SYNOPSIS
Eliminates use of census-based funding of special education aid in school funding law.

CURRENT VERSION OF TEXT
As reported by the Senate Education Committee with technical review.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 5 of P.L.1996, c.138 (C.18A:7F-5) is amended to read as follows:

5. As used in this section, "cost of living" means the CPI as defined in section 3 of P.L.2007, c.260 (C.18A:7F-45).

a. Within 30 days following the approval of the Educational Adequacy Report, the commissioner shall notify each district of the base per pupil amount, the per pupil amounts for full-day preschool, the weights for grade level, county vocational school districts, at-risk pupils, bilingual pupils, and combination pupils, the cost coefficients for security aid and for transportation aid, [the State average classification rate and] the excess cost for general special education services pupils, [the State average classification rate and] the excess cost for speech-only pupils, and the geographic cost adjustment for each of the school years to which the report is applicable.

Annually, within two days following the transmittal of the State budget message to the Legislature by the Governor pursuant to section 11 of P.L.1944, c.112 (C.52:27B-20), the commissioner shall notify each district of the maximum amount of aid payable to the district in the succeeding school year pursuant to the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.), and shall notify each district of the district's adequacy budget for the succeeding school year.

For the 2008-2009 school year and thereafter, unless otherwise specified within P.L.2007, c.260 (C.18A:7F-43 et al.), aid amounts payable for the budget year shall be based on budget year pupil counts, which shall be projected by the commissioner using data from prior years. Adjustments for the actual pupil counts of the budget year shall be made to State aid amounts payable during the school year succeeding the budget year. Additional amounts payable shall be reflected as revenue and an account receivable for the budget year.

Notwithstanding any other provision of this act to the contrary, each district's State aid payable for the 2008-2009 school year, with the exception of aid for school facilities projects, shall be based on simulations employing the various formulas and State aid amounts contained in P.L.2007, c.260 (C.18A:7F-43 et al.). The commissioner shall prepare a report dated December 12, 2007 reflecting the State aid amounts payable by category for each

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
district and shall submit the report to the Legislature prior to the adoption of P.L.2007, c.260 (C.18A:7F-43 et al.). Except as otherwise provided pursuant to this subsection and paragraph (3) of subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47), the amounts contained in the commissioner's report shall be the final amounts payable and shall not be subsequently adjusted other than to reflect the phase-in of the required general fund local levy pursuant to paragraph (4) of subsection b. of section 16 of P.L.2007, c.260 (C.18A:7F-58) and to reflect school choice aid to which a district may be entitled pursuant to section 20 of that act. The projected pupil counts and equalized valuations used for the calculation of State aid shall also be used for the calculation of adequacy budget, local share, and required local share. For 2008-2009, extraordinary special education State aid shall be included as a projected amount in the commissioner's report dated December 12, 2007 pending the final approval of applications for the aid. If the actual award of extraordinary special education State aid is greater than the projected amount, the district shall receive the increase in the aid payable in the subsequent school year pursuant to the provisions of subsection c. of section 13 of P.L.2007, c.260 (C.18A:7F-55). If the actual award of extraordinary special education State aid is less than the projected amount, other State aid categories shall be adjusted accordingly so that the district shall not receive less State aid than as provided in accordance with the provisions of sections 5 and 16 of P.L.2007, c.260 (C.18A:7F-47 and C.18A:7F-58).

In the event that the commissioner determines, following the enactment of P.L.2007, c.260 (C.18A:7F-43 et al.) but prior to the issuance of State aid notices for the 2008-2009 school year, that a significant district-specific change in data warrants an increase in State aid for that district, the commissioner may adjust the State aid amount provided for the district in the December 12, 2007 report to reflect the increase.

b. Each district shall have a required local share. For districts that receive educational adequacy aid pursuant to subsection b. of section 16 of P.L.2007, c.260 (C.18A:7F-58), the required local share shall be calculated in accordance with the provisions of that subsection.

For all other districts, the required local share shall equal the lesser of the local share calculated at the district's adequacy budget pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51), or the district's budgeted local share for the prebudget year.

In order to meet this requirement, each district shall raise a general fund tax levy which equals its required local share.

No municipal governing body or bodies or board of school estimate, as appropriate, shall certify a general fund tax levy which does not meet the required local share provisions of this section.
c. Annually, on or before March 4, or on or before March 20 in
the case of a school district with an annual school election in
November, each district board of education shall adopt, and submit
to the commissioner for approval, together with such supporting
documentation as the commissioner may prescribe, a budget that
provides for a thorough and efficient education. Notwithstanding
the provisions of this subsection to the contrary, the commissioner
may adjust the date for the submission of district budgets if the
commissioner determines that the availability of preliminary aid
numbers for the subsequent school year warrants such adjustment.

Notwithstanding any provision of this section to the contrary, for
the 2005-2006 school year each district board of education shall
submit a proposed budget in which the advertised per pupil
administrative costs do not exceed the lower of the following:

(1) the district's advertised per pupil administrative costs for the
2004-2005 school year inflated by the cost of living or 2.5 percent,
whichever is greater; or

(2) the per pupil administrative cost limits for the district's
region as determined by the commissioner based on audited
expenditures for the 2003-2004 school year.

The executive county superintendent of schools may disapprove
the school district's 2005-2006 proposed budget if he determines
that the district has not implemented all potential efficiencies in the
administrative operations of the district. The executive county
superintendent shall work with each school district in the county
during the 2004-2005 school year to identify administrative
inefficiencies in the operations of the district that might cause the
superintendent to reject the district's proposed 2005-2006 school
year budget.

For the 2006-2007 school year and each school year thereafter,
each district board of education shall submit a proposed budget in
which the advertised per pupil administrative costs do not exceed
the lower of the following:

(1) the district's prior year per pupil administrative costs; except
that the district may submit a request to the commissioner for
approval to exceed the district's prior year per pupil administrative
costs due to increases in enrollment, administrative positions
necessary as a result of mandated programs, administrative
vacancies, nondiscretionary fixed costs, and such other items as
defined in accordance with regulations adopted pursuant to section
7 of P.L.2004, c.73. In the event that the commissioner approves a
district's request to exceed its prior year per pupil administrative
costs, the increase authorized by the commissioner shall not exceed
the cost of living or 2.5 percent, whichever is greater; or

(2) the prior year per pupil administrative cost limits for the
district's region inflated by the cost of living or 2.5 percent,
whichever is greater.

(2) (Deleted by amendment, P.L.2007, c.260).

(3) (Deleted by amendment, P.L.2007, c.260).

(4) Any debt service payment made by a school district during the budget year shall not be included in the calculation of the district's adjusted tax levy.


(7) (Deleted by amendment, P.L.2004, c.73).

(8) (Deleted by amendment, P.L.2010, c.44)

(9) Any district may submit at the annual school budget election, in accordance with subsection c. of section 4 of P.L.2007, c.62 (C.18A:7F-39), a separate proposal or proposals for additional funds, including interpretive statements, specifically identifying the program purposes for which the proposed funds shall be used, to the voters, who may, by voter approval, authorize the raising of an additional general fund tax levy for such purposes. In the case of a district with a board of school estimate, one proposal for the additional spending shall be submitted to the board of school estimate. Any proposal or proposals submitted to the voters or the board of school estimate shall not: include any programs and services that were included in the district's prebudget year net budget unless the proposal is approved by the commissioner upon submission by the district of sufficient reason for an exemption to this requirement; or include any new programs and services necessary for students to achieve the thoroughness standards established pursuant to subsection a. of section 4 of P.L.2007, c.260 (C.18A:7F-46).

The executive county superintendent of schools may prohibit the submission of a separate proposal or proposals to the voters or board of school estimate if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district, which efficiencies would eliminate the need for the raising of an additional general fund tax levy.

(10) Notwithstanding any provision of law to the contrary, if a district proposes a budget with a general fund tax levy and equalization aid which exceed the adequacy budget, the following statement shall be published in the legal notice of public hearing on the budget pursuant to N.J.S.18A:22-28, posted at the public hearing held on the budget pursuant to N.J.S.18A:22-29, and printed on the sample ballot required pursuant to section 10 of P.L.1995, c.278 (C.19:60-10):

"Your school district has proposed programs and services in addition to the core curriculum content standards adopted by the State Board of Education. Information on this budget and the
programs and services it provides is available from your local school district.”

(11) Any reduction that may be required to be made to programs and services included in a district’s prebudget year net budget in order for the district to limit the growth in its budget between the prebudget and budget years by its tax levy growth limitation as calculated pursuant to sections 3 and 4 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39), shall only include reductions to excessive administration or programs and services that are inefficient or ineffective.

e. (1) Any general fund tax levy rejected by the voters for a proposed budget that includes a general fund tax levy and equalization aid in excess of the adequacy budget shall be submitted to the governing body of each of the municipalities included within the district for determination of the amount that should be expended notwithstanding voter rejection. In the case of a district having a board of school estimate, other than a Type II district with a board of school estimate in which the annual election is in November, the general fund tax levy shall be submitted to the board for determination of the amount that should be expended. If the governing body or bodies or board of school estimate, as appropriate, reduce the district's proposed budget, the district may appeal any of the reductions to the commissioner on the grounds that the reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. In considering the appeal, the commissioner shall consider enrollment increases or decreases within the district; the history of voter approval or rejection of district budgets; the impact on the local levy; and whether the reductions will impact on the ability of the district to fulfill its contractual obligations. A district may not appeal any reductions on the grounds that the amount is necessary for a thorough and efficient education.

(2) Any general fund tax levy rejected by the voters for a proposed budget that includes a general fund tax levy and equalization aid at or below the adequacy budget shall be submitted to the governing body of each of the municipalities included within the district for determination of the amount that should be expended notwithstanding voter rejection. In the case of a district having a board of school estimate, other than a Type II district with a board of school estimate in which the annual election is in November, the general fund tax levy shall be submitted to the board for determination. Any reductions may be appealed to the commissioner on the grounds that the amount is necessary for a thorough and efficient education or that the reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. In considering the appeal, the commissioner shall also consider the factors outlined in paragraph (1) of this subsection.
In addition, the municipal governing body or board of school
estimate shall be required to demonstrate clearly to the
commissioner that the proposed budget reductions shall not
adversely affect the ability of the school district to provide a
thorough and efficient education or the stability of the district given
the need for long term planning and budgeting.

(3) In lieu of any budget reduction appeal provided for pursuant
to paragraphs (1) and (2) of this subsection, the State board may
establish pursuant to the "Administrative Procedure Act," P.L.1968,
c.410 (C.52:14B-1 et seq.), an expedited budget review process
based on a district's application to the commissioner for an order to
restore a budget reduction.

(4) When the voters, municipal governing body or bodies, board
of education in the case of a school district in which the annual
school election has been moved to November pursuant to subsection
a. of section 1 of P.L.2011, c.202 (C.19:60-1.1), or the board of
school estimate authorize the general fund tax levy, the district shall
submit the resulting budget to the commissioner within 15 days of
the authorization.

g. (Deleted by amendment, P.L.2007, c.260).

(cf: P.L.2013, c.280, s.1)

2. Section 2 of P.L.2007, c.260 (C.18A:7F-44) is amended to
read as follows:

2. The Legislature finds and declares that:

a. The Constitution of the State of New Jersey states that the
Legislature shall provide for the maintenance and support of a
thorough and efficient system of free public schools for the
instruction of all children in the State between the ages of five and
eighteen years. (N.J. Const. art. VIII, sec. 4, par.1).

b. The State, in addition to any constitutional mandates, has a
moral obligation to ensure that New Jersey's children, wherever
they reside, are provided the skills and knowledge necessary to
succeed. Any school funding formula should provide resources in a
manner that optimizes the likelihood that children will receive an
education that will make them productive members of society.

c. Although the Supreme Court of New Jersey has held that
prior school funding statutes did not establish a system of public
education that was thorough and efficient as to certain districts, the
Court has consistently held that the Legislature has the
responsibility to substantively define what constitutes a thorough
and efficient system of education responsive to that constitutional
requirement.

d. Every child in New Jersey must have an opportunity for an
education based on academic standards that satisfy constitutional
requirements regardless of where the child resides, and public funds
allocated to this purpose must be expended to support schools that
are thorough and efficient in delivering those educational standards. In turn, school districts must be assured the financial support necessary to provide those constitutionally compelled educational standards. Any school funding formula should provide State aid for every school district based on the characteristics of the student population and up-to-date measures of the individual district's ability to pay.

e. New Jersey's current public school funding formula, established under the provisions of the "Comprehensive Educational Improvement and Financing Act of 1996," (CEIFA) P.L.1996, c.138, has not been used to calculate State aid for public schools since the 2001-02 school year. Any new school funding formula should account for changes in enrollment and other significant developments, providing relief to those districts that have experienced substantial enrollment increases.

f. The decisions in the Abbott cases have resulted in frequent litigation and a fragmented system of funding under which limited resources cannot be distributed equitably to all districts where at-risk children reside, instead dividing the districts sharply into Abbott and non-Abbott categories for funding purposes without regard to a district's particular pupil characteristics and leading to needlessly adversarial relationships among school districts and between districts and the State.

g. In the absence of a clear, unitary, enforceable statutory formula to govern appropriations for education, crucial funding decisions are made annually, in competition for limited State resources with other needs and requirements as part of the annual budget negotiation process, utilizing many different classes and categories of aid, leading to an uncertain, unpredictable, and untenable funding situation for the State and school districts alike.

h. This act represents the culmination of five years of diligent efforts by both the Executive and Legislative branches of State government to develop an equitable and predictable way to distribute State aid that addresses the deficiencies found in past formulas as identified by the Supreme Court. Working together toward this common goal, the Department of Education and the Legislature engaged nationally recognized experts in education funding and provided significant opportunities for stakeholder involvement and public input to assist in formulating and refining a comprehensive school funding model that has been validated by experts. The formula accounts for the individual characteristics of school districts and the realities of their surroundings, including the need for additional resources to address the increased disadvantages created by high concentrations of children at-risk.

i. The formula established under this act is the product of a careful and deliberative process that first involved determining the educational inputs necessary to provide a high-quality education, including specifically addressing the supplemental needs of at-risk
students and those with limited English proficiency (LEP), and a
determination of the actual cost of providing those programs. The
formula provides adequate funding that is realistically geared to the
core curriculum content standards, thus linking those standards to
the actual funding needed to deliver that content.
j. In recognition of the unique problems and cost
disadvantages faced by districts with high concentrations of at-risk
students, it is appropriate to reflect in the formula a greater weight
as the district’s proportion of at-risk students increases. In addition,
the new formula recognizes the disadvantages of an expanded group
of students by including in the definition of at-risk those students
who qualify for free or reduced-price lunch. Expanding the
definition of at-risk students in this manner will significantly
increase the resources flowing to districts with high concentrations
of these low-income students.
k. In light of the demonstrable, beneficial results and success of
the current Abbott preschool program, it is appropriate to build
upon this success by incorporating in the formula an expanded high-
quality preschool program for all children who qualify for free and
reduced price meals in all districts. It is appropriate for the formula
to acknowledge that at-risk children do not always receive the same
educational exposure at an early age as their peers and to provide
the additional resources necessary through high-quality preschool to
prepare every child to learn and succeed.
l. It is appropriate to reflect in this formula the inherent value
of educating a child in the least restrictive environment and,
whenever possible, in that child’s neighborhood school alongside
his peers. The new funding formula should provide incentives for
keeping classified students in district.
m. It is also appropriate to recognize in the formula the need for
all schools to incorporate effective security measures, which may
vary from district to district depending upon the at-risk student
population and other factors, and to provide categorical funding to
address these important requirements.
n. [In recognition of the potentially wide variability in special
education costs, even for the same category of disability, from
district to district, it is appropriate for the new funding formula to
mitigate the impact of that variability by establishing a census
model based on the actual Statewide average excess cost of
educating special education students and by providing for an
increase in State aid for extraordinary costs incurred by districts.]
(Deleted by amendment, P.L. , c. ) (pending before the
Legislature as this bill)
o. It is imperative that any new school funding formula work in
conjunction with the key school accountability measures that have
been enacted in recent years to promote greater oversight,
transparency, and efficiency in the delivery of educational services.
These accountability measures include the New Jersey Quality

p. Together with a renewed legislative focus on and commitment to providing sufficient means to maintain and support a high-quality system of free public schools in the State, a new funding formula supported by significantly increased State resources will ensure compliance with all statutory and constitutional mandates. Districts that were formerly designated as Abbott districts will be provided sufficient resources to continue those Court-identified programs, positions, and services that have proven effective while being provided the flexibility to shift resources and programmatic focus based on the needs of their students and current research.

q. The time has come for the State to resolve the question of the level of funding required to provide a thorough and efficient system of education for all New Jersey school children. The development and implementation of an equitable and adequate school funding formula will not only ensure that the State's students have access to a constitutional education as defined by the core curriculum content standards, but also may help to reduce property taxes and assist communities in planning to meet their educational expenses. The development of a predictable, transparent school funding formula is essential for school districts to plan effectively and deliver the quality education that our citizens expect and our Constitution requires.

(cf: P.L.2007, c.260, s.2)

3. Section 4 of P.L.2007, c.260 (C.18A:7F-46) is amended to read as follows:

4. a. The State Board of Education shall review and update the core curriculum content standards every five years. The standards shall ensure that all children are provided the educational opportunity needed to equip them for the role of citizen and labor market competitor.

The Commissioner of Education shall develop and establish, through the report issued pursuant to subsection b. of this section, efficiency standards which define the types of programs, services, activities, and materials necessary to achieve a thorough and efficient education.

b. By September 1 of 2010 and by September 1 every three years thereafter, the Governor, after consultation with the commissioner, shall recommend to the Legislature through the issuance of the Educational Adequacy Report for the three school years to which the report is applicable:
(1) the base per pupil amount based upon the core curriculum content standards established pursuant to subsection a. of this section;
(2) the per pupil amounts for full-day preschool;
(3) the weights for grade level, county vocational school districts, at-risk pupils, bilingual pupils, and combination pupils;
(4) the cost coefficients for security aid and transportation aid;
(5) [the State average classification rate for general special education services pupils and for speech-only pupils;] (Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill)
(6) the excess cost for general special education services pupils and for speech-only pupils; and
(7) the extraordinary special education aid thresholds.

The base per pupil amount, the per pupil amounts for full-day preschool, the excess costs for general special education services pupils and for speech-only pupils, and the cost-coefficients for security aid and transportation aid shall be adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.

The amounts shall be deemed approved for the three successive fiscal years beginning from the subsequent July 1, unless between the date of transmittal and the subsequent November 30, the Legislature adopts a concurrent resolution stating that the Legislature is not in agreement with all or any specific part of the report. The concurrent resolution shall advise the Governor of the Legislature's specific objections to the report and shall direct the commissioner to submit to the Legislature a revised report which responds to those objections by January 1.

(cf: P.L.2007, c.260, s.4)

4. Section 9 of P.L.2007, c.260 (C.18A:7F-51) is amended to read as follows:
9. a. The adequacy budget for each school district and county vocational school district shall be calculated as follows:
AB = (BC + AR Cost + LEP Cost + COMB Cost + [SE Census] SE Cost) x GCA

where
BC is the district's or county vocational school district's base cost as calculated pursuant to section 8 of this act;
AR Cost is the cost of providing educational and other services for at-risk pupils as calculated pursuant to subsection b. of this section;
LEP Cost is the cost of providing educational and other services for bilingual education pupils as calculated pursuant to subsection c. of this section;
COMB Cost is the cost of providing educational and other services for pupils who are both at-risk and bilingual as calculated pursuant to subsection d. of this section; [SE Census] SE Cost is the cost of providing programs and services to general special education services pupils and speech-only pupils as calculated pursuant to subsection e. of this section; and GCA is geographic cost adjustment. The GCA shall be the geographic cost adjustment developed by the commissioner and revised by the commissioner every five years in accordance with receipt of census data.

b. AR Cost shall be calculated as follows:
AR Cost = BPA x ARWENR x AR Weight where
BPA is the base per pupil amount; ARWENR is the weighted enrollment for at-risk pupils of the school district or county vocational school district, which shall not include combination pupils; and AR Weight is the at-risk weight. For the 2008-2009 through 2010-2011 school years the at-risk weight shall be as follows:
for a district in which the concentration of at-risk pupils is less than 20% of resident enrollment, the at-risk weight shall equal 0.47; for a district in which the concentration of at-risk pupils is equal to 20% but less than 60% of resident enrollment, the at-risk weight shall equal the district's ((at-risk % - 0.20) x 0.25) + 0.47; and for a district in which the concentration of at-risk pupils is equal to or greater than 60% of resident enrollment, the at-risk weight shall equal 0.57.
For subsequent school years, the AR weight shall be established in the Educational Adequacy Report.

c. LEP Cost shall be calculated as follows:
LEP Cost = BPA x LWENR x LEP Weight where
BPA is the base per pupil amount; LWENR is the weighted enrollment for the bilingual education pupils of the school district or county vocational school district, which shall not include combination pupils; and LEP Weight is the bilingual pupil weight. For the 2008-2009 through 2010-2011 school years the LEP weight shall be 0.5. For subsequent school years, the LEP weight shall be established in the Educational Adequacy Report.
d. COMB Cost shall be calculated as follows:
COMB Cost = BPA x CWENR x (AR Weight + COMB Weight) where
BPA is the base per pupil amount; CWENR is the weighted enrollment for pupils who are both at-risk and bilingual;
AR Weight is the at-risk weight; and
COMB Weight is the combination pupil weight.
For the 2008-2009 through 2010-2011 school years the COMB weight shall be 0.125. For subsequent school years, the COMB weight shall be established in the Educational Adequacy Report.

e. SE Census] SE Cost shall be calculated as follows:
(SE Census] SE Cost = (RE x SEACR) SEENR x AEC x 2/3) + (RE x SACR) SPEONLY x SEC)
where
(RE is the resident enrollment of the school district or county vocational school district;
SEACR is the State average classification rate for general special education services pupils];
SEENR is the number of general special education services pupils included in the school district’s or county vocational school district’s resident enrollment;
AEC is the excess cost for general special education services pupils;
SACR is the State average classification rate for speech-only pupils;
SPEONLY is the number of speech-only pupils included in the school district’s or county vocational school district’s resident enrollment; and
SEC is the excess cost for speech-only pupils.
(For the 2008-2009 through 2010-2011 school years the State average classification rate shall be 14.69% for general special education services pupils and 1.897% for speech-only pupils. For subsequent school years, the State average classification rates shall be established in the Educational Adequacy Report.]}
For the 2008-2009 school year the excess cost shall be $10,898 for general special education services pupils and $1,082 for speech-only pupils. The excess cost amounts shall be adjusted by the CPI in the 2009-2010 and 2010-2011 school years as required pursuant to subsection b. of section 4 of this act. For subsequent school years, the excess cost amounts shall be established in the Educational Adequacy Report, with the amounts adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.
(cf: P.L.2007, c.260, s.9)

5. Section 13 of P.L.2007, c.260 (C.18A:7F-55) is amended to read as follows:
13. a. Special education categorical aid for each school district and county vocational school district shall be calculated as follows:
SE = (RE x SEACR) SEENR x AEC x 1/3) x GCA
[RE is the resident enrollment of the school district or county vocational school district;
SEACR is the State average classification rate for general special education services pupils]
SEENR is the number of general special education services pupils included in the school district’s or county vocational school district’s resident enrollment;
AEC is the excess cost for general special education services pupils; and
GCA is the geographic cost adjustment as developed by the commissioner.

For the 2008-2009 school year the excess cost shall be $10,898 for general special education services pupils. The excess cost amount shall be adjusted by the CPI in the 2009-2010 and 2010-2011 school years as required pursuant to subsection b. of section 4 of this act. For subsequent school years, the excess cost amount shall be established in the Educational Adequacy Report, with the amount adjusted by the CPI for each of the two school years following the first school year to which the report is applicable.

b. Extraordinary special education aid for an individual classified pupil shall be available when the student is educated in a general education classroom, special education program, including but not limited to a resource program or special class program, or any combination of general education and special education programs and services, subject to the requirements and thresholds set forth in this section.

(1) In those instances in which a pupil is educated in an in-district public school program with non-disabled peers, whether run by a public school or by a private school for the disabled, and the cost of providing direct instructional and support services for an individual classified pupil exceeds $40,000, for those direct instructional and support services costs in excess of $40,000 a district shall receive extraordinary special education State aid equal to 90% of the amount of that excess in accordance with the provisions of paragraph (4) of this subsection.

(2) In those instances in which a pupil is educated in a separate public school program for students with disabilities and the cost of providing direct instructional and support services for an individual classified pupil exceeds $40,000, for those direct instructional and support services costs in excess of $40,000 a district shall receive extraordinary special education State aid equal to 75% of the amount of that excess in accordance with the provisions of paragraph (4) of this subsection.

(3) In those instances in which a pupil is educated in a separate private school for students with disabilities and the tuition for an individual classified pupil exceeds $55,000, for tuition costs in excess of $55,000 a district shall receive extraordinary special
education State aid equal to 75% of the amount of that excess in accordance with the provisions of paragraph (4) of this subsection.

(4) Extraordinary special education State aid for an individual classified pupil shall be calculated as follows:

\[ EA = ((ADC - $40,000) \times 0.90) + (((AIC - $40,000) + (ASC - $55,000)) \times 0.75) \]

where

ADC equals the district's actual cost for the direct instructional and support services in an in-district public school program as set forth in paragraph (1) of this subsection;

AIC equals the district's actual cost for direct instructional and support services in a separate public school program as set forth in paragraph (2) of this subsection; and

ASC equals the district's actual cost for tuition paid to a separate private school as set forth in paragraph (3) of this subsection.

(5) The receipt of extraordinary special education State aid for an individual classified pupil shall be conditioned upon a demonstration by the district that the pupil's Individualized Education Plan requires the provision of intensive services, pursuant to factors determined by the commissioner.

c. In order to receive funding pursuant to this section, a district shall file an application with the department that details the expenses incurred on behalf of the particular classified pupil for which the district is seeking reimbursement. Additional State aid awarded for extraordinary special education costs shall be recorded by the district as revenue in the current school year and paid to the district in the subsequent school year.

d. A school district may apply to the commissioner to receive emergency special education aid for any classified pupil who enrolls in the district prior to March of the budget year and who is in a placement with a cost in excess of $40,000 or $55,000, as applicable. The commissioner may debit from the student's former district of residence any special education aid which was paid to that district on behalf of the student.

e. The department shall review expenditures of federal and State special education aid by a district in every instance in which special education monitoring identifies a failure on the part of the district to provide services consistent with a pupil's Individualized Education Plan.

f. [The commissioner shall commission an independent study of the special education census funding methodology to determine if adjustments in the special education funding formulas are needed in future years to address the variations in incidence of students with severe disabilities requiring high cost programs and to make recommendations for any such adjustments. The study and recommendations shall be completed by June 30, 2010.] (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)
g. A school district may apply to the commissioner to receive additional special education categorical aid if the district has an unusually high rate of low-incidence disabilities, such as autism, deaf/blindness, severe cognitive impairment, and medically fragile. In applying for the aid the district shall: demonstrate the impact of the unusually high rate of low-incidence disabilities on the school district budget and the extent to which the costs to the district are not sufficiently addressed through special education aid and extraordinary special education aid; and provide details of all special education expenditures, including details on the use of federal funds to support those expenditures. (Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill) (cf: P.L.2007, c.260, s.13)

6. This act shall take effect immediately and shall first apply to the first full school year following the date of enactment.