

Congress of the United States
Washington, DC 20515

March 25, 2009

The Honorable Arne Duncan
Secretary of Education
U.S. Department of Education
600 Independence Ave
Washington, D.C. 20597

Dear Secretary Duncan,

To ensure that federal funds from the State Fiscal Stabilization Fund (SFSF) reach local school districts, we hope that the Department will issue guidance in the strongest language possible, especially in the case of the State of Texas, that these Stabilization dollars cannot supplant State funding for education, but rather must go to increasing support for our local schools.

Specifically, in Texas, we need guidance regarding what qualifies as a "primary elementary and secondary education formulae" for the purposes of the 81.8% of SFSF funds designated for education support in the American Recovery and Reinvestment Act (ARRA). Giving the State unbridled discretion to name a number of "primary" education formulae allows for the manufacturing of education budget shortfalls where none exist, enabling the State to siphon off stabilization funds to fill artificial gaps.

In Texas, our primary education formula is clear. Since the passage of HB 1 in 2006, State funding for public education in Texas has been controlled by section 42.2516 of the Texas Education Code, which describes the "target revenues" per weighted student to which each school district is entitled. This section is the primary operative formula for the Foundation School Program, the sole source of funding for elementary and secondary education in Texas.

Our Legislative Budget Board (LBB) has proposed a budget for the 2010 – 2011 biennium that would fully fund these formula "target revenues" for all of our school districts. Because funding for our primary elementary and secondary education formula has not been cut since 2006, the provision in the ARRA requiring that the SFSF "restore" this formula does not apply in Texas. Likewise, Texas State funding for higher education is not in need of restoration, as it is also fully funded in the LBB proposed budget for 2010 – 2011.

The LBB budget includes a \$4 billion shortfall, but this is artificially created. We recognize that these funds must be found somewhere, but we assert that there is no need to look outside of the State to find them. While allowing for this supposed \$4 billion shortfall, the LBB budget increases the Texas Rainy Day Fund by \$2 billion to \$9.1

billion. The State's Rainy Day Fund is more than double the size of its supposed shortfall. In other words, this is a voluntary shortfall.

We believe that the SFSF was not intended to allow Texas to maintain its Rainy Day Fund, but rather to immediately invest in our schools to strengthen education and improve student achievement. Given that no State-level budget shortfall for elementary, secondary, or postsecondary education exists in the State of Texas, the 81.8% of the SFSF—approximately \$3.2 billion for Texas—that would have restored this funding should instead be distributed as the law directs, "to provide local educational agencies in the State with subgrants based on their relative shares of funding under part A of title I of the Elementary and Secondary Education Act of 1965."

Any contrary interpretation of "primary education formulae" that allows Texas to divert SFSF funds to its Rainy Day Fund from school districts neither coincides with the goals of the ARRA nor helps our schools maintain educational standards across the State. We trust that your guidance on this matter will take into account the goals of the ARRA, the reality of the Texas education funding system, and the great needs of our local school districts, which know their own priorities and know best how to spend the federal dollars Congress provided.

Sincerely,



















