STATE OF ARIZONA

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January 24, 2006

The Honorable Ken Bennett
President
Arizona State Senate
1700 West Washington Street
Senate Office Building
Phoenix, AZ 85007

Re: Senate Bill 1198; ELL; SEI models; budget requests

Dear President Bennett:

Today, I vetoed Senate Bill 1198, related to English language learner programs and corporate and individual tax credits; and I am calling the legislature into immediate special session in the hope of trying one final time to pass reasonable legislation to bring the State into compliance with the court's orders in *Flores v. State of Arizona* before sanctions against the State are imposed.

Let me be clear about the State's responsibilities to English language learners: Arizona children who are not English language proficient must be taught to read, write and speak English well so that they can learn in our schools and grow up to contribute to our communities. Children who do not learn English are less likely to succeed in school, more likely to drop out, and more likely to pose financial burdens on the State and its taxpayers in the future. The current high failure rate of the AIMS test by non-English proficient children and the State's unacceptably high dropout rate are testament to these facts.

Our responsibility to educate English language learners is not just a matter of my opinion or that of a federal judge. It is a matter of clear federal law. The Equal Educational Opportunities Act of 1974 requires it. Yet, for 14 years, English language learners have been forced to fight in court to have this important law enforced. For six years, the State has been subject to a judgment requiring that funding for our English language acquisition programs bear a rational relationship to the cost of such programs. And for the last year, we have been held in non-compliance with that judgment.

Last May, the legislature passed a bill that was inadequate to bring the State into compliance with federal law. I vetoed it under the belief that we could do better, and I stood ready to call the legislature into special session if it was prepared to do so. This summer, I worked with school districts and legislators to develop my own legislation that would have

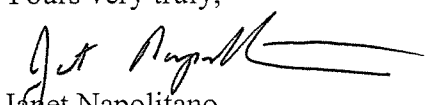
provided schools with the resources they need to ensure English language proficiency over the long run. My proposal would clearly have satisfied the court's order, and it included tough accountability measures to ensure that school districts use their funding properly. My proposal also would have addressed the numerous roadblocks that House Bill 2718 from last year and Senate Bill 1198 from this year put in the way of school districts. I remain disappointed that the legislature was not more receptive to this common sense plan.

This legislature has refused to budge from its position from last year, and instead last night passed Senate Bill 1198, a bill that includes an uncapped corporate tuition tax credit that bears no reasonable relation to the proper funding of English language acquisition programs in public schools. I agree with the concerns expressed by many legislators of both parties that this particular tax credit is fiscally irresponsible and will result in a significant drain on our State's general fund. As we learned with the alt fuels debacle, the legislature should not authorize essentially unlimited tax credits without understanding the fiscal consequences to Arizona. As Attorney General, I was heavily involved in repairing the damage done by the legislature's unwise decision to pass an unlimited alt fuels tax credit. As Governor, I will not stand by and allow the legislature to do the same thing under the rubric of English language learner instruction.

Because Senate Bill 1198 is so flawed and because of the looming federal court deadline, I am calling the legislature into special session this evening, beginning at 5:00 pm, to address *Flores*. I plan to remain available throughout the evening to accomplish this important task.

Please also note that in light of the immediate potential of court sanctions, I have asked the Attorney General to file a motion today with the court in *Flores* to require that any sanctions imposed on the State be applied to benefit English language learners immediately. The Attorney General has agreed to do so. Whether through sanctions or legislative appropriation, we must begin to adequately and properly fund English language learning in this State as soon as possible.

Yours very truly,



Janet Napolitano
Governor

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cc: Hon. Jim Weiers