

TESTIMONY OF THE
CONNECTICUT COALITION
FOR ***JUSTICE***
IN EDUCATION FUNDING
TO THE
EDUCATION COMMITTEE

February 22, 2012

Senator Stillman, Representative Fleischmann, and members of the Education Committee, the Connecticut Coalition for Justice in Education Funding appreciates this opportunity to submit comments pertinent to **Governor's Bill No. 24 — An Act Concerning Educational Competitiveness**.

Governor Malloy's focus on education during this short legislative session is greatly appreciated. It reflects his genuinely deep commitment to education and his thorough understanding of its vital role in fueling our economy and improving our social fabric. To propose such a bold and costly plan amidst the continuing fiscal uncertainty that our state, federal, and local governments face is indeed groundbreaking.

Best intentions aside, however, a hastily drawn proposal, lacking well-researched underpinnings, and questionable data elements does not an adequate and equitable school finance system make.

Weighing SB 24 in Terms of Adequacy and Equity

In March 2010, the Connecticut Supreme Court ruled in *CCJEF v. Rell* that the state constitution ensures the right of every Connecticut public school student to a quality (adequate) education and the state must pay for it. That decision added substance to the rulings in *Horton v. Meskill* (1977, 1982, and 1985), in which the Connecticut Supreme Court affirmed that the state constitution provides a fundamental right to "substantially equal educational opportunity" for all schoolchildren and that the reliance on local property taxes to fund education, without regard to wealth disparities, was in violation of the constitution. The *Sheff v. O'Neill* (1989) decision held that the existence of "extreme racial and ethnic isolation in the public school system deprives schoolchildren of a substantially equal educational opportunity."

Thus the concept of education adequacy (*CCJEF*) joins the long-established precept of equity (*Horton, Sheff*) — and it is against these legal principles of adequacy and equity, plus common sense and the everyday classroom and fiscal realities under which most school districts are now struggling, that one must weigh every aspect of Governor Malloy's proposed reforms to the state's education funding system. To that effect, we remain hopeful about the direction the Governor is taking education and convinced that he is sincere in his intent to restore excellence

to Connecticut's public schools. However, we view too much of the fiscal contents of SB 24 as tipping the scales of justice and equity further askew, adding to the imbalances caused by the past years of state neglect and underinvestment in public schooling. On the plus side, SB 24 would drive state funding more clearly toward the neediest districts and students. On the minus side, as always, the devil is in the details: too many of the proposed fiscal reforms are either inequitable or inadequate or both.

What many of us clearly agree upon is that before coming up for a vote, these proposed fiscal reforms require far more public deliberation and expert analyses than can be had during this short legislative session.

Key CCJEF Concerns

CCJEF's views critiquing and in opposition to SB 24's proposed ECS formula changes represent the consensus positions of our broad-based coalition on systemic school finance reform aimed at ensuring equal educational opportunity consistent with the urgent need to adequately prepare all students for productive work and careers, successful advanced study or training, and informed citizenship in the 21st century. We highlight here our key concerns with the Governor's bill.

CCJEF opposes the proposed ECS formula and school funding changes that would:

- (a) set a categorical grant atop the state's equalization aid formula;**
- (b) incorporate a \$1,000 per pupil municipal tuition payment to charter schools funded by local property taxes;**
- (c) zero out any future ECS increases for numerous higher-wealth districts;**
- (d) fail to provide weighting for special education within the ECS formula and fail to fully fund the Special Education Excess Cost grant outside the ECS; and**
- (e) introduce other structural changes to the formula that are not premised on research-based guidance.**

(a) SB 24 would, in essence, set a categorical grant atop the state's equalization aid formula, a primary funding mechanism that addresses *Horton*. To further complicate the limited ability of this flawed formulaic entitlement grant to distribute state aid to the public schools, in part based on the weighting (albeit arbitrary) of student learning needs related to poverty and non-English proficiency, is unwise and unfair to schoolchildren who may suffer great harm should their distressed districts be unable to satisfy the Department of Education's "conditions" for receiving ECS increases that the formula would otherwise allocate for their education.

We are alarmed at this seemingly purposeful attempt to back away from the state's paramount education aid grant, deviating from the notion of a funding entitlement for schoolchildren in favor of leaving the funding of certain schoolchildren who attend certain school districts to the sole discretion of the Department of Education and the "conditions" the Commissioner elects to impose. Singled out for such categorical grant treatment are the districts that serve a majority of

the state's poorest students, including most of Connecticut's English language learners and the lion's share of non-white children. Concentrated in fiscally distressed municipalities, these educationally disadvantaged students have the highest and costliest learning needs in the state — needs that are not being met due to the state's decades-long failure to adequately and equitably fund the public schools. Now these districts are to be deprived of any assurance that their students will receive post-2011-12 ECS entitlement increments unless and until "conditions" are implemented to satisfy the Commissioner. These "conditional" funds are indeed important in stimulating and moving forward school improvement efforts, but **there is no good reason why SB 24's "conditional" funding component should not be outside the ECS formula where categorical grants like this belong.**

Ironically, most of the "conditions" listed in **Sec. 4 (at line 763)** are consistent with the "best practices" that these struggling districts have been striving to implement for years but have lacked the wherewithal to undertake. To now expect that small amounts of new dollars — ranging from just \$49 per pupil in Windsor Locks and \$52 in Norwalk, to \$231 per pupil in Hartford and \$245 in New Britain — whether mislabeled as ECS funds or properly dealt with outside that formula as a categorical grant (and thereby also having the advantage of not being "filtered" through municipal coffers) ought to produce miraculous turnaround of any meaningful, sustainable measure is wishful thinking and sets unrealistic expectations for progress within these districts and their schools.

(b) Requiring municipalities to send \$1,000 per pupil tuition of their already stretched property tax dollars to whatever charter schools their students opt to attend would disproportionately impact the lower-performing districts. This requirement for diverting local education aid to charters will add to the fiscal jeopardy that "conditionally" funded urban school districts would henceforth endure under SB 24's provisions. The inclusion of a tuition charge in an equalization formula reduces state aid and is technically an inappropriate element in the ECS formula; it represents a fixed amount, unequalized from either the perspective of the "sending" community that would incur the mandatory fee or even from the perspective of student need weightings appropriate to the receiving charter school itself. Most importantly, this surely represents an initial phase-in by the state of a planned shift to local municipalities and their districts the costs of privately operated charter schools, adopting the money-follows-the-child system that charter organizations have been demanding over the past few years.

When the state first enacted charter legislation, the charter applicants all vowed to deliver education better and cheaper than the traditional public school districts, and the state believed the small schools would be incubators for experimentation and innovation. This has not happened across the board and the business plans of charter school operators have now been revised to shift a reliance on state and federal aid — augmented in some cases by vast private-sector underwriting — to a local, state, and federal combination.

SB 24 proposes to expand existing charter schools and grow an unspecified number more. We support the Governor's proposal to require that new charters serve English language learners, special education, and severely disadvantaged student populations. These populations are barely represented in the enrollments of current charter schools. As a matter of educational equity, we ask that the Education Committee require all charter schools, both new and existing ones, to

serve racially and economically diverse student populations and students who present the full gamut of learning needs that are to be found in traditional public schools.

ECS losses due to the \$1,000 per pupil tuition charge (discussed earlier) and various other hidden costs (e.g., special education services and transportation) that “sending” districts would be required to continue paying are greatly compounded by the state’s implicit encouragement of students to transfer out of the traditional public schools into the privately operated charters, thereby reducing districts’ ECS student counts and further weakening the important human capital that children of diverse backgrounds bring to the classroom. This provision of SB 24 pits municipalities of all sizes and wealth levels, plus traditional school districts that currently serve some 509,000 students and object to having their local funding and enrollments raided, against the ambitious expansion goals of a few charter schools that currently serve just 5,700 students and almost no high-needs (special education and ELL) students.

(c) SB 24 would zero out any future ECS increases for numerous high-wealth districts, in total disregard for rights of their schoolchildren to a share of state aid. The rights of the schoolchildren in high-wealth districts are the same rights that the state constitution confers on all other Connecticut public schoolchildren. They, like their peers in other communities, have rights to a reasonable share of state education aid that would be negated under SB 24 merely because of the wealth of the communities in which they happen to live. Some 45 school districts today receive less per pupil than they did under the \$250 per pupil flat grant of the pre-*Horton* 1970s. Zeroing out aid for these districts and their schoolchildren surely is inequitable and was never the intent of the Connecticut Supreme Court.

Moreover, zeroing out the ECS for high-wealth districts indicates a lack of foresight on the part of any statewide school improvement plan. These districts also need to refocus on concerted improvements. Reform cannot/should not be focused solely on the bottom tier of the performance continuum in Connecticut. Instead, we need to be maximizing the learning abilities of every child in every community, and that includes students already achieving at advanced levels. A rising tide must lift all boats!

(d) SB 24 fails to provide weighting for special education within the ECS formula and also fails to fully fund the Special Education Excess Cost grant or lower its reimbursement threshold. Notably, nothing in the bill addresses the need to increase funding for school districts beset with ever-rising special education costs and increasing numbers of students being identified as needing services. Inasmuch as special education is a federal mandate and augmented by state statutes, the rising costs of these services take precedence over all other district expenses. Accordingly, these rising expenses increasingly limit the ability of districts to fund their regular education programs. Despite being faced with ever-increasing SPED costs, that Special Education Excess Cost grant is capped, so that districts are not even receiving the full reimbursements due them under that grant’s high threshold that is supposed to cover eligible costs exceeding 4.5 times what it costs to educate a regular student. Special education remains a major cost driver within every Connecticut school district, and we ask that SB 24 be amended to address those costs.

(e) Other proposed structural changes to the ECS formula lack any research-based merit.

These structural changes include the arbitrary \$12,000 foundation amount. Although the foundation increase is a greatly appreciated boost that gets the state closer to acknowledging the real cost of educating a student with no extra learning needs, no district ever receives a per pupil allotment as high as the foundation level. Also included are a change in the way student poverty is measured, the rightful inclusion of more ELL students in the count for that need weighting, and the use of better measures (though still quite imperfect) in the local wealth calculation that plays a pivotal role in determining which communities get what share of available total funding.

The above-identified ECS changes, don't work — not for technical reasons, not for keeping with expected standards of government transparency and public debate prior to major policy shifts, and certainly not for meeting the state's constitutional requirement to adequately and equitably fund the public schools. These ECS changes would do little if anything to advance the goal of equal educational opportunity.

We do not know how the decision to propose these particular structural changes was made. Whatever the method or intent, the changes do not appear to be based on research and solid data reflecting the real cost of providing a quality education in Connecticut, statewide and district-by-district. Yet it is essential to have firm estimates of what it might cost to provide educational programming and services that meet the state's own learning standards, e.g., wherein most students would be likely to meet state goal level in math and reading on the CMT and CAPT assessments. **Unless and until the state commissions an up-to-date adequacy cost study (preferably with CCJEF collaboration so that its results are accepted by all), no foundation level or student need weights can be assumed to be legitimately reflective of what it takes to meet the state's constitutional obligation to adequately and equitably fund the public schools** as required by the 2010 *CCJEF* decision of the Connecticut Supreme Court.

In conclusion, Governor Malloy has acknowledged that closing the achievement gap and turning around the state's most academically challenged school districts, some of whose municipalities are among the poorest in the nation, will require a sustained, long-term effort. Rather than now invest in the broken ECS at a level that will make no meaningful difference, we believe that at this time of fiscal uncertainty, **a far better and more equitable use of those dollars would be to invest in fully funding the Special Education Excess Cost Grant and reducing its reimbursement threshold. Alternatively, investing those funds in support of universal preschool and all-day kindergarten in the Priority School Districts would not only serve the purposes of adequacy and equity, but also result in future academic gains and cost savings within the very highest-need communities.**

Let us be clear: Governor Malloy's proposed reform agenda is not dispositive of the *CCJEF v. Rell* education funding lawsuit. It does not come anywhere near meeting the Connecticut Supreme Court guarantee of education adequacy and equity. Is it a start in the right direction? We hope so, but that remains to be seen.

As always, CCJEF and its fiscal experts are fully prepared and willing to assist the state in revamping the state's school finance system — either from A to Z, or more narrowly focused just on the ECS and a few other fiscal elements of the system, as has been attempted with this

proposed legislation. The continued reticence of the Administration to pursue a collaborative problem-solving approach to CCJEF's constitutional challenge of the school finance system is puzzling and certainly not advantageous to the state as it pours upwards of \$1.2 million per year and inestimable time and energy into defending against the constitutional obligation it owes schoolchildren. More importantly, it is a huge missed opportunity for which tens of thousands of schoolchildren are paying the price now and may continue to suffer from the remainder of their lives.

Respectfully submitted,

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The Connecticut Coalition for Justice in Education Funding (CCJEF) is a broad-based coalition of municipalities, local boards of education, statewide professional education associations, unions, and other pro-education advocacy organizations, parents and schoolchildren aged 18 or older, and other concerned Connecticut taxpayers. Member school communities are home to nearly half of Connecticut's public school students, including some three-fourths of all minority students, those from low-income families, and students from homes where English is not the primary language.