



*The Senate of
The State of Texas*

April 16, 2009

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

VIA UNITED STATES MAIL AND FACSIMILE

Re: Texas' Use of State Fiscal Stabilization Funds

Dear Secretary Duncan:

We write regarding the use of State Fiscal Stabilization Funds (SFSF) in the budget recently passed by the Texas Senate. We have significant concerns that the budget utilizes SFSF in a manner not allowed by the American Recovery and Reinvestment Act (ARRA). We are requesting specific guidance on whether the Senate's decision to supplant general revenue using SFSF is an allowable use under the ARRA.

As you know, the SFSF program is a new one-time appropriation of \$53.6 billion under the ARRA. These funds were aimed at helping to stabilize state and local government budgets in order to minimize and avoid reductions in education and other essential public services. Specifically, the program's goal is to help ensure that local educational agencies (LEAs) and public institutions of higher education (IHEs) have the resources to avert cuts and retain teachers and professors.

Per the ARRA, states must use 81.8 percent of SFSF funds for the support of public elementary, secondary, and higher education, and, as applicable, early childhood education programs and services. *See Enclosure A.* States must use their allocations to help restore for FY 2009, 2010, and 2011 support for public elementary, secondary, and postsecondary education to the greater of the FY 2008 or FY 2009 level. The funds needed to restore support for elementary and secondary education must be run through the state's primary elementary and secondary education funding formulae. The funds for higher education must go to IHEs.

If any SFSF funds remain after the state has restored state support for elementary and secondary education and higher education, the state must award the funds to LEAs on the basis of the relative Title I shares but not subject to Title I program requirements.

Our concern lies with the fact that the SFSF was used to supplant general revenue in the Senate budget, swapping out—dollar for dollar—state funds for federal funds. Enclosed for your review please find Article XII of the Senate budget. *See Enclosure B.* In the Texas Education Agency section on page XII-3, \$2.045 billion in SFSF is used to replace general revenue allocated to pay for the Foundation School Program and the technology allotment. As further confirmation of the dollar for dollar swap, below please find a transcript of a March 23, 2009 conversation between members of the Senate Finance Committee and the Legislative Budget Board:

Legislative Budget Board: Moving on to the Texas Education Agency at the bottom of page 3, you'll see that they will receive a net funding increase of almost \$2.3B, and that is associated with an increase in Title I and IDEA funding. You'll also see the education stabilization fund, netting out to \$2.045B, swapping GR [general revenue] for stimulus funds within the Foundation School Program and the technology allotment. What you'll also see here is stabilization for other government services, and this is another opportunity to substitute stabilization funds for GR. And \$500M of that is at TEA in this Article. The rest of that money - \$200M of that \$700M pot - is at the Higher Education Coordinating Board on the next page. And you'll see the general revenue in and out there as well. At the General Academic Institutions, there was an opportunity to switch about \$17M of hold harmless funding for institutions, that's associated with a pot of money that tells us to get funding formulas back up to a certain level. And that's the piece of that we were able to leverage at the General Academics. Moving down the page to the community colleges, the last bit of that kind of money that you'll see - stabilization funds - this would swap out GR for the \$110M that Sen. Deuell introduced to restore the proportionality reduction.

Senator Ogden: Senator Shapiro.

Senator Shapiro: So if I totaled up all of this that you put under TEA, Coordinating Board, General Academics, and public junior and community colleges, that should have about \$3B. So we've taken the money that's in the stabilization fund and, for lack of a better word, and I know we hate this word, supplanted it for our general revenue.

Legislative Budget Board: Yeah, what that money lets you do is say, is there a level of state support that your current budget cannot maintain due to your constraints. It lets you spend that money through those funding formulas, and it has to happen through formulas. So we really had to look for formula opportunities with this money, but yes ma'am, that's what that does.

Under our calculations, the chart on the following page represents the distribution of the approximately \$3.25 billion of SFSF that would have gone to Texas school districts across the state had all of the SFSF gone directly to the LEAs rather than been used to supplant general revenue.

Approximate Distribution of SFSF to Texas School Districts

District	Amount of SFSF
TX Total	\$3,250,300,000
HOUSTON ISD	\$347,740,982
DALLAS ISD	\$271,516,464
EL PASO ISD	\$99,414,275
FORT WORTH ISD	\$94,600,565
SAN ANTONIO ISD	\$91,309,559
AUSTIN ISD	\$80,780,127
BROWNSVILLE ISD	\$69,081,619
ALDINE ISD	\$58,144,973
YSLETA ISD	\$57,327,803
ALIEF ISD	\$49,133,779
LAREDO ISD	\$48,444,116
LA JOYA ISD	\$47,436,180
NORTHSIDE ISD	\$45,592,710
ARLINGTON ISD	\$41,560,447
EDINBURG CISD	\$40,362,434
PASADENA ISD	\$38,940,526
PHARR-SAN JUAN-ALAMO ISD	\$38,922,703
GARLAND ISD	\$37,153,089
CORPUS CHRISTI ISD	\$37,032,523
UNITED ISD	\$34,098,750
NORTH EAST ISD	\$32,504,599
WESLACO ISD	\$30,515,336
CYPRESS-FAIRBANKS ISD	\$29,932,524

Some may argue that the Senate budget's supplanting of general revenue is an allowable use of SFSF, as the State would have had to tap into its Rainy Day Fund, an economic stabilization fund, to balance the budget. We disagree with this excuse. By 2011, the Texas Comptroller is predicting that the Rainy Day Fund will have over \$9.1 billion. Instead of using that funding to pay for needs facing the state education system today, state leaders believe it is instead wiser to park the funding for use as future property tax cuts that primarily benefit the wealthy.

Two recent letters to your office have raised similar concerns. A March 25, 2009 letter from members of the Texas Congressional delegation stated requesting "that the Department will issue guidance in the strongest language possible, especially in the case of the State of Texas, that these Stabilization [SFSF] dollars cannot supplant State funding for education, but rather must go to increasing support for our local schools." *See Enclosure C.*

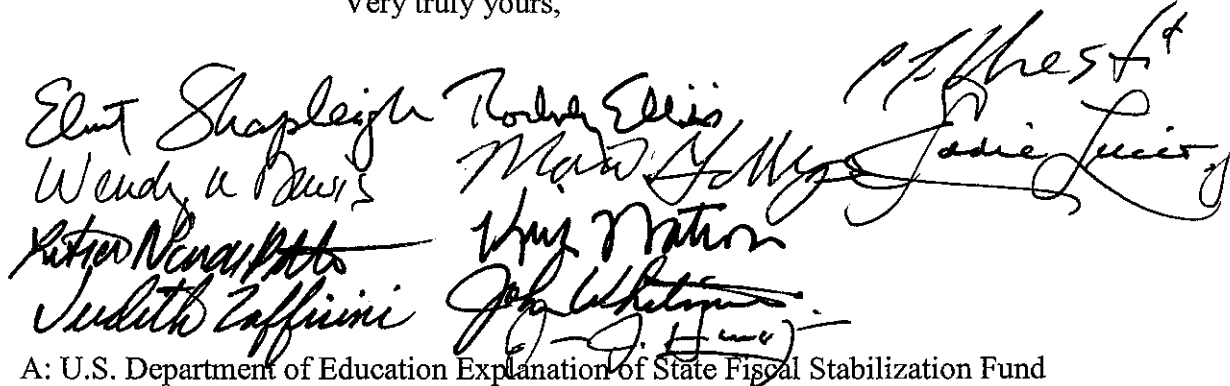
Additionally, an April 6, 2009 letter from 11 superintendents representing some of Texas' largest school districts stated that they "consider the use of these stabilization funds for any purpose other than the one ARRA intended—the improvement of education for America's

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children—to be unacceptable and a violation of the public trust." Both of these letters are enclosed for your review. *See Enclosure D.*

Again, we urge you to release specific guidance on the use of SFSF by the Texas Senate budget. Using funding from President Obama to balance the budget on the backs of Texas' at-risk children is neither the right nor the moral choice. We trust that the Department will continue to monitor the budget situation very closely.

Very truly yours,



Elmt Shapleigh
Wendy A Davis
Peter Nardolillo
Judith Zaffini
Robert Ellis
Mark G. Meyer
Guy Nathan
John L. Hume

- Enclosures: A: U.S. Department of Education Explanation of State Fiscal Stabilization Fund
B: Senate Bill 1, Article XII, 81st Texas Legislature
C: March 25, 2009 letter from members of Texas Congressional Delegation to Secretary Arne Duncan, U.S. Department of Education
D: April 6, 2009 letter from Texas superintendents to Secretary Arne Duncan, U.S. Department of Education

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GENERAL

State Fiscal Stabilization Fund

March 7, 2009

The State Fiscal Stabilization Fund (SFSF) program is a new one-time appropriation of \$53.6 billion under the *American Recovery and Reinvestment Act of 2009 (ARRA)*. Of the amount appropriated, the U. S. Department of Education will award governors approximately \$48.6 billion by formula under the SFSF program in exchange for a commitment to advance essential education reforms to benefit students from early learning through post-secondary education, including: college- and career- ready standards and high-quality, valid and reliable assessments for all students; development and use of pre-K through post-secondary and career data systems; increasing teacher effectiveness and ensuring an equitable distribution of qualified teachers; and turning around the lowest-performing schools.



These funds will help stabilize state and local government budgets in order to minimize and avoid reductions in education and other essential public services. The program will help ensure that local educational agencies (LEAs) and public institutions of higher education (IHEs) have the resources to avert cuts and retain teachers and professors. The program may also help support the modernization, renovation, and repair of school and college facilities. In addition, the law provides governors with significant resources to support education (including school modernization renovation, and repair), public safety, and other government services. The Department will award the remaining \$5 billion competitively under the "Race to the Top" and "Investing in What Works and Innovation" programs.

SFSF is a key element of the *ARRA* and is guided by the principles of *ARRA*.

Overview of ARRA

Principles: The overall goals of the *ARRA* are to stimulate the economy in the short term and invest in education and other essential public services to ensure the long-term economic health of our nation. The success of the education part of the *ARRA* will depend on the shared commitment and responsibility of students, parents, teachers, principals, superintendents, education boards, college presidents, state school chiefs, governors, local officials, and federal officials. Collectively, we must advance *ARRA*'s short-term economic goals by investing quickly, and we must support *ARRA*'s long-term economic goals by investing wisely, using these funds to strengthen education, drive reforms, and improve results for students from early learning through college. Four principles guide the distribution and use of *ARRA* funds:

- a. **Spend funds quickly to save and create jobs.** *ARRA* funds will be distributed quickly to states, LEAs and other entities in order to avert layoffs and create jobs. States and LEAs in turn are urged to move rapidly to develop plans for using funds, consistent with the law's reporting and accountability requirements, and to promptly begin spending funds to help drive the nation's economic recovery.
- b. **Improve student achievement through school improvement and reform.** *ARRA* funds should be used to improve student achievement, and help close the achievement gap. In addition, the SFSF requires progress on four reforms previously authorized under the bipartisan Elementary and Secondary Education Act and the America Competes Act of 2007:
 1. Making progress toward rigorous college- and career-ready standards and high-quality assessments that are valid and reliable for all students, including English language learners and students with disabilities;
 2. Establishing pre-K-to college and career data systems that track progress and foster continuous improvement;
 3. Making improvements in teacher effectiveness and in the equitable distribution of qualified teachers for all students, particularly students who are most in need;
 4. Providing intensive support and effective interventions for the lowest-performing schools.
- c. **Ensure transparency, reporting and accountability.** To prevent

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fraud and abuse, support the most effective uses of *ARRA* funds, and accurately measure and track results, recipients must publicly report on how funds are used. Due to the unprecedented scope and importance of this investment, *ARRA* funds are subject to additional and more rigorous reporting requirements than normally apply to grant recipients.

- d. **Invest one-time *ARRA* funds thoughtfully to minimize the "funding cliff."** *ARRA* represents a historic infusion of funds that is expected to be temporary. Depending on the program, these funds are available for only two to three years. These funds should be invested in ways that do not result in unsustainable continuing commitments after the funding expires.

Awarding SFSF Grants

- In order to help alleviate the substantial budget shortfalls that states are facing, the Department has developed a streamlined, user-friendly process for expeditiously providing to states SFSF allocations:
 - Sixty-one percent of a state's allocations will be on the basis of their relative population of individuals aged 5 to 24, and 39 percent will be based on relative shares of total population.
 - The Department will award SFSF funds to governors in two phases. To receive its initial SFSF allocation, a state must submit to the Department an application that provides (1) assurances that the state is committed to advancing education reform in four specific areas (described below); (2) baseline data that demonstrates the state's current status in each of the four education reform areas; and (3) a description of how the state intends to use its stabilization allocation.
 - As part of its application for initial funding, the state must assure that it will take actions to: (a) increase teacher effectiveness and address inequities in the distribution of highly qualified teachers; (b) establish and use pre-K-through-college and career data systems to track progress and foster continuous improvement; (c) make progress toward rigorous college- and career-ready standards and high-quality assessments; and (d) support targeted, intensive support and effective interventions to turn around schools identified for corrective action and restructuring.
 - Within two weeks of receipt of an approvable SFSF application, the Department will provide a state with 67 percent of its SFSF allocation.
 - A state will receive the remaining portion of its SFSF allocation after the Department approves the state's plan detailing its strategies for addressing the education reform objectives described in the assurances. This plan must also describe how the state is implementing the record-keeping and reporting requirements under *ARRA* and how SFSF and other funding will be used in a fiscally prudent way that substantially improves teaching and learning.
 - In the near future, the Department will issue guidance on the specific requirements that a state must meet to receive its phase two allocation. The Department anticipates that the phase-two funds will be awarded beginning July 1, 2009, on a rolling basis.
- If a state demonstrates that the amount of funds it will receive in phase one (67 percent of its total stabilization allocation) is insufficient to prevent the immediate layoff of personnel by LEAs, state educational agencies, or public institutions of higher education, the Department will award the state up to 90 percent of its SFSF allocation in phase one. In such cases, the remaining portion of the state's allocation will be provided after the Department approves the state's plan.
- Of the amount appropriated for the SFSF, the Department will use at least \$4.35 billion to make competitive grants under the "Race to the Top" fund. These grants will help states to drive significant improvement in student achievement, including through making progress toward the four assurances noted above.
- The Department will use up to \$650 million to make competitive awards under the "Invest in What Works and Innovation" fund. These awards will reward LEAs or nonprofit organizations that have made significant gains in closing achievement gaps to serve as models for best practices.

Funds to Restore Support for Education

- States must use 81.8 percent of SFSF funds for the support of public elementary, secondary, and higher education, and as

applicable, early childhood education programs and services.

- States must use their allocations to help restore for FY 2009, 2010, and 2011 support for public elementary, secondary, and postsecondary education to the greater of the FY 2008 or FY 2009 level. The funds needed to restore support for elementary and secondary education must be run through the state's primary elementary and secondary education funding formulae. The funds for higher education must go to IHEs.
- If any SFSF funds remain after the state has restored state support for elementary and secondary education and higher education, the state must award the funds to LEAs on the basis of the relative Title I shares but not subject to Title I program requirements.

Funds to Support Public Safety and Other Government Services

- States must use 18.2 percent of the SFSF funds for education, public safety, and other government services. This may include assistance for early learning, elementary and secondary education, and IHEs. In addition, states may use these funds for modernization, renovation, or repair of public school and public or private college facilities.

LEA and IHE Uses of Funds

- LEAs and IHEs should use funds consistent with the intent and overall goals of *ARRA*: to create and save jobs and to advance the education reforms set forth in the assurances section so as to produce lasting results for students from early learning to college. LEAs and IHEs are also encouraged to consider uses of funds that create lasting results without creating unsustainable recurring costs.
- Subject to limited restrictions in *ARRA* as defined in further guidance LEAs may use their share of 81.8% of the SFSF education funds for any activity authorized under the *Elementary and Secondary Education Act of 1965 (ESEA)* (which includes the modernization, renovation, or repair of public school facilities), the *Individuals with Disabilities Education Act (IDEA)*, the *Adult Education and Family Literacy Act (Adult Education Act)*, or the *Carl D. Perkins Career and Technical Education Act of 2006 (Perkins Act)*.
- Any funds that an LEA receives from the 81.8 percent of the SFSF program (whether distributed through the state's primary funding formulae or on the basis of their relative Title I, Part A shares) may be used for any activity listed in the above paragraph.
- LEAs may use SFSF to pay salaries to avoid having to lay off teachers and other school employees.
- To the extent LEAs use funds for modernization, renovation or repair, they should consider the use of facilities for early childhood education and for the community and should create "green" buildings.
- Subject to limited restrictions in *ARRA*, IHEs may use program funds for: (1) education and general expenditures, and in such a way as to mitigate the need to raise tuition and fees for in-state students; or (2) the modernization, renovation, or repair of IHE facilities that are primarily used for instruction, research, or student housing. IHEs may not use funds to increase their endowments.

Fiscal Issues

- The Department strongly encourages governors to award or otherwise commit program funds as soon as possible after receipt of their grant awards. However, funds are available for obligation at the state and local levels until Sept. 30, 2011.
- As part of the state's application, each governor must include an assurance that the state will maintain the same level of support for elementary, secondary, and postsecondary education in FY 2009 through FY 2011 as it did in FY 2006. However, the statute authorizes the Department to waive this maintenance-of-effort requirement under certain conditions.
- With prior approval from the secretary of education, a state or LEA may count program funds used for elementary or secondary education as non-federal funds to maintain fiscal effort under Department of Education programs that have maintenance-of-effort requirements.



Accountability Principles

- The president and secretary are committed to spending *ARRA* dollars with an unprecedented level of transparency and accountability. Therefore, states and LEAs that receive SFSF should expect to report on how those funds were spent and the results of those expenditures. The administration will post reports on *ARRA* expenditures on the www.Recovery.gov Web site.

- The SFSF authorization also contains specific reporting requirements to help ensure transparency and accountability for program funds. For example, states must report to the Department on, among other things: (1) the use of funds provided under the SFSF program; (2) the estimated number of jobs created or saved with program funds; (3) estimated tax increases that were averted as a result of program funds; and (4) the state's progress in the areas covered by the application assurances.
- States must maintain records that will permit the Department to monitor, evaluate, and audit the SFSF effectively.

Additional Information

- In the near future, the Department will make available the SFSF grant application and provide detailed program guidance.
- If you have any questions or concerns, please e-mail them to: State.Fiscal.Fund@ed.gov.

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ARTICLE XII

AMERICAN RECOVERY AND REINVESTMENT ACT

Sec. 1. The several sums of money herein specified, or so much thereby as may be necessary, are appropriated out of any funds in the State Treasury not otherwise appropriated, or out of special funds as indicated, for the support, maintenance, or improvement of the designated agencies.

OFFICE OF THE ATTORNEY GENERAL

	For the Years Ending	
	August 31, 2010	August 31, 2011
	<u>2010</u>	<u>2011</u>
Method of Financing:		
General Revenue Fund	\$ (27,300,000)	\$ 0
Federal American Recovery and Reinvestment Fund	<u>37,400,000</u>	<u>0</u>
Total, Method of Financing	<u>\$ 10,100,000</u>	<u>\$ 0</u>
Items of Appropriation:		
Item 1: Child Support Enforcement - Reduce GR	\$ (27,300,000)	\$ 0
Item 2: Child Support Enforcement	\$ 27,300,000	\$ 0
Item 3: Crime Victims Compensation	\$ 7,800,000	\$ 0
Item 4: Internet Crimes Against Children (ICAC)	\$ 2,300,000	\$ 0
Grand Total, OFFICE OF THE ATTORNEY GENERAL	<u>\$ 10,100,000</u>	<u>\$ 0</u>

FISCAL PROGRAMS - COMPTROLLER OF PUBLIC ACCOUNTS

	For the Years Ending	
	August 31, 2010	August 31, 2011
	<u>2010</u>	<u>2011</u>
Method of Financing:		
Federal American Recovery and Reinvestment Fund	\$ 264,400,000	\$ 0
Total, Method of Financing	<u>\$ 264,400,000</u>	<u>\$ 0</u>
Items of Appropriation:		
Item 1: State Energy Program	\$ 218,800,000	\$ 0
Item 2: Energy Efficiency and Conservation Block Grant	\$ 45,600,000	\$ 0
Grand Total, FISCAL PROGRAMS - COMPTROLLER OF PUBLIC ACCOUNTS	<u>\$ 264,400,000</u>	<u>\$ 0</u>

TRUSTEED PROGRAMS WITHIN THE OFFICE OF THE GOVERNOR

	For the Years Ending	
	August 31, 2010	August 31, 2011
	<u>2010</u>	<u>2011</u>
Method of Financing:		
Federal American Recovery and Reinvestment Fund	\$ 101,400,000	\$ 0
Total, Method of Financing	<u>\$ 101,400,000</u>	<u>\$ 0</u>
Items of Appropriation:		
Item 1: Byrne Justice Assistance Grants (JAG)	\$ 90,300,000	\$ 0
Item 2: Crime Victims Assistance	\$ 2,100,000	\$ 0
Item 3: Violence Against Women	\$ 9,000,000	\$ 0
Grand Total, TRUSTEED PROGRAMS WITHIN THE OFFICE OF THE GOVERNOR	<u>\$ 101,400,000</u>	<u>\$ 0</u>

DEPARTMENT OF AGING AND DISABILITY SERVICES

	For the Years Ending	
	August 31, 2010	August 31, 2011
Method of Financing:		
General Revenue Fund	\$ (4,200,000)	\$ 0
Federal American Recovery and Reinvestment Fund	6,000,000	0
Federal Funds	<u>4,200,000</u>	<u>0</u>
Total, Method of Financing	<u>\$ 6,000,000</u>	<u>\$ 0</u>
Items of Appropriation:		
Item 1: Senior Nutrition Program - Congregate Nutrition	\$ 4,000,000	\$ 0
Item 2: Senior Nutrition Program - Home Delivered Meals	\$ 2,000,000	\$ 0
Item 3: Title XX	\$ 4,200,000	\$ 0
Item 4: Title XX - Reduce GR	\$ (4,200,000)	\$ 0
Grand Total, DEPARTMENT OF AGING AND DISABILITY SERVICES	<u>\$ 6,000,000</u>	<u>\$ 0</u>

DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES

	For the Years Ending	
	August 31, 2010	August 31, 2011
Method of Financing:		
General Revenue Fund	\$ (5,700,000)	\$ 0
Federal American Recovery and Reinvestment Fund	<u>87,600,000</u>	<u>0</u>
Total, Method of Financing	<u>\$ 81,900,000</u>	<u>\$ 0</u>
Items of Appropriation:		
Item 1: IDEA, Part C, Special Education Grants for Infants and Families	\$ 39,400,000	\$ 0
Item 2: Independent Living Services - State Grants	\$ 1,100,000	\$ 0
Item 3: Independent Living Services - Elderly/Blind	\$ 2,300,000	\$ 0
Item 4: Vocational Rehabilitation Grants - Reduce GR	\$ (5,700,000)	\$ 0
Item 5: Vocational Rehabilitation Services	\$ 44,800,000	\$ 0
Grand Total, DEPARTMENT OF ASSISTIVE AND REHABILITATIVE SERVICES	<u>\$ 81,900,000</u>	<u>\$ 0</u>

DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

	For the Years Ending	
	August 31, 2010	August 31, 2011
Method of Financing:		
Federal American Recovery and Reinvestment Fund	<u>\$ 1,313,241</u>	<u>\$ 0</u>
Total, Method of Financing	<u>\$ 1,313,241</u>	<u>\$ 0</u>
Items of Appropriation:		
Item 1: Child Care and Development Block Grant (CCDBG)	\$ 1,313,241	\$ 0
Grand Total, DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES	<u>\$ 1,313,241</u>	<u>\$ 0</u>

DEPARTMENT OF STATE HEALTH SERVICES

	For the Years Ending	
	August 31, 2010	August 31, 2011
Method of Financing:		
Federal American Recovery and Reinvestment Fund	\$ 17,000,000	\$ 0
Federal Funds	<u>(4,200,000)</u>	<u>0</u>
Total, Method of Financing	\$ 12,800,000	\$ 0
Items of Appropriation:		
Item 1: Section 317 Immunizations (Prevention and Wellness)	\$ 12,800,000	\$ 0
Item 2: Reduce Federal Funds - Title XX	\$ (4,200,000)	\$ 0
Item 3: Temporary Assistance to Needy Families (TANF) to Title XX	\$ 4,200,000	\$ 0
Grand Total, DEPARTMENT OF STATE HEALTH SERVICES	\$ 12,800,000	\$ 0

HEALTH AND HUMAN SERVICES COMMISSION

	For the Years Ending	
	August 31, 2010	August 31, 2011
Method of Financing:		
General Revenue Fund	\$ (2,513,000,000)	\$ 0
Federal American Recovery and Reinvestment Fund	<u>2,540,600,000</u>	<u>0</u>
Total, Method of Financing	\$ 27,600,000	\$ 0
Items of Appropriation:		
Item 1: Food Stamps (Supplemental Nutritional Assistance Program)	\$ 27,600,000	\$ 0
Item 2: Medicaid Enhanced FMAP - Reduce GR	\$ (2,513,000,000)	\$ 0
Item 3: Medicaid Enhanced FMAP	\$ 2,513,000,000	\$ 0
Grand Total, HEALTH AND HUMAN SERVICES COMMISSION	\$ 27,600,000	\$ 0

TEXAS EDUCATION AGENCY

	For the Years Ending	
	August 31, 2010	August 31, 2011
Method of Financing:		
General Revenue Fund	\$ (2,563,300,000)	\$ 0
Federal American Recovery and Reinvestment Fund	<u>4,825,900,000</u>	<u>0</u>
Total, Method of Financing	\$ 2,262,600,000	\$ 0
Items of Appropriation:		
Item 1: Stabilization - Other Government Services - Reduce GR	\$ (500,000,000)	\$ 0
Item 2: Stabilization - Other Government Services	\$ 500,000,000	\$ 0
Item 3: Education for Homeless Children and Youth	\$ 3,500,000	\$ 0
Item 4: Educational Technology State Grants	\$ 59,400,000	\$ 0
Item 5: IDEA, Special Education Grants to States	\$ 945,600,000	\$ 0
Item 6: Pre-Kindergarten - Reduce GR	\$ (18,300,000)	\$ 0
Item 7: Pre-Kindergarten	\$ 18,300,000	\$ 0
Item 8: Title I, Grants to Local Educational Agencies	\$ 944,600,000	\$ 0
Item 9: Education Stabilization Funds for Foundation School Program-Reduce GR	\$ (1,774,000,000)	\$ 0

TEXAS EDUCATION AGENCY
(Continued)

Item 10: Education Stabilization Funds for Technology			
Allotment – Reduce GR	\$	(271,000,000)	\$ 0
Item 11: Education Stabilization for FSP and Technology			
Allotment	\$	2,045,000,000	\$ 0
Item 12: IDEA, Preschool Grants to States	\$	24,300,000	\$ 0
Item 13: Title I, School Improvement Grants	\$	285,200,000	\$ 0
Grand Total, TEXAS EDUCATION AGENCY	<u>\$</u>	<u>2,262,600,000</u>	<u>\$ 0</u>

HIGHER EDUCATION COORDINATING BOARD

	For the Years Ending	
	August 31, 2010	August 31, 2011
	<u> </u>	<u> </u>
Method of Financing:		
General Revenue Fund	\$ (200,000,000)	\$ 0
Federal American Recovery and Reinvestment Fund	<u>200,000,000</u>	<u>0</u>
Total, Method of Financing	<u>\$ 0</u>	<u>\$ 0</u>
Items of Appropriation:		
Item 1: Stabilization - Other Government Services - Reduce GR	\$ (200,000,000)	\$ 0
Item 2: Stabilization - Other Government Services	\$ 200,000,000	\$ 0
Grand Total, HIGHER EDUCATION COORDINATING BOARD	<u>\$ 0</u>	<u>\$ 0</u>

GENERAL ACADEMIC INSTITUTIONS

	For the Years Ending	
	August 31, 2010	August 31, 2011
	<u> </u>	<u> </u>
Method of Financing:		
General Revenue Fund	\$ (17,400,000)	\$ 0
Federal American Recovery and Reinvestment Fund	<u>17,400,000</u>	<u>0</u>
Total, Method of Financing	<u>\$ 0</u>	<u>\$ 0</u>
Items of Appropriation:		
Item 1: Higher Education Hold Harmless Costs - Reduce GR	\$ (17,400,000)	\$ 0
Item 2: Higher Education Hold Harmless Costs	\$ 17,400,000	\$ 0
Grand Total, GENERAL ACADEMIC INSTITUTIONS	<u>\$ 0</u>	<u>\$ 0</u>

PUBLIC COMMUNITY/JUNIOR COLLEGES

	For the Years Ending	
	August 31, 2010	August 31, 2011
	<u> </u>	<u> </u>
Method of Financing:		
General Revenue Fund	\$ (110,000,000)	\$ 0
Federal American Recovery and Reinvestment Fund	<u>110,000,000</u>	<u>0</u>
Total, Method of Financing	<u>\$ 0</u>	<u>\$ 0</u>

PUBLIC COMMUNITY/JUNIOR COLLEGES
(Continued)

Items of Appropriation:

Item 1: Formula Funding to Restore Proportionality Reductions	\$ (110,000,000)	\$ 0
- Reduce GR		
Item 2: Formula Funding to Restore Proportionality Reductions	\$ 110,000,000	\$ 0
Grand Total, PUBLIC COMMUNITY/JUNIOR COLLEGES	<u>\$ 0</u>	<u>\$ 0</u>

DEPARTMENT OF AGRICULTURE

	For the Years Ending	
	August 31, 2010	August 31, 2011
Method of Financing:		
Federal American Recovery and Reinvestment Fund	\$ 21,800,000	\$ 0
Total, Method of Financing	<u>\$ 21,800,000</u>	<u>\$ 0</u>
Items of Appropriation:		
Item 1: Temporary Emergency Food Assistance Program	\$ 8,200,000	\$ 0
Item 2: Temporary Emergency Food Assistance Program - Administration	\$ 2,100,000	\$ 0
Item 3: National School Lunch Equipment	\$ 11,500,000	\$ 0
Grand Total, DEPARTMENT OF AGRICULTURE	<u>\$ 21,800,000</u>	<u>\$ 0</u>

DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

	For the Years Ending	
	August 31, 2010	August 31, 2011
Method of Financing:		
Federal American Recovery and Reinvestment Fund	\$ 565,100,000	\$ 0
Total, Method of Financing	<u>\$ 565,100,000</u>	<u>\$ 0</u>
Items of Appropriation:		
Item 1: Weatherization Assistance Program	\$ 327,000,000	\$ 0
Item 2: Community Services Block Grant (CSBG)	\$ 48,200,000	\$ 0
Item 3: HOME Program	\$ 148,400,000	\$ 0
Item 4: Homeless Prevention	\$ 41,500,000	\$ 0
Grand Total, DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS	<u>\$ 565,100,000</u>	<u>\$ 0</u>

OFFICE OF RURAL COMMUNITY AFFAIRS

	For the Years Ending	
	August 31, 2010	August 31, 2011
Method of Financing:		
Federal American Recovery and Reinvestment Fund	\$ 19,500,000	\$ 0
Total, Method of Financing	<u>\$ 19,500,000</u>	<u>\$ 0</u>
Items of Appropriation:		
Item 1: Community Development Block Grant (CDBG)	\$ 19,500,000	\$ 0
Grand Total, OFFICE OF RURAL COMMUNITY AFFAIRS	<u>\$ 19,500,000</u>	<u>\$ 0</u>

DEPARTMENT OF TRANSPORTATION

	For the Years Ending	
	August 31, 2010	August 31, 2011
Method of Financing:		
Federal American Recovery and Reinvestment Fund	\$ 1,637,800,000	\$ 0
Total, Method of Financing	<u>\$ 1,637,800,000</u>	<u>\$ 0</u>
Items of Appropriation:		
Item 1: Highway and Bridge Construction	\$ 1,587,800,000	\$ 0
Item 2: Urban and Rural Capital Transit	\$ 50,000,000	\$ 0
Grand Total, DEPARTMENT OF TRANSPORTATION	<u>\$ 1,637,800,000</u>	<u>\$ 0</u>

TEXAS WORKFORCE COMMISSION

	For the Years Ending	
	August 31, 2010	August 31, 2011
Method of Financing:		
Federal American Recovery and Reinvestment Fund	\$ 451,886,786	\$ 0
Total, Method of Financing	<u>\$ 451,886,786</u>	<u>\$ 0</u>
Items of Appropriation:		
Item 1: Child Care and Development Block Grant (CCDBG)	\$ 213,586,786	\$ 0
Item 2: Employment Services (ES)	\$ 27,200,000	\$ 0
Item 3: Senior Community Service Employment Program (SCSEP)	\$ 1,300,000	\$ 0
Item 4: Workforce Investment Act (WIA) - Adults	\$ 24,300,000	\$ 0
Item 5: Workforce Investment Act - Adult - Skills Development Program	\$ 10,000,000	\$ 0
Item 6: Workforce Investment Act (WIA) - Dislocated Workers	\$ 53,800,000	\$ 0
Item 7: Workforce Investment Act (WIA) - Youth	\$ 82,000,000	\$ 0
Item 8: Unemployment Insurance - Improve Systems	\$ 39,700,000	\$ 0
Grand Total, TEXAS WORKFORCE COMMISSION	<u>\$ 451,886,786</u>	<u>\$ 0</u>

SPECIAL PROVISIONS AMERICAN RECOVERY AND REINVESTMENT ACT

Sec. 1. Informational Item: Fiscal Year 2009 Allocations. In addition to the amounts appropriated above, it is estimated that the following amounts will be distributed in fiscal year 2009 under provisions of the American Recovery and Reinvestment Act for the following purposes:

Health and Human Services Commission: Enhanced Federal Medical Assistance Percentage	\$1,640,000,000
Texas Education Agency: State Fiscal Stabilization Funds	979,000,000
Office of the Attorney General: Child Support Enforcement	27,300,000
Texas Department of Transportation: Highway & Bridge Construction	<u>662,200,000</u>
Total, Fiscal Year 2009 Allocation	\$3,308,500,000

Sec. 2. Unexpended Balances. Any unexpended balances as of August 31, 2010, out of appropriations made above in this Article are hereby appropriated for the fiscal year beginning September 1, 2010, for the same purposes.

SPECIAL PROVISIONS
AMERICAN RECOVERY AND REINVESTMENT ACT
(Continued)

Sec. 3. Reporting Requirements.

(a) Each state agency and institution of higher education receiving appropriations under this article shall develop and submit a plan to the Legislative Budget Board and the Governor providing details on the entity's intended use of their appropriations from the American Recovery and Reinvestment Act (ARRA). The plan shall include a summary of any ARRA funds spent, allocated or encumbered prior to August 31, 2009. The report shall be delivered by September 30, 2009.

(b) Each of the agencies and institutions receiving appropriations under this Article shall submit quarterly reports, in a form determined by the Legislative Budget Board, on expenditure of funds appropriated from the American Recovery and Reinvestment Act Fund. The reports shall include information delineating expenditures on one-time and recurring expenses. Reports shall be submitted no later than the following dates each year: December 31, March 31, June 30, and September 30. The reports shall be submitted to the Governor, Legislative Budget Board, State Auditor's Office, and Comptroller of Public Accounts.

Sec. 4. Limitation on Use of Funds.

(a) None of the funds appropriated in this Article may be expended for any purpose other than those identified above without prior written approval of the Governor and Legislative Budget Board.

(b) Prior to the expenditure of any funds appropriated in this Article, each agency shall report to the Legislative Budget Board, the Governor, and Comptroller of Public Accounts any changes in federal law, rules, or regulations in programs that receive appropriations under this Article that could create a future fiscal obligation beyond fiscal year 2011 to the state. If after the tenth business day after notification from the agency neither the Legislative Budget Board nor the Governor issues a written disapproval, the Comptroller of Public Accounts shall release the funds.

Sec. 5. Priority of Funding. To the extent allowed under the American Recovery and Reinvestment Act, from funds appropriated in this Article, agencies shall give priority to expenditures that do not recur beyond the 2010-11 fiscal biennium.

Sec. 6. Informational Rider: Reduction in General Revenue. The amounts of general revenue reductions shown above in certain agency appropriations in this Article are in accordance with Title V of the American Recovery and Reinvestment Act. All of the general revenue reductions identified above are offset by an equal or greater amount of funds made available in the American Recovery and Reinvestment Act.

Sec. 7. FMAP Allocations. Appropriations above to the Health and Human Services Commission for Medicaid Enhanced FMAP shall be allocated by the Commission to affected agencies. The Commission shall submit a plan for that allocation to the Legislative Budget Board and the Governor by September 30, 2009.

Sec. 8. State Energy Projects Funding. To the extent allowed by federal law and regulations, out of the funds appropriated above in Item 1, State Energy Program, to the Fiscal Programs Office of the Comptroller, priority shall be given to the energy projects at the Texas Facilities Commission and to the Texas Energy Efficiency Resource Center at the Texas Engineering Experiment Station.

Sec. 9. Government Services Stabilization. Funds appropriated above to the Texas Education Agency and to the Higher Education Coordinating Board are from Title XIV (b), Other Government Services, of the American Recovery and Reinvestment Act and are a one-time expenditure for the 2010-11 biennium.

Sec. 10. Informational Item: Border Security Appropriations. It is the intent of the legislature that the Byrne Justice Grants appropriated above shall be allocated as follows:

(1) \$3,600,000 to the Department of Public Safety for overtime and operational costs for increased patrol and investigative capacity for certified peace officers (DPS and local);

SPECIAL PROVISIONS
AMERICAN RECOVERY AND REINVESTMENT ACT
(Continued)

- (2) \$6,500,000 to the Department of Public Safety for border-wide crime mapping and surveillance capability to support resource deployment and assessments;
- (3) \$1,500,000 to the Department of Public Safety to establish a multi-agency gang intelligence section in the Texas Fusion Center;
- (4) \$1,200,000 to the Texas Parks and Wildlife Department for 2 deep water patrol boats, 6 jet-drive flat bottom river patrol boats, and 5 lake patrol boats and related capital budget authority;
- (5) \$500,000 to the Texas Parks and Wildlife Department for overtime and operational costs for increased patrol and investigative capacity;
- (6) \$4,000,000 to the Trusteed Programs within the Office of the Governor for expanding radio communications and night vision capabilities;
- (7) \$2,000,000 to the Trusteed Programs within the Office of the Governor to provide funding for equipment and training to support patrol operations;
- (8) \$2,500,000 to the Trusteed Programs within the Office of the Governor to fund overtime to expand gang enforcement patrols; and
- (9) \$1,750,000 to the Trusteed Programs within the Office of the Governor to fund overtime to expand multi-jurisdictional gang investigations.

**RECAPITULATION - ARTICLE XII
AMERICAN RECOVERY AND REINVESTMENT ACT
(General Revenue)**

	For the Years Ending	
	August 31, 2010	August 31, 2011
Office of the Attorney General	\$ (27,300,000)	\$ 0
Department of Aging and Disability Services	(4,200,000)	0
Department of Assistive and Rehabilitative Services	(5,700,000)	0
Health and Human Services Commission	(2,513,000,000)	0
Texas Education Agency	(2,563,300,000)	0
Higher Education Coordinating Board	(200,000,000)	0
General Academic Institutions	(17,400,000)	0
Public Community/Junior Colleges	(110,000,000)	0
 TOTAL, ARTICLE XII - AMERICAN RECOVERY AND REINVESTMENT ACT	 <u>\$ (5,440,900,000)</u>	 <u>\$ 0</u>

**RECAPITULATION - ARTICLE XII
AMERICAN RECOVERY AND REINVESTMENT ACT
(Federal Funds)**

	For the Years Ending	
	August 31, 2010	August 31, 2011
Office of the Attorney General	\$ 37,400,000	\$ 0
Fiscal Programs - Comptroller of Public Accounts	264,400,000	0
Trusteed Programs within the Office of the Governor	101,400,000	0
Department of Aging and Disability Services	10,200,000	0
Department of Assistive and Rehabilitative Services	87,600,000	0
Department of Family and Protective Services	1,313,241	0
Department of State Health Services	12,800,000	0
Health and Human Services Commission	2,540,600,000	0
Texas Education Agency	4,825,900,000	0
Higher Education Coordinating Board	200,000,000	0
General Academic Institutions	17,400,000	0
Public Community/Junior Colleges	110,000,000	0
Department of Agriculture	21,800,000	0
Department of Housing and Community Affairs	565,100,000	0
Office of Rural Community Affairs	19,500,000	0
Department of Transportation	1,637,800,000	0
Texas Workforce Commission	451,886,786	0
 TOTAL, ARTICLE XII - AMERICAN RECOVERY AND REINVESTMENT ACT	 <u>\$ 10,905,100,027</u>	 <u>\$ 0</u>

**RECAPITULATION - ARTICLE XII
AMERICAN RECOVERY AND REINVESTMENT ACT
(All Funds)**

	For the Years Ending	
	August 31, 2010	August 31, 2011
Office of the Attorney General	\$ 10,100,000	\$ 0
Fiscal Programs - Comptroller of Public Accounts	264,400,000	0
Trusted Programs within the Office of the Governor	101,400,000	0
Department of Aging and Disability Services	6,000,000	0
Department of Assistive and Rehabilitative Services	81,900,000	0
Department of Family and Protective Services	1,313,241	0
Department of State Health Services	12,800,000	0
Health and Human Services Commission	27,600,000	0
Texas Education Agency	2,262,600,000	0
Department of Agriculture	21,800,000	0
Department of Housing and Community Affairs	565,100,000	0
Office of Rural Community Affairs	19,500,000	0
Department of Transportation	1,637,800,000	0
Texas Workforce Commission	451,886,786	0
Less Interagency Contracts	<u>\$ 0</u>	<u>\$ 0</u>
TOTAL, ARTICLE XII - AMERICAN RECOVERY AND REINVESTMENT ACT	<u>\$ 5,464,200,027</u>	<u>\$ 0</u>

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.

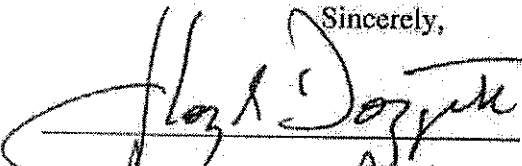
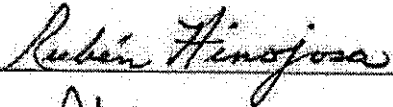
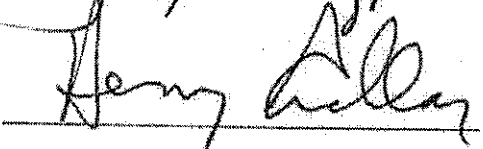
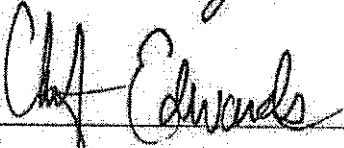

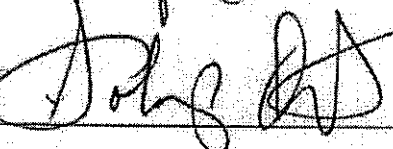

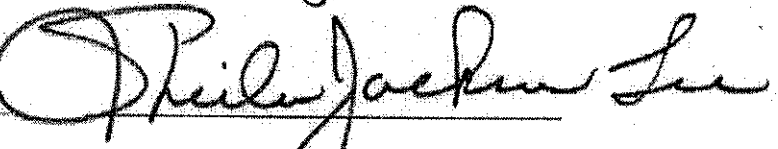
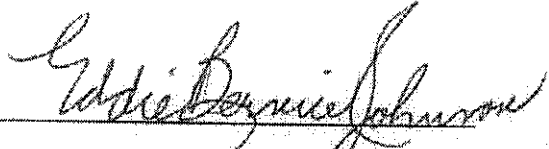
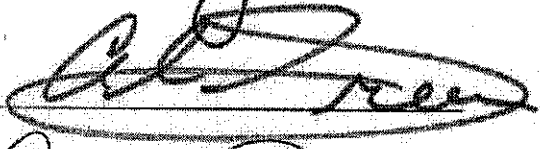
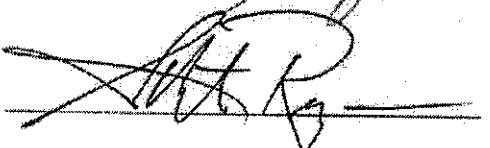
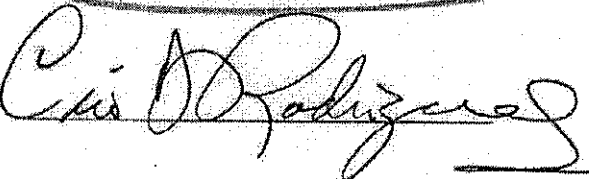
The LBB budget includes a \$4 billion shortfall, but this is artificially created. We recognize that these funds must be found somewhere, but we assert that there is no need to look outside of the State to find them. While allowing for this supposed \$4 billion shortfall, the LBB budget increases the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

 _____ Hoyt Dozyn	 _____ Ruben Hinojosa
 _____ Henry Keller	 _____ Cliff Edwards
 _____ [unclear]	 _____ John [unclear]
 _____ [unclear]	 _____ Phil Jackson
 _____ Eddie Dennis Johnson	 _____ [unclear]
 _____ [unclear]	 _____ Chris Rodriguez



HOUSTON INDEPENDENT SCHOOL DISTRICT

HATTIE MAE WHITE EDUCATIONAL SUPPORT CENTER
4400 WEST 18th STREET • HOUSTON, TEXAS 77092-8501

ABELARDO SAAVEDRA, Ph.D.
Superintendent of Schools

April 6, 2009

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

Dear Secretary Duncan:

My fellow superintendents of schools (listed on page two) and I are writing to you to urge you to strongly clarify key elements of the American Recovery and Reinvestment Act. We are very concerned that federal funds from the State Fiscal Stabilization Fund (SFSF) might not reach the Texas school districts we represent. We hope that the Department of Education will issue guidance, in the strongest language possible, that SFSF dollars cannot supplant state funding for education in Texas but rather must go to increasing support for our local schools and their students.

The American Recovery and Reinvestment Act (ARRA) designates 81.8 percent of SFSF funds for education support. We believe that Texas requires clear guidance regarding what qualifies as "primary elementary and secondary education formulae" in this regard. Giving the State of Texas wide latitude to name a number of "primary" education formulae allows for the creation of education budget shortfalls where none exist. This would enable the state to use stabilization funds to fill artificial gaps and address other budgetary or policy priorities, such as the maintenance of the state's Rainy Day Fund, that are unrelated to our students' educational goals and needs.

We consider the use of these stabilization funds for any purpose other than the one ARRA intended—the improvement of education for America's children—to be unacceptable and a violation of the public trust. We believe that clear guidance from you on this vital matter will help to make sure that ARRA's goals will be met and our mission as educators will be realized. We would like an opportunity to talk to you on a conference call to discuss these issues, if your schedule permits. Should you be available to participate in a conference call, your staff can make those arrangements through my office at 713-556-6300.

Creating a College-Bound Culture


The Honorable Arne Duncan
April 6, 2009
Page 2

The superintendents listed here are in agreement with this letter and have given permission to add their names to this letter:

David Anthony
Wanda Bamberg
Carol Ann Bonds
Jesus Chavez
Scott Elliff
John Folks
Lorenzo Garcia
Michael Hinojosa
Richard Middleton
Michael Zolkoski

Cypress-Fairbanks ISD
Aldine ISD
San Angelo ISD
Round Rock ISD
Corpus Christi ISD
Northside ISD
El Paso ISD
Dallas ISD
North East ISD
Ysleta ISD

Sincerely,



Abelardo Saavedra, Ph.D.
Superintendent of Schools

AS:wa

c: Michael Casserly
All Superintendents listed above