

School Aid

- Reject proposed reduction of save-harmless, cutting Foundation Aid for half of all school districts.
- Reject proposal to reduce Foundation Aid inflation adjustment which would cut aid for all districts below what they would receive in 2024-25 under current law.
- Support funding to enable the State Education Department to lead research needed in updating the Foundation Aid formula.
- Support full funding of expense based aid as proposed by the Governor.
- Reject proposal to freeze data used in aid calculations.
- Restore funding for prior year adjustments—state aid now totaling more than \$300 million determined to be owed to districts.

Hiring Challenges

- Continue waiver from \$35,000 limit on earnings for public sector retirees working in schools.
- Support reforms to civil service:
 - Provide that provisional employees become permanent employees after 9 months of service if a test is not offered during their first 9 months of provisional service.
 - Require counties to provide electronic lists and allow electronic canvassing.
 - Prohibit counties from placing residency restrictions on the canvassing lists they send to school districts—45% of upstate school districts cross county lines.

Zero-Emission School Bus Transition

- Support state funding for studies to determine routes for all districts for which use of zero-emission buses is feasible, given geography, weather conditions, and current charge duration.
- Require independent verification of range limits before any zero-emission school bus may be offered for sale as meeting state mandates.
- Reduce amortization period for aid toward purchase of zero-emission buses from 12 to seven years (amortization period for traditional buses is five years).

Other State Funding Issues

- Support increasing BOCES and Special Services Aid to expand access to career and technical education.
- Support state funding to help school districts comply with court mandate to provide instruction for students with disabilities to age 22 (current state formulas only aid through age 21).
- Reject proposal to make permanent for shift from state to school districts room and board costs for students in residential special education placements.

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Prekindergarten

- Support Executive Budget proposal to remove “supplement not supplant language” to improve support for ongoing prekindergarten programs.
- Support initiatives to move from four grant programs to a single, unified Universal Prekindergarten program.
- Increase funding for preschool special education providers as demand for placements exceeds supply in multiple regions.

Other Issues

- Support the Executive Budget proposal sunset COVID sick leave and other benefits for employees subject to mandatory or precautionary quarantine as quarantine requirements have changed.
- Authorize school districts to conduct instructional days during the last two weeks of August and have those to count toward 180-day minimum required for full Foundation Aid. With districts recognizing more holidays, either by state mandate or by local choice, some are challenged to meet the 180-day requirement under existing limitations.
- Increase capital outlay limit from \$50,000 to \$250,000 to enable school districts to receive next year reimbursement for small construction projects (cost for other projects are reimbursed over 15 years are longer).
- Increase school district unrestricted fund balance limit from 4% to at least 6%. School officials seek to build reserves for the same reasons that Governor Hochul has done so—to prepare for uncertainties over costs and revenues, including the expiration of federal stimulus funding. Independent authorities recommend an unrestricted fund balance of approximately 15% and New York municipalities have no percentage limit

Reject Proposed Cuts to Foundation Aid

The Council strongly urges Legislators to reject proposed cuts and changes to Foundation Aid.

Enactment of the Foundation Aid formula in 2007 and achievement of full funding last year were great achievements in public policy. But changes to the formula recommended in the Executive Budget for 2024-25 would undermine those successes.

If proposed changes are approved, half the state's school districts would absorb **cuts** from 2023-24 funding levels and **all** districts would face reductions from what they would otherwise receive for 2024-25, if formulas now in law were continued. The statewide increase would be just over half of what the current law formula would deliver—2.1% instead of 3.9%.

The proposals mark an abrupt shift in state policy, leaving many school leaders and communities stunned by the depth of aid losses many would face.

Explaining the Proposed Changes

The budget proposes two Foundation Aid changes:

- (1) Reduce the formula's inflation adjustment from 4.1% to 2.4%.¹** Rather than using the average monthly change in Consumer Price Index over 2023 as required by current law, the budget would substitute the average annual change over the past 10 years, excluding the highest and lowest years.
- (2) Apply a wealth-adjusted reduction to save-harmless.** New York has long ensured that districts will not receive year-over-year reductions in Foundation Aid and the general-purpose operating aid formulas which preceded it. Under the proposed changes, reductions would range from a minimum of 9% of the amount of save-harmless funding for the poorest districts to a maximum of 50%. Half the state's districts would face cuts and 54% of those districts would experience the maximum 50% reduction.

Impact of the Changes

The 337 districts affected by the save-harmless cuts would lose a total of \$168 million from their 2023-24 Foundation Aid levels, reductions totaling 4.8%. One-third of the districts facing cuts would lose more than 10%.

The 336 districts on the formula—not on save-harmless—would receive a total of \$252 million less in Foundation Aid for 2024-25 than the formulas now in law would provide.

The proposed change to the Foundation Aid inflation adjustment is especially problematic now, because districts are straining to offer compensation necessary to recruit and retain teachers and to compete with employers in other sectors for workers not requiring professional certification, including bus drivers, and clerical, custodial, and food service workers, and school security personnel.

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Recommendations

The Council urges the Senate and Assembly to reject the cuts and changes the Executive Budget proposes to Foundation Aid and to ensure increases in Foundation Aid for all school districts.

Together with our partners in the Educational Conference Board, the Council also recommends funding be allocated to enable the State Education Department to lead research necessary to update the Foundation Aid formula.

Rationale Offered for Proposed Changes	Rebuttals
Recent increases were not sustainable	<ul style="list-style-type: none"> • This was not raised as a concern a year ago when Foundation Aid increased 12.3% • Increases moderated on their own with full-funding complete and lower inflation (3.9% under current law)
Schools have been benefiting from large increases	<ul style="list-style-type: none"> • True for many, but not all—for 40% of districts, Foundation Aid increases did not keep up with inflation over the last 3 years
Districts have lost enrollment causing them to fall on to save-harmless	<ul style="list-style-type: none"> • This was not raised as an issue the last 2 years—save-harmless was preserved and a 3% minimum increase was provided • Schools may be serving fewer students, but they are doing more for students and families than ever before • Cutting aid does nothing to improve opportunities for students in districts with significant enrollment declines
Schools have built up reserves	<ul style="list-style-type: none"> • Schools seek to build reserves for the same reason the state does—to manage uncertainty over costs and revenues • Schools face one certain and large funding loss—the expiration of federal COVID-relief aid • Municipalities have no percentage limit on unrestricted fund balance and a far less restrictive property tax cap

¹ In developing its November current law estimates, the State Education Department lacked full-year inflation data and applied a 3.8% inflation adjustment. Using the average monthly change in the Consumer Price Index between January and December 2023, as required by law, results in an inflation adjustment of 4.1%.

Suspend the Limitation on Earnings in Retirement when Receiving a Pension

The Council supports extending the ability of public employees to earn greater than \$35,000 in retirement without diminishing their pension while working in a public school. Retirees have this ability only through June 30, 2024 unless extended. This provision has been in place either via executive order or statute nearly continuously since March of 2020.

Schools have been struggling with hiring shortages in multiple fields for several years. The Council has advocated for years to increase the limitation on earning in retirement. In 2019, the limit was increased by \$5,000. While that change was helpful, the impact for the teaching staff was felt mostly around the edges with and helped more with substitute teaching availability than filling long term vacancies, as teachers begin their careers at salaries higher than that amount.

From the inception of the pandemic to present and for at least the next several years, schools across the state will face a hiring shortage. Some schools struggle to employ educators in only difficult to staff subjects such as English as a new language or special education, while other schools experience hiring difficulties for almost all openings. Most schools have encountered immense challenges with employing bus drivers, school resource officers, and substitute teachers.

Whether a school's hiring shortage challenge is significant or intermittent, this proposal will provide some relief. It offers a significant financial incentive to current and future pensioners to return to the classroom or school district. It is a tool that schools can immediately employ to fill vacancies with qualified and experienced employees.

It is important to note this law also addresses a critical security need for schools. Many schools prefer to hire retired police officers as school resource officers rather than contracted security guards. Hiring former police officers directly rather than working with security guard contracting firms helps ensure that the school resource officer will meet the needs of the school and students. However, hiring retired police officers will not be possible, absent a waiver, unless this law is extended.

More must be done to address staffing shortages. In the interim, this proposal provides some relief and the ability for schools to hire highly qualified staff, security, and teachers.

The Council supports extending provisions authorizing public employee retirees to work in schools without a reduction in their pension.

Reform Zero-Emission School Bus Law

The Zero Emission Bus (ZEB) law must be reformed. The proponents of the law to require schools to purchase only ZEBs by July 1, 2027 and utilize only ZEBs by July 1, 2035 were well intentioned. But the law will be doomed to fail absent substantial changes.

After two years of efforts by schools to plan for this massive transportation transition, utility providers, manufacturers, feasibility studies have all made it clear a 100% ZEB world for school transportation will not happen over the next decade.

We urge the state to make a modest shift in direction to have a chance to greatly reduce the number of internal combustion vehicles servicing schools. Beyond additional funding to offset the significant increase in the cost of ZEB's compared to traditional buses, the state must adopt three critical reforms.

1. State Funded Feasibility Studies to Determine Required Number of ZEBs

The state should provide necessary funding to each district to finance a ZEB transition study. Following such a study, the district should only be required to purchase ZEBs for routes that will culminate with the vehicle having approximately 20% available charge, even in sub-optimal conditions to avoid stranding school children on the road. A route should not be considered feasible if the district were required to purchase a level 3 charging station to complete that vehicles routes for the entire day.

Such an approach would move the state away from the 100% ZEB requirement but provide a practical approach that may succeed in achieving much wider ZEB usage. This approach can also be reevaluated as the technology improves and the costs of the vehicles decreases.

2. Independent Range Estimates

Currently, ZEB manufacturers determine their own range estimates without independent verification. It is well documented that electric vehicles, even with EPA determined range estimates, rarely meet the EPA range estimate through real world driving conditions.

As well intentioned as the manufacturers may be in determining their range estimates, the state should mandate that an independent entity verify actual range estimates in a variety of weather and driving conditions before such ZEB may be sold to a school district. Purchasing a bus that fails to meet the advertised real world range estimate could be a catastrophically expensive mistake for schools.

3. Amortization Period Reduction to Seven Years

The ZEB law changed the amortization period for ZEBs from five years to 12 years. This change results in schools receiving transportation aid for these buses at a much slower rate than for

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traditional internal combustion engine vehicles. This is particularly problematic given the significant additional expense of purchasing a ZEB.

Reducing the amortization period from 12 to 7 years will help schools manage the additional costs of these vehicles.

There are significant health and environmental benefits to ZEBs. There are also significant additional costs and feasibility challenges. School leaders want to partner in this goal but absent significant reforms, the law is unlikely to succeed.

Fund Court Mandate for Free and Appropriate Public Education for Students with Disabilities to Age 22

In July 2021, the U.S. Second Circuit Court of Appeals ruled that the federal Individuals with Disabilities Education Act (IDEA) requires Connecticut to provide a free appropriate public education (FAPE) to all children with disabilities who had not received high school diplomas until their 22nd birthdays.

The Second Circuit also has jurisdiction over New York State. Accordingly, our State Education Department has advised that school districts in our state must also provide instruction for these students through at least the day before their 22nd birthday.¹ Public schools in New York State have begun to comply with this interpretation.

Current New York law provides state funding on behalf of students only through the school year in which they turn 21. The Council strongly supports the State Education Department's proposals to amend state aid formulas for Foundation Aid, Public Excess Cost Aid, and private Excess Cost Aid to ensure that local taxpayers will not bear the entire cost of this extended service. SED estimates the total additional cost will be \$70.5 million.

In our November 2023 survey, 91% of superintendents identified rising special education costs as one of the factors causing concern in thinking about the financial outlook for their schools—up from 78% in 2022 and more than any other factor in both years.

The Council strongly supports ensuring that school districts receive state funding to assist in meeting the obligation to educate students with disabilities to age 22.

¹ [Formal Opinion of Counsel Number 242](#). New York State Education Department. July 6, 2023.

State Education Department Funding to Lead Review of the Foundation Aid Formula

The Council supports the State Education Department’s request for an appropriation of \$1 million to enable it to lead research necessary to update the Foundation Aid formula.

Nearly from its enactment, we have characterized the Foundation Aid formula as an under-appreciated achievement in public policy. It generally provided the greatest aid per pupil to the neediest districts. It promised all districts greater predictability in state funding. It used factors that could be understood, evaluated, and debated, making funding decisions more transparent and accountable.

But 17 years have now passed. Some formula elements have never been updated—we are still using 2000 Census data as a measure of student poverty and the Regional Cost Index applies the same adjustment values as in 2007. Expanded offering of free school meals has diminished the accuracy of free and reduced-price lunch data as an indicator of student need. We have learned more about how students’ school and life circumstances may affect learning. There was no property tax cap in 2007.

A strength of the 2007 formula was that it largely reflected a consensus built among key stakeholders through a process supported by research led by the State Education Department. That lesson should be applied to reviewing and updating the formula now.

In September, the Educational Conference Board—a coalition of statewide education groups including the Council—recommended a two-pronged approach for reviewing the formula.¹ We identified some formula updates which SED might model for consideration without research funding. But there are others which will require funded research; examples could include revising the weight given students with special needs, including English Language Learners and students with disabilities; accounting for the effects of concentrated poverty; or restructuring the formula’s Regional Cost Index. We also stressed that it might be necessary to defer structural changes to the formula until an entire package of reforms can be evaluated.

A part of this work must also consider the needs of students attending districts not “on the formula”—the 43% of districts which would be on save-harmless in 2024-25 under current formula calculations.

In the meantime, we continue to urge rejection of the Executive Budget proposals to cut Foundation Aid by \$420 million from what formulas now in law would provide for 2024-25 and cut aid for half the state’s school districts from what they are receiving this year.

¹ New York State Educational Conference Board. “[Foundation Aid—What’s Next.](#)” October 2023

Support Career and Technical Education Opportunities for Students

A Blue Ribbon Commission appointed by the Board of Regents has outlined possible changes to the state's requirements for high school graduation. Whatever changes may be forthcoming, a goal should be to ensure all students have experiences in school which prepare them for whatever they pursue beyond school, whether further education, a career, or a combination of the two. Expanding access to career and technical education must be part of that agenda.

Specifically, we recommend that the final state budget:

- Increase the “aidable” salary for Boards of Cooperative Educational Services (BOCES) CTE instructors to \$60,000 over the next three school years—\$40,000 for 2024-25, \$50,000 for 2025-26, and \$60,000 in 2026-27; and
- Increase the per pupil cap and expand funding to include 9th grade students for Special Services Aid for CTE programs in the Big 5 city school districts and other districts which are not BOCES members.
- Prohibit counties from placing residency restrictions on schools for canvassing purposes given that many schools cross county lines and residency should not be an inhibitor to employment.

The aidable salary limit for BOCES programs, including CTE, has not been increased since 1990. Over that time span, the Consumer Price Index has more than doubled. As a result, rising costs have been borne from other sources, including local taxes, and this has jeopardized the capacity to sustain these programs and to meet growing demands for skilled entry-level workers.

State per pupil funding for CTE programs in the Big 5 cities and other non-BOCES districts also falls short of meeting costs and does not provide support on behalf of students in 9th grade.

Our State Constitution promises “...a system of free common schools, wherein all the children of this state may be educated.” We owe young people an education that prepares them for demands of adulthood. CTE programs deliver on that promise. Students in BOCES CTE programs have typically graduated at rates above the statewide percentage for all students. A large number directly enter the workforce, but high percentages of CTE program graduates go on to college as well.

The Council urges the Legislature to increase state funding for CTE programs, to ensure opportunities for students and meet the needs of employers.

Elimination of State Reimbursement for Residential Placements for Students with Disabilities

The Council of School Superintendents opposes the Executive Budget proposal to make permanent the elimination of state reimbursement for room and board costs for residential placements made by a school district committee on special education.

The enacted 2020-21 state budget eliminated the 18.424% state share of these costs. The legislation also required school districts to assume the 50% of costs previously paid by the state toward maintenance costs of students at the state schools for the blind and deaf at Batavia and Rome, respectively. This provision was set to sunset at the end of that fiscal year but was extended in the 2021-22, 2022-23, and 2023-24 budgets.

The new Executive Budget would make this state funding cut permanent and is projected to cost school districts outside New York City \$28.6 million next school year. Schools already struggle with significant special education costs with prescriptive mandates that do not necessarily guarantee better outcomes for students.

This cost shift places an increased financial burden on local school districts. The impact can be especially dire for small, poor districts, where one additional placement might consume most or all of whatever revenue might be raised by a property tax increase within the tax cap.

It could also adversely affect some of our most vulnerable students and the special act school districts and other programs that serve them. The increased financial burden on districts threatens to close the door of access for students who suffer complex trauma due to abuse and who are affected by serious mental health conditions. Without access to the therapeutic services and the 24/7 stable environment provided by a residential placement, these youth may remain in cycles of crisis.

The Council opposes permanently eliminating the state share for residential special education placement costs

Civil Service Hiring Reforms

The civil service system as it relates to hiring for certain positions in schools is not just antiquated, it is broken. Systematic reforms are necessary for schools and all public employers.

The Governor has acknowledged shortfalls in the civil service system and the need to provide flexibility in order to fill state government vacancies.

Continuing to force school districts to utilize the current system for hiring civil service employees is a disservice to schools and the students they serve.

- The state can and should do more to help current and prospective civil service employees and their school-based employers.
- Provide that provisional employees become permanent employees after 9 months of service if a test is not offered during their first 9 months of provisional service. School should not be required to terminate provisional employees simply because of a test score;
- Expand the pool of eligible employees by authorizing schools to canvass from the list based off of top 5 scorers rather than the top 3. A test, even if perfectly designed, does not determine whether an employee is qualified for a job; and
- Establish a comprehensive committee to assess the civil service system and its impact on employers and prospective employees and provide a report and recommendations to the legislature.
- Prohibit counties from placing residency restrictions on schools for canvassing purposes given that many school districts cross county lines and residency should not be an inhibitor to employment.

School leaders in many regions of the state are desperately trying to find competent and qualified public servants for their schools and students. Schools simply want to ensure the rules allow them to hold onto outstanding provisional employees and more easily recruit future staff.

The Council urges significant reforms to the civil service system.

SUPPORT

Child Victims Act Assistance S.4866 (Cooney)/A.1279 (Lunsford)

Approximately one-third of schools have a claim against them brought against them as a result of the reopening of the statute of limitations from the Child Victims Act.

The financial impact of these claims is staggering, with some settlements costing schools and their taxpayers tens of millions of dollars. We do not take issue with the state's recognition that those individuals who were abused in the past deserve compensation. But the impact on current students and property taxpayers who may not have been alive at the time of the alleged abuse is inequitable.

Some of these cases arise from allegations dating back 50 or more years. They are nearly impossible to defend against and, to avoid even higher verdicts, schools are settling these claims. Insurance carriers in many cases cannot be identified or are disclaiming responsibility.

This bill would establish a fund of at least \$200 million to help schools and foster care agencies cover the cost of these settlements and verdicts in certain circumstances.

In the future, schools will have no legitimate claim to seek financial assistance from the state for child abuse claims. Schools are on clear notice regarding the law and the ability of claims to be brought decades into the future since the statute of limitations has been significantly modified. However, these claims for which schools now seek financial assistance are decades old and are causing significant financial distress in many districts.

The Council urges the legislature to include this proposal in the enacted budget.

SUPPORT

Repeal of COVID-19 Sick Leave Law

The Executive Budget proposes to repeal the COVID-19 Sick Leave Law.

This law was enacted at the height of the pandemic to address a hopefully once in a lifetime catastrophe. Since that time, vaccines have become widely available and mandatory quarantine and isolation orders have ceased.

Sick leave and other leave issues should be left to the collective bargaining table. When school district collective bargaining units bring a demand to school leadership at the bargaining table, a good faith negotiation takes place. That is the appropriate venue to continue any discussion about COVID-19 sick leave.

The pandemic has subsided to a manageable virus with several medical interventions. School employers should no longer be subject to this expensive and unnecessary mandate.

The Council urges the Legislature to concur with the Executive and repeal this sick leave mandate.