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New York State
 School Boards
 Association

AMENDMENTS and REBUTTALS to PROPOSED RESOLUTIONS

for the

Annual Business Meeting



Your convention –
their future



New York State
 School Boards
 Association

ANNUAL BUSINESS MEETING

Saturday, October 17, 1:00 p.m.

New York Ballroom
 Sheraton New York Hotel & Towers, New York, New York

October 17, 2009 • New York, New York

The following amendments and rebuttals were submitted to the Association by the September 4, 2009 deadline. They are presented in this brochure for your review and consideration. Amendments printed herein do not have to be submitted in writing at the rostrum of the Business Meeting but must be moved and seconded from the floor to be considered.

NOTE: Stricken (~~aaaaa~~) language represents proposed deletions to existing resolutions and underlined language represents proposed additions to existing resolutions. (Page numbers refer to the specific resolution in the 2009 Proposed Resolutions and Voting Delegate's Guide book.)

AMENDMENTS

11. Removal of Seat-Time Requirements (page 15)

Submitted by the Yorkshire Pioneer School Board on September 3, 2009.

RESOLVED, that the New York State School Boards Association advocate for the State Education Department to ~~remove "seat time" requirements for students who pass the state standard testing in the given subject, allowing local districts to determine whether seat time in a course should be required for course credit and/or graduation requirements]~~ grant waivers based on student performance-based criteria to local school districts that want to reduce or remove seat-time requirements for courses now required for credit and/or graduation.

Rationale for Amendment

Both the rationale provided by Newark Valley School Board, and the statement of opposition provided by the Resolutions Committee have merit. Given today's diversified learning technology, school districts should not be compelled to mandate seat time from students who can demonstrate knowledge and competence in alternative ways. Nor should these alternatives compromise state learning standards. In fact, they should be equally or even more rigorous, yet creative or more flexible, lending themselves to 21st century teaching/learning strategies. The logical win-win approach is to enhance and expand the use of waivers, pilot programs, and experimentation, recognizing the importance of both state learning standards and local policy control.

REBUTTALS

12. Use of Consumer Price Index (page 16)

Submitted by the Putnam Valley School Board on September 1, 2009.

The Putnam Valley Central School District Board of Education fully agrees with the Resolution Committee statement that the CPI is an inappropriate measure upon which to base school spending. We also strongly believe that the school districts have a constitutional obligation to provide the appropriate services and that limits should not be set. Regulations/process with respect to contingency budgets and contractual limits, as noted by the Committee, should permit schools to provide the appropriate education and that resources should be allocated appropriately. We fully agree and we support the efforts of NYSSBA to eliminate/revise the regulation which limit our spending and do not permit us to supply a quality education for our children.

However, we do not work in this perfect world. School boards in

New York State work in a world where currently there are limits set to spending based on the CPI. No matter how much we disagree with this principle, we have to function under these rules. If we must function under these rules, then at least the rules should be "fair/equitable" for all regions of the state. That is, if the Legislature is imposing a spending limit based on a consumer price index, then the most relevant, applicable consumer price index for the region should be used. Thus for the school districts in New York metropolitan areas and other regions, the more applicable limit should be applied.

We believe there is a greater probability of the legislature to adopt our motion than to eliminate and revise the current-limit laws. Thus we offer this as a compromise.

14. Change Formula for Measuring Transportation Aid (page 19)

Submitted by the Pine Bush School Board on September 4, 2009.

While we acknowledge that the present economic climate poses risks for eliminating other forms of state aid, if school districts request an increase in other state aid categories, we believe that student safety is of such paramount importance that legislators need to be persuaded to seek additional funds for transportation without jeopardizing any other forms of aid to school districts. School districts should not be forced to place their students in an unsafe environment in the name of fiscal responsibility. Our foremost goal is ensuring that students are educated in a safe manner. This includes transporting students in a safe manner. In regards to the fear that our legislators would engage in a "tradeoff," should transportation aid be increased at the expense of some other education aid category, we believe that NYSSBA should advocate that they obtain additional funds from outside state education funds.

18. Taylor Law Amendment (page 24)

Submitted by the Bayport Blue Point Board of Education on September 4, 2009.

The statement in opposition to the resolution of the Bayport Blue Point School District fails to address the reality of the fact-finding process under the Taylor Law. The statement first indicates that the proposition would prevent school districts from "keeping the report confidential for any period of time, if that is their choice . . ." This statement completely ignores the law which requires that a fact-finding report be made public within five days. Under current law school districts have no authority to keep the report "confidential." Second, the statement in opposition indicates that the proposition would prevent a fact-finder from meeting privately with a party or both parties to ascertain "where in the middle" either party might be. The Fact finding process is not mediation; the fact-finder is charged with the responsibility to render a report containing his/her recommendations for settlement based upon the evidence presented by the parties according to statutory criteria. It is a complete perversion of the reason for the fact-finding process to suggest that a fact-finder's role is to fact-finding follows mediation – it is not an extension of the mediation process. Finally, the statement indicates that making fact-finding public will result in posturing which again will interfere with settlement "in the middle." This last point speaks to a lack of experience in fact-finding. Because there is no public accountability for positions asserted in fact-finding, union proposals are presented at ridiculously high levels hoping that the fact-finder – as echoed in NYSSBA's state-

ment – will "find the middle" which will have been artificially inflated because the union position is so outlandishly high.

Opening the fact-finding process to the public which is statutorily designed not as an extension of mediation but as a quasi-judicial hearing will certainly lead the parties to adopt positions that can be supported by the facts presented. If we take the current economic climate which calls for extremely conservative wage increases, assertion by a union that it be granted a large wage increase in addition to step increment will be opened to public and media scrutiny. Open hearings will meet the design of the Taylor Law to substitute political pressure for economic warfare. The original Taylor Law Commission stated, "Economic coercion involving work stoppages is not to be applied in our society against government. The methods of persuasion and political activity, rather than the strike, comport with our institutions and traditions as a means to resolve such conflicts of interest" (Governor's Committee on Public Employment Relations, Final Report, March 31, 1966 at p. 39).

The Commission recognized that an informed public and union membership provides the political press for settlement. It stated, "The fact-finding report and recommendations [were designed to] provide a basis to inform and to crystallize thoughtful public opinion and news media comment" [Ibid at p. 37]. The Public Employment Relations Board itself underscored this premise when it stated, "The framers of the Taylor Law contemplated that an informed public opinion would pressure the parties to a negotiation to make appropriate concessions." *Rockville Centre Principals' Assn*, 12 PERB ¶ 3021 at p. 3042 (1979).

NYSSBA's statement in opposition would have validity if the proposition sought to open to the public the initial period of negotiations and mediation which follows failed negotiations. Instead, the proposition seeks to require the fact-finding process to be held in the crucible of public view and opinion. If fact-finding does not produce a settlement then the parties would resort to private confidential discussions in "super conciliation" – additional mediation – the next impasse step which follows Fact finding.

Transparency at the fact-finding stage will result in a much better informed public and will require the parties to assert realistic positions in Fact finding or suffer the approbation of the public and media for their outlandish positions and lack of justification.

19. Improvement of Food Services (page 26)

Submitted by the New Paltz School Board on September 4, 2009.

The statement in opposition from the NYSSBA Resolutions Committee is perplexing.

Its first paragraph raises the specter of phantom state legislation that does not exist, is not pending, and even if it did or were, would have no relation to existing federal United States Department of Agriculture (USDA) policy that subsidizes low-grade food at the expense of high-grade food, and then incentivizes school districts to accept large quantities of low-grade food and buy yet more due to the price disparity federal policy creates in the marketplace. The Resolutions Committee's objection fails to substantively address the text of the resolution.

The first paragraph's second argument is particularly vexing. "(F)ederal incentives to purchase certain products would no longer allow cost to override nutritional benefit in the operation of school nutrition programs." This is not the reason for objecting to the resolution. Quite the contrary, this statement encapsulates the need for it.

NYSSBA is telling us that it's better for the federal government to incentivize us to buy foods we know to be less beneficial, and even harmful, than those we could buy if the subsidies to the lower-grade food were removed. But if the "certain products" referred to were textbooks and not food, along with the implication that it's a good idea for the federal government to make available to us low-priced textbooks that are only 65 percent factual in case we prefer to place cost over maximum accuracy of the book's content, we'd only have to decide whether to laugh or cry. But in the case of food going into our students' bodies and contributing to their short- and long-term health and well-being, lifespans, quality of life, and educational performance, we're being told that taking the short money to poor health is an option we should take care to preserve. On the basis of educational as well as health science, and in our role as advocates for students, we respectfully disagree.

The first clause of the Statement of Opposition's second paragraph is dependent upon its first paragraph. It extends from its own argument from the first paragraph – an argument already shown to not be connected to the resolution itself, or any existing or pending state legislation. That state funding may not be available for state nutrition mandates that have neither been created, nor, if ever created, would be related to the USDA issues contained in this resolution have no bearing on the strength and utility of the resolution. The paragraph concludes by conflating advocacy for the USDA to eliminate subsidies to industrial agriculture that make healthy foods uncompetitive in food service bidding with advocacy for elimination of the school nutrition program. This, too, is not contained in the resolution and is both illogical and unfair to raise as a source of objection to the resolution. The text clearly refers only to districts' own purchasing of food and makes no reference to any other source of food acquisition by schools under any existing program.

The Statement of Opposition's third paragraph is paradoxical. On the one hand it acknowledges that school food service is often the primary sustenance of students, but on the other hand argues not only that cost, rather than nutritional science, should determine content, but by argument of the first paragraph, that federal subsidies for lower-grade food that raises both the absolute and relative costs of higher-grade food to non-competitive levels is an important federal program that should be maintained. That these artificially created price disparities not only harm the students of less well-off districts, but directly interfere with the ability of those districts that could afford to address improved nutrition through discretionary spending to actually do so, is ignored as if these factors – the heart of the resolution itself – did not exist.

It is our opinion that the Statement of Opposition does much to underscore the need for this resolution while providing no valid reasons to reject it. We direct you to the text of the resolution itself, and the original rationale found in the Voting Delegate's Guide.