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 6, 2019

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.

In your discussions and negotiations over the next seven weeks, we ask you to consider the following amendments and additions to the Executive's proposals.

Executive Proposals

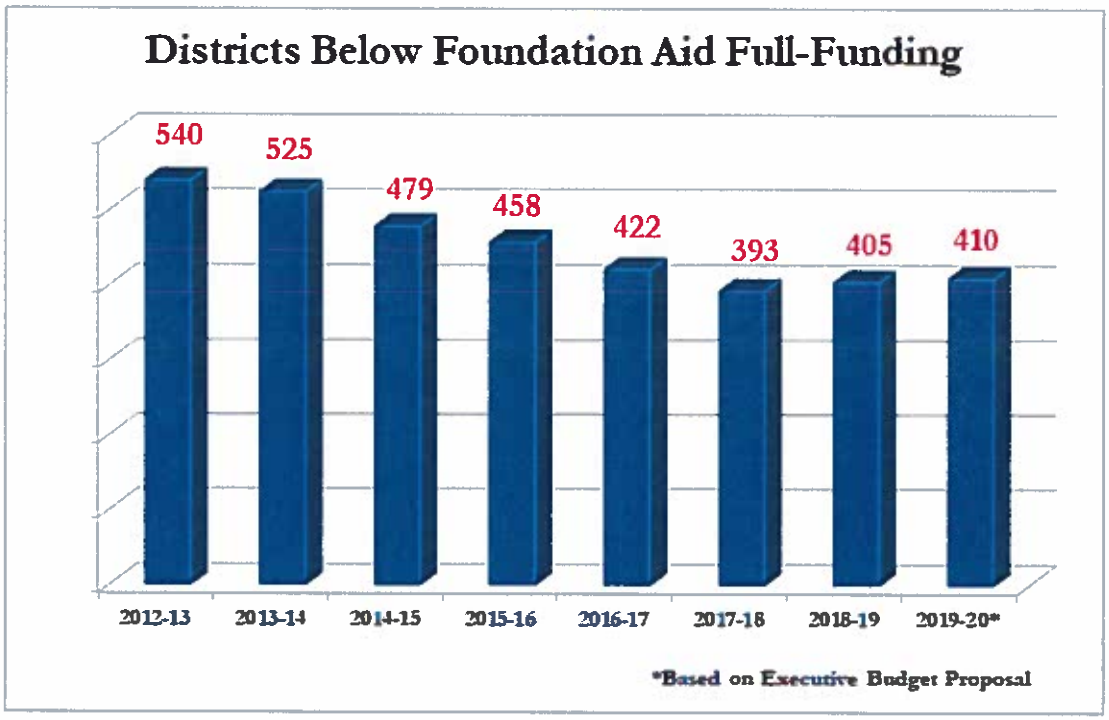
State Aid

NYSSBA requests the Legislature increase financial support for school districts 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.

The Executive proposed an education funding increase of nearly $1 billion over 2018-19 levels, but $748 million of that amount would be provided as traditional formula-based school aid. While school districts appreciate the school aid increases they have received in recent years, student need continues to grow at a rate that exceeds growth in resources.

Within the $748 million proposed by the Executive, $338 million (1.9%) would be driven through Foundation Aid. Instead of restarting the phase-in of the statutory formula, the proposal again uses a one-year, off-formula distribution method that fails to fully account for increased poverty, districts with growing enrollment and changes in district wealth. While NYSSBA supports the proposal to provide all districts at least some minimum level of Foundation Aid increase, this overall amount of funding would still leave more than 400 school districts underfunded - collectively accounting for nearly $3.8 billion in remaining Foundation Aid phase-in.



NYSSBA continues to believe that a functioning Foundation Aid formula is the most effective, equitable and dependable way to fund school districts. We call on the legislature to increase Foundation Aid by $1 billion over the Executive's proposal and to commit to a plan to fully phase-in Foundation Aid within three years. To start, the Executive's proposed $157 million "Fiscal Stabilization Fund" should be reallocated to Foundation Aid.

At the same time, the state should use this opportunity to include data updates and otherwise adjust the Foundation Aid formula to help better reflect the changing educational environment over the past decade. Such improvements should include adjustments to weightings used for high-need students, updates to the Regional Cost Index, improvement of student poverty measures and recognition of the property tax cap when determining the expected level of local contribution. As a longer term goal, the state should also embark on a new "costing out" study to determine an up-to-date cost for educating a successful student, as we enter a new decade. Such a project should be undertaken with appropriate time and consideration, the results of which could be in place for the 2020-21 budget year.

The Executive budget also includes a revised school aid growth index, which would tie growth in statewide school aid to a ten-year rolling average of the annual growth in personal income. Under current law, the growth index is based on the annual growth in personal income. While the state growth index deals with statewide school aid and not school aid amounts for individual districts, NYSSBA is generally opposed to arbitrarily-selected caps on growth in aid. State aid should be driven by need and wealth based formulas and not restricted by artificial limits. Moreover, we oppose the imposition of such a cap at a time when the index is on the rise, when districts have for years been limited in growth when the index was low.

School Funding Equity Plans

NYSSBA is strongly opposed to any attempt to replace local control with state control over local spending decisions, based on arbitrary criteria and incomplete data.

The Executive has proposed a new school-based spending requirement that would mandate the level of funding provided to some schools within certain districts. For districts that were required to report school-based budget plans to the state in 2018, a portion of the district's proposed Foundation Aid increase could be required to be spent in similar-type schools within the district (ex. elementary, middle, high) that are "significantly low funded" and "significantly high need," based on the Executive budget's proposed definition of those terms. Interestingly, the proposal's criteria for high student need is based on the exact same student need measures that are used in the Foundation Aid formula. If these measurements are appropriate to determine student need within schools, they should be appropriate to help determine Foundation Aid for school districts.

Impacted school districts would be required to obtain approval of spending plans from the State Education Department by the beginning of the new school year. The proposal would eventually apply to all districts statewide, starting in the year after they would be required to submit school-based spending plans to the state, as enacted in the 2018-19 budget.

NYSSBA is strongly opposed to the Executive's proposal which would direct where Foundation Aid funding must be spent within some districts. This authority is, and should continue to be, within the purview of local school boards and voters in the district. There are a plethora of legitimate reasons why spending levels may be slightly different in schools within a district, including special education programs and teacher seniority, among others.

This proposal would do nothing to increase the total amount of school aid provided to the district to support its students across all its schools, regardless of the level of district need or wealth. If a district does not have the resources to meet the needs of all its students, moderate redistributions between buildings will do little to improve equity. In fact, 58 of the 76 districts this plan would apply to in 2019-20 are collectively underfunded by nearly $2.3 billion, based on the statutory Foundation Aid formula and what the Executive budget would provide. The equity conversation is an important one, but it should not replace the critical need for adequate resources for all districts.

Consolidation and Elimination of Reimbursement Aids

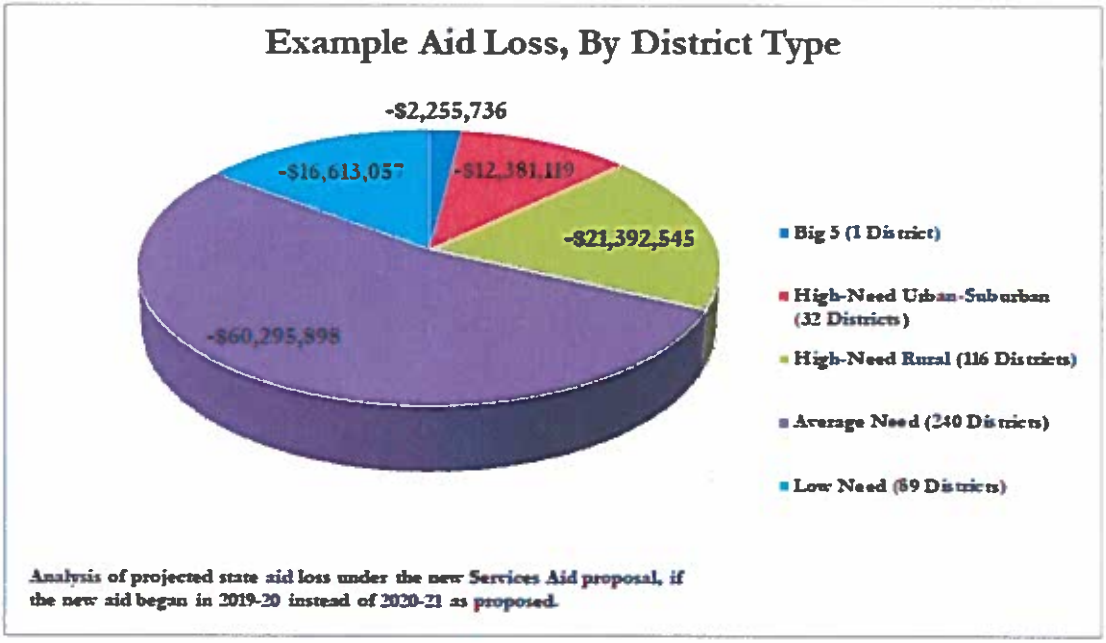
NYSSBA is opposed to the proposed elimination of 11 categorical and expense-based aids.

The Executive proposes full funding for expense based aids for 2019-20. However, the proposal also includes the consolidation and elimination of multiple expense-based aids, including transportation aid, BOCES aid, high tax aid and instructional material aids, into a single new "Services Aid" category starting in 2020-21. In addition to the consolidation, growth of the new aid category would no longer be tied to actual expenditures, but would instead be capped annually, based on district enrollment and inflation. This would effectively eliminate the reimbursement concept behind most school aid categories.

This new Services Aid would not include building aid or either of the state's special education reimbursement categories - public and private excess cost aids. However, the Executive budget would still restrict building aid by reducing the state reimbursement ratio on future capital projects for most districts, as well as reducing the allowance for "incidental costs" on construction projects,

which funds such expenses as legal fees, athletic fields and administrative costs. NYSSBA opposes this proposal as less state support would lead to two possible outcomes - decreased investment in modernizing and improving facilities for students and/or increased costs for local taxpayers.

While the Executive has represented the consolidation of expense-based aids as a maneuver to stabilize these aids and to free up funding for additional Foundation Aid increases, there is nothing in the proposal that would achieve that goal. Without that assurance, the likelihood that this proposal would lead to a comparative reduction in school aid for many districts in any given year is high. For example, if this proposal went into effect in the upcoming 2019-20 school year, nearly 500 school districts would lose more than $110 million in state aid when compared to the current aid system. A breakdown of that impact, by district-type, is shown below.



In particular, this could negatively impact districts that need to purchase new busses and would remove the state incentive for districts to share services through BOCES. Most concerning, the proposal would effectively penalize districts for even minuscule declines in student enrollment, even if district costs do not decrease proportionately. The way the proposal is drafted, declining student populations would offset growth provided by inflation. For those districts, this new aid category could be frozen for years, even as basic educational costs continue to increase. Low-wealth high-need districts in areas of population decline would be the most negatively impacted.

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 increase by $50 million for the third consecutive year, bringing the statewide total to $250 million in 2019-20. The proposal would reduce the unrestricted Foundation Aid increase under this budget to just $288 million. This makes the community schools set-aside almost as large as the total unrestricted portion of the Executive's proposed Foundation Aid increase.

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.

Charter Schools

NYSSBA opposes any growth in state support for charter schools while hundreds of traditional public school districts remain underfunded.

The Executive budget would provide an additional $25 million in direct state support for charter schools in New York City. The budget also includes continued funding for school district reimbursement for increased supplemental basic tuition payments made by districts to charter schools.

While the Executive states that the proposed increase (3.5%) is proportionate to the increase in funding for traditional public schools, the proposed formula-based aid increase for districts is only 2.8%, with the Foundation Aid increase even lower at 1.9%.

Non-Public Schools

NYSSBA opposes any growth in state support for non-public schools while hundreds of public school districts remain underfunded.

The Executive budget includes a 3.6% increase in state support for non-public schools. This funding would be used to reimburse non-publics for certain state-mandated services. The proposal also would provide non-publics with access to $25 million in new capital funding for building safety and security.

The proposed funding increase for non-publics exceeds the proposed formula-based aid increase for public schools (2.8%) and the proposed Foundation Aid increase (1.9%). In addition, the Executive budget provides no additional financial support for school safety for districts.

Student Mental Health Services

NYSSBA supports to the Executive's proposed investment in mental health services, but asks the Legislature to significantly increase the amount of funding available to school districts.

NYSSBA appreciates attention paid to the growing need for student mental health services, and the proposal to provide $1.5 million in support of enhanced mental health and school climate support services in middle schools and junior high schools. However, this allocation is inadequate to make a meaningful impact on mental health for students and school districts across the state.

NYSSBA recommends the creation of a new expense-based aid category as a last dollar financial support for districts providing health and mental services. In addition, NYSSBA recommends making all capital costs associated with creating health and mental health clinic space within school district buildings eligible for building aid.

Property Tax Cap

NYSSBA calls for adjustments and reforms to the property tax cap to be part of any discussion about the future of the cap.

NYSSBA remains opposed to the property tax cap. Before discussions about the future of the property tax cap take place, elected officials should work to address the problems, inconsistencies and unintended consequences created by the cap in the first place. There should also be no urgency to examine the current expiration for the cap, as it will be in place for school districts for another two years.

Reforms advocated for by NYSSBA include making the allowable growth factor a minimum of two percent, counting BOCES capital costs in the capital exclusion, including PILOT properties in the tax base growth factor, eliminating negative tax caps, reforming the override process and accounting for enrollment growth in the tax cap formula. The legislature has supported many of these reforms in recent years and should continue to do so.

Annual Professional Performance Review

NYSSBA supports the Executive's proposal to eliminate the mandated use of grade 3-8 tests, but believes much more should be done to improve the existing APPR system.

The Executive proposal would eliminate the mandate to use 3-8 grade tests and other state exams and allow districts to select the state or an approved alternative assessment for use as a measure of student growth while eliminating the state growth model. Legislation to accomplish this goal has also passed both houses of the legislature. As currently drafted, the student growth measure would still be required as an assessment and the district would be required to collectively bargain the assessment selection. This proposal would also make permanent the prohibition on state 3-8 test scores appearing as a part of a student's permanent record.

While NYSSBA supports the elimination of the mandate to use the 3-8 tests as the measure of student growth in APPR, we do not believe that this proposal goes far enough to make significant improvements to the existing APPR system. In addition, we have serious concerns that, if enacted, this legislation could lead to an increase in student testing.

NYSSBA would recommend that the scope of the changes be expanded to more significantly improve APPR and limit the potential for additional testing: allow school districts to select the measure or measures of student performance and expand those measures beyond assessments to include things like student portfolios; remove the threat of state aid loss if a district does not have an annually approved APPR plan; eliminate the requirement to use independent observers in addition to principals and other administrators; restore the permissive use of currently prohibited evaluation elements, such as lesson plans and other artifacts of teaching, and parent and teacher surveys; allow districts to differentiate the appropriate number and scope of observations conducted of tenured teachers with a track record of success, and probationary teachers and tenured teachers who require

more coaching; and allow districts to implement these local options at their discretion, without collectively bargaining these new flexibilities.

NYSSBA Requests for Additional Budget Action

School Safety

NYSSBA requests flexible funding be made available to school districts to support locally-determined school safety needs.

Providing students with a safe and secure learning environment is one of the most important responsibilities of a school district. Our communities, including school districts, parents, law enforcement, students and other stakeholders, all have ideas about the best way to ensure that school buildings are safe places for students and staff. Consensus in one community may be different than consensus among stakeholders in a neighboring community.

NYSSBA does not believe there is a one-size-fits-all solution for addressing school safety. Some communities may choose to have a school resource officer employed by a law enforcement agency assigned to one or more of their school buildings. Another district may feel better served by a security officer or team that is not affiliated with law enforcement, but rather selected and hired by the district. Others may determine their greatest need is to provide mental health services, while yet another may focus on the hardening of entrances, access policies and security systems. This is not an exhaustive list. However, these and other options have one thing in common: each will best serve students if adopted with local stakeholder input and support. NYSSBA asks for the state budget to include flexible funding to support the development and implementation of school safety programs.

Growth in English Language learners, special education pupils and enrollment

NYSSBA requests dedicated funding to support school districts as they meet a wide range of growing student needs.

Districts all across the state have experienced growth in student need in recent years. Whether it be growing English language learner (ELL) populations, increasing numbers of high-cost special education students or the steady growth in student poverty rates, the pace of growth has often exceed the growth in resources available to meet those needs.

Ideally, a functioning Foundation Aid formula would drive additional funding to the districts experiencing this growth. But the formula has not run as designed since 2009. This means half a generation's worth of students have been subject to the annual ebbs and flows of the state budget debate.

At least until Foundation Aid is fully funding, the state should create short-term dedicated funding streams to help districts support the needs of these students. For the more than two hundred districts with recent growth in ELL populations and overall student enrollment, nearly $90 million could be allocated through previously used funding formulas.

School Climate and Discipline

NYSSBA supports resources to allow districts to adopt and improve local climate and disciplinary procedures

Around the state, districts have worked with their school communities to adopt updated, research based school climate and discipline models, including restorative justice models. When rolled out effectively and supported by all stakeholders, including parents, students, teachers and administrators, these programs can be extremely effective. However trying to adopt these models without proper buy in or proper resources for training and development can do more harm than good.

The Executive proposal includes $3 million in alternative discipline grants. These grants would be directed to high need school districts or districts with a high number of student suspensions to implement approved alternative disciplinary models and practices. NYSSBA supports the inclusion of these resources to allow districts to locally select and adopt alternative discipline practices, which may help improve school climate.

Standards Curriculum and Instruction

NYSSBA opposes efforts to legislate standards, curriculum and instruction.

The Executive proposes changes to mandated health education instruction to include healthy relationship education instruction. Instruction would be required to include comprehensive sexual education, self-worth, teen dating violence, safe uses of technology and reporting of sexual harassment. Instruction would be required each year in grades 6-12. Details of the instruction would be further informed by a group of stakeholders and would require school districts to notify students' parents and guardians of such instruction who would then be provided the opportunity to opt their children out of the program.

NYSSBA does not object to legislation directing the State Education Department to review the existing health education standards to determine if they are in need of updates. However, NYSSBA firmly believes that the decision about what those standards should be should remain the purview of the department, while the granular decisions about instruction and delivery, including curriculum should remain the purview of local boards of education. Moreover, we believe the executive proposal is so proscriptive, it crosses into the realm of both standards and curriculum.

NYC Mayoral Control

NYSSBA supports extension of mayoral control in the city of New York.

NYSSBA supports mayoral control if it is requested by the local school community. Extension of mayoral control in New York City will maintain stable governance for the more than one million students the district serves.

Building and Transportation Aid Forgiveness

NYSSBA supports a period of amnesty to alleviate district from excessive and outdated aid penalties.

Districts count on the state to honor their commitment to pay our approved reimbursable aids on an agreed upon schedule. In some instances, districts make commitments to their taxpayers based on that agreement with the state. To ensure that these commitments are met, we seek two provisions in the 2019-20 budget.

NYSSBA calls on the state to enact a renewed period of building aid amnesty to support the students and taxpayers within the limited number of districts with projects approved before 2011, that are still facing recapture of their approved building aid due to the filing of a late cost report.

NYSSBA also requests that a renewed period of transportation aid amnesty be renewed in 2019 to support the districts facing financial hardship due to late contract filings.

Modernizing Learning Environments

NYSSBA requests resources and funding formula adjustments to allow for greater access to programs and services that prepare students for college, career and citizenship.

Students enrolled in school today will face a different world and workforce than encountered by policymakers, school board members and their parents. Our districts owe it to these students, and those who will come after them, to provide an education for the world ahead of them, not the one behind them. To do so, parents, communities, school districts and policy makers will have to revise what a school looks like and invest in programs that will grow in the future. Offering multiple pathways to graduation can be an important part of this goal. However, districts continue to face resource gaps that prevent them from allowing their students to fully take advantage of these opportunities.

To ensure that all viable options are available, NYSSBA requests that the aidable cap on BOCES salaries for career and technical education teachers be raised above the current cap of $30,000, with a simultaneous and proportionate increase in special services aid to allow aid to flow to the Big 5 and non-component districts with similar programs. The BOCES aid reimbursement adjustment would have no fiscal impact in fiscal year 2019-20. An increase in special services aid could be approved to take effect in the same year. Proposals to achieve this goal have been part of numerous previous budget plans. While each of these plans has slightly different details, all parties understand the issue and believe something needs to be done. Now is the time to reach an agreement.

Long-Range Budget Planning

NYSSBA supports the authorization of reserve funds and budget planning tools to help school districts use resources more efficiently.

One of the most important responsibilities of school boards is balancing the need for strong academic programs while keeping local property taxes stable and affordable. But school districts need access to tools that can help them navigate those dual priorities. In some cases, state law prohibits school districts from effectively planning ahead during the budget development process. NYSSBA supports legislation that if enacted, will expand a school district's access to pre-approved

monies. The first would allow school districts and boards of cooperative educational services (BOCES) to create and fund a reserve for those who participate in the New York State Teachers' Retirement System. These reserves, similar to those created in 2004 for the State and Local Employees' Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS), would provide school districts with the means to plan for future increases in the contribution rate. Initial estimates of the TRS employer contribution rate to be collected in the fall of 2020 show upwards of $300 million in savings for schools districts. But that savings will be effectively lost at the end of the school year because of the lack of a mechanism to save those funds for rate increases in future years.

The education community has experienced a move in recent years towards self-insured health plans. Many school districts have found savings, sometimes significant, by adopting this employee benefit model. However, for the overwhelming majority of those districts, any savings generated is effectively lost after one year because they do not have the authority to create a reserve to use the savings as a budget stability tool. A handful of districts have individually been granted authority to create such reserves through legislative action, but the process has been difficult and subjective. NYSSBA supports this reserve option being made available to all districts. Well-funded reserves not only help protect the programs and services offered to students within our school districts, but also stabilize local property taxes in years when cost increases exceed local capacity.

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.

While a commitment to traditional school aid and local revenue will help most school districts, it is important to remember that not all districts are supported through these funding streams. The state's Special Act school districts, serving a population of students with significant needs, do not have geographic boundaries and therefore are not taxing entities. These districts are funded through tuition payments made by sending districts, at a rate set by the state. Generally addressed outside the budget process, these payments have not kept pace with the growth in student need, and as a result, expenses.

NYSSBA recommends that these school districts be addressed within the context of the state budget, like all other school districts. Specifically, we call for inclusion of language that would provide for tuition rates to be automatically indexed each year at a comparable rate to personal income growth. In addition, these school districts should be allowed to establish fiscal stabilization reserve funds. Unlike other public school districts, Special Act districts are not permitted to retain any undesignated fund balance from year-to-year. This means that they must start each year by borrowing, simply to meet their payroll obligations. Allowing for a reasonable reserve would allow them to lessen their reliance on borrowing and as a result reduce the costs associated with interest payments. NYSSBA recommends this be addressed in the 2019-20 budget.

NYSSBA looks forward to working with you throughout this year's budget process. We are optimistic for a state budget that provides the millions of students educated in our public school system with the programs and services they deserve to succeed, while supporting our taxpayers and pursuing operational and educational efficiencies in our districts. For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.