



## 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

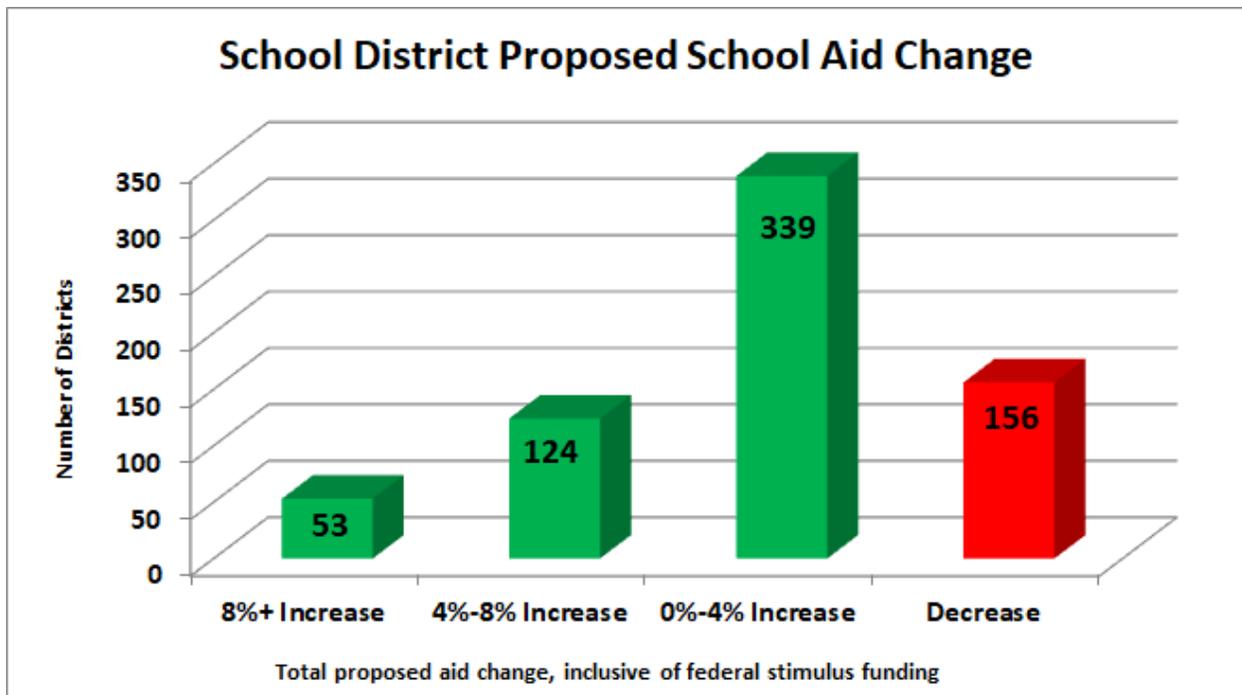
January 28, 2021

My name is Brian Fessler and I am the Director of Governmental Relations for the New York State School Boards Association (NYSSBA). I appreciate the opportunity to offer our response and reactions to the Executive Budget proposal before the Senate Committee on Finance, the Assembly Ways and Means Committee, Chair Krueger and Chair Weinstein, on behalf of the more than 670 member school boards we serve.

#### Executive Proposals

##### State Aid

The Executive Budget includes an overall increase in aid for school districts of \$2.1 billion over 2020-21 levels. This increase is attributable to the allocation of more than \$3.8 billion in federal Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act stimulus funds. The proposal includes a new “Local District Funding Adjustment” that reduces state aid by \$1.35 billion and a reduction in expense-based aids districts would have received, newly consolidated as “Services Aid,” of approximately \$300 million, before cutting the new Services Aid category by another \$393 million.



Given the circumstances, NYSSBA is relieved that most school districts, more than 75%, would see bottom line funding increases as compared to 2020-21. The infusion of significant federal funding will help allow many school districts to meet myriad short term costs and other needs. However, more than 150 districts would experience a net decline in school funding, and significant short-term and long-term fiscal challenges and risks remain.

NYSSBA has serious concerns about the Executive's overreliance on federal funding to fill state budget deficits. At best, the CRRSA Act stimulus funding for education was intended to help school districts across the nation meet the extraordinary costs of the pandemic, not to balance state budgets. At worst, the application of the entirety of the state's nearly \$4 billion in CRRSA Act education funding creates catastrophic challenges in 2022-23 and beyond, with a \$1.7 billion hole in state aid alone. In addition, the Executive Budget proposal is based on the assumption of at least \$6 billion in yet to be approved new state funding from the federal government. If those funds fail to materialize, it is reasonable to assume that the state would adjust state aid figures further downward.

Further, while some budget materials suggest that proposed state aid reductions could be restored if the state receives more than \$6 billion over the next two years in a new stimulus package, there is nothing in the actual budget proposal that would effectuate such restoration. The Executive envisions multiple state budget scenarios (\$6 billion in new federal funding vs. \$15 billion in new federal funding), but school districts do not have the ability to propose contingent budgets in that way.

### **Consolidation and Elimination of Reimbursement Aids**

The Executive proposes to consolidate and eliminate eleven separate expense-based and categorical aids, creating a new Services Aid category for 2021-22. The eleven aids include Transportation Aid, BOCES Aid, Special Services Aid, Charter School Transitional Aid, High Tax Aid, Supplemental Public Excess Cost Aid, Academic Enhancement Aid and the four Instructional Materials Aids (library, textbook, software and computer hardware). The proposal would make this consolidation immediate, eliminating \$300 million that would have otherwise been generated in. In addition, the further cut Services Aid in the same year by \$393 million, leading to nearly \$700 million less in state aid.

NYSSBA is strongly opposed to this proposal. While the Executive has represented the consolidation of these eleven aid categories as a way to free up funding for additional Foundation Aid increases, there is nothing in the proposal that would achieve that goal. Without that assurance, it is possible that this proposal could lead to a comparative reduction in school aid for many districts in any given year. In particular, this could negatively impact districts that share services through BOCES, those that experience increases in transportation expenses and those that see significant growth in charter school costs/enrollment. Elimination of the BOCES Aid system would also severely risk the financial viability of BOCES themselves.

### **Transportation Aid**

The Executive Budget would permit transportation aid on expenses related to the delivery of student meals, instructional materials and the provision of internet access. The allowance is limited to Spring 2020, covering the period of time the Governor ordered physical school buildings to be closed.

NYSSBA appreciates the Executive's affirmation that school district transportation expenses related to the delivery of student meals, instructional materials and the provision of internet access during the period of time physical school buildings were ordered closed should be aidable, as districts were required to provide such services by way of Executive Order.

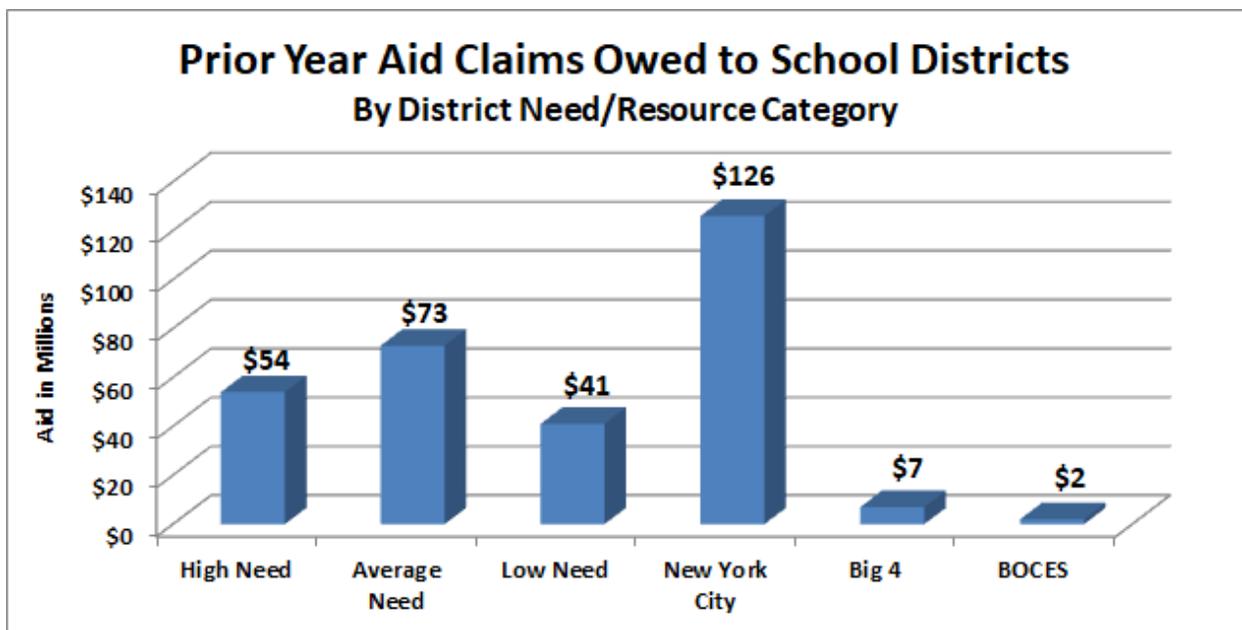
However, the proposal leaves millions of dollars in transportation expenses from 2019-20 unaided. In late 2020, the state indicated that because districts were not transporting students to and from schools,

“stand-by” costs such as transportation staff salary and benefits and other contracts would not be aidable. The potential loss of budgeted state aid is incredibly harmful by itself, but not receiving any meaningful information on this issue until the Fall prevented districts from making any budgeting decisions at a time when savings could have been more manageably achieved. With no indication that aid would not be paid, districts recognized the importance of retaining bus drivers and other transportation staff. Layoffs during this time would have only contributed to historic unemployment levels and would have exacerbated the bus driver shortage districts have been facing for years. The federal CARES Act also directed any school district and other entity receiving assistance, “...to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to Coronavirus.” Many school districts believed at the time that continuing to employ bus drivers and other transportation staff fell within that directive.

Further, the Executive Budget proposal should cover the entirety of the pandemic, including costs incurred during the current 2020-21 school year, as districts move to periods of remote learning due to positive COVID-19 cases and other contact tracing directives.

### Prior Year Aid Claims

The Executive Budget proposes to discontinue the \$19 million in annual funding to pay against the prior year school aid claims list. In addition, the proposal would eliminate the entirety of the existing aid claims list. NYSSBA is strongly opposed to this proposal. There exist thousands of individual claims, totaling more than \$300 million in outstanding approved aid claims that have previously been submitted by districts to the state, following statutory allowances. The majority of these funds are owed to high and average needs districts. NYSSBA has consistently advocated for the state to increase levels of annual funding to pay against the outstanding claims. Cancelling these claims would negatively impact districts all across the state now and for years into the future.



### Community Schools Set-Aside

The Executive Budget proposes to maintain current community schools set-aside levels, with \$250 million of total Foundation Aid funding again being restricted to be used by districts for services and programs that further community schools initiatives. NYSSBA continues to be opposed to districts effectively being mandated to create community schools, or any other program, by way of restrictions

on the use of their Foundation Aid through “set-asides.” Regardless of the laudable merits of community schools, a set-aside is a state mandated 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. Particularly during a period of extreme financial uncertainty, school districts should be granted full flexibility in their funding decisions.

### **Committee on Special Education (CSE) Placements Cost Shift**

The Executive Budget would permanently eliminate the state share of costs related to Committee on Special Education (CSE) placements for districts outside of New York City, and transfer the state’s responsibility for maintenance costs of state-operated schools for the blind and deaf onto school districts. This change was first adopted in last year’s enacted budget, with a repeal date of April 1, 2021. This new proposal would create a permanent cost shift. Prior to the shift, the state covered 18.424% of maintenance costs for CSE placements, with school districts covering 38.424% and the locality assuming the remainder. Elimination of the state share moved the school district cost to 56.848%.

NYSSBA is opposed to the continuation of these cost shifts. The state estimates that the shift will result in an additional \$28 million burden on school districts, after the shift in the current year led to \$26 million in new costs for districts. At a time when hundreds of districts are woefully underfunded and facing increasing costs due to COVID-19, the state should not be reducing its share of support for special education students.

### **Charter Schools**

The Executive Budget would reduce both charter school tuition rates that districts are required to pay to charters, and supplemental basic tuition reimbursements paid to districts by the state. In addition, the Executive Budget would authorize the reissuance of charters that have recently been surrendered, revoked or terminated, and would not count these reissuances against the charter cap.

It is important that these tuition and reimbursement changes are at least equal to each other, so that no school district is asked to pay charters at a greater proportionate rate from what they are receiving from the state. NYSSBA is also opposed to the elimination of charter school facilities aid for New York City.

Furthermore, while the latter proposal would not make a statutory change to the charter cap itself, NYSSBA continues to oppose the de facto increase that would occur through the reissuance of revoked charters.

### **Affordable Broadband**

The Executive Budget would require any broadband service provider to offer high speed broadband service to low-income consumers. The proposal would require that service be no more than \$15 a month, including any taxes or fees. "Low-income" consumers would be defined as those whose household is eligible for free or reduced priced lunch or whose annual gross household income is not above 185% of federal poverty guidelines. A minimum download speed of 25Mbps, or greater, or the download speed of the provider's existing low-income broadband service sold would be required.

NYSSBA commends the Executive for addressing one issue exacerbating the divide and releasing a proposal aimed at alleviating the barrier of cost. However, cost is not the sole barrier to adequate access to online learning. The Executive stated that 98% of New York currently has the infrastructure needed to deliver high speed broadband. But the state is highly reliant on FCC coverage maps which identify an entire census block as served if just one household within that census block has access to broadband with download speeds of 25 Mbps. We have heard from countless districts, often in rural areas, that many students struggle to connect to remote classrooms due to lack of proper infrastructure where

they live. Accurate mapping will inform more targeted infrastructure investments, which must be made to ensure every household has the opportunity to connect to high speed broadband.

NYSSBA appreciates that the Executive proposal includes a provision requiring the Public Service Commission to revisit broadband speed standards every two years, but current FCC standards of 25 Mbps download and 3 Mbps upload are inadequate for households that are sending simultaneous video streams to support distance learning. Higher standards of both download and upload speeds are critical, as video streaming for remote learning requires both.

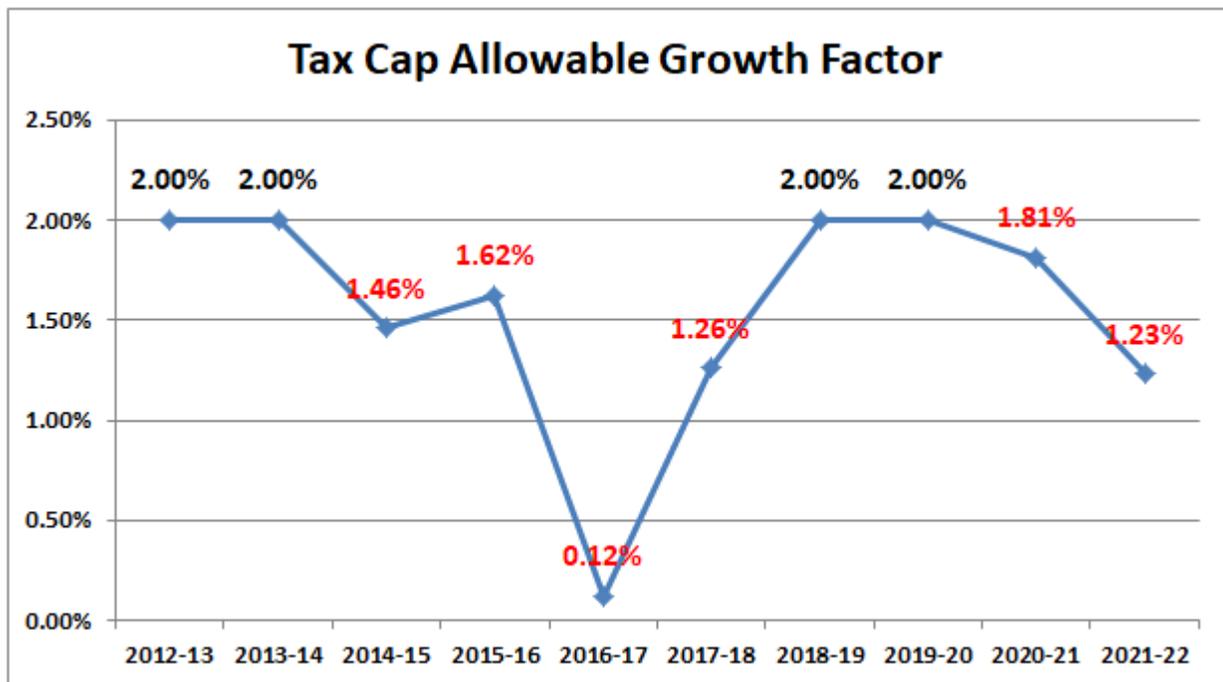
Finally, all students require adequate devices for remote learning. The State Education Department released a comprehensive survey that found 8% of students in New York currently lack a device appropriate for distance learning. We must ensure every student has the tools they need to be successful regardless of the location of the classroom.

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

#### **Property Tax Cap**

The property tax cap was made permanent in 2019. The repeal of the statute’s sunset clause was done with nearly no changes to the law, despite the numerous complications and unintended consequences that became evident as soon as the cap took effect in 2012.

As school districts face one of the most challenging fiscal environments in generations, they will do so with the lowest tax cap growth factor - 1.23% - in half a decade. NYSSBA continues to call for sensible adjustments to the tax cap in order for it to work more equitably for both school districts and taxpayers.



At a minimum, given the constraints of the pandemic, temporary amendments should be made to both eliminate negative tax caps and establish an allowable growth factor of 2% - in line with how the tax cap has been advertised for the past decade. In addition, the property tax cap should be adjusted to:

- Include PILOT properties in the tax base growth factor
- Reform the tax cap override process
- Reform the “carryover” provision
- Account for enrollment growth in the tax cap calculation

### **Fund Balance Limit**

Currently, schools districts may retain a fund balance – the excess of net revenues and expenses – of up to 4% per year. Any amount in excess of the 4% limit must be used to offset property taxes or be placed in an authorized “reserve fund,” to be restricted for specific future expenses.

The current fund balance limit heavily restricts budget flexibility. Slight changes to budgeted revenue or expenses can push districts into the red or above the 4% limit with relative ease. In contrast, local governments have no specific percentage limitation on fund balances. However, the Government Finance Officers Association (GFOA) recommends that local governments – including school districts – maintain no less than two months’ worth of operating expenses on hand. In a world where districts are also operating under the property tax cap, these burdensome restrictions further reduce districts’ ability to meet their fiscal needs, including the needs of students.

COVID-19 has led to an unprecedented financial situation across the country and the state. Both revenue and costs have become much more unpredictable. Revenue shortfalls could significantly impact districts’ ability to fund basic services. On the other side of the ledger, districts are facing new and different costs associated with remote learning, transportation, facilities and general health and safety. If savings occur, it is critical that districts be able to fully realize those savings, to the benefit of both students and taxpayers in the following year.

This need is heightened by the fact that, under the Executive Budget, more than 175 districts would experience an increase in funding of at least 4%. It will be incredibly difficult to accurately project expenses with close downs, new health and safety requirements and the administration of COVID tests and possible vaccines. At the same time, the budget proposal creates a cliff of more than \$1.7 billion in state aid that would be necessary to fill simply to keep school district funding flat. Providing school districts with the ability to carryover excess funds in order to help protect against that enormous cliff is critical.

### **Use of Reserve Funds**

The COVID-19 pandemic has created an increased need by school districts for financial flexibility. Chapter 157 was enacted in August 2020 to allow school districts to borrow from their own restricted reserve funds to help ease budgeting constraints.

The new law authorizes the temporary transfer and expenditure of reserve funds for expenses related to COVID-19 and extends the repayment of related inter-fund transfers. However, the reserve fund must be reimbursed within five fiscal years at a rate of at least 20% per year, plus a reasonably estimated rate of return. This law does represent a commendable attempt to provide some additional avenues for school districts to address the fiscal challenges stemming from the COVID-19 pandemic. However, this particular model may make it difficult for many school districts to take advantage of it. The repayment requirement is likely to significantly limit the number of districts that might otherwise be able to avail themselves to this option.

Additional reserve fund flexibilities would allow for higher levels of participation amongst school districts. NYSSBA supports full reserve fund flexibility to address the unprecedented fiscal challenges caused by the COVID-19 pandemic. At a minimum, Chapter 157 should be amended to allow districts to borrow these funds and repay them, but over a period of time greater than five years and without a reimbursement rate. This will provide districts with greater flexibility, without adding unnecessary costs.

### **Cost Drivers and Mandate Relief**

At a time of great fiscal stress and uncertainty with limited opportunities for additional revenue, it is critical that the state partners with school districts to identify meaningful ways to reduce costs, curb the growth of high expense areas and eliminate unnecessary expenses. NYSSBA supports the Executive's proposal to allow for limited waivers from select special education requirements in order to pursue innovative delivery models. While this proposal is routinely made by the Executive and then rejected by the legislature, NYSSBA strongly encourages the legislature to reconsider their position this year.

Beyond that individual proposal, NYSSBA is disappointed by the overall lack of mandate relief and school district efficiency opportunities included in the Executive Budget. NYSSBA recommends, at a minimum, the following provisions.

- Permanent extension of the small group health insurance waiver (set to expire in 2022)
- Repeal of the duplicative school district fiscal transparency reporting
- Further authorization of Regional High Schools

### **Building and Transportation Aid Forgiveness**

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 2021-22 budget. NYSSBA is appreciative of state action to provide forgiveness to a small number of school districts over the past few years. But these approvals have been piecemeal, unpredictable and limited - more than a dozen school districts still have active penalties. In addition; the Executive's proposal to cancel the prior year aid claims list effectively eliminates the aid returns that have been approved in recent years.

In order to address this issue in its entirety, NYSSBA calls on the state to enact a renewed period of building aid amnesty to support the students and taxpayers of 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 period of transportation aid amnesty be renewed in 2021 to support the districts facing financial hardship due to late contract filings.

### **Commitment to Equity**

NYSSBA recognizes that the current education playing field is not level for all students. NYSSBA also understands the value of engaging in difficult conversations involving race, gender and cultural diversity. Our state faces various hurdles that it must address in order to improve educational equity for all students. The teaching and administrative workforce must diversify so that students are exposed to role models of different races and backgrounds, and district-wide decisions are made with consideration of various viewpoints. Public funds must be allocated equitably to ensure equal opportunities for all students. We call on all policymakers to always consider the impacts the legislation they propose and the budgetary decisions they make have on equity in education.

**NYSSBA Position Statement:**

*NYSSBA shall take a leadership role in encouraging school boards to develop successful strategies for integrating respect for differences into the educational experience. In carrying out this mission, NYSSBA shall encourage school boards to:*

*a. Ensure that the importance of acceptance of others who are unique and different because of racial, ethnic, gender, sexual orientation, gender identity, disability status or religious differences is part of the curriculum.*

*b. Invite discussion among students, parents, staff and the community about how hatred and bigotry based on race, ethnicity, gender, sexual orientation, gender identity, disability status and religion endanger the pluralistic and diversity principles for which this nation stands.*

*c. Involve students, parents, staff and the community in developing and supporting educational practices which invite understanding and acceptance of others' differences and which aim to eradicate hatred and bigotry.*

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