



TESTIMONY

2007-08 Executive Budget for Education

Senate Finance and
Assembly Ways and Means Committees

February 27, 2007

Chairman Johnson, Chairman Farrell and other members of the Legislative Fiscal Committees:

I am Robert Lowry, Deputy Director of the New York State Council of School Superintendents.

Thank you for this opportunity to share the perspectives and concerns of the school superintendents throughout the state about Governor Spitzer's budget proposals affecting public education.

Attached to my testimony, you will find our comprehensive analysis of the Governor's proposals. We title our report *Shifting Out of Neutral* because we believe the Governor is raising crucial issues that should ignite an overdue debate on the direction of education policy in New York State.

THE COUNCIL'S REFORM AGENDA: "EDUCATION IS A CIVIL RIGHT"

Elsewhere today, we are presenting our own contribution to that debate, our own reform agenda, under the banner, *Education is a Civil Right*. The civil rights movement of the last century challenged Americans to live up to what is best in our heritage by assuring all citizens equal rights under the law. Now it is time for a new campaign – to assure that all children have the educational opportunities that any of us would want for our own children.

Our agenda is built around three promises:

First, ensure all children learn what they need to know and be able to do to succeed throughout life beyond school. This means updating the state standards and assessments that practically define goals and objectives schools must pursue.

Second, assure all schoolchildren the best teachers and school leaders we can get – they are the most important school resources, so nothing is more important.

Third, the impact of childhood poverty is the biggest impediment to success by schools, so we must assure all students the other services and programs they need to succeed.

Our agenda details specific actions to deliver on those promises. You will be receiving copies of it this week.

GENERAL REACTIONS

We find much to praise in the Governor's budget. His proposed Foundation Aid formula is generally faithful to principles for school finance reform supported by statewide education leadership groups, including its use of pupil needs and regional costs as important aid factors. The guarantee of a minimum 3 percent increase for all districts is more generous than that proposed by the Regents, the Campaign for Fiscal Equity, or any other group advancing a reform

proposal. It projects 2010-11 aid levels for all districts and would dramatically improve the predictability of state aid. By consolidating 17 aid categories it would simplify aid as well.

The overall increase in funding is impressive – more than double that proposed by Governor Pataki a year ago, the prior record for an Executive Budget. For New York City, the proposal reaches levels of need determined through the Campaign for Fiscal Equity litigation when an anticipated \$2.2 billion increase in the City's local effort is included. This combined State-City funding level would exceed the minimal threshold of adequacy set in the Court of Appeals final ruling.

The proposed state aid increase is supplemented by a net \$884 million targeted increase in STAR property tax relief, bringing the combined proposed increase in state revenues to schools to over 10 percent, on average.

During the campaign and after, Governor Spitzer promised more investment in schools and more accountability. Constructed carefully, that is a justifiable trade-off.

In a minute, I will raise some specific and profound concerns about the Governor's accountability proposals. But in its broad outlines it is superior to the federal No Child Left Behind Act. Unlike the NCLB, the Governor's plan acknowledges that schools sometimes fail because of a lack of resources, expertise, or both and attempts to remedy those deficiencies, before leaping to punish districts for disappointing results.

STATE AID ISSUES

Before addressing accountability more fully, I want to make four specific points about the aid aspects of the budget.

Foundation Aid

First, while the Foundation Aid proposal builds off a consensus that had emerged among education leadership groups on the outlines of aid reform, it departs from that consensus by including a large part of special education funding among the 17 categories folded into Foundation Aid.

The bottom-line fiscal impact of this proposal is hard to gauge. In place of a series of aid weightings for students with disabilities scaled to the amount of time they spend in special education, the proposal would apply a single, uniform weighting on behalf of all special education students. This uniform weighting is set at a relatively high level; it actually would benefit most districts. But the formula would also generate less aid per pupil for most districts, so it would produce a mixed bag of net winners and losers.

What has led many education leaders to oppose consolidating special education aid into a foundation operating aid formula, however, is its potential long-term impact on students in general education.

In lean years for the state, general purpose aid formulas (such as Foundation Aid) have been subjected to freezes and cuts, while special education formulas have almost always been spared. The fear is that, if special education were funded through a general aid formula, districts could someday be denied more help from state aid when they decide more students need help from special education services. Because those services are defined and delivered pursuant to extensive state and federal mandates, districts would then have no choice but to impose cuts on general education or seek local tax increases.

Second, given the inherent complexities of constructing an aid formula for a state as diverse and complex as New York, the proposed Foundation Aid formula is straightforward. As basic factors it uses variables that have been extensively evaluated and debated, including measures of standard educational costs, pupil needs, regional cost differences, and local ability to pay. Nonetheless, the formula does produce disappointing results for some districts. Forty-five percent of all districts would receive only the minimum 3 percent aid increase and more than half of them are average or high need districts.

In some cases, districts would generate high amounts of aid per pupil but nonetheless receive small percentage increases. Sometimes, this occurs because they fared very well under old formulas, sometimes through the special education issue I just described or through some past formula designed to recognize high local tax effort.

Again, New York is a diverse and complex state, so as formula reform is implemented, the state needs to assure that it can *and does* address legitimate district needs not met through a simplified general aid formula.

Universal Prekindergarten

Third, the Council applauds the Governor for recommending a \$99 million increase for Universal Prekindergarten. But you should explore changes to the formula that is proposed.

More than three-quarters of the districts receiving UPK aid this year would be on save-harmless next year, receiving the same aid in both years. There has never been an increase in the per pupil aid level, forcing districts to either serve fewer children or shift more costs on to local taxpayers. This fact has discouraged new districts from using UPK funds. There should be an inflationary increase for current UPK districts.

Also, the proposed formula generates less aid per pupil for most districts than the current program. If the decision ultimately comes down to offering an inadequately funded universal program for all four year-olds, or guaranteeing an appropriately funded program for the neediest children, your choice should be clear. Nationally, one-half of students who qualify for the need-based federal free or reduced price lunch program fail to earn a high school diploma. Giving them a better start is our best hope for reversing that tragic statistic.

Charter Schools

Fourth, the Governor's proposals on charter schools are a great disappointment.

My organization did not oppose the idea of charter schools when the law was first enacted in 1998. What we did say was that whatever might be gained from the experiment should not come at the expense of district schools that educate the overwhelming majority of children. But that is the impact of the current charter school funding system: substantially every operating dollar that goes into a charter school comes out of a district school. Because of fixed costs such as heating, lighting, maintenance and insurance that do not change with enrollment, districts realize little or no savings when a student transfers to a charter school.

Also, even while presuming savings that districts cannot achieve, the current charter school law also presumes districts will continuously maintain the capacity to instantaneously reabsorb charter school students anytime a charter school closes, scales back enrollment, or is abandoned by students. The current approval procedures make it impossible for districts to plan for facility and staffing needs.

Charter schools also force taxation without representation. Charter schools are approved by state agencies, even in communities where residents are strongly opposed.

The Governor's attempts to provide relief to school districts hurt by charter schools are inadequate. They would not remedy the harm already done to the Albany and Buffalo school systems, nor would their future benefit justify the damage to high need school districts that would follow the dramatic increase in charter schools outside New York City that the proposal would authorize.

We urge support for the Educational Conference Board's charter school reforms. These include transitional state aid for all districts hurt by charter schools, greater local input into charter school approval, a cap on charter school enrollment of 5 percent per district. Also, for districts such as Albany and Buffalo with charter school enrollments already above 5 percent, we urge permanent state aid toward the portion of charter enrollment above that threshold.

ACCOUNTABILITY

The remainder of my remarks will focus on issues of accountability.

First, I will repeat what we have said over and over again: no other enterprise is as accountable to the public as the public schools.

No other enterprise puts out as much data about its successes and shortcomings as public schools. We have school and property tax report cards, budget notices mailed to every household, and regular reporting of state test results.

No other enterprise provides the public with so many opportunities for input – through budget votes, board elections, shared decision making and less formal mechanisms such as PTAs and advisory committees.

Our accountability has intensified with the enactment of the “five-point plan” fiscal accountability legislation and the requirement that the State Comptroller audit every school district and BOCES by 2010. These measures were adopted in response to the Roslyn school district scandal and we supported both as actions needed to sustain public trust in the work we do.

Having said this, the Governor is right to ask for increased accountability for academic performance in exchange increased state support. But we object strongly to some of his specific proposals.

Front and Back End Accountability

It is useful to think of accountability as having front-end and back-end components. Front-end accountability involves attempting to assure that increased resources do produce improved results. Back-end accountability refers to the consequences that flow when a school or district chronically fails to deliver adequate outcomes for its students.

It is essential that the challenges an accountability system imposes be fair, both for students and for schools. Schools may fail because of a lack of resources or a lack of expertise, or both. The Governor recognizes this and attempts to address both.

While refinements are needed, the Foundation Aid formula does tend to drive the greatest aid to the neediest communities.

On the issue of expertise, he proposes establishing a corps of “Distinguished Educators” to help the most troubled districts. This proposal fails to make adequate use of structures already in place, but we respect the intent.

Fair Measures of Performance

It is also critical that the measures of performance be fair. Here too, we commend the Governor’s proposals. He would direct the Regents to re-evaluate the state’s learning standards, starting with English Language Arts. We propose exactly the same actions in our reform agenda. The standards define the goals that schools and students districts pursue and guide what is tested. Strengthening literacy at all levels is the foundation of success for all disciplines.

The Governor would also direct the Regents to begin developing a value-added accountability system. The current testing system takes snapshots of student performance from year to the next. The results compare the performance of different groups of students at different points in time. They also amount to an “autopsy” on student performance – after the fact, too late to do much good.

A value-added system would enable schools and policymakers to evaluate the performance of individual students over-time and to evaluate how much their school does to add to their learning. It is a fairer measure of the impact of schools. So we strongly commend this proposal as well.

The Contract for Excellence – Front-End Accountability

The Governor’s principle vehicle for addressing front-end accountability – assuring resources deliver results – is the proposed “Contract for Excellence.” Districts receiving Foundation Aid increases greater than 10 percent or \$15 million would be required to enter into a contract with the State Education Department assuring that they will spend aid increases above 3 percent on a “menu” of activities deemed to have proven that they improve outcomes for students. Some include class size reduction, more time on task, teacher quality improvements, and full-day prekindergarten. With prior approval districts could also use up to 15 percent of their aid on other activities to improve student outcomes.

Exactly how this menu of activities will work will be heavily defined through regulations to be adopted by the Board Regents. Depending on their work, it may prove effective. The general idea of defining some allowable activities but permitting local leaders flexibility to choose among them is on the right track.

But the trigger for identifying districts to be subject to the Contract for Excellence requirements is a huge error.

Some very high performing districts receive big aid increases and would thus be subject to the requirements, while some widely acknowledged chronically troubled districts would be spared. Elba, in Genesee County, a district with a 96 percent graduation rate, would be subject to the requirement. Meanwhile, Roosevelt, taken over by the state for poor performance a decade ago, would not be.

We urge you to change the criteria for targeting districts for compliance with a Contract for Excellence to a measure of their performance, not size of aid increase.

There is another change that you should make. As currently proposed, a Contract for Excellence district that is subject to the contingency budget cap could neither spend its

Foundation Aid to improve services nor use it to reduce local tax burdens. We urge that aid subject to Contract for Excellence requirements be exempted from contingency budget limitations.

Back-End Accountability – Singling Out Superintendents

The Governor has many other accountability proposals. Some we support. You can read all our reactions in the attached budget analysis.

I want to conclude by focusing on just one, however: the proposal to subject superintendents to dismissal by the Education Commissioner if their district is found to have suffered from deficient performance for four years. Board members could face removal if failure persists for six years.

Our members are outraged by this proposal.

Many of our members say they would have no trouble with being held more accountable for performance – if the new accountability truly ran from top to bottom, as the Governor said is necessary in his January 29th education speech, and if they had all the tools to make the changes needed to turn a district around.

But that is not what is being proposed. Consequences for district failure would be targeted at the top – on superintendents and eventually on board members.

True top-to-bottom accountability would align consequences for all stakeholders in a school district so that all would feel and act together on the imperative of raising student achievement to acceptable levels. Continuing failure would be intolerable for all them – board members, administrators, teachers, and the community itself.

Superintendents would be subject to removal by the Education Commissioner and board members might also be removed or subjected to special elections – both, after some form of due process. But the district administration would also have increased authority to replace failing teachers or to require remedial training. And communities would suffer a loss of local control – more direction from the state, perhaps superseding voter approval of school budgets with state approval, until satisfactory progress is made – to assure the investment you make is effectively used to help schoolchildren.

If you are unwilling to take these steps to create true top to bottom accountability, then it would be a gross mistake to single out superintendents and boards for increased consequences for failure. It would weaken leaders in troubled districts when stronger leadership is needed. Recalcitrant parts of the community or staff could simply wait out leaders pushing reform. That happens now.

The specific language would presume that if extended deficient performance is found, the superintendent or board is guilty of a “willful violation of law or neglect of duty.”

Our understanding is that when a public official – such as a superintendent or board member – is found guilty of “willful violation of law or neglect of duty” he or she becomes personally liable, without indemnification by the agency he or she serves. How about applying the same consequences to the Commissioner and the Regents, to teachers, and to you and to the Governor? Would you be willing to put your family’s financial well-being at-risk if statewide graduation rates do not improve?

So it would become illegal to fail. Then who would try? Would you ever advise a son or daughter working in our profession to seek the superintendency of a troubled district, knowing it could be a career death wish and even lead to financial ruin?

School superintendents are already accountable. Unlike most teachers and many principals, they do not enjoy tenure, they do get fired. They are the most widely visible representatives of their school districts. Speaking at one of our conferences a few years ago, Senator Schumer called superintendents “the shock-absorbers” of the system. Every day they must balance what students need with what taxpayers will support.

Superintendent turnover is already greatest in troubled districts. Research says that stable leadership over a period of five or six years is needed to turn a district around. This proposal would make it harder for troubled districts to get the best leaders, and to keep them on the job for the period needed to succeed.

The proposal moves in exactly the wrong direction.

The state should be seeking ways to get stronger leaders – superintendents, board members, *and* teachers – to serve in the weakest districts. Allowable funding uses under the Contract for Excellence should include recruitment and retention incentives for administrators as well as leadership development activities for boards. Additional pension credit should be awarded to superior administrators and teachers who take on the challenge of helping to educate children in the most troubled school systems.

CONCLUSION

I want to conclude on a more positive note.

This state and nation face huge challenges in education. We have made significant progress over the past decade, but the gains have not been fast enough or broad enough. If we do not improve our high school completion and college-going rates we will face a drop in our shared standard of living.

As I said at the outset, the Governor’s budget raises the sorts of issues we should all be debating: How can we assure all students the resources for an adequate education? How do we reduce the burdens of property taxes on New Yorkers? How can we be assured greater resources will produce stronger results? Do state standards set the right goals for schools and their students?

In this sense, the Governor’s budget marks a hopeful change. We are confronting real issues that will determine whether the future for all New Yorkers will be brighter and fairer.

As we say in our analysis, the Governor’s budget “...offers the promise of substantial and sustained funding. It challenges educators and policymakers to act together to create a framework that will assure that promise is fulfilled through better outcomes for the children we serve.”

New York’s school superintendents could not be more eager to take on that challenge.

Thank you for listening.