

**SENATE CONCURRENT  
RESOLUTION No. 134**

**STATE OF NEW JERSEY  
215th LEGISLATURE**

INTRODUCED JANUARY 14, 2013

**Sponsored by:**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator JIM WHELAN**

**District 2 (Atlantic)**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Hunterdon and Mercer)**

**Assemblyman GARY S. SCHAER**

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**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Assemblywoman L. GRACE SPENCER**

**District 29 (Essex)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Co-Sponsored by:**

**Senators Rice, Cunningham, Gill, Gordon, Pou, Assemblymen Diegnan, Coutinho, Assemblywomen Vainieri Huttle, Sumter and Assemblyman Conaway**

**SYNOPSIS**

Expresses Legislature's objection to certain recommendations included in the Governor's Educational Adequacy Report.

**CURRENT VERSION OF TEXT**

As introduced.

(Sponsorship Updated As Of: 2/15/2013)

1   **A CONCURRENT RESOLUTION** objecting to certain  
2   recommendations included in the Governor's Educational  
3   Adequacy Report.

4  
5   **WHEREAS**, In 2002, the Department of Education entered into a  
6   contract with a nationally recognized consulting firm with extensive  
7   expertise in education finance policy to implement the professional  
8   judgment panel methodology to determine the cost of providing  
9   educational services to all New Jersey students in a manner that is  
10   consistent with the State's standards; and

11   **WHEREAS**, The analysis resulted in, among other things, a base per  
12   pupil cost that is considered the funding necessary to educate an  
13   elementary school student who does not have any special needs, an  
14   at-risk weight that reflects the additional cost associated with  
15   educating low-income students, and an LEP weight that represents  
16   the additional cost associated with educating a student enrolled in a  
17   bilingual education program; and

18   **WHEREAS**, After completing the professional judgment panel analysis,  
19   the department issued the "Report on the Cost of Education" in  
20   December of 2006 to publicize the results, and subsequently  
21   entered into a contract with three nationally recognized experts in  
22   education finance policy to review the report's findings. The  
23   department also conducted a series of public hearings to receive  
24   additional input on the report; and

25   **WHEREAS**, In February of 2007, the department publicly released a  
26   report that summarized the comments and findings of the three  
27   reviewers, and subsequently began a series of meetings with a  
28   three-member advisory panel to discuss the final development of a  
29   comprehensive school funding formula that could be applied to all  
30   school districts; and

31   **WHEREAS**, In December of 2007, the department released a report  
32   titled, "A Formula for Success: All Children, All Communities,"  
33   which provided the substantive recommendations for a new school  
34   funding law. In the report, the department recommended an  
35   additional weight for at-risk students that ranged from 0.47 to 0.57,  
36   depending on the percent of students in a district who are low-  
37   income. In making this recommendation, the department noted that  
38   the at-risk weights resulting from the professional judgment panel  
39   analysis were counterintuitive, since the weight did not  
40   systematically increase as the concentration of at-risk students in  
41   the district increased. The department, after consultation with the  
42   advisory panel, also recommended an additional LEP weight of  
43   0.50 for bilingual education students, somewhat higher than the  
44   weight that resulted from the professional judgment panel analysis.  
45   The department also recommended a weight for combination  
46   students, those who are both at-risk and bilingual education  
47   students, equal to the sum of the at-risk weight and 0.125; and

1   **WHEREAS**, The department’s report also proposed modifying the  
2   method by which school districts would receive extraordinary  
3   special education aid, designed to assist districts in paying the costs  
4   of educating special education students for whom districts incur  
5   considerably higher costs. Specifically, the department  
6   recommended reimbursing school districts for a portion of costs in  
7   excess of \$40,000, for special education students who are educated  
8   with general education students, or \$55,000, for special education  
9   students who are educated in separate programs; and

10   **WHEREAS**, The “School Funding Reform Act of 2008,” P.L.2007,  
11   c.260 (C.18A:7F-43 et al.), enacted on January 13, 2008,  
12   incorporated most of the recommendations included in the  
13   department’s December report. The act also specified that no later  
14   than September 1, 2010, and every three years thereafter by  
15   September 1, the Governor, after consulting with the Commissioner  
16   of Education, is to submit an Educational Adequacy Report to the  
17   Legislature. In the report, the Governor is to propose the base per  
18   pupil amount, the per pupil amounts for full-day preschool, the  
19   weights for grade level, county vocational school districts, at-risk  
20   pupils, bilingual pupils, and combination pupils, the cost  
21   coefficients for security aid and transportation aid, the State average  
22   classification rate for general special education services pupils and  
23   for speech-only pupils, the excess cost for general special education  
24   services pupils and speech-only pupils, and the extraordinary  
25   special education aid thresholds; and

26   **WHEREAS**, In May of 2009, the New Jersey Supreme Court ruled that  
27   the “School Funding Reform Act of 2008” met constitutional  
28   muster, and may be applied to the 31 former Abbott districts. In its  
29   decision, the Court noted that the determination of constitutionality  
30   was dependent, in reference to the Educational Adequacy Report,  
31   “...on the mandated review of the formula’s weights and other  
32   operative parts after three years of implementation.” The Court  
33   further stated, “[t]he three year look-back, and the State’s  
34   adjustments based on that review, will provide more information  
35   about the efficacy of this formula. There should be no doubt that  
36   we would require remediation of any deficiencies of a constitutional  
37   dimension, if such problems do emerge”; and

38   **WHEREAS**, In February 2012, the department released the “Education  
39   Funding Report.” Based on statements made by the department,  
40   this report was not issued to satisfy the statutory requirement  
41   established in the “School Funding Reform Act of 2008” to review  
42   the efficacy of the law. However, this report did provide a series of  
43   recommendations that were to be provided in the Educational  
44   Adequacy Report required by the school funding law; and

45   **WHEREAS**, Among the recommendations included in the Education  
46   Funding Report was a reduction in the weight associated with at-  
47   risk students, to a minimum of 0.42 and a maximum of 0.46. The  
48   report also recommended reducing the weight for bilingual

1 education students to 0.47, and reducing the weight for combination  
2 students to the sum of the at-risk weight and 0.1052; and

3 **WHEREAS**, The department's explanation for these recommendations  
4 is crystallized by a single sentence in the report, in which the  
5 department states that, "Unsatisfied with the reasons for the  
6 inflation of the PJP-determined weights upward, the [d]epartment  
7 recommends that the at-risk, LEP, and combination at-risk/LEP  
8 weights in the SFRA funding formula be adjusted downward to  
9 where they were originally set by the PJPs"; and

10 **WHEREAS**, This explanation is devoid of the type of research and  
11 analysis of the school funding level necessary to achieve the State's  
12 standards as required by the "School Funding Reform Act of 2008,"  
13 or as expected by the Supreme Court in its ruling; and

14 **WHEREAS**, While a footnote in the report did thank four nationally  
15 recognized experts in education policy and research for their  
16 contributions to the report, the department has not provided any  
17 summary of the comments or recommendations provided by these  
18 experts, thus precluding one from comparing their  
19 recommendations to those that were ultimately included in the  
20 Education Funding Report; and

21 **WHEREAS**, On December 14, 2012, 835 days after the date stipulated  
22 in the school funding law, the Governor submitted the Educational  
23 Adequacy Report to the Legislature. The report did not include any  
24 new substantive analysis regarding the resources that are necessary  
25 to provide educational services to all students consistent with the  
26 State's standards. Rather, it largely restated or slightly modified the  
27 recommendations included in the Education Funding Report; and

28 **WHEREAS**, The department also recommended increasing the  
29 extraordinary special education aid thresholds by \$5,000. In the  
30 report, the department stated that it, "...anticipates that this change  
31 will allow for only those students with the highest cost services to  
32 be eligible, and will help ensure that the State can reimburse those  
33 costs at the higher rate provided for in the SFRA." This  
34 explanation suggests that the recommendation is motivated by a  
35 desire to reduce State expenditures, not on any measure of a  
36 reasonable benchmark that should be used to provide aid to school  
37 districts to minimize the fiscal stress that may occur when a school  
38 district incurs exceptionally high costs for a small number of  
39 students; and

40 **WHEREAS**, The Legislature does not object to the recommendations  
41 included in the Educational Adequacy Report with respect to the  
42 base per pupil amount, the per pupil amounts for full-day preschool,  
43 the weights for grade level and county vocational school districts,  
44 the cost coefficients for security aid and transportation aid, the State  
45 average classification rate for general special education services  
46 pupils and for speech-only pupils, and the excess cost for general  
47 special education services pupils and speech-only pupils. The  
48 Legislature does not object to these recommendations because they

1 are based on the use of the most current relevant data available or  
2 the application of the consumer price index; and

3 **WHEREAS**, In the absence of more substantive analysis, the  
4 Legislature believes that the weights for at-risk pupils, bilingual  
5 pupils, and combination pupils and the extraordinary special  
6 education aid thresholds should remain the same as those  
7 established under the school funding law when enacted; and

8 **WHEREAS**, The “School Funding Reform Act of 2008” stipulated that  
9 the Governor should transmit the Educational Adequacy Report to  
10 the Legislature no later than September 1, 2010, and no later than  
11 September 1 every three years thereafter. However, given the  
12 lateness of this report, it is impractical to expect that the next report  
13 would be transmitted to the Legislature within nine months.  
14 Accordingly, it is the Legislature’s understanding and expectation  
15 that the next Educational Adequacy Report will be transmitted to  
16 the Legislature no later than September 1, 2015, in accordance with  
17 the frequency established in the school funding law. This  
18 timeframe will allow the Governor, in consultation with the  
19 commissioner, to conduct the research and analysis, which was  
20 lacking in this report, to determine if the various parameters  
21 proposed in the report truly support the needs of school districts in  
22 educating students to the State’s standards; now, therefore,

23  
24 **BE IT RESOLVED** by the Senate of the State of New Jersey (the  
25 *General Assembly concurring*):

26  
27 1. The Legislature hereby notifies the Governor that it objects  
28 to the recommendations included in the Educational Adequacy  
29 Report that reduce the weights associated with at-risk students,  
30 bilingual education students, and combinations students, on the  
31 basis that the recommendations are not supported by any research or  
32 analysis demonstrating that the use of the higher weights included  
33 in the school funding law has provided school districts with more  
34 resources than required to provide for the additional educational  
35 needs of these students.

36  
37 2. The Legislature further objects to the recommendation that  
38 the thresholds that determine eligibility for extraordinary special  
39 education aid be increased by \$5,000 on the basis that the  
40 recommendation does not attempt to assess the fiscal implications  
41 that the change would have on school districts.

42  
43 3. Duly authenticated copies of this concurrent resolution,  
44 signed by the President of the Senate and the Speaker of the  
45 General Assembly, and attested by the Secretary of the Senate and  
46 the Clerk of the General Assembly, shall be transmitted to the  
47 Governor and to the Commissioner of Education.

1 4. Notwithstanding the provisions of section 4 of P.L.2007,  
2 c.260 (C.18A:7F-46) to the contrary, the Commissioner of  
3 Education shall submit a revised report to the Legislature  
4 responding to these objections no later than 30 days after a copy of  
5 this concurrent resolution is transmitted to the Governor and the  
6 commissioner, or prior to the transmittal of the State budget  
7 message to the Legislature by the Governor pursuant to section 11  
8 of P.L.1944, c.112 (C.52:27B-20), whichever occurs first.

9  
10  
11 STATEMENT  
12

13 This concurrent resolution notifies the Governor that the  
14 Legislature objects to specific recommendations included in the  
15 Educational Adequacy Report. The report recommends that the  
16 school funding law be modified to decrease the additional weights  
17 for students who are at-risk (defined as students who are eligible to  
18 participate in the National School Lunch Program), bilingual  
19 education students, and combination students (defined as those who  
20 are both at-risk and bilingual education students). The Legislature  
21 objects to these recommendations because they are not based on any  
22 research of the school funding level necessary to achieve the State's  
23 standards, as required under the school funding law or as expected  
24 by the Supreme Court in its decision.

25 The report also recommends increasing the extraordinary special  
26 education aid thresholds by \$5,000. Under current law, a school  
27 district may be partially reimbursed for certain costs in excess of  
28 \$40,000, for a special education student served in a district-operated  
29 program, or in excess of \$55,000, for a special education student  
30 served in a privately-operated program. This recommendation  
31 would reduce the number of students for whom a district may seek a  
32 partial reimbursement from the State, and the overall amount of aid  
33 that a district would receive. The Legislature objects to this  
34 recommendation because it appears to be motivated by a desire to  
35 reduce the State's obligation without regard to the potential fiscal  
36 implications for school districts.

37 This concurrent resolution directs the Commissioner of  
38 Education to submit a revised report to the Legislature that responds  
39 to these objections no later than 30 days after a copy of the  
40 resolution is transmitted to the Governor and the commissioner, or  
41 before the transmittal of the Governor's budget message to the  
42 Legislature, whichever occurs first.