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**TESTIMONY OF PROFESSOR PAUL L. TRACTENBERG  
TO THE ASSEMBLY EDUCATION COMMITTEE REGARDING THE  
NEWJERSEY DEPARTMENT OF EDUCATION'S  
*REPORT ON THE COST OF EDUCATION*  
January 22, 2007**

Good afternoon. I am Professor Paul L. Tractenberg, Founding Director of the Rutgers-Newark Institute on Education Law and Policy. Thank you for this opportunity to present testimony on the Department's *Report on the Cost of Education*, which was released on Tuesday, December 12 and "updated" just this past Friday by the release of additional school cost tables.

I testified about the report on December 18 at one of the Department's public hearings, and was sharply critical about both the process the Department used and the substance of the report. As I have continued to review the report and looked at the reactions to it of independent experts, I have become even more deeply concerned. My bottom line is that the Department's report falls so far short of a good study that it cannot possibly be the basis of a good new school funding law. In my judgment, the only responsible thing for us to do is to start over with a new, carefully devised and developed study. In my testimony to the Department I described in some detail how such a new study should be carried out and I am happy to share that testimony with you.

A likely alternative, if the Legislature devises a new school funding formula and law based on the Department's cost study, is a statute falling far short of constitutional requirements, as New Jersey's last five school funding laws have. It is far better for the Legislature to do it right the first time, than for the courts to become deeply involved in enforcing the constitutional right of all the state's students to a "thorough and efficient" education.

Today I want to focus my brief remarks on three points. First, the **Department's newly released school cost materials** not only fail to correct the report's problems, they actually exacerbate them. As with the report itself, the Department has issued the additional materials just a few days before the next set of hearings, making it extremely difficult, if not impossible, for the public to evaluate and respond to this new input.

Based on a very quick review this morning, I find that the Department's new tables raise far more problems than they answer. Let me mention just a few.

In the introduction to these "updated" (or is it new) tables, the Department indicates that they are designed to reflect 2005-6 costs. It also indicates that the Department and APA "decided to re-evaluate the weights associated with special needs populations and to recalculate the formulas that are needed to estimate the costs associated..." Another purpose of the new tables is "correcting some calculation errors discovered during the price updating." The Department fails to indicate why it decided to undertake this re-evaluation or what the basis is for the new numbers for special needs students. Although the Department regularly invokes the Professional Judgment Panels as the basis for its costing out work, since the PJPs only met once and that was in early 2003 it is hard to imagine exactly how their work informed the re-evaluations issued last Friday.

Even a quick perusal of the new numbers raises many issues. Why, for example, are the increases by far the greatest for "mild" (now called "speech" impaired) special education students as compared to all other categories of special needs students, including at-risk and ELL?

A second point I want to stress is that **the Department's costing-out work falls far short of national best practices.** This is particularly ironic since APA—Augenblick, Palaich and Associates—is responsible for some of the best work nationally in other states, but not NJ where the entire approach has kept excessive control in the hands of the Department and has given too little independence to the experts. A recent letter to Commissioner Davy by Professor Margaret Goertz of the University of Pennsylvania very succinctly, but powerfully, identifies the defects in the Department's work. I urge you to look at Professor Goertz's authoritative opinion, if you have not already done so.

Finally, I want to bring to your attention the excellent report just prepared by Dr. Ernest Reock for IELP. The report suggests that, if the State had fully funded CEIFA for the past five years, the current property crisis might have been averted. It suggests that poor non-Abbott districts, mid-wealth districts and even wealthy districts would have received \$846 million in additional state education aid during 2005-6, enabling them to increase school spending, reduce property taxes or do some of both. The import of Dr. Reock's report is that **a more fully funded CEIFA might serve as an effective interim funding approach** until the Legislature can devise a good new school funding system based on a high-quality new costing-out study.

Thank you for considering my initial reactions and recommendations. As always, the Institute on Education Law and Policy and I personally stand ready to assist the Legislature, the Department of Education and the state in whatever way we can to help you seize this important opportunity to do right by all our children.