

January 13, 2009

An Open Letter To New York State Legislators:

I am writing to address some of the complex issues regarding education funding in Governor Paterson's proposed budget. I know you will also be hearing from the school districts you represent about their specific issues and hope you will find this backdrop helpful.

Funding for public schools would be cut significantly under Governor Paterson's budget proposal. The \$698 million figure widely reported in the press would more accurately be described as a \$1.1 billion dollar cut plus a \$133 million cost shift. So the total impact on schools will exceed \$1.23 billion. Foundation aid is actually being reduced by \$1.1 billion dollars; the \$698 million is a "net" number of the aid reduction.

This requires an explanation: School districts are spending hundreds of millions of dollars *this year* with an understanding they will be reimbursed for a portion of those expenditures *next year*. "Expenditure driven aids" such as transportation, BOCES and special education are paid by the state to school districts on a one-year lag. To his credit, the Governor includes reimbursement for those expenditures in his budget proposal for next year. The cost exceeds \$500 million and would thus represent an *increase* in school spending above the current year's state budget. So in order to pay districts that money owed and still cut spending \$698 million below this current year's school aid budget, Foundation Aid will be reduced next year by \$1.1 billion. And the \$1.7 billion increase in Foundation Aid previously promised for next year will not be forthcoming. In fact, the Governor proposes to freeze Foundation Aid for the next two years.

Separate from the more than \$1 billion cut in aid is a new unfunded mandate. It requires a shift of \$133 million in pre-K special education costs. The Governor's proposed budget shifts 15% of the cost of pre-k special education from the state and counties to local school districts.

How school districts are able to cope with these cuts and cost shifts will vary widely, and is a matter that demands your attention.

New York has nearly 700 school districts, and they are remarkably diverse. They range from large urban districts to very small sparsely populated rural districts. There are several dozen small city school districts, and many more districts located in suburban areas.

They all share a common mission, but they serve students with disparate needs. Among the factors that further complicate public education and its funding, some of these students are much more costly to educate than others.

A major division between districts, and one that should be of the greatest concern to you as we face this daunting fiscal crisis, is the *fiscal capacity* of these diverse school districts.

This can be illustrated very simply. Compare a district of 1,500 students in a community where the average home is worth \$500,000 with another district having a similar enrollment but homes worth an average of \$100,000. With an identical tax rate, the wealthier district can raise five times as much money as the poorer district to support its students.

The depth and breadth of a tax base, along with the income of its residents, determine a school district's fiscal capacity. In addition to homes, some school districts also contain valuable commercial and industrial property, while others have none.

Property and income wealth largely determine the kind of education children will experience. State data reveal that districts that are above average in wealth are able to offer an enriched education. Poorer districts offer fewer amenities and must focus more of their efforts on remediation. Many of their students will arrive at their very first day at school unprepared to do even introductory work. Those schools' major task is in trying to bring students who have already fallen behind up to grade level.

The financial circumstances we now face will impact these districts and these children very differently. Wealthier districts that already offer an enriched program will have to make cuts. But for the most part, those cuts will occur in programs not even offered to the children in less wealthy school districts. In more affluent districts, the wealth of district taxpayers affords them the opportunity to support an enriched program for their students.

The choices faced by school boards and administrators in less wealthy school districts will be harsh. They have far fewer non-mandated courses, fewer co-curricular activities such as clubs and service organizations, and they already provide far fewer opportunities for students to participate in sports, music, arts, etc. And if they don't have it, they can't cut it from their budget. So the choices they face about what to cut are limited to those few opportunities that they do offer their students that are not required by law or regulation.

It is critically important that you understand these differences. The Governor's budget proposal makes an effort to moderate his proposed cuts, but does so insufficiently.

Most poorer districts that receive the minimum 3% cut in state aid will lose more aid relative to their total budget than those wealthier districts getting a 13% aid cut. This is a disaster for poorer school districts. They have fewer electives or non-mandated programs to eliminate. Moreover, their taxpayers lack the financial capacity to replace state aid cuts.

The chart below compares reliance on state aid; what the Governor's proposed cuts will mean in actual dollars lost; and how that translates into dramatically different increases in the local tax levy if taxes were raised to replace the state aid lost. **The chart clearly reveals that if cuts to education remain a part of the budget that you ultimately adopt it is imperative that you make those cuts more progressively than the Governor has proposed or you will literally threaten the ability of poorer districts to remain viable as schools.**

Impact of Governor's Proposed Cuts

District A: High Wealth District	District B: Average Wealth District	District C: Low Wealth District	District D: High Needs District
Annual Budget: \$20 Million	Annual Budget: \$20 Million	Annual Budget: \$20 Million	Annual Budget: \$20 Million
10% State / 90% Local Funding \$2 Million State Aid	25% State / 75% Local Funding \$5 Million State Aid	50% State / 50% Local Funding \$10 Million State Aid	75% State / 25% Local Funding \$15 Million State Aid
Impact of Governor's Proposed Cuts: 13% = -\$260,200	Impact of Governor's Proposed Cuts: 10.5% = -\$526,250	Impact of Governor's Proposed Cuts: 7.29.7% = -\$729,000	Impact of Governor's Proposed Cuts: 3.32% = -\$498,375
Proposed New budget: \$20 Million (Frozen)	Proposed New budget: \$20 Million (Frozen)	Proposed New budget: \$20 Million (Frozen)	Proposed New budget: \$20 Million (Frozen)
State / Local Funding: \$1.7 Million State \$18.3 Million Local	State / Local Funding: \$4.5 Million State \$15.5 Million Local	State / Local Funding: \$9.3 Million State \$10.7 Million Local	State / Local Funding: \$14.5 Million State \$5.5 Million Local
LOCAL TAX INCREASE: 1.44%	LOCAL TAX INCREASE: 3.51%	LOCAL TAX INCREASE: 7.29%	LOCAL TAX INCREASE: 9.97%

With the exception of the so-called "Big 5", school districts have the power to levy taxes to fund their schools. However, unlike any other layer of government, school budgets are subject to a public vote. And the public is understandably frustrated with ever-rising school taxes. State aid cuts unavoidably result in shifting more responsibility to local property taxpayers. Yet raising local property taxes to fully offset the loss of state aid is simply not an option for most districts in this economic and political climate.

All districts are facing difficult choices with the cuts the Governor has proposed. But the most vulnerable districts, those of average and below average wealth, are literally endangered.

The Governor has noted that total school district reserves equal or exceed the size of his proposed budget cuts, and suggested that those reserves should more than offset the cuts.

First, it's important to note that not all districts have reserves. Those that do have set money aside for particular anticipated expenses in order to prevent a fiscal crisis in the district when those expenses actually occur.

Second, the Governor has proposed a two-year freeze on Foundation Aid, and delayed by another four years the previously promised increases in Foundation Aid. It would be irresponsible for districts that do have reserves to draw them down completely in one year when faced with a multi-year problem.

And if committing reserves to solve this problem is the answer, why didn't the Governor propose using the state's "rainy day fund" to reduce the impact of his proposed budget cuts?

Given the situation the state is in, it's fair to ask, "Why can't school districts simply hold the line on spending?" That's a question the public asks frequently these days. Our state legislators have asked the question as well.

Explaining why school districts can't restrain rising costs requires you to confront one of the proverbial "third rails" of politics.

Legislative and regulatory constraints prevent school districts from restraining spending. Primarily responsible is what's referred to as the Triborough amendment.

Triborough applies to public employees in New York State and is related to the Taylor Law, which was put in place in the late 1960's to eliminate strikes by public employees such as police, fire fighters and teachers. It has been very effective in doing that, but it has done so at a steep cost.

Triborough provides for the terms of a contract to remain in force until a new contract is agreed upon. So when a contract between a teachers union or other bargaining unit and the district has expired (say at the end of three years), the provisions of that contract continue in perpetuity until both parties agree to a new contract.

Among the major cost drivers in school budgets is health insurance, which was once much cheaper to purchase than it is now. And when it was cheaper, most school districts (and even many private employers) provided health insurance to their employees and also paid most of the health insurance premium.

As the cost of health insurance escalated – literally year after year for more than the last decade – most private employers required their employees to absorb a larger and larger portion of the cost, *if they continued to provide health insurance at all.*

But in public schools, where the terms of a contract remain in force until a new contract is negotiated and agreed to by both parties, only minimal changes have occurred in employees' health insurance coverage or cost. Because to secure concessions from employees on health insurance, school districts have to provide something valuable in return. They must "buy back" the value of the change in contract and often little is gained by the school district in return.

Consequently, most school district employees enjoy more comprehensive health insurance benefits at a much lower personal cost than their counterpart employees in the private sector. School districts are unable to significantly reduce their costs for health insurance without increasing costs in another area, like salaries.

While it sounds reasonable to expect school districts to simply "drive a harder bargain" with their employees, Triborough essentially requires employees to be compensated for any contract concessions they make, regardless of current economic conditions.

School districts will not be able to significantly slow the growth in employee salaries and benefits unless Triborough is reformed. School districts do not have the power to change Triborough. Only the Governor & state legislature do.

Another politically challenging impediment to reducing costs is in the area of special education. Every parent wants the best for their child. And that instinct may be even more pronounced in the case of a child with special needs. Federal laws and regulations govern the services that must be provided. New York's special education requirements clearly exceed those required by the federal government and take precedent.

So when services are required for a child, those services will typically cost more for a child who lives in New York State than one who lives elsewhere. If New York State regulations regarding special education services were brought into line with federal regulations, school districts could spend less.

School districts don't have the power to change SED's regulations. The Board of Regents does. Or the Governor & Legislature could.

Most school district employees participate in the NYS Employees Retirement System (ERS) or the NYS Teachers Retirement System (TRS). Both are “defined benefit plans”, calculated on the number of years the employee works, their final average salary, and age at retirement.

Defined benefit plans are rare in the private sector. They are also more costly to fund because the benefits are predetermined, and not tied to the performance of the stock market, as a 401K plan typically would be.

The State Constitution does not allow benefits for current employees in the state retirement system to be reduced. School districts can’t make changes to the pension system. So the only way costs can be reduced is by the Governor & Legislature, and must be done so prospectively, for newly hired employees.

The Legislature and Governor made benefits more generous for current employees several years ago, which has now put an added burden on school districts. The Governor and Legislature need to create a new pension tier for new employees that requires a greater contribution from the employees, and a less burdensome one for school district taxpayers. Governor Paterson has proposed creating such a Tier, and we urge our legislators to support his proposal.

Given these constraints, cutting state aid and then telling local school districts to “tighten their belts” ignores the limitations that have been placed upon districts. Schools have the ability to cut positions, to try to raise taxes, and to find incremental savings through greater efficiencies, but significant savings can only be achieved if laws and regulations promulgated in Albany are changed by Albany.

One change under consideration in Albany, and already approved earlier this year by the State Senate, is a school property tax cap. This may be for many a much more politically appealing alternative than modifying special education regulations and revising Triborough.

Let’s see how a tax cap would really work:

First, it’s important to recognize that a tax cap is not the same as a spending cap. This is a very important distinction that has been lost on some people. A tax cap has far different consequences than an expenditure cap.

Below is an illustration that shows when state aid is simply frozen (not cut) a nominal 2% spending increase in districts would result in a 2.2% tax increase in one, and an 8% tax increase in another. The same budget increase and nearly 4 times the tax increase. And invariably the district with the higher tax increase will be spending less per pupil than the other. It all boils down to the relationship between state aid and district wealth.

WHEN STATE AID IS FROZEN...

District A: High Wealth District	District B: Average Wealth District	District C: Low Wealth District	District D: High Needs District
Annual Budget: \$20 Million	Annual Budget: \$20 Million	Annual Budget: \$20 Million	Annual Budget: \$20 Million
10% State / 90% Local Funding \$2 Million State Aid	25% State / 75% Local Funding \$5 Million State Aid	50% State / 50% Local Funding \$10 Million State Aid	75% State / 25% Local Funding \$15 Million State Aid
Proposed Budget Increase: 2% = \$400,000	Proposed Budget Increase: 2% = \$400,000	Proposed Budget Increase: 2% = \$400,000	Proposed Budget Increase: 2% = \$400,000
Proposed New budget: \$20.4 Million	Proposed New budget: \$20.4 Million	Proposed New budget: \$20.4 Million	Proposed New budget: \$20.4 Million
State / Local Funding: \$2 Million State \$18.4 Million Local	State / Local Funding: \$5 Million State \$15.4 Million Local	State / Local Funding: \$10 Million State \$10.4 Million Local	State / Local Funding: \$15 Million State \$5.4 Million Local
LOCAL TAX INCREASE: 2.22%	LOCAL TAX INCREASE: 2.67%	LOCAL TAX INCREASE: 4%	LOCAL TAX INCREASE: 8%

Why does this matter? Because the impact of a tax cap on low wealth districts will be devastating. Salary increases – negotiated under Triborough – mandatory increases in pension contributions – because the stock market has lost value – health insurance cost increases – because the state and nation have yet to address our multiple forms of health care crisis – fuel cost spikes – caused by our dependence of fossil fuels imported from other countries – could all or individually result in a well managed school district experiencing a budget increase of much more than 2%.

Yet for a low wealth, heavily aid dependent school district facing a cut in the major portion of its revenue source could find itself proposing to raise taxes by double digits while its spending was growing as modestly as 2%.

So what might the consequences of a tax cap be?

For most low wealth, heavily aid dependent districts, it will be a complete disaster. There simply is not enough that can be cut from a budget to keep a property tax increase below the arbitrarily proposed 4%. And should a tax cap be legislated, you will very quickly begin to see some districts unable to maintain a basic core program.

If you determine the state is simply unable to maintain its current share of state aid to public education you must empower districts to control more of their costs. That means you must reduce pension costs, find ways to reduce districts' health insurance costs, and alter the rules governing contract negotiations.

Those are the choices. Schools simply do not have the power to make this happen on their own.

Sincerely,

Lawrence M. Cummings
Executive Director
Central New York School Boards Association, Inc.
6390 Fly Road
East Syracuse, NY 13057
315.463.1904