

BOARD OF EDUCATION OF THE  
BOROUGH OF LITTLE FERRY,

:

PETITIONER,

:

V.  
EDUCATION

COMMISSIONER OF

MAYOR AND COUNCIL OF THE  
BOROUGH OF LITTLE FERRY,  
BERGEN COUNTY,

:

DECISION

:

:

RESPONDENT.

:

\_\_\_\_\_:

SYNOPSIS

Board appealed General Fund tax levy reductions in the amount of \$192,000 made by governing body following voter rejection of proposed budget on April 15, 1997.

Upon review of the appeal herein to determine whether Board demonstrated that restoration of specific line-item reductions was necessary in order to provide stability in the District pursuant to CEIFA, Commissioner determined to restore \$136,783 for a total General Fund tax levy of \$8,376,918 for 1997-98 school purposes.

February 2, 1998

BOARD OF EDUCATION OF THE :  
BOROUGH OF LITTLE FERRY, :  
 :  
 PETITIONER, :  
 V. : COMMISSIONER OF EDUCATION  
 :  
 MAYOR AND COUNCIL OF THE : DECISION  
BOROUGH OF LITTLE FERRY, :  
BERGEN COUNTY, :  
 :  
 RESPONDENT. :  
 \_\_\_\_\_ :

For the Board of Education, Ferrara, Turitz, Harraka and Goldberg  
(Stanley Turitz, Esq.)

For the Mayor and Council, DeCotiis, Fitzpatrick and Gluck  
(John J. Langan, Jr., Esq.)

PROCEDURAL HISTORY

This matter was opened before the Commissioner of Education on May 23, 1997 through the filing of a Petition of Appeal by the Little Ferry Board of Education (Board), seeking restoration of reductions to the school budget made by the Mayor and Council of the Borough of Little Ferry (Council) pursuant to *N.J.S.A. 18A:22-37* following defeat of the budget at the annual school election on April 15, 1997.

At that election, the voters rejected a public question proposing a General Fund tax levy of \$8,432,135 for the 1997-98 school year. On May 13, 1997, following consultation with the Board as required by law, the Council adopted a resolution determining to certify a General Fund tax levy of \$8,233,897 as sufficient to provide for a thorough and efficient system of education (T&E) in the District. This amount represented a reduction of \$198,238 from the tax levy proposed by the Board, and was

effectuated through cuts in nine line items, for the reasons given in the schedule attached to the implementing resolution. The reductions detailed in that schedule totaled only \$192,000, notwithstanding that the amount certified reflected an actual reduction of \$198,238, the difference having been erroneously added to the amount of debt service certification, which was set at \$485,022 rather than \$478,784 as proposed by the Board. By resolution dated May 15, 1997, the Board determined to appeal the Council's reductions and duly filed the within petition.

The amounts in dispute in this appeal are thus as follows:

<u>Tax Levy Proposed by Board</u>		<u>Tax Levy Certified by Council</u>	
General Fund	\$8,432,135	General Fund	\$8,233,897
Debt Service	\$ 478,784	Debt Service	\$ 485,022
<u>Amount of Reduction by Council</u>		<u>Amount of Reduction in Dispute</u>	
General Fund	\$198,238 (Actual)	General Fund	\$198,238
	\$192,000 (Intended)		(\$192,000)

An answer to the Board's petition was filed by the Council on June 9, 1997. On June 10, 1997, the Board indicated that it would rely on the arguments and materials submitted with its petition as its position statement required pursuant to *N.J.A.C. 6:24-7.8*; the Council's position statement was submitted on July 7, 1997. On July 9, 1997, the Board filed a brief statement of reliance on prior submissions in response to the Council's position statement.

In addition, as the parties had been advised by letter from the Assistant Commissioner dated April 16, 1997, distributed through the County Superintendent to boards and municipalities experiencing budget defeats and again in conjunction with proceedings herein, as part of the record of the within appeal, the Commissioner took official notice of the Board's revised budget, its June 30 financial report to be filed by August 1 pursuant to *N.J.S.A. 18A:17-10*, applicable portions of the School Report Card and the Comparative Spending Guide, and the annual audit for purposes of verifying surplus information given in the June 30 report and any prior year data relied upon by the Commissioner in making his determinations.

Consistent with the above, upon filing of the Board's annual audit, the record of the within appeal was closed and the matter duly proceeded to determination.

### STANDARD OF REVIEW

In rendering judgment relative to budgetary appeals, the Commissioner notes that the Constitution of the State of New Jersey requires the Legislature to provide for a thorough and efficient system of education. The Legislature by way of statutory scheme has delegated the responsibility for providing such thorough and efficient system to local boards of education. Additionally, the Legislature pursuant to *N.J.S.A. 18A:6-9, 22-14, 22-17 and 22-37* has authorized the Commissioner of Education to review and decide appeals by boards of education seeking restoration of budgetary reductions imposed by local governing bodies. In reviewing such appeals, the Commissioner's standard has historically been whether a district board of education has demonstrated that the amount by which a specific line-item reduction imposed by the governing body is necessary for the provision of a thorough and efficient system of education (T&E). *Board of Education of East Brunswick Township v. Township Council of East Brunswick*, 48 *N.J.* 94 (1966) and *Board of Education of Deptford Township v. Mayor and Council of Deptford Township*, 116 *N.J.* 305 (1989). However, on December 20, 1996, the Legislature enacted the Comprehensive Educational Improvement and Financing Act of 1996 (CEIFA), wherein a prescribed level of expenditure range was established as sufficient for provision of T&E, and appeal of General Fund budget amounts in excess of that range, following voter defeat and municipal reduction, was expressly restricted to grounds of negative impact on the stability of the district given the need for long-term planning and budgeting. Additionally, the Act provided for standards of efficiency to be established by the Commissioner, setting forth the appropriate cost of the various programs, services, activities and materials necessary to achieve T&E. *P.L. 1996, c. 138; N.J.S.A. 18A:7F-1 et seq.*)

In the present instance, the Board proposed a General Fund budget including \$496,465 in excess of the T&E amount established for the District pursuant to CEIFA. Accordingly, appeal of reductions may be made only on grounds of stability.

Mindful, then, of the standard to be applied, the Commissioner makes specific determinations as set forth below.

#### COMMISSIONER'S DETERMINATION

By way of general comment, the Board, through the certification of its superintendent, states that the current budget is 100 percent zero-based, with no extra money anywhere; that the District is currently facing a deficit of \$50,789; that a \$169,000 tuition adjustment is owed to Ridgefield Park, which must be paid by 1998-99 and for which there is no offsetting surplus; and that the District has been hit with a number of unanticipated special education placements, the costs of which have consistently necessitated taking money away from regular education. Under these conditions, the stability of the District cannot be maintained, nor can T&E, in the wake of Council's reductions.

The Council generally contends that its reductions were neither arbitrary nor unreasonable, being based on a report prepared by the borough auditor after examination of the Board's records. Indeed, although this report recommended \$381,000 in reductions, the Council opted for reduction of only \$192,000 of the Board's proposed \$911,650 increase over last year's tax levy, thus leaving the Board with an increase of 7.84 percent. The Council avers that this amount should be more than adequate to provide T&E.

In addition to these general statements, the parties argue for and against specific reductions. Following each reduction listed below, the Council's rationale as stated in the schedule appended to its implementing resolution is set forth in full. The arguments of the parties on appeal follow thereafter, with each section concluded by the determination of the Commissioner.

#### Disputed Line-Item Number 1

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
2510	11-120-100-101	Gr. 1-5 Teacher Salaries	\$1,412,882	\$15,000

The Board has budgeted for an additional third grade teacher due to increased enrollment. The position is currently budgeted at \$50,448. The position should be sufficiently funded with an appropriation of \$35,000.

The Board contends that the Council has offered an unsupported conclusion and failed to look at the fact that the \$50,448 budgeted refers to an actual person currently employed by the school system who would take over the duties of the extra third grade teacher. Whether this teacher teaches third grade or not, her salary is \$50,448 and would need to be paid. However, the District requires five sections of third grade classes for the 1997-1998 school year to keep class sizes to a maximum of 25 students as per Board policy. Assuming *arguendo* that the same number of students who attended second grade in the 1996-1997 school year move to third grade, five classes will be moving to what is currently four sections of third grade. The Board further notes that Council's position on salary is not taking into consideration the important fact that the Board renegotiated the teachers' union contract, which would have called for automatic 8 - 10 percent increases, and obtained a new contract calling for only 3.99 percent increases, a substantial savings to the Board and taxpayers.

Council contends that its understanding was that this position was to be a newly created one, the need for which arises from increased enrollment; this being so, \$35,000 is an ample entry-level starting salary based on past hiring practices.

Upon review, the Commissioner notes that the Board is not compelled to hire its additional third grade teacher from outside the District, and that, having made a managerial determination to transfer a current staff member, its arguments as to the need to maintain current salary have refuted the assumption on which the Council's reduction is based. In the absence of any evidence by Council demonstrating that the position vacated by the transferee can be filled at less than current cost, the Commissioner notes that the Board spends well within the efficiency levels established pursuant to CEIFA for teacher salaries and determines in the interest of stability to restore the Council's reduction of \$15,000.

Disputed Line-Item Number 2

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
2640	11-190-100-106	Other Salaries/Instruction	\$70,931	\$6,000

The reductions recommended are for the following: One of two additional part-time aides which have been budgeted for 1997-98 at \$6,000 each.

The Board argues that NI classes are limited by federal and state regulation to eight students each with an age range of no more than three years from the youngest to the oldest student in each class, and that April 30, 1997 enrollment statistics for current NI class counts show that three of the Board's four classes have over eight students in them, thus mandating an additional full-time teacher aide. The Board has proposed hiring two half-time aides rather than one-full time aide to avoid paying benefits and effectuate a cost savings to the District and taxpayers. Any reduction in this area would put the Board in a position of violating statutory and regulatory requirements in that students are entitled to the least restrictive appropriate placement. The Council's position offers no statement whatsoever as to how the Board might provide for the IEPs of these students under the Council's plan. Therefore, the Council fails to meet its obligation of providing a rationale for this recommended budget reduction.

The Council maintains that its reduction is appropriate under the circumstances.

Upon review, the Commissioner finds that Council has offered no basis for its assertion that only one part-time aide is necessary. Accordingly, the Board having demonstrated its need for the position and the Commissioner noting that the Board spends well within efficiency levels for aides established pursuant to CEIFA, the Commissioner restores the \$6,000 reduction.

Disputed Line-Item Number 3

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
2680	11-190-100-610	Gen. Supplies/Instruction	\$110,683	\$40,000

The 1997-98 budget provided for an increase of 24 percent over the 1996-97 revised appropriation. A reduction of \$15,000 will still provide for an increase of approximately 7.5 percent.

An additional \$25,000 has been reduced due to costs which have been reallocated [from] account #11-000-240-500 - Support Services - School Administration.

The Board contends that Council's argument regarding an increase of 24 percent over the 1996-1997 revised appropriation is clearly wrong, as the proposed 1997-1998 budget for 11-190-100-610 is \$110,683, while the revised appropriations for 1996 - 1997 are \$124,901. This is not a 24 percent increase, but in fact an 8.8 percent *decrease*.

Moreover, the Board contends, the Board's budget is zero-based. Rather than project from past history, the Board specifically itemizes its needs for the coming year. Increased budget needs derive directly from increased enrollment and increased prices of Board-approved curricular materials. In many cases the Board plans to carry little or no inventory in supply items even though continued upward enrollment pressure is extremely likely. Furthermore, the State Report Card shows that Little Ferry has consistently spent below the statewide average level of spending in this area. The Report Card shows that in 1994-1995, Little Ferry spent \$149 per pupil, compared to a state average of \$186. In 1995-1996, Little Ferry spent \$157 compared to a state average of \$187. In 1996-1997, Little Ferry spent \$168 compared to a state average of \$192. Clearly, the state average continues to rise; however, Little Ferry has proposed a *decrease* in spending in this area for 1997 - 1998 which would *further* lower its spending in comparison to state averages.

With respect to the proposed additional \$25,000 cut in the area of Support Services School Administration, the Board contends, the Council's argument that this money was reallocated from another line that existed last year is unsubstantiated. While the Little Ferry School District has indeed rebuilt its Chart of Accounts to be GAAP compliant and charged expenditures to lines that did not exist in the 1996-1997 budget, the account lines where these moneys used to exist are no longer in existence. The



following codes were collapsed into 11-000-240-500: 11-000-240-440, 11-000-240-500, and 11-000-240-580. These codes did not exist in the 1996-1997 budget. 1) 11-000-240-440 (Other Purchased Services Rentals) contains all of the schools' photocopier maintenance and copy charges for the 1997-1998 budget. In the 1996-1997 budget, this item was charged to 11-000-260-420-03-999, which no longer exists. The Board has simply eliminated accounts that are not GAAP compliant and charged the expenditures to the proper GAAP account. If money is cut from this line, it would mean the school would have to drastically reduce the number of copiers it has, when it already does not have enough copiers to service the needs of the students and staff. 2) 11-000-240-500 (Other Purchased Services School Administration) items used to be charged to 11-000-222-610-00-999; the Board simply charged these services to a different line item and eliminated the old line. The services charged include a contract for software licensing from New Century Education which does not expire for two more years, so that any cut would translate into a violation of a signed three-year contract for services that the students use on a daily basis. 3) 11-000-240-580 did not exist in the Little Ferry Board of Education's 1996-1997 Chart of Accounts. Thus, any expenditures in this area had to be charged to a different line item, which was not correct according to GAAP. The Board was advised by its auditor that it must have this line to be able to properly charge travel expenditures. Furthermore, two principals are entitled to reimbursement for travel expenses to meetings and conventions as per their union contract, so that no cut is possible here.

The Council argues that the line item 11-190-100-610 had been budgeted in the 1996-97 school year for \$88,865. The proposed 1997-98 budget contains a line item (number 610) budgeted at \$110,683 with an additional line item for supplies of \$45,474 (11000-240-500), thereby totaling \$156,157 for supplies in the 1997-98 budget when the previous year's allocation was \$88,865. Even after the cut of \$15,000 in line number 610 and \$25,000 in line number 500, the allocation for General Supplies totals \$116,157, versus \$88,865 for the 1996-97 year, representing an increase of 31 percent.

Upon review, the Commissioner finds the record to support the Board's assertion that the extraordinary increase perceived by Council is, in fact, due in substantial part to recoding of expenditures from the prior year's budget, and that the Board has

demonstrated the need for the funds reduced in order to maintain stability. Additionally, the Commissioner notes that the Board spends well within established levels of efficiency for the items allocated to this account. Accordingly, the Commissioner determines to restore the Council's reduction of \$40,000.

Disputed Line-Item Number 4

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
6610	11-000-219-320	Purch. Prof. Services	\$28,800	\$18,000

This reduction is based upon withdrawal from the Region VI Council for Special Education and contracting with another special education provider.

The Board argues that, while the Council is correct that the Region VI Council for Special Education will dissolve on June 30, 1997, the students currently being serviced by this program must be placed elsewhere, as Little Ferry is still responsible for providing them with services required by their IEPs. The way Region VI was structured, costs for services such as transportation, physical therapy and occupational therapy were averaged; under any new arrangement, costs are likely not to be averaged, but actual. Over the last three years, Special Education costs have outstripped the other areas of the budget. It is not only prudent and wise to expect these costs to increase with an overall increase in population, such as Little Ferry has had, it is also necessary to project these costs so that services mandated by the students' IEPs are provided as required by law.

The Council contends that as a result of the disbanding of Region VI, there are no contractual obligations to pay; thus, its cut should have been the full \$28,000, not just \$18,000, as the services referenced should be provided "in-house".

Upon review, the Commissioner finds that the Council's assertion is reasonable and that the Board has not provided a compelling factual basis for refuting it. No showing having been made that the disputed amount is necessary to maintain stability, the Commissioner determines to sustain the \$18,000 reduction.

Disputed Line-Item Number 5

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
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6810	11-000-221-500	Purch. Serv./Improvement	\$10,000	\$5,000
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This reduction still provides a \$5,000 appropriation for a program which was not budgeted in 1996-97.

The Board argues that Council did not look at the entire picture when reaching its conclusion, as this money was indeed budgeted in the 1996 - 1997 school year, albeit under a different account code. It argues that, in this line in the 1997 - 1998 budget, there is \$4000 budgeted for In-Service for staff and \$6000 for staff attendance at workshops. In the 1996 - 1997 budget, \$4000 was budgeted for In-Service for staff in line 11-190-100-320-00-061. This line was eliminated for 1997 - 1998 and folded into 11-190-221-500 to be GAAP compliant. An amount of \$6000 was budgeted in the 1996 - 1997 budget for workshops for staff under line 11-190-100-320-00-062, which line was also eliminated and folded into 11-190-221-500 to be GAAP compliant. The Board avers that professional development standards are both recognized in the Board's union contract and encouraged by the Commissioner as a matter of State policy. According to the Board, any cuts in this line will impair the Board's ability to in-service teachers with respect to integration of the Core Curriculum Standards into the current program.

The Council states that its resolution speaks for itself.

Upon review, the Commissioner finds that the increase perceived by Council is, in fact, due to recoding. The basis for the reduction having been refuted, the Commissioner determines that loss of the budgeted funds would be detrimental to the stability of the District and restores the \$5,000.

Disputed Line-Item Number 6

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
6980	11-000-230-820	Judgments Against District	\$30,000	\$15,000

This reduction is based upon the vagueness of the budget detail worksheets.

The Board argues that the cut proposed by Council would greatly affect the stability of the District. The Board notes that it has two lawsuits pending against it as

of May 19, 1997, a personnel issue involving the Director of the Region VI Council for Special Education, who has indicated that he will be taking legal action for which the Board would be partially responsible, and a claim by Energy Consortium for the Washington School Heating Work Contract, for which the Board needs to pay International Fidelity Insurance Company \$12,722.15 for work completed (minimum amount pending acceptance of settlement). Additionally, the Board argues, it is liable for bills incurred to defend suits against it, as per its contract signed with its Board Attorney, and has budgeted based on a three-year spending pattern. Any expenditures above the amount left after reduction would require funds to be transferred from another line, and there are no such monies available, nor does the District have any surplus.

The Council contends that it could not, based upon the Board's submission, justify this allocation and it, therefore, made a cut of \$15,000 from \$30,000. It did not cut the entire amount, notwithstanding the vagueness of the submission by the Board, since there have been no judgments entered at this time. Council believes that an increase of \$700,000 over the prior year's budget should have taken into consideration all contingencies, including potential judgments. There also should be a surplus, which can be used if any judgments are ever entered against the Board over and above the amount left following reduction.

Upon review, the Commissioner finds this account to include several items which should have been budgeted under 11-000-230-331, Legal Fees. When these two accounts are viewed in tandem, the Commissioner finds the Board to be spending within efficiency levels established pursuant to CEIFA for recurrent and ordinary legal fees, and to have projected appropriately for potential judgments against it. Accordingly, the disputed funds are necessary to maintain stability and the \$15,000 reduction is restored by the Commissioner.

Disputed Line-Item Number 7

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
7070	11-000-240-600	Supplies and Materials	\$10,200	\$3,000

The 1997-98 budget provides for an increase of \$3,677 or 56 percent over the 1996-97 revised appropriations. The reduced appropriation still provides for a 10 percent increase over the 1996-97 appropriations.

The Board contends that Council's figures are completely incorrect, as evidenced by the budget detail which shows the 1996-1997 revised appropriation as \$9,000 and the 1997-1998 appropriation as \$10,200. This is definitely not a 56 percent increase over the previous year, but only a \$1,200 increase. Moreover, this increase is necessary to cover the cost of graduation expenses, which were not budgeted in 1996-1997, and resulted in monies being taken from other lines. This is counterproductive to stability, as departments cannot realistically manage their budgets when they are susceptible to line-item transfers. Putting graduation expenses into the 1997-1998 budget represents sound, proactive planning.

The Council states that its resolution speaks for itself.

Upon review, the Commissioner finds that notwithstanding the Council's misunderstanding of the actual level of increase, which the record shows to support the Board's position, its assumption of sufficient funds available in the account after reduction is borne out by a comparison of the District's budgeted expenditures and the levels of efficiency for supplies and materials established pursuant to CEIFA. Accordingly, the Commissioner sustains the Council's reduction of \$3,000.

Disputed Line-Item Number 8

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
12620	11-000-291-220	Social Security Contrib.	\$80,000	\$15,000

This reduction is based upon the projected 1997-98 requirements as compared to the 1996-97 projected actual expenditures.

The Board states that in 1995-1996, the District spent \$73,437.40 for FICA. In 1996-1997, the District has spent \$49,242.40 in this line at the time of its appeal submissions, which did not include posting of the May 15 payroll.

The Council states that there was insufficient information to justify this request at the time of budget preparation, therefore the \$15,000 line item cut was clearly justified. Based upon the recent reports received by the Board, however, the Council now

acknowledges that the monies are necessary and that its request for reduction should be withdrawn.

Upon review, the Commissioner is satisfied that this reduction of \$15,000, now withdrawn by the Council, must be restored in order to maintain District stability.

Disputed Line-Item Number 9

<u>Line No.</u>	<u>Account No.</u>	<u>Description</u>	<u>Amount Budgeted</u>	<u>Amount Cut</u>
12680	11-000-291-270	Health Benefits	\$571,699	\$75,000

This is based upon the two (2) month premium holiday which has been announced by the State Health Benefits Plan to occur in the 1997-98 budget year.

The Board argues that Council ignored the fact that the two-month premium holiday was taken into consideration when preparing the budget. The one-year history of benefits payments to the State Health Benefits Plan is as follows:

May 1996	\$38,125.42
June 1996	\$38,296.93
July 1996	\$42,771.68
August 1996	\$43,915.53
September 1996	\$41,289.75
October 1996	\$38,315.61
November 1996	\$39,463.96
December 1996	\$39,440.66
January 1997	\$37,743.23
February 1997	\$36,320.38
March 1997	\$35,588.32

Furthermore, the Board contends, there are ten new positions which will require benefits. These positions could cost up to \$10,000 each, equating to \$70,000. The average month is \$39,180.75. Thus, \$39,180.75 x 10 months of service equates to \$391,807.50. However, there is \$436,024.00 budgeted for health benefits, the difference being due to costs associated with an employee on the family health benefits plan who was

not formerly the Board's responsibility but will become so for this fiscal year as a result of dissolution of the Region VI Council for Special Education. Additionally, an amount of \$34,216.50 is necessary to have in the budget because the Board is two months behind in its health benefits payments. According to advice given by the auditing firm of Lerch, Vinci and Higgins, the Board requested permission from the State to delay the payment of two months of benefits due to financial constraints, and although permission was granted, these two months of payments are still due and need to be paid back. The Board is planning to buy back one month in its 1997 - 1998 budget and one month in its 1998 - 1999 budget.

The Council references the analysis performed by the auditors for the Borough of Little Ferry, together with the letter from the Department of the Treasury regarding the State Health Benefits local group rate action with the announcement of the two-month premium holiday to occur in the 1997-98 budget year. Furthermore, the Board provided for ten new positions in their proposed budget, which Council believes to be excessive and unsubstantiated. Council has recognized that three new positions may be required, when they set forth an appropriation of \$448,200 versus the Board's requested \$676,024 for this line item, a difference of \$127,824. Assuming there may be other contingencies, the Council has only reduced this line item by \$75,000, as opposed to the recommended \$127,824 by the Borough's auditors. The Council has provided an additional \$52,824 over the auditors' recommendation even if the Board were to create more than three new positions in the next budget year.

Upon review, the Commissioner finds the record to support the Board's assertions that it already considered the premium holiday in budgeting for this account. However, review of the year-end audit for the 1996-97 school year shows that the two months' payment obligation deferred by State consent was, in fact, charged to this account in the 1996-97 budget year, as is appropriate under GAAP. Therefore, there is no basis for including these amounts yet again in the 1997-98 and 1998-99 budgets; when the cash payment is made, it will be charged against the accounts payable established at June 30, 1997 for this liability, so that this issue is one of cash flow, as opposed to budgetary need. Finally, with regard to Council's assertions that the Board may need only seven of its ten

projected new positions, the Commissioner holds that, that contention not having been argued or supported through reductions elsewhere, the Council may not reasonably seek to cut benefits for those positions when reviewing the instant line item. Accordingly, the Commissioner sustains that portion of the Council's reduction attributable to the 1996-97 payment deferred to the present budget year, i.e., \$34, 217, and restores the remaining \$40,783 as necessary to maintain the stability of the District.

#### APPLICATION OF SURPLUS

In its advertised annual school District budget statement, the Board projected a deficit in surplus, and allocated no surplus funds as revenue. The Board's annual audit substantially confirms this projection, showing a negligible level of undesignated unreserved surplus. Accordingly, there are no funds here available to offset restorations made by the Commissioner.

#### RESTORATION DUE TO CERTIFICATION ERROR

The Commissioner notes, as set forth above, that while the Council intended only \$192,000 in line-item reductions, it actually certified a General Fund tax levy reflecting reductions of \$198,238, having erroneously certified the additional \$6,238 as Debt Service levy. Accordingly, there being no basis for the reduction to General Fund levy, the Commissioner directs restoration of the \$6,238. However, he concomitantly directs that the 1997-98 Debt Service levy be amended to reflect the correct amount of \$478,784 rather than the \$485,022 erroneously certified by Council.

#### SUMMARY

In summary, the Commissioner directs restoration or sustaining of the Council's line-item reductions to appropriations as set forth below.



<u>Line Item</u>	<u>Description</u>	<u>Sustained</u>	<u>Restored</u>
11-120-100-101	Gr. 1-5 Teacher Salaries	\$ -0-	\$ 15,000
11-190-100-106	Other Salaries-Instruction	-0-	6,000
11-190-100-610	Gen. Supplies/Instruction	-0-	40,000
11-000-219-320	Purch. Prof. Services	18,000	-0-
11-000-221-500	Purch. Serv./Improvement	-0-	5,000
11-000-230-820	Judgments Against District	-0-	15,000
11-000-240-600	Supplies and Materials	3,000	-0-
11-000-291-220*	Social Security Contributions*	-0-*	15,000*
11-000-291-270	Health Benefits	<u>34,217</u>	<u>40,783</u>

\*Request for reduction withdrawn by Council

Total Line-Item Determinations: \$ 55,217 \$136,783

General Fund Tax Levy Certified by Governing Body: \$8,233,897  
Restoration of Reductions: 136,783  
Restoration Due to Certification Error 6,238  
Amount of Restoration Funded by Surplus: (0)

Total General Fund Tax Levy for 1997-98: \$8,376,918

Debt Service Certified by Governing Body \$ 485,022  
Debt Service Levy Certified in Error (6,238)

Total Debt Service Tax Levy for 1997-98 \$ 478,784

Accordingly, the Bergen County Board of Taxation is directed to make the necessary adjustments, as set forth above, to reflect a total of \$8,376,918 to be raised in tax levy for General Fund purposes, and a total of \$478,784 for Debt Service purposes, of the Little Ferry Board of Education for the 1997-98 school year.

IT IS SO ORDERED.

COMMISSIONER OF EDUCATION

February 2, 1998