

Testimony of the  
New York State School Boards Association  
to the  
New NY Education Reform Commission  
Presented by Thomas Nespeca, Webster Central School District

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30 Church Street, Rochester, NY 14614

Members of the commission, I am Thomas Nespeca of the Webster Central School District Board of Education. I currently serve as President of the New York State School Boards Association and I am grateful for this opportunity to provide you with a blueprint for reform of our state's comparatively successful, but significantly challenged system of public education.

The State of New York remains in fiscal crisis and its schools face an increasing educational programming crisis. Following three years of frozen state aid and aid cut, the expiration of federal stimulus aid, the tax levy cap and legal restrictions on future state aid that fall short of even consumer inflation rates, it is clearly time to recalibrate the costs of our educational system and restructure the delivery of educational services. Finances are extraordinarily challenging for all districts and our most needy 158 districts face "educational insolvency". Tough times are obviously here and only tough choices will end them. Our state must now choose: Make the necessary but politically uncomfortable changes that will lead us back to prosperity or allow the otherwise inevitable decimation of our public schools to fuel a future of economic decline and social upheaval.

If there is any hope of adequately meeting the challenge of this crisis, change cannot be incremental. Neither state leaders nor school leaders can simultaneously protect the status quo and adjust to the new reality of lower revenue, a stagnant tax base and higher than average operating costs. Our state ranks first in spending per pupil and yet dozens of our schools face the prospect of failing to meet minimum state educational standards. Many more watch as their graduates are rejected from college and careers as a result of having received too meager an education, based on too narrow a curriculum. As it stands, schools have been given only one method of reacting to this new reality; lay off employees and lose the educational programs they provide. The consequence of that limited approach has profound implications for both our children and our state.

The local property tax levy limit definitively established the level of local public financial support of education. Those that sought to exceed the cap were rejected and those that stayed within it were supported. In the past decade, New York State has dramatically increased its reliance on local funding of education. While we spend the most per student in total of any state, we are near the bottom in the percentage of state spending. Indeed, we have now capped that state support at a level that falls below even the level of consumer inflation. This coming year we will have consumer inflation at roughly 3% and a local tax levy cap of only 2%. We will have state aid that is capped at a level that provides an increase of only \$200 million after paying reimbursable expenses and holding districts harmless from formulaic cuts. Make no mistake; perpetuating this construct, knowing that school district reserves are exhausted and expectations for academic achievement are increasing, (giving rise to new and increased compliance costs) is to establish a public policy that intentionally and systematically disassembles our schools.

This will inevitably force the kind of hard choices demanded by the opposing forces of spiraling educational costs and stagnant fiscal capacity. However, these fiscal constraints are supposed to be accompanied by “significant mandate relief”. This year schools were offered that relief in the form of a new pension system and the ability to purchase cooperatively with other schools and municipalities. Both are tremendous innovations that will have significant and long lasting implications for our schools. Yet, without a number of other reforms, they will be insufficient. Tier VI will save our schools billions of dollars over a generation, but schools are not hiring new employees. In fact, when they are able to hire at all, they are forced to rehire former employees who are members of the old and more expensive retirement tiers. Our schools need innovation from our educational leaders and political will from our political leaders.

Despite pension and purchasing reform, those hard choices are still largely before us. Reform of the Triborough Amendment to remove the employee stranglehold on mandatory salary and benefit increases (irrespective of a community’s fiscal capacity) is a politically challenging imperative, but one that can help our state avoid the divisive calls for the elimination of collective bargaining in states like Wisconsin, Ohio and Indiana.

Allowing schools to factor in educational need and the strength of personnel in addition to mere seniority will allow our schools to retain our best educators in the midst of an era of dramatic staffing reductions and program reorganization.

True, common sense reform of the teacher disciplinary system will allow public education to protect our children from dangerous and ineffective educators, using nothing more than the established principles of American jurisprudence. Hiring state hearing officers rather than using private arbitrators alone would infuse the process with fairness and dramatically increase the timeliness of the process, leading to

diminished costs to the public, justice for those subject to the process and protection and educational benefits for our children. Just as imperative is the state's reform of teacher licensing. Tenure must coincide with receiving permanent certification. State proceedings to remove a teaching license must come prior to and not after a local district disciplinary proceeding in order to protect the interests of children.

The acceptance of the Common Core standards by most states has created a national market for digital learning. The ability to market digital learning programs to that national market, rather than individual states, now allows companies to invest enormous sums into research and development. This is already leading to dramatic improvements in the graduation rate for English Language Learners. As we reconfigure our schools, digital learning must be thought of in a new way. No longer should we consider the model to include one teacher beamed out to multiple classrooms in multiple districts. Digital learning must include the kinds of simulations used by medical surgical staff and the military; interactive, highly realistic and engaging opportunities that individualize educational material to the students' needs and pace. It is a revolution that can save us from systemic decline of educational efforts in the face of fiscal reality. We must free our students from outdated seat time requirements, integrate senior year into community college courses and eliminate teacher certification requirements that hamstring real learning opportunities. For instance, why would we prohibit Bill Gates or Malcolm Forbes from teaching business in New York State (on an affordable, digital learning platform) simply because they lack state certification? Provisional approval for specific programs must be provided on a multi-state basis to develop and provide outstanding new learning opportunities.

Requiring our employees to contribute a minimum percentage to their own health care would remove our state from the far reaches of fiscal excess, bringing it more in line with national averages and most importantly, allowing schools to focus their resources on educational achievement. This must indeed be what the governor means when he says that education must be about the children's success and not the placation of adults.

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. We have no fewer than 200 mandates beyond the federal system used properly and well by most other states. New York State must set a date certain beyond which all 200 non federal special education mandates would be repealed. In the interim, the state must empanel a commission to determine which of those mandates are essential to our continued ability to provide sound educational programs to students receiving a special education. They must compile a list of vital mandates that would be exempted from the general repeal. Only in this way will our state free itself of burdensome and costly, unnecessary special education mandates that are

interfering with the fiscal capacity of school districts to adequately serve the rest of the student population.

Having now capped both state and local educational spending (without addressing increasing costs) many of our schools will be hard pressed to provide state required programs and services. While school districts appreciate the predictability of two year state educational funding, the amount to be provided this year will do little to stave off the effects of a systemic inability in many districts to raise sufficient revenue from a dwindling tax base to meet the state's constitutional requirement of providing each child a sound, basic education.

As elected community leaders, school board members have worked to meet the expectations of improved student achievement without overburdening our property taxpayers. To the best of their ability, they have pursued aggressive and innovative cost containment and looked to ensure that valuable resources are used in the most efficient manner as we strive to improve the achievement gap and the state's graduation rates. Rather than supporters of the status quo, NYSSBA and the school board members it represents will continue to be eager partners in the quest for innovative and fundamental change in public education.

. The reform priorities that follow form a blueprint for a more efficient and effective system of public education. If implemented, they will lead to a more equitable and prosperous future for the residents of New York State. Locally elected school officials believe that this fiscally sound educational reform centers around four issues:

1. **Sufficient and equitably distributed state aid.** New York State's percentage of state contribution to this constitutionally mandated function has dwindled to among the lowest in the nation, leaving more and more of the burden on local taxpayers. The loss of federal aid and inflationary costs far outpace current and projected aid allocations. Moreover, aid is inequitably distributed, exacerbating a historic gap between wealthy and needy school districts. The disparity has far reaching consequences for our students and our state, as many districts face the inability to provide even the required instructional subjects. Our state educational aid must be provided at a sufficient level and its distribution must recognize the wide divergence in a community's ability to support the state's constitutional responsibility of providing public education. For practical purposes, the state has long since ceased to utilize a state aid funding formula. For instance, despite accepting more than 800 students in recent years, my home district of Webster has received no additional state aid, forcing the local taxpayers to absorb all costs associated with this enrollment increase. The state must not exacerbate current funding inadequacies and must ensure that it protects the future opportunities of children in those school districts where the state has

historically failed to meet its constitutional duty to assure an adequate opportunity to a sound basic education.

2. **Education Reform.** New York State must enable innovation in the provision of educational services and in the arranging of its facilities. School districts should be free to form regional secondary schools or charter districts when educationally and fiscally advantageous. Regulations regarding seat time must reflect the new need for a more varied curriculum and greater coordination with colleges. Schools should be encouraged to create uniform schedules to facilitate shared programming and services. Impediments to digital learning must be removed. BOCES must be expanded to provide an array of non aidable, but vital ancillary services to school districts and municipalities.
3. **Relief from outmoded, costly and burdensome state operational restrictions.** Limiting state and local revenue without adjusting expenditure requirements is simply a disastrous approach. If provided the means, locally elected school officials will make the hard choices. There is no better time to reinvent a system whereby school districts operate free of outdated and onerous state strictures. Our school boards and property taxpayers obviously need relief from externally imposed mandates that unnecessarily drive up the cost of providing a quality education. Effective and principled leadership must be brought to bear on the longstanding mandates that chain our schools to the costs and practices of the past. NYSSBA and its members urge action on items that increase local flexibility to drive greater efficiencies. New York State's taxpayers can no longer afford the legislative largesse that has hampered the efficient operation of our schools.
4. **Contractual obligations that no longer meet the needs of employers, employees or the communities that support them.** Our state has layered cost upon cost in the operation of its schools. This is not only no longer affordable, in many instances it leaves the employer with no other option than to layoff well-qualified employees to meet its publicly approved budget. Years of local practice and state reinforcement have hardened local cost structures. While we urge state leaders to confront the politically challenging issues that shape public education's future, we also call on local school districts to place similar demands on themselves. NYSSBA members stand ready to do their part to conserve precious resources while recognizing that this task should not solely focus on cutbacks and divisive, tangential issues when so many opportunities for systemic reform now present themselves. NYSSBA, state leaders and local districts must work together to tackle the changes needed, letting go of outdated costs and practices that we can no longer afford, as well as the inflammatory rhetoric that divides communities and school districts.

Many of these changes will require confronting the political forces that support the status quo. This process has admittedly caused significant public debate and discord in other states. Yet, it is our responsibility to recognize that the public can literally no longer afford the practices of the past (and students can ill afford the denial of programs needed to compete in a global marketplace.) We have before us the opportunity to converge public capacity with educational opportunity. If we shy away from reform, discord will result nonetheless. Regional dissent will develop between communities that are comparatively financially independent and those without appreciable resources. Communities will be subject to the unrest that results from paying salaries and benefits for public employees that are no longer affordable by those being asked to pay. Even the parents of students will be divided between those with children receiving mandated high-cost special educational services and those in traditional programs put at financial risk of elimination. NYSSBA is working to guide, rather than be guided by this social and economic change. We view the work of this commission as a significant opportunity to advance that needed change. I would fervently ask that you not shy away from this task and instead exercise the independence of your position and the breadth of your perspective in crafting a new and responsive public educational system for New York State.

### **SPECIFIC PROPOSALS**

**Triborough Reform** – Amend the Triborough Amendment so that contracts extended beyond their expiration cost no more than their last year. The Triborough Amendment requires schools to continue paying “step” increases (an annual average of 2% on instructional salaries according to the NYS Association of Management Advocates for School Labor Affairs - MASLA) - even under an expired contract. The step salary increases transpire as a matter of law whether or not the economic and market conditions dictate a sustainable condition for businesses, taxpayers or schools to viably support and extend them. The Triborough Amendment creates a disincentive for teachers to accept terms and conditions less costly than those allowed in the previous contract (in spite of economic realities) and it drastically hampers school districts’ ability to effectively negotiate changes in terms in response to economic hardship. This stands in stark contrast to the options of salary freezes and renegotiation available to private businesses facing issues of fiscal crisis and viability. State and local taxpayers can no longer afford to underwrite the ability of public employees to ignore the fiscal realities faced by those who pay their salaries. The resulting loss of jobs has too great an impact on the state’s economy and the programs and services needed by students.

**3020-a – Teacher Discipline Reform** – Under current law a “3020-a” teacher disciplinary proceeding takes an average of 520 days from the date charges are brought to the date of a final decision; at an average cost of \$128,000.00. Proceedings addressing pedagogical incompetence take an average of 830 days at an average cost of \$313,000.00. The recent addition of an “expedited” process for those who receive two consecutive subpar evaluations is not nearly sufficient to address this issue. Real reform of the teacher

discipline process is needed. Independent contractor arbitrators in disciplinary cases must be replaced by NYSED administrative law judges. Cases would be decided more quickly, enabling districts to return the teacher to the classroom or hire a permanent replacement. In either event, taxpayers would be relieved of paying for costly and needless delays. Many of the needed reforms just makes sense: For instance, teachers convicted of child abuse, those who have had their license to teach revoked and those who do not obtain permanent certification in the time required by law should be removed without onerous procedural requirements. Simply put, our state can no longer afford a process that is both ineffective and time consuming.

**School Consolidation**—Whether or not school districts consolidate must be a local decision and not one based on unsupported political assumptions or arbitrarily established enrollment levels. While the cost of public education is of paramount importance, many smaller schools are vital to the continuation of essential community services. There is a wide range of issues to be considered in determining whether consolidation is the most effective way to achieve cost savings and increased student performance. The proposed benefits of consolidation can be achieved through functional consolidation in areas like cooperative purchasing through BOCES, sharing of and contracting for services with neighboring districts and BOCES, expanded use of technology and the sharing of facilities, teachers and resources for professional development. Additionally, by identifying school districts that successfully operate with lower costs in specific areas and determining whether their approach can be replicated in school districts with similar characteristics, smaller districts can amend their operations to conform to those “best practices.” This approach is far superior to forcing the merger of several impoverished school districts, simply creating larger impoverished school districts.

The state should explore the concept of “charter districts”. Our state currently has nearly 200 districts in fiscal distress, according to the Office of the State Comptroller. Coincidentally, it has the same number of charters to be granted under its current chartering law. Despite significant financial incentives, school district communities most frequently reject the opportunity to merge or consolidate with neighboring school districts. This is often done despite fiscal and educational benefits, most frequently in an attempt to retain community identity. Additional incentives are clearly needed to accommodate situations that indicate merger or consolidation as the solution to formerly intractable fiscal and educational issues. As such, districts that choose to merge or consolidate should continue to be afforded existing financial incentives and receive traditional funding. However, in addition, they should be allowed to form a “charter district” that would retain a publicly elected board of education, but otherwise be afforded the benefits afforded public charter schools. They should be free to extend the school day and school year. They should be allowed to attract and retain educators that best meet the current needs of their students. These charter districts would address the significant educational and community needs in an area, while supporting a regionalized approach to the provision of programs and services. The concept has formerly

been applied in part in the enacted but never implemented 21<sup>st</sup> Century Schools program. Applying the concept of mandate relief as an incentive to mergers and consolidations stabilizes communities, improves educational opportunities, provides continued employment in areas experiencing traditionally high unemployment rates, allows the schools to serve as community centers (addressing increasing rates of teen pregnancy, alcohol and drug abuse) and promotes more efficient use of facilities in an era that cries out for new fiscal approaches. It has been said that witnesses before this commission

**Expand the BOCES System-** The BOCES system must be expanded to provide a wider array of shared services with component schools and municipalities. The economic crisis is too immediate to create a new educational delivery system. BOCES has the structure in place to expand the ability of schools and municipal governments to share goods and services, creating cost savings for the state and local taxpayer. While cooperative services provided to schools must continue to be aided by the state, a new tier of services should be authorized when it makes financial and programmatic sense. School districts must be allowed the flexibility to efficiently serve their local communities and student population in critical areas like transportation, special education and nutrition. Uniform statewide policies are frequently not the most effective or efficient. Local school districts are best positioned to make resource decisions and the state must give democratically elected school officials the authority to create cost efficiencies in these crucial areas. This past year the state recognized this construct by authorizing BOCES to lower the costs of its services to school districts by contracting with libraries and out of state school districts. This year it must build on those efforts by authorizing BOCES to provide non aidable, but vital cooperative, ancillary services to schools and municipalities.

**Prohibit New Unfunded State Mandates.** While the state appears eager to control both the amount of aid it provides and the amount a school district may tax its local residents, it is much less enthusiastic about restraining the requirements it places on schools. A study by the Regional Educational Advocacy Districts group of the costs of 94 various state and federal unfunded mandates (including special education services, transportation, costs associated with No Child Left Behind, academic intervention services, health and safety, finance, and building and grounds) determined that these mandates alone comprise between 17 and 20 percent of school district budget spending. Extrapolated statewide, these unfunded mandate costs equate to over \$6.3 billion. Any legitimate attempt to make schools more efficient must come with a recognition that mandates cost money. This past legislative session, the state legislature once again attempted to impose significant new mandates on schools without providing any additional fiscal resources. The practice must simply stop.

**Last in-First Out-**The current environment ensures layoffs. Schools must be empowered to consider factors other than seniority when making decisions regarding teacher layoffs , in order to retain the most effective teachers in the classroom.

**Establish Maximum Employer Health Care Contributions**-New York State must reduce the public cost of providing employee health care insurance by establishing statewide maximum health care contributions for school districts and BOCES. These costs are outpacing the community ability to pay in an era when the state is not accepting responsibility for its fair share. Existing law makes it virtually impossible for a district to secure significant reductions in this cost, jeopardizing educational programs and public support for schools. The percentage of the employer amount currently paid by our schools is significantly beyond the national average. The state must set a maximum level for school district contribution, leaving schools free to secure greater concessions through collective bargaining.

**Fully Fund Federal Programs** –New York State School Districts would be in a better position to restrain local tax increases if the federal government paid its fair and promised share of its mandated programs and services. Adequate federal funding of Title I, IDEA, ESEA, NCLB and Medicaid services would dramatically relieve the state and local tax burden. There would be no need for a “bail out” out of public education if the federal government lived up to its funding obligation. State leaders must use the power of their position to press for the rejection of sequestration of federal funds.

Members of the commission, I applaud your service. It mirrors the effort provided by over 5000 locally elected volunteer school officials across our great state. Your goal is the same and I am honored to present this perspective and these suggestions on their behalf and in their continuing efforts on behalf of the students of our state and the communities that support them.

Respectfully submitted,



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