

# **UNNOTICED \$500,000,000 SCANDAL IS A WARNING FOR NEW JERSEY**

## **PROPUBLICA EXPOSES MASSIVE ABUSES IN NJEA-CONTROLLED SCHOOL HEALTH PROGRAM WHILE GOVERNOR MURPHY, NJEA PUSH THE “NJEA’S SOLUTION” IN THE LEGISLATURE**

### **EXECUTIVE SUMMARY**

In late December, the investigative journalists at ProPublica did a great service to New Jersey citizens by exposing a major healthcare scandal – a classic case of hundreds of millions of dollars of government waste, (possible) fraud, and abuse. Unfortunately, ProPublica’s good work passed largely unremarked by elected officials and the media. Maybe it was the pre-holiday timing. But with Governor Murphy and the New Jersey Education Association (NJEA) pushing a new NJEA-backed healthcare bill in the legislature (A-5814/S-4114) – dubbed the “NJEA’s solution” by the NJEA - all New Jersey should be aware of the massive abuses ProPublica found in the NJEA-controlled School Employees’ Health Benefits Program (SEHBP) and understand why they occurred.

Importantly, ProPublica revealed that this waste of taxpayer dollars could not have occurred without the NJEA-created and -controlled SEHBP. Due to skyrocketing costs, the State healthcare program for State employees, the State Health Benefits Program (SHBP), capped out-of-network payments in 2015. But the separate, NJEA-controlled SEHBP still permits unlimited out-of-network reimbursements and, despite being aware of the abuses, continues to stonewall needed reforms. The result is half-a-billion taxpayer dollars squandered on \$677 acupuncture sessions. New Jersey citizens and their elected representatives should demand that this still-ongoing wrong be righted immediately.

The SEHBP was created by an insider deal between Governor Jon Corzine and the NJEA - then, as now, New Jersey’s most powerful special interest. A-5814 is another insider deal, this time between Governor Murphy and the NJEA. Before considering another NJEA-engineered healthcare bill, New Jersey’s elected representatives must recognize that there are hundreds of millions of dollars of savings at our fingertips if only the NJEA agreed to stop the abuses ProPublica exposed, or adopted the same health plans as our State government workers. But the “NJEA’s solution” leaves the scandal-plagued SEHBP unreformed while lowering school employee contributions for their most-generous-in-the-nation health benefits. Who is looking out for New Jersey taxpayers, the people who fund these exceptionally costly health plans with their hard-earned dollars?

New Jersey must learn from the ProPublica scandal. With Governor Murphy’s help, the NJEA is seeking to reshape the State’s government healthcare programs, but the “NJEA’s solution” is exactly as advertised: another good deal for New Jersey’s most powerful and well-connected special interest but another bad deal for regular, taxpaying citizens.

# **I. THE PROPUBLICA INVESTIGATIVE REPORT: A SUMMARY**

## **1. The Healthcare Scandal: “Hundreds of Millions of Dollars” of Excessive Payments**

The title of the ProPublica investigative report says it all: **“What Happens When a Health Plan Has No Limits? An Acupuncturist Earns \$677 a Session.”**<sup>1</sup> You read that right: \$677 for an acupuncture session. That’s what is happening under the NJEA-controlled SEHBP, the state-run healthcare plan that covers school employees in about one-third of New Jersey’s school districts. And New Jersey taxpayers are footing the bill.

ProPublica’s facts are damning. It turns out that the SEHBP has a lucrative carve-out for out-of-network service providers: SEHBP “will cover virtually anything they charge.” In 2018, SEHBP paid out-of-network acupuncturists and physical therapists an average of more than \$600 per visit – dwarfing the fees paid to medical specialists like gynecologists and psychiatrists. In 2018, more than **70 acupuncturists and physical therapists earned more than \$200,000 from their school employee clients alone**. One earned over \$1,000,000. In total, “the glut of out-of-network payments has consumed **hundreds of millions of dollars** in the past four years.”

ProPublica catalogued a number egregious cases where high-end providers were specifically targeting school employees, and where SEHBP was paying as much as 10-12 times the rate paid by the SHBP, the state’s healthcare program for State and local government employees. Indeed, ProPublica highlights a number of questionable providers who may be engaged in outright fraud. **One state official likened teachers to “prey” for unscrupulous service providers.**

ProPublica singles out Thompson Healthcare& Sports Medicine, which was paid \$11.2 million by the state in 2018 for providing chiropractic services, acupuncture and physical therapy to teachers. Here’s the break-down of the excessive payments to Thompson (Table 1):

TABLE 1: SEHBP PAYMENTS TO THOMPSON

<u>Type of Service</u>	<u>SEHBP Payment</u>	<u>SHBP Payment</u>
Physical Therapy	\$321	\$33
Acupuncture	\$465	\$44
Chiropractor	\$161	\$25

**Why such a large discrepancy between SEHBP and SHBP?** Because **in 2015 SHBP capped its out-of-network payments**. Prior to 2015, SHBP had no caps but “alarmed by runaway costs,” its plan design committee capped the payments and brought them in line with what in-network providers were paid, which “drastically reduced the costs” while maintaining quality of care.

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<sup>1</sup> Unless otherwise footnoted, all facts, figures and quotes in this section from Marshall Allen, “What Happens When a Health Plan Has No Limits? An Acupuncturist Earns \$677 a Session,” ProPublica, December 19, 2019, <https://www.propublica.org/article/what-happens-when-a-health-plan-for-teachers-has-no-limits-an-acupuncturist-earns-677-a-session>.

The state estimated that **if SEHBP capped these out-of-network payments, the plan could save \$130 million per year and reduce medical premiums by 8 percent.** Teachers, districts and taxpayers would all benefit.

Because of the SEHBP's uncapped payments are so generous, these providers are apparently able to circumvent the plans' lone built-in check on excessive fees: the 20-30 percent co-insurance amount that school employees are supposed to pay, which in theory would limit the spending and help keep reimbursements down. ProPublica reports that state officials suspect that some providers are waiving this co-insurance to draw school employees in, and they are investigating.

## **2. The NJEA-Controlled SEHBP Plan Design Committee Blocks Proven Reforms**

Christin Deacon, the Assistant Director of the Division of Pensions and Benefits overseeing health benefits, described the importance of SHBP's 2015 change: "they changed the payment structure so that we couldn't be exploited in this way. **The solution is at our fingertips.**"

But apparently **those who are charged with overseeing SEHBP are uninterested in preventing this sort of exploitation.** It's not that they are unaware of the problem. SEHBP plan design committee chairman Kevin Kelleher, who is Deputy Executive Director of the NJEA, noted that the cost of out-of-network visits had increased by 20-30 percent. Kelleher concluded that SEHBP is "paying somewhere between 10 and 12 times" what a provider is paid by SHBP: "Clearly we see there is a problem, and we need to do something about it."

**Unfortunately, the NJEA's Kelleher is part of the problem, which is the NJEA-controlled plan design committee.** The SEHBP plan design committee has six members, three of which are from the NJEA or its ally, the American Federation of Teachers (AFT). This means that the NJEA can effectively block any reforms, which require a majority vote. And that is precisely what has happened.

## **3. A Major Scandal: Half a Billion Dollars of Avoidable Costs to Teachers, Districts, Taxpayers**

So despite knowledge of the exploitation and the availability a solution "at our fingertips," **the SEHBP design plan committee has taken no action.** What's the overall cost to New Jersey teachers, districts and taxpayers? According to Dini Ajmani, State Assistant Treasurer, if SEHBP had followed SHBP's example and capped out-of-network payments in 2016: **"You're looking at half a billion dollars."**

**The bottom line is that a half a billion dollars is a scandal of major proportions.** New Jersey citizens and their elected representatives should be outraged that their highest-in-the-nation property taxes are being squandered for \$677 acupuncture sessions.

Thank you, ProPublica, for performing a public service by **exposing SEHBP for what it is: a very special government healthcare system under the control of New Jersey's most powerful and**

**well-connected special interest, the NJEA.** New Jersey’s legislators need to take a very close look at the abuses occurring in the SEHBP before they enact new NJEA-backed healthcare legislation.

## **II. THE ROOT-CAUSE OF THE SCANDAL: THE NJEA-CREATED SEHBP**

There’s a reason why SEHBP oversight is stacked in the NJEA’s favor: SEHBP was created precisely so that a friendly governor like Jon Corzine or Phil Murphy can give the NJEA effective control of the SEHBP Commission.<sup>2</sup> The Plan Design Committee is likewise structured to give the NJEA effective control, allowing it to structure plans with exceptionally generous benefits,<sup>3</sup> and once the NJEA-favorable rules are promulgated, use its dominant position to block reforms, **including a 2017 New Jersey School Boards Association proposal to limit out-of-network reimbursements like SHBP did.**<sup>4</sup>

In 2007, working directly with the NJEA-friendly Governor Corzine, the NJEA lobbied for and won the creation of a separate, school-employee-only SEHBP. In touting its policy success, the NJEA highlighted that the SEHBP granted the NJEA greater representation on the commission overseeing SEHBP than it had with the SHBP, **“which will give NJEA a much greater ability to control what happens to members’ benefits in the future than was possible under SHBP.”**<sup>5</sup> So the NJEA’s ability to control SEHBP benefits was part of a deliberate design.

**In addition, the new law eliminated the “uniformity clause,”** which had required that changes made to SHBP plans for State employees be applied to SHBP plans for NJEA members. Had the “uniformity clause” not been eliminated in 2007, the caps placed on SHBP out-of-network payments in 2015 could have been automatically applied to school employees, saving half a

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<sup>2</sup> P.L. 2007, Chapter 103 created a nine-member SEHBP commission made up of three gubernatorial appointees, one School Boards Association appointee, three NJEA appointees, one AFL-CIO appointee, and a chairman appointed from a list agreed to by six of the eight commissioners. New Jersey Education Association, “NJEA members’ benefits made secure ... with NJEA-backed P.L. 2007 Chapter 103,” *NJEA Reporter* 51, no. 1 (September 2007): 2.

<sup>3</sup> The Plan Design Committee was established by P.L. 2011, Chapter 78 and has six members: three gubernatorial appointees, two NJEA appointees, and one AFT/AFL-CIO appointee.

<sup>4</sup> In 2017, the New Jersey School Boards Association, which has a seat on the SEHBP Commission, formally requested that the plan design committee consider limiting out-of-network payments like SHBP did. Rather than placing mandatory caps on such payments for all plans, thereby ensuring that the abuses would cease, the plan design committee merely introduced two new plan options that incentivized in-network care. New Jersey School Boards Association, “NJSBA Applauds Agreement on Health Benefits Reforms,” *njsba.org*, September 18, 2018, <https://www.njsba.org/news-publications/school-board-notes/september-18-2018-vol-xlii-no-8/njsba-applauds-agreement-on-health-benefit-reforms/>.

<sup>5</sup> New Jersey Education Association, “NJEA members’ benefits made secure ... with NJEA-backed P.L. 2007 Chapter 103,” *NJEA Reporter* 51, no. 1 (September 2007): 2.

billion tax dollars.<sup>6</sup>

So the facts are that the NJEA used its cozy relationship with Governor Corzine to carve out a separate health plan for school employees, ensure that the NJEA could control the benefits under the new plan by stacking the SEHBP Commission with NJEA members and allies, and eliminate the requirement that school employees get the same benefits that State workers get.

**The bottom line is that the out-of-network scandal exposed by ProPublica could not have occurred without the NJEA-created and -controlled SEHBP.**

For good reason, then, the *Path to Progress* benefit-reform plan backed by Senate President Steve Sweeney and a bipartisan panel of legislators and private-sector experts seeks to reverse this special carve-out for the NJEA and place all school employees back into the SHBP, with its more balanced oversight structure, and again require uniformity in benefits.<sup>7</sup>

Of course, the NJEA has resisted any and all efforts to shift school employees back to the SHBP. Among its political action highlights for 2019, the NJEA touted its successful lobbying campaign to block S-2455, which would have transferred county college employees and retirees back to the SHBP, because changing plans “would have diminished the voice of higher education members in protecting their health benefits.”<sup>8</sup> A nice outcome for NJEA members, but for the rest of New Jersey, it was just another example of a powerful special interest successfully wielding political power to protect its privileged position.

### **III. SEHBP VS. SHBP: The \$234 Million-A-Year Difference**

Thanks to ProPublica, we now know that a substantial difference between the SEHBP and the SHBP is the SEHBP’s out-of-control, out-of-network benefits, which have cost New Jersey taxpayers hundreds of millions of dollars. But there are other important differences as well, which are also costing New Jersey taxpayers.

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<sup>6</sup> New Jersey Education Association, “NJEA members’ benefits made secure ... with NJEA-backed P.L. 2007 Chapter 103,” *NJEA Reporter* 51, no. 1 (September 2007): 3.

<sup>7</sup> New Jersey Economic & Fiscal Policy Workgroup, *Path to Progress*, August 9, 2018, p. 4. Hereinafter, *Path to Progress*.

<sup>8</sup> Matthew Stagliano, “Small actions make a big difference,” *njea.org*, accessed January 14, 2020, <https://www.njea.org/small-action-make-a-big-difference/>.

## 1. Some facts and some history

Current New Jersey government employees (including school employees) get the most generous health benefits in the nation. According to *Path to Progress*, New Jersey's current state healthcare plans provide "Platinum-level" benefits with an actuarial coverage of 97 percent of total healthcare costs – **the highest percentage of any government healthcare system in the nation.**" (They are actually "Platinum-plus"-level benefits because under the Affordable Care Act, a 90 percent actuarial coverage qualifies as "Platinum," and these plans are at 97 percent). By contrast, the best private-sector plans provide Gold-level health benefits, which cover 80 percent of total healthcare costs.<sup>9</sup>

But it is important to understand that **prior to 2011, 87 percent of school districts provided this Platinum-plus-level coverage for free.**<sup>10</sup> Reflecting this pre-2011 reality, NJEA Executive Director Richard Bonazzi made clear what the NJEA expected: "Full-paid health benefits are the standard for public school employees in New Jersey ... So of course we're angry when a board of education wants you to pay for your health benefits package."<sup>11</sup>

So when the NJEA complains that Chapter 78's requirements for premium-sharing are "unfair,"<sup>12</sup> New Jersey citizens must remember how things were before Chapter 78, when the vast majority of school employees got Platinum-plus-level healthcare benefits for free.

Despite the doomsday rhetoric from the NJEA – echoed by Governor Murphy – Chapter 78's reforms were absolutely necessary. It was unfair for taxpayers to pay 100 percent of the premium costs for Platinum-plus-level health benefits when they, themselves, had to share the cost of premiums for their own families' Gold-level coverage. Bonazzi's comments and sense of entitlement, which reflected the NJEA's collective bargaining stance, look outrageous in retrospect.

Under the 2011 Chapter 78 reforms, all government employees (including school employees) were required to pay a portion of the healthcare premiums for their Platinum-plus-level coverage, ranging from 3 -35 percent, depending on the employee's salary. These requirements

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<sup>9</sup> *Path to Progress*, p. 15, 16.

<sup>10</sup> Before Chapter 78, the New Jersey School Boards Association determined that only 13 percent of school districts required any contribution from employees. Associated Press, "Law's Expiration May Renew Battle Over Benefits," *dailyjournal.com*, January 31, 2016, <https://www.thedailyjournal.com/story/news/local/2016/01/31/laws-expiration-may-renew-battle-benefits/79612412/>.

<sup>11</sup> New Jersey Education Association, "Holding the line against premium-sharing," *NJEA Reporter* 48, no. 1 (September 2004): 16.

<sup>12</sup> The NJEA has mounted a "#FixTheUnfairness" campaign that includes its own website: <https://fixtheunfairness.org>.

still bind SEHBP plans, but Chapter 78’s premium-share requirements for non-SEHBP plans - that is, those under local collective bargaining agreements (CBAs) - have sunset, so school districts may negotiate lower premium-shares. In actual experience, the *Path to Progress* report found that government employees pay an average of 21 percent of their premiums,<sup>13</sup> compared to a nationwide private-sector average of 25 percent.<sup>14</sup> As noted by ProPublica, for school employees, this 21 percent premium-share could be several percentage points lower if out-of-network payments were capped like the SHBP’s.

## **2. A Premium Cost Comparison Between SEHBP and SHBP**

ProPublica mentions that due to sky-rocketing out-of-network costs and other factors, the most popular SEHBP family plan’s premium now costs \$36,000, **“nearly twice the typical costs in other parts of the country.”** The number is actually \$36,147, **which is also 35 percent more expensive than the most popular SHBP family plan** (see Table 2 below).<sup>15</sup> There are many less expensive plans to choose from, but a full **56 percent of school employees choose the most expensive plan.**<sup>16</sup> As reflected by its large premium, its benefits are exceedingly generous.<sup>17</sup> As indicated by ProPublica’s exposure of SEHBP’s out-of-network abuses and the 35 percent difference between the most popular family plans’ premiums, SEHBP’s premiums are costing taxpayers a great deal more than SHBP’s.

**How much more does SEHBP cost taxpayers?** To compare the overall premium cost difference between SEHBP and SHBP, this study will analyze the top three most popular SEHBP plans, the PPO 10 (56 percent), PPO 15 (31 percent) and PPO 0 (5 percent) plans, which in total cover 92 percent of all SEHBP contracts,<sup>18</sup> and then calculate a weighted average premium (WAP) that blends the three plans’ premiums and weights them according to the number of contracts covered by each plan. These WAPs will be compared to comparable premiums in the SHBP’s most popular plan for State workers, CWA Unity 0, which covers 83.2 percent of the workers.<sup>19</sup>

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<sup>13</sup> *Path to Progress*, p. 15.

<sup>14</sup> New Jersey Pension and Health Benefit Study Commission, *Supplemental Report on Health Benefits*, State of New Jersey Department of the Treasury, February 11, 2016, p. 10.

<sup>15</sup> PPO 10 with prescription drug benefit. SEHBP Renewal Report, p. 32.

<sup>16</sup> The PPO 10 option includes both Horizon/NJ Direct 10 plan and Aetna Freedom 10, which are identical plans from different providers. State of New Jersey, Department of the Treasury, Division of Pensions and Benefits, *School Employees’ Health Benefits Program, Plan Year 2020 Rate Renewal Recommendation Report*, August 23, 2019, p. 20, <https://www.state.nj.us/treasury/pensions/documents/hb/rate-renewal/rate-renewal-school-employees-2020.pdf>. Hereinafter, “SEHBP Renewal Report.”

<sup>17</sup> SEHBP Renewal Report, p. 38.

<sup>18</sup> The numbers for the PPO 10, 15 and 0 plans are as of May, 2019 and are the latest available breakdown of the actual number of contracts. They include both the Horizon and Aetna variants of the plans, which are identical. They differ slightly from the projections for the current plan year. SEHBP Renewal Report, p. 20.

<sup>19</sup> SHBP Renewal Report, p. 20.

**Family Plans.** The WAP for the three top SEHBP family plans is \$35,193.<sup>20</sup> By comparison, CWA Unity 0 family plan has a premium of \$26,796.<sup>21</sup> The SHBP plan’s benefits are generous, but again as reflected in the premium, not nearly so generous as the SEHBP’s most popular plans.<sup>22</sup> And of course, since 2015, SHBP’s out-of-network reimbursements have been capped.

To compare the apportionment of premium costs between SEHBP and SHBP, this report will use New Jersey’s median teacher salary of \$68,700 a year. According to the Chapter 78 guidelines, such an employee under both SEHBP and SHBP would have to pay 19 percent of the cost of the premium.<sup>23</sup>

TABLE 2: FAMILY CONTRACTS

Plan	Total Premium	Employee Share (19%)	Taxpayer Share (81%)
SEHBP PPO 10/15/0	\$35,193	\$6,687	\$28,507
SHBP CWA Unity 0	\$26,796	\$5,091	<u>\$21,705</u>
<b>Difference</b>			<b>\$6,802</b>

That’s a difference of \$6,802 in taxpayer costs per family contract. There are currently 18,555 family contracts covered by the top three SEHBP plans.<sup>24</sup> **That’s over \$126.2 million in additional costs paid by taxpayers for SEHBP family benefits.**

**Single Employees.** For single employees, the premium-share would be 29 percent.<sup>25</sup>

TABLE 3: SINGLE CONTRACTS

Plan	Total Premium	Employee Share (29%)	Taxpayer Share (71%)
SEHBP PPO 10/15/0	\$12,414	\$3,600	\$8,814
SHBP CWA Unity 0	\$9,360	\$2,714	<u>\$6,646</u>
<b>Difference</b>			<b>\$2,168</b>

<sup>20</sup> SPCNJ calculations from data drawn from SEHBP Renewal Report, p. 20, 32, 33.

<sup>21</sup>CWA Unity \$0 plan with prescription drug benefit. State of New Jersey, Department of the Treasury, Division of Pensions and Benefits, *State Health Benefits Program, Plan Year 2020 Rate Renewal Recommendation Report, State Employee Group*, August 20, 2019, p. 45, <https://www.state.nj.us/treasury/pensions/documents/hb/rate-renewal/rate-renewal-state-2020.pdf>. Hereinafter, “SHBP Renewal Report.”

<sup>22</sup> SHBP Renewal Report, p. 40.

<sup>23</sup> The premium-share calculation charts for the SEHBP and SHBP are identical. For SEHBP see: State of New Jersey, Department of the Treasury, Division of Pensions and Benefits, *School Employees’ Health Benefits Program, Percentage of Premiums Calculation Charts*, <https://www.state.nj.us/treasury/pensions/documents/hb/oe2020/ha0887.pdf>.

For SHBP see: State of New Jersey, Department of the Treasury, Division of Pensions and Benefits, *State Health Benefits Program, Percentage of Premium Calculation Charts*, <https://www.state.nj.us/treasury/pensions/documents/hb/oe2020/ha0885.pdf>. Hereinafter, “Calculation Charts.”

<sup>24</sup> SEHBP Renewal Report, p. 20.

<sup>25</sup> Calculation Charts.

The difference in the cost to the taxpayer per single contract is \$2,168. There are 15,122 single employee contracts covered under the top three SEHBP plans, for **a total additional cost to property taxpayers of over \$32.7 million.**<sup>26</sup>

**Employee/Spouse and Employee/Child(ren).** For an employee with Employee/Spouse or Employee/Child(ren) coverage, the premium-share would be 23 percent.<sup>27</sup>

TABLE 4: EMPLOYEE/SPOUSE CONTRACTS

<u>Plan</u>	<u>Total Premium</u>	<u>Employee Share (23%)</u>	<u>Taxpayer Share (77%)</u>
SEHBP PPO 10/15/0	\$24,724	\$5,686	\$19,037
SHBP CWA Unity 0	\$18,732	\$4,308	<u>\$14,424</u>
<b>Difference</b>			<b>\$4,614</b>

The difference in the cost to the taxpayer per contract is \$4,614. There are 8,000 employee/spouse contracts covered by under the top three SEHBP plans, for **a total additional cost to property taxpayers of over \$36.9 million.**<sup>28</sup>

TABLE 5: EMPLOYEE/CHILD(REN) CONTRACTS

<u>Plan</u>	<u>Total Premium</u>	<u>Employee Share (23%)</u>	<u>Taxpayer Share (77%)</u>
SEHBP PPO 10/15/0	\$23,029	\$5,297	\$17,732
SHBP CWA Unity 0	\$17,424	\$4,008	<u>\$13,416</u>
<b>Difference</b>			<b>\$4,316</b>

The difference in the cost to the taxpayer per contract is \$4,316. There are 4,667 employee/child(ren) contracts covered under the top three SEHBP plans, for **a total additional cost to property taxpayers of over \$20.1 million.**<sup>29</sup>

### **3. Total Extra Costs to Property Taxpayers for SEHBP: Over \$234 Million a Year**

Adding together these differences in premium costs, **the total additional premium costs to property taxpayers between the top three SEHBP plans and the top SHBP plan amounts to over \$216 million per year** (see Table 6 below). But this is only for the three most popular plans, which for the SEHBP includes 46,344 (92 percent) of the total number of 50,123

<sup>26</sup> SEHBP Renewal Report, p. 20.

<sup>27</sup> Calculation Charts.

<sup>28</sup> SEHBP Renewal Report, p. 20.

<sup>29</sup> Ibid.

contracts.<sup>30</sup> This study will use the WAP for the top three SEHBP plans for the remaining 3,779 (8 percent) of the plans.<sup>31</sup> Including these plans, SPCNJ estimates that the overall difference in the taxpayers’ share of the premiums for all SEHBP and SHBP plans is \$234.8 million (see Table 6 below). Put another way, **if all current SEHBP members were moved to the most popular SHBP plan on offer, New Jersey taxpayers would save over \$234 million a year.**

TABLE 6: TOTAL ADDITIONAL COSTS TO TAXPAYERS FOR SEHBP

<u>SEHBP Coverage Group</u>	<u>Taxpayer Share Difference</u>	<u>Number of SEHBP Contracts</u>	<u>Total Taxpayer Difference</u>
Family	\$6,802	18,555	\$126,207,640
Single	\$2,168	15,122	\$32,786,739
Employee/Spouse	\$4,614	8,000	\$36,909,426
Employee/Child(ren)	\$4,316	<u>4,667</u>	<u>\$20,142,288</u>
Top Three Total (92%)		46,344	\$216,046,093
<b>All SEHBP (100%)</b>		50,123	<b>\$234,832,710</b>

**And SEHBP only covers about one-third of school districts, with the other two-thirds covered by local CBAs.** The total savings from shifting all school employees – including those currently under CBAs - to SHBP would be substantially higher.

The *Path to Progress* report provides a sense of the magnitude of the potential overall savings to property taxpayers from such a shift. *Path to Progress* recommended shifting all government employees and retirees from a Platinum-level to a Gold-level (80 percent of the actuarial coverage) plans, which are comparable to the best private-sector health plans. The report estimated that this shift would save the State government \$587 million in FY2020, rising to \$675 million in FY2023. **County and municipal governments and school districts would save an additional \$600 million for property tax payers** and over \$100 million for employees as their contracts expire over the next several years. If all plans made this shift, **total local government savings would top \$1.4 billion for taxpayers and \$230 million for employees.**<sup>32</sup>

<sup>30</sup> Ibid.

<sup>31</sup> The remaining 3,779 contracts are scattered throughout nine different legacy plans, all of which are no longer options for employees. Several of these plans have fewer than 100 existing contracts. Ibid.

<sup>32</sup> *Path to Progress*, p. 16.

## **IV. THE “NJEAS SOLUTION”<sup>33</sup>: A-5814/S-4114**

### **1. The “Chapter 78 Relief” Legislative Campaign**

The NJEA has called Chapter 78’s premium-share requirements “exorbitant” and “unfair,” claiming that “the current link to the ... premium has caused members to see their take-home pay decreased.”<sup>34</sup> Accordingly, the NJEA has reacted the way it always reacts: by strong-arming the legislature with a massive, two-year lobbying and media campaign. The “#FixTheUnfairness” campaign has included: a petition signed by 116,000 members; 50,000 post cards and 55,000 emails sent to legislators; 500 NJEA members meeting with legislators; and a NJEA digital and TV ad campaign that was viewed more than 158 million times.<sup>35</sup>

The NJEA has also employed another of its longstanding campaign tactics: multi-million-dollar donations to Super PACs connected to key legislative leaders. In this case, the target was Assembly Speaker Craig Coughlin. It recently came to light that the NJEA donated \$2.75 million to NJ United, a Super PAC with close ties to Coughlin, who then stepped up to sponsor A-5814 in the Assembly.

These efforts have paid off. By the end of the last legislative session, A-5814 had 47 sponsors in the Assembly – enough to pass the bill – and S-4114 had 17 sponsors in the Senate – just short of the required majority.<sup>36</sup>

The NJEA’s efforts continue to ramp up in the new legislative session. In January 2020, the NJEA Delegate Assembly approved another \$25 million to fund the Chapter 78 relief campaign, as well as other political organizing campaigns, which will include member and public organizing, advertising, and independent expenditures.<sup>37</sup> Indeed, the NJEA-funded Super PAC New Direction New Jersey (NDNJ) is currently running an ad campaign starring Governor Murphy calling for Chapter 78 relief as set out in A-5814.<sup>38</sup>

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<sup>33</sup> New Jersey Education Association, “Controlling health care costs, The problem and NJEA’s solution,” *NJEA Review* 93, no. 5 (November 2019): 17.

<sup>34</sup> New Jersey Education Association, NJEA Report, “Chapter 78 relief bills introduced in Assembly and Senate,” *NJEA Review* 93, no. 4 (October 2019): 12.

<sup>35</sup> Matthew Stagliano, “Small actions make a big difference,” *njea.org*, accessed January 14, 2020, <https://www.njea.org/small-action-make-a-big-difference/>.

<sup>36</sup> New Jersey Education Association, “Ch. 78 and ESP Job Justice campaigns move into new legislative sessions,” *NJEA Review* 93, no. 7 (February 2020): 19.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.* See the ad here:

[https://players.brightcove.net/616302910001/H1QFGUFLx\\_default/index.html?videoId=6119930655001&utm\\_source=WhatCountsEmail&utm\\_medium=NJEA%20MainActive%20NJEA%20Staff&utm\\_campaign=NJEA\\_Main\\_MR\\_OfficersSignatures](https://players.brightcove.net/616302910001/H1QFGUFLx_default/index.html?videoId=6119930655001&utm_source=WhatCountsEmail&utm_medium=NJEA%20MainActive%20NJEA%20Staff&utm_campaign=NJEA_Main_MR_OfficersSignatures).

The NJEA is making clear that its taxpayer-funded, deep pockets will continue to be a virtually limitless source of political clout pushing for the “NJEA’s solution,” which is intended to and will weigh heavily on the new legislature.

## **2. It’s Good to Have Friends in High Places: Governor Murphy**

Of course, the NJEA is also counting on its especially close relationship with Governor Murphy. Recall that the NJEA was “all-in” for Murphy’s election, mounting an unprecedented effort that included its own “Members4Murphy” organizing effort. Since Murphy’s election, the NJEA has pumped \$4.5 million to NDNJ, the Super PAC that supports Murphy’s and the NJEA’s shared agenda, including A-5814. Unsurprisingly, should the “NJEA’s solution” pass the legislature, the NJEA is confident of Murphy’s support: **“We now have a governor who would sign those bills,** which are once again moving through the Senate and Assembly.”<sup>39</sup>

Returning the favors, Murphy has been, in the words of the NJEA, a “steadfast supporter”<sup>40</sup> of the NJEA’s Chapter 78 relief campaign. Early on, Murphy’s staff coordinated with the NJEA on legislative strategy: “because of **strategic conversations with the governor’s staff,** NJEA is moving forward with a direct legislative campaign to seek relief for members from Chapter 78.”<sup>41</sup> As if on cue, and echoing his predecessor, the NJEA-friendly Governor Corzine, Murphy stated in his 2020 State of the State address: **“I look forward to working with labor leaders and legislators”** to reverse the “unfair and unsustainable consumer health-care cost-increases under Chapter 78.”<sup>42</sup>

As mentioned above, true to his words and his longstanding practice of starring in NJEA-funded ad campaigns, Governor Murphy is appearing in ads paid for by the NJEA-funded NDNJ that support the “NJEA’s solution” for Chapter 78 relief.

## **3. Some Inconvenient Facts About Chapter 78’s Premium-Share Requirements**

First, there is a simple fact that everyone who has a healthcare plan understands: if you get Platinum-plus-level coverage along with uncapped out-of-network reimbursements, you also

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<sup>39</sup> New Jersey Education Association, “NJEA members continue to fight for job justice, great public schools,” *NJEA Review* 92, no. 8 (March 2019): 20.

<sup>40</sup> New Jersey Education Association, “Ch. 78 and ESP Job Justice campaigns move into new legislative sessions,” *NJEA Review* 93, no. 7 (February 2020): 19.

<sup>41</sup> New Jersey Education Association, “NJEA Delegate Assembly, Minutes of March 10, 2018, *NJEA Review* 92, no. 6 (January 2019): 42.

<sup>42</sup> Matt Arco, “Full text of Gov. Phil Murphy’s 2020 State of the State address,” nj.com, January 14, 2020, <https://www.nj.com/politics/2020/01/read-full-text-of-gov-phil-murphys-2020-state-of-the-state-address.html>.

get a very expensive \$36,147 family plan premium and the expensive premium-shares that go with it. Rather than “unfair,” **the average premium-share of 21 percent is in fact comparatively low**: it is less than 25 percent private-sector workers pay, and less than the 30.6 percent premium-share for the average PPO plan nationwide.<sup>43</sup> Moreover, all school employees have the option to choose a plan with lower premiums and premium-shares.

Yet school employees are apparently quite willing to pay their premium-shares in order to get their Platinum-plus-level benefits. The State’s 2020 Rate Renewal Report projects that: **“It is anticipated that the Chapter 78 contributions will motivate a small number of employees to migrate to lower-cost benefit plans.”** In all, the report expected 0.5 percent of the enrollees to shift to a lower-cost plan.<sup>44</sup> These school employees could choose cheaper plans, but 56 percent of them choose the richest plan with the highest premiums. With lower co-pays, out-of-pocket maximums and co-insurance, with taxpayers picking up on average 79 percent of the premium costs, and with no limit on out-of-network reimbursements, they clearly like what they are getting for their money. If their premium-shares were so “unfair and unsustainable,” they would opt for lower-premium plans, wouldn’t they?

#### **4. The “NJEA’s Solution”<sup>45</sup>: A-5814/S-4114**

**There are reasons why the NJEA refers to A-5814 as “our solution.”<sup>46</sup>** Rather than reign in the excessive cost of the NJEA-controlled SEHBP by addressing the out-of-network abuses taking place, or by providing school employees with healthcare benefits similar to State government employees or private-sector workers – both of which would save hundreds of millions of dollars - the NJEA is instead seeking to reduce school employees’ premium-shares for the platinum-plus-level benefits they willingly choose.

A-5814 proposes three new healthcare plans for all school employees (including those currently under local CBAs) for the next five years. The actual design of the plans would be left to the NJEA-controlled SEHBP Commission, so the public does not know how generous the plans will be or how much they will have reined in the Platinum-plus-level benefits. The plans are to be

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<sup>43</sup> For a family plan, as compared to 19 percent for the median teacher salary for family plans under SEHBP. Kaiser Family Foundation, “2019 Employee Health Benefits Survey,” *kff.org*, September 25, 2019, <https://www.kff.org/report-section/ehbs-2019-summary-of-findings/>.

<sup>44</sup> State of New Jersey, Department of the Treasury, Division of Pensions and Benefits, *State Health Benefits Program, Plan Year 2020 Rate Renewal Recommendation Report*, State Employee Group, September 2018, p. 5, <https://www.state.nj.us/treasury/pensions/documents/hb/rate-renewal/rate-renewal-school-employees-2020.pdf>.

<sup>45</sup> New Jersey Education Association, “Controlling health care costs, The problem and NJEA’s solution,” *NJEA Review* 93, no. 5 (November 2019): 17.

<sup>46</sup> *Ibid.*

designed so that the State government saves a net \$100 million, and county and municipal governments and school districts save a net \$200 million over the next two plan-years. In exchange, school employees will see their contributions reduced to **2-8 percent of their SALARIES** – not of the premiums associated with the plans. There will **zero** employee premium contribution for a high-deductible plan. Higher-cost plans will have higher contributions, and lower-cost plans will have lower ones.<sup>47</sup>

**5. SEHBP’s Most Popular Plan as an Example of What A-5814 Means**

Since we do not know what the actual A-5814 plans will look like, nor their apportionment of premium costs, we must use an existing plan as an illustrative example of the impact of a salary-based premium-share on the apportionment of premium costs. This study will use the single-most popular SEHBP plan, the PPO 10 Family plan (which accounts for 11,235 contracts, or 22.4 percent of all SEHBP contracts)<sup>48</sup> with a premium cost of \$36,147, as well as the median teacher salary of \$68,700.

TABLE 7: SEHBP PPO 10 FAMILY PLAN

<u>Plan</u>	<u>Employee Share</u>	<u>% of Premium</u>	<u>Taxpayer Share</u>	<u>% of Premium</u>
Current	\$6,867	19.0%	\$29,279	81%
2% of Salary	\$1,374	3.8%	\$34,773	96.2%
8% of Salary	\$5,496	15.2%	\$30,651	84.8%

So, under A-5814, using the illustrative example of SEHBP’s most popular plan, **school employees’ premium share would fall from 19 percent to 3.8 - 15.2 percent, with the New Jersey taxpayers’ share rising to 84.8 - 96.2 percent.**

**6. A-5814 makes New Jersey even more of an outlier than it already is**

The Kaiser Family Foundation’s most recent survey of private and non-federal (that is, state and local) public employers found that **the average PPO family plan required the employee to contribute 30.6 percent of the premium.** Put another way, over half of employers (51 percent) required employee premium-shares for family plans of over 25 percent.<sup>49</sup> Clearly, A-5814’s 3.8 – 15.2 percent premium-share is not a fair apportionment of premium costs nor a fair deal for New Jersey’s already burdened taxpayers.

<sup>47</sup> Ibid.

<sup>48</sup> SEHBP Renewal Report, p. 20.

<sup>49</sup> Kaiser Family Foundation, “2019 Employee Health Benefits Survey,” *kff.org*, September 25, 2019, <https://www.kff.org/report-section/ehbs-2019-summary-of-findings/>.

The Kaiser survey also shows that A-5814's reduction in school employee premium-shares runs counter to the national trend of increasing premium-shares for employees. Since 2014, average employee contributions have increased by 24.7 percent (\$4,823 to \$6,015), while the employer's share has increased only 21.2 percent (\$12,011 to \$14,561).<sup>50</sup> So A-5814 is bucking the national trend and sending employee premium-shares in the opposite direction. Again, this is not a fair deal for New Jersey's already burdened taxpayers.

## **7. Bare Bones for Taxpayers**

It is true that A-5814 plans would be designed to reduce annual premium costs to local government and school district employers by \$200 million. Clearly, this is well short of the \$600 million in saving proposed by the *Path to Progress* report. But \$200 million is also less than the \$234 million that could be saved simply by shifting school employees in only one-third of school districts from the very expensive SEHBP to the most popular but still generous SHBP plan for State workers. Lastly, considering that \$130 million per year could be saved simply by righting a wrong and capping the SEHBP out-of-network reimbursements - as is done under SHBP - the \$200 million looks like a bare bone being thrown to taxpayers in exchange for the NJEA's much-coveted reduction in employee premium-shares.

It is also true that these plans would be designed to reduce premium costs to the State by \$100 million. But the State's cost of coverage for current state workers is \$1.4 billion per year,<sup>51</sup> so \$100 million is a minimal reduction, and is but a fraction of *Path to Progress's* proposed \$587 - 675 million in savings. New Jersey citizens would be right to suspect that the \$100 million in savings to the State is as bare a bone as the \$200 million for non-state employers.

## **8. What Happens After A-5814 Sunsets in Five Years?**

**Will the taxpayer savings disappear?** Finally, A-5814's provisions sunset after five years. After 2024, new plans can be created by legislation or the NJEA-controlled SEHBP plan design committee that do not comply with A-5814's terms. So even the bare-bone employer and taxpayer savings mandated under A-5814 can be eroded or even erased.

**Will lower employee premium-shares become permanent?** But what about the 2-8-percent-of-salary premium-shares? According to the NJEA's local collective bargaining modus operandi - alluded to by the NJEA's Bonazzi above - such lowered employee contribution rates would

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<sup>50</sup> Ibid.

<sup>51</sup> *Path to Progress*, p. 15.

become the standard for ALL health plans, even those provided under local CBAs. Once these lower, salary-based contribution rates become the standard, and given the NJEA's domination of New Jersey politics from local school districts all the way to the Statehouse, will any employer be able to raise the contribution rates again? Given the multi-year, multi-million-dollar NJEA campaign generated by Chapter 78's rather modest contribution requirements, New Jersey citizens would be justified in believing that **A-5814's lower contribution requirements will become permanent while the savings to the taxpayer disappear.**

## **CONCLUSION**

SEHBP's out-of-network payment scandal is **an ongoing wrong that should be righted immediately.** New Jersey citizens and their elected representatives should be up in arms over the profligate and exploitative squandering of half-a-billion taxpayer dollars. The SHBP caps should be firmly in place on SEHBP out-of-network reimbursements before any discussion about reducing school employee premium-sharing. That would be \$130 million per year in savings right off the bat, which would also benefit teachers by reducing premiums by 8 percent and thus their premium-shares as well. **And yet the NJEA-controlled SEHBP plan design committee continues to stonewall this necessary and proven reform.** New Jersey citizens and their elected representatives should demand better.

Any discussion of reducing employee premium-shares should also be preceded by reconciling SEHBP's current Platinum-plus-level benefits to what nearly every New Jersey resident and their families currently receive. After all, it is they who are paying the taxes to fund school employees' health benefits. That would result in at least \$234 million a year in savings.

New Jersey must learn from the ProPublica scandal. Governor Corzine worked with the NJEA create the SEHBP, which is at the root of both the ProPublica scandal and the exceptionally expensive health benefits provided to school employees. Now Governor Murphy wants to help the NJEA enact the "NJEA's solution," which leaves the scandal-plagued, NJEA-controlled SEHBP unreformed while lowering school employees' comparatively low premium-shares.

The "NJEA's solution" should not be the future of government healthcare in New Jersey.