NEW JERSEY'S UNFINISHED BUSINESS: ADEQUATE FUNDING FOR ALL SCHOOL DISTRICTS

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In 2009, when the New Jersey Supreme Court signed-off on the constitutionality of the State's newly enacted funding formula – the School Funding Reform Act (SFRA) – the Justices accepted the State's commitment to provide the aid required by the formula for three years and then review and retool the formula to ensure optimal operation going forward.

Yet, in the current school year, more than half the state's students attend schools that have less funding than what the formula defines as necessary for a constitutional "thorough and efficient" education. As a result of funding cuts during former Governor Chris Christie's two terms, the number of New Jersey school districts funded below "adequacy" under the SFRA has grown from 136 to 187. Large gaps in state formula aid, lagging local revenue, and restrictive property tax caps have taken a toll: more students are now educated in inadequately funded schools than when the SFRA formula was first implemented in the 2008-09 school year.

On three occasions over the last decade, the State has failed to rigorously review and retool the formula to meet changes in education costs and policy, even though this review is required by the SFRA law. A comprehensive review would no doubt have resulted in higher district adequacy levels and therefore even more districts below adequacy.

There are three major issues State lawmakers and administration officials must address to put the SFRA back on a path to full adequacy funding:

1. The Three-Year Formula Review

The SFRA is unique in requiring the Commissioner of Education to conduct a thorough "look back" analysis every three years to determine whether the formula is continuing to meet the needs of students. Based on that analysis, the Commissioner can recommend adjustments to the base student cost, weights for low-income and English language learner (ELL) students, and categorical aids for preschool, special education and security. The Supreme Court relied on the State's commitment to rigorously review the formula "to keep the SFRA operating at its optimal level."

The three separate reviews conducted by the State since 2009, including the 2019 **Educational Adequacy Report** (EAR) issued by Governor Phil Murphy's administration, did nothing more than update the base cost, weights and aid amounts using more recent salary and benefits data. These reviews did not evaluate the impact of changes to the State's content and performance standards and new programmatic mandates. As a result, the formula's current adequacy levels do not accurately reflect district needs and obligations, but rather are largely based on costs derived from fifteen-year-old studies.

The next SFRA review must be issued by the Commissioner in time to be incorporated into the FY23 State budget. It is imperative that the upcoming analysis is rigorous and thorough and determines whether the formula's resource models make it possible for districts to deliver current academic standards and meet new mandates, including standardized testing, anti-bullying requirements and lead testing. Based on this analysis, the Commissioner can propose appropriate adjustments to the base costs and weights for at-risk and ELL students that account for more than increases in salary and benefits.

The review also offers a long overdue opportunity to examine preschool education costs. With the expansion of preschool beyond the 31 Abbott districts, a thorough analysis of current costs is needed to determine whether preschool per pupil aid amounts are sufficient to provide a high-quality program in district, private provider or Head Start classrooms. For many reasons, – including growing salary obligations as preschool teachers gain experience and move up the salary scale, a policy change on funding for wraparound services, and program expansion to communities outside the urban centers – this requires in-depth study to ensure all preschool programs, whether new or decades-old, have the resources necessary to meet the state's exemplary quality standards.

2. Special Education Funding

The SFRA uses the controversial census-based system for funding special education. Districts are not funded based on the actual number of students classified as special education, but rather on the statewide average classification rate. Districts also receive per pupil funding using the average excess cost for special education students. This system ignores significant variations in both overall classification rates and the uneven distribution of high- and low-cost disabilities across districts.

The SFRA law mandated a review of the census funding method, resulting in an 2011 **independent study**. The study made no conclusive findings, but instead recommended that the State: 1) fully fund special education based on the census method; 2) collect data in a manner suitable for further study; and 3) conduct an analysis of special education enrollment patterns and costs.

Many districts identify special education underfunding as a major problem. There is widespread agreement that a detailed analysis of the census method is long overdue to determine whether this method should be continued or replaced with a funding system based on actual pupil counts and special education costs related to classification category.

3. Local Fair Share

Like other finance formulas, the SFRA assigns responsibility for raising the revenue required for adequate funding to both the State and local communities. When developing the SFRA, the Administration decided to maintain the same system for determining State contribution and "Local Fair Share" (LFS) that was used in the prior formula. The SFRA law did, however, commit to a review of the Local Fair Share (LFS) in the new formula. But in 2010, this requirement was eliminated by the Christie Administration.

The LFS calculation has placed more of a burden on communities over the past decade. Under the SFRA, the State's share of the wealth-equalized portion of the adequacy budget, known as Equalization Aid, is fixed and indexed only to inflation and enrollment growth. If the per pupil costs in the formula grow faster than inflation, which they typically do, the burden for providing additional revenue falls to the local taxpayer. From 2009 to 2020, the State share of a fully funded SFRA adequacy budget fell from 38% to 34%. If the State share had remained at the 2009 level, nearly a billion dollars in funding for the SFRA would have shifted from the local taxpayer to the State.

Another problem is the effect of property tax caps. There are now 167 districts with local revenue below their LFS, up from 136 districts in 2009. Many of these districts are unable to reach their LFS because the tax cap prevents them from raising taxes by more than 2% annually.

A total of 510 districts saw their LFS increase by more than 2% this year. In fact, the state average increase in the LFS from 2018-19 to 2019-20 was 7.5%, well over the 2% increase imposed by the cap. The tax cap prevents these districts from raising the local revenue required for adequacy. The tax cap impact is even more acute in districts facing state aid cuts under recent amendments to the SFRA in Senate Bill 2 (2018). For districts below adequacy, the state aid cuts combined with limitations on new local revenue will drop them even further below adequacy.

Finally, the SFRA did not provide relief to districts in municipal overburden, that is, with a total tax burden well above the state average. While the Legislature recently exempted districts in municipal overburden from state aid cuts under Senate Bill 2, the SFRA fails to recognize that these districts lack the local tax capacity to raise enough revenue to fully fund their adequacy budgets.

A study of the LFS in the SFRA is urgently needed. The Legislature should empower a task force, with sufficient expertise, to examine the impact of the LFS on districts' ability to provide a thorough and efficient education.

Restoring New Jersey's Leadership on School Funding

New Jersey is a national model for adequate school funding. However, a fair funding system must be responsive to changes in curriculum and other policy matters. So that New Jersey remains a leader in fair funding, lawmakers and State education officials must take immediate steps to ensure that the core components of the school funding system are meeting the needs of students, schools and educators.

NEW JERSEY OWES $1.6 BILLION TO 187 CONSTITUTIONALLY UNDERFUNDED SCHOOL DISTRICTS

ELC PROPOSES FIVE-YEAR PLAN TO CLOSE THE STATEWIDE ADEQUACY GAP

February 10, 2020

The number of New Jersey school districts funded below their constitutional level of "adequacy" has risen to 187 in 2019-20. An additional $1.6 billion in state aid is now required to close the "adequacy gap" in these underfunded districts according to a new Education Law Center **analysis** of the School Funding Reform Act (SFRA), the State's weighted student funding formula.

The adequacy gap in the 187 underfunded districts represents the shortfall in state aid and/or local revenue required to fully fund the cost of educating all district students to achieve state academic standards, including the additional cost of educating low-income students, English language learners and students with disabilities. The adequacy budget for each district is calculated by the NJ Department of Education annually under the education cost parameters in the SFRA formula.

In 2008, the State Supreme Court, in the landmark *Abbott v. Burke* school funding litigation, ruled the SFRA formula was capable of delivering an adequate level of funding to provide all New Jersey students a "thorough and efficient" education as guaranteed by the State Constitution *so long as the State fully funded the districts at their SFRA adequacy budget levels.*

To close the persistent and unconstitutional adequacy gap within five years, ELC is proposing that Governor Phil Murphy and the New Jersey Legislature enact four measures in the upcoming FY21 State Budget:

- Increase state aid targeted to below adequacy districts by $320 million as the first of five annual installments in the State budget on the $1.6 billion owed to New Jersey students.
- Halt any further cuts in state aid to below adequacy districts imposed by the Legislature in 2018 in Senate Bill 2 amendments to the SFRA until these districts reach their constitutional funding level.
- Mandate that below adequacy districts increase local revenue by 2% if they have a local revenue shortfall (that is, they are not raising their "Local Fair Share" as calculated by the formula).
- Allow below adequacy districts to increase local revenue above the 2% property tax cap to speed up the time needed to reach full funding of the required local contribution.

"Our four-point plan is carefully designed to make meaningful, steady progress to close the adequacy gap in every district through increases in state aid and local revenue as required under the SFRA formula," said Danielle Farrie, the ELC Research Director who carried out the SFRA analysis.

In 2019, district adequacy budgets rose due to the Murphy Administration's three-year update in education costs required by the SFRA. The formula update increased adequacy budgets by over 5%, or $1.3 billion statewide.

Yet, in the State budget for 2019-20, the Governor and Legislature increased state aid by only $191 million. At the same time, local property tax revenue increased by $365 million. These increases lag well behind what's required for most districts to reach their full adequacy budgets under the SFRA on the seven-year timetable promised in 2018 by legislative leaders.

"Two years ago, leaders in the New Jersey Legislature promised to reach full funding under the SFRA formula for all districts in seven years," said David Sciarra, ELC Executive Director. "Yet, in two successive budgets, they have not done enough to reach that goal and, even worse, have moved some districts in the opposite direction by imposing ill-conceived cuts in state aid under Senate Bill 2."

ELC is calling on parents, educators and advocates to step up demands for the Governor and Legislature to take real action to close the adequacy gap in the FY21 State Budget.

"We will be working with our many partners in the Our Children/Our Schools network and beyond to send lawmakers the message that students in far too many districts have been forced to endure chronic and often severe underfunding of their education, in violation of the constitutional right to a thorough and efficient education," said Sharon Krengel, ELC Policy and Outreach Director. "We will be making our voices heard loud and clear in Trenton over the next few months."

LIFTING TAX CAP FAILS TO DELIVER ADEQUATE FUNDING TO NJ DISTRICTS FACING STATE AID CUTS

ELC
EDUCATION LAW CENTER

December 12, 2019

The New Jersey State Senate is considering a bill to allow certain school districts facing multi-year cuts in state aid to minimize the impact by raising local property taxes above the annual 2% state cap. The bill, sponsored by Senate President Stephen Sweeney, was quickly approved by the Senate Budget Committee on December 5.

The bill amends Senate Bill 2 (S2), a controversial 2018 law that cuts a category of state aid known as "adjustment aid" from nearly 200 districts over six years and sends the aid to other districts. The S2 cuts have sparked a groundswell of protests by parents, teachers and local school officials over the harm caused by the loss of resources and programs in the affected districts.

The proposed amendment applies only to districts whose aid will be cut, despite the fact that their budgets are below the level determined "adequate" under the School Funding Reform Act (SFRA), the state's weighted student funding formula. Twenty-eight districts funded below their SFRA adequacy budgets nonetheless suffered aid cuts totaling over $40 million in 2019-20. That number is expected to rise to over 30 districts in 2020, and then increase each year as S2 aid cuts continue through 2025. These districts will be permitted to raise local revenue to help offset the cuts by exceeding the 2% property tax cap by an amount equal to the state aid cut but not above the district's adequacy budget.

"We remain strongly opposed to S2 state aid cuts to districts funded below their SFRA adequacy budget," said Education Law Center Executive Director David Sciarra. "All state aid, hold harmless or otherwise, is needed in these districts and should not be cut until they are fully funded at the adequacy level. And placing the onus solely on raising local property taxes is insufficient to bring these districts to adequacy as quickly as possible."

ELC is urging lawmakers to halt any further state aid cuts under S2 until districts reach their SFRA adequacy budget. ELC also supports a state mandate to increase local revenue in below adequacy districts – even above the 2% cap – to ensure year-to-year progress towards adequacy by 2025.

Neither the SFRA nor the proposed amendment mandates that districts raise the amount of local revenue, called the Local Fair Share (LFS), the formula determines is needed to support the adequacy budget. Though none of the districts below adequacy and facing a state aid cut under S2 are meeting their LFS obligation, some may take advantage of the opportunity to go above the cap, and others may choose not to.

The Senate proposal also fails to require a thorough study of the way the LFS is calculated in the SFRA formula. This study was part of the SFRA when enacted in 2008, but was eliminated in 2010, when the Legislature lowered the property tax cap from 4% to 2%. A rigorous analysis of whether the LFS calculation accurately reflects the fiscal ability of local taxpayers to support their schools is long overdue.