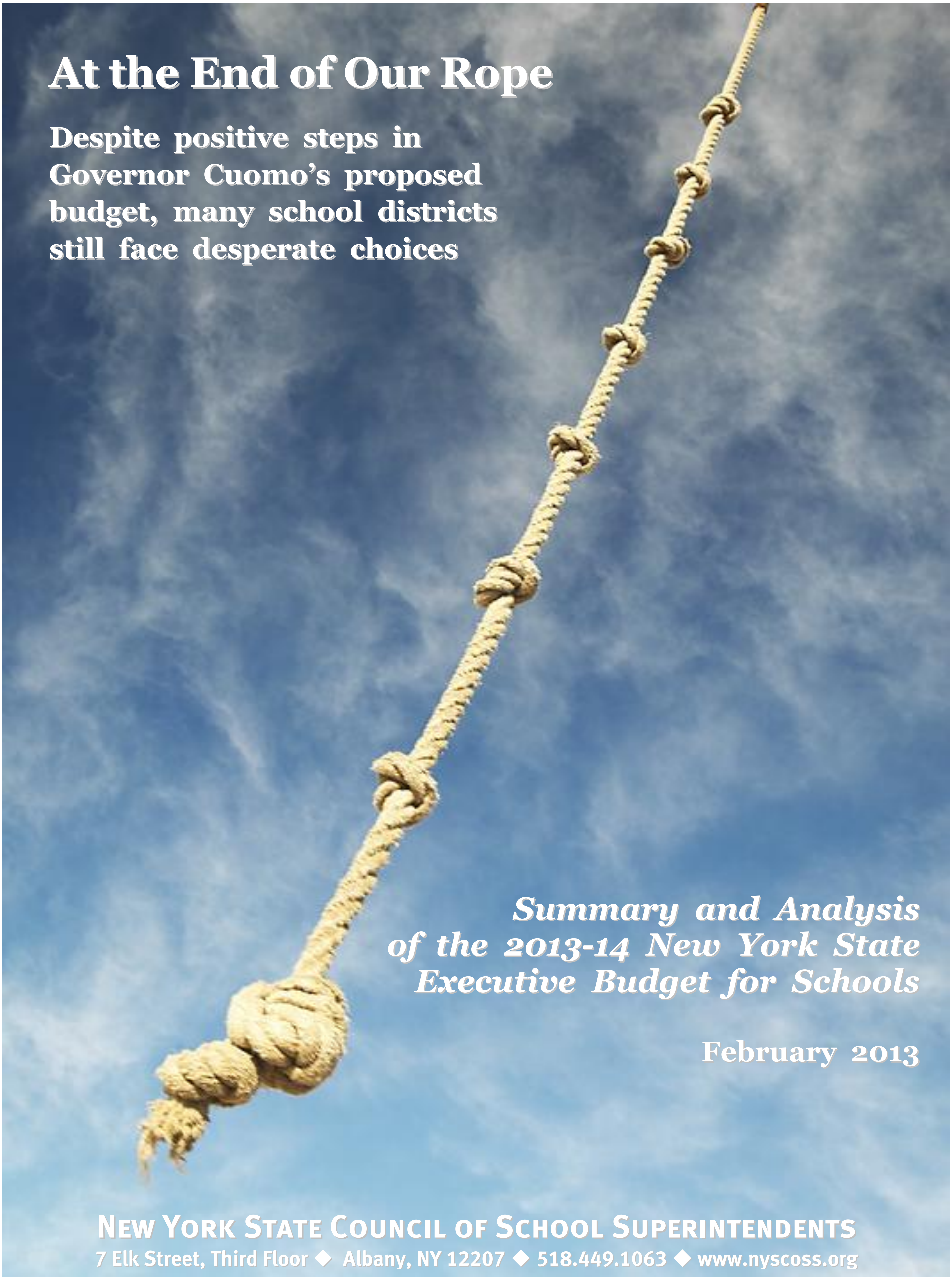

At the End of Our Rope

Despite positive steps in Governor Cuomo's proposed budget, many school districts still face desperate choices

Summary and Analysis of the 2013-14 New York State Executive Budget for Schools

February 2013

NEW YORK STATE COUNCIL OF SCHOOL SUPERINTENDENTS

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At the End of Our Rope

An increasingly common lament heard from educators across New York State is that students in years to come will never again have learning opportunities as good as those received by students today – or in some time already passed.

The Council's 2012 school finance survey report found pervasive alarm among superintendents over how financial prospects for the schools they lead are threatening learning opportunities for the students they serve. Statewide, 18 percent of superintendents foresaw their districts becoming "educationally insolvent" within two years, and half anticipate reaching that fate within four years.

Our definition of educational insolvency was minimalist: becoming unable to fund all state and federal mandates covering instruction and student services. Kindergarten is not mandated, nor are Advanced Placement classes. Yet 5 percent of superintendents say their districts are *already unable* to fund these requirements.

For some districts the outlook is more desperate. They confront actual financial insolvency. The survey found 9 percent of superintendents foresee their districts becoming unable to meet financial obligations within two years. Some districts are at or near the end of their rope.

This report summarizes and analyzes Governor Cuomo's 2013-14 Executive Budget recommendations affecting schools. It begins, however, with a discussion of why so many school district leaders are alarmed by their financial prospects. A key theme is that the dire outlook is not driven by the proposed budget for the one year ahead, but by forces that have accumulated and accelerated over many years.

As the report explains, Governor Cuomo's budget is more positive for schools than might have been anticipated, partly because the Governor proposes additional aid above what the School Aid growth cap he initiated would have allowed.

Yet a repeat of our survey would likely yield even more pessimistic results now, as superintendents, boards, business officials and communities wrestle with actual budgeting choices.

The Governor has proposed a measure to help districts with one of the greatest fiscal threats – surging mandated pension costs. But his proposal to enable districts to lock-in a stable contribution rate over 25 years is controversial, its fate is uncertain at this time, and if enacted, some districts will be unwilling to take on the higher future costs it would impose. For other districts, there is no future without help in the near-term of the magnitude that proposal promises.

All told, the perception among education leaders is that the state has no real plan to enable schools to survive or to adapt so that they can meet this generation's obligations to the next.

State officials can leave all the hard choices to school district leaders, and attempt to elude, for a time, whatever political fallout might arise from enacting changes to state policies. But their leadership is needed to enable their local partners to make choices with better outcomes for the students and taxpayers both serve.

Why are so many school districts worried about insolvency?

The Council's November 2012 finance survey report[1] found 9 percent of superintendents anticipating financial insolvency for their districts within two years and 41 percent in within four years. Even higher proportions foresaw "educational insolvency" — becoming unable to fund instructional and other student service mandates.

Why do so many school district leaders across the state fear insolvency?

1. ***School districts have endured a series of tough budgets; easier budget cuts have already been taken.***

State aid was cut in 2010-11 and 2011-12 and most aid was frozen in 2009-10. Nearly 90 percent of districts are getting less state aid this year than they did in 2008-09. Even with the increases enacted last year and proposed by Governor Cuomo this year, 80 percent of districts would still be getting less help from the state in 2013-14 than in 2008-09.

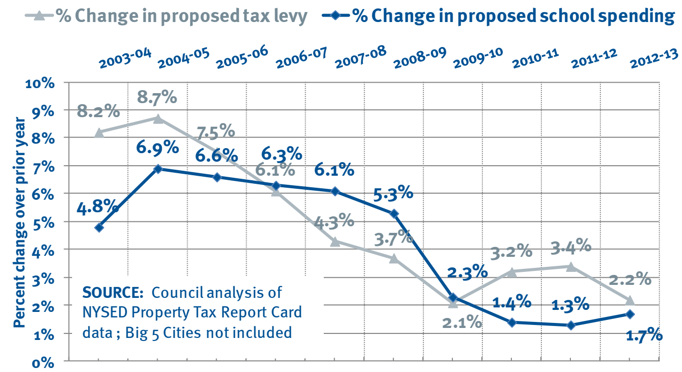
Change in Total School Aid -- 2008-09 to 2012-13 *87% of districts are receiving less aid this year than they did 4 years ago*		
Amount of change between 2008-09 and 2012-13	**Number of Districts**	**Cumulative percentage**
Reduction of 20% or more	49	7%
Reduction of more than 15%, up to 20%	108	23%
Reduction of more than 10%, up to 15%	197	52%
Reduction of more than 5%, up to 10%	131	72%
Reduction of up to %5	101	87%
Increase of up to 5%	54	95%
Increase of more than 5%	36	100%
Total	676	-----

SOURCE: Council analysis of NYSED School Aid data

Also, districts have been holding down spending and taxes. Over the past four years, spending increases have averaged 1.7 percent and tax increases have averaged 2.7 percent.

Easier cost control options have been exhausted in many districts. Any job or program cannot be eliminated more than once, so each round of reductions becomes harder to make.

Schools were holding down taxes and spending before the tax cap

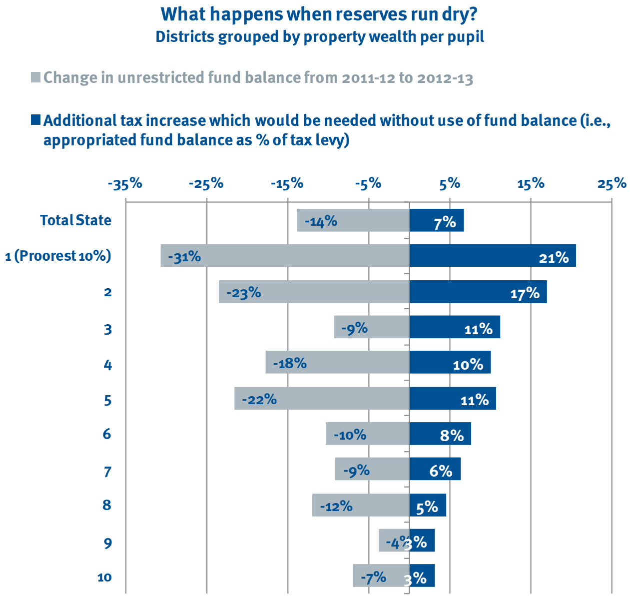


2. ***School districts have been drawing down reserves to spare students and taxpayers from budget actions that would have had more drastic impact. But those resources are disappearing fast.***

Half the districts in the state used more from fund balance in their budgets this year than they have remaining for use next year.

Without the use of reserves (appropriated fund balance) in their budgets this year, districts would have needed to raise taxes by 7 percent more than they did (9.2 percent, instead of 2.2 percent on average), or make cuts of corresponding magnitude. The poorest districts would have needed tax increases of 21 percent more to replace what they used in fund balance this year.

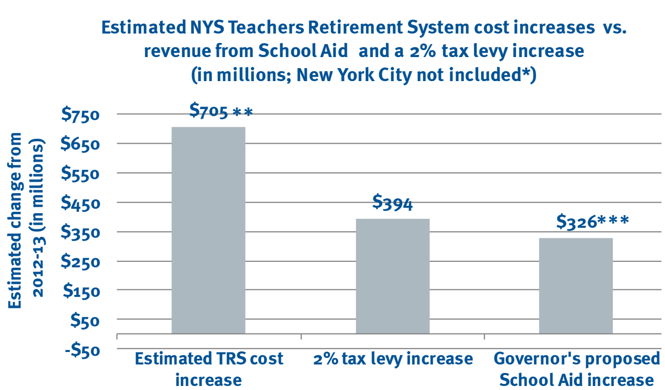
[1] New York State Council of School Superintendents, *Can't Get There From Here: 2nd Annual Survey of NYS School Superintendents on Financial Matters.* November 2012.



SOURCE: Council analysis of NYSED Property Tax Report Card data

3. *Some hard to control costs – especially pension contributions and health care premiums have been surging.*

Employer contribution rates to the State Teachers Retirement System are due to increase from 11.9 percent of payroll, to 16.25 percent. For nearly all districts, TRS cost increases will exceed what they would receive in state aid from the Governor's budget or what they would generate in local revenues with a 2 percent tax increase. For roughly 40 percent of districts, this one cost would exceed the sum of both revenue increases.



* New York City has a separate Teachers Retirement SYstem

** Estimated by adjusting 2011-12 TRS obligations to reflect contribution rate increases from 11.11% for 2011-12 to 11.86% for 2012-13 and 16.25% for 2013-14. Actual costs would also be affected by changes in payroll costs since 2011-12.

*** Does not include aid from Fiscal Stabilization Fund (not yet allocated)

SOURCE: Council analysis of NYSED School Aid and Property Tax Report Card data.

State government projects that health insurance costs on behalf of its employees and retirees will rise by and average of over 7 percent per year over the next three years. Many districts foresee even greater increases.

4. *There has been limited action on mandate relief, and new mandates have been adopted.*

The new "Tier VI" in state retirement systems will significantly lower school district pension costs – but only over the long term. Other significant mandate relief has yet to be enacted.

New mandates have been imposed – for example, implementing Common Core learning standards and new teacher and principal evaluation requirements.

Some of New York's high education costs are driven by unique laws: No other state we have found has a Triborough Law requiring payment of salary "step" increases even after a contract has expired, nor a Wicks Law mandating use of multiple prime contractors on construction projects. New York also has complex special education mandates. If state leaders want to maintain these policies, they need to acknowledge the costs the policies impose on schools.

5. *The two major revenue sources for schools – local taxes and School Aid – are now subject to state-imposed growth limits.*

Again, just state-mandated increases for Teachers Retirement System costs will exceed what nearly all districts would receive from either of their two primary revenue sources given the state's caps on School Aid and property taxes. For many districts, that one cost would exceed the total revenue they would receive from both these now capped sources.

Our finance survey found disparities across districts over which is the greater concern: state aid or the tax cap. In poorer upstate regions away from the Hudson Valley, only 5 percent of superintendents picked the tax cap as the greater concern; in downstate suburban counties, only 11 percent chose state aid.

Finally, the largest remaining revenue source – federal aid – is also at increased risk.

HIGHLIGHTS

School Aid

- $610 million (3.0%) increase in School Aid consistent with growth cap based on change in statewide personal income; includes:
  - $550 million increase shown on School Aid runs
  - $50 million increase for competitive grants to encourage and reward Management Efficiency and Student Performance Improvement
  - Net $10 million increase in other programs funded within School Aid
- Major Components of $550 million School Aid increase presented on aid runs:
  - $322 million increase through proposed Gap Elimination Adjustment Restoration
  - Net $50 million reduction through proposed changes to High Tax Aid
  - Net $289 million increase in expense-based and other aid categories due to continuation of current law formulas
- Continuation of School Aid penalty (no increase) if district does not have teacher and principal evaluation plans approved by the State Education Department by deadline – September 1 for 2013-14.
- Aid calculations would be frozen based on data on file at time Governor's budget was proposed (January 22).

Fiscal Stabilization Fund

- $203 million in additional aid to school districts, to be allocated through statute.
- Districts would be required to have approve teacher and principal evaluation plans to be eligible.

"New NY" Education Reform Commission initiatives:

- Full-day Prekindergarten for economically disadvantage four year-olds: $25 million
- Community Schools (as hubs for family support services): $15 million
- Extended Learning Time grants: $20 million
- Reward stipends for high performing teachers: $11 million
- Expansion of Early College High Schools: $4 million
- Districts would be required to have approve teacher and principal evaluation plans to be eligible for any program.

Mandate Relief/Other Initiatives

- Option for school districts to "lock-in" a stable pension contribution rate for up to 25 years (12.5% for Teachers Retirement System – is scheduled to be 16.25% for 2013-14; 12% for State and Local Employees Retirement System). Districts could opt-out at any time by making a "reconciliation contribution." Systems could increase rates by up to 2 points after 5 years and again after 10 years and to shorten or lengthen stable rate period depending on investment performance. State Comptroller and TRS Board must approve program.
- State Education Department would be authorized to arbitrate disagreements between New York City and its unions over teacher and principal evaluations and to impose plans if agreements are not approved by June 1 in any year.
- Districts would be permitted to obtain waivers from the State Education Department from most special education mandates imposed by law or regulation.
- All reporting requirements on school districts and local governments would be repealed effective April 1, 2014, unless the State Mandate Relief Council concurs with an agency request to continue a specific requirement.

School Aid

Overview

Governor Cuomo proposes a $610 million increase in School Aid for the 2013-14 school year. Since 2011-12, growth in School Aid has been subject to a cap based on annual change in the total personal income of state taxpayers. The recommended increase of 3.0 percent reflects the latest estimate of that cap.

The $610 million School Aid increase consists of these elements:

- $550 million in formula-based aids shown on School Aid "runs;"
- $10 million in other programs funded through School Aid;
- $50 million for a new round of competitive grant awards for Management Efficiency and Performance Improvement.

The $550 million increase in aids shown on the aid run has these three "moving pieces":

- $322 million in additional general purpose aid through a reduction in the Gap Elimination Adjustment;
- A $50 million net reduction in High Tax Aid;
- A $289 million net increase in expense-based aid including Building, Transportation, BOCES Aids, and other miscellaneous aid categories funded according to current law.

In addition to the $610 million School Aid increase, the Governor also proposes $203 million for a Fiscal Stabilization Fund and $75 million for programmatic initiatives endorsed by his New NY Education Reform Commission and outlined in his State of the Sate message.

The budget does not propose an allocation of the Fiscal Stabilization funding; that will be done through negotiations with the Legislature. It is described as "one-time financial relief to school districts," provided "in recognition of extraordinary increases in fixed costs, including pension contributions."

The programmatic initiatives would receive these allocations:

- Full-day Prekindergarten: $25 million
- Extended Learning Time: $20 million
- Community Schools: $15 million
- Reward High Performing teachers: $11 million
- Early College High School programs: $4 million

Altogether, funding for schools from these three sources would rise by a total of $889 million, or 4.4 percent, over the 2012-13 School Aid amount.

Commentary: *It is a positive step that Governor Cuomo recommended funding for his education reform initiatives* ***outside*** *the School Aid growth cap, and that he recommends an additional $203 million for "fiscal stabilization"* ***on top of*** *the aid provided within the cap.*

Nonetheless, even with the proposed increase, 80 percent of school districts would still be getting less help from the state than in 2008-09 – five years before. Exclude Building Aid, and only 4 percent of districts would be getting as much or more state help as in 2008-09.

The Council has opposed the School Aid growth cap as an arbitrary ceiling on aid increases. At the same time, we acknowledge it can also be viewed as a floor, and that the Governor has made other budget accommodations to fund School Aid at scheduled levels – for example, the December 2011 tax reform plan that generated $4 billion in additional state revenue over two years.

Together with other statewide education groups, the Council supports using a multi-year average of income growth to calculate the School Aid cap, to give school district leaders greater predictability in year-to-year aid changes. The state's cap on Medicaid growth uses a 10-year average of medical cost inflation.

Participation in the Management Efficiency and Performance Incentive grant programs has been limited. The Council supports re-programming the $50 million increase proposed by the Governor for these programs to provide more general operating aid to school districts.

SUMMARY OF AIDS FINANCED THROUGH SCHOOL AID APPROPRIATIONS
2012-13 AND 2013-14 SCHOOL YEARS-- NEW YORK STATE

AID CATEGORY	2012-13	2013-14	Change	Percent
I. Formu!a~Based Aids:	(~-------Amounts in Millions--------~)			
Foundation Aid	15,005.36	15,005.36	-	%
Excess Aid -- High Cost	452.25	532.04	79.79	17.6%
Excess -- Private	320.09	358.98	38.89	12.1%
Reorganization Operating Aid	2.86	2.57	(0.29)	-10.1%
Textbooks	179.05	181.34	2.29	1.3%
Computer hardware	38.02	38.86	0.84	2.2%
Computer Software	45.73	46.69	0.96	2.1%
Library Materials	19.01	19.48	0.47	2.5%
BOCES	704.13	724.86	20.73	2.9%
Special Services	205.47	204.19	(1.28)	-0.6%
Transportation	1,661.62	1,722.49	60.87	3.7%
High Tax	204.77	154.74	(50.03)	-24.4%
Universal Prekindergarten	384.15	385.03	0.88	0.2%
Academic Achievement Grant	1.20	1.20	-	0.0%
Supplemental Educational Improvement Grant	17.50	17.50	-	0.0%
Charter School Transition	34.61	33.47	(1.14)	-3.3%
Full-Day Kindergarten Conversion	7.27	13.83	6.56	90.2%
Academic Enhancement Aid	8.32	8.32	-	0.0%
Supplemental Public Excess Cost	4.31	4.31	-	0.0%
Gap Elimination Adjutsment	(2,156.28)	(1,834.73)	321.55	-14.9%
Building Aid	2,714.11	2,783.33	69.22	2.6%
Subtotal	**19,853.55**	**20,403.86**	**550.31**	**2.8%**
II. Grant Programs and Additional Aid Categories				
Teachers of Tomorrow	25.00	25.00	-	0.0%
Mentor Teacher Intern	2.00	2.00	-	0.0%
Schoo! Health Services	13.84	13.84	-	0.0%
Roosevelt	12.00	12.00	-	0.0%
Urban-Suburban Transfer	2.73	2.73	-	0.0%
Employment Preparation Education Aid	96.00	96.00	-	0.0%
Homeless Pupils	18.23	21.23	3.00	16.5%
Incarcerated Youth	20.50	21.00	0.50	2.4%
Bilingual Education	12.50	12.50	-	0.0%
Education of OMH/OPWDD Pupils	80.00	60.00	(20.00)	-25.0%
Special Act School Districts	2.70	2.70	-	0.0%
Chargebacks	(39.80)	(41.00)	(1.20)	3.0%
BOCES Aid for Special Act School Districts	0.70	0.70	-	0.0%
Learning Technology Grants	3.29	3.29	-	0.0%
Native American Building Aid	5.00	5.00	-	0.0%
Native American Education	37.61	45.30	7.69	20.4%
Bus Driver Safety	0.40	0.40	-	0.0%
Subtotal	**292.7**	**302.69**	9.99	3.4%
Total Formula-Based and Grant Programs	**20,146.25**	**20,706.55**	**560.30**	**2.8%**
Competitive Grants	50.00	100.00	50.00	100.0%
SCHOOL YEAR TOTAL	**20,196.25**	**20,806.55**	**610.30**	**3.0%**

Source: State Education Department computer runs and Executive Budget estimates of January 22, 2013.

Specific Aid Categories

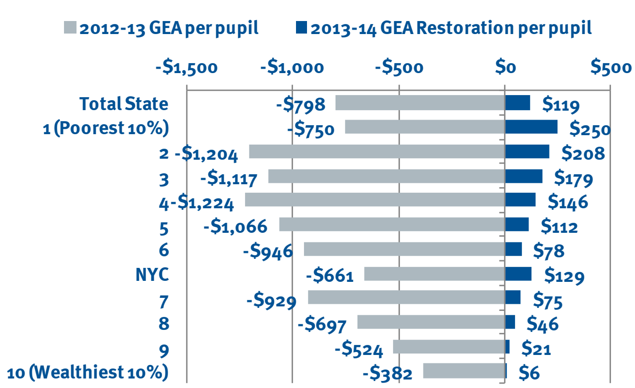
Gap Elimination Adjustment Restoration: Since 2009-10, total School Aid for each district has been reduced for all districts through a lump sum reduction, first named the "Deficit Reduction Assessment," and renamed the "Gap Elimination Adjustment" beginning in 2010-11. The Governor's budget would provide $321.55 million in additional general purpose aid to districts by reducing the GEA from $2.16 billion, to $1.83 billion.

Each district would have its GEA Restoration calculated through a series of steps, taking into account local ability to fund education, pupil needs, and the size of its 2012-13 GEA Restoration. The maximum restoration would be capped at 41.5 percent of a district's 2012-13 GEA.

Commentary: *Analysis of the Governor's proposed GEA Restoration shows a progressive distribution, with lower wealth, higher pupil need districts generally receiving larger per pupil benefits.*

The restoration remains small, however, in proportion to what districts have lost from the GEA.

Governor's GEA Restoration is progressive, but still small in relation to past cuts



NOTE: Districts are grouped by property wealth per pupil.

SOURCE: Council analysis of NYS Education Department School Aid data.

High Tax Aid: The Governor proposes changes to High Tax Aid which would reduce that aid to 249 districts by $68.6 million, while also increasing aid to 62 districts by $18.5 million, resulting in a net $50 million (24.4 percent) reduction in High Tax Aid. The Governor would also revise the formula for allocating this aid:

- Districts would be eligible for Tier 1 High Tax Aid if their Income Wealth Index (i.e., resident income per pupil) is below 95.5 percent of the state average, their Approved Operating Expense (AOE) per pupil is greater than $11,938 (i.e., 95.5 percent of the state average of $12,500), and their tax levy on residential property divided by the total adjusted gross income of resident taxpayers is greater than 4.5 percent. Qualifying districts will receive $475.00 X the State Sharing Ratio[2] X 2012-13 public school enrollment.
- Districts would qualify for Tier 2 High Tax Aid if their tax levy on residential property divided by the total adjusted gross income of resident taxpayers is greater than 5.5 percent. Aid equals the amount by which its AOE per pupil exceeds $13,125 X a regional cost index X a wealth ratio
- Districts would receive the greater of the sum of Tier 1 and 2 or a save-harmless amount. The save-harmless amount is 50 percent of 2012-13 High Tax Aid for districts of below average wealth measured by the Combined Wealth Ratio, and 30 percent of 2012-13 High Tax Aid for all other districts.

Commentary: *Over 70 percent of the net High Tax Aid reduction would be absorbed by Long Island school districts, with more than half of the region's districts facing the maximum 70 percent reduction. Statewide, above-average wealth districts would see High Tax Aid reduced by a net average of 31.3 percent, while below-average wealth districts would gain a net 3.9 percent on average.*

Over a quarter of the state's districts would lose more from the High Tax Aid changes than they would gain from the GEA Restoration.

[2] The State Sharing Ratio is used in several School Aid formulas to adjust how much aid a district will receive. It compares district property wealth and resident income per pupil to state averages, weighting each equally, and proves a greater state share for aid as local wealth declines.

Foundation Aid: As noted, all aids appearing on the aid run, excluding the GEA Restoration and High Tax Aid would be funded according to formulas now in law, including Foundation Aid, which would be frozen at 2012-13 amounts for all districts.

The Foundation Aid formula was enacted in 2007 as the centerpiece of an effort to resolve the Campaign for Fiscal Equity's successful challenge to the constitutionality of the state's system of school finance.

Commentary: *The Foundation Aid formula was due to be phased-in over a four year period, ending in 2010-11. After two large increases, the aid was frozen for three straight years. In the current year's state budget, Foundation Aid was increased by $111 million. Nonetheless, total funding for Foundation Aid is now roughly $3 billion below the level projected for 2010-11, without taking into account the impact of the GEA cuts to total aid described above.*

Other Aids: Current law formulas would be used to calculate aid for the following categories; any aid increases or reductions result from year-to-year changes in data used to calculate aid:

- Building Aid[3]
- Transportation Aid
- Board of Cooperative Educational Services (BOCES) Aid
- Special Services Aid for districts not in BOCES
- Public Excess Cost High Cost Aid (reimbursement for the cost of student placements in high cost public school settings)
- Private Excess Cost Aid (reimbursement for the cost of student placements in high cost public school settings)
- Charter School Impact Transition Aid
- Textbook, Computer Software, Computer Hardware and Library Materials Aids
- Full-Day Kindergarten Conversion Aid
- Universal Prekindergarten Aid[4]
- Reorganization Incentive Operating and Building Aids

In addition, Academic Achievement and Supplemental Educational Improvement Grants and Supplemental Public Excess Cost Aid would be funded at their 2012-13 levels.

Various smaller categorical aid programs within School Aid are also funded at current law levels.

Commentary: *Generally, more affluent districts continue to realize larger increases in the expense-based aid categories, suggesting they have maintained the spending which generates state reimbursement.*

On the other hand, poorer districts realize greater gains in the general purpose aid, due chiefly to the Governor's proposed GEA Restoration. Many wealthier districts would lose more general purpose aid from the High Tax Aid changes than they would gain from the GEA Restoration.

% Change in Proposed Aid 2012-13 to 2013 -14 by Type
Districts Grouped by Property Wealth per Pupil

	General Purpose Aids	Expense-Based & Other Aids	Total Aid
Total State	**2.1%**	**4.1%**	**2.8%**
1 (Poorest 10%)	2.9%	2.6%	2.8%
2	3.2%	4.9%	3.9%
3	3.2%	3.3%	3.2%
4	2.9%	1.2%	2.2%
5	2.3%	3.5%	2.8%
6	2.2%	4.8%	3.2%
NYC	2.4%	3.9%	2.8%
7	0.6%	7.3%	3.0%
8	-2.6%	6.1%	1.0%
9	-3.4%	10.2%	2.2%
10 (Wealthiest 10%)	-6.1%	6.7%	-1.0%

SOURCE: Council Analysis of NYSED School Aid data

[3] Under the new Secure Ammunition and Firearms Enforcement ("SAFE") Act, school districts will be eligible for a 10 percentage point increase in their Building Aid reimbursement rate for specified school safety improvement projects approved between July 2013 and July 2016.

[4] As explained below, in addition to aid distributed through the current UPK formula, districts meeting specified criteria would be eligible to apply for grants to implement full-day prekindergarten programs for economically disadvantaged children.

Fiscal Stabilization Fund

As noted, in addition to School Aid distributed according to statutory formulas and presented on aid runs published with the proposed budget, the Governor also recommends $203.47 million for a "Fiscal Stabilization Fund" to be allocated pursuant to further legislation.

To be eligible for an allocation, districts would be required to have plans for teacher and principal evaluations approved and in place by September 1, 2013.

Commentary: *Through the Fiscal Stabilization Fund, the Governor provides an opportunity for legislators to show voters they can deliver aid increases for local districts,* ***but without increasing total state spending above the level proposed he proposed****.*

A downside over the near-term is that, because the Governor does not recommend an allocation formula for the Financial Stabilization Fund, no figures for this aid are included on district aid runs and districts cannot factor an amount into local budget planning.

As we explain below, a September 1 deadline for evaluation plans is impractical for the coming school year.

Teacher and Principal Evaluation Plans

In an effort to prod school districts and local unions to reach agreement on teacher and principal evaluation plans, the 2012-13 state budget included a provision to deny School Aid increases to districts which did not have plans approved by the State Education Department by January 17, 2013, one year from the date Governor Cuomo proposed his budget for the current year.

When the deadline passed, all but six districts had approved plans in place. New York City is among those not meeting the deadline and now stands to lose $260 million in state aid. Without this savings, the overall proposed General Fund budget would not be in balance, as the state constitution requires.

It is estimated that roughly 90 percent of plans agreed to by districts and their unions are for only a single year. To promote timely adoption of approved plans, the Governor again proposes an aid penalty, this time with a deadline of September 1 for SED approval. In addition, the budget would make any aid penalties permanent and recurring. For example, the $240 million New York City has lost due to missing this year's deadline would be deducted from every future year's aid, whether or not it makes every deadline in years to come.

Also, State Education Commissioner John King has advised New York City and other districts that they must still negotiate and gain approval for evaluation plans, or face state management of some of their federal funds.

Governor Cuomo announced that 30-day amendments to his budget would authorize the State Education Department to impose an evaluation plan for New York City in any school year in which the City and its unions fail to develop an approved plan.

Finally, advocates for New York City students recently won an injunction to prevent the state from withholding the City's School Aid increase as a penalty for failing to meet this year's deadline. Pending an appeal by the state, the issue would now go to trial. The plaintiffs' argument relies heavily on the fact that New York's highest court ruled in the last decade that the state's system of education finance contributed to City schoolchildren being denied their right to a sound basic education. Accordingly, it cannot be assured that a victory for the City would stop aid penalties for any other districts.

Commentary: *The Council opposed threatening districts with a loss of aid a year ago, believing it would put more pressure on districts than on unions to compromise. Instead, the Council recommended that a state-prescribed model evaluation plan be imposed if local agreements could not be reached, the approach the Governor would now apply, but only for New York City.*

Making aid penalties for missing a deadline permanent and recurring is excessive. It needs to be asked, which does more harm to students – having their district miss a deadline for implementing evaluation procedures or experience potentially large and permanent cuts in state aid?

If there is to be a deadline, for at least the coming school year, it must be pushed back from September 1. Districts and teachers will not receive SED-generated student growth scores until mid-August at the earliest. Those results will be one of the factors districts and unions will want to consider before revising their plans.

Finally, with the proposal to authorize SED to impose a plan anytime New York City and its unions fail to agree, the City presumably would be spared from future aid penalties. This begs the question, why should other districts not receive the same treatment?

Aid Limits

Once again, the Governor proposes to limit each district's aid for both the base year (2012-13) and estimate year (2013-14) at the amount calculated based on amounts estimated as of January 22, 2013, or amounts calculated based on updated data, whichever is less.

The Governor also proposes to eliminate prior year aid claims by school districts. Commencing with the 2014-15 school year, and changes to aid data would need to be submitted by November 1 of the year in which the aid is to be paid.

Commentary: *Freezing School Aid data as of the date the Governor's budget is released has been rejected by the Legislature multiple times. Some data is not available in time to meet that deadline.*

Building Aid Interest Rate "Re-Set"

In an effort to smooth out state Building Aid payments, legislation was enacted more than a decade ago to reimburse school district construction costs using "assumed amortization rates." Debt service reimbursements are calculated *assuming* districts financed projects over specified periods of probable usefulness (e.g., 30 years for new construction), even if districts chose to repay debt over a shorter period.

Chapter 383 of the Laws of 2001 directs the State Education Department to revise the interest rates used in these assumed amortization calculations. The provision was intended to adjust Building Aid reimbursements to reflect for bond refinancings. The Department is now in process of implementing the first ever re-setting of interest rates. *A partial estimate is that the exercise will reduce Building Aid by over $68 million for affected districts*.

Districts can apply to the Commissioner of Education for a waiver from the interest rate recalculation if they can demonstrate that they are precluded by state or federal law, rule or regulation from refinancing.

Note: *This issue arises from laws enacted more than 10 years ago – it is **not** a recommendation in the Governor's budget proposal.*

Commentary: *Re-setting interest rates used in Building Aid calculations will impose aid reductions on many school districts with little or no warning and will complicate property tax cap calculations required to be submitted to the State Comptroller by March 1.*

The interest rate recalculation is intended to reduce state Building Aid payments to reflect district savings achieved through refinancing. But in many cases refinancing was done in years past and savings were used to preserve school services or hold down local tax increases.

Increasing Foundation Aid vs. Reducing the Gap Elimination Adjustment

Which is preferable: an increase in Foundation Aid or a reduction in the Gap Elimination Adjustment?

Which is better: to receive a check in a brown envelope or a white envelope?

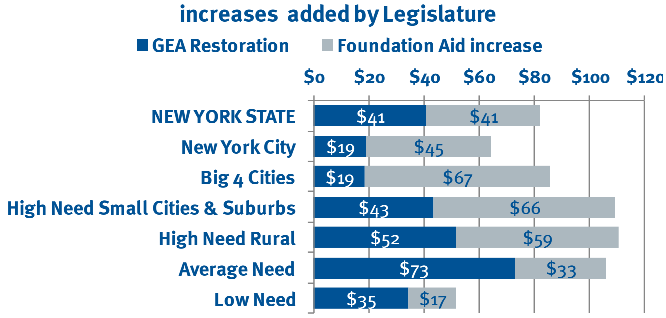
The questions are similar. What really matters is the size of the check, not the form it comes in.

Reducing the GEA and increasing Foundation Aid are both ways of providing more general operating support to schools. It is not a given that one or the other will always be more beneficial to a particular district. What matters is how either is calculated.

In last year's budget negotiations, the Senate's one-house budget would have reduced the GEA by $200 million, while the Assembly's would have increased Foundation Aid by $178 million.

The enacted budget incorporated a predictable compromise: a total of $221 million in general aid was added, split nearly evenly between a Foundation Aid increase and a GEA reduction. Below is a chart showing the per pupil changes from these two sources, grouping districts according to the State Education Department's Need/Resource categories.

Per pupil distribution of 2012-13 general purpose aid increases added by Legislature



Two points need to be made: (1) both components were part of a package – had one been allocated differently, so would the other in all probability; and (2) the past is not necessarily prologue – a different year would produce a different distribution. But it is significant that large urban districts derived a much smaller benefit from the additional GEA Restoration, while results for High Need Rural districts were mixed (a majority gained more from the Foundation increase).

There are other implications to consider. The GEA was first enacted under another name (the Deficit Reduction Assessment) in 2009 to impose lump sum reductions on School Aid and help close gaping state deficits in the aftermath of the 2008-09 financial market collapse. It remains in place and now serves as the primary mechanism for ratcheting the annual change in School Aid to fit within the personal income growth cap described above.

The initial GEA reductions often imposed larger per pupil cuts on poorer districts. Recent restorations – those enacted last year and those proposed by the Governor this year – improve the GEA's progress-ivity. But however constructed, state aid cuts are nearly always hardest on the poorest districts, because they have the lowest capacity to raise local revenues and often the leanest budgets to cut.

Governor Cuomo's proposed budget would reduce the GEA by $322 million. Continuing at that rate would require five more years to fully eliminate the GEA.

The Foundation Aid formula was a major reform, enacted in 2007 as part of the resolution of the Campaign for Fiscal Equity's successful challenge to the constitutionality of the state's school finance system. It generally provided the greatest per pupil aid to the neediest districts, while also promising improvements in transparency and predictability.

However, Foundation Aid has been frozen three out of the last four years, and would be again under the Governor's proposed budget. The state is now roughly $3 billion behind in reaching the funding level promised in 2007 for the 20101-11 school year. Counting the GEA cuts against Foundation Aid puts the state over $5 billion behind.

Resuming Foundation Aid increases signals intent to preserve an exceptional achievement in public policy. But at the rate set by the 2012-13 state budget, nearly 30 years would be needed to reach the funding level promised for 2010-11, without accounting for the impact of the GEA. In the meantime, districts "fall off" the formula – 151 districts now receive a total of $136 million more Foundation Aid at their frozen level than they would through the formula itself.

New NY Education Reform Commission Initiatives

Governor Cuomo proposes a total of $75 million in funding for recommendations made by his New NY Education Reform Commission in a preliminary action plan earlier this month. Funding would be provided by amending the appropriation made in the current year budget for the Management Efficiency and Performance Improvement competitive grant programs to re-target that money to the new initiatives.

To be eligible for any of the programs, districts would be required to have plans for teacher and principal evaluation approved by the State Education Department by September 1, 2013 for the 2013-14 school year.

Further detail on each of the programs follows.

Full-day Prekindergarten: $25 million would be available to support creation of full-day prekindergarten programs or conversion of half-day programs to full-day.

Grants would be awarded based on factors including measures of district and student need, targeting services to the highest needs schools and students, maximizing the number of children served, and quality of the proposal. For each full-day student served, districts would receive their current selected Universal Prekindergarten Aid per pupil multiplied by two.

Extended Learning Time: $20 million would be available for grants to enable school districts extend student learning time. Grants recipients would be determined by a three-person panel including the Education Commissioner and two designees of the Governor.

Criteria for selection would be targeting of schools and students with the greatest need and proposal quality. Further, consideration could be given to district plans to maximize the value of current school time and how the additional time would be used.

No district would be allowed to receive a schoolwide grant unless its proposal would increase student learning time by at least 25 percent.

Grants would equal the average daily attendance of participating students multiplied by the "expected cost" per pupil. The expected cost would be the greater of $1,500 or 10 percent of the of the district's approved operating expense per pupil, updated for inflation. Larger grants could be awarded by the Education Commissioner in "extraordinary cases."

Community Schools ($15 million): $15 million would be available to fund the establishment of "Community Schools" – using school buildings as "hubs" to deliver academic, nutrition, health, counseling and other services to students and their families.

Grants would be awarded to districts by the State Council on Children Families (CCF) based on measures of student and district need, targeting of highest need students, and proposal quality. In assessing proposal quality, the CCF would be directed to consider the extent of partnerships with other community agencies, the extent to which direct services would be provided in school buildings, the use of other funding streams to support services, and how services would promote measurable gains in student and family outcomes.

The maximum grant per site would be $500,000.

Reward High Performing Teachers: $11 million would be provided to fund stipends of $15,000 per year to high-performing teachers of mathematics, science, and related subjects. The program would be administered by the State University system and recipients would be chosen pursuant to criteria spelled out in a plan developed by SUNY in consultation with the Education Department.

Early College High School programs: $4 million would be provided to support continuation and expansion of "Early College High School" programs – opportunities for students to earn college credit while in high school. A portion of the payments to programs would be made contingent on students earning an associate's degree or two years' of college credit by the time they finish high school.

Commentary: *Again, it is a positive step that the Governor proposes funding for these initiatives **outside** the School Aid growth cap. However, the five-year financial plan accompanying the proposed budget does not identify future funding levels for these initiatives, or whether such funding would count against the growth cap in out-year budgets. The Pre-K and Extended Learning Time initiatives in particular have large potential costs.*

There is widespread recognition of the value of expanding prekindergarten opportunities. Community Schools acknowledge that schools cannot succeed without help from families and some families need help schools often cannot provide.

Whether funding is provided for Extended Learning Time, the state should revise current seat-time requirements, so that schools can maximize the value of the time they have now.

It should be considered whether the teacher grants or Early College High School initiative are the best possible investments toward improving teaching and strengthening connections between high school and college or careers.

A commonly expressed concern is that small districts lack the administrative capacity to develop competitive applications making grant programs such as these unwinnable prizes.

In addition to recommending new funding initiatives, the Reform Commission also proposed development of "a school performance management system that will streamline district reporting and increase transparency and accountability." The proposed operating budget for the State Education Department calls for a plan to develop such a system.

Budget documents also indicate that SED will implement Commission recommendations to "…increase the standards for teacher certification to require passage of a 'bar exam' in addition to "…longer, more intensive and high quality student teaching experience in a school setting."

Other Programs

Preschool Special Education: The Governor recommends programmatic reforms to Preschool Special Education, but does *not* propose shifting costs on to school districts. The capacity of counties to monitor program providers would be strengthened through $1 million in targeted grants and through development of a fiscal integrity tool to better detect fraud and abuse. As an incentive toward stronger local oversight, counties would be allowed to retain 100 percent of any audit recoveries. Last, New York City would be authorized to use a competitive process to select program providers and set payment rates within state prescribed parameters.

Commentary: *The proposals would promote more effective fiscal oversight of preschool special education without shifting costs on to school districts, which are funded through smaller tax bases than the state or counties, and operate with a more stringent tax cap.*

4201 School Summer Programs: The budget would change funding procedures for summer programs conducted by private, "section 4201" schools serving children with disabilities. The funding structure for services during the school year was "flipped" in 2011: previously, state government funded the schools and then recouped part of the cost through charges on districts sending students, now districts pay up-front and receive partial reimbursement from the state. A similar change would now be made to funding 4201 school services provided in July and August.

Commentary: *The proposal would achieve limited and mostly non-recurring savings for the state while shifting a new cost upon school districts with little notice.*

Teacher Centers: Teacher Center funding would eliminated, starting with the 2013-14 school year, a cut of $10.22 million.

State Education Department Operating Budget: General Fund support for the State Education Department's operating budget would increase by $3.4 million, or 8.0 percent. Funding for tenured teacher ("3020a") hearings would increase by $1.9 million. The Department's Office of P- 12 Education would receive an additional $1.5 million.

Mandate Relief

Stable Pension Rate Option: The Governor proposes to allow school districts and local governments to "lock-in" a stable employer contribution rate (ECR) for up to 25 years for their required payments to state retirement systems. The rate would be 12.5 percent for the Teachers Retirement System (TRS). TRS recently announced its ECR would climb by 37 percent, from the current 11.86 percent to 16.25 percent.

Districts would have one opportunity opt-in, but could opt-out at any time by making a "reconciliation contribution" equal to what they would have paid had they not chosen the stable rate option. Each retirement system would be permitted two opportunities to increase their required ECR by up to two percentage points each time, once after five years and again after 10 years.

Retirement systems would be authorized to extend the stable rate period past 25 years if their investments perform poorly, or shorten the period if they do well.

As the *Executive Budget Briefing Book* explains, "These stable rate pension contributions will dramatically reduce near-term payments for employers, but will require higher than normal contributions in the later years (p. 16)." The proposal is cited as enabling school districts and local governments to gain "immediate access to the long-term savings" last year's "Tier VI" pension changes will produce. For example, TRS estimates that the long-term employer cost of Tier VI will be less than 5 percent of pay, compared to roughly 11 percent for Tier IV.

Implementation of the plan would require approval by the TRS board for TRS and State Comptroller Thomas DiNapoli for the State and Local Employees Retirement System (ERS). TRS has requested a review of the proposal by an independent actuary and the Comptroller is conducting a review as well.

Commentary: *As explained below, pension costs are one of the primary factors driving fears of financial insolvency for school districts.*

School district payments to retirement systems are determined by multiplying the payroll for employees in that system by its employer contribution rate. Consequently, the scheduled jump in the TRS rate from 11.86 percent to 16.25 percent would require districts to absorb a cost equivalent to giving all covered employees raises of nearly 4.4 percent, whether or not they actually provide any raises.

For many districts, the spike in TRS costs is likely to exceed what they would gain in revenue from the Governor's School Aid proposal ***plus*** *a 2 percent local property tax increase. By offsetting most of the scheduled rate increase, the proposal would have a greater budget impact for most districts than their proposed School Aid increase under the Governor's budget.*

The Council is awaiting the reviews of TRS and the Comptroller.

Special Education Waivers: The Governor proposes to allow school districts, BOCES, and approved private schools to obtain waivers from most special education mandates prescribed by state laws or regulations adopted by the Board of Regents.

Districts would be required to submit waiver requests to the Education Commissioner at least 60 days before they are proposed to take effect, and to provide notice of the planned waiver requests to families whose children would be affected at least 60 days prior to submitting the request. Any comments from affected families would be included with the waiver submission.

The Commissioner would be authorized to grant waivers upon finding that a proposal would enable a district to, "…implement an innovative special education program that is consistent with applicable federal requirements, and will enhance student achievement and/or opportunities for placement in regular classes and programs." Waivers would be granted for one year at a time.

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.*

Paperwork Relief: The budget would repeal all reporting requirements to state agencies for school districts and local governments, effective April 1, 2014, unless the State Mandate Relief Council votes to continue a reporting requirement. Agencies would be required to refer all reporting requirements to the Mandate Relief Council by September 1, 2013, and identify those they recommend be continued. The Mandate Relief Council is comprised of seven senior Cuomo Administration officials, two State Senators and two State Assemblymembers.

Commentary: *The State Education Department website currently lists over 140 plans, reports, and applications school districts and BOCES are required to file – nearly three for every week of the year. The impact is especially burdensome for small districts, some of which have only one central office administrator – their superintendent. Previous attempts at streamlining paperwork requirements have yielded minimal relief. State officials need to decide – do they want district leaders filling out reports no one ever reads, or doing things that can make a difference for students and taxpayers. This proposal offers the chance for a dramatic breakthrough.*

Workers' Compensation Reform: The Cuomo Administration proposes extensive changes to Workers' Compensation which it estimates would reduce costs for businesses and public employers by $500 million. While continuing to review the proposal, the New York State AFL-CIO concludes the proposals would not reduce benefits for injured workers.

Overall State Budget and Outlook

Whatever their consequences for schools, Governor Cuomo's budgets have put the state's finances on a more sustainable trajectory.

On taking office in January 2011, the Governor faced a projected deficit for the coming fiscal year of $10 billion and cumulative deficits totaling over $60 billion for the ensuing four years.

With his 2013-14 Executive Budget, the Governor was required to close a projected $1.35 billion deficit. If enacted as proposed, structural deficits totaling just under $10 billion are projected for the four state fiscal years ending with 2016-17.

Governor Cuomo's first proposed state budget relied primarily on spending reductions to achieve balance. Spending cuts accounted for 89 percent of that year's gap closing actions, School Aid contributing nearly one-third of the cuts.

In contrast, his proposed budgets for 2012-13 and now for 2013-14 have relied on a more balanced mix of spending and revenue actions. The projected deficit for 2013-14 would be closed by $974 million in spending control, partly through state agency restructuring and $331 million by extending tax and other revenue provisions due to expire. None of the spending reductions in his two more recent budgets were taken against School Aid.

The longer-term

Below is a table outlining the Administration's projections for overall General Fund deficits and School Aid levels through 2016-17, assuming the Governor's budget is enacted as proposed. School Aid increases reflect the Administration's estimates for annual change in statewide personal income, the basis for the School Aid growth cap.

Out-year projections for Governor Cuomo's proposed 2013-14 State Budget ($ in billions)

	2013-14	2014-15	2015-16	2016-17
General Fund Surplus/Deficit	0	($1.95)	($3.56)	($4.46)
Deficit as % of Projected Expenditures	NA	-3.0%	-5.3%	-6.3%
Projected School Aid Change (School Year)	$0.611	$0.686	$0.989	$1.349
Percent Change	3.5%	3.3%	4.6%	6.0%

SOURCE: NYS Division of the Budget, 2013-14 Executive Budget 5-Year Financial Plan

The state constitution requires Governor's to propose balanced budgets. So actions will be required to eliminate projected deficits. Those could result in lower amounts for School Aid.

Risks

Developments in Washington pose significant risks to the fiscal outlook for New York State and its schools.

"Sequestration" – automatic cuts in most federal spending – will occur on March 1 unless Congress and the President agree on alternative steps to reduce federal budget deficits. New York school districts stand to lose roughly $80 million from cuts to federal compensatory and special education programs in the 2013-14 school year. Other cuts would affect the overall state budget and potentially damage the economy, perhaps forcing a re-ordering of financial plans, including state School Aid levels.

In addition, federal reviews have forced New York State to accept a lower Medicaid reimbursement rate for care of developmentally disabled people in state facilities. In 30-day amendments to his budget, Governor Cuomo identified actions to offset $500 million in lower federal support. But an additional $600 million must still be absorbed.

Timing

A 2004 ruling by the state's highest court signify-cantly increased the leverage of Governors in budget negotiations with the Assembly and Senate. The decision upheld the authority of Governors to include extensive programmatic language in their proposed budget appropriations, while generally forbidding the Legislature from amending those appropriations.

The Paterson Administration discovered it could prod the Legislature to action by threatening to include full-year budget provisions in emergency approp-riations needed to keep state government running after the fiscal year began without a complete budget in place.

This power has contributed to Governor Cuomo's success in producing two budgets by the April 1 start of the state fiscal year. It also diminishes the likelihood of late budgets going forward. Because of the timing of religious holidays this year, the Legislature's session schedule anticipates completion of the state budget by March 21.

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