



**Testimony of the New York State School Boards Association  
Presented to the  
New York State Senate Committee on Finance and  
New York State Assembly Committee on Ways and Means  
February 3, 2015**

On behalf of the New York State School Boards Association, thank you for this opportunity to respond to Governor Cuomo's budget proposal as well as the opportunity to present the budget priorities of our members.

In fiscal year 2015-16, NYSSBA requests a minimum increase in support for public school districts of \$1.9 billion to support current school district operations, improve equity in the distribution of aid and fund investments in specific programs and services.

### **State Aid**

*In Fiscal Year 2015-16 NYSSBA seeks a \$1.3 billion increase in operating aid, to be distributed equally between GEA Restoration and a restart of the state's Foundation Aid formula.*

*In addition to general operating aid, we ask that the 2015-16 budget fully fund expense-based aids, fully pay down the state's \$260 million prior year claims list, increase funding for English language learners and repeal the harmful building aid recalculation provision (Education Law Section 3602-6(e)(5)(c)).*

While the Governor dangled a billion dollar school aid increase in his State of the State address, the budget bills did not actually include any language to distribute any aid increase over 2014-15. There exists no distribution language, no formula methodology and most importantly, no aid runs. This means the Executive Budget leaves in place a more than \$1 billion Gap Elimination Adjustment (GEA) and remains nearly \$5 billion below full-funding of the Foundation Aid formula.

In addition, the Governor said that the aid increase is contingent upon the legislature agreeing to his proposed education reform package. In fact, however, his budget proposal includes language that says districts would be ineligible for *any* aid increase in 2015-16 and beyond unless his reforms are adopted. The result is effectively a 0% aid increase.

NYSSBA is opposed to the linkage between school aid and the adoption and implementation of specific policy proposals. When already struggling schools are denied resources, those most hurt are the students, not adult decision makers. However, NYSSBA has even greater concerns regarding the withholding of vital information. We acknowledge that the budget process is a negotiation, and that each party will present a series of financial and policy proposals that they wish to see enacted. That process can only work properly, however, if each party is willing to say what they want. Without knowing how the Governor intends to distribute his school aid package, legislators and school board members alike are being asked to make assumptions without the information needed to serve their constituents.

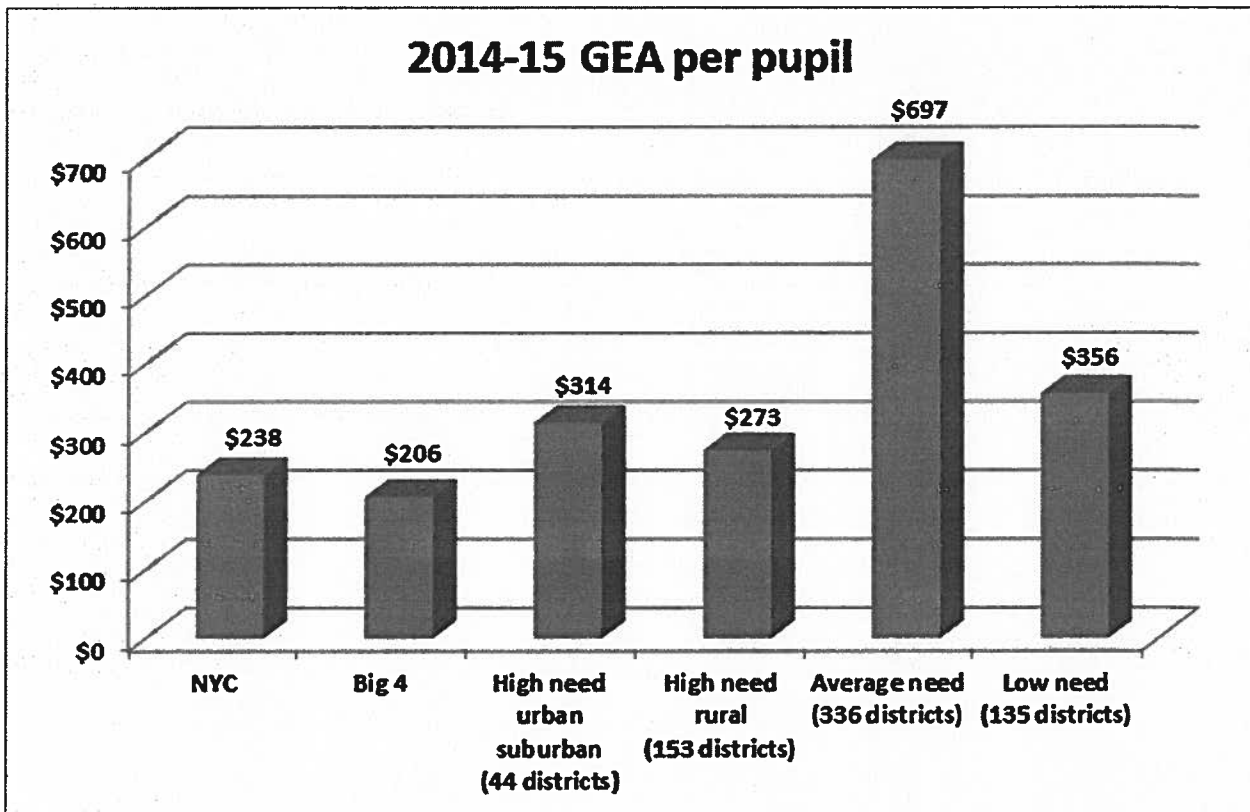
Perhaps this is simply a shrewd negotiation tactic, but the Executive's decision to withhold vital information only serves as a distraction from the most important piece of information, \$1.1 billion falls well short of what is needed.

The Foundation Aid formula, enacted in 2007, was a significant accomplishment for New York State - finally connecting the cost of educating a student to student need, regional cost factors and the ability of a local district pay. The formula incorporated many of the state aid principles that school districts had been advocating for years. But despite the plan to phase-in the formula over a four-year period, Foundation Aid was frozen after just two years. Just a year later, the Gap Elimination Adjustment (GEA) was then applied to school aid, further reducing those payments.

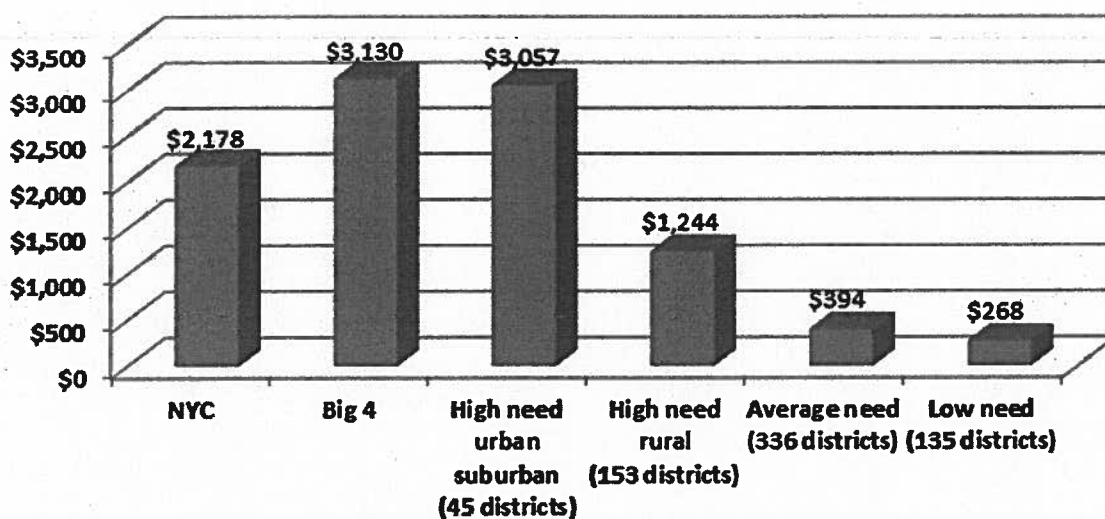
With the state projecting a budget surplus, it is unjustifiable that Foundation Aid remains frozen and that more than \$1 billion in formula-based state aid is still being withheld from schools through the GEA. Coupled with the property tax cap, the GEA and frozen Foundation Aid formula have strained budgets and forced school boards to make painfully difficult educational and financial decisions over the last five years.

As the push to reduce the GEA continues, much of the restoration of funding in recent years has appropriately focused on high-need and low-wealth districts. However, many average-wealth districts are still experiencing significant per pupil reductions. Average need districts must be recognized by any restoration formula this year, while continuing to acknowledge the overall financial difficulties less affluent districts are experiencing. At the same time, a significant number of districts, especially large urban centers, have seen significant population spikes and the frozen Foundation Aid formula is unresponsive to those enrollment shifts.

A blended approach to school aid distribution considers all of these factors and best serves students, ensuring that average need districts see the GEA restorations they need, while also driving funding to the high need districts that have seen high GEA restoration but are far behind on Foundation Aid.



## 2014-15 Underfunded Foundation Aid per pupil



### Probationary Teachers and Tenure Awards

*NYSSBA supports the enactment of a five year probationary period but asks that employing boards continue have discretion over tenure awards. NYSSBA also supports the enactment of the Executive proposal to clarify that employing boards have discretion over the retention of probationary educators. We especially encourage that additional flexibility be allowed to boards when considering the retention of employees who are fluent in the native language(s) of the students in their school building regardless of seniority or tenure status.*

The Executive budget includes proposals to lengthen probationary periods, and to clarify the right of districts to remove probationary educators for any legal and constitutionally permissible reason.

NYSSBA has long supported the extension of the probationary period of educators to 5 years. Moreover, we strongly support the clarifications surrounding the right to terminate probationary educators. However, the Executive proposal requires that tenure determinations only be approved if the candidate has five consecutive effective or highly effective ratings under the annual professional performance review system (APPR).

NYSSBA wants to see a longer probationary period, as well as an emphasis on performance. However, the factors included in tenure determinations should be a local management decision. Further, we have concerns about tying additional programs to APPR while the design of the system is still in flux.

### Teacher Discipline and Dismissal

*NYSSBA supports the Executive proposals to amend the 3020-a disciplinary process.*

The Executive proposal properly includes changes to the 3020-a disciplinary process. These proposals would immediately revoke the teaching certificate of any person who is convicted of a violent felony against a child, as well as requiring suspension without pay for any teacher accused of abuse of a child.

The Executive proposal would also prospectively require that all disciplinary hearings be held before a single hearing officer, allow children to testify by video, make a series of low evaluation scores prima facie evidence in a 3020-a proceeding, require participation by both parties in preparation and require that hearing officers accept the penalty recommendations of the employing board in all but the most extreme circumstances.

Districts have long been discouraged by the cost associated with 3020-a proceedings. However, they are equally discouraged by the poor outcomes that result from the process. Requiring the hearing officer to honor the wishes of the employing board is a welcome solution.

### **Educator Evaluation**

*NYSSBA supports the adoption of statewide scoring bands and eliminating the need to bargain for performance evaluations. However, we have serious concerns with linking 50% of the evaluations to state test scores especially while test development remains an open issue.*

*In addition, NYSSBA requests an appropriation of \$8.4 million to be used for the modernization of the state testing program. Such funds should be required to be used to reduce the number of standardized field testing, while at the same time improving transparency and accountability by increasing the number of test items available to educators and parents.*

The Executive proposed changes to the components of the teacher evaluation system to remove the local test portion, and provides for statewide scoring bands. This bill would require the weightings of the score components to be 50% state tests and other comparable measures and 50% allocated to observations. 35% of the observation points would be determined by an independent observer conducting classroom observations, at least one of which would be unannounced. The final 15% would be left to local discretion, though subject to collective bargaining. This bill would also disallow students from having an ineffective teacher for two consecutive years. Changes to APPR would apply to evaluations starting in the 2015-16 school year.

### **State Intervention**

*NYSSBA recommends that the legislature reject the Executive State intervention proposal as drafted.*

The Executive proposal would empower the Commissioner of Education to designate failing schools and failing districts. The commissioner would be empowered to appoint a receiver for the school or district after designation as failing. The commissioner would be required to designate all schools (not districts) that have been designated priority schools for three years or more. The receiver would be empowered to assume all operational and managerial rights over the district or school.

This district intervention plan is in some ways an improvement over previous proposals, as it considers all of the components of the district and does not single out the board of education, nor does it remove the board of education from any district. It also does not remove properly elected local officials. However, as constructed, this proposal is too sweeping and takes too much control away from local school officials.

Some of the authority offered to receivers in this plan mirrors the kind of changes sought by NYSSBA for many years. The authority to alter collective bargaining agreements, to make staff decisions based on performance rather than seniority, and to limit "bumping" rights are all flexibilities that NYSSBA has sought for our member boards. However, if the state believes that these operational flexibilities are what is required for a district to succeed, they should be offered to boards of education before intervention is required.

The proposal for school intervention is most concerning. It gives the commissioner no flexibility in the appointment of a receiver and, instead, inserts the receiver in all schools designated in priority status for three years or more with no evaluation and no regard for the factors relating to the performance issues. NYSSBA's analysis indicates that 176 schools in 18 districts would be affected.

<b>Schools in Priority Status for at Least 3 Years - 2014-15</b>	
<b>School District</b>	<b>Schools</b>
Albany City CSD	3
Amsterdam City SD	1
Buffalo City SD	27
Central Islip UFSD	1
Hempstead UFSD	1
Mt Vernon SD	1
Newburgh City SD	1
NYC - Manhattan	12
NYC -- Bronx	44
NYC - Brooklyn	25
NYC - Queens	10
Poughkeepsie City SD	2
Rochester City SD	15
Roosevelt UFSD	2
Schenectady City SD	2
Syracuse City SD	18
Troy City SD	1
Utica City SD	1
Wyandanch UFSD	1
Yonkers City SD	8
<b>Total</b>	<b>176</b>
Data from NYSED, Office of Accountability website	

### **Charter Schools**

***NYSSBA opposes the Executive budget's proposal to lift the charter school cap and requests rejection of this proposal in the final budget.***

The Executive budget includes a proposal to lift the charter cap by 100 schools, and eliminate the regional cap in New York City. At this time, there is room under the existing cap for new schools to open throughout the state. Charter schools should only be created with the support of the district in which they are located. NYSSBA would support raising the cap for New York City only if the Panel on Educational Policy supports an increase.

NYSSBA agrees with the premise that charter schools should serve populations that mirror those around them.

Finally, while it is preferable to have a tuition increase come from the state, rather than local districts, limited state funds should not be redirected to charter schools.

### **Prekindergarten**

***NYSSBA requests a pre-K funding increase of \$100 million over scheduled 2015-16 levels, with priority given to high need districts creating or expanding programs. We also call for expenses***

*associated with pre-kindergarten transportation to be aidable to the same extent as all other transportation.*

The Executive budget proposal continues the prior year's state investment in prekindergarten and would invest a modest amount to launch a three-year old pre-k pilot program.

While it is important to keep funding stable for existing programs, this proposal falls short of the promises made last year. When the 2014 investment was made, and \$300 million went to NYC and a comparably low \$40 million was made available for the rest of state, it was justified by saying that when other districts were ready, the funding would be there to allow them to grow as well.

However, despite the significant number of districts that were shut out when funding was exhausted last year, no new funding for 4 year olds was made available.

### **Education Tax Credit**

*NYSSBA opposes the adoption of the Education Tax Credit.*

The Executive budget includes the creation of an education tax credit. While a somewhat more modest than earlier versions this proposal would still divert millions in otherwise available state dollars in support non-public schools. At a time when the state is nearly \$5 billion below full-funding of the Foundation Aid formula and more than \$1 billion in GEA reductions are still being applied to school aid, all general fund support available should be directed to existing education obligations.

### **Unaccompanied Minors**

*NYSSBA requests the immediate appropriation of current year (2014-15) funding to support districts with spikes in this type of enrollment, followed by incorporation of a current year aid stream, similar to the now defunct growth aid, to allow for the accommodation of future spikes.*

Many school districts in New York State have experienced a recent and dramatic increase in enrollment. While some enrollment spikes are related to shifts between school districts, many have been driven by the arrival of high numbers of unaccompanied minors presenting for enrollment in our schools.

To appropriately serve these students, districts must invest additional resources to meet their extraordinary needs. Not only are most of these individuals English language learners, many have experienced interruptions in their formal education and have extreme social and emotional needs. Many of the districts now enrolling these students have limited space, few programs left to cut and limited experience in providing the supports needed. Further complicating the situation is the fact that school districts were not able to anticipate the significant increase in enrollment and budget for additional students. Unless student data is updated to reflect current year enrollment, there is no mechanism to provide school districts with the aid they need.

Even if enrollment data is updated, districts cannot wait until next year - resources are needed now. According to the Office of Refugee Resettlement 6441, unaccompanied minors have been placed with sponsors since November of 2013. County by county data below is only available for those counties placing 50 or more students.

Counties in New York State which placed 50 or more unaccompanied minors in Fiscal Year 2014 and 2015			
County	FY 2014	FY 2015	Total
Bronx	495		495

Counties in New York State which placed 50 or more unaccompanied minors in Fiscal Year 2014 and 2015			
Kings	535		535
Nassau	1446	56	1502
New York	77		77
Orange	74		74
Putnam	54		54
Queens	902	53	955
Rockland	232		232
Suffolk	1600	87	1687
Westchester	322		322
Total	5737	196	5933
Data is from the Office of Refugee Resettlement			

Despite growing concern about this topic the Executive proposal is silent on this issue.

#### **Career and Technical Education**

***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 increase in special services aid to allow aid to flow to similar programs serving non-component districts and the Big 5.***

***NYSSBA also requests \$20 million in funding for districts that wish to develop or expand programs.***

Recent regulatory changes proposed by the Board of Regents open the possibility that students will be able to attain a Regents diploma by successfully completing an approved industry based exam in lieu of one of their Regents exams. Creating the framework for these programs is only part of the equation. For an increase in student access and participation, resources will be required.

#### **Optical Scanner Voting Machines**

***NYSSBA requests the state provide \$30 million in one-time funding for school districts to purchase optical scanner voting machines. Funding should reflect need within each district, based on traditional voter participation levels in May school district elections.***

School districts currently have the authority to use traditional lever voting machines when conducting school budget votes and board member elections. That authority expires at the end of 2015, at which time schools will be forced to decide between more expensive optical scanner machines and less-efficient paper ballots. Counties currently possess their own optical scanners, funded in part by federal grant dollars associated with the Help America Vote Act. However, funding was not made available to school districts and counties are not required to make these machines available for school budget votes, capital votes and board member elections.