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***Testimony presented to the Joint Legislative Fiscal Committee on the 2003-2004 Executive Budget Proposal***

NYSSBA News

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by

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Chairman Johnson, Chairman Farrell and members of the joint committee, I am Tim Kremer, Executive Director of the New York State School Boards Association. I am joined today by David Little, Director of Governmental Relations. On behalf of the nearly 700 school districts we represent, I appreciate this opportunity to explain some of the many deleterious effects of the Executive Budget proposal on public education and indeed the economy of our state. I will also offer recommendations that might help you address our state's enormous funding problems.

In proposing an unprecedented \$1.2 billion reduction in state aid to elementary and secondary education, the governor has declared his aversion to "job killing taxes". Ladies and gentlemen, property owners and members of the business community are not so easily fooled that they fail to recognize that the local property tax is still a tax. They are not so myopic that they would fail to understand that jobs held by teachers, bus drivers, school nurses, administrators, custodians, teaching assistants and cafeteria workers are still jobs, and this cut in aid is a "job killing proposal."

New Yorkers, especially school officials, are not so memory-deprived that we forget that the infamous education cuts in 1990-91 resulted in the loss of thousands of jobs in our public schools, which in many communities is the largest single employer. The loss of those jobs contributed substantially to the delay in New York State's economic recovery.

The governor has predicated his budget on the premise that economic development must be advanced at all costs. Yet, at a recent roundtable discussion of business leaders during the annual meeting of the Business Council of New York State, a panel of business executives who were asked why they might consider relocating to our state, cited the excellence of our public school system as our single most attractive feature, potentially overcoming issues of climate, transportation costs and government regulation.

While business leaders are influenced by moderate tax rates, they also clearly understand that massive budget cuts to public education will have a crippling effect on the viability of our workforce, limit new business investment possibilities, and significantly extend the length of time it will take for economic recovery in New York.

Just today, the Albany Times Union carried a story about a poll of registered voters that indicates that education is their #1 priority. Fifty-five percent of those polled said education is their top priority. Job creation was ranked second at 37% and terrorism and security came in third at 28%. More to the point, 54% of registered voters said that education should be spared from state budget cuts. Ranked a distant second were cuts to health care.

At the very moment that New York's historic quest to raise the level of academic achievement for all of our children is being hailed nationally as the goal of every state and the aim of our federal government, this proposal wreaks havoc on the means of meeting that challenge. The Executive Budget decimates the very programs and services vital to ensuring that no child is left behind in New York State. The cruel paradox is that our schools cannot possibly do all that is legally required of them with the resources the governor would provide.

Under present law, school districts that cannot pass their budgets by popular vote must implement a contingency budget that, this year, is limited to a spending increase of only 1.92%. The restrictions on contingency budget spending, however, will force school officials to select which law they will obey. The math does not permit compliance with all of the applicable laws.

Without your prompt assistance this spring, our schools will choose between obeying the mandatory cap on spending and meeting state and federal regulations on special education programs and class size limitations. They will be forced to select between staying under the cap and paying legally binding contracts, required contributions to the retirement system, as well as staggering increases to health and liability insurance and the cost of heating and transportation fuel. They will choose between adhering to the spending limitations or compliance with state graduation standards and increasingly stringent federal accountability requirements. They will be forced to either break faith with the children and parents whom they serve or with the communities that support them. In reality there is no choice.

Of course, a contingency budget is not an issue if one presumes continuation of our recent record of strong local support for school district budgets. However, I believe that there is sufficient reason to doubt that assumption in projecting this year's outcome.

Just prior to the release of the Executive budget, a NYSSBA survey responded to by half of all school districts in our state revealed that had the governor proposed level funding – no cut in state aid, but no increase either – the average local tax increase would be 13%. Previous studies tell us that, historically, communities nearly always support local school budgets carrying increases of less than 5%. Of course, success becomes increasingly difficult as the percentage increases. Imagine, therefore, the rate of local budget defeats based on a proposed property tax increase of 13%. Now, consider what might happen when \$1.2 billion is shifted to the local tax payers as well.

I should add that the survey also indicated that more than 86% of all school districts were planning to cut programs, even at level funding. Think again about the devastating cuts that will occur in school districts across the state when spending is limited to a 1.92% increase because local taxpayers cannot cover the tax burden that is being shifted from the state to the local level.

Where is the state savings when the shifted tax burden results in a flood of unemployment claims and new applications for social services?

As damaging as the total amount of the reduction is the manner in which it is carried out. Without question, the most disturbing aspect of the Executive Budget is the disproportionate impact of reductions in aid on the poorest school districts in our state. The schools that need you the most would be hurt the worst. Under the governor's proposal, the resource disparity between high need and low need school districts is exacerbated, and the gulf between what poor communities spend per child and what wealthy communities spend would widen. Despite the governor's intention to create an equitable formula for apportioning the cuts, the proposed reductions in state aid will affect most severely the schools receiving the highest proportion of their budget from state funding.

Sharon Springs, for example, is slated to lose one third of every dollar it now spends on education. Not one third of all of its state aid, but one third of its entire budget! It has company. Unadilla 29%, Allegany-Limestone 30%, Richfield Springs 32 ½%, Mechanicville 23% and Pine Plains 26%. These are communities without the resources to independently recoup such a revenue loss. For all but one of these examples, the resulting local tax increases to replace their state aid losses would exceed 100% of what these districts currently raise locally to support their schools.

Far from addressing the issue of equity in the funding of our schools, this proposal morphs the state's educational financing formula – what the governor has referred to as a "dinosaur" – into a living, breathing and very destructive carnivore. What are likely to be devoured first are the non-mandated subjects like art and music, drama and debate, followed by extra-curricular and co-curricular programs, and washed down with a big gulp of athletic programs and anything else that is not required by state or federal testing.

Pre-school programs, all-day kindergarten, class size reductions, innovative uses of technology and facility upgrades will become past practices rather than best practices.

Compounding the impact is the seemingly gratuitous elimination of critically important shared services. The reduction of over \$100 million in the amount reimbursed to schools for expenses already incurred for shared services creates an immediate and severe financial rift in school fiscal planning. These are funds the state repays to school districts for programs and services they have already contracted and paid for and received. These contracts were premised upon the state's promise to repay an established percentage of the district's cost. The governor now proposes to renege on that obligation, forcing school districts to ask their communities to simultaneously shoulder the burden of next year's local share of the budget and last year's state obligations.

And, once again, the most severe harm is directed at our state's poorest communities. Our rural areas are the most reliant upon the shared services offered by BOCES. Their low enrollment, combined with diminished financial resources requires them to utilize this proven provider. Withholding reimbursement for funds they have already spent on essential services creates an insurmountable budget hurdle. For example, Cuba-Rushford, Wellsville, Bolivar-Richburg and Vestal all stand to lose at least 25% of their BOCES aid. This degree of loss is not limited to rural districts, however. Jamestown, Norwich, Arlington and Kenmore, Wappingers, Hempstead, Niagara Falls, Ithaca, Corning and Rome are all examples of city and suburban districts that face cuts of at least 25% in BOCES aid alone.

Sadly, the harm to these districts and to the BOCES delivery system does not stop there. The governor also proposes eliminating support for a myriad of cost saving services and functions vital to the administration of an efficient educational program. The governor would eliminate BOCES programs that provide support for competitive bidding, Medicaid reimbursement, textbook coordination, school food services, health and drug education, substitute teacher coordination, equipment repair, test scoring and curriculum development.

It gets worse. Districts from Riverhead to Rondout Valley and Gouverneur to Greece would see transportation cuts of 25% of their present allocation. Rural schools, which must transport students over large areas, will now be hamstrung both operationally and programmatically. A decrease in transportation aid means that precious dollars are taken from educational programs to transport children safely.

Even more insidious is the threat to services provided to our children in need of special educational services. The governor would cut special education aid by \$70 million by standardizing the state's reimbursement rate irrespective of where those services are provided or how much they cost the local school district. The governor claims that the reduction is intended to encourage schools to place children with special needs in less expensive school settings. This ignores the fact that, under the law, school districts have no control over the placement of these children. Absent costly litigation, schools are forced to accept the recommendation of an independent committee on special education charged with determining the appropriate services and placement of children with special educational needs.

Since special education services are mandated under the law, competition for scarce dollars nearly guarantees dramatic reductions in funding for regular classroom programs. The numbers can be staggering. Buffalo and Dunkirk would lose fully one half of their aid for special education, as would Depew and, once again, Wappingers. Many Long Island districts would lose three-fourths of their current assistance. We also see cities absorbing substantial cuts. Middletown and Troy take cuts of one half and Newburgh over a third. Most graphic of all is New York City, which would see a loss of nearly 60% of its special education reimbursement for last year. The federal government is currently paying less than half of the money it promised when it began mandating these services. Our schools cannot afford to simultaneously cope with broken promises by both levels of government.

Academic intervention services, building aid, LADDER programs, Small Cities Aid, caps on the STAR program... it goes on and on. However, I did not come here to simply complain.

School board members are doers. We accept our role as local leaders, and we want to do our part to contribute to a comprehensive, fair solution. When you are a school board member, one must come to believe that opportunity arises out of adversity.

One opportunity, albeit a controversial one, before us today would require significant foresight and leadership from all who believe in public education. The unique circumstances of this fiscal crisis provide an opportunity to restore proposed cuts to education in a manner that decreases the spending gap among districts. Restoring cuts on the basis of poverty would automatically revise the state aid distribution plan, thus driving both present and future resources where they are needed most. In other words, the state could restore funding first to those schools that are unable to raise significant local revenue, where a one percent increase in the tax levy raises a few thousand, rather than hundreds of thousands of dollars. By making such districts whole first, the inherent inequality of the state's funding mechanism is immediately diminished, and future increases automatically flow in greater proportion to high need districts.

Given a call for cuts of such magnitude, legislative and school leaders must be willing to explore every possibility, even sacred cows, that would help school districts operate more efficiently, allowing cost savings to offset the revenue loss. The Wicks Law, instituted nearly a century ago to ensure prompt payment to subcontractors, is a relic of the past and should be repealed or reformed immediately. The lack of coordination stemming from multiple contractors with equal standing on the worksite results in lawsuits and delays in project completions to the detriment of students and staff. The Department of Education approved \$3.7 billion in Wicks related construction in 2001. Assuming that only 10% would be saved from repeal of the Wicks mandate, approximately \$370 million could have been saved.

Another cost-saving recommendation is to lower the interest rate paid on tax certiorari judgments, which currently stands at three times the market rate. There are, of course, dozens of ways in which the Legislature can increase the efficiency of our schools. The New York State School Boards Association has prepared a list of those most helpful, which we will deliver to the Legislature later this week.

Finally Mr. Chairmen, I return to the contingency budget cap. The state has seen fit to limit the amount school districts may spend in the face of a defeated local school budget to the lesser of either 4% or 120% of the monthly average of the national Consumer Price Index over the previous twelve months. This year, 120% of CPI is less than 2%. Restricting schools to a less than 2% increase in their budgets when confronted by double digit boosts in insurance, utility and retirement costs asks the impossible.

Complying with that 1.92% cap will engender tremendous hardship. If schools are to effectively cope with losses in aid, their last line of defense is a reasonable budget cap. The Legislature can act prospectively to make a one year exception to the limit in order to reflect the reality of our present fiscal condition.

The issue can be addressed by a variety of means. First, retirement contributions, utility costs, health and liability insurance premiums, all of which have increased suddenly over the last year, could be added to those areas that

may be removed from the spending limit. Another approach would be to simply eliminate the term "lesser" in the phrase "the lesser of 4% or 120% of the Consumer Price Index," and let the local voters decide for themselves if they want to support a larger share of the school district budget.

A third alternative would be to use a more accurate reflection of costs. The method presently employed has little relationship to the true cost of providing goods and services in New York State, let alone the cost of educating our children. Schools spend nearly 80% of their budgets on labor, health benefits and pensions. The rate of inflation on all of these costs far exceeds the basket of consumer goods used to calculate CPI. The Consumer Price Index for our area of the nation is nearly a percentage point higher than the national average currently utilized. Even using a CPI average percentage from December to December would more closely reflect true costs.

Ladies and gentlemen of the committee, school board members, your fellow elected officials, face the ultimate in political accountability. Facing massive decreases in state funding and enormous increases in mandated programs and services, these elected volunteers put their names on the same ballot as their budget. They offer their energy, their time and their reputations for the sake of our sons and daughters, children of people they don't even know. They do this to assure the continued viability of our way of life and the future of our state. I implore you to provide them the resources they need to accomplish what they must. Thank you for your kind attention.