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**THE LEAGUE
OF WOMEN VOTERS**
of New York State

**TESTIMONY BEFORE
THE JOINT COMMITTEES ON EDUCATION AND FINANCE**

**SENATE FINANCE COMMITTEE
ASSEMBLY WAYS AND MEANS COMMITTEE
SENATE EDUCATION COMMITTEE
ASSEMBLY EDUCATION COMMITTEE**

**FEBRUARY 27, 2007
ALBANY, NEW YORK
LEGISLATIVE OFFICE BUILDING**

Good afternoon. My name is Betsey Swan. On behalf of the League of Women Voters of New York State (League), a nonpartisan political organization devoted to the active and informed participation of citizens in government, I would like to thank you for the opportunity to appear before this joint committee today.

I am the state League's Legislative Analyst and acting Off-Board Specialist in Education Finance. With me today is Marian Adams Bott, our Off-Board Specialist in Education Finance who has taken a leave of absence to spend a year in Paris. In my personal capacity I am a former member of the North Colonie Board of Education. North Colonie is a high resource/low need district that has repeatedly won the honor of being named the best district in the Capital Region. Its high school has been selected as one of ten in New York State and one of 75 in the country to participate in a five-year initiative sponsored by the Council of Chief State School Officers and the International Center for Leadership in Education, designed to identify, analyze, and disseminate the nations' most successful school-wide practices and policies for providing a rigorous and relevant curriculum to all students.

At the end of last year the League completed an eighteenth-month study of how the state finances education and the role of charter schools in our system of public education. Our comments today are guided by League positions formulated or updated as the result of this study, and we will focus on four areas:

- The governor’s proposal to reform education finance in New York State (NYS) and to implement the CFE order by adoption of a foundation approach to the funding of education;
- The proposed income tax credit for certain parents who pay private school tuition for their children;
- The need for provision of real property tax relief and the utility of the proposed expanded STAR program as a mechanism for the provision of such relief;
- The wisdom of increasing the cap on the number of charter schools without concomitant amendment to the Charter School Act necessary to more fully recognize its goal of providing children and their parents with choice as we move toward our goal of providing a first class public education for all our children.

EDUCATION FINANCE REFORM

WE STRONGLY SUPPORT the Governor’s proposal of a foundation system for the funding of education and laud his commitment to the education of all our children. Similarly, **WE STRONGLY SUPPORT** the Governor’s proposal to fund universal preschool, thereby embracing a program that both you as legislators and educators alike have recognized maximizes the chances of all children to succeed in school.

The League has long endorsed educational adequacy for all our children. We participated in the CFE litigation in an *amicus curiae* capacity and appeared before you last year to urge a legislative resolution of that litigation.

Today, we appear again and challenge you to put aside partisan differences by endorsing this proposed system of financing education that is:

- Rationally related to the cost of educating children;
- Affordable;
- Stable, with changes tied to cost of living increases;
- Designed to identify and implement best educational practices and efficiencies, to facilitate district identification of programmatic, organizational, legal, and personnel impediments to implementation, and to provide statewide oversight to assure effective implementation of meaningful education reform.

Classic Objections to Education Finance Reform and the League’s Response

We sometimes justify our failure to enact a rational and fair system for funding education by falling back on a series of old chestnuts. The first is that our system is one of local control, in which districts elect to provide a package of educational goods and services in accordance with the relative value they place on education. The second is the more pernicious if less often articulated belief that any attempt to adequately fund education for all students in NYS would be to throw good money after bad. The third is that any attempt to rationally and adequately fund education in NYS will require faltering upstate economies and districts to pay the cost of such funding, without receiving any benefit in return. The League believes none of these justifications has any basis in fact.

If the local control argument were valid, then one would expect a direct relationship between the rate of local school district taxation and *per capita* student expenditures, with high taxing and high expenditure districts being one and the same. In fact, a review of New York State Education Department (SED) statistics indicates the inverse relationship holds, with lower-spending districts taxing themselves at higher rates than their higher-spending counterparts.¹ This inverse relationship exists between the rate of taxation and funds raised to educate each student because the ability to provide an adequate education is determined by a district's property and income wealth rather than by the extent to which its citizens value education. Adoption of the proposed foundation formula would enhance rather than weaken local control by releasing poorer districts from the Hobbesian choice of higher taxes and inadequate education or lower taxes and even more inadequate education. Only with the additional funds that a foundation approach to education would provide could the local tax rates of poorer districts begin to assume a reasonable correlation to the value placed on education.

Some who would not increase education funding for poorer districts correctly assert that NYS already leads the nation in per capita education expenditures, with results, as measured by standardized tests and high school graduation rates below the national average. From this they argue that any attempt to provide supplemental state funding to under performing, under financed districts would be a waste of taxpayer dollars. Any argument that relies on average *per capita* expenditure misses the point because, in addition to having the largest per capita expenditure nationally, NYS also has the greatest variation in education expenditure between wealthy and poor districts of any state in the nation.² This disparity leads to the following funding differential between wealthy and poor districts within NYS:

¹ See The University of the State of New York, State Education Department, Fiscal Analysis and Research Unit, State Aid to Schools A Primer Pursuant to the Laws of 2006, (2006), p. 6 at www.oms.nysed.gov/faru/Primer/Primer06_07/Primer06-07A.pdf, attached hereto as Appendix A. For the 2003-2004 school year districts in lowest spending decile had a tax rate on average of \$13.99 per \$1,000 full value assessment and spent an average of \$6267 and a high of \$6554 per pupil to educate their students. Those in the tenth (wealthiest) decile taxed themselves at a rate of \$10.60 per \$1,000 full value assessment and spent an average of \$14,265 and a high of \$50,939 per pupil to educate their students. Those in the second (second poorest) decile taxed themselves at a rate of \$15.38 per \$1,000 full value assessment and spent an average of \$6816 and a high of \$6973 per pupil to educate their students, while those in the ninth (second wealthiest) decile taxed themselves at a rate of \$13.43 per \$1,000 full value assessment and spent an average of \$11,393 and a high of \$12,350 per pupil to educate their students. Thus, wealthier districts were able to raise more money to educate their students by taxing themselves at lower rates.

² See The Education Trust, *Funding Gaps 2006 (Funding Gaps)*, at www2.edtrust.org/NR/rdonlyres/CDEF9403-5A75-437E-93FF-EBF1174181FB/0/FundingGap2006.pdf.

In 2005, NYS was the third highest state in the nation in terms of per capita education spending (defined as state and local spending but excluding federal spending). In looking at educational effort, as represented by per student funding divided by per student taxable resources, New York is 6th in the nation, with a commitment to education 16% above the national average, compared to first ranked-Vermont's 31% above the national average. These figures, however, say nothing about how NYS allocates its education dollars. Looking at distribution of education resources, adjusted for variation in cost of living, between those districts in the top quartile of wealth (as measured by percentage of students living below the poverty line) and those district in the bottom quartile of wealth, NYS has the greatest disparity in spending between rich

- In the typical classroom of 25 students, there is a funding difference of \$47,975;
- In the typical elementary school of 400 students, there is a funding difference of \$927,600;
- In the typical high school of 1,500 students, there is a funding difference of \$3,478,500.

Thus, the cost of education in NYS is driven not by the spending of poor districts, but rather by that of wealthy districts, and the public policy choices we as a state have made in the education arena have preordained success for some students and failure for others.

Lastly, one must address the upstate/downstate argument, which is really a two-fold argument about who would benefit from a foundation approach to education and who would pay for the cost of implementation. Although the CFE order limits relief to New York City (NYC) schools, the Governor's foundation approach would provide relief to needy schools on a statewide basis. Relief would flow not just to urban schools, but also to rural districts that face increased costs as the result of population sparsity. The foundation formula makes allowances for the differing costs of educating children with special needs, a differential that the Court of Appeals held was incorporated in the constitutional mandate to provide an education. Lastly, the foundation approach recognizes that, in accordance with the cost of living index, it costs more to educate children in different parts of the state. A review of districts that would benefit from the foundation approach shows that all poor districts would benefit, whether upstate or downstate, urban or rural. The volume of increased funding that would flow to NYC is a function of both the sheer number of students it serves and the extent to which it was shortchanged over time by the shares system of funding education.

In answering the question of who will pay for implementation, the short-term answer is that implementation will occur through cost savings in other areas. No additional taxes will be required to fund implementation this year. We laud the Governor's attempts to make government more cost-effective and hope those efforts will continue. Additional monies may be recognized through the proposed creation of a casino at the Monticello Raceway. In the event that existing revenues are insufficient to fully fund increases to

and poor districts of any state in the nation. Nationally, the poorest districts receive on average \$825 per student less than the wealthiest districts. In NYS, the gap is \$2,319 per student, and the state is only one of four states that has a gap of over \$1,000 between poor and wealthy districts. If one assumes that it costs more to educate children from poor backgrounds and adjusts for this disparity, as the CFE order requires, Then the national disparity between the wealthiest and poorest quartiles of districts is \$1,307, with a disparity in NYS of \$2,927, the greatest in the nation on this measure.

The Education Trust also looked at whether education funding disadvantages children of color and found that it did. If one looks at the disparity between the quartile of districts with the highest percentage of students of color and the quartile with the lowest percentage of students of color, the average per student spending differential nationally is \$908, while the gap in NYS is \$2371, the second highest gap in the country. Adjusting for the higher cost of educating poorer students, the national differential in spending between high and low minority districts is \$1,213. The difference in NYS is \$2636 per student, the largest in the nation. Thus, the state's current system of funding education has the effect of discriminating against children of color and gives NYS the dubious distinction of leading the nation in terms of the extent of its discrimination.

poor districts, the League supports funding any shortfall by means of the personal income tax, implemented in a progressive manner. Any discussion of how additional funds are raised must occur in the context of the larger discussion of the appropriate state/local mix for funding governmental operations.³

Social Cost of Failing to Provide an Adequate Education of all our Children

Before concluding our discussion of this topic, we should ask why this matters. Aside from the obvious moral obligation to our children, and the legal obligation as legislators and public officers to uphold the state's constitution, there is a social cost of failing to provide quality universal public education for all our children, which, if ignored, will endanger the future civic and economic well-being of this state and our country.⁴

³ See discussion of STAR program below.

⁴ We are an aging population; and a decreasing number of workers will be populate the work force, making each future worker that more valuable. At the same time the demographics of the country are changing, with fertility rates highest among those groups who traditionally receive less education. Up to fifty percent of high school students in some urban districts do not graduate with their classes. It is anticipated that the United States will have a shortfall 7 million college educated workers by 2020.

Second, performance of United States students on international exams of educational achievement indicates that at the international level our education performance is mediocre at best. Nicholas Kristof in *Chinese Medicine for American Schools*, a column appearing recently in the *New York Times*, attributed Chinese educational success to an unfettered drive, time devoted to education, with Chinese children devoting twice as much time in school and out to education as do American children, and a national curriculum that enshrines higher educational expectations by requiring advanced biology and calculus of all high school students. His third grade daughter accompanied him on a trip to China, and it was noted that her third grade work in the U.S. was the equivalent of first grade work in China.

In an international study, 44% of eighth graders in Singapore scored at the highest level in math; in Taiwan, 38% scored at the highest level; in the United States, 7% scored at the highest level. Another international assessment showed American 15 year-olds are below the international average in applying math skills to real-life situations. Shirley Ann Jackson, the first African American woman to receive a PhD in physics from MIT and current president of Rensselaer Polytechnic Institute articulates the problem as the perfect storm, in which demographic, political, economic, and social forces will converge over time to arrest America's scientific and technological progress. There is a growing numbers gap, ambition gap, and education gap that, if not eliminated, will deprive America of its scientific and technological edge within the next 15 – 20 years. The numbers gap exists because American scientists are not being replaced as they age out of the workforce. A 2003 General Accounting Office report on hiring at NASA indicated it was having trouble hiring scientists because the sensitivity of the work required many high-level scientists to be American citizens. Two-thirds of the country's math and science teaching force will retire by 2010. The 2004 *National Science Board Science and Engineering Indicators* found the United States ranked 17th internationally in the number of 18-24 year-olds who received science or engineering degrees, while it was third thirty years ago. Science and engineering account for 60% of bachelor's degrees in China, 33% in South Korea, 41% in Taiwan, and 31% in the United States. This shortfall takes approximately fourteen years to reduce because children headed for scientific careers must begin to take the necessary math and science courses in middle school. Federal funding for research in physical and mathematical sciences as a percentage of gross domestic product declined by 37% between 1970 and 2004.

As Tom Friedman documented in *The World is Flat*, the United States has been able to maintain its technological advantage by attracting the best and the brightest math and science graduate students from around the world and persuading them to stay in the United States, where they comprise a large portion of

EDUCATION TAX CREDITS FOR PUBLIC OR PRIVATE SCHOOL TUITION

WE STRONGLY OPPOSE the proposed education tax credit. Although it does provide a credit for public school tuition, is largely designed to fund secular and religious private school tuition. The League opposes any further funding of private education with public funds. Aside from our philosophical objection, we believe such a departure from current State policy is best discussed in the light of day, rather than being buried in the budget process.

REAL PROPERTY TAX RELIEF

WE SUPPORT the Governor's attempt to address the imbalance between the state and local share of education funding but believe that the STAR program is an imperfect vehicle with which to provide redress.

The need for real property tax relief, which resulted in the 1977 enactment of STAR, developed over a 25-30 year period, as the result, in part, of a fundamental shift in the relative percentage of governmental operations funded at the state and local levels. In the 1970s NYS had a progressive income tax that functioned as a double-edged sword, allowing the state to fund a rich array of services but also leaving it with one of the highest rates of personal income taxation in the nation. Over the past three decades the rate of income taxation has been lowered, primarily by flattening the tax brackets and failing to index the brackets for inflation. The confluence of these two factors altered the personal income tax from one that was highly progressive, with those who were able to

our math and science elite. Last year China graduated 600,000 engineers, India graduated 350,000, and the United States graduated 75,000. With the flattening of the world, educated scientists, who previously immigrated to the United States for employment, can now find equally attractive employment opportunities at home. China is currently establishing research centers at its universities so that it soon no longer will be necessary to send scientists abroad for the best educational opportunities. Friedman has suggested that, just as Sputnik launched a space age for the United States, with the emphasis on education for all necessary to support it, the United States could again reinvigorate its education system and economy with a push for alternative energy and the search for solutions to global warming.

Although the number of scientists and engineers may seem far removed from the finance of education, it is only one manifestation of a much larger problem - our society's failure to adequately fund education for all its children. A study published this fall by the National Center for Public Policy and Higher Education found the United States is falling relative to other countries in the percentage of its population finishing college. While currently the U.S. is first in the world in percentage of 35-64 year-olds with college degrees, it ranks seventh among developed nations in the percentage of 25-34 year-olds with college degrees. It ranks in the lower half of developed nations for college completion. The report attributes this decline to both the increased expense of post-secondary education and lack of preparedness for college. In New York State, the likelihood of a ninth grader enrolling in college four years later has dropped to 37%, 3% below the national average and down from 45% in the early 1990s. New York has suffered one of the steepest declines in the nation in the percentage of students graduating with their class and enrolling in college. The Center attributed this decline to falling high school graduation rates within the state.

pay more doing so, to its current permutation of being only marginally more progressive than a flat tax. The net benefit of these changes has inured primarily to the top 2% of NYS taxpayers.

Concurrent with the lowering of the New York State personal income tax has been a shift of responsibility for financing governmental operations from the state to localities – counties, cities, towns, and school districts. With the shift of responsibility, has come a shift in the way funds are raised to finance governmental operations, with movement away from personal income tax to taxation of real property. Although historically the sum spent on housing has been a fair measure of wealth, making real property taxation a reasonable surrogate for the personal income tax⁵, over the past 15 years this correlation has eroded. Demographic pressures downstate, coupled with negative corrections of the stock market, have led to rampant inflation in the housing market. Long term home owners who purchased real estate with certain assumptions, including the assumption that real property taxes would represent a discrete portion of income and overall housing costs, find, as their properties are revalued, that this assumption no longer holds sway. At the same time entry into the home ownership market in metropolitan NYC requires an ever increasing percentage of income to carry a mortgage, limiting both the positive correlation between property wealth and overall wealth and the ability of many homeowners to pay additional property taxes.

The shift from state to local funding of governmental operations has progressed to the point where there has been a flip in the relative importance of income and real property taxes. The rate of New York State PIT is currently below the national average, while the rate of real property taxation vies for being the highest in the country. At the same time distribution of relative tax burden, measured as percentage of income, has changed, so that what was a progressive tax system has become regressive, with a larger relative burden shouldered by those least able to pay. Coupled with the less than perfect correlation between the amount of real property tax owed and homeowner ability to pay, the taxpayer revolt is no surprise.

Against this backdrop, enter the STAR program, an attempt to address the imbalance between state and local funding of governmental operations that is as programmatically ill- advised as it is politically popular.

STAR is routinely criticized by pundits of the right and left. During the course of the League's financing education study, both E.J. McMahon of the Manhattan Institute and Frank Mauro of the Fiscal Policy Institute argued for its abolition.

As the League testified before you last year, we believe the basic STAR program to be fundamentally flawed. The reasons for our objections were as follows:

⁵ In addition to standing as a reasonable proxy for income, real property taxation has the dual benefit of taxing individuals whose income might otherwise be exempt from taxation. Tax avoidance is virtually impossible in the case of real property tax, while it has been characterized as rampant with respect to income tax. Real property tax has the further advantage of stability as a revenue source, being less subject to the vagaries of economic cycles

- STAR has provided relief regardless of need. In that respect it has played its part in the shift to a more regressive tax system;
- By affecting the bottom line in school tax bills, star has lead to inefficiencies in education and inflation in education spending, as has been documented by Duncombe and Yinger of the Maxwell School;⁶
- With the exception of New York City, which funds governmental services in part through a personal income tax, STAR is a tax relief program for homeowners, withholding relief from renters, who tend to be the state's poorest citizens. To the extent that that tax increases are passed on to tenants as a cost of doing business, an increase in taxes results in an increase in rent. Thus, while the state's poorest citizens increasingly are asked to pay a greater percentage of their incomes for rent, they have been totally excluded from the movement to provide necessary relief;
- The STAR program has a bias against business. Because the tax relief provided by STAR is unavailable to businesses, any attempt to redress the imbalance between state and local taxation through STAR does not inure to their benefit of businesses, leaving that basic imbalance in place, and having the potential to create a hardship for small, economically vulnerable start-up business. For the upstate economy, which may fairly be characterized as one of the most breathtakingly moribund in the nation, the STAR program works at cross purposes to economic development;
- The STAR program is a Band-Aid approach that does not address the underlying problem of New York's structural imbalance in the way it finances governmental operations.

While the League lauds the Governor's proposal to target additional tax relief to those with the lowest incomes, the STAR program remains an imperfect vehicle through which to deliver relief. By failing to extend relief to renters, it omits the neediest quarter of the state's population and has a discriminatory impact on the state's Big Five and certain other urban school districts.⁷ Given that STAR is a hybrid tax relief/education finance program, the anti-urban bias runs at cross purposes to our social need and constitutional duty to educate all our children.

⁶ See Tae Hoe Eom, William Duncombe and John Yinger, *Center for Policy Research Working Paper No. 71, Unintended Consequences of Property Tax Relief: New York's STAR Program* (2005), at www-cpr.syr.edu/cprwps/pdf/wp71.pdf, in which the authors present evidence that implementation of the original STAR program resulted in an average district spending increase of 8.4%. funded by a 21.33% increase in property taxes.

⁷ See Appendix B for the extent to which the STAR expansion would benefit different districts. In general, the Big Five districts receive approximately one-fourth to one-third the per capita benefit from STAR that is received from independent non-urban high need, low resource school districts. This differential can presumably be explained by the high percentage of renters. With small cities the *per capita* benefit received from STAR varies, being generally greater than that afforded to the Big Five and somewhat less than that provided to poorer non-urban districts. If one moves away from the urban STAR benefit and considers the relative benefit for suburban and rural districts, the proposed STAR expansion as a general rule provides greater benefits to poorer districts, making it progressive within counties for those districts.

It is unclear to what extent the proposed increases will lead to another round of inflationary spending for education.

In all other respects, the prior criticisms of the STAR program apply to the proposed enhancements.

The imbalance between income and property taxes did not occur overnight, and it will not be solved in the context of these budget negotiations. We call for a multilateral look at this problem, engaging the Governor, the legislature, and the state's citizens, for the purpose of developing a long-term solution.

Any long-term solution must:

- Address the state / local funding imbalance;
- Replace local residential property tax relief programs that grant taxpayers relief regardless of ability to pay with programs in which tax relief is limited to those individuals with a limited ability to pay and made available on a sliding scale according to need. Relief should be adjusted automatically on an annual basis to reflect cost of living adjustments to the income limits and maximum property values for eligibility. It has been suggested that by targeting relief the state could provide relief to those who need it at half the cost of the existing STAR program. The state also might wish to consider a tax deferral option, in which it takes a lien against the estate of senior citizens to be repaid upon sale of the property or the liquidation of the owner's estate;
- Extend tax relief to low-income renters throughout the state.

Today, however, we remain faced with the dilemma of how to proceed with the Governor's STAR proposal. In keeping with our position, we believe any expansion of the STAR program is inappropriate unless it encompasses:

- Relief for low-income renters throughout the state;
- Sunset after one year, so that stopgap measures represented by STAR may be replaced with a more permanent solution to the underlying structural problems of financing governmental operations in NYS.

CHANGES TO THE CHARTER SCHOOL ACT (CSA)⁸

WE SUPPORT the Governor's proposal to provide transition assistance to districts heavily impacted by charter schools **but OPPOSE** his proposal to raise the cap on the number of charters until the state has implemented quality control and oversight measures sufficient to assure the stated goal for charters of improving student performance. We also have concerns about the interplay between the proposed foundation formula and the charter funding mechanism.

The League Position on Charter Schools

⁸ See Appendix C for information about NYS charters. For a more complete discussion of issues surrounding charter schools, please feel free to request a copy of the League's publication, *THE CHARTER SCHOOL DEBATE: Full Of Sound And Fury, But What Does It Signify?*.

In November, 2006, the League adopted a position on charter schools, which provides, in relevant part:

- Charters should be subject to more stringent oversight of charter compliance in the renewal/revocation process, with greater emphasis on positive educational outcomes;
- The League supports measures to limit the negative financial impact of charter schools on their home districts, including: transition assistance; home district payment to charters based on the same standard used to pay operating aid to school districts; separate levels of reimbursement for elementary and secondary education to charter schools based on what the home districts spend for the level of schooling provided; limitation of the percentage of a school district's budget that could be paid to charter schools;
- The League supports limitation of the number of charters issued in New York State. As a general matter, it believes that the number of charter schools should not be increased without prior successful implementation of the improvements outlined in this position. In lieu of amendment of the Charter School Act to increase the total number of charters that could be granted, the League supports retention of the current total (100) with amendment of the Charter School Act so that a charter could be reissued if a charter school ceased to function for any reason. Any increase in the cap on charter schools should be tied to amendment of the Charter School Act so that charters are required to prove positive educational outcomes for all children (disaggregated by special needs) exceeding those in traditional public schools as a precondition for charter renewal. To more accurately measure student outcomes in charters and to compare them to those in traditional public schools, the League supports public funding to measure educational growth in individual students as they progress from grade to grade in charter schools (a value added approach).

Rationale

Although extensive data has been collected about charter schools, there has been insufficient analysis of this data to determine both the success of individual schools and characteristics shared by successful charters. The performance of charters is not compared to the performance of comparable neighborhood schools, although such comparisons are mandated by the CSA.⁹ As might be expected with an issue so infused by polemics, literature measuring the success of charter schools is equally divided and often flawed. Early studies looked at gross statistics at a national, statewide, or district level to measure performance of charter schools. These studies are virtually meaningless because, without looking at the traditional public school population from which a charter

⁹ While the CSA requires an annual comparison of charter schools with that of comparable district schools, SED has elected to fulfill this requirement by comparing charter test results with those of the community school district in which the charter is located in New York City and the overall district statistics in the rest of the state. Without knowing whether or the extent to which a charter school's student makeup, disaggregated by ethnicity and special needs, matches that of the district or community school district, there is no way we can make meaningful comparisons of achievement between the two.

draws, it is impossible to make valid assertions about charter performance. More recent studies are beginning to address criticisms of the earlier studies, but the field of meaningful academic review is still in its infancy.

What has become apparent is that some charters are spectacularly successful while some are abject failures.¹⁰ Others offer choice in the method of education but are unable to produce results appreciably different from those of traditional public schools. Moreover, eleven of the forty-four charters that would have come up for renewal by June, 2006 are no longer in existence, representing a failure rate of 25%. Current oversight does not require that charters outperform traditional public schools to receive charter renewal,¹¹

¹⁰ See The University of the State of New York, State Education Department, (2006), *Annual Report to the Governor, The Temporary President of the Senate, the Speaker of the Assembly and the Board of Regents on the Status of Charter Schools in New York State 2004 – 05*, at www.emsc.nysed.gov/psc/200405AnnualRptStatusCharterSchsNYS.pdf, pp.3-5, for a listing of the disparate results. These results are reproduced in Appendix C.

¹¹ There is no clear-cut standard in the CSA requiring a minimum level of academic achievement for charter renewal. Although both SUNY and the Regents purport to apply achievement standards in the decision to renew a charter, these standards are not written and have, upon occasion, been overruled by political considerations to renew the charters of under performing schools.

Education Law 2851(4), governing the renewal of charters, requires a progress report on the extent to which the charter has met its educational goals. Renewal requires meeting the same standards that must be met to receive the charter initially, including finding that the applicant can operate the school in an educationally sound manner and that granting the application is likely to improve student learning and achievement.

In its December, 2003 five year report on the educational effectiveness of charter schools in New York State, SED effectively admitted that it had no way of conducting a meaningful comparison of charter performance with that of public schools. This shortcoming has two causes. First, the only meaningful achievement data were results on the statewide tests:

Overall, the student performance data from the administration of standardized assessments other than the State tests leave the question of charter schools' academic effectiveness unresolved. Indeed, the data can hardly be said even to address the question of academic effectiveness. Partly this is a result of charter schools not communicating, for example, about the standardized tests they elected to purchase and administer. Partly it is a result of a similar lack of communication about the metrics the charter schools selected and reported. But another aspect of the problem of deriving meaningful generalizations based on data from standardized tests is that the charter schools have not made an effective effort to organize and present their data to make the case for their academic effectiveness.

To date, inferences regarding the academic performance of charter schools depend on data collected from the administration of the grade 4 and 8 State ELA and math assessments. These are the only assessments that are comparable longitudinally.

Second, the statewide tests may not be meaningful for comparison purposes, given that the state, in looking at achievement data, does not attempt to ascertain the comparability of charter and traditional public school populations:

When comparing charter school performance with that of the district of location, it is important to remember that the student population in the charter school may not be representative of the student population of the district. Some charter schools may draw from the lowest-performing district schools. On the other hand, data in a previous section showed that, on average, charter schools enroll a mostly minority and economically-disadvantaged population, and also generally enroll a

and, despite diligent and professional work of charter overseers, there is evidence of insufficient institutional capacity to make meaningful and statistically valid determinations of whether a particular charter is in fact doing a better job of educating all children than similar traditional public schools. Furthermore, there is little research into what separates successful from unsuccessful charters. Without this type of research, one of the basic purposes of charters, allowing for educational experimentation into more effective ways to educate children traditionally left behind by public schools, will remain unfulfilled.

Because the initial legislation was designed to be experimental, we believe further independent academic analysis should occur prior to lifting of the cap in any significant fashion.

This “go slow” approach to expansion of the charter schools has received support from noted scholars.¹²

smaller percentage of students with disabilities and limited English proficiency than do the districts of location. Further, the students with disabilities that charter schools enroll are unlikely to have severe disabilities.

We suspect both lack of adequate funding and lack of clear standards make assessment of progress an ‘eyeball’ or ‘gut’ review rather than a meaningful study of whether any particular charter is actually improving outcomes in a statistically significant way. Given that SED has recommended successful charters be renewed for a period of 10 years, clarification of the standard for renewal becomes even more crucial.

¹² See Seymour Sarason, *Questions You Should Ask about Charter Schools and Vouchers* Heinemann (2002). Sarason, professor *emeritus* of Yale’s Department of Psychology and education doyen, placed the charter debate in the larger context of what is wrong with education in America, opining that lack of scientific rigor in evaluating education reform renders the field somewhat analogous to drug safety prior to creation of the FDA, when any company or doctor could bring a drug to the marketplace without outside control. Sarason characterized the current failure of charter legislation to provide for adequate evaluation as inexcusable. Evaluation should include meaningful data collection and analysis according to rigorous academic standards. Sarason suggested that each charter student should be matched with a cohort in a traditional public school he or she would have attended, so that longitudinal data could be collected and analyzed. Data should be available to the public, mechanisms created to share successes and failures of the charter movement with other charters and traditional public schools.

In a similar vein, Gary Miron of Western Michigan University’s Evaluation Center has conducted extensive research into those factors that lead to successful charter schools. See, e.g.: Gary Miron and Christopher Nelson, *Exploring the Correlates of Academic success in Pennsylvania Charter Schools* (2004) at www.ncspe.org/publications_files/OP105.pdf; Gary Miron and Carolyn Sullins, *Challenges of Starting and Operating Charter Schools: A Multicase Study*, (2005) at www.wmich.edu/evalctr/charter/cs_challenges_exec_summary.pdf; Gary Miron, *Strong Charter School Laws are Those That Result in Positive Outcomes* (2005) at www.wmich.edu/evalctr/charter/aera_2005_paper_charter_school_laws.pdf. Miron concluded that many states perceived to have strong charter school legislation (defined as that which facilitates the creation of many charters) are less likely to see positive educational outcomes. He listed the following factors as being related to successful performance of charters: application of a high degree of selectivity in the approval process; rigorous oversight including systemic collection of data; provision of technical assistance to charters. No evidence suggests privatized management of charters leads to enhanced education performance, and some of Miron’s results suggest that states with strong involvement in for-

There are two further reasons to adopt the “go slow” approach in lifting the cap on charter schools. First, demand for charters may be artificially inflated as the result of the under funding of urban schools. A delay in expansion of the charter cap would give under-funded districts the opportunity to implement educational improvements associated with the movement to foundation funding, and the state in turn would have a more realistic sense of the true demand for charters. Second, postponement of expansion until NYS’s electronic student data system is fully implemented would give the state an exponentially greater capacity to compare charter performance with that of traditional public schools.

When foundation funding has been implemented fully, it will be easier to assess the long-term demand for charters in the educational arena, whether the role is that of catering to a limited niche market or of seriously redefining public education. By proceeding too fast with charter expansion, we run the risk that the proliferation of charters will drain foundation funds to charters and thereby drain traditional public schools of foundation funds necessary for programmatic improvement.

In light of the foregoing, the League recommends the following with respect to amendment of NYS’s Charter School Act:

- The Charter School Act should support quality over quantity. Do not increase the number of charter schools without having conducted research into characteristics that are likely to lead to success or failure. Alternatively, retain the current number of charters at 100, while amending the Charter School Act to provide that a charter may be reissued to another chartering entity upon closure of a charter school;
- Adopt measures to ameliorate the financial burden charters place on traditional public schools;¹³
- Assure charter schools more fully realize their educational goals by requiring proof for charter renewal of positive educational outcomes for all children (disaggregated by special needs) exceeding those in traditional public schools. To

profit management companies show poorer student performance. He concludes that slower implementation enables states to fine tune the grant and oversight process.

¹³ Much of the opposition to charters has occurred because they are not distributed evenly among school districts; and, thus, the financial burden is not evenly shared. Among urban districts, the percentage of the budget flowing to charters during the 2004-05 school year ranged from .3% in NYC to 10.15% in Albany. Tom Carroll of the Brighter Choice Foundation has indicated the goal of providing 25% of Albany’s public school seats through charters. Although The CSA is ostensibly revenue neutral, the inability of districts to reduce certain fixed costs as students leave for charters can lead to substantial programmatic cuts for districts in which the largest percentage of students attend them.

Measures to alleviate the burden on school districts should include the following: transition assistance; home district payment to charters based on the same standard used to pay operating aid to school districts; separate levels of reimbursement for elementary and secondary education to charter schools based on what the home districts spend for the level of schooling provided; limitation of the percentage of a school district’s budget that could be paid to charter schools.

- this end, charters should be required to measure educational growth in individual students as they progress from grade to grade in charter schools (value added approach);
- Develop public/private partnerships for research into characteristics that lead to charter success and failure, so that overall quality of charters and traditional public schools may be improved. This would require adoption of meaningful and easily compared standardized measures of student performance.¹⁴ A major area of inquiry should be characteristics separating successful from unsuccessful charters, including student, teacher, and administrator stability¹⁵, enhanced school day, week, and/or year, class size, the role of EMOs and especially for-profit EMOs in charter success, size of school, teacher qualification and certification, and the role of outside funds in charter success.¹⁶

¹⁴ A point-in-time analysis looks at performance of children on a standardized measure of achievement at a particular point in time (i.e. performance of fourth graders on the New York State math and English language arts exams). The inference is that if students in charter schools do well, it is because the charter has been successful at its mission of educating children. This inference may or may not be valid, given the revolving door of some charters and traditional public schools. Thus, a charter student's poor performance may be attributable to the traditional public school and a traditional public school student's poor performance may be attributable to poor education previously received at a charter, given the flow back and forth during the school year and from one school year to the next.

A more accurate and more expensive way of measuring charter success is to employ a value added approach to achievement. This method tests a child at the time of entry into the charter and at the end of every year to measure the value added to achievement or knowledge during the year. This is a longitudinal appraisal that provides a more accurate record of student achievement over time.

Because of the cost of longitudinal analysis, few studies have employed this approach. However, researchers agree that it is the better and more accurate way of measuring academic achievement.

New York State is in the process of converting to a statewide electronic record-keeping and data analysis system for public and charter school students. When operational, it will enable schools to measure value added to a student's achievement on a longitudinal basis.

The most meaningful measure of academic performance is the value added to a child's educational achievement each year. Although the state does not have the current capacity, it is moving toward such a system, which will be fully operational for both charters and traditional public schools by the time the proposed foundation formula for education finance is fully implemented.

¹⁵ Literature indicates that a qualified teacher is one of the primary factors affecting student academic success, especially in the case of at-risk students. For purposes of this discussion we categorize issues of teacher stability into two categories – short-term stability issues and issues of long term stability. In the short term, teacher instability within charters might be advantageous, while the administration weeds out incompetent teachers to arrive at a full complement of competent professionals. See Miron et al for support of this position. Thereafter one would assume teacher stability, the ability to retain qualified, experienced teachers, would become paramount to the ongoing success of charters. Given the age of charters in New York State, the demands that increased school days, weeks, and years make on teachers and the fact that, although charters tend to meet or exceed the salaries for new teachers at traditional public schools, they do not offer the salary increases for experience, it remains to be seen if charters can retain teachers on a long-term basis and if their success or failure in doing so has an impact on student achievement.

¹⁶ New York State charters vary considerably in the amount of money they can spend to educate each student (*per capita* operating expenditure). The reasons for this disparity are two-fold. First, some charters must finance their building costs, whether through payment of rent or amortization of construction bonds, while others have been given buildings. Second, some charters have been able to attract considerable funds

- To increase efficiency of operations, authority to grant, oversee, renew and revoke charters, other than those granted in public school conversions, should be vested in a single entity.

In conclusion, and on a more technical level, the League is concerned about the interplay between the charter school funding formula and the proposed foundation approach to funding.¹⁷ We believe the current statutory funding formula must be redefined, so that the funds transferred to the charter are weighted according to the special needs of the students enrolled at the charter. No weighting should occur for disabled students until the charter assumes responsibility for implementation of the IEP.

Thank you for the opportunity to be here today. I would gladly attempt to answer any questions you might have.

from grants and philanthropic sources. The variation was apparent in six New York City charters studied by the League. Variation in per student operating expense (total amount spent per student minus amount spent for facilities) ranged from \$7,937 to \$13,567. The disparity in results are listed in full in Appendix D. In the Albany area, the Brighter Choice Foundation has provided start-up organizational support, operating expenses, and assistance in obtaining and financing the physical plant.

¹⁷ The school district of a student's residence pays the per pupil approved operating expense to the Charter School in 6 installments, beginning July 1 and every 2 months thereafter. In the first year of operation, payments are made on the basis of initial-year enrollment projections for the Charter, with subsequent reconciliation.

Students attending charters are also eligible for the same aids that private school students receive, including textbooks, library materials, computer software, and health services from the school district of residence.

If the charter implements a disabled student's IEP, the home school district transfers the state and federal special education funds attributable to that student to the charter. This sum is generally less than the true cost to educate a disabled child because the district traditionally supports the education of disabled children with an additional local contribution in addition to the contribution of state and federal funds. New York City has elected to give charters additional monies for the education of disabled children by turning over the local share of funds for a disabled student as well as state and federal funds.

APPENDIX A

2003-04 WEALTH, EXPENDITURE, REVENUE AND AID DATA
RANKED BY OPERATING EXPENSE PER PUPIL
DECILES FOR ALL MAJOR DISTRICTS EXCLUDING NEW YORK CITY

Operating Expense Per Pupil Deciles (upper limit shown)	DECILE AVERAGE*							2003-04 Enrollment
	Operating Expense per Pupil	Actual Valuation per Pupil	Total Expense** per Pupil	STAR Revenue per Pupil	Other Revenue from State*** per Pupil	Tax Revenue (excl. STAR) per Pupil	Tax Rate (excl. STAR) per \$1,000 Full Value	
1- \$6,554	\$6,267	\$161,196	\$9,109	\$634	\$5,305	\$2,239	\$13.99	165,056
2- 6,973	6,816	187,196	9,485	832	5,057	2,866	15.38	134,467
3- 7,301	7,133	208,009	9,749	865	4,980	3,303	15.98	143,996
4- 7,591	7,416	239,563	10,047	944	4,569	3,890	16.26	171,045
5- 7,974	7,748	218,567	10,736	735	5,266	3,517	16.13	261,263
6- 8,434	8,265	276,481	10,800	858	4,738	4,455	15.76	192,476
7- 9,392	8,853	387,164	11,765	1,021	4,399	5,375	13.94	192,732
8- 10,593	9,973	543,948	12,553	1,223	3,369	7,307	13.47	226,323
9- 12,350	11,393	662,109	13,893	1,429	2,780	8,845	13.43	191,920
10- 50,939	14,266	1,264,543	17,248	1,218	1,685	13,423	10.60	139,518
All Major Districts Avg. (excluding NYC)	8,781	404,562	11,510	976	4,252	5,439	13.53	1,818,796
New York City	8,025	333,803	11,120	522	4,140	4,821	14.59	1,069,808
All Major Districts Avg. (including NYC)	\$8,500	\$378,400	\$11,365	\$808	\$4,210	\$5,209	\$13.88	2,888,604
Decile Rank	- 7 -	- 7 -	- 6 -	- 4 -	- 5 -	- 7 -	- 5 -	

* Values shown are the weighted averages for all 67 or 68 districts with an AOETAPU for Exp. less than or equal to the upper limit for the decile.

** Total Expenditure includes Debt Service and Special Aid Fund.

*** Other State Revenue does not include STAR.

Source: Analysis of School Finances in New York State School Districts: 2003-04. New York State Education Department, Albany, New York. P.16.

APPENDIX B

APPENDIX C

On a statewide basis, charters represent a small percentage of public schools. New York State has approximately 4,000 public schools, serving 2.8 million students. Over 1,000 schools and 1 million students are in New York City.

It has been anticipated that when 100 charter schools are fully operational, they will account for approximately 2.5% of the statewide public school student body, or 70,000 students.

The July, 2006 SED annual report on charter schools contains a snapshot of charter school data for the 2004-2005 school year. The University of the State of New York, State Education Department, (2006), *Annual Report to the Governor, The Temporary President of the Senate, the Speaker of the Assembly and the Board of Regents on the Status of Charter Schools in New York State 2004 – 05*, at www.emsc.nysed.gov/psc/200405AnnualRptStatusCharterSchsNYS.pdf.

Sixty-one charters operated during that year, serving a total of 18,408 students. Sixteen of these schools were chartered by the Board of Regents, 32 were chartered by the Board of Trustees of the State University of New York (SUNY), 11 were chartered by the Chancellor of the New York City Public Schools and 2 were chartered by the Buffalo City School District. Twenty-one, or approximately one-third, were operated by EMOs. The EMOs and the number of schools each manages is as follows.

EMO	No. of Charters
Edison	6
Victory	4
National Heritage Academies	4
Chancellor Beacon Academies	3
SABIS	1
Lighthouse Academies	1
Uncommon Schools	1
Mosaica	1

The size of charters ranged from 1,105 students for the Charter School of Science and Technology in Rochester (Charter renewal denied by SUNY effective June 30, 2005) to 88 for the Child Development Center of the Hamptons Charter School in Wainscott. Thirty-six schools served elementary (K-6) students in various grade configurations, with approximately 5/6 of students or 15,305 being enrolled in elementary schools. Students in grades 9 – 12 numbered 1,188. Of the 18,408 students served by charters, over 2/3 or 12,634 were black, approximately 1/6 or 3,059 students were Hispanic and under 1/6 or 2,395 students were white. Charter schools served 358 students with limited English proficiency and 1,502 students with disabilities, representing 9% of the children enrolled in charter schools. The Child Development Center of the Hamptons Charter School had the largest percentage of disabled students at 55% (48 of 88 students). A total of 11,555,

or 63% of the students at charters received Free or Reduced Price Lunch (FRPL). Of these, 9,903 were at the K-6 level. During the 2004-05 school year, 1,445 or 7.8% of charter students, transferred out of charter schools. Of these, 1331 transferred back to their home schools and 114 to non-public schools or home instruction.

In New York State, charter schools are largely a phenomenon of urban centers and small cities. The distribution of charter schools in New York State as of June, 2006 was as follows.

Home District	Number of Charters 6/26/2006	% of District Budget 2004 - 2005
Buffalo	14	7.77
Lackawanna	1	8.25
Niagara-Wheatfield	1	
Rochester	4	4.06
Syracuse	2	3.18
Albany	8	10.15
Schenectady	1	3.64
Troy	1	2.07
Yonkers	1	
NYC	57	0.30
Wainscott	1	3.03
Riverhead	1	
Roosevelt	1	4.52
Shelter Island	0	3.27
Sagaponack	0	3.17

A review of recent test results for charter schools indicates that, while some perform much better than traditional public schools on statewide tests, others have results well below those of traditional public schools. A list of over and under achieving charter schools follows.

On the grade 4 English Language Arts (ELA) exam, the top performers were as follows (percentages are for the percent of students scoring at or above Level 3):

- ☐ Harlem Day Charter School, New York City: 100.0%
- ☐ Renaissance Charter School, New York City: 95.7%
- ☐ Roosevelt Children's Academy Charter School, Roosevelt: 87.3%
- ☐ Carl C. Icahn Charter School, New York City: 86.2%
- ☐ Genesee Community Charter School, Rochester: 83.8%.

On the grade 4 English Language Arts exam, the weakest performers were as follows (percentages are for the percent of students scoring at or above Level 3):

- ☐ Pinnacle Charter School, Buffalo (baseline year): 18.4%
- ☐ Stepping Stone Academy Charter School, Buffalo: 20.4%
- ☐ Brooklyn Excelsior Charter School, New York City: 29.9%
- ☐ COMMUNITY Charter School, Buffalo: 32.5%

☐ Charter School of Science and Technology, Rochester: 33.9%.

On the grade 4 math exam, the top performers were as follows (percentages are for the percent of students scoring at or above Level 3):

- ☐ Carl C. Icahn Charter School, New York City: 100.0%
- ☐ International Charter School of Schenectady, Schenectady, 100.0%
- ☐ Tapestry Charter School, Buffalo: 100.0%
- ☐ Our World Neighborhood Charter School, New York City: 95.8%
- ☐ Harlem Day Charter School, New York City: 94.4%
- ☐ Renaissance Charter School, New York City: 92.0%
- ☐ Roosevelt Children's Academy Charter School, Roosevelt: 91.8%
- ☐ Genesee Community Charter School, Rochester, 90.7%.

On the grade 4 math exam, the weakest performers were as follows (percentages are for the percent of students scoring at or above Level 3):

- ☐ Stepping Stone Academy Charter School, Buffalo: 33.9%.

On the grade 8 ELA exam, the top performer was as follows (percentages are for the percent of students scoring at or above Level 3):

- ☐ KIPP Academy Charter School, New York City: 71.5%.

On the grade 8 ELA exam, the weakest performers were as follows (percentages are for the percent of students scoring at or above Level 3):

- ☐ John V. Lindsay Wildcat Academy Charter School, New York City: 8.3%
- ☐ Buffalo Academy of Science Charter School, Buffalo: 13.6%
- ☐ Enterprise Charter School, Buffalo: 16.3%
- ☐ Stepping Stone Academy Charter School, Buffalo: 20.0%
- ☐ Charter School for Applied Technologies, Kenmore-Tonawanda: 27.3%.

Based upon their 2004-05 State assessment date, five charter schools have been identified as being furthest from State standards. They are:

- ☐ Ark Community Charter School, Troy: grade 4 ELA;
- ☐ Enterprise Charter School, Buffalo: grade 8 math;
- ☐ John V. Lindsay Wildcat Academy Charter School, NYC: HS ELA and HS math.
- ☐ Pinnacle Charter School, Buffalo: grade 4 ELA; and
- ☐ Stepping Stone Academy Charter School, Buffalo: grade 4 ELA and grade 4 math.

APPENDIX D

2005 REVENUES AND EXPENDITURES FOR SIX
NEW YORK CITY CHARTER SCHOOLS.

School	Received From District	Total Expenditures	Facilities Expenditures	Instruction Expenditures ¹⁸
AMBER	\$8,335	\$12,728	\$0	\$12,728
HARLEM DAY	\$8733	\$14,222	\$655	\$13,567
HARLEM VILLAGE	\$8069	\$12,863	\$944	\$11,919
HARLEM CHILDREN'S ZONE	\$9115	\$12,616	\$0	12,616
HARBOR SCIENCE	\$8843	\$10,151	\$447	\$9704
SISULU-WALKER	\$8590	\$9734	\$1797	\$7937

¹⁸ Instruction expenditures is total expenditures minus facilities expenditures.