

NEW YORK STATE  
A S S E M B L Y

SHELDON SILVER, SPEAKER



committee on  
Education  
Catherine Nolan, Chairperson



Annual  
Report 2010

December 15, 2010

The Honorable Sheldon Silver, Speaker  
New York State Assembly  
State Capitol, Room 349  
Albany, New York 11248

Dear Speaker Silver:

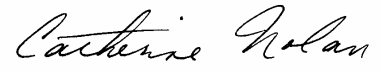
I am pleased to present you with my fifth annual report as Chair of the Assembly Standing Committee on Education. It is an honor to serve as the Chair of this Committee and assist our majority in making education our number one priority. The 2010 Legislative Session was very productive and significant for education, with the passage of landmark legislation about teacher and principal evaluations, school accountability for academic achievement and fiscal management and the “Dignity for All Students Act” to prevent harassment and discrimination in schools.

The Committee this year reported several pieces of legislation to improve our State’s large and diverse educational system. Among the highlights of our work were three bills which supported New York’s successful application for “Race to the Top” federal funding. A.11171 creates a comprehensive evaluation system for teachers and principals. A.11309 provides financial support for a state longitudinal data system to measure long-term student achievement. A.11310 increases the number of charter schools and set up a new request for proposal process to establish the new schools. In addition, A.11310 makes it clear that the state comptroller has the authority to audit charter schools, enhances disclosure and reporting requirements and requires an open and transparent enrollment lottery system. These bills are now law.

The Committee held two public hearings – one about GEDs and another about the governance of Rochester City schools. At the GED hearing, experts testified before committee members about ways to improve the pass rate which is now only 60% statewide. At the hearing about the governance of Rochester City schools, the mayor, school administrators, teachers, parents and concerned citizens testified about a proposal to give the city mayor authority to manage the school district.

On behalf of committee members, I thank you for your continued support and leadership and look forward to 2011. Also, I would like to thank the members of the Committee for their hard work and dedicated support for public education. I look forward to continuing our very important work for education next year.

Sincerely,

A handwritten signature in black ink that reads "Catherine Nolan". The script is fluid and cursive, with the first letters of each name being capitalized and prominent.

Catherine Nolan  
Chair  
Committee on Education

**2010 ANNUAL REPORT  
NEW YORK STATE ASSEMBLY  
STANDING COMMITTEE ON EDUCATION**

**Catherine Nolan, Chair**

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## I. INTRODUCTION

The New York State Constitution states that, “[t]he Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated” (Article 11, Section 1). This constitutional provision establishes the foundation for the areas of responsibility of the Assembly’s Standing Committee on Education.

The Committee is responsible for overseeing educational policies and programs affecting prekindergarten, elementary and secondary education for more than 3 million children attending both public and non-public schools. Within New York State, there are nearly 700 school districts, including the nation’s largest, the New York City School District, which enrolls over 1 million students. In addition, 37 Boards of Cooperative Educational Services (BOCES) provide occupational education, shared services, special education, and academic programs on a regional basis. The Committee also participates in the process for selecting persons to serve on the New York State Board of Regents.

The Committee works diligently to ensure that the public schools of this large and diverse State provide the range of opportunities that all students need to fulfill their potential. The Committee supports equitable funding and strengthening the quality of public education in the State.

During the 2010 Session, 655 bills were referred to the Education Committee. The Education Committee has broad jurisdiction reaching to all aspects of public education. This report provides a detailed examination of the Committee’s budgetary and legislative achievements in 2010.

## II. COMMITTEE ACTIVITIES AND ACHIEVEMENTS

### A. STATE BUDGET HIGHLIGHTS

The 2010-11 State Budget includes a \$479.2 million decrease in General Support for Public Schools from the 2009-10 budget for a total of \$21.2 billion in overall support. The decrease in funding was primarily implemented through a \$1.4 billion Gap Elimination Adjustment (GEA). The GEA was partially offset by an additional \$607.59 million in federal Education Jobs Fund money that was enacted in August. The Legislature passed a budget which would have reduced the Executive's proposed Gap Elimination Adjustment by \$600 million, but that restoration was vetoed by the Governor. In addition, the Governor imposed reductions to other education-related programs, such as public libraries, where funding was reduced by \$2.4 million from 2009-10 levels. The budget did not include the Executive's proposed change in the reimbursement to school districts for summer school special education programs or the proposal to shift the growth of preschool special education program costs to school districts.

The following summary provides a brief description of the State Budget:

#### *Foundation Aid*

The Foundation Aid formula was established in the 2007-08 school year and acts as a mechanism to ensure adequate educational resources to schools pursuant to the New York State Court of Appeal's *Campaign for Fiscal Equity* decision. The formula is based on the average cost of educating students, and is adjusted for regional cost differences, poverty levels, pupils with limited English proficiency and special education needs. In addition, the formula is based on enrollment rather than attendance.

For the 2007-08 and 2008-09 school years, Foundation Aid generated record school aid increases. The recent economic situation has resulted in a delay in full implementation of the formula. For 2010-11, the Foundation Aid formula was maintained at 2008-09 levels.

#### *Early Childhood Education*

The State Budget for the 2010-11 school year continued the Universal Prekindergarten program and maintained funding at \$378 million. This program continues to be a high priority of the Assembly Majority. The state's program provides high-quality prekindergarten education to 4-year old children and for more than a decade this program has played a role in helping students meet higher educational standards and close achievement gaps at earlier grade levels.

Full-Day Kindergarten was funded at 1.37 million, which is the present law level.

#### *Teacher Programs*

Funding for the Teachers for Tomorrow program was maintained at the previous year's level of \$25 million. This program was established to assist school districts in the

recruitment, retention and certification necessary to increase the supply of qualified teachers in school districts with teacher shortages and with schools under registration review. The program offers a variety of incentives to encourage prospective teachers to work in high need areas across the state.

### ***Special Education***

High Cost Excess Cost Aid and Private Excess Cost Aid were funded at present law levels of \$490.8 million and \$330.9 million, respectively, for the 2010-11 school year. Supplemental Public Excess Cost Aid was continued at \$4.3 million for the 2010-11 school year. These State aid categories provide additional aid for students with disabilities in high-cost programs.

### ***BOCES Aid***

BOCES Aid provides aid which reimburses districts that participate in BOCES shared educational programs and services. The budget funded this aid category at its present law level of \$735 million.

### ***Building Aid***

The budget provided for present law level of funding for Building Aid and Building Reorganization Aid at approximately \$2.4 billion for the 2010-11 school year, which is an increase of \$210 million over the 2009-10 school year.

### ***Other Expense-Based Aids***

The budget provided funding for expense driven aids at the following levels for the 2010-11 school year:

- Special Services Aid: Funded at \$200 million, which is a decrease of \$6.1 million from the 2009-10 school year.
- Transportation Aid: Funded at its present law level of \$1.6 billion, which is an increase of \$104 million over the 2009-10 school year.

### ***Instructional Materials Aid***

The Executive's proposal provided present law funding levels for instructional materials aids for the 2010-11 school year:

- Textbook Aid: Funded at \$182.6 million.
- Computer Hardware Aid: Funded at \$37.8 million.
- Library Materials Aid: Funded at \$19.47 million.
- Software Aid: Funded at \$46.12 million.



### ***High Tax Aid***

High Tax Aid was funded at \$204 million, which is at the same level as the previous year.

### ***Nonpublic School Aid***

Nonpublic School Aid was reduced to \$109 million, which constituted a \$1.5 million reduction.

### ***Charter School Transition Aid***

Charter School Transition Aid directs funding to the 16 school districts most impacted by charter school concentration based on either the district's charter school enrollment or the district's tuition payments to charter schools.

Charter School Transition Aid was funded at \$23.8 million for the 2010-11 school year, which constitutes an increase of \$5.1 million over the previous year's funding levels.

### ***Charter School Tuition***

Since Foundation Aid was held flat for the 2009-10 school year, the Legislature accepted the Executive's proposal to freeze the per pupil tuition paid by school districts to charter schools in the 2010-11 school year to the 2008-09 school year rates. The Governor's veto of the Article VII bill prevented this measure from becoming law.

### ***Mandate Relief***

In addition to rejecting multiple special education cost shifts to school districts, the Assembly considered legislation (A.11566, Nolan; Chapter 378 of 2010) during the context of state budget negotiations which authorized the commissioner of education to receive and accept any information required to be reported to the State Education Department (SED) through electronic means to ensure that important information, data and statistics may be more efficiently submitted and compiled. The commissioner was also directed to review all existing reports and plans required of school districts and BOCES and issue specific recommendations to eliminate or consolidate unnecessary or duplicative reporting requirements for school districts and BOCES. The legislation also eliminated and made modifications to certain reports currently required of school districts and BOCES.

In addition, the commissioner was also authorized to conduct pilot projects to estimate and analyze the extent to which school districts, BOCES, and other municipal entities could achieve savings through the formation of regional transportation systems.

## **B. SCHOOL DISTRICT BUDGETS & OPERATIONS**

**A.10507A, Nolan; Chapter 359 of 2010** This chapter addressed issues that arose due to the federal Help America Vote Act of 2002 and the state's subsequent Election Reform and Modernization Act of 2005 which resulted in the impending replacement of lever voting machines with new voting machines that have the capacity to produce a permanent paper record with a manual audit capacity. The lever voting machines currently in use in New York do not produce such a record, and as such school districts would no longer be able to use these machines for school district elections or budget votes without explicit authority to do so. This measure provided school districts with the authority to continue using lever voting machines through December 2012.

**A.1355A, Englebright** This bill would require the Commissioner of General Services, in consultation with the Commissioners of Education, Health, and Labor, to establish guidelines and specifications for the procurement of environmentally preferred products and services for use in school buildings. This bill passed the Assembly and died in the Senate Committee on Education.

## **C. HEALTH SERVICES & NUTRITION**

**A.7161A, Robinson** This legislation would direct the Commissioner of education, in consultation with the Department of Health and the Office of Children and Family Services, to develop youth suicide prevention programs for use by classroom teachers, teaching assistants, pupil personnel services professionals, and school administrators or supervisors of public schools in the state. This bill passed the Assembly and died in the Senate Rules Committee.

**A.8385A, Sweeney** This bill would require school districts to establish and implement guidelines before students diagnosed with a concussion would be allowed to return to athletic competition, gym class, or school sponsored recreational activity. The guidelines must include at a minimum a doctor's written clearance. This bill passed the Assembly and died in the Senate Rules Committee.

## **D. SCHOOL GOVERNANCE**

**A.11404, Gantt** This bill would provide the mayor of Rochester with greater control over the management of the Rochester City School District. A new board of education, which would be known as the education commission, would be appointed and assume office on July 1, 2011. The education commission would consist of 9 members, 5 of which would be appointed by the mayor and 4 appointed by the Rochester common council. The education commission would be a policy board and hold no administrative or executive functions. The superintendent of the school district would serve at the pleasure of the mayor, subject to the initial confirmation by the common council, and would be the chief executive officer of the school district. In addition, a city-wide council on special education, a city-wide council on English language learners, and community schools

advisory councils would be established to provide for greater parental participation and input on issues of concern regarding the provision of educational services.

To provide transparency and accountability, new internal audit control measures would be enacted which would require strict accounting of claims by the claims auditor before claims could be paid out. Also, an independent education budget office would be created, which would be authorized to provide information and issue reports regarding educational policy and budget matters affecting the city. This bill passed the Assembly and died in the Senate.

## **E. SCHOOL BUSES/PUPIL TRANSPORTATION**

**A.11067, Maisel; Chapter 201 of 2010** This chapter extends existing provisions in law for three years that authorize school districts and pupil transportation providers to amend their transportation contracts. These contracts are sometimes in need of amendment to comply with changes in federal, state or local laws or to enhance student safety.

## **F. CURRICULUM & SCHOOL TECHNOLOGY**

**A.11064, Benedetto; Chapter 200 of 2010** This chapter extends for three years the ability of political subdivisions of the state to donate surplus computer equipment to schools, libraries, other public and private institutions for secular educational use, and to not-for-profit institutions for use by individuals with disabilities. This program was originally established in 1998 and has been extended previously.

**A.7883B, Maisel; Veto Memo #6794** This bill would have authorized school districts to expend textbook aid on curriculum and instruction resources, which would be defined as inquiry-centered curriculum and instructional materials, supplies, manipulatives, or other resources which are aligned with state standards, used by students and teachers to support and enhance teaching and learning. The bill would also have made these resources eligible for state aid and subject to the same loan requirements as textbooks.

## **G. EDUCATIONAL FACILITIES**

**A.1865A, Nolan** This legislation would require the New York City School Construction Authority (SCA) to file a copy of the site plan prior to leasing any building or property to be used as an educational facility, provide public notice regarding the proposed site plan for the leased space, and require the community education council of the affected community school district and the affected community board to hold a hearing on such proposal. This bill passed the Assembly and died in the Senate Committee on Rules.

**7603A, Nolan; Veto Memo #6831** This legislation would have directed the chancellor of the New York City school district to compile an inventory of, and issue a report regarding, outdoor playground space in the New York City School District by December 31, 2011.

The report would have:

- Identified each outdoor playground located at educational facilities by the community school district in which the outdoor playground is located, its address, size and physical condition;
- Identified which outdoor playgrounds are used for physical education, activity and/or recreation, how often they are used, and any limitations on its uses;
- Identified which outdoor playgrounds are not used for physical education, activity or recreation, and why they are not used;
- Described student use of the outdoor playground during school and after school activities;
- Described the capital plans for construction, placement, renovation and/or reconfiguration, and any plan to increase or decrease the availability and utilization of playground space; and
- Included any other facts, information and recommendations which the chancellor deems necessary to improve the outdoor playgrounds of the educational facilities of the city school district.

**A.10248B, Sweeney; Veto Memo #6825** This bill would have required all plumbing and electrical work performed on any school building or appurtenant facility valued at over \$10,000 to be completed or supervised by a licensed master plumber or licensed electrician if a license is required for such work by the local municipality where the building or facility is located. The bill would also have required that a copy of the license, where applicable, be provided with bid responses.

## **H. SCHOOL PERSONNEL**

**A.11171, Nolan; Chapter 103 of 2010** This legislation was part of the Race to the Top legislative package and established new and more rigorous annual professional performance reviews (APPRs) of classroom teachers and building principals. The new APPRs will begin for certain teachers and principals in grades 4-8 in the 2011-2012 school year and will then expand to include all teachers and principals in 2012-2013. The evaluations will generate a single composite effectiveness score based on multiple measures of effectiveness including student achievement, which will be a significant factor in employment decisions. The legislation also requires the development of improvement plans for any teacher or principal who receives a rating of “developing” or “ineffective,” and a locally established appeals procedure. In addition, an expedited disciplinary hearing process was created where charges of incompetence are brought before a single hearing officer and are based upon a pattern of ineffective teaching or performance, which may form the basis for just cause removal of a teacher or building principal.

Furthermore, boards of education, or the Chancellor of the New York City School District, are authorized to contract with educational partnership organizations for the purpose of turning around the persistently lowest-achieving schools or schools under registration

review. These contracts could only be entered into with the approval of the commissioner of education, for a term of up to five years.

## **I. CHARTER SCHOOLS**

**A.11310, Nolan; Chapter 101 of 2010** This legislation, as amended by A.11311 (Chapter 102 of 2010) and A.11319 (Chapter 221 of 2010), was part of the Assembly Race to the Top legislative package and established a new process to issue 260 newly authorized charters in a manner that ensures that growth in charter schools is targeted, planned, and geared toward high-performance standards. The board of regents and the board of trustees of the State University of New York were each authorized to annually develop a request for proposals for new charter schools. The legislation specified the number of charters that can be issued each year by each entity through 2013 and certain criteria for reviewing applications were prescribed. Furthermore, specific provisions were enacted to ensure that new charter schools meet new enrollment and retention targets of students with disabilities, English language learners, and students eligible for the free and reduced price lunch program. The New York City school district will also be required to comply with new procedures prior to the co-location of charter schools in public school buildings.

In addition changes to the management and operation of charter schools will apply to charters issued pursuant to the request for proposals process, such as a ban on for-profit corporations or entities from applying for, managing or operating any new charter schools, requiring State Education Department (SED) approval of plans and specifications, and compliance with SED facility health, sanitary, and safety requirements to the same extent as public schools.

Several new measures were also enacted to ensure greater accountability, transparency and public participation in charter school operations. Charter schools will be subject to existing statutory ethics provisions to the same extent as all public school districts and to audits of the state comptroller. Additionally, the charter school report card and annual report must be made more widely and publicly available. Also, the legislation mandated the establishment of uniform and transparent application and lottery processes for admission into charter schools.

### **III. PUBLIC HEARINGS**

#### **A. PUBLIC HEARING ON THE GENERAL EDUCATIONAL DEVELOPMENT (GED) TEST**

**May 19, 2010**

**10:00 AM**

**Albany, NY**

The Education Committee convened a hearing to review the administration of the General Educational Development (GED) Test in New York State. The Committee received testimony from State Education Department officials, School District officials and advocates regarding how the State can continue to provide this important educational alternative given expectations for a large increase in the number of people who want to take the GED and very serious financial constraints on the availability of resources to provide the test. Additionally, the Committee heard testimony regarding policy factors that contribute to the State's low GED pass rate and strategies for how to prepare more adults and students for success on the test, including test preparation both of test-takers and GED instructors, access to information about the GED and testing sites, and the use of practice tests.

## **B. PUBLIC HEARING ON GOVERNANCE OF THE ROCHESTER CITY SCHOOL DISTRICT**

**June 18, 2010**

**10:00 AM**

**Rochester, NY**

In response to concerns regarding low educational achievement and inadequate financial management policies in the Rochester City School District, the Assembly introduced legislation (A.11404/Gantt) to provide the Rochester Mayor and the city's superintendent with greater control over the management and educational policies of the school district. Additionally, the bill would create city-wide councils on special education and English language learners and community schools advisory councils, and impose new internal audit control requirements.

The Assembly Committee on Education convened a hearing to receive testimony from affected parties such as the Mayor of the City of Rochester, board of education members, teachers, parents, students, union representatives, elected officials, advocates, and members of the community at-large regarding the comprehensive reforms to the governance of the district contained in the bill. As a result of the hearing, the Committee advanced the legislation to provide transparency and accountability and create opportunities for greater parental participation within the Rochester City School District.

#### **IV. OUTLOOK 2011**

During the next legislative session, the Committee on Education will continue to enact legislation to advance the interests of students and ensure that they have the educational opportunities they deserve. The Committee will continue its commitment to providing special education students, English language learners, and at-risk students access to quality educational services.

The Committee will continue to advocate for the necessary resources to provide the students of this State with a sound basic education.



**V. SUMMARY SHEET**

	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
<b>BILLS REPORTED WITH OR WITHOUT AMENDMENT</b>			
TO FLOOR; NOT RETURNING TO COMMITTEE	7	0	7
TO WAYS AND MEANS	36	0	36
TO CODES	1	0	1
TO RULES	7	0	7
TO JUDICIARY	0	0	0
TOTAL	51	0	51
<b>BILLS HAVING COMMITTEE REFERENCE CHANGED</b>			
TO <u>Higher Education</u> COMMITTEE	3	0	3
TO <u>Libraries</u> COMMITTEE	1	0	1
TO COMMITTEE			
TOTAL	4	0	4
<b>SENATE BILLS SUBSTITUTED OR RECALLED</b>			
SUBSTITUTED		10	10
RECALLED		2	2
TOTAL		12	12
<b>BILLS DEFEATED IN COMMITTEE</b>			
BILLS HELD FOR CONSIDERATION WITH A ROLL CALL VOTE	113	0	113
BILLS NEVER REPORTED, HELD OVER IN COMMITTEE	438	31	469
BILLS HAVING ENACTING CLAUSES STRICKEN	6	0	6
MOTIONS TO DISCHARGE LOST	0	0	0
TOTAL BILLS IN COMMITTEE	612	43	655
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	13		