

## CHAPTER 339

AN ACT establishing the Special Education Review Commission.

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

1. The Legislature finds and declares that:
  - a. the proportion of the total State public education enrollment that is classified for special education services has steadily increased over the past seven years;
  - b. students are classified into Tiers according to the special education services needed, with the services provided to students in Tier II being the least costly and the services provided to students in Tier IV being the most costly;
  - c. over the past seven years, the number of students classified in Tier IV has grown from 10,175 to 28,424, an increase of 18,249 (179%), while the number of students classified in Tier II has grown from 111,620 to 112,052, an increase of 432 (.4%);
  - d. in the 553 nonvocational school districts with a resident enrollment greater than 100, there is great variation in the percent that classified students make up of a district's total residential enrollment: the median percent is 13.8%; the maximum percent is 32.4%; and the minimum percent is 5.3%;
  - e. while the cost factors published in the Biennial Report on the Cost of Providing a Thorough and Efficient Education used to calculate special education aid have increased since the 2001-02 school year, there has been no increase in State aid for special education during this time;
  - f. the number of special education students whose costs are in excess of \$40,000 is increasing dramatically, from 946 in the 1997-98 school year to 7,212 in the 2003-04 school year;
  - g. of the number of special education students whose costs are in excess of \$40,000, the number sent to institutions out-of-State has increased from 113 to 189 (67.3%) and the total cost has increased from \$9.2 million to \$14.4 million (57.5%) over the past three years;
  - h. with increased numbers of special education students and no increase in State aid for special education since the 2001-02 school year, the costs for special education are increasingly being borne by local school districts;
  - i. federal aid for special education, while increasing in the past few years, is still below the 40% commitment contained in the original federal legislation and in light of the federal formula for funding special education in the states, every dollar New Jersey receives is actually worth about \$.67 with respect to the average per pupil expenditure in New Jersey;
  - j. the State and its school districts face a considerable amount of uncertainty and costs with respect to implementing the requirements to include special education students in the Statewide assessments and in the measurement of school and school district adequate yearly progress under the federal "No Child Left Behind Act of 2001";
  - k. the recently enacted "Individuals with Disabilities Education Improvement Act of 2004" includes changes to the "Individuals with Disabilities Education Act" which will impact the delivery of special education services in New Jersey; and
  - l. given the issues the State faces with regard to special education, it is timely for the Legislature to establish a Special Education Review Commission to review the delivery, quality and cost of special education services in New Jersey.

2. There is established a commission to be known as the Special Education Review Commission. The commission shall consist of 30 members as follows: two members of the Senate to be appointed by the President of the Senate who shall not be of the same political party; two members of the General Assembly to be appointed by the Speaker of the General Assembly who shall not be of the same political party; the Commissioner of Education, ex officio, or a designee; the Commissioner of Health and Senior Services, ex officio, or a designee; the Commissioner of Human Services, ex officio, or a designee; the Attorney General, ex officio, or a designee; an Executive Co-Director of the Statewide Parent Advocacy Network, or a designee; one member each to be appointed by the Arc of New Jersey, the New Jersey Developmental Disabilities Council, the New Jersey Association of School Administrators, the New Jersey Association of School Business Officials, the New Jersey Education Association, the New Jersey Parent-Teacher Association, the New Jersey Principals and Supervisors Association,

the Garden State Coalition of Schools, the New Jersey Speech-Language Hearing Association, the Council of Private Schools for Children with Special Needs, ASAH, the Department of Education's Advisory Committee on Nonpublic Schools and the New Jersey School Boards Association; and eight members to be appointed by the Governor, one of whom shall be from a county special services school district, two of whom shall be public members who are either gifted disabled individuals or parents of gifted disabled individuals, and five of whom shall be public members knowledgeable about the disabilities requiring special education services and experienced in the delivery of those services.

3. Appointments to the commission shall be made within 30 days of the effective date of this act. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments were made. Members of the commission shall serve without compensation but shall be entitled to their actual and necessary expenses incurred in the performance of their duties pursuant to this act.

4. a. The commission shall organize within 30 days after the appointment of its members and shall select a chairperson and a vice-chairperson from among its members and a secretary who need not be a member of the commission.

b. Staff and related support services shall be provided to the commission by the Department of Education. The commission shall also be entitled to call to its assistance and avail itself of the services of the employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available to it for its purposes.

5. It shall be the duty of the commission to study the issues associated with the delivery, quality, cost and funding of special education services for New Jersey students. The commission shall include in its study the unique issues of gifted and disabled individuals who are students at elementary or secondary schools. In studying the issues of gifted and disabled individuals the commission shall assess ways to improve access to available services, reduce duplications of effort and create new programming to meet those needs that are not currently being met.

6. The commission may meet and hold hearings at the place or places it designates during the sessions or recesses of the Legislature and shall issue a final report of its findings and recommendations, including any recommended legislation, to the Governor and the Legislature no later than the 180th day following its organizational meeting.

7. This act shall take effect immediately and the commission shall expire upon submission of its report to the Governor and Legislature pursuant to section 6 of this act.

Approved January 12, 2006.