



ESSAA

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LEGISLATIVE UPDATE

Winter 2021

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Spotlight on Advocacy Priorities

- *Curbing the use of Tobacco and E-Cigarette Products*

[A03652](#): On January 28, 2021 this partisan bill was referred to the Assembly Education Committee. It is sponsored by Assembly member Judy Griffin [D]. As written, the bill would require that the commissioner of education and the commissioner of public health **develop standardized vaping and e-cigarette school guidelines** to assist school districts when they are developing their own policies.

[A02403](#): On January 19, 2021, this partisan bill was referred to the Assembly Education Committee. It is sponsored by Assembly member Alicia Hyndman [D]. As written, the bill would require the **installation of vaping detectors in certain schools**.

- *Legalization of Marijuana*

On January 6, 2021, Governor Cuomo announced a proposal: “[to Legalize and Create an equitable Adult-use Cannabis Program as Part of the 2021 State of the State](#).” Under the proposal, the State would establish an Office of Cannabis Management to oversee an adult-use program and the existing medical and cannabinoid hemp programs. The proposal projects more than \$300 million in tax revenue. The proposal follows the 2019 legislation to decriminalize the penalties for unlawful possession of marijuana and expunge records for some marijuana related convictions.

- *Special Education Funding*

[A01035/S02654](#): This multi-sponsored bill would amend Section 3651 of the Education Law to authorize school districts to **establish an extraordinary needs reserve fund for the expenses of providing special education**. The bill is intended to address the cost of educating high-need students, whose costs are greater than four times the cost of the average pupil with a disability and provide a cushion for unforeseen expenditures that might occur throughout a given school year. Referred to the Assembly Education Committee.



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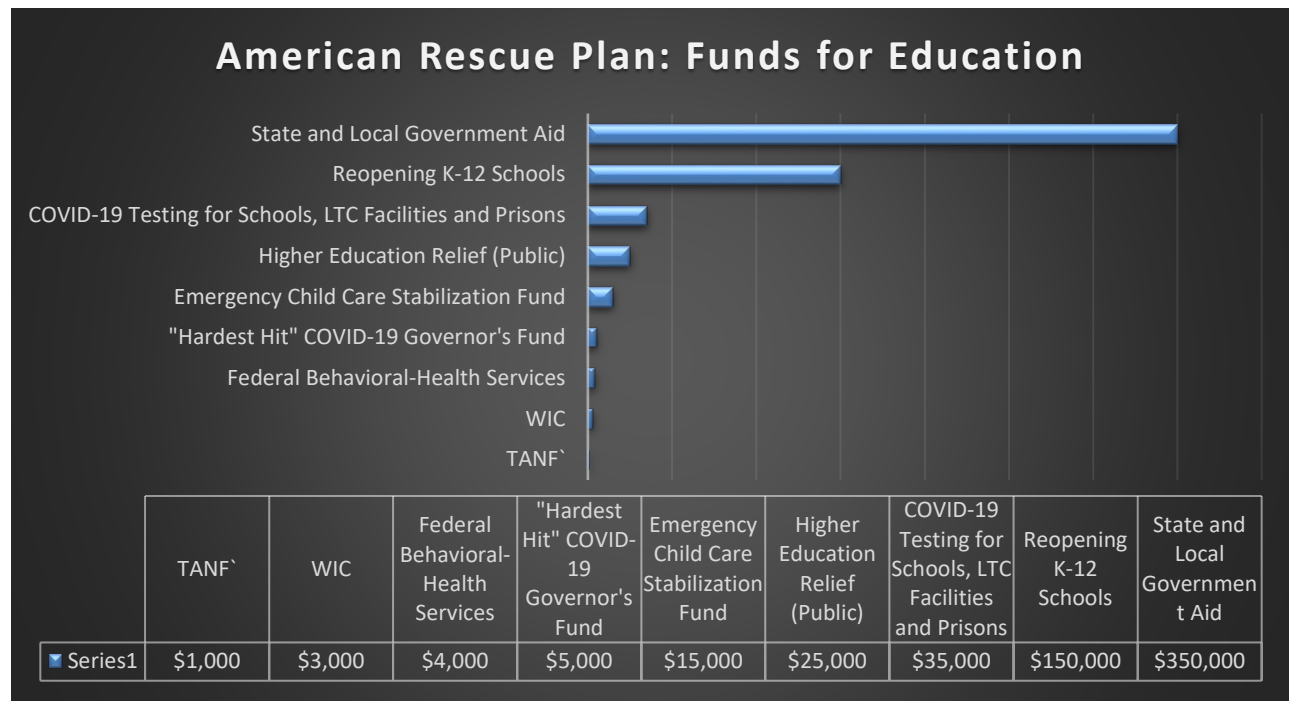
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Federal Updates

- Funding Updates*

Consolidated Appropriations Act: At the close of 2020, Congress passed the Consolidated Appropriations Act, a combined \$900 million COVID-19 stimulus relief and \$1.4 trillion omnibus spending bill for the 2021 federal fiscal year. The provisions of the act included \$82 billion for education funding, with \$54.3 billion for K-12 schools. The education funding included an additional \$4 billion for governors to spend at their discretion, \$2.75 billion of which was earmarked for private K-12 schools. A maintenance of effort provision requires K-12 spending levels to be maintained until fiscal year 2022. Ancillary to the direct education funding, the Act also included funds for SNAP benefits, broadband internet, and stabilizations funds for the childcare industry.

- American Rescue Plan:** In early January, Biden announced the American Rescue Plan. The \$1.9 trillion COVID-19 recovery plan has not received bipartisan support. On February 3 the House approved a budget resolution that will position the Democrats to move the process forward to pass the bill in the absence of Republican support. The Senate is expected to approve a similar budget measure in early February to move forward with the reconciliation process. The Plan Includes direct funding for K-12 schools as follows:





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New York State Legislation

- *State Budget Update*

Cuomo's proposed budget provides for a 7 percent increase in education funding, adding up to \$21 billion. Included in this number is a \$607 million cut in state funding, with federal relief money closing the gap. The State was granted \$3.8 billion through federal law, which is to be apportioned over three years. In a move that is deemed risky by the Board of Regents and other relevant stakeholders, the Governor allocated \$2.4 billion into this year's education budget. Critics of the plan recognize that there are pandemic related costs that need to be covered in the current year but are concerned that this plan will result in a net decrease in funding in subsequent years.

- [Board of Regents Budget and Legislative Priorities and State Aid Request for the 2021-2022 School Year](#)
- [NYS FY 2021 Executive Budget](#)

- *APPR Update*

[A991](#): Reintroduce on January 7, 2021, this bill prohibits school districts from requiring annual performance reviews of classroom teachers and building principals during the 2020-2021 school year and ensures that funds for the general support of public schools for which a school district is otherwise entitled shall not be withheld; a board of education or the trustees of a common school district may, upon agreement, continue to appoint on tenure classroom teachers and building principals notwithstanding that the their annual performance review for the 2020-2021 school year has not been completed. Referred to the Assembly Education Committee.

- *Special Education*

[A01201/S02994](#) This bill **requires school districts to provide educational and support services to students with disabilities until such students turn twenty-two years of age**. The stated purpose of the multi-sponsored bill is to ensure that those students with disabilities who "age out" during the COVID-19 pandemic receive instruction and services necessary to compensate for the negative impacts of the school closings and remote instruction. While the bill has multiple sponsors and bipartisan support, it is not anticipated that it will gain traction in its current form. The supporting justification relies upon NYSED guidance dated June 20, 2020, which indicated that districts would be responsible for compensatory services due to the failure to provide FAPE during remote instruction. This Guidance has prompted discussion in the special education community over NYSED's interpretation of federal guidance and the utilization of the language "compensatory."

- *State Reporting & Discipline*

[A3394](#): There is no same as bill pending in the Senate. Enacts a **uniform incident reporting system regarding removal of students** and other persons from classrooms and school property; establishes a registry to include the names of all persons who are removed from classrooms and school property, name of the school district and school, name of teacher, age and grade of student, reason for removal, action taken by school, and disciplinary action against student; requires annual report to governor, legislature and board of regents; provides for reports to commissioner of education and allows him to take appropriate action.



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- *Equity & Access*

Governor Cuomo vetoed the [Comprehensive Broadband Connectivity Act](#), which would have required the state to review access to high-speed internet, or broadband, in New York, and study the affordability and reliability of those services. The Governor expressed concerns around the cost of implementation and plans to announce a separate proposal. Rural districts in New York are especially impacted by this issue.

- *Public Employee Death Benefit*

[A3988](#): This bill passed the Assembly on February 3. This measure is intended to extend enhanced death benefits that were approved last year. The bill establishes a coronavirus disease 2019 (COVID-19) public employee death benefit for individuals who reported to their usual place of employment or an alternate worksite at the direction of their employer on or after March 1, 2020 and such individual contracted COVID-19 within 45 days of reporting to such workplace as confirmed by a laboratory test or by a licensed physician and such individual died on or before December 31, 2022.

- *Update on Retirement Incentives*

[A4548/S4170](#): On February 4, this bill was reintroduced from last year and referred to the Senate Committees. Authorizes certain public employers, to offer temporary retirement incentives (Part A); provides **an age 55/25 year temporary retirement incentive for certain public employees** (Part B). This bill considers a retirement incentive for employees within the New York City retirement systems. ESSAA is closely monitoring potential legislation relating to retirement incentives and will keep the membership based informed of updates.

[A10897/S08801](#): **This bill was not reintroduced for the 21-22 legislative year.** (*Enabled public employers to offer age fifty-five with ten years of service or age fifty with twenty-five years of service temporary retirement incentives for certain public employees. This bill considered a retirement incentive for employees within the state retirement systems, including the teacher's retirement system.*)



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NYS COVID-19 Updates

- *COVID-19 Related Legislation*

The following table outlines the relevant proposed legislation relating to the COVID-19 pandemic:

Topic	Bill Number	Title
Funding	A3727/S1616	Authorizes school districts to use school transportation aid to pay for the cost and expenses of transporting and delivering meals, homework materials and any other school materials to students during COVID-19
	A01114/No Same As	Provides that school districts, including the city school district of the city of New York, are entitled to an apportionment of state aid for the closure of schools due in response to the novel coronavirus
	A3854/ No Same As	Provides that certain schools shall experience no financial harm for reduced enrollment due to the outbreak of coronavirus disease 2019
	A03006/S2506	Enacts into law major components of legislation necessary to implement the state education, labor, housing and family assistance budget for the 2021-2022 state fiscal year
	A958/S897 (S897-Passed first chamber)	Provides that certain schools shall experience no financial harm for their inability to operate for the full 180 session days due to the outbreak of coronavirus disease 2019 (COVID-19)
	S397/No Same As	Relates to reimbursement to schools for transportation for wellness checks, the delivery of meals and homework, and other activities utilizing the school's transportation network of buses
NYSED	S01747/ No Same As	Provides that the Board of Regents, the Commissioner of Education, and the Education Department shall have the responsibility to respond to the current COVID-19 pandemic, terminating certain Executive Orders issued by the Governor.
	S03811/No Same As	Requires the Commissioner of Education to direct the resumption of school musical/theatrical performances during the COVID-19 pandemic
	A04555/S04556	Requires the Commissioner of Education to direct the resumption of interscholastic sports during the COVID-19 pandemic and requires proper safety protocols to be put in place to enable the safe play of such sports.
Public Employee Death Benefit	A3988/No Same As	Establishes a coronavirus disease 2019 (COVID-19) public employee death benefit
Special Education	A1201/S02994	Requiring school districts to provide educational and support services to students with disabilities until such students turn twenty-two years of age
Liability	A1101/No Same As	Limits the liability of a school that provides in-person instruction in compliance with individual school plans approved by the state department of education.



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Operations/Human Resources	A03126/No same as	Requires employers to provide reasonable accommodations to employees who have children who are unable to return to a childcare provider as a result of pandemic and is unable to maintain their normal work schedule
	A03354/S02588	Relates to granting time off for public employees to receive a COVID-19 vaccination
	A04063/S04201	Prohibits public employers from retaliating against employees for absences related to COVID-19
	A00980/S01295	Requires public employers to adopt a plan for operations in the event of a declared state disaster emergency involving a communicable disease

- *NYSED Guidance*
 - [Federal Coronavirus Response and Relief Supplemental Appropriations Act, 2021 \(CRRSA Act\) Funding](#)
 - [Proposed Federal Waivers for State Assessments and Accountability](#)
 - [Memo: Flexibility in the Use of Title IV, Part A Funds Associated with Approved 2020-21 Consolidated Applications for ESSA-Funded Programs](#)
 - [Supporting the Graduating Class of 2021](#)
 - [Updated Guidance for School Administrators Regarding Limited Temporary Enforcement of Student Immunization Requirement](#)
 - [Memo: Parental Right to Decline Examination Waivers](#)
 - [Regents Examination Exemption Declination Form for Parents](#)