



**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 14, 2017**

On behalf of the New York State School Boards Association, we thank you for this opportunity to respond to the Executive budget proposal, as well as the opportunity to present our budget priorities on behalf of more than 91% of the school boards in New York.

As you begin your deliberations, we strongly encourage you to consider the following amendments to the Executive's proposals.

Executive Proposals

State Aid

NYSSBA requests that the legislature increase school aid by \$1 billion over the Executive's proposal and reject the proposed repeal of the Foundation Aid formula.

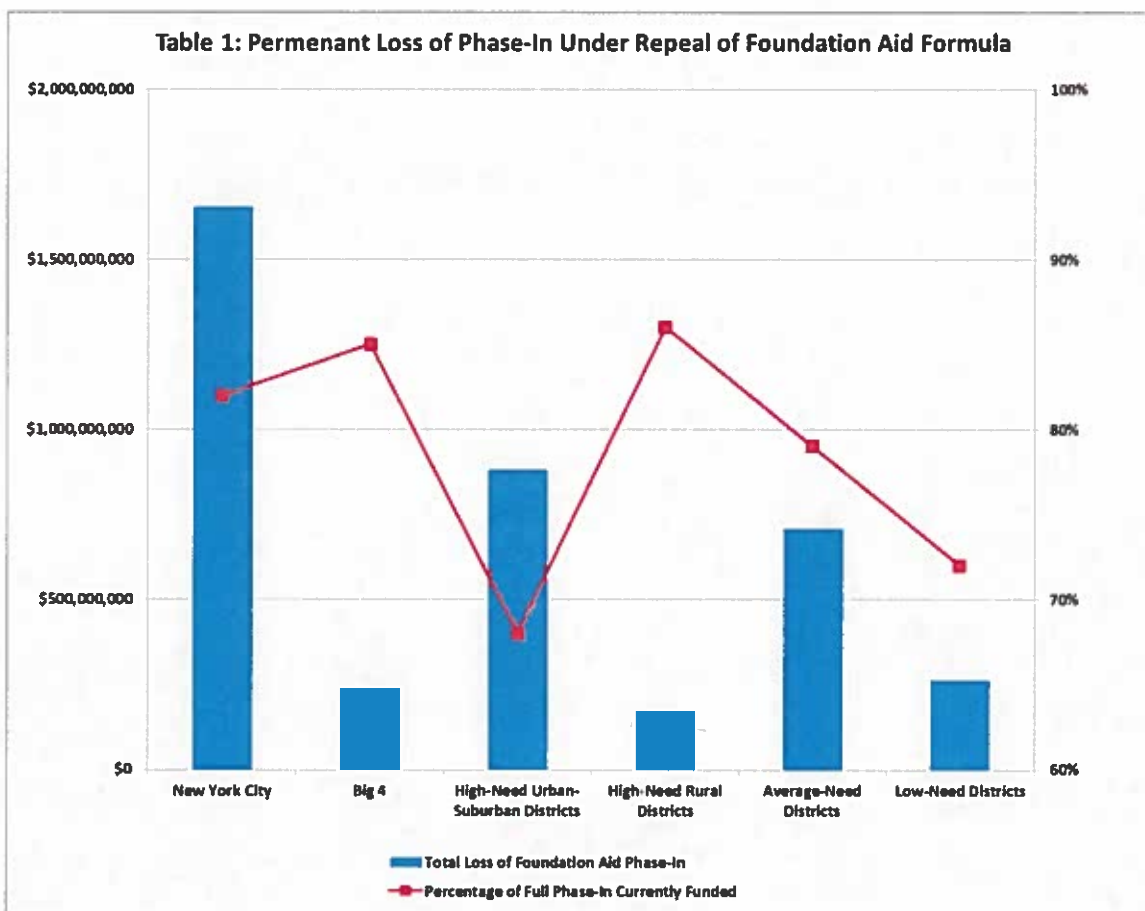
NYSSBA is guided by five basic principles for state education funding: adequacy, equity, flexibility, predictability and clarity. We firmly believe that all conversations about education funding should be shaped by these principles.

The Executive budget proposes an education funding increase of \$961 million over 2016-17, \$428 million of which would be driven through an increase in Foundation Aid. While NYSSBA recognizes and appreciates this proposed increase, the level of funding is simply not enough to meet the needs of school districts and the students they will serve in 2017-18.

NYSSBA calls for a \$2.0 billion school aid increase, with \$1.4 billion to be funded through Foundation Aid. Given annual increases in labor costs, health insurance and general inflationary increases, as well as the limitations on local revenue created by the property tax cap, school districts require an estimated \$1.5 billion state aid increase simply to maintain current programs and services – before they can consider additional investments in areas such as prekindergarten and support for growing English language learner enrollments. NYSSBA calls for \$500 million to allow school districts to address needs in these important areas.

NYSSBA is also strongly opposed to the proposed repeal of the Foundation Aid formula. In its place, the Executive budget proposes an aid distribution method for 2017-18 alone with no plan for Foundation Aid increases and distribution in future years. Such a proposal would run directly counter to the successful efforts made in 2007 to reform the education funding system with the adoption of the Foundation Aid formula. This proposal would return school aid to an unpredictable and undependable system subject to unnecessary annual subjective manipulation. A repeal would

also effectively lock-in current levels of underfunding for approximately 400 districts across New York (Table 1). Many of those districts are some of the neediest in the state, with growing enrollments, high student-need and low district-wealth.



The state’s Foundation Aid formula, originally enacted in the 2007-08 budget, represented significant progress in designing a funding model that had the potential to be equitable and predictable, considering the cost of educating a successful student, regional cost adjustments, student need and local ability to pay. Unfortunately, the multi-year phase-in of this formula was only funded for two years before the recession forced the state to pause implementation. In the years following, schools grappled with school aid cuts and freezes, followed by moderate off-formula increases in Foundation Aid. Entering 2017-18, the state is now \$4.3 billion behind its statutory obligation under the current law Foundation Aid formula. The Executive budget does little to address this shortfall. With the Gap Elimination Adjustment having finally been eliminated in 2016-17, now is the time for the state to refocus on implementation and to the full-funding of the Foundation Aid formula. NYSSBA calls for this to be done over the next three years.

We do support the Executive budget’s proposal to provide all districts with a basic minimum increase in Foundation Aid. Because Foundation Aid is the main operating aid stream for schools districts, and given the limitations created by the property tax cap, this increase is necessary to help offset annual cost increases, many of which are outside of a district’s direct control. We further

acknowledge the Executive's inclusion of our recommendations to improve and update some of the data used to distribute school aid, including student poverty and district wealth. However, any potential long term effectiveness of these changes is blunted by the proposed repeal of the Foundation Aid formula. Further, additional formula adjustments should include an adjustment to the weighting for English language learner (ELL) students, an update to the Regional Cost Index (RCI) and recognition of the property tax cap in a district's expected local contribution calculation. NYSSBA also urges the state to undertake a new Foundation Aid costing-out study to determine the current cost of educating a successful student. Current figures are based on data that is more than ten years old.

Community Schools

NYSSBA supports the allocation of funds for community schools, but is opposed to Foundation Aid set-asides for this or any other purpose.

NYSSBA supports the provision of resources for school districts that wish to create community schools. In some circumstances, the services they bring to students around the state are making a real difference. 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 used.

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

Prekindergarten

NYSSBA supports to Executive's proposal to begin streamlining prekindergarten funding and asks that pre-K transportation be made aidable.

NYSSBA has repeatedly called for the streamlining and the expansion of prekindergarten funding. We support the Executive's proposal to begin the process and encourage the legislature to move further towards this goal.

However, we recommend that that new funding, including the \$5 million in this proposal, be incorporated into the consolidated stream, rather than creating another grant program. We also call for expenses associated with prekindergarten transportation to be aidable to the same extent as all other K-12 transportation.

Unilateral Budget Adjustments by the Executive

NYSSBA is opposed to provisions included throughout the budget proposal that would grant the Executive unilateral authority to make mid-year budget adjustments.

NYSSBA understands the potential impact that recent changes at the federal level could have on the state budget. However, we are opposed to granting the Executive unilateral authority to make changes to the enacted state budget in the event of lower than expected receipts, particularly from

the federal government. The state budget must be agreed upon each year by both the Executive and the legislature and any necessary mid-year adjustments should continue to follow that fundamental process. In the event that adjustments must be made after the conclusion of scheduled legislative session, it is appropriate for the legislature to be called back, as has been done multiple times before, to address a variety of pressing issues.

Charter Schools

NYSSBA opposes the Executive budget's multiple charter school proposals.

NYSSBA opposes the proposals to change the charter school law in the Executive budget. Charter schools are already slated to receive \$54 million in bullet aid (an increase of approximately \$430 per student) starting April 1, 2017. This funding should represent their increase for 2017, and therefore any additional costs, including the basic tuition increase, should not be passed on to districts.

NYSSBA also opposes increases in charter school facilities payments and additional requirements for the provision of space in co-located charter schools in the City of New York.

Finally, NYSSBA opposes the proposed de facto increase of the cap on the number of charters available by allowing all charters for schools that have been closed to be reissued, as well as the elimination of the NYC regional cap of 50.

Mayoral Control

NYSSBA supports the proposal to extend mayoral control in New York City.

New York City's school district serves approximately 40% of the state's students. Such a large and diverse student population must have a governance structure that provides both certainty and accountability.

We do, however, continue to maintain our opposition to the expansion of mayoral control to other cities absent the affirmative support of the local educational leadership.

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 state and federal laws that provide substantial protection for students from acts of harassment, bullying and discrimination. 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 Governor, the legislature and others to ensure the continued protection of the rights of all students.

Prior Year Aid Claims

NYSSBA requests an increase in funding for prior year aid claims, partnered with a plan to pay-off the backlog of claims in the near future.

The prior year aid claims list contains more than 4,000 individual claims for reimbursement of expenses that have already been approved by the state. The list has grown exponentially in recent years and now totals more than \$350 million in funds owed to districts. Unfortunately, the Executive's proposal includes a zero growth \$18.6 million to make payments against the list. At the current rate of repayment, a school district submitting a new claim today would have to wait more than 15 years to receive reimbursement aid for an approved expense. Since 2009, approved claims have grown by an average of \$40 million per year.

An allocation of \$100 million in 2017-18, separate from traditional school aid, would allow the state to fund newly approved claims while also setting forth a plan to fully pay down the list within five years. The state could fund this increase, in part, by using school aid overpayment recoveries instead of diverting those monies to the state general fund. In 2015, the state made \$250 million in comparable funding available to nonpublic schools for prior year entitlements for state mandated services. NYSSBA asks the state make a similar commitment to public school districts.

NYSSBA Requests for Budget Additions

In addition to our response to the above referenced Executive proposals, NYSSBA requests that you consider including the following initiatives in the final enacted budget.

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.

School districts will face a tax cap allowable growth factor below the rhetorical "2%" for the fourth year in a row in 2017-18. NYSSBA continues to call for adjustments to the tax cap based on the lessons we have learned since the cap was first applied in 2012, including instances of low inflation and unexpected levels of school districts with negative caps.

For example, responding to the reality of how the cap has been implemented, two changes were previously agreed upon by the legislature and the Executive during the 2015 legislation session – the inclusion of PILOT properties in the tax base growth factor and the counting of a district's BOCES capital costs in the tax cap's capital exclusion. The permissive nature of the adopted language has resulted in no regulatory action. To ensure that these changes are made, we believe clear language requiring these adjustments must be adopted.

To address other issues that have emerged that have not been addressed, NYSSBA calls on the state to address the volatility of the CPI by making the allowable growth factor a straight two percent. Further, we recommend elimination of the possibility of negative caps, recognition of growth in enrollment in the tax cap formula and reforming the cap override process.

English Language Learners

NYSSBA requests a dedicated funding stream to support districts with growing ELL student populations until Foundation Aid is fully-funded and calls for adjustments to the ELL weighting within the statutory Foundation Aid formula.

State support is critical as school districts strive to meet the varying needs of English language learner students. Changes to Part 154 of the Commissioner's regulations increase requirements in reporting and delivery of ELL and bilingual education services at the building level. Adjustments must be made to state aid to ensure that non-native English speakers receive the programs and supports they are entitled to.

The Foundation Aid formula includes a moderate and indirect pupil count adjustment for ELL students, which has proven to be insufficient, as the formula is not fully funded and does not adequately reflect the current costs associated with meeting student need. The current weighting should be reviewed and adjusted to incorporate present day requirements. In addition, the proposed repeal of the Foundation Aid formula could effectively eliminate the use of up-to-date ELL pupil counts beyond 2017-18. There are more than 215,000 ELL students in the state in 2016-17 – a figure that has increased dramatically in recent years – and trends suggest the numbers will continue to grow.

While the Executive's proposal uses growth in ELL enrollment in the calculation for the community schools set-aside, it does not provide any additional aid and instead restricts how a district's Foundation Aid increase can be used.

Until these changes are made and Foundation Aid is fully phased-in, NYSSBA recommends a targeted aid based on the same principles as the pre-Foundation Aid limited English proficiency aid category to more effectively account for growth in students classified as English language learners. Based on recent data, this would result in approximately \$18 million in additional funding.

Enrollment Growth

NYSSBA requests a dedicated funding stream to support districts with growing enrollments until Foundation Aid is fully-funded.

Many school districts have experienced recent and, in some cases, dramatic increases in enrollment. Much of this growth has occurred in the state's high-need districts, particularly in small cities and other urban centers. In some instances these enrollment increases are driven by movement between districts; in others they are the result of the presentation of recently arrived new residents of the United States, including unaccompanied minors.

Despite the state's overall loss of population and, therefore, student enrollment, more than a third of the districts in the state have experienced some level of enrollment growth in the past three years.

This growth totaled more than 12,000 students in the 2015-16 school year alone. Approximately 4,600 of these students were unaccompanied minors, disproportionately clustered in suburban Long Island. Initial estimates for 2016-17 show more than 250 districts experiencing some level of enrollment growth over 2015-16, totaling nearly 20,000 additional students. More than 100 of those districts are estimating enrollment growth greater than two percent in 2016-17.

While a functioning Foundation Aid formula would normally adjust state aid to account for these additional students, the formula has not accurately done so since 2008-09. In order support these students until Foundation Aid is fully-funded, NYSSBA calls on the state to resurrect a modified version of the former growth aid formula. Using recent data, this would provide approximately \$95 million to nearly 175 districts.

Struggling Schools

NYSSBA requests that districts with “struggling” schools be provided funding in a manner consistent with districts with “persistently struggling” schools.

The 2015-16 enacted state budget recognized the importance of providing additional resources to school districts attempting to improve the state’s lowest performing schools to assist in their efforts implementing mandated turnaround plans. Those schools that were identified as “persistently struggling” were allocated \$75 million for the implementation of their plans. However, to date, none of the funds promised to “persistently struggling” schools has been released, and no funding has been provided to “struggling” schools for the implementation of their mandated turnaround plans.

NYSSBA requests that already allocated funds be immediately released to the districts and that all districts identified as struggling and persistently struggling be automatically awarded a consistent, predictable, and formulaic grant, to be accessed upon the approval of their turnaround plan, to defray the cost of implementation. This will be critically important moving forward as the state adopts a new accountability system under the Every Student Succeeds Act. The establishment of the new accountability system may lead to additional schools being identified at the state level and those schools will need resources to be successful. At the same time, as schools improve and are appropriately removed from the struggling and persistently struggling school lists, they should receive the full amount of the agreed upon grant award over the agreed upon timeline, to properly phase out dependency on the grant.

Access to Pathways to Graduation

NYSSBA requests resources to allow for greater access to additional pathways to graduation.

The recent attention given to additional graduation pathways, particularly career and technical education, is a positive development. Regulatory changes enacted by the Board of Regents allow students to attain a Regents diploma by successfully completing an approved industry based exam in lieu of one Regents exam. But creating the framework for these programs is only part of the equation. For an increase in student access and participation, resources are required.

To help actualize this change, NYSSBA requests that the aidable cap on BOCES salaries for career and technical education teachers be raised above the current cap of \$30,000. This cap has not been updated in more than 25 years and is now only half the average salary for educators in these positions. The BOCES aid reimbursement adjustment would have no fiscal impact in fiscal year 2017-18. NYSSBA also requests a simultaneous increase in special services aid to allow resources to flow to the Big 5 and non-component districts with similar programs. An increase in special services aid could be approved to take effect in the same year as BOCES aid begins to flow.

School Meals

NYSSBA supports an increase in the current state reimbursement rate for school lunches.

In the 2008-2009 school year, the state reduced all school lunch reimbursement rates by 2%. Those rates were further reduced by an additional 6% later that same year. These cuts have never been restored, leaving the reimbursement rates at approximately 6 cents for free and paid lunches and approximately 20 cents for reduced price lunches. Since the reductions, the state's economy has rebounded. It is time to restore and increase the school lunch reimbursement rates.

Approximately 276 million school lunches were served to New York's students during the 2015-16 school year. The low reimbursement rates, combined with increasing food costs, limits the purchasing power of school lunch programs, especially in districts with high numbers of free and reduced price meals being served. The state has a vested interest in ensuring that students are eating healthy food in school; many studies show the importance of students being properly nourished to be successful. Assuming the number of lunches served remains static, an increase in the reimbursement rates of 2 cents per lunch would cost the state an estimated \$6 million.

Regional High Schools

NYSSBA calls for authorization for the creation of regional high schools.

Many school districts, especially small districts and those in remote settings, struggle to offer students with a diversity of programming. Allowing school districts to combine resources with each other or through their BOCES means students across the state could have access to richer academic programs. The state has encouraged mergers in recent years and has made some changes to make them more feasible. However, local voters have rejected most of these mergers, so it is time for the state to create an alternative that offers an option for students that allows for a more comprehensive academic experience without a merger or reorganization. NYSSBA calls on the state to remove barriers to collaboration in the delivery of educational services.

As always, NYSSBA stands ready to work with all interested parties in support of public school districts and the millions of students they serve each and every day. For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.