

*Elementary & Secondary Ed
v. Q 7/14*

TESTIMONY

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of

**The New York State Association of
Small City School Districts**

for

**Joint Legislative Hearing on 2017-18 Executive Budget
(Elementary and Secondary Education)**

February 14, 2017

Submitted by:

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UNDERSTANDING EDUCATION POLICY THROUGH PUBLIC STATEMENTS

‘...[W]e are not afraid to follow truth wherever it may lead, nor tolerate error so long as reason is left free to combat it.’ In a letter from Thomas Jefferson to William Roscoe, December 27, 1820 regarding education at the University of Virginia he emphasized the importance of truth and reason

We ask why the plain truth of the following statements has not been transformed into action as Jefferson dared us to do.

“I think the inequity in education is probably the civil rights issue of our time. There are two education systems in this state. Not public private. One for the rich and one for the poor and they are both public systems. Cuomo said.” Capitol Tonight, *Debate: Cuomo Gets Specific on Education*, October 19, 2010 **“Today, we have two education systems if we want to tell the truth— one for the rich, and one for the poor. If you happen to be born in the wrong zip code and go to a failing public school, you can get left behind and never catch up. Public education that was the great equalizer in the society has become in some communities the great discriminator.”** Andrew Cuomo, *Inaugural Message*, January 1, 2015, NYC **“In the interview, Mr. Cuomo also committed to redistributing state school aid from wealthy, politically powerful suburban school districts and sending more dollars to high-need rural and urban schools, saying the governor had a duty to be “the great equalizer.””** Nicholas Confessore, N.Y. Times *Cuomo Vows Offensive Against Labor Unions*, October 24, 2010.

“... This opportunity[of a sound basic education] must still be placed in reach of all students including those who present with socioeconomic deficits....All children can learn given appropriate instructional, social and health services.” Opinion by Hon. Judith Kaye, *Campaign for Fiscal Equity et al. v. State of New York, et al.*, 100 N.Y.2d 893, 914 (2003).

New York is rated 32nd nationally in fairness of distribution of education aid between wealthy and poor districts. In the 2017 *Is Funding Fair Report*, New York was rated as ‘regressive’ in funding and one of only seven states which had lower teacher-student ratios for high need districts than for other districts. 2017 *Is Funding Fair Report*, Dr. Bruce Baker, Rutgers University, Graduate School of Education.

“Q. How would you compare the shortcomings in NYC with the problems you face in Mount Vernon in your current position?”

A.I’d say my challenges are much more exaggerated, exacerbated as a result of lack of funding.” Deposition of Dr. Tony Sawyer, Mount Vernon Superintendent and former Superintendent of High Schools in Manhattan during the *CFE* lawsuit and Topeka, Kansas by NYS Attorney General on March 24, 2011 p.153 in *Hussein et al. v State of New York*.

“This proposal [foundation aid formula] expands upon the last year’s Regent’s proposal on state aid to school districts. It provides a detailed description and rationale for a new funding system based on a foundation aid program... The proposal is also responsive to the court mandate of *Campaign for Fiscal Equity, et al. v. State of New York, et al.* in that it: (1) ascertains the cost of providing a sound basic education; (2) reforms the current system of school funding to ensure students have the opportunity for a sound basic education; and (3) provides a system of accountability to measure whether proposed reforms actually provide an opportunity for a sound basic education.” Memorandum of the deputy commissioner, James A. Kadamus, NYS Education Department, to district superintendents and others, on the foundation aid formula, January 2005.

TESTIMONY

On behalf of the New York State Association of Small City School Districtsⁱ, we welcome this opportunity to submit testimony on the 2017-18 Executive Budget and its proposals for aid to public elementary and secondary education.

In the brief time we have to present, we wish to focus on our principal concern. The education budget proposed by the executive is defective only by what it fails to accomplish. Despite the many laudable initiatives contained therein, the one overriding chronic ailment afflicting public elementary and secondary education in this state is ignored. It fails to fund the foundation aid formula or even promise to do so at some reasonable time in the future. The increase proposed for small city school districts is 2.06%, not even enough to keep up with the cost of living.

NYSASCSD

ANALYSIS: 2017-18 EXECUTIVE BUDGET

01/17/17	E(FA0198) 00 2016-17 FOUNDATION AID	E(FA0197) 00 2017-18 FOUNDATION AID	% change
SCSD TOTAL	1,666,478,925	1,700,796,432	2.06%
BIG 4 TOTAL	1,348,201,200	1,385,319,772	2.75%
NEW YORK CITY	7,116,450,590	7,356,956,624	3.38%
NON CITY TOTAL	6,343,152,061	6,459,030,337	1.83%
NON CITY AVERAGE (612 districts)	10,364,628	10,553,971	1.83%
STATE TOTALS	16,474,282,776	16,902,103,165	2.60%
STATE AVERAGE (674 districts)	24,442,556	25,077,304	2.60%

DATABASE EDITION 0102C MODEL
EDITION BT171-8 0102C

24-Jan-17

For decades, distribution of state education aid has been deeply flawed and has created an education system which is highly regressive.ⁱⁱ It favors communities and children in wealthier districts and punishes those in poor districts. It fails to provide in these poor districts what is constitutionally required, an opportunity for a sound basic education. This is a systemic problem which can be fixed. However, the executive's refusal to fund the foundation aid formula is the principal reason the problem has not been corrected.

Full Funding of Foundation Aid Is Critically Needed

Foundation aid is the base financial support for general education. Poor districts rely heavily of this aid as it represents over two thirds of available state revenues. By law it is based on the cost of educating a student in successful school districts. Successful school districts are defined by the standards established in the *Campaign for Fiscal Equity* lawsuit which established the constitutional minimum funding for a sound basic education. Failure to fund foundation aid would repeal decades of education policy established by the New York State Legislature and Court of Appeals.

By not choosing to fund the formula, the executive's 2017-18 budget ignores the massive assault on education resources that poor school districts have absorbed over the last five years through the freeze in foundation aid and the gap elimination adjustment. The harm that assault caused became clear during the two-month trial in 2015 involving plaintiffs from 8 small city school districts, Jamestown, Kingston, Mount Vernon, Newburgh, Niagara Falls, Port Jervis, Poughkeepsie and Utica. These districts lost in excess of \$1 billion dollars of aid during that period and were forced to lay off 1500 teachers and other staff. The districts are only just recovering but the children can never get those five years back, of course. At present these districts are underfunded by the foundation aid formula by approximately \$150 million. Class sizes in some exceed 30 students, academic intervention services have been drastically reduced and student performance on fourth-grade tests is half the student performance in New York City.

With respect to the 57 small city school districts, collectively these districts are owed more than \$390 million *each year* under the formula. Underfunding is the principal impediment to providing their students the education needed to achieve success.

1/17/2017	2016-17 FULLY FUNDED FOUNDATION AID*	2017-18 ACTUAL FOUNDATION AID PAYABLE**	FOUNDATION AID SHORTFALL
SCSD TOTAL	\$ 2,091,171,650	\$ 1,700,796,432	\$ (390,375,218)
BIG 4 TOTAL	\$ 1,587,012,631	\$ 1,385,319,772	\$ (201,692,859)
NEW YORK CITY	\$ 8,728,774,827	\$ 7,356,956,624	\$ (1,371,818,203)
NON CITY TOTAL	\$ 7,651,422,211	\$ 6,459,030,337	\$ (1,192,391,874)
STATE TOTALS	\$ 20,058,381,319	\$ 16,902,103,165	\$ (3,156,278,154)

*DATABASE EDITION 0158B MODEL EDITION SA161-7 0158B W(FA0001) 00 FOUNDATION AID BEFORE PHASE-IN

**DATABASE EDITION 0102C MODEL EDITION BT171-8 0102C E(FA0197) 00 2017-18 FOUNDATION AID

It is a deeply regrettable distraction to blame poor student performance on teachers, superintendents, administrators, state assessments and teacher evaluations. And speaking only of the total amount the State spends on education perpetuates further distraction. The most significant roadblock to student success is the State's own regressive policy with respect to providing adequate state aid to poor students in poor communities and the failure to align state aid with student need.¹

There is no question that the many fine administrators and teachers in small city school districts know how to educate children. They only need adequate resources to achieve remarkable success. Dr. Paul Padalino, superintendent in Kingston city school district, implemented a credit recovery program for his high school. The results were astounding. Graduation rates for African-American males went from 40% to 70%. One student completed two years in one. With the loss of state aid in the past five years, Dr. Padalino had to scale the program back. Resources were taken from other areas to allow it to continue, albeit at less than full capacity

Community Aid Grants vs Foundation Aid Reform

We, like the executive, understand that schools located in poor communities, especially in small city school districts, must provide a host of services to at-risk children and their families: nutritious food, safe spaces for learning in sometimes dangerous environments, social support, including mental and other health services, among others. We applaud continuation of Community Schools Grants, made available to schools with low student performance, as an acknowledgment of the many roles played by schools in high need districts. We propose, however, that an alteration to the foundation aid formula and education law section 3602 could fund these necessary student services on an ongoing basis, rather than for only a two-year budget cycle. The changes contained in the Small City Successful Schools Act² (A.3268 Brindisi and in 2016, A.5463/S.4988 Brindisi/Griffo) would provide such continuity. Critical programs that are necessary precursors to learning must be funded *every* year or else the gains made in one year may be lost in the next. Additionally, amendment to the foundation aid formula rather than

¹ See Appendix D Report by Laurence Spring, Superintendent, Schenectady City School District regarding the expanded platform of services children from poverty require.

² See copy of bill below Appendix B.

creation of Community Schools Grants, a new category of aid, would minimize the burden of new regulations, restrictions, and paperwork on districts already stretched administrative budgets so that every aid dollar goes to programs benefitting our children.

Conclusion

The importance of sustained support for high need public school districts was dramatically displayed by the over \$7 billion divestment in this State's educational system during the span of five years from 2010 to 2015. During this time, high student need/low community wealth districts faced rising expectations for student performance but the significant cuts in State aid mandated layoffs of teachers and cuts to essential programs. . For example, lost revenues meant that many districts could not provide, as required by state regulation, the Academic Intervention Services that at-risk students need to avoid falling further behind. As a result, these districts made little if any progress in closing the student performance gap

More than ever we need the Legislature to continue to advocate for adequate and equitable funding of our schools. We urge the Legislature to make its primary goal this year the targeting of education aid to needier school districts. Therefore, the cornerstone issue of adequate State funding of public education for our neediest students through full funding of foundation aid should be the focus of this year's budget debate

THE SOLUTIONS

We urge that you:

- 1. Enact the successful schools and credit recovery act. (Four year phase-in of foundation aid not subject to the PIGI cap, credit recovery aid to give students currently in high school a Jump Start and a new poverty concentration count. We are working with Assemblyman Brindisi's office on a draft.) See Appendix A, draft legislation**
- 2. Enact the small city successful schools act by Assemblyman Anthony Brindisi, A. 3268 formerly A.5463/S.4988 by Brindisi/Griffo, (Small city successful school aid and poverty concentration count not subject to the PIGI cap) See Appendix B.**

3. **Enact the Maisto sound basic education cost panel act. (Creation of a panel to determine the cost of sound basic education in the 8 Maisto districts. We are working with Assemblyman Brindisi's office on a draft.) See below, Appendix C, draft legislation.**

STATE OF NEW YORK

IN ASSEMBLY

October 14, 2016

Introduced by M. of A. -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the computation of foundation aid and addition of successful school district credit recovery aid; to amend the local finance law, in relation to calculation of the period of probable usefulness regarding payment for successful school district credit recovery aid; to amend the public authorities law, in relation to contracts between the dormitory authority and school districts; and to amend the state finance law, in relation to establishing the successful school district credit recovery financing reserve fund.

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

1 Section 1. Legislative intent: It is the responsibility of the
legis- 2 lature under article XI of the constitution of the state of New York
to 3 establish and maintain a system that will provide all children an
opport- 4 tunity to receive a meaningful high school education.
It is 5
6 clear that in certain districts educational resources are
insufficient to offer that opportunity
and that this resource insufficiency is due to the failure to provide funding
needed to become successful school districts. Therefore, it
9 is the intention of the legislature to amend provisions of the
10 education law to ensure that the necessary funding is available in
those
11 districts which have not attained successful school status, to help
them provide all their children an opportunity to
12 receive a meaningful high school education and to maintain
healthy
13 vibrant educational communities that underpin a thriving state
economy.

14 § 2. This legislation shall be known and may be cited as "the
successful school district and credit recovery act".

16 § 3. Paragraph ff of subdivision 1 of section 3602 of the
education
17 law, as added by section 25 of part A of chapter 58 of the laws of
2011,
18 is amended to read as follows:
19 ff. "Preliminary growth amount" shall mean the difference between
the
20 statewide total, excluding the apportionments computed pursuant
to

EXPLANATION--Matter in italics (underscored) is new; matter in
brackets

[-] is old law to be omitted.

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A. 9871--A

2

1 subdivisions four, not including such apportionments under
subdivision four for districts which have not attained successful school
district status,
2 and seventeen of section thirty-six hundred two of the education law,
of
3 the apportionments due and owing during the current school
year,
4 commencing with the two thousand twelve--two thousand thirteen
school
5 year, to school districts and boards of cooperative educational
services
6 from the general support for public schools as computed based on
an
7 electronic data file used to produce the school aid computer
listing
8 produced by the commissioner in support of the enacted budget for
the
9 current year, less the statewide total of such apportionments,
excluding
10 the apportionments computed pursuant to subdivisions four, not
including such apportionments under subdivision four for districts which have
not attained successful school district status ,
and seventeen of section thir-
12 ty-six hundred two of the education law, due and owing during the
base
13 school year to school districts and boards of cooperative
educational
14 services from the general support for public schools as computed
based
15 on an electronic data file used to produce the school aid computer
list-
16 ing produced by the commissioner in support of the enacted budget
for
17 the current year.

18 § 4. Subdivision 1 of section 3602 of the education law is amended
by

19 adding two new paragraphs hh and ii to read as follows:

20 hh. Districts which have not attained successful school district
status shall mean the school districts which have not attained successful
school district status according to the analysis done in connection with the
computation of the foundation amount completed in 2015.

22 ii. Poverty concentration count
shall mean the number equal to the product of the

EXPLANATION--Matter in italics (underscored) is new; matter in
brackets

[-] is old law to be omitted.

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01-5

A. 5463

2

1 three-year average free and reduced price lunch percent and
the
2 quotient, computed to three decimals without rounding, of the
enrollment
3 per square mile divided by two, but not more than three
hundred.
4 Enrollment per square mile shall be the quotient, computed to two
deci-
5 mals without rounding, of the public school enrollment of the
school
6 district on the date enrollment was counted in accordance with
this
7 subdivision for the base year divided by the square miles of
the
8 district, as determined by the commissioner.

9 § 5. Paragraph s of subdivision 1 of section 3602 of the
education
10 law, as amended by section 11 of part B of chapter 57 of the laws
of
11 2007, is amended to read as follows:
12 s. "Extraordinary needs count" shall mean the sum of the product
of
13 the limited English proficiency count multiplied by fifty percent,
plus,
14 the poverty count, the poverty concentration count and the
15 sparsity count.

26 § 6. Subdivision 18 of section 3602 of the education law, as added
by
27 section 37 of part A of chapter 58 of the laws of 2011, is amended
to
28 read as follows:
29 18. Allocable growth amount apportionment. Such amount shall be
appor-

tioned for a school year pursuant to a chapter of the laws of New York
enacted for the state fiscal year in which such school year commences,
and shall be allocated to purposes including but not limited to competitive grant awards made pursuant to subdivisions five and six of section thirty-six hundred forty-one of this article, the foundation aid phase-in amount or other foundation aid increase allocated pursuant to subdivision four of this section and the gap elimination adjustment restoration amount apportioned pursuant to subdivision seventeen of this section. In the event that a chapter of the laws of New York enacted for the state fiscal year in which such school year commences is not enacted, the allocations in support of subdivisions five and six of section thirty-six hundred forty-one of this article shall equal the allocations in support of such awards in the base year, and the apportionments pursuant to subdivisions four and seventeen of this section for the current year shall equal the apportionments for such subdivisions four and seventeen for the base year except that the apportionments of the foundation aid phase-in amount for the districts which have not attained successful school district status and successful school district credit recovery aid shall be the amount computed in the current year.

00).

§ 6-a. The opening paragraph, subparagraphs 1 and 4 of paragraph a, and clauses (i) and (ii) of subparagraph 2 of paragraph b of subdivision 4 of section 3602 of the education law, as amended by section 7 of part A of chapter 54 of the laws of 2016, are amended to read as follows:
In addition to any other apportionment pursuant to this chapter, a school district, other than a special act school district as defined in subdivision eight of section four thousand one of this chapter, shall be eligible for total foundation aid equal to the product of total aidable

52 foundation pupil units multiplied by the district's selected
foundation
53 aid, which shall be the greater of five hundred dollars (\$500) or
foun-
54 dation formula aid, provided, however that for the two thousand
seven--
55 two thousand eight through two thousand eight--two thousand nine
school
56 years, no school district shall receive total foundation aid in
excess

A. 9871--A

7

1 of the sum of the total foundation aid base for aid payable in the
two
2 thousand seven--two thousand eight school year computed pursuant
to
3 subparagraph (i) of paragraph j of subdivision one of this section,
plus
4 the phase-in foundation increase computed pursuant to paragraph b
of
5 this subdivision, and provided further that for the two thousand
twelve-
6 -two thousand thirteen school year, no school district shall
receive
7 total foundation aid in excess of the sum of the total foundation
aid
8 base for aid payable in the two thousand eleven--two thousand
twelve
9 school year computed pursuant to subparagraph (ii) of paragraph j
of
10 subdivision one of this section, plus the phase-in foundation
increase
11 computed pursuant to paragraph b of this subdivision, and
provided
12 further that for the two thousand thirteen--two thousand fourteen
school
13 year and thereafter, no school district shall receive total
foundation
14 aid in excess of the sum of the total foundation aid base
computed
15 pursuant to subparagraph (ii) of paragraph j of subdivision one of
this
16 section, plus the phase-in foundation increase computed pursuant
to
17 paragraph b of this subdivision, and provided further that for the
two
18 thousand sixteen--two thousand seventeen school year, no eligible
school
19 districts shall receive total foundation aid in excess of the sum of
the
20 total foundation aid base computed pursuant to subparagraph (ii)
of
21 paragraph j of subdivision one of this section plus the sum of (A)
the

22 phase-in foundation increase, (B) the executive foundation increase
with
23 a minimum increase pursuant to paragraph b-2 of this subdivision,
and
24 (C) an amount equal to "COMMUNITY SCHOOLS AID" in the computer
listing
25 produced by the commissioner in support of the executive budget
request
26 for the two thousand sixteen--two thousand seventeen school year
and
27 entitled "BT161-7", where (1) "eligible school district" shall
be
28 defined as a district with (a) an unrestricted aid increase of less
than
29 seven percent (0.07) and (b) a three year average free and reduced
price
30 lunch percent greater than fifteen percent (0.15), and (2)
"unrestricted
31 aid increase" shall mean the quotient arrived at when dividing (a)
the
32 sum of the executive foundation aid increase plus the gap
elimination
33 adjustment for the base year, by (b) the difference of foundation
aid
34 for the base year less the gap elimination adjustment for the base
year,
35 and (3) "executive foundation increase" shall mean the difference of
(a)
36 the amounts set forth for each school district as "FOUNDATION AID"
under
37 the heading "2016-17 ESTIMATED AIDS" in the school aid computer
listing
38 produced by the commissioner in support of the executive budget
request
39 for the two thousand sixteen--two thousand seventeen school year
and
40 entitled "BT161-7" less (b) the amounts set forth for each
school
41 district as "FOUNDATION AID" under the heading "2015-16 BASE YEAR
AIDS"
42 in such computer listing and provided further that total foundation
aid
43 shall not be less than the product of the total foundation aid
base
44 computed pursuant to paragraph j of subdivision one of this section
and
45 the due-minimum percent which shall be, for the two thousand twelve--
two
46 thousand thirteen school year, one hundred and six-tenths
percent
47 (1.006) and for the two thousand thirteen--two thousand fourteen
school
48 year for city school districts of those cities having populations
in

49 excess of one hundred twenty-five thousand and less than one
million
50 inhabitants one hundred and one and one hundred and seventy-six
thou-
51 sandths percent (1.01176), and for all other districts one hundred
and
52 three-tenths percent (1.003), and for the two thousand fourteen--
two
53 thousand fifteen school year one hundred and eighty-five
hundredths
54 percent (1.0085), and for the two thousand fifteen--two thousand
sixteen
55 school year, one hundred thirty-seven hundredths percent
(1.0037),
56 subject to allocation pursuant to the provisions of subdivision
eighteen

A. 9871--A

8

1 of this section and any provisions of a chapter of the laws of New
York
2 as described therein, nor more than the product of such total
foundation
3 aid base and one hundred fifteen percent, provided, however, that
for
4 the two thousand sixteen--two thousand seventeen school year such
maxi-
5 mum shall be no more than the sum of (i) the product of such total
foun-
6 dation aid base and one hundred fifteen percent, except for districts
which have not attained successful school district status, which
11 shall be one hundred twenty-five percent, plus (ii) the executive
7 foundation increase and plus (iii) "COMMUNITY SCHOOLS AID" in
the
8 computer listing produced by the commissioner in support of the
execu-
9 tive budget request for the two thousand sixteen--two thousand
seventeen
10 school year and entitled "BT161-7"
and provided further that for
12 the two thousand nine--two thousand ten through two thousand eleven--
two
13 thousand twelve school years, each school district shall receive
total
14 foundation aid in an amount equal to the amount apportioned to
such
15 school district for the two thousand eight--two thousand nine
school
16 year pursuant to this subdivision. Total aidable foundation pupil
units
17 shall be calculated pursuant to paragraph g of subdivision two of
this
18 section. For the purposes of calculating aid pursuant to this
subdivi-

19 sion, aid for the city school district of the city of New York shall
be
20 calculated on a citywide basis.

21 (1) The foundation amount shall reflect the average per pupil cost
of

22 general education instruction in successful school districts,
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 deter-

23 mined by a statistical analysis of the costs of special education
and

24 general education in successful school districts, provided that
the

25 foundation amount shall be adjusted annually to reflect the
percentage

26 increase in the consumer price index as computed pursuant to section
two

27 thousand twenty-two of this chapter, provided that for the two
thousand

28 eight--two thousand nine school year, for the purpose of such
adjust-

29 ment, the percentage increase in the consumer price index shall
be

30 deemed to be two and nine-tenths percent (0.029), and provided
further

31 that the foundation amount for the two thousand seven--two
thousand

32 eight school year shall be five thousand two hundred fifty-
eight

33 dollars, and provided further that for the two thousand seven--two
thou-

34 sand eight through two thousand sixteen--two thousand seventeen
school

35 years, and for the districts which have not attained successful
school district status for the two thousand seventeen--two

36 thousand eighteen through two thousand twenty--two thousand twenty-
one

37 school years, the foundation amount shall be further adjusted by
the

38 phase-in foundation percent established pursuant to paragraph b of
this

39 subdivision.

(4) The expected minimum local contribution shall equal the lesser of (i) the product of (A) the quotient arrived at when the selected actual valuation is divided by total wealth foundation pupil units, multiplied by (B) the product of the local tax factor, multiplied by the income wealth index, or (ii) the product of (A) the product of the foundation amount, the regional cost index, and the pupil need index, multiplied by (B) the positive difference, if any, of one minus the state sharing ratio for total foundation aid. The local tax factor shall be established by May first of each year by determining

the product, computed to four decimal places without rounding, of ninety percent multiplied by the quotient of the sum of the statewide average tax rate as computed by the commissioner for the current year in accordance with the provisions of [paragraph e of subdivision one of section thirty-six hundred nine-e](#) of this part plus the statewide average tax rate computed by the commissioner for the base year in accordance with such provisions plus the statewide average tax rate computed by the commissioner for the year prior to the base year in accordance with such provisions, divided by three, provided however that for the two thousand seven--two thousand eight school year, such local tax factor shall be sixteen thousandths (0.016), and provided further that for the two thousand eight--two thousand nine school year, such local tax factor shall be one hundred fifty-four ten thousandths (0.0154). The income wealth index shall be calculated pursuant to paragraph d of subdivision three of this section, provided, however, that for the purposes of computing the expected minimum local contribution the income wealth index shall not be less than ~~sixty-five~~ fifteen percent (~~0.65~~ 0.15) and shall not be more than two hundred percent (2.0) and provided however that such income wealth index shall not be more than ninety-five percent (0.95) for the two thousand eight--two thousand nine school year, and provided further that such income wealth index shall not be less than zero for the two thousand thirteen--two thousand fourteen school year. The selected actual valuation shall be calculated pursuant to paragraph c of subdivision one of this section. Total wealth foundation pupil units shall be calculated pursuant to paragraph h of subdivision two of this section.

(2)(i) Phase-in foundation percent. The phase-in foundation percent shall equal one hundred thirteen and fourteen one hundredths percent (1.1314) for the two thousand eleven--two thousand twelve school year, one hundred ten and thirty-eight hundredths percent (1.1038) for the two thousand twelve--two thousand thirteen school year, one hundred seven and sixty-eight hundredths percent (1.0768) for the two thousand thirteen--two thousand fourteen school year, one hundred five and six hundredths percent (1.0506) for the two thousand fourteen--two thousand fifteen school year, and one hundred two and five tenths percent (1.0250) for the two thousand fifteen--two thousand sixteen school year³² and for the districts which have not attained successful school district status one hundred ten and thirty-eight hundredths
³³ percent (1.1038) for the two thousand seventeen--two thousand
eighteen
³⁴ school year, one hundred seven and sixty-eight hundredths
percent
³⁵ (1.0768) for the two thousand eighteen--two thousand nineteen
school
³⁶ year, one hundred five and six hundredths percent (1.0506) for the
two
³⁷ thousand nineteen--two thousand twenty school year, and one hundred
two
³⁸ and five tenths percent (1.0250) for the two thousand twenty--two
thou-
³⁹ sand twenty-one school year.

40 (ii) Phase-in foundation increase factor. For the two
thousand
41 eleven--two thousand twelve school year, the phase-in
foundation
42 increase factor shall equal thirty-seven and one-half percent
(0.375)
43 and the phase-in due minimum percent shall equal nineteen and forty-
one
44 hundredths percent (0.1941), for the two thousand twelve--two
thousand
45 thirteen school year the phase-in foundation increase factor shall
equal
46 one and seven-tenths percent (0.017), for the two thousand thirteen--
two
47 thousand fourteen school year the phase-in foundation increase
factor
48 shall equal (1) for a city school district in a city having a
population
49 of one million or more, five and twenty-three hundredths
percent
50 (0.0523) or (2) for all other school districts zero percent, for the
two
51 thousand fourteen--two thousand fifteen school year the phase-in
founda-
52 tion increase factor shall equal (1) for a city school district
of a
53 city having a population of one million or more, four and thirty-
two
54 hundredths percent (0.0432) or (2) for a school district other
than a
55 city school district having a population of one million or more
for
56 which (A) the quotient of the positive difference of the
foundation
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1 formula aid minus the foundation aid base computed pursuant to
paragraph
2 j of subdivision one of this section divided by the foundation
formula
3 aid is greater than twenty-two percent (0.22) and (B) a combined
wealth
4 ratio less than thirty-five hundredths (0.35), seven percent (0.07)
or
5 (3) for all other school districts, four and thirty-one
hundredths
6 percent (0.0431), and for the two thousand fifteen--two thousand
sixteen
7 school year the phase-in foundation increase factor shall equal: (1)
for
8 a city school district of a city having a population of one million
or

9 more, thirteen and two hundred seventy-four thousandths
percent
10 (0.13274); or (2) for districts where the quotient arrived at
when
11 dividing (A) the product of the total aidable foundation pupil
units
12 multiplied by the district's selected foundation aid less the
total
13 foundation aid base computed pursuant to paragraph j of subdivision
one
14 of this section divided by (B) the product of the total aidable
founda-
15 tion pupil units multiplied by the district's selected foundation aid
is
16 greater than nineteen percent (0.19), and where the district's
combined
17 wealth ratio is less than thirty-three hundredths percent (0.33),
seven
18 and seventy-five hundredths percent (0.0775); or (3) for any
other
19 district designated as high need pursuant to clause (c) of
subparagraph
20 two of paragraph c of subdivision six of this section for the school
aid
21 computer listing produced by the commissioner in support of the
enacted
22 budget for the two thousand seven--two thousand eight school year
and
23 entitled "SA0708", four percent (0.04); or (4) for a city
school
24 district in a city having a population of one hundred twenty-five
thou-
25 sand or more but less than one million, fourteen percent (0.14); or
(5)
26 for school districts that were designated as small city school
districts
27 or central school districts whose boundaries include a portion
of a
28 small city for the school aid computer listing produced by the
commis-
29 sioner in support of the enacted budget for the two thousand
fourteen--
30 two thousand fifteen school year and entitled "SA1415", four and
seven
31 hundred fifty-one thousandths percent (0.04751); or (6) for all
other
32 districts one percent (0.01), and for the two thousand sixteen--
two
33 thousand seventeen school year shall equal for an eligible
school
34 district the greater of: (1) for a city school district in a city
with a
35 population of one million or more, seven and seven hundred eighty
four

36 thousandths percent (0.07784); or (2) for a city school district
in a
37 city with a population of more than two hundred fifty thousand but
less
38 than one million as of the most recent federal decennial census,
seven
39 and three hundredths percent (0.0703); or (3) for a city school
district
40 in a city with a population of more than two hundred thousand but
less
41 than two hundred fifty thousand as of the most recent federal
decennial
42 census, six and seventy-two hundredths percent (0.0672); or (4) for
a
43 city school district in a city with a population of more than
one
44 hundred fifty thousand but less than two hundred thousand as of the
most
45 recent federal decennial census, six and seventy-four hundredths
percent
46 (0.0674); or (5) for a city school district in a city with a
population
47 of more than one hundred twenty-five thousand but less than one
hundred
48 fifty thousand as of the most recent federal decennial census, nine
and
49 fifty-five hundredths percent (0.0955); or (6) for school districts
that
50 were designated as small city school districts or central
school
51 districts whose boundaries include a portion of a small city for
the
52 school aid computer listing produced by the commissioner in support
of
53 the enacted budget for the two thousand fourteen--two thousand
fifteen
54 school year and entitled "SA141-5" with a combined wealth ratio
less
55 than one and four tenths (1.4), nine percent (0.09), provided,
however,
56 that for such districts that are also districts designated as high
need

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10

1 urban-suburban pursuant to clause (c) of subparagraph two of
paragraph c
2 of subdivision six of this section for the school aid computer
listing
3 produced by the commissioner in support of the enacted budget for
the
4 two thousand seven--two thousand eight school year and
entitled
5 "SA0708", nine and seven hundred and nineteen thousandths
percent

6 (0.09719); or (7) for school districts designated as high need
rural
7 pursuant to clause (c) of subparagraph two of paragraph c of
subdivision
8 six of this section for the school aid computer listing produced by
the
9 commissioner in support of the enacted budget for the two
thousand
10 seven--two thousand eight school year and entitled "SA0708",
thirteen
11 and six tenths percent (0.136); or (8) for school districts
designated
12 as high need urban-suburban pursuant to clause (c) of subparagraph
two
13 of paragraph c of subdivision six of this section for the school
aid
14 computer listing produced by the commissioner in support of the
enacted
15 budget for the two thousand seven--two thousand eight school year
and
16 entitled "SA0708", seven hundred nineteen thousandths percent
(0.00719);
17 or (9) for all other eligible school districts, forty-seven
hundredths
18 percent (0.0047) and for the two thousand seventeen--two thousand
eigh-
19 teen school year and thereafter the commissioner shall annually
deter-
20 mine the phase-in foundation increase factor subject to
allocation
21 pursuant to the provisions of subdivision eighteen of this section
and
22 any provisions of a chapter of the laws of New York as
described
23 therein, except that for districts which have not attained successful
school district status, in the two thousand seven-
24 teen--two thousand eighteen school year twenty-five percent
25 (0.25), in the two thousand eighteen--two thousand nineteen
school
26 year fifty percent (0.50), in the two thousand nineteen--two
27 thousand twenty school year seventy-five percent (0.75) and
28 in the two thousand twenty--two thousand twenty-one school year
and
29 thereafter one hundred percent (1.00).

30 § 7. Section 3602 of the education law is amended by adding a
new

31 subdivision 42 to read as follows:

32 42. Successful school district credit recovery aid. Commencing
with aid payable
33 in the two thousand seventeen--two thousand eighteen school year
through
34 the two thousand twenty--two thousand twenty-one school year
city school districts which have not attained successful school district
status shall be eligible for an additional apportionment as provided

36 for in this subdivision. Such districts shall be eligible for an
addi-
37 tional apportionment in an amount equal to the product of the
total
38 number of students in the two thousand fourteen, two thousand
fifteen,
39 two thousand sixteen and two thousand seventeen cohorts multiplied
by one
40 minus the four year graduation rate in two thousand fourteen-two
thousand fifteen school year
41 and two thousand five hundred (\$2,500) dollars to be used for
programs
42 with respect to such students approved by the commissioner for
the
43 following purposes:
44 a. credit recovery programs;
45 b. academic intervention services;
46 c. response to intervention services;
47 d. drop out prevention;
48 e. incarcerated youth services;
49 f. parent involvement programs;
50 g. extended day and extended year programs; and
51 h. psycho-social testing.

52 § 8. Section 2530 of the education law, as amended by chapter 171
of

53 the laws of 1996, is amended to read as follows:

54 § 2530. Power to contract indebtedness. Each city school
district

55 shall be authorized to expend money for any of the objects or
purposes

56 which it is authorized to accomplish by law and may contract
indebt-

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11

1 edness in its name pursuant to the local finance law, including but
not

2 limited to the issuance of bonds of the district to be repaid by
revenues from successful school district credit recovery aid pursuant to
subdivision forty-two of

6 section thirty-six hundred two of this chapter. Notwithstanding
any

7 other provision of law to the contrary, each district shall have
the power to pledge,

10 assign or otherwise make available as security for such
indebtedness

11 without consideration, revenues from state aid under subdivision
forty-

12 two of section thirty-six hundred two of this chapter and bonds or
other

13 indebtedness in connection with such subdivision forty-two shall
not

14 require voter approval. The provisions of section four hundred
sixteen

15 of this chapter shall be applicable to such districts.

16 § 9. Paragraph a of section 11.00 of the local finance law is
amended
17 by adding a new subparagraph 108 to read as follows:
18 108. Payment by school districts for objects and purposes
19 set forth in subdivision forty-two of section thirty-six hundred two
of
20 the education law and authorized under section twenty-five hundred
thir-
21 ty of the education law, ten years.

22 § 10. Paragraph (b) of subdivision 2 of section 1676 of the
public
23 authorities law is amended by adding a new undesignated paragraph
to
24 read as follows:

25 City school districts which have not attained successful school
district status as defined by paragraph hh of subdivision one of
26 section thirty-six hundred two of the education law.

30 § 11. Subdivision 1 of section 1680 of the public authorities law
is

31 amended by adding a new undesignated paragraph to read as follows:
32 City school districts which have not attained successful school
district status as defined by paragraph hh of subdivision one of
33 section thirty-six hundred two of the education law.

37 § 12. Section 1680 of the public authorities law is amended by
adding

38 a new subdivision 41 to read as follows:
39 41. a. The dormitory authority may enter contracts to loan to or
other
40 agreements with the city school districts which have not attained
successful school district status for the financing of programs as specified
in subdivision

43 forty-two of section thirty-six hundred two of the education law
includ-

44 ing:
45 (1) credit recovery programs;
46 (2) academic intervention services;
47 (3) response to intervention services;
48 (4) drop out prevention;
49 (5) incarcerated youth services;
50 (6) parent involvement programs;
51 (7) extended day and extended year programs; and
52 (8) psycho-social testing.

53 Such programs shall be subject to the approval of the commissioner
of
54 education.

55 b. Each city school district which has not attained successful
school district status

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12

1 shall, notwithstanding any other provision of law, have the power
to
2 pledge, assign or otherwise make available to the dormitory
authority

3 without consideration, revenues from state aid under subdivision
40 forty-
4 two of section thirty-six hundred two of the education law
5 satisfactory
6 to the dormitory authority.
7 c. In addition to providing for all other matters deemed necessary
8 and
9 proper, such contracts to loan or other agreements shall: (1)
10 require
11 payment to the dormitory authority the amount required to pay the
12 prin-
13 cipal of and interest on obligations of the dormitory authority
14 issued
15 in relation to providing such financing and all incidental expenses
16 of
17 the dormitory authority incurred in relation thereto; (2)
18 require
19 payment sufficient to meet obligations under such contracts to loan
20 or
21 other agreements; (3) provide that the aid payable under
22 subdivision
23 forty-two of section thirty-six hundred two of the education law
24 shall
25 be the sole security for such financing and all incidental expenses;
26 and
27 (4) not be executed until such programs are approved by the
28 commissioner
29 of education.
30 d. (1) In the event that the city school districts which have not
31 attained successful school district status fail to make any payment of
32 principal or inter-
33 est on its obligations, the dormitory authority shall certify to
34 the
35 comptroller of such failure. Such certificate shall be in such form
36 as
37 the authority deems desirable, but shall include the exact amount
38 of
39 interest and principal required to satisfy the obligations to
40 the
41 authority.
42 (2) The comptroller, upon receipt of such certificate from the
43 author-
44 ity, shall withhold from such districts which have not attained
45 successful school district status any state aid payable to such entity to the
46 extent
47 necessary to meet the certified amount of interest or principal
48 and
49 shall immediately pay over to the credit recovery financing reserve
50 fund
51 the amount so withheld.
52 (3) Pending payment to the authority from the comptroller of any
53 such
54 state aid withheld, the authority shall, if payments of interest
55 or

35 principal are due on the authority's bonds, withdraw an amount
suffi-
36 cient to meet such amounts withheld from the debt service reserve
fund
37 securing such bonds. Any such amount withdrawn from such debt
service
38 reserve fund shall be paid into such debt service reserve fund
upon
39 receipt by the agency from the comptroller of any state aid
withheld.
40 Any amount so paid to the authority from such state aid shall not
obli-
41 gate the state to make, nor entitle such districts which have not
attained successful school district status to receive, any additional
amounts
44 of state aid.
45 e. On or before November fifteenth of each year, the dormitory
author-
46 ity shall submit, and thereafter may resubmit, to the director of
the
47 budget, the state comptroller, the chairman of the senate
finance
48 committee and the chairman of the assembly ways and means
committee a
49 report setting forth the amounts, if any, of all amounts estimated
to
50 become due in the succeeding state fiscal year to the dormitory
authori-
51 ty from each city school district which has not attained
successful school district status pursuant to such contracts to loan or
other agreements. The
54 state comptroller shall pay over to the dormitory authority, pursuant
to
55 appropriations therefor and solely from moneys available in the
credit
56 recovery financing reserve fund established by section ninety-nine-z
of

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13

1 the state finance law, the amount set forth in such report at the
times
2 and in the amounts set forth in the certificate filed with the
comp-
3 troller by the dormitory authority.
4 f. Each city school district which has not attained successful
school district status
6 which elects to avail itself of the provisions of this section
shall
7 have established with the state comptroller a credit recovery
financing
8 reserve account which shall be used to pay to the dormitory
authority
9 the annual amounts payable to the dormitory authority under
such

10 contracts to loan or other agreements pursuant to the provisions of
11 this
12 section and section ninety-nine-z of the state finance law. The
13 dormitory authority shall identify to the state comptroller and to the
14 commissioner of education with respect to such financing each city
15 school district
16 with which it has
17 such contracts to loan or other agreements pursuant to this section
18 and
19 shall annually certify the amounts required to be paid pursuant to
20 such
21 contracts to loan or other agreements.
22 g. All state and local officials are authorized and required to
23 take
24 whatever actions are necessary to carry out the provisions of
25 this
26 section and the provisions of any contract to loan or other
27 agreements
28 entered into pursuant to this section, including making the
29 required
30 payments to the dormitory authority.
31 § 13. The state finance law is amended by adding a new section 99-z
32 to
33 read as follows:
34 § 99-z. Successful school district credit recovery financing
35 reserve fund. 1. There is hereby
36 established in the custody of the state comptroller a special fund to
37 be
38 known as the credit recovery financing reserve fund. Within such
39 fund,
40 there is hereby established a special account for each district which
41 has not attained successful school district status
42 which enters into a contract pursu-
43 ant to this section.
44 2. Notwithstanding the provisions of any other law, such fund
45 shall
46 consist of aid payable under subdivision forty-two of section thirty-
47 six
48 hundred two of the education law. The comptroller shall maintain
49 suffi-
50 cient amounts in the fund in order to pay when due amounts due to
51 the
52 dormitory authority pursuant to any contract to loan or other
53 agreement
54 entered into pursuant to the provisions of this section. The
55 dormitory
56 authority shall certify to the state comptroller the dates and amount
57 of
58 such annual payments as scheduled in its contracts to loan or
59 other
60 agreements. The commissioner of education shall certify the amount
61 of

43 payments due the fund from aid payable under subdivision forty-two
of
44 section thirty-six hundred two of the education law.
45 3. Revenues in any special account in the credit recovery
financing
46 reserve fund may be commingled with any other monies in such fund.
All
47 deposits of such revenues with banks and trust companies shall
be
48 secured by obligations of the United States or of the state of New
York
49 or its political subdivisions. Such obligations shall have a
market
50 value at least equal at all times to, but not less than, one
hundred
51 five percent of the amount of such deposits. All banks and trust
compa-
52 nies are authorized to give security for such deposits. Any such
reven-
53 ues in such fund may, in the discretion of the comptroller, be
invested
54 in obligations of the United States or the state or obligations
the
55 principal of and interest on which are guaranteed by the United
States
56 or by the state. Any interest earned shall be credited to such fund.

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1 4. Upon receipt by the comptroller of a certificate or
certificates
2 from the dormitory authority that it requires a payment or payments
from
3 the appropriate special account in order for any districts which
have not attained successful school district status
4 to comply with such contract
6 to loan or other agreement pursuant to this section, each of
which
7 certificates shall specify the required payment or payments and the
date
8 when the payment or payments is required, the comptroller shall pay
from
9 such special account on or before the specified date or within
thirty
10 days after receipt of such certificate or certificates, whichever
is
11 later, to the paying agent designated by the dormitory authority in
any
12 such certificate, the amount or amounts so certified.
13 5. All payments of money from the credit recovery financing
reserve
14 fund shall be made on the audit and warrant of the state comptroller.

15 § 14. This act shall take effect July 1, 2017.

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER:

SPONSOR:

TITLE OF BILL:

An act to amend the education law, in relation to the computation of foundation aid and addition of successful school district credit recovery aid ; to amend the local finance law, in relation to calculation of the period of probable usefulness regarding payment for credit recovery aid; to amend the public authorities law, in relation to contracts with the dormitory authority and school districts; to amend the state finance law, in relation to establishing the successful school district credit recovery financing reserve fund; and to establish a poverty concentration count

PURPOSE OR GENERAL IDEA OF BILL:

To amend computation of foundation aid and add successful school district credit recovery aid in districts sufficient to insure funding of a meaningful high school education.

SUMMARY OF SPECIFIC PROVISIONS:

To add credit recovery aid and bond issuing authority for city school districts to assist at risk students currently in high school who will not receive the benefit of full foundation aid funding K through 12 and for the following uses:

- a) credit recovery programs;
- b) academic intervention services
- c) response to intervention services
- d) drop out prevention
- e) incarcerated youth services
- f) parent involvement programs,
- g) extended day and extended year programs, and
- h) psycho-social testing.

To amend computation of foundation aid.

To add the poverty concentration count to computation of extraordinary needs index.

To increase recognition of low wealth in the computation of the local expected contribution.

To phase-in foundation aid fully for districts which have not attained successful school status over a four year period.

JUSTIFICATION:

It is the responsibility of the legislature under article XI of the constitution of the state of New York to establish and maintain a system that will provide all children an opportunity to receive a meaningful high school education.

It is clear that in certain districts educational resources are insufficient to offer that opportunity and that this resource insufficiency is due to the failure to provide funding needed to become successful school districts. Therefore, it is the intention of the legislature to amend provisions of the education law to ensure that the necessary funding is available in those districts which have not attained successful school status and to help them provide all their children an opportunity to receive a meaningful high school education and to maintain healthy vibrant educational communities that underpin a thriving state economy.

PRIOR LEGISLATIVE HISTORY:

This is a new bill.

FISCAL IMPLICATIONS:

To be determined.

EFFECTIVE DATE:

This act shall take effect on July 1, 2017.

Appendix B

A3268 Brindisi No Same as

Education Law

TITLE....Enacts the "small city successful schools act"

01/27/17 referred to education

BRINDISI, LUPARDO, SANTABARBARA, ARROYO, BARRETT, CAHILL,
FAHY, GALEF, GIGLIO, GOODELL, JENNE, KEARNS, LAVINE, MAGEE,
MCDONALD, SCHIMMINGER, SKARTADOS, STECK, RYAN, WOERNER
Amd §3602, Ed L

Relates to the computation of foundation aid and successful schools aid for small city
school districts.

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A3268

SPONSOR: Brindisi

TITLE OF BILL: An act to amend the education law, in relation to the
computation of foundation aid and successful schools aid for small city
school districts

PURPOSE:

To amend computation of foundation aid and successful schools aid in
small city school districts sufficient to insure funding of a meaningful
high school education.

SUMMARY OF PROVISIONS:

To add small city successful schools aid for the following uses:

- a) Class size reduction
- b) Academic intervention services
- c) Response to intervention services
- d) Dropout prevention
- e) Incarcerated youth services
- f) Parent involvement programs,

g) Extended day and extended year programs, and h) Psycho-social testing.

To amend computation of foundation aid to add a small city poverty concentration count and lower the income wealth index.

JUSTIFICATION:

Small city school districts face unprecedented educational and fiscal challenges. These challenges have threatened the capacity of many districts to provide a meaningful high school education as required by the state constitution. Current provisions in the foundation aid formula do not deliver the aid to all districts necessary to enable them to meet this requirement fully. Moreover, current education aid does not adequately compensate for the burdens facing these districts from the high concentration of poverty in the cities. These districts serve as centers providing not only educational services but also health, civic and public safety uses. These services and uses cause an overburden which is not adequately supported by existing education aid.

The state constitution requires and promises that a meaningful high school education be provided to all children wherever they reside and whatever school district they attend. This bill would make it possible to fulfill that promise.

LEGISLATIVE HISTORY:

2015 - Education Committee.
2016: S463--B

FISCAL IMPLICATIONS:

To be determined.

EFFECTIVE DATE:

Immediate.

IN ASSEMBLY

February , 2017

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

AN ACT to amend the education law, in relation to the computation of the cost of a sound basic education in the Maisto Districts

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

1 Section 1. Legislative intent: It is the responsibility of the
legis- 2 lature under article XI of the constitution of the state of New York
to 3 establish and maintain a system that will provide all children an
oppor- 4 tunity to receive a meaningful high school education. As a result
of 5 trial in State Supreme Court of *Maisto, et al. v State of New York* it
is 6 clear that resources sufficient to offer that education in eight
small 7 city school districts, known as the Maisto Districts, are not
being 8 provided to those districts under current education law. Therefore,
it 9 is the intention of the legislature to amend certain provisions of
the 10 education law to create a Maisto District Sound Basic Education Cost
Panel to determine the cost of a sound basic education in each of the
districts sufficient to allow them to provide all their children an
opportunity to

12 receive a meaningful high school education and to maintain
healthy vibrant educational communities.

14 § 2. This legislation shall be known and may be cited as "the
15 Maisto Districts' sound basic education cost panel act".

16 § 3. Section 3641 of the education law is amended by adding new
subdivision 17 to read as follows:

§ 3641. Special apportionments and grants-in-aid to school districts

17. Maisto District Sound Basic Education Cost Panel

There is hereby created the Maisto District sound basic education cost panel
for the purpose of determining the cost of a sound basic education in each of
the eight Maisto Districts, jamestown city school district, kingston city
school district, mount vernon city school district, newburgh city school
district, niagara falls city school district, port jervis city school
district, poughkeepsie city school district and utica city school district.

The panel shall consist of seven members, to be appointed by each of the
following: two by the governor and one each by the senate majority leader,
the senate minority leader, the assembly speaker, the assembly minority
leader and the chancellor of the new York state regents. The panel shall meet
as often as deemed necessary but not fewer than four times, elect a
chairperson to schedule and conduct such meetings and have the power to
appoint such assistants either from the department or from the private sector
and expert advisors as necessary to fulfill all duties.

Duties of the panel are as follows:

- a. Select an independent consultant to conduct studies and draft the
report on the cost of a sound basic education in each of the eight
Maisto Districts.
- b. Insure that the studies and reports use both the professional judgement
method and the foundation aid formula method.

- c. The foundation aid method shall base the foundation amount on the average spending of successful districts which have achieved 80 percent proficiency on two fourth grade state assessments and five state regents examinations and using researched based pupil weightings, using new york state student data and using a researched based regional cost index.
- d. Award a request for professional services contract to an independent consultant within 90 days of the effective date of this subdivision and issue a preliminary report to the governor, senate majority leader, senate minority leader, assembly speaker, assembly minority leader and chancellor of the new york state regents on or before December 1, 2017 and a final report on or before December 31, 2017.

The sum of five hundred thousand dollars shall be available to support expenses of the panel.

§ 4. This act shall take effect immediately.

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER:

SPONSOR:

TITLE OF BILL: An act to amend the education law, in relation to the computation of the cost of a sound basic education in the Maisto Districts

PURPOSE OR GENERAL IDEA OF BILL:

To create a Maisto District sound basic education cost panel for the purpose of determining the cost of a sound basic education in the eight Maisto Districts.

SUMMARY OF SPECIFIC PROVISIONS:

To add a subdivision creating a panel to determine the annual cost of a sound basic education in each of the eight Maisto Districts; to award an RFP to an independent consultant to determine such costs under both the foundation aid formula and professional judgement methods and to report preliminarily by December 1, 2017 and finally by December 31, 2017 to the governor, senate majority leader, senate minority leader, assembly speaker, assembly minority leader and chancellor of the new York state regents.

JUSTIFICATION:

It is the responsibility of the legislature under article XI of the constitution of the state of New York to establish and maintain a system that will provide all children an opportunity to receive a meaningful high school education. As a result of trial in State Supreme Court of *Maisto, et al. v State of New York* it is clear that resources sufficient to offer that education in eight small city school districts, known as the Maisto Districts, are not being provided to those districts under current education law. Therefore, it is the intention of the legislature to amend certain provisions of the education law to create a Maisto District Sound Basic Education Panel to determine the cost of a sound basic education in each of the districts necessary to help them provide all their children an opportunity to receive a meaningful high school education and to maintain healthy vibrant educational communities.

PRIOR LEGISLATIVE HISTORY:

This is a new bill.

FISCAL IMPLICATIONS:

Five hundred thousand dollars (\$500,000)

EFFECTIVE DATE: .

This act shall take effect immediately.

ESSENTIAL PROGRAMS AND SERVICES FOR AT-RISK STUDENTS IN NEW YORK'S HIGH POVERTY DISTRICTS

Maisto et al. v. State of New York

Prepared by Laurence T. Spring,

Superintendent of Schenectady CSD

November 12, 2014

A. Introduction

New York's Small Cities districts are similar to New York City in their high levels of students who are poor and living in concentrated poverty. Also like New York City, these students require an expanded platform of essential programs and services, to augment the regular curriculum and instructional program made available to all students, in order to receive the opportunity of a sound basic education, i.e., the meaningful high school education required under the New York State constitution. This expanded platform must include educational and educationally-related programs and services that respond to the unique needs of students who are at risk of academic failure as a result of concentrated poverty in their schools and communities. To prepare this report, I have thoroughly reviewed all of the decisions in the Campaign for Fiscal Equity (CFE) case, which held that all children are entitled under the state constitution to the opportunity of a sound and basic education, that all children can learn and children who come to school with greater educational and socio-economic disadvantages must be provided with the additional resources needed to provide that opportunity. In particular, I reviewed Campaign for Fiscal Equity v. State, 86 N.Y.2d 307 (1995) (CFE I), which established the basic standards and requirements for a sound basic education; the decision of Judge Leland DeGrasse applying those standards to the evidence presented in the trial concerning the deficiencies in resources for New York City students, 187 Misc. 2d, 1 (2001); and Campaign for Fiscal Equity v. State, 100 N.Y.2d 893 (2003), the Court of Appeals ruling upholding and affirming Judge DeGrasse's findings and conclusions of the failure of the State to provide the essential resources and adequate funding necessary to provide New York City students with the opportunity for a sound basic education.

This report focuses on the specific portion of the Court of Appeals' CFE rulings that requires an "expanded platform" of programs and services for at-risk students be provided as an

element of the template of essential resources necessary to provide all students with a meaningful opportunity for a sound basic education. The "template" of essential resources identified in CFE includes: a) sufficient numbers of qualified teachers, principals and other personnel; b) appropriate class sizes; c) adequate and accessible school buildings, with sufficient space for appropriate class size and sound curriculum; d) sufficient, up-to-date books, supplies, libraries, technology and laboratories; and e) suitable curriculum, including an expanded platform of

programs for at-risk students; (f) adequate resources for students with extraordinary needs; and (g) a safe orderly environment.

In this report, I will examine the specific educational and educationally-related programs and services that are effective in meeting the needs of at-risk students in the high needs districts, including the Small Cities districts in this case. I will present my conclusions as to the specific programs and services that must be included in the “expanded platform” of programs and services, as required by the CFE rulings, in order to deliver a suitable curriculum to at-risk children in high poverty districts with similar student demographics as the Small Cities’ districts in this case. While there are many conditions that put students at risk, this report is focused on household poverty, community poverty and intense poverty. My analysis is conducted in light of the minimum State-established standards for proficient student outcomes that are now in force and effect.

As I will explain in this report:

- 1) At-risk students in high-poverty schools and communities need a robust platform of programs and services in addition to the regular curriculum and instructional program provided to all students in order to achieve minimum State performance standards.
- 2) The level and intensity of these services must be calibrated be responsive to the extent of the needs of students generated by concentrated school and community poverty. The

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intensity of the need for these additional resources increases when any of three variables associated with poverty increases: the intensity of poverty students’ experience, the length of time students are in poverty, the percentage of students in specific schools and overall in the district whose families are poor; and the severity of poverty in the neighborhoods and community served by the schools and district.

These variables impact students in ways that are complex and multifaceted, As I will illustrate in my report, children in concentrated poverty are more likely to experience mental health, physical health, and social and behavioral problems that negatively affect their readiness to learn while in school that require both support services and extended learning opportunities after school and during the summer. Children of poverty are far more likely to be exposed to violence, be a victim of violence and neglect, and live with neighborhood disorganization. They are more likely to have a parent incarcerated, or otherwise under the control of the criminal justice system, or have a parent with a persistent or significant mental illness, addictions or other health problems. These children are more likely to experience their own physical and mental illnesses or develop coping mechanisms including substance abuse, violence or anti-social behaviors.

By the time many children enter elementary school, and as they progress through middle school, they are already experiencing the physical, social and mental health impacts of growing up in poverty; have developed self-coping behavioral and other mechanisms that impede their educational progress; and have fallen deeply behind their peers and grade-level expectations and

outcomes. Many are not prepared for the intense environment of high school which, in turn, heightens feelings of frustration, failure and powerlessness in students, prompting students to fall further behind and/or drop out of school altogether.

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These myriad impacts of family poverty and concentrated community poverty put students at-risk of poor performance, academic failure, grade retention and, inevitably, dropping out or not finishing secondary school meeting basic State high school graduation requirements. Schools and districts serving high poverty communities face the added challenge of addressing the concomitant effects of poverty which include food insecurity, anxiety, depression, adverse childhood experiences (ACE), environmental violence, and post-traumatic stress disorder. To address these conditions and give students meaningful access to education, requires timely and prompt intervention with an effective platform of expanded programs and services. These programs and services must address the both the direct academic needs of children and the physical and mental conditions and illnesses that prevent them from taking advantage of the curriculum and instruction made available to all students. Further, these educational and educationally related programs and services must be provided with increasing intensity in response to the depth, length, or frequency of household and community poverty. In short, high poverty districts must be able to provide an expanded platform of services for at-risk students that encompasses not only instructional services to remediate students' deficits in educational progress and attainment, but also targeted interventions to address the physical, social and mental health needs of students and their families so that when at-risk students are in school, the school is taking steps to ensure they are ready to learn, throughout the school year and during the summer months, if necessary

B. Background

My name is Laurence T. Spring, and I have been asked to provide this report because of my education and experience in educating students who live in poverty and attend high poverty schools and districts. I have been a superintendent for more than eight years; all of them have been in high need and impoverished communities in New York. Currently, I am the

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Superintendent of Schools at the Schenectady City School District. I have had experiences as an assistant superintendent of instruction, a special education director, high school principal, assistant principal, and social studies teacher, all of which inform my expertise regarding what students need in order to be successful in school.

The Schenectady City School District is not dissimilar from most small urban centers around New York State. Schenectady has approximately 10,000 students with 80% of them qualifying for free or reduced lunch. The rate is high enough that the Community Eligibility Option, free meals for all children, is the norm. It is simply more cost effective.

Schenectady City has the 13th highest concentration of childhood poverty in the country, and there are several small cities in New York that have a higher concentration of poverty than

Schenectady – we are not exceptional in this matter (Stanforth, 2012).

Unfortunately, when looking at numbers such as these, the real problems can easily get lost in the scale. To help bring focus, I will examine the impact of concentrated school and community poverty on students and teachers at the classroom level, using one particular elementary classroom in a typical elementary school in Schenectady, specifically, a third grade classroom in a Lincoln Elementary, a school serving an impoverished neighborhood in the city. Here are the characteristics in Lincoln's third grade class:

- There are 26 children, all of them qualify for free lunch, which means their household income is below 130% of the federal poverty level for Schenectady, or less than \$30,615 for a family of four annually.
- Ten, or 38%, have at least one parent in jail or prison.
- Six, or 23%, of these children have both parents incarcerated.
- Eight, or 31%, have a parent with a significant or persistent mental illness.
- Eleven, or 42%, have some involvement with Child Protective Services.

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- Just four of these students, or 15%, are proficient in the New York State Standards in English Language Arts.

These children – and the teachers and school staff – face significant challenges to ensure these children progress educationally, challenges not found in lower poverty schools and communities. These challenges intensify as the as the number of poor children in schools and classrooms increases.

C. Effects of Poverty on Students and Communities

The complexity of how poverty interacts with children and the context of school is daunting. First, we have to consider that all poverty is not equal. It makes a difference if the poverty is familial or neighborhood based. Students in families with resources residing in high poverty neighborhoods are impacted differently than students in families with no resources, such as discretionary income, transportation, and health insurance, in those poor neighborhoods (Brooks-Gunn, 1997) (Wodtke, 2012). Second, the amount of time spent in poverty makes a difference as well (Brooks-Gunn, 1997) (Kennedy, 1986). A family that has a brief rough patch and cannot make rent for one month has a different level of stress compared to families that are habitually evicted due to lack of rent payment, or where the children are the third or fourth generation of poverty. The Coleman Report, from 1966, is widely regarded as the hallmark study illustrating the deleterious effects of poverty on educational opportunity. In general, these studies all reinforce the notion that the longer a child is in poverty the more harmful the effects. They also illustrate that as the percentage of students in a school who are living in poverty increases, the performance of all students in that school suffers (Kennedy, 1986).

The research is clear in establishing the link between poverty and poor academic performance. Many studies link the variables of family poverty and neighborhood poverty with suppressed academic performance and IQ scores (Coleman, 1966) (Gamoran, 2006) (Nikulina,

2011) (Lacour, 2011) (Dixon-Roman, 2013). Most high needs urban districts have high rates of

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students performing in the lowest ranges for the state. In fact, the New York State Education Department (NYSED) can predict this phenomenon. In planning for student achievement and needs, NYSED has generated predictive patterns that show a systematic decline in student performance on state assessments as the school incidence of poverty increases. The actual results bear out a strikingly similar pattern (Fig. 1) as depicted in the analysis published by the New York State Education Department in Appendix C of their 2005 Overview of New York State Report Cards for Schools and Districts (2004-2005).

The data illustrated in the following graph demonstrates the strong correlation between the economic status of a student's household and academic achievement. It shows that the poorer the household, the lower the levels of achievement. Living in concentrated poverty entails a host of conditions that impact a child's readiness to learn upon entering school and throughout the schooling experience.

Fig. 1 <http://www.p12.nysed.gov/repcrd2005/information/similar-schools/guide.shtml>

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Household poverty is a powerful factor that correlates to student achievement. We also know that there are a number of intervening variables to explain the linkage between poverty and poor school performance.

Poverty in the home, neighborhood poverty, and greater lengths of time in poverty contribute to a number of environmental issues: neighborhood disorder (Hurd, 2013), environmental violence (Hurd, 2013) (Hannon, 2005), poor nutrition (Kleinman, 1998) (Lewit, 1997), childhood neglect (Nikulina, 2011), higher rates of parental incarceration (Hashimoto, 2011) (Hay, 2007), higher crime rates (Hay, 2007), lower incidence of adult diplomas (Schafft K. A., 2008), increased rates of mental illness (Hurd, 2013) (McLeod, 2000) (Phillips, 2002), and higher rates of mobility (Schafft K. A., 2008).

The joblessness and under employment that is prevalent in these neighborhoods sap the sense of well-being and executive functioning from their citizens (Roy, 2014). As this version of poverty persists across generations, the ability to consider and take advantage of education opportunities that could lead to higher economic status and improved quality of life diminishes. This dynamic yields a striking difference between first generation poverty, or poverty associated with immigration, and second, third or fourth generation poverty in impoverished neighborhoods.

The lack of employment and under-employment contribute to an individual's sense of well-being which, in impoverished communities, foster broader neighborhood disorder. This is sometimes characterized by cities and police as "quality of life" issues. These are minor crimes that begin to be tolerated, if not tacitly approved by police, in poor neighborhoods, especially when they would not be tolerated in wealthier areas of the city. In addition to these minor crimes, poor neighborhoods have an increased incidence of violence, making children in poverty

more likely to be victims or witnesses of violence, both of which make children very susceptible
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to Post Traumatic Stress Disorder. Young children exposed to 5 or more significant adverse experiences in the first three years of childhood face a 76% likelihood of having one or more delays in their language, emotional or brain development.

(<http://www.recognizetrauma.org/statistics.php>).

Additionally, poverty reinforces cycles of household mobility, which affects student mobility. The rates of eviction and foreclosure in poor neighborhoods are elevated in comparison to working class or middle class neighborhoods (Schafft K. A., 2008). In Schenectady, approximately 20% of the student body moves out of the district each year. A typical class (or cohort) has approximately 750 students in it, but by the time they reach graduation year, between 1800 and 2200 students have been members of that cohort. Only 100 students will have stayed in the district for all 13 years. Obviously, turnover such as this is very disruptive to any sense of progression in instruction, but for individual children, a change in school creates a delay in learning equal to approximately 3.5 months (Schafft K. &., 2007). In turn, each of these variables affects various elements of children's development. Some merely delay a student's ability to make progress in school briefly, but others are far more detrimental. We know that poverty is a vicious cycle. Poverty creates mental illness and mental illness, in return, reinforces poverty (Anakwenze, 2013). Children in impoverished neighborhoods are much more likely to be exposed to environmental violence, food insecurity, and neighborhood disorganization. These factors play into elevated rates of anxiety (Hurd, 2013), Major Depressive Disorder (Dashiff, 2009), and Post Traumatic Stress Disorder (Duncan, 2010) (Nikulina, 2011). These are significant mental illnesses that present difficulty for children in many areas of their lives beyond school, but school is a very visible place where the effects can be readily measured.

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While the numbers and rates can be chilling, we have to look at specific cases to know exactly what these labels and needs look like. Unfortunately, the challenges these children face go far beyond attentional difficulties or a need for motivation to succeed.

I will illustrate with another example from the Schenectady district. Small City School Districts, like Schenectady, attempt to respond to the significant numbers of children who come to school with delayed skills. However, at the same time there are a number of children who are experiencing a crisis that is difficult to accept as reality. On one typical day, staff in one school is working to deal with a family where the 12-year-old student has been "given" to a gang as payment for protection. Additionally, an 8-year-old child in another family stabbed his grandmother in the eye in an argument over discipline. Every day, each school has new horror stories that are the reality of these children.

The intensity of these behaviors comes not simply because these families are without money. They stem from intense poverty experienced over time. What mother would give her

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daughter to a gang as tribute unless her life was truly in absolute crisis? The services necessary to extract that 12-year-old student from the gang, help her mother, get the student to focus on school, and to remediate her to grade level expectations are significant to say the least.

Many at-risk children suffer from mental illness and fall significantly behind in their academic progress for a number of reasons. Children with anxiety, depression, or PTSD, have tremendous difficulty focusing and concentrating in the classroom. As the intensity of the illness increases, so does the difficulty engaging in long range planning and other executive functioning skills (Roy, 2014). Additionally, these children have low thresholds of frustration and will act out in the absence of pro-social coping mechanisms.

Researchers have identified numerous academic effects of poverty, including reduced vocabulary (Stinnett, 2014) (Herbers, 2012), delayed reading skills (Stinnett, 2014) (Herbers, 12

2012), long term limited reading ability (Stinnett, 2014) (Herbers, 2012), reduced academic ability (Thomas, 2003) (Nikulina, 2011), reduced IQ (Nikulina, 2011), suppressed SAT performance (Dixon-Roman, 2013), reduced graduation rates (Lacour, 2011) (Wodtke, 2012), reduced college going rates (Bailey, 2011), and higher rates of discipline and suspension (Bloom B, 2013). Children in poor families are more likely to have asthma, are twice as likely to be diagnosed with a learning disability, and five times as likely to be in poor health and to miss more school (Bloom B, 2013).

In the Schenectady district, an estimated 60% -90% of the students, in any cohort, by any measure, are in need of targeted and expanded interventions. When looking at measures of proficiency on State assessments, the rate trends to the higher end, but on more nationally accepted assessments of reading proficiency or emotional well-being, the percentage trends closer to the 60% mark. Again, Schenectady is not remarkable in this number. Nearly all urban districts play out similarly.

Conditions of individual poverty are reinforced by the lack of resources, and the resulting lack of support services, in a community. Schools must therefore have the resources to provide an expanded platform of education and educationally-related services to address extreme disadvantages their at-risk student population bring with them to school each day. When schools lack these resources, they are unable to intervene to remediate low academic performance, get students who are behind back to grade level, and improve overall outcomes for students. When the physical, social and mental health issues so prevalent in the school are not addressed, these conditions fester and move through a predictable pattern of evolution: chronic absenteeism, disruptive behaviors, increased suspensions, and violent expressions of aggression and anger, substance abuse and other physical and mental health issues. Inadequate resources also means that the number of at-risk students who need intensive interventions far outweigh the ability and 13

capacity of teachers and staff to provide those supports. Without adequate resources, it is likely schools will be unable to break the cycle of poverty and hopelessness experienced by students.

Additionally, students who are at-risk regularly come to school unprepared to meet grade level expectations, triggering the need for resources to treat their barriers to learning, especially when students are exhibiting crisis behaviors. Rather than experiencing a baseline state of high quality instruction, the school classroom develops a baseline of crisis response.

Where school budgets of high poverty districts do not have adequate funding, the district simply cannot provide expanded platform of services required to meet the need of the at-risk student population. This has been the case in the Small Cities districts like Schenectady where the State has significantly underfunded the district budgets in recent years. For example, the State has failed to provide Schenectady district \$62 million additional aid under the 2007 Foundation Formula. These are funds that, if available, could provide the intensive interventions necessary to boost student performance, keeping students on track to high school completion and graduation.

D. The Expanded Platform of Services to Address the Needs of At-Risk Student in High Poverty Districts

Student and family poverty, and concentrated community and school poverty, are a major factor in low student performance and high drop out and low graduation rates. Schools cannot fully alleviate all the problems associated with concentrated neighborhood and community poverty. They must, however, provide students affected by poverty with an expanded platform of services, targeted to address their needs, to give them the opportunity for a sound basic education and improved outcomes while in school.

Among the resources essential for a sound basic education in the CFE template is an “expanded platform of programs for at-risk students” and “adequate resources for students with
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extraordinary needs.” These programs must address both the education and educationally-related needs of at-risk students, such as social and health services to ensure these children are ready to learn. In schools serving high concentrations of poor students such as the Small Cities districts, specific programs, services and interventions must be part of the “expanded platform” that is responsive to student and school needs. This expanded platform must also be provided at levels responsive to the intensity of student need to ensure that all students are ready to learn and teachers can singularly focus on delivering rigorous curriculum and effective instruction.

1. Student and Family Support Team

If we return to that “typical” third grade classroom, we can begin to parse out what services are needed to help these children become successful in school. With any one of the listed conditions, the trauma inflicted upon a child is significant. We know that children of incarcerated parents have increased incidence of mental health issues, violence, and arrests. We also know that people living in extremely impoverished environments are far more likely to be under the control of the criminal justice system. Serving these students requires sufficient numbers of qualified personnel and resources to tailor the school environment to the needs of at-risk

students.

a. Social Workers

First and foremost, a complement of trained school social workers are required to intervene to address the social, behavioral and mental health needs of at-risk students. High poverty schools require a ratio of students to social workers that allows these vital support staff to work with students and their families to develop new routines and coping mechanisms. The school also should have at least one professional whose sole job is to coordinate services and treatment objectives between school service providers and county providers like Child Protective Services or the Department of Social Services. Oftentimes, the classroom teacher needs

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additional support in trying to understand the behavior of these children and assistance in developing a plan to shape the behavior into more pro-social patterns. Toward this end, behavioral specialists or psychologists are necessary supports to be added at the school and district level.

The dynamic challenges created by poverty require that the school address concerns with both individual students as well as the environments in which they exist. Students with PTSD require an elevated level of service in an intensive therapeutic educational environment. This generally means a reduced number of students in the room, a full or part-time social worker attached to the class, and family therapy sessions, as well. The National Association of Social Workers Standards for School Social Work Services recommends a ratio of 1:250 general education students and a ratio of 1:50 when the needs of those students are more intense, as I have described here.

b. School Nurses

School nurses play a critical role in identification of health and mental health problems in children. They provide acute care, health screenings, and are often the person administering all medications that children need for asthma, diabetes, anxiety, or attentional difficulties. The recommended standard for nurse ratios when students have any special health needs is 1:225 students or 1:125 if the health needs are more complex (Pediatrics, vol 121, 2008).

c. Guidance Counselors

If we shift our focus from these third graders and imagine a group of teenagers, it becomes important for us to have monitoring of progress toward graduation, college visits, mentors, and internship experiences for these students. The research is clear that interventions in later years are much more limited in their success. The strategies that are most effective are relationship based. In addition, the schools with older students need specific and targeted gang

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prevention programs and services. Gangs offer so much of what we describe above: a place of belonging, protection, purpose. Gangs see the children who suffer as an opportunity. The gang leaders know that these are vulnerable kids and understand the weaknesses that make them susceptible to gang life. Without intervention, the number of students who slip into involvement

with gangs grows. This is important given that the American School Counselor Association recommends a ratio of 1:250 school counselors to students.

d. Parent and Community Liaisons

To address the environment, schools need to hire family engagement coordinators. These positions help families restore order and hope to their lives. Families need assistance in learning how to engage with school, how to advocate for their child, and ensure that the school has their child's best interest at heart. They also act as neighborhood catalysts, bringing about neighborhood organization and a better sense of order and caring throughout the neighborhood. This complement of support staff – social worker, school nurse, guidance counselor and parent liaison – comprise a “Family and Student Support Team” that can coordinate the responses and interventions for both students and families based on a holistic assessment of need. They must work in teams to coordinate services and ensure that children are ready to learn. This comprehensive, rather than piecemeal or episodic, approach is essential to ensure teachers and principals, whose main job is to deliver the curriculum, do not have to spend valuable instructional time dealing with health, social, psychological and behavioral issues and other problems that impact student readiness to learn while in the classroom..

2. Academic Interventions for At-Risk Students

Schools with high concentrations of at-risk students must continually assess whether students are progressing satisfactorily, on grade level, and are on track throughout the K-12

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grade span. This will allow teachers to identify those students who are falling behind and at risk of academic failure, and then take proactive action to intervene with appropriate additional supports. In addition to the educationally-related supports described above, these students will need some specific academic supports. These enhanced needs implicate each of the basic input categories identified in CFE: teaching, facilities, and instrumentalities of learning.

a. Intensive Math and Literacy Interventions

Specialized reading instruction for students who are behind in basic language arts (reading) and mathematics in the early grades is among the most effective interventions educators have to achieve better outcomes for students. Reading and math specialists, along with a complement of reading and math tutors, are required to work with the classroom teacher to promptly identify when students are not performing on grade level, and provide more intensive small group or one-on-one instructional interventions, are essential in high poverty districts. Because these students have missed many of the formative literacy experiences in their early years, it takes an elevated level of expertise to help them develop these skills without falling farther behind their peers. These reading and math specialists and tutors can tailor the intensive literacy program to address the needs of students, prevent them from falling further behind, and ensure they progress to grade level as quickly as possible.

This early intervention and progress monitoring are extremely important for two key reasons. First, in students' early years, they are most able to learn specific skills related to

language acquisition. As children grow older it becomes more difficult for them to build phonemic awareness (associations of letters and sounds as meaning making code). Second, catching a delay early on minimizes the gap between a struggling student and the expected level of performance. Trying to close this gap after four, six, or eight years of falling behind is infinitely more difficult. These reasons are compounded by the fact that students living in

intense poverty are much more likely to have significantly impaired ability to acquire language skills.

b. Extended learning time

In addition to intensive early literacy interventions described above, students who are behind specific subject course and grade level, will need “more time on task” -- also known as “extended learning time” – to improve and sustain academic progress. Extended learning time is a particularly effective strategy for middle and high school students to ensure progress at grade level and in language arts, math, science and other coursework, which is necessary to sustain student progress towards high school completion and graduation. Extended learning time includes both academic instruction after the regular school day or extended school year academic programs to prevent “summer learning loss,” a significant issue for students living in high poverty communities. Extending the school day/year affords for the extra learning time that

students often need to remediate deficits without losing more ground. Another benefit is that it keeps the students busy and engaged in productive and healthy programming during times when they would otherwise be on the street in the midst of the neighborhood disorganization.

c. AIS and RtI

Academic Intervention Services and Response to Intervention are both mandated programs that schools must have in place for struggling students to ensure that they catch up to their peers and are not unnecessarily classified as a student with a disability. AIS is a NYS mandated program the mandates students receive specialized, additional service in their area of difficulty, especially related to their performance on NYS Assessments. RtI is a federally mandated program that demands schools implement evidence based interventions in increasing intensity prior to referral to the committee on special education. This progression of increasing intensity necessitates

smaller and smaller student to staff ratios. Additionally, these evidence based practices require additional training, support, and materials in order for them to be implemented with fidelity.

Finally, it is important to note high poverty schools that have proven successful with improving education outcomes for at-risk students utilize the expanded platform of services and programs described above to continually focus on, and reassess, the academic, social and health needs of this vulnerable student population. These resources allow schools to develop an internally imposed accountability system that consists of frequent assessments of student progress and staff collaboration and analysis of those results. Staff also need the time to develop

new, creative solutions that can be replicated at scale. (Reeves, 2003).

E. Conclusions

The impact of family and community poverty on the education opportunities and outcomes presents difficult and stubborn challenges for teachers, staff and leadership in districts serving these high concentrations of at-risk students. As the CFE ruling makes clear, high poverty districts have a responsibility to address the needs of students who are academically at risk

due to the impact of poverty on their families, lives and neighborhoods by having those resources proven effective in ameliorating those impacts when they manifest in school and in class to impede progress in student learning. The effect of poverty on a child's ability to be successful in school is readily discernable in both the literature regarding poverty as well as the hard data of student achievement, suspension rates, and dropout rates.

High poverty districts must have adequate funding to provide a robust platform of programs and services which, at a minimum, must include the specific interventions set forth in this report. As the CFE ruling makes clear, without this expanded set of services, at-risk students will continue to be deprived of access a meaningful high school education, the definition of a sound basic education guaranteed to all children under the New York constitution. This is

especially true for children who suffer from intense poverty, prolonged poverty or live in neighborhoods with very high rates of poverty.

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ⁱ Small city school districts serve 234,000 children and 1.5 million residents.

ⁱⁱ New York State has had a historically bifurcated educational system, with the quality of education a student receives determined by the wealth of his or her zip code. Thus the misfortune of being born into a poor community is often compounded by attending underfunded schools that condemn large numbers of children to lives of limited career opportunities- a personal tragedy as well as a devastating loss to society.

