



The League of Women Voters of New York State
62 Grand Street, Albany, New York 12207
Phone: 518-465-4162 Fax: 518-465-0812
www.lwvny.org E-Mail: lwvny@lwvny.org

**THE LEAGUE
OF WOMEN VOTERS**
of New York State

**JOINT LEGISLATIVE PUBLIC HEARING
ON 2019-20 EXECUTIVE BUDGET PROPOSAL
ELEMENTARY AND SECONDARY EDUCATION
FEBRUARY 6, 2019**

Good afternoon. I am Marian Bott, Education Finance Specialist for the New York State League of Women Voters. We thank you for the opportunity to testify at these hearings and as usual we will not read our testimony but rather summarize it both here and reiterate it at the end.

SUMMARY OF RECOMMENDATIONS

- 1) **Increase the fairness of distribution of aid by:**
 - a) **Increasing the cap in the State Sharing Ratio from .9 to much closer to 1 or revise the formula components**
 - b) **Put weight on concentrations of English Language Learners**
 - c) **Re-weight Lunch vs. Census Poverty since they are not the same level of poverty and Census Poverty is not regionally adjusted. Census poverty in high cost areas should be given more weight than Reduced Price lunch in low cost areas.**
- 2) **Revisit the Property Tax Circuit Breaker in lieu of STAR**

Our testimony comprises a general description of the Executive Budget proposal for state aid to elementary and secondary education, a discussion of Foundation Aid and how it has been compromised, remarks about the budget's adequacy and distribution, and some detailed comments about the funding formula and poverty. We believe that there are improvements that could be made to the formula which would benefit students in high needs districts who have been put to a disadvantage under prior budgets. We are optimistic that new decision-makers will review our recommendations based on our positions found in our Impact on Issues document, under State Finances, Property Taxes, and Campaign for Fiscal Equity on our website at www.lwvny.org.

GENERAL DESCRIPTION

The Executive Budget for 2019-20 as regards state aid for PreK-12 is consistent with many prior years' budgets in setting a floor amount for negotiations, this year's floor being \$27.7 billion in aid to be distributed to 2.6 million public school students¹ or about \$10,600 per pupil. The increase proposed from 2018-19, \$956 million, amounts to about \$367 per pupil, but that average conceals the range of proposed increases at the school district and school level. Relying this year, as a change from previous years, on the Consumer Price Index ten-year average percentage increase, the Executive Budget percentage increase is 3.6%, while the CPI used for Foundation Aid increases is 2.4%. The basis for the percentage increase seems on one hand to be sound from the short-term (annual increase) fiscal perspective. However, drastic reductions in education aid, even to the poorest districts, were made in the 2008-09 fiscal year such that percentage increases are applied to dollar amounts far lower than they would have been without the set-back during the financial crisis.

As a result of those drastic reductions a decade ago, combined with increased need factors, this year's proposed budget has been deemed inadequate by the Regents, the Education Conference Board which include members of organized labor, Alliance for Quality Education, the Conference of Big Five School Districts, and undoubtedly by many local school officials. Their recommendations of at least a \$2 billion increase from the prior year cite, in addition to normal inflation-driven rising expenses, the increased number of students who are English Language Learners as a particular driver of increased financial requirements.

Table 1. RECENT PAST INCREASES IN NEW YORK STATE EDUCATION AID

Amounts in billions

Budget year	2016-17	2017-18	2018-19	2019-20
Executive budget increase	\$.991	\$.961	\$.769	\$.956
Percentage increase	4.3%	3.9%	3%	3.6%
Absolute Amount Proposed → Final	\$24.224→\$24.644	\$25,605→25.587	\$26.356→\$26.734	\$27.69→tbd
Added during budget process	\$.420	\$ (.018)	\$ 378	

Table 1 summarizes recent increases in New York State education aid. The 2019-20 Executive Budget formula aid increases comprise the largest share of the \$956 million increase at \$748 million. Of the formula-based aids, the biggest increases are to Foundation Aid at \$338 million, Building Aid at \$272 million, and Transportation at \$77 million. The Community Schools Aid Setaside within Foundation Aid was increased by \$50 million and now totals \$250 million.

¹ Certain aid categories also benefit approximately 390,000 students in private and parochial schools.

IMPORTANCE OF FOUNDATION AID

Foundation Aid, enacted in 2007 by Governor Eliot Spitzer following, albeit not directly pursuant to, a 2006 court order in the Campaign for Fiscal Equity lawsuit, is by far the largest and most progressively-calculated aid category for all school districts. It comprises over \$18 billion to be distributed to approximately 2.6 million students statewide. On average, this means that \$6,845 is allocated per student. However, Foundation Aid is distributed more generously to districts with greater needs and fewer resources, such that some districts such as Wyandanch receive nearly \$16,000 per pupil while other wealthier districts, 48 in total this year, receive a minimum \$500 per pupil. The planned full immediate phase-in of the concept was dramatically delayed, and this has created a fundamental disagreement among decision makers that has serious deleterious effects on many of the state's students in PreK-12 settings, jeopardizing their opportunities for educational excellence and good college placements. The Executive's statement that the amount has been paid in full to New York City does not consider the impact on both students and teachers of protracted delays in the payments. It should also be noted that the Pataki administration actively opposed CFE for twelve years. Moreover, the costing-out study on which the court order was based is nearing twenty years old.

For the benefit of those who have not followed the history of Foundation Aid, there have been a series of policy decisions that have reduced the proportional allocation of State education aid going to Foundation Aid. These include:

- **STAR**
Implemented as part of "school aid" in 1997, a property tax relief program known as STAR is still in existence. The League opposed this program following our state-wide study in 2006, on the grounds that it was regressive and, initially had no income limits. The League has long recommended that STAR be replaced with a more efficient and carefully targeted property tax circuit breaker. While we are pleased to see the Executive Budget reduce the income limits from \$500,000 to \$250,000, and centralize the control over STAR abuses, we think the Legislature should re-examine the recommendations of the legislative committees who studied Property Tax Reform in the past. Now that State and Local Tax (SALT) federal deductions are limited to \$10,000, there should be a renewed interest in getting tax relief to those who truly need it. The policy objective of state aid should be to equalize wealth differences between school districts, and STAR does this poorly. STAR was legislated as a political trade with a more needs-driven program called LADDER, addressing class size reduction and pre-kindergarten, minor facilities maintenance and other matters important to high needs district. While STAR grew to over \$4 billion, LADDER was curtailed—all of this was prior to the Foundation Aid formula's introduction.
- **CHARTER SCHOOLS**
New York State authorized charter schools in 1998. At the time, the League was concerned that charter schools would drain resources and students from traditional public schools. In 2006 we undertook a statewide study of charter schools. We

recommended a single authorizer, finding that there would be differing standards with multiple authorizers (SUNY, Regents, NYC Board of Education). We recommended high standards for granting and renewal charters and careful monitoring to ensure that charter schools would treat students with special needs fairly. Charter School transition aid was never provided to New York City because it was not anticipated that the percentage of charter schools would make a significant difference. This is no longer the case in New York City since over 10% of students are in charter schools. This year, the Executive Budget proposes \$25.4 million in Charter School Facilities Aid (a 416% increase).

Governor Pataki's charter school negotiations initially comprised a trade for charters' governance flexibility in exchange for no facilities aid. However, the legislature and the Executive have now agreed to fund charter facilities as well as to increase charter tuition rates. State taxpayers are, through these financial policies, encouraging the growth of the charter school sector. Strong monitoring and regulation of charter schools' track records on enrolling and retaining students in poverty, English Language Learners and those with special needs should be a requirement (using updated benchmarks for peer schools) if further growth is permitted. This is an ongoing area of concern for the League.

- **GAP ELIMINATION ADJUSTMENT**

A major financial recession in 2008-9 caused the State to introduce cost-saving measures including a so-called Gap Elimination Adjustment (GEA). The legislature prioritized the elimination of the GEA, the phase-in of Foundation Aid targeted to high needs districts was slowed even more.

- **NON-PUBLIC SCHOOLS**

Increases in aid to non-public school in categories including textbook aid, transportation expenses and a provision for the cost of taking attendance have collectively grown from an allocation of \$159 million in 2014-15 to a proposed 2019-20 level of \$223 million, over and above mandated reimbursements for transportation, textbooks and technology. Beginning in 2016, there was a major multi-year push for an Education Tax Credit for donations to private school related entities, ranging in cost from \$100 million to \$400 million depending on which version was on the table. The League vigorously opposed this initiative.

ADEQUACY OF PER PUPIL EXPENDITURES

The Governor frequently cites the ranking of New York State in terms of how it compares with per-pupil spending in other states. Rather than describing our ranking in a negative light, we believe high per pupil spending in a high cost state like ours it should be a point of pride. Consider the enormous tuition cost of the highly regarded elite private schools in our State. While it is true that only perhaps 100,000 students are privileged to attend the top-rated selective admission private schools, in high-cost urban areas in New York, including in particular New York City, public school parents have not just the challenge of finding a high quality school, but also the reality that once their children reach high school, they will be in competition for college admission with students whose parents have provided them with a \$45,000 annual cost education. By that standard, \$20,000 to \$25,000 per high school pupil in the state's high cost school districts, educating students in high poverty, many English Language Learners, and students with disabilities who are generally not educated in non-special education private schools seems like a complete bargain. The question should be how adequate this level of spending is. Moreover, the tuition in special education private schools can be as high as \$80,000.² We should be leveling up rather than attempting Robin Hood re-distribution at the intra-district level. The poverty levels in the Big Five School Districts alone are so high that the initiative in the Executive Budget to re-distribute aid within high-needs districts is ill-advised and most likely will not be cost-effective.

DISTRIBUTION

State aid has historically been allocated by geographic shares, using hold harmless mechanisms to defeat the purpose of Foundation Aid. The Executive Budget proposes four Tiers of incremental 2019-20 Foundation Aid which use the prior year's aid (2018-19 Foundation Aid Base) as their starting point. Tier A offers an 11.934% increase to New York City and a .5% increase to all other school districts; this totals \$187.3 million. Tier B deals with very high need and sparsely populated districts excluding New York City; this costs \$97.8 million. Tier C distributes \$173 per pupil to districts with the so-called "Pupil Wealth Ratio" (a measure of Assessed Value per pupil in the district) less than .7965. This totals \$70.7 million. Finally, Tier D, totaling \$44.5 million including \$19.4 million to New York City, is a .25% add-on for every district. It shouldn't have to be so complicated to make things "equitable."

A bolder approach might be to start with the agreed-to Foundation Amount per pupil, this year \$6,557, and multiply the appropriate weightings for need and cost without the stranglehold placed on certain districts through a complicated choice involving "expected local contributions." Moreover, some of the limitations placed on districts through the State Sharing Ratio cap of 90% are harmful, as we have previously testified. While adequacy is clearly the biggest obstacle for most high needs districts, some in particular are not treated fairly in the distribution formula.

² See the range of private school tuitions in this review at <https://www.privateschoolreview.com/tuition-stats/new-york>. We have chosen a tuition amount approximately at mid-range for illustrative purposes.

HIGH NEEDS DISTRICTS

The League’s position statements on the distribution of state aid to schools emphasize that when new resources are allocated, they ought to go as a first priority to high needs districts. As we did last year, we have selected five districts, four of which are known to be extremely impoverished, and one of which is considered average “wealth” but still high need (New York City). The other four districts are Hempstead, Poughkeepsie, Utica, and Schenectady. The State Sharing Ratios for Hempstead, Schenectady, and Utica based on formula vs. how they would look if not limited are shown in Table 2. Later in this legislative session we will distribute a more detailed description of how aid to these districts is determined.

District	Hempstead	Schenectady	Utica
Calculated State Sharing Ratio	1.00469	.95057	1.047
Limit on State Sharing Ratio	.9	.9	.9

ENGLISH LANGUAGE LEARNERS

While there were 237,908 English Language Learners statewide in 2018-19, they are concentrated more heavily in some school districts than in others. There is no adjustment for a concentration of ELLs, nor is there a metric for distinguishing sub-components of the ELL population either by their degree of proficiency AS ELLs or by the obscurity of the language(s) spoken. The legislature should consider whether there is a more appropriate, nuanced way to weight ELLs, along a continuum.

POVERTY COUNTS IN THE PUPIL NEED INDEX

What is poverty? Who defines it?

Federal poverty is re-calculated annually³ and is currently defined as a nation-wide (no regional cost adjustments) amount ranging from \$12,140 for a family of 1 to \$42,380 for a family of 8. A family of four is considered in poverty below an income level of \$25,100.

“Free” vs. “Reduced Price” Lunch (FRPL) is defined at 130% and 185% of the federal poverty level, respectively. For a family of four, this means \$32,630 for Free Lunch and \$46,435 for Reduced Price Lunch. It does not matter where you reside.

Direct Certification of “Economically Disadvantaged” students. New York State Education Department delineates ten different means of establishing whether a student is Economically Disadvantaged (ECDIS).⁴ Only one of these is FRPL. Collecting this information requires going

³ Federal Register, May 8, 2018. Figures are for July 1, 2018 to June 30, 2019.

⁴ Free and Reduced Price Lunch, Supplemental Security Income, Food Stamps, Foster Care, Refugee Assistance, Earned Income Tax Credit, Home Energy Assistance Program (HEAP), Safety Net Assistance, Bureau of Indian Affairs, and Temporary Assistance for Needy Families.

to different data bases since programs are administered at all three levels of government. While intended to simplify one definition of “poverty” the ECDIS lumps quite a range of household situations into one category.

*Community Eligibility Provision*⁵ was established as part of the Healthy, Hunger-Free Kids Act, a federal law passed in 2010. Since the implementing of the Community Eligibility program for school lunches, officials have struggled to maintain accurate counts of students for reporting purposes. Any community with over 30% of their students in poverty simply serves all students breakfast and lunch with no questions asked, and some schools and districts with under 30% opt to do this as well. Undercounting has always been an issue in middle and high school, but school districts that note a drop in their poverty indexes should carefully examine the reasons.

The Fate of the Small Area Income Poverty Index as applied to New York State Aid. This federal index is compiled based on U.S. Census Bureau population surveys. In Fiscal Year 2017, New York State attempted to meld this methodology into the poverty count because the 2010 Census had not collected appropriate poverty metrics at the school level and the 2000 Census was viewed as too outdated to use. However, even using a 3-year average, many districts found that the SAIPE produced much lower counts of their students. This led to speculation that various categories of students simply were not included because of their legal status, because they were in foster care, or homeless or in housing transition. The SAIPE measure was scrapped as of 2018, and the Executive Budget reverted to 2000 Census poverty data as it has done again this year.

New York State weightings for Extraordinary Needs Index purposes. New York State Education Department has tried to balance the disadvantages of FRPL counts and the disadvantages of outdated poverty counts by simply splitting the incomplete state and outdated federal data into two pots and giving each of them a .65 weighting. This is done again this year. **The two components of the poverty count should not be equally weighted.** The reason for this is that FRPL measures student poverty as two different percentages ABOVE census poverty (130% and 185%). “Census poverty” measures poverty (with no regional cost adjustment) AT census poverty, around \$25,000 for a family of four. Therefore, students AT poverty should receive a heavier weighting than students ABOVE census poverty (incomes up to \$46,000). In high cost regions such as New York City, Westchester and Long Island, students in poverty are underweighted as compared with those in lower cost regions. While the regional cost adjustment is intended to address differences in costs of wages, it doesn’t substitute for a better measure of poverty at the student level.

⁵ See Food Research & Action Center for the Identified Student Percentages for all school districts and schools in New York State at www.frac.org.

REITERATION OF RECOMMENDATIONS

- 1) Increase the fairness of distribution of aid by:**
 - a) Increase the cap in the State Sharing Ratio from .9 to much closer to 1 or revise the formula components**
 - b) Put weight on concentrations of English Language Learners**
 - c) Re-weight Lunch vs. Census Poverty since they are not the same level of poverty and Census Poverty is not regionally adjusted. Census poverty in high cost areas should be given more weight than Reduced Price lunch in low cost areas.**
- 2) Revisit the Property Tax Circuit Breaker in lieu of STAR**

Thank you for your time in considering this testimony. Our positions can be viewed in full at www.lwvny.org, under Issues and Advocacy.