



**TESTIMONY OF EDUCATION LAW CENTER ON
GOVERNOR'S PROPOSED FY14 BUDGET
SENATE BUDGET COMMITTEE
MARCH 20, 2013**

Thank you, Senator Sarlo, and members of the Senate Budget Committee for the opportunity to testify on behalf of the Education Law Center (ELC) on Governor Christie's proposed FY14 State Budget as it relates to public school funding, preschool to grade 12. As we will explain, the Budget proposal again fails to make up for the loss resulting from the Governor's massive cut in FY11 in formula aid under the School Funding Reform Act (SFRA), especially for districts with growing numbers of at-risk and bilingual students and students with disabilities. Even worse, the Governor's proposal, if adopted, would undermine New Jersey's longstanding commitment to ensuring all students have the resources necessary to achieve the State's academic standards, regardless of where they live or in which public school district they attend school.

First, the FY14 proposal for school aid would, if approved, continue the Governor's stated objective of reducing the cost of educating New Jersey public school students below the levels required by the SFRA formula. Along with this testimony, we've included an analysis showing the amount of SFRA under-funding since 2009-10 for every district. Under the Governor's FY14 budget, districts will have lost a total of \$5.1 billion in SFRA formula aid in just five years time. Of this amount, districts will lose out on \$1.2 billion from the current year (FY13) to the next school year (FY14), with the impact falling hardest on those districts the SFRA formula was designed to benefit: moderate- and middle-income districts with growing numbers of "at-risk" students

Further, while the Governor is proposing a slight increase in state aid – 1.2% – the increases are so small they will not even make up the loss of aid resulting from the Governor's \$1.6 billion SFRA aid cut in FY11. If this budget proposal is adopted, 478 districts, mainly in middle class communities, will remain \$301 million below their FY10 funding level. Even worse, because of increases in debt service assessments proposed by the Governor, 294 districts will owe the State more in debt service than the increase in formula aid they would receive under the Governor's aid proposal. Here is the Governor's bottom line: most districts in the state will see no real increase in state aid and some will have reductions, a pattern our schoolchildren have had to endure since he first took office.

In short, the Governor's proposal – like his preceding budgets – leaves nearly all districts far below the levels of state aid necessary to support their SFRA adequacy budget, the amount required to achieve a thorough and efficient education under the SFRA, as enacted on a bipartisan basis in 2008, and approved by the Supreme Court in 2009. Even worse, the proposal makes a mockery of the core legislative policy embedded in SFRA that funding “follow the child,” especially “at-risk” students, English language learners and students with disabilities, regardless of their zip code.

Second, the Governor is not only proposing to reduce school funding again in FY14, he is also unilaterally using the radical, arbitrary changes to the SFRA formula that the Legislature expressly rejected in Senate Concurrent Resolution 134, passed on February 14, 2013. Rather than file a response to objections in SCR 134, as required by the SFRA, the Governor simply went ahead and utilized the objected-to at-risk and bilingual student weights and thresholds for extraordinary special education aid in calculating state aid for his FY14 Budget. As the Legislature found in SCR 134, the Governor's weights and thresholds are not based on any study, analysis or educational justification, and, as his proposed Budget shows, substantially reduce the cost or “weights” in the SFRA formula for low-income (“at-risk”) students and English language learners. Accordingly, we recommend that this Committee, at a minimum, immediately request that the Office of Legislative Services (OLS) independently calculate aid based

on the at-risk and bilingual weights and special education thresholds in the SFRA as enacted in 2008, consistent with SCR 134, and then that this Committee utilize those aid amounts, as properly recalculated, in the FY14 Appropriations Act.

Similarly, the Governor's proposed FY14 aid calculations are not based upon districts' October 15 enrollment counts, as mandated by SFRA. Instead, the Governor is using "Average Daily Attendance," an enrollment count method so thoroughly discredited that few, if any, states use it. Even more troubling, using ADA to calculate aid is a direct violation of the SFRA statute, which explicitly requires use of the October 15 enrollment count. Here again, to ensure the FY14 Appropriations Act fully complies with the underlying parameters in the SFRA statute, we urge the Committee to obtain a proper aid calculation from OLS, using the October 15 enrollment count; strike the Governor's recommendations related to ADA; and utilize the proper OLS aid calculations in the FY14 Appropriations Act. Simply put, if the Governor wants to use ADA in the future, he must go through the usual legislative process of seeking an amendment to the SFRA. The Legislature needs to send a firm message that the Appropriations Act is an improper vehicle for making substantive amendments to the SFRA formula statute.

We also ask that you address several other major problems with the Governor's proposal:

- Vouchers: the Governor's proposal for \$2 million to provide vouchers for private and religious schools must be stricken. As the Governor made clear, this proposal is a brazen gambit to roll a new, substantive school voucher program into the Appropriations Act solely because he has been unable to get the Legislature to enact the Opportunity Scholarship Act (OSA), currently pending in both the Assembly and Senate. In fact, the Governor's voucher proposal mirrors OSA, legislation that has languished in the Legislature for approximately 10 years. The Governor's attempt to enact a substantive voucher program through the Appropriations Act – and do an end-run around the Legislative branch, which has refused to enact substantive voucher legislation – is not

only an affront to the Separation of Powers between the Executive and Legislative Branch, but also is a blatant case of unconstitutional "logrolling," the prohibited practice of rolling an unpopular measure into the State's annual fiscal law in violation of the single object provision of the New Jersey Constitution. NJ Const. Art. IV, Sec. 7. para. 4.

- Innovation Grants: the Governor's proposal for a \$5 million Innovation Fund should be substantially modified. The Governor is recommending these funds be awarded to districts through "competitive grants to improve student outcomes." In light of the serious underfunding of the SFRA formula, with so many districts cutting essential staff, programs and services necessary to provide a thorough and efficient education to their students, now is hardly the time to force districts to "compete" with each other for small amounts of school funding. We know from New York State – which authorized a similar initiative last year – that competitive grants reach only a handful of students and have "limited impact" at best on educational performance. As an alternative, we strongly recommend that this Committee direct the \$5 million Innovation Fund to provide funding for expansion of high quality preschool to non-Abbott districts and to at-risk three- and four-year-olds statewide, as already required under the SFRA formula. A study released by Rutgers today shows that the Abbott preschool program substantially increases achievement in language arts, math and science and reduces retention and special education placement rates through the fifth grade. Expanding preschool under the SFRA is a far more effective way to improve student performance than forcing already under-resourced districts to compete for small grants that will reach a small number of students and can't be sustained over time.

- School Construction and Renovation Fund: the Governor is proposing to increase state aid payments to support the interest on bonds issued by the Schools Development Authority (SDA) for financing school construction projects in SDA and non-SDA districts. As this Committee is well aware, the SDA has not completed one new major school or renovation project in SDA districts since 2010, but has spent over \$110 million in salaries, office space and administrative overhead over the last three

years. Meanwhile, thousands of schoolchildren, teachers and principals remain trapped in dangerous, crumbling and overcrowded schools, many of which have been approved for replacement or renovation by the Department of Education. To address this dire situation, we urge the Committee to include language in this appropriation to lift the \$500,000 statutory threshold for delegating approved projects directly to SDA districts, and to direct the SDA to promptly enter into delegation agreements for those projects with SDA districts so that the districts can take full control of the planning, construction and completion of already-approved and pending projects directly on their own, in the same manner as all other districts.

In closing, we urge you to reject the Governor's FY14 school aid proposal. Instead, we urge you to do what the Legislature did in FY13 – rewrite the provisions for school aid in the Appropriations Act based on the educationally necessary, and legally required, costs, weights, enrollment and other parameters in the SFRA formula. We also urge that, based on independent and proper aid calculations from OLS, you ensure aid is allocated to all districts based on the current SFRA formula to ensure all districts are either “fully funded” under the formula or, for those districts under their adequacy budgets, are moving towards SFRA adequacy. Finally, we urge you to strike the Governor's proposed voucher program, direct that the proposed Innovation Fund be used to expand preschool under the SFRA, and facilitate the delegation of urgently needed school construction projects so that SDA districts can do the work directly and schoolchildren no longer have to wait while the SDA refuses to act. With these changes in the FY14 Appropriations Act, you can take critical steps that will ensure all districts will have the resources needed to educate all students so they graduate college and career ready and become productive citizens of our state.