

# **REGENTS 2009 STATE LEGISLATIVE PRIORITIES**

## **A. SUSTAIN CRITICAL PROGRAMS**

### **1. Reduce the Number of Required School District Reports and Plans**

A substantial portion of the reporting and planning requirements imposed on school districts by state statute should be eliminated if they are duplicative, unnecessary or outdated. Both the Commission on Property Tax Relief and the Commission on Local Government Efficiency and Competitiveness recommended an end to unfunded mandates. Legislation is needed to eliminate statutory requirements and allow SED to rescind regulations that are duplicative or unnecessary. Plans and reports would be limited to those necessary to carry out critical state interests such as maintaining school district accountability, closing the student achievement gap and protecting health and safety of students, teachers and administrators in schools. Regulations based on federal statutory requirements would be streamlined where possible and state and federal requirements would be aligned. The net effect would be to require data reporting to only one source and to continuously improve data collection.

### **2. Allow Retired Teachers to Teach in Hard-to-Staff Schools and Subjects Without Affecting Their Pension**

There is a severe shortage of qualified, certified teachers in the arts, math, science, bilingual education, career and technical education, English as a second language, school media and bilingual special education in urban and rural school districts throughout the state. Schools under registration review and other low-performing schools with challenging teaching environments historically have had difficulty attracting qualified teachers. There is a significant turnover rate among new teachers and those in high-need schools. The number of baby-boomer teachers retiring will increase each year and there are not enough new and experienced teachers to replace them. The Retirement and Social Security Law should be amended to permit retired public employees who hold a valid teaching certificate to teach subjects and in areas for which there is a shortage of teachers and in high-need schools without a cap on the salary they earn while also receiving a state pension. The state Commissioner of Education and the New York City Department of Education chancellor would have to certify the need for teachers, and the term of their employment would be limited. This would help relieve the statewide shortage of qualified teachers for these subjects, areas and schools.

### **3. Require Criminal History Checks and Fingerprinting**

#### *Office of Cultural Education Employees & Volunteers*

Legislation is needed to require OCE employees and volunteers to be fingerprinted as a condition of employment or acceptance as a volunteer. This would protect children and students who tour the State Museum, State Archives and State Library and reduce the possibility of theft of valuable and irreplaceable items and artifacts.

#### *Employees in Special Education Placements*

Legislation is needed to protect the health and safety of students with disabilities who attend various special education schools in settings outside of a public school district or BOCES by requiring fingerprinting and criminal history record checks of prospective employees. This is already required of prospective employees of school districts, charter schools and BOCES. The City of New York fingerprints employees of special education schools with which it contracts but there is no such requirement for schools that do not contract with the city. Leaving special education students unprotected creates a serious risk that individuals convicted of crimes such as sex offenses involving children that would disqualify them from serving in public schools will be employed in schools that serve these students. The legislation also should clarify that existing law relating to reporting, investigation or identification of child abuse by persons in an educational setting would apply to non-residential special education schools and programs, but not to residential schools and programs already subject to child abuse and neglect reporting under the Social Services Law.

### **4. Strengthen Early Childhood Education**

The compulsory school age is 6. Current law makes kindergarten optional and allows school districts to offer only half-day kindergarten programs. Of 678 school districts, 34 are providing half-day programs while 603 offer full-day and 41 offer a combination of full-day and half-day. Legislation is needed to give SED authority to require children to enter school at age 5 to give them a good start on their education.

Over 80 percent of 4-year-olds are in day care outside of the home before they start kindergarten. Children who start their education behind often stay behind because there is no "catch up" curriculum. How a child reads at the end of first grade predicts with 80 percent reliability how he or she will read at the end of third grade. Research overwhelmingly shows that acquiring academic skills and knowledge by age 6 correlates with later academic success in school and in life. Children in full-day kindergarten would increase their educational skills. Early education has strong economic benefits, according to major research studies: it reduces drop-out rates and the need for intervention services. Children with disabilities would have the continuum of services they need so they can be integrated in regular classrooms. Kindergarten,

which is not a mandate now, would be less vulnerable to funding cuts. School districts often propose to eliminate kindergarten in tight budgets, causing great concern for parents and disadvantaging young students. Parents would be able to request a waiver from this requirement. Lowering the compulsory school age from 6 to 5, together with requiring school districts to provide full-day kindergarten, would help ensure that all students get a good start.

## **5. BOCES Reform Initiative**

Pursuant to the recommendations of the Commission on Property Tax Relief and the Commission on Local Government Efficiency and Competitiveness, the district superintendents are developing a proposal to expand and enhance BOCES' role in providing intermunicipal and component school district services. It will include a recommendation that the cap on the district superintendent salary be repealed. \*

## **6. Remove the Cap on District Superintendent Salary**

In many areas of the state BOCES district superintendent compensation has fallen well below that of the local school district superintendents whom the BOCES superintendents are expected to lead. This is due to a law enacted 15 years ago that capped the salary a district superintendent can receive. This relative drop in compensation has made the recruitment and retention of district superintendents increasingly difficult.

Over the past decade several new laws and State Education Department policies have created additional accountability for district superintendents. Repealing the salary cap would allow BOCES boards to use local funds to create the compensation agreements they need to hire leaders of the quality essential to fulfill the role the Regents education agenda demands. It also would re-establish an appropriate level of local control and focus more accountability at the local level, where it is most effective. This legislation would require no additional state funds.

*\*The removal of the district superintendent salary cap appears in items 6 and 7 as a legislative request.*

## **7. IDEA Reauthorization Conforming Legislation**

Chapter 378 of the Laws of 2007 conformed Education Law to the federal 2004 Individuals with Disabilities Education Act and final federal implementing regulations. Chapter 378 extended the provisions of Chapter 352 of the Laws of 2005 and Chapter 430 of the Laws of 2006 and included amendments relating to: students with disabilities attending charter schools; students with disabilities being enrolled in nonpublic schools by their parents; the definitions of "related services" and "transition"; the agreement between a parent and a school district regarding the members of a committee on

special education or a committee on preschool special education attending meetings to develop a student's individualized education program; changes to an IEP after the annual review meeting and three-year re-evaluation; who may make a referral for an initial evaluation for special education services; and due process procedures. Chapter 378 of the Laws of 2008 will sunset on June 30, 2009. Legislation to extend it is necessary to ensure continuing compliance with IDEA.

## **B. ENSURE STABLE AND ADEQUATE FUNDING**

### **1. Stabilize the Professions Revenue Accounts**

There has been no increase in licensing fees for the professions since the 1980s even though statutes have been enacted mandating that SED establish and regulate numerous new professional licenses and programs. Legislation is needed for authority to implement an across-the-board fee increase, which would enable SED to fully discharge its responsibility to protect the public. The fee increase would allow the Office of the Professions to investigate and prosecute illegal practice, upgrade outdated technology (needed are a new computer system, document scanner and interactive telephone system), investigate and prosecute more discipline cases and secure expert witnesses, cover the increase in expense for providing peer assistance to nurses in the Professional Assistance Program (for those who have substance abuse problems), fully fund meetings of the state boards that provide professional advice to the Board of Regents, cover the increased cost to manage the licensee photo ID program and pay credit card company fees for licensees who use online registration.

### **2. Stabilize the Cultural Education Revenue Account**

The Cultural Education account was created by an act of the legislature in 2002, which also transferred to it all Office of Cultural Education functions previously supported by state General Fund operations appropriations. It provides a major share of the operational funding for the State Museum, State Archives, State Library, and Office of Public Broadcasting and Educational Television. The fund also provides annual support of \$1,200,000 to the General Fund, \$1,000,000 to the Summer School for the Arts; up to \$650,000 for the Empire State Performing Arts Center program; and up to \$3,272,300 for the New York State Theater Institute program.

The CE account is modeled after the Local Government Records Management Improvement Fund (LGRMIF), which funds local government grants and related operations. The LGRMIF is funded by a county-collected surcharge of \$5.00 for recording, entering, indexing, or endorsing a certificate on any instrument or for assigning an index number to actions pending in county court or Supreme Court. The 2002 statute kept the LGRMIF charge in place and applied an additional \$15.00 surcharge to support the new CE account. Counties retain \$.75 of each CE account surcharge to defray their collection expense.

The balance in the CE account has experienced increases and decreases over the life of the fund. This is due to national and state economic conditions at any given time that have suppressed the housing market and affected the number of transactions subject to the surcharge. Annual revenue from fees has declined more than 32 percent from the historically high levels of the first several years and revenue from interest has declined 84 percent from two years ago and will disappear by next year. Annual revenue (before transfers out of the fund) is now below the cost of operating the Office of Cultural Education's programs. The current economic downturn has reduced revenue severely, causing the account balance to decline sharply. Reserve funds will be exhausted within the next year.

Legislation is needed to amend the current CE Account fee structure to provide an additional \$7.50 surcharge, which would include an additional \$.25 to be retained by a county to defray its collection expense.

### **3. Provide Additional Funding for the Local Government Records Management Improvement Fund**

The Local Government Records Management Improvement Fund (LGRMIF) was created in 1989 to make grants to local governments to improve records and local archives administration, provide for a regional program of technical assistance and advisory services to local governments for their records management, and support the State Archives' administration of this fund (represents 65 percent of the operational funding for the State Archives). The LGRMIF receives revenue from a \$5.00 surcharge fee imposed by county clerks for recording, entering, indexing or endorsing a certificate of any instrument relating to real property and required by statute to be recorded in the county clerk's office, or on the assignment of an index number on an action pending in a Supreme or County Court of a county. The \$5.00 surcharge fee has not been increased since 1989.

The balance in the LGRMIF account depends primarily on the housing market and fluctuates with state and national economic conditions. The LGRMIF's revenue is declining and is anticipated to continue to diminish with the result that the account will be depleted. The average cost of a local government records management project has increased 65 percent since 2004 due to the need to transition to more complex and costly electronic record-keeping systems.

The current fees do not provide sufficient funding to meet the demand for grants. Requests have increased 104 percent since 2004 and in 2008, only 40 percent of the requests for grants could be funded. At the same time, the operational costs of the program have been increasing. A fee increase of \$2.50 is needed to provide sufficient funding to support existing local government records management activities, which benefit all local governments. SED could use a portion of this fee increase to make formula grants to county clerks to support their local government records management

activities. These grants would generate funds per transaction and help ensure that county clerk records are preserved for the benefit of the public.