



STATE OF TEXAS

August 26, 2010

The Honorable Arne Duncan
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary Duncan:

The purpose of this letter is to ensure that U.S. Department of Education guidelines for state applications for funding under HR 1586, "The Education Jobs Fund," will be flexible enough to allow Texas to successfully apply for its share of federal assistance without violating the Texas Constitution or Texas law.

Texas' share of the \$10 billion through HR 1586 is \$830 million, but based on language added in the U.S. House, the governor would be expected to violate the Texas Constitution by binding a future legislature to spend a certain amount of state tax dollars on education. Making this assurance would violate Texas' constitution and its laws. In Texas, revenue and spending decisions are made by the Texas Legislature, which does not convene again until January 2011. Furthermore, Texas is being asked to make this assurance before the state's available revenue has even been determined. The Texas Constitution requires the legislature to pass a balanced budget each biennium; consequently, we simply cannot make these budgetary decisions without first knowing what revenue will be available.

HR 1586 requires the governor to assure that these federal dollars – by law meant to pay the salaries of teachers – must be distributed through federal Title I formula rather than through state education funding formula. No other state has this stipulation placed on it, and the practical impact of this mandate will preclude 31 districts from receiving any of the funding and will actually result in less funding for 66 percent of school districts. That means 193,228 teachers – whose very jobs were to be saved by this law – and the education of 2,790,471 schoolchildren are placed at risk. There will be more teachers whose jobs are not protected and more schoolchildren who will be negatively impacted in Texas than the total number of teachers and students in the state of Florida.

Utilizing federal Title I formulas is appropriate in certain instances, but forcing Texas to use federal Title I formulas in this case is inappropriate and inequitable. The intent of the funding is to aid all school districts in order to avoid teacher layoffs. However, Title I formulas will disproportionately fund a few school districts in Texas at the expense of the majority of districts; specifically, the Texas Education Agency estimates that of the state's 1,230 school districts, 809

will receive less revenue under the federal Title I formula than they would if the funds were sent out according to the state formulas, costing these disadvantaged districts collectively around \$230 million.

These two provisions in the law apply only to Texas. No other state is asked to guarantee public education funding levels into 2012 and 2013, and no other state is mandated to provide education tax dollars only to Title I school districts.

For the past decade or longer, public education has been one of the highest priorities in this state. Even in 2003, when the state faced a \$10 billion shortfall, we set our priorities and found ways to increase funding for public education by nearly \$1 billion from all funds. Texas continues to dedicate significant state funds to education. From 2000 to 2009, the state's share of public education spending alone increased from \$11 billion a year to \$20 billion, an 82 percent increase. In our most recent legislative session in 2009, Texas utilized funds provided from the American Recovery and Reinvestment Act to increase formula funding to districts by \$2 billion, resulting in every district receiving at least \$180 more per student than it received in the previous year.

Texas has a strong track record of funding public education, as well as a strong track record of continuous classroom improvement. We have raised standardized test scores and are nationally recognized for preparing our students for success in college and their careers. Texas schools are moving in the right direction. This year, Texas saw a 12 percent increase in the number of students taking the ACT. Earlier this year, Achieve, the national bipartisan education reform organization, announced that Texas is the first, and so far only, state to meet all the American Diploma Project's five key college and career readiness measures. *Education Week* magazine has recognized Texas as one of the first states in the nation to hold schools directly accountable for ensuring that its students graduate college- and career-ready with four years of math, science, social studies, and English on their transcripts.

We respectfully request that the U.S. Department of Education establish flexible guidelines that allow Texas to spend the money promised in HR 1586 in a manner that is consistent with our state constitution and is equitable for the teachers and schoolchildren of Texas.

Sincerely,



Lieutenant Governor
President of the Texas Senate



Speaker
Texas House of Representatives