



Education Law Center

Standing Up for Public School Children

April 16, 2009

Honorable Jon Corzine
Governor of New Jersey
Trenton, NJ 08625-0500

Dear Governor Corzine:

We write to bring to your immediate attention the Education Law Center's concerns about the use of American Recovery and Reinvestment Act ("ARRA") funds in the proposed FY2010 State budget for New Jersey's K-12 public schools.

Under ARRA, New Jersey has been allocated \$1.33 billion in State Fiscal Stabilization Funds. ARRA directs states to use their allocation of Fiscal Stabilization funds to restore, in each of the FY2009, FY2010 and FY2011 budget years, the level of State support provided through "the State's primary elementary and secondary funding formulae" to the greater of the level that existed in FY2008 or FY2009. P.L. 111-5, (H.R. 1), February 17, 2009; 123 Stat. 115, as amended by P.L. 111-8 (H.R. 1105), the Omnibus Appropriations Act, 2009; Div. A, Sec. 523; March 11, 2009; 123 Stat. 524, Title XIV, Sec. 14002(a)(i). Further, the ARRA also requires states "to allow existing State formulae increases to support elementary and secondary education for fiscal years 2010 and 2011 to be implemented and allow funding for phasing in State equity and adequacy adjustments, if such increases were enacted pursuant to State law prior to October 1, 2008." P.L. 111-5, (H.R. 1), February 17, 2009; 123 Stat. 115, as amended by P.L. 111-8 (H.R. 1105), the Omnibus Appropriations Act, 2009; Division A, Sec. 523; March 11, 2009; 123 Stat. 524, Title XIV, Sec. 14002(a)(i)(II).

On January 7, 2008, the New Jersey Legislature enacted the School Funding Reform Act of 2008 ("SFRA"). See N.J.S.A. 18A:7F-43, et seq. For FY2009, the State distributed aid in accordance with this formula, fully funding the required increases under the Act. The total state aid distributed under SFRA in FY2009 was \$7.795 billion.

However, the proposed FY2010 budget would allocate \$1.057 billion, or 79.5%, of the Fiscal Stabilization Funds to the SFRA formula in FY2010. The proposed budget would continue to fund SFRA at the FY2009 level, but increases in state aid required by the formula for FY2010 for eligible districts would be limited to 5%, even where the SFRA formula allows for a greater state aid amount.

Under this budget proposal, an estimated \$303 million in state aid increases to districts required by the SFRA formula would not be provided to eligible districts. Thus the budget proposal does not conform to the statutory conditions for ARRA Fiscal

Stabilization Funds: the proposed budget amount does not “allow existing State formulae increases” for FY2010 “to be implemented,” nor does the proposal “allow funding for phasing in State equity and adequacy adjustments” mandated under SFRA.

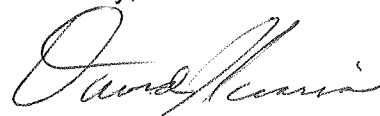
The budget proposal, by not providing the full increase required by the SFRA formula, impacts heavily upon moderate and middle-income school districts, and other high poverty districts across the state. An estimated eighty-eight (88) school districts will not receive more than \$1 million each in formula increases. These districts had experienced funding shortfalls under the State’s pre-2008 funding formula, the Comprehensive Educational Improvement and Financing Act of 1996,” (“CEIFA”) and SFRA was expressly enacted to phase in equity and adequacy increases for these districts, as determined by the SFRA formula. Indeed, the SFRA formula is based upon a legislative finding that, “New Jersey’s current public school funding formula, established under the provisions of [CEIFA] has not been used to calculate State aid for public schools since the 2001-02 school year...” N.J.S.A. 18A:7F-44(e).

Finally, by using 79.5% of the Fiscal Stabilization Funds awarded for New Jersey’s elementary and secondary formula funding under ARRA in the first year of its obligation, the proposed budget raises serious concerns about the State’s ability to fund the SFRA formula in FY2011. If the Legislature approves this proposal, only 20.5% or \$239 million of Fiscal Stabilization Aid would be available to support SFRA in FY2011. As a result, the State may well lack the fiscal resources not only to implement SFRA formula increases next year, but also to fund the formula at the FY2010 level and avoid serious reductions in programs, services and positions in New Jersey’s school districts.

We bring these issues to your attention to ensure that New Jersey fully complies with ARRA’s provisions and utilizes ARRA Fiscal Stabilization Funds to provide equitable and adequate funding for all our students, especially at-risk students across the state whose needs were neglected by the State’s failure to fund the prior CEIFA formula. We urge you to work with the legislative leadership in formulating a final budget that is compliant with Federal law and the legislative objectives in SFRA.

We are available to provide any additional information or assistance to achieve those objectives. As the provision of a high quality education to all New Jersey school children is an issue of great interest to the public, we will be informing others in seeking their support for this request. Thank you for your prompt attention to this matter.

Sincerely,



David G. Sciarra, Esq.
Executive Director

cc: NJ State Legislature Leaders