



# TESTIMONY

## *The 2017-18 Executive Budget and the Public Schools*

Senate Finance Committee  
Assembly Ways and Means Committees  
February 14, 2017

### ***Chairwoman Young, Chairman Farrell, other members of the Senate and Assembly:***

Thank you for your persistent efforts toward both ending the Gap Elimination Adjustment and maintaining the Foundation Aid formula. Your efforts do make a difference for our schools and our students.

We appreciate, also, the difficulty the Governor faced and that you will face in constructing a state budget that seeks to balance needs and resources within a context of faltering state revenues and vast uncertainty over future federal aid.

School district leaders are accustomed to coping with financial uncertainties and in our exchanges with superintendents, we detect as much concern about the longer-term as about the year immediately ahead.

New York's public schools need a state aid increase for the next school year that will enable them to protect and improve opportunities for students.

Also necessary is an agenda to create a more financially sustainable future for our schools for next year and beyond.

### **ADEQUATE FUNDING FOR 2017-18**

The Governor's School Aid proposal is a credible starting point but the funding amounts that districts can now identify fall short of what they will need to maintain current services.

In November, the Educational Conference Board (ECB) projected that schools would need a \$1.5 billion increase in regular School Aid to maintain current services. ECB's estimate is not a wish list; its assumptions draw from independent sources. For example:

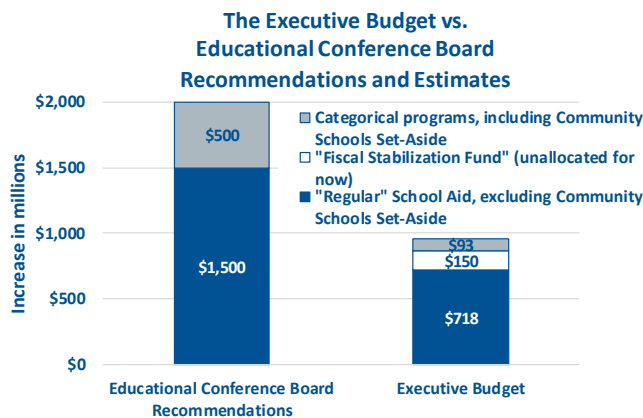
- A national survey of employers projects salaries for all types of workers will rise by 3 percent in 2017; ECB assumed a figure of 2.75 percent, accounting for some turnover savings as veteran employees retire.
- For health insurance and non-personnel costs, ECB uses the figures the Division of the Budget projected in its mid-year financial plan update for the state's health care premium increases in 2017-18 and the rise in the Consumer Price Index for 2017, respectively.
- The estimate does incorporate the savings districts will realize from a reduction in the Employer Contribution Rate set by the State Teachers Retirement System.

**NEW YORK STATE COUNCIL OF SCHOOL SUPERINTENDENTS**

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Added together, ECB projects that school costs will rise by \$1.7 billion, or 2.6 percent. This sum would be partly offset by \$200 million in local revenue increases consistent with 1.26 percent allowable levy growth factor in the school property tax cap for the year ahead, resulting in the \$1.5 billion state aid need, if current school services are to be preserved.

The proposed School Aid increase in the Executive Budget is \$961 million. The increases that districts can identify now on their School Aid runs total \$768 million. But \$50 million of that total would be directed to a new set-aside requiring funds to be used to support Community School activities, leaving schools \$718 million they can point to now that would be available to maintain current services – less than half the target identified by the Educational Conference Board.



**ECB Assumptions:**

- 2.75% increase in salaries
- 6.7% increase in health insurance costs
- Reduction in pension costs per TRS rates
- 2.2% increase in non-personnel costs
- 1.26% increase in local revenues per tax cap

**SOURCE:** Compiled by the Council from ECB and Division of the Budget publications

The proposed School Aid increase includes a \$150 million “Fiscal Stabilization Fund” to be distributed in the final state budget. These allocations will boost district aid increases, but not enough to fill the need identified by the ECB.

In addition to the new Community Schools set-aside, the budget includes \$35 million to expand after-school programs. Both are sensible initiatives: schools cannot succeed on their own, they need help from families, and some families need help that schools don’t customarily provide. Both initiatives would deliver out-of-school supports that can make in-school success more attainable. Again, however, our first priority is to assure funding adequate to maintain ongoing operations and we oppose the expanding precedent of directing through set-asides how districts may spend Foundation Aid, it is intended to be unrestricted operating support.

*It was a relief to have an increase offered with no hint of another GEA. What is extremely troublesome is the "forced" set aside for Community Schools. While this year our budget is solid, in future years we may be faced with reducing course offerings in order to continue with Community School programming. It would be helpful to have flexibility with the Community Schools set aside.*

*~A Western New York superintendent*

The budget also proposes a \$5 million increase in funding for prekindergarten targeted to high need districts, as well as beginning steps toward consolidating the state’s seven pre-k funding streams. The latter initiative is especially important, if it will enable districts to design programs best responding to

the needs of their communities – for example, one solid full-day program for its four year-olds, rather than a mix of inadequate programs for three and four year-olds.

New York and perhaps all states need to develop more coherent transitions for young people from high school to whatever follows, whether college, vocational training, or a job. The Governor proposes initiatives supporting that purpose, with an expansion of early college high schools and funding of AP waivers for disadvantaged students. Another component should be to enhance BOCES and Special Services Aid to promote expansion of Career and Technical Education programs. The aidable salary cap for BOCES Aid has not been increased since 1990.

We are troubled by the proposals to unfreeze charter school tuition rates and give sending districts transition aid on a year lag. The combination will force some districts to absorb large costs within their budgets and tax caps for 2017-18, with no offsetting help from the state until the following year. As we have said for nearly 20 years: whatever the state hopes to achieve through charter schools should not come at the expense of traditional district schools where the vast majority of children continue to be educated.

We support the proposals of the Board of Regents to provide more financial stability for special act school districts, by creating a statutory growth index for tuition rates and authorizing the districts to establish a general reserve fund.

## A FINANCIAL SUSTAINABILITY AGENDA FOR OUR SCHOOLS

Each year for the past six years we have surveyed superintendents on financial concerns. Our findings can be summed up simply:

- Three years of relatively strong increases in state aid have helped many districts begin to restore and even improve services for students.
- But the gains are fragile and pessimism is widespread among district leaders about future financial prospects for the schools they serve.
- New York State needs an agenda to assure a financially sustainable future for its public schools.

Our 2015 survey marked a turning point. That year, for the first time, more superintendents told us their district's financial condition had improved rather than worsened. That trend continued in this year's survey.

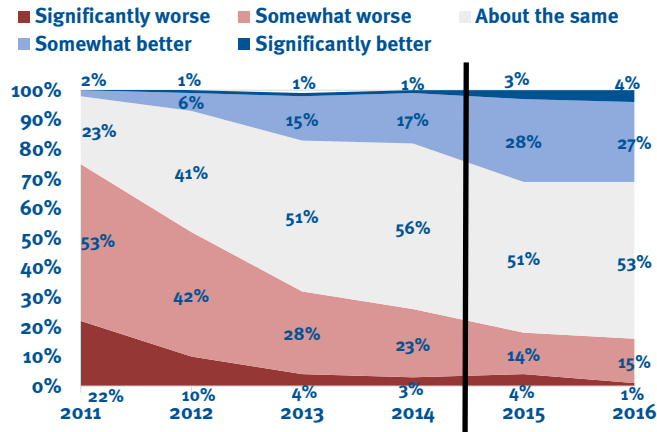
We have also inquired about specific student services, with similar results. For example, by 47 percent to 15 percent, more superintendents anticipated that their school budgets this year would have a positive rather than negative impact on core instruction in the elementary grades.

*Our needs are great due to poverty and being a very large rural district. An example of our frustration is: The three year old pre-k aid does not help us but we have a great need to use that money to hold four year old pre-k all day. This would help with the high poverty and its influence on children's learning. My point is the money is there, but we can't utilize it.*

*~ A Mohawk Valley superintendent*

But the gains are fragile, in part because the damage to many schools in the aftermath of the Great Recession was so deep. A closer look at our results reveals that in none of the six years have more than a third of superintendents reported that their district's financial condition had improved over the prior year. For example, in this year's survey, 31 percent reported improving condition, 16 percent reported worsening, and 53 percent reported no change.

**Compared to one year ago, how has the financial condition of your district changed, in terms of its ability to fund services meeting expectations of parents in the community?**



*2015 was the 1<sup>st</sup> that more superintendents responded "better" than "worse."*

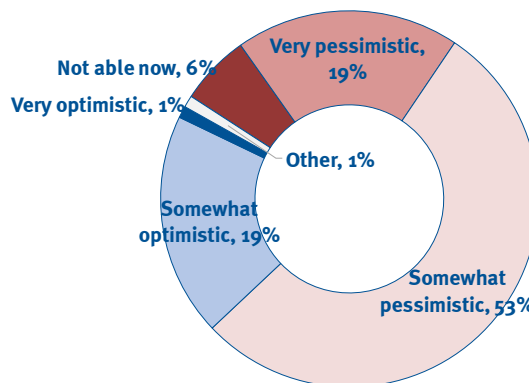
*Continued this year.*

*But no more than 31% have ever reported improvement in a year.*

So while many districts have begun restoring or improving services for their students, many others suffered great harm around the turn of the decade and have seen little recovery in the years since.

We also asked superintendents how optimistic or pessimistic they are about their district's ability to fund services adequate to the needs of their students looking forward three years. Only 20 percent professed optimism in their responses. Six percent answered that their schools are unable to support adequate services now, the equivalent of 40 or so districts in a state of educational insolvency.

**Thinking ahead 3 years or so, how optimistic or pessimistic are you about whether your district will be able to fund programs and services adequate to the needs of your students?**



*Only 20% of superintendents responded that they are optimistic about financial prospects.*

*6% of superintendents say their districts can't provide adequate services now*  
≈ about 40 districts  
• 70% are rural  
• 90% serve < 2,500 students

We found a divergence in outlook among the leaders of poor and better-off districts. Superintendents leading high poverty districts tended to be more positive about this year but more pessimistic looking ahead. For superintendents serving more affluent districts the reverse was true. This probably reflects differences in primary revenue sources. Wealthier districts are more reliant on property taxes and were more affected by the near zero tax cap in place this year. High poverty districts benefited from increases in state aid – their primary revenue source – but worry about the sustainability of those increases going forward.

Finally, we asked superintendents about the factors that cause them concern in contemplating financial prospects for their schools.

Asked to pick the one factor causing concern, two items stood out: the possibility of inadequate state aid and the impact of the tax cap.

When asked to check off any factors causing concern, two additional items stood out from all the others – growing student needs and increasing costs in fixed or hard to control expenses such as pensions and health insurance. Between 2007 and 2014, the percentage of children living in households outside New York City with incomes below the federal poverty line increased by nearly 25 percent.

**1. Re-start and Re-build Foundation Aid**

A financial sustainability agenda for our schools should include at least four components, beginning with a commitment to rebuild Foundation Aid.

The Executive Budget would essentially repeal the 2007 Foundation Aid formula, enacted following the final court decision in the Campaign for Fiscal Equity litigation. That would be a disappointing retreat for two reasons.

First, the formula was a significant accomplishment in public policy. It generally drove the greatest aid per pupil to the neediest districts – and still does. It promised more predictability in aid for all districts going forward. It used elements with a basis in facts – a per pupil amount tied to the cost of providing general education in successful schools, for example. That makes state funding decisions more transparent and decision-makers more accountable.

The Executive proposal would abandon the design of a formula intended to last over time. Instead, districts would get what they got last year, plus a share of a \$428

Which issues cause concern in thinking about the financial outlook for your district?

	A concern	Greatest concern
Inadequate state aid	91%	44%
The tax cap	89%	28%
Increasing needs of students (e.g., increasing student poverty or increasing numbers of English Language Learners, recently arrived immigrant children, or students with disabilities)	78%	10%
Expected increases in fixed or hard to control costs (e.g., pensions, health insurance)	76%	9%
Declining student enrollment	47%	5%
Other (Please specify)	10%	2%
Increasing student enrollment	5%	0%
Poor or uncertain community support for the schools	10%	0%

*Our school has faced multiple years of cuts since 2008 which has resulted in our instructional staff being reduced by about 20%... While our enrollment has decreased slightly over that period, our special education population has increased by 60% and our free and reduced population has increased by about 50%. So while we may have fewer students these children come to us with significantly higher needs and require more rigorous interventions to find success... We are counting on the legislature to make up a substantial portion of our budget gap and would expect a 5% to 6% increase in Foundation aid as opposed to the 2.5% proposed by the governor. We have no place left to cut and the tax levy limit has left us no local way to sustained revenue growth to meet the needs of our students.*

*~ A Mohawk Valley superintendent*

*As an average wealth district which has just returned to 2008 state aid levels, we had hoped for a realistic multi-year plan to fully fund Foundation Aid. We are currently underfunded in the existing formula by over \$4 million dollars. Based upon the Governor's first budget run, it will take approximately 16 years for our district to meet formula funding levels. A restoration of 25-33% would allow for essential restorations such as: Social Workers, ENL staffing, School Counselors, Mental Health support, and Early Intervention Staffing. My hope is that our elected officials work toward a plan which will fully restore aid within a reasonable amount of time.*

*~ A Capital Region superintendent*



million allocated through a one-year, one-time formula. The Article VII bill says that for the 2018-19 school year and thereafter, each district would receive the Foundation Aid they received in 2017-18. We have advised district leaders against taking that part of the proposal literally, but it would leave them with no basis for anticipating future aid levels.

It is true that the Executive proposal uses elements of the existing formula, and makes some improvements, such as eliminating the floor on the Income Wealth Index. The IWI floor treats the poorest districts as though they have more capacity to raise local funds than they truly do. But new aid for the “Big 5” cities would be set by assigning them percentage increases (2.93 percent for New York City, 2.165 percent for the others), so the schools which serve 44 percent of the state’s children would not be on an actual formula.

Second, even if we leave aside arguments over what the state “owes” as a result of CFE litigation, something like the Foundation Aid formula is desirable in its own right as a cornerstone in building a school finance system that supports more effective multi-year planning. Schools in other states have this and ours once did.

We support the ECB’s call for the state to adopt a commitment to fully phase-in the Foundation Aid formula over three-years and to embark on studies to update elements of the formula, including the weightings use to account for pupil needs and the per pupil amount needed to prepare students for success. The formula as it stands now does not work for enough districts, including the 43 percent of average need districts and 40 percent of high need rural districts now on save-harmless.

## 2. Adjust the Tax Cap

Advertised as a “2 percent tax cap,” the base for New York’s tax cap has been below 2 percent for four straight years. If districts do not obtain voter approval, they may not increase taxes at all – in effect a zero percent tax cap every year. In contrast, Massachusetts – cited as a model for our law – allows communities to raise their tax levy by up to 2.5 percent *without requesting voter approval*.

*We would benefit by having the formula, as old as it is, flow. If we only add a small percentage onto our allocation, we can expect opportunities for students to significantly decrease. As it stands now, we received about \$500,000 increase, and health insurance increased \$600,000. Although that is just one aspect of the budget, you can see that there is a real need.*

*~ A Mohawk Valley superintendent*

*For many rural districts... the situation is fairly simple. We face ongoing drops in student enrollment, increasing mandates and demands, a dramatic shift in ability to generate local revenue due to the tax cap (which hasn't even allowed the modest 2% it was intended for), rapidly escalating health insurance and payroll costs, almost flat state aid (1% proposed increase, then projected completely flat), and there is no more GEA restoration coming in to save the day. Starting in 2017 - 2018 many upstate school districts, if not most, will begin experiencing annual budget gaps. These will be closed by reductions in staffing and programs, use of reserve funds and absorption of annual budget capacity. Our financial trajectory has shifted and it is not favorable.*

*~ A Capital Region superintendent*

*The “Tax Cap” is not a cap. It certainly is not the 2% it was originally sold as. If it was, and [our district] had an actual 2% a year increase in aid, then this year’s budget outlook would be much, much, more positive.*

*~ A Southern Tier superintendent*

*The problem with our current CPI-tied tax cap and “three men in a room” system, is that there is no predictability to the system. How can I make any predictions about next year’s state aid, when I don’t even know this year’s final figure? How can I accurately perform any long range planning if CPI is set annually, and the tax cap is tied to CPI? What we need is a system that facilitates predictability and thus long range planning. We need to disconnect the tax cap from CPI, and the state needs to develop more than a 1-year approach to state aid.*

*~ A Long Island superintendent*

Adjusting the tax cap is the second component in a fiscal sustainability agenda. The allowable levy growth factor should be set at 2 percent, not the lesser of 2 percent or the change in the Consumer Price Index over the prior calendar year. This should be coupled with a more workable carry-over provision which would give districts an incentive to hold levy increases below 2 percent in years when they can manage, allowing them to reserve the savings for use in a tougher year.

The state should also move forward with the adjustments authorized in 2015:

- Treat properties covered by payments in lieu of taxes (PILOTs) in the same manner as regular taxable property in the tax base growth factor. This would allow districts to exclude from their cap revenue generated by actual additions to their tax base whether from taxes or PILOTs – those additions may create new service demands for the schools.
- Allow districts to exclude from their tax cap expenses for shared Board of Cooperative Educational Services (BOCES) capital costs, just as they exclude district capital costs.

If the Tax and Finance Department will not adopt the regulations you authorized, please enact a law to implement these common sense changes.

### 3. Help Schools with Costs

Repeatedly, we are told that New York spends more per pupil on its public schools than any other state. Why?

Why do New York schools spend as they do? There are multiple reasons. We are high cost in many things, not just education. We are part of a high cost region, along with our northeastern neighbors. We have some of the absolute best public schools in the nation and the opportunities they provide their students are expensive. We more fully fund our pension obligations than most other states.

Another factor is that New York schools operate under rules not found in other states, like extensive special

*My initial reaction is that NYS continues to kick the "school funding" can down the road. Rather than starting work revising the funding formula based on research and thoughtfulness, we have again been subjected to a convoluted and unfair system. Nobody disagrees with the need to do something differently. It is the "doing something" that is continually left out of the process. How many years will this go on?... These starts and stops of funding create havoc in schools like ours. We need consistency.*

*... it is not simply inadequate funding from the state that causes our difficulties each year. It is the combination of that AND the tax cap that causes lay-offs for us. We will be making reductions again this year as a result of that mix. But again, some years, we look to restore small pieces of what we have lost in the past only to have to eliminate them again in a year like this.*

*~ A North Country superintendent*

*We certainly understand that if we can't get the funds from the state, then we should try to get it from our taxpayers. That is now a difficult lift given the tax limit and the fact that if we were to exceed it, our taxpayers would not receive the Governor's rebate check. I see the rebate check as double jeopardy against school districts in an effect to obtain more from taxpayers to save programs, and quite frankly I feel it is another "grant-like" program that would be better served in being allocated through school aid. Where does the state get the money for the rebate checks? For our school, if the 3,000 tax paying residents were to turn in a \$150 rebate check, we would have an additional \$450K that would essentially cover our gap... We have to stop playing the shell game with money to education and put real money in places that really need it.*

*~ A Southern Tier superintendent*

*...the budget has not meaningfully dealt with the underlying issues. The formula's shortcomings or lack of meaningful mandate relief means we continue to wander forward in a manner that is not sustainable. I am one of those people who realize that the starving of the rest of state government will have grave consequences in years to come...*

*~ A Central New York superintendent*

education requirements and the Triborough law which mandates that salary “step increases” continue even under an expired contract (other states do have laws requiring that benefits continue).

Debates over mandate relief are nearly always contentious and usually futile. We can all favor saving money for taxpayers – we are all taxpayers – but money that stays in their pockets is not going into someone else’s. The benefits of mandate relief are diffused over millions of taxpayers, while negative consequences are concentrated. With that dynamic, those who are hurt will always be more vocal advocates than those who are helped.

Frankly, we have no expectation that help for schools in reducing or controlling costs of the scale needed will be forthcoming in the near term. But to criticize school spending while taking no action on mandates that drive those costs is like tying a runner’s shoes together and then complaining he or she doesn’t run fast enough. If the state is *not* going to change the rules that drive up costs while constraining the ability to raise local revenues to meet those costs, *then it must fund the rules* – by committing to phasing-in and updating the Foundation Aid formula.

With those provisos, here are some options that could help create conditions for achieving savings over the long-term, the third element in a sustainability agenda:

- Observe a voluntary moratorium on unfunded mandates, both statutory and regulatory. Passing a law to prohibit unfunded mandates is ineffective, it can be undone by passing a new law. A constitutional prohibition would likely invite endless litigation over what is a mandate and what is “unfunded.” But all that is needed to halt unfunded mandates is to stop approving them.
- Provide that any new mandate imposing new costs cannot take effect until the next local fiscal year succeeding its adoption.
- To discourage imposition of new unfunded mandates, call on the State Comptroller to compile and publish a report card each year on mandates enacted and repealed.
- Require the Public Employment Relations Board to produce an annual report on local collective bargaining outcomes using standardized measures to allow the public to compare the costs of the settlements. Comparable data on administrative compensation has been published since the 1990s.
- Personnel costs typically comprise about three-quarters of total school spending. Reducing health care costs could be one way to save money in personnel without taking it from employees and

*The biggest challenge in this year’s budget for my district is that the spike in healthcare costs for is almost exactly my allowable tax levy increase. Because I am an average need district, my state aid is only going up a little over 1%. Essentially, I need to cover all other increases with my aid increase. Since this is the 4th year in a row of sub-2% tax cap, I have very few viable efficiencies left to enact.*

*~A Long Island superintendent*

*We have a health insurance crisis, which year after year, continues to negatively impact my district. While local health plans may vary, NY 22, one of two options in our region, increased our rates 1 million last year and the projected increase for this year is 400,000-500,000. Each raise was troubling but taken together.... The math is simply bad, districts cannot have these types of increases each year and then have a 1% increase in state aid. The math is unsustainable. We have a health insurance crisis with no end in sight.*

*~ A Southern Tier superintendent*



retirees. Create a statewide joint labor-management committee to explore strategies to achieve savings in health insurance costs for both school districts and their employees and retirees.

- Commission a respected independent entity to conduct a study of how New York's special education policies and practices compare with those of other states. Debates over special education policy are especially bitter. But New York devotes a very high share of its overall school spending to special education. It cannot be that we are the only state striving to do right for children with disabilities. Some other states do achieve better outcomes.

#### 4. Give Schools Access to Reserves Available to Municipalities

The final component in a financial sustainability agenda is to give school districts access to reserves like those available to the state's municipalities.

We read the State Comptroller's audits finding that some school districts have more money in reserve than the law allows. The Comptroller is doing his job – conducting audits in accordance with requirements prescribed by law and accounting authorities. But not all those requirements make sense. The Comptroller's 2010 report on five years of school audits recommended giving districts more ways to put funds into reserve.

School districts are limited to an unrestricted fund balance equivalent to no more than 4 percent of budgeted appropriations. Municipalities have no such limit and the national Government Finance Officers Association recommends a 10 percent unrestricted fund balance for school districts. Municipalities may set aside funds for pension obligations on behalf of all their employees. Schools may do so only for the roughly 20 percent who are covered by the Employees Retirement System (ERS), but not for the teachers and certified administrators in the Teachers Retirement System. Yet schools are subject to more disclosure requirements and a tougher tax cap.

Our priority for 2017 would be to allow school districts to establish a reserve for future TRS obligations. We endorse a new proposal from TRS which would set limits on how much districts could put into the reserve each year and how much could be accumulated in total.

Our financial surveys find that 64 percent of superintendents are concerned by their district's need to rely on reserves to pay recurring costs. In conversations, superintendents tell us the tax cap has changed how district leaders think about reserves – they are one tool still left to exert some control over the financial future of their schools.

*We have approximately 2% fund balance and struggle to have that much. We have right sized our district to mirror our enrollment, used fund balance as challenged by state comptroller and governor, and have stayed within the tax limit each year since it began. For this, we struggle financially to get on better footing for the long-term, and we have been labeled by the comptroller to be "Susceptible to Fiscal Stress." The comptroller audited us last year and red flagged our low fund balance, our deficit budget in 3 of the last 4 years, and noted that we need a long-range financial plan. How does one devise a realistic long-term plan when there is no predictability to state aid or adequate formula to distribute it fairly.*

*~ A Mohawk Valley superintendent*

*I guess I am glad to be at the end of my career because the lack of control we have over our revenues is only going to get worse... the reality is that districts like ours are heading for trouble unless someone recognizes that the tax cap (not close to 2% over the past 4 years) coupled with virtually no new state revenues = reductions in programs, staff, quality of education and the use of reserves.*

*~ A Western New York superintendent*

## OTHER ISSUES

We will close by addressing two remaining issues.

We oppose the Executive's proposal to give the Division of Human Rights jurisdiction over public schools. School districts are subject to other existing state and federal civil rights statutes and must comply with New York's Dignity for All Students Act.

Finally, several local assistance appropriations, including those for School Aid, contain language which would authorize the Budget Director to unilaterally impose reductions amounts payable in the event that state receipts fall short, including receipts from federal aid. Concern over the potential impact of federal policy changes is entirely justified. But the proper response should be to engage the Legislature in the decisions that would be needed to address the shortfall.