

The 2017-18 Executive Budget and the Public Schools

FEBRUARY 2017

I. SCHOOL AID

Governor Andrew Cuomo’s 2017-18 Executive Budget proposes a \$961 million (3.9 percent) increase in School Aid. The increase is comprised as outlined in the table below.

Composition of Executive Budget School Aid Increase

Aid Category	Change (in millions)
Additional Foundation Aid <i>(includes new \$50 million set-aside for Community Schools)</i>	\$428
Other formula aids appearing on School Aid runs	\$340
Fiscal Stabilization Fund	\$150
New categorical programs	\$50
Ongoing categorical programs	-\$7
Total School Aid	\$961

Reaction: School Aid and Medicaid have fared better than most other spending priorities in recent state budgets and that would continue under the Governor’s proposal for 2017-18. But the total recommended School Aid increase would fall well short of what is needed to maintain current services for students.

The school finance paper issued by the Educational Conference Board (ECB)¹ in November projected that a \$1.5 billion increase in state aid would be needed to enable schools to maintain current services, based on a set of moderate assumptions about school costs and the prospect of another sub-2 percent property tax cap. The ECB also recommended \$500 million in categorical funding to support

expansion of prekindergarten, services for English language learners, and other priorities.

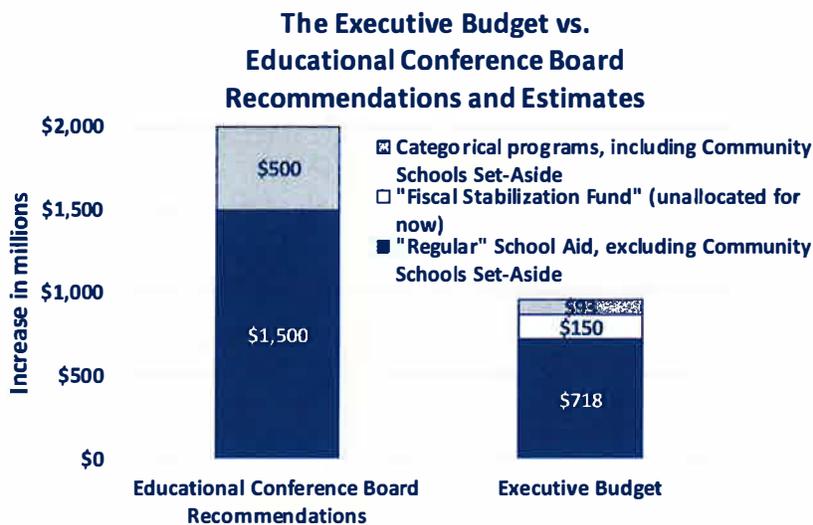
In contrast, the Executive Budget would increase “regular School Aid” by \$768 million. But \$50 million of that sum would be restricted as a set-aside from Foundation Aid to support Community Schools activities. That is on top of the \$100 million already set-aside for the 2016-17 school year. The total increase shown on aid runs can be expected to increase: the Governor recommends a \$150 million Fiscal Stabilization Fund to be allocated through legislation to be enacted with the final state budget, and the Legislature nearly always further adds to the Executive recommendation. But for now, districts can collectively identify increases totaling \$718 million that could be used to meet ongoing costs – less than half the sum ECB identified as needed.

Foundation Aid

The Executive Budget would repeal seven pages of law setting out the Foundation Aid formula first enacted in 2007 following the final Court of Appeals ruling in the Campaign for Fiscal Equity litigation. For the 2017-18 school year, districts would receive a sum equal to their 2016-17 Foundation Aid plus a “base increase” and, if eligible, a “Community Schools” increase. The total Foundation Aid increase for 2017-18 would be \$428 million.

¹ New York State Educational Conference Board. *New York’s Students Need a Foundation for Success and Opportunity: A \$2.0 billion state aid increase for 2017-*

18, renewed focus on Foundation Aid are needed. November 2016.



SOURCE: Compiled by the Council from ECB and Division of the Budget publications

The *base increase* would be allocated using factors in the current Foundation Aid formula – a per pupil amount tied to the estimated cost of providing general education in successful schools, factors adjusting for differences in pupil needs and regional costs, and an expected local contribution which adjusts based on district wealth. Each district would receive a minimum percentage base increase of not less than 1 percent nor more than 15 percent. For New York City, the formula prescribes an increase of 2.93 percent; for all of the “Big 4” cities of Buffalo, Rochester, Syracuse and Yonkers, the formula applies a minimum percentage increase of 2.165 percent. For all other districts, the minimum base increase would be 1 percent.

The *Community Schools increase* would be targeted to 24 districts with at least one school designated as struggling or persistently struggling and/or concentrations of English Language Learners. As explained below, this increase is restricted in use to supporting Community Schools activities. Each targeted district would receive a minimum of \$150,000.

Base increases would total \$378 million and Community Schools increases would total \$50 million.

Reaction: THE COUNCIL finds two objections to the Executive Budget recommendations for Foundation Aid.

First, the recommended increase is inadequate. Again, the Education Conference Board estimated that an increase in regular School Aid of \$1.5 billion would be needed to maintain current services. Given projected increases in expense-based and other aids of \$331 million, ECB’s target envisioned approximately a \$1.2 billion increase in Foundation Aid – roughly three times the increase offered in the Executive Budget.

ECB also called for a three-year phase-in of a permanent Foundation Aid formula. The proposed increase would fund only about one-tenth of the distance to be covered between 2016-17 Foundation Aid and the sum the fully phased-in existing formula would generate.

Second, the proposal would essentially repeal the existing Foundation Aid formula and leave districts with no basis for forecasting possible future aid.

For 2017-18, the Executive proposal would give districts what they received in Foundation Aid in 2016-17, plus a share of the \$428 million increase allocated by the new formulas outlined above.

Looking forward, budget legislation states, “For the 2018-19 school year and thereafter, districts shall be eligible for Foundation Aid equal to the Foundation Aid such district received in the 2017-18 school year.” Interpreted literally, districts could not anticipate *any* increase in future Foundation Aid. The five-year financial plan accompanying the budget *does* project a \$996 million (3.9 percent) increase in total School Aid for 2018-19², but that still does not give individual districts a basis for forecasting aid. Accordingly, the prospect is that each district will receive the Foundation Aid it received the year before, plus a share of an increase to be decided upon and allocated on an ad hoc, year-by-year basis.

For 2017-18, base increases for the “Big 5” cities would be determined by assigning percentage increases over their 2016-17 aid – the districts serving 44 percent of the state’s schoolchildren would not be on the formula at all.

The 2007 Foundation Aid formula was an under-appreciated achievement in public policy: It generally drove the greatest aid per pupil to the neediest districts. It promised all districts more predictability in aid going forward. It uses components with a factual basis, making state

funding decisions more transparent and decision-makers more accountable.

In practice, the formula calculates what each district would receive if fully phased-in; most recent Foundation Aid increases have then been allocated by adjusting a factor to determine how far each district will advance toward its full phase-in amount. The 2007 formula envisioned full phase-in by 2010-11 – in four years. The state is now over \$4 billion behind in phasing in the permanent law formula.

Even leaving aside arguments over whether repeal of the current formula is an abandonment of the constitutional obligation to assure all children the opportunity for a sound basic education, it is a regrettable retreat.

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- Promised all districts more predictability in aid going forward.
- Uses components with a factual basis, making state funding decisions more transparent and decision-makers more accountable.

Educational Conference Board Recommendations:

- Commit to a 3-year phase-in of Foundation Aid.
- Conduct a new study to determine the actual per pupil cost of assuring the opportunity for success.
- Revisit the formula weightings that are assigned to need factors, including student poverty, disabilities, English Language Learner status, enrollment growth, and geographic sparsity.

² New York State Division of the Budget. *FY 2018 Executive Budget Financial Plan*. January 2017. p. 82.

THE COUNCIL’s October 2016 survey report³ found widespread pessimism among superintendents about the capacity of their schools to fund services adequate to the needs of their students looking out three years. The possibility of inadequate state aid was the leading cause for concern. The existing formula holds out hope for eventual adequate funding for the poorest districts and the possibility of more stable and predictable aid calculations for all districts.

The Governor’s proposed formula does incorporate a positive change: eliminating the .650 floor on the Income Wealth Index (IWI). Through the IWI, the expected local contribution from property taxes is adjusted so that districts with lower resident income per pupil have their expected contribution reduced. The floor has the effect of short-circuiting this adjustment and thereby overstating resident income in the lowest income communities.

Community Schools Set-Aside

As noted above, 24 school districts would be required to set-aside a total of \$50 million from their proposed Foundation Aid increase to fund Community Schools activities. This proposal extends the precedent established in the current year state budget which required 205 districts to set-side a total of \$100 million in Foundation Aid for Community School services. The 2016-17 set-asides would be continued under the Executive Budget.

To address criticisms that the 2016-17 initiative generated minimal sums for some districts, each targeted district would receive a minimum Community Schools increase and set-aside of \$150,000. The new set-aside would omit the 2016-17 generic authorization to “...support

other costs incurred to maximize student achievement.” Services for English Language Learners would be expressly added as an allowable use of the 2017-18 set-aside.

Reaction: THE COUNCIL supports funding Community Schools but objects to the expanding precedent of directing the use of Foundation Aid which is intended as unrestricted general purpose operating aid. Again, the total aid increase proposed by the Governor is only about half of what districts would need to preserve current services. Furthermore, if this set-aside is maintained, the more generic funding authorization language should be maintained.

Fiscal Stabilization Fund

The School Aid appropriation includes a \$150 million “Fiscal Stabilization Fund” to be allocated through legislation to be enacted with the final state budget. Funding from this source is not reflected on Executive Budget School Aid runs.

Reaction: THE COUNCIL recommends prioritizing use of the Fiscal Stabilization Fund to increase Foundation Aid.

Expense-based and Other Aids

The Executive Budget would fund expense-based and other aids according to formulas in current law, including Building, Transportation, BOCES, Excess Cost (special education) Aids.

Reaction: THE COUNCIL appreciates the continuation of current law formulas for these aids. Some reimburse districts for costs incurred in good faith this year with the expectation that state aid will be forthcoming next year.

³ New York State Council of School Superintendents. *Something Has to Give: Sixth Annual Survey of School Superintendents on Financial Matters*. October 2016.

We also support the ECB's recommendations to promote expansion of Career and Technical Education opportunities by increasing BOCES and Special Services Aids.

Prekindergarten

The Executive proposes consolidating into one program the Universal Prekindergarten and Priority Full-Day and Expanded Half-Day Prekindergarten Programs, giving districts 2017-18 aid equivalent to the sum of aid they received from the programs in 2016-17. The Executive also recommends an additional \$5 million to be allocated through competitive grants to expand high-quality half-day and full-day prekindergarten for three- and four-year-old children in high-need school districts.

Reaction: THE COUNCIL supports this proposal but calls for modifications. We are encouraged by the Executive's intent to move toward consolidating the state's seven prekindergarten programs. However, the Executive proposal does not sufficiently consolidate all programs. At a minimum, the full-day universal program should be included in this proposal.

The \$5 million proposed prekindergarten expansion is appreciated, but to successfully live up to the "universal" prekindergarten promise, much more is needed. The Legislature and the Executive should establish a funding mechanism that provides sufficient resources to offer full-day prekindergarten to all students in every school district. Furthermore, the Legislature should reject the requirement to adopt prescribed quality indicators, unless the state fully funds the quality monitoring requirements.

Instructional Materials Flexibility

The Governor proposes an incentive in Textbook Aid and other instructional materials aids, authorizing districts to utilize savings from purchasing online materials to fund high quality

professional development materials and receive aid on such purchases.

Reaction: THE COUNCIL supports giving districts the flexibility to utilize Textbook Aid to purchase professional development materials within existing appropriations. Ongoing professional development is critical to ensuring a high quality teacher workforce.

State Aid Data Freeze

Once again, the Executive Budget proposes to limit each district's aid (excluding Building and Full-Day Kindergarten Conversion Aid) for both the base year (2016-17) and estimate year (2017-18) to the *lesser* of amounts estimated within the proposed budget, or amounts calculated based on updated data.

The Governor also proposes to eliminate prior year aid claims by school districts. Commencing with the 2016-17 school year, any changes to aid data would need to be submitted by November 1 of the year in which the aid is to be paid.

Reaction: Freezing School Aid data as of the date the Governor's budget is released has been rejected by the Legislature multiple times. Some data, through no fault of the school district, is not available in time to meet that deadline.

II. OTHER EDUCATION BUDGET ITEMS

After School Programs

The Executive proposes providing \$35 million to fund 22,000 new slots in after-school programs in 16 communities designated as sites for the Empire State Poverty Reduction Initiative.

Reaction: THE COUNCIL recognizes the value of after-school programs; they can divert young people from trouble in the afternoon and early evening hours and, if school-day attendance is required, serve as an incentive against

absenteeism. But again, we note that the Executive Budget does not provide adequate funding to maintain regular school operations. Furthermore, the use of the specific zones is too rigid and more flexibility in geographic placement should be authorized.

Early College High Schools:

The Executive proposes providing \$5.3 million to add at least 10 new Early College High Schools, with priority given to programs that lead students to a career in computer science.

Reaction: THE COUNCIL supports efforts to promote more effective connections between high school and what follows, including funding to further expand the Early College High School program. Allowing students to earn college credits while attending high school provides enriched academic opportunities in a program with great potential.

AP Fee Waivers:

The Executive proposes \$2 million to offset the fee for Advanced Placement exams that is not covered by Federal funds or other sources of local funding.

Reaction: Again, THE COUNCIL supports efforts to promote more effective connections between high school and postsecondary learning or employment, including state funding to promote participation in AP courses and examinations. These funds would act to eliminate any financial burden that remains for low-income students to take an AP exam after completing the course. Ideally, this initiative should be expanded with additional funding to also support participation in International Baccalaureate programs.

Teacher Awards: Empire State Excellence in Teaching and Master Teacher Awards:

The Governor proposes \$400,000 to fund awards of \$5,000 for high-performing teachers in each region of the state to continue their

professional development and educational endeavors through the Empire State Excellence in Teaching program. The Executive also proposes expanding the Master Teacher program with an additional \$2 million to fund awards of \$15,000 annually over four years to high-performing teachers in any grade in the field of computer science or a related subject.

Reaction: THE COUNCIL believes that our teachers should be well compensated for the hard work they do on behalf of students across the state. However, we are opposed to these awards not out of malice toward teachers, but we believe the \$2.4 million funding would be better spent rolled into Foundation Aid or to supporting wider professional development activities.

Cyberbullying

The Executive proposes \$300,000 to fund the prevent cyberbullying initiative.

Reaction: THE COUNCIL supports initiatives such as this that would help ensure that students are protected from bullying and other intimidation tactics that can cause academic and emotional damage. Cyberbullying is especially challenging for schools to detect and deter.

Community Schools

The Governor proposes to eliminate \$75 million in funding for Community Schools included in the 2016-17 state budget. This funding was to be used to establish community schools in districts with struggling and persistently struggling schools.

Reaction: THE COUNCIL supports the restoration of this funding so these districts can ramp up new and expanded community schools. Furthermore, we urge the Legislature to work with SED and the Division of the Budget to release the application for last year's community school grant at the earliest possible date.

Teacher Centers

The Executive Budget would eliminate funding for Teacher Centers, a reduction of \$14.26 million for the 2017-18 school year.

Reaction: Some superintendents value their local Teacher Centers as sources of professional development.

State Education Department Operating Budget

The proposed budget reduces but does not eliminate funding for two new State Education Department offices authorized in the 2016-17 budget (for Family and Community Engagement and Nonpublic Schools). Funding for ongoing operations would be essentially flat and the number of full-time equivalent positions budgeted for the Department would not change under the Executive Budget.

Reaction: Flat funding of SED’s operating budget would require some service reductions or structural changes to absorb increasing costs.

III. ARTICLE VII LEGISLATIVE PROPOSALS

Charter Schools

The Executive proposes numerous changes to the charter school laws that will further expand and enhance charter schools, without regard for the negative impact these have on public school districts that work tirelessly to educate all students. These proposals include (1) eliminating the NYC specific charter school cap; (2) Authorizing additional charter restorations after closures; (3) Strengthening the ability for charter schools to request co-location in NYC; and (4) unfreezing charter school tuition and establishing a reimbursement methodology (outside of New York City) for these increased costs that decreases overtime.

Reaction: THE COUNCIL opposes further expansion of charter schools in NYC at this time. The cap for NYC charter schools was raised less than two years ago and less than half that cap has been utilized to date. The demand for charter schools and their performance in NYC needs to be further studied before the cap is increased. Additionally, raising the costs to the NYC school district when they are unable to co-locate a charter school will burden the city’s public school students by depleting available resources. These proposals, as well as the proposal to allow charters that were granted to schools that closed after July 2015 to be rolled back into the cap, should be rejected.

The proposed tuition increase will further deplete resources available to public school students across the state. While the exact cost of the tuition increase cannot be calculated to date, we know that as the proposed tuition reimbursement methodology phases down, tuition costs will further increase. Additionally, this reimbursement is not available for NYC. The Legislature should reject this proposal and maintain the 2010-11 tuition freeze. In the alternative, the Legislature should provide for 100% reimbursement for all school districts of any increase tuition costs, as was done for supplemental charter school tuition, and such reimbursement should be provided on a current year basis with no lag and such aid should be excluded from the state personal income growth index cap.

Special Education Flexibility

The Executive proposes authorizing school districts to apply for waivers from certain special education requirements.

Reaction: THE COUNCIL supports this proposal in order to provide some flexibility and relief to school districts regarding certain special education requirements. While we know how

critical it is to ensure extra educational protections for special education students, we do not believe allowing school districts flexibility to meet certain requirements in a different manner will in anyway endanger the rights of these students. This Executive has appropriately raised this issue over the last several years, and it is time for the Legislature to act.

Mayoral Control of the New York City Schools

The Executive proposes extending mayoral control of the New York City school district for three years.

Reaction: THE COUNCIL supports this proposal, but would also support making mayoral control of City school system permanent as it is the proper governance structure for the district, regardless of who is Mayor. THE COUNCIL has been troubled by the now perennial debate over mayoral control as it makes a significant educational governance decision subject to annual political “horse-trading.”

Homeless Students

The Executive proposes numerous amendments to homeless student provisions necessary to comply with the amendments to the federal McKinney-Vento Act.

Reaction: THE COUNCIL supports, with small modifications, this proposal. The McKinney-Vento Act was amended in conjunction with the enactment of the Every Student Succeeds Act, and these amendments triggered necessary state law changes. We appreciate the Executive’s proposal to go further than federal law in shifting the cost of transportation in most cases costs from the school district to the social services district and to provide for prompt reimbursement. One provision relating to transportation of homeless children living in a residential program for runaway and homeless youth only provides for reimbursement to the extent funds are provided for such purpose. The

Legislature should provide such funds and limit the Director of the Budget’s discretion regarding this determination.

Recovery High Schools

The Executive authorizes BOCES to establish two “Recovery High Schools” for students with substance abuse disorders provided that they have demonstrated a commitment to recovery. Aid would be provided to school districts sending students to a Recovery High School and authorizes non-component districts to send students to such school pursuant to a Memorandum of Understanding.

Reaction: THE COUNCIL supports this proposal but requests greater flexibility for BOCES to establish additional recovery high schools if the need exists. Talking to school district leaders across the state leads to horrible stories about the horrifying impact the opioid abuse has had on their communities. We are committed to working with all state policy makers to address this epidemic.

Human Rights Jurisdiction Over Public School Students

The Executive proposes expanding jurisdiction of the Division of Human Rights (DHR) over discriminatory practices against students at public schools and BOCES.

Reaction: THE COUNCIL opposes this proposal. In opposing this provision, THE COUNCIL in no way seeks to evade responsibility when students’ civil rights are violated while at school. Our member superintendents do not condone these actions and we are confident we will always do the right thing. Nonetheless, existing state and federal laws sufficiently protect students against civil rights violations and other acts of bullying. In addition to protection afforded under the federal civil rights and disability statutes, the state Dignity for All Students Act also provides state level protections.

Expanding DHR's jurisdiction in this manner will only benefit plaintiff lawyers. Monetary penalties are not the remedy that will reduce civil rights violations in schools. Education and compliance with existing statutes will best act to protect public school students.

School Food Purchasing Flexibility

Authorizes school districts to directly purchase certain foods from New York farmers provided that the total order is less than \$100,000, instead of current law limit of \$25,000.

Reaction: THE COUNCIL supports this proposal to provide food purchasing flexibility and benefit local farmers.

IV. OTHER MAJOR BUDGET PROVISIONS

Federal Funding Contingency

The Executive proposes authorizing the Division of the Budget to reduce school aid, and other appropriations, if federal aid, or other receipts, are less than budgeted. The proposal arises primarily from concerns over possible federal government actions. For example, The Administration estimates that repeal of the Affordable Care Act could cost the state budget \$3.7 billion.

Reaction: THE COUNCIL opposes this proposal. The Executive already maintains significant leverage in state budget negotiations and the Legislature should not divest itself of its budgeting authority. If state and federal receipts are less than anticipated, the appropriate action would be to call a special session and enact a deficit reduction act. This proposal should be rejected outright.

Millionaire's Tax

The Governor would retain the so-called "millionaire's tax" for three years, to the end of calendar year 2020. Higher personal income tax

rates for New Yorkers with incomes above \$1 million are due to expire after December 31, 2017 (the beginning of the final quarter of the 2017-18 state fiscal year). Retention of higher rates would generate an additional \$700 million for state government in 2017-18 and \$3.4 billion in 2018-19. The proposed budget assumes extension.

Reaction: Without extension of the so-called "millionaire's tax," it would be extremely difficult for the state to fund adequate School Aid increases.

STAR

The Executive Budget proposes to freeze STAR reimbursement.

Reaction: THE COUNCIL objects to this proposal and recommends that the existing cap on STAR reimbursement increase remain in place.

Partial Payment of Taxes

The Governor proposes to require every school district to accept partial payment of property taxes unless its board of education adopts a resolution expressly prohibiting such partial payments.

Reaction: THE COUNCIL does not object to this proposal.

V. A FINANCIAL SUSTAINABILITY AGENDA

In addition to advocating for adequate funding for the year ahead, THE COUNCIL supports a series of actions aimed at creating a more financially sustainable future for our public schools. These begin with a renewed state commitment to a more stable and predictable state aid system, such as that envisioned with the Foundation Aid formula. It should also include making adjustments to the tax cap, giving schools access to reserves similar to that

afforded local governments, and acting to help schools reduce or control costs and produce more benefit for students from existing resources.

TRS Reserve

THE COUNCIL supports authorizing school districts and BOCES to establish a reserve fund to appropriately budget future expenses owed to the Teacher Retirement System and calls on the Legislature and the Executive to authorize such a reserve fund. The recommendation from the TRS board would authorize a sub-fund within the current Retirement Contribution Reserve Account authorized for Employees Retirement System (ERS) obligations. The proposal would provide much needed stability for school districts and help them plan for a sustainable future. Municipalities can already set aside funds for future pension obligations on behalf their entire workforce; schools can do so now only for the 20 percent of employees covered by ERS.

Tax Cap

New York's property tax cap for schools is commonly advertised as a "2 percent tax cap." But for each of the last four years, the basic cap – the allowable levy growth factor – has been below 2 percent. Also, if voter approval for a levy increase is not achieved, districts may not increase their tax levy over the prior year at all – in effect, a zero percent tax cap. In Massachusetts, for contrast, communities may increase their tax levy by up to 2.5 percent without seeking or obtaining voter approval.

THE COUNCIL recommends these steps to align the actual tax cap with public perception and make it more predictable for planning purposes:

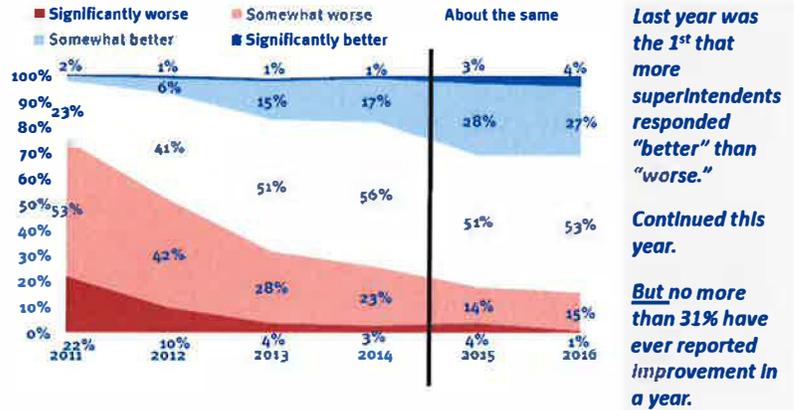
- Make the starting point for the tax cap computation, the allowable levy growth

factor, 2 percent every year, rather than the lesser of 2 percent or inflation.

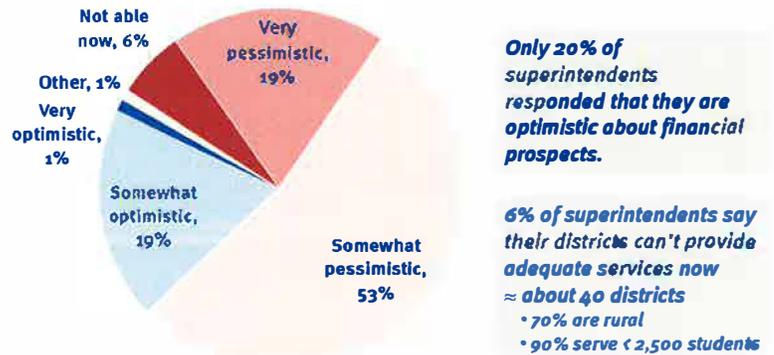
- Couple a fixed allowable levy growth factor with a more workable carry-over provision that would give districts an incentive to hold increases below 2 percent when they can, allowing them to apply that savings in a future budget.
- Implement two common sense adjustments authorized in 2015:
 - Treat properties covered by payments in lieu of taxes (PILOTs) in the same manner as regular taxable property in the tax base growth factor, allowing districts to exclude from their cap revenue generated by actual additions to their tax base from both types of property which may necessitate increased service demands.
 - Allow districts to exclude from their tax cap, expenses for shared Board of Cooperative Educational Services (BOCES) capital costs, just as they exclude district capital costs.

Results from Council surveys

Compared to one year ago, how has the financial condition of your district changed, in terms of its ability to fund services meeting expectations of parents in the community?



Thinking ahead 3 years or so, how optimistic or pessimistic are you about whether your district will be able to fund programs and services adequate to the needs of your students?



Which issues cause concern in thinking about the financial outlook for your district?

	A concern	Greatest concern
Inadequate state aid	91%	44%
The tax cap	89%	28%
Increasing needs of students (e.g., increasing student poverty or increasing numbers of English Language Learners, recently arrived immigrant children, or students with disabilities)	78%	10%
Expected increases in fixed or hard to control costs (e.g., pensions, health insurance)	76%	5%
Declining student enrollment	47%	5%
Other (Please specify)	10%	2%
Increasing student enrollment	5%	0%
Poor or uncertain community support for the schools	10%	0%



THE COUNCIL^{of}
SCHOOL SUPERINTENDENTS

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