with the Legislature. I'm not arguing the merits of those, but what was improper about what happened in last year's budget was the attempt to try to change the formula, not through the legislative process, which is an amendment to the School Funding Reform Act-- And also the adjustment process through the delivery of the Education Adequacy Report. So I want to commend the Legislature for taking that language out of the budget, making sure that the formula wasn't improperly adjusted or changed through the budgetary process and, frankly, insisting that the Legislature fulfill its proper role in overseeing the formula.

I also want to congratulate the Legislature for passing Senate Concurrent Resolution 134 last week; the Senate passed it, and the Assembly passed it. That resolution is significant in a number of ways. As you know, just as background, the School Funding Reform Act requires that the formula be adjusted -- the weights and costs in the formula, not the structure of the formula; that requires legislative amendment -- but the specific weights and costs that are in the formula -- base cost, the weights

for low-income children, the weights for delivery of lingual education for English language learners, the cost for special education, the cost for preschool education aid. Those weights and costs are to be adjusted every three years under the formula through the process that starts with the Governor, in consultation with the Commissioner, delivering to this body, the Education Adequacy Report.

And I just want to make a point about this. The Supreme Court, in reviewing this formula twice now -- in 2009 and the Abbott 20 decision when it upheld the formula, and then again in 2010 when it ordered the funding cuts be restored to the formula -- made it clear that they wanted the three-year review process properly implemented by the Governor and the Legislature. And they made it clear that the purpose of that process is to have the Commissioner look at how the formula has been operating over the preceding three years, come up with data study analysis based on the operation of the formula in districts across the state -- whether they're urban, rural, suburban, middle class districts, all of them -- and then recommend to this Legislature changes that are based on that analysis. This is a three-year look back, as the court talked about it, designed to make sure that for the next three years the weights and costs in the formula that are implemented will keep the formula, in the court's words, *operating at its optimal level*. So the court has interpreted this provision very clearly -- that this is about looking at how the formula has been working in our schools, in our communities, in our districts from one end of the state to the other, and then making recommendations to this body about the new costs and weights that should govern the formula for the next three years in order to keep the formula optimal.

The concurrent resolution that was passed really fulfills this body's function under that statute. The Governor gives to the Legislature his recommended adjustments for the weights and costs; the Legislature then has 90 days to review them; and within that 90-day period you have the responsibility to review it and the authority to object to some or all of those recommendations.

And that's what Senate Concurrent Resolution 134 does. And I have to say we fully support that resolution and the objections that are in there. Now, let me just say most of the weights and costs that the Governor recommended were acceptable because those were based on adjustments that brought those costs up-to-date from cost-of-living increases, inflation increases, new data on special education classifications -- things of that nature -- from the last three years. So there is no objection to most of those recommended adjustments to the costs and weights. Why? Because they fulfilled the proper role of that report, which was to adjust the formula based on data and information from the preceding three years.

But there are two areas where the resolution properly -- in my view, and in the view of many -- objected to the Governor's recommendations. And those are with respect to the at-risk weights -- the bilingual weights, the combination weight for kids who are both at-risk and bilingual; and the threshold for districts to access extraordinary special education aid for kids with very high needs in terms of disability, requiring very extensive services and placements.

Now, the resolution states why and the resolution lays it out in great detail. The reason this Legislature objected to those was because they just were not based on any study or analysis of how those components of

the formula have been implemented across the state over the last three years. It's as simple as that. This isn't about arbitrarily deciding, because you don't like a particular weight or you don't like a particular cost, that you want to change it. It's clear that this has to be based on data analysis and research of how those weights have played out over the last three years. And those were not -- particularly the at-risk weights, the Governor's recommendation went back to a very early version of those weights and bilingual weights that were developed along the process of putting the formula together back in 2005 -- 2004, 2005 -- which ultimately were changed through other expert opinion, and by the Commissioner and the Department, and, ultimately were not the weights that were given to this Legislature in the School Funding Reform Act when it was enacted.

So I do want to commend the Legislature for adopting Senate Concurrent Resolution 134. It fulfills the Legislature's responsibility to make sure that, whatever adjustments to the weights and costs in the formula are made for the next three years, that those be based on actual, real evidence. And in terms of the at-risk weights, bilingual weights, combination weights, and the special education extraordinary aid threshold, they were clearly not. And this Legislature-- I want to commend this Legislature for notifying the Administration in the SCR of its objections to those.

So what about going forward? It's my position that the Governor's recommended weights, which have now been objected to by this Legislature, simply cannot be used. And I hope that-- And I hope you can send the message to the Administration today not to use them. Because they're not based on, as I mentioned-- They're not basing them on a three-

year analysis of how the formula has been working. And it would be improper to use those particular weights in calculating State aid for school districts under the budget, as the Governor is going to be announcing in the next couple of weeks.

So it is very important that we send the message -- and I hope you all will -- that those weights should not be used. The Legislature, in this concurrent resolution, recommended sticking with the current weights -- which is exactly correct -- until the next three-year adjustment. If the Administration at that point wants to come back with changes based on real study, that would be another story. But it's very important that the Administration knows that it would be legally improper to utilize the at-risk weights recommended in the Governor's Education Adequacy Report, now objected to by this Legislature in the SCR, as part of his budget proposal. Because, ultimately, it could be that the courts are going to have to-- If that were to happen, the courts may have to decide this; and I can tell you that would be a waste of time because my feeling -- strong opinion -- would be that the court would not-- At the end of the day, the court is going to look at weights that are based on what happened the last three years to real kids, real districts, real schools in our state -- not some arbitrary number.

So in order to avoid all that, it would be helpful to just have the Administration use the weights that are in the formula -- the at-risk weights, the bilingual weights, the combo weights, and the threshold that are in the formula -- and be done with it and move on.

The second issue is really the more important issue, which is the budget. As you know, many, many districts across the state are *under adequacy*, as we call them. They haven't received full funding under the

formula. Many of these districts are-- Frankly, this is not about the former Abbott districts; most of them are where they need to be under the formula. A lot of the suburban districts are *over adequacy*. This is really more about middle class districts, working class districts, rural districts, lower spending districts, districts with growing concentrations of at-risk students across the state. You all know them; you all have them in your legislative district.

So the issue you have to grapple with in the budget is how do we, in this tough economic time, with the proper calculations in the formula, the proper weights and costs in the formula -- how do we begin to move towards full funding of the formula -- particularly for the under adequacy districts across the state which now number more than 200. And everyone recognizes that it's going to be tough to get the full funding because we're somewhere about \$1 billion behind full funding. No one expects that this Legislature can do that in one year, nor probably should you. But there needs to be a kind of conscious effort to get us on a path, if you will, towards full funding of the formula. If you want to take over the next three years, that's fine; let's start with this budget and start moving forward towards full funding.

And the last point I want to make is on preschool. In the School Funding Reform Act, the preschool program was to be extended to another 90 high-needs districts across the state and to at-risk students wherever they live -- whether they're in high-wealth or mid-wealth suburban districts, it doesn't matter. That five years is now up. We haven't made any-- There hasn't been, for a variety of reasons, any movement towards that goal. It is still a matter of law.

In light of the President's initiative last week, I would strongly urge this Legislature to do something in this budget that puts some funding -- however small -- towards the goal of restarting the phase-in of preschool to high-needs districts across this state. If there's any one thing we can do to improve academic performance of at-risk students in this state it is to ensure that every 3- and 4-year-old who is low income or living in a high-needs district has access to and has the ability to attend a well-planned, high-quality preschool program -- whether it's operated by Head Start, private childcare providers, or public school classrooms -- as we've done in the 31 former Abbott Districts.

So I'd ask the Legislature to get that on the agenda, in terms of the budget deliberations, and see what we can do to get that preschool expansion restarted again, particularly in light of the President's announcement last week. And I would also urge you to get to your Congress people and ask them, on a bipartisan basis -- our Congressional delegation -- to support whatever detailed initiative comes out from the Administration, to have a comprehensive Federal effort. We're well ahead of that now; but that would be really helpful, on this preschool expansion piece, to bring preschool to districts like Clifton, to districts like Hamilton Township -- which now has a free- and reduced-price lunch rate of what, 24, 25 percent? -- Edison -- take your pick, it doesn't matter -- all districts in this state would benefit from that and we need to get that moving.

So with that, I'll stop. And if anybody has any questions I'd be happy to answer them.

SENATOR RICE: Thank you very much, David.

One of the things that I'm asking the staff to do is to provide this Committee with the list of all of those districts that you've mentioned in your presentation -- at least you have directed your thoughts to -- that are really still functioning in an underfunded and under adequacy capacity; as well as a list of those districts that we have not really extended the full-day preschool and daycare stuff to. We don't know exactly, statewide, in the Legislature, exactly what districts we need to be assisting without harming those that are already receiving funding. Because traditionally what it is, is that the Legislature -- not so much the Legislature, but the Administration -- convinced some legislators to take money from here and reduce the levels that are supposed to be at in order to share over here. We have to find a different way to do that. We have to maintain what we have, as you said, that we have worked very well with the court decisions relating to parity, spending in the Abbott districts -- as they used to be called -- SDA now; the 31 districts. So our quest is never-- We don't argue the case for money. I tell the members of the Legislature, my delegation, the counties, and I tell the Black Caucus members, that we have to argue for accountability. We have to fight to make sure that the funding we're receiving is not diminished. And then we fight for accountability.

The other part of my concern is that (indiscernible) throughout the state, are not receiving what we believe they should be receiving and what the courts and others are indicating. And so we need to take a look at that, but we also need to be cognizant of the fact of, if we're looking at it, where are we looking? We're looking at money, but then the question is, is it in the Assemblywoman's district? Is it in the Senator's district? We have

to know exactly where these locations are and where these facilities are located in schools.

So Melanie, that's going to be kind of some quick research. I mean, you can probably hit a couple of computer buttons and get it. Work with OLS and the Administration and make sure all of us get a copy of that information.

Also make sure, in the summary of this meeting, that you compare notes based on Mr. Sciarra's testimony -- where it's not complex, it's very simple. Here's where we are, here's what it means, here's why we should be looking at the budget this way for these reasons. And the same thing with the other speakers, okay? You and Sharon can handle that, right?

Questions?

ASSEMBLYWOMAN DeCROCE: I have--

SENATOR RICE: Assemblywoman.

ASSEMBLYWOMAN DeCROCE: Thank you.

You discussed the preschool -- your policy on preschool. What about all-day kindergarten?

MR. SCIARRA: Well, it's an excellent question.

So we actually-- The School Funding Reform Act was an advance on kindergarten in this way. If those of you remember SEFA, the prior funding formula counted kindergarten students for purposes of State aid as a half-day -- 0.5. School Funding Reform Act, as part of its reform statewide, allows for counting kindergarten students as full-day. So you can get full State aid -- full-day State aid -- which you could not get previously. So if you offered-- If a district offered half-day kindergarten under SEFA,

you could only get 0.5. Now you can get a full day. So that's a big plus, and this Legislature should be congratulated for doing that. That's been a long time coming.

Now, the question is whether districts can actually access that. And that's actually what we could use right now -- is a new survey. This gets to the issue of a look back -- a three-year look back -- that I would have loved for the Commissioner to have done a survey for, frankly, of where districts were on full-day and half-day kindergarten. A lot of districts do provide full-day kindergarten and they're helped by the School Funding Reform Act. We know that there are other districts that are still at half-day and want to go to full-day. We need to know the extent of that because there hasn't been any really good data recently as to where districts are and, more importantly, we need to know what the reasons for that are. My guess is that a big -- not my guess, but my anecdotal evidence that I get from districts across the state on that issue -- is it's a space issue, it's a facilities issue.

That gets us back to the SDA. I would love to see the SDA start prioritizing, particularly with ROD grants -- with Regularly Operating District grants -- facilitation of full-day kindergarten. That's another story. We can have a whole conversation about SDA and what we need to do to get SDA moving. But I will tell you that the problem with districts going from half-day to full-day, in my -- based on my experience -- is it's a facilities issue. They don't have the space to do it. And we have to tackle that.

But again, the good news is, we have the School Funding Reform Act formula that covers full-day kindergarten, so that if you can

provide it, you get the full boost -- the full kindergarten base costs and even the at-risk cost if your child is-- The weights we were talking about -- the at-risk weight and the bilingual weight, if they happen to be that. But it's an issue. I would love to see the Commissioner, frankly, have somebody go out and do a statewide assessment of where we are on that issue.

ASSEMBLYWOMAN DeCROCE: Well, our understanding is, right now, 76 percent of the districts have full-day, 24 do not. I'm assuming the 24 percent are probably the ones that have the issues with space, and the SDA, and that is something that we have to look at.

MR. SCIARRA: Absolutely. Now, I should say that should not deter us also though from implementing preschool expansion. Our preschool expansion-- Preschool expansion in the School Funding Reform Act was an extraordinary accomplishment, with bipartisan support. I can't underestimate that. We now have full-day, full-year preschool in the 31 former Abbotts. It took us 15 years to do it; it is the best preschool program by far in the United States. It needs to be expanded. And the expansion that's in the School Funding Reform Act is right on the money, in my view, from a policy point of view. It does two tiers: The first tier is a group of about 80-plus district that are considered high need because their low-income student poverty counts are above 40 percent -- 40 percent or more. Those districts would get universal preschool in their communities -- not needs-based. So if you live in, for example, Bayonne. Bayonne is a district that's 60 percent free- and reduced-price lunch. So if you're a kid in Bayonne you would have access to it whether you're low income or not.

But then it also extends it out to every -- to low-income kids in every other district across the state. So in the suburban districts that you

represent, Assemblywoman, if there's a low-income kid in that district there would be funding for those kids to get into preschool. And what's good about it is it really builds support for community providers and Head Start and those programs, because it utilizes those programs.

So we need-- Now, look: It's going to be a-- We're not going to do this overnight. This has to be thought of as kind of a-- Now, the President talked about a 10-year initiative. We're much further along, which is the good news. We've laid the groundwork for this. Federal funding really would help us jumpstart this preschool expansion. But I think we can do both, in other words. I'm trying to make the point which is, we have to deal with that. If it's 24 percent of districts that still need to go to full-day kindergarten, let's work on that. My guess is that's largely a space issue, not a funding issue. But we also need to work on moving forward on a long-term phase-in of preschool expansion under the School Funding Reform Act. If we did that, once we accomplish that, that's only going to-- *Only*, I should say. We had calculated, when it was passed, it would take about \$360 million to \$400 million new dollars to expand preschool under SFRA across the state.

Now, if we did that over the next five, six, seven years, New Jersey would become the first state in the nation in which we could stand up and say that every child in a low-income community and every low-income child across the state has access to a well-planned, high-quality early education boost to get them ready for educational success in kindergarten and beyond.

ASSEMBLYWOMAN DeCROCE: Thank you.

SENATOR RICE: Senator.

SENATOR THOMPSON: When we consider the SFRA funding, there is actually two questions we consider regarding it: one is the question of adequacy of the funding -- and you've spoken on that -- and the other is the equitable distribution of funding. What is your opinion, relative to the equitable distribution that takes place under SFRA, related to all the districts in the state? Do you think all districts are being treated fairly and adequately, and so on?

MR. SCIARRA: It's a resounding yes. It depends on your definition of equity, right? So my definition of equity is that you have a formula in which you've carefully determined the cost of educating all students to have the opportunity to achieve State academic standards -- in this case, it's the New Jersey Core Curriculum Standards, right? -- in all the different content areas. And taking into account that we have students who have additional needs that have to be addressed for services and programs, etc. in order to get them -- enable them to achieve standards. So equity, to me, means that you have a formula that's built on a rational determination -- a thoughtful determination of the cost of delivering rigorous standards-based education to all students; and, in particular, students who have special needs that have to be addressed. And those are in certain categories: low-income students in high poverty settings, English language learners, and students with disabilities. Those are generally the categories. So equity means that you have a formula that calculates -- that determines-- That's based on those costs--

SENATOR THOMPSON: Well, I guess my question--

MR. SCIARRA: --and calculates aid based on that.

SENATOR THOMPSON: My question basically comes down to the formula, right. You have a formula--

MR. SCIARRA: Right.

SENATOR THOMPSON: --and you're saying if you have a formula, and you distribute according to the formula, then it's automatically, by definition, equitable. But there are a lot of districts out there that feel that, "No, it's not being distributed equitably," and you have to go back to the formula to determine: Is this formula constructed in a way that it leads to equitable distribution? In your estimation -- yes.

MR. SCIARRA: Yes, because--

SENATOR THOMPSON: Because a lot of people disagree with you.

MR. SCIARRA: --because we spent-- Remember, Senator, we spent -- for those of us who were involved in it----

SENATOR THOMPSON: I was there.

MR. SCIARRA: We spent six years developing the School Funding Reform Act. We had professional judgment panels. We had experts. We had public hearings. I mean, we went through an exhaustive process to figure out what the cost of delivering the education was, and what an equitable formula would be to ensure that all students had those resources. And I will tell you the School Funding Reform Act does that.

Now the reason--

SENATOR THOMPSON: And I realize it satisfies your (indiscernible).

MR. SCIARRA: The reason--

SENATOR THOMPSON: Let's go to the adequacy for a moment. That's when the formula was developed and put into play. As soon as it was put into play, actually, there were codicils put in that permitted the Commissioner of Education to not fully fund the requirements for adequacy. In fact, as I recall, the Commissioner at that time said that this formula results in some districts receiving so much additional aid they wouldn't even know what to do with it. Consequently, "Instead of falling into this category, your aid will be increased by this amount this year. You fall in that category, it will be increased by that amount" -- rather than exactly what the formula said. Now, I don't know whether over a period of time it has reached a point where they knocked out those codicils that were there, but initially it was not immediately given -- the amount of increased aid proposed by various districts.

MR. SCIARRA: Senator, I'm not aware of that. This formula does not give the Commissioner any authority to adjust--

SENATOR THOMPSON: But this--

MR. SCIARRA: --other than the--

SENATOR THOMPSON: --came in to play. It did. When it first came into play, the Commissioner had that authority -- that year they did not have to automatically increase every district up to it. In fact, it happened on the floor. I raised this issue.

MR. SCIARRA: There is in the formula itself -- it's not a Commissioner decision -- the formula does have what we call *growth caps* in State aid in it. And this is particularly important for districts that are under adequacy. There is a cap on how much of that aid you can receive to get towards adequacy -- the additional State aid, 10 and 20 percent, that's built

into the formula. So if the formula were fully funded, those growth caps would come in to, basically, space out the time in which those districts would move towards adequacy. But that's built into the formula; that's not a Commissioner discretion decision. The Commissioner has no discretion--

SENATOR THOMPSON: Well, I say the codicils were built in there for that to take place -- whether you assign it to the Commissioner or whether you assign it to the legislation or whatever.

MR. SCIARRA: It's a formula; you work it. The problem, I think you're--

SENATOR THOMPSON: Well, I'm saying, when you did that you disregarded the formula because you didn't say, "Okay, this is the formula, and this is what you have to get." You said, "No, instead, you wouldn't know what to do with that much money." The Commissioner made that statement. So again (indiscernible).

MR. SCIARRA: I think the problem we have that you're referring to is that we've had trouble fully funding the formula. The under adequacy districts-- Remember, this formula was designed to make sure that all-- Go back to the debate on this. And the key great thing about this formula is that it got rid of Abbotts -- Abbotts are over. It treats everybody the same. And what it did was it made sure that, based on those determinations of cost, low-income students and students in higher poverty districts, ELL students wherever they live would get access to the money that we determined they need to meet State standards.

The problem has been not with the formula; the problem is with the difficult budgets that we've had over the last couple of years in

terms of appropriating what they need to get those districts to where they need to go.

SENATOR THOMPSON: I realize your position; it's well known.

My final comment is, again, speaking of the full-day preschool, etc. -- that was espoused by the President and you support, too -- for low-income students. I have a problem when we say *for low-income students*, because we hear a lot about low-income students. Well, it's kind of like we're taking society and we have low-income, and we have high-income. But the majority of people are somewhere in between here. And when you get to the middle group there, there are a lot of people on the bottom part of that middle group that really struggle. And I think we have to give those people more consideration than we're giving today. Because very frequently both parents are out there working, they're just getting by, etc. We've got to take care of them as well as just the low-income people.

MR. SCIARRA: Yes.

SENATOR THOMPSON: Sometimes they struggle even more than low-income people because they don't qualify for all this assistance.

MR. SCIARRA: Senator, that's a fair comment. I accept it. The President has mentioned--

SENATOR RICE: That was mentioned--

MR. SCIARRA: The President--

SENATOR RICE: You mentioned that in your presentation when you talked about the other areas of the state. You mentioned middle class communities, you mentioned rural, etc. So you may want to elaborate a little bit more.

MR. SCIARRA: Well, just on preschool: The President's proposal is, well, "We'll see what happens." He's talking about his -- As I understand it -- it's general at this point -- is that he wants to make -- improve access to preschool for kids who are in households of up to 200 percent of poverty -- which would get into some of those households that you were talking about.

SENATOR THOMPSON: And that's still very low level. And I'm saying there are a lot of people not too much above that, they're struggling, too.

MR. SCIARRA: I think the Legislature made a decision -- you all made it in enacting the School Funding Reform Act, which was that what we're going to try to do first is to get kids who are most at-risk academically into preschool; In terms of our funding and our support, to make sure that wherever they are across the state, they're going to get into preschool. Let's do that, and then I think we need to have a-- I'd love to have a conversation about we can then move beyond that with childcare dollars and other existing funding and new funding to try to make sure that working class families and more middle class families have access to preschool as well.

I think you raise a good point. I think it's a matter of priority. You all made those priorities in the School Funding Reform Act.

SENATOR THOMPSON: No doubt the Federal Act did. I didn't. (laughter)

MR. SCIARRA: You could revisit them, but that's where we are now. So it's a fair comment, though, Senator. I'm glad you raised that.

SENATOR RICE: And we're going to continue to make those, because that's our job and nothing is perfect. And we know that priority has to go to the most neediest. But I think one of us in both houses over the years I've been here have been very much concerned about those who ride that thin line. It's like when a school opens. You know, you can say, "Well, okay, if you get a 90 you get an A. Then you consider an 89 an A, and when did you get that 1-point difference? And I think that that's what has been alluded to up here, by both of my colleagues who have spoken so far, is how do we now move forward if, in fact-- And here's where the debate is going to be to my colleagues, and this is where legislators get weak. We get weak from party concerns more so than people concerns. Because if we went to our districts, like I do, and educate our public, then they would understand what we're doing and why we're doing it.

The weakness is going to come when we say, "Okay--" Because I stand 100 percent behind funding and finding ways to fund those areas of needs that are not being funded. The situation that you were talking about, I've always argued, needs to be taken care of, and the same thing we're talking about here. The problem with the Legislature -- we've worked collectively all these years to finally get to the point where we're supposed to be in one area, and then we recognize that this other need is still here and we have to deal with it. And rather than attacking it from a rational perspective, we become political and irrational and we say, "Okay, we're okay here. So let's go back this way." That's regression, and what that does is compound the problem. Because the dollars are moved here, it creates some progress, so you see the positives taking place here. But in the meanwhile you're back here. That happens in pretty much everything we

do -- whether it's housing, or whether it's education, or whether it's health care. You name it, we've regressed.

And it has to do with money -- you're right. We can't overburden the taxpayers with property taxes. We recognize that. But what we can do is take a look at our priorities in spending in areas we're trying to deal with. In other words, we don't necessarily need to go into education funding and play this game with each other. That funding is not (indiscernible). We need to be looking at other areas. We need to see where it's costing us dollars. We need to take a look and make corrections. We need to take a look at white collar crime, as much as we don't like it. We're locking people up for white collar crime. They should be locked up, but when you mandate on the state side, five years because somebody did something stupid, and it's the first time they got caught doing something stupid-- But in the meanwhile people, subsequent to those folk going to a State institution, get locked up for the same thing under Federal time and they're in and out. And Federal time is mandated, okay? There are some problems there.

And so you are right. And I think this is the year to start that debate on the areas that need to be looked at. It's also the year to start to make sure within a debate that those of us who are trying to be rational and reasonable and not political protect what we have that's working. Don't ask for more, because we're at parity. We can't ask for more school construction money right now, but we can (indiscernible) spend what we have and maybe put it where it's supposed to go. We can't ask, in the Abbott districts and other districts for more money in terms of education

funding for parity -- because we're getting it. We have to ask for accountability.

But even from this Committee we have to stop letting the Administration play games with us. There's a statutory responsibility to report to us and for us to have some say-so in terms of reporting to our colleagues about what's taking place. For example, you can't have -- and I'm going to ask you a question on this when she finishes -- you can't have three districts in New Jersey, the largest school districts, basically, under State control for 20 years. That's not local control. That's called, if you would really be honest about it, State *takeover*. In other words, there's no control. There's nothing about education there anymore. But is that costing us-- What's the impact of that? We're closing down the schools arbitrarily because we have some superintendents who feel, "I want to close it down and bring some nonsense that doesn't work."

And so we're walking into that game but we're doing it for partisan reasons. I'm a Democrat, you're a Republican. My Governor wants this; my President wants this. We've got to say no. We get elected to work with you as Presidents and Speakers and Administrators, but the reality is we're co-equals and here's how we see this. And our job is to legislate and yours is to basically implement that stuff. And that's how we have to start shaping up.

That's just a little history lesson so when Senator Thompson and I leave, you younger guys know how to carry this ball, you know? We did it for years.

But that's the issue and we are going to raise it. And you're going to make a note that we are going to start to have that conversation --

debate -- and then maybe the Education Committee will pick it up after they hear that we are starting to raise it.

Did you have a question, Senator?

SENATOR GREENSTEIN: Thanks.

Good -- I guess -- morning. How are you doing?

MR. SCIARRA: Good morning, Senator. I'm doing fine.

SENATOR GREENSTEIN: I wanted to ask a little bit about Hamilton, which you mentioned -- my very largest town; it's almost half my district. And on these tables that came out about all of the different districts, it looked a little bit like an outlier in the sense that, that district gained a lot of money under the Governor's plan. So that was tough for me to oppose this, as you know, because of that.

I did speak with somebody in your office, although we traded calls, and I got some information. But what's your opinion as to why that would have happened with Hamilton and not with any of these other towns -- given that you said it has a high, school lunch figure and all of that? It's not a rich town.

MR. SCIARRA: So in most districts across the state, the shifts were pretty minimal. I mean, there were some -- there were some districts where there was significant loses, and there were a few districts -- like Hamilton -- a few districts where there were some gain.

SENATOR GREENSTEIN: When you say *gain* and *loss*--

MR. SCIARRA: Well, these are costs, now. These are adequacy budget calculations. They're not funding dollars. Let's keep that -- it's not a cut or anything like that. So essentially, as I understand what happened to Hamilton, is the fact that because the at-risk weights were--

Because the weight of the weight changes, the amount of local share calculation in the adequacy budget went down. So what you didn't see on the OLS sheet was the local share and the amount of State aid went up. It has to do with the State and local share formula, mostly. And so Hamilton, in effect, if the Governor's calculations went through in terms of State aid only -- and we need to get OLS to run the local share, which they didn't do -- I'd like to see that -- State aid would have gained another, I think, \$3 million in State aid increase from where they are today.

Now, let me say this: Hamilton is still under the existing formula. Leave it the way it is -- about \$8-plus million below adequacy in terms of State aid. So no matter how you cut it, it is a district that is substantially behind the amount of State aid it needs to reach in terms of adequacy.

I think what the difference reflects is changes in the local share point. I mean, Hamilton is a district which has a local levy or local revenue amount which is now below the State -- its local fair share. So it actually is below what it ought to be putting into the public schools in terms of local property taxes. There are a number of districts that are like that, that their local levies are below the local fair share. The formula -- as you know, this was a contentious issue -- the formula doesn't mandate that any school district go to their local fair share number. So if you--

SENATOR GREENSTEIN: But David, you're saying that there are other towns besides Hamilton that are in that same place--

MR. SCIARRA: A few.

SENATOR GREENSTEIN: --but they didn't come out that way on that adequacy formula.

MR. SCIARRA: Right, so what we need to see is the full picture from OLS -- which we didn't get -- which was what the State and local share mix is. And I think what happened in Hamilton is--

SENATOR GREENSTEIN: The last amount.

MR. SCIARRA: --that the amount of State aid on paper went up-- The amount of State you were entitled to-- Let me say it this way: It wasn't like we were losing any money. The amount of State aid you would ultimately be entitled to if the formula were fully funded went from \$8 million to about \$11 million. What I'm not sure is what's going to happen to the-- It may be that the local share went down, so the amount of money you actually have -- the school district has at the end of the day may be close to a wash. We have to find that out from OLS. I didn't like what OLS did; it wasn't that clear.

SENATOR GREENSTEIN: I'll talk to you after, because it sounds like we need to request that additional information.

MR. SCIARRA: Definitely. If they can run it, though. They may not have been able-- In fairness to OLS, they may not have been able to run that because they don't have the-- They may not have had the local fair share data -- the last year, in terms of--

SENATOR GREENSTEIN: Well, we can ask.

MR. SCIARRA: But I think you should ask them.

Now, here's the point, though, I want to make. This gets to my last point. It's about moving towards adequacy, and the Senator's point -- Senator Thompson's point. Hamilton is a district that-- If the formula weights remain-- If they get adjusted the way the Governor wanted them adjusted, and you approved, and we keep the at-risk weights and bilingual

weights as the SCR recommends where they are now, Hamilton still is substantially below where they need to be in terms of State aid -- over \$8 million.

SENATOR GREENSTEIN: Even though that number didn't reflect it?

MR. SCIARRA: That's right. So the task we have, really, at the end of the day, is to get the budget moving in the direction that gets Hamilton and the 200-plus other under adequacy districts -- which, by the way, are mostly not Abbott -- former Abbott districts; it has nothing to do with that. This is about districts like yours -- Ewing, places like that -- that this formula was designed to help. We must move them forward. And look: You're going to have a tough job. You have a tough budget and tough revenue projections. You're going to have to figure this out. But we ought to be making whatever down payment we can make towards moving places like Hamilton towards adequacy over the next several years.

SENATOR GREENSTEIN: Thank you.

SENATOR THOMPSON: That's the point I was trying to make earlier. It was non-Abbott districts that were not adequately funded.

MR. SCIARRA: Thank you. I'm glad I got to clarify that.

SENATOR RICE: We're going to go to Assemblyman Wimberly, my coach. And then we're going to go back to Assemblywoman DeCroce.

ASSEMBLYMAN WIMBERLY: Good morning. Thank you, Mr. Chair.

In your opinion-- We're aware of the money that's going to be -- the less money -- that the schools that are in the state takeover will lose

under this. I just want your opinion on the impact of this, obviously, when, for example, a city like Paterson has been flat funded but the number of students is increasing, or the population is increasing. You know, we have the building issues, and teachers without contracts. I just want to know what your opinion is of those districts.

MR. SCIARRA: Well, there are a number-- When the formula came in, this is kind of why we had some objections to the formula, which were put aside. If you remember, we raised some things with the court, and the court dismissed them, basically. The court found the formula constitutional. There are a number of Abbott districts which, if the formula remains intact and is properly implemented, will begin to lose funding. Newark and Paterson-- Well Newark-- And as adjustment aid over time starts, the hold-harmless aid goes down. The formula has it diminishing. There will be those districts that will lose State aid. Now, the way the formula is set up, it is designed to make sure that that drop is spaced out so that it doesn't impact too hard upon the districts and schools. That's a fact that doesn't get a lot of attention. Everybody is still yelling and screaming about the Abbott districts; I don't know why. We don't have Abbott districts anymore, but people keep wanting to raise that up again and create a lot of problems. Maybe it's a political thing. But in terms of the formula -- So I think what has to happen-- The other thing that we have to look at in terms of Paterson is, at some point, it will stabilize under the formula. And it could increase; if enrollment is increasing, it could increase. And I'd have to look at some projections to see, kind of, what Paterson will do over the next two or three years to give you an answer to that.

But the formula builds in increases for enrollment increases in itself. So if Paterson is now undergoing a situation where they are beginning to increase enrollment, it should start to do better under the formula than it was projected to do when the formula first came in. Beyond that, it's hard to say without looking at the numbers.

Now, one other thing in some of those districts is the impact of the movement of charter-- As numbers of kids going to charter schools such as in Newark and now Paterson -- two charter schools were approved yesterday -- that has a significant impact on the district's budget too, because 90 percent of the SFRA funding goes over to the charter schools but the district still has to maintain the infrastructure to educate all the rest of the kids. When the number of kids in charter schools starts to go up to where it reaches 10 percent, 15 percent -- or, in Newark's case, over 20 percent -- that's a substantial amount of funding that goes over to the charter schools right out of the district's budget, while the district has to struggle with, "How do we continue to maintain the infrastructure -- the system infrastructure for all the rest of the kids that have to be educated?" So that's another impact on a budget of a district like Paterson and a few other of the urban districts in the state.

So we can talk more about this and have a more in-depth discussion about it and sort of look at how Paterson plays out under the formula under the next couple of years. But I do think we're back to the main point, which is we need to keep the formula intact. You know, the SCR does a great job making sure that the formula stays solid. Then we have to roll up our sleeves and figure out how to do the best we can from budget to budget to make sure that it's properly funded for all -- not just for

some, but for all. And, in particular, for those under adequacy districts that have been waiting for the increase that they're supposed to get under the formula.

But I'd be happy to talk to you more about that.

SENATOR RICE: Assemblywoman.

ASSEMBLYWOMAN DeCROCE: Yes. When you were talking about the formula issues -- and I'm going to try to walk through this so I keep myself straight.

MR. SCIARRA: Okay.

ASSEMBLYWOMAN DeCROCE: When you said that if the enrollment increases, the funding goes with it.

MR. SCIARRA: Right.

ASSEMBLYWOMAN DeCROCE: Okay, okay. But if a district -- if its at-risk levels go up, does the funding go up automatically?

MR. SCIARRA: Well, yes, because the cost built at-- Not the funding; you have to fund it.

ASSEMBLYWOMAN DeCROCE: Okay.

MR. SCIARRA: Please, let me make that point.

ASSEMBLYWOMAN DeCROCE: So, but if--

MR. SCIARRA: You have to make a difference between the formula, which is a way you calculate funding, and the budget, where you appropriate money -- the actual dollars.

ASSEMBLYWOMAN DeCROCE: Right.

MR. SCIARRA: Those are two different things.

ASSEMBLYWOMAN DeCROCE: Right. So if the at-risk level goes up -- and under the formula you're there -- but the district

itself doesn't increase their funding on the local level, it's going to throw them out -- they're going to throw them out as overall funding altogether, correct?

MR. SCIARRA: So in terms of-- Three things, I would say-- If enrollment goes up and at-risk enrollment goes up in a district, then the adequacy budget, which is the cost of delivering a thorough and efficient education to all kids in that district, will go up.

ASSEMBLYWOMAN DeCROCE: It will go up.

MR. SCIARRA: It will go up because you have more kids. The base cost is added in for each kid, which is roughly \$9,700 per kid, plus the at-risk -- if it's at-risk kids in addition to that, it's another \$4,000, \$5,000 on top of that. So the adequacy budget goes up. So that's number one.

ASSEMBLYWOMAN DeCROCE: Okay.

MR. SCIARRA: It will go up from year to year if that's what is going on in that district.

ASSEMBLYWOMAN DeCROCE: If that's the driving force.

MR. SCIARRA: Now, the issue is: What funding do you get? That's a combination of two things: State aid and the local share. The way the formula works is, there is a very complicated formula based on personal income and property wealth that determines each district's, first, local fair share. Meaning: How much does the State expect local property taxpayers to pay toward that adequacy budget?

Now, let me stop there. There are two things to know about that. We have districts that are above that. When the formula came in, their local fair share -- a lot of suburban districts -- their local fair share is

well above -- back up -- their actual local levy, which is the amount of money they raise every year, is well above their local fair share.

ASSEMBLYWOMAN DeCROCE: Okay.

MR. SCIARRA: The formula does nothing to them. I mean, it doesn't take the money away. It's not a Robin Hood formula. It doesn't capture it. They can keep spending it. But it also affects-- Well, it will-- So that's one.

But then you have districts like Hamilton, where their local levy is below -- and sometimes well below -- their local fair share. The formula doesn't mandate -- it could, but it didn't. It doesn't actually-- The State doesn't actually mandate that Hamilton Township taxpayers--

ASSEMBLYWOMAN DeCROCE: Bring their levy up.

MR. SCIARRA: --increase their property tax to get to their local fair share. But if they're not at their local fair share -- their local levy is below -- it creates a hole in what the district actually has.

ASSEMBLYWOMAN DeCROCE: Yes.

MR. SCIARRA: They're not going to be at adequacy because their local fair share doesn't get them there.

ASSEMBLYWOMAN DeCROCE: That's where I was trying to understand. I understand now.

MR. SCIARRA: The second problem though is on the State aid side, and this is where the budget comes in.

Hamilton has a double whammy, if you will, in terms of the kids. I represent the kids. Those taxpayers are another-- But the kids don't have the money they're supposed to get, in terms of the adequacy budget, for two reasons. They're not at the local fair share, they're below

that. And secondly, the Legislature -- you all -- in the budgets haven't fully funded the State aid portion, which you have control over. So there are lots of districts that-- The State aid calculation-- Why we call them *under adequacy* is their State aid and local share -- their State aid is below where they need to be when you factor in their local fair share. So you take the local fair share, you look at it against the adequacy budget. That gives you a State aid number. Hamilton's actual State aid is below that number by \$8 million-plus. And there are over 200-plus districts around the state that are in the same boat.

So the first thing you can do -- primary thing you can do -- is work hard to try to figure out how we move over time through the appropriations process to get those districts the State aid they're entitled to get. That's key.

I hope that answered your question.

ASSEMBLYWOMAN DeCROCE: It did. And I think the Senator -- both Senators had requested Melanie to try to put together a list of the funding that's below their local share so that we can really take a good, hard look at that and understand it better.

And, yes, you did answer-- That's exactly what I was trying to figure out. And you did answer that for me.

Thank you.

SENATOR RICE: Interesting, because there is kind of a problem that exists. We move and we fund today -- the adequacy level we should be at. The hole is still there. And Hamilton -- if, in fact, the local share is not adequate, we're funding our piece -- now where do we go?

ASSEMBLYWOMAN DeCROCE: Right.

SENATOR RICE: Because the children are still losing. You go and tell the taxpayers, “You have to do this.” And we don’t know the situation of the 200-plus municipalities. It may be a burden that cannot be borne because rule or whatever. And we’re right back where we started. And then people are saying, “Well, Senator’s district is getting too much money.” “No, he’s not getting too much money. He’s getting what he’s supposed to get.”

SENATOR THOMPSON: No, we get (indiscernible)

SENATOR RICE: Not you personally. (laughter)

“We’re not getting so and so.” “Well, you’re not getting it not because of our work here. It’s because of what local government is doing.”

ASSEMBLYWOMAN DeCROCE: I agree.

SENATOR RICE: And then meanwhile the Governor is saying, “We’re going to cap local spending. You can’t make decisions, as local government, on how far you want to go for local taxes.” And I’m not saying he’s wrong in that. And I’m saying there is still a problem.

And so I guess, from a legislative perspective, all we can do is fix our problem and then figure that other stuff out, which means that politically the districts we represent-- If they’re not paying their fair share--

ASSEMBLYWOMAN DeCROCE: We need to know who.

SENATOR RICE: We’re going to be honest with them and say, “Look, we got you where you should be at the State level--” once we do that. We haven’t done that in some districts yet. And now you can play politics and talk about -- you’re going to throw me out and all that kind of stuff. But the reality is that the law is very clear. Now, we may have to pass some legislation in order to provide the protection mechanism--

ASSEMBLYWOMAN DeCROCE: For them to increase--

SENATOR RICE: --for legislators who are doing their job -- for them to increase. But in some kind of way that piece has to be fixed.

ASSEMBLYWOMAN DeCROCE: Outside the cap.

SENATOR RICE: Exactly. And the question is-- It looks like we can't to it simultaneously. That may be the State's problem. We may be arguing, "Well, we're not really fixing this right now because they're not doing what they're supposed to do."

ASSEMBLYWOMAN DeCROCE: Right.

SENATOR RICE: And I don't think the children can suffer because of that on our side.

MR. SCIARRA: Senator, just two things real quick on that. One thing that affects going to your local fair share, you're local levy, is the 2 percent tax cap. So that's come in now. We went from 4 to 2 percent. So even if you're below your 2 percent -- even if you're below your -- so Hamilton -- even if they're below -- and I'd have to look at the calculations -- they can only do a 2 percent increase anyway. So that, to some extent, -- the State really has at least-- Through that-- And a lot of districts complain about that. They'd like to go over that, but they can't.

The second thing I'd say about this is that-- I was just out in Colorado working with legislators on a change to their-- Their school funding system has been declared unconstitutional. It's a mess. And one of the most contentious issues they're grappling with is whether the state should mandate increases in local fair share basically -- in our parlance. It is a very difficult decision to do that.

We decided in the School Funding Reform Act to do two things: to leave districts that were above their fair share where they are. They made that decision. We weren't going to do some kind of Robin Hood and the State recapture that money and redistribute it. I wouldn't recommend that. That's not a way to go. States that have tried that have gotten into trouble.

The second thing we decided to do was not to do anything other than lower the tax cap down to 2 percent in terms of local-- You decided not to mandate increases in local taxes in order to move districts closer to their local fair share. That's the way it goes.

SENATOR THOMPSON: Earlier you started to give us a little history about how the SFRA was developed and so on. I was here at that time. And, in fact, when the legislation was up I spoke extensively on the bill during the debate on it, etc. I did have some criticisms with some of the things. You mentioned the local fair share. For example, there were some of us who did not feel the formula was developed where local fair share was necessarily the best to represent the interests of all districts. I mean, we have what's there. And while you feel this is kind of like the tablets that came down to Moses, I don't think so. (laughter) I think there are some problems in the way the formulas were developed, etc.

In fact, there was one particular equation in there to compute aid and so on that had a definite mathematical error in it. And I brought it to the attention of the sponsors, and they never did amend it. It's still there. And if the State was utilizing that equation to make calculations today, they would be way out of sight. I think maybe they're using it as to what they wanted it to say, but not what it actually says. If you use it --

what it says, to plug into the formula -- you'd be way out of sight on the numbers you come up with. But that's neither here nor there. Again, we do have the formula that we have. We have to live with it today. But that doesn't mean we shouldn't continue to look at it.

And I do appreciate your testimony. You've done a great job.

I would hope, Mr. Chairman, we're about ready to move on though, because my coach is turning into a pumpkin again. I'm going to have to leave in about 30 minutes and there are other people who want to testify.

SENATOR RICE: Sure.

Just one more, and then we're going to go to--

ASSEMBLYWOMAN DeCROCE: Yes, I would just like to say -- talking about the 2 percent cap. And I did work in local government for almost 30 years. I did deal 23 years with local school budgets, as a municipal clerk -- when they failed they were dumped into my office.

And understanding that -- and then the two years I spent at the Department of Community Affairs as Deputy Commissioner over the Division of Local Government Services, I understand completely the cap. And the Senator is right when we talk about the cap and the constraints that it has. But I think that we're all here to do what's best for the children.

Now, understanding my past in looking at school budgets and boards of education -- and sometimes the irresponsible way that boards of education do put their budgets together and some of their line items -- I would think that if we're looking at a formula problem in the local share, that may be something that we could look at that could end up outside of

the cap if it was strictly something that was supportive to help the education of the children and not any further than that.

So I think that once we have all these numbers, and we take a look at that, I don't see why we can't try to work toward that, in a bipartisan way, to help the children with greater need, but also to protect those funds so that they aren't used for purposes that are just for something outside of really educating the students or providing very important programs for them.

Thank you.

SENATOR RICE: I know we have another person to testify, but hang on one moment. There are a couple of questions from the Chair that I think are important for us to get a response from you on.

Number one, I didn't hear much about the impact of the SEC report relating to special education. Could you kind of give us your thought on that?

And the second one -- and maybe you can remember. If not, I can raise it again. We just came out of Hurricane Sandy, which created a whole different scenario for districts throughout the state for a lot of different reasons. And I know that the question-- How do you see the part that performs assessment and readiness for college and career piece impacted because of this with Hurricane Sandy, etc.? Maybe you can respond to that too.

MR. SCIARRA: Senator, the Assemblywoman talked about places where the formula could use work. I think special education is one of them. We went to the census-based. It was very controversial. The folks who worked on the formula -- the Augenblick firm -- came back two years

later and wrote a report saying we should get rid of it and go back to actual costs.

But your point, Senator, is-- We have the census-based formula. It's been adjusted properly. That was one of the things you did not object to -- the Governor's recommendations for adjustment to the census piece. I think we're going to have to live with that. In the meantime, I think one of the things this Legislature could do is start to set up a process to revisit the special education piece. It's a complicated subject, but I think we need to go into that and look at that.

The second thing on your point, Senator, is kind of related to the issue about not just Hurricane Sandy, but also some cost drivers that are coming down the pike that are going to affect what local districts spend their money on big time. And the formula needs to be seen in that context.

We're moving toward Common Core standards. They want to do a whole-- There's a whole new level of assessments that are going to cost a ton of money to do -- many more tests. There are a lot of mandates that are coming down now onto school districts in terms of new standards and assessments -- raising the bar, so forth, and so on -- that are going to -- and the teacher evaluation piece -- throw that in, in terms of cost -- that are going to be major cost drivers in terms of school district budgets. And one of the things this Legislature and perhaps this Committee should do over the next year or two is really dig into raising the question of what are the cost implications of some of these reforms that are moving forward out of the State Board of Education and down onto school districts as we speak. That is a huge issue.

And the Educational Adequacy Report that you got really kind of punted on that. It didn't say anything about -- even the bullying issue. We've had the Council of Local Mandates decision on the cost of the bullying initiative, which is not -- which is just one of several -- was not really taken into account.

So part of what I think -- to your point -- whether it's Hurricane Sandy, or the movement toward the Common Core, or the movement toward new assessments -- the PARCC assessments -- the movement toward the new teacher evaluation, these are costs -- these have a definitive extra cost tied to them. And not much work is being done, frankly, by the Department on what the cost implications of those are to local school districts. And I think that's an area where this Committee could show some leadership to kind of get that issue on the table.

SENATOR RICE: Thank you very much, Mr. Sciarra. I really appreciate the work you're doing, and the conversations you have with us, and the testimony you always give.

MR. SCIARRA: My pleasure.

SENATOR RICE: Next we're going to have Mr. Jerome Harris, who is the former Chairman and President of the New Jersey Black Issues Convention, but also a person who has done a lot of work in the area of government, from the business administrator down to planning and research -- very active in that arena and staying on top of this stuff with some of the public -- what we call public institute coalition -- nonprofits that do research.

Jerry, thank you for taking the time out to come down to give your perspective and the perspective of those in the coalition that you

interact with, and the civil rights leaders and others as to how you see and how they see the impact -- or at least their reading of the Adequacy Report -- the consequences and benefits.

Thank you very much.

You can state your name for the record.

**JEROME C. HARRIS:** Thank you.

For the record, my name is Jerome C. Harris. I'm a resident of Trenton, New Jersey.

I appreciate the opportunity, Mr. Chairman and members of the Committee, to come before you today to discuss some observations about the Educational Adequacy Report, and actually the action taken by the Legislature in SCR-134 in your objections to that.

As this is context, I've been, over the past 10, 15, 20, almost 30 years, an observer regarding the way in which we've made an effort to address the question of providing a thorough and efficient education. And I must say that the action taken by the Legislature in SCR-134, as well as the action taken last year to protect the formula by striking the footnote language in the budget, is an attention to detail that is really appreciated in the community of advocates -- some of us whom did not necessarily approve of all the dimensions of SFRA when it was passed, but recognize that it is seen as a national model for at least providing an approach to funding public schools.

I must also say that the emphasis on funding is not the sole focus -- ought not be the sole focus of the Educational Adequacy Report, although the mandate by the Court is to respond to adjusting the formula. There are sections of the Report that speak to the Core Curriculum

Standards, speak to the questions of performance and assessment before it talks about the funding formula.

My comments will speak very much to the questions around performance, and make some suggestions, and point to, perhaps, some additional work for the Committee. In listening to Mr. Sciarra's comments, you guys generated an awful lot of homework for yourselves, and I'm going to propose some more homework that I think is necessary and appropriate as we weigh the decisions that be made about how to invest the State's dollars in education.

So the few issues that are more important to the future of the State than the investment we make in public schools and a return on that investment-- Most importantly, New Jersey must support a system of public education that allows each student to achieve at the highest level of their potential. I serve on the boards of several organizations, including the New Jersey Black Issues Convention, New Jersey Public Policy Research Institute, the New Jersey Institute for Social Justice, and the National Black Disabilities Coalition, of which I've recently been elected Chair.

Each of these organizations are working to identify effective approaches and strategies to achieve this goal. My comments today, while not representing the policy positions of these organizations, are informed by the work and deliberations as they engage in these discussions with you on behalf of the people of New Jersey.

The long overdue EAS (*sic*) Report presented information around Common Core Standards, student performance assessments, and recommendations. SCR-134, adopted by the Legislature, was important and significant in its objections to specific recommendations that were not

based on research of school funding levels necessary to achieve the State standards, as required under the school funding law or as expected by the Supreme Court in its decision upholding the constitutionality of the Act. Specifically, objecting to the proposed reduced weight associated with at-risk, bilingual education students, combination students, and extraordinary special education aid thresholds was important. This act by the Legislature adopting SCR-134 is important to maintaining the integrity of the policy that was imbedded in the legislation upheld by the Court.

Now to my real point of concern. Section two of the Report focuses on performance assessment. It contains disturbing data on persistent achievement gaps for low-income students and students of color, particularly in the areas of language arts and math. The document, rather in detail, goes test by test, showing that particularly African-American students have either maintained or increased the gap in terms of performance in these areas. The discussion in the report suggests -- early on suggests that part of the rationale for adjusting the formulas -- that we've thrown money at these issues and failed to pay attention to questions of program -- adequacy of program supports.

Unfortunately, this Report does not address the State's failure to properly implement the requirements for programs and practices to support student achievement in high-needs districts as required by N.J.A.C. 6A:12-3.1, etc. I wish to draw your attention to questions raised in a letter from the Education Law Center sent to the Commissioner dated February 11, if I can find it. I believe the entire Legislature was copied. And perhaps if the Committee does not have a copy, I do have a copy for them. I'm not

going to read the entire letter, but there are certain sections that I think are important for us to focus on.

“The SFRA funding formula specifically provides additional funding, in the form of a weight for low-income students on a sliding scale for concentrated poverty, to provide supplemental programs to address the increased disadvantages to students not just in the former Abbott districts but in all high-need districts.”

I’m going to stop and point out that the Department of Education is required by the law to update that list and has not done so in the past two fiscal years -- another area in which-- I think had that been done, this Report -- the Educational Adequacy Report perhaps would have been more instructive and helpful to us in understanding how the formula is impacted.

“In upholding the constitutionality of SFRA, the Court accepted the State’s explicit representation that these SFRA resources for at-risk students would be sufficient to deliver appropriate and necessary supplemental programs as they were identified in the Abbott 10 decision.

“Thus, the question of class size limits, full-day Kindergarten, intensive language arts, and mathematic literacy programs had been promulgated by DOE to ensure at-risk students in high-need districts receive educational entitlements guaranteed them by the education clause in the New Jersey Constitution.”

The memo that’s presented, dated February 11, points out that there are constitutional, statutory, and regulatory mandates that exist to protect these at-risk students, not only in the Abbott districts -- former Abbott districts -- but also high-risk districts. So David and the Education

Law Center helped me focus on some issues associated with it from this letter.

When I received it, it kind of focused my testimony, Senator. Because I was not quite sure what I was going to say to you.

SENATOR RICE: One quick question for the staff.

The list that wasn't updated in two years-- What was that list?

MR. HARRIS: It's the list of high-needs districts.

SENATOR RICE: Okay.

MR. HARRIS: The responsibility of the State, under the Act, is to prepare and release an updated, current listing of high-needs school districts classified based on the most current State assessment results, and provide notice to those districts no later than -- on an annual basis.

SENATOR RICE: That was in the QSAC Section 6.

MR. HARRIS: Right. And actually what happens -- this is a part of 6A:13-3.3(a) and affirmed the Court in it's decision.

In essence, what happened -- when we went away from having Abbott districts to the money following the children, identifying the issue associated with the number of high and reduced lunch districts, and districts where students were performing below State standards -- this list of 94 to 113 -- we don't know what the number actually is now because it was not included in this Report. And one of the issues is, how do you talk about the adequacy of a formula and meeting the needs when you don't know, particularly, one aspect of the high needs--

My concern, disproportionately, has to do with community -- low-income communities and communities of color. And when we talk even about the high-risk districts, the high-need districts, they contain

many of the people who Senator Thompson was talking about as well, in terms of those middle-income people. So to the extent that we don't have an accurate picture about what we're talking about, I think it really justified the Legislature's action to hold those weights in place -- the high-risk rates in place, because you really didn't have the data in front of you to make a decision to justify changing.

But as importantly, there are a series of noncompliance issues that the Department, I think, needs to address as it relates to asking whether or not these high-needs districts are providing -- meeting class limits -- class size limits, implementation of the full-day day care, language arts and mathematics literacy programs -- whether or not those are in place. And I point these out because in the section on performance -- and actually in setting up the discussion about why we focus so much on the money and, in essence, put good money after bad -- there is not a discussion about the fact that, in fact, the Department is responsible for putting in place a set of measurements that make certain the class size in the special needs districts are being met; that -- where performance in math and literacy programs at each level, starting at third and fourth grade, going right up to high school -- are being implemented. The Department has not done that.

David, in his memo to the Department, has asked them to make a response and deliver that. And I think this Report coming before this body would be very helpful, both in terms of helping shape questions as it relates to the upcoming budget deliberations -- the question of not how much, but also how we're using the money-- How is the Department, in a school improvement program that it's requiring as part of the restructuring of schools and implementation of the Administration's notion of how you

address high-need districts -- identified as Priority and Focus Schools -- how we do that. We need the information to know where we start from. We need a baseline. And I think we need to ensure that those dollars are being spent. And it becomes, actually, a rationale. Again, the Formula included the assumption that funding for those supplemental programs would be in the formula when the additional weight, if you would, above what the reviews -- performance reviews suggested -- were added and anticipated the need for these programs. These programs were demonstrated to be helpful and necessary to improve educational outcomes.

The Department says in its own report that it is responsible for monitoring and ensuring that these dollars are spent -- all dollars are spent for achieving. And I'm saying this is one area in which they have not been forthcoming; and that I urge you, as a Committee, to pay attention to this -- the request by the Education Law Center, which is actually on behalf of a number of us who have been actively involved in seeking improvements in education throughout the years.

Finally, I want to say the question of how we improve education -- and funding is one question. And we spend a lot of time talking about funding. And tangentially we talk about high-quality teachers, and we talk about rigorous curriculum, and we talk about parental involvement. One of the things we don't talk about enough, I think, is leadership at the State level of the public education system. And I would urge this Committee, particularly in this particular area around performance -- math and literacy, class size -- to hold the feet to the fire of the Administration to make certain that the leadership of the Department is

doing what it needs to do to come into compliance with the law of the State of New Jersey.

Thank you for your time.

SENATOR RICE: Thank you very much. Your testimony was really delivered, I think, in substance and right to the point. And I think it's important.

What I'm going to ask-- I know that you added to the homework of our Committee staff and the Committee members. And we certainly respect and appreciate that. That's why we pay staff, and that's why we get elected.

I come from the spirit that that's three-quarters of what we have to do. There is a role for the community. And certainly you exercise and you participate in that role just in being here. But I need to ask you to go to a little bit further. I want to ask that you get with the staff. I think the issues that you raise are very important questions that need to be on the record for us to get responses to. And so if you could do that, I would appreciate it -- from your testimony.

Any questions from the members?

Assemblyman.

ASSEMBLYMAN WIMBERLY: Thank you, Chairman.

Thank you, Mr. Harris.

One of my concerns you hit on is the leadership. And representing Paterson -- you know, you bring RACs in, but they're kind of supervising themselves when you have a State District Superintendent. So my concern is, like you said, the leadership aspect of this in that the community is involved in the set up of the RACs and the monitoring of the

school district. Because you're criticizing and you're questioning the spending of your own people.

So I think as a community, regardless of who you are, everybody on both ends -- it should be a bipartisan issue -- that it's not a Republican or Democratic issue. If you're there, you put people in place-- The administrations have increased immensely -- from you -- and now you're going to put another layer of government on top of it to monitor it. That's a question that we all should have on either side, but particularly the community.

So I commend your work. But I think that's something that should be closely looked at by every group, regardless of political party, and particularly leaders such as you in the State of New Jersey -- that that's looked at. Who is coming in these places? Where are the people they put here for these RACs? Where do they come from? And in our particular instance, you have former administrators now overseeing the school district -- or will be overseeing the school district. What impact will this have? Will this be another obstacle for us to ever come back under local control? So those are some of my concerns and something that I will talk to you offline about. But I think that's a community concern.

MR. HARRIS: I think, Assemblyman, the question and the issue plays out, for me, locally, in Trenton where I live and am currently working -- the Community Development Corporation, -- trying to understand how residents can be involved in the implementation of school improvements plans, and how the new responsibilities and regulations come about.

And it is really challenging, quite frankly. We have to work with groups across the state -- our children -- our schools coalition is one of the entities. And actually the coalition is holding a press conference on Thursday of this week at 12:00 noon to thank the Legislature for its action in upholding -- expressing objections to the proposed changes. But in that group there are volunteers and some professional organizations working to make certain that the information that is necessary -- questions get raised. And because this Committee's work is so important -- as providing a platform, if you will, and a framework to make certain that these issues get on the record. And as I said, we expect a lot of the members of the Legislature and the staff -- again, in particular, around this issue of the Educational Adequacy Report, you guys have delivered. But we have to dig down and get some of these other issues that you described.

SENATOR RICE: To the members of the Committee here, and to those out there: in between all the subcommittee meetings, I'm looking to have a full Committee meeting to just get updated from the Commissioner and Administration on QSAC. Because according to law, as I said earlier-- I'm one of the authors of QSAC. And the one thing you're supposed to do-- They're supposed to be reporting to us. And annually there are supposed to be reports. And the last report we had -- particularly in terms of takeover districts and others -- how well we're doing -- was 2008. And I think they report once a year. And if it was March 2008, then it means the former Administration met their responsibility properly prior to transitioning, which means we have no reports. But within the QSAC piece, we have to have conversation about this whole RAC business.

For example, in the takeover districts, the-- As you said, Assemblyman, the directions that are being given are really coming from the State into the district. And the people who are actually giving direction are people who came from the Eli Broad Institute, regardless of who is paying it -- they split the fees. It doesn't make any sense, because we have administrators and teachers who are sitting downtown in the City of Newark -- and I'm not talking about one or two, I'm talking about a couple of hundred people.

Now, it's interesting because we call it the *rubber room*. But they're sitting there, and they respond based on somebody's need. So my question is: Why are they sitting there? And the issue -- the response is that they are sitting there primarily because we cannot get rid of them. And first of all, I don't believe that most of them need to be gotten rid of -- not saying that somebody should not be gotten rid of, but that's not the issue. The issue is: If you cannot get rid of them, who is paying them? And if we are, in fact, paying them, why don't we put them back in the classroom or the administrative role and make them do their job? And if they don't do the job, then we can definitely fire them. And so the question is: Who is actually paying this other group? If you're telling me the State is paying and it's being matched by Eli Broad, then to me it's still a waste of dollars -- at least from the State side -- to have them there.

And so these are questions that we're going to have to raise. And only the Administration can answer those kinds of questions. And that takes me back to the Adequacy Report, when it comes, Assemblywoman, to how we identify -- and in the Senator's concern -- additional dollars without taking away from what we already have in the system. I think the State,

whether intentionally or unintentionally, through this whole privatization movement -- people don't want to talk about a lot as privatization -- that's what it is -- is doing more harm than good. And it may not be intentional. They may be thinking they're doing a good academic thing, a good budgetary thing as it relates to the formulas when, in fact, they're demising the system a little bit at a time. And ultimately, when they finish messing around with the urbans -- because they can make excuses there for distorting what is really taking place -- then they're going to be the packmen and women who go into those districts that we're concerned about, that are not getting enough now, and use the same excuses as to how, over the years, you start to diminish in your success rate. "Well, we diminished because you didn't fund us preschool. We diminished because you didn't get to--" as the Senator said -- "you left us in the middle hanging out."

So we have to be very thoughtful and careful. And my greatest concern to the public -- and we're on public record -- has always been -- and never ashamed to say -- is that we cannot let the leadership in our Houses, regardless of whether it's this term, if it's Republicans the next time, bipartisan-- We cannot let them dictate our majority as legislators. We elected the leadership. The government gets elected by the people. We have to compel them to be more cognitive of what is taking place, more rational and objective in the approach if we're talking about bipartisan relationships. Whether a relationship is bipartisan is really a relationship that impacts on real people. But folks in our districts, whether Republicans or Democrats, don't worry about the party per se, they really worry about the education of these kids, the quality of life in these communities. And so we're going to need more participation.

And I appreciate all you've been doing over these years. A lot of people don't know you and the work you've been doing behind the scenes. You never get credit, even as one of the founders of the New Jersey Black Issues Convention, which has been around for 30 years plus. The research that you've done for the State and other groups nationally, over and over, from the New Jersey Policy Institute and the other things-- That perspective is really important to this Committee.

And so, Melanie, if you could make sure that you and Jerome communicate over a period of time to generate those questions for us and share the questions with the members. And then we can seek answers for them as we move to the next hearing.

Anyone else?

ASSEMBLYWOMAN DeCROCE: I just have one more question. When we were in Paterson at one of our mobile joint meetings, there was a question that I brought up to the Superintendent of Paterson. And that was that I wanted to know the class sizes from K-12, and also the class sizes of the special education students. And I don't know if he's--

Did he get back with that information? (negative response)

So I'm at a public meeting asking this again. I would like that information which he did agree to give us. And since he has not, I think we should request it again.

Thank you.

SENATOR RICE: Thank you, Assemblywoman.

I was supposed to make that meeting and I couldn't. But I know we had representation there. And you guys and ladies did a good job.

We need to send a letter, and we need to be clear that we have a responsibility. This is a Joint Committee -- statute -- and they have a responsibility also to respond to us. And we would like to think it's an oversight or he's been very busy. But we're not comfortable with folks not responding back to us. I mean, I don't like those clean, passive letters. Just be very clear. We're in charge. Say it as nicely, that we're in charge, as you have to say it, but be very much on point that the Assemblywoman and others are asking for information and we expect it. And if not, then we expect, in writing, the reason for not receiving it.

Thank you.

Thank you very much, Jerome.

Do we have any other speakers here from the public? (no response)

Does anyone have any comments you'd like to make before we close out the meeting for the record? (no response)

Very good. Do you have any other issues?

ASSEMBLYWOMAN DeCROCE: That's all.

SENATOR RICE: Melanie, I believe that we have no one else here. I mean, there were some other people here.

Let me just-- I know that Eleese Evans, who was the former Assemblywoman and also the new Chair of the New Jersey Black Issues Convention, is not here. And I know that she's had some death in the family as well. But I think that Jerome Harris represented that organization also.

And then there was James Harris, who is the President of the State Conference of the NAACP -- was supposed to be here for testimony.

But I would suspect, knowing the Coalition of Civil Rights Leaders and nonprofits, his testimony would probably have been supportive of the testimony that Jerome Harris gave for the record, as well as David.

And so with that we're going to conclude the meeting.

I thank the members for staying, and those who came to listen and to learn, hopefully.

And again, Melanie, get back with myself and Assemblywoman Connie Wagner -- the Co-Chair -- so we can determine a date in the future that we can ask the Administration to come in and just kind of bring us up to date on QSAC, and to talk about the RACs and some of the issues we wanted raised.

And then finally, for the record, just make sure that the comments that I made or the members made requesting letters to the superintendents and questions to be sent to us and information -- that that's done by staff.

Okay? (affirmative response)

With that I want to conclude this meeting. The meeting is adjourned.

**(MEETING CONCLUDED)**