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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
HOUSE SPECIAL EDUCATION SUBCOMMITTEE

RYAN OFFICE BUILDING
ROOM 205
HARRISBURG, PENNSYLVANIA

TUESDAY, NOVEMBER 19, 2008
9:00 A.M.

INFORMATIONAL HEARING ON
SPECIAL EDUCATION FUNDING
IN PENNSYLVANIA

BEFORE:

- HONORABLE BARBARA McILVAINE SMITH,
SUBCOMMITTEE CHAIRMAN
- HONORABLE KATHY L. RAPP
- HONORABLE H. SCOTT CONKLIN
- HONORABLE MICHAEL FLECK
- HONORABLE PATRICK J. HARKINS
- HONORABLE THOMAS P. MURT
- HONORABLE BERNIE O'NEILL
- HONORABLE SAM ROHRER
- HONORABLE CURTIS G. SONNEY

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ALSO PRESENT:

CHRISTOPHER WAKELY, EXECUTIVE DIRECTOR (D)
CHRIS SAPPEY, DIRECTOR OFFICE DIRECTOR
KENDALLE WILT, LEGISLATIVE ASSISTANT

BRENDA S. HAMILTON, RPR
REPORTER - NOTARY PUBLIC

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P R O C E E D I N G S

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SUBCOMMITTEE CHAIR McILVAINE SMITH:

Good morning, everyone. Thank you for attending this very important hearing on -- for this subcommittee on special education.

We are beginning the conversation about the special education funding formula. We have heard that because the basic education funding formula had been changed that it was very necessary for us to look at the special ed funding formula.

So today, as I said, is the beginning of the conversation. We're going to have PDE give us an overview. We can ask questions about how we do it.

He's going to -- John Tomassini is going to tell us how we do it here in the state of Pennsylvania. But we want to focus also on the funding, how we do that.

And then we're going to hear from the NCSL, Mr. David Shreve, who will talk about how special education formula, funding formula, is done throughout the United States.

1 And then lastly we have Dr. Jodi King
2 who is here from the Maryland State Department
3 of Education to talk about how they do it in
4 Maryland.

5 So I'd like everybody to introduce
6 themselves starting to my right with Mike.

7 REPRESENTATIVE FLECK: Representative
8 Mike Fleck of the 81st District, serving
9 Blair, Huntingdon and Mifflin Counties.

10 REPRESENTATIVE O'NEILL:
11 Representative Bernie O'Neill from the 29th
12 District which is the center of Bucks County.

13 REPRESENTATIVE MURT: Representative
14 Tom Murt, eastern Montgomery and northeast
15 Philadelphia.

16 REPRESENTATIVE SONNEY:
17 Representative Curt Sonney, 4th District,
18 serving Erie County.

19 SUBCOMMITTEE CHAIR McILVAINE SMITH:
20 And I'm Barb McIlvaine Smith, 156th in Chester
21 County.

22 REPRESENTATIVE RAPP: Representative
23 Kathy Rapp. I represent the 65th District of
24 Warren, Forest and McKean Counties.

25 SUBCOMMITTEE CHAIR McILVAINE SMITH:

1 I'd like to ask Mr. John Tomassini, who is the
2 Director of the PA Bureau of Special Education
3 to begin.

4 DIRECTOR TOMASSINI: Thank you,
5 Representative Smith, and thank you for having
6 me today. As you said, my name is John
7 Tomassini. I serve the students' families and
8 educational agencies within the Commonwealth
9 of Pennsylvania as the Director of the Bureau
10 of Special Ed for the Pennsylvania Department
11 of Education.

12 For those of you who have committed
13 your time to participate in today's hearing,
14 thank you. I know that special education and
15 special education funding is a very important
16 issue to everybody.

17 What I'd like to do is give you a
18 little bit of an overview of special education
19 in Pennsylvania. And I want you to keep in
20 mind that I'm not a fiscal expert. And so I'd
21 like to put that on the table first before we
22 get started.

23 What is special education? There's
24 very specific language regarding special
25 education in students identified as having

1 disability, and special education is a child
2 with a disability who as a result of that
3 disability requires specially designed
4 instruction to meet his needs.

5 The program of specially designed
6 instruction is really developed between the
7 school and the family and other participants
8 of the IEP team who -- who really put together
9 a written document. And it's real important
10 to understand that that team really develops
11 that program for that child and the knowledge
12 and understanding of the child that the team
13 has is critical in putting together a plan
14 that will meet that child's needs.

15 As always, and many of you know, if
16 they can't -- if we can't develop an
17 appropriate IEP, there are dispute resolution
18 systems available to assist, but the reality
19 is that when you go down the road of dispute
20 resolution there are really no winners.

21 There's two federal laws that apply
22 to special ed, IDEA and No Child Left Behind.
23 IDEA procedurally and substantially provides
24 protections of children with disabilities,
25 particularly related to parental consent;

1 evaluation; provision of special ed related
2 services; access to the general ed curriculum,
3 FAPE, which is a free appropriate public
4 education, and the least restrictive
5 environment.

6 And No Child Left Behind really
7 insures that all students read at grade level
8 or above. It places a particular emphasis on
9 addressing the needs of children who are at
10 risk of being referred.

11 And I really think what No Child Left
12 Behind has really done for special ed, it's
13 brought us to really understand and know that
14 all does mean all and all children now do
15 count and that all children are entitled to
16 have highly qualified teachers and all
17 children, including special ed, really mean
18 something when you start to think about what's
19 happening, whether it's assessment or
20 accountability. Because never before has the
21 focus been higher on student achievement and
22 school improvement.

23 And that's all driven by the
24 accountability pieces of No Child Left
25 Behind.

1 The IDEA part or -- is really the
2 special ed piece, and it looks at the
3 educational results and really what IDEA 2004
4 did was look at educational results that were
5 improved and looking for outcomes that are
6 achieved by students.

7 Student achievement, school
8 improvement is really what we all focus on
9 right now and how we modify or adapt those
10 things for children with special needs,
11 what's -- what -- what No Child Left Behind
12 and IDEA has really brought us to.

13 One of the things that IDEA 2004 did
14 was required all states to have a state
15 performance plan to improve services for
16 children with disabilities. And all 50 states
17 have developed their performance plan which is
18 built around 20 federally required indicators
19 for compliance and performance.

20 Pennsylvania, which we're very proud
21 of, is one of seven states to meet the
22 requirements from the Office of Special
23 Education Programs of 2007, and one of nine
24 states to receive that designation in 2008.

25 And if you take a look at the

1 indicators that were put into the performance
2 plan based on IDEA 2004, you can see that, if
3 you look at graduation, drop-out,
4 participation and performance on assessment,
5 early intervention, least restrictive
6 environment, I'm not going to read them all to
7 you, but a -- a plan that really focuses on
8 true outcomes for children.

9 And the interesting part is that all
10 50 states have to develop their plan based
11 upon the same 20 indicators. So there's
12 consistencies across the country. How it's
13 done is different.

14 And we're really proud of what we've
15 done. We know we need to do better in some
16 areas, but we're making a lot of progress and
17 we're proud of our status.

18 Pennsylvania's special education
19 regulations, the state regulations are Chapter
20 14. And they are the regulations that tell us
21 how we operate as a state in compliance with
22 IDEA.

23 And our final regulations were in
24 place in July of 2008, and those final
25 regulations were revised so that Pennsylvania

1 became fully compliant with IDEA and all of
2 the requirements of the Office of Special
3 Education Programs and the Department of
4 Education.

5 I think that these -- this slide is a
6 rather interesting slide because it kind of
7 shows how special education has changed and
8 what the message is and how the laws have
9 changed and the expectations for children have
10 changed from 1974 when our focus was on
11 compliance, monitoring, reports, professional
12 development for compliance, and what the work
13 is now, student outcomes, support for
14 instruction, technical assistance, least
15 restrictive environment, response to
16 intervention, and compliance with purpose and
17 intent of the law.

18 And the vision that we have for
19 educating all students in Pennsylvania has
20 changed from 1974 to 2008. And the way we
21 prepare and train -- train our teachers is
22 changing, and it needs to continue to change,
23 be able to address the work that we're asked
24 to do now.

25 Students with special needs are

1 required to be educated in the least
2 restrictive environment. To the maximum
3 extent appropriate, children with
4 disabilities, educated in the least
5 restrictive environment with the use of
6 supplementary aids and services as required by
7 federal law. And Pennsylvania is moving along
8 and making changes to address that area.

9 The least restrictive environment,
10 and really, when you talk about the least
11 restrictive environment, you think about the
12 general education as the starting point for
13 all students and think about how you can meet
14 their needs with the use of supplementary aids
15 and services in the regular education
16 classroom.

17 And in Pennsylvania we're responding
18 to the Gaskin settlement agreement and the
19 work that we're doing in relating to that
20 settlement agreement we're doing because it's
21 right for all children.

22 IDEA has always emphasized that the
23 beginning point for all educational programs
24 is the regular classroom with the use of
25 supplementary aids and services. The

1 threshold for making the decision is whether
2 or not the student can achieve meaningful
3 benefit from that setting.

4 We need to work to figure -- we need
5 to work together in figuring out how to
6 implement inclusive practices that are both
7 feasible and effective in ensuring school
8 success for all students.

9 This is another example where the
10 special education world and the general
11 education world are coming together.

12 Never before has the role of a
13 building principal been more important than it
14 is today as a school focuses on all students.
15 And if you think about what was happening in
16 the early '70s when folks that were in the
17 special education world thought they had all
18 the answers and now we've made a complete
19 circle and we're looking more and more and
20 never -- never before more at our counterparts
21 and colleagues in general education to help us
22 support the needs of students with
23 disabilities.

24 The next slide gives you kind of an
25 idea of how we're organized in Pennsylvania.

1 The Department of Education; the 29
2 intermediate units, which are vital partners
3 of ours in all of the work that we do; the
4 three PaTTAN offices; and the Office for
5 Dispute Resolution.

6 The Bureau of Special Education has a
7 mission to set high standards for all students
8 with disabilities so that they can receive a
9 quality special education program.

10 The bureau is divided into three
11 regions; east, west, and central; and you can
12 see the responsibilities that we have, all to
13 ensure the child receives a free public
14 education.

15 The intermediate units were
16 established in 1971. Pennsylvania 29 IUs are
17 really regional service agencies that provide
18 programs and services to students, staff, and
19 public and nonprivate.

20 And from my perspective we couldn't
21 do the work we do without the support of the
22 IUs. When you look at working with 501 school
23 districts, it's very difficult to do from a
24 state perspective. But the IUs have been our
25 partner, are our partners in all of the work

1 that we do. They provide a tremendous amount
2 of support, and we value their partnership and
3 collaboration and we look forward to
4 continuing to work with them.

5 The Pennsylvania Training and
6 Technical Assistance Network is an initiative
7 of the department and the bureau, and it helps
8 us, again, to reach out to school districts,
9 intermediate units, parents, families, in
10 providing training and technical assistance to
11 support student learning and achievement.

12 As I said to you earlier, the Office
13 for Dispute Resolution is an area where folks
14 go when we can't reach agreement. The Special
15 Ed ConsultLine is a statewide toll free line
16 which helps families, advocates, and agencies
17 that have questions about special ed.

18 The IEP facilitation is something
19 that we try to do to help -- we bring in a
20 third party to help with communication and
21 hopefully be able to develop an IEP that
22 everyone can agree upon.

23 Mediation and due process are also
24 things that are open to parents, families, and
25 school districts when we can't reach

1 agreement.

2 If you take a look at the data,
3 nationally there's over 6.7 million students
4 who receive special ed services, 13.6 of the
5 public school population. Pennsylvania,
6 271,000 students for 14.9 percent.

7 So what do those numbers tell us?
8 That we're in sync with what's happening
9 across the country.

10 But does it mean that we're doing the
11 best we can do? Should we be satisfied with
12 their numbers?

13 I don't think so. I think that we
14 can do a better job. If you take a look at
15 the percentage of students with learning
16 disabilities in speech and language, you can
17 see that nationally almost 69 percent and in
18 Pennsylvania 68 percent have specific learning
19 disabilities in speech and language.

20 And if you go back to what I said
21 earlier and think about No Child Left Behind
22 and the focus on school improvement and
23 student achievement, we know that if we do a
24 better job of teaching students when they're
25 young how to read we can decrease the number

1 of students who are identified as learning
2 disabled and that we have work to do there.

3 The next slide shows you the majority
4 of students identified with learning
5 disabilities out of our 271,000. There are
6 things happening to address this, but I don't
7 think we're going to see a change for the
8 next -- it's going to take a few years till
9 you see a change in those numbers. They're
10 very high.

11 I was telling someone recently -- I
12 spoke to a national expert and I was telling
13 him that I'm very satisfied Pennsylvania's
14 numbers are just one percentage above the
15 national numbers.

16 And he said, well, why would you be
17 satisfied? The national numbers are too
18 high. And I really started to think about
19 that, and I think he's right.

20 So we know that when a child is
21 identified as special ed, in many cases it
22 means that they're more likely to drop out and
23 they're more likely not to graduate with the
24 needed skills they need to attend
25 post-secondary education or training

1 programs. And we really must change the
2 outcomes for these vulnerable students.

3 The next slide just gives you a
4 little idea of the school districts and
5 charter schools that have less than 10 percent
6 of their students identified as special ed.
7 At least 10 percent but less than 12 percent,
8 at least 12 percent but less than 15, and 15
9 percent or more. And you can see that the
10 identification of students is very high in the
11 12 to 15 and the 15 to 20 -- the 15 or more.

12 The next slide shows you the
13 educational environment and the number of
14 students that are in the educational -- inside
15 the regular class, 80 percent or more of the
16 day, inside the regular class 40 to 79 percent
17 of the day, inside the regular class less than
18 40 percent of the day, and in other settings.

19 And in other settings, basically it
20 means that the students are receiving
21 education in an approved private school,
22 hospital, homebound, correction, out-of-state
23 facility, instruction conducted in the home,
24 those are all considered other settings. The
25 first three settings talk about settings in a

1 school.

2 The rate of students with disability
3 that receive a high school diploma or
4 certificate has increased from 75 in 1987 to
5 84 percent in 2007.

6 And while many folks, when you look
7 at those numbers, think that's really good, to
8 me, I think anything less than 100 percent is
9 not acceptable, and our goal is 100 percent.
10 We want all students to receive a high school
11 diploma, 100 percent.

12 The next slide, we just tried to show
13 you a comparison between the graduation and
14 drop-out rates of ten years. And as you can
15 see, the number increases. But, again, 84
16 percent is not good enough and a drop-out rate
17 of 24 percent to 14 percent is still not good
18 enough.

19 What we tried to do in the next slide
20 is give you an idea of comparing nationally
21 former students with IEP's, the former general
22 ed students, and in Pennsylvania students with
23 IEPs that are employed full-time.

24 And the bar on the far right, 66
25 percent of Pennsylvania students with IEPs are

1 employed full-time.

2 But, again, that's two out of three.

3 So what happens to the other child, the other
4 young adult?

5 When you look at the funding, we
6 receive about 405 million from the federal
7 government. Give you an idea of how it's
8 broken down. And we need a lot more.

9 The state appropriation, \$1 billion
10 this year, one percent contingency fund, 96
11 million for improved private schools, 36
12 million for charter schools for the deaf and
13 blind. A substantial amount of money.

14 One other area of funding, the
15 school-based ACCESS program, beginning in
16 1991/'92 was an avenue for school districts to
17 receive federal Medicaid dollars. The
18 program's a partnership between PDE,
19 Department of Education, and the Department of
20 Public Welfare.

21 The pie chart shows you the
22 distribution of funds from ACCESS, and the
23 next chart shows you the total number of
24 revenue dollars generated from '03/04 to
25 '07/'08.

1 And it's a tremendous amount. It's a
2 tremendous resource for school districts,
3 intermediate units, approved private schools,
4 and entities that are able to bill ACCESS.

5 We don't know how it's going to be
6 there, but this -- but folks rely heavily on
7 those dollars.

8 And, finally, just a little saying
9 that I like to share with my staff when we
10 talk about things and ask for change and look
11 at how we're doing things and doing things
12 different. It takes a tremendous amount of
13 effort to be able to move past where we're all
14 comfortable and to look at doing things in new
15 and different ways.

16 Thank you. And I'm sure you'll have
17 questions for me.

18 REPRESENTATIVE RAPP: Thank you
19 Director Tomassini. It's great to have you
20 here.

21 DIRECTOR TOMASSINI: It's nice to see
22 you, Representative Rapp.

23 REPRESENTATIVE RAPP: I just have a
24 couple questions. Considering that this
25 hearing today is about funding, and obviously

1 I'm sure you're aware of the situation with
2 this year's budget, and probably next year's
3 budget, and we want to make every dollar count
4 in Pennsylvania, and I happen to think that
5 there are a lot of great teachers of children
6 with special needs in the state of
7 Pennsylvania.

8 But the fact is, and I think you
9 mentioned this in your testimony, we do have
10 students in Pennsylvania who are being served
11 outside of the state of Pennsylvania for
12 whatever reason.

13 Can you tell me the exact number of
14 students we have and -- and why the IEP
15 teams -- not going into specific detail about
16 a specific child -- but why those IEP teams
17 believe that those children cannot be educated
18 in the state of Pennsylvania?

19 DIRECTOR TOMASSINI: The -- the exact
20 number, based upon -- the exact number of
21 students that are educated out of state that
22 the Department of Education is aware of and
23 participates in funding is probably in the
24 neighborhood of a hundred and fifty.

25 However, I want you to understand, I

1 want to be very clear, that that number is
2 larger because there are students that are
3 placed out of state by other entities.

4 Not being a member of an IEP team, I
5 can't tell you specifically why an individual
6 child goes.

7 But what I can tell you is there are
8 some instances where a school district is
9 located along the border, whether it's the
10 border between New Jersey and Pennsylvania or
11 the border between Delaware and Pennsylvania,
12 where it might be more convenient, there might
13 be a program that is 10 miles away from
14 that -- for that child as opposed to 30 miles
15 in Pennsylvania.

16 There are some children who have --
17 whose needs are so severe that we don't have a
18 program in Pennsylvania. We've worked very
19 hard to look at children that are placed out
20 of state and try to talk with folks that we
21 work with on creating programs for those
22 students. And we continue to look at that on
23 a regular basis.

24 REPRESENTATIVE RAPP: And I also --
25 Warren County borders New York state and I

1 know of students who are going into New York
2 state because the parents and the school
3 district cannot come to an agreement as to
4 whether or not the child can be educated in
5 the classroom in that particular school
6 district.

7 So I'm assuming that on a
8 year-by-year or more frequently through the
9 IEP process that hopefully the school district
10 and those parents are looking at the
11 possibility of possibly returning those
12 children to Pennsylvania in our own school
13 districts.

14 And can you tell me, just give me an
15 example of how much tuition would cost for one
16 student, the highest rate that we would be
17 paying for one student to attend school
18 outside of the state of Pennsylvania?

19 DIRECTOR TOMASSINI: As long as you
20 don't hold me to the number.

21 REPRESENTATIVE RAPP: I won't hold
22 you to the number.

23 DIRECTOR TOMASSINI: There are
24 students --

25 REPRESENTATIVE RAPP: I'll give you a

1 few dollars plus or minus.

2 DIRECTOR TOMASSINI: There are
3 students that cost in excess of \$300,000 or
4 more to be educated outside of the state.
5 Students who had severe -- whose needs are --
6 are very severe and complicated are
7 expensive.

8 But I think that it's important for
9 me to say that when we are involved we do
10 everything that we can to create capacity
11 locally to meet the needs of those children.

12 We're always willing to work with the
13 school district to develop options for a
14 particular child so that that child can be
15 educated with his or her peers within their
16 home -- within their home district and
17 hopefully within their home building.

18 REPRESENTATIVE RAPP: Thank you.

19 Just one question, and I may have
20 some others but -- from our other presenters,
21 but this last budget year, much to my dismay,
22 the Department of Education through the budget
23 process did receive \$9 million to develop a
24 competency test, which many of us were very
25 much opposed to.

1 And as we are looking for dollars for
2 our students with special needs to be
3 educated, to make sure that they receive a
4 good education, are you working with the
5 department to develop a competency test that
6 would -- how do I want to say this -- that
7 could be adapted or modified for students with
8 disabilities?

9 DIRECTOR TOMASSINI: Yes. We're
10 involved in those discussions.

11 REPRESENTATIVE RAPP: So the
12 department is using that \$9 million to move
13 full-steam ahead with that competency test?

14 DIRECTOR TOMASSINI: At this point,
15 yeah.

16 REPRESENTATIVE RAPP: Thank you. I
17 appreciate your concerns regarding reading.

18 DIRECTOR TOMASSINI: Thank you.

19 REPRESENTATIVE RAPP: I share those
20 same concerns. I also have concerns if we
21 move to any type of new funding formula.

22 Mr. Tomassini, I think you know that
23 I'm a firm believer in the continuum of
24 placements.

25 I have a lot of concerns that we keep

1 intact our approved private schools and our
2 schools for deaf and hearing impaired and for
3 our students with visual impairment and
4 blindness.

5 DIRECTOR TOMASSINI: Well, I think
6 that the federal laws and the state laws are
7 very clear that we must have available
8 continuum of placement -- a continuum of
9 placements for all students.

10 And I think that in Pennsylvania we
11 do a real -- we have -- we are very good at
12 that. We have a continuum available, and I
13 think our job is to make sure that when folks
14 come together in the IEP -- as the IEP team
15 that they have the understanding, knowledge,
16 tools and resources to make that decision for
17 that child.

18 REPRESENTATIVE RAPP: Thank you.

19 SUBCOMMITTEE CHAIR McILVAINE SMITH:
20 And we've been joined by another
21 representative.

22 REPRESENTATIVE ROHRER: Thank you,
23 Madam Chairman. Representative Rohrer from
24 Berks County.

25 DIRECTOR TOMASSINI: Good morning.

1 SUBCOMMITTEE CHAIR McILVAINE SMITH:

2 And I have just a

3 Couple quick questions. I was given
4 a book written by Dr. Arnold Hillman back in
5 1987 called Special Education Funding in
6 Pennsylvania, a Fable.

7 And it says that Dr. Edward J. Nolan,
8 the budget -- excuse me -- analyst for the
9 House Appropriations Committee has described
10 both sections of the code in a clear and brief
11 manner.

12 In quotes, special education is a
13 program of basic education, adjusted to meet
14 the instructional needs of school-aged
15 exceptional child. The term exceptional
16 includes both handicapped and intellectually
17 gifted children. School districts and
18 intermediate units operate special education
19 classes.

20 And you and I had a chance to speak
21 beforehand, and I told you how I went to Twin
22 Valley Middle School where they keep all of
23 their children who are identified with special
24 needs in the classrooms by bringing special ed
25 teachers into that classroom, to either model

1 educational instruction for those children or
2 they work with them individually. It's a
3 really great program.

4 But my question to you is, how
5 much do you think it costs -- how much more do
6 you think it costs for us to educate children
7 with special needs as opposed to educating a
8 child that's in the regular classroom?

9 How much more?

10 DIRECTOR TOMASSINI: I think it
11 varies based upon the child's needs. Some
12 people say it's three to four times more.
13 What we try to do -- one of the things that we
14 do -- and you are aware that we have a special
15 ed contingency fund.

16 So what we try to do when we -- when
17 districts submit applications is we try to
18 figure out what we think is a base amount or a
19 threshold that should be spent so that they
20 reach a number or a level that would be beyond
21 or extraordinary.

22 And we use around 20 -- I'm thinking
23 for this year it's going to be about \$24,000
24 as a base and then anything above that would
25 be considered extraordinary.

1 And sometimes what happens when you
2 begin to think about educating a child with
3 disabilities, people forget that all children
4 are entitled to art, music, phys. ed and all
5 of the kinds of things that any other child
6 are entitled to.

7 Now, that doesn't mean that a child's
8 IEP provides more definitive services that
9 might include a variety or a milieu of
10 services beyond. But we have to think about
11 what those children are entitled to, just like
12 all children.

13 Because, as I said earlier, all does
14 mean all, and it means all for instruction and
15 also all for financial implication. So you
16 have to figure all of that in and weigh that
17 in before you -- before you can look at that
18 actual cost above and beyond.

19 SUBCOMMITTEE CHAIR McILVAINE SMITH:
20 And where should additional special education
21 resources be invested if -- if we had
22 additional resources? But -- such as improved
23 classroom conditions, additional staff,
24 programs? What do you think would be the best
25 way for us to invest in our special ed

1 students?

2 DIRECTOR TOMASSINI: Everything that
3 you said, plus more focus on it with
4 institutions of higher education, on preparing
5 special educators for what they'll face when
6 they leave colleges and universities.

7 You can never spend enough money on
8 effective instruction. But sometimes you have
9 to take a look at how you're spending.
10 Because more doesn't necessarily mean better
11 all the time. So we have to take a look at
12 it.

13 And, you know, as I said earlier,
14 never before have we been in a point in time
15 where they're -- we're asking more of the
16 general ed/special ed marriage or the role of
17 the principal.

18 I find that buildings with good
19 principals drive good instruction for all
20 students, because they're the instructional
21 leader of that building and they are
22 responsible for all children.

23 So to me, focusing on many of the
24 things that you said, but also focusing on
25 principals and providing principals with the

1 leadership skills they need to be the leader
2 for all teachers and all students.

3 SUBCOMMITTEE CHAIR McILVAINE SMITH:

4 And what do you think the benefits would be or
5 can you at least give me -- first, I should
6 ask you, if we're going to reform special
7 education funding, what would you say would be
8 the best way to do it?

9 Do you have any sense of where we
10 should start?

11 DIRECTOR TOMASSINI: Sure. First of
12 all, I'd like to make sure that you understand
13 that we'd be very happy to work with you and
14 your colleagues in any kind of change in, the
15 funding system.

16 But as I mentioned to you earlier,
17 one of the things that I'm very proud of,
18 proud to say that I'm from Pennsylvania, and
19 proud of being from Pennsylvania, is I go a
20 lot places and people come because we do a lot
21 of training, and people always say, I wish we
22 did this in our states, whatever it is. So we
23 have a lot to be proud of.

24 We also -- we all, all of us, can
25 never believe that we can't do better.

1 Now, do I believe that our funding
2 system is broken? Probably not. I don't know
3 that it's broken.

4 I think we have a system that is
5 relatively identification neutral. And if you
6 said to me -- and I guess that's what you
7 asked me -- what would I do? I would probably
8 take the contingency fund and figure a way to
9 work with that that would address the
10 extraordinary cost of districts.

11 I wouldn't completely throw the
12 system out. But I think that's what I would
13 do and find a way to be able to address the
14 needs of those districts that don't have the
15 wherewithal to be able to handle those
16 extraordinary costs that are put upon them.

17 SUBCOMMITTEE CHAIR McILVAINE SMITH:
18 All right. Representative O'Neill.

19 REPRESENTATIVE O'NEILL: Thank you.
20 Can you see me?

21 DIRECTOR TOMASSINI: Yes.

22 REPRESENTATIVE O'NEILL: Thank you
23 for being here this morning. I get scared
24 when people use the word reform around here.

25 DIRECTOR TOMASSINI: I didn't say it,

1 did I?

2 SUBCOMMITTEE CHAIR McILVAINE SMITH:

3 I did.

4 REPRESENTATIVE O'NEILL: Because the
5 word is in the eyes of the beholder, the
6 definition.

7 Can you describe to me, when you
8 referred to the least restrictive environment,
9 what you're referring to?

10 DIRECTOR TOMASSINI: Children with
11 disabilities being educated with their
12 non-disabled peers.

13 REPRESENTATIVE O'NEILL: Say that
14 again.

15 DIRECTOR TOMASSINI: Children with
16 disabilities being educated with their
17 non-disabled peers.

18 REPRESENTATIVE O'NEILL: That's what
19 you consider it to be?

20 DIRECTOR TOMASSINI: That's what I
21 consider it to be.

22 REPRESENTATIVE O'NEILL: Is that what
23 the state considers it to be?

24 DIRECTOR TOMASSINI: Yes.

25 REPRESENTATIVE O'NEILL: And the IEP

1 team determines that being educated with their
2 non-disabled peers is not the least
3 restrictive environment for them? It's not
4 the best appropriate placement?

5 DIRECTOR TOMASSINI: I think that I
6 said -- I think that I said earlier on that
7 the IEP team is responsible for developing an
8 appropriate program or placement for that
9 child.

10 And whether -- it doesn't matter what
11 I think. That's what the -- that's what the
12 challenge and the task of that team is, to
13 develop that program for that child.

14 And unless I'm part of that team, I
15 don't have a position on what that team
16 develops. My job is to make sure that the
17 members of that team have the tools that they
18 need to make the decision that's appropriate
19 for that child, whatever that decision is.

20 REPRESENTATIVE O'NEILL: We have
21 32 -- is that right -- 32 approved private
22 schools -- approved private schools here in
23 Pennsylvania? Is it 32? 31 or 32? I think
24 it's 32.

25 DIRECTOR TOMASSINI: Are you counting

1 the charter schools for the deaf and blind
2 also?

3 REPRESENTATIVE O'NEILL: No.

4 DIRECTOR TOMASSINI: Okay.

5 REPRESENTATIVE O'NEILL: I guess one
6 of my questions is, basically I look at them,
7 because I have a lot of background and
8 experience with those schools, as being an
9 extension of the public school system and a
10 much needed extension.

11 And, you know, a lot of the students
12 that go there, it's determined that that is
13 the best placement for them.

14 I guess my question to you, is this
15 reform on the funding, does that affect those
16 schools in any way?

17 DIRECTOR TOMASSINI: Not in my
18 opinion.

19 REPRESENTATIVE O'NEILL: So because
20 there is a separate line item budget for our
21 approved private schools, so they will not be
22 affected under this funding formula? Will
23 they?

24 SUBCOMMITTEE CHAIR McILVAINE SMITH:
25 We actually -- we actually don't have a

1 funding formula for special ed -- well, we
2 have a current one but to change it, this is
3 just the beginning of the discussion.

4 REPRESENTATIVE O'NEILL: That's why
5 I'm asking.

6 SUBCOMMITTEE CHAIR McILVAINE SMITH:
7 Yeah.

8 REPRESENTATIVE O'NEILL: On these
9 necessary approved private schools, because
10 there is a separate line item in the budget
11 for them, are they going to be lumped into
12 this -- into a new funding formula or will
13 they still have a separate line item as they
14 currently do, which, by the way, they're in
15 arrears in with the state? I believe they
16 still are.

17 DIRECTOR TOMASSINI: Not to my
18 knowledge are they in arrears, nor would there
19 be anything done to their formula that I know
20 of.

21 REPRESENTATIVE O'NEILL: Okay. So
22 they're --

23 DIRECTOR TOMASSINI: I mean I think
24 that they --

25 REPRESENTATIVE O'NEILL: They're not

1 going to be affected then by this proposed
2 change?

3 DIRECTOR TOMASSINI: No. I want to
4 be very clear. I think the approved private
5 schools and the charter schools for the deaf
6 and blind fill a very important role in
7 Pennsylvania.

8 REPRESENTATIVE O'NEILL: Well, I'm
9 not questioning that. I'm questioning going
10 forward this proposed change in the funding
11 formula for special ed or the way we fund
12 special ed, whether they will be adversely
13 impacted at all, including the schools for the
14 deaf.

15 DIRECTOR TOMASSINI: You're asking me
16 to answer a question about something that
17 might happen in the future. I can only tell
18 you what my opinion is.

19 REPRESENTATIVE O'NEILL: I --

20 DIRECTOR TOMASSINI: And I would -- I
21 would not make any recommendation to change
22 the funding for approved private schools or
23 charter schools for the deaf and blind.

24 REPRESENTATIVE O'NEILL: Okay.
25 Because my understanding is that's something

1 that's being thrown around that -- that has --
2 some of these schools have said, and
3 particularly the schools for the deaf.

4 DIRECTOR TOMASSINI: Well, I think --
5 I don't know that it's being thrown around. I
6 have had no conversation with any of the
7 approved private schools or the charter
8 schools for the deaf and blind that would talk
9 about something being done to their funding
10 formula.

11 I think sometimes the conversation is
12 about whether or not a center school for the
13 deaf and blind is, in fact, the least
14 restrictive environment, more so than whether
15 or not there's funding problems or changes
16 that are going to occur.

17 I happen to believe that for those
18 4,000 children that are educated in approved
19 private schools and charter schools for the
20 deaf and blind, they are there because that's
21 the appropriate placement for them and the
22 services they provide for those children, in
23 my opinion, is second to none.

24 REPRESENTATIVE O'NEILL: All right.
25 And you and I would agree on that.

1 DIRECTOR TOMASSINI: Okay.

2 REPRESENTATIVE O'NEILL: I just want
3 to make sure moving forward that we're not
4 going to have them -- these schools in some
5 way be negatively impacted through their
6 funding source and hurt the job they're
7 doing.

8 Because, you know, you know my
9 background. I guess you found out when you've
10 met here. And I would respectfully sometimes
11 disagree with that the least restrictive
12 environment is for the student.

13 And sometimes, for example, as you've
14 stated, the parents and the IEP team really
15 believe that they should not be in placement
16 with those students without a disability and
17 it would be a better environment for them to
18 be somewhere. They're -- they're the people
19 making those choices for those individual
20 students because it's on an individual basis.

21 And I just don't want to see those
22 type of schools that do such wonderful work to
23 be negatively impacted financially.

24 So I just hope you keep that in mind
25 moving forward because, you know, that is

1 going to happen and it's going to be a huge
2 battle, you know, and so forth.

3 Another question is the -- the -- in
4 reforming -- we're only beginning the process,
5 but in reforming with -- you know, the funding
6 process for special education in the state,
7 how will that affect the monies through --
8 that we get through the federal government?

9 Will there be two separate -- is
10 there going to end up being two separate
11 formulas, one using federal money and one
12 using state money? Or is it all going to be
13 lumped into one and that's going to be the
14 formula for it? Or that hasn't been thought
15 out yet?

16 DIRECTOR TOMASSINI: The dollars that
17 come from the federal government are based
18 upon child counts. And so a -- a change in
19 the state funding formula would not have a
20 impact on the federal child count dollars that
21 come back to Pennsylvania.

22 REPRESENTATIVE O'NEILL: Okay. And
23 then I guess my last question is will there be
24 any impact on intermediate units? Given -- I
25 know how they're funded through school system

1 and so forth. But would there be any impact?

2 Because I know in different areas the
3 intermediate units play, in some places, a
4 bigger role when it comes to special education
5 in assisting the school district versus some
6 other school districts who tend to have some
7 of their own programs.

8 DIRECTOR TOMASSINI: Again, keeping
9 in mind that, as I said earlier, we'd be very
10 willing to work with you and your colleagues
11 on any kind of change in funding, I want to be
12 very clear that during my time as director of
13 the bureau, the intermediate units are a big
14 partner in the work that we do.

15 So if you're asking me do I -- would
16 I see a change, I'd like to have the ability
17 to provide them with some more dollars to help
18 us in the work that we do. Because the money
19 that they get is not large and the work that I
20 ask them to do from a bureau director and from
21 the state's perspective is huge.

22 So I -- the role that they fill for
23 us is great and I wish I had a way to help
24 them.

25 REPRESENTATIVE O'NEILL: Thank you.

1 I appreciate your time.

2 SUBCOMMITTEE CHAIR McILVAINE SMITH:

3 And I'd like to have the other representatives
4 that have joined us to please introduce
5 yourselves.

6 REPRESENTATIVE HARKINS: Good
7 morning. Pat Harkins from up in Erie.

8 DIRECTOR TOMASSINI: Good morning.

9 REPRESENTATIVE CONKLIN:
10 Representative Scott Conklin from western
11 Centre County, basically Penn State
12 University.

13 DIRECTOR TOMASSINI: Good morning.

14 SUBCOMMITTEE CHAIR McILVAINE SMITH:

15 I just wanted to thank you so much, John.

16 DIRECTOR TOMASSINI: Thank you.

17 REPRESENTATIVE MURT: Representative
18 Murt.

19 SUBCOMMITTEE CHAIR McILVAINE SMITH:

20 Oh, I'm sorry.

21 REPRESENTATIVE MURT: I have
22 questions. John, are you familiar with the
23 special funding education proposal advocated
24 by the Education Law Center?

25 DIRECTOR TOMASSINI: I've taken a

1 look at it briefly. I wouldn't say I'm
2 familiar with it at this point.

3 REPRESENTATIVE MURT: Based on what
4 you know about it, are there any states that
5 currently use such a formula?

6 DIRECTOR TOMASSINI: I don't believe
7 that I can -- I am not in a good position to
8 answer that at this point.

9 REPRESENTATIVE MURT: Okay. Just one
10 other question, and this doesn't have to do
11 with funding.

12 But being a teacher by profession,
13 I'm not a politician, I'm a teacher, but my
14 question is what other states, in your
15 opinion, do a better job of delivering the
16 special education program than we do and
17 why -- why do they do a better job?

18 DIRECTOR TOMASSINI: That's a really
19 difficult question to answer, but I said
20 earlier I'm very proud of what we do. I don't
21 think anybody does a better job of what we do
22 in Pennsylvania.

23 But that doesn't mean that we can't
24 do better. I think we do a very good job of
25 educating all children. But when we are to

1 the point where we believe that we can't do
2 better or there things that we can't change to
3 do better, then we need to find something else
4 to do.

5 And I think that we're in a
6 position -- where I'm having some
7 conversations right now, the Secretary and
8 myself and the deputy, with the national
9 expert to come in and take a look at our
10 special ed program and all components of it
11 and what we can do better to meet the needs of
12 children.

13 So I'm proud of what we do, but we
14 can always do better.

15 REPRESENTATIVE MURT: Thank you.

16 SUBCOMMITTEE CHAIR McILVAINE SMITH:
17 Any more? Anybody else before I -- thank you
18 again, John. I really appreciate your
19 testimony.

20 DIRECTOR TOMASSINI: Thank you.

21 SUBCOMMITTEE CHAIR McILVAINE SMITH:
22 If we could call Mr. David Shreve, our Federal
23 Affairs counsel from the National Conference
24 of State Legislators, and Mr. Robert Strange,
25 please.

1 MR. SHREVE: All set, Robert?

2 SUBCOMMITTEE CHAIR McILVAINE SMITH:

3 Good morning.

4 MR. SHREVE: Good morning, Madam
5 Chair and members of the committee. I'm David
6 Shreve with the National Conference of State
7 Legislators. I work in the Washington office
8 of NCSL where I am the Federal Affairs
9 counsel, essentially your lobbyist for federal
10 education issues.

11 As such, and partly by default, I
12 inherit some of the special funding issues
13 that come to our organization. So I'm here to
14 tell you that I'm going to cover a broad range
15 of topics, very shallow, today and hope that
16 when you get to the question-and-answer period
17 that you don't hold my feet to the fire too
18 closely.

19 Let me make a couple comments, first
20 of all, about what your Secretary of Education
21 said. I can't resist making a further
22 distinction between No Child Left Behind and
23 IDEA, because after spending six years looking
24 at No Child Left Behind, and partially during
25 that time was when we had our task force on No

1 Child Left Behind, one of the real problems we
2 found with No Child Left Behind was that it
3 was an inherent conflict with -- with IDEA.

4 IDEA says you educate kids according
5 to their ability and No Child Left Behind says
6 you test everyone according to their grade
7 level.

8 This makes for some fundamental
9 disconnects between the two programs and has
10 created numerous, numerous problems across the
11 country.

12 Secondly, there was a question, I
13 think, that you, Madam chair, asked the
14 presenter about the average cost of special ed
15 versus general ed. I'm going to touch upon
16 that in here. I just wanted to forewarn you
17 that we were going to deal with that
18 question.

19 First slide, Robert.

20 When you start looking at special ed
21 finance, it -- of course, you think about
22 general education finance that you've been
23 through and what a trying and difficult
24 process that is.

25 Trying to figure out the history of

1 any finance system, whether it's general
2 education and the K-12 system or special ed,
3 it's kind of like doing an archeological dig
4 or peeling back an onion. You just go back
5 years and you find, well, ten years ago we
6 reformed our system and we based it on
7 something we had done ten years before that,
8 and you just keep going and peeling back and
9 peeling back and at some point in time you
10 don't come back to the clear rationale for how
11 to set up a formula. You come back to nothing
12 or the core of the onion with very little
13 onion left.

14 So I think it's very important to
15 understand that when we start talking about
16 this issue that special ed finance, like
17 general ed finance, has been discussed over
18 and over and over again and -- and really beat
19 into the ground with nobody really coming up
20 with any good, clear conclusions.

21 Hopefully some adequate conclusions
22 will come out of this. But keep your
23 expectations reasonable I hope -- I think.

24 Nationwide special ed students or
25 students with disabilities -- and there's a

1 glossary in the back for some of these terms,
2 in the back of the handout we provided you --
3 account for 12 or 13 percent of all K-12
4 students, which numbers, as your Secretary
5 said, about a little more than six million of
6 those students.

7 Those six million, or 12 to 13
8 percent of the K-12 students, actually account
9 for more than 20 percent of the K-12 funding
10 that goes into the system. So we know just by
11 those facts that special ed students, as you
12 would expect, require more resources to
13 educate.

14 For many years the incidence of
15 identification and the expenditure levels for
16 special ed have been -- have been rising. It
17 begs the question of why.

18 Next slide, Robert.

19 These are just a couple of -- of the
20 reasons why the expenditures are climbing.
21 Mission creep, the expanding of the definition
22 of disabled and, therefore, expanding the
23 services that are provided. Also I should add
24 in there with mission creep is the recognition
25 of new disabilities that we were not able to

1 diagnose before.

2 Advances in medical technology have
3 saved many lives who otherwise would have been
4 lost but in so doing have created additional
5 clients to serve with really particular and
6 demanding needs.

7 Increases in health care costs
8 because a good portion of the costs to go into
9 special ed have to do with the -- the physical
10 well being and the medical needs of special ed
11 students.

12 And the unintended consequences of
13 standards-based reform which have increased
14 the referrals to special ed to allow for some
15 accommodation testing.

16 We know from looking at No Child Left
17 Behind that any number of kids have been --
18 the number of kids have been -- that have been
19 referred for special ed just for
20 accommodation, maybe not any more than that,
21 to accommodate their testing needs or testing
22 insufficiencies has increased.

23 Next slide, Robert.

24 I thought we should just put some
25 historical perspective into this. IDEA and

1 special ed services were actually happening at
2 the state level in about half the states in
3 the '60s, but it was very uneven and -- and
4 spotty.

5 Congress first identified the
6 education of special needs kids in the
7 original ESEA act, the Elementary and
8 Secondary Education Act, in 1965. Added in
9 1974 an amendment to ESEA, the goal for a free
10 and appropriate education to all children, but
11 as a goal.

12 Next slide, Robert.

13 And, of course, two cases, one in
14 your state and one in the District of
15 Columbia, really pushed the issue along. The
16 first one was the Pennsylvania Association of
17 Retarded Citizens -- Children here in
18 Pennsylvania versus the Commonwealth, and the
19 Mills versus the Board of Education in the
20 District of Columbia in 1972.

21 Congress then amended -- as I said,
22 Congress amended the ESEA in '74, and not
23 required states, but identified the states
24 with the goal of a free and appropriate
25 education for all kids.

1 And then finally in 1975 the passage
2 of the Education for All Handicapped Children
3 Act made it more than a goal and required that
4 states participate in this -- this program.

5 That bring us to myth number one
6 about the federal involvement in funding.
7 That myth says that the federal government
8 pays or should pay for 40 percent of the
9 special education costs.

10 The -- the problem with that is that
11 in the floor debate in 1975 over the original
12 federal law the Congress basically said we're
13 going to pay the difference between the
14 general ed costs of a general ed kid in K-12,
15 the federal government will make up the rest
16 of that, the cost that it takes to educate a
17 special needs kid.

18 And our estimate -- and they pulled
19 the estimate out of the air like
20 this (gesturing) -- was that that cost, above
21 and beyond K-12 expenditures, was going to be
22 40 percent of those average -- the average
23 K-12 expenditures.

24 Unfortunately -- so essentially the
25 states were expected under the law to provide

1 the K-12 costs per student for special ed kids
2 as well as all other kids, and the federal
3 government's contribution added on top of that
4 state and local contribution would provide
5 enough to educate the special needs.

6 Unfortunately, we had two realities,
7 inconvenient realities, that wedged into the
8 calculation. The first one is that the
9 federal appropriators have never provided for
10 more than their current or recent -- recent
11 high of about 18 percent of excess costs.

12 And under the second inconvenient
13 issue is that the most thorough analysis of
14 the actual spending habits of states and
15 localities that's been done was done by the
16 Center for Special Ed finance back in '99 and
17 2000.

18 And those expenditure reports --
19 these are not estimates; these are actual
20 expenditure reports from the states --
21 indicate that the actual excess costs, above
22 and beyond the K-12 costs of educating a
23 special needs kid, is actually more than 90
24 percent above the average per pupil
25 expenditure.

1 So in the school -- in the most
2 recent school year of '08/'09 federal funding
3 was about 11 or \$12 billion nationwide short
4 of the promised amount. And even in
5 Washington, in the -- in the hyper-inflated
6 appropriations talk that we're having today,
7 11 to \$12 billion is a lot of money.

8 The way I look at it with the federal
9 funding myth is at 18 -- 17 or 18 percent
10 federal funding is less than half of what has
11 been promised by the Feds, which was 40
12 percent, and that 40 percent is less than half
13 of what it actually costs to educate an
14 average student with -- with disabilities.

15 There have been proposals to move
16 special education appropriations to the
17 mandatory side of the budget instead of the
18 discretionary side.

19 And NCSL policy currently supports
20 the notion of full and mandatory funding at
21 the 40 percent level, even if we acknowledge
22 that that's less than half of what it actually
23 takes.

24 The chart in the next slide, if you
25 work your way from the left side, those yellow

1 blocks on the left side, the 23 million is the
2 estimate, the federal estimate, for this --
3 for last year, I believe, what the actual cost
4 of special education is. The 11 billion was
5 the appropriation from this year, and the 12
6 billion is the federal shortfall under the 40
7 percent calculation.

8 If you look at the back bars in
9 the -- in the slide, you'll see that if you
10 use the 90 percent above -- above average per
11 pupil expenditure, you come up with a total
12 figure of \$50 billion. Again, what the Feds
13 have provided is about 11 billion of that, for
14 a federal shortfall of \$39 billion in the most
15 current school year alone.

16 Whether it's a \$12 billion shortfall
17 based on the 40 percent estimate or a \$39
18 billion shortfall based on the 90 percent
19 estimate, or actual expenditure costs, you'll
20 see we're talking about real money which is
21 putting all your funding systems under pretty
22 intense scrutiny and strain.

23 Okay. Moving on to state funding
24 formulas, there are basically four main
25 approaches that -- that researchers catalog,

1 special education finance formulas, each of
2 which has its strengths and weaknesses.

3 We should all keep in mind as I go
4 through these quickly that the states often
5 have taken aspects of one and aspects of
6 another and married them, maybe a shotgun
7 marriage, maybe a marriage of convenience, I'm
8 not sure which, but they do have -- they have
9 created these hybrid systems that may be a --
10 give you an opportunity to look at something
11 that fits your needs more than -- than these
12 static formulas.

13 Also keep in mind that there -- this
14 is based on the studies that came out almost
15 ten years ago. There's been a great deal of
16 movement between the formulas and the finance
17 reform formulas both at the K-12 and the
18 special ed levels.

19 But this will give you an idea of the
20 range and variety of these.

21 First one is the pupil weights
22 formula. Back in '99/2000 school year we had
23 19 states using this. This was one of the
24 most common ways to adjust for the additional
25 resources that were needed for special -- for

1 students with disabilities.

2 What pupil weights does is assigns a
3 funding formula to the student. If regular
4 education is a one, then sort of arbitrarily
5 you assign a formula for learning disabled.
6 It might be 1.2, or a .2 at 20 percent
7 additional funding, to educate an LD kid.

8 In some cases there's just one
9 additional weight for all special ed students,
10 1.9 which actually reflects what the actual
11 cost studies are saying the actual cost is
12 across the system.

13 But in most instances the states
14 provide highest weights for different
15 resources varied -- based on the varying needs
16 of the students.

17 The weights are based on historical
18 costs associated with certain types of
19 disabilities. In that way they attempt to
20 predict the costs associated with educating
21 these particular disabilities.

22 An example of a state that uses that
23 system, the pupil weight system, was Kentucky,
24 which uses a weighted pupil formula which is
25 integrated into the K-12 formula for school

1 finance.

2 In Kentucky, there's -- on the next
3 slide on the -- oh, you've got it up. Sorry.

4 This is just to list an idea of how
5 they weight certain specific functions or
6 dysfunctions in the -- in the students with
7 disabilities. Function mental disability,
8 hearing impaired, visually impaired, (sic),
9 autistic, traumatic brain injured, and
10 multiply disabled get the highest weight at
11 2.35.

12 While mild mentally handicapped,
13 orthopedically impaired, developmentally
14 delayed children get an adjustment factor of
15 1.17. And speech and language disabled only
16 get an adjustment figure of .24.

17 Pupil weights, the strength of the
18 pupil weight system, is that an appropriate
19 level of funding is identified and provided
20 for special ed students and localities are not
21 burdened with the extra costs of providing
22 services.

23 My guess is your local
24 superintendents' and administrators'
25 organizations would love the thought of not

1 being burdened with the additional costs of
2 special ed.

3 It -- another strength is that the
4 system is very understandable, relatively
5 equitable, and somewhat predictable as to how
6 much money you're going to be getting based on
7 the identification of the certain -- of the
8 special needs.

9 One of the weaknesses is that there
10 is a perverse incentive to provide -- a
11 perverse incentive is created to identify
12 students in need of special education in order
13 to receive additional funding.

14 You're sort of -- there's a incentive
15 to sort of over-identify and exaggerate the
16 disability. It's somewhat of a bounty
17 system.

18 You know, you get paid or the schools
19 and the districts get paid based on the number
20 of kids they identify and the severity of
21 their disabilities that are identified with
22 them.

23 Now, keep in mind that this whole
24 system is not based on actual costs. It's
25 based on an estimate of what it costs to

1 educate certain categories of special needs
2 kids.

3 Next slide. The second system is the
4 flat grant or the census-based. The census is
5 sort of a derivative of the flat grant
6 approach.

7 This is a system -- the flat grant
8 system was adopted in Pennsylvania in the --
9 in the 2000 school year or some movement
10 towards that to the point where it's
11 categorized as such.

12 It was used in 11 states in the
13 '99/2000 school year. Under this system the
14 special ed funding in -- in -- is distributed
15 as a fixed per dollar amount for each special
16 education student that's identified.

17 In other states the districts receive
18 a lump sum for special education services
19 based on what essentially has not been a
20 statewide average but the total enrollment
21 rather than the special ed counts. That would
22 be the census-based formula.

23 It's worth noting that the federal
24 funding under the original IDEA was
25 distributed as a per dollar amount of funding

1 for each student within the state who was
2 receiving special ed services. That has
3 subsequently changed and actually raises the
4 issue someone asked about changing the federal
5 formula. I'll get to that in a second.

6 The flat grant or the census-based
7 formula approach, a good example of that is
8 the one in North Carolina where funds for
9 special education are additional to basic ed
10 aid and this is based on average daily
11 membership of school districts.

12 Funds for exceptional education,
13 which in North Carolina includes both special
14 ed programs and programs for the gifted, are
15 distributed on a per child basis determined by
16 dividing the total available state exceptional
17 children fund by the student head counts of
18 disabled.

19 Essentially this is the way a lot of
20 legislatures fund education. They start with
21 how much money they have and then distribute
22 it rather than how much they need and then
23 raise it.

24 But that's just the political reality
25 of funding in the education program.

1 Continuing on about North Carolina,
2 each district's allocation is determined by
3 multiplying the per child amount by the total
4 count of exceptional students.

5 And the count of exceptional children
6 with disabilities in each school district is
7 limited to 12.5. So there's essentially a cap
8 on how many kids you can identify, based on
9 the relatively arbitrary but with some
10 research-based figure of the incidence of
11 special ed in the general population.

12 The strength of the flat grant and
13 the census-based system is that it's simple to
14 administer and it really does help to contain
15 costs because it caps the identification. In
16 addition, it doesn't provide a perverse
17 incentive to classify students as special ed.
18 Because -- again, because of the cap that it
19 puts on the special ed count.

20 Unfortunately, the system doesn't
21 really cover the total cost of special ed
22 services because you're starting with what you
23 have instead of what you need and then
24 divvying that up.

25 The system may not take into account

1 varying percentages of special ed students
2 across the state. And as far as I know, in
3 most states, there's not much chance for
4 adjustment of that formula.

5 As I said, the federal funding under
6 the original IDEA was based on a flat grant
7 system in which federal aid to states was
8 based on each state's count of the number of
9 children with disabilities who were receiving
10 special ed programs and services, up to 12
11 percent of the state school-age population.

12 Under the amendments of 1997, the
13 federal funding formula changed and
14 essentially said we're going to take the
15 amount we've provided you with this year, the
16 4.9 billion, we'll distribute that based on
17 the old formula, and then the money addition
18 -- on top of the 4.9 billion will be
19 distributed on a different formula, and that
20 formula was based on total student enrollment
21 and poverty and applies to any new monies
22 above the \$4.9 billion base that's still
23 distributed by the old formula.

24 So it doesn't get any more clear. It
25 only gets murkier and muddier as we go on.

1 This is another layer of onion added on the
2 federal formula.

3 But you have to give the Feds credit,
4 and I rarely do that, because essentially what
5 they were trying to do is keep
6 overidentification at a minimum and not reward
7 states for overidentifying special ed students
8 at the 13, 14, 15 percent level, which was
9 inherently rewarding to some school
10 districts.

11 Moving on, we have the percent
12 reimbursement formula that was used in seven
13 states in the year -- school year '99/2000.
14 Under the percent reimbursement system, the
15 districts were reimbursed for a certain
16 percentage of allowable special education
17 expenditures. So it's somewhat based on how
18 much they spent, not how much they estimate.

19 In some cases, the state pays for all
20 allowable cases, not many cases; and in others
21 the state pays for some portion of the
22 allow -- allowable expenditures.

23 A good example of that is in
24 Michigan, on the next slide, which reimburses
25 their school districts at 28.6138 percent of

1 total approved costs.

2 Don't ask me where that number came
3 from. I haven't got a clue. It probably came
4 from the same place the 40 percent number came
5 from, which was over here. My guess is what
6 it came from is how much money they had and --
7 and -- and worked backwards to figure out what
8 percentage would be reimbursable to the
9 districts.

10 The total approved direct special ed
11 costs, plus the indirect costs for the
12 operation and maintenance, up to 15 percent of
13 the direct costs are calculated. So, you
14 know, it's relatively complex, but it is based
15 on spending.

16 The strength of the reimbursement
17 system is that local districts are not
18 burdened with excessive costs associated with
19 special ed, because they're actually getting
20 reimbursed on some basis.

21 Unfortunately, the system doesn't
22 promote any type of efficiencies and may, in
23 fact, promote inefficiencies. For example, if
24 a district were reimbursed 90 percent by all
25 costs -- for all costs by the state, would it

1 act in a fiscally prudent manner or would it
2 inflate some of its services that they
3 provide?

4 This system is administratively
5 burdensome and really not linked to student
6 outcomes and is not particularly clear or have
7 face validity, I would say, when you look at
8 it.

9 Moving on to the resource-based. A
10 resource-based approach, which was used in 12
11 states at the time of this last survey, pays
12 for specific resources such as teachers or
13 classroom units.

14 It's a -- and it looks and says for
15 this type of kid you need a teacher ratio of
16 five to one or for this type of special needs
17 kid you need a teacher ratio of ten to one.

18 The resource funding --
19 resource-based funding systems often provide
20 specific guidelines for the types of resources
21 that funds are to be used to obtain, such as
22 teachers, aides, or equipment. So you have a
23 handy dandy formula.

24 A good example of a state that has
25 used this system is Delaware which administers

1 a special education reimbursement program
2 based on enrollment units. These units are
3 calculated by the state board and are based on
4 the total enrollment in the district as of the
5 last day of September in every year.

6 The sum of all units of all programs
7 in the district are multiplied by 93 percent,
8 which becomes the district's guaranteed unit
9 count.

10 And the following page gives you an
11 idea of the ratios. These are just
12 student/teacher ratios that the state uses to
13 determine how much of that resource is going
14 to be needed to treat that particular kid.

15 The strength of the resource system,
16 which is similar to the pupil weight system,
17 is that it ensures specific levels of
18 resources. The weaknesses, there's very
19 little sound research on what is actually
20 needed and what is an actual appropriate ratio
21 of student to teacher in various and sundry
22 disabilities.

23 In addition, the funding for specific
24 resources may limit the flexibility of
25 expenditures at the local level.

1 Finally, we have one that's sort of a
2 hybrid. It's a new policy option. This one
3 allows sufficient resources to be provided
4 without providing the perverse incentives of
5 classifying students with specific disorders
6 in order to receive additional funding.

7 Under this system the services that a
8 student needs are identified within the IEP
9 process. These services are then provided to
10 a panel that rates the degree of the services
11 on a scale of one to five or one to ten.

12 Then each level of service is
13 assigned a funding level which is similar to a
14 pupil weight. It's within a certain range.

15 These hybrid formulas offer
16 significant differences between this approach
17 and the pupil weights.

18 First, the funding of special ed
19 services is placement neutral and does not
20 classify, nor stigmatize, students with a
21 specific disorder and it really reduces the
22 sort of perverse incentives for districts to
23 classify a student with a specific disorder
24 and then not spend the money on those
25 resources for that kid.

1 A couple of states that use these
2 sort of combination approaches, different
3 aspects of the funding formulas, is Missouri
4 and Vermont. Different components of their
5 special education finance systems are governed
6 by differing bases of allocation.

7 In Missouri, half of their funding
8 formula is governed by a resource-based
9 approach and the other half is governed by a
10 flat grant approach. It's sort of like a mini
11 federal formula.

12 In Vermont, some finance components
13 are governed by a percent reimbursement
14 formula and others by a flat grant formula.
15 So they've then aspects of both that appeal to
16 them.

17 And the next two slides are a list of
18 the states taken from the Center for Special
19 Education Finance that summarizes the survey
20 that they did for the '99/2000 school year and
21 gives us the kind of formula that's used by
22 each state and when that was implemented or
23 changed the last time in the far right
24 column.

25 And you have in your -- in the hard

1 copy that I provided to the committee a
2 one-pager with all the states on it and the
3 different kinds of funding formulas they use.

4 Keep in mind -- again, I apologize --
5 this is old information, but it's so expensive
6 to try and do this that I -- the researchers
7 usually do it once every ten years or so if
8 you're lucky.

9 What are you looking for when you try
10 to determine the validity of your formula for
11 distributing special education funds? Well,
12 essentially -- and I won't go through all of
13 these, because if you go through the first
14 couple of them, you'll realize,
15 understandable, equitable, adequate,
16 predictable, flexible, this is just the same
17 criteria that you would use when you're
18 evaluating your K-12 system.

19 It's expanded a little by the
20 researchers who did this, but it gives you
21 some of the -- some clue as to what categories
22 and what evaluation levels you would use to
23 determine what -- what you got -- if what
24 you've got is what you need.

25 So in summary, I would repeat the

1 onion example. When you try to figure out
2 what you got, it's like peeling a onion. When
3 you try to figure out what you need, I don't
4 know what it's like, but it's not an easy task
5 for anyone.

6 You might want -- your first question
7 that I anticipate is which one of these
8 formulas is going to be best for your state,
9 and I can already tell you in advance that I
10 won't give you an answer to that.

11 I suggest that you look -- you and
12 your staff take a look at the chart of states
13 that were in the same category as Pennsylvania
14 when this last survey was done and try and
15 figure out and maybe just do an informal phone
16 survey of those states that are in the same
17 formula to find out where the other states
18 have moved to and what their experience has
19 been with those.

20 Ask the school finance experts -- and
21 there's not very many of them. I mean school
22 finance experts on K-12 are pretty limited.
23 School finance experts on special ed are sort
24 of a subset of a limited set, but it's
25 essentially many of the same people that you

1 probably dealt with on your funding formula
2 have had some experience with the special ed
3 formulas and they, along with people like Tom
4 Cham -- Tom Chambers who did this report on
5 the costing-out study, are probably going to
6 be more help than I could be in telling you
7 what you need. I can only describe what's out
8 there right now.

9 And then finally in your handout, as
10 I said, there's a three-page IDEA glossary
11 because you're going to need it over the next
12 any-number-of-months that you're dealing with
13 this issue, and I wish you all the luck in the
14 world in trying to resolve this.

15 SUBCOMMITTEE CHAIR McILVAINE SMITH:

16 Do you have questions? Any questions?

17 REPRESENTATIVE RAPP: Thank you,
18 Mr. Shreve, for being here today. I thought I
19 was getting a headache there looking at all
20 the -- some of the figures and strengths and
21 weaknesses and everything else.

22 But, anyway, the funding formula in
23 and of itself is certainly important. We want
24 to make sure that our programs for children
25 with special needs are funded. We want to

1 make sure that we have quality teachers and
2 related services people, you know, in our
3 school districts that are providing services
4 to our children.

5 But is there any data anywhere that
6 takes a look at the outcomes that states are
7 experiencing in relationship to the funding?

8 For example, when you -- you
9 mentioned North Carolina, you know, Delaware
10 and some of the other states, but is there any
11 correlation that we could pinpoint on the
12 dollars spent to drop-out rates, to graduation
13 rates, to employment, successful transition
14 after high school, to children with
15 disabilities going on to college, to being
16 independent in adult life?

17 Is there any way that we can look at
18 data, how much states are spending, what
19 funding formula they're using, and compare
20 that to outcomes after high school for
21 children with disabilities?

22 MR. SHREVE: I think the simple
23 answer to that at this point in time is, no,
24 that data is not available.

25 The more complex issue behind that is

1 not only does -- is there -- that -- is that
2 available for special needs kids but is there
3 a correlation for general ed K-12 kids as
4 well.

5 I mean I've done a lot of work with
6 some of the K-12 finance people, and the one
7 question I ask them every time I work with
8 them is can you point to any research, any
9 hard research that actually links expenditures
10 with enhancements in achievement? And the
11 answer, by and large, is no in K-12 and my
12 guess it's probably no in special ed as well.

13 I think we all work under the
14 assumption that additional resources are going
15 to provide enhanced outcomes. But it's more
16 of a matter of faith than a matter of hard
17 research.

18 There are -- there is some research
19 available to link resource allocation with
20 additional achievement. But it's very sketchy
21 and it's certainly not very consistent. It is
22 a matter, I believe, of blind faith.

23 REPRESENTATIVE RAPP: Thank you. I
24 guess I don't have any more questions then.

25 SUBCOMMITTEE CHAIR McILVAINE SMITH:

1 Yeah. I just have one little one. I -- I
2 don't understand the difference between ADM
3 and AD --

4 MR. SHREVE: A?

5 SUBCOMMITTEE CHAIR McILVAINE SMITH:
6 Yeah. Thank you.

7 MR. SHREVE: I don't either. I'm
8 a --

9 SUBCOMMITTEE CHAIR McILVAINE SMITH:
10 Okay. Thank you.

11 MR. SHREVE: I'm sorry to be flip,
12 but it's -- I don't -- I don't understand.

13 SUBCOMMITTEE CHAIR McILVAINE SMITH:
14 Any other questions? Any questions?

15 Well, thank you so much for being
16 here today. We really appreciate your
17 testimony, and I know we're going to be really
18 looking over this.

19 MR. SHREVE: Sorry to complicate even
20 more, but I will provide some of the studies I
21 have researched to your staff so they have
22 them available for all of you.

23 SUBCOMMITTEE CHAIR McILVAINE SMITH:
24 Thank you.

25 MR. SHREVE: I particularly recommend

1 the actual expenditure study, because it gets
2 closer to answering your question, Madam
3 Co-Chair, about allocation and where we're
4 getting a bang for the buck.

5 And if I could add, there's one area
6 I forgot to mention, and I would be remiss if
7 I didn't.

8 When I was talking about federal
9 resources and the discrepancy between what's
10 been promised and what's been delivered, keep
11 in mind also -- and this is sort of an active
12 lobbying issue for NCSL -- the current
13 administration tried to zero out Medicaid
14 funding for special needs kids in the last
15 year.

16 We were able to get a rider attached
17 to one of the appropriations bills last fall
18 that actually put off this regulatory change
19 until April, I believe, or May.

20 Robert, do you know -- do you
21 remember when that thing takes place?

22 MR. STRANGE I'm not sure.

23 MR. SHREVE: But if nothing changes
24 and if the new administration doesn't act,
25 your ability to use Medicaid funds for

1 legitimate special needs kids' needs would be
2 severely cut by just a regulatory change in
3 the Medicaid regulations governing the use of
4 those funds.

5 So when I call you back and ask for
6 your help in lobbying on this issue, I know
7 you'll be very helpful -- anxious to help us.

8 SUBCOMMITTEE CHAIR McILVAINE SMITH:
9 Thank you very much, David. Appreciate it.

10 MR. SHREVE: Thank you.

11 SUBCOMMITTEE CHAIR McILVAINE SMITH:
12 And now we'll move on to Dr. Jodi King who is
13 the Chief, Nonpublic Special Education
14 Section, in Maryland.

15 Thank you for being here. Do we have
16 testimony from you? Do you have it someplace?

17 DR. KING: No.

18 SUBCOMMITTEE CHAIR McILVAINE SMITH:
19 Okay. Thank you.

20 DR. KING: Good morning. On behalf
21 of the Maryland State Department of Education,
22 Dr. Nancy Grasmick, who is our state
23 superintendent; Dr. Carol Ann Heath-Baglin,
24 who is our assistant state superintendent for
25 special education or early intervention

1 services, we'd like to take this opportunity
2 to thank you for asking us to participate in
3 this committee.

4 Funding for special education and
5 related services for Maryland students with
6 disabilities, preschool special education, and
7 infants and toddlers consists of federal,
8 state, and local funds.

9 The difference between Maryland and
10 Pennsylvania is that you have 501 districts.
11 We have 24. Logistically that makes a huge
12 difference.

13 Just as a little background, I'm
14 originally from Hershey. I am
15 Pennsylvania-trained and my back fence is the
16 Mason-Dixon line. So I still maintain at
17 least a surface level knowledge of how
18 Pennsylvania functions and how Maryland
19 differs.

20 So with 24 local jurisdictions, we
21 have 24 boards of ed, 24 superintendents, 24
22 local infant and toddler agencies, although
23 the Maryland State Department of Education is
24 the state lead agency for infants and
25 toddlers.

1 So when we need to do a meeting and
2 disseminate information and do things like
3 that, to bring 24 people together is a much
4 easier thing to do than to bring 500.

5 The federal appropriations are
6 awarded annually by the U.S. Department of
7 Education and are designated for specific
8 funding streams.

9 The federal Part B and Part C
10 pass-through money is used for the following:
11 To provide funding. For us, it's at the
12 county level. Our county level is a local
13 school system.

14 Administrative funding at the state
15 level.

16 And then discretionary funds, which
17 are made available through competitive grant
18 opportunities to each of the 24 local school
19 systems.

20 In March of each year the Maryland
21 State Department of Ed holds an annual meeting
22 with all 24 jurisdictions to provide the
23 application process for this pass-through
24 money and also for the discretionary grants
25 which support the state performance plan and

1 the annual performance targets.

2 In addition to federal funding, the
3 local school systems receive state aid in
4 accordance with state regulations.

5 In the fall of 1999 -- and this
6 corresponds with Mr. Shreve's information of
7 the '99/2000, when Maryland was flat grant,
8 the Maryland General Assembly convened a
9 committee to determine the adequacy of
10 educational funding, to review the financing
11 formulas within the state.

12 This committee is referred to as the
13 Thornton Commission.

14 The state funding formula for all
15 students attending public schools is complex
16 and is placed on a foundation program.

17 This foundation program is known as
18 the Bridge to Excellence in Public Schools Act
19 of 2002 and is based on recommendations from
20 the Thornton Commission.

21 This includes a geographic cost of
22 education index to recognize costs beyond the
23 local school systems control, including the
24 number of special education students, low
25 income, and limited English proficiency

1 students.

2 This went into effect July 1st of
3 2006. Every three years this information
4 needs to be updated to the Governor and to the
5 General Assembly. So July 1st of 2009 there
6 will be updates to that geographic information
7 to the Governor's Office.

8 Based on the Bridge to Excellence,
9 each of the 24 local school systems submits a
10 master program plan annually to the Maryland
11 State Department of Education for approval,
12 and there are teams at the state department
13 comprised of state department employees as
14 well as folks we bring in from local --
15 different local school systems.

16 There's expertise on each of these
17 panels for all of the things, including
18 special education, that are written within
19 these plans.

20 The local school systems are awarded
21 state aid for special education students.
22 However, the funds are spent at the discretion
23 of the local school system.

24 The local school systems are then
25 required at the end of each fiscal year to

1 report to the Maryland State Department of
2 Education their expenditures.

3 So there's not necessarily a direct
4 correlation in money based on special ed that
5 it goes directly to the children. If they're
6 in a general ed classroom, it is possible that
7 that funding could be used as part of that
8 general ed piece.

9 The Maryland special education costs
10 have increased from fiscal year '95 to fiscal
11 year '05. In FY '95 the state formula was
12 just over 81 million. By fiscal year '05
13 which is the last year that I have actual
14 numbers for, it was a little bit over 157
15 million.

16 An interesting component to this,
17 when the legislators were looking at changing
18 the funding formula, it was very clear that
19 they didn't want to go backwards, because they
20 inserted into our code of Maryland regulations
21 a piece that says beginning in fiscal year
22 1982 the funding level provided by the state
23 and its counties for special education and
24 related services for children with
25 disabilities may not be less than the funding

1 level for these services in fiscal year 1981.

2 For those children with a disability
3 placed in a nonpublic program -- these are
4 children whose disabilities need special ed
5 related services that cannot be provided in a
6 public, county, regional, or a state program;
7 in Maryland, the School for the Deaf and the
8 School for the Blind are state programs. They
9 are not charter schools -- shall be placed in
10 an appropriate nonpublic education program
11 that offers these services.

12 And just to give you an idea, because
13 there was some questions about nonpublic in
14 the state of Pennsylvania, I oversee the
15 budget setting process for the nonpublic
16 schools in Maryland, the approved nonpublic
17 schools. For FY '09 I have done 127 budgets.
18 127 schools.

19 And we also do the cost sheets for
20 the other agencies. If another state sets a
21 rate, we accept that. For example,
22 Pennsylvania, Devereux Woods happened to be on
23 our approved list, we accept the rates that
24 you all set for them. We've done over 200
25 cost sheets this year.

1 The cost of this nonpublic
2 educational program shall be paid by the state
3 and the county in which the child is
4 domiciled.

5 In Maryland, there's a shared cost of
6 education for these children that are in
7 nonpublic placements. The state and county
8 shall share collectively in this cost.

9 For children in nonpublic, under
10 COMAR, and it's Section 8-406, placement of a
11 child with a disability in nonpublic
12 education, the county shall contribute for
13 each placement the sum of -- we use the local
14 basic share cost and then an additional amount
15 equal to 200 percent of that basic cost, and
16 we lovingly call it the 300 percent cost.

17 But it's not as easy as taking that
18 basic and multiplying by 300 and having an
19 answer. And it is different for each of the
20 24 jurisdictions because each jurisdiction has
21 a different basic share.

22 So each year in my office with the
23 finance person we do a very complicated
24 formula that determines what that 300 percent
25 cost is going to be for the locals.

1 Then beginning in fiscal year 2007,
2 and it's written into our state statute, for
3 every subsequent fiscal year the amount of 20
4 percent of the approved cost or reimbursement
5 in excess of 300 percent is reimbursed back to
6 the local school system.

7 We do not pay the nonpublic schools
8 directly. The local school systems pay, and
9 at the end of the year I just closed out my FY
10 '08 reconciliations to reimburse the locals
11 their portion.

12 The state reimbursement share for
13 nonpublic placements in FY '95 was almost 47
14 million. I have now closed out FY '08. It's
15 upwards of a hundred and one million.

16 Transportation of a child with
17 disability is also included, and there are
18 transportation grants to the locals.

19 Each local system must provide or
20 arrange for the transportation during the
21 regular school year for each child with a
22 disability who is placed in a public school,
23 in a school maintained by a state agency,
24 which would be our Maryland School for the
25 Deaf and Blind, and some that are run by the

1 Department of Health and Mental Hygiene, and a
2 nonpublic school.

3 The local school system of a county
4 in which the child with a disability resides
5 shall certify and pay the cost of that daily
6 transportation.

7 This provides a brief summary of the
8 federal, state, and local components that make
9 up the funding for students with disabilities,
10 preschool special ed, and the provision of
11 services for infants and toddlers.

12 And we thank you for inviting
13 Maryland to be part of this today.

14 SUBCOMMITTEE CHAIR McILVAINE SMITH:
15 Thank you very much. And is there a chance
16 you could provide a copy of that to either
17 Chris Sappey or --

18 DR. KING: Yes. Yes.

19 SUBCOMMITTEE CHAIR McILVAINE SMITH:
20 Thank you. You have some questions?

21 REPRESENTATIVE RAPP: Yes.

22 SUBCOMMITTEE CHAIR McILVAINE SMITH:
23 Go ahead.

24 REPRESENTATIVE RAPP: Thank you,
25 Dr. King, for coming to Pennsylvania today and

1 bringing your testimony.

2 I just have a couple of questions.
3 And I didn't get the -- the length of time
4 that you talked about special ed costs rising
5 from 81 million to 157 million.

6 DR. KING: It was ten years.

7 REPRESENTATIVE RAPP: Ten years?

8 DR. KING: From FY '95 to FY '05.

9 REPRESENTATIVE RAPP: What was the
10 increase in cost to your regular education
11 program at that time?

12 DR. KING: I don't know the answer to
13 that, but I can get it for you.

14 REPRESENTATIVE RAPP: I just wanted
15 to compare.

16 DR. KING: I don't know.

17 REPRESENTATIVE RAPP: Just a quick
18 question. Do you have children with
19 disabilities in Delaware that are going to
20 schools out of your state?

21 DR. KING: Meaning Maryland?

22 REPRESENTATIVE RAPP: Oh, Maryland.
23 I'm sorry.

24 DR. KING: Yes, we do.

25 REPRESENTATIVE RAPP: And what's the

1 approximate number, or do you know the exact
2 number, of students that are going out of
3 Maryland?

4 DR. KING: Obviously it fluctuates on
5 a daily basis.

6 REPRESENTATIVE RAPP: Sure.

7 DR. KING: But in the state of
8 Maryland, what we do for each fiscal year that
9 comes into my office, at this point I have
10 over 4,000 children that have been placed in
11 nonpublic programs.

12 Approximately 200 are in out-of-state
13 placements. Some of these include placements
14 by other agencies, not necessarily by the
15 local school system.

16 And as with Pennsylvania, Maryland is
17 located very near Washington, D.C. There are
18 seven or eight programs in Washington, D.C.
19 that for many, many years -- they also have
20 Maryland programs. We set the rates for them
21 and Washington, D.C. actually accepts our
22 rates.

23 And because of the proximity to
24 Prince George's County and Montgomery County,
25 for many of these students -- and the majority

1 of them are day students, 98 percent of them
2 are day students -- they are closer to their
3 home by attending the school in Washington,
4 D.C. than they are attending the school in
5 Maryland.

6 The flip side of that coin is that
7 Washington, D.C. is in the same boat. There
8 are a number of children that are in nonpublic
9 schools in Maryland from the D.C. area for the
10 very same reason. The transport is much
11 closer.

12 We also have some children that
13 are -- a number of children that are at
14 AdvoServ in Delaware. There are about 40
15 Delaware children. Realizing it's two miles
16 outside of the border, we've often thought to
17 just kind of add and annex that little piece
18 of Delaware.

19 But they provide a service for a
20 number of our high-end autistic children and
21 children that have that overlay of autism,
22 mental retardation, and behavioral issues.

23 They also handle students at the ages
24 of 18 to 21, and they do it in more of a group
25 home format so we can do a transition into the

1 adult BDA, and it's a nice way to step them
2 down from the 24/7 residential kind of
3 placements.

4 REPRESENTATIVE RAPP: Do you have any
5 children who attend in Pennsylvania?

6 DR. KING: Yes.

7 REPRESENTATIVE RAPP: And what --
8 what kind of tuition -- and you can give and
9 take a few dollars, too -- are you paying
10 Pennsylvania?

11 DR. KING: Off the top of my head, I
12 can't tell you Pennsylvania specifically.
13 There's only one or two children in
14 Pennsylvania at this point.

15 REPRESENTATIVE RAPP: Just an
16 approximate amount. Just kind of seeing if we
17 equal out.

18 DR. KING: I would -- I would say the
19 programs in Pennsylvania, the residential
20 piece is about 150 and the educational piece
21 is somewhere between 50 and 60.

22 Although some of the students that
23 are out of state, I can tell you that one year
24 we had a student with -- and this is the most
25 high-end needs, actually cost a total of

1 \$450,000. And that was for residential and
2 educational placement through the IEP
3 process.

4 But there were, you know, obviously
5 many, many services that went along with
6 that.

7 We are making a concerted effort in
8 this state, as are you all, as are many
9 states, to look at the children, particularly
10 those that are not necessarily in the two mile
11 out-of-state radius, but we have children all
12 over the United States, and the impact on that
13 is not only financial to us but it's financial
14 to other agencies, if it's a co-funded
15 placement.

16 It's not just what I pay in tuition
17 or residence, but it's also flying the case
18 manager down there to visit. We would never
19 want anything to happen to the children that
20 are there. It's flying the case manager when
21 appropriate to do state assessments.

22 So there are costs that are there
23 that aren't necessarily when you just look at
24 education dollars. So we're making a
25 concerted effort.

1 The project we're meeting on tomorrow
2 is our School for the Deaf, along with our
3 DH/MH. We're looking at a pilot program to
4 bring our children who are deaf and
5 emotionally disturbed back to the state.

6 We only have three of them, but three
7 is enough to not pay another state to do it.

8 REPRESENTATIVE RAPP: Thank you very
9 much.

10 SUBCOMMITTEE CHAIR McILVAINE SMITH:
11 And I have a few questions. So are there 24
12 counties then in the state of Maryland?

13 DR. KING: It's 23 counties and
14 Baltimore city.

15 SUBCOMMITTEE CHAIR McILVAINE SMITH:
16 Okay. That's how we get to the 24.

17 DR. KING: Uh-huh.

18 SUBCOMMITTEE CHAIR McILVAINE SMITH:
19 So everybody pays their taxes to the county
20 and then the county funds the educational
21 system?

22 DR. KING: Correct.

23 SUBCOMMITTEE CHAIR McILVAINE SMITH:
24 Do you have a percentage of how many students
25 out of your total population, how many

1 students percentage-wise are identified as
2 special needs children?

3 DR. KING: I think it's somewhere
4 between 16 and 17 percent. But, you know,
5 again, the child count just came in the last
6 Friday in October, so it's not finalized.

7 SUBCOMMITTEE CHAIR McILVAINE SMITH:
8 Okay. Thank you. And I wanted to ask -- this
9 is my last question -- about when you all came
10 up with your funding formula, do you feel
11 personally that it addresses all of the
12 needs?

13 Do you feel that it is a solid way to
14 fund special education?

15 DR. KING: From conversations with
16 Dr. Heath-Baglin yesterday, when we were
17 comparing, it was definitely a move forward in
18 the right direction.

19 However, as she said, there's no way
20 to actually tie those dollars to ensure that
21 they're going for special education costs.

22 SUBCOMMITTEE CHAIR McILVAINE SMITH:
23 So if I could follow up on that. So the
24 accountability of the money being spent is not
25 really nailed down?

1 DR. KING: Correct. It comes to us
2 after the expenditures, so that we know where
3 they spent the dollars. But when it goes out
4 to the local school systems, they have the
5 discretion where they're going to spend those
6 dollars.

7 SUBCOMMITTEE CHAIR McILVAINE SMITH:
8 That's right. I do remember you saying that.

9 DR. KING: Now, it is somewhat
10 monitored by the fact they do the Bridge to
11 Excellence plan that comes -- the master plan
12 that comes in every year, because they do have
13 to talk in there about their special ed
14 students, as well as their limited English
15 proficiency, their gifted students, a whole
16 variety of things that have to be touched upon
17 in there.

18 And they do have to delineate how
19 they are expecting to spend those plans -- or
20 the money through their plans.

21 SUBCOMMITTEE CHAIR McILVAINE SMITH:
22 And is there a movement that you might know of
23 in your school districts to bring special
24 needs children into the regular ed classroom
25 more and more? Do they really make a push?

1 I mentioned at the beginning of this
2 that I went to a school in -- right outside of
3 my district that really has pushed its
4 services so that the special ed teachers go
5 into the rooms to model for the other
6 teachers.

7 Do you have any schools in your state
8 that do that or strive to do that?

9 DR. KING: Absolutely. And part of
10 that has to do with changes in legislation.

11 You know, in the old days, when I
12 went to school, you know, the kids came out
13 and good luck if you could ever get
14 them mainstream -- we call it main streaming
15 them -- back into that general ed classroom.
16 Even when, often, we at the special education,
17 felt they were ready at least for some portion
18 of the day.

19 Now, instead of pulling them out and
20 trying to put them back in, the onus is on
21 that IEP team to determine the first placement
22 is in the general ed classroom and then, if
23 indeed that child's needs cannot be met there,
24 you have to justify within that IEP process
25 when you begin to pull them for more

1 restrictive environment, put those support
2 services in place, and all of those kinds of
3 things.

4 Because it's, you know, civil rights
5 they have, the right to an education. They
6 have the right to a free and appropriate
7 public education.

8 So having access to that general ed
9 curriculum is critical for all of our students
10 in special education.

11 And across the state there has been
12 that push for training and many of the other
13 things that go along with that.

14 Obviously, that has not negated the
15 continuum of services either.

16 SUBCOMMITTEE CHAIR McILVAINE SMITH:
17 And is your teacher training, in your
18 universities, are you trying to do what we're
19 just trying to do recently, is making sure
20 that all of our teachers have special ed
21 training as they come out of teacher prep
22 courses?

23 DR. KING: Yes.

24 SUBCOMMITTEE CHAIR McILVAINE SMITH:
25 Okay. And I guess this is my last question

1 then.

2 DR. KING: Okay.

3 SUBCOMMITTEE CHAIR McILVAINE SMITH:

4 It was very interesting what you said. But
5 the Bridge to Excellence, when you were
6 talking about the geographic cost of living
7 index, I think I wrote that correctly, that --
8 all of those indexes, you know, the poverty
9 and English as a second language, et cetera,
10 do you feel that that is a really viable way
11 to nail down these costs, to help address the
12 rising cost, to make sure that we're covering
13 those areas, you know, by those geographic
14 regions?

15 DR. KING: I think it's certainly
16 better than the old way where you just said X
17 number of students, X number of dollars.

18 Because the reality is, if you live
19 in Montgomery or Prince George's County
20 outside of D.C., the cost of living is much,
21 much higher than where I live in Cecil County
22 on the border of Maryland and Pennsylvania.

23 So there's a variety of things that
24 has to go into it. And that was the idea
25 behind it, was that they were looking at all

1 the different things for all children, not
2 just special education, but all of the
3 children that are educated in the public
4 schools, and trying to make it as equitable
5 and then the follow-up to that is adequate.

6 And the push for that, in essence,
7 came from the state assessment programs,
8 because they wanted every child to have access
9 to the best general ed curriculum that they
10 could.

11 SUBCOMMITTEE CHAIR McILVAINE SMITH:
12 Thank you so much, Dr. King. I appreciate you
13 being here today.

14 DR. KING: Most of the information --
15 you can see I have a huge folder here, in
16 fact, for this. If you have specific
17 questions about things, all of the information
18 that I presented from today is on the Maryland
19 State Department of Ed's website.

20 SUBCOMMITTEE CHAIR McILVAINE SMITH:
21 Excellent.

22 DR. KING: So you can Google it at
23 any of those tags and you'll be able to pull
24 up more information than you ever care to read
25 about the Thornton Commission and they

1 actually did a study that is attached to that
2 that is about 85 pages long that you can pull
3 off and read how they do it, what the results
4 were, and those kinds of things.

5 SUBCOMMITTEE CHAIR McILVAINE SMITH:
6 Thank you. If you would leave your testimony
7 with Chris, I'd appreciate it.

8 So thank you all for attending
9 today's hearing, and the conversation will
10 continue. Thank you.

11 (The hearing was adjourned at
12 10:45 a.m.)

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I hereby certify that the proceedings
and evidence are contained fully and
accurately in the notes taken by me on the
within proceedings and that this is a correct
transcript of the same.

Brenda S. Hamilton, RPR
Reporter - Notary Public