



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

January 31, 2018

On behalf of the New York State School Boards Association, we thank you for this opportunity to respond to the Executive budget proposal, and to present our budget recommendations.

As you begin your discussions and negotiations in the weeks to come, we ask you to consider the following amendments to the Executive's proposals.

Executive Proposals

State Aid

NYSSBA requests the Legislature increase school aid by \$1.2 billion over the Executive's proposal and enact a plan to fully phase-in the Foundation Aid formula.

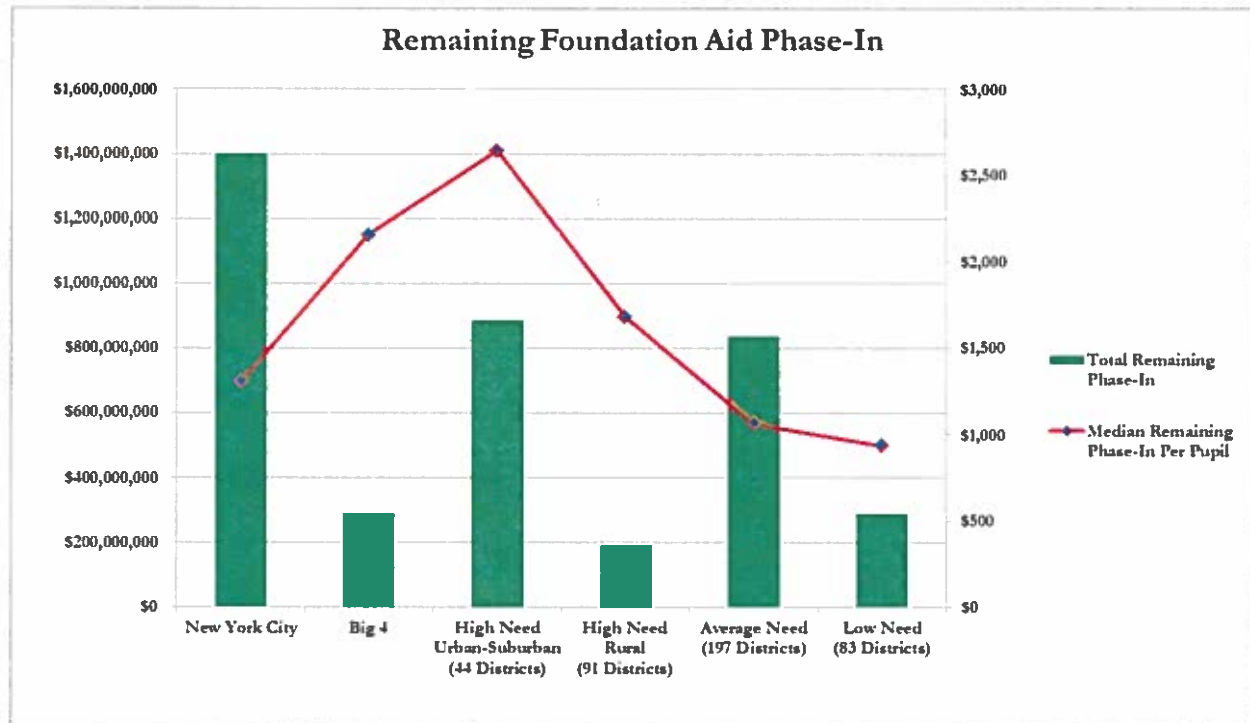
NYSSBA is guided by five basic principles for state education funding: adequacy, equity, flexibility, predictability and clarity. We firmly believe that all conversations about education funding should be shaped by these principles.

We appreciate the recent increases in state aid, both in relative and absolute terms, which have been afforded to school districts. While it took many years for districts to recover from the financial consequences of the Great Recession and the resulting Gap Elimination Adjustment, school districts across the state have used their additional Foundation Aid and other state support to restore and build-upon critical programs and services for their students. We must work to make sure that progress continues.

The Executive proposes an increase in K-12 education spending of \$769 million over 2017-18 state funding levels. Of that, \$338 million would be dedicated to a Foundation Aid increase, to be distributed using a single-year distribution formula. While we acknowledge the budget environment the state is currently in, the amount of state aid is simply inadequate to meet the growing needs of students. This proposed state aid increase, combined with the restrictions placed by the state on local revenue growth, would generate less than a two percent increase in overall funding for school districts.

NYSSBA calls for a \$2 billion overall increase in state support for school districts, with \$1.4 billion to be provided through Foundation Aid. When projecting regular increases in costs, many driven by state mandates, as well as the restrictions on local revenue from the property tax cap, school districts will need an estimated \$1.5 billion in additional funding for 2018-19 simply to maintain current programs and services. In fact, the estimated \$200 million in increased TRS employer contribution costs will automatically consume all but \$88 million of the Executive's \$288 million in unrestricted operating aid. At the same time, the Executive's proposal to change the reimbursement rate for summer special education services could cost districts another \$70 million. NYSSBA recommends a

dramatic increase in this year's Foundation Aid allocation, but also a plan to fully fund the remaining \$4 billion in Foundation Aid phase-in over three years.



NYSSBA supports the Executive proposal to provide all districts with a due minimum increase in Foundation Aid, regardless of phase-in level. Whether it is due to health care costs, pension obligations or general inflationary increases, all districts face some level of added costs each year and Foundation Aid exists as the main state funding stream to help school districts meet those pressures. However, NYSSBA recommends that the final budget also include language to continue to “level up” the funding of those districts that are most underfunded, based on current law.

The Executive proposal failed to propose any updates or adjustments to the Foundation Aid formula. It also effectively discontinued an improvement made under the 2017-18 budget, by failing to extend the use of the Small Area Income and Poverty Estimate (SAIPE) as an alternative to the near two-decade old 2000 census poverty count. NYSSBA supports continuation of the use of SAIPE data, as well as the use of direct certification data as a more-accurate alternative to Free and Reduced Price Lunch (FRPL) counts as a student need measure. In addition, NYSSBA urges the state to update the Regional Cost Index, eliminate the arbitrary floor of the Income Wealth Index (IWI) to appropriately measure district wealth, review and adjust the weighting for English language learners (ELL), recognize the property tax cap in the calculation of a district's expected local minimum contribution, study the impact of declining enrollment on district wealth factors and, while perhaps more long term, conduct a new costing out study to determine the cost of education in today's environment.

School-Level Spending Plan Approval

NYSSBA is strongly opposed to this and any other state effort that usurps the authority of locally-elected school boards to make decisions about school district budgeting.

The Executive proposes a new requirement for certain school districts to create building-level spending plans, which would be subject to approval by the State Division of the Budget and State Education Department.

In 2018-19, the Big 5 school districts would be required to develop and submit building-level spending plans, which would incorporate factors such as demographics, per pupil funding and source of funds. This requirement would expand in 2019-20 to include any school district that has at least nine school buildings and receives at least fifty percent of its total revenue from state aid. Based on current information, we project ten additional school districts would be included in year two. Districts that do not obtain approval of their spending plans would be ineligible to receive their state aid increases for the applicable year.

NYSSBA is strongly opposed to this proposal. It threatens the authority of locally-elected school boards and the voters who put them in those roles. School boards and other district leaders are in the best position to know the needs of their districts. Even the most objective state-based approval system would not be able to fully respond to the frequently changing needs of each school.

In addition, there are numerous potential legal and logistical issues related to when a district finds out the level of state aid it will receive, puts their budget up for a public vote, submits spending plans to the state for approval and begins their fiscal year. This proposal has the potential to place districts in the position where what is approved by their voters may not match what is supported by the state.

Current law has already changed to significantly increase transparency in district spending and financial planning. As part of ESSA, school districts are required to report on school building-level spending. In addition, recent changes in state law required the disclosure of even greater levels of information regarding reserve funds and transfers. School districts are the only municipalities that receive voter approval of their budgets. That direct voter approval should be respected.

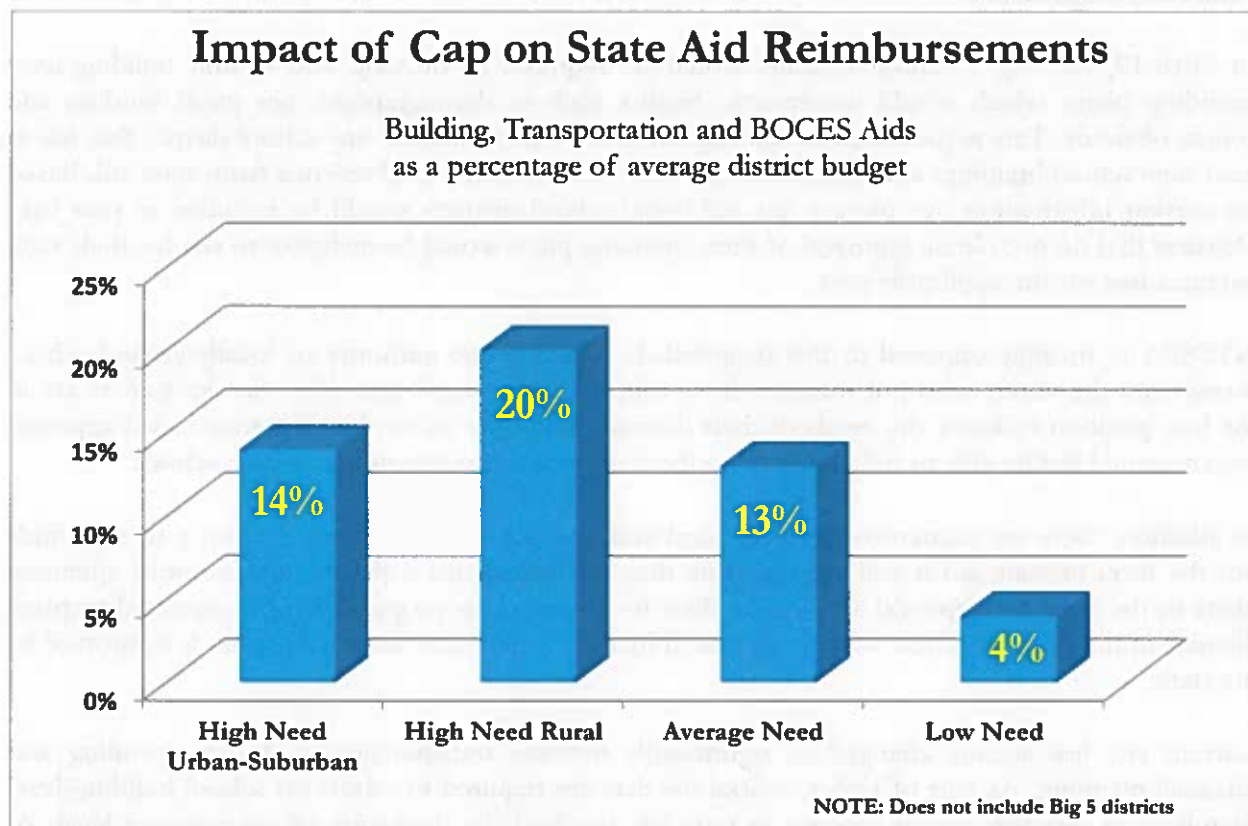
Caps on State Aid Reimbursements

NYSSBA strongly opposes the Executive budget's arbitrary caps on school district reimbursements.

The Executive budget proposal includes a cap on future growth of some expense-based aids, beginning with payments in 2019-20. For BOCES aid and transportation aid, annual growth in these specific categories, for each district, would be capped at a 2% increase over the prior year. For building aid, total statewide growth would be limited to 2%. If statewide growth were to exceed the 2% cap, all districts statewide would be reduced, regardless of their individual growth. In addition, the proposal would further cap expense-based aids at the estimates listed on the school aid runs that accompany the Executive budget and would also eliminate any new prior year aid claims that would otherwise be owed to districts.

These arbitrary caps on individual expense-based aid categories would have a wide-reaching negative financial impact on school districts. The Executive states in his proposal that the "savings" generated by this cap could be used to increase other aid categories, including Foundation Aid. However, the proposal includes no language to guarantee that the savings would be repurposed in this way. Even if such a guarantee were made, this proposal would not lead to an increase in overall school aid, but simply a redistribution of funding amongst school districts. The proposal could have a drastic effect on the funding of school district construction projects, especially those that have

already been approved by voters based on certain financial assumptions, and counteract the incentive that currently exists for school districts to share services through BOCES.



Further, the figures listed on the Executive budget's school aid runs are based on best-effort projections made by school districts before the school year begins and therefore do not necessarily reflect the actual costs school districts incur by year-end. Not only would school districts face fiscal difficulties because of this proposal, but the state would be making aid payments on cost data that is knowingly out-of-date. Finally, simply prohibiting any new prior year aid claims is not a sensible nor responsible way to address the \$350 million backlog that currently exists.

Foundation Aid Set-Asides

NYSSBA supports community schools, but is opposed to the continued restriction of Foundation Aid for this or any other purpose.

NYSSBA supports the provision of resources for school districts that wish to create community schools. In many districts, the services they bring to students have made, and are making, a true positive impact. However, we are opposed to districts effectively being mandated to create community schools, or any other program, by limiting the use of their Foundation Aid through "set-asides." A set-aside is a restriction on how funds can be spent. Foundation Aid was designed as a general operating aid of which a school district has the ability to decide how and where it is best used. Under the Executive's proposal, the community school set-aside would total \$200 million in 2018-19 and would reduce the unrestricted Foundation Aid increase under this budget to just \$288 million.

In order to maintain full flexibility under Foundation Aid, community schools should be supported by the state through an additional dedicated funding stream, to be used if the district determines that a community school model is what their district needs.

No Student Goes Hungry

NYSSBA supports the intent of the Executive's proposal to establish and improve programs that promote the overall health and safety of students, but asks the Legislature to ensure that adequate funding is available to support such programs.

A healthy and safe school environment is key to a student's educational success, and making sure no student goes hungry is an essential part of that process. NYSSBA is supportive of efforts to achieve that goal. As such, we are supportive of the intent behind the Executive's No Student Goes Hungry program. However, there are some concerns with the proposal as currently drafted.

Most notably, the proposal would require school districts to provide unlimited meals to students without payment, but leaves no reasonable recourse for recouping the debt from parents or guardians. In addition, changes in the school breakfast program could lead to significant costs to the district including capital costs, costs related to the meals themselves and staff-related costs associated with the delivery and supervision of the breakfast after the bell program. NYSSBA calls on the Legislature to amend these proposals to ensure that districts are made financially whole with the implementation of such programs and that maximum local flexibility and decision making is retained.

Finally, NYSSBA has no objection to the proposed expansion of Farm-to-School grants, but would prefer to see an overall increase in school meal reimbursement rates, rather than having those increases limited to programs in the logistical and financial positions to secure locally grown foods.

Sexual Harassment Policy

NYSSBA supports the Executive's intent to reduce sexual harassment in the workplace and provide clear recourse and protections for victims in the event such harassment occurs.

The Executive proposes a number of changes intended to combat sexual harassment in the workplace. Several components of the Executive proposal would apply to school districts, including a prohibition on employers requiring a signed agreement restricting the right to pursue future litigation and requiring that school districts direct their attorneys to develop sexual harassment prevention policies that set forth uniform complaint and investigation procedures that protect the confidentiality of the victim. Certain school districts who have adopted section 18 of the Public Officers Law would be prohibited from using district funds to cover settlements for suits against employees.

NYSSBA supports the Executive's intent to reduce sexual harassment in the workplace and provide clear recourse and protections for victims in the event such harassment occurs. As proposed, NYSSBA does have concerns about the manner in which the Executive has approached school district implementation of these processes. NYSSBA believes that the drafting and adoption of district policy should remain the purview of the Board of Education, and not be delegated to outside school attorneys, as proposed by the Executive. In addition, NYSSBA will work with the Executive and Legislature to ensure that investigation procedures are consistent with and reflective of current requirements and limitations on school districts under section 3020-a.

Division of Human Rights Oversight

NYSSBA has concerns with the proposal to place school districts under the jurisdiction of the Division of Human Rights.

NYSSBA supports protecting the rights of all students. However, there are already numerous federal laws that provide substantial protection for students from acts of harassment, bullying and discrimination including but not limited to Title VI of the Civil Rights Act of 1964, Title IX, the Americans with Disability Act, the Individuals with Disabilities Act and by the state via the Dignity for All Students Act. Expanding the jurisdiction of the Division of Human Rights could lead to confusion as to which law takes precedence, while also unnecessarily increasing school district liability.

NYSSBA does and will continue to work with the Executive, the Legislature and others to ensure the continued protection of the rights of all students.

Charter Schools

NYSSBA opposes the Executive's multiple charter school proposals.

The Executive proposes eliminating the state reimbursement on supplemental tuition made to charter schools by New York City, increasing costs associated with facilities payments made by New York City to eligible charter schools and capping the state reimbursement to New York City for such facilities payments at \$10 million.

In addition, the budget proposal provides a direct financial allocation to charter schools, on top of the increase in funding generated through the charter school basic tuition formula.

If enacted, these proposals would divert much-needed resources away from the New York City school district and the students they educate and unnecessarily add on to existing funding structures already designed to pass along school district state aid increases to charter schools.

NYSSBA Requests for Additional Budget Action

Growing Student Needs

NYSSBA requests dedicated financial supports for districts experiencing wide-ranging growth in student needs.

In recent years, school districts have faced dramatic increases in the number of students with specific needs. Growing student poverty, more English language learner (ELL) students, concentrated pockets of increasing enrollment and emerging student health concerns have all been present in our school districts. Unfortunately, financial resources to meet these growing needs have not kept the same pace. Notably, an underfunded Foundation Aid formula has complicated efforts made by school districts to support the many students in these situations across the state.

Nearly a quarter million public school students in New York qualify as ELLs, a figure that has steadily risen this decade. And more than a quarter of the districts in the state have experienced some level of meaningful enrollment growth at some point during the last three years. Much of this growth has occurred in the state's high-need and average-need districts, particularly in small cities

and other urban centers – areas that are already struggling to find the resources necessary to provide their students with basic programs and services.

NYSSBA requests dedicated state funding streams to assist districts in addressing the growing needs of their students. Specifically, for districts with increasing ELL populations and/or growing enrollments, NYSSBA calls for targeted aid from the state at least until the Foundation Aid formula is fully phased-in for all districts. In addition, the weighting for ELL students in the Foundation Aid formula should be reviewed and adjusted to adequately reflect the current costs associated with meeting student need.

To address the growing student health crisis, NYSSBA supports the recognition of this issue by way of the Executive's proposed \$250,000 for mental health services. This is a positive first step, but is simply not enough to have any meaningful impact for most school districts.

In order to assist school districts in meeting these student health needs, NYSSBA calls on the state to make two changes. First, to allow school district facility space dedicated for student health services to be building aid eligible. And second, to create a reimbursement aid category for the costs of providing the services. Such an aid could be a "last dollar" reimbursement, after other state and federal funding streams are used and could use a district wealth-based aid ratio, similar to other expense-based aid categories that support the provision of direct student services.

Pathways to Graduation

NYSSBA requests resources and funding formula adjustments to allow for greater access to additional pathways to graduation.

Great strides have been made in recent years with regard to increased options for students to prepare for college and career. But while new pathways have been created, the resources needed to take advantage of these opportunities have often lagged behind.

NYSSBA requests that the aidable cap on BOCES salaries for career and technical education teachers be raised above the current limit of \$30,000, with a simultaneous increase in special services aid to allow resources to flow to the Big 5 and non-component districts with similar programs. If the BOCES aid reimbursement adjustment were enacted under this state budget, it would have no state fiscal impact until 2019-20. An increase in special services aid could be approved to take effect in the same year.

To ensure that all of these programs can maintain consistent leadership, we also recommend that the BOCES district superintendent salary cap and other compensation limitations be updated to reflect current employment conditions. The existing limitation was put in place more than 15 years ago. As we rely more and more on BOCES to support component districts and their students, the boards overseeing BOCES should be empowered to offer these educational leaders a compensation package that is regionally competitive and reflective of the growing demands and responsibilities they are undertaking.

Lastly, NYSSBA is supportive of the Executive's proposal to continue increased funding in early college high school programs. These programs have shown great promise and deserve the additional investments.

Fiscal Planning

NYSSBA supports access to financial mechanisms that would allow districts to better manage their budgets and conduct long-range planning.

Like any public entity, school districts face a number of challenges when developing and administering their budgets. Through disciplined budget management, on occasion, districts will end their year with unspent funds. Unfortunately, current law limits not only the amount a district can reserve for future use but also how the funds can be dispersed.

To help school districts meet these challenges and initiate long-range financial planning, NYSSBA requests the authorization of school districts and BOCES to create and fund a reserve for costs related to the state Teachers Retirement System, as well as an increase to the near decade-old four percent limit on district fund balances, which would allow districts to better address unplanned expenses and fill mid-year revenue short falls. It is worth noting that if districts had access to a TRS reserve in recent years when rates were decreasing, they may be in a better position to absorb this year's increase in TRS contribution rates.

Special Act School Districts

NYSSBA supports adjustments to special act funding methodologies to better ensure their ability to serve many of the state's most fragile students.

Special act school districts, despite being public schools, do not receive state aid the same way most traditional public school districts do. In addition, they often face more onerous financial and budgetary restrictions.

In order to properly support these school districts, NYSSBA calls for the tuition rates that dictate their funding to be automatically indexed each year at a rate comparable to other high need school districts. In addition, these districts should be allowed to establish fiscal stabilization reserve funds. Unlike other public school districts, special acts are not permitted to retain any undesignated fund balance from year to year. This results in necessary and otherwise preventable borrowing to meet simple operational costs.

Property Tax Cap Reforms

NYSSBA supports a series of limited adjustments to the property tax cap that would allow school district flexibility while protecting the interests of local property taxpayers.

As school districts prepare to operate under the property tax cap for what will be the seventh year in 2018-19, the inequities and unintended consequences of the legislation continue to compound themselves. NYSSBA supports a number of limited adjustments and clarifications to the tax cap, in order to better support both students and taxpayers alike.

Reforms include the elimination of negative tax caps, establishment of a minimum two percent allowable growth factor, reflection of enrollment growth within the formula and an amendment to the override process to prevent certain separate budget propositions from requiring supermajority approval on an otherwise tax cap compliant budget.

In addition, NYSSBA continues to support two clarifications to the tax cap that were approved permissively in 2015 and then would have been required under legislation that was passed, but ultimately vetoed, in 2017. First would be to include school district costs related to BOCES facilities as part of the capital exclusion, and second, to include properties under payment-in-lieu-of-taxes (PILOT) agreements in the calculation of the tax base growth factor. These two issues have wide-range agreement and it is well past time they are addressed.

NYSSBA stands as a willing and able partner in pursuing educational improvements for our millions of students and financial and operational efficiencies for our taxpayers. We look forward to working with you to continue this progress. For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.

