



**TESTIMONY OF EDUCATION LAW CENTER ON
GOVERNOR'S PROPOSED FY20 BUDGET
SENATE BUDGET AND APPROPRIATIONS COMMITTEE**

MARCH 20, 2019

Presented by Sharon Kregel, ELC Policy and Outreach Director

Thank you, Chairman Sarlo and members of the Senate Budget and Appropriations Committee for the opportunity to testify on Governor Murphy's proposed FY20 State Budget on school funding for New Jersey's 1.3 million public school students, preschool through grade 12.

The touchstone for reviewing the Governor's proposed budget, and for your response to that proposal in the final budget, must start and end with the constitutional requirements firmly established by our Supreme Court in the 2009 *Abbott v. Burke XX* decision. That decision authorized the State to implement the new statewide funding formula – the School Funding Reform Act (SFRA) – to replace the funding remedies for the 31 poor urban, or “Abbott,” districts ordered by the Court in 1997 and 1998 to address the longstanding and severe violation of the constitutional rights of children in those districts.

In approving the SFRA, the Supreme Court placed great weight on the formula's “adequacy budgets,” an annual calculation of the funding level needed in each district based on the cost of educating all students and the additional cost of resources targeted to low-income (at-risk) students, English language learners (ELL) and students with disabilities. The Court found that, if fully funded to each district's adequacy budget, the SFRA provides the teachers, support staff and other resources for all New Jersey students to achieve the State's academic standards.

But the Supreme Court also conditioned the State's use of the SFRA to fund the Abbott districts on the “expectation” that the Legislature and Executive would fully fund the districts' SFRA adequacy budgets to the constitutional level of funding. The Court made clear that the State's constitutional obligation to fully fund the SFRA in the Abbott districts is “not an occurrence in a moment in time,” but “a continuing obligation.” And

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the Court emphatically warned it would step in and “require remediation of any deficiencies of a constitutional dimension” if the State allowed the Abbott districts “to regress to the former problems that necessitated judicial intervention in the first place.”

The key question you must ask: does Governor Murphy’s proposed FY20 school aid budget advance the Supreme Court’s mandate for full funding of all districts currently funded below their SFRA adequacy budgets, and especially for Abbott districts below adequacy?

The answer is a clear and resounding no. Here’s why.

The Governor proposes \$206 million in new K-12 formula aid, an increase of 2.4%, and the redistribution of a \$90 million cut from other districts. There are currently 224 districts spending below their SFRA adequacy budgets, with those districts owed \$1.9 billion in state aid. The Governor’s proposed increase amounts to about 15% of that total. At this rate, it will take at least seven years to get to full state funding.

The Abbott districts will receive \$111 million of the Governor’s proposed increase. Twenty-two of the 31 Abbott districts are currently below adequacy, requiring over \$850 million in state aid.

The situation in some Abbott districts is deteriorating into the type of conditions that resulted in the Supreme Court’s intervention in the first place. For example, without additional state aid, the Paterson school district will cut 209 positions, including teachers, vice principals and supervisors. Classes will go up to 40 students, and important programs in reading and math support, SAT prep, and even art and music will be lost.

But it is not only the Abbott districts that have suffered from budget cuts and fallen below adequacy. Other important changes to the Governor’s proposal must be made to help move below adequacy districts to the level of funding prescribed by the constitution:

- 1) State aid increases must be targeted only to districts under their adequacy budgets. The Governor allocates \$29 million of the proposed increase to districts spending in excess of adequacy. Given the state’s fiscal constraints, no over adequacy district should receive an aid increase until the State reaches full state funding in below adequacy districts.

2) Conversely, state aid – in whatever category – must not be cut from any district below adequacy. The Governor is proposing to cut nearly \$40 million from 26 below adequacy districts. These cuts impede districts' progress towards funding adequacy, are unfair, and plainly conflict with the Supreme Court's *Abbott XX* ruling

3) There is nothing in the Governor's proposal addressing the existing local revenue gaps in below adequacy districts. The State must take full responsibility to close those gaps as quickly as possible. We urge the property tax cap be raised back to 4%, the initial SFRA cap level, and that the State Budget mandate local taxes increase to cap in below adequacy districts. However, below adequacy districts in "municipal overburden" – that is, their total equalized tax rate is well above the 2.3 current average total tax rate – must be exempted from this mandate until the Legislature can put in place a permanent fix in the SFRA formula to provide state aid to compensate for the inability of these districts to meet their local fair share under the formula.

4) While we support the proposed increase in aid to expand preschool, the Legislature should ensure in the Budget that the funds are directed to high need districts. Again, given limited funding, it is critical to prioritize funding to communities where the need is greatest.

5) The Governor proposes appropriating approximately \$120 million for aid to private schools. There is no justification for diverting taxpayer dollars to private schools when so many of our public schools are chronically and deeply underfunded. We strongly recommend that the Legislature phase out all nonpublic school aid over three years and redirect the \$40 million per year as K-12 formula aid to districts below adequacy.

It is clear the Legislature must substantially increase the appropriation of new K-12 formula aid in the FY20 State Budget to achieve compliance with the Supreme Court's constitutional mandate for full funding of all district adequacy budgets as quickly as possible. On this point, we fully support Governor Murphy's call for a millionaire's tax to increase state revenue in a way that is fair and equitable.

Thank you again for the opportunity to inform you about school aid in the Abbott districts as well as other districts that are below adequacy. The SFRA has proved to be resilient despite years of underfunding and flat funding. Now the time has come to make a real commitment to full formula funding in the next few years. In the meantime, it is imperative that adequate funding increases are part of the State Budget, and that the neediest students and districts are the main recipients of that aid.