THE COUNCIL of SCHOOL SUPERINTENDENTS
LEADERS • EDUCATORS • ADVOCATES

TESTIMONY

The 2019-20 Executive Budget and the Public Schools

Senate Finance Committee
Assembly Ways and Means Committee
February 6, 2019

Chairwoman Weinstein, Chairwoman Krueger, other members of the Senate and Assembly:

Thank you for the opportunity to testify on behalf of school superintendents across the state and for your support of our public schools.

Earlier this week our organization released results of our eighth annual survey of school district superintendents on financial concerns. Echoing last year's report, what resounds most in our findings are concerns among superintendents about problems children are encountering in life away from school and how schools can help assure their needs will be met.

For example:

- 56 percent of superintendents said that improving student mental health-related services would be among the top three funding priorities for their districts, should funding be available beyond that needed to maintain current services. This is an increase from 35 percent just two years ago. Improving mental health services has been the most widely cited priority the last two years.
- Asked to what extent various cost-related issues are concerns for their districts, most widely cited as significant problems were "increasing cost of special education (56 percent)" and "capacity to help students in meeting non-academic needs, including health and mental health issues (47 percent)."
- 67 percent of superintendents expressed a high level of concern about their students' mental and emotional health and 39 percent expressed that level of concern about their students' economic circumstances.

Data also attests that schools are helping children with greater needs. The Educational Conference Board found that, between 2006-07 and 2016-17, the number of students with disabilities increased by 14 percent, those qualifying for the free or reduced-price lunch program by 15 percent, and those who are English Language Learners by 18 percent.

Our survey also shows districts moving aggressively to make schools more safe and secure. Eighty-nine percent of superintendents report at least one action in the six months following last year's Parkland tragedy to improve security; 64 percent reported three or more actions. Over 70 percent of superintendents said their districts were actively considering further steps, with implementing restorative justice practices most common among those potential next moves.

Fifty-nine percent of superintendents anticipated that their district's budget for 2018-19 would improve school security – the *first time in the eight years* of our survey that a majority of superintendents anticipated a positive budget impact for *any* student service area.

Superintendents say their schools are doing things they did not contemplate would become widely necessary 10 years ago. The increased efforts to address student and family well-being and school security are examples.

On traditional financial questions, our results are similar those of last year and the year before: 65 percent of superintendents reported no change in their district's financial condition, 16 percent reported improvement, and 19 worsening. A cause for concern: the share of superintendents seeing improved financial prospects peaked in 2016, at 31 percent.

All this sets our backdrop for assessing the financial circumstances of our public school systems and the potential of the Executive Budget to deliver essential help.

A Financial Sustainability Agenda for New York's Public Schools

New York's public schools need an agenda for greater financial sustainability. It should start with a commitment to phase-in and update the Foundation Aid formula.

Even if we set aside arguments over what is or isn't required of the state by the Campaign for Fiscal Equity decisions, the formula was a good idea. It generally drove the greatest aid to the neediest districts and it still does. It used factors that could be understood and debated, making funding decisions more transparent and accountable. It promised all districts greater predictability in aid going forward. Schools in other states have this, and ours once did as well.

But merely phasing in the formula that was first enacted in 2007 is not enough. So much has changed in 12 years. Student needs have grown and we did not have a property tax cap when Foundation Aid was first enacted, for example.

Second, the property tax cap should not be made permanent without changes.

It is imperative that a tax cap exclusion for the local share of BOCES capital costs be provided. This would create consistency with the local share of school district capital costs – those may be excluded now. Both houses of the legislature have agreed with this position, by passing bills to permit the exclusion in the last two sessions.

Also, school districts and municipalities should be allowed to realize additional revenue outside the cap from tax base additions which generate payments in lieu of taxes – PILOTS – just as they now can with additions which generate property taxes.

These are not major changes to the cap, they would be commonsense adjustments, assuring similar treatment for similar considerations, two forms of capital expense and two forms of tax base growth.

Going further, we would recommend that the starting point for the cap be made 2 percent, rather than the current lesser of 2 percent or inflation. It is widely understood to be a "2 percent cap" now and major economic forecasts project that inflation will exceed that level for the next few years. This should be coupled with a more workable carryover provision, giving districts an incentive to hold tax increases below 2 percent when they can, to have savings they might use in more challenging years. When our tax cap was enacted, Massachusetts' version was cited as a model; its version uses a fixed cap of 2.5 percent.

Next, in our sustainability agenda, we ask that schools be allowed to set up reserve funds for their future Teachers Retirement System obligations. Local governments can set aside funds for future pension obligations on behalf of all their employees. Schools can do so only for the 20 percent of workers covered by the Employees Retirement System, not the certified educators covered by the Teachers Retirement System. We support a bill proposed by TRS itself which would authorize the reserve and set limits on the amounts districts could put into the reserve, both annually and in total.

The tax cap has forced a change in how school leaders must think about reserves. They remain one tool for exerting some control over future finances, but no district is going to attempt a tax cap override just to build up reserves.

Last in our sustainability agenda, we offer ideas for how the state could help schools manage costs and gain more impact from existing resources. Some of these are included at the end of this testimony.

We are not expecting movement on major mandates. But while it is often noted that New York leads the nation in per pupil spending, seldom is there consideration of why that is so. There are multiple reasons. We are high cost in many things, not just education. We make a stronger effort than most states to fund our pension obligations. We have public schools which offer opportunities unmatched anywhere else – for example, we perennially account for between a quarter and a third of Regeneron Science Talent Search Scholars nationwide. We also have some rules which no other state has, and those drive up our costs.

If we are not going to change our rules, then we have to fund our rules. That brings us back to Foundation Aid.

Foundation Aid

The proposed budget would increase Foundation Aid by $338 million, or 1.9 percent. At that rate, it would take more than 10 years to fully phase-in the permanent law formula.

A fifth of the state's school districts would remain more than 25 percent below their full phase-in amounts. Their increases would average less than 1 percent and they are predominantly average wealth or below. On average, 37 percent of their students are poor enough to qualify for free or reduced-price lunches.

A quarter of the state's school districts would receive only a 0.25 percent increase, the minimum prescribed by the proposed formula. About half these districts are deemed to be "average need" by the State Education Department's classifications.

The proposed formula includes a $50 million increase in the set-aside for Community Schools activities. Excluding New York City, districts affected by the increased set-asides would be left with the equivalent of a 1.4 percent increase in unrestricted operating aid, on average.

Services Aid

Starting in 2020-21, the budget would fold 11 current aid categories, including BOCES and Transportation Aid, into a new "Services Aid." Districts would get what they received from the sum of the 11 categories in the prior year, plus a factor based on inflation and increases or decreases in students.

The proposal would not take effect until the year after next, but we can model its potential impact. We calculate that if it were to go into effect next year, for example, some districts could gain, but on balance, districts would lose $29 million compared to current law formulas.

With lower inflation, more districts would lose more. To give another example, if in place in 2016-17, when the inflation factor would have been 0.12 percent, we calculate the net loss to districts could have been $70 million.

Also, the growth factor would not help districts with exceptional costs beyond their control. For example, new federal licensing requirements and increases in the minimum wage have driven up pupil transportation costs, as could a future spike in fuel costs or just a few students attending charter schools or out-of-district special education programs, prescribed by a student's particular needs.

We are especially concerned about the damage the proposal could inflict upon BOCES, which many poor districts rely upon to give their schoolchildren opportunities they could not offer on their own. For a typical high need rural district, a 2 percent property tax increase raises only about $100,000 in revenue, making them excruciatingly vulnerable to changes in state aid.

Again, looking at the implications of the proposal if implemented for the coming year, the loss among high need rural school districts would exceed half what the districts would gain under the Executive Budget Foundation Aid proposal. For average need districts as a group, the loss would nearly wipe out their gains from the Foundation Aid increase.

Building Aid

The budget proposes changes to Building Aid for projects gaining local approval on or after July 1, 2019. While prospective, the proposal could derail current projects well along in planning. Also, we note that while Building Aid is projected to increase by over 9 percent *next year*, Building Aid for *this year* is down by $165 million from the estimates of last January. Accordingly, we doubt that the full 9 percent increase will materialize.

Substituting a State Formula for Local Judgment in School Funding

The Governor proposes to inject state control over how funds are allocated among schools. A clumsy mathematical formula would supersede educational judgment. Eventually, any district with two or more schools at any level (elementary, middle or high school) could be affected. If a district has a school deemed high need and underfunded relative to its other schools, it would be required to devote to leveling up expenditures a sum equal to at least 10 percent of its Foundation Aid increase times the number of identified schools up to a cap.

What is wrong with this? First, not every disparity is an inequity. Differences in average years of experience among teachers will be a major driver of cost differences. We should expect that a school where teachers have an average of 17 years' experience will have higher per pupil spending than one where experience averages 12 years, for example. Teacher placements are often fixed by collective bargaining agreements. Districts may not be able to make unilateral assignment shifts, even if they wish, even if indicated by state formulas.

Building size can also affect per pupil costs – a school with three sections per grade will generally cost more than one with six sections. A few children with expensive special needs can drive large overall cost differences, as well.

Also, school spending isn't like water – one glass is a bit low, so pour a little more water in that one. Most school spending is for personnel. If the state formula tells a district to spend $40,000 more in a school, does it hire half a teacher? Does it arrange to have a social worker spend more time there and less in other schools? Or should it buy more computers and library books just to hit its target?

We foresee the proposal forcing reallocations merely to comply with the state's directives. As one of our members said, "Compliance does not promote innovation, it does not enable excellence." After our collective misadventures with Annual Professional Performance Reviews, the last thing we should embark upon now is another round of empty compliance exercises.

The allocation reporting now required by state and federal law will illuminate local school spending decisions. Where actual inequities are brought to light, that should spark discussions at the local level and that is where these funding decisions should be made.

Finally, if you have a concern with how one of your districts allocates funds among its schools, please, ask the superintendent or school board to explain the issues. Don't rely on a clumsy state formula that is unlikely to satisfy anyone and may only create more aggrieved parents and taxpayers.

STAR Restructuring

The proposed budget seeks to accelerate the shift in the STAR property tax relief program from exemptions which directly reduce school tax bills to a credit program which requires homeowners to pay their full tax bill, then wait for a credit check from the state. The proposal would cap growth in STAR benefits under the exemption program while allowing them to grow by up to 2 percent per year It would also reduce the income eligibility cut-off for the basic exemption program from $500,000 to $250,000 while maintaining the higher threshold for the credit program. The effect of these proposals would be to pressure more current beneficiaries to move from exemptions to credits.

There is already alarm among school district leaders about how the new $10,000 federal cap on tax deductions will affect state finances and voter sentiments about school budgets. Statewide, 32 percent of superintendents identified the SALT cap as among the issues that cause concern in thinking about their district's financial outlook, with much higher rates in downstate regions: 72 percent in the Lower Hudson Valley, 57 percent on Long Island, and 50 percent in the Mid-Hudson Valley. We recommend rejecting this proposal at this time.

Other Executive Initiatives

- **College and Career Readiness:** We commend the emphasis the Governor's budget places on promoting college and career readiness. We support increasing funding to assure more low-income students can participate in Advanced Placement and International Baccalaureate classes and to enable more school districts to offer these classes. They give students a head start in college, both in credits earned and preparation for the work expected. We also support proposals to increase funding for Early College High Schools.

  These actions should be coupled with increasing BOCES and Special Services Aid funding for career technical education and assuring that high school students may take dual enrollment courses offered by State University community colleges tuition-free.

- **Student Mental Health Services:** We also support the Governor's proposals to increase funding for student mental health services. As we have noted, concern over this aspect of student well-being is nearly universal – our survey found 96 percent of superintendents share either a high or moderate level of concern about their students' mental and emotional health. More attention to this issue is required.

- **Expanding Teacher Diversity:** We support the Governor's "We Teach" proposal aimed at increasing the number of teachers of color working in our schools. Our organization has established a Commission on Diversity and Inclusivity with the dual objectives of expanding diversity among superintendents and supporting schools to educate more diverse student populations and prepare all students to live in the diverse society they will enter upon leaving school.

- **Student Discipline/Restorative Justice:** We support the Governor's proposal to provide $3 million to assist schools in implementing restorative justice practices as alternatives to suspensions and expulsions in student discipline. But we would oppose legislation to which would seek to impose a "one size fits all" regimen upon all districts. Effective implementation of restorative justice practices involves changing school culture and is best done by local initiative.

- **School Traffic Safety Initiatives:** We support the Governor's proposals to authorize districts to install stop arm cameras on school buses to deter passing stopped buses and to restore authority to install speed cameras in school zones.

- **School Aid Growth Cap:** Since 2011, the state has had in statute caps on growth in spending for its two largest expenditures: Medicaid has been capped based on a 10-year average of a medical cost index, while School Aid has been capped based on year to year change in statewide personal income.

  We oppose the cap in principle and are grateful that your budgets have nearly always exceeded the cap, as have some executive proposals. But we agree, if there is to be a cap, a multi-year average would provide more predictability for the state and schools. This year, the cap calculation would allow for a 6.1 percent aid increase, rather than the 3.6 percent increase the state financial plan had been projecting and which the Executive Budget would provide. But in most recent years, the final annual cap calculation has come in below earlier estimates.

Other Priorities

- **Teacher Retirement System Reserve Fund:** A.7353/S.4563 of 2018 would have authorized school districts to establish a reserve fund for Teachers' Retirement System (TRS) costs. Schools may only establish reserve funds for costs associated with employees that are members of the State and Local Employees Retirement System (ERS), however they comprise approximately 20 percent of school employees.

  The bill is also restrictive, with both annual and total caps on how much may be contributed to the reserve. The TRS employer contribution rate for 2019-20 payroll is estimated to decrease and will save schools outside of New York City $300 million. Now is the perfect time to enact this reserve fund so schools can use some of those savings to budget for a near certain rate increase in the following school year. If enacted during the budget, schools could use this reserve when planning their 2019-20 school year budgets.

- **District Superintendent Salary Cap:** A.2112/S.3203 of 2018 would have increased the allowable salary for a District Superintendent of a Board of Cooperative Education Services. Unfortunately, the bill was vetoed.

  The salary limitations have not been altered since 2002. This fact has harmed recruitment and retention. Component superintendents, the State Education Department, and local business leaders involved in economic development crave stability and quality for these critical leaders. The current salary limitations are not enough to ensure BOCES are able to retain high quality District Superintendents and recruit new ones when turnover occurs.

Because the Governor's veto message indicated the bill was vetoed because it is a budget issue, we urge the Legislature to seek to address it in the budget. However, we disagree with the characterization of the bill as having any impact on the state budget. BOCES employee salaries are not aidable above the $30,000 aidable salary limit which District Superintendent salaries exceed now. Where a BOCES does agree to increase a District Superintendent's salary, there will be local cost increases, but those costs are no different than when a school district agrees to a new contract with any collective bargaining unit. Nonetheless, we will support including in a cap adjustment a provision stating that no increase in state costs shall result from District Superintendent salary increases above the current cap.

- **Forgiveness for Late Final Cost Reports:** Last year the Executive once again vetoed numerous bills that would have provided building aid forgiveness for numerous school districts that made the minor mistake of filing their final cost report late. These mistakes have cost these districts and taxpayers millions.

  It is time for this issue to be finally resolved and provide total building aid forgiveness for every district with a building aid penalty imposed because of a late filing of a final cost report. These penalties have betrayed current students and taxpayers that approved capital projects with an understanding their districts would receive a certain amount of aid.

  The educational futures of current students should not be harmed because of the mistakes of adults years ago. The Legislature and Executive have appropriately taken steps to minimize these penalties and change the law so that these issues don't arise in the future. However, complete building aid forgiveness is necessary to remedy this situation.

- **Increase Capital Outlay Limit:** Once per year, school districts are authorized to complete capital construction projects that are under $100,000 and receive Building Aid for those costs the following school year by using what are known as "capital outlays." However, this limit has not been increased since the law was enacted in 2002. A.3231/S.3970 of 2018 would have increase the capital outlay limit to $250,000.

  Under current law, most school district construction costs are reimbursed using "assumed amortization rates" – even if a district pays cash for a project or pays off debt service early, state Building Aid is paid as though project debt service is being paid off over periods of 15, 20 or 30 years for reconstruction, building additions, or new construction, respectively. This permits the state to spread out its payments but means that reimbursement to districts may not occur until years after costs were incurred. This financing structure can lead districts to delay making small but important facility improvements, including those aimed at improving security.

  Raising this limit would permit the state to avoid interest costs and enable districts to receive prompter state reimbursement. An increase would also recognize the fact that costs have increased since the limit was set. Also, districts commonly use this mechanism to fund advances in technology and these have been accelerating.

- **Retired Police Officers as School Security Personnel:** In our annual survey, we found that nearly three-quarters of school districts have some arrangement for professional security personnel in their schools and over half have at least part-time coverage for all their schools. But small, poor, rural school districts report the greatest difficulty in arranging for professional security and nearly all districts are being asked by families what more they will do to assure their children's safety.

Increasing the limit on allowable earnings for retired police officers working in school security would expand the pool of people districts could draw upon. This should be combined with authorization to allow districts to forego seeking annual waivers from the retirement earnings cap, so that they can be assured of keeping officers who have demonstrated aptitude for the role and rapport with students. There must also be adequate training and the Governor has proposed creating a standardized mandatory training program.

We will be sharing additional analysis and recommendations in the weeks ahead.