



**TESTIMONY OF EDUCATION LAW CENTER ON
GOVERNOR MURPHY’S PROPOSED FY23 STATE BUDGET
ASSEMBLY BUDGET AND APPROPRIATIONS COMMITTEE**

March 27, 2023

Education Law Center (ELC) thanks Chairwoman Pintor Marin and members of the Assembly Budget Committee for the opportunity to submit testimony on Governor Murphy’s proposed FY24 State Budget.

We express our overall support for the Governor’s proposal to increase public school funding by \$943 million dedicated to PK-12 formula aid and preschool expansion.

The infusion of state formula aid will close 76% of the existing \$1.3 billion gap and maintain the path to full funding of the School Funding Reform Act (SFRA) by FY25. The proposed aid levels will provide significant boosts to districts that have been underfunded for over a decade. This aid will also move the state closer to constitutional compliance with the New Jersey Supreme Court’s 2008 *Abbott v. Burke* ruling that the SFRA formula is adequate to deliver a thorough and efficient education to students only when fully funded.

By following the formula, the largest aid increases are directed where the need is greatest – closing the persistent state aid gaps that disproportionately affect Black and Latino students. As ELC research demonstrates, New Jersey’s Black and Latino students are far more likely to attend schools spending well below the formula’s adequacy level, while white and Asian students typically attend schools that are at or even above the constitutional level.

We also endorse the Governor’s proposal to create thousands of new preschool seats in expansion districts with an additional \$40 million from the \$109 million earmarked for high quality, full-day preschool for 3- and 4-year-olds. This expansion will help move us closer to the goal established by the Legislature in the SFRA: providing “Abbott Preschool” – a national model – in every high need district and to children in poverty elsewhere across the state.

But the Governor’s proposal falls short on several fronts and raises the opportunity to address some systemic failures:

First, the Governor’s proposal includes \$158 million in reductions in state aid to 158 districts across the state. The reductions impact one out of every five students in our public schools. The majority of this aid reduction, \$114 million, is affecting 44 districts that are currently spending below their adequacy targets.

The core feature of the SFRA is the adequacy budget. The New Jersey Supreme Court acknowledged adequacy as what is necessary for districts to provide a constitutional “thorough and efficient” education to students. The state has an obligation to ensure that all districts are moving towards their adequacy target. The proposed state aid reduction to below adequacy districts does the exact opposite. Cutting state aid to districts that are already spending below this threshold deprives students of the resources and programs they need to succeed.

We acknowledge that districts that are both below adequacy and subject to aid reductions need to raise more local revenue to meet their local fair share obligation under the SFRA. However, these districts are facing contradictory state policies that prevent them from doing their part to attain adequate spending. While S2 requires all below adequacy districts to raise their local levy by 2%, it is still very difficult to go beyond that. The property tax cap prevents the vast majority of below adequacy districts from raising the additional revenue needed to meet their local fair share. These districts face the political hurdle of going to referendum to increase their levy, with no guarantee that these referenda would pass. For most districts, this means making further cuts to programs and services when they are already spending below the constitutional minimum.

Pending legislation (S3732/A5328) provides much needed relief to districts but does so without consideration of a district’s status relative to adequacy. Because the bill only restores a portion of the aid reductions, 48 districts will be below adequacy in FY24 while facing over \$38 million in state aid reductions. The bill also returns \$30 million to districts that are already spending above their adequacy target.

Districts also need assurances that they will receive this additional funding before they face mandated timelines for staff reduction notices. They should also be assured that this aid is not conditional on their demonstrated ability to withstand these same reductions next year. It is clear that a one-year fix will not address the chronic pressures faced by these districts, and they need a longer-term solution to create stability while they work to address these funding issues.

Second, as we near full state funding of the SFRA, some systemic issues with the operation of the formula are being exposed. The fact that so many school districts were unprepared for the level of state aid reductions they experienced this year calls into question the year-to-year predictability of the formula. The impact this year may have been outsized because of unusual shifts in inflation, property values, and personal incomes – factors that determine the state vs. local share of funding for districts – but it does suggest that a larger systemic fix is warranted.

For example, over 90% of districts saw their local fair share increase this year; for nearly all of them that increase exceeded the 2% property tax cap, compromising their ability to maintain adequate funding. The formula could include some protections to ensure that school districts do not have aid reduced beyond their ability to make up the losses locally. The formula should also include provisions around municipal overburden to ensure that no district faces disproportionately high taxes. A study of the Local Fair Share formula, as was intended when the SFRA was first enacted, is long overdue. The Governor and Legislature must take steps to address this issue now.

Such an evaluation can and should occur with the legally mandated Educational Adequacy Report. Prior versions of this report have thus far provided a surface level revision of the formula's costs. After more than fifteen years, it is long past time for a thorough, in-depth analysis of the formula's components to ensure that the SFRA is appropriately defining the costs of an adequate education for all students. We recommend that the Legislature include additional funding in the FY24 State Budget to allow the Department of Education to engage experts in evaluations of various SFRA components as part of the next Educational Adequacy Report, due in time to inform the FY26 budget.

Third, on school construction, the Governor's proposal includes no new money for major capital construction and only \$80 million to cover emergent projects and capital maintenance needs statewide. This is unacceptable. Despite the school facilities funding allocated in the FY22 and FY23 state budgets – the first new money added to the program since 2008 – tremendous needs remain in the SDA districts. In the litigation over construction funding currently pending before the Supreme Court, the Attorney General's office filed documents indicating that a minimum of \$7.128 billion is needed just to complete the remaining priority projects identified in the SDA's 2022 Strategic Plan, and that number could grow to \$7.63 billion in five years, \$8.2 billion in 10 years, and \$8.7 billion in 15 years as costs increase over time.

We also urge the Legislature to provide funding for the Building Conditions Assessment Survey (BCAS) originally proposed by the Schools Development Authority in 2020 at a cost of \$30 million. According to the SDA, the BCAS would provide a complete body of information about building conditions and the remaining useful life of building systems. This would support the development of reliable cost estimates and enable planners to identify potential emergent conditions before they worsen and become even more expensive to fix. It would also allow the SDA to plan and budget for upcoming projects.

Thank you again for your consideration. ELC looks forward to working with you to provide New Jersey students with the resources they need for school success.