THE COUNCIL of SCHOOL SUPERINTENDENTS
LEADERS ▸ EDUCATORS ▸ ADVOCATES

# POLICY REPORT

## The 2015-16 Executive Budget and the Public Schools

MARCH 2015

# POWER PLAY

Governor Andrew Cuomo's 2015-16 Executive Budget raises unprecedented issues for public schools and policymakers.

The Governor's budget proposes a $1.1 billion increase in School Aid – but only if an aggressive package of education reforms are enacted. He has not made aid runs available to illustrate how much state assistance each district could count on, with or without reforms. His budget legislation provides that if no reforms are enacted, no district may receive *any* increase in state aid.

The lack of aid runs undermines school districts' exemplary model of policymaking. Culminating with voter referenda in May for districts outside the "Big 5" cities, the school budget process emphasizes informing and engaging stakeholders and voters. Having runs from a creditable state authority adds realism to the consideration of options.

Frustration over the lack of aid runs has diverted attention from issues of greater consequences: the needs of schools and merits of the reforms the Governor seeks.

No matter how it might be allocated, $1.1 billion would not be a large enough increase to satisfy widely shared concerns:

- Ending the Gap Elimination Adjustment this year would require $1.037 billion;
- Funding expected reimbursements for Building, Transportation, BOCES, and other Aids under current law would cost roughly $300 million; and
- Some of the poorest districts, serving the state's poorest children need more help than eliminating the GEA would provide.

The fact is that despite three years of aid increases, many school districts have not fully recovered from the prior three years of freezes and cuts – 51 percent of school districts are still receiving less state aid than in 2008-09.

The reforms sought by the Governor are a mixed bag. THE COUNCIL supports his proposals to streamline procedures for removing unacceptable tenured teachers. But proposed changes to the teacher evaluation system would weaken parts of the system that educators are finding value from (better classroom observations), while intensifying the state's already excessive reliance on standardized tests as a measure of value. Some of the powers to be granted to state appointed receivers to turn around low performing schools should first be given to democratically chosen local leaders to exercise.

What is unprecedented about the Governor's budget proposals is the degree to which he seeks to make use of leverage created by past Court rulings enhancing executive power in state budget development. Relying on rulings limiting the Legislature's ability to amend his appropriations, the Governor has inserted extensive policy-related language into various appropriations, including the linkage of education reforms to increased School Aid.

The tactic does not allow the merits of the Governor's policy initiatives to stand on their own. Two groups should be troubled by the tactic – those who oppose the initiatives and those who support them – because a future Governor could use the same practices to advance priorities they would resist.

This report closes by reporting on findings from THE COUNCIL'S fourth annual school finance survey. Three years of state aid increases have produced only modest gains in overall fiscal condition and have yet to translate into improving opportunities for most students. Concern remains that opportunities for students in the future will not be as strong as those of the past experienced.

NEW YORK STATE COUNCIL OF SCHOOL SUPERINTENDENTS
7 Elk Street ♦ Albany, NY 12207-1002 www.nyscoss.org 518/449-1063 ♦ Fax 518/426-2229

# Table of Contents

# SCHOOL AID

Governor Andrew Cuomo's proposed 2015-16 Executive Budget includes appropriations to fund a $1.063 billion increase in School Aid. However, the budget does not propose formula changes to allocate that increase among individual districts. The Governor also proposes a contingency which could deny every district *any* aid increase unless a series of reforms are enacted.

In his combined State of the State address/ Executive Budget presentation, Governor Cuomo said he would support a $1.1 billion increase in School Aid, but only if accompanied by enactment of an "Education Opportunity Agenda" entailing reforms to teacher preparation, evaluation, tenure and dismissal practices, charter schools, and intervention in failing schools.

## No reform – no aid increases

In his address, the Governor suggested that, without the reforms, schools would receive an aid increase of $377 million, the amount driven by revised estimates of statewide personal income growth, the basis of the state's cap on School Aid increases.

But the education reform bill actually provides that no district would receive any increase in School Aid in the coming year or any year thereafter, unless the Governor's Budget Director certifies to the Education Department that the Legislature has enacted laws identical to those proposed in the reform bill. Thirty-day amendments to his budget submitted by the Governor would go further, prohibiting the State Education Department from using administrative funds to process payments for additional School Aid, unless the reforms are enacted.

In other words, no education reforms, no School Aid increase, not in 2015-16, not ever.

Current law aid formulas remain in place and the Governor recommends no changes. Districts can lose aid under current law due to enrollment declines, wealth changes, reduced spending in expense-based aid categories, or other changes in aid data. Assuming failure to approve the Governor's reforms, districts would receive the lesser of their 2014-15 aid or aid under current law. The result based on data filed as of November 15 would be that 146 districts would experience aid losses totaling $49 million under current law.

## What can districts expect if reforms are enacted?

On the other hand, if it is assumed that the Governor's reforms will be enacted, districts still have no basis for projecting how much aid they might receive. Current law formulas would generate a net increase of $269.9 million, virtually all attributable to expense-based aids. But by recommending appropriations to fund a $1.1 billion increase, the Governor signals that changes to current law formulas are anticipated.

Under current law, Foundation Aid would be frozen at its 2014-15 level for all districts, and the Gap Elimination Adjustment would remain unchanged, reducing aid for all districts by a total of $1.037 billion. Current law would provide schools no additional general operating aid.

**Aid increases under current law School Aid formulas**

| | $ in Millions |
|---|---|
| Building Aid | $120.1 |
| Transportation Aid | 72.8 |
| Private Excess Cost Aid | 36.8 |
| BOCES Aid | 29.6 |
| GEA Reduction | - |
| Foundation Aid | - |
| All other Aids | 10.6 |

**SOURCE:** NYSED School Aid data

## A constitutional question

The School Aid appropriation includes a similar provision tying aid increases to enactment of reforms. Under a pair of 2004 State Court of Appeals decisions (*Silver v. Pataki; Pataki v. Assembly*), the Legislature may reduce appropriations proposed by the Governor, but may not change appropriation language proposed by the Governor, nor is it free to entirely replace an appropriation submitted by the Governor. The ruling drastically strengthened the executive's hand in budget negotiations.

Governor Cuomo's action appears to go beyond the bounds contemplated in the Court ruling or the State Constitution, however, since many of the proposed policy reforms do not relate specifically to a particular appropriation, whatever their merits. Also, while appropriations can only be in force for two years, many of the reforms the Governor seeks would apply for longer periods, some in perpetuity. A concurring opinion in Pataki v. Assembly cited this point as a consideration in assessing the constitutionality of gubernatorial appropriation language.

### Commentary

*The Governor's action in not presenting a complete School Aid proposal and accompanying district aid allocations has frustrated superintendents and other local leaders. The action has also diverted attention from larger issues – the true needs of school districts and the merits of the education reform proposals. The latter are discussed in succeeding sections.*

*The $1.1 billion increase the Governor has offered in exchange for his reforms is not sufficient to address widely shared concerns, no matter how it might be allocated. By inviting a debate over how to allocate $1.1 billion already in the budget, however, the tactic deflects consideration of whether it is necessary to add to the budget for School Aid.*

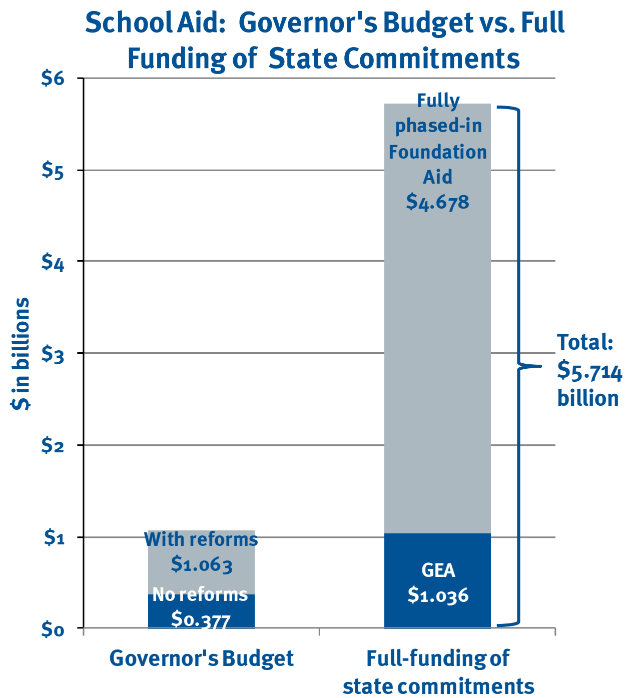
*The Gap Elimination Adjustment, first enacted under a different name in 2009, remains in place. Without action, the GEA would again reduce total School Aid by $1.037 billion, notwithstanding the fact that the state budget gaps it was created to help eliminate are gone.*

*As noted above, continuation of current law formulas would drive a net total increase of $269.9 million, mostly in reimbursement for costs already incurred.*

*Accordingly, ending the GEA and honoring reimbursement expectations under current law would require an increase greater than $1.1 billion – more than $1.3 billion. Further, some of the state's poorest districts would receive very limited increases without additional action beyond eliminating the GEA and funding current law for the expense-based aids*

*The Educational Conference Board, a coalition of statewide groups representing parents, teachers, administrators, and board members, including THE COUNCIL, recommends a School Aid increase of $1.9 billion to accelerate the end of the GEA, provide adequate aid for all districts, and to support efforts to strengthen Career and Technical Education, support English Language Learners, and aid districts experiencing enrollment surges of unaccompanied immigrant children.*

*Finally, after multiple freezes and only limited increases, the state is $4.68 billion behind in phasing-in the Foundation Aid formula enacted in 2007 as part of the resolution of the Campaign for Fiscal Equity's lawsuit challenging the constitutionality of the state's school finance system. Factoring in the GEA, the shortfall climbs to over $5.7 billion.*




**SOURCE**: Council analysis of Executive Budget and NYSED School Aid data

*School district leaders rely upon the Governor's School Aid figures as a baseline estimate of one of their two primary revenue sources. Although district aid allocations in the final budget can fall below those presented by the Governor, that outcome is rare and virtually always due to changes in data entered into aid formulas and therefore usually knowable by districts in advance.*

*The school district budget development process is exceptionally open and transparent, culminating with a request for voter approval in districts outside the "big five" cities. The entire process is geared toward accurately informing and engaging stakeholders. Having a plausible baseline state aid estimate adds realism to the consideration of options by boards and community members.*

*State aid estimates are also essential for compliance with the state's cap on increases in the property tax – the other primary revenue source for districts.*

*By law, districts must submit data required for the calculation of their tax levy limit to the State Comptroller, State Education Department, and Department of Taxation and Finance by March 1 each year. Districts must apply some estimates of other revenues, especially state aid, in completing these submissions. Guidance from the State Education Department advises districts to use Executive Budget estimates.*

# Other Education Local Assistance

## Full-Day Prekindergarten

The Governor's budget proposal includes $25 million ($12.5 million each in 2015-16 & 2016-17) within School Aid for expansion of full day and half day prekindergarten programs to 3 year-olds. This would be a competitive grant program similar to the current 4 year-old program. The highest-needs districts would be prioritized and would be required to submit a plan for implementing the program.

The full-day universal prekindergarten program for 4 year-olds established last year would be continued at the 2014-15 level of funding – $340 million with $300 million dedicated for the City of New York and $40 million for the remainder of the state.

The Governor's budget also proposes to provide $3 million ($1.5 million each in 2015-16 & 2016-17) for the QUALITYStarsNY program to evaluate, rate, and improve early child learning programs.

***Commentary***

*It is regrettable that the Governor's budget does not propose actions to expand full-day prekindergarten for four year-olds outside New York City. An informal Council survey found widespread interest in establishing local programs. But general wariness about funding stability and the particular financing system for the program discouraged participation. As structured now, the program requires districts to wait through three-quarters of their fiscal year before receiving any state funding. Even considering this financial barrier, 30 school districts applied for and were turned away from this program for lack of state funding.*

## Master Teachers

The Governor's budget proposal would increase funding for the "Master Teachers" program by $5 million and extend eligibility to teachers certified to teach English as a second language or bilingual education. The program provides annual stipends of $15,000 for the next four years to teachers receiving Annual Professional Performance Review (APPR) ratings of "highly effective" and meeting other criteria.

***Commentary***

*As noted below in the section on Annual Professional Performance Reviews, there is considerable skepticism about the soundness of the evaluation results produced by that system. Accordingly, other uses of this funding could more surely improve teacher effectiveness.*

## P-Tech

The Governor's budget proposal also recommends $3 million for continued expansion of the Pathways in Technology and Early College High School (P-TECH) program, which provides a conduit for students to earn both a high school diploma and associate degree at no cost to them or their families. The program is targeted to high-performing, at-risk students pursuing study in STEM fields.

***Commentary***

*P-TECH is a promising initiative. Boards of Cooperative Educational Services should be authorized to serve as fiscal agents for the consortia which launch and operate programs.*

## "Failing Schools"

As described in the section on the "Education Opportunity Agenda," the Governor proposes a collection of tools for state intervention in chronically underperforming schools and districts, including state appointment of "receivers" to oversee execution of turnaround strategies. His budget would provide $8 million to support those interventions.

## "High Quality Teacher Pipelines"

The Executive Budget would provide $3 million to create a Teacher Residency Program that would combine master's level study with a full-year residency in a school, creating a model similar to training given to physicians. Funding would be allocated pursuant to a plan developed by the State Education Department and approved by the Governor's Budget Director. The plan would be required to include a process for selecting non-profit entities to manage the program.

The budget would provide an additional $3 million to support a new Masters in Education Scholarship program that would offset full tuition for superior students pursuing a master's degree in education at a New York State public higher education institution. Recipients would be required to teach at a public school within the state for a total of five years; if the service requirement is not met, the scholarship would be required to repay a sum proportionate to the unmet service.

### Teacher Centers

The proposed budget would eliminate funding for Teacher Centers, a cut of $14.3 million.

#### Commentary

*Some superintendents value the professional development opportunities provided by Teacher Centers working with their districts.*

## State Education Department Operating Budget

Over roughly two decades, the State Education Department's operating budget has absorbed a series of reductions in General Fund support so that now only 8 percent of its funding is derived from that source. Nearly 90 percent of funding for the Department's Office of Prekindergarten Through Grade 12 Education comes from Washington. The Governor's budget would again continue General Fund support for SED's operating budget at prior year levels. This is not exceptional treatment in comparison with other agencies.

#### Commentary

*Flat funding of SED's operating budget would require some service reductions or functional changes in order to absorb rising costs. A 2011 study by the Center for American Progress found that New York's Education Department already had the fewest number of employees relative to public school enrollment of any state education agency in the nation (Center for American Progress:* State Education Agencies as Agents of Change, *July 2011).*

*In addition, the proposed budget does not include funding for initiatives that would improve implementation of state reform initiatives and help dispel some of the discord those efforts have generated. For example, there is widespread support for disclosing all questions on state assessments and reducing stand-alone field-testing. These goals would require enabling SED to develop more test versions and to field test questions by embedding them in actual assessments. SED requested $8.4 million to support initiatives related to these goals. The Council supports this request.*

## Education Opportunity Agenda

As noted above, Governor Cuomo has proposed making an increase in School Aid contingent on the Legislature enacting a series of reforms addressing teachers, charter schools, intervention in failing schools, and mayoral control of schools in New York City.

### Teacher Education and Certification

The reform legislation would attempt to make graduate teacher education programs more demanding and accountable. It would require programs to adopt rigorous admission requirements, including an undergraduate grade point average of 3.0 or better and a threshold score on the Graduate Record Examination. It would also require suspension and de-registration of programs if, for three consecutive years, fewer than 50 percent of students pass examinations required for teacher certification.

The bill would also require teachers to register their certification with the State Education Department every five years and satisfy continuing education requirements, including completion of 100 hours of professional development every five years.

#### Commentary

*The Council takes no position on the proposed changes governing graduate teacher education programs.*

*The Council strongly opposes the proposed changes to continuing education requirements. The Governor's proposal would actually **reduce** the amount of professional development teachers are required to complete every five years, to 100 hours from 175 hours, a figure set based on research. Further, the proposed legislation omits sensible requirements prescribed in current regulations, including the authority of employing districts to approve courses or programs counting toward the requirement.*

## Annual Professional Performance Reviews (APPR)

The Governor proposes extensive changes to Annual Professional Performance Reviews – the evaluation system for teachers and principals. The revised APPR system would be a cornerstone in other reforms the Governor proposes.

The current evaluation system gives each teacher and principal a "composite effectiveness score" based 20 percent on a state growth score tied to student performance on state assessments or "comparable measures" developed locally for educators not covered by state tests; 20 percent based on locally assessed measures of student performance, and 60 percent based on "other measures," with at least half the score on this last component based on observations of the educator's work. The composite effectiveness score is then translated into a "quality rating" of either ineffective, developing, effective, or highly effective.

The Governor proposes to eliminate the locally assessed student performance component so that the composite score would then be based 50 percent on the state growth score or comparable measures for non-tested educators and 50 percent on observations.

At least 35 of the observation points would required to be from observations conducted by an "independent evaluator" – an administrator from another school or district, a college faculty member, or some other external party.

The Governor would have the State Education Commissioner prescribe "scoring bands" for both components of the score. The bands define the score ranges for each quality rating. Currently, the state prescribes scoring bands only for the state growth score or comparable measures and locally assessed student performance components; bands for the other 60 percent measures are resolved through negotiations between districts and local unions.

Finally, the Governor would provide that no student could be assigned a teacher rated ineffective two years in a row.

### *Commentary*

*The point of an evaluation system is not merely to accurately score and sort educator performance, but to (1) help school districts make sound personnel decisions; and (2) provide feedback to help educators improve their performance, both with an ultimate goal of raising student achievement.*

*A summer 2014 Council survey indicated that superintendents are finding value in APPR as a tool for helping teachers improve practice but, at best, are withholding judgment on its soundness as a factor for making personnel decisions. Also, 69 percent of superintendents said the "other 60 percent measures" (chiefly classroom observations) are having a positive impact on improving teaching, while the student performance-based measures received much more mixed reviews. Reports of the system producing "false positives" and "false negatives" are common – weak educators rated strong, and vice versa.*

*The Council recommends these goals in evaluating possible changes to APPR:*

1. *Maximize value of the evaluations as a tool for improving practice in instruction and school.*
2. *Improve the soundness of individual results so that they are seen as a fair and reliable tool in making formal employment decisions.*
3. *Streamline administrative demands of the system to enable leaders and teachers to focus on the elements that produce the greatest value, and to attend to other priority responsibilities.*
4. *Reduce the impact of the system in creating needs for student testing and in contributing to an over-emphasis on standardized test results as a "gold standard" for gauging the performance of students, educators, schools, and districts.*
5. *Avoid or minimize the need for additional local collective bargaining and staff training to implement changes in state requirements.*

*The Council opposes requiring the use of independent evaluators. This proposal would increase costs and administrative demands for schools and likely diminish the efficacy of APPR as a feedback tool by reducing the interaction between teachers and their direct supervisors. Also, the proposal does not state that the districts would be authorized to choose which independent evaluator option to use, apparently necessitating new district-union* *negotiations. Many of the deficiencies the Governor cites with the current system originated as a result of the use of this tactic in establishing that system and tying it to state aid payments.*

*The Council supports having scoring bands for all APPR components prescribed by the state as a step toward improving the soundness of the measures for use in making formal employment decisions.*

*The Council opposes raising the weight given to the state growth score or comparable measures to 50 percent. There is widespread skepticism about the soundness of the growth score, as well as criticism of the value of comparable measures in many districts. Raising the weight given to the growth score would also amplify emphasis on standardized test results as a measure of the value of teaching and learning.*

*As noted in the tenure, teacher dismissal and failing schools sections below, the Governor proposes to attach significant consequences to APPR outcomes. The Council would support some of these related recommendations. But with this measure being the basis for so many other programs, it is imperative to get it right. An inaccurate or incredible APPR measure will undermine the credibility and effectiveness of all other programs tied to this underlying measure.*

## Teacher Dismissal Procedures

The Governor proposes multiple changes to disciplinary proceedings for teachers and principals (section 3020-a of the Education Law):

– automatic revocation of an individual's teaching certificate upon conviction of any violent felony involving a child victim;

– automatic suspension without pay of school employees charged (by the school) with misconduct constituting physical or sexual abuse of a student;

– provide for expedited hearings in cases of misconduct involving physical or sexual abuse of a student; these would commence within seven days following the pre-hearing conference and be completed within 60 days;

– require all disciplinary hearings conducted on or after April 1, 2015 must be conducted in front of a single hearing officer, eliminating the option for employees to choose their case to be heard by a hearing panel;

– allow children to testify in the hearing through sworn written or videotaped statements; and

– provide for full and fair disclosure of witnesses and evidence by both parties ("reciprocal discovery").

One of the more significant changes in this proposal is the removal of language granting a teacher or principal the right to rebut two consecutive "ineffective" ratings as "very significant evidence of incompetence" and instead replacing it with language establishing the two consecutive ineffective ratings as "prime facie evidence of incompetence." The new provisions would further establish that this evidence is automatic grounds for removal of the employee and rebuttable only by showing fraud in the evaluation or its underlying measures.

Consistent with the changes made in this subpart, the proposal would also require all collective bargaining agreements effective on or after April 1, 2015 to include provisions for 1) hearings conducted in front of a single hearing officer and 2) providing that two consecutive ineffective teacher evaluation ratings would be automatic grounds for removal of a teacher or principal unless that person can show fraud in one (or more) of the ratings.

### *Commentary*

*The Council supports these proposals which address longstanding criticisms of district leaders of the costs in time and money of the state's procedures for resolving disciplinary cases involving tenured staff.*

## Tenure Determination

The Governor proposes to extend the probationary period before an educator may receive tenure from three years to five years, to clarify the authority of districts to terminate probationary educators for any statutorily or constitutionally permissible reason, and to require educators to receive five consecutive APPR ratings of effective or highly effective in order to earn tenure.

### *Commentary*

Many district leaders believe the last round of APPR changes made it more difficult for districts to dismiss unacceptable teachers, including those who have not yet earned tenure. *The Council strongly supports the*

*Governor's proposed clarification. A majority of superintendents appear to favor extending the probationary period to five years. On the other hand, requiring educators to earn five consecutive APPR ratings of "effective" or better to receive tenure is excessive; "developing" should be regarded as an acceptable rating for a beginning educator. More generally, however, the proposal would place too much weight on a measure that is widely seen as unreliable. Assuring the authority of districts to terminate probationary employees who are not working out is what is most important.*

## Failing Districts and Schools

The Governor proposes an aggressive strategy for state intervention in chronically underperforming schools and districts.

***Designation of Districts:*** The proposal would make any public school district in the state (other than a special act school district) eligible for designation as "failing" if that district scored in the bottom 2.5 PERCENT of schools in the state on measures of student metrics as defined by the State Education Department in regulations to be adopted. These metrics could include state assessments, graduation rates, dropout rates, and time-measure trends (including severity and duration), as well as other factors the Department determines should be included.

If a school district makes it into this eligibility category, a District Review Team would be assigned by the Commissioner of Education to evaluate the reasons for the designation. The majority of required factors are academic related (including student attendance, subject matter proficiency, and other factors),but social and community measures and district leadership and decision-making would be looked at as well. This appears to be linking the performance of the district with factors of poverty, language barriers, and students with disabilities.

The Commissioner would review the finding of the District Review Team and make a declaration as to whether the district is "failing" for the purposes of the law. Designation by the Commissioner would subsequently trigger the process detailed below. There are no criteria indicated for the Commissioner's process in making such a decision; it appears to be left wholly at the discretion of the Commissioner.

***Appointment of Receivers to Oversee "Failing" Districts:*** If the Commissioner designates a school district as "failing," he or she would be required to appoint a receiver for the school district. This receiver would be vested with all of the powers of the superintendent and school board and has the express authority to overrule any decisions of those leaders.

***Powers of District Receivers:*** This receiver would have virtually unfettered power to make all decisions for the district, within the parameters of the law. A central responsibility of the receiver would be to develop a District Turnaround Plan, described below. The proposal would also give receivers powers beyond those that a superintendent or board may currently exercise. The receiver could be compensated either by a state appropriation or by the school district, at the discretion of the Commissioner. Any failure by the superintendent or board to cooperate with the receiver would constitute willful neglect of duty.

In addition to the immediate actions, the receiver would also have the authority to alter the district budget, expand the school day or year, change portions of a collective bargaining agreement, add full day kindergarten or pre kindergarten programs, terminate all building teachers and principals and require them to reapply for their former positions, and allow for conversion to a charter school, without a vote by parents. Receivers could also fire or promote teachers and administrators and increase individual pay for those employees.

***District Turnaround Plans:*** The receiver would be required to create a District Turnaround Plan, subject to approval by the Commissioner. The receiver would be required to consult with all applicable stakeholders in the district, including the superintendent, in formulating this plan. The plan would touch the major factors in district function, including leadership practices, curriculum development, teacher practices, social-emotional factors, and community engagement. The turnaround plan would be designed to use these elements in order to improve student achievement, measured using student achievement growth data from state assessments, "other measures" of student achievement, graduation and promotion rates, achievement data for student subgroups, attendance, and suspension rates.

Another component of the proposal would be a substantial focus on social and poverty-related solutions. A required portion of the receiver's turnaround plan would be to establish steps to address:

– social services and mental health needs of students (and their families) within the district;
– access to child welfare services;
– improving access to career and technical education (for both students and their families);
– achievement for English Language Learners, students with disabilities, and economically disadvantaged students;
– school climate; and
– a budget for the plan.

The Commissioners of Health, Children & Family Services, and Labor would be required to coordinate with the Education Commissioner to help implement these deliverables and grant priority access to failing schools for relevant competitive grant programs. Receiver would also be authorized to create Community Schools housing family services and to implement early intervention programs.

The District Turnaround Plan would be required to be issued within six months of the district's designation as "failing" by the Commissioner, shared with all district leaders and bargaining units, and publicly available on the district's website. A plan could not be authorized for more than three years.

***Designation of "Failing" Schools:*** A similar process is put in place for the lowest 5 percent of *schools* in the state, as measured by the same calculation for districts. The receivership in these "failing" schools would not be subject to the Commissioner's discretion as with districts. As currently written, the proposal would automically trigger the receivership process in these schools. A substantially similar process would occur under school receivership as under district receivership. There is likely to be substantial crossover between "failing" schools and districts, however some districts that are not in the bottom 2.5 percent as measured by the Commissioner may contain schools that are in the bottom 5 percent.

***Commentary***

*The Governor's proposals for intervention in chronically underperforming schools and districts raise profound issues, including when if ever it might be appropriate to supersede decisions of duly elected and appointed local leaders or over-ride contractual agreements.*

*The State Education Department cannot effectively run schools or districts from Albany. Therefore, a realistic strategy should seek to empower and impel local authorities to act before unacceptable performance becomes entrenched. Some of the powers which this proposal would grant to state receivers should be given to democratically chosen local leaders to exercise. A school not improving after a certain period of time could then become subject to state receivership.*

*A positive aspect of the proposal is the array of strategies it would authorize to address the effects of poverty and family circumstances on student success. It would authorize receivers to create Community Schools which house supporting family services, and would direct greater collaboration among state agencies to assist with health, mental health, and social services needs. Again, these tools should be made available to local leaders, before unacceptable performance becomes chronic.*

*A potential drawback is that official labeling and designation as "failing" and accompanying consequences may impair the ability to recruit and retain superior educators to work in these schools and districts. Some of the personnel management tools this bill would authorize would help local leaders bring about needed improvements, without transferring so much power to a state receiver. But state policy must be careful to avoid making employment in targeted schools so risky and disgraced that no one with other options would choose to work in those schools.*

*Finally, the bill leaves the criteria for designation of receivership schools and districts mostly to regulations to be developed by the State Education Department. Designation of districts would follow evaluation by a review team and a determination by the Education Commissioner. But it appears that the bill calls for automatic designation of 5 percent of schools for receivership solely based on whatever statistical measures are chosen. This system would result in receivers being appointed to oversee roughly 200 schools without more thoughtful consideration of needs and circumstances. The State Education Department cannot effectively monitor and manage so many receivers.*

*Massachusetts' law has been cited as a model. That state has only one district and four schools subject to receivership.*

### Charter Schools

The Governor proposes these changes in laws governing charter schools:

– increase the cap on the number of charter schools which may be authorized from 460 to 560;

– provide that any subsequently closed charter schools would not count against the cap;

– current caps on the numbers of charters which may be granted by region or by authorizing agency would be eliminated;

– increase state funded supplemental basic tuition for charter schools by $75 per pupil over current law – from $350 to $425 for 2015-16, and from $500 to $575 for 2016-17;

– provide that preference in enrollment shall be given to students who are eligible for the free or reduced price lunch program, who attend or would otherwise attend chronically underperforming schools, or who are children of an employee of the school; and

– require reporting of enrollment rates for students who have disabilities, are limited English proficient, or eligible for the free or reduced price lunch program; and provide that repeated failure to comply with data reporting requirements shall be grounds for termination of a charter.

#### *Commentary*

*The Council did not oppose the original charter school legislation in 1998, seeing potential value in the demonstration of alternative school models. But the Council did raise concerns about the basic financing mechanism for charter schools. Districts seldom realize savings to fully offset the cost of charter school tuition they are required to pay and commonly report it would cost less to educate all students in district schools. Also, districts must typically maintain some capacity to take back students who leave charter schools. The Council opposes expansion of charter schools and charter school funding so long as the basic funding mechanism remains as is.*

*In addition, the Council recommends extending to districts some of the flexibility given to charter schools.*

### Mayoral Control

The Governor proposes to extend the current mayoral control system over public schools in New York City for three years. In his State of the State address/Executive Budget presentation, the Governor expressed openness to considering mayoral control in other urban districts.

#### *Commentary*

*The Council will defer to individual members in determining whether to support or oppose mayoral control in particular communities.*

## Article VII Legislation for the Education Budget

Pursuant to Article VII of the State Constitution, Governors are authorized and required to submit legislation necessary to implement their Executive Budget recommendations. Typically included in this annual legislation are recommended changes in School Aid formulas set in Education Law and changes in tax laws, for example.

### Part A, Section 7: Commercial Gaming Grant Payments

This section would establish how and when commercial gaming grants will be paid out to school districts. These would be funded by receipts from newly authorized casinos. The Governor's Budget Division expects that one-time licensing fees totaling $137 million will supplement School Aid in 2015-16. New casinos are expected to be fully operational in 2017-18. Seventy percent of grants would be distributed as advance payments in April, May, and June with the remaining 30 percent distributed by the end of June.

### Part A, Section 10: Special Education Waivers

This section would create a process for school districts, BOCES, and private schools to seek an annual waiver from any special education mandate. Waivers would be granted at the discretion of the Commissioner of Education upon finding that such a waiver would enable the district to implement an innovative special education program that does not run afoul of federal requirements.

Parents of affected students would be required to be notified of any such waiver application and permitted to submit comments to the Commissioner on such application. School districts granted a waiver would be required to submit an annual report to the Commissioner detailing operation and evaluation of their alternative program.

**Commentary**

*The Council strongly supports this proposal. New York State has far more extensive special education mandates than most other states. This path drives up costs without producing better outcomes for students with disabilities. The proposal would provide opportunities to demonstrate that there are better ways to serve these students.*

### Part A, Section 11: Preschool Special Education Reform

This proposal would set regional rates for preschool special education itinerant service payments. The rates would be phased in over a period of four years.

### Part D: New York State DREAM Act

This proposal would open eligibility for SUNY and CUNY financial assistance to students who are undocumented immigrants. Such financial assistance is currently not open to these students because of their immigration status. The Governor would provide $27 million in 2015 to support this program. Passage of this program would not become effective without passage of the Education Tax Credit (see next section).

**Commentary**

*Supported by many politicians and immigrant-rights groups, this proposal has been very controversial in recent years. A version of the legislation passed the State Assembly last session (and again this session) but was defeated in the State Senate. The Governor has attempted to tie this section to the education tax credit, something the Assembly has not voted on. In his 30-day amendments, he also tied both to funding for the TAP program, something the Assembly supports. The strategy appears to be forcing the two houses of the legislature to accept something they oppose in order to get something they really want. The actual effect could well be the opposite.*

### Part E: Education Tax Credit

This section proposes to create an "Education Tax Credit" to be available to benefactors of educational scholarship funds public school educational programs. The proposal would establish a pre-application process, prior to making a donation. Once donations are approved and the monies accounted for, a taxpayer would make the donation during a taxable year and seek a reimbursement credit on their tax return for that year. Donors would be entitled to a maximum credit of 75 percent of their donation or $1 million, whichever is less.

The Governor proposes to allocate $100 million to the program annually, with no program sunset. Fifty percent of the funds would be available for donors to public education entities, (public) school improvement organizations, and local (public) education funds. The other 50 percent would be available for those making donations to educational scholarship funds. Those educational scholarship funds would provide scholarships to students attending private schools or public schools of their choice. This proposal does not appear to provide support for charter schools in any way.

The values of any charitable deduction, federal or state, taken by the tax payer for the subject donation would be deducted from the amount of any credit to be returned to that taxpayer.

The tax credit would be open to individuals, partnerships, LLCs, and corporations. Partnerships and New York S corporations would be subject to an aggregated cap. Partners in a partnership or shareholders in an s corporation could not exceed $1 million in credits collectively.

Donations made under this program would not be used in any calculation of state aid to a school district.

Passage of this program would not become effective without passage of the DREAM Act (see previous section) and would be tied to funding for the TAP program.

**Commentary**

*A similar proposal was the subject of significant debate in the last legislative session. The Council continues to oppose this initiative.*

*The Governor's proposal is markedly different from the Legislature's proposals in a number of ways. A bill that passed the Senate on the same day the Governor proposed his budget would allow for a 90 credit and a $300* *million cap, as well as having no provision for reducing the credit based upon state charitable tax deductions. The Senate version would also allocate a greater percentage of the available funds to private schools.*

*A primary concern is that while the Governor's proposal would limit the yearly amount of credits to $100 million, there would likely be annual battles over expansion of the credits once in place. With the Gap Elimination Adjustment still reducing aid to public schools by over $1 billion, and the state over $4 billion behind in phasing in the Foundation formula, diverting funds to private schools cannot be justified. It is also questionable as to what extent the credit would spur significant new donations to these schools, rather than simply provide a windfall to current donors.*

*The scheme is also questionable from a constitutional standpoint. The New York State Constitution prohibits the use of state funds, either directly or indirectly, to the benefit of an institution under control or direction of a religious denomination. The proposal as it relates to scholarship organizations functions very much like a voucher to both private schools and public schools.*

*This proposal also directs 50 percent of the funds for reimbursement of donations to public schools and their affiliated education support organizations (this does not include charter schools). This is a laudable attempt by the Governor to provide a benefit to public schools, however these funds would be better directed into state School Aid for school districts.*

*In addition, the established pre-application process is very complex and has a short timeline (15 days). It appears likely that the benefit would be consumed by those with considerable legal savvy or resources. Schools serving the poorest communities are likely to receive the least benefit from this diversion of state tax revenue.*

*As indicated in Part D above, the effectiveness of this proposal is contingent upon passage of the DREAM Act and funding for the postsecondary Tuition Assistance Program program. While there may be a viable strategy in linking opposing pieces of legislation, it is very possible that the added complexity of "trading" these unrelated pieces of legislation may ultimately doom them all.*

## STAR Conversion to Income Tax Credit (Revenue Article VII Bill)

The first several sections of the Governor's Article VII Revenue bill read in sequence as a transition away from the existing School Tax Relief (STAR) program to an income-based tax credit program. By taking steps to cap STAR payments, transitioning STAR into an income tax credit school property tax relief program, and providing a graduated income-based tax credit for additional property tax relief (which would apply to all taxing jurisdictions, not just schools as STAR does now), the Governor appears to be setting up the pieces for the eventual end of the STAR program altogether, and transitioning to what has been known as a "circuit-breaker:" a graduated property tax liability based at least in part on a homeowner's ability to pay.

### Part A – Cap STAR Benefit

This section proposes to cap School Tax Relief program (STAR) payments at 2014-15 dollar amounts. The original property tax cap, passed in 2011, capped annual increases in STAR exemption benefits to homeowners at 2 percent. The proposed action in this section would permanently stop the increase in exemptions to homeowners, including both basic STAR recipients and enhanced recipients. Homeowners would receive no more in STAR benefits than they did in 2014-15. This amount would be capped in perpetuity.

#### *Commentary*

*This is potentially problematic, as homeowners' school property taxes will presumably rise each year, however their STAR exemption would no longer rise, remaining capped at the 2014-15 dollar amount. This would require homeowners to pay a larger portion of their school property tax each year. The Governor's memo on the bill states a need to cap payments in order to save money at the state level and balance the state budget. It is estimated to save the state $54 million in the next fiscal year.*

*While this is concerning as a loss of tax relief to local property taxpayers, other provisions of the governor's budget appear likely to change the current property tax exemption system and bring about the end of STAR in favor of a new income tax relief program. Whether those changes are more beneficial to homeowners and school districts than the current system remains to be analyzed.*

## Part D – STAR Conversion to Tax Credit

One of the more significant proposals within the Governor's budget, this section proposes to *prospectively* eliminate the STAR property tax exemption program, closing it to any new beneficiaries, in favor of a STAR personal income tax credit program, called the "School Tax Relief (STAR) Credit."

For new homeowners, this legislation would do away with the STAR property tax exemption and replace it with a comparable tax reimbursement to be paid as a credit on personal income. It would allow those who currently own their home to continue receiving a STAR property tax exemption with no changes.

New homeowners or filers would not be able to apply for the STAR program, and would instead be required to apply for the income tax credit. Any current STAR beneficiaries would be allowed to switch to the income tax credit program if they wish, but they would not be obligated to switch. Once homeowners switch to the income tax credit, they may not return to receiving the property tax exemption. Similarly, if a homeowner transfers ownership of their home, they would lose eligibility for the property tax exemption.

For those transferring into the new income tax credit program, eligibility would be identical to the current property tax exemption program and the bill memo purports that the tax credit benefit will be "virtually the same" as the existing exemption benefit. One of the reasons for capping the STAR exemption benefit may be to persuade homeowners to transfer into the income tax credit program; it appears that the income tax credit benefit would grow where the exemption benefit would remain capped.

The tax credit would be available to those with life estate interests in their property, co-op owners and trust beneficiaries, and the extension of the current exemption program would apply to those property interests as well. Co-ops would receive a credit equal to 60 percent of the school district's basic STAR tax savings factor. Mobile homes would receive a credit equal to 25 percent of the school district's basic STAR tax savings factor. Households earning in excess of $500,000 would not be eligible for the credit; this would be calculated including all affiliated incomes of the household, not just the primary applicant.

### *Commentary*

*This is a more centralized system with easier administration than STAR. This plan would also make it much easier for the state to connect property tax relief to a homeowner's personal income, which would ease integration into an income-based property tax exemption system discussed below*

*One of the largest concerns within this proposed program is the out of pocket tax payment required by home-owners. Where currently homeowners see a STAR exemption on their property tax bill and are not required to pay that amount in property taxes, an income tax credit would require homeowners to pay the amount out of their pocket up front in September and then seek reimbursement in April of the following calendar year. There are some homeowners who simply would not be able to do this, although the negative impact would occur only in the first year cycle.*

*While the implementation of this program appears to be part of a larger tax savings strategy to eliminate the STAR program, it seems somewhat convoluted, although no more so than the existing STAR exemption program. It would seem that this legislation is a first step in a longer-term property tax conversion plan to an income-based system.*

## Part G – Real Property Tax Relief Credit

The program proposed in this section would create a credit against personal income for the share of a homeowners' or renters' property tax liability that exceeds a percentage of their income. This has been called a "circuit-breaker" in the past, as crossing a percentage threshold "trips" a lowered tax liability. A much more limited income-reliant property tax credit was passed as part of last year's state budget. This proposal would replace and expand on that program.

The amount of the credit would be graduated based upon the income of the resident. The measure to determine an individual's income would be adjusted gross income as reported to the IRS. In order to be eligible for the tax credit, an individual must occupy the residence (owning or renting) for more than six months out of the taxable year as their primary residence.

The tax credit would only be available to those individuals residing within a jurisdiction that remains under the state's levy limit cap for the taxable year. Taxpayers would not receive a tax credit if their school district exceeds the cap (even if the cap is legally exceeded).

The proposed statutory language includes a multi-year phase-in of credits. In 2015, only school district taxes would be eligible for the credit. The credit will be available to those residents whose school taxes exceed 3.75 percent of their income. In 2016 and thereafter, the credit eligibility level would increase to the amount in excess of 6 percent of a resident's income, however all school and local property taxes, ad valorem levies, and special assessments are included in the calculation.

For renters, the credit would be based upon the value of rent attributable to the property tax. The state would set that amount at 13.75 percent of rent payments, excluding utilities and other ancillary rent inclusions.

Senior citizens (over age 65) would be eligible for a duplicative benefit, as they would be allowed to take an enhanced STAR exemption at the outset, and also be able to apply the exempt amount back into the calculation of their tax liability for the purpose of this credit.

The implementation of the program would be gradual, with the maximum benefit in 2015 being 14 percent of the taxpayer's liability exceeding 3.75 percent of income or $500, whichever is lower. This benefit decreases on a graduated scale for taxpayers earning greater than $75,000 but less than $250,001. The program is expected to cost the state $350 million in 2015.

The maximum benefit would steadily rise to 50 percent of the tax payer's liability over 6 percent of their income by 2018. The capped dollar amounts would also increase to a maximum of $2,000 in that year. This maximum benefit would decrease on a graduated scale for taxpayers earning greater than $75,000 but less than $250,001, but it would not be a steady decline but more of a dramatic curve. Taxpayers earning from $75,000-$150,000 would still be eligible for a minimum credit of 40 percent. The program is expected to cost the state $1.66 billion in 2018.

The rental credit would work similarly, however there would be a difference in the maximum benefit by region. Renters in the City of New York and Nassau, Suffolk, Rockland, Westchester, Putnam, Orange, and Dutchess counties would receive a higher maximum credit amount than those living elsewhere.

Property owners earning over $250,000 would be ineligible for the tax credit, as would renters earning over $150,000.

Below is the regional breakdown chart of projected benefits issued with the Governor's press release (numbers are for 2018).

**Property Tax Relief Credit -- Estimated 2018 Beneficiaries and Average Relief**

| Region | Estimated Number of Beneficiaries | Average Relief |
|---|---|---|
| Statewide | 1,311,567 | $956 |
| Upstate | 543,299 | $781 |
| Nassau County | 207,250 | $1,208 |
| Suffolk County | 125,167 | $1,148 |
| Other Downstate Suburbs | 226,267 | $1,119 |
| NYC Homeowner | 209,584 | $872 |

**SOURCE:** Governor's News Release, January 14, 2015

***Commentary***

*Sometimes called a "circuit-breaker" the idea of an income-based graduated property tax is not new to state policy debates. The Council has supported such concepts in the past. Many statewide policy groups have long called for an income-based property tax exemption in place of the state's STAR exemption. It appears from this proposal and others that is what the Governor is attempting to accomplish.*

*By capping STAR exemption benefits, converting the STAR exemption to an income tax credit, and implementing a new income tax credit based upon a property tax-to-income calculation, it would seem likely that the stage is being set for the eventual elimination of STAR altogether and a further reliance upon the new income-based tax credit, announced a week prior to release of the budget as the centerpiece of the Governor's 2015-16 tax reform agenda. Inclusion of the enhanced STAR benefit in the calculation for the income-based credit also seems to point to this ultimate intent.*

*This program also remedies a constant talking point of the Governor. In areas surrounding New York City (primarily on Long Island and in Westchester County) property taxes are some of the highest in the nation by pure average payment. In other areas Upstate, generally west of Syracuse, property taxes are highest as a percentage of home value nationally. This proposal would have the most dramatic effect in those two areas, where taxes are high in relation to income.*

*From the Council's perspective, the proposal is an encouraging step toward property tax relief, although flawed. At its core, the program would return money to local taxpayers, lessening the negative impact of property taxes locally, especially for taxpayers least able to afford them. Although it is a bit complex, the program functions as the state removing some of the local property tax burden.*

*However, the lack of any mandate relief is concerning, as is tying the credit for individual taxpayers to their local government's compliance with the tax cap. The proposal fails to recognize the significant factors in state law that drive property taxes higher and seeks to place blame on the locality.*

*All things considered, the proposal would likely be beneficial to many taxpayers and will lessen the negative impact of property taxes in real dollars for many. When combined with STAR, it could result in considerable tax savings, especially for senior citizens. Will this be a shift away from current property tax relief into an income-based local tax system? Will this system begin to shift a reasonable amount of school costs off of local taxpayers? We may need to wait several years for the answers to those questions.*

# The Needs of Public Schools: Results From A Council Survey

Perspective shapes perception. State legislators know they have increased state aid to schools each of the last three years. They know they say "no" to many groups each year in order to say "yes" to schools as much as they have. But THE COUNCIL's fourth annual survey of school superintendents on finance matters shows that schools are still struggling with tough budgeting choices, despite the efforts of their representatives in Albany.

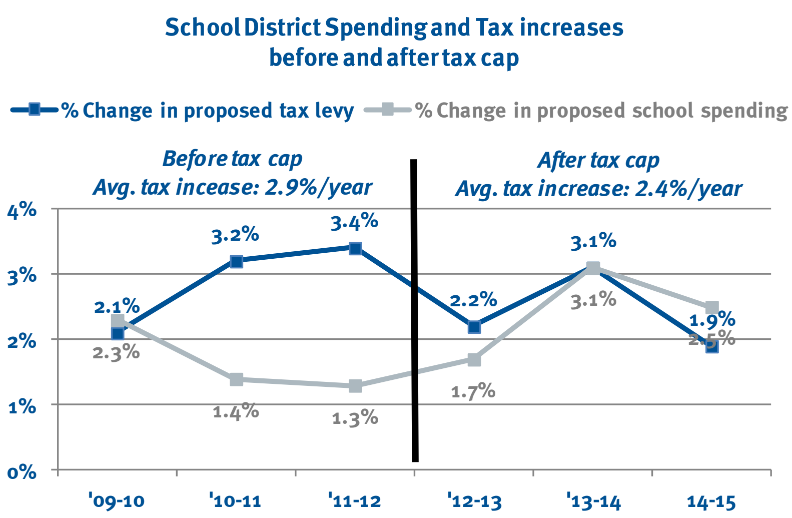
### Why?

Why are districts still struggling financially?

First, despite recent School Aid increases, over half the state's school districts are still receiving less state aid than in 2008-09, six years ago.

Second, the three prior years were exceptionally difficult. In two years (2010-11 and 2011-12) School Aid was cut, and in a third year (2009-10), most aid was frozen – cuts that year were avoided through federal stimulus aid. Many districts exhausted less damaging budget-balancing strategies during this stretch.

Also, school districts were holding down spending and tax increases before the tax cap became law. Despite the austerity in state aid, local school tax increases in the three years prior to the tax cap were only slightly higher than in the three years it has been in place.




**SOURCE:** Council analysis of NYSED Property Tax Report Card data; Big 5 cities not available

Third, some costs have surged. Like all employers, school districts have struggled with the cost of health insurance. Even with anticipated rate reductions next year, the mandated district contribution rate for the Teachers Retirement System would still be at least 70 percent higher than in 2008-09.

Fourth, New York's version of a tax cap for schools is exceptionally restrictive. Massachusetts is cited as a model, but that state allows communities to increase their tax levy by up to 2.5

### In their Own Words

This was the first budget in five years that we have not had to reduce staff. While a relief, we still have not been able to restore any of the programs that have been eliminated since 2009. Our program is in far worse shape than it was at that time. -- Capital Region Rural

The tax cap, GEA, and limited state aid increases have seriously degraded programs and services my district offers students. The past 4 years have been about trying to maintain what we have, not very successfully. I have seen the slow deconstruction of a great school district. Long term program and fiscal sustainability is an unanswered question. -- Western New York Suburb

We have right sized and turned over every possible stone in order to limit impact on programs. We are providing a sound, basic education. Unfortunately, our kids cannot compete with the curricular offerings at districts who are more wealthy than we are. Without systemic change to how schools are financed, we will offer a very good educational experience, but not worthy of what the children in our "zip code" deserve. -- Mohawk Valley Rural

We are constrained in opportunities to support students who may not be failing, but could use extra support to achieve at higher levels. We must reserve support services only for the neediest cases. At the other end of the continuum, we have reduced opportunities for students who are gifted or talented at the elementary level. We have also reduced the scope of our FLES [foreign language] program, and it remains a candidate for elimination. Extracurriculars have been almost eliminated at the elementary levels and significantly reduced at the secondary level. -- Long Island Suburb

This district would like to expand high school offerings in the areas of technology and computer science. We have been unable to address this because of the tax cap. Our taxing capacity has been consumed by uncontrollable costs (pension and energy) and program improvements have simply not been possible. -- Lower Hudson Valley Suburb

Students are afforded far fewer opportunities in electives, fine arts, AP classes, remedial help and extracurricular activities. Classroom sizes have ballooned to near 30 students. Our students struggle to compete to get into the college of their choice due to the content of their transcripts. The GEA, inequitable Foundation Aid formula, and the tax cap have severely negatively affected the quality of education our students receive. -- North Country Rural percent without voter approval. In New York, school districts may not increase their tax levy at all without winning voter approval. New Jersey permits its schools to increase taxes to fund pension and health insurance costs without a tax cap override; New York does not. Most states permit overrides with a simple majority of voters; New York requires 60 percent.

Fifth, recent state education reforms have imposed demands upon schools. A Capital Region superintendent explained,

> *Over the past four years, there have been significant challenges in securing resources to support implementation of the Common Core Learning Standards... Revisions in 3-8th grade assessments and High School Regents exams necessitated allocation of increased resources to "close gaps" in student knowledge as assessments and learning standards shifted to the Common Core. Revisions in the APPR process also necessitated increased allocation of administrative time in order to assess teacher performance in accordance with the approved APPR plan. A Dean of Students was hired to provide additional support to meet the day-to-day needs of students while simultaneously freeing up time for certified administrators to complete teacher evaluations.*

Last, other than the Tier VI pension reforms, there has been little significant mandate relief for schools.

Mandates partly explain New York's overall per pupil spending. We have found no other states with requirements exactly like New York's Triborough, Wicks, and Scaffold Laws. New York also has more extensive special education requirements than most states.

Whatever their merits, these mandates do drive up costs. Criticizing school costs while keeping these mandates in place is like tying a runner's feet together, then complaining he or she doesn't run fast enough.

### In their Own Words

Districts such as ours with an increase in student enrollment are severely impacted by the limiting 2% tax cap (super-majority) rule. Since 2010/11 enrollment has increased by 10%. Revenues from local sources (2%) rule and State Aid limitations have severely limited our educational offerings to in an economically disadvantaged population. -- Long Island Suburb

It has been very important to our school community to do our best to maintain or preserve our programs and services... By looking at my response of "no change"[in condition] one may conclude that things are fine. They are not. We are unable to grow programs or provide extra programs for our students. We are not able to provide the depth of transcript we would like. We do not have many of the class opportunities other districts provide, so our "holding the line" is not acceptable. I am concerned how our students will be able to compete once they graduate from our school. -- Western New York Rural

We have now used all of our available reserves as revenue over the past five years. Our revenues are now shy of our liabilities. Our fund balance is below four percent. We will stay within the maximum allowable tax levy limit for fear of losing a budget if we attempt to over-ride the limit. We have eliminated close to 18% of our faculty and staff over the past five years. We have no more positions which we feel we can eliminate or reduce. So, we are now completely dependent on an increase in state aid to maintain our programs. Perhaps this has been the master plan all along from the Governor's office. We are dependent upon his mercy. Also, at the current pace it will take five years to eliminate the Gap Elimination Adjustment in our district. -- Capital Region Suburb

## General financial outlook

THE COUNCIL'S survey finds generally modest gains in overall fiscal condition over the last four years.

Asked how they would rate their district financial condition on a scale from very poor to very strong, there has been very little shift in the ratings given by superintendents, even after three years of state aid increases. Over the past year, there was a 5 point jump in the percentage of superintendents calling their district's financial condition poor or very poor – from 13 percent to 18 percent.

**Council Survey: Measures of overall fiscal condition (Statewide)**

| Overall fiscal condition | 2011 | 2012 | 2013 | 2014 |
|---|---|---|---|---|
| Strong/very strong | 32% | 30% | 39% | 36% |
| Poor/very poor | 17% | 17% | 13% | 18% |
| **Change in fiscal condition over prior year** | **2011** | **2012** | **2013** | **2014** |
| Somewhat/much better | 3% | 7% | 16% | 18% |
| Somewhat/much worse | 75% | 52% | 32% | 26% |
| **Reliance on reserves** | **2011** | **2012** | **2013** | **2014** |
| Somewhat/very concerned | 89% | 83% | 83% | 72% |
| Not concerned -- limited use of reserves | 6% | 11% | 12% | 22% |
| Not using reserves for recurring costs | 5% | 6% | 5% | 6% |

There has been a steep decline in the share of superintendents saying their district's financial condition worsened over the prior year – from 75 percent in 2011, to 26 percent in 2014. But more superintendents still say their district's financial condition deteriorated rather than improved this past year.

The percentage of superintendents expressing concern over their districts' reliance on reserves to pay recurring costs has fallen, but remains high – 72 percent.

*Generally, the higher the level of student poverty of the district, the bleaker the overall fiscal outlook*. For example, among superintendents who estimate that over 60 percent of their district's students qualify for the federal free or reduced price lunch program, 34 percent rate their district overall financial poor or very poor, compared to 18 percent for the whole state, and 4 percent for the lowest poverty group.

**Council Survey: Measures of overall fiscal condition**
**Districts grouped by student poverty**

| | Estimated % of students in poverty (qualifying for free/reduced price lunches) | | | | | |
|---|---|---|---|---|---|---|
| | 0 to 10% | 11 to 20% | 21 to 40% | 41 to 60% | Over 60% | Total |
| Overall fiscal condition poor/very poor | 4% | 13% | 16% | 18% | 34% | 18% |
| Change in fiscal condition over prior year -- somewhat/much worse | 25% | 20% | 24% | 24% | 43% | 26% |
| Somewhat/very concerned by reliance on reserves | 65% | 71% | 73% | 74% | 75% | 72% |

## Impacts on programs and services

The modest gains in overall outlook have yet to translate into improved opportunities for students.

When asked how this year's school budget affected 19 categories of services and operations, for only two categories did more superintendents report positive impacts than negative – core instruction in elementary grades (27 percent positive, 26 percent negative) and school safety (19 percent positive, 14 percent negative). "Extra help for students who need it" drew the largest share of superintendents anticipating negative effects, 42 percent. Capacity to assure extra academic help emerged as a concern throughout the survey, as it did in the prior three years.

| What was the impact of 2014-15 budget decisions on each of the following areas of school operations | Somewhat /very positive | Somewhat /very negative | Difference |
|---|---|---|---|
| Operations and maintenance | 8% | 37% | -29% |
| Extra help for students who need it -- any level | 21% | 42% | -21% |
| Administration | 9% | 30% | -21% |
| Other extracurricular activities | 7% | 26% | -19% |
| Other student services | 5% | 24% | -19% |
| Advanced or enrichment classes | 14% | 31% | -17% |
| Student counseling, social work, mental health or similar support services | 11% | 28% | -17% |
| Athletics | 7% | 22% | -15% |
| Instruction in art -- any level | 5% | 20% | -15% |
| Second language instruction at the middle or high school levels | 7% | 21% | -14% |
| Student transportation | 5% | 18% | -13% |
| Career and technical education | 9% | 21% | -12% |
| Instruction in music -- any level | 8% | 19% | -11% |
| Instruction in English, math, science, and social studies in high school | 18% | 26% | -8% |
| Special education | 15% | 21% | -6% |
| Services for English Language Learners | 10% | 14% | -4% |
| Instruction in English, math, science, and social studies in middle grades | 21% | 24% | -3% |
| Core instruction in elementary grades | 27% | 26% | 1% |
| School safety/security | 19% | 14% | 5% |

We also asked for a longer term view: how have financial decisions over the past four years affected the adequacy of various student services? Mostly by wide margins, more superintendents reported that adequacy had worsened rather than improved, with extra academic help again most widely seen as deteriorating. Only prekindergarten and school safety were more often cited as improved over the last four years.

Notably, over 40 percent of superintendents reported a significant or somewhat worsening impact on core instructional services for elementary and middle grades (those making up the bulk of the statewide standardized testing program) over the last four years. This is significant given proposals to give increased reliance on the results of the corresponding assessments for those grades and subjects by the state for multiple purposes.

Another significant result: 50 percent of superintendents reported a worsening impact on advanced placement and enrichment class offerings since 2010-11. This is a measure that New York State has historically excelled at compared to other states.

### In their Own Words

Continued additions of mandates impacts quality of services we are able to offer as funds are re-directed to mandates that were once applied to the enrichment or community priorities for our children. -- Finger Lakes Rural

As a rural school district of roughly 1,000 students we are approaching a "tipping point" where our community will either experience significant erosion of what's been in place here for students since the 1980's or the State will adequately address revenue shortages among many of its rural school districts. -- Mohawk Valley Rural

Large class sizes. Reduced number of high school electives. Continuing concern about adequately funding co-curricular and athletic activities at the current levels adequacy of infrastructure should PARCC testing be adopted by NYS recurring concerns about adequately providing for students with disabilities -- Capital Region City

When you take what we have lost through frozen Foundation Aid and the GEA, we have received over $100 million less than would have otherwise been projected to receive. In a district that relies on the state for 70% of its revenue, we are deeply affected by cut backs from the state. The last Superintendent eliminated over 100 positions before I arrived... Over the past five years, the BOE has continuously applied fund balance and unrestricted reserves to help cover some of the sizable shortfall. We have now drained the unrestricted reserves to a mere $200,000. The absence of reserves will result in a $3-5 million hole as we begin to construct next year's budget. -- Western New York City

The District has utilized reserve funds to maintain educational programs & services for students. That strategy has worked short-term; however, reserves have not been replenished and cuts/reductions are now forthcoming. -- Long Island Suburb

There are Budget decisions in Albany... and there are the decisions we make locally in response. The decision not to fund new mandates, the increase in complexity of APPR, constant changes and increasing complexity of state reporting, the lack of clarity regarding actual "curriculum" as opposed to the "modules" have been damaging and distracting. -- Mid-Hudson Valley Suburb

There are no extras. We were cut years ago and have been using reserves to keep at a minimal level. Regional high school legislation would help. -- North Country Rural

Losing ground in this area is a concern to a substantial point of New York educational pride and to college admission competitiveness.

Once again, the higher the student poverty level, generally the bleaker the results.

**How has the adequacy of these student services changed due to financial decisions since the 2010-11 school year?**

| | Much/ Somewhat Better | Much/ Somewhat Worse | Better - Worse |
|---|---|---|---|
| Extra help for students who need it -- any level | 11% | 57% | -45% |
| Advanced or enrichment classes | 11% | 50% | -38% |
| Other extracurricular activities | 5% | 43% | -38% |
| Instruction in art -- any level | 4% | 39% | -35% |
| Student counseling, social work, mental health or similar support services | 9% | 43% | -34% |
| Instruction in music -- any level | 6% | 39% | -33% |
| Athletics | 7% | 39% | -31% |
| Second language instruction at the middle or high school levels | 4% | 34% | -30% |
| Other student services | 3% | 30% | -26% |
| Instruction in English, math, science, and social studies in high school | 16% | 41% | -25% |
| Instruction in English, math, science, and social studies in middle grades | 17% | 42% | -25% |
| Student transportation | 4% | 29% | -25% |
| Career and technical education | 8% | 31% | -23% |
| Core instruction in elementary grades | 21% | 41% | -20% |
| Special education | 17% | 26% | -9% |
| Services for English Language Learners | 12% | 19% | -7% |
| Prekindergarten | 17% | 16% | 1% |
| School safety/security | 26% | 19% | 7% |

### In their Own Words

The mental health needs of our students are growing and I am concerned that I will not be able to fund the staffing to support these struggling students. We proposed a mental health counseling position during budget development, but ultimately it did not come to pass as we had to make reductions once the state aid numbers were finalized. We have reduced programs at the high school level and currently offer far fewer than our counterparts in the county. How is that fair and equitable for our students? The GEA is an ongoing problem, but the frozen Foundation Aid formula has cost the district far more in revenue. The combination of the two is despicable in terms of Albany politics. -- Mid-Hudson Valley Rural

Due to the inability to adequately forecast NYS aid from one year to the next, superintendents are "forced" to keep (or attempt to keep) healthy reserve amounts. If that wasn't a concern, than I would be willing to replace #3 with increasing career and tech opportunities. I would love to have a TRS reserve!! -- Mohawk Valley Rural

There are two hidden costs of the budget crisis. Every teacher is in the front lines of instruction. There is no place to hide a poor teacher. In a state that allows non performers to stay forever, there is a hidden cost for kids. The second hidden cost or missing item is instructional support. I wish I could afford teaching coaches and curriculum person. -- Central New York Rural

The Gap Elimination Adjustment is the single biggest factor in our financial challenges. We remain more than 15% behind our 2008-09 aid level. Yet, we have had to implement costly new initiatives and assign additional work to administrators and teachers, with no additional salary. -- North Country Rural

**How has the adequacy of these student services changed due to financial decisions since the 2010-11 school year?**
**Districts Grouped by Student Poverty (% of Students Eligible for Free/Reduced Price Lunches)**
**+ Better/Much Better -- Worse/Much Worse**

| | 0 to 10% | | 11 to 20% | | 21 to 40% | | 41 to 60% | | Over 60% | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | + | — | + | — | + | — | + | — | + | — | + | — |
| **Core instruction in elementary grades** | 18% | 36% | 18% | 34% | 26% | 36% | 19% | 47% | 16% | 51% | 21% | 41% |
| **Instruction in English, math, science, and social studies in the middle level grades** | 8% | 41% | 15% | 31% | 24% | 34% | 14% | 47% | 19% | 57% | 17% | 42% |
| **Instruction in English, math, science, and social studies in high school** | 19% | 41% | 18% | 23% | 19% | 38% | 13% | 45% | 19% | 59% | 17% | 41% |
| **Extra help for students who need it -- any level** | 5% | 43% | 13% | 36% | 16% | 56% | 11% | 66% | 8% | 69% | 11% | 57% |
| **Advanced or enrichment classes** | 18% | 39% | 10% | 41% | 8% | 48% | 12% | 56% | 9% | 54% | 11% | 50% |
| **Student counseling, social work, mental health or similar support services** | 3% | 31% | 15% | 26% | 9% | 44% | 12% | 50% | 3% | 56% | 9% | 43% |

Each year we have conducted our surveys, we have concluded by asking superintendents for their top priorities if new funding became available, beyond that needed to support basic, ongoing operations. Each year, strengthening the capacity to provide extra academic help for struggling students has been the highest ranked concerns. This year, restoring or expanding advanced classes and providing mental health/counseling services climbed as priorities.

## Conclusion

A widely expressed fear among educators in recent years has been that future students may never again have learning opportunities as great as those of the past experienced. Despite state aid increases of the past three years, those fears have not diminished.

**If your district were to receive an increase in funding beyond what would be needed to fund state mandates and your current level of services, what would be your top three priorities for the use of that funding?**

| Responses (329 total) | Rank 1 | Rank 2 | Rank 3 | Rank (Weighted Score) | 2013 Rank | % selecting as a priority |
|---|---|---|---|---|---|---|
| Increase extra academic help for struggling students | 80 | 47 | 29 | 1 (363) | 1 | 47% |
| Increase counseling, social work, or mental health or similar services for students | 30 | 41 | 28 | 2 (200) | 7 | 30% |
| Increase enrichment/advanced classes | 19 | 39 | 31 | 3 (166) | 4 | 27% |
| Expand professional development | 16 | 36 | 42 | 4 (162) | 3 | 29% |
| Reduce class sizes | 34 | 14 | 12 | 5 (142) | 5 | 18% |
| Reduce property tax levy | 30 | 9 | 23 | 6 (131) | 2 | 19% |
| Increase funding of reserves | 26 | 13 | 21 | 7 (125) | 6 | 18% |
| Increase career and technical education opportunities | 10 | 20 | 18 | 8 (88) | 12 | 15% |
| Expand or initiate prekindergarten | 14 | 15 | 8 | 9 (80) | NA | 11% |
| Purchase technology | 9 | 11 | 19 | 10 (68) | 5 | 12% |
| Strengthen administration (district or building level) | 9 | 7 | 12 | 11 (53) | 11 | 9% |
| Improve facilities | 8 | 6 | 16 | 12 (52) | 8 | 9% |
| Extend the school year | 5 | 10 | 7 | 13 (42) | NA | 7% |
| Increase other student support services | 6 | 7 | 8 | 14 (40) | 10 | 6% |
| Extend the school day | 4 | 11 | 4 | 15 (38) | NA | 6% |
| Increase services for English Language Learners | 4 | 11 | 2 | 16 (36) | NA | 5% |
| Improve school security | 4 | 7 | 9 | 17 (35) | 13 | 6% |
| Improve maintenance of facilities | 5 | 7 | 5 | 18 (34) | 15 | 5% |
| Increase/improve special education for students with disabilities | 5 | 4 | 8 | 19 (31) | NA | 5% |
| Purchase instruction-related materials | 2 | 3 | 13 | 20 (25) | 9 | 5% |
| Increase/restore second language instruction | 3 | 3 | 7 | 21 (22) | 14 | 4% |
| Other | 4 | 3 | 1 | 22 (19) | 16 | 2% |
| Expand extracurricular activities or athletics | 2 | 4 | 4 | 23 (18) | 16 | 3% |
| Purchase other equipment | 0 | 1 | 2 | 24 (4) | 18 | 1% |

NEW YORK STATE
COUNCIL OF SCHOOL SUPERINTENDENTS

7 Elk Street, Third Floor
Albany, New York 12207
518.449.1063
www.nyscoss.org