TESTIMONY

of

The New York State Association of Small City School Districts

for

New NY Education Reform Commission

September 24, 2012

Presented by:
William Lynch, NYSASCSD President and Fulton City School District Superintendent

On behalf of the New York State Association of Small City School Districts, we welcome the opportunity to appear before the Commission.

INTRODUCTION

Our Association is comprised of both Superintendents and Board of Education Members from 57 urban school districts across the state, excluding only the largest 5 city school districts. Small city districts serve a quarter of a million children and include 1.5 million residents. The vast majority of small city school districts are classified by the State as high student need/ low community resource districts. In addition, approximately 200 poor rural and suburban districts, serving about 400,000 students, are demographically similar to small city school districts and face comparable challenges and difficulties.

We hope to assist the Commission to fulfill its mandate, contained in Executive Order #44, to examine "the unique set of issues faced by high-need urban and rural school districts." Although we fully support your efforts to find ways to boost student performance in high-need schools, we are compelled to emphasize that we believe that closing the achievement gap between poorer and wealthier districts **must** include increases in state aid targeted to needier students and the districts that serve them. There is a pressing need to recognize and resolve the State's funding inadequacies; each year hundreds of thousands, if not millions, of our children do not receive the quality education they need to succeed in life.

DEFINING THE CORE PROBLEMS

In New York State there exists a gross misalignment between educational resources and student need with the profound consequence being a persistent student performance gap between students in wealthier communities and those from poorer communities.[1] While we express no opinion about the overall level of state education spending, it cannot

[1] By the State's own measurement in 2009, 24% of all of the state's 676 K-12 districts were failing and virtually all of these failing districts were in the state's poorest communities which spent on average 20% fewer dollars per pupil than successful districts. In the 57 small city districts for example, which are 30% poorer than the state average, 65% were then considered as failing.

be denied that the State fails to cause sufficient education dollars to be spent in the poorest, lowest performing districts and that this is by far the most egregious defect in New York's educational system.

Furthermore, there has been a fundamental transformation in the funding of public elementary and secondary education which now insures that this misalignment between need and resources and the resulting student performance gap can not be remedied in the foreseeable future. In 2011 public elementary and secondary education sustained stunning blows under the Gap Elimination Adjustment (GEA), a $2.55 billion reduction in aid, under the Personal Income Growth Index cap (PIGI cap) and under the tax levy cap.[2]

The GEA and the PIGI cap have transformed education aid from a predictable formula-based program to a highly uncertain block grant program. Increases over the cap are now wholly subject to year to year legislative appropriation. The 2007 reforms to State education aid were designed to drive more aid to the neediest students through the phasing-in of a comprehensive operating aid formula. Now however, poorer districts have not only been devastated by GEA cuts, but they cannot look forward to relief under any phase-in of the 2007 reforms due to the PIGI cap's limitations on education aid. When combined with the tax levy cap, these permanent changes in law have made local communities more vulnerable to the vagaries of state budgets, especially poorer districts who rely more heavily on State aid to fund their schools. Thus, these three measures have ended financing of elementary and secondary education as we know it.

Unless the State addresses these defects, all other attempts at education reform will be futile.

FURTHER DEFINING THE CORE PROBLEMS

[2] The GEA was an 18% loss in basic instructional aid, i.e. Foundation Aid, and stripped away all the increases received under that formula since 2007. The PIGI cap was an overall cap on education aid increases which now virtually assures that Foundation Aid will never be fully phased-in, even if the GEA is restored. The tax levy cap was a limitation on the year to year growth of the local school tax levy which has caused the poorest districts to cut deeply into core programs and layoff essential instructional staff.

The Association believes it has the responsibility to make clear the enormity of the funding problems many districts face and the hardships the 2011 changes in education funding have imposed and will continue to impose on our most vulnerable students and communities.

The root cause of the student performance gap and the inability of low performing districts to reach the successful school district standard set by the State[3] is the inadequacy of state funding for higher need/lower wealth districts. The State has failed to target education dollars to the neediest districts; an October 2011 report[4] on education finance equity found that New York ranks 6th from the bottom nationally in equity of distribution of educational resources between the wealthy and poor.

We urge the Commission take the first step in solving the under funding of poorer districts by recognizing the severity of the problem. The heavy burdens facing small city school districts can be shown by the following:

1. Small city districts have on average 20% more students living in poverty than non-city districts. The cost of education for students with such socio-economic disadvantages has never been adequately recognized in aid formulas, even if such formulas were fully phased-in (Exhibit A).

2. Small city districts' wealth is 45% below that of non-city districts. With tax bases this weak, small city districts have struggled unsuccessfully to increase spending to meet student needs (Exhibit B).

3. The direct and indirect consequences of inadequate state funding are clearly shown in small city tax rates; the per pupil spending gap and the student performance

[3] Successful school districts have been defined as those districts in which 80% of students achieve levels III or IV on the 4th grade Math and ELA tests and reach the equivalent levels on Regents exams.
[4] "School Funding Fairness in New York State," Professor Bruce D. Baker, Graduate School of Education, Rutgers University (Oct. 2011)

gap. Small city district tax rates are 10% higher than those in non-city districts and in the average district (Exhibit C).

4. Small city district spending per pupil is 12% below that in non-city districts (Exhibit D).

5. The State's own research found that its tests were overstating the performance level of students and therefore the Regents raised the minimum score for proficiency on the state tests, grades 3 through 8, beginning in 2009-10. This resulted in some small city districts doubling the numbers of students considered failing and requiring AIS services (Exhibit E).

6. The $2.2 billion GEA cut provided in the State Budget for 2011-12, when applied against Foundation Aid, keeps districts at aid levels below aid received in 2007-08. When the cost of living is factored in (11% nationally and 21% for education costs), the amount of aid provided to the average small city district is more than $7 million below the 2007-08 level. The GEA is part of permanent law, i.e. the GEA has permanently rebased education aid to 5 year old levels (Exhibit F).

7. Moreover, GEA takes almost twice as much from small city districts as from above average wealth districts when computed on a percentage of Approved Operating Expense (Exhibit G).

8. The PIGI cap restricts education increases to the amount of growth in personal income and will, if historical data is an accurate predictor, prevent Foundation Aid from ever being fully funded. This, of course, will cripple programs and student achievement in districts like the small city districts for generations to come.

9. And finally, the tax levy cap will cause havoc with programming and staffing for years to come. Small city districts learned this lesson when they were subject to the 2% constitutional tax limit before 1985. More than half the 57 small city districts at that time

faced possible programmatic and fiscal bankruptcy and were unable to balance budgets and fund their programs without the massive infusion of special aid known as Hurd Aid.

THE CORE SOLUTIONS

We therefore urge that you focus on the following core solutions**:**

1. Strengthen the targeting of State education aid to higher need and lower wealth districts enacted in 2007 and resume full funding of the phase-in provisions of Foundation Aid at least for districts not reaching the definition of a successful school district, the personal income growth cap notwithstanding. (See, for example bi-partisan legislation A.8844 of 2012 by M of As Russell and Lupardo and 11 other co-sponsors, Exhibit H)

2. Allow small city school districts to present portions of the school budget in separate resolutions requiring a super majority vote only for the portions exceeding the tax levy cap.

3. Make a portion of Transition Aid permanent, freeze charter school tuition and encourage conversion of public schools to charter schools. There are significant fiscal pressures on several small city districts from the growth in numbers of charter schools. The relative size of the charter school censuses to small city district censuses is a significant problem not experienced by New York City and the other large city schools. The need for relief in this area has become urgent.

4. Amend expense driven aids and High Tax Aid to target more dollars to higher need and lower wealth districts.

CONCLUSION

State education funding has been going in the wrong direction, leaving the poorest schools and children behind. The promises made to such children in the state constitution and by state and federal education policy (No Child Left Behind) have been ignored. Students in small city districts and in demographically similar districts cannot afford to

wait until the economy slowly works its way out of recession to correct the egregious failure to target aid where needed most. Each year that passes without a resolution to the State's funding inadequacies is a year lost in the life of tens of thousands of children who do not receive the quality education they need and deserve.

The value judgments and choices you make now will have a deep and lasting effect on the lives of hundreds of thousands of children whose well being is essential to their families, to their communities and to the entire state.[5] We desperately need this Commission to address the primary defect in our educational system, the lack of adequate and equitable funding of schools in our poorest and highest need communities. Thank you for your attention.

[5] "The test of the morality of a society is what it does for its children (Dietrich Bonhoeffer)."

EXHIBIT A

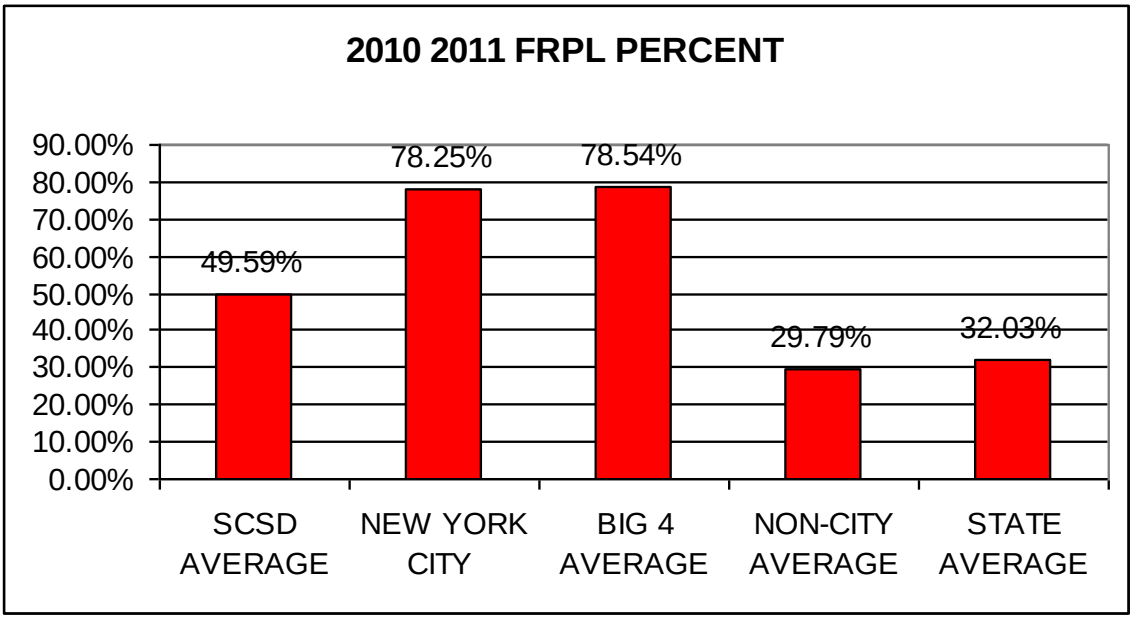
2010 2011 FRPL PERCENT
90.00%
80.00%
70.00%
60.00%
50.00%
40.00%
30.00%
20.00%
10.00%
0.00%
49.59%
78.25%
78.54%
29.79%
32.03%
SCSD AVERAGE
NEW YORK CITY
BIG 4 AVERAGE
NON-CITY AVERAGE
STATE AVERAGE

EXHIBIT B

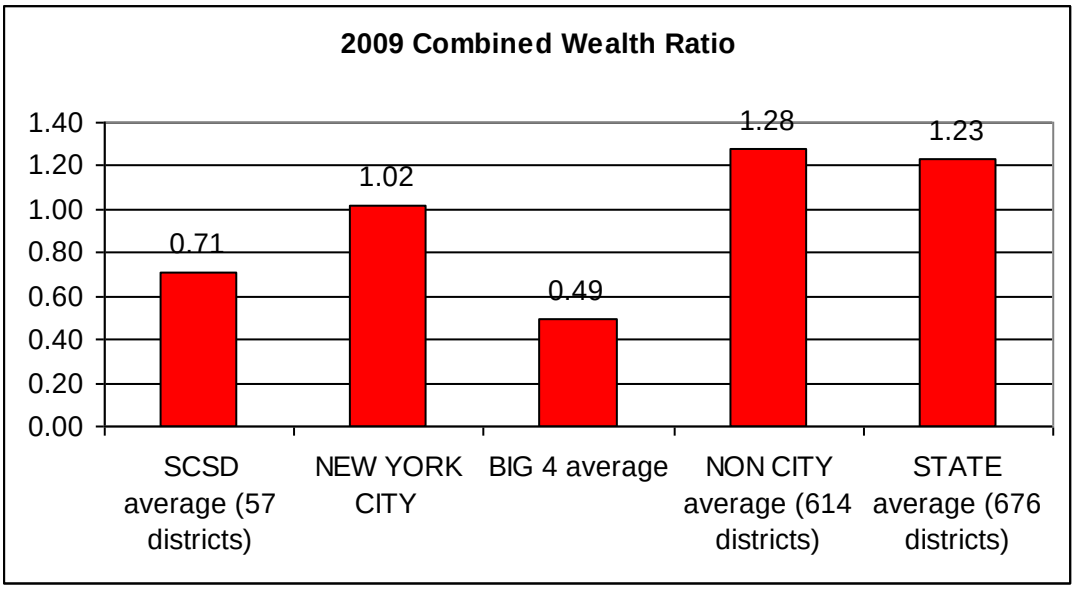
2009 Combined Wealth Ratio
1.40
1.20
1.00
0.80
0.60
0.40
0.20
0.00
0.71
1.02
0.49
1.28
1.23
SCSD average (57 districts)
NEW YORK CITY
BIG 4 average
NON CITY average (614 districts)
STATE average (676 districts)

EXHIBIT C

(school tax rates $/$1000 of full value)

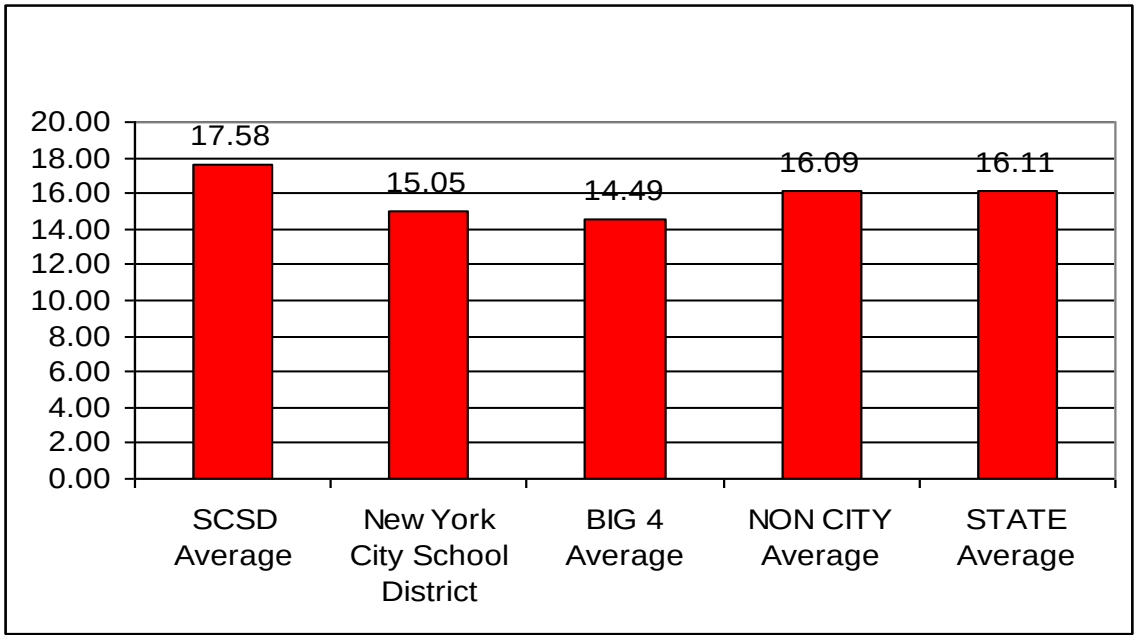

EXHIBIT D

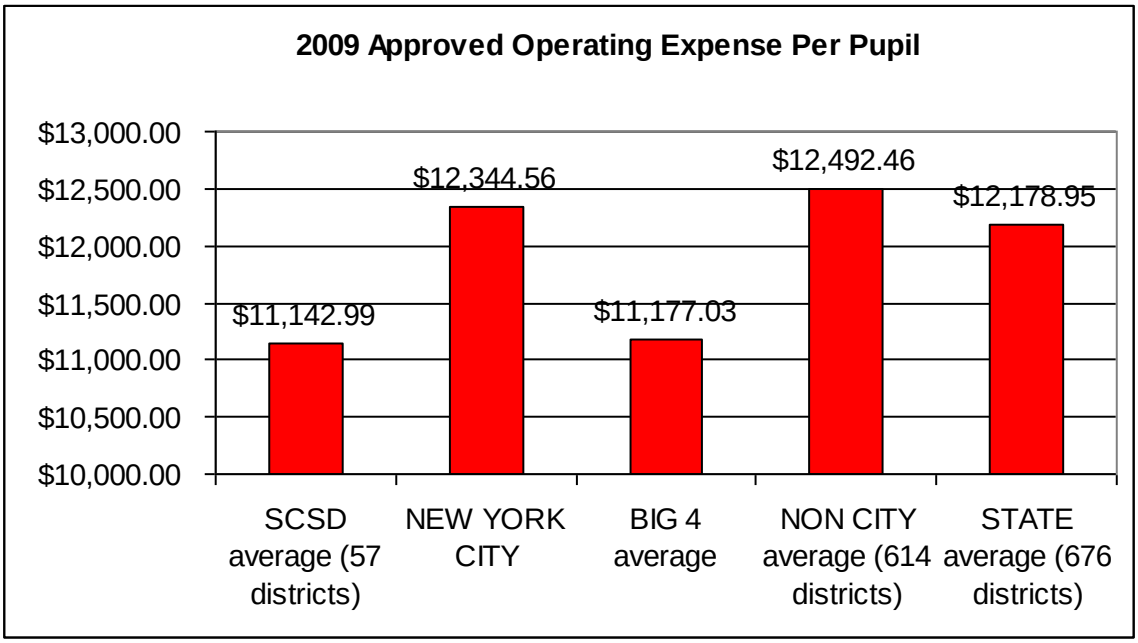
2009 Approved Operating Expense Per Pupil
$13,000.00
$12,500.00
$12,000.00
$11,500.00
$11,000.00
$10,500.00
$10,000.00
$11,142.99
$12,344.56
$11,177.03
$12,492.46
$12,178.95
SCSD average (57 districts)
NEW YORK CITY
BIG 4 average
NON CITY average (614 districts)
STATE average (676 districts)

EXHIBIT E

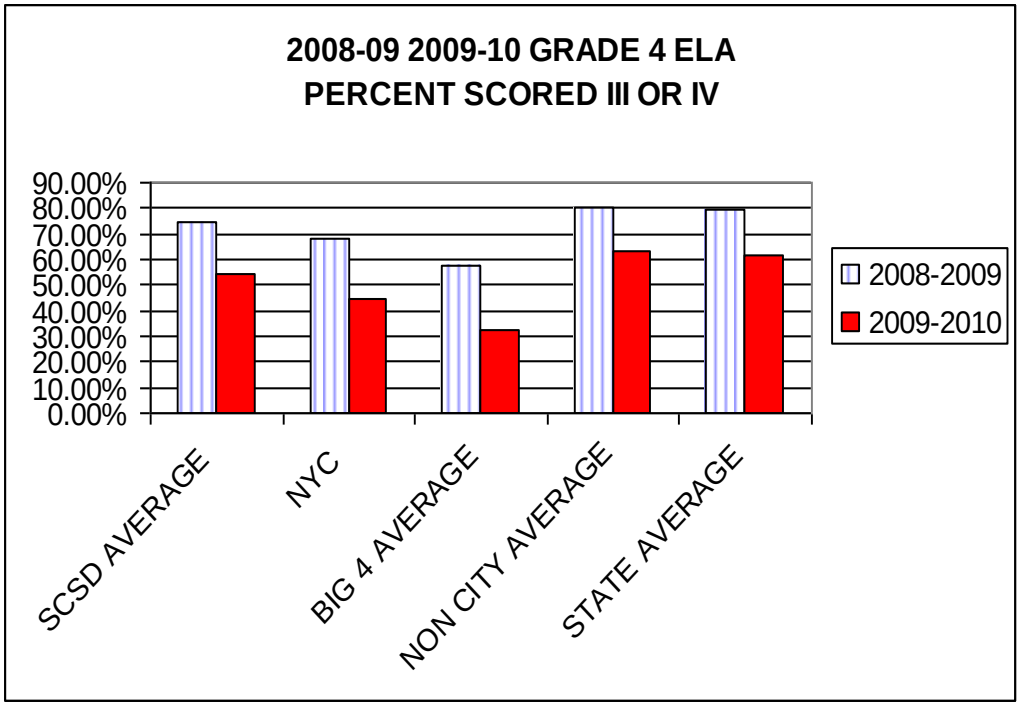
2008-09 2009-10 GRADE 4 ELA
PERCENT SCORED III OR IV
90.00%
80.00%
70.00%
60.00%
50.00%
40.00%
30.00%
20.00%
10.00%
0.00%
SCSD AVERAGE
NYC
BIG 4 AVERAGE
NON CITY AVERAGE
STATE AVERAGE
2008-2009
2009-2010

EXHIBIT F

DBSAA1 DATABASE EDITION 0461E MODEL EDITION SA080-9 0461E	2006-07 FOUNDATION BASE AID	2007-08 FOUNDATION AID	E(FA0198) 00 2008-09 FOUNDATION AID	E(FA0197) 00 2012-13 FOUNDATION AID	AA(FA0185) 00 2012-13 GAP ELIMINATION ADJUSTMENT	2012 13 FOUNDATION AID MINUS 2012 13 GAP ELIMINATION ADJUSTMENT
SCSD AVERAGE	22,055,703	24,368,258	26,447,710	26,448,464	(3,948,570)	22,499,894
SCSD TOTAL	1,257,175,093	1,388,990,691	1,507,519,485	1,507,562,441	(225,068,477)	1,282,493,964
BIG 4 AVERAGE	255,419,721	274,566,690	292,317,462	292,317,462	(20,676,965)	271,640,497
NON CITY AVERAGE	8,442,789	9,137,712	9,864,217	9,820,427	(2,041,424)	7,779,003
NEW YORK CITY	5,063,348,319	5,533,101,299	6,168,608,030	6,187,050,084	(705,479,633)	5,481,570,451
STATE TOTALS	12,465,920,433	13,640,051,880	14,873,594,373	14,893,624,431	(2,266,690,479)	12,626,933,952

EXHIBIT G

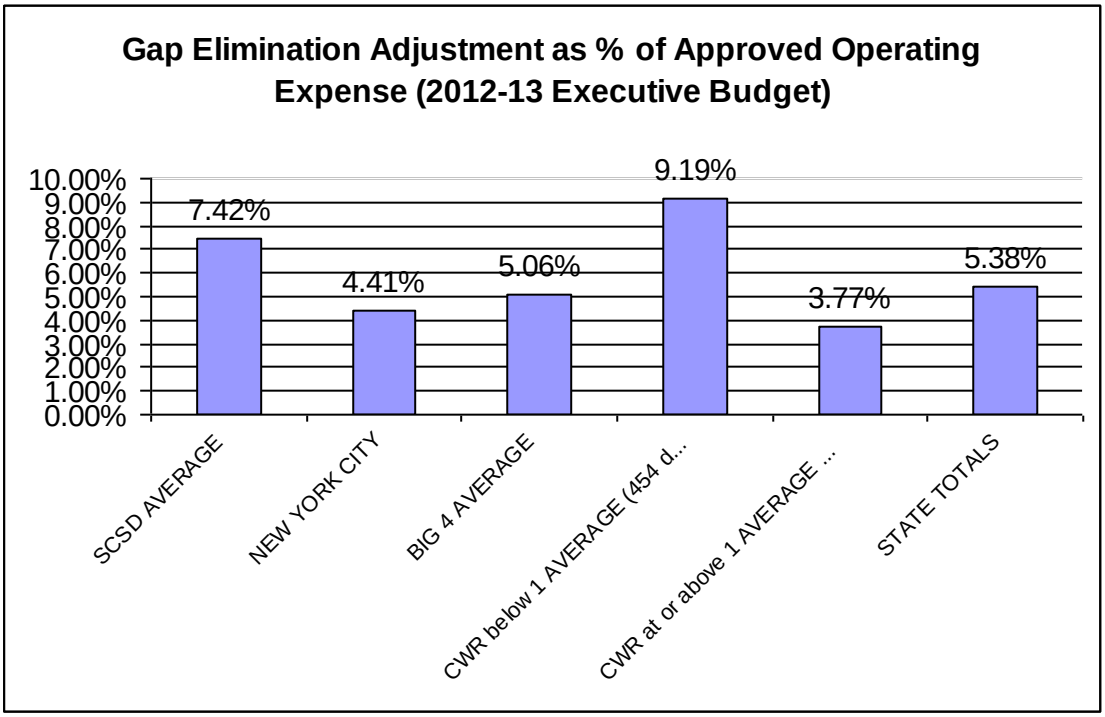
Gap Elimination Adjustment as % of Approved Operating Expense (2012-13 Executive Budget)
10.00%
9.00%
8.00%
7.00%
6.00%
5.00%
4.00%
3.00%
2.00%
1.00%
0.00%
7.42%
4.41%
5.06%
9.19%
3.77%
5.38%
SCSD AVERAGE
NEW YORK CITY
BIG 4 AVERAGE
CWR below 1 AVERAGE (454 d...
CWR at or above 1 AVERAGE ...
STATE TOTALS

EXHIBIT H

STATE OF NEW YORK

_____

8844

IN ASSEMBLY

(Prefiled)

January 4, 2012

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Introduced by M. of A. RUSSELL, LUPARDO -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to eliminating certain minimum aid provisions for the computation of foundation aid and implement a regional cost index to reflect current cost differences among various regions in the state

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph s of subdivision 1 of section 3602 of the educa-
2 tion law, as amended by section 11 of part B of chapter 57 of the laws
3 of 2007, is amended to read as follows:
4 s. "Extraordinary needs count" shall mean the sum of the product of
5 the limited English proficiency count multiplied by fifty percent, plus,
6 **the product of** the poverty count **and one hundred fifty percent (1.50)**
7 and the sparsity count.
8 § 2. Paragraph gg of subdivision 1 of section 3602 of the education

9 law, as added by section 25 of part A of chapter 58 of the laws of 2011,
10 is amended to read as follows:
11 gg. "Allocable growth amount" shall mean the positive difference, if
12 any, of the **sum of the** allowable growth amount **and for districts which**
13 **have not achieved successful school district status as defined in**
14 **subparagraph one of paragraph a of subdivision four of this section, the**
15 **increase in apportionments pursuant to subdivision four of this section**
16 **over the base year** less the sum of the competitive awards amount plus
17 the preliminary growth amount.
18 § 3. Subparagraph 1 of paragraph h of subdivision 2 of section 3602 of
19 the education law, as added by section 13 of part B of chapter 57 of the
20 laws of 2007, is amended to read as follows:
21 (1) Total wealth foundation pupil units shall mean the sum of (i)
22 average daily membership for the year **up to five years** prior to the base
23 year **whichever is highest** as computed in this section, plus (ii) the
24 full-time equivalent enrollment of resident pupils attending public
25 school elsewhere, less the full-time equivalent enrollment of nonresi-

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets
[—] is old law to be omitted.

1 dent pupils, plus (iii) the full-time equivalent enrollment of resident
2 pupils attending full-time in board of cooperative educational services
3 (not otherwise specifically included). Native American pupils of a
4 reservation attending public school, or pupils living on the United
5 States military reservation at West Point attending public school, shall
6 be deemed to be resident pupils of the district providing such school,
7 for purposes of this paragraph. Where a school district has entered into
8 a contract with state university pursuant to subdivision two of section
9 three hundred fifty-five of this chapter under which the school district

10 makes payment in the nature of tuition for the education of certain
11 children residing in the district, such children for whom such tuition
12 payments are made shall be deemed to be resident pupils of such district
13 for the purposes of this paragraph.
14 § 4. The opening paragraph and paragraph a of subdivision 4 of section
15 3602 of the education law, as amended by section 26 of part A of chapter
16 58 of the laws of 2011, are amended to read as follows:
17 In addition to any other apportionment pursuant to this chapter, a
18 school district, other than a special act school district as defined in
19 subdivision eight of section four thousand one of this chapter, shall be
20 eligible for total foundation aid equal to the product of total aidable
21 foundation pupil units multiplied by the district's selected foundation
22 aid, which shall be [~~**the greater of five hundred dollars ($500) or**~~]
23 **equal to the** foundation formula aid, provided, however that for the two
24 thousand seven--two thousand eight through two thousand eight--two thou-
25 sand nine school years, no school district shall receive total founda-
26 tion aid in excess of the sum of the total foundation aid base for aid
27 payable in the two thousand seven--two thousand eight school year
28 computed pursuant to subparagraph (i) of paragraph j of subdivision one
29 of this section, plus the phase-in foundation increase computed pursuant
30 to paragraph b of this subdivision, and provided further that for the
31 two thousand twelve--two thousand thirteen school year and thereafter,
32 no school district shall receive total foundation aid in excess of the
33 sum of the total foundation aid base for aid payable in the two thousand
34 twelve--two thousand thirteen school year computed pursuant to paragraph
35 j of subdivision one of this section, plus the phase-in foundation
36 increase computed pursuant to paragraph b of this subdivision, and
37 provided further that total foundation aid shall not be less than the
38 product of [~~**the total**~~] foundation aid **in the** base [~~**computed pursuant to**~~

39 ~~paragraph j of subdivision one of this section~~] **year** and [~~one hundred~~
40 ~~three~~] **eighty-five** percent subject to allocation pursuant to the
41 provisions of subdivision eighteen of this section and any provisions of
42 a chapter of the laws of New York as described therein, nor more than
43 the product of such total foundation aid base and one hundred [~~fifteen~~]
44 **twenty-five** percent, and provided further that for the two thousand
45 nine--two thousand ten through two thousand eleven--two thousand twelve
46 school years, each school district shall receive total foundation aid in
47 an amount equal to the amount apportioned to such school district for
48 the two thousand eight--two thousand nine school year pursuant to this
49 subdivision. Total aidable foundation pupil units shall be calculated
50 pursuant to paragraph g of subdivision two of this section. For the
51 purposes of calculating aid pursuant to this subdivision, aid for the
52 city school district of the city of New York shall be calculated on a
53 citywide basis.
54 a. Foundation formula aid. Foundation formula aid shall equal the
55 remainder when the expected minimum local contribution is subtracted
56 from the product of the foundation amount, the regional cost index, and

1 the pupil need index, or: (foundation amount x regional cost index x
2 pupil need index)- expected minimum local contribution.
3 (1) The foundation amount shall [~~reflect~~] **equal** the average per pupil
4 cost of general education instruction in **all** successful school districts
5 **excluding only the highest decile spending successful school districts**
6 **and the lowest decile spending successful school districts from calcu-**
7 **lation of such average**, as determined by a statistical analysis of the
8 costs of special education and general education in successful school
9 districts **provided that the definition of such successful school**
10 **districts shall be aligned with performance data for success at post-**

11 **secondary levels and with performance on national testing and, further**
12 provided that the foundation amount shall be adjusted annually to
13 reflect the percentage increase in the consumer price index as computed
14 pursuant to section two thousand twenty-two of this chapter, provided
15 that for the two thousand eight--two thousand nine school year, for the
16 purpose of such adjustment, the percentage increase in the consumer
17 price index shall be deemed to be two and nine-tenths percent (0.029),
18 and provided further that the foundation amount for the two thousand
19 seven--two thousand eight school year shall be five thousand two hundred
20 fifty-eight dollars, and provided further that for the two thousand
21 seven--two thousand eight through two thousand fifteen--two thousand
22 sixteen school years, the foundation amount shall be further adjusted by
23 the phase-in foundation percent established pursuant to paragraph b of
24 this subdivision.
25 (2) The regional cost index shall reflect an analysis of labor market
26 costs based on median salaries in professional occupations that require
27 similar credentials to those of positions in the education field, but
28 not including those occupations in the education field, provided that
29 the regional cost indices for the two thousand seven--two thousand eight
30 school year and thereafter shall be as follows:

	Labor Force Region	Index
31	Capital District	[~~1.124~~] **1.149**
32	Southern Tier	[~~1.045~~] **1.061**
33	Western New York	[~~1.091~~] **1.103**
34	Hudson Valley	[~~1.314~~] **1.392**
35	Long Island/NYC	[~~1.425~~] **1.544**
36	Finger Lakes	[~~1.141~~] **1.133**
37	Central New York	[~~1.103~~] **1.130**
38	Mohawk Valley	[~~1.000~~] **1.036**
39	North Country	1.000

40
41 (3) The pupil need index shall equal the sum of one plus the extraor-
42 dinary needs percent[~~, provided, however, that the pupil need index~~
43 ~~shall not be less than one nor more than two~~]. The extraordinary needs
44 percent shall be calculated pursuant to paragraph w of subdivision one
45 of this section.

46 (4) The expected minimum local contribution shall equal the lesser of
47 (i) the product of (A) the quotient arrived at when the selected actual
48 valuation is divided by total wealth foundation pupil units, multiplied
49 by (B) the product of the local tax factor, multiplied by the income
50 wealth index, or (ii) the product of (A) the product of the foundation
51 amount, the regional cost index, and the pupil need index, multiplied by
52 (B) the positive difference, if any, of one minus the state sharing
53 ratio for total foundation aid. The local tax factor shall be estab-
54 lished by May first of each year by determining the product, computed to
55 four decimal places without rounding, of ninety percent multiplied by
56 the quotient of the sum of the statewide average tax rate as computed by

1 the commissioner for the current year in accordance with the provisions
2 of paragraph e of subdivision one of section thirty-six hundred nine-e
3 of this part plus the statewide average tax rate computed by the commis-
4 sioner for the base year in accordance with such provisions plus the
5 statewide average tax rate computed by the commissioner for the year
6 prior to the base year in accordance with such provisions, divided by
7 three, provided however that for the two thousand seven--two thousand
8 eight school year, such local tax factor shall be sixteen thousandths
9 (0.016), and provided further that for the two thousand eight--two thou-
10 sand nine school year, such local tax factor shall be one hundred
11 fifty-four ten thousandths (0.0154). The income wealth index shall be
12 calculated pursuant to paragraph d of subdivision three of this section,
13 provided, however, that for the purposes of computing the expected mini-
14 mum local contribution the income wealth index shall not be less than
15 [~~sixty-five~~] **twenty-five** percent [~~(0.65)~~] **(0.25)** and shall not be more
16 than [~~two~~] **three** hundred percent [~~(2.0)~~] **(3.0)** and provided however that

17 such income wealth index shall not be more than ninety-five percent
18 (0.95) for the two thousand eight--two thousand nine school year. The
19 selected actual valuation shall be calculated pursuant to paragraph c of
20 subdivision one of this section. Total wealth foundation pupil units
21 shall be calculated pursuant to paragraph h of subdivision two of this
22 section.
23 § 5. Subdivision 18 of section 3602 of the education law, as added by
24 section 37 of part A of chapter 58 of the laws of 2011, is amended to
25 read as follows:
26 18. Allocable growth amount apportionment. Such amount shall be appor-
27 tioned for a school year pursuant to a chapter of the laws of New York
28 enacted for the state fiscal year in which such school year commences,
29 and shall be allocated to purposes including but not limited to compet-
30 itive grant awards made pursuant to subdivisions five and six of section
31 thirty-six hundred forty-one of this article, the foundation aid phase-
32 in amount or other foundation aid increase allocated pursuant to subdi-
33 vision four of this section and the gap elimination adjustment restora-
34 tion amount apportioned pursuant to subdivision seventeen of this
35 section. In the event that a chapter of the laws of New York enacted for
36 the state fiscal year in which such school year commences is not
37 enacted, the allocations in support of subdivisions five and six of
38 section thirty-six hundred forty-one of this article shall equal the
39 allocations in support of such awards in the base year, and **except for**
40 **those districts which have not achieved successful school district**
41 **status as defined in subparagraph one of paragraph a of subdivision four**
42 **of this section,** the apportionments pursuant to subdivisions four and
43 seventeen of this section for the current year shall equal **not more than**
44 the apportionments for such subdivisions four and seventeen for the base
45 year.
46 § 6. This act shall take effect immediately.