SENATE, No. 182

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Requires 100 percent of State aid for certain special education students be calculated as categorical aid.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning special education categorical State aid and amending P.L.2007, c.260.

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

1. 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) 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 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

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 <u>thus</u> is new matter.

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 shall be calculated as follows:

SE Census = **[**(RE x SEACR x AEC x 2/3) +**]** (RE x SACR 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;

AEC is the excess cost for general special education services pupils;**]**

SACR is the State average classification rate for speech-only pupils; 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**]** <u>rate</u> 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] 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 [amounts] amount 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)

2. 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 x AEC [x 1/3]) x GCA

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;

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) x .90) + (((AIC - $40,000) + (ASC - $55,000)) x .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.

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.

(cf: P.L.2007, c.260, s.13)

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

STATEMENT

Under the provisions of the “School Funding Reform Act of 2008” (SFRA), P.L.2007, c.260 (C.18A:7F-43 et al.), two-thirds of the excess cost of general special education services pupils is included in the adequacy budget, and therefore, supported on a wealth-equalized basis through equalization aid. The remaining one-third is provided as categorical aid. This bill provides that all of the excess cost of general special education services pupils will be supported through categorical special education State aid. Students who are classified as eligible for speech-only services will continue to be included in the adequacy budget and supported on a wealth-equalized basis.