2013
Post Budget
Legislative Priorities

BE THE CHANGE for kids

New York State School Boards Association
May 7, 2013

Dear State Leader:

Thank you for the significant efforts you and your colleagues made in the 2013 State Budget to keep the interests of New York’s students at the forefront of your decision-making. The state aid increase to public education, the pension smoothing option and the refusal to continue an aid penalty for failure to meet teacher evaluation agreement deadlines reflect an understanding of the financial challenges facing school boards and their communities at the district level.

Post-budget, we urge you to continue to take every opportunity to partner with school board members to meet our shared educational responsibility to our students. Enclosed is a booklet of NYSSBA legislative priorities for the current session. While the following proposals vary in magnitude, they reflect structural changes badly needed by districts:

- Authorize the creation of regional secondary schools.
- Make technical amendments to legislation necessary for districts to make cooperative purchases.
- Require immediate termination of tenured personnel without a costly 3020-a proceeding in limited circumstances.
- Allow contingency budgets to reflect growth in the tax base.
- Reform the 853 and special act school reimbursement methodology.
- Remove barriers to regional uniform scheduling.
- Allow school districts the ability to establish TRS and energy reserve funds.
- Eliminate the requirement to have special elections to fill vacancies on BOCES boards.
- Authorize replacement of capital equipment under contingency budgets in lieu of emergency repairs when it makes economic sense.
- Establish maximum employer contribution toward health insurance premiums.
- Ensure school-based psychological services are eligible for Medicaid reimbursement.
- Repeal automatic salary increases.

As the legislative session continues, we ask that you and your colleagues be mindful of the fiscal impact of each legislative initiative on our schools. In May, we are launching a new campaign, “No New Mandates!” to promote a united and dedicated effort to say “No!” to imposing additional unfunded mandates on our schools. Please support our schools, students and communities by affirmatively pledging to take a stand against new unfunded mandates.

Sincerely,

David A. Little
Director of Governmental Relations
# 2013 Post Budget Legislative Priorities
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New York State School Boards Association
LEGISLATIVE PRIORITY
Creation of Regional Secondary Schools

- Both New York state and our nation have correctly made cost effective educational alternatives a top priority. Fierce competition for scarce financial resources, combined with demographic shifts, a decline in enrollment and the need to provide more advanced courses has further accelerated the need for workable alternative models. Regional secondary schools are such an alternative; and one with a proven track record in other states.

- Currently, New York State Education Law permits regional high schools only in Suffolk County. This regional alternative needs to be expanded to secondary schools and be offered to other geographical areas of our state.

- S.4184, Flanagan: establishes regional secondary schools; SED Program Bill. S.3778, Young / A.6165, Nolan; authorizes a regional high in certain supervisory districts.

The creation of regional secondary schools continues to be advanced by NYSSBA as a legislative priority. Permitting two or more school districts to establish a regional secondary school will:

- Increase the course offerings and quality of instruction through the sharing of educational resources of two or more school districts at the secondary level (where it is most acutely needed.)

- Allow for local determination in weighing the advantages and disadvantages of a regional secondary school and directing the research and planning necessary to make such a determination.

- Provide the potential for operational flexibility and cost savings in areas such as transportation and buildings.

- Provide adequate incentive aid to fund the transitional costs incurred in the formation of a secondary school.

- Allows communities to maintain their elementary schools and identity, which has been an historical barrier to school district mergers.

It is noteworthy that the Regents and the New NY Education Reform Commission have endorsed the concept. The Commission's preliminary recommendations, published in December of 2012, state:

“... the Commission finds that the shifting demographics of a declining student population makes it imperative that shrinking districts fundamentally restructure in order to maximize educational opportunities for their students...the Commission recommends that New York
State adopt legislation to regionalize educational opportunities, especially for students in small rural districts, that includes mechanisms for collaboration and regionalization between school districts and BOCES.

A most important aspect of this model is the school district's determination that a regional secondary school is educationally and fiscally appropriate. In adjusting to new economic realities, the regional secondary school provides an option to school districts rather than additional cuts and declining academic offerings and performance.

Mergers of school districts have not been embraced by communities in large numbers or with great frequency (only five in the last decade). The development of a regional secondary school is a way to preserve a central community by keeping the elementary school in place. The regional model is a positive alternative to a merger which would remove the last vestige of community identity in many rural areas. Further, this model provides a pathway to functional consolidation, sharing of technology and would allow BOCES to provide regional services that were not previously envisioned or permitted.

The Legislature must pass legislation authorizing regional secondary schools, which will provide school districts with the capability to better meet the needs of their students within state and local funding constraints.
LEGISLATIVE PRIORITY

Cooperative Purchasing: Final Authority

- Chapter 308 of the Laws of 2012 provided the ability of schools and local governments to share contracts and to make cooperative purchases.

- A cooperative purchasing system, however, has not been implemented; technical amendments are necessary before the promise of considerable savings can be realized.

- S.3766-a (Little)/A.5119-a (Russell) provides the language that is needed to have the cooperative purchasing program operate in New York State.

Providing schools with the ability to leverage the aggregate purchasing power of large, national procurement cooperatives and contracts entered into by other states and local governments, has been a NYSSBA priority for several years. Indeed, the ability to engage in the cost savings generated by this program was a prominent feature in NYSSBA “Essential Fiscal Reform Playbook” published in 2011.

The technical amendments to Chapter 308 were necessitated by changes in the General Municipal Law providing a “best value” standard in the letting of contracts. The legislation introduced in 2013, S.3766-a/A.5119-a, recognizes the “best value” changes and brings Chapter 308 into compliance and therefore operational.

Schools must be allowed the option to utilize national cooperative purchasing contracts and to cooperatively purchase nationally with other states and municipalities. New York State, until Chapter 308 was passed last year, was the only state that did not allow cooperative purchasing and “piggybacking” on other municipal contracts. Cooperative contracts provide a 10-15 percent cost savings per contract. Reform of school purchasing rules has the ability to save taxpayers $2 billion per year in New York State. These are savings that are critically needed to maintain and save instructional programs. In 2011 the state authorized school use of federal contracts for technology purchasing. While this will offer sizeable savings, it does not go nearly far enough. Schools and the communities that support them must be afforded the means available to all other states in purchasing efficiently.

The Legislature must pass S.3766-a/A.5119-a in order to fulfill the promise of Chapter 308 and the cost savings benefits it will provide.
LEGISLATIVE PRIORITY
Teacher Discipline Reform

- **NYSSBA supports** legislation to redesign the system of teacher discipline, especially allowing for a more appropriate range of circumstances under which dismissal of tenured personnel without a section 3020-a proceeding may be prescribed.

Nothing is as important to increasing student achievement as good teaching. New York school districts have worked to attract the highest caliber teachers possible, offering salaries and fringe benefits that are among the best in the nation. But we hurt children – as well as damage the morale and stature of our many fine teachers – when unfit teachers remain on the payroll.

NYSSBA’s five reforms to the 3020-a process are aimed at reducing children’s exposure to individuals whose behavior makes them unsuitable for teaching or who simply are incompetent teachers. These reforms still protect the rights of the employee but expedite the process for reaching a just resolution. While past revisions to section 3020-a were steps in the right direction, these measures did not go as far as are needed to ensure student safety and success.

1) **Establish a state panel to hear and decide section 3020-a cases.** Currently, section 3020-a hearings are generally conducted by a single hearing officer mutually selected by the teacher facing disciplinary charges and the employing district. Alternatively, a state panel would expedite the assignment of hearing officers. These state officials would not be beholden to any interest other than resolution of 3020-a disciplinary charges. This proposed solution would also likely improve the consistency of decisions and reduce the amount of time it takes to complete a hearing, currently estimated at over a year and a half.

2) **Authorize the dismissal of tenured personnel without a section 3020-a proceeding in certain limited circumstances.** Currently, school districts must conduct costly section 3020-a proceedings to terminate teachers who have been criminally convicted of child abuse outside of an educational setting, have had their certification revoked, or have failed to obtain permanent certification within requisite statutory time frames. Since school districts should not employ such individuals in a school setting, their dismissal should not require an elaborate separate proceeding. Additionally, school districts should be relieved of having to conduct a hearing for termination in circumstances where a tenured teacher submits falsified credentials for employment and such falsification is discovered.

3) **Clarify that teachers must cooperate in investigations of possible 3020-a charges against them.** Currently, a teacher cannot be compelled to testify at his or her 3020-a hearing. Some courts have interpreted this to mean a teacher need not even cooperate with a school district’s investigation into the alleged misconduct. This hinders districts in investigating whether it is even appropriate to initiate a disciplinary proceeding. No other public or
private employees enjoy such rights. This proposed change would facilitate a prompt determination as to whether probable cause exists to bring charges as well as early identification and resolution of issues.

4) Eliminate paid suspensions for all teachers while 3020-a proceedings are pending or cap the length of time that they must be paid. The vast majority of 3020-a decisions have found the accused guilty. Nevertheless, with very limited exceptions, most accused teachers continue to collect full pay and benefits and have little incentive to expedite a resolution. With average proceeding costs of over $200,000, most of which is attributable to suspended teacher’s pay, reforms must be implemented to eliminate paid suspensions or cap the length of time suspended teachers must be paid.

Require that teachers facing section 3020-a disciplinary action disclose the nature of their defense prior to the hearing. Currently, only school districts must disclose the nature of the case and evidence against the teacher. Requiring the same of the accused would expedite identification and possible resolution of the issues at the pre-hearing stage. Without such “reciprocal discovery,” attorneys for the school district must typically seek hearing adjournments to prepare their response. Reciprocal discovery would also foster legitimate mediation opportunities that do not exist under the present system.
LEGISLATIVE PRIORITY
Growth in Local Tax Base Under Contingency Budgets

- NYSSBA strongly supports legislation to allow contingency budgets under the property tax cap to be adjusted for growth in the local tax base.

- While there is a legitimate fiscal rationale for holding down local taxes, there is no justification for eliminating educational programs and services when an expanding tax base allows for no increase in individual tax payments.

Under a contingency budget, school districts should be allowed to increase the prior year levy by the same percentage increase as the growth factor issued by the New York State Department of Taxation and Finance.

Currently, districts under a contingency budget must strictly operate under the same property tax levy as the prior school year. Growth in the tax base (due, for example, to influx of business or development) is disregarded and cannot be factored into the calculation of the tax levy limit.

When new businesses move into the community, the state should authorize the tax levy to increase over the prior year by the amount in new taxes paid by the new commercial development. The additional local revenue will help support the district’s maintenance of educational and extracurricular programs.

Further, given that an increase in the tax base growth factor is sometimes associated with an increase in pupil enrollment, the additional revenue will help ensure that districts have the funds necessary to serve the additional students enrolled.
LEGISLATIVE PRIORITY
“853” and Special Act School Reimbursement: Create a New Tuition Rate Methodology

- Special Act school districts are an important part of New York State’s network of school-aged special education services.

- These schools were created by the Legislature to provide specialized educational services for children with emotional, behavioral, developmental or other disabilities. These schools are a resource that address a student’s specialized need as identified by a school district’s Committee on Special Education (CSE).

- These schools have been operating under a “zero growth” policy relative to allowable per pupil spending for four years. Since 2009-10, no increases to tuition rates have been allowed (to cover routine, non-controllable, inflationary increases in expenditures.) An increase to their 2013-14 tuition rate must be approved by Governor Cuomo if the schools are to continue.

The “853” and Special Act Schools provide an option in the continuum of educational services to a student population with the most challenging disabilities, some with encounters with the criminal justice, mental health and foster care systems.

These schools currently serve approximately 17,000 students with severe emotional, behavioral and developmental disabilities. More than half of the referrals to these schools are directly from CSE placements. Without these schools, individual school districts and or BOCES would be forced to develop their own programs to address these students’ special education needs; this would be a very difficult (and very costly) task.

In addition to an increase to their 2013-14 tuition rate, the current rate methodology must be reformed to reflect the necessary and reasonable costs to operate these schools in an effective and efficient manner. Students with disabilities are referred with Individual Education Plans (IEPs) and these schools do not have an option of not providing speech or other therapies or shifting to alternate models of service, yet the reimbursement structure does not adequately cover the services prescribed in the IEP.

“853” and Special Act Schools must be maintained in New York State’s continuum of educational services.
services. Our educational system cannot afford to lose the invaluable, in-state capabilities that these schools provide to students and school districts throughout the state. Several have closed due to inadequate funding. The state has no backup plan for how to educate these children.

The Legislature must ensure that the New York State Division of the Budget and SED create a methodology to secure a tuition rate increase for the special education schools for the 2013-14 school year.
LEGISLATIVE PRIORITY

Regional Uniform Scheduling

• NYSSBA supports efforts to allow Boards of Cooperative Educational Services (BOCES) and their component school districts to create a common calendar and include uniform bell schedules to allow for distance learning, shared programming and regional transportation.

• Increased use of regionalization in instruction demands coordination of regional uniform scheduling.

New York State is emerging from a fiscal crisis that may well have long term residual effects. With high taxes, a high debt level and spiraling public educational costs, school districts demand greater operational efficiency in order to provide students the needed array of programs and services.

Regionalization, sharing of services and distance learning opportunities are greatly enhanced by a common time schedule. When afforded the opportunity (through a common class schedule with coordinated start and end times) classes shared through distance learning can be coordinated among several school sites.

Similarly, shared programs and services provided for multiple school districts at one central location, such as a BOCES, can be made possible through uniform scheduling. Travel to and from these programs and services can be accomplished without significant disruption to the remainder of the school schedule, which optimizes use of staffing.

In order to enhance uniform scheduling and maximize funding, regional transportation of students should be coordinated among surrounding school districts to the extent logistically possible. The inefficiencies inherent in individual school districts providing transportation to and from distant locations no longer make traditional transportation practices affordable. Coordinated regional transportation is an optimal means of providing unique and rigorous educational programs among several districts.

State legislators should support BOCES and their component districts in establishing uniform class schedules so that educational opportunities may be enhanced and limited fiscal resources maximized.

New York State School Boards Association
LEGISLATIVE PRIORITY
Teachers Retirement System (TRS) and Energy Reserve Funds

- NYSSBA supports legislation that will allow school districts and Boards of Cooperative Educational Services (BOCES) and their component school districts to establish reserve funds for contributions to the New York State Teachers Retirement System (TRS) as well as reserves for excess energy costs.

School districts desperately require the ability to stabilize costs and engage in long-term financial planning in order to provide children with a sound, basic education. Districts have had to absorb large increases in health and liability insurance, special education costs, energy costs and increased levels of retirement system contributions, while dealing with diminished state aid levels and a tax levy cap. Particularly, employer contribution rates to retirement systems have put school districts at the fiscal mercy of factors beyond their control.

Failure to provide school districts with the authority and flexibility to engage in sound, long-term fiscal planning is unwise and irresponsibly poses risks to taxpayers and students. To that end, designated reserve accounts can play a critical role in strategic education finance management. These reserve funds provide protection against foreseeable obligations (pension and health care costs) and unforeseeable expenses (declines in real property values, state aid cuts and fluctuations in energy costs).

TRNSEMPLOYER CONTRIBUTION RESERVE FUND

TRS employer contribution rates for pensions are determined annually by the TRS board through an actuarial valuation of assets and liabilities of the pension plan, and depend upon future investment performance and member demographic experience. School districts have no control over their contribution rates, which can dramatically drive up district expenses.

To help mitigate the uncertainty of the annual contribution rate, school districts may now participate in an optional TRS pension smoothing plan. The plan allows employers to pay stable contribution rates, in lieu of the actuarially-required contribution rate, for the next seven years beginning July 1, 2013. Currently, the TRS contribution rate for 2013-2014 is set at 16.25%, projected to increase in the future based on market performance. However, if a district opts into the pension smoothing plan, the employer rates would be 14% for years 1 and 2; 16% for years 3* and 4; and 18% for years 5*, 6 and 7 (*note the rates for plan years 3 and 5 may increase at the discretion of the TRS board). The significant savings realized from opting into the plan could be used to fund future retirement expenses and free up resources to fund...
educational programs; however, school districts do not have the ability to establish and deposit these savings into a TRS employer contribution reserve fund.

Presently, school districts can establish a retirement contribution reserve fund for employer contributions to the state Employee Retirement System (ERS), which covers most non-instructional school personnel and staff. Employer contributions to the TRS system comprise approximately 70% of school district payrolls, yet there is no legal mechanism to set aside funds to meet this growing obligation, which is especially problematic for districts that opt into the pension smoothing plan. Senate bill 1590 (Oppenheimer)/Assembly bill 8920 (Galef) (2011) addresses this need by permitting school districts to engage in better financial planning and hedge against sharp future increases in retirement system contributions without having to exceed the property tax cap, engage in personnel layoffs or compromise educational programming.

**ENERGY RESERVE FUND**

Energy costs are an enormous expense for the nation’s schools – approximately $6 billion each year. In some school districts, energy costs are second only to personnel costs, exceeding the cost of textbooks and supplies. For the past several years, many school districts have faced an increasingly difficult time in paying for the high cost of energy. Energy costs have fluctuated greatly and are making it very difficult for school districts to plan for future energy expenses. Senate bill 1092 (Maziarz)/Assembly bill 1155 (Cahill) (2013) would enable school districts and boards of cooperative educational services (BOCES) and their component school districts to create, at their option, an energy reserve fund, which would allow school districts to accumulate funds to pay for the excess costs of energy.
LEGISLATIVE PRIORITY
Eliminating Special Elections to Fill Vacancies on a BOCES Board

- NYSSBA supports legislation to eliminate the requirement of holding a special election to fill a vacancy on a Board of Cooperative Educational Services (BOCES) prior to the annual election, consistent with the authority granted local school districts.

By statute, when a vacancy occurs on a BOCES board, a special election must be held if the vacancy occurs within two timeframes – (1) prior to January 1 of a school year and (2) between five days prior to the date on which nominations of candidates for the BOCES board are due and the end of the school year. Vacancies occurring on or after January 1 and prior to five days preceding the date nominations are due may be filled by appointment until the next annual meeting.

Eliminating the need for special elections to fill BOCES board vacancies will relieve BOCES and their component school districts of a significant, unnecessary administrative burden. A BOCES special election does not require the organization and cost of a special vote day of the general public. However, it does require a significant administrative effort - the boards of each BOCES component school district must hold a public meeting to elect a candidate for each vacancy on the BOCES board.

Education Law prescribes cumbersome procedural requirements relating to such special elections. In particular, strict timeframes are outlined in statute. For example, the election must be held within 45 days of the vacancy; boards of component districts must transmit a nomination resolution to the BOCES within at least 30 days of the election and BOCES must mail a ballot to each component district no later than 14 days prior to the vote.

In short, a special election takes the school boards of each of the BOCES’ component districts away from the immediate needs of the students and communities they represent. It is a cumbersome and unnecessary process. The decision as to whether to hold a special election or to fill the vacancy by appointment should be left to each BOCES, in exactly the same manner as all other public school districts.
LEGISLATIVE PRIORITY
Capital Equipment Purchases Under Contingency Budgets

- NYSSBA supports legislation to allow a school district under a contingency budget to purchase capital equipment in those instances when the district can demonstrate that replacing it is more cost-effective than repairing the current equipment.

A school board operating under a contingency budget is limited to spending money for teachers’ salaries and those items the board determines to be “ordinary contingent expenses”. Ordinary contingent expenses have been defined under law to include legal obligations; expenditures specifically authorized by statute; and other items necessary to maintain the educational program, preserve property and ensure the health and safety of students and staff.

Emergency repairs to equipment have been authorized expenditures under contingency budgets when meeting the above criteria for ordinary contingent expenses, mainly if it is necessary to preserve property, maintain the educational program or for student health and safety. In some situations, replacing equipment rather than repairing it would be less expensive (i.e., replacing an out-dated computer rather than expensive replacement parts when a computer is necessary for the instructional program). Districts need assurance that when it makes economic sense, their purchase of new equipment in lieu of emergency repairs will be authorized.

NYSSBA seeks clarification in statute that a school district under a contingency budget may purchase capital equipment in those instances when the district can demonstrate that replacing it is more cost-effective than making emergency repairs to current equipment.
LEGISLATIVE PRIORITY

Health Care Costs

- NYSSBA **strongly supports** legislation establishing for school districts and Boards of Cooperative Educational Services (BOCES) a statewide maximum employer health insurance contribution of 85 percent for individual coverage and 75 percent for family coverage.

- A ceiling would help districts during contract negotiations to maintain and/or reduce health insurance costs at a level that districts can realistically support.

- Establishing maximum district contributions would bring New York State closer to the national average for employer contributions.

Health insurance costs are a significant cost driver for school districts. Despite district efforts to reduce healthcare costs, employer contribution rates for health insurance have been increasing drastically since 2006. Establishing a statewide maximum employer contribution rate of 85 percent for individual coverage and 75 percent for family coverage would reduce district health costs.

Since at least 2006, reducing employer health insurance contributions has been cited by districts more than any other goal as a priority for contract negotiations. Nevertheless, health insurance premium costs have been outpacing any gains achieved by school boards at the bargaining table in terms of negotiating higher employee contribution rates.

New York State law puts school districts at a disadvantage in their ability to negotiate a higher employee contribution rate. Current law requires districts to continue to pay salary increases under an expired contract until a new contract is negotiated. This gives employee bargaining units little incentive to agree to health insurance packages that take into account economic realities or to contribute a larger percentage of the health insurance premium.

Additionally, establishing maximum district contributions would bring New York State closer to the national average for employer contributions. In 2012-13, districts on average contributed 88 percent toward individual insurance premiums for newly hired teachers and about 87 percent toward family coverage, based on data from the 2013 NYSSBA Teacher Contract Survey. The district contribution rates increase for senior full-time teachers.

In fact, for newly hired teachers, 65 percent of districts pay more than 85 percent toward individual health plans, and 95 percent pay more than 75 percent toward family health plans. This means that New York schools pay higher employer contribution rates than the national
average (which for all industries is 82 percent for single coverage and 72 percent for family coverage, based on the Kaiser Family Foundation’s 2012 annual survey.)

A statewide maximum school district contribution of 85 percent for individual plans and 75 percent for family plans will help reduce and/or maintain health insurance costs to a level that districts can realistically support and closer align district contributions to the national average.
LEGISLATIVE PRIORITY
School-Based Psychological Services

- NYSSBA supports legislation that will open the revenue stream for Medicaid reimbursement of school-based psychological services.

School psychologists are highly-educated professionals serving the mental health needs of school children. They are trained in the psychology of learning, motivation and human development in order to address the many factors influencing student performance. By addressing the needs of students through prevention services, assessments and/or counseling, school psychologists contribute to the future success of students.

In February 2007, the federal Centers for Medicare and Medicaid Services stipulated that psychological counseling would be ineligible for Medicaid reimbursement unless providers of those services held credentials that allowed them to “provide the same services outside of the school.” Accordingly, qualified Medicaid providers of in-school psychological services would be disqualified from providing reimbursable services to Medicaid-eligible students unless they were already licensed to practice independently in the community. New York State law provides eligibility for licensure in psychology to doctoral level practitioners only, and limitations within the current credentialing of school psychologists restrict their practice to the school setting. Therefore, over 75% of New York State’s current school psychology workforce has been declared ineligible to provide Medicaid reimbursable services.

This change in Medicaid Provider status has cost school districts millions of dollars in lost reimbursement for services that they are mandated to provide. An analysis of Medicaid reimbursement in New York estimates that school psychological services represent $100 million dollars in unreimbursed services. During these fiscally austere times, it becomes imperative for the state to advance all opportunities to utilize any available revenue streams to fund this educational requirement.

Senate bill 2923 (Flanagan)/Assembly bill 3570 (Rosenthal) (2013) opens the revenue stream for Medicaid reimbursement of school psychological services. The “school” in school psychology represents the type of psychology practiced by these professionals, not the specific location, and this legislation removes the geographical restriction of school psychological practice. The bill carefully limits “practice” to activities in which school psychologists currently engage on a daily basis and for which they are well trained and highly qualified. Moreover, state regulations would be expanded to apply to psychological practitioners with a master’s or doctoral degree in school psychology or the substantial equivalent thereof as determined by the commissioner of education. Without access to federally reimbursable funding, provision of school psychological services to Medicaid eligible remains an unnecessary drain on precious dollars for New York State school districts.
LEGISLATIVE PRIORITY

Repeal Automatic Salary Increases

- NYSSBA seeks legislation to repeal the obligation that requires school districts to pay increments on salary schedules to members of bargaining units after the expiration of those agreements.

New York State law makes it an improper practice for an employer to refuse to continue all the terms of an expired agreement until a new one is negotiated. This means that when an employment contract expires, the current provisions of the contract remain in place and provisions for continued salary increases must be honored. However, the continuation of salary increments during contract negotiations creates an uneven playing field for the purposes of collective bargaining by providing regular salary increases to employees despite the absence of an agreement on wages. School boards are therefore perpetually locked into past agreements over wages, the single largest category of school expenses.

Public education is a labor intensive enterprise. Salaries and benefits on average make up 70-80 percent of a school district’s total operating budget. Pay increases required by state law add almost $300 million dollars a year to school budgets across the state. Thus any legitimate effort to address school spending with diminished resources must forthrightly address personnel costs.

NYSSBA advocates for allowing school districts to freeze salaries upon the expiration of a contract. With employees receiving step increases based on years of service, as well as movement into higher pay lanes based on graduate credits, there is currently little incentive for employees to re-negotiate expired contracts.

The legislature needs to support school districts’ efforts to obtain savings and greater instructional effectiveness during the collective bargaining process. Removing automatic step and lane increases in the current economic climate also prevents the loss of key personnel and the programs and services they provide to students. State aid decreases and local tax levy limits have dramatically illustrated the need to calibrate personnel costs to current revenue levels.
LEGISLATIVE PRIORITY
Tax Cap Pilot and Carry Over

- NYSSBA supports A.5269.

- The current tax cap law creates problems for proper calculation of the tax levy limit for school districts. Assembly bill A.5269 remedies several issues created by the tax cap law.

- There is confusion and concern about the calculation of the tax levy amount that a school is allowed to carry over from one year to the next.

- Properties under agreements for payment in lieu of taxes (PILOT) are not added to the tax roll, which seems to deflate the tax base growth factor. As a result, PILOT agreements whose intended benefit is to spur economic development, can actually work to the detriment of the local school district under the tax cap formula.

CARRY OVER

The tax cap law, first implemented last year, allows a “carry over” of the prior year’s unused tax levy below the cap, up to one and a half percent. The calculation of the amount to be carried over and its determination based on definitions is the cause of concern and confusion.

The purpose of the carry over provision in the tax cap formula is to encourage school districts, when developing their budgets, to keep local tax levy increases to the most efficient level possible. School districts could be assured that if the budgeted amount of tax levy is below the tax cap figure, the remaining amount could be used in the following year if necessary. This provision allows the school district to proceed with some confidence that the lower tax levy request in the budget, which lowers the base amount for future calculations, will not act as a penalty in the following year.

The tax levy limitation number which is defined as the lower of two percent or CPI has now been interpreted and determined by the NYS Comptroller as the cap figure for calculating the carry over amount. This figure is lower than the allowable tax cap figure with the eligible exemptions (such as capital projects.) Virtually all school districts proceeded with calculations based on the higher number that was available without requiring a 60 percent affirmative vote.

The bill referenced above, A.5269 firmly establishes that the calculation of any carry over amount is to use the tax cap figure including the allowable exemptions. Under this bill’s definition 476 school districts would qualify for a tax cap carry over in 2013-2014 vs only 162 districts qualifying using the lower, tax levy limitation number. The difference in the dollar amount between the two definitions is also significant: The 476 school districts would total
$78.2 million in available carry over with an average of $164,343 per district where as the 162
school districts would only have $15.6 million available with an average of $96,384 per district.
This has the effect of forcing school districts to charge more each year or risk forever losing
the allowed revenue.

PILOTS

Assembly bill 5269 addresses the anomaly caused by PILOTS in the nine step tax cap formula. In
2012, seventeen school districts had a formulated tax levy increase amount as a negative
number. This means that these school districts had to take to their voters a tax levy that raised
less money than the year before. The bill rectifies this destructive anomaly by including PILOTS
in the growth index and establishing that a tax levy limit will be no less than the year before.

The Legislature must pass A.5269 which provides for technical but very significant corrections
to the tax cap law.