



## LEGISLATIVE AND POLITICAL DEPARTMENT

### 2015-16 ENACTED STATE BUDGET PRELIMINARY ANALYSIS

#### **Preliminary Analysis of S.2006-B/A.3006-B, ELFA bill**

#### **ANNUAL PROFESSIONAL PERFORMANCE REVIEW**

**Effective date** – the new APPR will apply in the 2015-16 school year.

#### **Student Performance and Teacher Performance Measures:**

Legislation passed will dramatically increase the weight of state standardized testing, increase use of tests developed or approved by SED or outside vendors in the evaluation system, and increase use of state growth models in evaluations.

Teachers will not receive a score but instead will be rated using a matrix approach, with two subcomponents – student performance and teacher observations.

Importantly, if you receive an ineffective rating in the student performance side of the matrix, you cannot achieve an effective rating overall; the most you can attain is a developing rating.

Further, if the district and union choose an optional second assessment detailed below, and you receive an ineffective rating on student performance, you cannot receive anything but an ineffective rating overall, a disincentive to choose the optional second assessment.

For tested teachers, the student performance subcomponent will be: (1) use of a state growth score and (2) an optional second state-provided growth score on a state-created or administered test or a growth score based on a state-designed supplemental assessment, calculated using a state-provided or approved growth model. The use of the optional student performance subcomponent is subject to collective bargaining, but is limited to the choices in (2) above.

For non-tested teachers, the student performance subcomponent will be: (1) a student learning objective consistent with a goal-setting process determined or developed by the commissioner, that results in a student growth score and (2) an optional second state-provided growth score on a state-created or administered test or a growth score based on a state-designed supplemental assessment, calculated using a state-provided or approved growth model. As with the tested teachers, whether to use the optional second measure is subject to collective bargaining.

The state-designed supplemental assessment, that can be used in the optional second student performance subcomponent is defined “as a selection of state tests or assessments developed or designed by the state education department, or that the state education department purchased or acquired from (i) another state; (ii) an institution of higher education; or (iii) a commercial or not-for-profit entity, provided that such entity must be objective and may not have a conflict of interest or appearance of a conflict of interest; such definition may include tests or assessments that have been previously designed or acquired by local districts, but only if the state education department significantly modifies growth targets or scoring bands for such tests or assessments or otherwise adapts the test or assessment to the state education department's requirements.”

This language essentially eliminates any truly locally developed tests or assessments, or other locally developed tools, from the evaluation system.

Scoring bands and scoring ranges will be set by the commissioner, through regulation.

**Prohibited Items:**

The legislation expressly prohibits measures of student achievement that are not test-based, such as evidence of student development and performance derived from lesson plans, other artifacts of teacher practice, and student portfolios, use of an instrument for parent or student feedback, use of professional goal-setting as evidence of teacher or principal effectiveness, or any district or regionally-developed assessment that has not been approved by the department.

**Independent Evaluators:**

The legislation mandates the use of so-called “independent” evaluators, which could result in someone with limited or no knowledge of a teacher, or the school, determining the fate of a teacher or school. Observations will be conducted by both the school building principal, and an outside evaluator which could either be a trained evaluator from another building within the district, a trained evaluator from another district, or a trained evaluator with no affiliation with any school district.

**Collective Bargaining:**

The language significantly reduces the role of collective bargaining. Student performance measures (formerly the local 20 percent) and observations were previously developed locally, through collective bargaining, to ensure the appropriate measure of student achievement and teacher performance at the district or building level. This is almost entirely eliminated, with SED having new powers to develop evaluation assessments and expanded use of growth scores, set student performance targets and goals, and drastically changes locally developed assessments to a new growth model.

Further, the legislation prohibits use of non-test based measures from being used in the student performance subcomponent, and non-observation measures being used in the teacher evaluation subcomponent.

Collective bargaining was retained in two areas, whether to use a second student performance measure (optional subcomponent), and in the event that the second measure is used, which measure to use. However, the universe of measures that can be used is limited to state tests or previously selected local measures that the Commissioner modifies. The implementation of the greatly limited teacher observation measures can be bargained.

### **Ineffective Teachers:**

Where practicable, a student cannot be taught by two ineffective teachers in a row. If a school district deems it impracticable to comply, the district must seek a waiver from the department from this requirement. This waiver process will be determined by regulation.

### **State Aid and APPR Plan Approval:**

The legislation requires school districts to receive approval for a new APPR plan that complies with the new statute by November 15, 2015, in order to receive their scheduled 2015-16 school aid increase or any increase in state aid thereafter. There was a previously enacted statute to ensure that the most recent approved APPR plans would remain in effect until a new plan is approved by SED. However, this new legislation eliminates these protections and districts will not receive their 2015-16 increase in school aid over their 2014-15 aid levels unless the district has a new APPR plan approved by SED by November 15, 2015.

### **Existing Collective Bargaining Agreements:**

The legislation provides that all collective bargaining agreements entered into after April 1, 2015, must comply with the new APPR law, unless the agreement relates to the 2014-15 school year. The law states that it does not abrogate any conflicting provisions in collective bargaining agreements that are in effect on April 1, 2015, but that upon expiration and entry into a successor agreement, new agreements must comply with the new law.

However, as noted above, for a school district to receive its school aid increase, an APPR plan compliant with the new APPR law must be agreed to by November 15, 2015. Thus, the school aid linkage virtually eliminates any collective bargaining protection.

### **Regents and Commissioner Authority:**

While many of the new APPR procedures are outlined in statute, the Commissioner and Regents, through regulation adoption, will set scoring bands within subcomponents, and targets for SLOs.

Regulations and guidelines must be adopted no later than June 30, 2015 by the Regents to implement this new APPR system, “after consulting with experts and practitioners in the fields of education, economics and psychometrics and taking into consideration the parameters set forth in the letter from the Chancellor of the Board of Regents and acting commissioner dated December 31, 2014, to the New York State Director of State Operations.” This letter detailed a support for an APPR system with 40 percent of a teacher’s score tied to the state exams.

The commissioner must also establish a process for public comment for the new regulations, and is mandated to consult, in writing, with the Secretary of the U.S. Department of Education, currently Arne Duncan.

### **TENURE/PROBATION**

The legislation mandates four-year probationary periods for new teachers hired after July 1, 2015, with the requirement that a teacher attain an effective evaluation rating for at least three of the four years. Further, if a teacher achieves ineffective in their fourth year, they cannot achieve tenure.

A board can agree to extend probation by one year for teachers who have not achieved three effectives or who are ineffective in their last probation year.

For teachers who have achieved tenure in another district and have not been dismissed from the other district, they will remain in probationary status for three years, so long as the teacher did not receive an ineffective in their last year at the prior school.

Also, a school board will now have the “unfettered” right to terminate a probationary teacher for any constitutionally permissible reason, including performance based reasons, during probation without regard to the teachers APPR rating.

### **DUE PROCESS/3020-a**

The education language passed mandates that two consecutive ineffective ratings on APPR will be *prima facie* evidence of incompetence, rebutted only by clear and convincing evidence.

Further, a new 3020-b process is outlined, “Streamlined removal procedures for teachers rated ineffective,” which will apply to teachers and principals who receive two or more consecutive annual ineffective ratings.

The statute now mandates that school boards bring 3020-a charges for three consecutive ineffective ratings, with fraud or mistake the only defense available. There is no discretion for a board to not bring charges for three consecutive ineffective ratings.

A teacher convicted of a violent felony against a child pursuant to penal law section 70.02, when the intended victim was a child, will have their certification revoked.

3020-a proceedings, brought after July 1, 2015, will be before a single hearing officer. There is no carve-out for Part 83 proceedings.

Where charges of misconduct constituting physical or sexual abuse of a student are brought against a tenured educator on or after July 1, 2015, the school district may suspend the employee without pay pending an expedited probable causing hearing to be held within 10 days. Suspensions without pay cannot last longer than 120 days. This provision does not apply to New York City, which has different suspension rules in the UFT contract.

For 3020-a proceedings where charges of misconduct constituting physical or sexual abuse of a student are brought, the hearing shall be conducted before and by a single hearing officer in an expedited hearing, which must commence within seven days after the pre-hearing conference and must be completed within sixty days after the pre-hearing conference.

For 3020-a proceedings, a child witness, under fourteen years of age, may be permitted to testify through the use of live, two-way closed-circuit television, as explained in section 65.00 of the criminal procedure law. The hearing officer must provide the employee with an opportunity to be heard, and determine by clear and convincing evidence that such child witness would suffer serious mental or emotional harm which would substantially impair such child's ability to communicate if required to testify at the hearing without the use of live, two-way closed-circuit television. The hearing officer must also find that the use of such live, two-way closed-circuit television will diminish the likelihood or extent of such harm.

For all 3020-a cases, hearing officers must further give “serious consideration to the penalty recommended by the employing board,” and if the hearing officer rejects the recommended penalty, the rejection must be outlined in a written determination based on the record.

### **RECEIVERSHIP**

#### **New Section:**

The legislation adds a new section, section 211-f, to the education law regarding the takeover and restructuring of failing schools by external receivers. It allows the Commissioner, under given circumstances, to place a school into receivership where a receiver will manage and operate the school, subject to annual review by the Commissioner, until such time as the school has improved sufficiently. The education language passed allows for the state takeover in schools; 27 “priority” schools that have been struggling for more than 10 years would have only one year to dramatically turnaround, and other “priority” schools would have two years to turn around, until an outside receiver is appointed to control the school. New priority schools in 2016-17 are automatically eligible for receivership.

### **Failing Schools:**

After being identified as a “failing school” or “persistently failing school” for a certain period of time, a district may be subject to a performance review by SED which may result in the Commissioner placing the school into receivership.

A “failing school” generally is one in the “lowest achieving 5 percent” of schools under the state’s “accountability system” for at least three consecutive years or identified as a “priority school” for such period.

A “persistently failing school” generally is one in the “lowest achieving public schools in the state” for 10 consecutive school years. There are two ways of being found to be a “persistently failing school,” each with its own look back. Such “persistently failing schools” either have been “priority schools” during that period starting in 2012-13 school year or a “school requiring academic progress year 5, 6 or 7 or a “school in restructuring” for each applicable year from the 2006-07 school year to the 2011-12 school year. Special act schools are excluded.

### **Path to Receivership:**

The path to receivership differs slightly for “persistently failing schools” and “failing schools.” For schools identified as “persistently failing,” the local district shall continue to operate the school for an additional year provided that there is an approved intervention model or comprehensive education plan in place. The superintendent in this case shall have all the powers of a receiver. At the end of the year SED will conduct a performance review to determine whether the designation of persistently failing should be removed, the school should remain under control of the superintendent, or the school should be placed into receivership. But if the district makes “demonstrable improvement” it shall remain under district operation for another year, subject to annual review, with the same three possible outcomes, one of which being placed in receivership.

For schools identified as “failing schools,” the local district shall continue to operate the school for an additional two years provided there is an approved intervention model or comprehensive education plan in place. The superintendent in this case shall have all the powers of a receiver. At the end of the two-year period SED will conduct a performance review to determine whether the designation of persistently failing should be removed, the school should remain under control of the superintendent, or the school should be placed into receivership. But if the district makes “demonstrable improvement” it shall remain under district operation for another year, subject to annual review, with the same three possible outcomes, one of which being placed in receivership.

The district or the Commissioner can, notwithstanding this provision, modify an approved intervention model or comprehensive education plan.

The district must notify parents that a school may be placed into receivership and hold a public meeting or hearing for the purpose of discussing the performance of the school and the construct of receivership.

**Definition:**

A “community engagement team” will be established by the district upon designation as failing or persistently failing. This must include community stakeholders such as principal, parents, teachers, staff, and students. The team will develop recommendations and solicit public engagement. The team will present its recommendations “periodically” to the school’s leadership and the receiver.

**Appointment of a Receiver:**

Upon determination by the Commissioner that the school will be placed in receivership, the school district shall appoint an independent receiver, subject to approval of the Commissioner.

The receiver will manage and operate all aspects of the school and develop and implement a school intervention plan, considering recommendations of a community engagement team.

The receiver may be a non-profit, another school district, or an individual.

The receiver will have the power to supersede any decision, policy or regulation of the district that conflicts with the school intervention plan.

The receiver will have authority to review proposed school district budgets and modify them to conform to the school intervention plan.

The receiver will contract with the Commissioner and be paid by SED, unless there is an open administrative staffing line at the district and the receiver will be taking on the responsibilities of that position, in which case the receiver will be paid by the district.

The receiver shall be an *ex officio* member of the board of education.

**School Intervention Plan:**

*Consultation:* The receiver will create a school intervention plan. Before developing plan, the receiver shall “consult with” local stakeholders including the board of education, the superintendent, the principal, teachers assigned to the school and their collective bargaining representation, administrators assigned to the school and their collective bargaining representative, parents, social service and mental health agencies, students as appropriate, career and workforce development programs as appropriate, pre-k programs as appropriate, representatives of local higher ed as appropriate and the “school takeover team.”

*Considerations:* In creating the plan, the receiver shall consider the recommendations of the “community engagement team,” include provisions intended to maximize the rapid academic achievement of students at the school, ensure the plan addresses school leadership and capacity, school leader practices and decisions, curriculum development and support, teacher practices and decisions, student social and emotional developmental health, and family and community engagement. The receiver shall base the plan on the findings of any recent diagnostic review or assessment and student outcome data including, student achievement growth data based on state measures, other measures of student achievements, student promotion

and graduation rates, achievement and growth data for subgroups, and long-term and short-term suspension rates.

*Elements:* The receiver must include the following in the plan: measures to address social service, health and mental health needs of students in the school and their families in order to help students arrive and remain at school ready to learn, provided that this may include mental health and substance abuse screening; measures to improve or expand access to child welfare services and, as appropriate, services in the school community to promote a safe and secure learning environment; measures to provide greater access to career and technical education and workforce development services provided to students in the school and their families, in order to provide students and families with meaningful employment skills and opportunities; measures to address achievement gaps for English language learners, students with disabilities and economically disadvantaged students; measures to address school climate and positive behavior support, including mentoring and other youth development programs; and a budget for the school intervention plan.

The Commissioners of various state agencies, such as Education, Health, OCFS, Labor and other applicable state and local agencies, shall coordinate regarding the implementation of the elements as appropriate in the plan.

*Goals:* The plan must include measurable annual goals with respect to student attendance, student discipline including short-term and long-term suspension, student safety, student promotion and graduation and drop-out rates, student achievement and growth on state measures, progress in areas of academic underperformance, progress among subgroups, reduction of achievement gaps, development of college and career readiness, parent and family engagement, building a culture of academic success among students, building a culture of student support and success among faculty and staff, using developmentally appropriate child assessments from Pre-K to 3, and measures of student learning.

The receiver “shall” convert schools to “community schools” to provide expanded health, mental health and other services to the students. In addition, the receiver “may” expand, alter or replace the curriculum and program offerings, including (i) the implementation of research-based early literacy programs, early interventions for struggling readers and the teaching of advanced placement courses or other rigorous nationally or internationally recognized courses, if the school does not already have such programs or courses; (ii) replace teachers and administrators, including school leadership who are not appropriately certified or licensed; (iii) increase salaries of current or prospective teachers and administrators to attract and retain high-performing teachers and administrators; (iv) establish steps to improve hiring, induction, teacher evaluation, professional development, teacher advancement, school culture and organizational structure; (v) reallocate the uses of the existing budget of the school; (vi) expand the school day or school year or both of the school; (vii) for a school that offers the first grade, add pre-kindergarten and full-day kindergarten classes, if the school does not already have such classes; (viii) in accordance with paragraphs (b) and (c) of this subdivision, to abolish the positions of all members of the teaching and administrative and supervisory staff assigned to the failing or persistently failing school and terminate the employment of any building principal assigned to such a school, and require such staff members to reapply for their positions in the school if they so choose; (ix) include a provision of a job-embedded professional development for teachers at the school, with an emphasis on strategies that involve teacher input and feedback; (x) establish a plan for professional development for administrators at the school, with an emphasis on strategies that develop leadership skills and use the principles of distributive leadership; and/or (xi) order the conversion of a school in receivership that has been designated as failing or persistently failing pursuant to this section into a charter school.

Upon designation of a school as failing or persistently failing, tenure and seniority rights are modified. Two ineffectives at any time in the teacher's career defeats seniority rights of that teacher. The teacher with the lowest APPR rating is laid off first. Seniority is only used to break ties.

The receiver "may" abolish all teacher positions and require them to re-apply. The receiver shall define new positions for the school aligned with the school intervention plan. For hiring teachers, the receiver shall convene a staffing committee including the receiver, two appointees of the receiver and two appointees selected by the school staff or their collective bargaining unit. The staffing committee will determine whether former school staff reapplying for positions are qualified for the new positions. The receiver shall have full discretion regarding hiring decisions but must fill at least 50 percent of the new positions with the most senior former staff who the committee deems qualified. Remaining vacancies filled by receiver in consultation with staffing committee. Anyone not rehired placed on a PEL. Teachers rehired maintain prior status.

In order to maximize the rapid achievement of students, the receiver "may request" that the collective bargaining unit representing teachers negotiate a receivership agreement modifying the applicable collective bargaining agreements. Bargaining is to conclude in 30 days with ratification within 10 days. Any unresolved issues will be resolved by the Commissioner within 5 days. For failing but not persistently failing schools, there is an option for a AAA conciliator prior to the Commissioner.

Within 6 months of the receiver's appointment, a final school intervention plan must be submitted to the Commissioner for approval.

The plan shall be for a period of not more than three years. During that time any additional components or goals must be approved by the commissioner.

The receiver shall make quarterly progress reports.

The Commissioner will evaluate each school with a receiver annually.

If the school is not meeting its goals, the Commissioner may modify the plan.

Upon the expiration of a plan, the commissioner shall evaluate the school and determine either to renew the plan, appoint a new receiver, or take the school off the failing school list.

## **TEACHER REGISTRATION**

Beginning with the 2016-17 school year, all holders of a professional teaching certificate, or Level III Teaching Assistant certificate will now be required to complete 100 hours of continuing education and leader education every five years. These certificate holders will also be required to register with SED every five years to prove they have met these requirements. A teacher may not practice unless these requirements are fulfilled. In addition, **all** certificate holders will be required to register with SED every five years even though the new continuing education provisions only apply to holders of professional teaching certificates or Level III Teaching Assistant certificates.

The allowable activities which qualify for these 100 hours are determined by SED and the department is directed to "issue rigorous standards for courses, programs, and activities." Districts may collectively bargain more hours if they so choose. The activities are supposed to "promote the professionalization of teaching and be closely aligned to district goals for student performance."



The current regulatory requirements for holders of the professional certificate must complete 175 hours of professional development and holders of the Level III Teaching Assistant certificate must complete 75 hours every five years in order to maintain certification. These requirements are replaced by this new 100 hour requirement.

## **SCHOOL AID**

- There is \$1.3 billion on school aid runs.
- \$603 million is allocated to the elimination of the Gap Elimination Adjustment (GEA), a 60 percent reduction. This will leave \$433 million GEA outstanding.
- Foundation aid is increased by \$428 million (2.8 percent).
- Expense-based aids (BOCES, special education, transportation, building etc.) are fully funded at present law levels of \$266 million.
- Low performing schools are allocated an additional \$75 million for turnaround, over the next two years.
- \$30 million is allocated for full-day or half-day pre-K for 3 or 4 year olds.
- Master teacher expansion was funded at \$5 million.
- Teacher centers funding was maintained at \$14.26 million - down from \$40 million in 2008-09.
- Mentor Internship Program was funded at \$2 million.
- National Board Certification Program was funded at \$368,000.
- Non-public school aid saw an increase of \$5 million for the comprehensive attendance policy and 4.8 percent overall.
- Budget includes \$2.3M for 4201s, a 2.4 percent increase. The Legislature intends to secure a similar 2.4 percent increase for 853/Special Acts.
- PTECH was expanded by \$3 million.
- Teacher Incentive Scholarship Program was expanded by \$3 million.
- Teacher Excellence Fund continued at \$20 million to award up to \$20,000 stipends to highly effective teachers.

### **Not in Final Budget:**

There is no language in the final budget on charter schools, educational investment incentives act, mayoral control, real property tax circuit breaker, or the tax cap. It is likely these items will be negotiated together with rent control which is due to expire on June 15, 2015. The special education waiver was rejected.

## **HIGHER EDUCATION**

### **Performance-Based Funding**

- Rejected outright for community colleges and modified significantly for four-year campuses (no ten percent penalty and not subject to DOB approval).

### **SUNY/CUNY Back Office Consolidation**

- The enacted budget does not contain this proposal.

## **SUNY**

### **State Operated Campuses Funding**

- The 2015-16 enacted state budget provides an overall increase of \$15 million in new funding to the state-operated campuses.
- Tuition. The enacted state budget authorizes SUNY to expend an additional \$155 million in tuition revenue authorized pursuant to the enactment of NYSUNY 2020 in 2011.

### **SUNY Hospitals**

- State Subsidy. The enacted state budget restores \$18.6 million to SUNY hospitals for a total of 87.6 million.
- The final budget does not include the Health Care Delivery Systems Pilot Program (private equity) which, if enacted, would have set the stage for the privatization or closure of SUNY Downstate.
- Kings County Health Care Capital Funding. The enacted state budget provides \$700 million in new capital funding for Brooklyn which is accompanied by Article VII language to drive this appropriation.
- CON Amendments. The final budget does not include reforms to the Certificate of Need process that may have negatively impacted SUNY Downstate and the other SUNY hospitals.
- SUNY Hospital Escrow Account. The enacted state budget establishes an Escrow Account to allow SUNY Hospitals acting as lead providers under DSRIP to pay participating providers.

### **SUNY Community College Base Aid**

- The enacted state budget provides a state base aid increase of \$13.8 million or \$100 per full-time equivalent (FTE) student bringing the total level of funding to \$2,597 per (FTE) student.
- Next Generation NY Job Linkage Program. Flat funding in the amount of \$3 million is provided for this program.
- Graduate Achievement and Placement Program (GAP). Funding for this program is increased by \$2.5 million.
- Rental aid for leased space is maintained at last year's level for a total of \$11.6 million.
- Funding for child care centers is increased by \$1.1 million for a total of \$2.1 million.
- Funding for high need programs (\$1.7 million), contract courses (\$1.9 million), and low enrollment colleges (\$940,000) are maintained at last year's level.

### **SUNY Capital Budget**

The enacted budget provides a total of \$462.4 million in new capital funding for SUNY. Included in that amount is:

- \$200 million in new capital funding for state-operated campuses.
- \$25 million for the Binghamton School of Pharmacy (another \$25 million provided by the Urban Development Corporation).
- The SUNY community colleges are provided \$81 million in new capital project funding and an additional \$62 million for approved projects in last year's budget.

### **Urban Development Corporation Capital Budget**

- A total of \$80 million is provided for SUNY capital funding of which \$55 million is for SUNY 2020 projects and an additional \$25 million is provided for Binghamton SUNY Pharmacy.

## **Educational Opportunity Program (EOP)**

- The enacted state budget provides an increase of \$5.7 million for a total of \$27 million.

## **Educational Opportunity Centers (EOC)**

- Funding for SUNY's Educational Opportunity Centers is increased by \$4 million of which, \$1.5 million is provided for operating expenses and \$2.5 million is provided for the ATTAIN labs.

## **CUNY**

### **Senior Colleges State Funding**

- The 2015-16 enacted state budget provides an overall increase of \$12 million in new funding to the CUNY senior colleges.
- Tuition - The Executive Budget authorizes CUNY to expend an additional \$61 million in tuition revenue authorized pursuant to the enactment of NYSUNY 2020 in 2011.

### **CUNY Community College Base Aid**

- The enacted state budget provides a state base aid increase of \$6.2 million or \$100 per full-time equivalent (FTE) student bringing the total level of funding to \$2,597 per (FTE) student.
- Rental aid for leased space is maintained at last year's funding level of \$8.9 million.
- Funding for the ASAP program is increased by \$2.5 million.
- Funding for child care centers is increased by \$902,000 for a total of \$1.7 million.
- Funding for contract courses /workforce development is maintained at last year's level of \$1.9 million.
- Funding for the College Discovery Program is increased by \$241,000 for a total of \$1.1 million.

### **CUNY Capital Budget**

- The Executive Budget provides for a total of \$160.9 million in capital funding to CUNY. This includes:
  - \$103 million for critical maintenance projects and university wide maintenance at the senior colleges.
  - The community colleges are provided \$21 million for campus maintenance improvements.

### **Urban Development Corporation Capital Budget**

- The enacted state budget provides expands the NY-CUNY 2020 program to CUNY and provides \$55 million in capital funding for challenge grants.

### **Search for Education, Elevation and Knowledge (SEEK)**

- Funding for this program is increased by \$5 million for a total of \$23.3 million.

### **Joseph Murphy Institute**

- Funding for this program is increased by \$1.5 million.

## **Higher Education Services Corporation**

### **Tuition Assistance Program (TAP)**

- The enacted budget provides an increase in spending of \$43.3 million to this program for a total of \$1.02 billion.

### **Tuition Assistance to Part-time Students**

- Funding for this program is maintained at last year's level of \$14.3 million.

## **NYS Education Department of Higher Education**

### **BUNDY Aid**

- The Executive Budget maintains last year's level of funding for a total of \$35.1 million.

### **Higher Education Opportunity Program (HEOP)**

- The enacted budget provides an increase of \$3million for this program for a total of \$29.6 million.

### **Liberty Partnerships Program**

- The enacted budget provides an increase of \$1.5million for this program for a total of \$15.2 million.

### **STEP**

- The enacted budget provides an increase of \$1.3 million for this program for a total of \$13.2 million.

### **CSTEP**

- The enacted budget provides an increase of \$1million for this program for a total of \$10 million.

## **Article VII Legislation**

**SUNY/CUNY Maintenance of Effort Modifications** - Changes to include collective bargaining and other inflationary cost to the state's statutory definition of maintenance of effort in funding SUNY and CUNY have been deferred to the end of session.

**Streamlining Higher Education Academic Program Approval Process (ELFA Part B)** - The enacted budget did not contain this proposal.

**New York State Get on Your Feet Loan Forgiveness Program (ELFA Part C)** - The enacted budget accepts the governor's proposal. This program will be offered to New York State residents who attended college in New York and graduated in or after the 2014-15 academic year and continue to live in the State following graduation, participate in the federal Pay As You Earn (PAYE) income-based loan repayment program, and earn less than \$50,000 in annual income. For qualified residents, New York State would pay the first two years of their monthly student loan obligations under the PAYE program.

**The Dream Act (ELFA Part D)** - The enacted budget did not contain this proposal.

**Standardization of financial Award Letters (ELFA Part F)** - The enacted budget included this proposal that standardizes financial award letters.

**SUNY/CUNY Experiential Learning as a Graduation Requirement (ELFA Part Q)** - The enacted budget modifies the governor's proposal to require the Boards of Trustees of the State University of New York and the City University of New York to pass a resolution by June 1, 2015 to develop a plan to make available approved experiential or applied learning activities. Experiential or applied learning activities may include completion of activities related to students' program of study, including, but not limited to:

- service-learning activities completed as part of a course;
- paid or unpaid internships;
- faculty-supervised undergraduate projects and activities leading to publication of research in journals or similar publications;
- production or performance of creative works; and
- iterative "co-op" partnerships that explicitly link the curricula to a temporary, paid position in industry or the public sector.

The plan, to be completed by June 1, 2016, must be developed in consultation with stakeholders. The plan will define approved experiential or applied learning activities, methods of faculty oversight and assessment, responsibilities of business, corporate, and non-profit or other entities hosting students. The plan must also include a requirement for collecting and reporting data associated with experiential or applied learning activities. The plan will have each college examine the feasibility of including experiential or applied learning activities as a degree requirement. Each college will examine its ability to administer and provide such opportunities to students. The college will also examine the local community's capacity to support such activities; the impact such requirement would have on the local workforce, if any; potential for such a requirement to enhance learning outcomes for students; and whether adding such a requirement would cause potential delays in graduation for students.

**SUNY DSRIP Escrow Account (ELFA Part U)** - The enacted budget creates a SUNY DSRIP escrow fund that will be available without fiscal limitation. The SUNY DSRIP escrow fund will consist of funds transferred to SUNY hospital facilities, acting as lead providers under the delivery system reform incentive payment (DSRIP) program, from the Medicaid Management Information System (MMIS) statewide escrow fund. It will also hold funds transferred by SUNY from a state university health care account to pay any amount owed by a SUNY hospital to a performing provider system. This account will provide funds to SUNY hospital facilities that make authorized payments for the Section 1115 Waiver Partnership Plan. More specifically, payments from this account will be made solely and exclusively to Central New York Care Collaborative, Inc and SB Clinical Network IPA, LLC as necessary to distribute the net award of DSRIP payments. Funds from the SUNY DSRIP escrow account can only be expended for DSRIP purposes.

**Foster Youth College Success Initiative (ELFA Part X)** - This initiative is designed to provide services to help foster youths to apply for, enroll in, and succeed in college.

**Community College Occupational Studies Degree (ELFA Part Y)** - This provision requires SUNY community colleges to consult with BOCES to identify new or existing programs offered to students that

would allow a student to pursue an associate of occupational studies (AOS) degree from a community college upon high school graduation. Once identified, the BOTs of community colleges in collaboration with BOCES, shall make such programs known to students.

**The New York State Achievement and Investment in Merit Scholarship (NY-AIMS) (ELFA Part Z)** - This scholarship program is designed to award merit based scholarship awards to NYS high school students that achieve academic excellence. Eligible students must have graduate high school and be enrolled in a NYS public or private college or university. These scholarship awards will be awarded on a competitive basis.

**Health Care Delivery Systems Pilot Program – Authorization for Private Equity (HMH Part Q)** - The enacted budget does not include this provision which, if enacted, would have set the stage for the privatization or closure of SUNY Downstate.

**Health Care Facility Transformation Program: Kings County Project (S4610-a/A.672-a Part J)** - This Article VII provision drives the \$700 million health care capital funding appropriation for Kings County that is contained in the State Operations Budget Bill within the Department of Health. This provision establishes a Kings county health care facility transformation program under the joint administration of the Commissioner of Health and the President of the Dormitory Authority for the purpose of strengthening and protecting continued access to health care services in Brooklyn. The program provides capital funding in support of projects that replace inefficient and outdated facilities as part of a merger, consolidation, acquisition or other significant corporate restructuring activity intended to create a financially sustainable system of care. The program sets specific eligibility requirements for receiving funds. It is not clear that SUNY Downstate would meet all the requirements for this funding.

**Teacher Preparation Programs (ELFA Subpart B)** - This enacted budget accepts this executive's proposal with modifications. The enacted budget amends the governor's proposal for institution de-registration and suspension by shifting the language to focus on graduate teacher preparation and educational leadership programs. The provision included in the enacted budget gives the State Education Department Commissioner the ability to suspend and deregister graduate teacher preparation programs based on test scores from deeply flawed certification exams.

This proposal permits the State Education Department to suspend a graduate program's authority to admit new students if, for three consecutive academic years, fewer than fifty percent of its students pass each required certification examination that they have taken. The graduate program would be allowed to continue operations for the length of time it would take all currently admitted and/or enrolled students, if they were to attend classes on a full-time basis, to complete the requirements for their degrees. If, at any time during such period, the Commissioner determines that student and/or program performance has "significantly improved," the commissioner may reinstate the program's ability to admit new students. If the suspension is not lifted, the program will be deregistered. More analysis of this proposal is needed to understand its full impact.

The enacted budget also included new mandated admissions requirements for graduate programs.

## HEALTH CARE

The enacted budget extends the Medicaid trend factor until March 31, 2017, as well as the Commissioner of Health's power to create a savings allocation plan to reduce spending when expenditures are expected to exceed state funds for the program. Also included is \$700 million in capital funding for health care facilities in Brooklyn. The money is to be distributed at the discretion of the Commissioner without a competitive bid process.

The final budget increases the Vital Access Provider (VAP) fund by an additional \$285 million, to be distributed as follows: at least \$7.5 million for critical access hospitals; at least \$10 million for rural providers or essential community providers; and the remainder of the funding will be available to financially distressed hospitals operated by a county or municipality, critical access hospital, sole community hospital, or a safety-net hospital. A Health Care Reform Act (HCRA) work group was created to review both the scope of funds collected and allocation of those funds. The HCRA workgroup is to issue a report to the Legislature by December 31, 2015.

A SUNY DSRIP (Delivery Reform Incentive Provider) Escrow Account was created to allow SUNY hospitals acting as lead providers under DSRIP to pay participating providers.

Not included in the enacted budget are the governor's proposals to:

- Allow for a private equity pilot project.
- Reforms to the certificate of need process for health care facilities.
- A new health care assessment on insurers to support the health care benefit exchange.

## PENSION, LABOR, ELECTIONS, ETHICS, and TAXATION

**Minimum Wage:** Increases for the state minimum wage were not included in the final enacted budget. The issue could be addressed before the end of session in June. The governor's Executive Budget proposal sought to raise the state minimum wage from \$9.00 to \$11.50 in New York City and \$10.50 in the remainder of the state, while the Legislature proposed further increases in their one-house plans.

**Pension Forecasting:** The governor's Executive Budget proposal added a new reporting requirement to all public retirement systems requiring an annual forecast of employer contribution rates two years ahead of the current employer rate. The requirement that the comptroller and NYSTRS forecast future employer pension costs was not included in the enacted state budget.

**Election Law, Ethics Changes & Pension Forfeiture:** The enacted budget does include slight changes to reporting requirements for independent election expenditures and the tightening of items and services that can be paid for with campaign funds. The governor's Executive Budget proposal sought to create a voluntary public campaign finance program similar to his budget submissions in previous years. This was rejected by the Legislature and not included in the enacted state budget.

In regards to ethics law changes, the governor had proposed a wide ranging ethics reform package, including new disclosure requirements for outside income by legislators, increased transparency for expenses and reform of legislative per diems. This plan was whittled down in the enacted budget. The final plan adds new disclosure requirements for legislators who are attorneys for new business beginning in 2016, but allows the legislator to petition the Office of Court Administration for exemptions from disclosure for a wide variety of reasons. The plan also includes some minor new requirements for expense reimbursements by state legislators for their work in Albany and additional funding to the state for enforcement of the new ethics requirements.

The governor had also included a proposed constitutional amendment to strip public officials of their pensions if they were convicted of a crime related to their public office. In the final outcome, the required legislation to amend the New York State Constitution was passed by the Senate outside of the budget bills, but failed to pass the Assembly. The legislation could be addressed later in the legislative session.

**Legislative and Executive Salary Commission:** The governor's proposal to create a salary commission to increase legislative and executive compensation was adopted in the final budget agreement.

The commission will convene every four years, beginning June 1, 2015, to make recommendations regarding compensation for the governor, lieutenant governor, attorney general, comptroller, members of the Legislature and high ranking state appointed employees such as agency heads and commissioners.

**Creation of the Real Property Tax Relief Credit:** Plans to offer increased property tax relief were pushed to the post-budget session.

The governor's Executive Budget proposal called for the expansion of the existing New York State real property tax circuit breaker credit, providing \$1.6 billion for the circuit breaker. The program would be phased in over four years and require taxing jurisdictions adhere to the existing real property tax cap. Separate plans were proposed by the Senate and Assembly in their one-house budgets.

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