



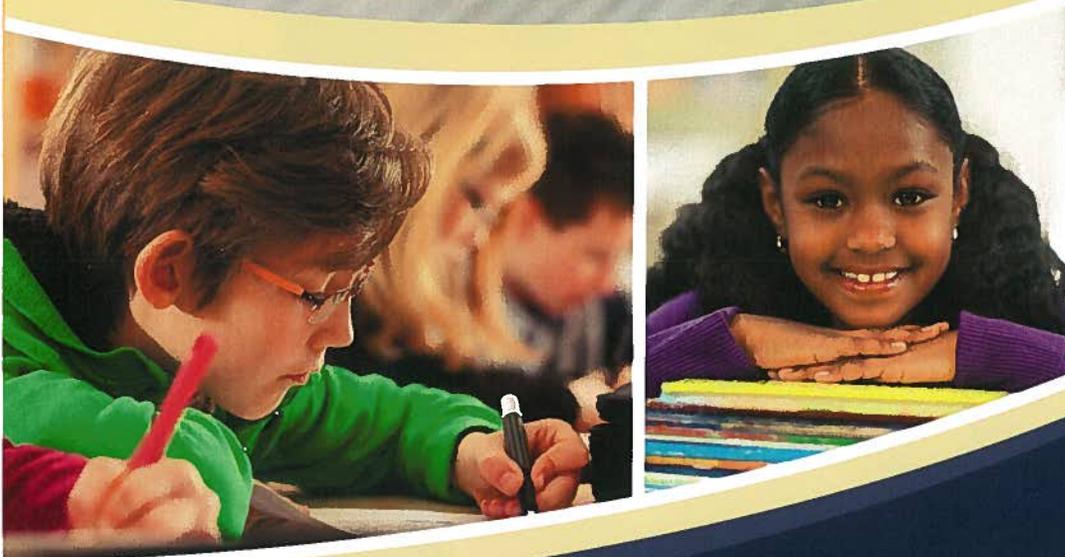
New York State
School Boards
Association

17

Joint Legislative Hearing on the 2014-15 Executive Budget Proposal *Elementary and Secondary Education*

Hearing Room B, LOB • January 28, 2014

David A. Little, Esq., *Director of Governmental Relations*



NYSSBA's **Be the
Change**
for kids

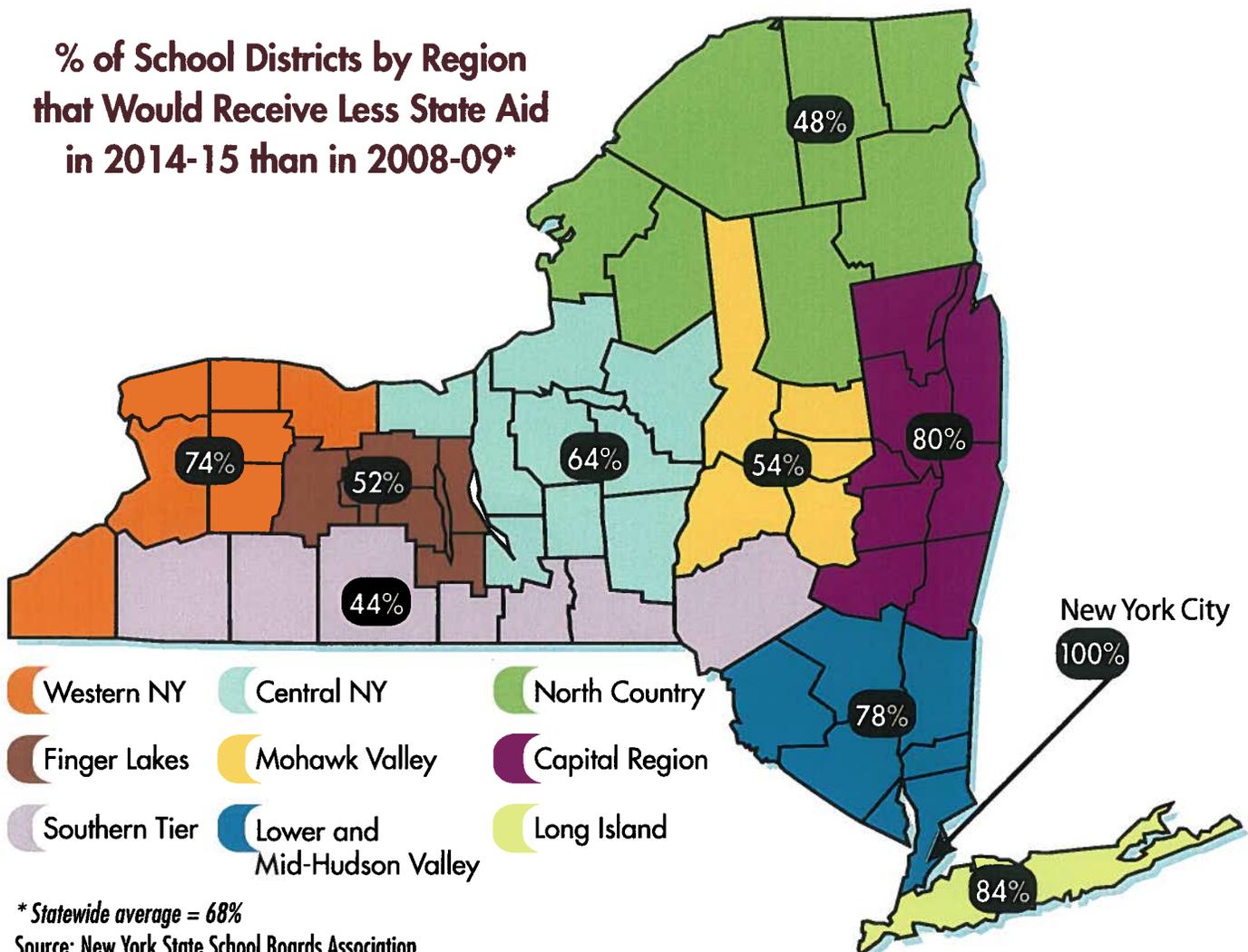
Executive Budget Testimony

Introduction

By any measure, the 2014-15 Executive Budget proposal falls dramatically short of expectation and need for school aid. Claiming that the calls for significant increases are “propaganda,” Gov. Andrew Cuomo’s proposal attempts to accomplish a seemingly incongruous result – simultaneously claim there is a state surplus and continue to withhold school funding purportedly intended to reduce a state budget deficit. **When the governor’s teacher bonus and pre-K funding initiatives are taken off the table, schools are left with only an increase of \$285 million to reimburse them for funds already expended, as well as a \$323 million reduction in the Gap Elimination Adjustment (GEA).** It boggles the mind to consider how one creates a state surplus by withholding more than \$1.3 billion in funding legally owed the schools. Governor Cuomo’s proposal leaves it up to you, the Legislature, to fight for the desperately needed additional aid.

The Regents State Aid Proposal pegged school spending needs for 2014-15 at \$1.3 billion. The Educational Conference Board (comprised of the major statewide education associations, including NYSSBA) determined that school districts would need \$1.5 billion in new state aid, along with what they could raise locally under the property tax cap, just to keep current educational programs and services. Less than two weeks ago, in a bipartisan effort, 80 members of the State Assembly and Senate joined together to call for an additional \$1.9 billion in state education spending this year.

**% of School Districts by Region
that Would Receive Less State Aid
in 2014-15 than in 2008-09***



* Statewide average = 68%

Source: New York State School Boards Association

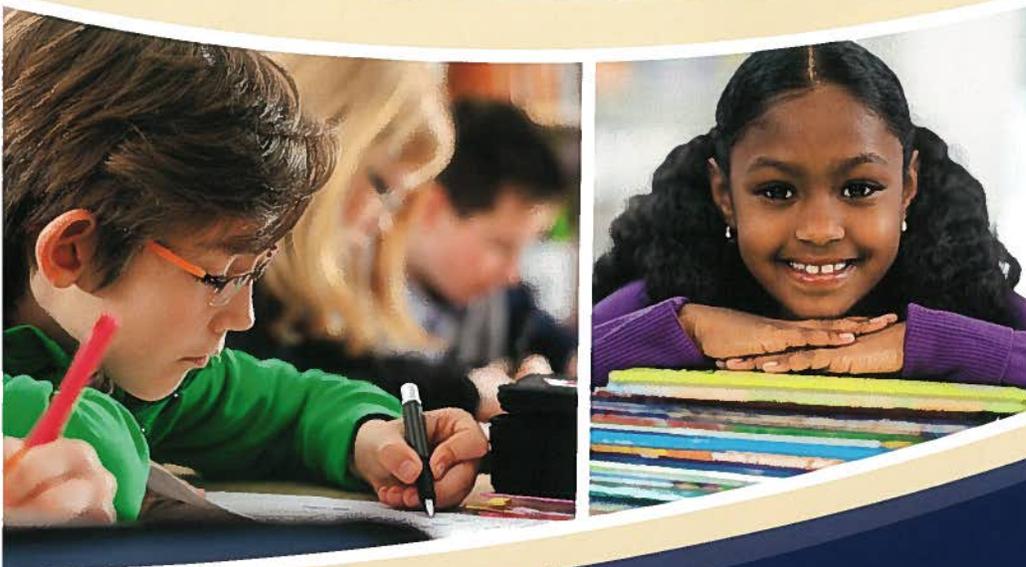




New York State
School Boards
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Pathway to Prosperity:

2014 NYSSBA Legislative Priorities



NYSSBA's *Be the*
Change
for kids



Pathway to Prosperity: *2014 NYSSBA Legislative Priorities*

Public education in New York State has never been under greater pressure. Our business community, colleges and universities are clamoring for more highly skilled students, leading to an unprecedented attempt to reform our educational system.

On the other side, restricted state and local resources are causing tremendous fiscal stress on our local school districts. Something has to give.

The reforms included in Pathway to Prosperity will truly make a difference. Investing political effort in these legislative and regulatory changes would position our state's educational system to be far more effective and efficient. Their enactment would

be a triumph of sound public policy over traditional political influence. In short, they will improve the lives of our children and the future of our great state.

On behalf of the nearly 700 school districts that comprise the New York State School Boards Association, NYSSBSA thanks you for your continued attention to this vital effort and strongly recommends the following agenda for your consideration.



State ¹Aid

Exempt Schools from the Gap Elimination Adjustment

NYSSBA supports legislation to exempt state aid for public education from the calculation of the Gap Elimination Adjustment (GEA).

Since the GEA's inception, school districts have lost more than \$9.5 billion from GEA state aid cuts. It is unconstitutional for the State of New York to allocate an amount of school aid sufficient to meet its constitutional obligation of providing its residents a "sound, basic education" and then to statutorily reduce that amount. Doing so has systematically undermined our state's educational progress.

Aid Adjustment Due to Loss of Tax Base

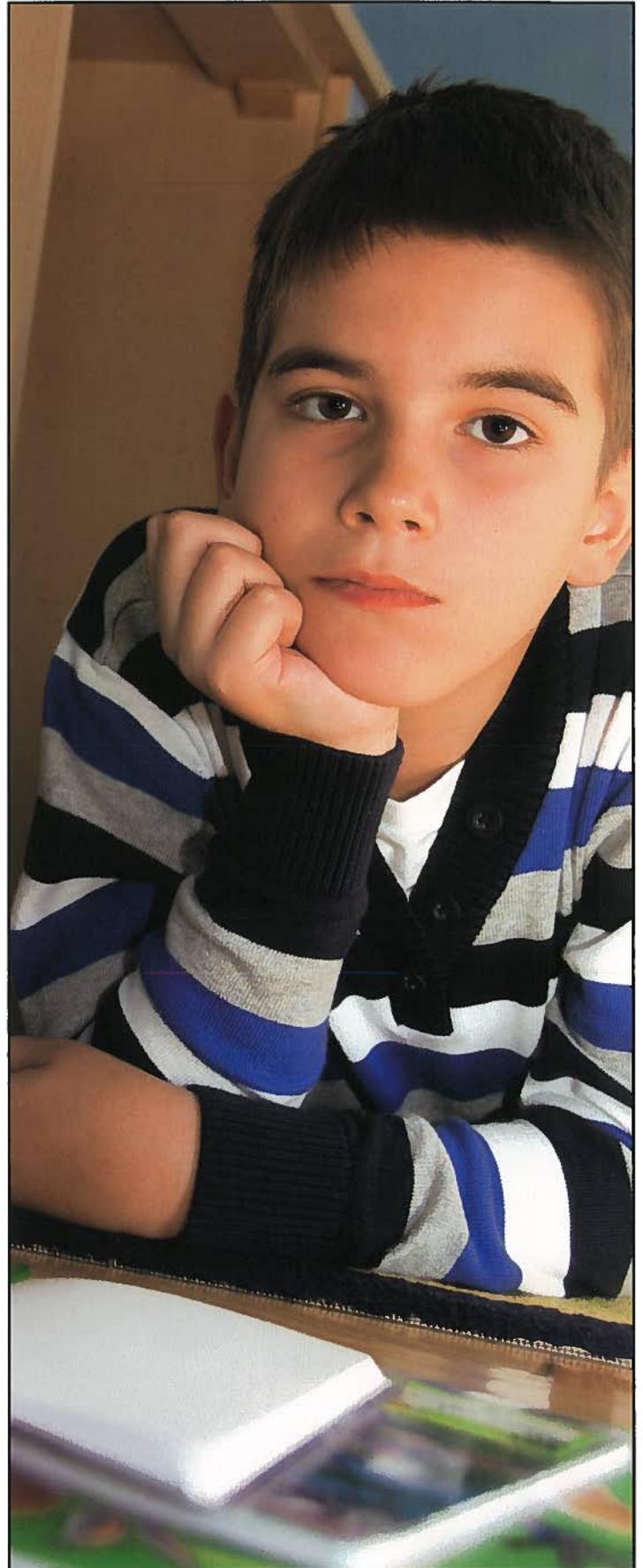
NYSSBA supports legislation to hold school districts financially harmless whenever they experience the unanticipated, significant loss of revenue due to tax certiorari cases or the unexpected loss of a significant portion of the value of their taxable property.

Many school districts have been repeatedly harmed by tax base calculations that do not accurately reflect the community's true fiscal circumstances. This, in turn, underfunds their schools and has a negative effect on the quality of education the district can afford to provide its children. The Legislature must adjust aid allocations due to the loss of tax base and financially hold harmless school districts that experience any unanticipated and significant losses to their tax base.

Additional State Aid for Increasing The School Day or School Year

NYSSBA supports legislation providing additional state aid for all school districts to increase the length of either their school day or school year, or to restructure their school instructional year to create year-round instruction.

Research clearly indicates that more, high-quality "time on task" is directly related to increased academic performance. The lengthening of school days, school year or a combination thereof provides school districts with the opportunity for more instructional time for students, addresses the issue of summer learning loss, as well as creating a more stable and supportive environment for all students. Simply put, students' increased academic performance cannot be realized without additional state financial support.



Student ² Safety

Aid for School Safety

NYSSBA supports legislation to ensure state and/or federal financial support for efforts to enhance school safety.

School districts are in need of comprehensive solutions to keeping children and school personnel safe. The School Resource Officer (SRO) program is a well-established means of keeping children and school personnel safe while preparing schools for emergency situations. School psychologists and social workers have also shown the ability to identify and divert potentially violent behavior prior to incidents. Just as important are efforts to make school facilities more secure through monitors, hardened doors, bulletproof glass, etc. School districts need legislation that would provide a consistent funding stream from the state for SROs and other safety personnel that would supply both school districts and BOCES with the resources they need to maintain these programs and facility improvements.

Tax Levy Cap Exclusion for School Safety

NYSSBA supports legislation to exempt school safety enhancing equipment and School Resource Officers from tax levy cap calculations.

In this age of school shootings, the health and safety of students is of paramount concern and thus, the ability to pay for safety enhancing measures should reflect a priority status. The ability of school districts to expeditiously enact safety measures has been severely hampered by the loss of state

school aid (which remains below 2009 funding levels) as well as the tax cap on local tax levies. An exemption of these costs would ensure that school safety needs are not pitted against the maintenance of instructional programs in the budget development and approval process. The ability to protect children from mass violence should not depend on a supermajority vote.

Make School Threats of Gun Violence a Crime

NYSSBA supports amending the law to make threats of mass gun violence a crime.

It is a crime to make a bomb threat to a school. Our state recognizes that such threats are dangerous, disruptive and costly. Today, threats of mass gun violence are far more prevalent and have exactly the same impact on our schools and emergency personnel. Yet, despite the many instances of gun violence that have plagued our schools, making a threat of mass gun violence is not a crime in New York State. Schools have been shut down and lost instructional time and state aid. Emergency personnel have risked their lives hurriedly responding to these threats. Students, parents and staff have been terrorized and yet, the only crime that was committed was "harassment." This has proven to be an insufficient deterrent and there have been repeat offenders that have terrorized schools over a period of months. New York State must immediately update its laws to recognize this threat.



Employee³ Relations

Tenure Status for Non-instructional Employees

NYSSBA opposes legislation to grant tenure status to non-instructional employees.

Tenure was designed to protect academic freedom, preventing nepotism from interfering in the employment of educators and shielding teachers from undue pressure regarding the subject matter taught. The concept of zealously protected employment status is unique to the academic and judicial communities. The exhaustive due process protections and seniority rights during school layoffs given to teachers were never meant to be extended to non-instructional employees. Nevertheless, school district non-instructional employees have due process protections that are time-tested, effective and fair. These protections are uniformly applied and employees are well aware of the process. Expanding tenure protections to non-instructional employees would provide no public benefit.

Last In First Out

NYSSBA supports legislation to allow school districts to factor in educational need, resource requirements and staff qualifications in addition to seniority in determining staffing reductions.

Factoring in educational need, resource requirements and staff qualifications in addition to seniority when making layoff decisions will allow districts to retain the most appropriate educators in the midst of an era of staffing reductions, program reorganization and education reform. If layoffs become necessary, the guiding issue should be what is best

for the students. Amending state law to allow schools to consider factors in addition to seniority (such as teacher performance, student need and credentials) will give schools the ability to retain the most effective and appropriate instructors when making layoff decisions.

Contract Negotiations

The New York State School Boards Association supports changing state law to eliminate automatic salary increases under an expired contract.

The continuation of salary increments during contract negotiations creates an overwhelming bargaining disadvantage for school districts by providing regular salary increases to employees despite the absence of an agreement on wages. School boards are perpetually locked into past agreements over wages, the single largest category of school expenses. Salaries and benefits on average make up 70-80 percent of a school district's total operating budget. Pay increases required by state law add almost \$300 million a year to school budgets. Thus any legitimate effort to address school spending with diminished resources must forthrightly address personnel costs. NYSSBA urges allowing school districts to freeze salaries upon the expiration of a contract. Most importantly, removing automatic step and lane increases in the current economic climate prevents the loss of key personnel and the programs and services they provide to students.



School Governance and Authority

Develop a Combined Regents Diploma and Associate Degree

NYSSBA supports legislation or regulatory efforts to prioritize a combined Regents high school diploma and associate degree.

In an age of increased academic demands but diminished resources that have cut electives, every effort must be made to remove obstacles to allow high school students the opportunity to earn both a Regents high school diploma and associate degree. These programs have a proven track record of success. Successful early college high school programs have a positive impact on student outcomes which include: closing the achievement gap, increasing readiness for four-year colleges, making college affordable and promoting college attendance.

Repeal Non-Federal Special Education Mandates

NYSSBA supports legislation to restructure special education services.

New York State's approach to special education is quickly and thoroughly overtaking its ability to provide programs and services to students in the remainder of the educational spectrum, with no fewer than 200 state mandates beyond federal requirements. The state must set a date certain beyond which all 200 nonfederal special education mandates would be repealed. In conjunction with that repeal, NYSSBA proposes a legislative commission to determine (in the interim) which of those mandates are essential to our continued ability to provide sound educational programs to students receiving a specialized education and exempt them from the general repeal. All federal requirements (which are typically the entirety of the special education requirements in other states) would be exempt from repeal. The repeal of non-federally required programs and procedures would allow our state to take a fresh look at how we provide these vital services and assure that we maximize benefits for all our students.

Unfunded and Underfunded Mandates

NYSSBA supports the prohibition of any new unfunded and under-funded New York state mandates on local public school districts.

NYSSBA has long advocated for substantive relief from unfunded and underfunded state mandates. At a time when school districts face criticisms and complaints from voters and lawmakers for their spending and budgets, this position

remains of paramount importance. Taxpayers and the state officials they elect must recognize that there is a direct relationship between increasing school district taxes and the increases in state mandates on school districts. Only when districts are allowed to direct their resources toward their educational missions, rather than to state mandated programs and services, will any real relief be achieved. This year, our schools will operate on 2009 funding levels, meaning that every cost increase in nearly five years has been borne by the local community. For our local public school districts to remain in a positive financial position, maintain excellent programs and meet state standards, state mandate relief is needed now. This must include further restraint in passing unfunded new mandates and the political courage to pass real mandate relief.

Establishment of TRS Pension Reserve

NYSSBA supports legislation to allow local school districts and BOCES districts to establish reserve funds necessary to meet the financial obligations that result from contributions required by the New York State Teachers' Retirement System.

School districts desperately require the ability to stabilize costs and engage in long-term financial planning in order to provide children with a sound, basic education. Employer contribution rates to retirement systems have put school districts at the fiscal mercy of factors beyond their control. Failure to provide school districts with the authority and flexibility for fiscal planning irresponsibly poses risks to taxpayers and students. Designated reserve accounts can play a critical role in strategic education finance management. These reserve funds provide protection against foreseeable obligations (pension and health care costs) and unforeseeable expenses (declines in real property values, state aid cuts and fluctuations in energy costs). Legislation should be enacted to allow school districts and BOCES to establish reserve funds for contributions to the New York State Teachers' Retirement System (TRS) in the same manner in which they currently use State Employees' Retirement System (ERS) reserve funds.

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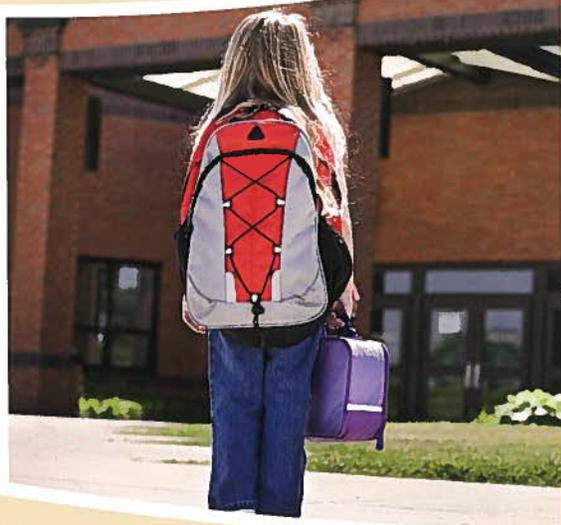
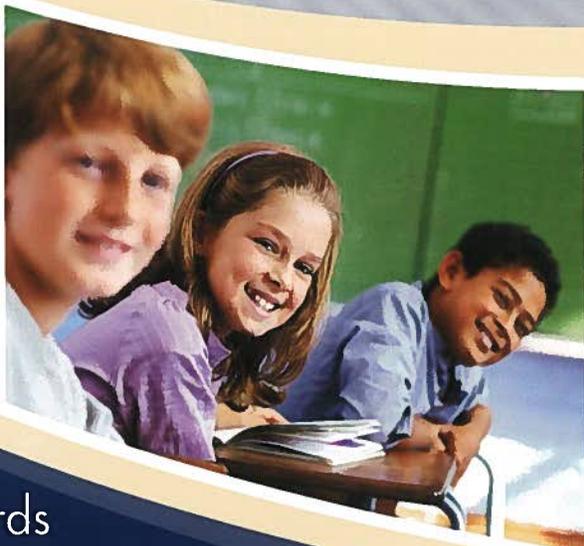
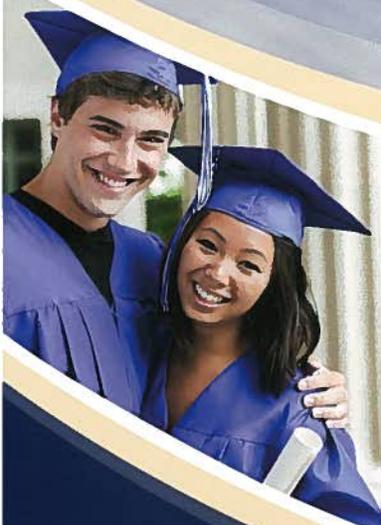
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Property Tax Relief

The governor's property tax relief proposal cannot work, given his school aid figures. **Simply put, with a tax levy cap set at roughly 1.5 percent, school districts need significant new state aid to stay below the tax levy cap.**

The governor knows that for several years most districts have stayed below the tax levy cap and those that have not have largely been met with voter rejection. Providing an amount insufficient to pay for current programs (let alone implementation of the Common Core Learning Standards) will doom both school budgets and the property tax relief program; school spending will be blamed as the cause. The resulting community pressure to cut programs and services to stay below the cap will be severe.

School Aid Proposal

Currently roughly 70 percent of our schools are funded at or below 2009 levels. This plan does little to help. In Erie County, for example, only three school districts would see aid increases beyond the 2009 level. Niagara County would have just one district. In Central New York, seven school districts would receive less aid than last year.

The governor has removed all reference to the GEA from his rhetoric since he claims to have developed a surplus. **The truth is that the "surplus" only exists if he continues to enforce the GEA, which equates to a reduction of \$1.3 billion from school aid.** Without enforcing this deficit-reducing mechanism, the governor's surplus quickly turns into an \$800 million deficit.

The fact that the governor intends to use a claimed budget surplus to fund tax reductions for corporations and manufacturers belies the fact that he is using court-ordered school aid to create that surplus. Without question, tax relief is needed to develop our economy, but taking legislated aid increases to pay for it shifts school costs onto already burdened property taxpayers. Forcing schools to then stay under a cap creates local school failure by design, which is the furthest thing imaginable from creating the world-class schools the governor claims we need.

Technology Bond Referendum

The \$2 billion technology bond proposition is formed on even shakier ground. Highly populated areas are already served by broadband access and most computer hardware needed. **Voters here are unlikely to support 20-year or 30-year borrowing to pay for tablets and other short-lived computer equipment.** Add in the costs of building to pay for pre-K and afterschool programs, and voters are highly unlikely to support long-term borrowing to pay for activities outside the school day. Indeed, there is a question as to whether bondholders would authorize long-term obligations for computer equipment purchases.

The Legislature must plan for needed technology improvements in the event of the failure of the statewide referendum. Simple increases in the existing computer aid formulae provide a more targeted and focused approach without the delay and uncertainty of this speculative proposal.

Building Aid Reductions

Schools are set to have their Building Aid recalibrated, based on a 10-year assessment of interest rates. The governor has failed to address this significant reduction in the Executive Budget. **Without legislative intervention, our school districts will lose \$26 million in aid.** They need the Legislature to impose a moratorium on this recalibration into the state budget. The governor has left \$74 million (available in the Fiscal Stabilization Fund) unallocated in his budget proposal. This amount is sufficient to address both the increase in school technology needs and the moratorium on Building Aid recalibration.

No Mandate Relief

The governor's complete lack of new mandate relief initiatives is certainly discouraging. His only proposal is to once again suggest that school districts be authorized to seek special education waivers, consistent with federal requirements, from the State Education Department. While sorely needed, this proposal alone is woefully inadequate if school districts are to stem the tide of ever-increasing costs. Years after the enactment of the tax cap law that included the promise of mandate relief, only retirement system costs have been addressed. Even there, schools continue to pay astronomical contributions.



Loss of Local Control

The Executive Budget delves freely into policy issues traditionally left to the Legislature. Among these is the proposal to subject school districts to the jurisdiction of the Division of Human Rights. There is good cause for the courts to have rejected this approach. School districts must have the ability to deal with children internally in order to correct behavior and create an environment that is educationally appropriate for both victim and perpetrator. The Division of Human Rights does not share this approach and is unable to approach student complaints in the required expedited and student-focused manner.

The governor's proposal is a significant infringement on appropriate local control. Shifting focus from rehabilitation to punishment in addition to creating significant delays is no recipe for an improved educational environment. Similarly, removing the education commissioner's discretion in removing school officials from their positions (should they fail to report what is later considered a pattern of behavior) is inappropriate and damaging to our schools. The governor has rushed to judgment, based on the as yet unresolved circumstances reported in a single school district. The response is both premature and harmful.

In Sum – A Plan Built on Costly, Inadequately Funded Schools

The governor's Executive Budget has the potential to place extreme financial pressure on school districts, leaving them with no ability to reduce costs outside of reducing staff. **When combined with an inadequate aid proposal, this plan spells a return to fiscal austerity for schools.** The rhetoric of the need for world-class schools, a little more than two weeks ago, rings hollow when supported by such an anemic aid proposal. When taken at face value, the Executive Budget has:

1. No plan to address the inadequacies of the current funding approach.
2. No plan to legitimately relieve local taxpayers of the burden of school costs.
3. No plan to eliminate the destructive Gap Elimination Adjustment.

The governor continues to hang his hat on the total average amount spent per student in the state. Yet he fails to mention that the state's share of this dollar figure has plummeted in recent years and he fails to recognize the unconscionable disparities in how even those amounts are distributed. Support for educational technology seems to hinge on the public's willingness to vote for long-term debt to pay for current expenses. He attaches his plans for pre-K and afterschool programs to the success of yet-to-be-constructed casinos. His plan to make pre-K universal ignores the likelihood that kindergarten may need to be cut as a result of his funding proposal. In fact, the governor's plan freezes the existing pre-K formula. Similarly, support for pre-K and afterschool programs would likely hinge on school district confidence in long-term state funding. The Executive Budget proposal would certainly make assumptions of such confidence appear tenuous at best.

Perhaps most disturbing is the fact that the Executive Budget continues to propose new educational spending initiatives without even acknowledging a school spending scheme that includes systematically withholding promised funds, resulting in the dismantling of already-existing programs. **The proposal repeatedly touts that there is a \$2 billion surplus. Yet the governor's own information on the state's fiscal condition shows that this surplus may actually arrive three years from now – in 2017.** At that rate, the world-class schools of the governor's aspirations may be unreachable.

