New York State Educational Conference Board

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ECB recommends changes to tax cap to preserve school programs

ALBANY, N.Y. June 4, 2015 — Based on current economic trends, every school district in New York state would be forced to win a supermajority vote just to increase their local tax levy by as little as one cent next year, highlighting the urgency to make changes to the tax cap law during this legislative session, the Educational Conference Board (ECB) warned today.

ECB said that, based on the first four months of Consumer Price Index data and projections by the state Division of Budget, the allowed tax cap levy increase for schools may be zero, before allowable exemptions, for the 2016-17 school year. That means a supermajority of voters could be required to approve any tax levy increase — even as low as one cent — during school budget votes next May.

"Over and over again, voters are told that New York state has a 2 percent tax cap. We do not," said ECB Chairman John Yagielski. "Given current trends, the starting point for the tax cap will be zero percent – no increase in local revenue for schools without a 60 percent override approved by voters."

Yagielski added, "Over the last six years, even before the tax cap was adopted, school boards and superintendents have been responsible stewards of the public's money. Still, many school districts have been forced to lay off dedicated staff and cut essential programs for students. It now seems likely the property tax cap will take another bite out of New York's already fiscally struggling schools. The difference between zero and 2 percent is more than $400 million in local funding that won't be available to public education — unless the state Legislature makes common sense modifications to the tax cap law this year."

ECB said any legislative discussions about making the tax cap permanent must also include necessary fixes to correct where the cap is not working.

"A tax cap should not be punitive," the ECB, a coalition of seven leading statewide education organizations, said in a recent report. "The goal should be to provide relative stability for taxpayers while accounting for the costs needed to provide services — many of which are required of public schools and supported by their communities."

In a May 26 letter, the New York State Association of School Business Officials elaborated on that point, with Executive Director Michael J. Borges writing, "The tax cap was presented as a 2 percent tax cap to slow the growth in local taxes. It wasn't intended to deprive children of the opportunity to receive a sound, basic education. Yet, this is what it is doing."

Robert N. Lowry, deputy director of the New York State Council of School Superintendents, added, "How has the tax cap affected learning opportunities? Budgeting is about balancing needs against resources — what students need and what taxpayers can afford — not all one side or all the other. This year, schools had very favorable circumstances, with a strong increase in state aid and a decline in pension costs. We don't know what next year might bring. Just this week, we learned that health insurance providers in the state are requesting premium increases averaging over 13 percent."

Timothy G. Kremer, executive director of the New York State School Boards Association, observed, "We now have four years' worth of experience with the tax cap and we have seen many anomalies. Any talk of extending the tax cap beyond the current sunset must include a discussion of the ways to fix it."

NYSUT Executive Vice President Andrew Pallotta said that, even with this year's $1.3 billion school aid increase, 31 percent of the state's school districts will operate in 2015-16 with less state aid than in 2009-10 — six years ago. In addition, state aid over the last six years has, by and large, not kept up with inflation. When adjusted for inflation, 77 percent of school districts will operate in 2015-16 with less state aid than in 2009-10.

"The tax cap is unfairly limiting the ability of communities to decide how much they can choose to invest in their local schools," Pallotta said. "Without reasonable, thoughtful modifications to the tax cap — such as recognizing enrollment growth and counting capital expenses for BOCES — public schools will again be looking at cuts that erode educational quality, especially in the neediest school districts."

ECB is making four key recommendations to the Legislature, as well as calling for a number of technical fixes to the cap. The recommendations borrow from model tax cap legislation in other states, while respecting New York's tradition of community budget votes. ECB's recommendations include:

- Redesigning the override requirement so that it is a separate ballot question, put directly to voters for simple majority approval. Massachusetts, cited as a model, allows tax cap overrides with only a simple majority of voters.
- Modifying the uniquely restrictive zero percent contingent budget cap for schools. Again, Massachusetts allows communities to increase their tax levy by up to 2.5 percent without voter approval. Local governments in New York may increase tax levies by up to the cap with only a simple majority vote by their governing board.

- Making the allowable levy growth factor a consistent 2 percent, regardless of the CPI; and
- Addressing instances where a district's maximum allowable tax cap is negative.

In addition, ECB said the Legislature should examine the state's three-year history with the cap and:

- Include PILOTs (payments in lieu of taxes) in the tax base growth factor;
- Account for enrollment growth in the tax cap calculation. Nearly a third of school districts have experienced enrollment growth in recent years, the vast majority of which are low-wealth/high-need districts;
- Count general fund transfers to a Capital Reserve Fund in the capital exclusion;
- Adjust the carryover provision so it is a more meaningful factor in budgeting;
- Count BOCES capital costs in the capital exclusion; current law is an obstacle to expanding opportunities for students to enroll in career and technical education;
- Exclude significant tax certiorari judgments; and
- Adjust the pension exclusion to more accurately count for rate increases.

ECB members include the Council of School Superintendents, the New York State School Boards Association, New York State United Teachers, School Administrators Association of New York State, the New York State PTA, the New York State Association of School Business Officials, as well as The Conference of Big 5 School Districts. The paper and ECB's recommendations apply to independent school districts — those outside the Big 4 cities and New York City — and do not represent the position of The Conference of Big 5 School Districts, also an ECB member.

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