



Testimony

to the
Senate Finance Committee
and
Assembly Ways and Means Committee
on the
Proposed 2015-16 Executive Budget
for
Higher Education
February 10, 2015

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Representing more than 600,000 professionals in education and health care
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*Testimony of
Andrew Pallotta
Executive Vice President
New York State United Teachers
to the
Senate Finance Committee
John DeFrancisco, Chair
and
Assembly Ways and Means Committee
Herman D. Farrell, Jr., Chair
on the
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Senator DeFrancisco, Assemblyman Farrell, honorable members of the Legislature and distinguished staff, I am Andrew Pallotta, Executive Vice President of New York State United Teachers (NYSUT). NYSUT represents more than 600,000 teachers, school-related professionals, academic and professional faculty in higher education, professionals in education, in health care and retirees statewide.

Thank you for the opportunity to testify today on the proposed 2015-16 Executive Budget for Higher Education. My testimony represents the concerns of over 75,000 faculty and professional staff who work in colleges and universities across New York state. These include the members of United University Professions at the State University of New York, the Professional Staff Congress of the City University of New York and the faculty and staff at nearly all the SUNY community colleges in this state.

I am joined today by Dr. Frederick Kowal, President of United University Professions (UUP), and by Dr. Barbara Bowen, President of the Professional Staff Congress (PSC). You will hear from both Dr. Kowal and Dr. Bowen in a few moments.

Let me begin by suggesting that everyone in this room would acknowledge that, in today's job market, a college degree is a prerequisite for most employers. I also contend that SUNY and CUNY are, literally, the only options for hundreds of thousands of students to obtain this prerequisite. Yet, unfortunately, the state perpetually underfunds these institutions and the

governor's 2015-16 budget proposal continues this disturbing course of action. Our students are paying the price for the state's lack of adequate investment in their education both literally and qualitatively. They are literally paying more every year and getting nothing more from the state which directly affects the quality of their education. This is unfair to our students and makes absolutely no sense. The consistent lack of adequate state resources has put our public colleges and universities under intense pressure to eliminate programs and courses, erode quality and slash opportunities for students in need. We know that public higher education's mission of teaching, research and health care is the key to a bright future for all New Yorkers and for our state's overall economic success. The ability for SUNY and CUNY to fulfill that mission however, gets more difficult every year because of austerity funding from the state.

We cannot continue to ignore the fact that we have had little, if any, real investment in public higher education in this state for quite a long time. This year, unlike in recent years, the state has the resources to make a significant investment in public higher education. To that end, we are requesting that the state provide an aggregate increase of \$344.5 million in base funding this year to SUNY, CUNY and their community colleges. This includes a \$226.1 million increase for the SUNY system (state-operated campuses and community colleges) and a \$118.4 million increase for the CUNY system (senior and community colleges). The majority of this funding is to cover mandatory costs. In addition, we request \$250 million in one-time funding from the state's recent \$5.4 billion settlement to be used for a full-time faculty and staff Excelsior Excellence Fund (endowment).

SUNY and CUNY Four-Year Campus – State Maintenance of Effort Funding

To achieve this, we obviously need your help as the governor proposes to short-change public higher education again this year. The 2015-16 Executive Budget holds SUNY's and CUNY's core instructional budgets flat from last year's level of funding. This is the fourth straight year the governor has proposed this inadequate funding level. The only increased funding in SUNY's and CUNY's state operations budget is a small amount for an ill-conceived pay for performance proposal, which I will discuss in a few moments. It is also important to note here that flat funding equates to a cut as mandatory costs increase from year to year. Moreover, we should be mindful

that the flat funding in recent years was preceded by two years of draconian cuts during the Great Recession.

It's time for the state to pay its fair share in funding public higher education. Unfortunately, students are funding the increases in SUNY's and CUNY's budgets through annual tuition increases. Much of that funding is going to pay for mandatory costs of the universities. The revenue from annual tuition increases that were authorized with the enactment of NY-SUNY 2020 were supposed to be invested in student academic programs, services and faculty. While some minor gains have been made in hiring some faculty, this promise to our students has largely not been kept. The main reason for this is the current statutory definition of the state's maintenance of effort for funding to SUNY and CUNY four-year campuses.

We know how difficult it was to get the current provision enacted. It was your persistent advocacy that made it possible to have one at all. For that, our students and our members are extremely grateful. It's clear, however, that the current maintenance of effort definition is not sufficient. The current definition only requires the state to provide the same level of funding and fringe benefits of the prior state fiscal year. This current definition falls far short of ensuring that the state pays its fair share in funding SUNY and CUNY. My colleagues, Dr. Kowal and Dr. Bowen, will provide you with specific details regarding the state's current share of funding for SUNY and CUNY in a few minutes.

NYSUT, UUP and the PSC are calling on the state to address the lack of a meaningful maintenance of effort provision in this year's budget. This issue is too important and has had too much of a negative impact on our students to wait any longer. Specifically, we are asking that the governor and Legislature modify the maintenance of effort definition to include mandatory costs (collective bargaining, energy and other inflationary costs), the SUNY hospitals and enrollment growth – none of which are part of the current inadequate definition. We cannot expect our public universities to provide the quality education that our students deserve on the same level of state funding year after year. It is wrong to charge students more tuition every year only to have it go towards paying day-to-day operational costs that the state, at a minimum, should be paying. This situation is occurring while enrollments are rising; class offerings are

being diminished; class sizes are ballooning; student advisement is hard to come by; and full-time faculty are scarce. We must keep the promise made to our students that yearly tuition increases would go to enhance the quality of their education. We urge you to address this extremely important issue now.

Community Colleges – Increase Base Aid by \$250 per FTE Student

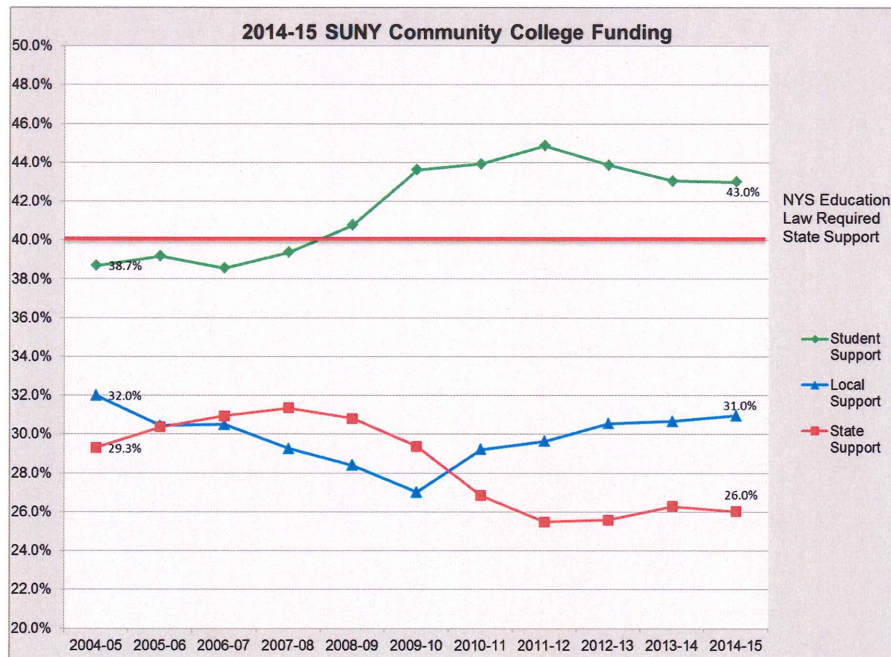
With respect to our community colleges, I want to first thank the members of the Legislature for all your efforts in supporting these campuses. I thank you for the state base aid increases you have provided to community colleges over the last few years. You obviously know how important these campuses are to our state's public higher education systems. Our members are upset and rightfully so, at the governor's insensitive comments he made about community colleges during his State of the State/budget presentation. The governor ignored the great work our members do every day in educating their students in community colleges across this state. Our members provide their students with a great education, notwithstanding the fact that their campuses are underfunded by the state. The governor claims that these campuses are not preparing students for the workforce. We disagree. Since their inception, our community colleges have provided a high-quality education that has prepared our students for entering the workforce. Community colleges have been working with local businesses and industry for decades to tailor courses and skills to industry needs. Every year, thousands of students graduate from a community college and go directly into the workforce. These campuses have historically played an instrumental role in providing local industry with a highly skilled and trained workforce.

Over one million degrees have been awarded from community colleges in this state. Students graduating from these campuses leave with a well-rounded education that enables them to think critically and analytically. They are equipped to enter the workforce or to continue their education at a four-year college or university.

The governor also believes that the tuition at community colleges is too expensive. We agree.

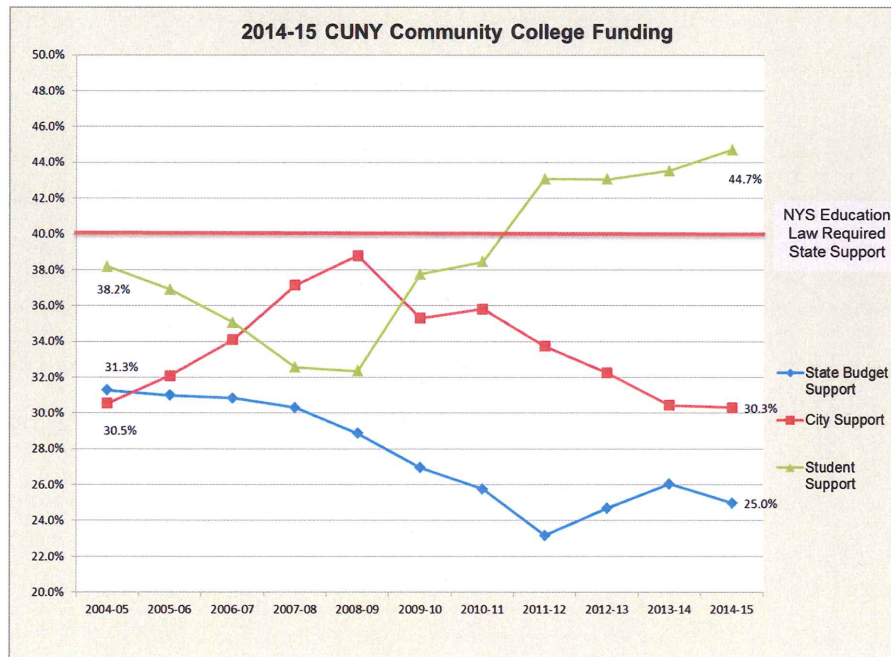
The reason why tuition has steadily increased over the years is because the state has not paid its fair share in funding these campuses. Yet, the governor proposes flat funding again this year. State education law stipulates that the state shall pay 40 percent of the operating costs of these campuses, however, the state is far from this 40 percent mark. In fact, notwithstanding the provisions of the education law, the state has never achieved a 40 percent share.

As the charts below illustrate, both SUNY and CUNY community college students are paying the lion's share of operating costs of these campuses. In fact, over the ten-year period from 2004-05 to 2014-15, SUNY community college students went from paying 38.7 percent of the operating costs to 43 percent. At the same time, the state's contribution for these costs went from 29.3 percent to 26 percent with the local sponsor's share remaining fairly constant at 32 percent and 31 percent, respectively.



When you look at CUNY's community colleges during the same time period, we see a similar story. The student share went up from 38.2 percent to 44.7 percent while the state share went

down from 31.3 percent to 25 percent. The local share has remained relatively constant going from 30.5 percent to 30.3 percent.



Notwithstanding your efforts in recent years, we are still far below 2008-09 state funding levels for these campuses. We ask that you reject the governor’s flat funding proposal. NYSUT supports SUNY’s and CUNY’s budget request of a \$250 per full-time equivalent (FTE) student base aid increase. This allocation would bring community college funding \$72 per FTE student above the funding level of 2008-09, the start of the recession. There are state resources available and we urge you to provide this funding.

Performance-Based Funding

We also ask that you reject the governor’s performance-based funding scheme that tries to obviate the fact that public higher education is grossly underfunded. The governor has proposed to withhold 10 percent of all SUNY and CUNY state campus allocations – including community college campus allocations, if such campuses do not submit and obtain approval of a performance improvement plan by December 31, 2015. This plan would serve as the basis for future performance funding allocations. Each plan must include the following:

- criteria to improve access, completion, academic and post-graduation success, research, and community engagement;
- experiential learning as a graduation requirement;
- a master researcher program in partnership with the university's research foundation to pay bonuses to successful professors who generate the greatest research and development and commercialization opportunities; and
- financial incentives for campus presidents who demonstrate commercial success through the StartUp NY program.

First, we strongly believe it is wrong for the state to threaten to withhold funds from campuses when the state is not adequately funding them to begin with. Second, we have major concerns with the criteria that must be met for the performance improvement plans. Requiring post-graduation success is an ambiguous and unfair standard. If a student doesn't get a job, through no fault of his or her own, the state will withhold funds? Moreover, experiential learning as a graduation requirement is not workable in all academic disciplines. If you are an English major, what guarantees or chances do you have for getting an internship or other experiential learning? As noted before, we strongly believe that state funding allocated to SUNY and CUNY should be used, first and foremost, to educate students in the classroom. Providing financial incentives for campus presidents for giving away campus space or land to businesses through the StartUpNY program is highly inappropriate.

Moreover, this proposal provides "seed" money for the program that is inadequate. SUNY Systems Administration is allocated an \$18 million increase. This amount is offset by the governor's proposed cut of \$7.6 million to SUNY administration, which leaves them with a total increase of \$10.4 million. CUNY is afforded a \$12 million increase to their administration budget. This increase is further eroded with the requirement that community regional councils be created and that SUNY and CUNY develop back office consolidation plans.

NYSUT strongly opposes the development of community college councils as outlined in the 2015-16 Executive Budget. These councils violate academic freedom by inappropriately dictating curriculum which has long been the purview of faculty. Our community colleges should not be turned into just short-term placement centers, they are educational institutions. Our

students should be afforded the full spectrum of educational disciplines and programs. In addition, consolidating SUNY and CUNY back office operations is not workable or advisable.

Performance-based funding is not a new idea and it will not address SUNY's and CUNY's funding problems. Other states have implemented performance-based measures with little if any success. In fact, results have shown that these policies are ineffective at best. At their worst, they have had negative effects on student performance. Fourteen states have already abandoned their programs and numerous studies have found no academic benefit has been provided to students.

This proposal should not be implemented. We urge you to do everything you can to stop it. It is nothing more than a smoke screen to dis-invest in our public higher education institutions. Dr. Kowal and Dr. Bowen will provide more information on this issue in their testimony.

Full-Time Faculty and Staff – The Excelsior Excellence Fund

Last year, we introduced the concept of creating a state endowment fund that would enable SUNY, CUNY and their community colleges to hire much needed additional full-time faculty and staff. While this is certainly not a new idea, it is an important one that we believe has a great deal of merit. NYSUT and our higher education affiliates believe strongly that the creation of this fund is crucial in preserving and enhancing the quality of education that our students receive. The inadequate level of state funding and the overreliance on tuition to fund our public higher education institutions over the last three decades has had a dramatic impact on our full-time faculty to part-time faculty ratios. While we have made modest gains in recent years the overall declining cadre of full-time tenure track faculty is concerning to us and should be to everyone in this room.

The percentage of full-time faculty at SUNY's state-operated campuses (2014-15) is only 57 percent while 43 percent are part-time. For CUNY senior colleges, the percentage of full-time faculty is 42 while the percentage of part-time faculty is 58. At our community colleges, the percentages are alarming. The percentage of full-time faculty at SUNY community colleges is 28 percent while the part-time percentage is 72 percent. At CUNY community colleges, the percentage of full-time faculty is 41 while the percentage of part-time faculty is 59.

The simple truth is that the percentage of full-time faculty employed at a college or university is in direct correlation with the level of academic quality that the college or university provides to its students. We have great faculty, both full-time and part-time, at our public higher education institutions. The fact of the matter is we have also lost a lot of great faculty to other universities across this country. If our state is going to be competitive economically, it is imperative that we re-build our academic departments at both SUNY and CUNY. If we are serious about revitalizing regional economies across the state, we need to invest in intellectual capital. In the new economy, innovative and high-tech businesses are locating around colleges and universities that employ the best and brightest faculty. Moreover, attracting and retaining the best and brightest scholars entails competing not only against other colleges and universities across the country, but against higher education institutions across the world. We have had some good success in the area of nanotechnology where the state has made a huge investment. We are not, however, currently in a good position to compete for the best faculty in other disciplines due to the lack of state resources.

The fact is annual tuition increases are not an adequate source of revenue to enhance full-time faculty and professional staff lines. An endowment provides long-term financial stability in providing the annual resources needed to enhance our academic departments. It's time we took a proactive approach to preserving and enhancing quality in SUNY and CUNY. Other state university systems have significant endowments which puts them at a distinct advantage over our state.

We have a unique opportunity to make this a reality this year. Our state recently received a \$5.4 billion windfall as part of a national court settlement with the banking industry. This is one-time, non-recurring state revenue. An endowment is an ideal investment for this type of revenue and is a smart investment for our state to make. We ask that \$250 million, which is a small portion of this windfall, be allocated to our proposed endowment that we are calling the Excelsior Excellence Fund. Assuming an 8 percent annual return on investment, the endowment would generate \$20 million in interest the first year. This would be a good starting point and this amount would grow over time.

Again, if we are serious about preserving and enhancing our intellectual capital, we can't afford to miss this opportunity. We urge you to create this endowment this year.

SUNY Hospitals

I would now like to talk about the SUNY hospitals. I want to thank the Legislature for again coming to the rescue last year and restoring the funding that was cut by the governor in his budget proposal. Unfortunately, the 2015-16 Executive Budget cuts the SUNY hospitals by \$19 million which is the restoration you made last year. This cut seems to ignore that the state has a responsibility to at least partially compensate the hospitals for their service to indigent populations and to help pay for the unique life-saving services they offer which are not typically provided in private hospitals. These include burn units, trauma care units and poison control. These hospitals also serve as a safety net for low-income communities, the uninsured and the underinsured. These patients rely on these hospitals for health care.

We ask that the state make a financial commitment to these hospitals to ensure their survival. To that end, we are requesting that you provide \$59 million in additional funding to these hospitals in this year's budget. This will restore their funding level back to the 2010-11 SFY level of \$128 million. We cannot expect these hospitals to continue to operate and provide services to the indigent on their current level of funding. Our members working in these hospitals dedicate their lives to serving others in need. It is wrong for the state to use these public hospitals as pawns to draw down federal Medicaid funding and then cut them to the bone.

We are also very concerned that the 2015-16 Executive Budget again advances Article VII language to provide for a pilot program to assist in restructuring health care delivery systems by authorizing for profit capital investment in health care facilities. This legislation allows for the establishment of up to five business corporations, one of which must affiliate with an academic medical institution or teaching hospital (this could be a SUNY hospital). It also authorizes these corporations to own and operate hospitals, as well as other health care facilities.

NYSUT strongly opposes this proposal which if enacted, could set the stage for the closure, or at the very least, the privatization of our SUNY hospitals. This cannot be allowed to happen.

Moreover, we know from the experiences of neighboring states that for-profit ownership and operation of hospitals has not worked. Massachusetts is the site of the largest experiment in private equity backing to acquire non-profit hospitals. Beginning in 2010, the “Steward” Hospital Corporation (backed by politically active private equity fund Cerberus) acquired the six hospitals of Caritas Christi, previously owned by the Archdiocese of Boston, and four other not-for-profit hospitals, for a total “chain” of ten acute care hospitals and one longer-term facility.

Since 2010, transparency on Steward’s activities has been limited at best. Thanks in large part to an investigation by the Massachusetts Nurses Association (www.mnastewardproject.org) we know that Steward has placed a considerable amount of debt on the books of its hospitals in order to make payments to its investors. It reduced staff considerably in its hospitals and has had continued conflicts with labor. Moreover, while it controlled 14 percent of the acute inpatient general care hospital beds in the Commonwealth of Massachusetts, it was responsible for 29 percent of the complaints to Medicare and to the state agency responsible for investigating such complaints. In addition to the deterioration of staffing and the prevalence of complaints, the Steward hospitals also experienced poor financial performance, worse than they had experienced prior to their acquisition and conversion.

In fact, things got even worse in 2014 when Steward closed Quincy Medical Center without explanation, despite promising to keep it open and to make investments in the medical center. Quincy had operated for 124 years. The following promises were made by Steward with respect to Quincy Medical Center and none of which were kept:

- maintain an acute care hospital for ten years;
- pay \$35 - \$38 million toward Quincy Medical Center’s outstanding debt; and
- provide \$44 - \$54 million in facility upgrades.

In New Jersey, the experience has not been any better as the state has been stuck with debt from converted hospitals by new for-profit owners who have voided long-standing managed care contracts. This has rendered patients instantly “out-of-network” with their local hospital. In addition, patient care has experienced increased problems that have not been addressed.

In Connecticut, Tenet, the for-profit hospital chain from Texas, abandoned its plan to buy five hospitals in a joint-venture when they learned that they would be required to provide for the continuation of existing hospital services, charity care and typical responsibilities of non-profit hospitals. This exemplifies that for-profit companies will always put their bottom lines before providing quality health care treatment for the patients that they serve.

That is precisely why New York state has always maintained a system of public and non-profit hospitals. For-profit hospitals are wrong for patients, wrong for health care workers and wrong for New York. We urge you to reject this bad proposal again this year.

I want to now turn to the ongoing problems we are experiencing with SUNY Downstate Medical Center. We all know the value of this institution so I'm not going to reiterate it here today. I want to thank you for your heroic efforts over the last two years in supporting this great hospital. Without your efforts, there is no doubt that it would have closed.

This year, the executive budget provides \$700 million in new capital funding to stabilize the health care delivery system in Kings County. The funds may be used for renovating or replacing inefficient or outdated facilities as part of a merger, consolidation, acquisition or other significant corporate restructuring activity intended to create a financially sustainable system of care that promotes a patient-centered model of health care delivery aimed at improving the overall health and well-being of a community.

It has been widely reported that there are plans to use this \$700 million to build a new hospital in Brooklyn. We believe that to use this money for this purpose would very likely have serious negative consequences for SUNY Downstate and other Brooklyn hospitals. We believe that establishing up to 14 new ambulatory care centers across Brooklyn would be a much better use of this funding. The residents of Brooklyn do not need another hospital. What they do need is access to primary care that these centers would provide. They would, "create a financially sustainable system of care that promotes a patient-centered model of health care delivery aimed at improving the overall health and well-being of the Brooklyn community."

We urge you to enact our *Brooklyn Safety Net Hospital Plan* which lays out this concept we introduced last year and have developed with UUP and other unions to address the hospital crisis in Brooklyn. We believe that this plan is the only one that is a win-win for all the hospitals in Brooklyn.

NYSUT is also very concerned about how this \$700 million is to be awarded. According to the appropriation language, "Funding will be awarded in the discretion of the commissioner of health, without a competitive bid or request for proposal process ..." This language constitutes a total overreach by the governor and is completely inappropriate. If enacted, the commissioner of health will be authorized to dole out \$700 million to whomever he pleases without any standards or transparency. This appropriation authority is contrary to how the state is supposed to award public dollars and ignores the ethical discussions that are currently taking place within the halls of the New York state Capitol.

Unfortunately, we realize that there is little that you can do as you are constrained by a recent court case which prohibits you from changing the language of an executive budget appropriation. Notwithstanding this reality, we urge you to reject the enactment of this appropriation in its current form.

Assault on Teacher Preparation Programs

The governor has advanced legislation, as part of his education reform agenda, which would provide new penalties for teacher preparation programs. The proposal would deregister any teacher preparation programs where 50 percent of the students have failed a teacher certification program for three consecutive years. This proposal, coupled with new State Education Department (SED) requirements for teacher prep programs, would set SUNY/CUNY programs and their students up for failure.

SED has completely botched the implementation of these new certification requirements (this is analogous to their handling of the Common Core) and refuses to address serious content problems. In addition, these penalties may be unfairly assessed based on SED's inaccurate test results data. NYSUT urges you to reject this unfair proposal. My colleagues will provide more details about this issue momentarily.

Student Financial Aid and Opportunity Programs

NYSUT urges the Legislature to continue to invest in student opportunity programs that provide greater student access and remediation for students in need. We urge you to restore the funding cut to student opportunity programs in the 2015-16 Executive Budget.

We also support updating the 40-year old Tuition Assistance Program. This wonderful program has afforded so many students the ability to obtain a higher education in this state but it needs to be updated. Too many students are now excluded from or underserved by the current program. A great way to start reforming this program is to enact the NY Dream Act, which is part of the executive budget. This proposal stands on its own merit and should be linked to a tax giveaway scheme for the wealthy which is nothing more than a back door voucher plan for private schools.

Conclusion

In conclusion, as I have already articulated, we ask that you provide long overdue increased funding to our campuses and hospitals. It is also extremely important to us that you address the definition of the state's maintenance of effort to SUNY and CUNY four-year campuses and that you enact the endowment fund. Finally, we strongly urge you to reject the governor's performance-based funding scheme.

Of course, the final level of funding for public higher education in this year's enacted budget all depends upon the higher education table target. In recent years it has been low, which has not afforded you the opportunity to fund SUNY and CUNY at the level that these institutions and their students deserve. This year presents you with a real opportunity to change the funding situation of these campuses. NYSUT urges you to set a high table target that will enable you to make a real and meaningful investment in public higher education.

Again, thank you for the opportunity to testify today. I will now turn it over to Dr. Kowal who will be followed by Dr. Bowen.