New York’s state constitution promises “...a system of free common schools, wherein all the children of this state may be educated.” While by many measures the national economy is strong now, there are causes for concern, including the eventual effects on state finances of the federal tax legislation enacted a year ago. New York’s public schools need action on an agenda to promote a more financially sustainable future and to enable them to fulfill the promise of our constitution.

A sustainability agenda should include:

• Updating and phasing-in the Foundation Aid formula.
• Adjusting the property tax cap to give school districts more predictability in this major revenue source.
• Changing laws and regulations to help schools reduce or control costs and maximize the benefit for students from existing resources.
• Allowing schools reserves for all pension obligations, comparable to municipalities have now.

Doing less on any of the items would require doing more on others. For example, failing to act on changes to the tax cap or state-driven costs would require doing more on state aid. Part of the Council’s message is change the rules or fund the rules.

Background
Each summer for the past eight years, the Council has surveyed superintendents on financial concerns. Our findings can be summed up simply:

• Recent relatively strong increases in state aid have helped some districts begin to restore and even improve services for students.
• But the gains are fragile, by no means universal, and pessimism is widespread among district leaders about future financial prospects for the schools they serve.
• New York State needs an agenda to assure a financially sustainable future for its public schools.

Our 2017 survey required adding one more highlight: superintendents and other educators are increasingly worried for the children coming to their schools. Those concerns have grown in our 2018 results.

The Council’s 2015 survey marked a turning point. That year, for the first time, more superintendents told us their district’s financial condition had improved rather than worsened. But the gains have faltered and have never encompassed all school systems.

A closer look at our results reveals that, through all the eight years, never has as many as one-third of superintendents reported that their districts’ financial condition had improved over the prior year. For example, in this year’s survey, 17 percent reported improvement, 18 percent reported worsening,
and 65 percent reported no change. This year, the percentage of superintendents who reported deteriorating financial condition rose for the first time in our survey’s history, from 13 percent to 18 percent.

So, while some districts have been able to begin restoring or improving services for their students, others suffered great harm during the Great Recession and its aftermath and have seen little recovery in the years since.

We have also asked superintendents how optimistic or pessimistic they are about their district’s ability to fund services adequate to the needs of their students, looking forward three years. Only 24 percent professed optimism – down from 29 percent a year ago.

Seven percent answered that their schools are unable to support adequate services now, the equivalent of 50 or so districts perhaps in a state of educational insolvency. These districts are predominantly upstate and higher in student poverty.

Asked what factors cause concern in considering the financial prospects of their schools, five items stand out among all the superintendents’ responses – inadequate state aid, increasing special education costs, the tax cap, expected increases in fixed or hard to control costs such as pensions and health insurance, and rising levels of student poverty, each chosen by at least 70 percent of superintendents.

Asked to name the one factor evoking the greatest worry, 47 percent of superintendents cited the prospect of inadequate state aid, followed by increasing pension and health insurance costs, chosen by 14 percent, and then the tax cap, chosen by 10 percent.
But more than any purely financial issue, what is most striking in all the findings from THE COUNCIL’s last two annual surveys is evidence of mounting worry among superintendents over the children served by their schools. Those concerns are echoed by colleagues working with teachers and principals.

For example: in a single year, the share of superintendents indicating that improving student mental health services is a priority for their schools climbed by 17 points, from 35 percent in 2016 to 52 percent 2017. That continued in 2018, with the share rising to 56 percent. Improving student mental health services has been the most widely cited priority for new funding among superintendents in each of the last two annual surveys.

### Phase-in and Update Foundation Aid

A financial sustainability agenda for our schools begins with a commitment to phase-in and update the Foundation Aid formula.

Enacted in 2007 as part of the effort to resolve the Campaign for Fiscal Equity’s successful challenge to the constitutionality of the state’s education finance system, the formula was a significant accomplishment in public policy:

- It generally drove the greatest aid per pupil to the neediest districts – and still does.
- It promised more predictability in aid for all districts going forward.
- It used elements with a basis in facts – a per pupil amount tied to the cost of providing general education in successful schools, for example. That can make state funding decisions more transparent and decision-makers more accountable.

Even leaving aside arguments over what is or is not required of the state from the CFE rulings, something resembling the Foundation Aid formula is desirable in its own right, as a cornerstone in building a school finance system that supports more effective multi-year planning. Schools in other states have this, and ours once did.

Updating the formula is essential. For too many districts, it is not working now, including 45 percent of average need districts and 42 percent of high need rural districts which are now on save-harmless – receiving more aid in 2018-19 than the fully phased-in formula would provide.
The formula was neglected for several years – frozen for three years (2009-10 through 2011-12) and minimally increased in a few subsequent years. Even as enrollment has declined in many districts, the needs of the students they serve have surged. Had the state and nation not endured fiscal trauma during the Great Recession and its aftermath, the Foundation Aid formula would have been adjusted to reflect growing student needs. Some districts on save-harmless now would not be.

The persistence of regional share targets in annual School Aid negotiations is one further obstacle to a fully functional state aid system. Here is a simple test of fairness: Are districts with similar characteristics treated similarly in the distribution of state aid? The fixation on shares means that similar districts can receive vastly different aid allocations, if they are in different regions.

The machinations required to hit share targets each year also preclude a formula that functions from one year to the next, as is common in other states. That imperative also impedes addressing other funding priorities, such as supporting English Language Learners or career and technical education – any funding to be added for programmatic purposes must fit within the total sum available and be allocated to help satisfy percentage aid targets set for each region.

As called for by the New York State Educational Conference Board, the state should:

• Commit to a firm timeline to fully phase-in the Foundation Aid formula; and
• Commence studies to update or restructure elements of the formula, including the weightings used to account for pupil needs, the index used to account for regional cost differences, and the per pupil amount needed to prepare students for success.

Adjust the Tax Cap

When enactment of a property tax cap was being debated in New York, Massachusetts was cited as a model to emulate for the benefits a cap could yield. But New York’s tax cap is far more restrictive than our neighbor’s version.

In Massachusetts, communities may increase their tax levy by up to 2.5 percent without obtaining – or even seeking – voter approval, and over-riding the cap may be done with support from a simple majority of voters. In our state, the starting point for the cap is the “allowable levy growth factor” – the lesser of 2 percent or the average monthly change in the Consumer Price Index. Then the cap may be adjusted either up or down for an individual district as various exclusions from the cap are applied.

Over-riding New York’s cap requires approval by 60 percent of school voters; approving a budget within the cap requires a simple majority. Either way, if voter approval cannot be obtained, districts are not permitted to increase their tax levy over the prior year at all – in effect, a zero percent tax cap. Thus, over-riding the cap in New York is both more difficult in New York than in Massachusetts, and riskier too. Those risks have been compounded by tax rebates limited to taxpayers in districts that stay within the cap – districts attempting to override the cap have had to ask their voters to forego direct a financial benefit.
Commonly advertised as a “2 percent tax cap,” the starting point of the cap – the “allowable levy growth factor” – was less than 2 percent for four straight years. For the 2016-17 fiscal year, that factor was 0.12 percent. It is doubtful anyone contemplated the possibility of a near zero tax cap.

State aid is unpredictable; the complex and volatile methodology for computing the property tax cap has made that revenue source harder to plan on as well. It has also raised the stakes over state aid distribution. When the tax cap is very low, affluent districts for whom state aid had been nearly an afterthought in budgeting now need large percentage increases in state support to make up the local revenue they can no longer raise. These tensions are amplified by federal tax legislation – the hardest direct hit from limitations on state and local tax deductions will fall upon those same communities.

To support more effective multi-year financial planning by schools, state government should:

- Make the base for the school property tax cap a fixed 2 percent, rather than the lesser of 2 percent or the change in the Consumer Price Index over the prior calendar year (this change would not have an immediate impact, major economic forecasts project inflation will be 2 percent or greater annually for the next several years);
- Enact a more workable “carryover” provision, giving districts an incentive to hold tax increases below 2 percent in years when they can and reserve the savings for use in tougher years;
- Provide an exclusion for pension costs when they increase by more than 2 percent, rather than the current two percentage points
- Eliminate negative tax caps;
- Exclude from their tax cap calculation district expenses for shared Board of Cooperative Educational Services (BOCES) capital costs, just as district capital costs are excluded; and
- Include properties covered by payments in lieu of taxes (PILOTs) in the tax base growth factor, just as properties covered by taxes are included, so that districts may receive revenue to fund demands for services that tax base additions create.

The Governor has twice vetoed bills to provide a tax cap exclusion for BOCES capital costs. If a change to the tax cap will not be made, some other means of financing BOCES capital projects must be found.

**Help Schools with Costs**

Repeatedly, we are told that New York spends more per pupil on its public schools than any other state. But why do New York schools spend as they do? There are multiple reasons.

We are high cost in many things, not just education. We are part of a high cost region, along with our northeastern neighbors. We have some of the absolute best public schools in the nation and the opportunities they provide their students are expensive. We more fully fund our pension obligations than most other states.
Another factor is that New York schools operate under rules not found in other states, like extensive special education requirements and the Triborough law which mandates that salary “step increases” continue even under an expired contract (other states do have laws requiring that benefits continue).

Debates over mandate relief are nearly always contentious and usually futile. There is an inescapable reality: any action which saves money for taxpayers must cost money for someone else. Potential benefits are spread over millions of taxpayers, while negative consequences are concentrated. With that dynamic, those who might be hurt will always be more vocal advocates than those who would be helped.

But to criticize school spending while taking no action on mandates that drive those costs is like tying a runner’s shoes together, then complaining he or she doesn’t run fast enough. If the state is not going change rules that drive up costs while constraining the ability raise local revenues to meet those costs, then it must fund the rules – starting by updating and phasing-in the Foundation Aid formula.

Prospects for meaningful help to schools in constraining costs and maximizing resources are poor, at least in the near-term. Here are some worthwhile steps to deliver smaller scale assistance:

- Provide that any new mandate imposing new costs cannot take effect until the next local fiscal year succeeding its adoption.
- Eliminate the requirement for an internal audit capacity for all districts.
- Make regional collective bargaining agreements practical by streamlining requirements.
- Modify Part 154 (English Language Learner) regulations to address certification and staffing concerns.
- Authorize regional high schools.
- Authorize transportation “piggy-backing,” allowing a private bus contract to serve multiple districts.
- Eliminate the requirement to include a school psychologist on a Committee on Special Education (CSE), once an initial evaluation is complete.
- Provide that a parent challenging a decision of the CSE shall have the burden of proof and limit the statute of limitations.
- Increase one-time exemption from voter approval for small capital projects from $100,000 to $250,000.
- Use a calendar year Consumer Price Index calculation for transportation contract renewals.
- Allow schools to conduct instructional days during the last two weeks in August.

To set the stage for greater long-term impact, state government should:

- Discourage imposition of new mandates, by calling on the State Comptroller to compile and publish an annual report card on mandates enacted and repealed.
- Require the Public Employment Relations Board to produce an annual report on local collective bargaining outcomes using standardized measures to allow the public to compare the costs of the settlements. Comparable data on administrative compensation has been published since the 1990s.
- Create a statewide joint labor-management committee to explore strategies to achieve savings in health insurance costs for both school districts and their employees and retirees. Personnel costs typically comprise about three-quarters of total school spending. Reducing health care costs could be one way to save money in personnel without taking from employees and retirees.
• Commission a respected independent entity to conduct a study of how New York’s special education policies and practices compare with those of other states. New York devotes a very high share of its high overall school spending to special education. It cannot be that we are the only state striving to do right for children with disabilities. Some other states do achieve better outcomes.

Give Schools Access to a Reserve Available to Municipalities

The final component in a financial sustainability agenda is to give school districts access to a reserve for all their pension obligations, something which the state’s municipalities already have.

We read the State Comptroller’s audits concluding some districts have more money in reserve than law allows. The Comptroller’s Office is doing its job, conducting audits in accordance with requirements prescribed by law and accounting standards. But whatever their original merits, not all requirements still make sense. The Comptroller’s Office has supported legislative proposals to allow school districts more ways to put funds into reserve.

School districts are limited to an unrestricted fund balance equal to no more than 4 percent of budgeted appropriations. Municipalities have no such limit and the national Government Finance Officers Association recommends a 10 percent unrestricted fund balance for school districts. Municipalities may set aside funds for pension obligations on behalf of all their employees. Schools may do so only for the roughly 20 percent who are covered by the Employees Retirement System (ERS), but not for the teachers and certified administrators in the Teachers Retirement System (TRS). Yet schools are subject to more disclosure requirements and a tougher tax cap.

Twice in recent years, increases in district costs for TRS contributions exceeded increases in overall spending, meaning that districts had to cut all other costs, on balance, in order to absorb growing pension costs. In 2011-12, for example, TRS costs for school districts outside New York City rose by $301 million, while total spending increased by only $13 million (New York City has a separate retirement system).

In three of the last four years, the employer contribution rate has declined, reducing costs for school districts. But the rate will rise again. It is based in part on a five-year rolling average of TRS investment performance. In calculating the rate districts will be charged against 2020-21 salaries – the rate to be announced a year from now – one year of very strong investment results will drop out and be replaced by those for the year we are experiencing now.

The tax cap has changed how district leaders think about reserves – they are one tool still available to exert some control over the financial future of their schools. No district will attempt to pierce the levy cap just to fund a TRS reserve, but they are likely to use savings they can set aside from drops in the rate to prepare for future increases. Without a reserve, and with the ability to raise revenue constrained, the only alternative may be to cut services.
The state should:

- Allow school districts to establish a reserve for future TRS obligations. We endorse the proposal drafted by the Teachers Retirement System which would limit how much districts could put into the reserve each year and how much could be accumulated in total.

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**Superintendents in Their Own Words**

**Capital Region Suburban:** Uncertainty about levels of funding at the state and federal level make planning ahead very difficult. We need an adequate and dependable state aid formula.

**Finger Lakes Rural:** Adequate and predictable funding of state aid is absolutely critical.

**Western New York Rural:** Long range planning for fiscal sustainability is necessary. It is almost impossible to sustain innovation with uncertainty in state aid in a high needs district.

**Long Island Suburb:** As poverty increases and special education and ENL services increase, there is no change in the foundation aid formula. We have seen an increase in 30% in our poverty rate but are still funded as though we do not have changing needs.

**Capital Region City:** While many districts have financial struggles, some districts are still far from being able to even put a reasonable program of services together for children.

**Southern Tier Rural:** As our community becomes more impoverished, the needs of our students become more costly to address and we can't count on having enough in tax warrant to offset these rapidly increasing costs, so we are even more dependent on state aid increases.

**Finger Lakes Rural:** There's a direct relationship between adequate funding and competitive opportunities that can be offered to students. New York’s education funding formulas ensure that all districts can survive, but schools in wealthy communities are more apt to thrive. This funding scenario contributes to the perpetuation of educational inequity and, by extension, socioeconomic opportunity. This scenario further contributes to socioeconomic polarization that we are observing in NY.

**North Country Rural:** The property tax cap poses a modest burden now, while the state and national economy are strong. However, given the cyclical nature of our economy, it is only a matter of time before an economic decline will dramatically increase the negative impact on the cap. See, for example, the experiences of other states with property tax caps -- for example, California and Oregon.

**Mohawk Valley Suburb:** School districts have very little control over finances. The state controls more than 95 percent of our revenue between state aid and the state-imposed property tax cap. 75 percent of our expenditures are for personnel and it's difficult to negotiate change with personnel costs given the Triborough amendment. Other costs are debt service, paper, heat, light and power. There is minimal control left for schools to make change except for cutting programs and services that are not good for kids.

**Western New York Suburb:** We can't have both of our revenue streams restricted. Either provide us with additional aid or allow for tax cap flexibility without penalty or a supermajority vote.

**Lower Hudson Valley Suburb:** The district’s inability to control the big cost drivers (health, TRS, special education) coupled with stagnant State aid and unfunded mandates have created an unstable environment. Add the SALT deduction cap and the financial forecast is very troubling.

**Central New York Rural:** We provide an exceptional special education program which has drawn residents to our community including foster families that host numerous children with special needs. Our increase in special education services represented a 1.2 million dollar increase in a $26 million budget. This type of increase is not sustainable as we tend to gain approximately $300,000 on the tax levy annually.

**Finger Lakes Rural:** Teacher and staff salary and benefits are the driver of school costs. If those are the drivers: special education, ELL, and other unanticipated costs simply can cripple even the most stable of school districts.

**Long Island Suburb:** Health and pension cost are outside of our control and we are unable to use reserves to stabilize our budget when cost rises in these areas.

**North Country Rural:** I would encourage the powers in charge to come ride a school bus and see what our districts are really all about and mean to our communities. We are the hub of the community and if we don't provide the services and programs - there are no options for the children. Need to stop thinking we are all the same based on students/budget/ etc. More to the picture than what meets the eye.

**Mohawk Valley Rural:** If you are going to make the rules (i.e., tax cap) then you need to fund the rules!!