



## 2019 Capital Conference Talking Points

### Education Funding and District Budgeting

- Increase the 2019-20 Foundation Aid Increase to \$1.4 billion over 2018-19
  - Adopt a plan to fully phase in Foundation Aid over the next 3 years
  - Adopt common sense updates and adjustments to the Foundation Aid Formula
- Reject attempts to limit local budget authority and dictate how Foundation Aid is spent
  - Reject the Executive proposal to require some districts to have spending plans approved by SED
    - There has been no demonstration that this state oversight is needed
  - Eliminate Community School Set Aside
- Reject attempts to eliminate or cap expense based aids
- Provide dedicated aids for the following items
  - Districts with ELL and enrollment growth
  - School safety
  - Student mental health
- Establish a new period of building and transportation aid amnesty
- Give districts greater control and flexibility in budgeting
  - Make adjustments to the tax cap before there is any discussion of extension
  - Allow for the establishment of a TRS Reserve Fund
  - Increase the BOCES DS salary cap
- Fund Special Act school districts equitably

### Additional Items

- Reform APPR to reduce reliance on assessments and restore an element of managerial control to employee evaluations
- Reject efforts to impose an dramatic and proscriptive expansion of the health curriculum to include sex ex, healthy relationships, safe use of technology and sexual harassment and bullying prevention
- Allow school districts to decline designation as a polling place for board of elections votes
  - Districts should also be permitted to move district budget votes and board elections to non-instruction buildings within the district
  - By limiting voting in instructional buildings, districts can better maintain school security
    - This is especially important now that the state has approved early voting



## 2019 Capital Conference State Aid for Public School Districts

The Executive budget proposes an education funding increase of \$956 million over 2018-19, \$748 million of which consists of traditional formula-based school aid. In addition to the full-funding of expense-based aids and other categorical aids (\$410 million), the proposal includes a \$338 million increase in Foundation Aid. The Executive proposes an additional \$50 million in set-asides, restricting the use of a portion of the Foundation Aid increase for community schools. The proposal also includes \$157 million in a “Fiscal Stabilization Fund.” This proposed funding for school districts includes no specific purpose nor distribution method. The \$956 million proposal breaks down as follows:

- Foundation Aid Increase: \$338 million
  - Community Schools Set-Aside Increase: \$50 million (\$250 million total set-aside)
- Reimbursement for Expense-Based and Other Categorical Aids: \$410 million
- Fiscal Stabilization Fund: \$157 million
- Expanded Prekindergarten for Three- and Four-Year Olds: \$15 million
- Empire State After-School Programs: \$10 million
- Early College High Schools: \$9 million
- Other Education Initiatives: \$17 million

This is far lower than the \$2.2 billion in additional education funding NYSSBA recommended for 2019-20. NYSSBA calls for the final budget to dramatically increase this allocation, appropriating \$1.4 billion in Foundation Aid with a new plan to implement and update the formula. NYSSBA also calls for the elimination of restrictions on the use of Foundation Aid, including Contracts for Excellence and community schools. NYSSBA supports community schools but opposes what is in effect a mandate to establish them.

This Executive proposal also fails to include a number of notable NYSSBA budget priorities including:

- Dedicated funding to support growing student needs, including student health services, increasing ELL populations and districts with growing enrollments.
- An increase in the outdated cap on the BOCES CTE aidable salary amount, paired with an increase in special services aid for non-component districts.
- Amnesty for districts facing building or transportation aid penalties due to administrative or clerical errors.
- An improved tuition rate methodology and creation of a fiscal stabilization reserve for special act school districts.
- School district access to budgetary tools that improve fiscal planning, including a Teachers Retirement System (TRS) reserve and a reserve of districts with self-funded insurance plans.

NYSSBA urges inclusion of these changes in the final 2019-20 budget. For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.



## 2019 Capital Conference School Funding Equity Plan

The Executive budget proposal includes a new school-based spending plan requirement that would prescribe the level of funding provided to some schools within certain districts.

Initially, some of the 76 districts that were required to report school-based budget plans to the state in 2018 would be directed to spend a portion of the district's proposed Foundation Aid increase in similar-type schools within the district (ex. elementary, middle, high) that have been designated by the state as *both* "significantly low funded" and "significantly high need."

Impacted school districts would be required to obtain approval of their spending plans for the affected schools from the State Education Department by the beginning of each new school year. As part of the plan, for every designated school within the district, a minimum of 10% of the district's annual Foundation Aid increase would be restricted for use to increase funding above and beyond anticipated increases in costs in the affected schools. The proposal would eventually apply to all districts statewide, beginning with the year after they would be required to submit school-based spending-plans to the state. The state's Division of Budget would be required to produce a list of impacted schools and their districts by May 1 of each year.

This is the second year the Executive has advanced a proposal that seeks to shift local decision making away from districts to the state. The Executive has consistently maintained that this shift is needed because while the state is sending funding to the poorest districts, the districts are not sending that funding to the poorest schools within that district. However, there is little if any evidence to support this contention.

There is 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. However, rather than trying to identify those issues, and determining if they have an impact on educational quality, this proposal declares moderate difference in building level allocations inequitable.

This discussion serves to distract from the larger issue, that many of the districts around the state remain dramatically underfunded by the state's own calculation. Mandating redistribution of funds in a district without adequate funds will not serve to improve student outcomes.

NYSSBA is *strongly opposed* to the Executive's proposal and urges you to retain local control and voter approved decision making, while also pushing the state to meet their obligation to properly fund school districts. For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.



## 2019 Capital Conference Elimination of Expense-Based Aids

The Executive proposes fully funding expense-based aids for 2019-20. However, starting 2020-21, the Executive proposes the consolidation of the majority of the existing expense-based aids, including transportation, BOCES and instructional material aids into a single new “Services Aid” category. After the consolidation, growth of the new aid category would no longer be tied to actual expenditures, but instead be capped annually, based on district enrollment and inflation.

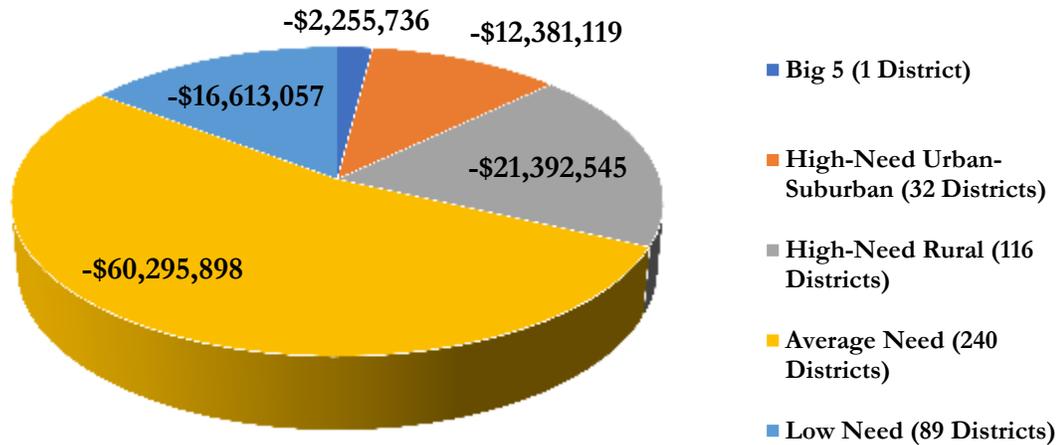
The Executive has represented the consolidation of expense-based aids as a benefit to districts, limiting and stabilizing growth in these categories to allow greater increases in Foundation Aid. However, no such language to direct the funding to Foundation Aid is included. The greater likelihood is that if adopted, this proposal would lead to less school aid for many districts in any given year. 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.

If adopted, this NYSSBA-opposed proposal would penalize districts for even minuscule declines in student enrollment, as enrollment and inflation would both be used to calculate growth. For districts with declining enrolments, this new aid category could be frozen for years, even as basic educational costs continue to increase.

NYSSBA is ***strongly opposed*** to this proposal and will and urges its rejection from the final budget. For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.



## Example Aid Loss, By District Type



Analysis of projected state aid loss under the new Services Aid proposal, if the new aid began in 2019-20 instead of 2020-21 as proposed.



## 2019 Capital Conference School Safety

Providing students with a safe and secure learning environment is one of the most important responsibilities of a school district. Now more than ever, school boards and other district leaders are evaluating their current resources and plans to determine if there are additional or different programs, policies or resources needed to keep our students and staff safe.

Our communities, including school districts, parents, law enforcement, students and other stakeholders all have ideas about the best ways to ensure that our school buildings are safe places for our students and staff. Consensus in one community may also be different than consensus among stakeholders in a neighboring community.

NYSSBA does not believe there is a single right answer to address these important issues. One size or style does not fit all. Therefore, we recommend the following provisions be included in the 2019-20 budget:

- Adopt the establishment of extreme risk protection orders, otherwise known as the “red flag” bill through legislation or as a part of the final budget.
  - This provision would allow the courts to intercede and prevent individuals who have been proven to be a risk to themselves or others from purchasing or possessing a firearm.
  - School district officials would be among those permitted to petition for such an order.
- Include dedicated resources in the 2019-20 budget to support locally determined school safety measures.
- Ensure that any resources provided can be used flexibly and are available to all school districts and BOCES.
- Ensure that school districts maintain control over who enters their buildings by allowing them to decline to use instructional buildings for voting.

As discussions on school safety continue, NYSSBA encourages state policymakers to ensure that school districts have the resources and supports they need to provide students the sound basic education they are entitled to, in a safe and secure environment.

For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.



## 2019 Capital Conference Annual Professional Performance Reviews

The Executive budget proposal includes a provision that would eliminate the mandate to use the federally required, state administered 3-8 tests and other state exams as the measure of student growth in annual professional performance reviews (APPR). If enacted, this would 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. As currently written, the student growth measure would still be required to be an assessment, and the district would be required to collectively bargain the assessment selection. This provision 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, the Association does not believe that these amendments go far enough to make significant improvements to the existing APPR system. In addition, we have serious concerns that this amendment will likely lead to an increase in student testing.

NYSSBA requests the following additional changes to APPR be made to expand the scope of the change and limit the potential for additional testing:

- Allow school districts to select the measure or measures of student performance including student portfolios, state assessments and local assessments approved by the State Education Department.
- 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.
- Authorize districts to implement these local options at their discretion, without collectively bargaining these new flexibilities.

If these changes are incorporated, they would reestablish a needed element of local control and managerial discretion in the employee evaluation process in school districts, while also improving the overall evaluation system.

For these reasons, NYSSBA seeks amendments to the Executive proposal. For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.



## **2019 Capital Conference Student Mental Health Services**

The New York State School Boards Association (NYSSBA) strongly supports investments in student mental health services.

In recent years, NYSSBA has increasingly heard from school leaders on the growing number of students who arrive at school grappling with mental illnesses. District leaders want to support their students by making direct services available which may otherwise not be. Too many districts across the state face shortages of nurses, counselors, psychologists, social workers and other important mental health professionals.

The recent Executive budget proposed \$1.5 million to support enhanced mental health and school climate support services, specifically targeted to middle schools and junior high schools. According to the proposal, up to \$500,000 of this funding could be used to support a school mental health technical assistance center. While NYSSBA appreciates the recognition of the issue, we believe this proposed allocation is inadequate to make a meaningful impact on mental health for students and school districts across the state.

NYSSBA offers two additional paths for the state to consider which could assist school districts in supporting students who have mental health needs. First, a new expense-based aid could be established that would reimburse districts for a percentage of the dollars spent on approved services and the staff necessary to provide them. These could include but would not be limited to primary and preventive medical care, reproductive health care, dental, vision, nutrition counseling, and other mental health services. Such a reimbursement could be a “last dollar” reimbursement, limited to those expenses not covered by Medicaid or other dedicated sources.

In addition, NYSSBA recommends capital costs associated with creating school health and mental health facilities be fully building-aid eligible. By supporting districts in establishing the infrastructure to provide these services, more students may be served, especially in rural areas in which access to community based providers may be limited.

NYSSBA supports the provision of additional resources in the 2019-20 budget to deliver additional mental health programs and services to students. For additional information, please call NYSSBA Governmental Relations at 518-783-0200.



## 2019 Capital Conference Property Tax Cap

The Executive budget proposal includes a provision that would make the tax cap, set to expire in 2020, permanent law. As discussions about the future of the property tax cap take place, lawmakers should focus not just on extending or making the law permanent, but also work to address the problems, inconsistencies and unintended consequences of the cap. NYSSBA offers the following recommendations to help school districts more effectively navigate the tax cap; to the benefit of taxpayers and students alike.

### **Make the allowable growth factor a minimum of 2 percent**

Basing the main tax cap growth factor on a volatile indicator that does not accurately reflect the actual costs school districts face is unsound policy that ignores the needs of students. School districts should be allowed to plan around a minimum two percent allowable growth factor.

### **Prohibit negative tax caps**

Under the current tax cap formula, a district's maximum allowable tax levy can result in a negative change from the prior year. This does not fit the intent of the tax cap and is unnecessarily confusing to voters. The law should provide for a floor of zero percent change of the levy.

### **Count BOCES capital costs in the capital exclusion**

The current tax cap formula includes an exclusion for district capital obligations, but not school district costs related to BOCES capital. BOCES construction are paid by the district and should be counted as part of the tax cap's existing exclusion. This proposal was vetoed in 2017 and 2018.

### **Include PILOT properties in the tax base growth factor**

When new construction and development occurs within a district, the tax cap is adjusted to account for the growing tax base. But when the property enters into a PILOT agreement, the growth is ignored by the cap. The tax base growth factor calculation should incorporate those properties under a PILOT deal. This proposal was vetoed in 2017.

### **Reform the tax cap override process**

Voter-submitted propositions can impact the need for supermajority support of an otherwise tax cap compliant budget, even if the proposition fails. In such cases, school district budgets should be decided on their own merits.

### **Account for enrollment growth in the tax cap calculation**

There is no mechanism within the tax cap calculation to adjust for enrollment growth when more than a quarter of districts have experienced such growth at some point in recent years. The tax cap calculation should include a student growth index, similar to the tax base growth factor.

NYSSBA urges the adoption of these adjustments before any further action is taken on the tax cap. For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.



## 2019 Capital Conference Expanded Health Curriculum Mandate

The Executive budget proposal has a requirement to dramatically change the existing health education mandate to include healthy relationship instruction to all students in grades 6-12.

As drafted, the proposal would expand the scope of the mandated health instruction to include comprehensive sexual education, self-worth, teen dating violence, safe uses of technology and reporting of sexual harassment, among other topics. Details of the instructional requirement would be further informed by a group of stakeholders. Although districts would be mandated to provide the instruction, school districts would also be required to notify parents and guardians of such instruction and provide them the opportunity to opt their children out of the program.

NYSSBA recognizes the importance of these issues. However, this proposal infringes on the autonomy of both the State Education Department and local boards of education throughout the state. NYSSBA supports the periodic review of educational standards including health education standards by the Board of Regents and encourages interested parties to request such a review. However, once SED completes such a review, the details of the day-to-day lessons and curriculum should remain with school districts.

Moreover, NYSSBA has serious concerns about the establishment of such a broad and intensive mandate for instruction that parents would be allowed to opt their students out of, leaving districts to need to determine alternative activities, supervision and instruction for those students.

For these reasons, NYSSBA opposes this proposal, and urges that it be rejected from the final budget. For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.



## 2019 Capital Conference School Buildings as Polling Places

On January 24, 2019, Governor Cuomo signed a number of voting reforms into law. These new laws will make significant changes to the state's election laws. Under these new laws, New York will now have early voting and the state will have a single merged state and federal primary days in June.

However, these new laws present a number of issues for school districts.

Under current law, if a local board of elections designates a school as a polling place, the district must make space available. Increasingly, school districts are concerned about the impact on school safety when they are required to suspend normal security procedures and allow members of the public sometimes unfettered access to school buildings and their students. Some districts choose to address this concern by closing on polling days.

The changes adopted earlier this year make the option of closing on voting days to keep students safe an even less reasonable option. School districts face increasing pressure when developing their school calendars and are penalized financially if they have fewer than 180 days of instruction between September 1 and Regents rating day in June. Many districts have great diversity in their school communities and need to close for an increasing number of religious holidays. Moreover, if special elections occur, they may be set after the school calendar is set for the year and cannot be planned for in the school calendar. Just closing for the previously existing voting days was becoming problematic. Early voting now expands the number of potential voting days to a universe that could be as high as 10-12 times per year.

In addition, the merging of the primary days to a single June primary day in 2019 places June's voting day in the midst of Regents exam week. Districts do not have the authority to reschedule Regents exams. Districts do not have the authority to refuse the board of elections if they demand space to use as a polling place. Some districts have already received communications from their local boards of elections indicating they would be used as polling places in June.

NYSSBA believes that the conversation on election reform can not end here. To allow these reforms to be implemented in a safe way for students, further legislation must be enacted that would allow districts to move all voting, including votes on school board elections and budget votes out of school buildings, if that is what is necessary to keep our students safe.

For these reasons, NYSSBA urges additional election reform legislation that would provide school districts the right to decline to have their buildings used as polling places for all elections, including district elections. For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.



## **2019 Capital Conference**

### **Reform the BOCES District Superintendent Salary Cap**

The New York State School Boards Association (NYSSBA) calls upon the Governor and the legislature to amend the current cap on salaries for BOCES district superintendents.

Current law caps a BOCES district superintendent's salary at 98 percent of the Commissioner of Education's 2003-04 salary or 106% of the salary cap applicable in the previous school year, whichever is less. The cap, first enacted in 1993, was intended to be regularly updated. However, attempts to adjust the cap since the initial adjustment in 2003-04 have stalled.

By law, district superintendents are the State Education Commissioner's representatives in the field. They are considered state employees, and cannot negotiate fringe benefits in the way traditional employees can as a part of their total compensation.

A critical part of their role is to provide important leadership and to guide implementation of complex state initiatives. They are also CEOs of regional school service agencies, coordinating shared-services, efficiencies, training, and exceptional educational programs within their component districts. They also often assist those districts in choosing their own school superintendents. As the education community hears continued calls for more sharing of services and additional career and technical education opportunities, the demands placed on our BOCES only continue to grow.

The current decade-old cap is making it increasingly difficult to recruit and retain district superintendents, leaving this highly important position vacant in some areas. In addition, the current DS salary cap undermines local authority and prohibits school boards from being able to decide a salary they feel is appropriate for their district superintendent. It is important to note that this does not mandate that a DS receive a salary up to the cap, it simply authorizes it.

BOCES serve as an increasingly vital part of New York's education system. As the education community hears continued calls for more sharing of services and consolidation of programs, the demands placed on our BOCES only continue to grow. Candidates for these critical positions should not have to choose between serving a larger population of students and their own financial well-being.

In 2018, S.3203-A/A.2112-A passed both houses of the Legislature but was vetoed (veto number 329) by the Governor. The veto message raised concerns about the impact of the increased cost on state and local taxpayers. The executive further stated that since this issue had been discussed as a part of the 2018 budget, but not enacted, it could only be discussed again as a part of state budget negotiations. Disappointingly, the executive proposal did not include a proposal to increase the cap.

If this issue needs to be addressed in the context of the state budget, NYSSBA requests that the Legislature and Executive do so as part of the 2019 budget. NYSSBA supports an increase in the BOCES DS salary cap and restoration of local board control. For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.



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