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3 UNITED STATES DEPARTMENT OF EDUCATION

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5 PRESIDENT'S COMMISSION ON

6 EXCELLENCE IN SPECIAL EDUCATION

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9 FINANCE TASK FORCE HEARING

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19 MARCH 21, 2002

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21 W Los Angeles Westwood

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23 Los Angeles, California

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P R O C E E D I N G S

8:18 a.m.

DR. GILL: Good morning.

My name is Doug Gill. I am a member of the President's Commission on Excellence in Special Education and I am State Director of Special Education for the State of Washington. I welcome you to the fifth meeting of the Commission; our hearing today is led by the Commission's Finance Task Force, which I chair.

Our goal today is to closely examine the complex issues and factors relating to the financing of Special Education. However, before we get started, I would like to briefly describe the Commission's mission and activities.

President Bush established this Commission last October. His goal in creating the Commission was a simple one that can be summed up in four words: "No child left behind." The "No child left behind" message has become a familiar and important one. It is the guiding principle of the newly reauthorized Elementary and Secondary Education

1 Act; and now the phrase comes into play with the work  
2 of this Commission because, as the President has  
3 pointed out, those at the greatest risk of being left  
4 behind are children with disabilities.

5 In our work, the Commission will use the  
6 four foundation principles of the "The No Child Left  
7 Behind Act." Those principles are, one,  
8 accountability for results; two, flexibility and local  
9 control; three, expanded options for parents; and,  
10 four, use of educational practices that are based on  
11 good science.

12 The Commission is holding hearings and  
13 collecting information to study issues related to  
14 federal, state, and local Special Education programs.  
15 Ultimately, we will recommend policies to improve the  
16 educational performance of students with disabilities.

17 The Commission's work is not designed to  
18 replace the upcoming Congressional reauthorization of  
19 the Individuals with Disabilities Education Act.  
20 Rather, the report we produce and issue this summer  
21 will not only provide vital input into the  
22 reauthorization process but also into the national

1 debate on how best to educate all children.

2 The President has charged us with  
3 providing findings and recommendations in the  
4 following nine areas: One, cost-effectiveness; two,  
5 improving results; three, research; four, early  
6 intervention; five, funding; six, teacher quality and  
7 student accountability; seven, regulations and red  
8 tape; eight, models; and nine, federal versus local  
9 funding.

10 Today, we will examine three of those  
11 areas, funding, financing, and cost-effectiveness.  
12 More specifically, we will look at:

13 One, how Special Education funds are  
14 spent. While the administration is funding Special  
15 Education at record levels, it recognizes that money  
16 won't solve all the problems facing Special Education  
17 today. That means we need to look at fresh ideas  
18 about how we can better spend federal resources to  
19 improve Special Education;

20 Two, the appropriate role of the federal  
21 government in Special Education programming and  
22 funding;

1           Three, "cost drivers." We need to look  
2 closely at the factors that have contributed to the  
3 growing costs of providing Special Education services;

4           Four, federal and state regulations and  
5 red tape. We need to review the impact of regulations  
6 and red tape not only for their potential to increase  
7 costs but also because they have the potential to  
8 obstruct the ability of schools to better serve  
9 children with disabilities;

10          Five, the impact of federal IDEA funds on  
11 state and local education spending.

12          The Commission needs your suggestions to  
13 help us tackle these issues; please tell us about what  
14 works, show us the models.

15          We will have a public comment period this  
16 afternoon to ensure that everyone has the chance to  
17 provide us with the input. As we examine these  
18 issues, I hope we can bear in mind that our goal is to  
19 do what's best for children, not what's best for the  
20 system or what's best for one government agency or  
21 another.

22          As Secretary Paige said at the



1 Commission's first hearing in January, "The way we  
2 educate our children reveals our character. Let's  
3 show strong character. No American should be  
4 satisfied until every American child is learning."

5 Thank you for your interest in the  
6 Commission; we appreciate everyone who has taken time  
7 to attend our meeting. We will now open today's  
8 hearing of the Finance Task Force.

9 I would first like to introduce our two  
10 panelists who are going to be with us this morning in  
11 the area of Special Education cost drivers.

12 The first is Bill Freund; Bill is an  
13 expert in K-12 finance and is currently serving as  
14 senior budget analyst for the Senate Ways and Means  
15 Committee in Washington State. He has worked for the  
16 Washington State legislature since 1973 and has held  
17 numerous assignments in both the House and Senate,  
18 including public school budgets for 21 years, the  
19 capital budget, and revenue and financial  
20 institutions.

21 In 1977, after the state's finance system  
22 was found unconstitutional, he played a lead role in

1 the design and implementation of a new K-12 finance  
2 system over a number of years. In the area of Special  
3 Education, Mr. Freund has participated in the  
4 development of two separate funding formulas in 1981  
5 and again in 1995.

6 Our second speaker is Dr. Stephen  
7 Chaikind. Dr. Chaikind is professor of Economics and  
8 Finance in the School of Management at Gallaudet  
9 University, a position he has held since 1989. He was  
10 named Gallaudet University's Distinguished Faculty  
11 Member for 1997.

12 In addition to currently initiating a  
13 project that will study the economic and financial  
14 factors that affect, and are affected by, the deaf and  
15 hard of hearing community in the United States, Dr.  
16 Chaikind researches issues related to public finance,  
17 budgeting, and the economics of education.

18 Dr. Chaikind received his Ph.D. in  
19 economics from the Graduate School and University  
20 Center of the City University of New York and also  
21 holds a B.B.A. and M.A. degrees from Baruch College  
22 and City College of New York, respectively.

1           So we will begin the testimony this  
2 morning with Mr. Freund.

3           MR. FREUND: Thank you, Dr. Gill and  
4 members of the Commission.

5           While I've spent most of my working life  
6 as a budget analyst so I come at this from the  
7 viewpoint of a state budget perspective. And one  
8 important thing to know about our state is that, since  
9 1977, our state has been under a court order to fully  
10 fund basic education; and Special Education is a part  
11 of basic education. And I'd like to start by covering  
12 a bit of our Special Education funding history to set  
13 a context for my remarks.

14           Since 1975, Special Education has been  
15 one of the most heavily-studied programs in our state  
16 budget. And the concerns that the legislature has,  
17 and has had in the past, are some of the same concerns  
18 that you all have here now. And, in 1981, following a  
19 study, our state adopted a new Special Education  
20 funding formula and it was based on 14 categories of  
21 disability with differing resource levels. And this  
22 was a full-cost formula and it included a portion of

1 regular education funds attributed to students for the  
2 time that they spent in the Special Education program.

3 In 1993, as in some other states like  
4 California, the state voters approved Initiative 601  
5 limiting state expenditure increases to the rate of  
6 inflation and population growth. As a consequence,  
7 the legislature commissioned a series of studies of  
8 programs with high growth rates and Special Education  
9 was one of those programs that had high growth rates.

10 The resulting 1995 study found that the  
11 state's 14-year-old formula created a financial  
12 incentive to label students into high-cost categories  
13 and that, from 1984 to 1994, Special Education  
14 enrollment growth was growing at more than twice the  
15 rate of the regular enrollment growth.

16 Also, a third thing happened; in 1987,  
17 the state was sued on the use of the Special Education  
18 formula and the formula that we were using was found  
19 constitutionally deficient because it failed to fully  
20 fund the Special Education program in some districts  
21 since it was based on averages. And the court  
22 suggested that continued use of the formula was

1 contingent on establishment of a safety net to provide  
2 supplemental funding to districts with above-average  
3 costs.

4           Given this study and to deal with  
5 increasing programs costs that were no longer  
6 sustainable under Initiative 601, the 1995 legislature  
7 changed its funding formula. And the new funding  
8 formula was based on two categories of disability,  
9 ages zero through two, and ages three through 21.  
10 And, for the three- to 21-year-old group, the excess  
11 funding amount was set at .9309 of the regular  
12 education amount. And the percent of a school  
13 district's funded enrollment as Special Education was  
14 limited to 12 percent.

15           And, finally, a safety net process was  
16 established for districts with enrollment above 12  
17 percent or with demonstrated needs exceeding state  
18 funding levels or having high-cost students.

19           And this new formula essentially stopped  
20 growth for a number of years. And, in fact, we had a  
21 number of school districts whose enrollment went  
22 negative for several years. But, in the last four

1 years, Special Education enrollment growth is once  
2 again growing at a very fast pace, far outstripping  
3 our regular education enrollment.

4 Now we do have some issues in our state  
5 concerning our Special Education cost drivers and  
6 we're not having a problem with our main funding  
7 formula but there are some questions that have arisen  
8 as a result of the operation of the Safety Net and in  
9 establishing Safety Net award amounts.

10 And so these questions include: What are  
11 legitimate costs for Safety Net funding?; Is cost  
12 variation among districts due to factors within a  
13 school district's control (such as district  
14 philosophy, service delivery choice, or accounting  
15 practices) or beyond their control (for example,  
16 student characteristics)? Do districts for which  
17 costs are being compared provide a similar quality of  
18 service? I think most -- all of our districts are  
19 providing -- but, when we look at individual cost  
20 differences, we find large differences for students  
21 that look alike.

22 There has also been the issue of, what is

1 excess cost? And this has special relevance to our  
2 state because some districts allege that the state is  
3 not meeting its mandate to fully fund basic education.  
4 So, for us, it's important to know, what's included in  
5 'cost'? For example, is the district's Special  
6 Education program adequate, is it an enhanced program,  
7 is it efficient, are any other programs costs  
8 included? Are excess costs properly allocated?

9           And, effective this year, our state  
10 accounting system deals with the notion that not all  
11 costs of a Special Education classroom can be  
12 attributed solely to Special Education. Our state  
13 philosophy, and it's embodied in the state  
14 Appropriations Act, is that Special Education students  
15 are regular students first, and for the entire school  
16 day, and are entitled to their full share of regular  
17 education funds.

18           In an accounting context, this means that  
19 Special Education program staff are also providing  
20 regular education and part of their costs must be  
21 assigned to the regular education program.

22           As to the reasons for cost differentials

1 among school districts, several studies have addressed  
2 this. And a 1992 State Education Agency study found a  
3 strong correlation between availability of local funds  
4 and total expenditures for Special Education. The  
5 study also noted that cost differences among districts  
6 were largely due to district administrative and  
7 service philosophy, and accounting practices.

8 Also, as part of the 1999 formula change,  
9 the legislature began funding a Special Education  
10 audit team in the State Auditor's office. And, since  
11 1996, this team has examined Special Education  
12 programs with high rates of growth, high costs, or  
13 other aspects warranting attention by the Safety Net  
14 Committee. And we do have a Safety Net Committee to  
15 allocate Safety Net funds; Dr. Gill happens to be one  
16 of the people involved in that.

17 And the audit team was created because  
18 the legislature did not know if, in creating a safety  
19 net, it had created a black hole. And this team  
20 reported inconsistencies in school district practices  
21 and discovered a number of problems with IEPs.

22 Among other things, the activities of



1 this audit team have increased the quality of our IEPs  
2 throughout the state and made school programs more  
3 efficient.

4 Making determinations of need for safety  
5 net purposes is difficult because there is no  
6 benchmark for level of services or costs. And the  
7 Safety Net Committee is presented with requests from  
8 school districts consisting of budget numbers,  
9 enrollment, staffing, and a statement regarding the  
10 reasons for the request. But there is no qualitative  
11 tool to assess the submittals.

12 So the question that the Safety Net  
13 Committee is faced with when they are looking at these  
14 Safety Net applications is, are they looking at an  
15 enhanced program? Is the reason that the school  
16 district can't live within the amounts that it  
17 receives from the State because, in essence, they have  
18 more than an ample program? Maybe you want to call it  
19 an excellent program, maybe not.

20 But, accordingly, the legislature  
21 requested the State Auditor study whether establishing  
22 benchmarks was possible. And the Auditor tested for

1 links between academic delay and the investment of  
2 Special Education instruction time. And the Auditor  
3 concluded that 86 percent of the variation in Special  
4 Education instruction time provided to Special  
5 Education students is driven by factors other than  
6 student academic delay.

7 So, at this point, there is no handy  
8 yardstick for us to evaluate a school district's  
9 request for Safety Net funds.

10 I'd like to now turn to the  
11 recommendations.

12 And, number one, if federal assistance  
13 for Special Education is based on costs, it should be  
14 based on excess costs.

15 Secondly, if costs form the basis for  
16 federal funding, they should be based on a national  
17 average or an index which accounts for demographic  
18 characteristics of states. And I say this because of  
19 equity considerations. Basing federal assistance on  
20 individual state costs would increase existing fiscal  
21 disparities among states. And, if there are concerns  
22 about potential underfunding among states, they could

1 be addressed by setting aside some funds for regional  
2 safety net funding.

3 And you may be wondering about the size  
4 of our Safety Net. And it's about three percent of  
5 our Special Education -- State Special Education  
6 funds; and it's been more than sufficient so far and  
7 it's been in operation since 1995.

8 Third, federal Special Education  
9 assistance should continue to limit the percent of  
10 total enrollment funded as Special Education.  
11 Otherwise, increases in federal funding may add to  
12 existing fiscal incentives to identify low-performing  
13 students as Special Education. And, again, if limits  
14 are concerned, I think they should be addressed using  
15 a regional safety net.

16 And, as federal assistance increases, a  
17 mechanism needs to be developed to relieve the burden  
18 of states that are fully funding the excess costs of  
19 Special Education. And, of course, this would require  
20 some changes in maintenance-of-effort requirements.

21 And I'll be glad to answer questions -- I  
22 don't know if it's now or --

1 DR. GILL: Okay. We're going to go to  
2 Dr. Chaikind and then we're going to take the  
3 opportunity to ask both of you questions at the same  
4 time.

5 So, Steve?

6 DR. CHAIKIND: Thank you. Good morning.

7 I'm here, first of all, as a researcher  
8 and I'm not representing Gallaudet University.

9 My testimony today is intended to provide  
10 a brief --

11 MR. JONES: Can you speak more directly  
12 into the microphone?

13 Just so all of our witnesses who are here  
14 today know, the microphones are being used by the  
15 transcriber to make sure we get a record of this and,  
16 at every meeting, we have to make sure we get as much  
17 into the mics as we can.

18 DR. CHAIKIND: Thank you.

19 My testimony today is intended to provide  
20 a more general and brief overview of the issues in  
21 Special Education finance and especially in the ways  
22 the finance of Special Education is related to the

1     quality of education the students receive.

2             In last year's yearbook for the American  
3     Education Finance Association that Bill Fowler and I  
4     co-edited, we said the following, that now is the time  
5     for the sometime provincial field of education finance  
6     to reaffirm its bonds with the wider education  
7     community. No less can be said about Special  
8     Education.

9             And, by the 'wider education community,'  
10     I mean we need to look at a lot more than just the  
11     technical funding formulas that occupy a lot of state  
12     directors' time by a lot more than the degree of  
13     federal versus state support, or even the overall  
14     costs of Special Education, and try to link these  
15     technical finance mechanisms somehow with things like  
16     educational processes, curriculum outcome, and even --  
17     and post-school success for students with  
18     disabilities.

19             I'm not sure I have a whole lot of  
20     answers on how to do that yet but I have a number of  
21     issues I'd like to point to the Commission for your  
22     consideration in the next months.

1           To be sure, Special Education has been an  
2 unqualified achievement in the United States in the  
3 last 25 years since P.L. 94-142 was passed. There are  
4 a lot of kids who would never have even gone to school  
5 prior to the passage of this law who are now in  
6 Special Education programs. Right now, about 6.3  
7 million students receive some kind of Special  
8 Education or other in the United States. The total  
9 costs of Special Education are a little mystic, harder  
10 to determine, but a good guess is that, nationally,  
11 we're spending between \$40 and \$50 billion a year on  
12 Special Education, probably closer to \$50 billion,  
13 within that range.

14           So the first condition in any discussion  
15 of relating Special Ed finance to outcome is to figure  
16 out exactly what the costs of Special Ed are. And the  
17 current Special Education Expenditure Project, or  
18 SEEP, being led for OSEP by Jay Chambers, Tom Parrish,  
19 and their colleagues, will shed some new light on this  
20 question. SEEP will add fresh and disaggregated data  
21 to those reported in the three previous important  
22 studies of Special Ed finance. And all three of these

1 studies over the last 35 or 40 years have shown that  
2 Special Education costs between 1.9 and 2.3 times the  
3 costs of regular education.

4 Some preliminary data from the SEEP  
5 survey indicates that that ratio is now about 1.9  
6 times the costs of Special Education. But it will be  
7 interesting to see what the final data show in terms  
8 of how a more mature Special Ed system is being paid  
9 for.

10 And the historical data also show that  
11 Special Education costs seem to be driven by, first,  
12 the population of children in the cohorts qualified to  
13 get Special Education; second, by the number of  
14 children with disabilities identified within that  
15 cohort; and, finally, by the nature of their  
16 disabilities and their educational needs rather than  
17 by any ad hoc increase in the cost per student.

18 As these new data are calculated and  
19 disseminated, there are a number of additional policy  
20 issues I'd like to indicate now; and here are some  
21 general observations.

22 We're learning a lot about the costs of

1 Special Education now and we're even beginning to know  
2 something about the outcome from Special Education but  
3 what we have very little knowledge of is the processes  
4 or practices that connect those resources to the  
5 outcome. And by processes, again, I mean, in the very  
6 general sense, everything and anything including  
7 teaching and classroom methods, curriculum reform,  
8 resource allocations, service provision, or even  
9 organization of structure that can result in improved  
10 outcome for kids with disabilities.

11 Part of this basic question is about  
12 quality and efficiency and I can say the same thing in  
13 two different ways, the same question that I can pose  
14 to you in two different ways. The first is, how can  
15 we improve outcomes for kids with disability at the  
16 same cost; or say the same thing a little bit  
17 differently -- as an economist, I think this way --  
18 is, how can we provide the same outcomes at lower  
19 cost? That is, are there better ways to provide free  
20 and appropriate public education, as well as related  
21 services, for kids with disabilities.

22 We know little about this, again,



1 especially in relation to the costs or savings from  
2 implementing educational innovation within Special Ed.  
3 In fact, there might not even be one process, one  
4 factor, or even a group of processes, that lead to  
5 improved outcomes but it could be a continuum of  
6 processes that actually, in the end, come down to what  
7 happens in the individual classroom or what the  
8 individual teacher does.

9 Another issue to consider when linking  
10 the financing of Special Ed to outcomes is to look at  
11 the type, quality, and delivery place of supplemental;  
12 and related services. These are things like  
13 transportation, medical services, assessment, therapy,  
14 evaluation, and so on. And previous studies have  
15 shown that these costs can range from between 19 to 46  
16 percent of total Special Education costs, depending on  
17 how the calculation are made. One area for the  
18 future, then, would be to examine which of these  
19 related services are being received by which kids in  
20 what placement setting and how all of these services,  
21 and the costs of these services, relate to outcomes,  
22 and what kind of model can be developed to analyze

1 that.

2 Another question, of course, is who pays  
3 for these services. Prior to P.L. 94-142, a number of  
4 independent agencies, health agencies, vocational  
5 agencies, have paid for these services and, when  
6 Special Ed came in, how the Special Ed absorbed more  
7 and more of the cost of these services.

8 So, if there are individual state  
9 agencies providing these and they are not paid for by  
10 State directives for Special Education, or if there  
11 are private third-party payers, are these services  
12 being coordinated and is there cooperation between the  
13 providers to provide the best possible combination of  
14 related services to kids with disabilities?

15 All of these issues raised in testimony,  
16 again, try to relate the finance of Special Ed to  
17 outcomes. You need to keep in mind, however, that  
18 outcomes for Special Ed, for kids with disabilities,  
19 depending on their disabilities, may differ a lot from  
20 those in regular education in subtle, and sometimes  
21 not so subtle, ways. For example, for some kids with  
22 disabilities, just being able to live independently

1     could be a goal and these are picked up by the normal  
2     measurement and assessment processes we have.

3             As another example, for some kids where  
4     assessment requires a written exam or -- if these kids  
5     aren't provided the appropriate services or enough  
6     time to read the exam, then the result might be biased  
7     and we might not really measure what we're trying to  
8     measure. So we need to keep in mind that, for kids  
9     with disabilities, sometimes, even though ... outcome  
10    assessment to those in regular ed is a goal of the  
11    1997 amendments of IDEA, we need to keep in mind that  
12    sometimes the goal is different. And all of these  
13    things should be in these kids' IEP; but you need to  
14    keep it in mind.

15            Finally, I would be remiss if I didn't  
16    note that many of the issues I have just raised,  
17    assembling accurate data, determining the best  
18    educational practices, and even figuring out what  
19    outcomes should be for Special Ed all require study  
20    and research. Hence, continued revenues are required  
21    to support the research to validate the most  
22    successful implementation of Special Ed.

1           So let me summarize the recommendations I  
2 have here, that came out of this. First, we need to  
3 carefully assess disaggregated recent actual cost data  
4 across and within disability, type of service  
5 received, placement, geographical region, mode of  
6 delivery, and student characteristics, among other  
7 things.

8           Second, we should continue to search for  
9 the best educational processes and innovations to  
10 achieve results for students with disabilities. We  
11 should study in more detail the role and alternatives  
12 for optimizing the use of supplemental and related  
13 services. We should carefully consider the rate of  
14 outcomes from Special Ed; and, finally, we need to  
15 support the research and study costs that validate  
16 Special Education success.

17           Let me add one more thing. And, you  
18 know, we're talking about all these arcane finance  
19 concepts -- and I hopefully didn't mention any arcane  
20 concepts here -- we need to keep in mind that we're  
21 still talking about real kids with real disabilities  
22 who have real needs; and doing the right thing means

1 obtaining the best results.

2 And I'll be happy to answer any questions  
3 you have, as well.

4 DR. GILL: Thank you.

5 Commissioners?

6 Well, let me just introduce each of the  
7 Commissioners to you a little bit.

8 To my far left, in the corner, Bryan  
9 Hassel; next to Bryan is David Gordon, and he's a  
10 California person, the Sacramento area; next to David  
11 is Alan Coulter, Alan Coulter is from Louisiana State  
12 University Medical Center; Todd Jones, Executive  
13 Director of the Commission; I'm Doug Gill, State  
14 Director of Special Ed in Washington State; next to me  
15 is Jay Chambers from the Center for Special Education  
16 Finance; and Troy Justesen, who is staff to the  
17 Commission, as well. Just so you folks kind of know  
18 who we are.

19 I guess I could start with the first  
20 question. And my first question is probably for both  
21 of you but I'll start with Mr. Freund since he was  
22 first up this morning.

1           And the question is, how would you define  
2           excess costs and what particular elements would be  
3           part of that definition?

4           MR. FREUND: Well, excess costs are costs  
5           over and above the cost of regular education. In our  
6           funding formulas in the state, we have excess costs  
7           for transportation, for bilingual, for learning, it's  
8           just all those excess costs; it means they are on top  
9           of regular education.

10           Now, when I was talking about excess  
11           costs with respect to Special Education, I did not,  
12           and do not, include transportation costs as part of  
13           the .9309 that I'm talking about.

14           Does that answer your question?

15           DR. GILL: Well, would there be any other  
16           elements? I mean, if one of the elements certainly is  
17           the basic education unit, another element is the  
18           additional or excess costs on top of that basic  
19           education unit, so collectively they are the funding  
20           base for Special Education. Are there any other  
21           elements that you think the Commission should consider  
22           in the context of excess costs determination?

1           And I think one of the things that  
2 someone mentioned was the percentage of the population  
3 as a parameter of some sort of formula, too.

4           DR. CHAIKIND: Well, in my -- I've been  
5 told recently that the word "excess costs" is going  
6 up. I think that Jay mentioned that. But, in my  
7 mind, if you look at the cost of educating the kid in  
8 regular ed with no disability, how much is that cost,  
9 and then you take the average cost of a typical kid  
10 with a disability in Special Education and you take  
11 the difference; to me, that would be the excess costs.  
12 How much more are you spending for this kid because we  
13 have a Special Education program? And, if I'm  
14 remembering the data right, the total last year or the  
15 year before was about \$12,600 a kid in Special  
16 Education on average; the cost for a regular  
17 education, something like \$6600. Therefore, the  
18 excess costs, the way I would define it, would be  
19 something like \$5900 that would get you that 1.9  
20 ratio.

21           DR. GILL: Okay.

22           DR. CHAIKIND: And that includes

1 everything, I think, including some services from  
2 other programs that might be within that number, as  
3 well.

4 DR. GILL: Okay. So what I think I hear  
5 both of you saying is that a student identified as  
6 Special Education does not in any way dilute the fact  
7 that they are regular education or general education  
8 students first. So, when you say excess costs, I  
9 think I've heard both of you say that it's in addition  
10 to the costs of providing a basic education. So you  
11 take the basic education costs times a factor -- let's  
12 say it's 1.9 or whatever it happens to be, somewhere  
13 between 1.9 and 2.3 if you believe the studies over  
14 the last several years -- and then subtract that basic  
15 education unit from that total number and that derives  
16 excess costs in your minds; is that accurate?

17 DR. CHAIKIND: In mind, yes. Again,  
18 these kids might not be in a regular education  
19 classroom but, if they had no disability, it would  
20 still cost that amount.

21 DR. GILL: That's correct. They're still  
22 enrolled in the school district; are they not?



1 MR. FREUND: (Nods)

2 DR. CHAIKIND: (Nods)

3 DR. GILL: Okay.

4 MR. GORDON: I have a question.

5 DR. GILL: David?

6 MR. GORDON: Thank you, Chairman.

7 Mr. Freund, you mentioned that, in your  
8 state, you put the cap on, I think you said in 1995  
9 and, quote, basically stopped or slowed down, and now  
10 it's begun again. Help me understand, in the behavior  
11 of school districts, what is going on now to make it  
12 rise again? Because I think it ties back to our other  
13 witness' point about the interaction of regular ed and  
14 Special Ed being very important in all of this.

15 MR. FREUND: Well, to start with,  
16 whenever we change our funding formulas, it's kind of  
17 like districts step back, it's kind of like a wave  
18 going backwards, you know, before it comes -- hits the  
19 beach. So there was a pause while school districts  
20 figured out what the new formula was and how they  
21 could operate within the constraints of 12 percent.

22 I don't exactly know what now is causing

1 the increase in Special Education enrollment. I will  
2 tell you that the legislature, now with federal funds,  
3 has increased the percentage that it will fund next  
4 year; it's going to be around 12.3 percent of total  
5 enrollment.

6 So, as to the reasons -- and I'm going to  
7 talk about this a little later -- it may be that some  
8 underachieving students are now being put into Special  
9 Education because of the new No Child Left Behind Act  
10 and the '97 changes in ESEA and our own State  
11 adequate-yearly-progress requirements. And then there  
12 is a large financial incentive to put students into  
13 Special Ed. We lay out about a little over \$600,  
14 maybe \$650 per student for remediation. The amount  
15 that is provided by the state for Special Education is  
16 six times that amount. The school districts don't  
17 lose their remediation money if they put a student  
18 into Special Education.

19 So I haven't studied this to see which  
20 category of Special Education is increasing; and maybe  
21 Dr. Gill could talk about that. But it may be the SLD  
22 population but I'm -- we haven't studied that and I

1       rather suspect that our legislature will start  
2       studying it next year because we're facing another  
3       billion dollar shortfall in our budget.

4               MR. GORDON: Thank you.

5               DR. GILL: Bryan?

6               DR. HASSEL: Dr. Chaikind, one of the  
7       points in your testimony, which I've also read in  
8       other places I think, is that, if you look at  
9       increases in Special Ed costs over time, they're  
10      completely driven by changes in population rather than  
11      changes in the costs of educating particular students  
12      with particular characteristics. And I wonder if you  
13      could comment on that. Is that, in fact, your view of  
14      the evidence?

15              And, secondly, are there any exceptions  
16      to that overall generalization? Are there certain --  
17      do you know if there are certain kinds of disabilities  
18      for which costs per student have been rising or going  
19      down that go away from that general trend?

20              DR. CHAIKIND: Well, I think I said that  
21      it appears that that's how costs are growing. That is  
22      based on the data of 1.9 to 2.3, back to 1.9 again.

1 It seems to show that the costs appeared, on average,  
2 is about the same as it's been over this period.

3 But, of course, there are variations by  
4 disability and by the nature of the disability, by the  
5 severity of the disability, by the service need; and  
6 part of the variation in the cost of the time is that  
7 we're getting different shares of kids with different  
8 disabilities within the program and some high-incident  
9 disabilities are lower-cost disabilities and,  
10 therefore, the average cost could go down because of  
11 that, for example.

12 So there's all kinds of variations going  
13 on underneath the averaging. So I don't think it's  
14 only population, but those who are identified as  
15 having disabilities and, if identity is becoming more  
16 prevalent, then, of course, it will go up for that.

17 Does that answer your question?

18 DR. GILL: Jay?

19 DR. CHAMBERS: Well, I'm always pleased  
20 when I hear a researcher tell us that one of the  
21 recommendations is that we need more research. Being  
22 a researcher myself, I'm always excited at that

1 prospect that keeps us employed. It also means that  
2 the issues are quite complex and there's much to do  
3 and we're never going to really resolve some of these  
4 issues once and for all.

5 I'm glad to hear Steve's comments related  
6 to expenditures versus costs. As an economist, I  
7 think those two terms, to the general public, probably  
8 are somewhat synonymous but we've come to use the word  
9 'cost' to replace 'expenditures' and, in fact, they  
10 are two different things. They are related to one  
11 another; cost implies we know something about the  
12 outcomes, that we're providing equal opportunity or  
13 equal outcomes in some way, or that we can benchmark  
14 the outcomes in some fashion and say, "What does it  
15 cost to provide services to a particular kind of  
16 student?" Or it says, "How much more does it cost to  
17 provide..." something, a set of outcomes that's  
18 similar to some other group, let's say the average  
19 regular education student.

20 In fact, all the studies that have been  
21 done in the past, and almost every study that's done  
22 at the state level, is talking about expenditures,

1       which tells us what districts are spending for  
2       different kinds of children but really doesn't give us  
3       information to help to determine what it really costs  
4       to provide services to a particular kind of child.

5               In comments regarding Bryan's --  
6       Commissioner Hassel -- excuse me -- his comment --  
7       disability doesn't really tell us much about pupil  
8       needs. Dr. Chaikind referred to that in his comments.  
9       The amount of variants that can be explained in  
10      expenditures related to disability is pretty small.  
11      We need to know more about individual pupil needs.

12              But I'll stop my comments at that point  
13      and get on to a question.

14              Dr. Freund, I guess I'd like --

15              MR. FREUND: -- a wish -- it's not Dr.  
16      Freund; I wish it was, but --

17              DR. CHAMBERS: Oh, excuse me.

18              MR. FREUND: It's Mr. Freund.

19              DR. CHAMBERS: Mr. Freund -- thank you.

20              MR. FREUND: Thank you.

21              DR. CHAMBERS: I guess I'd like to hear a  
22      little bit more about how the Safety Net funds program

1 operates in the state. You said it was three percent  
2 of the funding for Special Education, did you mean?  
3 Is that -- did I understand that?

4 MR. FREUND: Yes, it's three percent of  
5 the state funding for Special Education.

6 Before I answer your question, I did  
7 intend to address the question of costs versus  
8 expenditures and neglected to do so when I was talking  
9 about the recommendations. Because, in fact, our 1981  
10 formula was based on costs. The 14-categories of  
11 disability, that was based on a two-year study which  
12 examined what were all the elements that were needed  
13 to provide an education for each category of  
14 disability. And so that included related services,  
15 psychologists -- and so -- the whole gamut.

16 And so it's only when I was talking about  
17 the recommendations and I think, at that point, what  
18 you're faced with is you don't have costs -- if you're  
19 looking at different states' data, you have  
20 expenditures and you don't even know what is in those  
21 expenditures. You don't know if they're clean  
22 expenditures -- and by 'clean' I mean excess costs.

1 They may include all sorts of things; it depends on  
2 the sophisticated nature of states' accounting  
3 systems.

4 With respect to your question about how  
5 does the Safety Net work, we established a Safety Net  
6 Committee and it's composed of various school district  
7 personnel, so that we have school district  
8 superintendents on this committee, educational service  
9 district personnel, we have curriculum experts,  
10 finance experts, state auditor, and Dr. Gill; and they  
11 are supported by SBI staff (phonetic).

12 So this Committee's task is to figure out  
13 how to allocate the about three percent of dollars  
14 that the legislature appropriates. And I have to say  
15 that, since inception of the Safety Net, not all of  
16 the funds have been allocated, only about two-thirds.  
17 I think somewhere around two-thirds has been allocated  
18 in each year.

19 So initially there was great fear that  
20 the \$12 million that was put into one of the Safety  
21 Nets -- and we have a couple -- that that wasn't going  
22 to suffice. And what -- as I recall, initially, I



1 think we started at \$15 million and then, because the  
2 funds languished, the legislature reduced the amount  
3 to \$12 million. And we also have a high-cost Safety  
4 Net; so the combination of the two is about three  
5 percent of our total funds.

6 And this Safety Net Committee meets, oh,  
7 about every quarter; and school districts submit  
8 applications consisting of all sorts of data that --

9 and there are forms and the like. And we meant to  
10 bring  
11 the forms with us so you could see exactly how it  
12 operates.

13 And basically what it -- what the data that  
14 the school districts are required to submit compares their  
15 prior year expenditures to the current year's expenditures  
16 for which they are requesting money. And the question  
17 that the Safety Net Committee deals with is what is it  
18 that -- if you lived within the state formula last year,  
19 what is it that causes you not to be able to live with it  
20 this year, what factors. And they request an explanation.

21 And it's difficult. I'd say, having sat in  
22 on a lot of those meetings, it's difficult to determine

1     how legitimate their request is. But as a jury of school  
2     district peers, they do have to convince this Committee;  
3     and, in watching this Committee, I'd have to say they're  
4     pretty tough.

5           DR. CHAMBERS: How would you change it? I  
6     mean, based on what you've seen -- I mean, is it -- do you  
7     feel it's operating effectively, is it something you would  
8     recommend to somebody else?

9           MR. FREUND: I happen to be in a unique  
10    position because I get to write the State's budget. There  
11    is another House and we do work together, but I do get to  
12    make recommendations on how to make it more efficient; and  
13    I would say to you that the Safety Net hasn't -- over the  
14    years, there have been a number of changes and, in fact,  
15    the Safety Net is changed for next year. Where we used to  
16    have two Safety Nets, now we're only going to have one  
17    Safety Net. So the high-cost Safety Net portion has been  
18    folded in into the regular Safety Net.

19           And, when I say two Safety Nets, the  
20    calculations for both were relatively the same but they  
21    had different fund sources. We have always funded the  
22    high-cost Safety Net piece from federal funds.

1 DR. CHAMBERS: The high -- did you say the  
2 high --

3 MR. FREUND: High-cost, high-cost student  
4 Safety Net piece has been funded from federal funds. And  
5 then the Safety Net for districts that have unmet needs,  
6 that is -- and, when we say unmet needs, we mean after  
7 they have exhausted their regular education money, their  
8 State Special Education money, any other monies that the  
9 State provides, the federal money, after that -- so you  
10 take all the revenues and then you stack it up against  
11 expenditures, if there is a deficit, then they come in and  
12 ask for the deficit and they have to present clear and  
13 convincing reasons for why it is that the State should  
14 give them money.

15 DR. CHAMBERS: How do you define high-cost?

16 MR. FREUND: There is a threshold and it's  
17 \$15,000. And you understand that we're providing about  
18 \$8,000 -- a little less than that -- for Special Education  
19 students, and that's a combined State regular education  
20 money and the Special Education money. So it's about  
21 \$8,000, a little less than that. And a threshold of  
22 15,000 has been set and that is -- the reason for that is

1 that we have a formula that's based on .9309 and so we  
2 have an array of students within the formula, that is  
3 high-cost students and low-cost students. And we know  
4 that a large percentage of the students that are  
5 identified as Special Ed are -- tend to be lower-cost  
6 students, for example, SLD and CD, communication disorder,  
7 those do not cost as much as some of the -- for instance,  
8 multiple disabilities.

9 So it's assumed that every school district  
10 will have some high-cost students and that the high cost  
11 of those students will be averaged out over all the low-  
12 cost students. So we've adopted a threshold of \$15,000,  
13 which is almost twice what is provided under our formula.  
14 And, once school districts can show that they have that --  
15 and that have to figure out one other thing is that they  
16 have to show financial need, as well. That is, just  
17 merely having a high-cost student doesn't get you a penny,  
18 you must also show that you need the money, that is, that  
19 you cannot live within the state and federal dollars that  
20 are provided.

21 And school districts are also -- they've been  
22 providing local funds, they are expected to continue to

1 provide their local funds because our funding formulas are  
2 not intended to replace local funds.

3 DR. CHAMBERS: Wouldn't what you just  
4 described have a differential impact on districts that  
5 have a greater capacity to provide services in the first  
6 place, high-wealth versus low-wealth school districts?

7 MR. FREUND: Well, there may be some  
8 variation in the amount of local funds that are provided,  
9 but our state has a levy lid in place and so we do not  
10 have the range of differences in our state that other  
11 states have. Our levy lid allows school districts to  
12 collect 24 percent of the state and federal funds that  
13 they receive. We do have some districts that are  
14 grandfathered at slightly higher amounts but the range of  
15 disparity in terms of dollars between school districts is  
16 about a maximum of 33 percent.

17 And, when I talk about it that way, I should  
18 let you know that it's probably not appropriate to talk  
19 about disparities in terms of dollars in our state because  
20 we have resource allocation formulas, or an input formula.  
21 And the inputs are based on staffing costs and it is  
22 possible that you could be comparing a district with

1 relatively inexperienced staff with a district that has,  
2 say, all Ph.Ds. So, if you had a district like that,  
3 disparity, in terms of dollars -- if you were looking at  
4 dollars, it would be a factor of a hundred percent  
5 difference.

6 But we don't call that a difference because  
7 we have what we call a staff mix factor so we allocate  
8 based on school districts experiencing education of their  
9 staff.

10 I probably complicated this a little too much  
11 but --

12 DR. CHAMBERS: No, you've stimulated more  
13 questions but I'm going to relinquish my time here.

14 DR. GILL: David, you've got a follow-up  
15 question that you'd like to ask?

16 MR. GORDON: Thank you, Chairman.

17 Just as a follow-up on the Safety Net, I  
18 think I understand but help me.

19 A high-cost student would be, say, a child  
20 you have to send to a private school, a residential school  
21 or --

22 MR. FREUND: Yes.

1 MR. GORDON: -- something like that. Now, on  
2 the non-high-cost group, as I understand the system, the  
3 district comes in, when at the end of the year, and says  
4 basically, "We ran out of money."?

5 MR. FREUND: It would be -- they can do this  
6 at the beginning of the year; it's based on their budget.

7 MR. GORDON: Okay, based on the prior year,  
8 then?

9 MR. FREUND: No, it's based on the current  
10 year. They have a current year budget, they know how much  
11 revenue they're going to get, they know what they budgeted  
12 for, they hired staff and --

13 MR. GORDON: Okay, so help me understand.  
14 How does the Committee, or whomever, validate that they  
15 haven't simply inappropriately over-identified? Is there  
16 any cross-check to make sure that their assertion is  
17 correct?

18 MR. FREUND: Yes. The way that that's  
19 validated is based on comparison over the prior year. So  
20 it's assumed that, in the prior year, one hadn't over-  
21 identified. So it's a temporal calculation, let's say,  
22 comparing one year with the next year. That's the base

1 year --

2 DR. GILL: Plus, I think, just to add to  
3 that, that you know what the allocation is; it's  
4 essentially 12 percent of your K-12 population. So one of  
5 the reasons that a district could come in for Safety Net  
6 is to say, "Well, our percentage is now 13, 13 and a half  
7 percent." and that's a difference than last year.

8 So the question becomes, why is that a  
9 difference than last year's, is that a difference in any  
10 kind of practice that you, as a district, has engaged in  
11 or, in districts of -- and we have very small districts in  
12 Washington State with 50 to 100 kids -- if you had two  
13 kids, there is your difference.

14 So, you had to come explain why you're  
15 spending more this year than you're going to get in  
16 revenue and what those reasons are attributable to, it  
17 could be a percent difference, it could be a difference in  
18 the change in the funding formula from '95 that's a  
19 carryover, or it could be some other factor that is beyond  
20 the control of the district, or it could be one or more or  
21 an aggregate of individual high-cost students.

22 I think, as Bill pointed out, that the issue



1 is, can the district establish, if need be, some sort of  
2 threshold comparison of budgets to actuals and then,  
3 second, what is the rationale for that difference.

4 Does that help clear that up?

5 MR. GORDON: Yes, thank you.

6 DR. GILL: Bryan?

7 DR. HASSEL: If you look at the amount that  
8 you spend out of the Safety Net funds, do you have a sense  
9 of how much of it goes to districts that say, "We're over  
10 the 12 percent, we have a greater proportion of kids than  
11 12 percent." versus "...we have a higher cost per student  
12 than you told us we would."?

13 MR. FREUND: Actually, I have a piece of  
14 paper that I brought with me that's got that on there.

15 But maybe, Doug, you can --

16 DR. GILL: Go ahead.

17 MR. FREUND: I'm going to have to look for  
18 it; maybe I can field another question while I'm looking  
19 for the piece of paper.

20 DR. HASSEL: The other question I had was  
21 whether -- you say you're not spending the full amount of  
22 funds. Are you not getting requests for the full amount

1 of funds or are you turning down requests that are not  
2 legitimate?

3 MR. FREUND: We do have a -- I don't know if  
4 we had a request for the full amount of funds.

5 Let me see here. I don't have it; I didn't  
6 bring an annual number with me.

7 At any rate, I don't think that we've ever  
8 had the full amount requested for the state-funded piece  
9 of the Safety Net, but our high-cost Safety Net has  
10 exceeded the appropriation amount that the legislature  
11 had; and it is growing by leaps and bounds.

12 And the way that the budget was crafted was  
13 that the legislative appropriation of federal funds was a  
14 minimal appropriation of federal funds and the agency then  
15 had to come up with all other available federal revenues  
16 if Safety Net awards exceeded the appropriation amount.

17 So that piece of the Safety Net has not been  
18 capped. And for next year, by the way, we're going to all  
19 federal funds for our Safety Net next year and it is not  
20 -- the Safety Net is not capped. That is, the agency will  
21 -- if they award more than -- if the Safety Net Committee  
22 awards more than what has been appropriated, then the

1 agency is to apply all available federal funds,  
2 discretionary federal funds, to fill the hole.

3 DR. GILL: Troy, do you have a question?

4 MR. JUSTESEN: Before I ask the question, I  
5 want to thank Mr. Freund for coming because he was under a  
6 great deal of pressure with the State legislature, as you  
7 know, Doug. And, every day he would call and say, "I  
8 don't think I can make it but I want to make it..." so  
9 let's leave him on the schedule.

10 And I want the members of the Commission to  
11 know that he went through a great deal of effort to make  
12 sure that he could be here, including no sleep.

13 DR. GILL: Troy, we need you to talk into the  
14 microphone.

15 MR. JUSTESEN: Okay, how's that; better?

16 DR. GILL: That's great.

17 MR. JUSTESEN: You mentioned, and I'm not  
18 sure I was following you very well, Bill, and I'm curious  
19 about your reference to regional determination for safety  
20 nets on a larger national scale? Was I following what  
21 your comment was? And, if I were --

22 MR. FREUND: Yes.

1 MR. JUSTESEN: -- elaborate on that model.

2 MR. FREUND: Well, it occurred to me that  
3 you're facing a large problem, which is, if you're trying  
4 to figure how to lay out federal funds and if you're  
5 trying to use a 40-percent number, what do you base it on?

6 And the question is, can you come up with  
7 cost or expenditures? And I think that, ultimately, you  
8 end up having to use expenditures if that's what you're  
9 going to try to do.

10 You know --

11 MR. JUSTESEN: Regionally, though, what  
12 reason would there be --

13 MR. FREUND: Well, because there may -- if  
14 you do establish a safety net, I rather doubt that you can  
15 make it work on a -- that you'll have a schematic for how  
16 it's supposed to work. You can't sit there and quantify  
17 this thing, it's -- what's the word I'm looking for, Doug?  
18 -- it's not quantifiable, it's kind of like --

19 DR. GILL: Discreet.

20 MR. FREUND: Well, that's nice of you to say  
21 that but I -- it takes a lot of work to make these  
22 determinations; there's no yardstick. And so the idea of

1     having a national safety net committee to make these  
2     determinations means that probably it would be operating  
3     year around and it would be a lot of work.

4             So, rather than having a number of people  
5     doing this full time, I think that if you broke the task  
6     up into regions and assigned certain limited pots of  
7     money, people in the region would know that they couldn't  
8     allocate it all, say, to one state because then there  
9     would be nothing left for the others.

10            It also gives you an opportunity to put  
11     school district personnel, maybe fiscal people, on such a  
12     committee. So that's why I say regional.

13            Our Safety Net Committee spends -- what is  
14     it, two days every quarter? There's quite a bit of  
15     homework that our Safety Net people do -- I mean a lot of  
16     homework, particularly with the high-cost Safety Net,  
17     because what they're doing is reviewing IEPs for validity  
18     and then they're looking at the services that are being  
19     provided. And so we have program personnel on the  
20     Committee that are able to make those kinds of  
21     determinations and then the school districts show up and  
22     they have to justify -- they have to face an array of

1 questions from the Safety Net people as to why it is that  
2 they requested the money.

3 MR. JUSTESEN: Are you saying that this is a  
4 recommendation for consideration for the members of the  
5 Commission?

6 MR. FREUND: I think that -- I was talking  
7 about what you would fix, here, your reimbursement rate  
8 on. And I think that, ultimately, you can't use -- I  
9 don't think that you're going to be able, within your time  
10 constraints, to establish costs so you're going to have to  
11 go off of expenditures. The problem is that I don't think  
12 that you know what expend -- what excess costs  
13 expenditures are because not all state accounting systems  
14 are the same.

15 And that is why I said to use some sort of a  
16 national average because, otherwise, I -- you know, the  
17 more sophisticated the accounting system -- suppose you're  
18 given -- somebody is giving you a full cost number as  
19 opposed to an excess cost number, then, if you're using  
20 costs then you are rewarding the state that gave you that  
21 kind of number for allocation purposes.

22 So I think, in the end, you have to do the

1 kind of thing that we do when we do budgets, which is to  
2 generalize, hang your hat on something, and then, in our  
3 case, we established the Safety Net so that in case that  
4 it doesn't work properly for everybody, there is a safety  
5 valve.

6 MR. JUSTESEN: May I ask one more question?

7 DR. GILL: Go ahead.

8 MR. JUSTESEN: Do you believe it is the role  
9 -- it should be the role of the federal government to have  
10 a safety net, then -- I'm asking both of you this question  
11 -- for kids with the most severe disabilities?

12 DR. CHAIKIND: Well, I don't have -- having  
13 not seen it, so I was just --

14 MR. JUSTESEN: Okay, I don't have to --

15 DR. CHAIKIND: -- I don't know what the role  
16 of the federal government is; that's something that needs  
17 to be based on what you can and want to afford in policy  
18 questions.

19 MR. FREUND: I don't think that it's an  
20 absolute necessity. In our state, we do have a federally-  
21 funded Safety Net for high-cost students. I think that  
22 you could make provision for that for states, you know,

1 within your federal funds allocation; I just suggest that  
2 that's what they do.

3 DR. GILL: Commissioner Coulter, you had a  
4 question?

5 MR. COULTER: I think that a question that I  
6 had relative to driving costs, you already responded to in  
7 some respects. But just let me make certain that I'm  
8 clear in what your answer was.

9 I think a concern often arises in terms of  
10 having the right children receiving the right services,  
11 certainly as it relates to Special Education. I think  
12 there is a concern, also, about, in some instances,  
13 implicit incentives to identify more children.

14 As I understood it, the mechanism that you  
15 use in Washington State is to compare increase from one  
16 year to the next. Is there any other mech -- are there  
17 any other mechanisms such as interaction with a monitoring  
18 system for determining that these children really were  
19 appropriately identified, or other kinds of audit  
20 procedures that are used to ensure -- I guess my concern  
21 is that gradual increases year to year would not  
22 necessarily, in a year-to-year analysis, depict that



1 something was going -- something inappropriate might be  
2 occurring. But there could certainly be a head-hunt  
3 mentality that's operative over a number of years to drive  
4 up the costs.

5 How would you see that as being prevented?

6 MR. FREUND: You know, one of the reasons why  
7 I couldn't answer what's happening with our Special Ed  
8 program in terms of what types of disabilities are  
9 increasing is because we don't use categories any more and  
10 haven't since 1995 so -- and the only report that we have  
11 on disability types is -- I think it's a federal report;  
12 but I don't remember the form number but it's submitted.  
13 Is it 10 -- is that a federal form number?

14 MR. COULTER: Yeah, it's a federal child  
15 count.

16 MR. FREUND: Child count. That's the only  
17 thing that's available on the types of disabilities.

18 But, to answer your question more directly,  
19 we do have that Special Ed audit team that we're funding.  
20 Our state is spending about \$800,000-and-some a year on  
21 this Safety Net team. The Safety Net Committee  
22 periodically sends them out to look at school districts,

1 particularly if there is any sort of a question.

2 The fact that there is a Safety Net audit  
3 team, or the possibility that this audit team can come to  
4 the school district, has resulted in school districts  
5 being much more careful about how they put together IEPs  
6 and who's on IEPs.

7 They have uncovered, and continue to uncover,  
8 by the way, an error rate in the reported Special  
9 Education students. That is, there may be a problem with  
10 the IEP or the students aren't being provided specially-  
11 designed instruction, or else they're being provided the  
12 wrong instruction -- that is, what they're being provided  
13 has nothing to do with the IEP.

14 The error rate that they've been looking at  
15 has been dropping slightly, but very slightly, on some of  
16 these matters. But the preparation of the IEPs,  
17 themselves, has improved markedly. So that's the only  
18 audit activity that we have.

19 MR. COULTER: As you think about those  
20 special audit -- you said they could send them out if they  
21 want to. Of the districts that you have, and I'm aware,  
22 you know, that you have a lot of districts in Washington

1 State, a lot of small districts, what's the proportion of  
2 districts that have actually been visited by this special  
3 audit team?

4 MR. FREUND: I think that -- maybe about 50,  
5 60 over the course of five years.

6 Is that about right, Doug? I think it's --

7 DR. GILL: That's about right; I'd say less  
8 than 20 percent of the applicant districts have actually  
9 been visited.

10 MR. FREUND: Well --

11 MR. COULTER: Over a period of years.

12 MR. FREUND: Yes.

13 MR. COULTER: Okay.

14 MR. FREUND: Yes, but -- so this audit team  
15 has had a deterrent effect on certain practices out there  
16 and has resulted in certain improved practices just simply  
17 because they not only can go audit Safety Net school  
18 districts, they can also go audit other school districts.

19 And this audit team, by the way, has been  
20 training our regular state auditors that go out to school  
21 districts, so the nature of our audits has changed a  
22 little bit.

1           MR. COULTER: Let me just ask both of you a  
2 different question, kind of change the subject a little  
3 bit.

4           Both of you, I think, have spoken to the  
5 issue of trying to get a better idea on specific costs,  
6 not just a general excess cost. One of my concerns is  
7 that the type and quantity of information that we collect  
8 now about Special Education, both at state levels and  
9 federal levels, is relatively gross. I mean, we don't  
10 have a whole lot of information.

11          Do you have any recommendations on how to  
12 improve that data collection system so that we would be  
13 able, over a period of time, to get a better idea of  
14 specific costs and where those costs might be coming from?

15          MR. FREUND: A later presentation, I was  
16 going to make some recommendations and you're not leaving  
17 much to talk about later on.

18          MR. COULTER: No, that's fine. If it's  
19 current events, I'll take it. So --

20          MR. FREUND: But it has to --

21          MR. COULTER: -- I can wait.

22          MR. FREUND: But it has to do with the

1 preparation of the IEPs and I think that they need to be  
2 standardized and improved so that you can tell what you're  
3 looking --

4 DR. CHAIKIND: Let me add to that.

5 In about 1988, OSEP stopped the quantity  
6 space to report Special Education expenditure data at a  
7 national level. Even if -- and the reason was -- part of  
8 the reason was that no state reported the same thing. So  
9 you had a column of numbers where there were variations  
10 all over the place. So, therefore, the only reliable data  
11 we have are from these special studies we commission every  
12 10 or 15 years.

13 If there was something like a general  
14 accounting handbook for Special Education where you  
15 provide a uniform way of reporting data, then it's  
16 possible OSEP can, on an annual basis, begin to collect  
17 these data again. So that might be another idea to  
18 consider.

19 MR. JONES: Bill, I had a question.

20 Under IDEA there is an obligation for smaller  
21 districts who don't receive enough federal funds to use  
22 them in what's called a constructive way, at least as

1 Congress has put it; they are obligated to combine their  
2 resources with neighboring districts and, in fact, combine  
3 their programs. I assume there are some smaller districts  
4 in Southern Washington, Eastern Washington, who might need  
5 that -- or have that obligation. I'm curious if you could  
6 comment about that.

7 Does it have -- from two perspectives, one  
8 is, what is the effect on costs? Does it tend to increase  
9 or decrease costs or have no effect; and, two, is there  
10 any apparent affect on service delivery and service  
11 quality?

12 MR. FREUND: You know, we've had one study  
13 after another trying to figure out whether there is any  
14 difference in quality from one program to another. And,  
15 frankly, we're not able to capture that with existing  
16 data.

17 We do have one co-op in Southwest Washington  
18 that's operated by an educational service district and  
19 they -- I think they have over 15 districts that are  
20 involved in it, I think maybe required to have at least 15  
21 districts in it in order to have that co-op.

22 And, again, we haven't studied it but I'm

1 under the impression that they are able to offer services  
2 to students that individual school districts could not  
3 offer because they are able to aggregate expertise, you  
4 know, special personnel they are able to attract that  
5 small, outlying school districts could not possibly get.

6 I'm not aware of other school districts that  
7 are in Eastern Washington, for instance, that are sharing  
8 Special Ed service, but they may be, I'm just not aware of  
9 it. I know some of them share business managers, they  
10 share superintendents --

11 MR. JONES: Thank you.

12 DR. GILL: I have a question, Steve, for you.

13 You mentioned something that -- the notion  
14 that, prior to 94-142, we had a lot of service sharing and  
15 things like that and we got this first-dollar  
16 responsibility notion out of 94-142.

17 I was interested if you had seen any  
18 differences between -- in any of your studies, between,  
19 like, Part C type of approaches relative to funding versus  
20 Part B type approaches where, in Part C, you have the  
21 individual family services plan and you don't have the  
22 same first-dollar responsibilities that you had in Part B.

1 In other words, under Part C, a school district is a  
2 service provider, one of an array of service providers as  
3 opposed to being sort of the sole service provider under  
4 Part B.

5 And I was just wondering if, in any of your  
6 studies or in any of the economic work you've done  
7 relative to Special Education, has there been any  
8 differentiation between Part C type services for students  
9 age birth to three versus the Part B type services, three  
10 through 21?

11 DR. CHAIKIND: Well, I'm trying to remember.  
12 There was, in one of the recent annual reports, some data  
13 on Part C. And, if I recall, they said there was some  
14 kind of consistency between the shares of services  
15 received under Part C and Part B.

16 And Part C doesn't share as many cases as  
17 Part B but Part C tends to start at earlier age with  
18 developmental disability and then that share, over the  
19 next couple of years, moves into communication  
20 disabilities. And then, as you get into Part B, the older  
21 kids, it broadens a lot.

22 So, if I recall, those are what the data



1 show.

2 DR. GILL: But you're not aware of any  
3 national studies or you've not participated in any studies  
4 that compare costs between Part C and Part B?

5 DR. CHAIKIND: Not to my knowledge. I think  
6 your data collects some of that but I haven't seen any  
7 results on that yet.

8 DR. GILL: Jay?

9 DR. CHAMBERS: I should mention to you, Doug,  
10 that we're in the process of working -- or completing the  
11 Part B study, but also in the Part C study. But we're  
12 just beginning that process right now where we've  
13 collected most of the data for the expenditure analysis;  
14 but we are at very early stages and probably a number of  
15 months away from any conclusions or reports on that, on  
16 the Part C.

17 DR. GILL: So to be determined; huh?

18 I mean, I think people have raised the  
19 question, does a more collaborative service delivery model  
20 such as Part C, which I think is kind of a follow-up to  
21 what Todd was sort of asking, too, with the cooperative  
22 type programs, is that more or less cost-efficient than

1 kind of a primary service provider model, which is  
2 obviously Part B?

3 DR. CHAIKIND: I think the question is if  
4 earlier and earlier intervention saves money later with  
5 reduced needs to services at a later age.

6 A while ago I took a look at the relationship  
7 between low birth rate and Special Education costs and, in  
8 that study, we've showed that, if even a small percent of  
9 women who have low birth rate children receive appropriate  
10 prenatal care, then you could save Special Education  
11 money. So I think even earlier intervention, before  
12 birth, could help, as well.

13 So I think that's a legitimate question.

14 DR. GILL: Okay.

15 David, do you have a question?

16 MR. GORDON: Thank you, Chairman.

17 Our third panelist, who I understand  
18 unfortunately couldn't be here, had a couple of ideas in  
19 her testimony, I wanted to get your reaction to them, for  
20 cost containment.

21 One idea was having the federal government,  
22 through IDE, set an expected level of service defined for

1 certain high-cost disabilities along with a clear  
2 delineation of what are educational versus medical  
3 services; that's idea number one. Idea number two is a  
4 cap on legal fees.

5 How would you react to those two ideas?

6 MR. FREUND: Well, we've had -- on the latter  
7 question, we've had school districts asking the  
8 legislature to provide a sort of a safety net approach to  
9 legal fees, that is, to have the State share in the cost  
10 of the defense. It's probably a very tough thing to do  
11 politically for our legislature, and particularly to put  
12 limits, since that's been a very hot topic in our  
13 legislature with respect to torts. The State has been  
14 sued recently, and has lost a series of cases that run  
15 into the tens of millions for inappropriate treatment of  
16 kids in foster homes and several other things; so we're  
17 being eaten alive.

18 But, to this point, the legislature hasn't  
19 been able to do anything about it because it's so  
20 politically -- such a politically-charged issue.

21 What was -- the other one was?

22 MR. GORDON: The first one was the notion of

1 defining levels of service and that, in essence, creating  
2 a cap on this as the defined level of service and drawing  
3 the dividing line between what is an educational service  
4 and what is a medical service.

5 MR. FREUND: I don't know what that would  
6 solve because we're paying for both, unless the idea is to  
7 take medical services out of Special Education. I'm not  
8 exactly sure how that would work.

9 MR. GORDON: Well, I think the notion, I  
10 suppose would be, by defining the level of service, you  
11 define the level of cost and that's it; that becomes it.

12 MR. FREUND: Well, we've even had studies on,  
13 as I said, from our State auditor, about -- and a  
14 legislative committee about trying to figure out whether  
15 it was the level of services that was causing the cost  
16 differentials among students. And they couldn't even find  
17 the data to support those notions, at this point. We can  
18 only explain about 35 percent of the variation with that  
19 kind of stuff.

20 So I supposed that, if you came up with a  
21 uniform way of reporting, it may be possible to do -- to  
22 establish costs.

1 DR. HASSEL: Did you say it may be possible  
2 or it may be impossible?

3 MR. FREUND: Well, it may be possible but I  
4 think establishing the level of services may be impossible  
5 because all kids are different.

6 I don't exactly know how -- how would one do  
7 this. Educational delay, we tried that; that didn't work.  
8 And, by the way, I'm not a program person; remember, I'm a  
9 budget person, so you're challenging me at this point.

10 But I think that there would be great  
11 difficulties in trying to do this.

12 DR. HASSEL: What about you, Dr. Chaikind,  
13 what do you think of the feasibility of establishing some  
14 kind of scale of services, the costs attached to them,  
15 related to students' characteristics that could be used to  
16 guide a funding system?

17 DR. CHAIKIND: I think you need to be very  
18 careful because IDEA says we need to provide the best  
19 appropriate public education for kids with disability.  
20 And, by precluding that -- you may preclude that by  
21 setting up a scale of services and education and saying  
22 that, if it cost more than this, that's it, are you

1 providing the best education possible for these kids?

2 So I think what you want to try to find out  
3 is how can you provide the best education at the lowest  
4 cost as opposed to saying you're not going above that cost  
5 and, when the education gets up to that level, we stop --  
6 or services stop.

7 I think you need to figure out how to answer  
8 those questions.

9 MR. GORDON: Well -- or the other notion  
10 could be that, having done that, you also have a safety  
11 net which would pick up the excess costs, but you'd at  
12 least have some norms and some standards to start with.

13 DR. CHAIKIND: So it has just the details of  
14 each case funding --

15 MR. FREUND: All right. There is one more  
16 thought that I had to your question, which is, our -- what  
17 we found in our state is that, whenever we tried to pick  
18 out a single category of disability and put some  
19 limitation on it, what happened is, is we've gotten  
20 category creep that school districts figure out how to get  
21 what they needed to get. So it's very difficult, you end  
22 up having unintended consequences.

1 DR. GILL: Troy, you have a question?

2 MR. JUSTESEN: You talked about the fact that  
3 you have no categories in the state in terms of categories  
4 of disability, in the State of Washington. That poses an  
5 interesting question to me, Doug, because you're still  
6 required to report to the federal government based on  
7 those -- the 13 categories in the statute, but you have --  
8 I mean, that seems to pose an interesting problem for  
9 states to deal with, states like Washington and others, to  
10 do that. So I'm curious what your thoughts are on that.

11 Secondly, by the fact that you don't have --  
12 you had 14 categories and now you have none, seems to  
13 suggest among some that there's a debate about whether we  
14 should have the 13 categories at the federal level or not.  
15 And I'd like your thoughts on that.

16 Actually, I'd like both of your thoughts on  
17 that.

18 DR. GILL: Do you want me to respond to that,  
19 too?

20 MR. JUSTESEN: Sure.

21 DR. GILL: Well, let me start by saying that,  
22 when you say non-categorical, I think what Mr. Freund is

1 referring to is a non-categorical funding formula; that  
2 does not mean we don't have the eligibility categories in  
3 our regulations and we don't report by disability. What  
4 we don't is, we don't fund by disability.

5 In other words, a student with a learning  
6 disability does not generate more or less money than a  
7 student with a communication disorder or a student with  
8 emotional issues or a student with autism or anything like  
9 that because part of the assumption is in the non-waiving  
10 of the categories, you make the money available to the  
11 school districts. So the issue, essentially, is to serve  
12 the students according to their needs, not according to a  
13 differential amount of funding they may generate as a  
14 result of a particular label that has been applied.

15 MR. JUSTESEN: Let me ask the question  
16 differently for you, then.

17 Is there any utility at the state level in  
18 having those 13 categories as opposed to having less than  
19 13 categories -- or more, for that matter?

20 DR. GILL: My honest answer to that question  
21 would be no.

22 MR. FREUND: Well, there may be some utility



1 in that there is some notion as to what it takes to be  
2 identified as Special Ed. I don't know if it could be  
3 done simply on the basis of academic delay. But, you  
4 know, there are a lot of students that have academic delay  
5 that are not Special Ed so I -- I don't want to argue with  
6 Dr. Gill, who is the expert but --

7 DR. GILL: It's okay; you do it all the time.

8 MR. FREUND: -- but I think he's lectured me  
9 on -- when we talked about this in the past, about why the  
10 14 categories of disability are around. And maybe you've  
11 changed your mind; I don't know.

12 DR. GILL: Well, I think from a funding  
13 standpoint --

14 MR. FREUND: Yeah.

15 DR. GILL: -- I think that this is -- the  
16 question for me is from a funding standpoint, is there any  
17 utility to differentiate between students. And I really  
18 don't think there is because I think students have to be  
19 eligible for Special Ed. And, unless I'm misquoting the  
20 regulations here, you have to have a disability, an  
21 adverse educational impact, and a need for specially-  
22 designed instruction. So, in essence, there is a three-

1 part test.

2 MR. JUSTESEN: There's four; and they must  
3 meet one of those 13 categories.

4 DR. GILL: And I guess my answer to that is,  
5 isn't the establishment of the disability and isn't that  
6 the first part of the test and I don't know if maybe  
7 Social Security or SSI, maybe, has a better way of doing  
8 this in a way that doesn't somehow create a financial  
9 distance and if -- for students to be classified as  
10 Special Education or necessarily an incident in which  
11 might increase the numbers. And I think those are sort of  
12 the questions that have swirled around this whole area for  
13 a long time.

14 Data collection purposes is one thing;  
15 funding and entitlement purposes is something else again.

16 MR. JUSTESEN: But is collecting that data  
17 useful in any way? Is there --

18 MR. FREUND: Well, at this point, somebody  
19 asked me, in a way, Special Ed enrollment is increasing  
20 and the only way that I could begin to answer it might be  
21 to look at those 1077 reports over a period of time and  
22 see which categories were increasing and look for clues

1     there.

2           Other than that, from a fiscal standpoint, I  
3     don't know what purpose those categories serve.

4           DR. CHAIKIND: Well, I look at things from  
5     the national perspective and, if, in fact, you want to get  
6     a handle on national Special Education costs, especially  
7     to the federal government, presumably you would need  
8     categories in every state where data is similar and  
9     collecting across states, in some kind of manner or other,  
10    consistent across states would be important, especially if  
11    it goes into the debate at the federal level.

12          DR. GILL: Any other -- we really appreciate  
13    you folks' time up here and taking the questions and,  
14    certainly, the wide array of questions that you did, as  
15    well. Between your exit and the next panel coming  
16    forward, we'd like to kind of take a break here at this  
17    point in time so we can get you off and get other people  
18    on.

19          So we'd like to take about a 20-, 25-minute  
20    break; so we would start the next panel at 10:10 as  
21    opposed to 9:50 and, hopefully, that gives the other panel  
22    to chance to get up.

1           And I'm sure there will be other questions  
2           that folks on the Commission may want to ask you,  
3           independently, as well.

4           But thank you, again, very much for your  
5           time; I appreciate the information you've shared with us.

6           MR. FREUND: Thank you.

7           (Whereupon, a brief recess was taken.)

8           DR. GILL: If we could have the Commission  
9           members and staff take their seats, please?

10          We want to move to the second phase of  
11          discussions regarding cost drivers and kind of  
12          specifically focus on, as best we can, regulatory and  
13          administrative costs associated with Special Education.

14          And, to help us in understanding some of  
15          those issues and the policy implications and  
16          recommendations, et cetera, we have Dr. Jack Daray and  
17          Paul Goldfinger.

18          Dr. Daray is the former Senior Fiscal Analyst  
19          to the Washington State House of Representatives  
20          Appropriation Committee and former Budget Policy Analyst  
21          for the Office of Fiscal Management in Washington State.

22          Jack earned his B.A. in social science at

1 Sacramento State College and his doctorate in government  
2 from Claremont Graduate School here in California.

3 So, welcome, Jack.

4 Paul Goldfinger is widely known as an expert  
5 in school finance in California and is a popular workshop  
6 presenter, as well, having conducted more than 400  
7 workshops in revenue limits, Special Education finance,  
8 school district reorganization, and Gann (phonetic)  
9 limits, which I'm sure you will explain to us what that  
10 means.

11 MR. GOLDFINGER: You don't need to know.

12 MR. GORDON: I don't want to know.

13 DR. GILL: David Gordon tells me, "I don't  
14 want to know what that is."

15 But we're not going to limit your input here,  
16 so please tell us what the Gann limits means.

17 Mr. Goldfinger holds a bachelor of science  
18 degree in physics from City College of the City University  
19 of New York, and an M.S. in engineering science from the  
20 University of California at Berkeley.

21 So welcome.

22 And, Jack, you're first up.

1 DR. DARAY: All right.

2 Chairman Gill, members of the Commission,  
3 please bear with me; I just returned from my first trip to  
4 Louisiana and discovered that, at this time of year, there  
5 is enough pollen to find any hidden allergy you may have  
6 had. I notice there is someone here from Louisiana who is  
7 in the medical business; I'm sure the allergists are  
8 making boat payments this time of year.

9 When I was first contacted by the Commission  
10 and reviewed the charges to you from the President, it was  
11 really charge nine that I prepared my talking points on,  
12 or the detailed talking points. And that really was for  
13 you to review the experiences of states that have tried to  
14 change the way they funded Special Education. Obviously,  
15 Bill Freund, who was here before, covered some of that.

16 And so, what you see in my outline here is an  
17 effort to kind of lead you to understand the context that  
18 permitted the state to make the change and then some  
19 comments about the way it looks like it's working out.

20 You will have to judge for yourself whether  
21 you replicate some of those conditions in the national  
22 level and you will see that I'm pretty insistent on some

1 of the things that I think have to resolve if you're going  
2 to try to emulate Washington. And I'm not necessarily  
3 recommending that.

4 I have -- I am in the consulting business now  
5 and I consult to the three largest school districts in the  
6 state. So I see it now from the other side, from at least  
7 the last two years, on how it's operating and I'm not  
8 going to try to be judgmental here, although I'm sure  
9 you'll cuss me later on on that. But I want to make sure  
10 that you understand the context.

11 So, if you will turn to page 2 on your Tab L  
12 where really my review starts. And in the charge to Paul  
13 and I, we were really to focus on the effect of state  
14 statutes and regulations on the costs and effectiveness of  
15 Special Ed.

16 So I'm going to just go through the more  
17 generalized set of talking points and point out things  
18 that address that particular concerns. But I do want to  
19 make sure that you understand.

20 If you look at page 2 under "A Review of the  
21 Experience of State Financing" and reiterate something  
22 that Bill tried to set for you; and that is, that the

1 State is under the charge to fully fund a definition that  
2 it creates and that's as a result of lawsuit in 1977 and  
3 the finding of the courts, a term in the constitution  
4 talking about the "Paramount Duty" of the State to the  
5 K-12 system.

6 But one of the things you need to be  
7 especially cognizant of in considering finance, is the  
8 terms of that litigation was not about equal opportunity.  
9 We are an 'ample funding' state; we are the first state to  
10 be charged because of the, again, words in the  
11 constitution from the founding fathers and mothers about  
12 -- to provide ample funding.

13 And, when you add to that, a balanced budget  
14 requirement, what you have for an experiment in the State  
15 of Washington is, first, a big container, because you  
16 can't -- you have to have a balanced budget.

17 Bill mentioned that, in the '90s, the  
18 citizens put on an even tighter ring around this  
19 containment, this Initiative 601, that said that the  
20 government couldn't grow faster than the growth rate of  
21 the population and inflation. So, obviously, from a  
22 financial analysis perspective, you had to go look at any



1 program that was growing faster than those two things.

2 And I think, as Bill mentioned, one of them that came up  
3 when you went and did that test was Special Education.

4 So you need to understand this thing as you  
5 start to say, "Will this work on a more loose...." --  
6 "...a more open-ended federal situation?" and a lot of  
7 other states are not operating under that mandate.

8 One of the interesting things about the State  
9 of Washington, if you go to look at statute effects,  
10 costs, and the effectiveness of Special Education, you're  
11 not going to find any, really, because it's all in the  
12 Appropriations Act and I'm sure you could tell, from the  
13 comments of my colleague, Bill Freund, that the budget has  
14 an amazing amount of detail in it in terms of driving  
15 Special Ed policy.

16 And so one of the issues you have to look at  
17 is, if you judge the Washington experiment reasonably  
18 successful, is whether you want -- whether you need a lot  
19 of direction in terms of policy, best practices, those  
20 sorts of things, or whether you can lead it through the  
21 budget. Again, I'm not going to be judgmental; I've spent  
22 that last 26 years working in various budgetary capacities

1 so don't take that as a lead to that. But it's something  
2 you have to kind of consider.

3 So let's -- on page 2, under -- one of the  
4 first things that comes up under B), when the courts --  
5 and they've ruled several times on what is Basic  
6 Education; and the second time is when the court includes  
7 Special Education. But it also included another program  
8 that is very important; and you'll see that in reference  
9 to something called the "Learning Assistance Program."

10 And, when the state has a program that's  
11 basic education, what happens is that the Appropriations  
12 Act lays out very clearly that program. I mean, it's a  
13 separate entity and, therefore, school districts know  
14 there is a special -- a separate pot of money to do this  
15 other thing. In this case, "Learning Assistance" becomes  
16 fairly interesting in the sense that, if a district chose  
17 to do it, this could be something of a screen, a state-  
18 funded, explicit -- something that has to be amply-funded  
19 -- that first screen for a student on the way to Special  
20 Education -- or maybe not on the way to Special Education.

21 Some districts combine this with Title 1 to  
22 have a slightly bigger program but, since the early '80s,

1 the State has had this very specific program to deal with  
2 those students who are not keeping up to speed  
3 academically. The districts don't have to use it for  
4 screening for Special Ed but my point is here's something  
5 laying there that's a layer that probably most other  
6 states don't have accessed. And it came through,  
7 actually, by something of statutory error, in a sense. In  
8 one of the introductory statements to the legislation, it  
9 said, "All children can benefit from..." and, anytime you  
10 say "all children can benefit" in a piece of statute, or  
11 even the Appropriations Act in the State of Washington,  
12 you can bet there's going to be some litigation down the  
13 road that said, "If you think it's good for all children,  
14 you now have taken on the obligation to fully fund that  
15 or, until you can show that that program is no longer  
16 needed or has been over-funded."

17 The second, under I. C), Local Control.  
18 Local control is something everyone wants to pay homage  
19 to, everyone thinks is what's really critical to making  
20 the K-12 system work -- and, again, I'm not going to be  
21 judgmental, it's a fact -- and the legislature, because it  
22 deals with the Special Education budget and Special

1 Education policy in the Appropriations Act, means that  
2 anything that's in the Appropriations Act tends to -- in  
3 the education section -- tends to characterize everything  
4 in K-12.

5 Well they love to use the words 'for  
6 allocations purposes only' because, one, they think that's  
7 going to keep them out of lawsuits in terms of specific  
8 requirements, so much for a high school student or an  
9 elementary student or a science student and it -- so it  
10 gives them a bit of an out, that is, the State. And, of  
11 course, it acknowledges this desire to pay homage to the  
12 local school boards. The State did not have to do that  
13 and, in fact, was admonished by the court, "If you want to  
14 keep school, that's your business."

15 The problem that creates is on the accounting  
16 side, on the budgeting side, on the boring side; but  
17 what's on the very important side in terms of your charge,  
18 if you're actually going to contemplate of increasing the  
19 investment -- the federal government's investment in  
20 Special Education. Because when you say 'for local  
21 purposes only' that means they can move the money,  
22 generally, a lot of different places.

1           And, when you try to do the accounting for  
2 what Bill was trying to explain, what's regular education?  
3 You know, what's -- to use the politically incorrect term  
4 -- what's a regular kid cost versus a Special Ed kid.

5           In the very first place, trying jut to define  
6 what the average cost attributed to Special Ed kids is a  
7 problem because, even though we have a fairly detailed  
8 accounting system, it doesn't get down to that level of  
9 detail. So there's a squishiness, again, introduced by  
10 the statutory reference to 'for allocation purposes only'  
11 that the best of intentions has some very difficult  
12 consequences for the Safety Net, which we will talk about  
13 a little bit more later, because of some of the  
14 squishiness of the data.

15           I've already talked about the State budget  
16 has to be balanced. And one way to be very candid with  
17 you is that, one of the things you learn when you do K-12  
18 finance work for the legislature, is that it's probably  
19 one of the most emotional areas to deal with in terms of  
20 doing financial analysis, it's along with developmental  
21 disabilities. And I've done higher education budgets --  
22 I've done all the budgets over my years, for the governor

1 as well as the legislature -- and I want to make sure that  
2 you understand that Washington was able to take on a  
3 fairly vigorous, very short-lived debate in 1995 when it  
4 changed its system because of something allowed it to kind  
5 of transcend the emotional -- not to pay -- but to say,  
6 "We have some cost issues we simply have to deal with."

7 So that sort of forced the decision, you've  
8 got to make it, and allow the discussion that usually is  
9 much more emotional and hard to get to the point of,  
10 "Look, we have got to pass the budget, what are we going  
11 to do? We've got to stay within these constraints."

12 On page 3 towards the bottom, when I start  
13 talking about the various elements or the funding change,  
14 itself, the flat-rate concept, that is getting rid of the  
15 14 districts, again, for financial purposes -- and that  
16 was a good question about the -- programmatically what he  
17 had because the districts saw the programmatic he did, I  
18 can tell you because I go out and work with him on that to  
19 a certain extent, mostly do you have it and do you have it  
20 over time. And that can be a bit disturbing in terms of  
21 the quality of that data.

22 When you have to do what I think that the

1 flat rate costs, the flat-rate policy eventually is going  
2 to force, which is a discussion at the district level --  
3 and I'm not sure it's happened that much yet at the  
4 district level of, "Listen, we have one number that we  
5 have to get. Why is it we're not getting that number? Is  
6 it too much or is it too little?"

7 With the old 14 x 4 categories, and for a  
8 superintendent who decided that he or she was really going  
9 to take on this Special Ed issue and all the complaints  
10 that it was over-funded or under-funded, it was just too  
11 difficult to take on. And one of the things about the  
12 flat rate concept that was introduced, again in the  
13 statutory means -- setting, the Appropriations Act, is, I  
14 think, at some point, it's going to force this cost  
15 definition, "What is it we're spend -- what are the costs  
16 in Special Education?" In place -- because you only get  
17 one place in the budget where that number is and Bill, I  
18 think, was stating that everybody knows what that average  
19 number is.

20 And we get to the Safety Net and that's  
21 affect on -- it's not a lid but it's a starting point for  
22 doing cost accounting.

1           Turning to page 4 at the top, what you see is  
2           a list of things that are elements of the new formula and  
3           the target limit. I was a little surprised that Bill let  
4           you talk about the cap of 12.7 and, depending on where you  
5           were at the time, you either called it a cap or you talked  
6           about it as a target. Because, what the State was trying  
7           to say is, "We think that 12.7 is a reasonable number of  
8           students to be in Special Education." and, again, put a  
9           number right out there in the sand, along with the dollar  
10          per student of excess costs, of the pure cost of doing  
11          Special Education. "We're also going to limit to 12.7  
12          percent. If you have a problem with that, come talk to  
13          us." And the 'come talk to us' is the safety net process.

14          So you have the simplicity of a flat rate and  
15          the simplicity of 12.7 percent, but you do have this  
16          overflow which has an interesting affect on backing up the  
17          quality of the data on everyone else.

18          And, because the safety net -- and, again,  
19          the language in the Appropriations Act requires -- it just  
20          has these throw-away words, they want efficient and  
21          effective programs, efficient and effective programs.  
22          Well, that translates, in terms of statutory language, to



1 the administrative body, the Special Ed Safety Net, as  
2 they start to look for the hooks to say the simple word  
3 "no."

4 Because they've only got \$12 million to  
5 spend, what are the conditions we have to have before we  
6 can say the words "no"? Well, one of the check-off points  
7 is, "Does your program have any audit exceptions?" And,  
8 if we have either the formal auditors or the Special Ed  
9 review team, which is not necessarily cost accountants,  
10 but program accountants, and they can't find a specially  
11 designed program and here is the X-Y-Z school district and  
12 saying, "You know, we're out of money and we need more  
13 money, the Safety Net." And the first thing you say is,  
14 "Well, wait a minute; we're looking right here and you've  
15 got some audit exceptions, you're not doing some of the  
16 minimum stuff already. Are we funding your inability to  
17 run a program?"

18 And they can come back and say, "We can't do  
19 special design programs because we really are out of  
20 money."

21 My point here is, you can see how this has  
22 the affect, at some point, of sort of backing the

1 districts up to have a good-enough case to go to the  
2 Special Ed Safety Net Committee and say, "We're running a  
3 good program and we're out of money." This benefits both  
4 parties in this, the funder -- that's the State -- and the  
5 program and the students and the districts, which are  
6 trying to run the best program they can.

7 Let's see -- you know, on the bottom of page  
8 4, you need -- point number 6 is "What about the change in  
9 state K-12 system focus to performance?"

10 What that means is that, in the State of  
11 Washington, like other states, is about to embrace  
12 outcome-based -- that's probably not a safe term around  
13 here -- but performance-based system of K-12 education.  
14 And you need to be -- you need to understand that  
15 everything that Bill's talked about and I'm talking about  
16 today is on a system that was based on inputs and designed  
17 at the time not with a clean sheet of paper and what would  
18 it take to do these programs, but what are the prevailing  
19 practices of district, called the 'conventional wisdom.'

20 So that other brave, new world of  
21 performance, what that means, "Not enough time today." and  
22 certainly not enough brain cells to solve it, but

1 something you need to pay very specific attention, you're  
2 just going to change a lot of us who have been dealing  
3 with K-12 finance. It's going to change the kinds of  
4 issues we have to deal with in a very dramatic way. But,  
5 just as a little teaser there, we'll put that one out.

6 I think one of the things I can do for you,  
7 again, in trying to help you think about are the potential  
8 of adding the investment of the federal government to  
9 Special Education, is to repeat, I'm sure, the warning  
10 you've got from many others that, to the field -- and,  
11 again, on top of page 5 -- I know I'm not supposed to --

12 I'm going a little bit beyond because I'm  
13 dealing with "Supplement Not Supplant" but let me tell you  
14 from my experience, I spent two years in the early '70s  
15 working on evaluation of a search of criminal justice  
16 projects for the State of Washington, from the governor's  
17 attempt and State's attempt to reform it's criminal  
18 justice system, which had been funded by a very similar  
19 attempt to what you're doing, in the late '60s by  
20 something called the Law Enforcement Assistance  
21 Administration, LEAA, where the federal government decided  
22 it really wanted a fundamental change and improvement in

1 the criminal justice system.

2 And I can tell you, from that experience,  
3 that the whole -- right now the field of Special Education  
4 thinks the federal government owes 40 percent of the  
5 excess costs of doing Special Education. And you really  
6 need to resolve that issue because, if that's what this is  
7 about, that you always owed 40 -- not you, but the federal  
8 government's always owed 40 percent of the cost, when you  
9 submit money out there, you're not going to get extra  
10 effort.

11 And maybe that's the policy that you want to  
12 recommend. And that's fine; I'm not recommending against  
13 that. My point is, from my experience with LEAA, and  
14 coming late to the party because they did a lot of  
15 funding, late '60s, early '70s About 1972 or '73, the  
16 folks back in D.C. said, "Gee, we need to find out what  
17 happened to all that money." The trouble was, the money  
18 had already been sent out. And the fundamental issue that  
19 I talk about, again on page 5, are making decisions over  
20 whether you want -- again, and I'm going to assume that  
21 you want something extra for that money.

22 It's even more difficult than that. You have

1 to decide whether you want extra effort, more of the same,  
2 or whether you want some innovation. And, if you don't do  
3 that up front, I can tell you, from the person who had to  
4 go around and negotiate evaluation kinds of -- evaluation  
5 standards and evaluation studies with both state agencies  
6 and local government, that they have already started down  
7 the road and they're going to be using it -- if somebody  
8 doesn't say, first of all, "This is for new innovative  
9 things," what's going to happen is that an operating unit  
10 is going to get some money, and it doesn't know the  
11 source, it's going to say -- "By the way, that State money  
12 that used to be, you're now on federal money -- there may  
13 be some different standards, don't worry; get started, do  
14 good things." That's a real surprise when you use a  
15 criminal justice analogy to the local parole office to  
16 find out that it was being funded now with federal dollars  
17 that they were supposed to be innovative and experimental  
18 and it was labeled as doing something like intensive  
19 parole when, in fact, they just -- the local government  
20 just substituted money. And all of a sudden, two, three,  
21 four years down the road, someone comes and says, "Hey,  
22 you know, where is that creative, new thing you're

1     supposed to be doing?" They're so far down the line, they  
2     never know that.

3             So, if you don't tell them up front, if  
4     someone doesn't insist on that up front and have some  
5     research standards up front, you don't get extra effort,  
6     or you won't get innovation. Again, I'm not recommending  
7     one or the other, I'm just saying, from a policy  
8     perspective, that it's really important to be very clear  
9     on that.

10            Let me be a little bit judgmental here on the  
11     experiment in Washington because I do think, in the long  
12     run, it's going to be good; it's going to be good in terms  
13     of the kind of work that I do, for my satisfaction, which  
14     is, sooner or later, it's going to force something which I  
15     call cost definition down the district and building level,  
16     but most important to the district level.

17            Previously, I talked about the effect of the  
18     flat rate and the 12.7 percent. What happens when you  
19     finally get a superintendent or the board of education, or  
20     a chief financial officer which says, "I've got to find  
21     out about this Special Ed cost." is the effect in  
22     Washington of being forced to first have a real clear way

1 to demonstrate you gave that Special Ed student all their  
2 basic ed money, "We spent it all; it wasn't enough."

3 But then LAP, Learning Assistance Program,  
4 wasn't enough so you have this amount of money, this  
5 little graphic here, this amount of money, "We can show  
6 that we spent all of it on this Special Ed kid. We tried  
7 LAP, it wasn't an appropriate intervention; maybe we  
8 didn't decide to..." -- and then, "We've now spent all the  
9 excess costs..." -- which Bill said the whole thing now is  
10 about \$8,000 -- "...and we still don't run a program,  
11 we're still out of money. We haven't used a lot of levy  
12 money. Well, again, the State is supposed to be fully  
13 funding something called Special Education, Paramount  
14 Duty; what's going on here?"

15 What happens with this contained process of  
16 having to go to the Safety Net Committee, is you have to  
17 show your paperwork, you have to show it in a way that  
18 some folks can make some judgments about.

19 And I can tell you some of my work; I can  
20 tell you the three large school districts of two years ago  
21 decided they were going to declare a war on Olympia and go  
22 down and get that money, executed a special contract -- a

1 separate contract with me to help them on this -- and they  
2 never went to war. The reason they didn't go to war was  
3 the three superintendents, all very big egos and all very  
4 smart and, at least one of them very, very knowledgeable  
5 in Special Education because he used to be a Special Ed  
6 Director, when I did my consultant work, which is the easy  
7 part -- my business is based on, "Do you have any data?"  
8 My business is going to you and saying, -- my whole  
9 professional career is about data-based decision-making  
10 and I been working in a fuzzy world all those years that  
11 rarely uses data but hope springs eternal; I still think  
12 I'm a young man -- "You are going to be going down to  
13 Olympia and there are some smart people down there... --  
14 and you've witnessed Mr. Fryne (phonetic) who can be  
15 pretty tough, on the other side -- "Where is the data?"  
16 "Well, we have 14 categories in one district,  
17 we have 16 categories and you really can't track the money  
18 -- we've always just sort of done it this way." And so  
19 after -- you know, two hours of fairly embarrassing  
20 discussion but very interesting discussion because some of  
21 them didn't understand the basic model. "Well, what do  
22 you mean, we had to spend all the Basic Ed money first?"



1     What do you mean we can't prove that?  What do you  
2     mean..." -- you know, because they had the chief financial  
3     officers there -- they said, "Geez, we still think that we  
4     don't get enough money but we can't prove that."  "Let's  
5     go back and get on it." to their staff.  And they're still  
6     working on it, I can tell you that.

7             And, as you know, real world, I know we have  
8     at least one superintendent here, all those issues come up  
9     because the board of directors, board of education,  
10    decides they want the school busses' color changed, you  
11    know, whatever, and the focus on Special Education drifts  
12    off.

13            But the process in Washington, I'm not going  
14    to say it's caused it yet, but the combination of things  
15    have caused a kind of accounting system that I think you  
16    need to have in place, or anyone needs to have in place,  
17    before you send extra money.  Otherwise, you'll never see  
18    any result or that extra effort.

19            DR. GILL:  Paul?

20            MR. GOLDFINGER:  Okay, thank you.

21            It's my pleasure to be here today.  I've been  
22    involved in Special Education finance to a large extent in

1 California since 1981; and I've done a lot of thinking  
2 about this issue and I know that some of the remarks that  
3 I'm going to make today are in areas that you've heard  
4 about before, hopefully some are new ideas.

5 And, as I was preparing for today's  
6 presentation, I remembered, way back in 1973, when I was  
7 very young, I was working at UC Berkeley on a research  
8 project, Childhood and Government project, and I did a  
9 paper for their office that looked at where were the  
10 places in state law that specifically authorized school  
11 districts to exclude Special Education pupils. And I was  
12 horrified at what was going on in California and I'm a  
13 strong advocate of the Education for the Handicapped Act  
14 in 1975.

15 And certainly we've come a long way since  
16 1973. When I step back and look at it, I go, "We've gone  
17 from a system pre-1975 where Special Education pupils had  
18 fewer rights than general education pupils to a system  
19 where they have much greater rights."

20 And there is an imbalance as a result of this  
21 that creates a lot of frustration on the part of school  
22 board members who say, "I'm elected to represent all of

1 the students in this school district." and on the part of  
2 administrators and even teachers who feel that their job  
3 is to serve all pupils, where there is this imbalance in  
4 rights.

5 And the system is so convoluted that even  
6 parents get very frustrated over this, how procedurally-  
7 bound it is.

8 So my comments today are intended to help the  
9 Commission work towards a better balance between regular  
10 education and Special Education while still maintaining  
11 necessary protections for Special Education. And the  
12 comment I'm going to make early on, and later on, is that  
13 funding the 40-percent level would go a long ways towards  
14 resolving this imbalance.

15 In California, especially, it is not fully  
16 funded, that when I look at total expenditures, I know it  
17 is not costs but it is a reported expenditure for Special  
18 Education, and subtract out all revenues, including the  
19 revenues that school districts get for the general ed part  
20 of the Special Ed population, and the state aid, federal  
21 aid, that there is an imbalance of approximately \$1.3  
22 billion.

1           And this imbalance means that, for school  
2 districts, they are saying, "We need to take unrestricted  
3 general ed dollars and we need to spend it as supplemental  
4 support for Special Education." This is part of the  
5 imbalance that needs to be addressed.

6           And certainly funding alone is not going to  
7 do the job. It is one aspect that I'm talking about. I  
8 think something -- on page 4, something that Congress  
9 needs to do, is to clarify what is free and appropriate  
10 public education. When I thought about it, well, there is  
11 four words, and I think the first one is the only one that  
12 everyone can agree on. Free means free.

13           But what is appropriate? And the Rowley case  
14 speaks to this issue where it says that IDEA does not  
15 require that an educational program maximize a pupil's  
16 potential, that appropriate is something short of maximum.  
17 But what's the dividing line between appropriate and more  
18 than appropriate?

19           And one idea that I had a number of years ago  
20 was maybe Congress needs to add a word and say the  
21 standard should be free, appropriate, and comparable  
22 public education. The word 'comparable' is one that I

1 will comment on as I go through.

2 The second issue is, what is public? In IDEA  
3 '97, it made it very clear that, when families enrolled  
4 their children in private and parochial schools,  
5 voluntarily saying that we don't want to enroll in public  
6 school; if they are in private and parochial schools, the  
7 obligation of school agencies is to spend a prorata share  
8 of federal dollars on that population and, after that  
9 point, they can stop spending. So they can say 'no' to  
10 the Special Ed pupils who choose to enroll in private and  
11 parochial schools.

12 Issues that come up, kind of along the lines  
13 of what is public is that, for preschoolers, a lot of  
14 school districts do not operate public preschool programs.  
15 But they have an obligation to serve disabled children  
16 with their non-disabled peers. And so is there, then, an  
17 obligation to pay for private preschool tuition in order  
18 to have that integration opportunity?

19 Medically fragile children need to be served  
20 at home; nobody is questioning the obligation of the  
21 school agency to serve medically fragile children who  
22 cannot be transported to school, and serve them at home.

1 But, as many issues for children who are physically able  
2 to be transported to school, where the parents are  
3 requesting home-based instructional programs, often 40  
4 hours a week at home. Is this also part of the scope of  
5 public education?

6 And then finally, as comments were made  
7 earlier, what is education? What is the boundary line  
8 between the services an educational agency needs to  
9 provide versus what are really health and mental services?  
10 The Garret F. decision highlights this point. And the  
11 question I raise is, shouldn't other public sector  
12 agencies be required to step up and to provide their  
13 appropriate services within their domain? Where did  
14 education have the ultimate responsibility when other  
15 public agencies, as in California, say, "No, we're not  
16 going to provide that service." IEP calls for that  
17 service, education pays the bill.

18 On page 7, related to the scope of education  
19 is, what about related services? Here in California, in  
20 some cases, we're being asked to and required to provide  
21 equestrian therapy, people are asking for dolphin-human  
22 therapy; is this also the domain of public school

1 districts? Even music therapy. And I go, "Music sounds  
2 like education." But, if a school district cannot afford  
3 a music program for non-disabled pupils, why should it be  
4 required to provide a music instruction program for  
5 disabled people? This is the issue of comparability that  
6 I wish to raise.

7 And then, in terms of education, school  
8 agencies generally operate six hours a day, five days a  
9 week, about 40 or fewer weeks per year. Whereas -- and,  
10 also, a summer school or extended-year program on top of  
11 that. Whereas some school agencies are being asked to  
12 provide, in-home, 40 hours a week, 50 weeks a year, why  
13 should school agencies be required to provide services  
14 beyond the scope of the school day? This is an issue.

15 One idea that I put on the page that I wish  
16 to modify is, if school agencies are required, because  
17 other public agencies deny responsibility to provide  
18 health and mental agencies -- right now, school have the  
19 option of seeking insurance reimbursement from parents'  
20 insurance -- I'm going to suggest the issue, how about if  
21 there is requirement, if these are deemed to be health and  
22 mental health services that fall in the lap of school

1 agencies, might not there be a requirement that private  
2 insurance pay for that? And maybe there is a need to  
3 modify in federal insurance requirements that this would  
4 not impact a person's lifetime insurance benefits.

5 One of the issues that just drives me crazy  
6 is Medicare is reimbursing some of the services; Medicare  
7 is reimbursing nursing services, occupational physical  
8 therapy, isn't this a clue that these are not educational  
9 services? I mean, isn't this -- it strikes me as being  
10 strange.

11 School agencies have limited resources and  
12 strive to examine every expenditure and try to make every  
13 expenditure be a cost-effective expenditure. Even the  
14 President -- I was thinking of an analogy -- he has called  
15 for the funding of the Missile Defense Shield, many, many  
16 billions of dollars, in the name of national defense.  
17 And, if we had unlimited resources, certainly we should do  
18 that. But it's up to Congress to evaluate, is this cost-  
19 effective or are there other uses of that money that would  
20 be better for either national defense or in the national  
21 interest.

22 There are so many areas in Special Education



1 where school agencies are precluded from evaluating cost-  
2 effectiveness. And, if you look at the example on page 9,  
3 suppose that a school district assesses a pupil with  
4 severe disabilities and says, "We recognize the severity  
5 of the disabilities and we propose this comprehensive  
6 educational program that will cost \$40,000 a year." And  
7 the parents or advocates say, "Well, we understand that;  
8 we want this other program that costs \$100,000 a year."  
9 Nothing is done to evaluate whether that \$60,000 marginal  
10 expenditure is cost-effective.

11 Now, I'm a numbers guy so I think about this.  
12 Suppose that there was a determination that the \$100,000  
13 program was indeed a better program and that gave a  
14 hundred percent of what the child needed; and the \$40,000  
15 program was worth 95 percent as much, was 95 percent as  
16 good. And so we're spending -- the school district says,  
17 "We're willing to spend \$40,000 to get 95 percent of the  
18 way." Is it reasonable that they be required to spend  
19 another \$60,000 for a marginal five percent advantage for  
20 this one child? Nobody is looking at, is that cost-  
21 effective, is it reasonable, and nobody is looking at, are  
22 there other uses of that \$60,000 that might be better for

1 other pupils with exceptional needs or other non-disabled  
2 pupils. Maybe the school district had cut its music  
3 program because of this kind of situation. Maybe the  
4 school district cannot afford preventative (sic) services  
5 for pupils who are not low-income because of this  
6 situation.

7 With the EDA, there is a requirement that  
8 employers provide reasonable accommodation for potential  
9 employees or current employees who are disabled. Maybe  
10 there is need to have a reasonable accommodation standard,  
11 not unlimited. And, along these lines, in California, we  
12 see on a not infrequent basis issues where individual  
13 placements cost \$100,000 a year, in rare cases \$250,000 a  
14 year. This is extraordinary. And there is a cap on the  
15 amount that is required to be spent for pupils in private  
16 and parochial schools, after which a school agency can say  
17 'no'; might there be some caps imposed?

18 One form of a cap is Special Ed should not  
19 cost more than 15 percent of a school district's budget;  
20 and I'm just throwing out an example, 15 percent may not  
21 be the right number, and you are allowed a definition, is  
22 this excess cost or is this total cost, are you including

1 indirect cost, and so on. But this concept, a total cap,  
2 along which you must prioritize. And so the claim of one  
3 pupil doesn't have -- preempt claims that might be good  
4 for all pupils. Or, alternatively, might there be a cap  
5 on individual services. And, along these lines, something  
6 that was talked about earlier, was a federal extraordinary  
7 cost pool. Mr. Gordon, my colleague from Sacramento, was  
8 talking about this and maybe, for specific disability, it  
9 would be that, okay, \$40,000 would be a very high cost; if  
10 the placement is above that, then there is a 50-50 sharing  
11 between federal dollars and local dollars so that there is  
12 still some incentive to be discreet, prudent.

13 On page 12, you're hearing a lot about  
14 procedures and paperwork and I'm not going to dwell in  
15 this area except to say that, in California, there were  
16 analyses where the school agencies were meeting a hundred  
17 percent compliance standard that was virtually impossible  
18 to meet.

19 It's as though every Special Ed administrator  
20 must play golf like Tiger Woods in order to be a hundred  
21 percent compliant, you have to par every hole in order to  
22 be a hundred percent compliant. Isn't this a clue that

1 the system is out of balance? It's frustrating for  
2 administrators, it's frustrating for parents, and  
3 frustrating -- there's so much of the legal proceedings  
4 and the due process hearings focus not on whether this is  
5 a good program but whether there were procedural errors.  
6 We need to get away from this.

7 And one of the issues that I know that you  
8 need to wrestle with is, how do you get away from  
9 procedural compliance to accountability without adding a  
10 new level of paperwork and procedures?

11 Here in California, due process issues are  
12 just phenomenally expensive and are used as a club against  
13 school agencies. I was talking to an attorney recently;  
14 there was a hearing that went 25 days. The school agency  
15 won on every single point and their legal fees were  
16 \$300,000 to defend this due process. This isn't helpful  
17 for anybody. It's a drain on school district  
18 expenditures, the administrator is in the hearing instead  
19 of dealing with parents and kids, it's not good for  
20 anybody.

21 And, what we find is that those are incentive  
22 on the part of some. I'm not labeling, broad-brush,

1 everybody acting in this manner but, on the part of some  
2 advocates or attorneys to drag out procedures because they  
3 get paid more, they get paid by the hour, or the incentive  
4 to say, "We're going to take you to due process; we're  
5 going to have an expensive hearing if you don't agree with  
6 us in mediation ahead of time." Those are used as a club  
7 against us.

8 And some ideas on due process on page 14 are  
9 to put a one-year -- that should have said statute of  
10 limit on compensatory education; right now, there is a  
11 three-year statute of limits. And -- which means that  
12 parents may have suspected that something wasn't right and  
13 they wait three years -- almost three years -- to file a  
14 claim against that; this isn't good for the pupils, it  
15 isn't good for the system that there is litigation or  
16 hearing over three years of issue. This is an issue that  
17 needs to be brought to light very quickly and get it  
18 resolved.

19 Use a public defender type of system so there  
20 is not an incentive to drag out legal proceedings and so  
21 that parents who don't otherwise have access to private  
22 attorneys would have access to the legal system. So this

1 would be, I think, a win-win overall. Put a cap on  
2 reimbursement for private attorneys' fees, again.

3 David, you were asking that question earlier;  
4 I think there should be a cap.

5 A colleague of mine was watching CNN recently  
6 where there was a debate in Congress over Washington, D.C.  
7 School District. And what my colleague said was that the  
8 debate was whether to extend the cap on attorneys' fees  
9 which are currently \$50.00 per hour, \$250.00 per case.

10 And I go -- when Congress is paying the bill  
11 for the Washington, D. C. School District, they put a cap  
12 like that? And, when we're paying the bill, there's no  
13 cap? I think there's something out of balance here.

14 And then, finally, hopefully, there's going  
15 to be clarification on one of my earlier points; what is  
16 appropriate? And, if so, then when an issue goes to  
17 hearing, I think the first thing should be is what the  
18 school district is offering, is that appropriate, yes or  
19 no? If that is yes, you stop; the school district is  
20 offering free and appropriate public education, you stop.  
21 There's no need to identify whether another program is  
22 better, more appropriate; appropriate means it meets the

1 standard, stop.

2 On page 15, you're hearing a lot about  
3 discipline, I don't need to go into that. Just, I was  
4 remembering when I was getting ready for my presentation,  
5 talking to a county counsel -- and I'm sorry, I don't  
6 remember what county it was -- and he was talking about  
7 how gangs know about the difference in discipline issues  
8 and they are recruiting pupils -- mostly high school  
9 pupils with exceptional needs -- to carry weapons or carry  
10 drugs, knowing that they will not get in as much trouble  
11 as a gang members themselves.

12 We have a system, again, that is out of  
13 balance. The issue here is balance.

14 Page 16, there is a lot of new therapies that  
15 are being proposed and I think there's a need to have  
16 federally-funded research, not just on best practices but  
17 on new therapies, new experimental therapies. Perhaps  
18 just like the Food and Drug Administration doesn't license  
19 a drug until it's been tested and proven effective, maybe  
20 there should be a system of testing new therapies, for  
21 what pupils are they effective, what quantity are they  
22 effective? Some of the new therapies, some of the parents

1 -- or some people are under the assumption that more is  
2 necessarily better and we're getting requests for 40 hours  
3 a week. What intensity works well? Obviously, this is  
4 going to depend on the child, on the circumstances, but  
5 maybe get some research out there before experimental  
6 therapies in due process hearings.

7 Page 17, this item I know is going to be  
8 controversial. I was recently in a school district that  
9 has a real budget problem, they need to cut \$7 million out  
10 of a \$90 million budget. And I was in there doing  
11 consulting where in the area of Special Education could  
12 cuts be made and still meet appropriate public education.  
13 We identified areas where the district had overstaffing,  
14 very little case loads, where cuts could be made. And  
15 then I go, "Wait a minute, that's going to violate, if  
16 those cuts are made, the maintenance-of-effort  
17 requirement.

18 And what happened was, the school district  
19 had lack of controls, or whatever reason, they overspent  
20 their budget, they spent down the ending balance, they  
21 need to make cuts today. And the maintenance-of-effort  
22 requirement says you can't make cuts in Special Education.



1 And some people would say,  
2 "That's right; why should Special Education pupils suffer  
3 from fiscal mismanagement?" I go, "Why should anybody  
4 suffer; why should the regular ed kids suffer from fiscal  
5 mismanagement?"

6 The fact is, had the district been prudent,  
7 it would have had a lower level of expenditure all along.  
8 Can't they roll it back to that lower level expenditure  
9 that they would have had all along?

10 States can get a waiver of the 'supplement  
11 and not supplant' standard during times of fiscal crisis;  
12 why can't school districts apply for that? Why is it that  
13 the only cuts that can be made have to be made through the  
14 non-Special Ed program? This is an issue of imbalance,  
15 again.

16 Hopefully, I'm one of many speakers talking  
17 about the 40-percent standard. In California, as I said,  
18 our shortfall in Special Ed's funding is about \$1.3  
19 billion and the 40-percent standard, funding that, along  
20 with the other reforms that I'm talking about, would go a  
21 long way towards eliminating the drain on general ed and  
22 allow dollars for program improvements and program

1     enhancements.

2           And one of the things that I think is very  
3     important is to recompute the 40-percent level. And the  
4     origin of the 40-percent level -- this was talked about  
5     before but I want to make this point again -- was that  
6     there was a study around 1970 that identified that the  
7     cost for the average Special Education pupil was about a  
8     hundred percent more than for a general education pupil;  
9     and the promise was to fund 40 percent of that excess  
10    cost.

11          I believe that, especially on the high-end  
12    cost of the spectrum, costs have shot up and I would  
13    expect that, when the AIR study comes out, that the  
14    average cost for Special Ed is more than a hundred percent  
15    than the average -- above the average cost for regular ed.  
16    If it's not, then it's because we've expanded the pool of  
17    low-cost pupils dramatically.

18          And this leads to the final point on the  
19    page. I support what the President is talking about,  
20    improving preventative programs, improving reading,  
21    keeping kids out of Special Education, teaching them to  
22    read. Absolutely. And I'm hopeful it's very successful,

1 that 20 percent or more of the pupils who presently are  
2 labeled Special Education can get the services that they  
3 need and avoid that label.

4 But this should not mean that the cost of the  
5 40-percent level go down by 20 percent just because we've  
6 eliminated low-cost pupils. I think that, hopefully, the  
7 study will identify costs in sufficient detail that, if we  
8 eliminate 20 percent of pupils on the low-cost end of the  
9 spectrum, that the -- it will allow the recomputation --  
10 well, what is the ratio now? It's not going to be a  
11 hundred percent more; it's going to be a 120 or 130  
12 percent more, and this needs to be factored in. A 20-  
13 percent reduction in the number of pupils in Special Ed on  
14 the low-end cost of the spectrum should not lead to a 20-  
15 percent reduction in the federal obligation.

16 And, with that full funding of the 40-percent  
17 level, I think there's a need for greater flexibility.  
18 Here in California many school districts have backfilled  
19 the shortfall in federal dollars with the local revenue;  
20 that's the encroachment that I'm talking about, \$1.3  
21 billion. And, for the federal government to say, "Okay, I  
22 didn't fund what I was supposed to fund, I'm going to give

1     you the dollars now but the rules are only 20 percent of  
2     the new dollars can be used to offset local revenue."  
3     That implies that 80 percent of the new dollars must be  
4     used to -- as an augmentation, to augment funding.

5             And, for some school agencies that are not  
6     doing a good job right now, absolutely, it should be  
7     required to augment their programs. But, for school  
8     agencies that are doing a good job, they're paying for it  
9     out of their own dollars, to require that new money spent  
10    -- 80 percent of the new money be spent as an  
11    augmentation, on top of an already expensive program, I  
12    think is unnecessary and is a bitter pill on the part of  
13    many school agencies.

14            By way of summary, taken together, my hope is  
15    that these ideas will help to create a better balance,  
16    define FAPE, bring about a better balance on the issues of  
17    attorneys' fees and due process and legal conflict, bring  
18    about a better balance in the area of discipline. And  
19    let's recognize that the negative impacts of some of these  
20    existing conditions on the regular education pupils, as  
21    well. Let's create a balance; let's create a system that  
22    works.

1 Thank you.

2 DR. GILL: Thank you.

3 We're going to start with Commissioner  
4 Hassel. Bryan, have you got a question or comment you'd  
5 like to make?

6 DR. HASSEL: Are either of you aware of any  
7 efforts to quantify the regulatory and administrative  
8 costs of Special Education as opposed to, say, educational  
9 costs?

10 MR. GOLDFINGER: No. This is a very  
11 difficult issue. We asked our school agency constituents,  
12 "What are you spending on legal fees?" and they can't even  
13 give us that. But what percent of administrative time is  
14 spent on excessive administration, I don't think there's  
15 any way to quantify that.

16 DR. DARAY: I think your question really  
17 should be, is there undocumented unreasonable costs. And  
18 I can either get back to the Commission, or Bill can.

19 There's been several times in Washington  
20 where the state has attempted -- committees, typical the  
21 policy committees. We have a certain standard, a budget  
22 committee and a policy committee. The education policy

1 committee is -- about every four or five years, depending  
2 on the interest of the members, this question builds up  
3 about these costs. And they -- I know there's been some  
4 committee work done on that level.

5 And, actually, in terms of the budget -- we  
6 had one of our last budget crisis with every 10-year event  
7 in the State of Washington; obviously we're in one right  
8 now -- I think there was some work done to go through  
9 that. And I think, actually, the superintendent of public  
10 instruction's office, which Chairman Gill works for, was  
11 -- had a review of its regulatory functions and whether  
12 they were affect -- and whether there was a requirement  
13 that they go through and identify all those things that  
14 were State rule regulation above the federal regulation.  
15 And it turned out there really weren't any. But you could  
16 certainly hear from the field that there was all this  
17 paperwork.

18 Don't get me wrong; I'm saying that it's a  
19 non-trivial issue. But there may be some way to help.  
20 But the tough part of the question is the unreasonable  
21 amount of administrative kind of work because the one  
22 interesting thing about Special Education, as opposed to

1 all the other budgets I've done -- especially higher  
2 education, those have sort of open-end entitlements -- is  
3 you do have a process that starts as soon as a child or a  
4 student becomes a focus of concern.

5 See, I have all this documentation that, in a  
6 sense, documents the eligibility of a child, if done  
7 correctly. Well, that documentation, it's a lot of  
8 paperwork. But you do have an entitlement that's  
9 documented, unlike most of the other areas of government.

10 Now, again, you're talking to someone whose  
11 career in the finance area. I believe it's protection for  
12 both the student as well as to the State. So, from the  
13 clients that I've had over the years, governors -- the  
14 governors that I've worked for -- and then the  
15 legislatures -- the legislators that I've worked for, they  
16 feel comfortable with that level of documentation. And,  
17 at a certain point, they say, "You know, given the  
18 programmatic kinds of issues involved, I don't mind that  
19 kind of documentation in the field, if done well." But  
20 (unintelligible) on that. So I know there's been at least  
21 three things; I just don't have them right here and can't  
22 cite them right away.

1 DR. GILL: Commissioner Gordon?

2 MR. GORDON: Thanks, Chairman.

3 Mr. Daray, I was struck by your comment that,  
4 unless some of the rules of the game, how they are to be  
5 changed, are set forth before new money starts to flow,  
6 you've lost the game because there's nothing much will  
7 change.

8 What are the key areas in the federal law  
9 that you would set aside pending setting a new set of  
10 ground rules before you sent the money out?

11 DR. DARAY: Well, I'm not as familiar with  
12 the federal laws, enough to give you some specifics on  
13 that. But let me, again, talk about some generalities --  
14 some general terms.

15 If there isn't a lead by those that are going  
16 to have to do the evaluation research, that is, a pause  
17 before this happens, so there's a fully-articulated set of  
18 research kinds of standards -- and I don't mean academic  
19 research, although it can be academic research -- but the  
20 -- some way to do the measurement for its experimental  
21 control groups -- or you're going to have to work through  
22 all these methodologies; it's not easy.



1 I know it's suggesting it's easy but, if you  
2 don't have that set up ahead of time, and a monitoring  
3 system -- because all the research is going to do,  
4 generally, is tell you whether or not you've succeeded.  
5 What you need to know is where are the elements that  
6 allowed us to succeed.

7 And one of the things that was necessary in  
8 the reform of the criminal justice system was to go back  
9 and not only find out that crime went down -- okay, in the  
10 city of Auburn, the crime went down and there's not a lot  
11 more activity, what actually did that criminal justice  
12 system do to make that change? What were the new things?

13 So, before -- you know, I guess my  
14 recommendation would be just to spin -- and before -- I  
15 have to say, I haven't heard someone dispute the claim I  
16 would make is that the 40 percent is an arbitrary number.  
17 So what's the rush? I mean, if you're not going to do it  
18 well, why do it at all?

19 And I have to say the experience from LEAA,  
20 there's still a lot of bitter -- or most of this,  
21 especially -- there's still a lot of people bitter from  
22 the LEAA experience who thought it was going to bring a

1 new high level of standards and got caught in the sense of  
2 lack of clarity about what this change was supposed to be,  
3 and some insistence that there be an improvement in  
4 quality, not just quantity. And the money just  
5 disappeared. So --

6 DR. GILL: Thank you.

7 MR. GOLDFINGER: I come to that issue,  
8 obviously, from a very different perspective.

9 And my perspective is, there was a package  
10 deal, the federal government implemented Education for the  
11 Handicapped Act, later IDEA, and, in 1975 said, "We know  
12 we're mandating an expensive program; we're going to pay  
13 40 percent of the excess cost."

14 And school agencies go, "Okay, we can deal  
15 with that." And the mandate has stayed and, in fact, as  
16 one of my colleagues this afternoon will say, the mandate  
17 has grown, but the promise of 40 percent funding has not  
18 been forthcoming.

19 This has created, at least in California, an  
20 underfunding of Special Education, a drain on general ed,  
21 that needs to be rectified. This is a major imbalance in  
22 the system.

1 DR. DARAY: Can I just comment on that  
2 response just a little bit; something I left out.

3 DR. GILL: Jack, if you could make sure  
4 you're closer to the microphone.

5 DR. DARAY: Let me just make a quick comment  
6 on that. And I'll concede that, perhaps, what Paul has  
7 characterized California as -- is the case. And I'm not  
8 trying to be mean here; I'm just trying to be clear with  
9 you about being clear.

10 I think the point that my colleague Bill  
11 Freund made, and I hope that I made, is that, even in a  
12 state like Washington, which has a pretty good accounting  
13 system, and the data -- the kind of data that is available  
14 to us is really extraordinary, especially compared to  
15 other areas.

16 But the point is, even the State of  
17 Washington, after five years of work with the Safety Net  
18 Committee, school districts still are very reluctant to go  
19 to that Safety Net Committee because they can't show they  
20 actually spent the basic ed money, that all that money has  
21 been committed.

22 So, if they can't show that -- they can show

1 that they spent all the excess but there's still -- you  
2 didn't get to this base. And my hunch is, outside of  
3 Washington, and conceding Paul's point to California  
4 because I don't know the facts, there's probably very few  
5 states that can document, in the first place, they spent  
6 all the basic ed money.

7 So, you know, that's the piece -- in fact, my  
8 recommendation number one to you, that, you know, I  
9 submitted in writing, was that you require a definition of  
10 some sort -- and I know this is extremely difficult, I'm  
11 not being cavalier about this -- but, if you can't -- if a  
12 state or district can't define what basic education is and  
13 can't document, to a reasonable extent, that it spent that  
14 student's right, in a sense, first, then no one knows what  
15 the cost is. It's just an unknown because of not knowing  
16 that base.

17 DR. GILL: Commissioner Coulter?

18 MR. COULTER: Mr. Daray, I was struck --  
19 first of all, I really appreciate the candor, you know, of  
20 your thoughts because I think, if we feel a strong burden  
21 that, you know, in terms of public funds, that the public  
22 funds are spent, you know, in a way that families are

1 getting what, in fact, the law promised them. So, you  
2 know, I do appreciate your candor about, you know, not  
3 about just saying, "Just send us more money." but, you  
4 know, what is that money, in fact, going to purchase for  
5 families.

6 Your recommendations, as they -- for number 2  
7 and number 4, I was struck when you said that, do not  
8 release any new funding until the policy rules and  
9 monitoring methodology is developed. And, in number 4,  
10 you talk about program evaluation as a tool for, in  
11 effect, trying to kind of support additional funding.

12 Could you speak a little bit more to that  
13 issue, maybe on experiences in Washington State or  
14 elsewhere, on how this monitoring or, maybe, program  
15 evaluation, it's research base, is in some way tied to  
16 funding?

17 DR. DARAY: Yeah. Again, this reveals my --  
18 you know, biases as a researcher and interest in research  
19 questions. But, again, I'll borrow a little bit on the  
20 attempt to reform the criminal system. And really what's  
21 going on in current literature are the so-called best  
22 practices kind of movement

1           What's needed is sort of this interim  
2 process, it's more than having just good intentions; you  
3 need to have some way that allows you to look at whether  
4 this is really going to be -- is being effective, let's  
5 try something that's effective, let's (unintelligible).  
6 And I think it's a fairly simple kind of a model I'm  
7 trying to lay out here.

8           And, again, I'm -- if you just want to put  
9 the 40 percent out to -- an additional 20 percent to make  
10 the current 20 percent whole -- I'm not recommending  
11 against that, but I'm saying, in number 2, be clear about  
12 your policy. And then, if you decide to go with, "No, we  
13 want extra effort." to develop this process at the very  
14 front end -- and the program people are going to hate this  
15 because it means a lot of up-front kinds of definition  
16 what this new activity is. You can't get to doing good  
17 things -- and I'm not trying to be mean about this at all.  
18 I'm just saying a lot of extra effort is not going to  
19 lead, necessarily, to improved programs, and especially as  
20 you enter the area of performance standards.

21           So I think that's what I'm trying --  
22 referring to, sort of this interim process where you --

1 maybe you have to do some of this -- have a category of  
2 money -- and you could do both things, it doesn't have to  
3 be one approach -- but you have a special pot of money,  
4 maybe a richer pot of money.

5 If you're going to do something new with  
6 Special Ed and you're willing to have some up-front kinds  
7 of research, and monitoring along the way, so that we know  
8 what you're actually changing -- and this is a problem of  
9 every reform, even in our state and most states. Every  
10 reform is about a test, it's about a number changing.  
11 What bothers me is what do we know that will cause that  
12 change, you know, -- researcher question.

13 So, without that mechanism, you're never  
14 going to know why things change; we just did a lot of  
15 something and it changed, for better or for worse. And it  
16 seems we owe it both to the resource provider, the  
17 taxpayer, as well as to the parents of the kids who really  
18 -- they want to see improvement in their kid. And that's  
19 what it all kind of filters through in the end.

20 MR. COULTER: Thank you.

21 I'd like both of you to comment on Mr.  
22 Daray's recommendation number 1; and that is, it does not

1 appear as though we have any adequate or uniform  
2 definition of regular education costs.

3 Can you speak to that as it relates both to  
4 California -- obviously, Dr. Goldfinger feels as though --  
5 you know, there's already an excess there. But what about  
6 this problem of there doesn't seem to be uniform  
7 definition?

8 MR. GOLDFINGER: I'm going to interject. I  
9 appreciate the honorary degree. As my father once said,  
10 Goldfinger, yes; but doctor, no.

11 MR. JUSTESEN: I told you not to say that.

12 MR. GOLDFINGER: You see, in California, we  
13 don't need to track the dollars; we don't need to say,  
14 "This is a basic education dollar, are you spending that  
15 dollar on basic education?" I think you can look at  
16 things globally and say, "How much are you spending, in  
17 total, on Special Education? How much are you getting, in  
18 total..." --

19 MR. COULTER: Pardon me for interrupting but  
20 isn't that a fundamental problem? If, in fact, you don't  
21 know that the first dollars have been spent --

22 MR. GOLDFINGER: Well, let me go on.



1 MR. COULTER: Okay.

2 MR. GOLDFINGER: I'm going round off and  
3 really tax my memory.

4 We have, in California, a counting system  
5 that reports total expenditures by program. This includes  
6 direct costs, allocated costs, indirect costs. And, when  
7 we look at that for a statewide total, all school  
8 districts and county offices, Special Education, if my  
9 memory is right, it was \$4.8 billion.

10 We look at, what are the revenues that are  
11 available. Now, for a pupil who is learning disabled, who  
12 is in a regular classroom, we go, "The general ed dollar  
13 has to pay for that regular ed teacher." and so we're not  
14 counting that. This Special Education pull-out teacher is  
15 the only cost that we're reporting here.

16 And so it's only the pull-out service that  
17 we're showing as costs so I would say the general ed costs  
18 and the general ed revenue is not part of this equation.  
19 For the pupil who is in a self-contained special day  
20 class, the general portion -- which comes per unit of  
21 average daily attendance -- yes, those revenues are  
22 restricted and should be restricted for Special Education.

1       So we count that as available funding.

2           We look at the state aid for Special Ed, we  
3       look at the federal aid for Special Ed; and, when I do  
4       that calculation, I come up with about \$3.5 billion of  
5       revenues that includes the general ed share for the pupils  
6       in the self-contained classrooms, 3.5 billion.

7           I go, "Well, if we're spending 4.8 and we're  
8       only getting 3.5, then we're spending 1.3 billion of  
9       unrestricted monies in support of Special Education."

10          I don't think -- you're asking a question as  
11       though it's a threshold question. I don't think we need  
12       to answer that question. We're already accounting for the  
13       revenues, how can we not be spending the core general ed  
14       dollars in support of these pupils?

15          MR. COULTER:   Okay.

16          DR. GILL:    Mr. Jones?

17          MR. JONES:   Mr. Goldfinger, I want to explore  
18       a few questions from your recommendations.

19          One, let me state as an outset point, I don't  
20       necessarily subscribe to how 40 percent came into being  
21       from the 1975 debate and what led to it that you  
22       described. But let's say how you described it is the

1 appropriate model for considering it and that this is an  
2 attempt to approximate 40 percent of the cost, excess  
3 costs of Special Ed, by being 40 percent of APP, average  
4 per-pupil expenditure.

5 If it turns out that, in fact, Special Ed is  
6 less than twice the cost, should we actually reduce the 40  
7 percent figure downward and, in the same, if it's higher,  
8 we should -- I mean, let's say it's actually 1.8 times the  
9 cost, should we slice 40 percent of APP to 32 percent of  
10 APP?

11 MR. GOLDFINGER: Yes, and, from 32 percent,  
12 it would be almost double where you are now; yes. I think  
13 we say we've got a deal.

14 MR. JONES: No, I understand that. But let  
15 me go on. You see, I'm also not so sure that, when you  
16 aggregate Medicaid funding and other sources of funding,  
17 you're not actually closer to that. But, if it slid to  
18 1.5, you would be equally supportive of the model downward  
19 as up?

20 MR. GOLDFINGER: Yes. And I would be  
21 surprised if we're going to see a number lower than a  
22 hundred percent. But where -- I'll say, let the chips

1 fall where they may. I think, especially if we're  
2 successful of getting kids into reading programs and  
3 keeping out of Special Education -- Dave Gordon is  
4 Superintended of Elk Grove School District, they have a  
5 very innovative preventative program and they have -- in  
6 California, the average school agency has about 10 and a  
7 half percent of their school-age population in Special  
8 Education; Dave's district, it's about -- I forget --  
9 either eight and a half --

10 MR. GORDON: About nine.

11 MR. GOLDFINGER: And so, yeah, it works. So  
12 let's get these peoples out. But the ratio -- one of my  
13 points was, if that works, then the ratio for the  
14 remaining Special Education peoples, the average cost for  
15 them is going to be higher because you've excluded the  
16 low-cost.

17 MR. JONES: Okay. And thank you, that's  
18 helpful.

19 On the payment for services at private and  
20 parochial schools, where you had suggested a prorata share  
21 be all that a state is -- or a local is obligated --

22 MR. GOLDFINGER: That is federal regulation.

1           MR. JONES: Well, no, I -- it's actually not  
2 exactly. The obligation is only to pay pro -- to make  
3 available a prorata basis of resources but not, in fact,  
4 on a per-pupil basis.

5           MR. GOLDFINGER: Oh, I'm sorry if I was  
6 misunderstood. No, I meant a pot of money, which is the  
7 prorata share of the federal dollars. If the pupils in  
8 private and parochial schools are say eight percent of all  
9 Special Education pupils and eight percent of the federal  
10 dollars is a pot of money, you spend that in a way that  
11 you serve to maximize cost-effectiveness, you don't have  
12 to serve all peoples, you don't have to serve all peoples  
13 equally; at that point, you can say no.

14          MR. JONES: Well, what I'm asking, though,  
15 is, if it's appropriate to limit it to that prorata share,  
16 is it also appropriate, on the flip side, to permit  
17 children to obtain that prorata share on an individual  
18 basis? In other words, if you're saying that the pot  
19 should be limited, should, then, the slices -- or the  
20 pieces within that pot be proportionally out for children  
21 who seek it?

22          If you have 10 kids in parochial school --

1 MR. GOLDFINGER: Right --

2 MR. JONES: -- and you divide it up into 10  
3 pieces, should each of those 10 kids now have the  
4 opportunity to pull their slice out of the pie?

5 MR. GOLDFINGER: I'm going to say, as we  
6 discussed, it's not the current requirement and I don't  
7 think that would be cost-effective because, generally,  
8 you're going to need some kind of -- how much service --  
9 if their share, in example, was \$10,000 and each pupil's  
10 share was 1,000, how much service can you buy for 1,000?  
11 You might have much more effective service to pay for a  
12 fraction of a speech teacher. If eight out of the 10 kids  
13 need speech, and to buy, say, 20 percent of speech teacher  
14 out of that \$10,000, that's going to be much more  
15 effective than each parent having a thousand dollars and  
16 having to go to a private vendor and get services -- get a  
17 couple of hours of service out of a thousand dollars.

18 I just don't think it would be cost-  
19 effective, it would be an effective use of those  
20 resources.

21 MR. JONES: I mean let's say -- I don't want  
22 to belabor this too long, but a local catholic school has

1 10 kids, the proportion and share would pay for one PT to  
2 come in twice a week. Under current law, that parochial  
3 school can't go to the district and say, "Hey, I've got  
4 eight of your kids; if they came back to you, you'd have  
5 to provide full faith for them. Instead they are at our  
6 school; we would like to suggest that you provide that  
7 prorata share and we'll be able to hire the PT." and,  
8 instead, the school district can say "No. We actually  
9 provide -- we make available those resources to you by  
10 allowing your teachers to attend our summer training  
11 institutes that we spend federal dollars on."

12 That's within their limits right now and  
13 that's what happening at most of those schools.

14 MR. GOLDFINGER: Okay --

15 MR. JONES: Would it be appropriate to allow  
16 those private schools to have the ability to access those  
17 proportional funds on behalf of their students?

18 MR. GOLDFINGER: It's my understanding --  
19 you're stretching my area of expertise, but it's my  
20 understanding that a school district does not make a  
21 unilateral decision that it meets with the private and  
22 parochial school agencies, identifies areas of needs, and

1 comes up with a group decision on the best use of those  
2 dollars. If it were the instance that you said, where  
3 it's either teacher training or nothing, I would go -- I  
4 don't think that's appropriate. But it's my understanding  
5 it's much more collaborative than that.

6 MR. JONES: Okay.

7 The last question I want to ask you is, I  
8 guess, almost a philosophical one; and I'll extend this to  
9 Mr. Daray, as well.

10 The origin of 94-142 in '75, was at a point  
11 in the civil rights movement where we were a good 10 years  
12 after the passage of the original Civil Rights Act, we're  
13 well into the court battles over bussing, and there's an  
14 argument that part of the reason IDEA had the support to  
15 get through Congress was because of the fear of what had  
16 developed under the litigation without funding that came  
17 out of the Civil Rights Act. So there were no carrots  
18 inside the Civil Rights Act.

19 And further, the constitutional litigation,  
20 as part of desegregation, that was leading to the bussing  
21 conflicts and so on, was short-circuited by providing some  
22 of these carrots inside IDEA so that, in absence of IDEA,



1     you would have had a stream of litigation that would  
2     probably continue until today that would make most of the  
3     desegregation and bussing litigation look like a debating  
4     society, it would go on for years and be in levels of  
5     minutiae that made that look like small time.

6           My question is, in considering the  
7     obligations that school districts view IDEA is imposing on  
8     them, is there any recognition among the policy-makers  
9     that you talk with that IDEA is also, in a sense, a shield  
10    for them, that it's -- it proscribes of service for  
11    children within their systems that otherwise would be up  
12    to the vagaries of federal court judges and state court  
13    judges over definitions of terms like equity and access  
14    and proper service?

15           MR. GOLDFINGER: You're asking a very good  
16    question and only response that I can think of is that it  
17    was my understanding that the State of New Mexico at one  
18    time was the only state that did not opt into Education  
19    for the Handicapped Act and they found that they were  
20    subject, I guess, to that kind of litigation and that kind  
21    of, just -- they decided that, since we have to do all of  
22    this anyway, we may as well opt into the program and get

1 the federal dollars. And so that may be your one test  
2 case, to look at that.

3 DR. DARAY: My experience has been in terms  
4 of that kind of understanding IDEA as a shield -- is the  
5 way you characterize it -- and as a way to think about  
6 what the K-12 system, especially the Special Education  
7 works, is a real world sophistication that's just not  
8 evident at state-policy-makers in Washington right now.  
9 It's just not a level of interest; these things kind of go  
10 in waves, you know, it goes from higher-ed to K-12 to --  
11 and there's also -- let me take this opportunity to make a  
12 comment on the whole scale change of policy-makers in  
13 states like, say, Washington, there's really not much --  
14 when you go back to things in the '80s -- I know for Bill  
15 and I, the '80s are just the other day and we keep  
16 thinking -- the problems we deal with -- ever-changing.  
17 We don't have term limits, it doesn't -- we don't -- we  
18 don't need it in the State of Washington, there's such  
19 high turnover.

20 But there's really no one left from the '70s  
21 or the '80s. So, from a -- so, for a policy issue like  
22 Special Education, they're just overwhelmed and they don't

1 put in the six to eight years they used to before they  
2 even felt, you know, like taking on the tough issues,  
3 which is higher education, something like Special  
4 Education. You know, it just takes a level of  
5 sophistication.

6 So, in a sense, you have an opportunity to  
7 start a new message in this. I mean, I don't think --  
8 those old issues -- you can redefine that original terms  
9 of entitlement; and I don't know what's so sacrosanct  
10 about that. You're not going to find anyone in the  
11 Washington legislature and you -- but you would have,  
12 probably eight years ago. You certainly would have -- ten  
13 years -- "Wait a minute, I don't remember what that was."  
14 I mean, it's just sort of academic argument now, it's sort  
15 of, "What do you want to do?"

16 And that's why -- I don't know if you can  
17 tell where I'm leading in my recommendations; I'm working  
18 against my professional long-run, which is, I've always  
19 been on the finance side. And what I suggest to you both  
20 in my talking points, and my recommendations, in the end,  
21 in an ideal world, policy would drive things, not the  
22 finance side of things. You would have a clear idea of

1     what are best policies and best practices and then you  
2     could fund that.

3             But, in the absence of that, you just don't  
4     know what you're getting. So here is the opportunity --  
5     maybe it's a little chunk of -- I think Commissioner  
6     Gordon asked this question and maybe I didn't answer it  
7     well enough -- I mean, here's your opportunity to maybe  
8     set a little bit of it aside and require this to be to the  
9     place where we really know what happened to the money we  
10    spent -- not to say the other money is not well spent; I'm  
11    not implying that at all.

12            But here's a part where you would know. And  
13    these are the practices you could -- you take down to the  
14    classroom and disseminate. I think that answers one of  
15    the Commissioner's questions.

16            DR. GILL: Which actually, I think, is a  
17    pretty good segue for a question that I have. And,  
18    actually, I have a question for each of you and they are  
19    not the same question. And I know the Commissioners will  
20    appreciate that I didn't do that this time; I usually ask  
21    both of you the same question and give you an equal  
22    opportunity to respond.

1           What I'm interested in, and this question is  
2           for Mr. Goldfinger. You used an example on page 9, I  
3           believe, where you talked about allowing the cost of  
4           services to be weighted, the \$40,000 program versus the  
5           \$100,000 program, and normally, I suppose, IEP teams would  
6           decide which one is most appropriate.

7           MR. GOLDFINGER: Well, I was talking more of  
8           a due process hearing, at that point.

9           DR. GILL: Well, I think it's under Allow  
10          Costs of Services to be Weighted (SIC) (cont.), number  
11          two. The question you ask at the bottom is, "Are we being  
12          prudent with taxpayer's money?"

13          MR. GOLDFINGER: Right.

14          DR. GILL: Follows is, "Is there a  
15          `reasonable accommodation' standard that can be used?"

16          What would the elements of that standard be?  
17          How would you approach the reasonable accommodation notion  
18          of differentiating between a \$40,000 program and a \$60,000  
19          (sic) program, I am interested in. So what would some of  
20          those standards be? What would some of those service  
21          delivery standards, or questions you might raise about the  
22          differences between those two programs?

1           MR. GOLDFINGER: Well, I would ask that a  
2           consideration be allowed on the part of the hearing  
3           officer -- this type of issue generally goes to a due  
4           process hearing where the parents offer one thing -- I'm  
5           sorry -- the school agency offers one thing, the parents  
6           request something else. There is a lack of agreement  
7           anywhere in the process until it gets to a due process  
8           hearing.

9           And I would like to see the due process  
10          hearing officer allowed to evaluate not only these dollars  
11          for this individual, but also, is this a prudent use of  
12          money. It's going to be very subjective, in some cases.  
13          I can make it objective by having the hearing officer give  
14          a numeric score, like I suggested. Well, if the \$100,000  
15          program, well that's a hundred; and, if the \$40,000  
16          program is 95 or 85 or whatever they say, then they can  
17          evaluate, is the marginal cost worth the marginal  
18          improvement.

19          If what the school agency is offering is  
20          inappropriate, gets a score of 10, you'd say, "That  
21          doesn't qualify at all."

22          DR. GILL: If it's inappropriate, I think it

1 would score a zero.

2 MR. GOLDFINGER: Right. Or just is not very  
3 good; it gets part of the way there. Or, going back to  
4 the other issue that I raised, is the school district's  
5 program appropriate; and the answer is yes. So that gets  
6 a hundred. Is the other program better? So that's 110.  
7 And so are we getting an extra 10 percentage points for  
8 \$60,000? Nobody is asking that question, is this an  
9 appropriate use of money; and nobody is asking the  
10 question, where does the money come from. School  
11 districts don't print dollars; we don't have deficit  
12 spending.

13 What are the consequences on the rest of the  
14 educational program --

15 DR. GILL: So, in essence, you would let the  
16 courts, basically, or the hearing officers or the  
17 administrative law judges determine point values for  
18 appropriateness of programs and assign a cost to them?

19 MR. GOLDFINGER: Well, I'm a numbers guy; it  
20 sounds reasonable to me.

21 DR. GILL: Okay.

22 Again, my question for you, Jack, is could

1     you talk a little bit about what your perception of the  
2     differences between system accountability and student  
3     accountability -- as it relates to Special Ed, of course.

4           DR. DARAY: Tell me a little more about your  
5     question, make sure I understand.

6           DR. GILL: I think one of the things that  
7     we've heard bits and pieces of today, if one of the  
8     charges is to look at the finance, the cost-effectiveness  
9     associated with Special Education and then, is that, in  
10    fact, accountability, does that drive improved educational  
11    outcomes or whatever. It sounds to me like there are some  
12    measures of system accountability that have to be affixed  
13    to that.

14           Now, maybe it isn't the traditional  
15    compliance system; maybe it's another way of looking at  
16    growth rates, outcomes, in relationship to state test  
17    scores, whatever that happens to be, versus the notion of  
18    the individual entitlement and the student accountability  
19    that may come from part of what Mr. Goldfinger was just  
20    talking about, assessment of cost on a student-by-student  
21    basis.

22           And I guess what I'm interested in is, do you



1 see differences between the dynamics of a systems  
2 accountability system versus a student accountability  
3 system? I mean, the systems are --

4 DR. DARAY: Well the student accountability  
5 -- really what you're asking has to do with the general  
6 education reform movement. And, you know, for it to work  
7 correctly, in the end, the most important employee in all  
8 this business is not employees of the U.S. Department of  
9 Education or the State Superintendent of Public  
10 Instruction, or school district administrators, it's the  
11 classroom teacher.

12 And so a system of accountability, if it  
13 doesn't -- I hate to use this term -- but, if it doesn't  
14 provide some real time kind of information back at some  
15 point to cause some teacher to change his or her  
16 practices, then it really doesn't -- you know, and that's  
17 when -- what Washington is struggling with right now, what  
18 do you do with these scores?

19 You know, we can publish them in the paper  
20 about how different districts are doing, and that makes  
21 policy-makers feel certain ways, but what the whole  
22 enterprise is about, the whole education and formal

1 movement, that is improving education. If the classroom  
2 teacher doesn't change his or her behavior then the thing  
3 hasn't worked. It's just more of what used to be.

4 So, you kind of need to hand-in-hand these  
5 two things and it's formative data and summative (sic)  
6 data and you've got to have both. And the formative data  
7 is the stuff that goes to the classroom at the program  
8 level, and the summative data is the stuff that will keep  
9 administrators and state policy-makers and federal policy-  
10 makers -- sort of generally tuning where the system is  
11 going, or feeling good or not so good about where they're  
12 investment is going.

13 So those -- so I think it's the same issue  
14 that's all -- all that K-12's got to deal with is, or we  
15 come in with both kinds of data. I think we're coming up  
16 really short on the formative side. And, again, I've had  
17 a very lucky career and since I've always sort of been  
18 places, and when you had reform, I did a lot of that and  
19 -- I mean, welfare reform of the '80s -- one of the things  
20 that happened, I was around during all the debates,  
21 whichever was convinced would go any place in Washington.  
22 But, when both sides, it was real clear it was going to be

1 -- the deal was, data for both. I'm willing to go through  
2 the paperwork to send information to Olympia or to  
3 downtown as long as I will get something that helps me  
4 with Johnny or Susie, whether they're getting better or  
5 not.

6 Because -- I don't know, they just go off  
7 some place, I never get any feedback, I'm just going to do  
8 what I learned in my school of education and I learned in  
9 some training.

10 But to have actual, verifiable data to do  
11 that, those two elements have to go together.

12 DR. GILL: Thanks, Jack.

13 Commissioner Chambers?

14 DR. CHAMBERS: It's kind of good and bad  
15 being at the end of the row here because most of your  
16 questions have been taken by the time you get down to me.

17 Actually, a couple of comments and then some  
18 questions.

19 Paul, I've got good news for you; the first  
20 of many reports is out, it's on the web; it was about a  
21 week ago. The new number, if there is a single number, is  
22 1.9. Now it says it costs about 90 percent more to

1 provide -- or -- let me step back.

2 We're spending about 90 percent more on the  
3 typical -- I violated my own definitions here --

4 DR. GILL: Thank you for the clarification.

5 DR. CHAMBERS: We're spending about 90  
6 percent more on the typical Special Education child as we  
7 are on the plain vanilla general education, or regular  
8 education child right now in this country.

9 If I exclude capital facilities -- our best  
10 estimate of what that is, the number is 2.08 -- if I just  
11 look at current expenditures, for example, it doesn't take  
12 that much more space to provide the services on average  
13 than it does other kinds of services.

14 So we're still around the number that Dick  
15 Rossmiller (phonetic) and his colleagues, 30 years ago in  
16 the late '60s, said it was 1.9 and it went up to 2.17 in  
17 the mid-'70s, it went to 2.3 in the '80s, and, you know,  
18 now our numbers are showing about 1.9 or 2.08, depending  
19 on how you measure it.

20 So, if nothing else, it's a bit of a  
21 clarification. The other issue, I don't -- I'm not  
22 convinced that the 40 percent has any relationship to that

1 number. I mean, the 40 percent, as I see it, is 40  
2 percent of excess costs, whatever the -- and I'll use the  
3 term, everybody seems to know what excess costs means --  
4 but it's actually additional expenditures. But 40 percent  
5 of additional expenditures as opposed to 40 percent of  
6 APPE.

7 APPE, the average per-pupil expenditure, is  
8 just a way of estimating the cost of a general ed or a  
9 regular ed child.

10 Here's another point of clarification. We  
11 estimated that we are spending \$77-plus billion to provide  
12 educational services to students with disabilities who are  
13 eligible for Special Education. \$50 billion of that were  
14 funds that were marked for Special Education resources and  
15 services, whether that be administration of the program,  
16 transportation of service -- special transportation, and  
17 then the instructional and related service programs.

18 Now, what's the excess costs, additional  
19 expenditure? It's somewhere in the neighborhood of less  
20 than 35 billion because the \$50 billion, a lot of -- some  
21 of what Special Education is expended on is things that  
22 are really part of the general education curriculum.

1           So, when we talk about Special Education  
2           expenditures and we look at accounting systems and try to  
3           figure out what those amounts are, some of the  
4           expenditures that are for Special Education resources,  
5           resource teachers, special class teachers, are for things  
6           that would be provided if this child was in the general  
7           education program.

8           So, to talk about Special Education spending  
9           and excess expenditure or additional expenditure, whatever  
10          term you want to apply to it, are two different concepts.  
11          And I think we've agreed today that we need to think of  
12          the general -- what's spent on a general education child  
13          as kind of a benchmark here. So I think that  
14          clarification is very important.

15          Part of the reason we have compliance-minded  
16          funding system is because different levels of government  
17          don't trust one another. Maybe for good reason; I'm not  
18          going to make that judgment. I look back over a career of  
19          working in this area for some 25 years and words like  
20          "appropriate," "thorough and efficient," "efficient,"  
21          "adequate" we've been using in the finance community for  
22          years. And they are all, in my view, almost meaningless

1 concepts; they don't tell me anything about what's being  
2 provided in terms of outcomes to kids.

3 Appropriate, efficient, and adequate ends up  
4 being whatever we can afford.

5 I'll step down off my soapbox for a moment --

6 MR. GOLDFINGER: It's more than we can  
7 afford.

8 DR. CHAMBERS: Well, I'll pass on that  
9 comment.

10 I guess I'm trying to figure out, is  
11 ultimately we're concerned about results for children and  
12 I'm still struggling how we measure that, how we get at  
13 results for children without, at the levels we're talking  
14 about, whether it's a federal or state level, resorting to  
15 the bean-counting mentality, the compliance mentality.

16 You've got to have these kinds of services  
17 for these kinds of children, you've got to be spending the  
18 dollars only on this kind of child, as opposed to, let's  
19 put the dollars out there and allow local school  
20 districts, or schools, to try to decide, in their local  
21 community, given the needs that are out there, how do we  
22 best serve these children in order to provide outcomes,

1 results, independent living, whatever the set of outcomes  
2 are.

3 So I guess I'm trying to think -- I heard  
4 people talking -- or you mentioned reduction in paperwork,  
5 how do we take off some of these burdens that we've  
6 imposed at the federal level and provide some kind of a  
7 context of trust at the state and local level to serve  
8 children and get results? What are the results? I mean,  
9 how do we measure this?

10 DR. DARAY: Let me take a quick -- actually,  
11 on page 5 of my talking points, point C) which is almost  
12 the last one -- things I think are important as you get to  
13 towards the end -- so almost the very last thing I talk  
14 about is that -- this technical issue.

15 And the underlying technical issue, we need  
16 some -- as I say -- "explicit consideration" because we  
17 have an area that's already got a lot of documentation, a  
18 lot of paperwork, whether it's successful or not, it's --  
19 but there's a lot of it.

20 To do some of the things that the State of  
21 Washington has done, on a national level, probably isn't  
22 reasonable. And what I recommend are a couple of things



1 that, we sort of have to let go. As policy-makers, you  
2 have to let go and maybe operate like the private sector,  
3 to a certain extent, and that is, do some sample -- you  
4 know, when you've got a production line, you don't pull  
5 out everything on the line and sample, I mean to do a  
6 hundred percent sampling of whether that product is  
7 complying with what we think it ought to be to be a  
8 successful product.

9 And one of the things that you can do is talk  
10 about some very heavy emphasis on some pilot programming  
11 where -- basically sampling -- rather than this hundred  
12 percent sample that government thinks it has to do.  
13 That's a tough step. You've got to do it right up front,  
14 explicit -- and it means you're going to have some  
15 spillage, it means you're going -- and I'd argue, you  
16 don't even know if you've spillage right now.

17 So why not go into those states or those  
18 districts that want to engage in a fairly thoroughly-  
19 researched -- from an operation standpoint, we're doing a  
20 good job and we are going to make the changes and to have  
21 all the formative and summative stuff -- give them some  
22 extra level of funding so you can start to find out --

1     it's going to be an interim process over a long time to  
2     get to the changes.

3             But, you know, I can't agree more with what  
4     your issue is. It makes us budget folks a little  
5     uncomfortable because we like having -- we think we know  
6     who have big data systems. Well, I can tell you as a  
7     former budget director of Evergreen State College, and now  
8     as a consultant who gets to see the other set of books,  
9     that there is a struggling to try to find out how they're  
10    doing, they're just struggling. These are good people and  
11    they're overwhelmed with the job; they're trying to find  
12    out, what's my real cost -- my cost definition I talked  
13    about earlier.

14            So perhaps a sampling kind of approach would  
15    be an answer -- a way to go. And then you generalize from  
16    that to the extent you're disproven.

17            I mean, that's --

18            MR. GOLDFINGER: That's outside my area of  
19    expertise. I'd be afraid to talk on that.

20            DR. GILL: Troy Justesen?

21            DR. CHAMBERS: I wanted to follow-up with --

22            DR. GILL: Oh, go ahead; follow-up.

1 DR. CHAMBERS: I waited this long --

2 DR. GILL: You bet. We will start with you  
3 first next time, Jay; how about that?

4 DR. CHAMBERS: Regarding the -- I want to go  
5 back to the Safety Net concept of the -- it seems to me,  
6 if I understand it correctly -- and I'm not saying I do --  
7 that it's a process of looking from one year to the next  
8 and saying, "Gee, our expenditures have changed very  
9 dramatically from the previous year and we struggled  
10 through our accounting system to try to figure out why  
11 they have changed."

12 I'm wondering, to what extent -- I mean,  
13 we've been thinking about, as you mentioned, I think, the  
14 notion of the very high-cost child. And I'm wondering to  
15 what extent this kind of concept or approach could be  
16 applied on the basis of individual children as opposed to  
17 looking -- trying to dig through an accounting system.

18 In other words, I can go through and say,  
19 "Here's a couple of children in our district who are  
20 extremely high cost; here's the kinds of services that are  
21 being provided to these children." And, instead of  
22 thinking about it as a safety net for the whole system,

1     trying to focus it a little bit more on a very small group  
2     of children who can bankrupt a small school district.

3           DR. DARAY: That's the long range, I think I  
4     suggested earlier, the long-range impact of a safety net  
5     process.

6           Again, in a state like Washington -- which is  
7     kind of contained -- but as you sort of back the whole  
8     system up, the problem at district level is, the person  
9     who has to do the work on the safety net application often  
10    is from the business office and the connection to the  
11    program side is not there. In fact, it's interesting to  
12    watch them when they finally get together, you know, "Gee,  
13    I didn't know you knew that."

14           So it's to a point -- and again, I'm not  
15    trying to be mean spirited -- I'm going -- what I'm trying  
16    to say, if you want good management and a dollar spent  
17    well, the most services to the kids, well what you do  
18    first is you press this system down -- the district has to  
19    get the program person together with the finance person  
20    and say, "Well, what are our costs?" because they do and  
21    don't talk together and they certainly don't warn each  
22    other, I can tell you that. It's a world of surprise. One

1 of the things you learn when you work for the legislature,  
2 never surprise a member with any of your testimony.

3 I'll tell you, with the districts, there's  
4 this time of the year -- it's about this time of the year,  
5 it always happens with the budget -- all of a sudden the  
6 program people will say -- and I get the -- I really like  
7 what I do, I get to watch them say, "We would like to tell  
8 you, we've decided to do a lot more contracting with  
9 Children's Hospital for a bunch of things and the grid is  
10 not going to look quite right." "Oh, yeah?"

11 So I would suggest, at least in the case of  
12 Washington, over time -- I'm not saying it's happening now  
13 -- as you start to force that decision back in terms of,  
14 if we're successful in saying to someone, "We're out of  
15 money; we've got to show we've spent all our money right  
16 now." -- well, if that process, they've got to go in front  
17 of that Committee -- which, again, is their peers, it's  
18 not budget people, but they know they've got to -- that's  
19 forcing a lot -- it is starting to force, I would suggest  
20 -- I couldn't prove this but I think I've seen it --  
21 because ultimately, I think, was your best chance to get  
22 Special Ed directors to act like managers and not program

1 advocates. Because, you get a good manager, the best kind  
2 of program advocate there can be because it means you know  
3 what you're doing. And that's the problem.

4 And that's why my -- again, my last  
5 recommendation is on my whole thing -- if you never do  
6 anything else at all, go out and require Special Ed  
7 directors to have to be firmly grounded in good management  
8 and good financial information and skills so they can go  
9 and make sure they're getting all the money that they're  
10 supposed to be getting and that they are managing things  
11 as tightly as possible. So then they can make their case,  
12 there isn't enough money.

13 And, if you can't do that, if you can't show  
14 that, then the appeals to the Safety Net Committee or to  
15 the taxpayers is not going to be successful over time.

16 DR. CHAMBERS: It's kind of satisfying to  
17 hear you say that because then -- and some 20 years ago in  
18 some papers that Tom Parrish and I have written together,  
19 one of the leading comments is, we need to figure out ways  
20 to bring programmatic or curricular decision-making  
21 together with fiscal decision-making.

22 And I, frankly -- I'm still trying to figure

1 out how to do that because, literally -- I think you'll  
2 back me up on this -- if you walk into a school district,  
3 the fiscal decision-makers, the business officers are  
4 literally in one wing of the building and the programmatic  
5 people are in the other wing. If you go into a school of  
6 education, the finance guys, the economists and those --  
7 the green-eye-shade folks are literally in one section of  
8 the building and the people who do programmatic research  
9 are in the other section of the building.

10 And it's not through maliciousness, it's just  
11 they are trained differently, they have different  
12 backgrounds. One group is psychologists and education  
13 specialists and the other are economists or finance or  
14 policy specialists. And there's not much of a motivation  
15 to get together.

16 If you walk into school districts and ask a  
17 Special Ed director how much they're spending on their  
18 program, sometimes they don't know, they have to go to the  
19 business officers to ask that question. And --

20 DR. DARAY: Most times they don't know --

21 DR. CHAMBERS: Well, maybe in Washington --

22 DR. DARAY: Not because they don't want to;

1 they're busy, they are very busy people. But --

2 DR. CHAMBERS: -- folks, they have an awful  
3 time trying to ferret out some of the data.

4 I guess the question is, how do you bring  
5 that together? I'm not convinced -- oh, you said we  
6 should be doing that but I've been working on it for 25  
7 years and I haven't figured out the mechanism that brings  
8 those folks together in the policy mixture in the local  
9 district.

10 And I'm not sure the federal government --

11 DR. DARAY: Well, that's -- I mean, that's  
12 the problem. That's why I was trying to caution you; I'm  
13 talking from the Washington State experience.

14 DR. CHAMBERS: Maybe there is one last  
15 question here. Maybe this is the wrong group to ask it of  
16 but I'm going to ask it anyway.

17 From a funding perspective, what is -- or  
18 what should be the federal role in funding Special  
19 Education, or IDEA? How would we structure that? What is  
20 our first -- what is the responsibility -- I say "our"; I  
21 mean, it's our government -- but what is our  
22 responsibility? What should the federal role be in this?



1 (No response.)

2 DR. CHAMBERS: That's the same answer I had.

3 DR. DARAY: I would recommend, be the change  
4 agent. You know, some states have got their act together  
5 and have the right sort of policies, legislative  
6 committees that focus on this, or maybe a governor's  
7 office that focuses on this; but, in the world of Special  
8 Ed and K-12 finance is filled with a lot of very busy,  
9 overworked people. And if you don't, at some point, do  
10 some prioritization and say, "We're not going to continue  
11 to work -- this is the most important thing we need to  
12 focus on."

13 Because one thing you're going to have --  
14 it's most important -- you're going to have, perhaps, some  
15 money, and some new money coming; that's the chance --  
16 that's your chance to be in the role of change agent. So,  
17 if you want to get to this money and you want to see these  
18 new -- then you've got to decide what you want those new  
19 things to look like.

20 Right, that would be my recommendation; see  
21 yourselves as the -- I recommend be as a change agent,  
22 that little part of investment.

1           MR. GOLDFINGER: I'm having a real hard time  
2           answering that question in isolation because the federal  
3           government is not only party to Special Education in terms  
4           of providing a portion of the funding, albeit a small  
5           percent of total funding, it's also the party that has  
6           established, through IDEA, a series of mandates that some  
7           school agencies are finding very, very expensive to  
8           implement as written or as interpreted in this state or by  
9           the courts.

10          And I think your job is not just how many  
11          dollars should go out there but what should the federal  
12          role in prescribing the program look like. And many of my  
13          comments were addressed on that aspect.

14          DR. GILL: Troy Justesen.

15          MR. JUSTESEN: Well, Jay read my last  
16          question off my notes and asked it in place of me, you  
17          know --

18          DR. CHAMBERS: You think I actually read from  
19          that --

20          MR. JUSTESEN: Well, you had your glasses on,  
21          you know.

22          I just want to make one brief comment that

1       seems interesting to me. We've had a discussion here  
2       about Special Education and the Commission's  
3       responsibility beyond that in looking for students with  
4       disabilities, including those that don't receive Special  
5       Education services, students, for example, who would be  
6       possibly 504 kids.

7           I'm curious about -- and this is just  
8       rhetorical, but I see no assistance in terms of research  
9       being done or questions being able to be answered about  
10      how state VR (phonetic) agencies are -- how much they  
11      spend per child in helping transition services from high  
12      school to post-high school activities and that sort of  
13      thing. And I think that's one agency that is, besides the  
14      public school system that you talked about earlier, that  
15      should be asked some of these important questions in terms  
16      of serving students with disabilities.

17           That's just an open question.

18           DR. GILL: Any of you like to respond to  
19      that?

20           DR. DARAY: Well, I'd say that -- you know,  
21      it may be some comfort but two of the more -- the bigger,  
22      more sophisticated school districts, in fact, try to

1 maximize -- they know the issue, this is not just an  
2 education issue and we need to look at these other sets of  
3 services. But -- and that's one of the problems trying to  
4 deal with a one-size-fits-all solution in K-12.

5 And you've got, again, to understand my  
6 current main clients are the three biggest school  
7 districts in the State of Washington and so I tend to kind  
8 of see -- and they have, because of just where they're  
9 located, both politically in terms of -- and also because  
10 they understand the politics better, they do, from time to  
11 time, try to find out where all these other sources --  
12 resources we can use. But, you know, once you get beyond  
13 the big districts, you know -- you raise a really good  
14 issue -- they tend -- everything is in isolation and it's  
15 got to be terribly frustrating for the parent of that  
16 child trying to figure out where our service is.

17 So there's no one trying to broker that for  
18 them. Some of the big districts, again, you've get a  
19 creative Special Ed director, a creative superintendent,  
20 they'll say, "You know, there's a lot of other people --  
21 folks doing the same thing, that related stuff that we  
22 ought to be a part of." But, beyond that --

1           MR. JUSTESEN: Well, I guess I mean our state  
2 VR agency as being more proactive, just as an example of  
3 an agency in terms of not the schools being placed with  
4 all the responsibility, but are these other agencies  
5 fulfilling the responsibilities that I think they have.  
6 And are they spending their dollars as well as they should  
7 be, or could be, on serving students with disabilities in  
8 the areas the public school system relies on them to do?

9           DR. DARAY: There's been three -- the last  
10 three superintendents of public instruction in Washington  
11 have all tried, going back -- I don't know how many years  
12 that is, 25 or 30; we had one that was there for four  
13 terms -- they all come in wanting to turn it from a  
14 regulatory agency to an agency that can essentially be  
15 issuing -- the best practice, helping the field, and they  
16 just never get there.

17           Between the legislature -- the legislative  
18 thinks they've got a handle and the kind of personnel  
19 that's able to attract, just the data -- at least in the  
20 State of Washington, the desire's always been there,  
21 especially the current superintendent. They always come  
22 in saying, "I just want to change -- I want us to be

1 helping districts and teachers and kids." And, instead,  
2 it's -- all of a sudden four years have gone by, you've  
3 had four horrible sessions of the legislature and they  
4 want you to spend overtime on data system -- whatever, and  
5 you just never get there.

6 MR. GOLDFINGER: I'm assuming you're going to  
7 see a huge variation from state to state. We see it from  
8 county to county, wherein in some counties, mental health  
9 is very cooperative in providing services jointly with  
10 school agencies, cooperative with school agencies; in  
11 other counties, they just can't be found. And so just a  
12 very difficult issue.

13 DR. GILL: Thank you both very much for your  
14 comments and your willingness to take our questions and be  
15 patient with us as we labor through some of those  
16 questions ourselves; we appreciate it very much.

17 Todd Jones has some announcements he'd like  
18 to make.

19 MR. JONES: The first announcement is for the  
20 members of the public. If you have parked here in the  
21 building, we have validation stamps out at the front -- at  
22 our front desk, just outside the door. You simply need to

1 take your parking ticket to them, they'll stamp it, and  
2 it's validated. I do want to tell you, though, it doesn't  
3 mean you have in and out privileges; you can't go -- you  
4 can't leave and then come back and get another stamp. But  
5 you can go out and get a stamp now for parking validation.

6 The other announcement is that we're going to  
7 be closing -- everyone is going to have to leave the  
8 hearing -- the room. We're going to be closing the door  
9 over lunch and reopening it at 12:55 when -- or just  
10 before 12:55 when we start the afternoon session. So  
11 please take anything you want with you and we'll reopen  
12 the doors at start-up.

13 DR. GILL: We are going to adjourn for lunch  
14 now; we'll be back and we will try to start the next issue  
15 at 12:55.

16 (Whereupon, at 11:59 a.m., the hearing in the  
17 above-entitled matter was recessed, to  
18 reconvene at 12:55 p.m., the same day.)

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AFTERNOON SESSION

1:05 p.m.

DR. GILL: I'd like to begin our third panel  
of the day. This panel deals with alternative state and  
federal funding structures. And our single panelist is  
Dr. Eric Hanushek.



1           Eric Hanushek is the Paul and Jean Hanna  
2           Senior Fellow at the Hoover Institution of Stanford  
3           University here in California and a Research Associate of  
4           the National Bureau of Economic Research.

5           He is the leading expert on the educational  
6           policy with an emphasis on the economics and finance of  
7           schools. He is a distinguished graduate of the United  
8           States Air Force Academy and completed his Ph.D. in  
9           economics at the Massachusetts Institute of Technology.  
10          He proudly served in the United States Air Force from 1965  
11          to 1974.

12          So, welcome, Dr. Hanushek; we appreciate you  
13          taking time out of what I know is a busy schedule to be  
14          with us today. So if you would like to begin your  
15          presentation for us, we'd sure appreciate.

16          DR. HANUSHEK: Well, thank you very much for  
17          having me here. I'm a little bit embarrassed by being  
18          here because I think all of you know more about Special  
19          Education than I do. And I'm here to tell you something  
20          but I think you know everything I'm going to say -- maybe.

21          My role here -- or my view and where I come  
22          from is as an economist who has studied the issues of

1 educational performance and educational policy for a  
2 number of years and, increasingly, Special Education  
3 becomes mentioned any time you want to talk about any  
4 aspects of schools.

5 I'll try to -- I provided some written  
6 testimony; I'll try to summarize and go through that and  
7 hit the highlights.

8 From my perspective, it's quite clear that  
9 nobody thinks the Special Education system is working  
10 well. And that's the starting point. But, then, as soon  
11 as you press people on that, they come up with very  
12 different views about why it isn't working well.

13 The one that I think I hear most often is the  
14 overall expense of the system and that it might be  
15 draining money away from the regular education system.  
16 Others fix on the growth of the number of people  
17 classified as Special Education students. Some talk about  
18 the potential stigma and labeling of Special Education.  
19 And then it's down, until fairly recently, at least, to a  
20 very small number that ever talk about the performance of  
21 the system and what the kids in Special Education are  
22 getting from the system.

1           As a little anecdote, maybe six years ago I  
2           was having dinner with a State Education Commissioner who,  
3           in the middle of the dinner, started on some set speech  
4           about the cost of Special Education and it was damaging  
5           all the schools, and went on; and I finally said to you  
6           him, "Well, what do you know about how well it's doing for  
7           the kids in Special Education?" And he looked at me,  
8           stunned, like I was from Mars; and the State Commissioner  
9           had never, ever, thought about this.

10           So that gives you an overview of where I'm  
11           coming at, is to give some economic insights into some of  
12           the issues that I see that go across this range of topics.

13           I was originally asked to talk about the  
14           finance of the system but I believe you cannot talk about  
15           finance without talking about the performance and outcomes  
16           of the system at the same time, that these two have to go  
17           hand-in-hand. And so you will see that these two themes  
18           are interwoven in what I provided.

19           Let me start quickly with a summary of  
20           recommendations or conclusions that I draw and then  
21           provide you with some details.

22           The first is that, a satisfactory system is

1 possible only if there is a distinct focus on the outcomes  
2 of the system. As long as the main focus is on process  
3 and classification, it's going to be an expensive system  
4 that's just a regulatory knot and no one is going to be  
5 happy with the outcomes. And that's why I think that you  
6 have to talk -- when you talk about finance, you have to  
7 talk about finance of what.

8       Secondly, I'm not an expert in all of the  
9 measurement of outcomes that might be relevant here,  
10 particularly in Special Education. But I think that  
11 defining the outcomes of Special Education will require  
12 significant analysis and discussion on its own. And this  
13 is, in my mind, a particularly important place for federal  
14 leadership in defining what are the relevant outcomes and  
15 how to measure them and how to proceed on that.

16       Thirdly, outcome accountability should be  
17 linked directly with an effort to learn more about what  
18 are effective Special Education programs; and this is  
19 going to be a second area that is very important for  
20 federal leadership. This is the role of providing  
21 knowledge, creation, and research about the things that  
22 work in which situations, the expense of different things,

1 and so forth. This knowledge about outcomes and how they  
2 relate to programs and the definition of various  
3 activities in Special Education, and in regular education,  
4 is lacking, in large part from everything I can see. And,  
5 without that information, it's going to be hard to reform  
6 the system in any significant way.

7 Now, on the finance issues, the finance  
8 issues are partly from general, simple economic theory.  
9 The first one is that, I think, as a summary statement,  
10 the federal government should assume responsibility for  
11 full funding of the most expensive students. And that  
12 comes because the most expensive students are, from the  
13 schools' standpoint, sort of a random event that occurs to  
14 them and it's a high-risk event. And, for individual  
15 school districts to absorb the cost of the most expensive  
16 schools (sic) is very difficult and the federal government  
17 should be the insurer of pooling the risks and insuring  
18 against very large expenditures.

19 Secondly, on lower-cost services, a lot more  
20 effort has to be made throughout the system to try not to  
21 distort the decision-making of who is classified as  
22 Special Education. The obvious way to do this, for an

1 economist, is to provide, essentially, block grants that  
2 do not change the price for labeling somebody as this or  
3 that but, instead, provides the funding for school  
4 districts and lets the local districts make decisions  
5 about the programs and activities that they should provide  
6 for Special Education students.

7 Next, there is some uncertainty about exactly  
8 what the costs are of Special Education and different  
9 kinds of programs. But it would appear that there are  
10 economies of scale in some kinds of programs where, in  
11 fact, to effectively treat students, the cost of providing  
12 effective treatment of students goes down as you get more  
13 students involved in them.

14 The reason I bring this up is that there  
15 seems, I hear, different discussions about, where should  
16 Special Education services be provided; should we -- for  
17 example, should all charter schools provide a full range  
18 of Special Education services. Well, this does not make  
19 sense if there are large economies of scale.

20 Then finally, from my standpoint of looking  
21 at policies that relate to education outcomes of students,  
22 it seems like a number of Special Education activities in

1 schools should be merged with other kinds of programs in  
2 the schools. For example, if you think that reading  
3 disabilities -- or poor reading ability is an important  
4 element of some parts of Special Education, but you also  
5 believe that that's part of the problems of regular  
6 education in many schools, instead of classifying people  
7 and worrying about the classification of where they are,  
8 you should deal with the reading problems and submerge  
9 programs in a variety of ways where the subjectives and  
10 the diagnosis doesn't have anything to do with how you  
11 will treat the program, for a large part.

12 So those are the overall recommendations that  
13 I'm going to make. Let me provide you a few details and  
14 fill in some of that and then take your questions.

15 I should also say, if you have questions  
16 while I'm giving this, I'd be happy to answer them if that  
17 makes it easier.

18 As way of background, the way I look at  
19 Special Education programs, I think that there are three  
20 basic, underlying principles that are important. The  
21 first is the objectives of the original Education for All  
22 Handicapped Children Act, the predecessor of IDEA. And we

1 shouldn't forget it. And that is, that we want to provide  
2 and ensure that all children receive a full and  
3 appropriate education, regardless of any accidents of  
4 birth or development or life that places obstacles in  
5 their way.

6 I have had trouble finding the actual data  
7 but there's always the statement that, before 94-142,  
8 there were lots of children who, essentially, didn't get  
9 services in the schools and that this Act, in fact,  
10 provided for schooling. And I think that's an important  
11 role, the equity role.

12 Secondly, in guiding principles, the  
13 incentives that are set up in the system should work to  
14 produce what we care about, and that is outcomes and the  
15 learning of students and their ability to be integrated  
16 into society. And so we should look at incentives,  
17 whether they promote the outcomes that we're interested  
18 in.

19 Thirdly, I think, as a public finance  
20 economist, that we should always be concerned that the  
21 incentives we set up promote efficient governmental  
22 programs. There's a concern, frequently, of the



1 efficiency of government programs and we ought to look at  
2 that.

3 Now I have to stop here because economists  
4 use efficiency in a very specific way and I want to make  
5 sure that it's understood. Efficiency is not an issue of  
6 making costs as small as possible because we know how to  
7 do that, we don't run any programs. Efficiency is always  
8 defined as the relationship between outcomes and  
9 expenditures. So, in simplest terms, for any given  
10 expenditure, we want to get the most outcomes for the  
11 students. Or, alternatively, if we have some set of  
12 outcomes that we expect students to obtain, and they  
13 obtain that, we want to do that at least cost. But it's  
14 always conditional upon knowing the outcomes.

15 So those three principles guide the way I  
16 think about this. Now the actual -- when I spent some  
17 time trying to look at the cost of programs -- and, again,  
18 here is a case where I am embarrassed to do this in front  
19 of Jay Chambers, who has spent a lot more time looking at  
20 the costs and expenditures on Special Education than I  
21 have -- but there is no doubt -- we can't say precisely  
22 what's happened but Special Education costs more than

1 regular education, sometimes wildly more than regular  
2 education.

3 And the first problem that I talked about --  
4 or one of the problems of this is that the current  
5 operations of Special Education, which makes it a civil  
6 right to children, says that any expenditures on Special  
7 Education come before expenditures on regular education.  
8 And so this has some serious problems. Now I should say,  
9 at the outset, again reinforcing -- I guess I'm coming  
10 with a chip on my shoulder because people misinterpret  
11 economists -- just because Special Education costs more  
12 does not mean that we should indict the current program.  
13 We knew it was going to cost more, to the extent that  
14 we're trying to provide extra services to a set of people  
15 that need more extra services. So it's not that.

16 Our concern is more that's there's a  
17 suspicion that the way we're spending our money now is not  
18 getting the outcomes we want or the best outcomes.

19 Now let me take on first the issue of what  
20 happens when you have this system of Special Education  
21 taking precedence over regular education programs, which  
22 it does by federal law. One of the issues, particularly

1 for smaller districts is that they cannot anticipate some  
2 of the expenditures of Special Education. So, if you get  
3 a particularly expensive child coming into your district,  
4 you have to accommodate that child. And, if you thought  
5 \$75,000 a year of expenditures is a regular education  
6 teacher, and that's the way lots of districts view it and  
7 I think that it's an appropriate way, you have to either  
8 come up with the extra resources or take it out of your  
9 other programs.

10 This is a particular problem that we all  
11 face, is that there are unlikely events that are very  
12 expensive and we go out and we buy automobile insurance to  
13 deal with that problem. And it's the same with school  
14 districts, in some sense, except that school districts  
15 can't quite buy the insurance about this and it's hard for  
16 them to self-insure if you are a small school district  
17 because of very large expenses.

18 To me, this is a clear case where the federal  
19 government should take some fiscal leadership and provide  
20 risk-pooling and insurance for the most expensive cases.  
21 Now the reason I also say that is, from what I see in the  
22 data, the most cases are for providing programs for our

1 well-identified, if not the ambiguity about the  
2 classification, who is eligible or not, but that you, in  
3 fact, provide funding for the most expensive kinds of  
4 students that you want to take care of in your schools.

5 Now, some large districts or states could,  
6 presumably, do this on their own but, as a general rule,  
7 you'd always want to pool the risk over the largest group  
8 you can; and that's what makes sense in the federal  
9 government. You can also make an equity argument about  
10 it, also.

11 Now, one of the problems -- let me return to  
12 the efficiency issue -- what leads to the concern of the  
13 efficiency of the current system? For the most part,  
14 until fairly recently, there's been very little  
15 measurement of the performance of the Special Education  
16 system. And, in fact, one of the reasons why there's been  
17 pressure on increasing assessment of Special Education  
18 students is that that was a handy way to deal with the  
19 accountability of the regular education student system by  
20 moving some students out of the normal accountability in  
21 the regular education system into Special Ed and not  
22 counting them -- accounting for them.

1           That's changing recently. I mean, I noticed,  
2           for example, Texas has made a great effort to cut down on  
3           the abilities to escape the regular testing system by  
4           reaching accommodation for -- if people are involved in  
5           some combination of education regular services, they will  
6           be tested under the existing testing system -- maybe in a  
7           different grade level than they are classified in but they  
8           will be under the testing. And then they've been  
9           developing other separate testing programs to try to do  
10          this.

11          The fact that that's existed in the past and  
12          nobody's had measurements of the performance of the  
13          students in terms of outcomes we care about, makes you  
14          immediately suspicious that there is, in fact, an  
15          efficiency problem. Because if you are looking at  
16          outcomes, it's hard to get the programs and expenditures  
17          right.

18          Now, what I can say is that, you know, this  
19          is not the -- the limited amount of research that I've  
20          done in that, again, in the State of Texas, suggests that,  
21          on an average, Special Education programs have beneficial  
22          impacts on reading and math performance of the kids who

1 are tested in the system, at least, so that it's not  
2 saying that there is no impact of Special Education in  
3 terms of what we care about, it's just that we don't  
4 believe that it's necessarily related to the programs and  
5 expenditures.

6 Secondly, another reason for worrying about  
7 this is that there is some clear evidence that, in fact,  
8 the identification of people, and classification of  
9 people, in Special Education depends upon the financial  
10 gains to the districts. So, when they're faced with an  
11 incentive that gives them more funding for classification,  
12 you find that there are higher classifications. And so  
13 that doesn't suggest that this is a system that's designed  
14 to be the most efficient educational program.

15 So, with that background, what would I say?  
16 Let me summarize. I'm going to repeat myself a few times  
17 here but let me try to summarize it.

18 First, an outcome orientation. Until we  
19 change from looking at just the process of providing  
20 education or inputs of particular services, and pay  
21 attention to whether kids are learning or getting some  
22 advantages out of these programs that carry through later

1 on, we're going to have this problem. And then we're  
2 going to have classification taking precedence over  
3 performance. And so, at the very beginning, I think  
4 that's clear.

5 This, in part, implies that there are, in my  
6 mind, that, to the extent that the existing accountability  
7 and testing systems can be applied to these students with  
8 some accommodation, we should be pushing very hard to do  
9 that.

10 Secondly, that there should be a serious  
11 research effort -- and this is a research question --  
12 about how we measure outcomes for different kinds of  
13 students with different disabilities. It's not obvious,  
14 in many areas -- it's outside my area of expertise, but I  
15 think that's a research program.

16 Once you have an outcome orientation, I would  
17 suggest that you start rewarding and punishing schools,  
18 depending on how they're contributing to these outcomes.  
19 Now that's an easy statement to make and it's harder to  
20 actually apply in reality.

21 There are always difficulties -- let me get  
22 out of Special Education and just talk about regular

1 education -- if we go into a school system and we see that  
2 the kids aren't reading well in a school system, regular  
3 education kids aren't reading well, should we give them  
4 more money or take money away from them? This is the  
5 classic question.

6 And the question comes down to the fact of,  
7 is the low performance of these kids due to the fact that  
8 they come with bigger deficits and they come with --  
9 less-prepared to learn than in other school systems where  
10 the reading is higher, or is the school system doing a bad  
11 job? And these are hard questions to differentiate  
12 because we see that performance is not very high in some  
13 school district and the normal argument is made, well we  
14 have tougher cases here.

15 So I think the ultimate answer is moving  
16 incentives toward rewarding school systems that contribute  
17 the most to the learning of students. But how you  
18 actually measure that and set up the rules is, again,  
19 something that's going to take a lot of work. It's not  
20 something that you can just write down and say we're going  
21 to reward schools or not.

22 Then secondly, what happens with an outcome



1 orientation as to incentives, is that schools start to  
2 look at how they deal with the outcomes more than this  
3 classification. I'm persuaded, in part, by the work by  
4 Reid Lyon and Jack Fletcher, that reading is one of the  
5 larger problems that turns up in the learning disabilities  
6 category of Special Education. It's often, as I  
7 understand the whole problem, easier to diagnose that  
8 somebody has a reading problem early, when you can have a  
9 better chance of treating it, than to diagnose whether  
10 it's because of some specific learning disability.

11 So, if you can provide incentives for schools  
12 in relation -- Special Education and regular education --  
13 to improve the reading of students, then they start to  
14 diagnose reading problems earlier and try to deal with  
15 reading problems earlier. And then, later on, to the  
16 extent that classification under some learning disability  
17 category, is useful in the diagnosis and that, if that  
18 diagnosis is useful in programmatic terms, then the school  
19 districts will come back and do that to try to figure out  
20 if there are specialized things that should be done to  
21 improve the reading ability.

22 So that's one example that's actually, I

1 think, been worked on for some time. And I think that  
2 that's something that you get when you start looking at  
3 outcomes of the process.

4 Now it's also clear to me that just saying,  
5 "We're interested in outcomes and we're going to provide  
6 incentives," doesn't get you away from a lot of regulatory  
7 issues because, first, it's hard to get incentives right,  
8 it's hard to make them so that they work in the way that  
9 you want them to and so there is going to be some  
10 regulatory environment that stays forever, I think, in  
11 reality. But it's a different clime because it's a  
12 regulatory environment that's linked to, also, the  
13 performance measurement and making sure that people aren't  
14 just being provided what they should be.

15 Now, on the fiscal side, there is the outcome  
16 adjustment, there's the fiscal adjustments that I think  
17 are made. I've already talked about the insurance aspect  
18 of this; I'll just say a couple other things about the  
19 insurance aspect.

20 I think there, if you viewed the federal  
21 government as insuring the high-risk, high-expense kinds  
22 of problems, you have to worry about what the payment

1 structure is, also, on this. You probably don't want to  
2 just say, "Okay, if you're in the high-risk category,  
3 we'll pay you whatever you spend." because we know the  
4 properties of systems that say, "We'll pay you whatever  
5 you want to spend,"; these are well-defined in economics.  
6 You have to have some sort of cost-sharing, I think, have  
7 some way where you might have a set fee that goes with a  
8 certain diagnosis.

9 I think of just an anecdote that comes from  
10 my formerly-local newspaper, the New York Times. I had  
11 meant to look up this story before I came but I didn't so  
12 I'll give you my recollection of what this story was.

13 This story was on the front page of the New  
14 York Times and I believe it was about eight years ago.  
15 There was a picture; and some parents were protesting the  
16 change in Special Education treatment of their children.  
17 There were six children who were blind and deaf, in  
18 Buffalo, that, for a number of years, had gone down to the  
19 Buffalo airport; got onto a private plane; were flown  
20 across to, I think it was Auburn, New York; they went to  
21 school there; and then, at the end of the day, they got  
22 back on the plane and flew home.

1           The New York Times -- my memory of this  
2           number -- you might know all this story better than I do,  
3           or have a better memory -- but at this time, eight years  
4           ago or so, that it was labeled as \$186,000 per kid per  
5           year. And what happened was that New York State changed  
6           the law from full reimbursement to a combined payment  
7           system where -- a shared payment system at the end -- and  
8           the City of Buffalo changed its policy and decided they  
9           would provide some of these services in Buffalo and that  
10          they could provide some of them. And the story was about  
11          whether this was in an infringement of civil rights of  
12          these kids, that they were no longer being provided their  
13          plane to fly them over there.

14          To me, this is an example of, you want to  
15          make people aware of the relationship between costs and  
16          benefits and outcomes and that, if you fully reimburse  
17          spending, we know -- as I say, we know the answer to what  
18          happens in that system. It probably never is as bad as  
19          this example -- or it would be hard to find them.

20          So, secondly, as I said, when you start  
21          thinking about outcomes and spending and efficiency of  
22          systems, I think it leads you to try, as best you can, to

1 not distort the decision-making of local school districts.  
2 You want to hold them responsible, reward when they do a  
3 good job; you do not want to reward them for things that  
4 are unrelated to doing a good job, like getting more kids  
5 classified in some category because that changes the  
6 expenditure payment.

7 So you want to not change the prices that  
8 they face. There's a certain price for the education  
9 that's provided and you reward them in outcomes but don't  
10 distort those decisions.

11 Now that, again, is going to take some effort  
12 but it basically says that, for lower-price systems, the  
13 first thing to think about is providing block grants to --  
14 perhaps calculated on the basis of demographics of  
15 districts; it puts a little bit of risk on the district if  
16 they have more or less but, at the same time, it has great  
17 beneficial things that, if they can provide good outcomes  
18 for lower-prices, they get rewarded for it, they get to  
19 take some of this grant and use it for other purposes or  
20 even to improve the education of Special Ed kids more.

21 But it's all, then, trying to mobilize the  
22 local districts to make good decisions in terms of the

1 outcomes of kids.

2 Let me come back to talk a little bit about  
3 this service provision issue and where it should be. I  
4 see this debate because I've looked at a variety of  
5 elements of schools of choice, charter schools, and  
6 discussions about vouchers and a variety of other things.

7 And, in that debate, I see one of the  
8 elements that is always brought up is Special Education,  
9 you know. And the argument is, as I see it in the papers,  
10 all schools should be required to take any Special  
11 Education kid if he comes knocking on the door; charter  
12 schools -- what's behind this?

13 I don't think that I see anybody concerned  
14 about the outcomes of Special Education kids in those  
15 discussions. What I think is going on is that these are  
16 people that basically don't want charter schools to exist,  
17 that are trying to provide them -- make them absorb more  
18 expensive kids in an effort to try to sink schools of  
19 choice and charter schools, but it's not a concern about  
20 the outcomes of Special Education kids.

21 So what I -- in my own view on this issue,  
22 that the decision should be made on the basis of the

1 programs and the ability to provide services to these  
2 kids. They might come from private organizations,  
3 private, even for-profit firms -- an awful thought in  
4 terms of education that for-profit firms might provide  
5 education -- but, to the extent that they find that they  
6 can, through the economies of scale, mount programs that,  
7 in fact, serve kids cheaper; and they take some rewards  
8 from the fact that they can do it better than the public  
9 schools, I think we should encourage that.

10 And so one of the things I would recommend is  
11 a sort of neutrality on where and how Special Education  
12 services are provided and more of an emphasis on making  
13 sure that you get the outcomes that we want for disabled  
14 kids, of one sort or another, wherever that can be  
15 provided.

16 Now, I say that part of that is open to some  
17 question because we have very little solid research on  
18 what it actually costs to provide different kinds of  
19 outcomes. So I'm assuming that, in some areas, that there  
20 are real serious economies of scale where it makes sense  
21 to have groups of kids together, learning together; but  
22 that's an assumption that requires some more research

1     because we don't know about the cost of different ways of  
2     doing this.

3             And that brings me to the -- sort of the last  
4     set of issues that I have, and that is one of the reasons  
5     why this debate on how to provide Special Education can go  
6     off in so many directions, is that we lack a lot of  
7     information about the functioning of Special Education  
8     programs and outcomes of them.

9             Providing that information is clearly a role  
10    that falls on the federal government. The federal  
11    government should be the provider and the supporter of  
12    research on Special Education, and other things. Local  
13    school districts, even with an outcome-orientation, have  
14    an incentive to try to find out what's working for them;  
15    if you reward schools, they have that incentive. But  
16    their incentive doesn't take into account the fact that  
17    other school districts can capitalize on anything they  
18    learn; they aren't going to pay attention to the fact that  
19    the neighboring school district might find it useful to  
20    know what they know and they're not going to do as much on  
21    providing the information and research as they should.

22             That's why -- this is one area where we know



1 that there are huge economies of scale and that, in fact,  
2 the federal government should be the provider and  
3 supporter of this research.

4 Let me, at the end of discussing that, talk  
5 about one little nitty-gritty issue that is -- may seem  
6 down in the workings of this whole thing and farther than  
7 you want to go.

8 But finding out about what works in Special  
9 Education is a particularly difficult problem. We have  
10 Special Education because we think that some kids are  
11 different than regular education kids. So we have trouble  
12 learning about what works by comparing the performance of  
13 Special Ed kids to regular ed kids. And that's not going  
14 to be very useful because we know that they're inherently  
15 different.

16 Now, sometimes you can follow individual kids  
17 who have identified disabilities or are in Special  
18 Education programs and look at what was happening before  
19 they got into Special Education programs and what's  
20 happening afterwards and get some information about that.  
21 But -- and that's what I have done in Texas, is try to do  
22 something like that -- but that has limited ability to

1 uncover the value of Special Education programs, too.

2 This leads me to believe that one of the  
3 aspects, and one of the ways that, if you really want to  
4 improve the information on Special Education in your  
5 report, you might push. And that is the use of,  
6 essentially, medical technology here of random assignment  
7 of kids to different programs, which has great advantages,  
8 where you have a couple of alternative ways of treating  
9 Special Education kids and you randomly assign different  
10 kids to different programs and see which one is working,  
11 exactly how we find out how that pill that we take every  
12 morning, whether that's good or not, is by randomly  
13 assigning pills and placebos for some people, but, here,  
14 it's randomly assigning different programs.

15 The reason why I bring that up is that, for  
16 some reason, education -- not Special Education, education  
17 as a whole -- has decided that such random assignment  
18 experimentation is immoral because it, in fact,  
19 potentially denies some kids of services and gives it to  
20 others and, "How could you possibly do that?"

21 Well, the problem is, in Special Education,  
22 and in regular education, I should say, we often don't

1 know what works and we're not denying them known things  
2 that work, we're assigning people to different treatments  
3 to try to figure out whether one systematically does  
4 better than the other and whether it costs differently.

5 This, I put in as -- in some sense, as a  
6 footnote to this topic, but I think as an extraordinarily  
7 important issue of how do we learn about Special Education  
8 and go forward.

9 That really summarizes what I have decided:  
10 Pay attention to outcomes and that that ought to drive our  
11 thinking; that you need information on outcomes in order  
12 to make decisions about efficiency of operations of the  
13 system; you need information on outcomes in order to  
14 provide the right incentives for schools to do well.

15 There is a lot of uncertainty about how to  
16 measure outcomes in some areas and I'm not going to be the  
17 one to help you, necessarily tell you how to measure  
18 outcomes, but I think that's something that you have to  
19 push for; and the federal role is to ensure that there is  
20 equitable provision of education for all kids -- I think  
21 that's extraordinarily important, we don't want to lose  
22 sight of that;

1           It's to provide incentives for schools to do  
2 well but not to tell them exactly how to do this, not to  
3 get into the operations of schools; that's particularly  
4 what you don't want to do when there's uncertainty about  
5 how best to provide services; and, finally, that the  
6 federal government role should think squarely in terms of  
7 improving our knowledge about how to operate Special  
8 Education and how to serve kids.

9           DR. GILL: Thank you.

10           Sensing that there probably won't be any  
11 shortage of questions for you, and if the morning has been  
12 any example, I'm going to start with Troy Justesen.

13           Troy, why don't you ask your first question,  
14 please?

15           MR. JUSTESEN: My first question or  
16 questions?

17           DR. GILL: Well --

18           MR. JUSTESEN: The first thing is a comment.  
19 I think it's valuable to hear from a non-Special Ed  
20 economist, if there is such a thing, Jay.

21           DR. CHAMBERS: Most of them --

22           MR. JUSTESEN: Most of them. So I think

1       there is some value in hearing from you, even though this  
2       doesn't appear to be your major focus of research.

3             But I'm curious about one thought and I know  
4       this argument is full of holes but, if you allow parents  
5       to choose, in terms of the charter schools and your  
6       argument in that respect, do you not envision a problem  
7       for all children with disabilities seeming to be left in  
8       the public schools by themselves? And is there any -- I  
9       mean, I'm just curious about your thoughts on that.

10            DR. HANUSHEK: I think that the evidence from  
11       the first operations of charter schools is that they tend  
12       to have a lower enrollment rate of Special Education but  
13       it's not zero, that there is some exclusion.

14            I think that, in almost all worlds that I can  
15       envision, schools of choice, charter schools, or voucher  
16       schools, and so on are still going to be a very small  
17       minority of the total provision of education and that, in  
18       fact, public schools will tend to have a higher proportion  
19       of Special Education kids. But it's not like we have this  
20       one little, small room in which we pack in all Special Ed  
21       kids, it's going to be 80 percent of the schools in the  
22       country.

1           Now the concern here is that, of the public  
2 school systems, are we being somehow -- can we afford this  
3 and what does it do to our other programs, and so on. And  
4 that's part of the whole fiscal support of schools and  
5 equity problem and that there is an argument that, at  
6 least some of the funding ought to come from higher levels  
7 of government.

8           But I don't think that that's -- I don't  
9 think it's going to be a major issue, frankly, that that's  
10 -- it's not going to be like de jure segregation or  
11 southern schools, it's going to be that they are scattered  
12 across large numbers of schools.

13           MR. JUSTESEN: In Florida, for example, the  
14 dollars follow the kid; what are your thoughts about  
15 scaling that on the national level, having the dollars  
16 follow the kid? And do you -- and, you know, that's a  
17 typical phrase --

18           DR. HANUSHEK: Well -- I mean, at the  
19 national level, the problem is that the federal  
20 government, for the most part, is not very heavily  
21 involved in education, in the actual provision of services  
22 or the funding of education, at seven percent of the total

1 funding. I could see clearly that any federal support,  
2 and particularly if you went to something like what I  
3 suggested, that there was full federal support for the  
4 most expensive kids, that that should go with the kid;  
5 there's no doubt about it, wherever that kid went, if he  
6 went to charter school or went across a state line or  
7 whatever.

8       Once you get past that, it seems clear that  
9 the federal government is never going to be, you know,  
10 full-funder for large portions of the school. And so,  
11 thinking from the federal standpoint, I don't think that  
12 will go far past the most expensive.

13       MR. JUSTESEN: And just one last question.

14       Can you expand a little bit on your block-  
15 granting idea?

16       DR. HANUSHEK: Well, the simplest way at the  
17 top would be that you'd say that we expect that, for kids  
18 -- if you take a group of kids with various  
19 characteristics -- and I'm not sure what characteristics  
20 you use, to the extent that you have characteristics to  
21 predict on an average whether it is more likely to be  
22 disabled populations or not, that you have sort of a

1 prediction of how many Special Education, on average,  
2 should appear in a district and then you fund them for  
3 that number of kids so that the block grant moves with the  
4 population to the extent that the demographics give us  
5 information about the likelihood. But, after that, it's a  
6 flat amount that stays --

7 (Outside interruption.)

8 DR. HANUSHEK: I thought all I had to compete  
9 with was the calories from lunch.

10 DR. GILL: It's just sound-effects for the  
11 meeting.

12 DR. HANUSHEK: So that it may not be that  
13 it's \$400.00 per kid in the school district is the amount  
14 that goes, it might be varying by the particular  
15 characteristics of the kids in a school district to the  
16 extent that we can predict more likely occurrences of  
17 Special Education needs.

18 I don't know the extent that we can do that,  
19 frankly. I've never tried to do that and other people can  
20 help me on that. But it's basically the idea that you try  
21 to give a transfer of income rather than payments if the  
22 school districts make some decisions that may or may not



1 be related to education.

2 DR. GILL: Commissioner Chambers?

3 DR. CHAMBERS: Eric, I'm thinking about the  
4 idea that you've suggested regarding the high cost of the  
5 insurance role that the federal government might play.  
6 And I guess I'd like to get your reaction. I mean, you  
7 sort of talked about cost-sharing and suggested there  
8 might be ways of, perhaps, sharing the cost with the  
9 states. I'm not exactly sure what you had in mind, but  
10 something like, first we have to decide what a high-cost  
11 child is. I can come up with three or four right off the  
12 top of my head, without thinking too much about it. And,  
13 second, we have to figure out a way to get the money out  
14 to the states and what an approach might be to have the  
15 states establish these risk pools.

16 I guess one of the issues is, in your view,  
17 would the states be large enough to establish the risk  
18 pools with the idea of the federal government might  
19 provide x-dollars and require a matching amount on the  
20 part of the states and expect them to provide that kind of  
21 a safety net, whatever word we might want to use to  
22 describe it, and then enforce that?

1 DR. HANUSHEK: Well, it's clearly possible  
2 for larger states, and California or New York is a large-  
3 enough risk pool that you don't get much advantage by  
4 going nationally. Wyoming has 400,000 people, total; not  
5 in their schools, but 400,000 total. You know, you can  
6 get to some fairly small states that -- you know, that's  
7 smaller than the school districts of New York City,  
8 Chicago, and Los Angeles, for the total population in that  
9 state.

10 So my suggestion was to think about a  
11 national risk pool. Now, whether you ask the states to,  
12 in fact, contribute or -- I mean, how you actually finance  
13 it between the states and the federal government, I don't  
14 think I have any strong opinions about. You know, you  
15 have a certain amount of funding that you want to cover,  
16 then -- and you could have states contribute some  
17 proportion and so on and do it. But you're always better  
18 off by contributing to this larger risk pool, having this  
19 one, big insurance company.

20 DR. CHAMBERS: So, in a sense, you are seeing  
21 the states -- instead of having their own funds, the  
22 states contributing some portion to a national risk pool,

1 in which case the implication that money is going to be --  
2 potentially, but not for sure -- redistributed among the  
3 states in some fashion.

4 DR. HANUSHEK: Yes, there might be some. I  
5 mean, I suppose there might be the case that some states  
6 are -- have higher risks of certain high-expense kids. My  
7 presumption to start with is that the risk for across the  
8 states is about even of having these high-expense kids.  
9 And so, the way I conceptually think about it is the  
10 states, if they were going to share part of the cost,  
11 would pay some into this national fund and the federal  
12 government would pay some in and then anybody could draw  
13 on this fund wherever the kids were found and wherever  
14 they were being served.

15 Now that -- those kind of abstract arguments  
16 often fail when you actually try to write the legislation  
17 behind them but that's the abstract argument that I'm  
18 trying to make.

19 DR. CHAMBERS: At this point, I'm going to  
20 relinquish and continue to listen to my colleagues.

21 DR. GILL: Okay. I want to kind of follow up  
22 with the block grant notion here for a second because I

1 think a lot of people in my state, and other states that  
2 I've been in, would say, "Well, if you block grant  
3 something like an entitlement, like Special Education,  
4 that generally is the first thing that gets cut when  
5 states find themselves in deficit spending patterns or  
6 whatever."

7 Do you have any notions or ideas about maybe  
8 some super block grant, or something like that, that  
9 doesn't prevent that from happening? Because I can  
10 imagine that that's the first set of arguments, is yeah,  
11 as soon as you block grant it, guess what, there goes your  
12 entitlement, and the first thing that's cut is your block  
13 grant and it gets reduced and we're going to put more  
14 things into it than just Special Ed.

15 DR. HANUSHEK: Well, the nitty-gritty  
16 political questions are important, there's no doubt about  
17 that.

18 DR. GILL: I think so, too.

19 DR. HANUSHEK: And we can't quite ignore  
20 them; they're not the usual expertise of economists come  
21 up with good answers of how to get around them.

22 I think earlier in the morning, when I got in

1 late at the morning session, Jay mentioned that lots of  
2 our rules and procedures are based on a distrust of every  
3 -- all other form -- levels of government. So the federal  
4 government distrusts the states and the states distrusts  
5 the localities.

6 And I'm not sure how to deal with that  
7 because we don't have rules that allow buying future  
8 legislatures; it's the problem with the federal government  
9 and deficit spending and so forth. And, no matter what  
10 rules you have, it can bind another legislature in the  
11 future, I understand, because of the states.

12 I don't think I have any easy answer. I  
13 should not speculate on --

14 DR. GILL: And my second question is -- we  
15 pointed out all day long some issues with Special  
16 Education in terms of financing and costs and  
17 accountability relative to whatever measure you want to  
18 pick; benchmarking is a notion of what's an appropriate  
19 service and cost differentials, et cetera.

20 Since a lot of your work is in education, is  
21 Special Ed disproportionately unique in that regard or --  
22 I mean, I don't think many people would argue that, well

1 basic education and general education has already answered  
2 all these questions and Special Ed lags behind. And I  
3 just want to get a sense of, are the issues that we  
4 pointed out in Special Education really all that  
5 disproportional from the issues that exist in the result  
6 of education reform?

7 DR. HANUSHEK: I don't believe so. I mean,  
8 that's -- you've hit on something, that this is a general  
9 issue and, in the written version of my testimony, there  
10 are lines at several points that say, you know, this is  
11 just -- Special Education is, in my view, an extension of  
12 regular education and, the same debate school of regular  
13 education, should we mandate or provide large subsidies,  
14 as the State of California does, to provide for smaller  
15 classes across the board and we pay people if they get  
16 classes down to 20 students or not or should we pay  
17 attention to whether kids are learning or not, and trust  
18 the local districts to do that?

19 So that the benchmarking ideas and the  
20 services and so forth, I think, fall in the category of  
21 trying to regulate the processes and the way that we  
22 provide education. It's something that the federal

1 government is particularly inept at. And it is something  
2 the state governments are generally inept at, too, in my  
3 opinion, of telling local school districts exactly how to  
4 mount programs as opposed to saying, "We want kids to be  
5 learning in your school district; you figure out how to be  
6 doing this."

7 And so I think that it's the same. The  
8 difference is that, you know, there's still a lot of  
9 controversy about how we measure performance and that's  
10 part of the newly authorized ESEA that came along of  
11 trying to measure performance; and people object to  
12 various kinds of tests and accountability and so forth.  
13 Those problems exist in Special Education, but to a larger  
14 extent; they're magnified because we haven't paid enough  
15 attention as to trying to measure performance in a number  
16 of areas of Special Education, so that it makes it a  
17 little more difficult.

18 But I think it's all on a continual and that  
19 much of my thinking about Special Education is, in fact,  
20 the same thing that I would apply to regular education.

21 DR. GILL: Thank you.

22 Todd Jones?

1           MR. JONES: I just want to ask one question.

2           I guess, when you mention that continuum, it  
3 really goes to the root of my question. And, in a sense,  
4 IDEA is a block grant; it is a block grant which has more  
5 strings attached to it than any other federal program I  
6 can think of that's a grant to states.

7           So, presumably, when you're moving down the  
8 scale to something that is structured differently, you  
9 would look at certain basic components of that program  
10 that are inherently necessary for the operation of the  
11 program, presumably one is financial controls, for  
12 example, and grant obligations.

13          But I think I also heard you say, goals of  
14 the program, as expressed through outcome measures and how  
15 those are defined; are there any other pieces that would  
16 be appropriate for the bones of that kind of structure  
17 upon which you would -- which you could address?

18          DR. HANUSHEK: Let me say first -- I mean,  
19 IDEA has moved more toward a block grant program but, as  
20 you say, with all kinds of regulations exactly what goes  
21 into it. So maybe there's no room left in the block after  
22 you try to meet these requirements.



1           Many of the state programs are not that; many  
2           of the state programs are not -- that are much more  
3           specific and there are rewards, pluses and minuses to  
4           different categorizations and you can calculate the  
5           profitability of having a kid of a given kind, given the  
6           state reimbursement program, and that -- so it's a system,  
7           it's not all block grants. But you've got all that when  
8           you're done.

9           I think that the -- what are the bare bones?  
10          I mean, I think that there are still -- I come back to the  
11          fact that I'm, in many ways, an intellectual supporter of  
12          94-142 in saying that we want to take care of, and provide  
13          for, the equity of all kids and we don't want to send  
14          certain kinds of kids off and not provide them services.

15          And so the bare bones has some regulatory  
16          aspect to making sure that, given the incentives that we  
17          set up in the system, that we don't have school systems  
18          just ignoring certain kinds of kids. So I think that  
19          there's always going to be some sort of audit oversight  
20          kinds of thing.

21          But it's a very different system than the way  
22          I understand the current Special Education system because

1 it's a system that, instead of arguing tooth and nail  
2 about exactly what program is going to be provided, you're  
3 going to sort of talk more -- pay more attention to  
4 whether the kids are learning or not, at the end and, to  
5 the extent we know how to help them learn, can we find out  
6 that.

7 DR. GILL: Commissioner Coulter?

8 MR. COULTER: You mentioned -- in your  
9 written testimony and also in your oral testimony, you  
10 talked about the federal role, in part as being paying for  
11 the unusual costs. And I think the term that I read here  
12 was "...unusual but very costly students."

13 Do you have any other -- any further  
14 definition or clarification on that? That's not an idea  
15 -- that's an idea that we've heard before but I guess  
16 we're still struggling with, where would you draw the line  
17 -- unusual but costly?

18 DR. HANUSHEK: Well, economists never think  
19 that lines are there, that you should never draw a line  
20 any place, that everything is a continuum and that it's a  
21 decision -- it's really a policy decision about how far  
22 down you want to go. I don't know if the most expensive

1 five percent, the most 10 percent? I don't know. And  
2 these are really policy decisions to go -- I struggle, by  
3 the way, and I still doubt that the word "unusual" is the  
4 right word. I mean, it's -- what I mean is, in a  
5 statistical sense, rare events that are costly; that's  
6 what I mean by "unusual."

7 And my suspicion is that there is enough  
8 information now available on the sort of average treatment  
9 cost of different categories of treatments, that you come  
10 down to some level that you -- it's really somewhat of an  
11 arbitrary decision. But it's how much risk should  
12 individual school districts be expected to absorb and how  
13 much should be covered by any insurance plan.

14 So I don't think that there is any magic  
15 number, that these are all political decisions that are  
16 arbitrary from a technical standpoint, in my mind.

17 MR. COULTER: Thank you.

18 DR. GILL: Commissioner Gordon?

19 MR. GORDON: Thanks, Chairman.

20 Dr. HANUSHEK, I'd just like to make one  
21 comment and two quick questions.

22 On the issue of charter schools, it's been my

1     experience that people aren't trying to hurt the charter  
2     schools or cause them not to stay in business, the  
3     difficulty in charter schools doing Special Education is  
4     the public school retains the responsibility for making  
5     sure the service is provided. And the transactions  
6     between public school districts and charters have been  
7     difficult, to begin with and, when it gets to Special Ed,  
8     you have a real liability issue and it can be very time-  
9     consuming. So I think, personally, I would be fine on  
10    seeing charter schools take more Special Ed children if  
11    they could provide the appropriate service.

12         Two quick questions. On the whole issue of  
13    due process and compliance, Dr. Chambers' report is going  
14    to reveal we're spending about \$1100 per child simply for  
15    the assessment component and the meetings and all of that  
16    sort of thing.

17         How do we get a handle on reducing those  
18    expenses?

19         And, related to that, when we talk about the  
20    high-cost pool, within a particular disability, we've got  
21    services provided which vary wildly from 10,000 to 50,  
22    100,000, for the same disability.

1           How could you get a handle on the  
2 comparability or the consistency of service? Because, I  
3 sense that would be necessary in trying to create that  
4 kind of cost pool.

5           DR. HANUSHEK: Right. On the first issue, we  
6 do, by all that I know, spend a huge amount of time trying  
7 on the identification and classification. My impression  
8 is that a large part of that expense is not at all helpful  
9 in assigning treatments, that it's not a diagnostic  
10 service that tells you what kind of programs necessarily  
11 are going to be the best or that helps you in designing  
12 programs.

13           So that the system I see would be that people  
14 would spend a lot of time diagnosing, you know, reading  
15 problems, to the extent that that helps us know what kind  
16 of services to mount; and those are legitimate expenses.  
17 And there's obvious decision rules.

18           The problem with the -- working so hard on  
19 the classification that now exists is that that's kind of  
20 wasted money, as far as I can see, and so that's what you  
21 want to try to get away from.

22           The -- the second question now eludes me.

1           MR. COULTER: Was in creating some kind of  
2 high-cost bag. Let's say you identified the areas you  
3 were going to fund; how would you deal with the wide,  
4 almost often wildly varying --

5           DR. HANUSHEK: Sure --

6           MR. COULTER: -- treatments that are being  
7 provided and their costs?

8           DR. HANUSHEK: Part of the question is how  
9 well can you define individual categories that have  
10 relatively homogeneous treatment processes with small  
11 variance. And I don't know -- I, frankly, don't know how  
12 well you can do at that, whether that gets you into the  
13 same classification bind as exists here.

14           To the extent that there is a lot of  
15 heterogeneity in categories, then you might want to have a  
16 system that has some sort of shared cost reimbursement so  
17 that the district pays 50 percent of the excess costs  
18 above some threshold and the federal government, or the  
19 insurance pool, pays another 50 percent. So the co-  
20 payments on your private -- and your health-insurance kind  
21 of plan, because what you want to do is, in fact, allow  
22 for this variation but you want to also have school

1 districts paying attention to what services they provide  
2 and not automatically saying, "Well, we always provide the  
3 Cadillac," whether it's the right thing or not.

4 MR. COULTER: Thank you.

5 DR. HASSEL: Jumping ahead.

6 DR. GILL: Congressman Hassel?

7 DR. HASSEL: I was jumping ahead.

8 A couple of other questions about the risk  
9 pool idea. One is, do you have any theories about why a  
10 private market for insurance for high-cost Special  
11 Education hasn't emerged in this county, to the extent it  
12 hasn't, and if there are implications of that for the  
13 development of a federal one, or design problems that  
14 would bedevil a federal program, as well?

15 DR. HANUSHEK: Why hasn't? -- I'm not sure  
16 why there's -- there would be apparently nothing that  
17 precluded school districts from, in fact, buying  
18 insurance, they buy insurance on other things -- for some  
19 things and self-insure on others. And, given that part of  
20 its large cost, I'm not sure exactly why it is. I guess  
21 you'd have to look at individual states and look at it  
22 from states that put most of the costs on school districts

1 and why it did that there.

2 In states that, in fact, pay large -- a  
3 larger fraction of the high expense, then you can see why  
4 it wouldn't work. But -- I'm not sure. That's a very  
5 good question.

6 DR. HASSEL: Another question about high-  
7 risk, high-cost pool that I have is, if you set up a  
8 system in which you, say, are paying \$100,000 for a  
9 certain type of disability, and that's assumed to cover a  
10 certain package of services that is assumed to be the  
11 right package for that kind of disability, one danger, I  
12 would think, is that you lock in that package of services  
13 as the -- there's no incentive to create a better package  
14 that costs \$80,000. On the other hand, if you give -- if  
15 you say, "Well, you can do the \$80,000 version instead of  
16 the \$100,000," then you have an incentive to kind of  
17 skimp.

18 Is there any way to balance that out and make  
19 the incentives outright for innovation and doing the right  
20 thing for the kids?

21 DR. HANUSHEK: The balance comes if we can,  
22 in fact, measure -- have developed some performance



1     measures.  If we know -- if we don't say, treating these  
2     students with the \$100,000 provides for this A, B, and C  
3     in these proportions but instead says, what we're trying  
4     to do is get the kid who has some level of reading  
5     ability, some ability to, perhaps, participate  
6     independently in the labor market and so on, and so forth,  
7     and then have some incentives and rewards and regulation  
8     in terms of whether they are performing.  Then you get  
9     away from trying to monitor whether they provided the  
10    right number of teachers in the right number of rooms, and  
11    so forth, and combinations.

12         But you're trying to pay much more attention  
13    to whether it's working or not, something's working  
14    because, right now, we don't know the difference,  
15    necessarily, between the \$100,000 and \$80,000 program to  
16    the extent that we don't measure what happens to kids at  
17    the end and try to relate those.

18         And I think that that's the general  
19    indictment, that we -- somebody comes in and they've said,  
20    "Well, the right way to do this is this."  And the right  
21    way seldom has to do with -- in the assessment of the  
22    performance of the kids, or the outcomes that you're

1 getting out of it.

2 DR. GILL: Troy?

3 MR. JONES: Just a comment.

4 If find it interesting that everyone that's  
5 talked to us today, if I'm following everyone well, is  
6 that they're all proposing a catastrophic federal coverage  
7 of some kind. And I think that's just very intriguing and  
8 everyone's made that recommendation, to use -- I think  
9 that's interesting.

10 That's all.

11 DR. GILL: Jay Chambers?

12 DR. CHAMBERS: I've got some comments and  
13 then a question.

14 First let me -- it has been alluded to  
15 several times -- we're in the process of working on a  
16 number of reports right now, from the Special Education  
17 Expenditure Project we call SEEP at AIR. And one of the  
18 things we're doing, we're doing some analysis of the  
19 relationship between expenditures and disability  
20 categories and also the relationship between expenditures  
21 and functional abilities, not that we have any corner on  
22 exactly how to measure that. But we've been using some

1 tools developed by Runa Simonsen (phonetic) and Donald  
2 Bailey (phonetic) at the University of North Carolina for  
3 that purpose.

4 And one of the things that was intriguing  
5 about that -- and it was developed by folks who are much  
6 more knowledgeable about measuring these kinds of things  
7 than I am -- was the idea of getting away from classifying  
8 children, themselves, as much classifying the needs of  
9 children. In other words, a child is a set of  
10 characteristics that have a whole collection of needs and,  
11 if you look at the diversity with respect to, at least,  
12 these measures that Runa and Dr. Bailey have come across,  
13 the diversity within the disability categories are  
14 absolutely phenomenal, which tells me that disability  
15 doesn't tell me a great deal about children's needs.

16 So I think that's one issue I just wanted to  
17 lay in -- lay out and urge you to -- kind of talk to you  
18 about this. It was moving away from classifying children  
19 and more towards classifying children's needs. Because,  
20 every time somebody talks developing -- you know, whether  
21 it's a fee structure or a set of delivery systems, I'm  
22 trying to think, "For what?" -- you know, here's a child

1 with a speech or language impairment of some sort but also  
2 has issues with emotional disturbance or -- I mean, you  
3 can go through a variety of things that are even at a much  
4 finer level than that.

5 At any rate, that's just a comment.

6 One thing that I think is important to maybe  
7 just get on the record because the staff have entered it  
8 into the record by David Gordon's comments about our  
9 study, is the -- I think you used the word "assessment" --  
10 was \$1100 per child?

11 Actually, what we did, to be very clear about  
12 that, is that that includes dollars for assessment,  
13 evaluation, and the IEP-related activities. And we simply  
14 took the total estimate of the dollars spent on those  
15 activities and divided it by the number of Special  
16 Education students. Does that mean that it costs \$1100.00  
17 for -- to do these things? No, it does not because, in  
18 the first place, not every Special Education student gets  
19 the same degree of assessment and evaluation every year,  
20 number one.

21 Number two, the denominator in that division  
22 doesn't even -- or in that ratio, doesn't even include

1 some of the children who were evaluated and assessed but  
2 didn't end up in Special Education.

3 So I just want to clarify that for the  
4 record. That point is made in the report for those who  
5 get into it but you know how these numbers start getting  
6 bandied about. The 2.3 cost number is almost like --  
7 somebody told me that number was 20 years old the other  
8 day, in the report that had the 2.3 cost number in it. It  
9 was published in 1988. So, it's amazing, these numbers  
10 get a life of their own.

11 Another comment that I think is worth just  
12 putting out on the table, we talked about high-cost kids,  
13 I took our sample -- this is for the '99-2000 school year  
14 and we said, "Well, let's arbitrarily define a high-cost  
15 child is the highest cost one percent."

16 Our estimate is, if you took the dollars and  
17 subtracted off what this child would be entitled to from  
18 basic education, we're talking about an investment of  
19 somewhere around \$4 billion for those children. So, just  
20 to put the number out on the table. And it goes up  
21 dramatically when you start including the top five percent  
22 or 10 percent, as you might imagine.

1           Now to my question. In talking about the  
2 federal grants, I'm thinking that, a lot of the concepts  
3 could equally well apply at the state level, even though  
4 you talked about a national insurance program. But the  
5 idea of block grants and a number of states have already  
6 tried to implement what we call, in the Special Ed finance  
7 vernacular, are census-based systems.

8           I mean, one of the things that the federal  
9 government could do as part of IDEA, even though they,  
10 right now, state that the program should be placement-  
11 neutral and identification-neutral, means there is no  
12 incentives to do those two things -- which, by the way,  
13 there's no such thing as an incentive-free funding for  
14 everybody but I don't have to tell an economist that.

15           I mean, would that be an appropriate thing  
16 that IDEA could do to mandate the states implement to  
17 block-grant funding systems for Special Education within  
18 the states?

19           DR. HANUSHEK: My concern about the federal  
20 mandating that in the states is that the states vary  
21 dramatically in the way they fund schools and how any  
22 Special Education funding might be wrapped in with the

1 regular education funding, from the weighted pupils to  
2 special categorical programs to this and that and the  
3 other thing, to the state provides 30 percent of the total  
4 based funding to states that provide a hundred percent.

5 And I don't think that you're going to be  
6 able to simply write a set of fiscal formulae that works  
7 with the state funding systems and tell them how to do  
8 that, even if it's legal; I'm not sure if it's legal to do  
9 that but that's not my area of expertise.

10 But, even it were, I'm not sure that that  
11 would be the thing that you would want to do.

12 DR. CHAMBERS: So leave it at a block grant  
13 and some kind of an insurance program for the federal  
14 financing system and let it go at that?

15 DR. HANUSHEK: Well, I think that's part of  
16 it; or the federal government could, in fact, get more  
17 involved in providing performance incentives, too, if it  
18 wanted to pick up part of a larger proportion of the total  
19 amounts spent on Special Education. There's nothing magic  
20 there other than somebody once wrote 40 percent into a  
21 law. I mean, there's nothing magic about what number you  
22 choose of how much the federal government pays.

1           But it could, in fact, provide some incentive  
2           grants or it could provide incentives for, you know,  
3           specific outcomes, you know, kids reading or something  
4           like that. And that would be fine. And you could  
5           probably make that work.

6           DR. GILL: Actually, I want to follow up on a  
7           little notion because I think I have heard a little  
8           something different than I've heard before.

9           And I think what I've heard a little  
10          differently, and you can correct me if I'm wrong, is I  
11          think the notion of the federal government, in terms of  
12          some sort of risk-pool manager or whatever for high-cost  
13          kids, is a little different than the notion of an  
14          allocation of 40 percent of whatever excess costs is  
15          determined to be.

16          And the reason I'm saying that is I think  
17          what I heard you say was, as responsibility for costs,  
18          very similar to an FDIC-kind-of notion, as opposed to  
19          assuming that it's 40 percent and going ahead and  
20          allocating those monies now. And I just want to make sure  
21          that I'm understanding that you are distinguishing between  
22          a responsibility versus an allocation; is that correct?



1 DR. HANUSHEK: Sure. And I'm -- what I'm  
2 advocating on the high-cost side is that the federal  
3 government could actually pay for some of -- whatever mode  
4 it chooses for various kinds of high-cost disabilities,  
5 wherever they reside and they would go to the individual  
6 school districts. And it's not based upon any particular  
7 number proportion or anything like that; it's based upon  
8 taking -- paying off when the high-risk event happens.

9 DR. GILL: Which is --

10 DR. HANUSHEK: Yeah --

11 DR. GILL: -- the responsibility for it as  
12 opposed to go ahead and pushing the money out front --

13 DR. HANUSHEK: Yes.

14 DR. GILL: -- and saying, "Here it is..." --

15 DR. HANUSHEK: Yes, yes.

16 DR. GILL: -- like you say, "...spend  
17 whatever level we give you." and we know what happens --

18 DR. HANUSHEK: Right.

19 DR. GILL: -- when that occurs.

20 DR. HANUSHEK: Exactly, exactly.

21 DR. GILL: All right.

22 Todd Jones?

1           MR. JONES: I just want to make one point for  
2 the members of the public who are here. If you are  
3 interested in looking at a copy of the SEEP report, you  
4 can e-mail the Commission and we'll direct you to the  
5 proper website where it's available.

6           DR. CHAMBERS: -- [www.seep.org](http://www.seep.org), there should  
7 be something right on the front page there that will  
8 direct you to the report, which is right behind that.

9           DR. GILL: Todd, do you have any further  
10 questions?

11          MR. JONES: No, that's it; thank you.

12          DR. GILL: Commissioner Coulter?

13          MR. COULTER: No, thank you.

14          DR. GILL: I'm not going to say Commissioner  
15 Gordon again; that makes me -- I feel like Batman, you  
16 know, Commissioner Gordon. I mean, the one that is better  
17 than that is Commissioner Hassel; right?

18          But I'm going to ask David Gordon if he has  
19 another question.

20          MR. GORDON: Thanks, Chairman.

21          Just one quick question. Along the lines of  
22 creating this block grant, do you suppose it might help in

1 sending the right message to perhaps combine an IDEA and  
2 an ESEA block grant?

3 DR. HANUSHEK: Sure. I mean, I think, from  
4 my standpoint, that would make sense. And, then, in some  
5 of the programmatic terms, as we go deeper, you might have  
6 at least portions of what goes for IDEA -- currently IDEA  
7 through Title 1 services or other things that are designed  
8 to, you know, support special kinds of compensatory  
9 programs.

10 Because, as I said, I view -- I mean, there  
11 are exceptions and really -- at the ends. But much of the  
12 debate about Special Education is really where do we draw  
13 some borderline in the center of this distribution; and it  
14 doesn't seem very helpful.

15 MR. GORDON: Thanks.

16 DR. GILL: Thank you very much, Dr. Hanushek,  
17 we really appreciate your time and your paper and we'll  
18 consider all of our recommendations, which I think we're  
19 trying to run through a filter of, is it definable, first  
20 of all, in terms of a recommendation; second of all, is it  
21 defensible; and third of all, is it equitable. And I  
22 think those are kind of a litmus test for the

1 recommendations that we're, I think, trying to move  
2 forward with.

3 Thank you very much.

4 We're going to maybe take about a 10-minute  
5 break and that allows you to field some questions, I  
6 suppose, from others outside of the microphones and for  
7 our other panel to get forward. So thank you very much.

8 We will reconvene at 2:35.

9 DR. HANUSHEK: Thanks for having me here.

10 (Whereupon, a brief recess was taken.)

11 DR. GILL: I'd like to ask the staff to take  
12 their seats, please and we will begin the final panel of  
13 the day.

14 And I just want to remind everyone that our  
15 public comment will start about 4:30. We've been running  
16 pretty close to time all day so we should be able to start  
17 that process at 4:30. And I think a couple of us are  
18 going to have to try to get out of here by 5:30 to catch  
19 flights at LAX but that, in no way, diminishes the public  
20 comment and it will also be part of the record and  
21 Commission members will be here to hear every commenter  
22 who is scheduled to present.

1           MR. JONES: That's right. We have a list and  
2           it's approximately 24 names. At three minutes apiece, 20  
3           names go to the hour so that -- given that it's 23 names,  
4           Commissioners who are available will be remaining to hear  
5           the remainder of the public comments.

6           DR. GILL: Thanks, Todd.

7           Our final panel of the day is on Using Money  
8           Differently: Can Changes in Resource Deployment and Flows  
9           of Funds Improve Desired Student Achievement and Outcomes?

10          And our panelists are Bill Freund, Steve  
11          Johnson, and Dr. Tom Parrish.

12          Bill, I've introduced once today already.  
13          He's an expert in K-12 finance; he is currently serving as  
14          a Senior Budget Analyst for the Senate Ways and Means  
15          Committee in Washington State. He's worked for the State  
16          Legislature since 1973; he's held numerous assignments in  
17          both the House and the Senate including public school  
18          budgets for 21 years, the capital budget revenue, and  
19          financial institutions.

20          In 1977, after the State's finance system was  
21          found unconstitutional, he played a lead role in the  
22          design and implementation of a new K-12 finance system

1 over a number of years and has made, obviously,  
2 adjustments to that system over the years, as well.

3 In the area of Special Education, Mr. Freund  
4 participated in the development of two new funding  
5 formulas in Special Education in 1981 and again in 1995.

6 Steve Johnson has been the Assistant  
7 Superintendent for Business and Operation for Bozeman  
8 Public Schools in Montana since 1986. He is a native of  
9 Montana and a graduate of Montana State University, where  
10 he earned a bachelors in accounting in 1980 -- I bet  
11 that's come in handy.

12 Steve has also been involved with  
13 governmental accounting his entire professional career  
14 with the Montana Legislative Auditor, Helena Public  
15 Schools, and Bozeman Public Schools. He also serves as  
16 Adjunct Professor at Montana State University.

17 Steve is an active member of the Montana  
18 Association of School Business Officials and has served as  
19 its President. Steve is also past president of the  
20 Bozeman Area Chamber of Commerce and currently serves as a  
21 Green Coat Ambassador for the Chamber.

22 Dr. Tom Parrish is a Director of the Center

1 for Special Education Finance and Managing Director of the  
2 American Institutes for Research where, over the past 20  
3 years, he has participated in and directed numerous  
4 research projects conducted for federal, state, and local  
5 agencies. Dr. Parrish combines expertise in education  
6 research and project management with direct experience as  
7 an educator.

8 In addition to more than 20 years of  
9 experience leading and participating in a variety of  
10 educational policy studies, he spent five years teaching  
11 students with learning difficulties from diverse ethnic  
12 and cultural backgrounds; education cost analysis and  
13 finance are areas of specialization for Dr. Parrish. He  
14 has a broad range of experience directing and providing  
15 leadership for projects in this area.

16 He received his doctorate at Stanford  
17 University in education policy and administration where  
18 his dissertation focused on Special Education cost and  
19 funding issues in the State of California.

20 So welcome.

21 We'd like to start with Steve Johnson. So,  
22 Steve, if we can start with you and what we'd like to do

1 is, as we've done all day long, your presentation; Tom,  
2 your presentation; Bill, your presentation, and then  
3 questions for all of you; okay?

4 MR. JOHNSON: Thank you all for the  
5 opportunity to present, before the Commission, and I also  
6 thank you for the opportunity to get out of Montana for a  
7 while. I called my wife at noon and it's five below and  
8 snowing in Bozeman. So it is nice to be here.

9 What a challenge you have. I've sat here all  
10 day and listened to the various presenters and it is a  
11 challenge. You should all be commended for your  
12 participation on the Commission.

13 I look at Special Education funding as a  
14 partnership. And, in Montana, that partnership has  
15 changed significantly over the last decade and my  
16 presentation will point that out.

17 To give you a little bit of perspective,  
18 Bozeman Public Schools is a school district of  
19 approximately 5200 students. Bozeman is a college town,  
20 Montana State University is in Bozeman. As a result, our  
21 community has high expectations of our educational system.

22 By almost any measure that you could come up



1 with, we are a fairly high-achieving school district;  
2 we're a low-poverty school district, which I think we're  
3 between 12 and 15 percent free and reduced lunch, which is  
4 a poverty measure Title 1 uses. But that doesn't mean  
5 that we have -- that we don't have financial needs.

6 Just because your community is fairly low-  
7 poverty, the State of Montana's funding system has placed  
8 caps on school districts' budgets to equalize spending,  
9 statewide and, therefore, we certainly don't have a blank  
10 check by any means from our local taxpayers.

11 There is a couple of key points that I would  
12 like you to take from this presentation. First of all,  
13 and probably more importantly for this presentation, is  
14 that Bozeman's local funding for Special Ed has increased  
15 from six percent in 1990 to 52 percent in 2001.

16 Bozeman, in 2001, is paying 52 percent of our  
17 Special Ed costs. Again, in 1990 that number was six  
18 percent.

19 Eighty-two percent of Bozeman's identified  
20 Special Ed students are enrolled more than 50 percent of  
21 the time in regular ed classes which may or may not be --  
22 I don't think that's abnormal. But I think a lot of

1 people that look at Special Ed don't realize the fact that  
2 such a high percentage of students are simply taking  
3 resource classes or speech, you know, here and there, and  
4 most of their time is spent in regular ed classes.

5 Increased Special Ed funding is needed to  
6 relieve the local burden. And I'll tell you quite  
7 frankly, I don't care whether that's federal money or  
8 state money, but you'll see that, because of our increase  
9 in local share in the local funding, it has hurt our  
10 overall program.

11 And the maintenance-of-effort rules, I  
12 believe, must also be changed in conjunction with this  
13 increase in funding.

14 This chart depicts, first of all, the -- this  
15 line here (indicating overhead display) is our actual  
16 enrollment, the percentage of students enrolled in special  
17 ed programs. And, as you can see, it is fairly -- you  
18 know, it hasn't gone up substantially; it's bounced around  
19 between eight and nine percent for the last decade. So  
20 there hasn't been a substantial change.

21 We have noticed a change, however, in the  
22 students that are identified and the services that they

1     require.  And I'll get into that a little bit more.

2             (Second slide)

3             This yellow line represents the percent of  
4     our general fund; and I'll just make a quick note that, in  
5     Montana, the general funds, it's a little bit unique from  
6     other states.  The general fund does not include  
7     transportation and it also does not include what we call  
8     retirement costs, which is Social Security, teachers'  
9     retirement, unemployment insurance; those are all paid in  
10    a different fund so they're not included in the general  
11    fund.

12            So this is only the general fund's share of  
13    Special Ed.  Again, it's gone from six percent of our  
14    general fund budget being spent on Special Ed in 1990, up  
15    to about 10 percent of our total Special Ed budget (sic)  
16    being spent -- I mean our total general fund budget being  
17    spent on Special Ed in 2001.  And that, basically, is a  
18    recap of what that previous chart said.

19            (Third slide)

20            Now, this chart depicts those actual costs --  
21    the actual expenditures in Special Ed in the general fund.  
22    So the total that we were spending on Special Ed in 1990

1 was about \$900,000. In 2001, that was 2.5 million. This  
2 chart does -- let me just -- and I should have pointed  
3 this out in the title -- it does include general fund and  
4 federal funds which are not included in the general fund,  
5 they are a special revenue fund. But, in order to show  
6 this increase in local contributions, I had to put this  
7 federal amount -- and this line (pointing) depicts the  
8 state amount. So our local expenditures for Special  
9 Education have gone from about \$47,000 in 1990 to 1.1  
10 million in 2001.

11 This morning, when I stepped out of my room  
12 there and they had the USA Today sitting on the floor and  
13 the first thing I saw was the price of a postage stamp  
14 going up to 37 cents effective June of this year. It was  
15 -- in 1992, the price of a postage stamp was 29 cents. If  
16 you take that and apply that same analogy to our rise in  
17 costs in Special Education at the local level, that 29-  
18 cent stamp in 1992 would now be \$6.50 today.

19 So, as I said earlier, we need relief at the  
20 local level; whether that comes from the federal or the  
21 state government, it really doesn't matter.

22 Six percent of our Special Ed was paid,

1 again, in dollar numbers, that's about \$47,000 up to about  
2 1.1 million. As you can see, the state's share -- now the  
3 state has increased their funding from about 750,000 up to  
4 a million dollars in that time frame. So they've  
5 increased by \$275,000 or about 37 percent increase.

6 The federal government, in the same time  
7 period, has increased by about \$261,000, or about 258  
8 percent. So the federal government is actually doing a  
9 lot better job than our state government as far as funding  
10 Special Ed in Montana.

11 Now, last year during our state legislature,  
12 our Special Ed Director and myself went up there to  
13 testify on an appropriations bill and we were basically  
14 told that this is a federal problem. "This is a federal  
15 problem; you need to go and talk to the feds about this."  
16 So I'm here. And all I'm saying, is I'm telling you the  
17 same thing that I told them; we are in the middle of this  
18 -- you know, of this underfunding by the state and the  
19 federal level. And it doesn't matter to me whether it  
20 comes from the feds or the state; but I think it's  
21 important that it be increased to relieve the local  
22 burden.

1           (Fourth slide)

2           This chart depicts the actual increases in  
3           cost in the Special Ed programs, that blue line, and -- I  
4           don't even know what color that is -- but this line  
5           depicts the regular ed, or the non-Special Ed program cost  
6           increases. So the way to read this, in 1990 -- I guess  
7           this starts in 1991, 12 percent increases in Special Ed.  
8           So the total Special Ed cost we had in 1990, they  
9           increased by 12 percent for 1991. And then they increased  
10          again by 14 percent in '92, et cetera. So those are  
11          increases in Special Ed costs and this is the non-Special  
12          Ed program.

13          So, as you can see, 10 out of the 11 years,  
14          the Special Ed cost increases have far exceeded the  
15          regular ed program. And, obviously, the obvious  
16          conclusion you reach there is that it's put pressure on  
17          our non-Special Ed programs. We've had to cut -- increase  
18          class sizes, cut programs in order to accomplish this.

19          (Fifth Slide)

20          In our budget process at the local level,  
21          basically we take all the requests from all the  
22          departments, including Special Education, and we

1     administratively analyze those and basically safety issues  
2     and any mandates or accreditation standard issues that we  
3     have to implement, we will do first. And as a result of  
4     that process, the Special Ed costs have grown faster than  
5     general ed and Special Ed is rarely one of the items that  
6     are cut.

7             (Sixth slide)

8             Now, on to maintenance-of-effort. Under the  
9     current law, only 20 percent of any year's increase in  
10    federal Special Ed Part B funding can be treated as local  
11    funds for purposes of maintenance of effort. So that  
12    limits our ability to reduce our spending when the federal  
13    government's spending is increased. In order to reverse  
14    that disproportionate increase that we have experienced at  
15    the local level, I am recommending that the maintenance-  
16    of-effort should be changed to allow us to decrease 100  
17    percent our local share by the amount that we receive from  
18    the -- the increase we receive in federal contribution.

19            Now, you know, people are going to argue,  
20    "Well, that's going to take money out of Special Ed." but  
21    you need to keep in mind, 82 percent of our identified  
22    students are more than 50 percent in regular ed classes.

1     So the regular ed classes are going to benefit from that,  
2     that increased support -- increased effort that we can put  
3     into the regular ed programs will help all students,  
4     including the Special Ed students.

5             (Seventh slide)

6             And now I've got a couple of slides that will  
7     demonstrate how. Number one, obviously, is trying to  
8     maintain low class sizes. Low class-student ratios are  
9     going to benefit Special Ed students more than they are  
10    going to benefit regular ed students but it's going to  
11    benefit the entire educational program.

12            Provide professional development and  
13    mentoring help for regular general ed teachers that deal  
14    with Special Ed students all the time in their classrooms.  
15    And they need development, professional development, they  
16    need training on how to deal with some of those issues.

17            (Eighth slide)

18            And then the last point of the benefits, is  
19    to allow -- and actually, I think, loosening some of the  
20    regulations to allow us to use some of the federal funds  
21    for some early-intervention type programs is important.

22            In summary, provide more money from the



1 federal and/or state level to relieve the local burden;  
2 provide local school districts the ability to reduce their  
3 maintenance-of-effort dollar for dollar to help rebalance  
4 the partnership; and provide local trustees the  
5 flexibility needed to provide early intervention and other  
6 safety nets to address the unique needs of all students,  
7 including Special Ed students.

8       There's a couple of other points that I would  
9 like to make. Again, on this poverty issue, I think it's  
10 important -- when the ESEA reauthorization occurred, and  
11 there's been some discussion about, you know, maybe piggy-  
12 backing on that or whatever, I was very disappointed in  
13 learning that a lot of the ESEA programs are now poverty-  
14 based, or at least a percentage poverty-based. I think  
15 it's important to note that school districts that are not  
16 at those poverty levels still have financial needs to  
17 educate kids.

18       In Montana, as I said, our state government  
19 has capped our general fund budget so we can't raise the  
20 money locally that we need. And yet the federal resources  
21 are going more and more to the high-poverty -- and I'm not  
22 taking away from their needs, they need money, also, but

1     so do the lower-poverty districts.  So I would hope that  
2     IDEA never gets tied to that type of a funding formula  
3     that is partially poverty-based.

4             And then the other point that I would like to  
5     make -- I'm kind of piggy-backing on the last presentation  
6     -- but there's been a lot of talk today about measurement  
7     and assessment and testing and the point I would like to  
8     make is, don't lose sight of the fact that those  
9     measurements and assessments and tests cost money.

10            And what has happened in Montana is, the  
11     State of Montana has pushed those costs down to the local  
12     district and, last year, they funded a state-wide test and  
13     we got an e-mail two weeks ago that said that that money  
14     isn't going to be available next year; and so it's now the  
15     local government's responsibility to do that.

16            So, you know, they may be a good idea -- you  
17     know, I'm not arguing against that -- but I'm just saying  
18     that, if you recommend or if they're implemented, help  
19     fund them.

20            Thank you.

21            DR. GILL:  Thank you, Steve.

22            Tom?

1 DR. PARRISH: Okay. I'd just like to start  
2 out by saying I'm honored to be here and I'm awed by the  
3 magnitude of the task you have, as perhaps you are as  
4 well, I would imagine. I'd like to just start out by  
5 saying I'm not another Special Ed economist because I'm  
6 neither a special educator nor an economist; so I'm sure I  
7 don't fit into that category, although I've dabbled in  
8 both for quite a few years. So I suppose I know enough to  
9 be dangerous in both, perhaps.

10 At the time of reauthorization, when we're  
11 spending more federal dollars than ever before and  
12 substantial increases in federal allocations are being  
13 considered, there's naturally a time to question our  
14 nation's Special Education system to ask how we can make  
15 it better.

16 This questioning process is important and  
17 will be the focus of my remarks today.

18 At the same time, it is also important that  
19 these observations be prefaced with a clear acknowledgment  
20 of the many phenomenal successes associated with the IDEA.  
21 The high priority we have placed on providing appropriate  
22 educational services to students with disabilities in this

1 country is something in which we can take pride.

2 At the same time, I suspect that all of us in  
3 this room see ourselves as advocates for all children.  
4 Given this, we must be concerned that too many children  
5 are still not successful participants in American  
6 schooling. We face serious questions if we are to meet  
7 the challenge set by this administration, which I believe  
8 all can agree with, that no child should be left behind.

9 Too many of these are children with  
10 disabilities. Despite an impressive investment of  
11 resources over the past 25 years, and despite a major  
12 alteration of the schooling enterprise to recognize  
13 students with disabilities and develop individualized  
14 education programs for each and every one of them, the  
15 system is failing these children at much too high a rate.  
16 In addition, their success after schooling is much too  
17 low.

18 At the same time, other populations of  
19 children with special needs have received far too little  
20 additional attention. Having taught elementary school for  
21 five years, having conducted research in education for 25  
22 years, and as an advocate of children -- as I'm sure we

1 all are -- I would argue that all children have some form  
2 of special needs. However, some populations of children,  
3 in addition to children with disabilities, especially come  
4 to mind. In California, one-third of all elementary-aged  
5 children come from families from whom the primary language  
6 spoken at home is not English.

7 I'm currently directing a study of English  
8 learners mandated by the California Legislature. After  
9 extensive interviews with parents, students,  
10 administrators, and teachers, I am convinced that we are  
11 doing far too little to meet the special needs of this  
12 population. These students are attempting to learn  
13 English at the same time that they are being asked to  
14 master the core curriculum -- in English, by the way -- at  
15 the same pace as all other learners.

16 Children in poverty and/or those who find  
17 themselves in severely underfunded schools also warrant  
18 special attention. We find large discrepancies in  
19 spending in school districts across the nation with  
20 children in poverty often facing the daunting challenges  
21 of deprivation at home, less-prepared and -experienced  
22 teachers, and inadequate educational facilities,

1 equipment, and materials. Foster children are also a  
2 particular concern.

3 I'm also directing a legislatively-mandated  
4 study of foster-group-home children in California. These  
5 are children who, for the most part, have no parent  
6 advocates who are actively involved in their education,  
7 who have not been able to find placement in foster family  
8 homes, and who are, as a consequence, are living in  
9 larger, more institutionalized group settings. Fifty  
10 percent of these children are designated as Special  
11 Education.

12 In California, 25 percent of them are being  
13 educated in private Special Education schools and yet the  
14 educational and life outcomes for these children are  
15 appalling. They are wards of the State and, despite the  
16 considerable investment of up to 80,000 per year for some  
17 of these children, we have utterly failed in our  
18 stewardship of them.

19 One major study showed that four years after  
20 leaving the system at 18 years of age, only one-half had  
21 completed high school and 40 percent were incarcerated or  
22 on public assistance.

1           As a part of this large group of home study,  
2           I had dinner last night with an incredibly articulate  
3           young woman I'll refer to as Jane. After eight years in  
4           the foster care system and under all of the protections  
5           offered through Special Education, where she was diagnosed  
6           as emotionally disturbed, upon turning 18, she had  
7           accumulated zero credits toward graduation. Upon leaving  
8           the system, she was advised to seek shelter in a home for  
9           adults with mental retardation.

10           Despite the total failure of the system for  
11           this child, she was able to turn her own life around after  
12           leaving school. Currently a law student at a top-notch  
13           California university, she turned into an incredible  
14           success story despite the fact that the elaborate system  
15           we have developed totally failed to recognize and develop  
16           her considerable talents.

17           Given this background orientation, I offer  
18           the following observations and recommendations about using  
19           money differently. Number one, we must define adequacy of  
20           educational services for all children. I'm not advocating  
21           IEPs for all children, and I'm not advocating that all  
22           children become involved in the procedures that we have

1       created, but all children fit somewhere on a continuum of  
2       special needs.

3           Given this, I worry about the bifurcated  
4       system we have created in which some children are granted  
5       a legal entitlement to an individualized education program  
6       appropriate to their needs and which costs cannot be taken  
7       into consideration, as compared to all other children who  
8       receive no guaranty of adequate or appropriate educational  
9       services.

10          Number two, legal entitlements are not  
11       enough. Within this bifurcated system, the legal  
12       entitlements we have created for children who qualify for  
13       them seem to do little to assure high-quality educational  
14       services or success in life. Despite eight years under  
15       the substantial protections provided for Jane, after eight  
16       years of protection and legal guarantees, she had no high  
17       school credits despite her considerable academic talents  
18       and abilities, as evidenced by her success later in life.  
19       The system had failed her and yet she was made to feel  
20       that she had failed the system.

21          Three, the current accountability system is  
22       misguided. It has always been a great deal of



1     accountability within Special Education, perhaps too much.  
2     There are at least three kinds of accountability, fiscal,  
3     procedural, and results. All three are important and need  
4     to continue in one form or another. But the first two are  
5     only important in relation to the third.

6             If we are failing students in terms of their  
7     not receiving an education, we are failing them, period.  
8     It does not matter if we are spending the money on them in  
9     the legal manner and it does not matter that all of the  
10    specified policy and procedures were followed.

11            Number four, and a meaningful discussion of  
12    accountability must include a full consideration of,  
13    accountable for what? A two-year process to identify  
14    desirable results for young children in California  
15    resulted in the first goal -- one of three -- of producing  
16    children who are personally and socially competent.  
17    Emphasis on test scores alone will not necessarily lead  
18    to, and may, in fact detract from, the full set of desired  
19    results we want for all children.

20            Number five, with outcome accountability in  
21    mind, we need to allow greater flexibility in the use of  
22    funds. If Special Education is the only game in town, or

1 the best game in town, the remedial services, Special  
2 Education enrollments will continue to grow as a  
3 percentage of total enrollments, as they have done every  
4 year since the passage of IDEA. I think we need to  
5 consider flexibility in the use of funds to provide some  
6 services to students prior to referral to Special  
7 Education.

8 Six, for many children, Special Education is  
9 not the best program to provide remedial services. The  
10 cost of eligibility determination is high. If eligible,  
11 we only start services once these determination costs are  
12 incurred. If not eligible, we incur the cost of  
13 determination anyway and the child receives no additional  
14 service. For example, it makes no sense to spend a  
15 thousand, 2,000, whatever number you want to put on it, to  
16 determine if the child is eligible to receive \$800.00 of  
17 reading intervention.

18 Once children get into Special Education,  
19 they tend not to get out. And, last, the labels for  
20 learning disabled are stigmatizing.

21 Number seven, we need to direct more money  
22 and services to young children. Research consistently

1 shows that we have a great window of opportunity to  
2 intervene with children at risk in the early years. And  
3 yet our funding patterns show that we are much more likely  
4 to spend after failure has occurred.

5 Number eight, we need to stop spending money  
6 in ways that promote segregation. Although some children  
7 will need more restrictive services during part of their  
8 school experience, we know that socialization is a vital  
9 part of the education of all children. Far too many  
10 children are receiving educational services in isolated  
11 settings because ways in which we allocate funds for these  
12 services encourages this segregation.

13 And, last, I'd just like to comment on 40-  
14 percent funding. I, with some hesitation, enter as a  
15 pariah among the august people who have spoken already.  
16 But I'm not sure I agree in the notion of federal funding  
17 being targeted for high-cost for so-called severe  
18 students. I would like to see substantially increased  
19 federal support for children with special needs. However,  
20 I would be concerned if considerable new funds were  
21 restricted to added Special Education spending without the  
22 flexibility to use some of these funds on other types of

1 interventions for children.

2 If these funds were to be targeted, in my  
3 view, rather than directing them to cover the costs of the  
4 nation's most severe, or highest-cost children, I would  
5 urge consideration allowing at least some of these dollars  
6 to be spent on better early intervention and alternative  
7 intervention services.

8 Thank you for this opportunity.

9 DR. GILL: Thank you, Tom.

10 Bill Freund?

11 MR. FREUND: Thank you again for the  
12 opportunity to testify. And I have to admit at the outset  
13 that the topic of using money differently and  
14 contingencies in resource deployment and flows of funds to  
15 improve student desired achievement and outcomes is a  
16 foreign one since, until this year, federal funds were  
17 something that was appropriated in our budget because they  
18 had to be and it wasn't something that we knew much about.

19 But a \$1.6 million shortfall in our budget  
20 has changed all that and we're now integrating federal  
21 funds, to some extent, in our funding formulas. And I  
22 have to say, I had the pleasure of reading, probably more

1     than a thousand pages of federal laws and regulations and  
2     all sorts of things.

3             So, having been challenged, I've jotted down  
4     some things that people have complained about over the  
5     years and some concerns that occurred to me as I  
6     considered this discussion topic in light of the changes  
7     in Title 1 under the No Child Left Behind Act and,  
8     finally, some thoughts relating to federal Special  
9     Education increases for states that are fully funding  
10    Special Education, like Montana.

11            My first topic is red tape; and I think that  
12    you've heard a lot about it. But, in Washington State,  
13    school districts and teachers complain constantly to the  
14    legislature about the burden of Special Education  
15    regulations and paperwork requirements. And the claim is  
16    that substantial portions of a teacher's day are spent  
17    doing paperwork.

18            And, upon investigation, it turns out that  
19    most of the complaints concern federal requirements,  
20    changing roles of service providers, inclusion and  
21    building-based management. And, if possible,  
22    simplification of federal requirements without affecting

1 procedural requirement -- or from safeguards, excuse me --  
2 could improve the disposition of teachers and might  
3 increase teaching time per day.

4 I have to say that, in our own funding  
5 formulas -- for example, we used to have salary controls  
6 over all three types of staff, certificated instructional  
7 staff, certificated administrators, and classified staff.  
8 And, in 1987, the legislature decided what was important  
9 was the classroom and they let go of the salary controls  
10 for the -- for administrators and for classified staff;  
11 and it did not matter to the legislature whether they paid  
12 double and had half the staff or paid half and doubled the  
13 staff.

14 And so there may be some opportunities for  
15 you to assess your requirements and maybe you can let go  
16 of some of the ones that are not all that important.

17 With respect to assessment costs, a frequent  
18 complaint is that districts are not eligible for state or  
19 federal education funds unless an IEP has been prepared  
20 for a student. Allowing federal reimbursement may curb  
21 the potential for over-identification of students as  
22 Special Education. And I make this comment because

1 districts may treat this as a sump cost. You know, once  
2 they've committed the -- maybe the \$1100 for assessment,  
3 they can't recover any of it unless they identify the  
4 student as IEP. And they cannot recover from the state  
5 because we don't allow that; and they can't recover from  
6 the federal government. And I'll cover that part a little  
7 later.

8 Well, I'll cover it now. You may be  
9 wondering why the state doesn't allow the reimbursement  
10 from our own Special Education funds and the reason is, is  
11 that we view federal funds as enhancement funds and we  
12 kind of like to have the federal government pick up the  
13 cost since those are enhancements and they can be used for  
14 that purpose. So it's a different kind of view from some  
15 other states, I would imagine.

16 With respect to student outcomes, data  
17 linking Special Education expenditures and outcomes -- and  
18 by outcomes, I mean test results -- is not available in  
19 our state. It may be possible to generate some high-level  
20 information soon but it may turn out to be counter-  
21 intuitive and that the data will probably show that, the  
22 higher the expenditures, the lower the student outcomes.

1 And, for that reason, linking expenditures and outcomes  
2 may not be useful unless other variables are also  
3 considered.

4 And we've looked at the cost of developing  
5 some other variables and one of our audit committees  
6 recently concluded that it would be quite costly to be  
7 developing other variables.

8 Our state does not specify desired student  
9 outcomes for Special Education students and neither does  
10 the federal government. My impression is that, what is  
11 available, our state and federal procedural requirements  
12 serve as proxies for outcomes. And expected student  
13 outcomes are individually determined through the IEP  
14 process and they probably vary by state, by school  
15 district, and by school building.

16 I'm not aware of any federal uniformity  
17 requirements for the preparation of IEPs. So it's one  
18 thing to try to help school districts improve Special  
19 Education student outcomes through various means but it  
20 may be quite another to try to determine whether student  
21 outcomes have actually improved given the lack of  
22 uniformity in IEPs and the lack of definition of what



1 "outcomes" means in a Special Education context.

2 Another thought is that standardizing the  
3 required content of IEPs and other federal forms may aid  
4 in minimizing differences among states in accounting,  
5 service delivery styles, and local district program  
6 decisions. It may also help when students transfer from  
7 one state to another.

8 Finally, an unintended consequence of state  
9 education reform efforts and state and federal adequate  
10 yearly progress requirements may be some increases in  
11 Special Education enrollment due to movement of some  
12 underachieving students into Special Education programs.

13 And, to prevent this potential, one  
14 possibility may be to require one or two research-based  
15 instructional interventions before labeling a student SLD.  
16 But care needs to be taken when considering singling out  
17 one category of disability for special treatment because  
18 our experience has been that that leads to category creep.

19 Regarding state and local maintenance-of-  
20 effort requirements and "supplement not supplant," from  
21 the state's point of view, Washington is fully funding  
22 Special Education. So federal funds become enhancement

1 funds if they cannot be fully taken into account. And  
2 federal/state maintenance-of-effort and supplement-not-  
3 supplant requirements affect the ability of our state to  
4 take the federal funding increases into account.

5 One of the things that you talked about a  
6 little earlier was -- in doing things differently, was  
7 providing additional funding for districts with innovative  
8 programs or funding pilot programs. And I have to let a  
9 little bit of a budget analyst and the frustration of a  
10 budget analyst just come out a little bit because there's  
11 thousands of school districts; we're not the only country  
12 that does Special Ed. How many more pilot studies need to  
13 be done on how to do Special Ed appropriately?

14 And we do have quite a bit of experience with  
15 pilot studies in our state, and with special innovative  
16 programs. One that comes to mind is 21st Century Schools,  
17 which was providing about \$8 million a year for, I think,  
18 four or five years in the late '80s. And what do we have  
19 to show for it? Nothing, absolutely nothing. Why?  
20 Because it was not -- the way the money was used in those  
21 school districts, it was not replicable, it was not  
22 scalable, it depended on some inspired individuals; and,

1 when those individuals moved away, we had nothing to show  
2 -- you know, three or four years later, there's nothing --  
3 you can't tell that the program came and went.

4 Also, I think that care has to be taken with  
5 pilot programs because there's the Hawthorne effect. You  
6 know, you start putting extra money in, call a school  
7 district "special" or, you know, certain things happen  
8 and, all of a sudden, things improve. But, after three or  
9 four years, they just kind of dissipate and it goes away.  
10 So, that's the old budget analyst coming out in me.

11 Now, I do have to tell you about our Ed  
12 Reform Program. Our state's been engaged in reform since  
13 1993 and we're trying to inculcate best practices in our  
14 teachers. And, you know, from that -- since 1993 to this  
15 school year, the state has invested \$280 million on just  
16 providing extra days for teachers so that they could  
17 learn, first, the curriculum and then how to use the  
18 assessments that we have in place. So it's a costly  
19 proposition.

20 So, if there's going to be innovative  
21 programs or you try to do best practices, then you have to  
22 come up with a means to get it out, otherwise, these

1 programs just don't do anything, they're just nice  
2 programs and then they go away.

3 So recommendations regarding using money  
4 differently, any contemplated changes in resource  
5 deployment and flows of funds should focus on system  
6 accountability for results but not result in increased  
7 paperwork at the local level. And I don't have any  
8 problem, I think, with requiring more paperwork of state  
9 agencies. I don't know what Doug thinks, but requiring --

10 DR. GILL: (unintelligible).

11 MR. FREUND: Oh, yeah -- but requiring more  
12 paperwork of local school districts, you know, there's  
13 resistance to that.

14 So federal regulations requiring paperwork  
15 should be eased if it is determined that sufficient  
16 procedural safeguards exist. And I happen, by the way, to  
17 like quite a bit of the paperwork. There have been  
18 studies on paperwork in our state -- in fact, several --  
19 and, in reviewing those, I considered them a roadmap for  
20 school districts to keep out of trouble, for one thing.  
21 But maybe something can be simplified.

22 Next, limitations on the use of federal

1 education -- Special Education funds -- for assessment of  
2 students that become a focus of concern should be changed  
3 and, blending of federal funds should be permitted and  
4 encouraged -- I think, Title 1 with IDEA -- and maybe  
5 that's already a possibility.

6 In our state, we talked about allowing the  
7 blending to go the other way, Special Ed to the regular ed  
8 program, that is, to use some of the Special Education  
9 money to train teachers to deal with Special Education  
10 students that are in the classroom. And I don't know the  
11 extent to which that's being done but there may be some  
12 mutually beneficial things that can be done between the  
13 two programs.

14 Next -- and I debated about whether I should  
15 leave this in or not, and that concerns using a small  
16 portion of federal funds to create regional risk  
17 management pools for high-cost students and also for legal  
18 costs. And it occurs to me that that could be a very  
19 problematic thing, having a regional safety net, or even a  
20 -- not even a huge safety net for this because what it  
21 does, is it allows school districts to cry uncle too fast.  
22 That is, they may not challenge, for instance, sending a

1 student to Hawaii; I think there's a nice program in  
2 Hawaii and we've had to send a couple of kids there.

3 And the school districts determined that,  
4 rather than take on the legal costs, they'd just as soon  
5 just send the student out. And it becomes a question of  
6 responsibility and that is, has the school district  
7 exercised due diligence and tried everything that it can  
8 prior to coming into your regional pool?

9 As an alternative, I did talk to you about,  
10 in Southwest Washington, that we have a school district  
11 co-op, 15 school districts. That co-op takes all of the  
12 students of the school districts, including -- and they  
13 have some very high-cost students, and the costs are  
14 absorbed by all 15 school districts when that happens. So  
15 they have a regional risk-management pool. And, you know,  
16 what our educational service districts do with respect to  
17 other things like insurance, for instance. So there may  
18 be some possibility to maybe foster some more of those  
19 kinds of arrangements; and that would be an alternative to  
20 having some regional risk-management pools.

21 Finally, the federal government should  
22 consider standardizing forms and report requirements to

1 enable greater comparability between the states, amongst  
2 other reasons.

3 Thank you.

4 DR. GILL: Okay, thanks. Thank you, Bill.

5 I think the Committee certainly recognizes  
6 that we put this panel in a difficult position, to talk  
7 about using money differently, when we would probably all  
8 agree, we don't know how we use the money that we have  
9 now. So, to use it differently is kind of a tough  
10 position to put you folks in; and we appreciate you taking  
11 that on a little bit.

12 So we're going to start with our questions  
13 from our staff and Commissioners and, following the  
14 afternoon model, we're going to start with Troy Justesen.

15 And, Troy, you have the first question.

16 MR. JUSTESEN: Well -- sorry, I know, the  
17 microphone -- Bill, to you it seems the paperwork is a  
18 good thing for purposes of protection against litigation.

19 MR. FREUND: Yes.

20 MR. JUSTESEN: Well, that shouldn't be the  
21 primary goal of having an IEP and following the procedures  
22 of an IEP and services for a child through that IEP, just

1 to protect a district from litigation.

2 MR. FREUND: No. And I didn't mean that --

3 MR. JUSTESEN: No, I know you didn't --

4 MR. FREUND: -- exclusively and I -- well, go  
5 ahead.

6 MR. JUSTESEN: Well, I guess my question is,  
7 do you -- if that's the primary concern to an  
8 administrator, then, for all three of you, what is the  
9 recommendation to have paperwork that protects the  
10 interests of the child but is useful for educating the  
11 child?

12 MR. FREUND: Well, when I used the words  
13 "procedural safeguards," I mean the interest of the child;  
14 and that's what I mean. And so, in relaxing paperwork  
15 burdens, I think what has to be taken, to make sure that  
16 what is provided to the students is appropriate.

17 MR. JUSTESEN: Okay.

18 Steve?

19 MR. JOHNSON: Well, I guess, from my  
20 perspective, I'm -- if you look at it from a perspective  
21 of the student's best interest versus protecting the risk  
22 of the district, you know, dotting all the i's and



1 crossing all the t's is kind of what the emphasis is now,  
2 it seems to me, and not just sitting down and coming up  
3 with a plan that's going to work. You know, it's like  
4 you've got to go from step A to step Z and you've got to  
5 do it in this order, rather than just, you know, randomly  
6 collecting the thoughts of the educators that are in the  
7 room and the parents and everybody and doing it as a  
8 collective process, rather than saying, "Okay, we've got  
9 this form to fill out now, guys. You know, we've got to  
10 make sure all this stuff is done."

11 I'm not sure I have any specific  
12 recommendations but it seems like there's a lot of time  
13 consumed in making sure those i's are dotted and t's are  
14 crossed.

15 MR. JUSTESEN: Does the current requirements  
16 for paperwork meet the best interests of the child or, at  
17 least, can we improve on that system or should we leave it  
18 alone?

19 MR. JOHNSON: I don't know if I want to go  
20 there. You know, from my perspective, I think that our  
21 school district is doing an excellent job of educating  
22 these students. I mean, they are getting educated and

1 they are learning. And sometimes it frustrates the heck  
2 out of all of us because we can't use money -- but -- when  
3 we want to use it, early enough, and those types of  
4 things, and we're putting out fires after they're ablaze  
5 rather than dealing with them early.

6 But, as far as the paperwork issue, I guess  
7 I'm not sure that that's -- you know, limiting or changing  
8 that is going to, at this point in time, save enough to  
9 warrant it. I mean, the processes are in place and, you  
10 know -- but it also, from a local perspective, is  
11 frustrating because, you know -- the costs that I showed  
12 you, those are direct Special Ed costs; that doesn't  
13 include any of the indirect costs of all the people that  
14 are involved in the teams, the principal, the regular ed  
15 teacher, all of those costs that are extraordinary in  
16 filling out -- in making sure that all of those forms are  
17 completed.

18 So it seems like the process could be  
19 streamlined a little bit but I don't know if that's in the  
20 best interest of the student or not; I can't answer that.

21 MR. FREUND: There may -- I'm not an expert  
22 on the paperwork but some of the frequency of the

1 paperwork, I heard, maybe can be cut out and not hurt  
2 anything.

3 DR. GILL: Jay Chambers?

4 DR. CHAMBERS: Sounds like one of the things  
5 we heard when we visited some schools in Houston, asking  
6 what the major issue was and, in unison, a group of them  
7 said, "Paperwork. If we could just reduce the amount of  
8 time we spend involved in unnecessary paperwork, that time  
9 then could be devoted to program planning and working with  
10 children and, hopefully, improving learning." But that's  
11 kind of an outsider's observation.

12 Steve, I was trying to look at your numbers  
13 and I know it's late in the afternoon and so I wasn't  
14 quite calculating as fast as I usually do. But -- and I  
15 thought I heard you say something about the fact that the  
16 increase, which has been substantial in your district, and  
17 you were going to make some mention of the cause of the  
18 increase, not just the relative numbers. But it appears  
19 that the dollars per child being spent have gone up  
20 considerably; but I couldn't -- without more calculations  
21 in my head at 3:00 o'clock in the afternoon can handle, I  
22 couldn't quite figure out what that was and what the

1 nature of the increase was.

2 Can you elaborate on that?

3 MR. JOHNSON: Well, I can and -- primarily,  
4 it's as the chart showed, the percentage of students in  
5 Special Ed programs has not grown significantly; where the  
6 increases have come in, in primarily two categorical  
7 areas, is autism and emotionally disturbed. And we have,  
8 over the last two or three years, been dealing with some  
9 very severe emotionally disturbed issues that we didn't  
10 previously deal with.

11 And, at the same time, we've had cutbacks in  
12 other support agencies, in mental health, primarily; and  
13 so we're like it -- you know, fix the problem. And we  
14 don't have the help from other state agencies to support  
15 that, so those two areas. And then, related services, you  
16 know, has become a pretty huge issue, and OT and PT and  
17 technology -- assistant technology for students.

18 So those are the primary areas that we're  
19 seeing those rapid cost increases in. So it's really not  
20 from more students, it's from the cost of educating the  
21 ones we have.

22 DR. CHAMBERS: So it sounds -- I mean,

1 looking at the national data where a lot of the increases  
2 and their portions of budgets going to Special Education  
3 can be counted for, for the most part, by increases in  
4 child count.

5 You've had some unusual circumstances  
6 affecting your district through a couple of categories; am  
7 I hearing that correctly?

8 MR. JOHNSON: Well, I wouldn't call them -- I  
9 don't know if I'd call them unusual circumstances because  
10 there's a decade-long trend here. I mean, it's like -- I  
11 don't think it's a blip that's going to go away.

12 I was visiting earlier with one of the  
13 Commissioners about, you know, there's a lot of little  
14 school districts in Montana, little -- real little ones.  
15 I mean, we're talking eight students, you know. We have  
16 430-some school districts and, over the past five or six  
17 years, I think there have been probably 40 or 50  
18 consolidations of school districts.

19 Well, what happens is, the larger school  
20 districts -- and we're only 5200 students but we're the  
21 sixth largest district in the state -- well, we -- those  
22 students know that our services -- our Special Ed services

1 are good and their parents really like that so they move  
2 -- you know, they move to our district, or they will move  
3 out of those smaller districts and come to us.

4 And so, you know, that has become a trend, as  
5 well. I mean, more for the kids that really need it than,  
6 you know, just the resource type students.

7 DR. CHAMBERS: Your other comment -- well,  
8 among many -- is, "I don't care where the money comes  
9 from; we just need more." but let me put it back to you,  
10 if you were in our position and somebody said, "Well, we  
11 will provide more money, more federal money." with what  
12 accountability should that additional money be provided?

13 MR. JOHNSON: From my perspective, very  
14 little accountability; and I'll tell you why. Because I  
15 firmly believe, and I deal with them every day, our local  
16 school board is accountable to the local people and  
17 they're accountable to the parents; and they're offering a  
18 good educational program. And, you know -- I mean, it's  
19 easy for me to say, "Trust them," but, you know -- we deal  
20 with this at the state level all the time, they want to --  
21 you know, with more money comes more mandates or more  
22 requirements or more accountability. Well, how much more

1     accountable can you be than the local trustees that are  
2     elected by their constituents to provide the programs?  
3     That's where the accountability is.

4             And so I don't think we need more  
5     accountability to the federal government that's providing  
6     x-percent of our funding; I think the accountability is  
7     there, it's there at the local level.

8             DR. CHAMBERS: I appreciate your candid  
9     remarks; thank you.

10            This is a question that really could be any  
11     one of you can answer. I'm thinking about how one might  
12     structure federal funding and, if we were to increase  
13     substantially, or recommend -- we're not going to do  
14     anything, that's up to the Congress -- but if we were to  
15     recommend to move towards -- I don't even want to say 40  
16     percent because I don't know whether that number is --  
17     that's even meaningful -- but a substantial increase in  
18     funding, one could imagine that one could divide that  
19     funding into a number of different pieces.

20            One might be something related to what we've  
21     heard talked about today is some sort of high-cost risk  
22     fund; I'm not sure exactly how to manage that -- I hear

1     some comments that Bill is making about it -- something  
2     that would be block grant that could be used, perhaps with  
3     some flexibility, in combination with other federal  
4     programs.

5             And then something else that I haven't heard  
6     mentioned much is some funding that the federal government  
7     might earmark specifically for professional development,  
8     and professional development not only for folks that are  
9     providing to special educators, but to general educators  
10    who are now pushed to include children in the regular  
11    programs and who are not equipped, or prepared, for the  
12    obligation.

13            MR. FREUND: Well, I think the third part is  
14    important if someone has identified best practices and you  
15    want to promulgate those. And it may be that you want to  
16    foster some seminars in every state and try to get the  
17    word out; and that's a costly proposition, a very costly  
18    proposition. But it may be of some use. As for the block  
19    grant concept, I think that you already do a block grant  
20    so I don't know how that would be any change.

21            I forgot the first part --

22            DR. CHAMBERS: The high cost --



1           MR. FREUND: Oh, the high-cost. Yeah, the  
2 high-cost, however you do it, whether it's regional safety  
3 net or some other thing, that could be problematic. But  
4 -- and it could turn into a big, black hole if it's not  
5 properly controlled.

6           You know, it's a tempting thing to go to but  
7 somewhat dangerous.

8           DR. CHAMBERS: Well, let me challenge you a  
9 little bit -- I'm not disagreeing, but more trying to  
10 think -- I mean, if we're trying to provide some relief  
11 and we think the basic concept or principle is good --  
12 that's a big "if," perhaps -- but are there ways of  
13 designing that that might avoid some of the concerns or  
14 problems that you're suggesting?

15          MR. FREUND: Well, I'm thinking of our  
16 safety-net approach, which you have a jury of peers making  
17 those decisions, and the money pool is limited. And I  
18 think that the group would be given a set of operating  
19 criteria, much like we do our Safety Net people, to make  
20 sure that school districts have explored all the  
21 alternative modes of treatment, that they weren't -- I  
22 hate to use this word but -- another occurs to me right

1 now -- are "profoundly stupid"; because I'm thinking of  
2 one particular school district in our state that lost a  
3 law suit then incurred a huge amount of expenditures for a  
4 student -- and I mean huge -- and had they dealt with the  
5 parents in a reasonable manner, this whole matter could  
6 have been avoided.

7 And I don't know whether the federal  
8 government wants to pay for things of that nature.

9 DR. CHAMBERS: Let me comment because I have  
10 concerns about charging these dollars -- I mean, I would  
11 urge that the federal government allow more flexibility  
12 for local school districts. I think they need to waive  
13 some maintenance-of-effort requirements and I think they  
14 need to allow more flexibility in the use of funds. And I  
15 guess I would disagree with Steve, that I think we need to  
16 place more emphasis on accountability.

17 I have no doubt that the kids in Steve's  
18 districts are doing great; I think probably the kids in  
19 Palo Alto Unified, where I come from, for the most part  
20 are doing great. But the national statistics, as reported  
21 by (unintelligible) is not promising and so a lot of kids  
22 are not doing great. And I'm concerned we are paying a

1 lot of attention to things that are not related to kids'  
2 outcomes.

3 But, in terms of targeting money to severe  
4 kids -- I mean, we just completed a study in California a  
5 few years ago trying to define the whole concept of  
6 severity; I mean, it's a very slippery concept to try to  
7 define and it's very easy to come up, it seems to me, with  
8 the simple solution of, "Let's just sort them into the  
9 severe ones and the non-severe ones."

10 But, as Eric said, it's a continuum. And I  
11 think, when you draw the line, number one, you create an  
12 incentive to move kids on the top side of that line, which  
13 worries me and, secondly, it seems to me you're saying to  
14 the districts then, "If you don't move kids on the top  
15 side of that line, you don't get federal money; but, if  
16 you do, you do get federal money."

17 So -- you know, I agree with you with the  
18 risk pool but I think it can happen at the state level. I  
19 don't think the federal government should be in the  
20 business; I think it is counter to your whole notion of  
21 accountability saying, "I'm going to target and tell you  
22 how to spend these dollars."

1           MR. JOHNSON: I guess the only comment that I  
2 would add is that, of the three that you proposed, or  
3 talked about, is the block grant concept with flexibility,  
4 from the local standpoint, would be a priority, would be  
5 number one.

6           DR. GILL: Actually, I have three questions,  
7 one for each of you; and they are not the same question.  
8 So that's a switch.

9           Tom, I'm going to start with you. I've read  
10 your work, I know you're history, background, and I know  
11 that you've spent time in a classroom and I know that you  
12 spent time researching and I know you spent time talking  
13 to a lot of people around the country regarding Special Ed  
14 finance and all this kind of stuff.

15          DR. CHAMBERS: Including some economists  
16 here.

17          DR. GILL: And Jay says, "Including some  
18 economists here." and that may well be true. But that's  
19 really not the question I'm asking here.

20          If you were to pick three -- let's say three  
21 of your recommendations, if we said to you, you know, "We  
22 can entertain three of your recommendations," what do you

1 think are the three most important recommendations you  
2 would make to this Commission and why would you think they  
3 were the most important recommendations?

4 DR. PARRISH: -- I can read them and see what  
5 they were --

6 DR. GILL: Yeah, you might want to check them  
7 because I've got seven and you said eight. Maybe it's  
8 the eighth one is the most important one; I don't know.

9 DR. PARRISH: I talked to my wife before  
10 giving this speech and she edited it a little bit, so I  
11 got one in there. So I'll give you the abridged version  
12 later.

13 But I think -- to me, the major focus and my  
14 major concern, I would say, over the last 10 years, since  
15 I first got in this business and really started thinking  
16 about that dilemma of, you know, do we earmark money, do  
17 we tell people exactly how to spend it, how do we divide  
18 kids into groups, and how elusive all that is, and it  
19 seems to me the way that we get around all of that, and a  
20 lot of the procedure and paperwork that I think you spend  
21 a lot of time on because nobody trusts anybody. And why  
22 don't we trust anybody? Because we don't know what we're

1     trying to do with these kids, we really don't have a good  
2     sense of how to measure it.

3             So I guess the bottom line for me, has been a  
4     long time, if we can figure out the accountability part, a  
5     lot of the rest of it would kind of fall by the wayside.  
6     And so that would be one recommendation, in my view, is  
7     we've got to figure that part out.

8             I guess the second part would be, I don't  
9     think accountability is test scores. See, for a long  
10    time, we talk about accountability as if, "Just got to get  
11    those test scores up there; we do that, we've solved every  
12    problem." but we still see a lot of kids who graduate from  
13    high school weren't getting any jobs, they are not  
14    prepared for life after school.

15            So I think, thinking about what it is we want  
16    to measure and what's important, to really thinking about  
17    what we mean about accountability, we place importance on  
18    what we measure and I think we place importance on what we  
19    write down. So I also get worried about the paperwork,  
20    that I think a lot of it's not towards the things we  
21    really care that much about. So I would say the second  
22    has got to be -- the first one is accountability and maybe

1 the second one is accountability, in my view, in terms of  
2 thinking about what we really mean about accountability.

3 And then the last one, I guess, would be --  
4 if I place the third one, it would be flexibility in the  
5 sense that, if I get those first two nailed down, I agree  
6 with Eric a hundred percent, I don't think it ought to be  
7 the part of the federal government or the part of the  
8 state to tell a school district -- because we don't really  
9 know -- I mean, this isn't building a car here, we're not  
10 sure how to do this.

11 So I guess I'd want to say to school  
12 districts, "There are certain things that I expect that  
13 these kids to be able to do and to know when they leave  
14 and it's up to you to use your best professional judgment  
15 to figure that out. And, since I know whether you are  
16 achieving or not, I don't have to worry about -- I can  
17 give you flexibility and let you do that."

18 DR. GILL: Yeah, I just want to make sure I'm  
19 understanding. I agree, the first two might be  
20 accountability. But, with an accountable system,  
21 flexibility follows the accountability, or flexibility  
22 precedes the accountability, in your mind?

1 DR. PARRISH: Ideally, it would follow. But,  
2 given the fact that, in my lifetime, are we going to  
3 define accountability? Well, I guess I wouldn't want to  
4 wait. But I would say that we need to start moving  
5 towards thinking about what we mean about accountability,  
6 in a larger sense, and, in the meantime, we probably  
7 should allow some flexibility because we don't know enough  
8 about how this is best done.

9 At the same time, we're starting to do things  
10 in the way of accountability; we need to do flexibility,  
11 in my view, hand in hand.

12 DR. GILL: Thank you; I appreciate that.

13 Steve, I've got kind of a numbers question  
14 for you because it's late in the afternoon and I don't  
15 quite understand, either. I don't want to take you back  
16 to anything in particular but, the chart you show on page  
17 3, you were talking about percentage of -- you know, State  
18 Special Ed, Local Special Ed, Federal Special Ed, Total  
19 Special Ed, it looks to me like the difference between the  
20 Federal Special Ed from 1990 to 2001 is fairly constant;  
21 is it not?

22 MR. JOHNSON: Yes.



1 DR. GILL: And the State level Special  
2 Education from 1990 to 2001 is also fairly constant; is it  
3 not?

4 MR. JOHNSON: Uh-huh.

5 DR. GILL: So the distance between those two  
6 points is virtually the same over that 10-year period of  
7 time and, if that's true, explain to me what you mean by  
8 the cost variation at the local level. I mean, it looks  
9 to me like the locals have always had basically that  
10 obligation of making up the difference between those two  
11 points. But you're saying it's escalating at like --

12 MR. JOHNSON: Well --

13 DR. GILL: Maybe I just don't understand --

14 MR. JOHNSON: What you have to look at is the  
15 top line; that's the total cost. And that top line is  
16 nowhere close to being parallel to the federal or the  
17 state line; and so the district has had to make up that  
18 difference.

19 DR. GILL: Yeah, but the district is not --  
20 do you still -- there is a huge gap between where the  
21 district is spending and Total Special Ed expenditures,  
22 unless I'm just misreading the table.

1           MR. JOHNSON: Yeah, the district is now  
2 spending more than 50 percent.

3           DR. GILL: So how is the gap that you're  
4 showing here in Total Special Ed in Bozeman Public Schools  
5 between 1990 and 2001 -- how is that gap being filled?

6           MR. JOHNSON: (No response.)

7           DR. GILL: You didn't have that issue in '90;  
8 you start to see an admission-creep, if you will, between  
9 '91 and 2001, but I guess what I don't understand, from  
10 this chart, is, if you know what the costs are -- which I  
11 guess is what this explains -- how is that being filled?

12           I don't get it, I guess.

13           MR. JOHNSON: The local taxpayers are filling  
14 it. You add those three up and they add up to the top  
15 line.

16           DR. GILL: Oh, okay; okay. Now maybe I  
17 understand it because, before, I didn't get that. I'm  
18 seeing this growing gap here and I'm seeing federal  
19 funding approximately the same, state funding  
20 approximately the same, and local funding increasing from  
21 about -- well, less than \$200,000 --

22           MR. JOHNSON: It's about --

1 DR. GILL: -- to about \$1.1 million. When I  
2 see the cost expressed at almost \$2.5 million. I guess I  
3 didn't understand the difference there.

4 MR. JOHNSON: Right. In 1990, the district  
5 was paying about 50,000 out of about 900,000, but we were  
6 paying 50,000 out of 900,000, you know, that's six percent  
7 or whatever it was that I --

8 DR. GILL: Uh-huh.

9 MR. JOHNSON: -- the percentage. And today  
10 we're paying a million out of 2.5 million. So we're  
11 paying 50 percent now.

12 DR. GILL: Well, I appreciate the fact that  
13 you didn't blame the federal government for that.

14 I would agree that, if I were you, I'd think  
15 you ought to be making this presentation in your state --

16 MR. JOHNSON: I've got it --

17 DR. GILL: Bill, I've got a question for you,  
18 too. Do you know, I think this notion of cost variance  
19 and all of those things has come up; and one of the issues  
20 that we've seen in Washington State clearly is, is the  
21 difference in cost as an expression of local district  
22 philosophy, is it simply an expression of -- as some

1 people have alluded to -- access to additional funds --  
2 you know, we actually had a district who came to us in the  
3 Safety Net and said, "If you give us more money, we  
4 promise we will spend it."

5 My response was, "That is exactly the same  
6 thing my 18-year-old says to me; and I expect a little  
7 more accountability from him so I expect a little more  
8 accountability from you." I know, if we make money  
9 available, it will be spent; I don't have to be an  
10 economist to understand that particular point.

11 What I want to know is what you think the  
12 differences would be between rewards, if you will -- and I  
13 think Eric Hanushek mentioned that a little bit, rewards  
14 for people doing a good job meeting their outcomes, et  
15 cetera -- versus incentives. And I know you alluded to  
16 this a couple of times that there may, in fact, be funding  
17 incentives or unintended consequences of a high-cost model  
18 or anything else. And I know where your heart is on the  
19 paperwork; I don't think you mean -- not IEP, I think what  
20 you mean is IEPs that actually enable us to benchmark  
21 outcomes that are meaningful, rather than procedural  
22 safeguards four times a year whether you need them or not.

1 MR. FREUND: Right. I mean, I think how Tom  
2 put it on accountability was pretty good. We don't know  
3 what it is that we're trying to do; we can't measure it,  
4 it's not on the IEPs -- maybe start trying to read IEPs,  
5 what can you tell what the expected outcome is?

6 Our people, when they've read thousands of  
7 IEPs -- and I think that our J-LARD (phonetic) Committee  
8 read 9,000-and-some, that they studied 9,000; they just --  
9 they couldn't see any clear pattern and they couldn't make  
10 determinations of anything, really. It's a big problem.

11 DR. GILL: So would you suggest, in terms of  
12 comparability, at least, a set of federal forms, perhaps,  
13 that delineate what the items are so that there's less  
14 debate when kids transfer from one district to another or  
15 from one state to another, sort of like a, let's say, a  
16 1040EZ?

17 MR. FREUND: Yes, I would. I think that  
18 certain things shouldn't be on IEPs and, in reading them,  
19 I find them to be very specious documents, actually, and  
20 they're intended to provide maximum flexibility to the  
21 school district. And many -- you know, I'm not a  
22 practitioner, but I have read, you know, several hundred

1 of them; and that's my finding. I don't think that  
2 they've changed very much. So, if one is expecting to  
3 provide incentives or rewards or whatever it is, I think  
4 this has to be straightened out, otherwise, how can you do  
5 that?

6 DR. GILL: So part of the -- I think you  
7 mentioned it this morning, that there was only about 35  
8 percent of the cost variation that could be explained; the  
9 other 65 percent, I think, is in the variability and I  
10 think that --

11 MR. FREUND: Right.

12 DR. GILL: -- the point you bring up is a  
13 good one, to me, in the sense that that does have  
14 something to do whether or not that's a \$100,000 student  
15 or a \$40,000 student or a \$60,000 student because I think  
16 a lot of the costs for Special Education, at least in  
17 Washington, are negotiated annually, 118,000 times in  
18 IEPs.

19 MR. FREUND: See, it's really interesting  
20 that we're using costs here, and expenditures. Actually,  
21 an IEP should be an expression of cost, and they are not  
22 expressions of cost, they're -- I don't know, expressions

1 of nebulousness, you know, right now. If we try to put a  
2 dollar on them -- you know, we've tried to use -- what do  
3 we call the delay? -- instructional -- what's the word?

4 DR. GILL: Educational --

5 MR. FREUND: Thank you -- educational delay.

6 We tried to use that to cost out the IEPs and  
7 we found out that that didn't explain much of the  
8 variation, so that doesn't help you. And that's about the  
9 only thing that's available when you starting looking at a  
10 particular student. And you should remember, I'm not a  
11 practitioner of Special Ed, so maybe I'll stand corrected  
12 if somebody wants to correct me. But that's my  
13 impression.

14 DR. GILL: Thanks, panel; I appreciate it.

15 Jay, you want to ask a follow-up question,  
16 because I'm limited to time.

17 DR. CHAMBERS: Just on the IEP issue and,  
18 again, I come at this as somebody who is -- other than  
19 visiting my wife's classroom a couple of times, and being  
20 in them for 12 years, I've really not spent any time, on a  
21 day to day basis, as an educator but -- I mean, what I've  
22 heard from you and a couple of other folks today, and Eric

1 Hanushek earlier, about the relationship between IEPs and  
2 services and expenditures and outcomes, if we haven't  
3 figured out how to do this after 25 or 27 years, is the  
4 IEP of any value or am I hearing you say -- maybe we  
5 should -- is there any -- should we retain the IEP?

6 MR. FREUND: I think the IEP is an expression  
7 of intent, you know, what it is that we're going to do,  
8 we're just not going to tell you how much we're going to  
9 do in what length of time; it's kind of general.

10 And I don't know if the reason that school  
11 districts do that -- it probably is because they want to  
12 protect themselves. That is, if they say that they want  
13 to have an outcome and they can't get to the outcome, then  
14 there's a problem. So maybe that's why this is being done  
15 that way.

16 But, you know, if you're trying to --

17 DR. CHAMBERS: It could be done -- that they  
18 are not really --

19 MR. FREUND: Quantifiable.

20 DR. CHAMBERS: -- quantifiable --

21 MR. FREUND: Right.

22 DR. CHAMBERS: I mean, that kind of suggests



1 they are not a very -- and I'm not suggesting this, I'm  
2 just asking the question -- that it's not a very useful  
3 document from what I'm hearing.

4 MR. FREUND: Not for fiscal reasons and not  
5 for incentive and rewards, if that's -- and that's what  
6 we're talking about. There may be other -- there may be  
7 some other purpose for which they are useful.

8 DR. CHAMBERS: But then we need to think  
9 about the aspects for which they are useful and focus on  
10 just getting the information -- that information. And,  
11 again, I would like to hear the folks in the public  
12 comment, have some comment; I would like to hear about it.

13 MR. FREUND: I'll tell you. You know, our  
14 auditor, when this Special Ed audit team that we sent, and  
15 they actually did fine. In some school districts, they  
16 had the same IEP for multiples of students and, you know,  
17 they just cranked them out and they all read the same.

18 But the kids weren't the same, they didn't  
19 have the same problems and they weren't receiving the same  
20 services. So what was the IEP telling anyone?

21 DR. CHAMBERS: I mean, it sounds to me like a  
22 lot of resources that could have been used somewhere else;

1 that's kind of where my question --

2 MR. FREUND: Well, they didn't have much by  
3 way of assessment cost, maybe; I don't know.

4 DR. GILL: Todd Jones?

5 MR. JONES: Steve, I want to pick up on a  
6 theme that came from an earlier question and it's actually  
7 one I've heard after the session, from a superintendent  
8 last week in Des Moines, that we heard from folks in the  
9 public comment period. And that is the issue of cost as  
10 burden.

11 IDEA is a grant program with civil rights  
12 trackings. But underlying that are some other civil  
13 rights laws, 504 and AEA (phonetic), which impose  
14 accommodation obligations. And the only folks I've heard  
15 today talking about the nature of cost as burden have been  
16 folks at the local level. Now those are the folks  
17 actually spending money so I won't say it surprises me.

18 But I also think about, in contrast to other  
19 civil rights context and will throw out one. The  
20 demographic shifting in rural America related to  
21 immigrants working at, whether it be feed lots or packing  
22 houses, in areas that traditionally didn't have to deal

1 with a variety of languages. It's like Grand Island or  
2 rural Arkansas. And they're not just dealing with  
3 Spanish; they need to deal with Farsi and languages they  
4 can't even identify from West Africa.

5 And those costs, when described, all are  
6 significant, certainly. And, when representatives of the  
7 legislature -- it's a need for help because of the  
8 demographics. But I've yet to hear anyone describing the  
9 need to help those folks as a burden imposed by federal  
10 law. But, in my other hat, the other job I have as  
11 enforcement director for OCR, that is, in fact, the real  
12 reason; ultimately they do have to serve those folks in  
13 certain ways and that's from Title 6, which is a federal  
14 civil rights obligation.

15 But I haven't heard any -- I don't hear  
16 anyone describe that as burden. Yet, when I -- and I have  
17 to say this, it's become a bit of a recurring theme here  
18 from superintendents and school-level people -- that the  
19 costs of students with disabilities are effectively  
20 described as burden.

21 My question to you is, is there a distinction  
22 between these different types of civil rights obligations,

1 one a burden and one not, and is it parts of IDEA which,  
2 themselves -- whether it be paperwork or something --

3 I'm not saying this is a trap because I think  
4 there are answers in IDEA but is it pieces in there that  
5 are burden that is distant from other general civil rights  
6 obligation to educate every child in your district?

7 MR. JOHNSON: I think that's an excellent  
8 question and I guess the first thing that comes to mind  
9 when I try to respond is the diversity of, not only this  
10 -- I mean, diversity of school districts around this  
11 country; and we're all going to be different, obviously.

12 As far as the immigrant thing, the burden, in  
13 our district, it's been fairly constant. It's -- we have  
14 Montana State University and that brings in, you know,  
15 some non-English-speaking students and we have an ESL  
16 program that services those students and there hasn't been  
17 significant growth in that program; it's been the same --  
18 I've been in the district 16 years now and it's been the  
19 same program. So there hasn't been the growth in that  
20 program.

21 504, we have had a little bit of influx; we  
22 have, in my opinion, an excellent 504 program. We've got

1 an 1800-student high school with a half-time 504  
2 coordinator, that's all she does is coordinate those 72 or  
3 73 kids that we're accommodating. And it's been fairly  
4 consistent.

5 So I think the burden, from our level, has  
6 been the significant change in specific categories of  
7 students, as autism, emotionally disturbed, and the  
8 related services things that I talked about that has put  
9 the pressure on us, specifically in the Special Ed  
10 program.

11 MR. JONES: Okay, but let me see if I can  
12 refine it a little bit to get at it. When a small rural  
13 Arkansas district, or North Carolina district, goes from  
14 having three percent LEP kids to 28 and 35 percent LEP  
15 kids, and they go from having two languages to 10 or 30,  
16 the description I hear from it is not, "This is a burden  
17 that's being imposed." As you're saying, here's the share  
18 the federal -- the feds or the states need to pick up --  
19 this is our burden. It's described as -- we've had a  
20 demographic shift and we need assistance in the education  
21 of these kids and we need assistance in doing that, it's  
22 not an obligation.

1           Whereas, in the context of Special Ed -- I  
2           mean, if you scrap IDEA, you'd have 80 percent of the same  
3           obligations and zero percent of the dollars that you get  
4           under IDEA now. The obligation is still there. Does the  
5           burden go to what is within IDEA? Is it the additional  
6           kids -- I mean, autistic kids are autistic kids, whether  
7           they are in IDEA or 504; and you have to serve them one  
8           way or the other. Is it the increasing number of kids?  
9           Is it the paperwork? I mean, what's driving that and is  
10          that -- does that make it a burden as opposed to just a  
11          difference in obligation?

12          And maybe I'm not explaining my question  
13          well.

14          MR. JOHNSON: I don't know how to answer  
15          that; I mean, if you --

16          MR. JONES: What's driving your cost? Why is  
17          the gap there from 1990 till now? Is it more --

18          MR. JOHNSON: Driving the cost -- okay. Well  
19          -- I mean, for example, with the emotionally disturbed  
20          kids, it's contracted services to deal with those. As I  
21          said, the mental health services aren't available in our  
22          community and, in our state, are very poor. So those

1 services get pushed onto the school district. And that  
2 has changed over the last decade.

3 I mean, our mental health in Montana was  
4 better; those agencies were doing a better job. But, as  
5 the State's budget is tightened, they've been eliminated;  
6 those programs have been eliminated and so they've been  
7 pushed to us.

8 MR. JONES: So the cost shift from other  
9 agencies onto yours --

10 MR. JOHNSON: Definitely part of it, yes.

11 MR. JONES: -- has been a piece of it?

12 MR. JOHNSON: Yes, yeah.

13 MR. JONES: Okay.

14 DR. PARRISH: Can I just say something  
15 because we're looking at English language instruction in  
16 California very carefully for two years.

17 I mean, basically, they don't have a whole  
18 lot of guarantees or rights. I mean, if you come in not  
19 speaking English, you might argue that there ought to be  
20 an IEP, that there ought to be process. If we specified  
21 an individualized appropriate education for children --  
22 the child who does not speak English, I think you'd find

1 that the burden would be much larger; and maybe it should  
2 be.

3 But, in fact, districts can largely ignore  
4 the fact that this child does not speak English if they  
5 choose to. And they find different ways to inculcate  
6 these programs. But the requirements are just so  
7 disparate, I think that has to be recognized.

8 MR. JONES: So do you think my 80 percent  
9 description -- if we did away with IDEA, the residual  
10 obligation would still be 80 percent of the current  
11 expenditure? In fact, maybe that's more like 30 percent  
12 or 50 --

13 DR. PARRISH: No, I agree with that. But I  
14 think IDEA and the other -- 504, ADA, all of those things  
15 you cited are all for children with disabilities. I know  
16 of no comparable legislation for English learners so I,  
17 you know -- I don't think it's IDEA and I'm not even  
18 saying that the disparity is -- well, I would argue it's  
19 inappropriate, the disparity between the challenges faced  
20 by children with disabilities in relation to the challenge  
21 faced by English learners; to me, they're both pretty  
22 daunting challenges.



1           And, in one, we have legal guarantees; you  
2           can sue the school district if they don't address your  
3           needs. For an English learner, you can sit there and  
4           languish for four or five years and try to figure what's  
5           going on in the classroom; that's kind of your problem. I  
6           mean, that's kind of what it boils down to, at least in  
7           California.

8           MR. FREUND: If I could get a chance -- I've  
9           got a little different view.

10          In our state, the various programs that you  
11          mentioned are basic ed and, should the federal government  
12          do away with every one of its regulations, laws, and  
13          everything, the state would still have to do what it does.  
14          And the distinction in here is -- and it's kind of a funny  
15          one -- you take a fire department, its job is to fight  
16          fires. Now, if the state comes along and mandates that  
17          that fire department fight fires, then the local fire  
18          department now says, "Well, state, you need to pay for it  
19          now."

20          That's kind of what's going on. You know, we  
21          have a Department of Fisheries. "Oh, you want us to grow  
22          fish? Oh, well, now you've got to pay for it." It's kind

1 of an interesting dynamic.

2 MR. JONES: And I guess that was, in a sense,  
3 my point, is that they're still your kids so --

4 MR. FREUND: Right. So, if you did away with  
5 all of the paperwork, I think my point would be, I think  
6 school districts would be doing the same kind of  
7 paperwork, whether it was required or not, by the way.

8 DR. GILL: Commissioner Coulter?

9 MR. COULTER: Well, Steve, we've kind of put  
10 you on the spot because you furnished us with a good  
11 example of the problem as it relates to funding. And I  
12 guess what I'm interested in, and you may not be able to  
13 answer this, is to explore a little bit the comparability  
14 of your example, maybe with lots of other places. And  
15 that is a concern I think has been raised to us in the  
16 past is that, in some instances, when people do a very  
17 good job of offering a program of services, especially to  
18 a particular group of kids, they may become a magnet, so  
19 to speak, for families to move into that district in order  
20 to get those services.

21 Do you have a sense that the shift that you  
22 depicted of the cost burden from, really what appears to

1 be from the state to the locals, are you pretty typical of  
2 other school districts in Montana or is your -- the  
3 percent or magnitude of the shift much greater for you  
4 than for other districts?

5 MR. JOHNSON: No. In fact, I forgot to make  
6 that comment. We're very typical. I have a chart that  
7 was produced by the State of Montana that kind of depicts  
8 the same thing. And I don't know if you can see it from  
9 there but this top part is local contribution, and this is  
10 on a statewide basis.

11 So states -- on a statewide basis, the state  
12 from -- in 1990, the state was paying \$33,300,000 for  
13 Special Education; in 2001, the state is paying  
14 \$33,900,000. So it's gone up 300,000 -- or \$600,000 in 11  
15 years, from the state.

16 So, you know, it's very typical in Montana.

17 MR. COULTER: Okay. So I guess what you've  
18 heard from us is, you know, the admonishment -- it sounds  
19 like the state's dodging, you know, some of their  
20 responsibilities and they pointed their finger at the  
21 federal government, which is an easy task to do.

22 Do you have a sense, because I know measures

1 are hard to come by -- do you have a sense that you're  
2 doing a better job with kids in 2001 than you were in  
3 1990? In other words, are you getting more -- are you  
4 getting as much or more for the money being spent, 11  
5 years later?

6 MR. JOHNSON: I don't think so. I think  
7 we're -- I think we're doing as good a job now as we were  
8 then; I don't think it's necessarily improved. You know,  
9 this whole concept of encouraging districts to identify  
10 kids and all that, obviously, when you look at our  
11 numbers, that's not happening.

12 MR. COULTER: Right.

13 MR. JOHNSON: I mean, it's quite the  
14 opposite.

15 MR. COULTER: Right.

16 MR. JOHNSON: But I don't think we're doing  
17 any better or worse job than we were a decade ago.

18 MR. COULTER: The reason I ask is because,  
19 you know, I think, in some respects, people are willing to  
20 pay for quality. So, if they thought they were getting a  
21 good deal more for that increased amount of cost, that  
22 that might help. But that's a different -- I mean, that

1 is a fundamental problem that this Commission faces, is a  
2 real lack of outcome measures over time to see what we're  
3 getting.

4 Let me just -- one quick question/comment for  
5 Bill. And this relates to the discussion that's sort of  
6 been ongoing about the IEP.

7 Some of the Commissioners -- several of the  
8 Commissioners, I think, including myself -- have tried to  
9 take a very careful look at the current federal law as it  
10 relates to IEP. It's really very interesting if you read  
11 the law, although it's rather clumsily written. But, if  
12 you read the law and boil it down to its essentials, the  
13 IEP that the statute requires is relatively circumscribed.  
14 I mean, you could efficiently develop something -- and,  
15 when I compared the law to a local IEP or even from  
16 different states, it's obvious that locals and states have  
17 imposed additional paperwork requirements in the sense  
18 that they've added on things.

19 So your comment about a federally-developed  
20 form is intriguing. I guess what I'm interested in,  
21 especially knowing your colleague to my right as I do,  
22 when you talk about any kind of federal imposition, for

1 instance, of a model form, how does that stack up against  
2 this issue of state flexibility and local -- you know,  
3 local account -- local -- not local accountability so much  
4 as local rights to sort of do things the way they want to  
5 do. How do you measure those two things?

6 MR. FREUND: You know, there's always  
7 competing goals. And, I mean, this is the situation, one  
8 of those situations.

9 The thing about if the federal government  
10 starts paying a much greater share of Special Education,  
11 in essence, it becomes,- not a majority stockholder, but a  
12 large stockholder. And then, as with our state, with an  
13 increased funding, it comes with increased expectations;  
14 there are increased controls and all sorts of things  
15 happen.

16 So that's one of the problems that comes with  
17 increased funding. An entity that is providing expects  
18 something out of it.

19 MR. COULTER: So, in other words, we'd be  
20 sort of paying for the privilege of providing a more  
21 efficient form? That sounds like an accountant's  
22 explanation, but I --

1 DR. GILL: David Gordon?

2 MR. GORDON: Thanks, Chairman. I have  
3 several questions but, in the interests of time, I will  
4 pass because I don't want to have us intrude into the  
5 public comment and I know you got a --

6 DR. GILL: Okay; thank you.

7 Bryan Hassel?

8 MR. JONES: Let me offer; we do have a bit of  
9 time flexibility. If --

10 DR. GILL: If you want to ask a question,  
11 David, you should ask the question. I mean, we could  
12 shorten --

13 MR. GORDON: Okay, I'll just try to make it  
14 brief. In this whole argument between flexibility and  
15 some specificity of the federal government saying, "We  
16 need to do these things," as superintendent, I'm all for  
17 flexibility; that helps me a lot.

18 But the fact of the matter is, the places  
19 that don't do a good job hurt all of us a lot and I think  
20 you made the comment, the \$3 million law suit, that money  
21 is coming out of my pocket if it's something happening in  
22 California. And it strikes me that accountability is

1 essential, even if it's simply counting how many FARE  
2 (phonetic) hearings that you've had and how much they cost  
3 and how can you send someone to do something about it;  
4 that's number one.

5 Number two, Tom talked of pre-school, early  
6 childhood prevention and early intervention. How do we  
7 help this law, as it is changed, send a message that we  
8 need accountability, even if it's only a rudimentary kind,  
9 we need prevention and intervention. And that's not just  
10 an IDEA function, that's ESEA and many other things.

11 And then, thirdly, protecting districts from  
12 these catastrophic costs, the high-cost kids -- because I  
13 think Steve hit it on the head. Our district, to a  
14 degree, is becoming a magnet for the high-cost kids.

15 So, if you simply have an equitable portion  
16 that you don't take into account, that some districts are  
17 getting harder hit than others, so that's where the bank  
18 appeals to me, or the -- what did you call it --

19 MR. FREUND: The safety net.

20 MR. GORDON: The safety net. So I'm just  
21 wondering, as this law gets recrafted, how do we address  
22 things like that and make the statement that, whether it's



1 the state or a district, you need to pay attention to  
2 these because those are the kinds of things that will make  
3 a difference.

4 MR. JOHNSON: Let me just address this, I  
5 haven't talked anything about the safety net issue.

6 In Montana -- the way that Montana funds the  
7 Special Ed at schools is a block grant and then they have  
8 a safety net that, if a district spends -- we're required  
9 to match the state funds by 25 percent. Well, you know,  
10 as you can see, we're way over matching that.

11 But, if you spend more than 10 percent of  
12 your required match, then there's a disproportionate cost  
13 that you get that -- you're supposed to get 60 percent of  
14 that cost back. Well, the problem is, last year, our  
15 disproportionate cost was, instead of 60 percent, it was  
16 six percent, because they don't fund it. So, whatever  
17 safety net you establish, you know, the rules for funding  
18 it -- usually what happens, is you allocate the money  
19 based on the money -- you've allocated back based on  
20 what's available.

21 And so, you know, it's a good concept to have  
22 this pot of money out there the districts could go to; but

1 my guess is nobody is going to be able to fund it at the  
2 level it needs to be funded for the -- you know, to  
3 relieve the districts of the burden.

4 MR. FREUND: Well, I think that, in our  
5 state, that we are providing sufficient safety net funds  
6 and that it does cover high-cost students and it does  
7 cover school districts with excess enrollment. And we do  
8 have some school districts that are magnets for Special Ed  
9 and we deal with it with the Safety Net.

10 So I think it is possible -- and when you  
11 start thinking about how much Safety Net money you need,  
12 you can actually calculate that; and I did calculate it  
13 when we first put that new formula in and I had it  
14 calculated -- I thought it would be around 15 million,  
15 maybe 18 million, and it turned out to be a lot less than  
16 that. And that is because school districts didn't come  
17 forward. And I was basing my calculations on the  
18 expenditures and the difference between our new formula  
19 and the old formula and figured that school districts  
20 would come forth and claim the difference; but they did  
21 not.

22 So I still say that we're funding it and, if

1 they really needed the money, they would come and get it.

2 And it is about three percent of our total funding.

3 MR. GORDON: Thank you.

4 DR. GILL: Bryan?

5 DR. HASSEL: First of all, Todd, it seems  
6 like there is enough interest in this idea of some kind of  
7 high-cost pool that it would be great if the Commission  
8 could get some sort of light paper or some kind of expert  
9 analysis of that idea because there's so many design  
10 issues that would have to be grappled with. And we've  
11 heard a lot of potential problems with that idea and how  
12 can -- how could they be dealt with; I think that would be  
13 helpful.

14 MR. JONES: Absolutely, and I'm glad you  
15 suggested that; and we can do --

16 DR. HASSEL: But, as far as the question, I  
17 wanted to pick up on one of the Commissioner Gordon's  
18 points about prevention, the importance of prevention and  
19 early intervention. And I'm interested in the question of  
20 how could -- what kind of federal policy could effectively  
21 encourage more attention to that. And it seems like one  
22 idea is -- which I think Dr. Hanushek put out -- is that,

1 if the incentives were right, say a block grant program,  
2 districts would want to do early intervention and  
3 prevention programs.

4 But then I heard Mr. Johnson say that, even  
5 though you have really powerful incentives to do early  
6 intervention, because it would save you funds, you feel  
7 like you can't because of restrictions or other reasons,  
8 that you are prevented in some way from taking those  
9 actions. And so -- maybe it's not quite as simple as  
10 that.

11 I wondered what are your thoughts, or any  
12 other panelist's thoughts, are about how a federal policy  
13 could be constructed that would encourage that?

14 MR. FREUND: Well, to start with, the pre-  
15 school programs, zero through 2, is an optional program.  
16 So many of our school districts -- not many, but some  
17 school districts -- choose not to participate even though  
18 we provide state funding; and it is 1.15 of the regular  
19 education or the basic education amount.

20 My understanding -- that these kids don't get  
21 regular education. And our funding level for these  
22 students used to be much greater than that but we did a

1 study, one of our many studies, and we found out that we  
2 were over-funding when one took into account all of the  
3 alternative services that were available. Yes. And so it  
4 seemed to be somewhat of a cash cow.

5 But that isn't the case now with our new  
6 funding formula and so the reluctance of school districts  
7 to get into it may be that they think that the costs are  
8 more than what the state and the federal dollars combined  
9 are.

10 DR. PARRISH: I would just like to say that,  
11 you know, you go back to the 40 percent and back when IDEA  
12 was passed and, at that time, somebody had the idea of 40  
13 percent, and just sort of made it up, and, at that time,  
14 somebody said the age span -- from three to 22. But, you  
15 know, later, we realized we've got a better idea, really  
16 think about infants through toddlers and so we created the  
17 Part C program. But the fact we made that a separate  
18 program, I think, in retrospect, we can see now was a big  
19 mistake. And so that separate program kind of gets left  
20 behind and that 40 percent, if it were to apply, is going  
21 to apply all to Part B.

22 And, to me, that may be that Part C continues

1 to just kind of toddle along, if you'll excuse the pun.

2 But I think it's a major problem because, if we're going  
3 to do anything based on research, everything that we know  
4 in research tells us that that's the time to intervene.

5 So, if we want to use our money effectively,  
6 I think we've -- the recommendation I would say is, we  
7 need to think about combining those two programs at the  
8 federal level, we need to think about putting some of that  
9 new money into where we know it's going to be effective.

10 MR. JOHNSON: Again, this diversity is an  
11 amazing educational experience for me, between the states.  
12 Montana puts zero into pre-school programs, zero. We have  
13 16 pre-school kids and we get 16,000 bucks from the  
14 federal government; so the rest of it's all local  
15 contributions.

16 So what I'm saying -- you know, we can't do  
17 it -- we could do it but we have no money to do it. I  
18 mean, we don't get any money from the federal government  
19 to do that and we can't use our Part B money for those  
20 programs until those kids are identified. And so I think  
21 the flexibility is -- you know, give us the flexibility to  
22 use that money for those early programs, because we know

1 they work, and, you know, let us use that money for that  
2 rather than having to have a, you know, a separate pot for  
3 that.

4 DR. GILL: Steve, Tom, and Bill, thanks a  
5 lot. I know it's been a tough day, a tough afternoon; and  
6 we appreciate it.

7 We're going to take a break now. We are a  
8 little bit behind but we're going to start the public  
9 comment right at 4:30; okay?

10 (Whereupon, a brief recess was taken.)

11 MR. JONES: Folks, if we can get started, we  
12 will go over the rules for the public comment period so  
13 that everyone understands before we get started.

14 As you all know, there is a sign-in sheet  
15 this morning. The procedures we operate on for public  
16 comment are simply ones the Commission's adopted for -- to  
17 facilitate the greatest number of people in the fairest  
18 length of time.

19 Everyone has three minutes. Ms. Varissa  
20 (phonetic) here will be showing you a series of time  
21 sheets that are three-minute, two-minute, one-minute, 30-  
22 seconds, and stop. Stop does mean stop; she will ding on

1 the little glass here. And we would ask as a courtesy to  
2 the other members -- or the other folks of the public who  
3 have come here to speak that you let them go.

4 I will say that there are a few folks who  
5 have signed up; and, if you will take a look at the  
6 obligations outside, such as folks who are repeating from  
7 organizations that have spoken before. Everyone will get  
8 a chance to speak but, if you've signed up and it wasn't  
9 in conformance with the rules that are outside, you get to  
10 speak last, after all of the other folks have had a chance  
11 to speak.

12 So, as we go here, Mr. Coulter is going to  
13 read names and he'll read the person who is up and the  
14 person who is coming next. And, if you don't hear your  
15 name and you think you're supposed to, just remember, we  
16 have the list here, some folks are going down to the  
17 bottom. Because we have a limited number of people here  
18 today, everyone gets to speak who wants to speak.

19 MR. COULTER: Let me say that, from the  
20 Commission members, we strongly believe that the period  
21 for public comment is very important to us and we also  
22 want to emphasize that, in addition to hearing people



1 speak, we actively solicit written comment in any form and  
2 the staff distributes those comments to us and we spend a  
3 lot of time reading it. So we're very interested in the  
4 input.

5 So our first speaker, three minutes, is  
6 Gerald Hime, to be followed by Ed Amundson.

7 MR. GERALD HIME: Good afternoon.

8 I'm Jerry Hime; I'm here representing the  
9 California Supervisors of Child Welfare and Attendance.  
10 We deal with both regular and Special Education pupils.  
11 I'm also a member of several organizations that are also  
12 represented here, the Council for Exceptional Children,  
13 Pupil Personnel Administrators, and Special Ed  
14 Administrators, as well.

15 You are here during the week when we will be  
16 having our Academy Awards on Sunday, so my three minutes,  
17 I'll try to do an Oscar-winning performance.

18 In my files at home, I had a document that  
19 goes back to the summer of 1976. It was a training  
20 document at which time they presented the 40-percent  
21 funding mandate. And it indicated the steps that it go  
22 through to be fully implemented by 1981. This is 26, 27

1 years later, we're still waiting.

2 I know we've heard a lot about the mandated  
3 funding and I'm not going to belabor that this afternoon  
4 because you're going to be hearing more from others.

5 I would like to concentrate my  
6 recommendations in a couple of areas, primarily in Part C,  
7 which was mentioned earlier. Part C is the toddler --  
8 infant/toddler program and, as was mentioned earlier,  
9 money needs to be permanently authorized for those  
10 programs in order to ensure that the early intervention  
11 will take place.

12 Part B is also a very important part of our  
13 programs in that it provides the funding for the research,  
14 the professional development, and the technical  
15 assistance. Because in this area, with our dire shortage  
16 of Special Education personnel, we need to have the funds  
17 available to train them.

18 And also there was mentioned earlier about  
19 the 20 percent, that we feel that it should remain  
20 earmarked for the school district budget in order to  
21 provide some of the preventive measures that will ensure  
22 that students who are not currently identified as Special

1 Education can be provided some services that will enable  
2 them to be successful in their regular programs.

3 So I encourage you to take a hard look and  
4 listen carefully to those who will be speaking to you this  
5 afternoon in order to move ahead with the reauthorization  
6 process.

7 Thank you very much.

8 MR. COULTER: Thank you, sir.

9 Ed Amundson, to be followed by Andrew  
10 Barling.

11 MR. ED AMUNDSON: Good afternoon,  
12 Commissioners.

13 My name is Ed Amundson; I'm a Special Ed  
14 teacher at the secondary level in Sacramento, California.  
15 And I'm the past-chair of the Caucus for Educators for  
16 Exceptional Children and, as such, I've worked a great  
17 deal on the authorization in 1987. I'm also a member of  
18 the National IDEA Resource Cadre through the Federal  
19 Partners.

20 What I would like to talk about -- it was  
21 interesting today, I was reminded of my favorite author,  
22 Jonathan Cosel (phonetic) who once said, "Why is it that

1 we allocate money to defense and we throw money at  
2 education?" And, as our discussions went on today, I was  
3 hearing us talk about excess costs. However, I always  
4 look at it as, it's not an excess cost -- if my life was  
5 happy, we would no longer have encroachment, we would talk  
6 about entitlement for the monies the children are truly  
7 entitled to.

8 And I think that leads us to where we need --  
9 is the cultural shift in how people view the Special Ed  
10 programs and the funding, in particular, when they talk  
11 about how are we going to fund these programs, is without  
12 the increased dollars, the local districts are impacted by  
13 trying to provide services at fewer and fewer and fewer  
14 dollars. If we do have more money, that would allow us to  
15 do the creative and innovative things.

16 I have heard a lot of discussion today about  
17 flexibility and innovative programs. Well, one of the key  
18 parts of IDEA '97 did allow flexibility and creativity  
19 with incidental benefit, permissive use of funds; but we  
20 can bring those services to bear at an early time. If we  
21 were to find a way to begin services at a young age, as  
22 the Part C talks about, but also allow the permissive use

1 of funds, Commissioner Gordon, the things you do in Elk  
2 Grove which allows a lot of flexibility in how Special Ed  
3 teachers are delivering services.

4 I come from the time when I remember the  
5 general ed kid could not touch my Special Ed eraser. Now  
6 we allow those things to happen. It will not occur unless  
7 we have increased dollars to allow people to do those  
8 innovative-type of programs.

9 And, finally, when we talk about  
10 accountability, California with the exit exam and the  
11 requirements that are being put on students, we're finding  
12 more and more students are -- what is going to be the  
13 outcome, they won't be receiving diplomas. How are we  
14 going to meet the needs of those students, as well as  
15 general ed students? And, if we start getting  
16 partnerships and combining the monies of other groups,  
17 looking at the vocational opportunities, the monies will  
18 go farther.

19 However, parents will realize, if their child  
20 does not receive a diploma at the age of 18, they are  
21 still eligible for services until they're 22; and parents  
22 are beginning to request the districts to pay for their

1 students to go to the community college.

2 So, as we get more accountability, those  
3 dollars will go fewer and fewer places, and districts  
4 won't be able to do the progressive and the creative  
5 things that they can do. So, I want you just to look at  
6 that and, again, I think the IEP process is incredibly  
7 valuable.

8 What has happened today is we now focus on  
9 the IEP product. And I've traveled around the country  
10 and, as you said, the documents you see today are state  
11 and local enhancements, not what the federal government  
12 said in the reauthorization because I stopped there and I  
13 know what the discussions were about.

14 Thank you for your time.

15 MR. COULTER: Thank you.

16 Andrew Barling, to be followed by Irving  
17 Lebovics.

18 MR. ANDREW BARLING: Thank you; good  
19 afternoon.

20 Thank you for allowing me to speak. Yes, my  
21 name is Andrew Barling; I am a California State  
22 Educational Therapist. Secondly, but probably most

1 important, I have a diagnosed learning disability and am  
2 ADD. Also, I do have a mentally-gifted daughter who has  
3 inherited my gifts.

4 In June, she will celebrate her 21st birthday  
5 but her mother and myself were forced, due to unfortunate  
6 and severe educational circumstances in our area, to pay  
7 for her college education and away from our home in  
8 Bakersfield, and sacrificially financed her living  
9 expenses in Santa Barbara because the City College there  
10 was the only closest college to acknowledge her learning  
11 disability and to give her accommodations.

12 Due to the inappropriate educational  
13 evaluations, our daughter was embarrassed and ashamed to  
14 let others know of her specialness, especially her  
15 teachers in grade school. And, by the time she finished  
16 her high school education, this 135-IQ young adult  
17 graduated with barely a C average and moved out of her  
18 home to move in with a boyfriend, with an under-aged  
19 drinker and smoker and, unfortunately, had lost her  
20 virginity due to her low self-esteem and unable to deal  
21 with his flattery. And, as you know, birds of a feather  
22 will flock together.

1           I mention her only because she is typical of  
2           the thousands of students I have seen professionally in my  
3           20 years of private practice. I'm speaking as a parent  
4           and a concerned citizen regarding our outlandish and out-  
5           of-control public school system that is more of a  
6           dictatorship than a democratic institution putting the  
7           needs and the care of its students of primary importance.

8           I want to thank the Commission for the  
9           opportunity in gaining all this information.

10          As a professional and peer, I am urging the  
11          President's Commission on Excellence in Special Education  
12          to carefully consider their impact, either intended or  
13          unintended, their recommendations might have on the rights  
14          and educational outcomes of individuals with learning  
15          disabilities. Major changes in current law and/or  
16          regulations should be only considered after extensive,  
17          thoughtful, and broad longitudinal research and study, as  
18          well as consultation with all stake holders.

19          Another step forward is what these  
20          individuals with learning disabilities deserve, not two  
21          steps backwards. Our society benefits when students with  
22          special needs are taught appropriately.



1           Public law 94-142, as you know, attempted to  
2           ease the cost of providing services for Special Education  
3           students by paying up to 40 percent of the national  
4           average per-pupil cost for educating students overall.  
5           And I would like to point out that the major  
6           responsibility for ensuring an appropriate education for  
7           students with disabilities lies within the state and local  
8           governments.

9           However, I do oppose any further flexibility  
10          in the use of IDEA funds until state and local educational  
11          agencies have shown that the flexibility that they now  
12          have under the State Improvement grants, the removal of  
13          incidental benefit requirements, and the 20 percent of  
14          increased funding have not lowered the outcomes and  
15          results of students with disabilities.

16          In conclusion, I, as a parent of a learning-  
17          disabled daughter, private citizen, and educational  
18          therapist do urge the Commission to recognize that many  
19          innovative programs presented will be well --

20          Thank you.

21          MR. COULTER: Thank you, sir.

22          Irving Lebovics, to be followed by Dwan

1 Bridges.

2 DR. IRVING LEBOVICS: I have copies that will  
3 be helpful.

4 MR. COULTER: Thank you.

5 DR. LEBOVICS: Good afternoon.

6 And thank you for allowing this public  
7 comment. My name is Dr. Irving Lebovics, I'm the Chairman  
8 of (unintelligible) of California, a Jewish advocacy group  
9 and also board member of the Etta Israel Center in Los  
10 Angeles, which is a community-based institution involving  
11 Special Education group homes and teacher training.

12 I would like to speak for a few moments to  
13 the unique problems that our community has experienced  
14 since the last reauthorization of IDEA.

15 As background, the Orthodox Jewish community  
16 of Los Angeles has a school system, K through 12 of  
17 approximately 20 schools and 5500 children. While some  
18 families have placed Special Ed children in public schools  
19 and MPS programs, approximately 250 identified special  
20 needs children attended our private schools and received  
21 some Special Education services under IDEA before the last  
22 reauthorization.

1           These services ranged from speech OT, all the  
2 way up to assistive technology. These children were LD,  
3 and DD children. Often these children have gone to local  
4 public schools for part of the day to receive these  
5 services. The cost to the public to educate these  
6 children was significantly less than if these children had  
7 gone to full-time public school programs.

8           The cost to educate, as you're well aware, of  
9 a special child in a public school can range from \$30,000  
10 and up. The district in Los Angeles is expending  
11 somewhere in the area of one-fifth of that amount on most  
12 of these children.

13           When IDEA was reauthorized, any individual  
14 entitlement to services for these children enrolled in  
15 private schools was removed. LA's Unified School District  
16 has, therefore, taken the position that they will no  
17 longer serve this population. Many parents have since  
18 been forced to remove their children from successful  
19 programs at a cost that were significantly less, and  
20 placed them in state programs, which cost the taxpayer  
21 considerably more. Some of these children had previously  
22 been in these programs and had failed to progress in those

1 programs.

2 Because of the reauthorization of IDEA,  
3 should we restore the individual entitlement to services  
4 for all children, whether enrolled in public, private, or  
5 parochial schools? It is a more cost-effective and  
6 educationally-effective way to do it. It worked before;  
7 let's put it back to the way it was.

8 And, secondly, one other issue under IDEA,  
9 under the new reauthorization, the formula for determining  
10 the amount of money that goes -- that is used for the  
11 private school population is based on a ratio of private  
12 to public school IEPs. In other words, children in the  
13 public school of IEPs versus the private school of IEPs.

14 Our parents have realized that, if they  
15 enroll their child in a private school, there are no  
16 services available and, therefore, have opted not to go  
17 for IEPs; there was no reason to do that. Therefore, we  
18 find that we have significantly under-counted under this  
19 formula. And, going back to the old or the way I -- what  
20 I understood used be done, and make the total counts of  
21 total -- summations of total students in public versus  
22 private, or some other child-find method that properly

1 identifies the children, even though we brought, on  
2 occasion -- these children, we brought lists to the  
3 district, it still hasn't helped.

4 Some other formula which would equitably give  
5 that proportion of federal funds to the private school  
6 student would be in order.

7 MR. COULTER: Thank you, sir.

8 Dwan Bridges, to be followed by Vicki Gordon.

9 MS. DWAN BRIDGES: Good afternoon.

10 I'm Dwan Bridges, Associate Professor at  
11 California State University Los Angeles at the Department  
12 of Kinesiology and Nutritional Science. There, I am  
13 Program Coordinator for the Adapted Physical Education  
14 program. In addition, I represent a professional  
15 organization which is The Southwest District Alliance for  
16 Health, Physical Education and Recreation and Dance. The  
17 places that are impacted by this particular organization  
18 are California, Arizona, New Mexico, Nevada, Utah, and  
19 Hawaii. In this organization, I am the Vice President for  
20 Adapted Physical Education.

21 I would like to express my sincere thanks to  
22 the Commission for this opportunity to be able to share my

1        comments regarding the impact of finance for our Special  
2        Education programming and for recommendations of the  
3        reauthorization of IDEA.

4            As a pre-service program provider for a  
5        discipline that transcends all disabilities, I pose a  
6        question: If you should be in the room where you are  
7        asked to identify your greatest personal assets, I have no  
8        doubt in my mind that health and wellness would rank the  
9        highest. There is only one discipline in the arena of  
10       Special Education that is devoted entirely to the health  
11       and well-being of persons with disabilities; and this is  
12       adapted physical education.

13           Federal legislation has consistently impacted  
14       physical education services; just look at the laws, the  
15       Education of All Children's Act and also IDEA. Within  
16       those laws, the definition identifies physical education  
17       as a direct service curriculum to be provided to all  
18       persons with disabilities.

19           On behalf of my professional organizations, I  
20       would like to make the following recommendations: To  
21       ensure the continuance of adapted physical education in  
22       the laws; to ensure that SAFE and LEAs (phonetic)

1     implement the spirit of the federal legislation; and that  
2     related services such as occupational therapy and physical  
3     therapy are not used as substitutes for adapted physical  
4     education; to ensure empowerment of the IEP and mandate  
5     that there will be a requirement for APE placed on that  
6     form because, often, the adapted physical educator who is  
7     providing that direct service has to look at placing their  
8     name on the line that says, "Other"; to ensure that a  
9     designated percentage of personnel preparation grants are  
10    allocated for personnel training.

11        Thank you.

12        MR. COULTER: Thank you.

13        Vicki Gordon, followed by Fred Shaw.

14        MS. VICKI I. GORDON: Good afternoon.

15        My name is Vicki Gordon and I hold a masters  
16     degree in education from Temple University. I am a former  
17     Special Education teacher, having worked in the field for  
18     nearly 20 years.

19        I have found the majority of my students to  
20     be without basic academic skills. For example, during my  
21     initial assessment of my last group of students, I  
22     discovered that six out of 13 had never fully mastered

1 saying and writing the alphabet. These sixth-graders had  
2 arrived with test results placing them as first- and  
3 second-grade readers. None even knew the alphabet song, a  
4 basic in teaching children.

5 Within a few hours, they were able to master  
6 the song, which started them on the road to literacy.  
7 Only a small handful, over the years, have arrived in my  
8 classroom with the ability to give the sounds associated  
9 with the 26 letters of the alphabet.

10 By putting in basic academics, children who  
11 were never able to learn or advance academically,  
12 especially as readers, were now able to learn. I found  
13 countless students over the years that thought they were  
14 stupid and that something was wrong with their brain and  
15 that they could not learn. This is false.

16 Often, I found parents, who were told by  
17 mental health professionals that there was something  
18 organically or biologically wrong with their child, yet  
19 never having seen any tests or medical evidence to  
20 substantiate this.

21 Once these children were given the basic  
22 tools, it was amazing to see not only their self-respect



1 return but also their confidence in their ability to learn  
2 restored.

3 I have had parents break down in tears once  
4 they found that there was an academic reason for their  
5 child's failure to learn as opposed to a label which  
6 insinuated no solution and some type of malfunction or  
7 deficit on the part of the child.

8 When I first started teaching Special  
9 Education classes with the L.A. Unified School District in  
10 1991, there were about four to five Special Education  
11 classes. When I left, in 2001, there were some 20  
12 classes. Of these, only one was for children with  
13 medically-established physical disabilities; the remaining  
14 19 classes were all children with subjective psychological  
15 or psychiatric diagnoses.

16 I fully support President Bush's Leave No  
17 Child Behind Act as it promotes the achievement of true  
18 literacy for all children, something that is desperately  
19 lacking in our current educational system. The majority  
20 of children with whom I have worked should never have been  
21 categorized as Special Education students. It was a  
22 disservice to these students to fail to ensure that they

1 had mastered basic academic skills which subsequently  
2 deprived them of the fundamental right to a proper  
3 education.

4 I ask this board to consider these facts in  
5 reforming Special Education so that this disservice to our  
6 children does not continue and that Special Education be  
7 restored to its original purpose, to provide equal  
8 education under the law for children with provable  
9 physical disabilities, not to label children with, quote,  
10 "disabilities" that are, in fact, a result of a failed  
11 educational system.

12 Thank you.

13 MR. COULTER: Thank you.

14 Fred Shaw, to be followed by Judy McKinley.

15 REV. FRED SHAW, JR: Hello; I'm Reverend Fred  
16 Shaw, Junior. I am a former Los Angeles County Sheriff  
17 Deputy. I am presently co-founder and president of the  
18 World Literacy Crusade and Basic Life Institute which  
19 educate children and, at the same time, deal with troubled  
20 youth in our community.

21 I, personally, want to talk a little bit  
22 about the juice of the system with Special Education. I

1 have personally witnessed the damage done to minority  
2 students with psychiatric labels and drugs, especially  
3 where it was later discovered they had no educational  
4 basis and the children simply could not read or study.  
5 This is especially the case with Black children who are  
6 normally over-represented in the Special Educational  
7 system.

8 The National Research Council issued a report  
9 on race in Special Education earlier this month, reporting  
10 that Black children are two to three times as likely as  
11 whites to be labeled mentally retarded which means, they  
12 are not only assigned to Special Education classes but,  
13 also, very often never make it back to regular classes.

14 Over half of the five million African-  
15 American public school students are in Special Education  
16 programs where psychiatrists and school psychologists have  
17 sentenced at least 38 percent of them to the category of  
18 educationally mentally retarded. More than 18 percent  
19 have been diagnosed as seriously emotionally disturbed.  
20 In our program, we have not found children who are  
21 emotionally disturbed, even though they came to us with  
22 those labels.

1           Many of our children diagnosed as such have  
2 mind-altering drugs administered to them which do nothing  
3 to address their educational problems but actually mask  
4 them. These children in the Special Education classes for  
5 reading problems should be addressed with standard  
6 academics and reading programs, not subjected to  
7 psychological labels and drugs. These labels stigmatize  
8 them for life.

9           As a manager of a group home, I find it  
10 appalling that children are labeled attention deficit  
11 disordered or learning disordered when, time and time  
12 again, I find they have no lack of attention or any  
13 disorder.

14          We had a young man come to our group home who  
15 was given the label of attention deficit disorder and,  
16 when I did basic questioning of this young man -- and I  
17 asked questions like, how long have you talked to a girl  
18 on the phone?, how long have you play a Nintendo game? --  
19 we found that this kid had talked to girls at least two to  
20 three hours or sometimes five hours, and he played  
21 Nintendo about eight hours. So he could pay attention to  
22 anything that he was interested in.

1           So I just want to say that we're asking that,  
2           for the children's sake, that we don't give them these  
3           labels, we don't administer them these drugs, and we apply  
4           the proper educational study technology and teach them  
5           properly their ABCs, how to do math, and things like that.

6           Thank you very much.

7           MR. COULTER: Thank you, reverend.

8           Judy McKinley, to be followed by Loeb Aronin.

9           MS. JUDY MCKINLEY: Good afternoon.

10          My name is Judy McKinley; I've been an active  
11          member and volunteer of a state advocacy organization for  
12          over 25 years. I am a Special Education instructional  
13          assistant in a first-grade inclusion class.

14          IDEA and California Special Ed laws do not  
15          need fixing. Yeah, there may be some problems but they  
16          really are okay.

17          I strongly urge the President's Commission on  
18          Special Education to recommend that IDEA be fully funded  
19          at the 40-percent level. I believe that the California  
20          Department of Education and local education agencies must  
21          be held accountable for every Special Education dollar  
22          they receive.

1           Students with LD are being denied the  
2           opportunity to meet high performance standards because  
3           school districts are not providing them with quality  
4           intensive instruction, accommodations, assistive  
5           technology, and appropriate programs necessary for them to  
6           succeed. Students who are mentally retarded, severely  
7           emotionally disturbed, autistic, or who have other  
8           disabilities are being improperly placed in learning  
9           disability programs. None of the students are being  
10          provided an appropriate education.

11          California is suffering from a severe lack of  
12          credentialed teachers. Special Education credentials in  
13          California are not disability-specific; they are "mild to  
14          moderate" and "moderate to severe." Quality assessments  
15          are the key to children with learning disabilities and  
16          ADHD receiving an appropriate education.

17          Rumors say that teacher assessments are being  
18          considered as an alternative to assessments performed by  
19          qualified school and clinical psychologists. Some seem to  
20          believe that providing quality reading instruction to  
21          young children will greatly reduce the number of students  
22          being identified as LD. LD includes a number of learning

1 disorders that last a lifetime and they don't go away.

2 The Los Angeles Unified School District law  
3 suit that led to the Shanda Smith (phonetic) consent  
4 decree was intended to secure rights for an LD teenager  
5 from South Central Los Angeles. It has become a vehicle  
6 for the inclusionist movement to dismantle the full  
7 continuum of services in L.A.USD. Inclusion for  
8 inclusion's sake is an absurd waste of Special Education  
9 dollars.

10 The cost of non-public schools is an issue.  
11 If public schools refuse to provide a full continuum of  
12 appropriate quality services, parents have no other choice  
13 but to seek NPS placement. And estimated 80 percent of  
14 incarcerated youth and adults are reported to be LD, ADHD,  
15 or have other related disorders. It is much less  
16 expensive to meet student's needs in the K-12 system than  
17 it is to pay for the failure of schools later.

18 Children are not being placed in Special  
19 Education so that school districts can get more money.  
20 Parents of children with LD have to fight to get children  
21 identified and placed in appropriate educational settings.

22 MR. COULTER: Thank you.

1           Loeb Aronin, to be followed by Kimberly  
2 Brandt.

3           MR. LOEB ARONIN: Thank you.

4           I'm Loeb Aronin; I'm past-chair of the State  
5 Advisory Commission, in California, on Special Education,  
6 also past-chair of the Special Education Committee in the  
7 California Association of School Psychologists.

8           One major goal of the State Advisory  
9 Commission on Special Education is to ensure that the  
10 needs and rights of students receiving Special Education  
11 services are carefully considered when individuals and  
12 groups make decisions on significant issues that impact  
13 children with special needs.

14          To give you an idea of the size of the  
15 programs in California, California's Special Education  
16 program is greater in size than the entire educational  
17 program in 21 states; between December 1st, 1991 and  
18 December 1st, 1996, the Special Education program  
19 population in California grew by 94,000 students; that's  
20 the growth greater than the entire Special Education  
21 programs in 30 states; there are more than 600,000 Special  
22 Education pupils currently being served in California



1 today. So we have great concern about what is happening  
2 with IDEA.

3 We listed a whole series of issues -- and you  
4 have it in writing -- and some of our concerns about IDEA  
5 in terms of reauthorization. First is adequate funding;  
6 renewed staff development I think is extremely important;  
7 and in-service training -- we haven't had a major program  
8 in depth for a considerable period of time; state and  
9 district compliance with Special Education laws;  
10 recruitment and retention of qualified teachers -- and I  
11 won't go down the rest of that list.

12 As you can see, the California Commission has  
13 identified many important issues. However, I need to  
14 stress that, above all, the issue before California, and  
15 the nation, is one of fiscal support. Because raising the  
16 issue of money is so common an issue, it becomes kind of a  
17 cliché that is easily dismissed as, "we just can't throw  
18 money at the problems." The Commission has argued that we  
19 simply cannot afford to succumb to such simplistic  
20 thinking.

21 The truth of the fact is that the federal  
22 commitment to Special Education is causing some of the

1 problems we are facing today. We went and looked at some  
2 of the training institutions, we looked at a number of  
3 things going on in the classroom; class size has exploded  
4 because of the fact that people are trying to save money  
5 so they're putting more youngsters in the programs.

6 We've had hearings on that, we've had  
7 hearings which included having people coming from various  
8 support organizations, speech and language, psychological  
9 services, and they just can't get the job done in terms of  
10 what's being asked of them. So the recruitment of  
11 personnel is important.

12 There needs to be laws which allow the kinds  
13 of training for Special Education personnel, other than  
14 teachers, to get loan forgiveness. We have those laws on  
15 the books now for teachers; if we want to encourage more  
16 specialty people to go into Special Education and serve  
17 them, we need loan forgiveness programs in that area.

18 In closing, the Commission implores you to  
19 see the forest for the trees, no minor fine tuning will  
20 change the underlying problems in Special Education; it's  
21 under-funded and, until such time as we commit necessary  
22 dollars, states will continue to absorb incredible costs

1 in assisting these children before they become adults.

2 Thank you.

3 MR. COULTER: Thank you.

4 Kimberly Brandt, to be followed by Jacqueline  
5 Shohet.

6 MS. KIMBERLY BRANDT: Thank you very much  
7 for this opportunity. My name is Kimberly Brandt; I come  
8 to you not as a professional but as a parent of three  
9 children in Special Ed.

10 I have gone through the basic process, all  
11 the way up to, now, due process. It's not the route I  
12 would have enjoyed going. My main concern for children  
13 and for other parents that were not able to attend today  
14 is that we have a quality education. I want my children  
15 to learn to be as independent as possible and I want them  
16 to be able to go out there and fill out that job  
17 application, and to be able to hold a job.

18 If they cannot read, if they cannot write, if  
19 they cannot fill out a job application, it's going to cost  
20 the government even more money because then you're going  
21 to be supporting them on unemployment and other social  
22 services.

1           My kids will prosper in engineering; they  
2           have a very high intelligence. But they do not work well  
3           with the type of education they are being given; they have  
4           auditory and visual processing problems. And everything  
5           that is given to them is verbal; they cannot survive in  
6           the system they are in right now. And teacher says,  
7           "Well, you don't do the work. You can't do it, you can't  
8           keep up with the class; you just don't do it." What  
9           happens next year when the child goes in the next grade,  
10          and on and on?

11          And I have one that's in early developmental.  
12          Now the school didn't offer that, the state came down and  
13          told us about it and told us about Regional Center. We  
14          had no problems. Our three-year-old has received  
15          wonderful programs through, not the school district, but  
16          through early developmental that has been provided by the  
17          Literman (phonetic) Act.

18          Now, I don't understand why the districts  
19          cannot perform at the same level; they're receiving the  
20          same type of funding, the same type of money. But it's  
21          not happening. The IEP, I loved what the gentleman said,  
22          let's put a federal format; it would be wonderful. The

1 form is confusing to parents. And it doesn't show the  
2 progress.

3 They tell me the progress that needs to be  
4 done, the goals that need to be done and then I find out,  
5 from the teacher that wasn't at the meeting, that's got  
6 the responsibility, this child isn't even able to perform  
7 those goals because they don't have that developmental  
8 level. And I'm just baffled. Why do these people put  
9 this goal down when the child wasn't even able to do it?

10 So I'm glad that your committee is here; I  
11 hope you have a chance to really take in what these folks  
12 said because what they said is truly happening. And I  
13 think that, if some of their suggestions are followed,  
14 this system will improve and you will leave no child  
15 behind.

16 Thank you very much.

17 MR. COULTER: Thank you very much.

18 Jacqueline Shohet, to be followed by Barbara  
19 Thomas.

20 DR. JACQUELINE SHOHEIT: Good afternoon.

21 My name is Jacqueline Shohet and I have a  
22 doctorate in psychology. I've worked 40 years as a

1     psychologist in schools and now in independent practice  
2     with handicapped persons and their families.

3             I offer the following suggestions for saving  
4     taxpayer money. First of all, train Special Education to  
5     understand and use appropriate teaching methods based upon  
6     contemporary research those recommended by organizations  
7     such as CASP, the California Association for School  
8     Psychologists, NAESP, and the American Psychological  
9     Association, International Dyslexia Association, Marine  
10    Disabilities, and Linda Mood Bell and other multi-sensory  
11    organizations that specialize in teaching;

12            Appraise the cost to society of a flood of  
13    people who cannot read, write, or compute and who enter  
14    welfare, homelessness and the justice system. According  
15    to research, California has more individuals incarcerated  
16    than any country in the world. This was given out at a  
17    conference I went to where Judge Milliken (phonetic) from  
18    San Diego mentioned this particular statistic;

19            Three, teaching the handicapped to read,  
20    write, and compute is not the basis for Special Education  
21    costs. Major costs are related to the law and to the  
22    problems that the parents have when they seek services

1 from the schools and when they encounter educator  
2 ignorance in depriving the children of the opportunities  
3 to learn. The schools use taxpayer funds to fight the  
4 parents seeking teaching for their children.

5 Parents must use their own money to defend  
6 their children's rights to a free public education but  
7 their taxes provide funds for the schools to hire  
8 attorneys, often at \$350 to \$400 an hour, to fight the  
9 parents who wouldn't have even -- wouldn't it be cheaper  
10 to train teachers and provide smaller classes and provide  
11 appropriate materials for the young people?

12 The reason for IEPs, paperwork, and many  
13 discipline problems is that the Special Education programs  
14 are inadequate to serve the children. Schools defensively  
15 block requests for services that the children need to  
16 learn. A blind child that I worked with, who had been  
17 denied appropriate education teaching for 11 years,  
18 finally sought a FARE hearing. The school hired two  
19 attorneys to oppose me and to block the student's access  
20 to Braille instruction and computer training. I have the  
21 documentation for this case in my garage. The case  
22 continues on for an eight-month period.

1           It isn't education that costs, it's  
2           ignorance.

3           Thank you.

4           MR. COULTER: Ms. Shohet, thank you very  
5           much.

6           Barbara Thomas, to be followed by Brett  
7           McFadden.

8           MS. BARBARA THOMAS: My name is Barbara  
9           Thomas and I'm here representing Fresno County Board of  
10          Education. When I retired from my job, I ran for School  
11          Board so they wanted me to come and present.

12          For the past two and a half years, I've been  
13          working as a consultant for the California's Fiscal Crisis  
14          and Management Assistance Team; I've been in about 12  
15          different school districts and this technical team was put  
16          in place when Richmond went bankrupt.

17          Most of the fiscal management that we look  
18          at, at this point, is management, not crisis, about 85  
19          percent. But, when a school district feels their Special  
20          Education is out of control, they may ask for a fiscal  
21          crisis management team to come in. So some of my remarks  
22          will be based on that experience from these 12 studies



1 that we've done.

2 And I just want to give you a couple of, sort  
3 of generic, recommendations that we make when we go in  
4 because it doesn't -- we usually find it hasn't happened.  
5 And one of them is that the Special Ed Director should  
6 meet with the Finance Director on a regular basis -- I  
7 thought you would like that one.

8 The second issue is that, a good assessment  
9 is cost-effective. We go in and find these districts sort  
10 of giving away the store and we say that -- do an  
11 assessment for need and then develop an intervention that  
12 goes with it.

13 And the last thing -- and none of this is  
14 related to what I've written but these are remarks that I  
15 wanted to say based on what I've heard today -- early  
16 intervention, I think it's a great thing but it should not  
17 be Special Ed early intervention. We shouldn't have an  
18 entitlement, it should be for your ESEA, Title 1, special  
19 types of kids. Do the early intervention but don't tie it  
20 down to all the regulations we have with Special Ed. So  
21 put it outside of Special Ed.

22 There are two reasons why costs have

1     increased; one is that we're serving more severe children.  
2     And I'll give you the statistics from California. We're  
3     serving more autistic, seven times more than in 1992,  
4     today. Our TBI kids, five and a half times, and our  
5     emotionally disturbed, twice as many. And I've listed for  
6     you the mandates that we've had without any specific  
7     funding tied to those mandates.

8             I think that the federal government, when  
9     they add these mandates, should give us money to go with  
10    it.

11            Thank you.

12            MR. COULTER: Thank you, Barbara.

13            Brett McFadden, to be followed by Vivian  
14    Lura.

15            MR. BRETT McFadden: Good afternoon.

16            My name is Brett McFadden; my day job is with  
17    the Association of California School Administrators; but  
18    today I'm actually testifying on behalf of eight different  
19    statewide groups, ranging in the spectrum from Special  
20    Education Teachers all the way to County Superintendents  
21    and District Superintendents. Also included in that are  
22    school psychologists, speech and hearing representatives,

1 and other groups throughout the state.

2 And, as you can imagine, trying to put eight  
3 different statewide groups on the same page is an endeavor  
4 I never want to go through again. But we do have a  
5 handout there that does provide some issues and some  
6 hindsight into kind of what we view as the top issues, not  
7 only in the reauthorization process, but in the  
8 examination of the issues you're currently looking at.

9 First, let me pause, though; I don't think  
10 anyone today has said "thank you" to -- I know I've worked  
11 with many of you throughout the years, I know that you  
12 have private jobs and families and so I appreciate all the  
13 work you're doing and the time that you're taking to do  
14 this, very much; and I think I probably speak on behalf of  
15 everyone here in the room, as well. So thank you very  
16 much; I appreciate being here.

17 MR. COULTER: We orchestrated that.

18 MR. MCFADDEN: I will talk on three issues  
19 and you can see on the letter how that funding continues  
20 to be a top issue. I know there is a considerable amount  
21 of dialog today regarding whether it's mandatory, whether  
22 it's an entitlement, what is exactly 40 percent. Well, we

1 say that -- we urge the Commission to look at the funding  
2 issue from a whole list of perspectives.

3 Second, FAPE; what is FAPE? Is it a medical  
4 model, is it an education model? What we've noticed  
5 lately, in the last ten years for instance, is there's  
6 been significant medical advances and so that children  
7 that, ten years ago, would not initially come into the  
8 school setting in the general ed setting are now able to  
9 do that because of medical technology. That is certainly  
10 a good thing.

11 However, IDEA now, perhaps, is funding  
12 medical services as opposed to educational services. And,  
13 as long as the definition of FAPE continues to be  
14 broadened, that, of course, drives a lot of the cost.

15 Finally, over-proceduralization is what we're  
16 calling this issue; and that, basically, is a lot of  
17 paperwork. We feel that the process now is focused more  
18 on process as opposed to outcomes. We believe that  
19 greater flexibility and alternative modes are probably the  
20 better way to go.

21 Finally, our eight associations stand ready  
22 to assist you with any sort of information, data, or any

1 sort of additional assistance that you may need as you go  
2 through this process.

3 Thank you very much.

4 MR. COULTER: Thank you.

5 Vivian Lura, to be followed by Sally Shake.

6 MS. VIVIAN LURA: Good afternoon.

7 I'm here speaking for Oakland Unified School  
8 District, one of the big eight in the State of California.

9 Currently, our Special Education costs are  
10 encroaching \$15 million into our general purpose fund. We  
11 are now trying to make, literally, today, tomorrow, next  
12 week, the next Board meeting, \$15 million in cuts to our  
13 general purpose budget. That means a lack and a cut of  
14 programs.

15 You spoke earlier briefly about, should we  
16 use the full federal funding at 40 percent. Oakland's  
17 share would be over \$14 million; that's why I'm here  
18 today. My Board and Superintendent think that's important  
19 for you to hear.

20 Things that I need from you, as a SELPA  
21 (phonetic) director, things that are currently being  
22 defined in courts and hearing offices which literally give

1 me no control. I need a better definition of  
2 "disabilities", specifically SLD, other health impaired,  
3 and autism.

4 Within the last five years, we have included  
5 ABD, ABHD, autism spectrum disorder and, in Oakland, we're  
6 currently on our third generation now of drug-exposed,  
7 neurologically-damaged children whose grandparents were  
8 the first generation, whose parents were the second and  
9 who are literally destroying many classrooms.

10 I want to support the need for a better  
11 definition of FAPE in terms of what is appropriate.

12 And, three, rather than early intervention --  
13 you know, your own U.S. Department of Ed statistics shows  
14 that the greatest number of referrals for Special Ed in  
15 the last 10 years are for kids 12 to 17. We've had early  
16 reading initiatives and programs and training in  
17 California for the past five years. My referrals in  
18 elementary schools are down significantly; I've closed  
19 three to five Special day classes every year for the past  
20 three years. However, what I have instead are kids 12,  
21 14, 16, being identified as autistic. Your suspension and  
22 expulsion rules have resulted in many last-minute

1 referrals to block or delay discipline procedures. Once  
2 in Special Ed via the juvenile system, they are labeled ED  
3 and needing NPS placement, and we have the California high  
4 school exit exam which now means that the kids are getting  
5 -- being referred to get accommodations for passing the  
6 test.

7 You've said -- quickly, the last three points  
8 -- that you don't know what you're spending your money on.  
9 You're spending your money on staff development, you're  
10 spending your money on programs, and compliance. And I  
11 think you need to look at -- instead of having everyone do  
12 all three of those areas, look at block grants, one  
13 compliance to the district -- I mean, compliance, give  
14 back the state direction, let them streamline it; the  
15 programs to the districts; and see teacher and parent  
16 training to the universities.

17 Thank you.

18 MR. COULTER: Thank you.

19 Sally Shake, to be followed by Bennett Ross.

20 MS. SALLY SHAKE: Thank you very much.

21 My name is Sally Shake; I'm president of  
22 Education Legislative Services. We are a federal

1 legislative advocacy firm that works with a number of  
2 California public school districts, especially those with  
3 a number of high-needs kids.

4 I guess I would like to support what most of  
5 the California local educators have mentioned. But I  
6 would like to emphasize what Dr. Parrish and Paul  
7 Goldfinger talked about in terms of balancing meeting the  
8 needs of all California children because, in California,  
9 we have increasing child poverty and that child poverty  
10 rate is high.

11 We have high numbers of English-learners; we  
12 have a widening gap between the poor and the wealthy  
13 despite an average per capita income that is on the higher  
14 rather than the lower side. We have mobility of kids and  
15 we have high costs, as a state, whether that's for pencils  
16 or computers or services. And what the job of local  
17 school districts is, is to balance all of those needs.

18 Second, I would like to comment about what  
19 you promise needs to be realistically, reasonably,  
20 delivered. And I would urge you not to promise what you  
21 do not sincerely believe can be delivered, and delivery on  
22 the promises that you make because where a lot of the 40-



1 percent push has come from and the suggestion for  
2 mandatory funding, that has come from a disjuncture  
3 between what was perceived, at least, to have been a  
4 promise made by the federal government in terms of funding  
5 to local school districts and what has actually been  
6 provided.

7 And so, in the name of credibility and  
8 support for local school districts, I think the  
9 requirements and the perspectives that you adopt need to  
10 be realistic, reasonable, and made with integrity.

11 I'd also like to urge you to look at the data  
12 elements. Because this would be the year to look at data  
13 since the No Child Left Behind Act has certain data  
14 requirements, it would make sense to have these mesh  
15 together. I'd also like you to look at 504 because Troy  
16 mentioned before that it hadn't been a discussion here.  
17 When school districts do not have transportation systems  
18 in place, 504 transportation costs are an issue.

19 And, finally, I would like you to see how you  
20 can merge the ESEA requirements with the IDEA so we have a  
21 more unified system and that can be done in many different  
22 ways but I think it's important because, in the Title 1

1 requirements, it does specify IDEA children in terms of  
2 desegregated data but it does not specify 504 children.

3 And there are a number of those disjunctures  
4 that exist and I think that you could work to put together  
5 a comprehensive system that is cohesive and works together  
6 for all kids.

7 Thanks.

8 MR. COULTER: Thank you very much.

9 Bennett Ross, to be followed by Bob Hoffman.

10 UNIDENTIFIED AUDIENCE MEMBER: Let somebody  
11 else take mine; I'll go at the end.

12 DR. BENNETT ROSS: Hi, I'm Bennett Ross; I'm  
13 the Executive Director of the Frostig Center. We are a  
14 non-public school here in Los Angeles. And I don't have  
15 any prepared comments but I've never passed an opportunity  
16 to speak my mind.

17 There is a comment about what would happen to  
18 these kids if there were not federal safeguards. We are  
19 an NPS program, we see the kids who have failed in the  
20 public schools and the parents have gone through a very  
21 difficult, adversarial process with the schools.

22 So I think our past history in this field of

1 Special Education and my history at the Frostig Center  
2 shows me that, if there were not federal safeguards, we  
3 would not be serving 80 percent of the kids, we'd be  
4 serving 30 or 40 percent of the kids, that the kids would  
5 just not get served. So I think there needs to be some  
6 kind of very careful federal safeguards.

7 However, I'm also around for a lot of IEPs  
8 and, at the point that we have -- we are involved with  
9 IEPs, they are clearly an adversarial process between the  
10 district, who is concerned about costs, and the parent who  
11 is concerned about dreams. And I think both of them are  
12 unrealistic. The parents want to get whatever they  
13 possibly can; the district wants to give as little they  
14 possibly can.

15 So I don't see the amount of time that we  
16 spend on IEPs as being a useful expenditure of our time;  
17 and I've heard from the attorney who represented L.A.  
18 Unified in the Shanda Smith law suit that L.A. Unified  
19 spends about 50 cents out of every dollar on identifying  
20 and tracking kids through the IEP process and 50 cents of  
21 every dollar serving them. I think something needs to be  
22 done there.

1           And I think accountability is a wonderful  
2           thing but I think we need to be very careful when we talk  
3           about accountability. For the kids with learning  
4           disabilities, you want to look at outcomes, you want to  
5           look at how these kids are doing; but you don't want to  
6           really be looking at whether or not they are passing the  
7           high school exit exam, you want to look at whether or not  
8           they are functioning as adults in the community. You want  
9           to look at what are the attributes that predict success  
10          that lead to that.

11          And so I think we need to be very careful  
12          when we set up guidelines and accountability standards  
13          that those standards are in keeping with what it is that  
14          we really want to achieve.

15          Since I've got another minute, let me think  
16          of something else to say.

17          Sufficient funding and early intervention,  
18          those are my two key points; so thank you for your time.

19          MR. COULTER: Thank you, sir.

20          John Lucas, to be followed by Doreen Lohmes.

21          MR. JOHN LUCAS: Good afternoon.

22          My name is Jack Lucas and I'm a Special

1 Education local plan area director here in California and  
2 representing 116 of my counterparts.

3 In the State of California, we serve over  
4 650,000 kids in Special Education. To put it in  
5 perspective, that's about six times the number of kids in  
6 Washington, about 30 times the number of kids in Montana.

7 In 1998, in this state, we put into place a  
8 new funding system for Special Education. It's a  
9 population-based system, there is no longer a financial  
10 incentive to identify students for monetary purposes. We  
11 feel that if, in fact, we had over-identification problems  
12 in the past, those problems have been solved.

13 In spite of that, we still continue to see  
14 significantly growing Special Education costs and I would  
15 fully support what Mr. Johnson said about what's happening  
16 in Montana, to a magnitude of about 30, in terms of what  
17 is contributing to that.

18 I think the most significant contributing  
19 factor to Special Ed costs increases is the lack of the  
20 definition on what is an appropriate level of service.  
21 The IDEA calls for free, appropriate public education but  
22 there is no definition on what "appropriate" is.

1           What happens, and what has been happening  
2           today while we've been speaking here, is that parents come  
3           to IEP meetings wanting the best program for their child;  
4           that's what they're supposed to do. They are not doing  
5           anything wrong. School staff comes to the IEP meeting  
6           knowing that they have a finite number of dollars in which  
7           to provide those services. And I can guarantee you that  
8           the parents' idea of what "appropriate" should be and the  
9           school staff's idea of what "appropriate" should be is a  
10          total mismatch.

11          And, again, it's not the fault of parents;  
12          they're doing what they're supposed to do, they are  
13          advocating for their children. But they're being left in  
14          the middle because there is no definition or standard. I  
15          really believe that there are needs, in terms of reform  
16          for Special Ed, are reforms related to the IDEA. We need  
17          to develop what is a standard level of service for Special  
18          Ed students.           That's easy to say; it is not, at all, easy  
19  
20          to do.

21          It was also said earlier -- the question was  
22          asked earlier, what should the federal role be for Special

1 Education and Special Education funding? I think it  
2 should be directly proportional to what the federal  
3 government requires in terms of service requirement. If  
4 the federal definition continues to be totally open-ended,  
5 then I think it's not unreasonable to say that we should  
6 be able to expect 40 percent of the average per-pupil  
7 expenditure in order to fund that totally open-ended  
8 service delivery system.

9 If we're going to provide a standard, then  
10 maybe we can look at something less than that. Or, if the  
11 federal government is not willing to provide a standard,  
12 then maybe it's time to let the states, where 85 to 90  
13 percent of the money is coming from, be able to set those  
14 standards and leave the major requirements at the federal  
15 level and then allow us to build in the details locally.

16 One final thing, in terms of Section 504,  
17 which was mentioned just before the break, I would  
18 disagree that we would still have 80 percent of the cost;  
19 I think it would be something less than 50 percent. And,  
20 as someone who has worked in Special Ed over 28 years, if  
21 I could today, I would prefer to go under the 504  
22 standard.

1 MR. COULTER: Thank you, John.

2 Doreen, followed by Alnita Dunn.

3 MS. DOREEN LOHMES: Good afternoon and thank  
4 you so much for the opportunity.

5 My name is Doreen Lohmes, I am the Associate  
6 Superintendent for Capistrano Unified School District and  
7 a former Special Education teacher and a speech  
8 pathologist.

9 Now Capistrano is that place where the  
10 swallows come back. Well, the people are now following  
11 the swallows and, as a result of that, we are the eleventh  
12 largest school district in California. And, as our  
13 experience has shown in paying \$242,000 for one student  
14 only, IDEA has mandated a full array of services with very  
15 realistically limited budgets that we all have.

16 Our fiscal experience mirrors, very much,  
17 that of Mr. Johnson for Bozeman School District. Our  
18 local contribution, in 1994-95, was \$3 million, which was  
19 nine percent of our expenditures. In 0001 (sic), it's  
20 15.6 million, and it's 37 percent of our expenditures.

21 At the same time, our enrollment in Special  
22 Education has just gone from eight percent of our total



1 enrollment to about nine percent. And what I'm telling  
2 you is mirrored by the other people; our expenses for our  
3 severely-handicapped youngsters and our autism population  
4 has grown from about 1.3 percent of our Special Education  
5 enrollment to about 4.9 percent of our Special Education  
6 enrollment.

7 And I have to tell you, we are very proud of  
8 the programs that we're offering for our autistic  
9 children. But, for our autistic children, in order to  
10 meet the standards that are being set by the hearing  
11 offices, in terms of what is appropriate in California, we  
12 are paying for 1.5 percent of our total enrollment, 18  
13 percent of our expenditures, for our 64 young autistic  
14 children.

15 Okay. As a result of this shortfall, we are  
16 facing, in our school district now, as other school  
17 districts in California are, a \$6 million shortfall and  
18 our Board is looking at cutting -- at increasing the class  
19 sizes and cutting the number of instructional periods for  
20 high school students. This is not good.

21 I echo what other people have said about  
22 defining "appropriate." We have a 15-day-old hearing

1 decision in a neighboring school district; the hearing  
2 officer ordered a \$105,000 program, 40 hours home-based,  
3 for a young pre-school autistic child. The school  
4 district had offered a 30-hour school-based program,  
5 similar speech therapy hours, but with their own people,  
6 served at school. And this was a 16-day hearing and it  
7 cost \$60,000 in attorneys' fees. Let's define  
8 "appropriate."

9 Rowley had not been manifested with the  
10 hearing officer's decisions; Rowley said what is  
11 reasonable rules.

12 Thank you.

13 MR. COULTER: Thank you.

14 Alnita Dunn to be followed by Bruce Wiseman.

15 MS. ALNITA DUNN: My name is Alnita Dunn; I'm  
16 a coordinator of psychological services in the Los Angeles  
17 Unified School District. I, myself, am a school  
18 psychologist and have worked as one for 20 years.

19 I'm thinking in support of maintaining  
20 qualified school psychologists as an integral component of  
21 school teams. As you are aware, school psychologists  
22 provide mental health services and conduct mental health

1 programs in schools. They actually are a special link  
2 between providing services, not only to Special Education  
3 students, but to regular education students and, by far,  
4 the best funding that you have spent have been spent on  
5 these personnel, those school psychologists who work in  
6 the schools with parents, with the teachers, and with  
7 other school personnel in order to mate mental health  
8 services with improving academics.

9 What do we do? We provide Special Education  
10 consultation, we provide consultation in pre-referral and  
11 referral situations. School psychologists go into the  
12 classroom and work with teachers to give them strategies  
13 and instruction on improving services to students so that  
14 they will not be referred. They monitor the progress of  
15 students who are in Special Education programs, and who  
16 are in regular education programs, so that they can  
17 achieve their maximum potentials.

18 They broker with outside agencies for mental  
19 health services and also tutorial services. They conduct  
20 and supervise professional development programs, working  
21 with parents in order to increase their skills and in  
22 order to minimize some of the apprehension that parents

1     feel when they enter to school culture, which has proved  
2     to be kind of intimidating for some parents.

3           We are also data-gathering individuals so  
4     that, when we make decisions, they are data-based  
5     decisions. We partner with universities and, in the Los  
6     Angeles Unified School Districts, we have partnered with  
7     three to 10 universities in hiring their interns and in  
8     conducting pilot programs which are aimed towards  
9     increasing improved mental health among students, as well  
10    as in increasing their achievement.

11           As I said before, you get the best bang for  
12    your buck when you maintain the number and percentage of  
13    qualified school psychologists.

14           MR. COULTER: Thank you.

15           I want to pause for just a moment; we've got  
16    to make a little shift here. Good flying, fellows.

17           Okay, Bruce Wiseman?

18           MR. BRUCE WISEMAN: My name is Bruce Wiseman;  
19    I am the U.S. President of the Citizens Commission on  
20    Human Rights and the former Chairman of the Department of  
21    History of John F. Kennedy University.

22           While many speak of the need for more federal

1 funding to handle the problems of Special Education, and  
2 for Congress to keep its promise to fund 40 percent of the  
3 costs of Special Education -- costs which now run at an  
4 estimated \$50 billion a year -- there are two important  
5 points to be made in response to these demands.

6 First, Part B of IDEA permits a maximum  
7 federal expenditure of up to 40 percent. While 40 percent  
8 may have been a goal, there is no exiting Congressional  
9 mandate to provide 40 percent of Special Education  
10 funding.

11 A more important point, however, if  
12 addressed, would help solve the soaring costs at both  
13 state and federal levels. That point is the critical need  
14 to provide an objective, scientifically-based definition  
15 of "disability."

16 When Congress passed the original Special  
17 Education law, its primary purpose was to provide a free  
18 and appropriate education for children with hearing,  
19 sight, speech, and other physical handicaps.

20 Over the ensuing 27 years, the funding has  
21 been funneled, instead, to children with learning  
22 disorders so subjective in scope that children who fidget,

1 butt into line, or interrupt their teachers are labeled  
2 with psychiatric learning and attention disorders and, in  
3 most cases, prescribed cocaine-like, mind-altering drugs.  
4 Of the 5.5 million children categorized under IDEA, 3.2  
5 million have been placed due these scientifically unproven  
6 learning disabilities, costing an estimated \$28 billion a  
7 year.

8 These disorders have been used to threaten  
9 parents that, unless their children take a psychiatric  
10 drug as a requisite to remaining in class, the child will  
11 be refused schooling and parents criminally charged.

12 The definition of "learning disabled" is so  
13 ambiguous that researchers at the University of Michigan  
14 found that 85 percent of students they tested, who had  
15 previously been identified as normal, would have been  
16 classified as learning disabled. The results of this one  
17 flawed aspect of the law, the subjectivity of who is  
18 classed as disabled, has resulted in more than 60 percent  
19 of Special Ed funding being channeled away from the  
20 children who really need it, the physically handicapped.

21 Fix this one aspect of the law, mandate that  
22 Special Ed funds go to children who have objectively-

1     verified physical disabilities and we will not be  
2     needlessly labeling and drugging millions of American  
3     school children, and the funding of Special Education will  
4     become quite manageable.

5             Thank you, gentlemen, for this opportunity to  
6     address you.

7             MR. COULTER: Thank you.

8             Robert Lee Griego, to be followed by Deb  
9     Ziegler.

10            Robert Lee Griego?

11            MR. ROBERT LEE GRIEGO: Yes.

12            MR. COULTER: Thank you.

13            MR. GRIEGO: Good evening, gentlemen.

14            My name is Robert Griego; my son -- his name  
15     is Bryant, who is now 11 years old. When Bryant was four  
16     years old, he attended pre-school Della Pheta Head Street  
17     States Pre-school (phonetic) in Los Angeles.

18            When my son was there, we never had any  
19     complaints from any of the teachers regarding his  
20     behavior; he behaved like any other child his age. When  
21     my son was six years old, he started to attend school to  
22     do his first grade; this was the Stone Elementary School

1 In Culver City, California. After starting there, his  
2 mother was called in for an interview with the teacher who  
3 told her my son was very hyperactive, he didn't focus his  
4 attention in class, and he fooled a lot with the other  
5 kids in class and that he didn't pay attention to her.  
6 She was also told that my son would probably need some  
7 sort of medicine and Special Education so that can change  
8 and that the medicine would help him focus more in class.

9 A few days later, she received a call from  
10 the school that we were requested to meet and discuss what  
11 was happening with our son. She went to the meeting at  
12 the school; the principal of the school, my son's teacher,  
13 and school psychologist were in attendance.

14 Bryant's teacher went over the same thing as  
15 before. The outflow was, he was going to be sent to  
16 another school. At that meeting, he gave her a form to  
17 sign which said, "Individual Evaluation Plan." They told  
18 her that my son had to go to another clinic in order to  
19 receive medicine because the psychologist couldn't  
20 prescribe it. When she signed it, she had no idea this  
21 would cause so much harm to my son.

22 The psychiatrist used a nurse to translate my



1 son -- to my son's mother. He said that, based on the  
2 evaluation he was given by the school, my son's behavior  
3 was not good and he needed some sort of medicine that  
4 would help him be well and calmer. No neurological tests  
5 were performed to confirm his illness. The medicine that  
6 was prescribed was Ritalin.

7 They sent my son to the Arrow Center  
8 (phonetic) in Culver City, a Special Education school.

9 When Bryant started taking the drug, we  
10 started to notice a change in him; he seemed different,  
11 very angry for any reason, nervous, he didn't eat well, he  
12 had insomnia, he had bags under his eyes, his lips were  
13 purple, he was quite like a zombie. And he didn't want to  
14 eat. He would get hungry at 7:00 p.m; and I also noticed  
15 that my son wasn't learning anything in school. He  
16 couldn't even read. But the school told us that he was  
17 doing fine and that he was learning.

18 My son was at the Arrow Center for three  
19 years and he was there to be helped but it didn't happen.  
20 I finally decided to visit the school and ask what was  
21 going on. At the meeting I attended, the school  
22 personnel, including the vice-principal, the psychologist,

1 and Bryant's teacher, I asked them what grade level was  
2 Bryant on as he arrived? They said, "First grade." as a  
3 response. "And what grade is he in now?" "Fourth grade,"  
4 they said. "What grade level is he in now?" They said,  
5 "First grade." I heard the response. I expressed my  
6 dissatisfaction with the lack of progress in my son's  
7 education and blamed the school.

8 The school's representatives replied that it  
9 was Bryant's fault, rather. This started an exchange with  
10 the psychologist, "Do you know my son; do you know what's  
11 wrong with him?" She replied, "He has attention deficit  
12 disorder, a learning deficit disorder, and emotionally  
13 disturbed." And I asked, "How do you know that; have you  
14 met him?" She said, "No."

15 I asked, "How can you diagnose a patient you  
16 haven't seen?" Her answer was that, half the time, she  
17 didn't even meet with the kids she was diagnosing.

18 Thank you very much for letting me up.

19 MR. COULTER: Thank you, sir.

20 Deb Ziegler?

21 DR. DEB ZIEGLER: Good afternoon; I'm Deb

22 Ziegler. I want to thank the panel members for their

1 insightful comments today on financing of Special  
2 Education.

3 Today, I'm representing the Full Funding  
4 Coalition for IDEA. And this coalition has a membership  
5 consisting of national, Washington, D.C.-based  
6 organizations, including the American Federation of  
7 Teachers, the National School Boards Association, the  
8 National Secondary School Principals, the American  
9 Association of School Administrators, the National  
10 Education Association, the National PTA, the National  
11 Association of Elementary School Principals, the Council  
12 for Exceptional Children, the Council of the Great City  
13 Schools, and the American Speech-Language-Hearing  
14 Association.

15 IDEA Full Funding Coalition is committed to  
16 the achievement of successful outcomes for children and  
17 youth with disabilities through the promotion of  
18 professional excellence in Special Education and the  
19 provision of high-quality professional supports and  
20 quality conditions for teaching and learning.

21 The basics of the proposal include, make IDEA  
22 funding mandatory, increase the federal contribution from

1 17 percent to 40 percent, accomplish full funding  
2 gradually over six years, require states to maintain their  
3 level of effort, encourage schools to intervene early in a  
4 child's life, and provide developmentally-appropriate  
5 programs and services. Developmentally-appropriate  
6 intervention during the early years can dramatically  
7 reduce later referrals to Special Education and eventually  
8 help curb the cost of Special Ed.

9 What is full funding of IDEA? Part B of IDEA  
10 originally authorized Congress to contribute up to 40  
11 percent of the average per-pupil expenditure for each  
12 Special Education student. In 2002, the average per-pupil  
13 expenditure is expected to be \$7,320. With 6.1 million  
14 students being served under IDEA, schools are qualified to  
15 receive 18.01 billion in federal funds.

16 Unfortunately, schools are only receiving 7.5  
17 billion. In other words, schools are currently receiving  
18 only 17 percent rather than the federal commitment of 40  
19 percent of APPE.

20 Federal funding is 10.5 billion short of full  
21 funding this year and would need a 139 percent increase to  
22 be fully funded. For 26 years, Congress has promised to

1 fully fund IDEA, yet funding is roughly 17 percent. And  
2 increases of a billion, which we've been getting over the  
3 last several years, plus inflation, 2.5 percent per year,  
4 Congress is on course to fully fund IDEA in fiscal 2035.  
5 School children cannot wait.

6 Who supports mandatory full funding of IDEA?

7 In addition to this group, there's a bipartisan support,  
8 the National Governors Association and the National  
9 Conference on State Legislatures strongly support this.  
10 Currently, 35 states have passed state resolutions urging  
11 Congress to fulfill. Last year, the Senate enacted, on a  
12 unanimous voice vote, on the Hagel-Harkin amendment to  
13 provide mandatory full funding of IDEA. In the House,  
14 more than a 120 members from both parties have sponsored  
15 bills.

16 Yesterday, the Senate Budget Committee  
17 included mandatory full funding of IDEA in its resolution,  
18 therefore, we recommend the Commission recommend mandatory  
19 full funding of IDEA.

20 Thank you, Marissa, for the time.

21 MR. COULTER: Thank you, Dr. Ziegler.

22 Bob Hoffman?

1 UNIDENTIFIED AUDIENCE MEMBER: Well, I hope  
2 -- charged for this because our CEO is going to talk to  
3 you, or talk to those who will be there on the Commission,  
4 in Nashville -- or can I give this as a preview? Let  
5 somebody else go.

6 MR. JONES: You're the last one and,  
7 essentially, the restriction is, you sign up and, if you  
8 or someone from your organization, you would end up going  
9 to bottom of the list. So, if you did testify now, he  
10 would go to the bottom of the list in Nashville.

11 If there's enough time --

12 (Many asides from the audience.)

13 MR. COULTER: Okay, Bob, we don't want to get  
14 you in trouble with your boss; we'll listen to him in  
15 Nashville.

16 Folks, we want to thank you very much for  
17 staying with us the whole day and we appreciate all of  
18 your input. Remember, we take written comments, as well,  
19 and we wish you good luck and get home safely tonight.

20 (Whereupon, at 5:43 p.m., the proceedings in  
21 the above-entitled matter were closed.)

22 oOo

1                   **CERTIFICATE OF OFFICIAL REPORTER**

2           **This is to certify that the attached**  
3 **proceedings before the PRESIDENT'S COMMISSION ON**  
4 **EXCELLENCE IN SPECIAL EDUCATION in the matter of:**

5           **Name of Proceeding:**

6                                   **FINANCE TASK FORCE**

7

8

9                                   **PUBLIC MEETING**

10

11

12

13           **Place:                   LOS ANGELES, CALIFORNIA**

14           **Date:                    THURSDAY, MARCH 21, 2002**

15

16 **were held as herein appears, and that this is the original**  
17 **transcript thereof for the file of the President's**  
18 **Commission on Excellence in Special Education, and is a**  
19 **full, correct transcription of the proceedings.**

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Official Reporter