



NYSSBA 2022-23 Enacted Budget Analysis

Education Funding

State Aid - The enacted budget includes a \$2.08 billion increase (7.2%) in traditional school aid, over 2021-22 levels. Of that total, \$1.53 billion is driven through a Foundation Aid increase. The remaining \$540 million includes full-funding of expense-based aids and an increase in pre-k funding.

NYSSBA Position/Response - The enacted budget includes most of the school aid recommendations NYSSBA made at the beginning of the state budget process in late November 2021. As part of those budget recommendations, NYSSBA expressed support for the \$2.4 billion education funding assumption included in the state Division of Budget's midyear state financial plan update in October 2021. The nearly \$2.1 billion worth of traditional school aid increases included in the final budget, plus funding availability for other new programs, puts the overall education funding number close to the figure originally projected by the Division of Budget.

Foundation Aid - The enacted budget continues with year two of the Foundation Aid phase-in plan, originally included in the 2021-22 state budget. That plan provides districts who are below full-funding with an increase equal to 50% of their remaining phase-in. All districts, including the nearly 300 districts currently on hold-harmless, would be guaranteed a minimum 3% increase. In total, the enacted budget provides a \$1.53 billion increase in Foundation Aid over current 2021-22 levels. The budget also provides for additional Foundation Aid allocations that are necessary to fulfill federal stimulus maintenance of equity requirements.

NYSSBA Position/Response - NYSSBA is pleased to see the Governor and legislature's continued commitment to the Foundation Aid phase-in plan that was included in last year's state budget. Fulfillment of that three-year plan is NYSSBA's top school funding priority. The minimum 3% increase for all districts is also consistent with NYSSBA's goal of ensuring all districts receive a Foundation Aid increase to help districts with standard cost increases, particularly in today's inflationary environment.

Unfortunately, the enacted budget includes no updates or other changes to the statutory Foundation Aid formula. NYSSBA will continue to call on the state to look to the future of the formula by formally reviewing impacts over the past two decades and the changes to the educational environment since the formula was first constructed, including a new costing-out study, improving data collection for measuring student poverty and updating the Regional Cost Index. NYSSBA believes it is critical for these discussions about the future of the Foundation Aid formula to begin as soon as possible.

Aid Forgiveness - The enacted budget allows for aid forgiveness for building and transportation costs that were properly expended, which would otherwise be subject to penalties for late filing of forms due to inadvertent administrative or ministerial oversight. Further, in an attempt to prevent future transportation contract filing complications, the submission of contracts through electronic form is now permitted.

NYSSBA Position/Response - NYSSBA is very pleased and appreciative of these provisions, as they are reflective of many years' worth of advocacy on this issue. Changes to the building aid process made in 2011 have effectively prevented such penalties for capital projects since then, but multiple building aid projects were approved prior to the change, but completed after. NYSSBA has supported multiple district-specific bills in an attempt to allow for aid forgiveness, with limited success. This comprehensive solution is the most effective way to address the problem.

Further, NYSSBA has noted that many transportation contract submission errors have been at least partially attributable to the requirement for hard copy submission. Allowing electronic submission will help support districts who otherwise would have faced aid penalties due to technical errors related to the hard copy process.

Community Schools Set-Aside - The enacted budget makes no changes to community schools set-asides. While no increases were made, \$250 million of total Foundation Aid funding will again be restricted to be used by districts for services and programs that further community schools initiatives.

NYSSBA Position/Response - 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." While we continue to support the repeal of set-asides, we are pleased that the total restricted amount will not increase this year. 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. School districts should be granted full flexibility in their funding decisions.

Aid Claims Restriction and Database Freeze - The enacted budget rejects the executive proposal to freeze aid payments on a permanent basis to a maximum payment of those included in the school aid runs supporting the executive budget proposal based on the November database.

NYSSBA Position/Response - NYSSBA is appreciative that the legislature continues to reject such proposals from the executive budget. As with any budgeting process, cost projections can be volatile. Such volatility does not reflect poor budgeting practices, and should not be treated as such. It is important for school districts to be reimbursed for legitimate actual costs.

Recover from COVID School Program (RECOVS) - The enacted budget includes \$100 million total for the 2022-23 and 2023-24 school years for the Recover from COVID School Program, or RECOVS. The program would support school district efforts to address student wellbeing and learning loss in response to the trauma brought about by the COVID-19 pandemic. Eligible costs would include employment of mental health professionals, expansion of school-based mental health services, and the creation or expansion of summer, after-school, and other extended-day programs. Awards would prioritize the highest need students and schools, as well as services being delivered within school buildings. State awards would be limited to a match of other local, state, and federal investments made by a district for these purposes.

NYSSBA Position/Response - NYSSBA supports and appreciates the state's dedicated investment in school districts' efforts to aggressively respond to the myriad of student impacts associated with the COVID-19 pandemic. We also acknowledge the match language now factors in local and state funds spent by a district, instead of only federal funds, to increase potential funding for districts who may have received smaller stimulus allocations. NYSSBA will work with policymakers to ensure the eligibility standards are applied broadly, so that as many districts as possible can be eligible for funding.

Prekindergarten - The enacted budget includes \$100 million in additional pre-k funding through a new UPK expansion grant.

NYSSBA Position/Response - NYSSBA is supportive of increased investments in pre-K, for districts that are interested in either adding such programs or expanding their current number of seats. NYSSBA will continue to advocate for pre-K funding to be made available to as many districts as possible. Further, NYSSBA continues to advocate for statutory amendments to make pre-K transportation eligible for state aid, thereby enhancing pre-k funding opportunities.

Career and Technical Education - The enacted budget does not include any changes to the BOCES aidable salary cap, nor increases to special services aid for non-component districts, in support of career and technical education.

NYSSBA Position/Response - NYSSBA is very disappointed that state leaders could not come to an agreement on this important issue. NYSSBA, in partnership with many of our education colleagues, made CTE investments a top priority in school funding requests during this year's budget negotiations. In particular, the BOCES aidable salary cap has been fixed at the same limit for the past 30 years. NYSSBA will continue to stress the importance of these investments in preparation for negotiations in 2023.

Prior Year Aid Claims - The enacted budget does not include any restoration of the state's funding to make payments against the prior year aid claims list.

NYSSBA Position/Response - The state first eliminated their annual funding to make payments against the prior year aid claims list in the 2021-22 budget. Prior to that budget, the state had annually allocated nearly \$20 million to pay down against the list of approved aid claims from school districts. With no funding included in the budget, the \$300 million owed by the state to school districts will only continue to grow. In addition, the lack of prior year aid claim funding will blunt the positive impact of the building and transportation aid forgiveness provisions included in this year's enacted budget.

Capital Outlay Projects - The enacted budget does not include an increase to the eligible cost threshold for building aid under the capital outlay exception.

NYSSBA Position/Response - NYSSBA is disappointed the final budget does not include an increase to the 20 year old \$100,000 limit, despite advocacy efforts by NYSSBA and our partner education groups. Standard inflationary growth over the past two decades, and the current environment in particular, make it increasingly difficult for school districts to use this program. When working correctly, the capital outlay exception saves both the state and school districts money on building projects. We will continue to highlight the need for an increase to the current limit, in preparation for next year.

Continuation of Existing Programs - The enacted budget maintains multi-year investments in after-school programming, early college high schools, and P-TECH (Pathways in Technology Early College High School) programs.

NYSSBA Position/Response - NYSSBA appreciates that the enacted budget preserves funding for these important programs, and also recognizes that work must continue to ensure all money appropriated is made available to school districts.

Committee on Special Education Placements - The enacted budget extends for a third consecutive year the cost shift of the state share of maintenance costs related to Committee on Special Education (CSE) placements for districts outside of New York City. Previously, the state covered 18.424% of the cost, with school districts covering 38.424% and the locality assuming the remainder. Extension of this financial shift moves school districts' cost share to 56.848% for the third year in a row.

NYSSBA Position/Response - The executive budget initially proposed to make this cost shift permanent, so we acknowledge that the final budget rejected that attempt. However, we are concerned that this is now the third year the cost shift is in place, continuing to move nearly \$30 million in costs, which would have been funded by the state, on to school districts. NYSSBA will continue to stress our opposition to this unnecessary cost shift. We are hopeful that the state will assume their share again after April 1, 2023.

Master Teacher and School Counselor Awards - In addition to \$20.5 million in funding for the current Master Teachers program, the enacted budget includes a new competitive award of \$2 million to support individual high-performing teachers and school counselors. The awards would prioritize supporting teachers of color, CTE teachers, and guidance counselors.

NYSSBA Position/Response - The current Master Teacher Program has proven to provide participants with valuable professional development and networking opportunities. Master Teachers have, in turn, become leaders within their school buildings. NYSSBA is pleased to see the program expand to prioritize teachers of color, CTE teachers, and school counselors.

School Climate Grants - The enacted budget appropriates \$2 million in grants to school districts to support programs designed to improve school climate, consistent with the executive budget proposal. The grants must prioritize schools with high levels of suspensions.

NYSSBA Position/Response - NYSSBA recognizes that programs designed to improve school climate may effectively address the needs of students' social and emotional wellbeing. NYSSBA is pleased to see this investment in school climate grants.

Charter Schools - The enacted budget accepts the executive proposal to double New York City charter school facilities aid from just over \$51 million to \$100 million.

NYSSBA Position/Response - NYSSBA supports prioritizing sufficient funding for traditional public schools over generous increases in state aid to charter schools.

Nonpublic School Aid - The enacted budget includes \$55 million to support nonpublic school STEM programs. This equates to a \$15 million year over year increase.

NYSSBA Position/Response - NYSSBA believes that public dollars should prioritize public school investments.

Other Provisions

Virtual Open Meetings - The enacted budget creates a framework within the Open Meetings Law to enable school boards and other public bodies to conduct hybrid meetings with a virtual component. Boards will be able to allow some members to attend by videoconference if all of the following criteria are met:

- There is a public physical location for the meeting;
- A quorum of members are physically present in that location;
- The public is able to attend the meeting at that physical location;
- The school board has adopted a resolution allowing virtual meetings;

- The board adopts and posts written rules for member and public participation;
- The members of the board are seen, heard, and identifiable during the meeting;
- The public notice informs the public that videoconferencing will be used;
- The public may participate and provide comment virtually in real time;
- The board maintains a website; and
- The meeting materials, minutes, and a recording of the meeting are posted on the website

Board members must have a reason to be attending the meeting virtually including, but not limited to illness, disability, caregiving responsibility, or some other significant reason. However, during a declared state or local disaster, the entire board may meet virtually if the board determines it necessary. In addition, the enacted budget effectively removes the existing requirement that board members attending a meeting virtually must disclose to the public their physical location and make that location open to the public. The new law will remain in effect until July 1, 2024.

In addition, the plan provides a 60 day extension of the current full virtual meeting authority, in response to the COVID-19 pandemic. Under this extension, full virtual open meetings are authorized through June 9, 2022.

NYSSBA Position/Response - Following the adoption of multiple positions on virtual open meetings at the NYSSBA 2021 annual business meeting, NYSSBA has spent significant time advocating for both a post-COVID option for school boards to meet virtually and the removal of the requirement the board members meeting virtually disclose their physical location. We were pleased that the new law allows a hybrid component for meetings, at local option. Though this authority is limited, we also appreciated the ability to meet fully virtually during a disaster emergency. We were extremely pleased to see the removal of the requirement that members meeting virtually disclose their physical location. NYSSBA strongly advocated for this key update to the Open Meetings Law. It will protect member privacy while retaining the ability of the public to participate.

Expansion of Broadband Coverage - The enacted budget modifies the executive budget by enacting the WIRED Broadband Act to expand broadband coverage in unserved and underserved communities. The act defines “unserved” as areas with download/upload speeds of up to 25/3 MBPS, and “underserved” as areas with download/upload speeds from 25/3 MBPS, to 100/20 MBPS. The plan further creates a Division of Broadband Access to oversee statewide broadband-expansion initiatives, and includes grants for various entities for broadband expansion. The final enacted version does not give specific preference to projects for schools, as previous versions of the act did. The enacted budget includes \$1.45 billion for this initiative, with \$1.145 billion from the federal government and the remainder coming from state funds.

NYSSBA Position/Response - NYSSBA supports the Governor and legislature’s meaningful efforts to continue to close the digital divide. Addressing the digital divide is an issue of equity that our members have recognized for years, which has only become more profound in this era of remote

learning. With some areas of the state having no high-speed internet, students in those areas are automatically behind others that have the ease of access elsewhere. This gap is most pronounced in rural communities, low-income families, and households with Black, Latinx, and Native American students. While past efforts to address this divide provided short-term supports, enabling this comprehensive statewide infrastructure will help ensure equal access for future generations. In addition, NYSSBA continues to believe that high-speed broadband should be defined at a minimum of 100/100 MBPS, recognizing how broadband is used in today's COVID and post-COVID world.

Zero-Emission School Buses - The enacted budget includes a plan to electrify the state's school bus fleet by 2035. Under the final legislation, which was meaningfully similar to the proposal offered by the Governor in the executive budget, districts must purchase and lease only zero-emissions buses by 2027. The program includes the option for school districts to apply to SED for up to a two year waiver, if the district believes it will have difficulty fully implementing the requirement by the deadline. By 2035, all buses used to transport students, whether owned by districts or by a transportation service provider, must be zero-emissions.

The budget provides that costs related to the lease, purchase, construction, or installation of zero-emissions buses and charging infrastructure will be aidable transportation expenses, as will the electricity used for fuel. Prior to any procurement, districts must also create and implement a "workforce development report" that estimates job losses and creations due to the transition, identifies gaps in current workforce skills, and creates a comprehensive plan and budget to transition, train, or retrain employees that are impacted by purchases or leases. Lastly, NYSERDA shall provide technical assistance to districts on managing zero-emissions infrastructure, as well as aid districts in applying for state and/or federal funding.

NYSSBA Position/Response - At NYSSBA's 2021 annual business meeting, voting delegates approved a resolution directing NYSSBA to support state "funding to assist school districts in implementing decisions in the best interest of the global environment, particularly in areas of facilities improvements and transportation." NYSSBA sees this plan as being generally consistent with that position. NYSSBA worked with our partners at NYSCOSS and ASBO-NY to stress the importance of appropriate funding and logistical feasibility for districts. The inclusion of a waiver process is reflective of those efforts.

Importantly, the enacted budget includes \$500 million earmarked from the proposed Clean Water, Clean Air, and Green Jobs Bond Act (discussed below), making costs related to this massive transition aidable transportation expenses is vital for on-target implementation. Additionally, NYSSBA is pleased that NYSERDA will provide technical assistance to secure funding, as well as provide uniform guidance to districts. As the 2027 and 2035 dates approach, NYSSBA will continue to communicate with policymakers to ensure the transition is feasible and manageable for districts, from both financial and operational standpoints.

Special Act Reserves - The enacted budget includes a temporary increase to the reserve percentage that special act districts are permitted to retain. The percentage phases down from 11% to 2% over five years.

NYSSBA Position/Response - NYSSBA is pleased to see this increased flexibility adopted for special act school districts, reflective of advocacy priorities supported by NYSSBA in support of our special act members. This reserve flexibility recognizes the rate setting funding support that has been previously committed to by the Governor. Special act districts serve some of the state's most fragile student populations and have a funding and budget structure that differs from traditional public school districts.

Earnings Cap Waiver for Retirees - The enacted budget authorizes public sector retirees to work for a public school or BOCES without a waiver and without reduction in their retirement benefits, regardless of the amount earned. This law will remain in effect until June 30, 2023.

NYSSBA Position/Response - NYSSBA strongly supports this waiver of the earnings cap. As school districts and BOCES faced and continue to face teacher, bus driver, and other staff shortages, NYSSBA sought solutions in the short- and long-term. Prior to the start of this session, we advocated for raising the public retiree earnings cap, as we had noticed the cap act as a disincentive for retirees who could otherwise fill much needed positions. NYSSBA also advocated for the executive proposal to be amended to explicitly include BOCES within this allowance. We are pleased the amendment was made.

Retirement System Benefits - The enacted budget excludes overtime from employer contributions to state retirement systems, including the State and Local Retirement System and Teachers Retirement System, for members of Tier 6. This exclusion would be in place for two years, from April 2022 to April 2024.

The enacted budget also lowers the amount of service credit needed for members of Tiers 5 and 6 to be considered vested for retirement benefits from 10 years to 5 years. This applies to all Tier 5 & 6 members, including members of the State and Local Retirement System and Teachers Retirement System. This provides members of Tiers 5 and 6 parity with Tiers 1, 2, 3, and 4.

NYSSBA Position/Response - NYSSBA is acutely aware of the impact pension costs can have on school districts and BOCES. We are also cognizant that various flexibilities can be useful in this difficult staffing environment.

Fiscal Reporting - The enacted budget continues to include a requirement that any district that receives a Foundation Aid increase of more than 10% or \$10 million over 2021-22 must post on their school website a plan as to how those funds will be used to address student performance and need.

Further, the budget requires school districts to update their ARP Act federal stimulus funding plan, post the updated plan to their website, and send it to SED. The updated plan must include an analysis of public comments, goals and ratios for student support, detailed summaries of investments in the current year, and funds spent in priority areas.

NYSSBA Position/Response - NYSSBA understands the interest in making this information more readily available to school community members and the public in general. Recognizing the potential value of this information, NYSSBA partnered with NYSCOSS and ASBO-NY in an attempt to suggest that this type of fiscal reporting would be more useful than the current duplicative state-required school building-level fiscal reporting. Unfortunately, the enacted budget did not repeal that reporting requirement.

Temporary Teaching Certification - The enacted budget rejects the executive proposal to authorize an individual to teach in a public school with a temporary professional teaching permit.

NYSSBA Position/Response - NYSSBA was generally supportive of the proposal, in recognition of the dire situation many districts are currently facing due to shortages of teaching staff. But we acknowledged concerns with the proposal that were expressed by some, including SED.

NYC Mayoral Control - The enacted budget rejects the executive proposal to extend mayoral control of New York City schools for an additional four years.

NYSSBA Position/Response - NYSSBA is supportive of continued mayoral control for the New York City Department of Education, based on the local district's desire for continuation of the current system, and will advocate for an extension during the remainder of legislative session.

Transfer of the National School Lunch Program (NSLP) - The enacted budget rejects the executive proposal to transfer oversight and operation of the NSLP from SED, where it is currently housed, to the state Department of Agriculture and Markets.

NYSSBA Position/Response - NYSSBA took no official position on this proposal, as we generally do not weigh in on proposed state agency transfers like these. However, we did note multiple potential complications and procedural challenges should such transfer occur. NYSSBA also shared that we had not previously received any concerns with the existing SED oversight from our members.

Clean Water, Clean Air, and Green Jobs Bond Act of 2022 - The enacted budget modifies the executive's proposal to ask voters to approve the issuance of \$4.2 billion in bonds at the November election for the purpose of realizing the state's climate change resiliency goals. Along with other entities, school districts would be able to access this funding for a wide range of projects, in the areas of flood risk reduction, open space land conservation and recreation, climate change mitigation, and water quality improvement and resiliency. There is also \$500 million specifically earmarked for

transition to zero-emissions school buses, with additional funds from that Act available for that purpose as well. Lastly, there are specific mentions of school energy efficiency projects being eligible under the climate change mitigation funding stream.

NYSSBA Position/Response - NYSSBA appreciates the adjustment to this proposal, in order to dedicate \$500 million for the transition of school buses to zero-emission of the establishment of this funding stream. This funding represents an investment towards achieving the climate change goals outlined in the 2019 New York State Climate Leadership and Community Protection Act, and importantly highlights schools and their need for support from the state to reach those goals. This funding will allow school districts to make long-term plans as the state continues to implement a green transition, knowing that there will be consistent funding available.

Access to the Clean Water State Revolving Loan Fund - The enacted budget accepts the executive's proposal to expand the definition of "municipality" to include school districts for the purpose of accessing this fund, which provides access to interest-free or low-interest rate financing for wastewater and sewer infrastructure projects.

NYSSBA Position/Response - NYSSBA appreciates the new access to this program, especially as the state continues to move to implement its recent climate change resiliency goals.

Applying State Ethics Rules to Local Public Officials - The enacted budget rejected the executive proposal to apply certain ethics requirements for state officials and employees to local officials and employees, including school board members and school district employees.

NYSSBA Position/Response - NYSSBA had no specific objection to applying state official ethics standards to local officials, but did highlight our desire to ensure that any new standards did not make it unnecessarily difficult for school districts to entertain and enter into contracts, especially in areas of the state with limited vendors and the increased potential for familial connections under the proposed expanded definition of family.

Update to Building Codes - The enacted budget rejected the executive budget's proposal to overhaul the statewide building code with the Climate Change and the Building Benchmarking Act of 2022, and to create various reporting requirements for buildings over 25,000 gross square feet.

NYSSBA Position/Response - While NYSSBA recognizes the importance of enhancing resilience to climate change, the original proposal did not include any support or funding for those subject to its provisions. We look forward to continuing to communicate in an open dialogue with other stakeholders as the state moves towards the emissions targets laid out in the 2019 New York State Climate Leadership and Community Protection Act.

Homeowner Tax Rebate Credit - The enacted budget accepted the revival of the homeowner tax rebate credit.

NYSSBA Position/Response - This credit is applied against the state income tax, as opposed to property taxes. NYSSBA historically has taken no position on this particular credit, as long as the credit is not contingent property tax cap compliance.

STAR Process Changes - The enacted budget accepted and modified some of the proposed changes to the STAR process. These include faster payments from the state for some newly accepted enhanced STAR applicants, and clarifying that a taxpayer is basic STAR eligible if their primary residence is at or below the eligibility cap for the applicable tax year.

NYSSBA Position/Response - These STAR changes would not have a direct net impact on school district finances. However, it is important for districts to be aware of such proposals as taxpayers often direct questions regarding STAR to their school districts.