



## **Testimony of the New York State School Boards Association**

### **Presented to the New York State Senate Committee on Finance and the New York State Assembly Committee on Ways and Means**

**February 8, 2023**

My name is Brian Fessler and I am the Director of Governmental Relations for the New York State School Boards Association (NYSSBA). I appreciate the opportunity to offer our response and reactions to the executive budget proposal before the Senate Committee on Finance, the Assembly Ways and Means Committee, Chair Krueger and Chair Weinstein, on behalf of the 673 member school boards we serve.

#### **Executive Proposals**

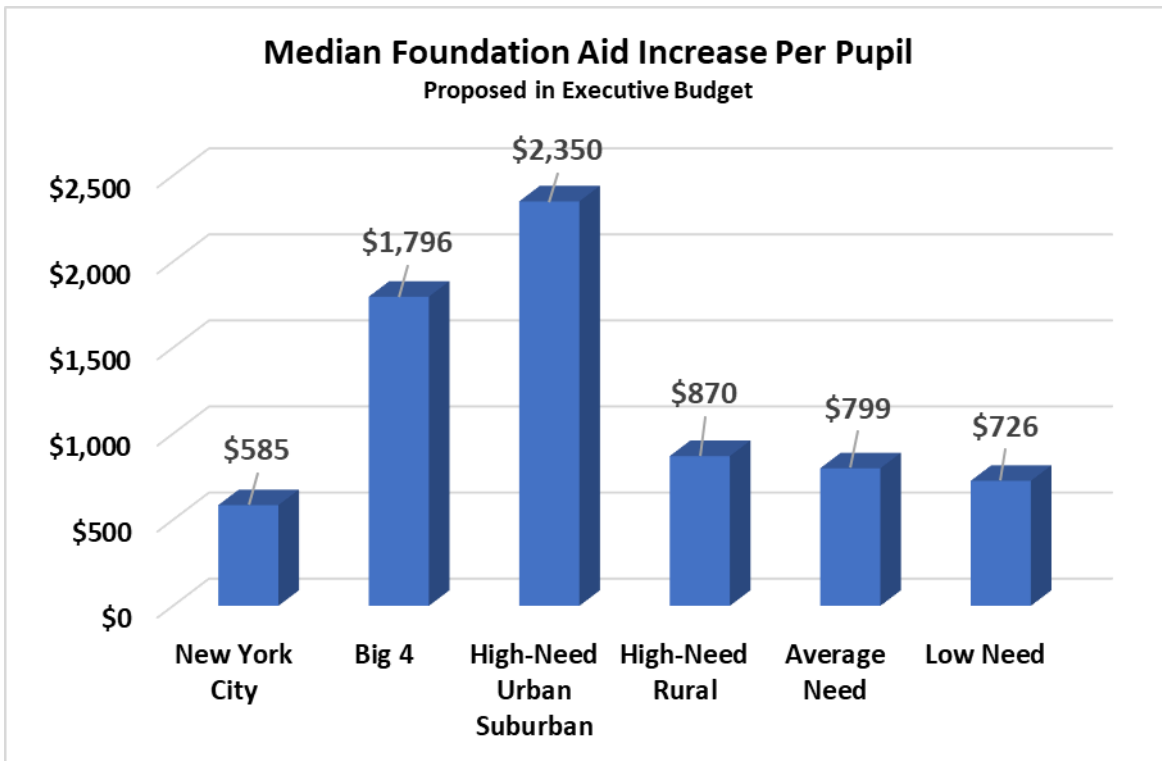
##### **School Aid**

The executive budget proposes a formula-based school aid increase of \$3.07 billion, or 9.9%, over 2022-23 levels. The aid increase would be driven through a \$2.7 billion increase in Foundation Aid, a \$232 million increase from the full-funding of expense-based aids and \$125 million in new pre-kindergarten funding.

Most notably, the proposal includes the third and final year of the recent three-year Foundation Aid phase-in plan. Under the budget proposal, all districts in the state would be fully-funded, per the current Foundation Aid formula. In addition, all districts would be guaranteed at least a minimum 3% increase in Foundation Aid over last year's funding levels. In total, this would provide \$2.7 billion in new Foundation Aid over 2022-23.

NYSSBA is incredibly pleased to see the executive propose to fulfill the Foundation Aid phase-in plan, originally enacted in the 2021-22 state budget. This would represent the first time Foundation Aid has been fully funded, since its original creation in 2007. This funding not only fulfills a commitment the state made to the state's students 15 years ago, but helps school districts in the immediate term to address the multitude of challenges and opportunities in front of them.

In addition, NYSSBA appreciates the inclusion of a due minimum increase, recognizing that all districts face rising costs. We do note, however, that a 3% increase may be insufficient for some districts to meet the demands created by inflation, staff shortages and other unique challenges.



At the same time, NYSSBA continues to call on the state to look to the future of the formula by formally reviewing impacts and the changes to the educational environment since the formula was first constructed two decades ago. This should at least include a new costing out study, improving data collection for measuring student poverty and updating the Regional Cost Index, among other possibilities. NYSSBA believes such a process should be organized by the State Education Department and include policymakers, education experts and other stakeholders. The best chance we have to end up with a high quality final product is if we collectively have the time to be thoughtful, deliberate and organized, rather than conducting such review at the same time as traditional budget negotiations in early 2024.

### **Student Mental Health Support**

The executive budget includes over \$10 million for school-based health centers. In addition, the executive budget proposes to require insurers, beginning January 2024, to reimburse for services provided by school-based mental health clinics either at negotiated rates, or if there is no negotiated rate, at no less than the Medicaid rate. The budget further proposes to allow school districts to hire physician assistants.

NYSSBA is pleased to see proposed investments to bolster wraparound services that focus on students' health and mental wellbeing. In addition to the dedicated funding proposed, we anticipate many districts will use Foundation Aid increases to continue investments in this critical area. NYSSBA will continue to advocate for provisions that establish a new reimbursement aid category for such expenses and to allow for building aid eligibility for school-based health center capital expenses.

## **Pre-Kindergarten**

The executive budget includes \$125 million in new funding to support full-day 4 year-old pre-kindergarten programs. The proposal allocates \$100 million by formula to school districts who are not currently offering full-day 4 year-old pre-kindergarten universally, and the remaining \$25 million would be available via competitive grant to further expand the number of full-day 4 year-old pre-kindergarten slots in a district.

NYSSBA is pleased with the continued increase in investments to pre-kindergarten programs. In conjunction with overall funding increase, NYSSBA highlights the need for these programs to be funded equitably across all districts. Going forward, NYSSBA eventually envisions pre-kindergarten funding being incorporated into traditional funding formulas that are currently used to support K-12 education.

## **Staff Shortages**

The executive budget proposes extending for one year the current waiver of the \$35,000 income cap for retired public employees to return to the public workforce. The current waiver is set to expire June 30, 2023, and the executive budget proposes extending the waiver until June 30, 2024. The executive budget also includes some proposed improvements to the civil service process, including continuous recruitment.

NYSSBA strongly supports extending the waiver on the income cap for public retirees to help school districts address staff shortages. School districts have made clear that this waiver has been an important tool in hiring retirees to serve as teachers, school bus drivers and in other professional positions. While NYSSBA is also supportive of meaningful civil service reforms to help address both short- and long-term staffing challenges – including modernizing exams and changing the Rule of 3 to a Rule of 5 – we are pleased to see this proposed extension included in the executive budget.

## **Tobacco Regulations**

The executive budget proposes to prohibit the sale of any flavored tobacco products, as well as advertising that implies any such flavors. In addition, the executive budget proposes increasing the sales excise tax on cigarettes from \$4.35 to \$5.35 per pack.

NYSSBA is pleased to see continued action on the part of the state to address the use of tobacco products among children. School board members believe strongly in the need for increased rules and restrictions on the sale and advertisement of tobacco and vaping products, especially those targeted towards children.

## **Foundation Aid “Set-Asides”**

The executive budget proposes a new restriction on the use of Foundation Aid funding (commonly referred to as a “set-aside”) of \$250 million for “high-impact tutoring.” Only districts whose proposed Foundation Aid increase is at least \$100,000 greater than a 3% increase would be subject to the set-aside. As proposed, this would apply to 425 districts. The set-aside amount

for individual districts is equal to the greater of either A) \$100,000 or B) 11.77% of the Foundation Aid increase over 3%. The set-aside for high-impact tutoring would need to be used to deliver small group or individual tutoring sessions in reading and mathematics to students in grades 3 – 8. In addition, the executive budget would continue the current \$250 million Foundation Aid set-aside for community school purposes.

While recognizing the value of both high-impact tutoring and community schools, NYSSBA continues to be opposed to restrictions on the use of districts' Foundation Aid through "set-asides." Foundation Aid was designed as a general operating aid with which a school district has the ability to decide how and where it is used, based on its individual needs and interests. As drafted, the amount of high-impact tutoring set-aside for each district has no connection at all to the actual need for such services within a district. School districts should be granted full flexibility in their funding decisions. If the state would like school districts to focus resources in particular areas, they should provide separate and additional funding for districts to do so.

### **Charter Schools**

The executive budget proposes eliminating the regional cap on the number of charters that may be issued in New York City, as well as permanently authorizing the reissuance of any charter originally issued to a charter school that closed due to surrender, revocation, termination or non-renewal.

NYSSBA opposes proposals that would increase the number of charter schools operating in the state, and specifically in New York City. Charter schools divert critical funds away from public schools and can create logistical challenges due to often unpredictable enrollment fluctuations. Conversely, NYSSBA believes that local school district consent should be necessary prior to new charter schools being considered in districts that already have a large percentage of charter students.

### **Administrative Reporting Requirements**

The executive budget proposes new school district reporting requirements that address pre-kindergarten participation, the transition to zero-emission buses and procurement of New York grown or produced foods. For pre-kindergarten, school districts would be required to annually report on the number of 4 year-olds they intend to enroll in both district-run and community based organization (CBO)-run pre-kindergarten programs, and the number of 4 year-old children in the district not attending those programs. For zero-emission buses, school districts would be required to submit a progress report on the implementation of the transition. The report would need to include information regarding the sufficiency of the electric grid, availability of charging stations, number of zero-emission buses purchased and/or in use, and the progress of training and workforce development to support the transition. Finally, for procurement of New York grown foods, school food authorities would be required to annually report on the total dollar value procured of food, including milk products, grown, produced, or harvested in New York.

It is important to highlight the continued administrative strain that each additional reporting mandate places on school districts. At the same time, NYSSBA recognizes the potential value of information on pre-kindergarten participation and of progress on the zero-emission bus transition. However, the same cannot be said for the executive budget proposal to extend the unnecessary and duplicative school building-level budget reporting requirement. That requirement has been in place since 2018 and is currently scheduled to expire on June 30, 2023. The executive budget proposes to extend the reporting mandate until 2028. As part of the federal Every Student Succeeds Act, school districts are already required to report on school building-level spending. This state mandate has effectively led to a double reporting requirement for school districts, greatly adding to the administrative burden without yielding significantly new or useful information for the state. NYSSBA opposes this proposed extension and calls upon the legislature to reject it from the final budget agreement.

### **School Aid Database Freeze**

Similar to past executive budgets, this budget includes a proposal to freeze payments on a permanent basis to a maximum payment of those included in the school aid runs supporting the executive budget proposal based on the November database.

NYSSBA is strongly opposed to this proposal and hopes to see it omitted in the final budget, as has been the case in past years. As with any budgeting process, cost projections can be volatile. Such volatility does not reflect poor budgeting practices, and should not be treated as such. It is important for school districts to be reimbursed for legitimate, actual costs.

### **Special Education Cost Shift**

The executive budget would permanently eliminate the state share of costs related to Committee on Special Education (CSE) placements for districts outside of New York City and transfer the state's responsibility for maintenance costs of state-operated schools for the blind and deaf onto school districts. The state shifted such costs onto school districts on a one year basis since the 2020-21 enacted budget. Prior to the shift, the state covered 18.424% of maintenance costs for CSE placements, with school districts covering 38.424% and the locality assuming the remainder. Elimination of the state share moved the school district cost to 56.848%. Under current law, the state would resume their cost share in 2023.

NYSSBA is opposed to the continuation of these cost shifts. The state estimates that the shift will result in nearly \$30 million in additional costs on districts. Particularly at a time when the state is in a relative strong budget position, school districts should not be forced to absorb an unnecessary cost shift such as this.

### **Electrification of Buildings**

The executive budget proposes to ban the installation of building equipment and systems that use fossil fuel. For schools, the ban would apply to new buildings beginning in 2029, and to preexisting buildings in 2035. The ban would not apply to the use or maintenance of preexisting

equipment or systems. Relevant to schools, it also would not apply to equipment or systems related to cooking, nor emergency back-up power generators.

NYSSBA recognizes the need to make decisions in the best interest of the global environment. However, as school districts are in the early stages of attempting to responsibly meet the requirements of the zero-emission bus transition, we also recognize the effects of unfunded mandates on district finances, as well as the current reality that markets are unable to meet these demands. As such, NYSSBA will continue to advocate for support from the state to meet its climate-related mandates, while stressing the feasibility of such proposals.

## **NYSSBA Requests for Additional Budget Action**

### **Universal School Meals**

When the COVID-19 pandemic shut down school buildings in March 2020, school nutrition staff faced the challenge of ensuring that students remained well-nourished. Congress helped by authorizing the U.S. Department of Agriculture (USDA) to issue waivers that gave schools flexibility, including dropping income eligibility requirements for free meals. After multiple extensions, the waivers that permitted free meals for all students expired on June 30, 2022, and more than 700,000 students across the state stopped receiving free school meals at the start of this school year. Universal school meals programs reduce the stigma for students unable to afford meals, increase the number of students fed during the school day, reduce paperwork for school staff and assist districts in streamlining their meal service operations.

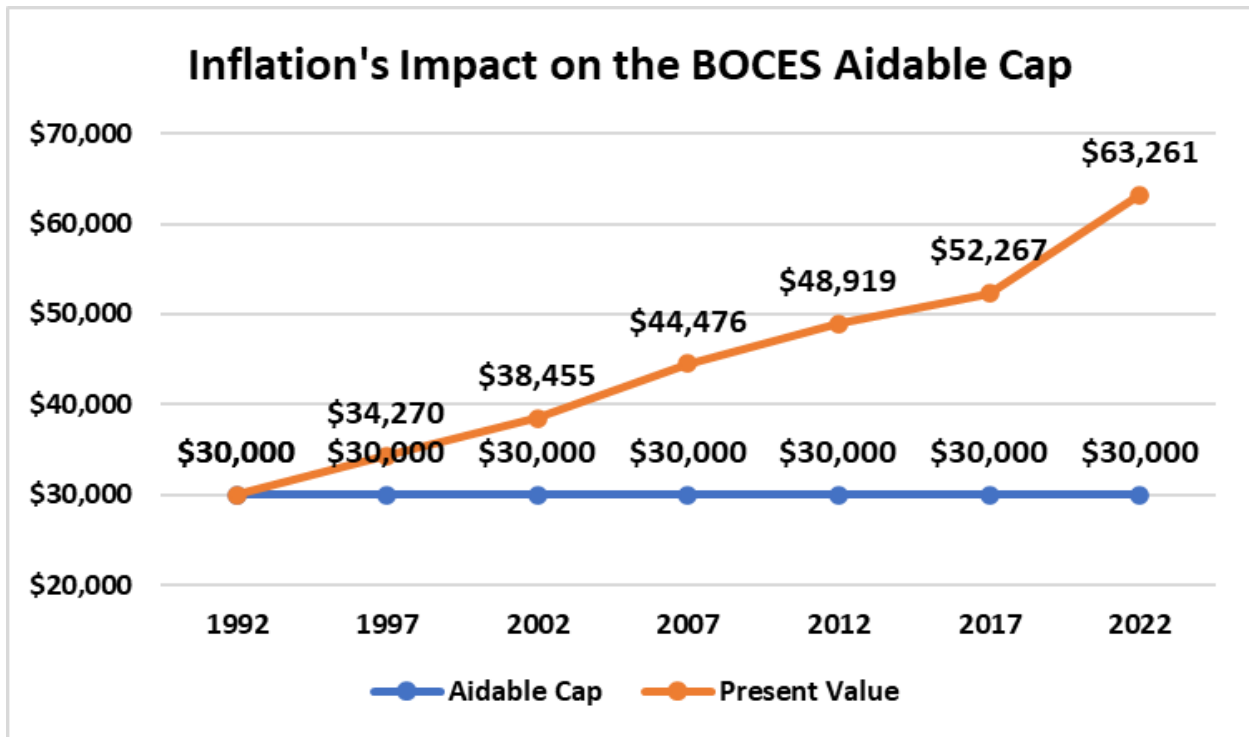
NYSSBA calls on the state to launch a universal school meals program that would ensure all public school students are offered breakfast and lunch, free of charge. Leveraging existing federal funding for school meal programs, this statewide initiative would cost an additional \$200 million annually. The benefits of a statewide free school meals program would be wide-ranging. These include financial relief for families, reliable access to nutrition for students across all income levels, elimination of school meal debt and more streamlined administrative processes.

It is estimated that one in seven children in New York State experience hunger, disproportionately from Black and Latinx communities. Students experiencing hunger struggle to focus and engage, have lower school attendance than their peers and are at greater risk of mental and physical health problems. Now is the time for New York to invest in education and health equity through the funding of nutritious school meals for all.

### **Career and Technical Education**

School district and BOCES Career and Technical Education (CTE) programs have proven highly effective in helping provide students with the essential skills they require to successfully transition to college and career. The growth in popularity of such programs reflects their success. However, the state reimbursement formula for these BOCES programs has not been changed in more than 30 years. This effectively increases the costs absorbed by districts every single year. It

is well past time for the state to agree to increase the aidable cap on BOCES salaries for career and technical education instructors. Such programs grow student interest and provide a worthy path to successful employment for thousands of students. At the same time, a proportionate increase in special services aid should be made for similar CTE programs in the Big 5 and other non-component districts.



### Prior Year Aid Claims

The state first eliminated its annual funding to make payments against the prior year aid claims list in the 2021-22 budget. Prior to that budget, the state had annually allocated nearly \$20 million to pay down against the list of approved aid claims for certain past expenses from school districts. With no funding included in the budget, the \$300 million owed by the state to school districts will only continue to grow. The majority of these funds are owed to high and average-need districts. There are nearly 200 approved claims on the list that have gone more than 10 years without being paid. In addition, the lack of prior year aid claim funding will significantly blunt the positive impact of the building and transportation aid forgiveness provisions included in last year's enacted budget.

NYSSBA calls on the state to restore the annual funding provided to pay against this list. In addition, the state could and should use state aid overpayment claw-backs as a funding source to further pay down claims. This would speed up the payment process without leading to an additional net cost to the state.

### Fund Balance Limit

Balancing the need for strong academic programs with keeping local property taxes stable and affordable is one of a school board's most important responsibilities. Currently, districts may

carry a maximum undesignated fund balance of just 4% per year. School districts are operating in an environment in which inflation itself has been double this allowable limit of fund balance. The current restrictions leave districts with little room for error to meet unplanned costs. In fact, the Government Finance Officers Association (GFOA) recommends that local governments – including school districts – maintain no less than two months’ worth of operating expenses on hand. The Governor has recognized the importance of such a safety net by committing 15% of the state’s operating spending to be placed in a rainy-day fund.

In a world where districts are also operating under the property tax cap, these burdensome restrictions further reduce districts’ ability to meet their students’ needs and budgetary realities. A modestly higher cap of, for example, 6% or 8% is both needed and fiscally responsible. NYSSBA calls for a reasonable increase to the fund balance limit.

School boards stand ready to work with you on these, and other, important issues - for the betterment of our school districts and BOCES, and the millions of students they educate every day. For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.