



## **NYSSBA 2018 Enacted Budget Analysis**

### **State Aid:**

The final budget includes nearly \$1 billion in additional education funding, representing a 3.9% increase over 2017-18. Approximately \$859 million of that is comprised of traditional public school aid, including increased Foundation Aid and full-funding of expense-based aids. Formula-based school aid now stands at \$26.03 billion statewide, a 3.4% increase over the last year.

The enacted budget includes an increase of \$618 million in Foundation Aid for school districts. Foundation Aid now totals nearly \$17.8 billion statewide. For the seventh consecutive year, the Foundation Aid increase was distributed using a one year, off formula methodology. Further, the final budget included no restart of the statutory Foundation Aid formula. \$50 million of the Foundation Aid increase will be “set aside” for certain districts to fund community schools.

### **NYSSBA Response:**

NYSSBA advocated for a \$2.0 billion total increase in education funding under this budget, with \$1.4 billion of that amount to be driven through Foundation Aid. The budget did not include a plan to restart the Foundation Aid formula, as NYSSBA called for, but the distribution formula focuses most on districts with significant student need and those receiving comparatively lower percentage levels of Foundation Aid funding. The budget also guarantees that all districts receive an increase in Foundation Aid over their 2017-18 levels, as NYSSBA supported.

While NYSSBA supports state funding for districts that wish to pursue community school initiatives within their communities, we are opposed to restricting the use of Foundation Aid to do so. Foundation Aid is intended to be flexible operating aid for the district. The community schools set-aside, as part of Foundation Aid, now stands at \$200 million statewide.

### **Expense-Based Aids:**

The enacted budget fully funds all expense-based aids for 2018-19, including building, transportation, BOCES and special education aids. These categories serve as state reimbursements for district expenses made in the prior year, based on district-specific aid ratios. A total of \$240 million was approved for increases in all expense-based aids in 2018-19.

In addition, the enacted budget rejected the Executive’s proposal to cap growth of certain expense-based aids in 2019-20 and beyond.

### **NYSSBA Response:**

NYSSBA advocates for full-funding of all expense-based aids each year for all districts. These reimbursements support districts as they provide essential and mandated programs and services for students across the state.

NYSSBA advocated strongly against the Executive's proposal to arbitrarily cap transportation, BOCES and building aids. That proposal would have severely limited growth in these expense-based aids at two percent annually. This would have impacted all districts, with particular harm felt by the state's highest-need districts, which are most reliant on state aid. It is critical that the state properly fund these expenses, for which districts have already incurred and depend on timely and dependable state partnership.

### **School-Based Budget Reporting:**

The enacted budget includes a modified version of the Executive proposal for school building-based budget approval. Beginning with the 2018-19 school year, any district with at least four schools that receives at least fifty percent of its total revenue through state aid will be required to annually report its budgeted support for individual schools within the district. This report must follow a format, to be developed by the state Division of Budget and in consultation with the State Education Department. In 2019-20, this requirement will expand to all districts with at least four schools, regardless of state aid. In 2020-21, the requirement will apply to all districts in the state. This report will be due to the state by the beginning of the school year, and the state has 30 days to respond.

While DOB or SED will not formally approve districts' school-based budget, DOB and SED will have authority to determine whether or not the information was provided in a timely and sufficient manner. The reporting must include demographic data, per pupil funding, source of funds and "uniform decision rules regarding allocation of centralized spending to individual schools from all funding sources." Should either agency determine that a district did not meet this requirement, the district's state aid increase can be withheld for the applicable year until compliance is determined by both agencies. If either agency determines that a district has not properly complied, the district will have 30 days to "cure" the problem. In the event the problem is not cured in 30 days, the city comptroller or chief financial officer, and in the event a school district located outside a city, the chief financial officer in the municipality where the school district is most located, will be authorized, at his or her discretion, to gather information and submit on behalf of the district.

### **NYSSBA Response:**

NYSSBA fought strongly against the Executive's proposal to require certain districts receive state approval for their school-based spending plans. While the approval provision was modified in the final budget, this new reporting requirement, with approval that the format is correct is an additional, unnecessary mandate upon school districts. It is worth noting that the federal Every Student Succeeds Act (ESSA) will require school-based expenditure reporting, beginning with the 2018-19 school year. The additional reporting and quasi-approval provision encroaches on school board autonomy. NYSSBA will work with both agencies to limit the impact on district operations as much as possible

### **Charitable Contribution Funds:**

The enacted budget includes the creation of new state and local charitable contribution funds in a format substantially similar to those proposed by the Executive. For qualified charitable donations to the state education fund, taxpayers are eligible for an 85% state income tax credit. The proceeds

from the state education fund may only be used for the “provision of elementary and secondary education of the children in the state.”

The local charitable fund can be created at the discretion of each school district’s board of education. For qualified charitable donations to the local charitable fund, taxpayers are eligible for up to a 95% school property tax credit. The proceeds from the fund are to be used by the district for “public educational purposes.” In addition, any monies contributed to, and expended from, the local fund will not affect a district’s property tax cap calculation.

**NYSSBA Response:**

NYSSBA supports efforts made by the state to address the potential negative impacts on school districts and property taxpayers caused by the new federal cap on state and local tax (SALT) deductions. It was important to NYSSBA that any new mechanism, such as these funds, created by the state should be optional and at the discretion of the district. These funds achieve that goal.

While these funds offer potential benefits to school districts and taxpayers alike, they remain open to interpretation by the Internal Revenue Service (IRS) as to their federal tax deductibility. As such, it may be prudent for school districts to take a “wait and see” approach before deciding whether or not the local education funds are in the best interest of the district and its community.

**Charter Schools:**

The enacted budget rejects the policy proposals advanced by both houses of the Legislature and the Executive, including a cap on charter facilities reimbursement for New York City, an increase in the items eligible of charter facility payments by New York City, an elimination of the reimbursement for basic supplemental tuition for New York City and a proposal to make supplemental basic tuition a current year reimbursement.

The final budget does include an increase in funding for charter schools, with a direct state funding boost of 3% for charters in New York City and a bullet aid set aside of \$40 million believed for charter schools statewide, resulting in an estimated \$62.6 million increase in state support for the charter school industry.

**NYSSBA Response:**

NYSSBA opposed the Executive and Senate’s charter school proposals and are pleased to see them rejected in the final budget. However, the increase in state financial support for charter schools, both in New York City and statewide, diverts funding that could otherwise have been used to support the state’s public school districts. In addition, it is important to note that school districts will face increased charter school tuition liabilities due to changes in the tuition formula adopted last year.

**State Support for Non-Public Schools:**

The enacted budget did not include any version of the Education Tax Credit or expansion of the state 529 education savings plan. However, the enacted budget did include \$15 million in funds to support STEM teachers in nonpublic schools.

**NYSSBA Response:**

NYSSBA advocated strongly against all proposals to establish state tax benefits related to non-public school tuition. If enacted, these proposals would have diverted hundreds of millions of dollars each year from the state general fund in the form of tax credits for contributions and other supports for private schools. NYSSBA will continue to oppose any future efforts to pass related proposals. It was also disappointing to see an increase in funds for non-public STEM teachers, at a time when many districts are also struggling to recruit and retain these educators.

**Prohibition on School Lunch Shaming:**

The enacted budget will require school districts that do not participate in community eligibility to create plans to prohibit lunch shaming in cases where students have insufficient funds to pay for their school meals. These plans must include procedures to communicate with parents or guardians and to help eligible families enroll their children in the national free and reduced-price meal program. Additionally, school districts' plans must strictly prohibit certain lunch shaming behaviors such as requiring a student to do chores for his or her meal or forcing a student to throw a meal away. Furthermore, districts will be required to provide students with full, reimbursable meals, regardless of ability to pay and may not contact parents through their students.

**NYSSBA Response:**

NYSSBA supports the intent of this initiative; however, we are concerned with some of the language as written. Most notably, the law to prohibit school lunch shaming requires school districts to provide unlimited meals to students without payment, but leaves no reasonable recourse for recouping the debt from parents or guardians.

**Breakfast after the Bell:**

The final budget includes a "breakfast after the bell" program. All schools with 70 percent or more students eligible for free and reduced-price lunch will be required to offer all students a school breakfast after the instructional day has begun. Schools must consult with teachers, parents, students and members of the community to determine the service delivery model that works best for them. SED is authorized to establish a waiver application for districts that would suffer from economic hardship as a result of participating in this program. The budget provides \$7 million in grants for capital costs and \$5 million to support implementation of the program.

**NYSSBA Response:**

NYSSBA supports initiatives to alleviate student hunger; however, we want to ensure sufficient funds are committed to allow school districts to properly implement these programs. Changes in the school breakfast program could lead to significant costs to the district including capital costs, costs related to the meals themselves and staff-related costs associated with the delivery and supervision of the breakfast after the bell program.

**Special Education:**

The enacted budget rejected the Executive's proposal to change the state reimbursement rate on school district costs for summer special education programs from the current 80% to each district's individual public excess cost aid ratio.

**NYSSBA Response:**

NYSSBA advocated strongly against this proposal, which would have cut funding to districts for special education students by an estimated \$70 million statewide.

**Pre-Kindergarten:**

The enacted budget allocates an additional \$15 million in funding for new 3- and 4-year old pre-kindergarten seats in high need school districts. Both full and half day programs would be eligible. Additionally, teachers without early childhood teaching certification who are on a path towards certification will continue to be authorized to teach prekindergarten.

**NYSSBA Response:**

NYSSBA continues to support increased and stable funding to establish or expand pre-kindergarten programs. However, NYSSBA encourages the state to make pre-kindergarten funding available to all districts wishing to serve 4-year olds in their communities, before expanding programs to 3-year old students. In addition, NYSSBA calls for transportation for 4-year old pre-kindergarten students to be aidable to the same extent as transportation for K-12 students.

**Full-Day Kindergarten:**

The enacted budget includes additional financial support for districts that do not offer full-day kindergarten, but wish to do so. The law now expands the current one-year transition aid to a three-year system, with eligible districts receiving 65% of their year one transition aid amount in year two, and 35% in year three. There is still no mandate that any district offer full-day kindergarten.

**NYSSBA Response:**

NYSSBA has long supported targeted aid to help districts transition to full-day kindergarten. This additional aid will help the few districts wish to transition to full-day kindergarten do so with increased financial support.

**Aid Forgiveness:**

The enacted budget includes provisions to soften the impact of aid penalties faced by districts due to late filings of final cost reports for capital projects. For districts with an aid penalty that exceeds 4% of total general fund expenditures (TGFE), the payback can be spread out over 10 years. Previously, the penalty would have had to exceed 6% of TGFE. In addition, the annual amount of aid recovered from the district by the state cannot exceed 1.25% of the district's TGFE. Previously, the annual penalty was limited to 2% of a district's TGFE.

**NYSSBA Response:**

NYSSBA advocated for a renewed period of full building aid amnesty under this budget, similar to provisions included as part of the 2012-13 state budget. While more comprehensive amnesty provisions were included by both the Senate and Assembly in their Legislative budget proposals, full forgiveness was not ultimately included. However, these changes do have the potential to lessen the negative financial impact for districts in these situations, in both the short term and long term.

**Prior Year Aid Claims:**

The enacted budget includes \$18.6 million to be applied towards the state's prior year claims list. The amount represents flat funding compared to the previous year.

**NYSSBA Response:**

NYSSBA called on the state to use state aid overpayment deductions as an additional revenue source to pay against the prior year aid claims list, which includes more than 4,500 individual claims totaling approximately \$350 million. The Senate and Assembly each included a variation on proposals to do just that in their Legislative Budget proposals. Prior year claims are school district expenses from previous years that the state has approved for state aid. Based on current funding, it will take more than 15 years for the state to pay an approved claim submitted today. NYSSBA will continue to promote ways to address this growing issue.

**Pathways to Graduation:**

The enacted budget failed to include a number of BOCES and career and technical education issues, including an increase in the aidable cap on BOCES CTE teachers, an increase in special services aid for non-component districts and an increase in the fifteen year old cap on BOCES district superintendent compensation.

**NYSSBA Response:**

NYSSBA advocated throughout budget negotiations in support of these changes, in order to advance educational opportunities available to students and school districts throughout the state. All of these issues were supported by at least one legislative house in some format or another, so we will continue to work on these important issues throughout the remainder of the legislative session.

**Special Act School Districts:**

The Assembly proposal included a 4% rate increase for special act school districts. In addition, the Assembly would have authorized special act districts to establish fiscal stabilization reserves (similar to fund balances) and establish a process for special act districts to receive annual tuition rate increases. In addition, the Senate proposal would have provided a hold-harmless provision for special act school districts that have experienced significant enrollment loss between 2014-15 and 2017-18 due to intake closures or limits on new placements. The hold-harmless provision would have protected such districts from any reduction in tuition revenue or tuition rate calculation for 2016-17 or 2017-18. Unfortunately, none of these provisions were addressed in the final enacted budget.

**NYSSBA Response:**

NYSSBA has long advocated for special act school districts to be treated equitably with all other public school districts, and funded through the traditional state budget process. While we will continue to push for legislative changes, NYSSBA will also utilize the existing methodology process to secure a rate increase that is comparable to the funding increase received by other high need school districts.

**Foster Students:**

The enacted budget includes language to update state law regarding the education of children in foster care to ensure compliance with changes on the federal level under the Every Student Succeeds Act (ESSA). ESSA defines “school of origin” and declares that such school is where a child is entitled to go unless a determination is made that it is not in a child’s best interest to attend his or her school of origin. The final budget language not only defines school of origin to match federal language; it also defines school district of origin. ESSA also requires that a child in foster care is guaranteed transportation to his or her school of origin. The budget includes a section on the transportation of foster children to their designated schools to comply with this federal requirement. All costs incurred that are allowable up to 50 miles will be aidable. Any transportation costs that are in excess of the allowable amount will be shared equally between the school district of attendance and the social services district.

**NYSSBA Response:**

NYSSBA is supportive of practices that minimize disruption to education, especially for students in foster care. The change in federal law will help ensure consistency but no additional funding was made available. Making transportation up to 50 miles transportation aidable will alleviate a significant portion of the cost. As these changes are implemented, NYSSBA will work with districts to determine if these changes fully address the situation or if additional adjustments are needed.

**Agency Shop Fee Protections:**

The enacted budget includes provisions that would set forth a number of changes to the payment of dues in a public sector employee organization (or “union”) including the timing of payroll withdrawals. Explicit guidelines are established that limit the obligation an employee organization has to represent nonmembers only with regard to inclusion in the collective bargaining agreement. This provision also requires that all public employers allow new employees and newly promoted employees who have changed collective bargaining units to meet with a representative of the union during work hours within the first 30 days of employment or transfer, unless their collective bargaining unit states otherwise.

**NYSSBA Response:**

In general, these changes deal with the relationship between an employee and his or her union; however the provision requiring that employees be given time to meet with unions during work hours generally represents a new requirement. Whether it is a teacher in the classroom, a bus driver providing transportation or many others, allowing for this meeting during work hours may result in

the district or BOCES having to provide a replacement worker to ensure that students remain properly supervised and operations continue. If replacement workers are required, districts and BOCES will incur direct costs for providing this benefit. While some districts and BOCES have negotiated procedures for employees to meet with union representatives in their contracts, not all have done so. For those districts and BOCES where this has not been negotiated, this would represent a new state mandate. NYSSBA does not believe that such a mandate is necessary or appropriate.

#### **Division of Human Rights Oversight:**

The enacted budget did not include language to expand Division of Human Rights oversight to students attending public school districts and BOCES.

#### **NYSSBA Response:**

NYSSBA supports the protection of rights for all students. However, public schools and their students are governed by a myriad of existing state and federal laws that provide substantial protections for students from acts of harassment, bullying and discrimination. Expanding the jurisdiction of the Division of Human Rights could have led to confusion as to which law takes precedence as well as increased liability, without offering students additional protections.

#### **After-School Programs:**

The enacted budget continues funding after-school programs that received an Empire State After-School grant last year, and invests an additional \$10 million to create approximately 6,000 more after-school seats. Of the new funding, at least \$2 million would be directed towards students residing in school districts on Long Island deemed “at risk” or “high need”. Other eligible applicants for the remaining grant funding include programs located in the state’s Empire State Poverty Reduction Initiative (ESPRI) communities (Albany, the Bronx, Binghamton, Buffalo, Elmira, Hempstead, Jamestown, Newburgh, Niagara Falls, Oneonta, Oswego, Rochester, Syracuse, Troy, Utica, and Watertown), and programs located in school districts with high rates of student homelessness.

#### **NYSSBA Response:**

NYSSBA is supportive of funding for the creation or expansion of after-school programs. However, we will continue to advocate for wider eligibility statewide. The need for after-school programs exists in districts across the state.

#### **Standards and Curriculum:**

The enacted budget directs the Commissioner of Education to convene a working group of teachers, school administrators, industry experts, institutions of higher education and employers to develop draft K-12 computer science standards. The working group is required to submit its recommended standards to the State Education Department by December 1, 2019. The budget also allocates \$6 million in grants to support the professional development of K-8 teachers’ competency in computer science so they can ideally become “in-house experts” on the subject matter.

Two programs, “Be Aware, Be Informed” and “Respect for Diversity,” were initially proposed in the Executive budget but not included in the enacted budget. These programs would have resulted in the creation of model curricula, lesson plans and instructional resources available at no cost to school districts.

**NYSSBA Response:**

NYSSBA supports the creation of model standards and will closely monitor the Department to ensure any model resources made available to school districts remain as documents of guidance and not mandates.

**Early College High Schools:**

The enacted budget includes an additional \$9 million to expand the state’s Early College High School programs. This expansion will allow for the creation of approximately 15 new programs and will target schools with low graduation rates. Higher award amounts will be granted to programs aligned with industries the Department of Labor has identified as having a favorable job outlook.

**NYSSBA Response:**

NYSSBA supports the expansion of Early College High Schools and other programs that allow for students to earn college credit. However, NYSSBA does have concerns about continued reliance on competitive grants, as existing programs have no security at the end of their grant terms and the gains that have been made could be threatened by discontinuation at that time.

**Student Mental Health Services:**

The enacted budget includes \$250,000 for mental health grants for community schools to expand mental health and wrap-around services.

**NYSSBA Response:**

NYSSBA supports increased funding for mental health services. However, such resources should be made available to all school districts, not just community schools.

**Sexual Harassment Policy:**

The enacted budget includes a number of new initiatives dealing with sexual harassment in the workplace. First, it includes a prohibition on employers requiring employees to agree to forced arbitration under sexual harassment claims. Any such clauses in existing contracts would be null and void. Second, the budget includes a prohibition against certain non-disclosure agreements under sexual harassment settlements. Unless the complainant prefers confidentiality, no sexual harassment settlement can prevent disclosure of the basic facts of the claim. Third, the final budget includes sexual harassment protection for non-employees (ex. contractors, vendors and consultants) providing services in an employer’s workplace. Previously, only actual employees were covered under such protections. Last, any employees found liable under a sexual harassment claim will now be required to reimburse the public entity, including a school district, who paid the claim.

The budget also includes a requirement for employers to adopt sexual harassment policies and prevention training programs. The Department of Labor will consult with the state Division of Human Rights to adopt a model policy, which can then be adopted by the employer. The employer has the option to adopt a policy of their own, but such policy must meet or exceed the minimum standards of the model policy.

**NYSSBA Response:**

NYSSBA supports the intent to reduce sexual harassment in the workplace and provide clear recourse and protections for victims in the event such harassment occurs. NYSSBA supports the modification of the original proposal that would have delegated development of the policy to school attorneys rather than the governing board of the district.

**Access to Feminine Hygiene Products:**

The enacted budget requires all public school districts to provide feminine hygiene products, at no cost, in restrooms in school buildings serving students grades 6-12.

**NYSSBA Response:**

NYSSBA supports the intent to ensure that lack of access to these items should cease to be a barrier to students participating in educational activities. However, NYSSBA will continue to seek an appropriation to ensure that districts do not have to divert resources from other programs to pay for this.

**Farm-to-School Initiatives**

The enacted budget includes an increase in state school lunch reimbursements from 6 to 25 cents per meal for school food authorities that certify they have purchased at least 30 percent of their total food products for their school lunch service programs from New York State farmers, growers, producers or processors. The final budget also doubles Farm-to-School grants from \$750,000 to \$1.5 million.

**NYSSBA Response:**

NYSSBA has no objection to the expansion of Farm-to-School grants. However, we would prefer to see an overall increase in school meal reimbursement rates, rather than having those increases limited to programs in the logistical and financial positions to secure locally grown foods. NYSSBA will continue to advocate for increases in meal reimbursements for all schools around the state.

**Property Tax Cap:**

The enacted budget did not include any changes to the property tax cap.

**NYSSBA Response:**

NYSSBA advocated for changes to the property tax cap, with particular focus on counting expenses related to BOCES capital in the same way as district capital expenses and counting properties under PILOT agreements under the tax base growth factor. We will continue to advocate for these, and other, tax cap adjustments during the remainder of the legislative session.

#### **Cap on Property Taxes on State Land:**

The enacted budget rejected the Executive's proposal to tie property taxes paid on state-owned land to the tax cap's allowable growth factor.

#### **NYSSBA Response:**

NYSSBA opposed this proposal, which would have reduced the amount of local revenue received on state-owned land for most affected districts.

#### **Employer Payroll Tax:**

The final budget includes the Executive's payroll tax proposal, developed in an attempt to address the difficulties created by the federal cap on state and local tax (SALT) deductions. The employer would effectively pre-pay the employee's federal taxes, creating a work-around against the cap on SALT deductions.

#### **NYSSBA Response:**

While this provision is available to school districts, it realistically only applies to private employers. Because school districts, and other public employers, do not pay corporate taxes, there is no way for districts to offset the additional taxes that would be paid under this plan. Therefore, it does not make financial sense for districts to participate.

#### **Minority and Women Owned Businesses:**

The enacted budget rejected the Executive and Assembly proposals which would have modified the state's MWBE program to require school districts to participate with minority and women owned enterprises for contract fulfillment. The final budget also does not include the Assembly's proposed requirement for all state funded agencies, including school districts, to develop a 3-year growth plan for the promotion and participation of MWBE.

However, the enacted budget does extend the provisions of the State's MWBE program for an additional one-year.

#### **NYSSBA Response:**

NYSSBA supports the continued efforts made by the Executive and Legislature to promote equality of economic opportunities for women and minority populations.

Although NYSSBA supported the intent of the Executive and Assembly proposals which would have expanded the state program to school districts, there were concerns that compliance would have resulted in unnecessary cost increases.

#### **Stop Arm Cameras:**

The proposal to allow school districts to install safety cameras on the outside of school buses in order to issue fines against people who passed stopped school buses was not included in the enacted budget.

**NYSSBA Response:**

Although this would have allowed districts to determine whether or not to participate, NYSSBA had serious reservations about placing school districts in the role of law enforcement entities.