New York State Educational Conference Board

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ECB calls for tax cap revisions to provide schools a more sustainable future

Two modifications signed into law a year ago have not yet been implemented

New York's leading education groups issued a paper today outlining revisions to the state's tax cap law that would help schools preserve critical student services into the future with a tax cap in place.

Among the recommendations from the Educational Conference Board (ECB) is a call for state action to finally implement two modifications to the cap that were approved by the Legislature in 2015, noting that a bill introduced in the Senate this week (S8049) would require these critical changes to be carried out. The groups also call for a fixed 2 percent allowable growth factor in the cap formula rather than subjecting school budgets to the fluctuations of the Consumer Price Index.

"The tax cap was intended to restrain the growth of taxes over time, but that should not come at the expense of educational services for children," ECB Chair John Yagielski said. "We have a serious concern that the way the cap is currently constructed puts schools on an unsustainable course, and this will ultimately hurt students and communities. The cap can be made more workable."

The two approved cap modifications that have not yet been implemented are: excluding from the tax cap local capital expenses for BOCES instructional spaces and including properties covered by payments in lieu of taxes (PILOTs) in the formula's tax base growth factor. The law enacted last year left discretion to implement the adjustments to the Commissioner of Tax and Finance, and that has not occurred.

The PILOT change would allow communities to more appropriately recognize revenue growth from new construction, removing a potential disincentive to enter PILOT agreements. The BOCES modification comes at time of increased focus on the role that BOCES plays in providing critical services and specialized programs to students, including in career and technical education. Component districts vote on the annual BOCES budget.

"Simply put, BOCES students are students of local school districts across New York and they deserve access to educational facilities that meet their needs," said Capital Region BOCES District Superintendent Dr. Charles S. Dedrick. "Implementing this important change will allow BOCES and districts to work together to maintain and improve educational facilities that serve students every day, without unnecessarily squeezing local budgets."

The ECB paper points to the record high 86 districts that faced negative caps this year, brought on in part by an inflation factor near zero. As ECB calls for the cap to incorporate a fixed allowable growth factor of 2 percent, it is warning that the current forecasts for CPI for next year are around 1 percent. This means that local revenues would again fall woefully short of the 2 percent that many associate with the cap in the first place.

ECB also calls for an improved carry-over provision, enabling districts to "save" revenue when they adopt tax levy increases below the cap for future use, providing an incentive to seek smaller increases when they are able.

In urging a tax cap floor of zero percent to avoid instances of negative limits, the education groups cite the loss of student programs and instability for schools that negative caps can cause.

For example, when the school district of Florida in Orange County faced a negative cap this year, it sought voter approval to override its limit. The budget fell one vote short of the required 60 percent supermajority – it was *defeated* despite gaining the support of 59.9 percent of voters.

Florida Superintendent Diane Munro said, "It was clear that the voters supported the budget. The 60 percent requirement has us now preparing and paying for another vote when we should be finalizing investments in innovative instruction. A straight 2 percent cap would help us plan and keep us focused on what's important for students."

The ECB paper lists a series of bills in the Legislature that would address the issues above and improve the cap, allowing the state to both provide tax relief and preserve education.

School board member, teacher, administrator and parent comments about the need for tax cap revisions

"Following the state's tax cap formula, Mexico had a -27.9% tax cap for our 2016-17 budget, meaning we had to cut our tax levy significantly just to comply with the cap. This meant reducing multiple staff positions, including 7.5 teacher and teaching assistant positions for a district of 2,000 students. Restraining property taxes is important to our community, but ensuring our students, teachers and administrators have the resources they need to succeed is also our responsibility." **- James Emery, President, Board of Education, Mexico Academy and Central School**

"The tax cap was meant to hold down spending by districts, but by being tied to the rate of inflation, the cap is actually having a devastating effect on the ability of high-needs districts like Troy to raise the funds that are necessary to provide critical academic programs for students and ensure schools have appropriate staffing."
– Seth Cohen, president of the Troy Teachers Association

"As districts face escalating costs, increases in unfunded mandates and the constraints of a tax levy cap, it becomes increasingly difficult to continue to provide diverse programming for students. It is important that our district continue to meet the needs of all students and provide the programs and services that will help them to succeed. The limits of the tax levy cap – as the law is currently written – make it extremely challenging to do so." **- Keri Loughlin, Assistant Superintendent for Business, Elwood Union Free School District**

"The near zero tax cap this year put school districts in a difficult position as they worked to save programs and services for students while balancing the needs of the community. Given the current structure of the cap, it appears that this challenge will continue. Parents across the state continue to call for reasonable amendments to the tax cap to enable districts to continue providing a high-quality education for every child." **- Sean Hannam, NYS PTA treasurer and a PTA parent from western New York**

"The tax cap legislation should be modified to address unintended consequences that negatively impact the ability of school districts to provide appropriate, high quality educational programs for all students." – **John McKenna, principal, Fletcher Elementary School, Tonawanda City School District and president, School Administrators Association of New York State (SAANYS)**

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Note: This paper and its recommendations apply to independent school districts – those outside the Big 4 cities and New York City – and as such do not represent the position of the Conference of Big 5 School Districts, an ECB member.

ECB Calls for Revisions to the Tax Cap

The tax cap was intended to restrain the growth of taxes over time, but that should not come at the expense of educational services for school children. The changes outlined here will help foster the necessary financial and program stability for school districts to maintain critical educational services for the state's children. These proposed modifications relate only to school districts and not to municipal tax levy limits.

1. Implement Tax Cap Corrections that the Legislature has Already Approved

In 2015, the Legislature made two modifications to the tax cap law that provided a small measure of flexibility for school districts: including a school district's expenses for BOCES instructional spaces in the capital exclusion and including properties covered by payments in lieu of taxes (PILOTs) in the tax base growth factor. The latter would allow districts to more appropriately recognize revenue growth from new construction in their communities. These two changes have still not been implemented, as the law left discretion to implement to the Commissioner of Tax and Finance, which has not occurred. This is especially unfortunate given the severe restrictions the cap is placing on local revenue in general in the coming year. We renew our call for these two changes to be implemented immediately, and ask that lawmakers enact legislation to require this.

2. Make the Tax Cap Allowable Growth Factor 2%

The current "2%" tax cap is not a 2% cap -- it is a 0% cap, and school districts may not increase their levy without voter approval. In some cases it is a negative tax cap which then requires districts to reduce the overall tax levy. The calculation for each district begins with the inflation rate (Consumer Price Index, or CPI) from the prior calendar year. The use of the CPI is a fundamental flaw with the current tax cap formula: The CPI figure looks back, but in developing budgets, schools look to the future. The state should remove the volatility of CPI from the formula and allow schools to count on a consistent allowable levy growth factor of 2 percent. The CPI for calendar year 2015 of 0.12% resulted in tiny levy increases which will have an impact on educational programs. The current forecast for CPI for the calendar year 2016 is approximately 1%. This figure will be used for the 2017 levies and again would fall woefully short of the so-called 2% cap level.

3. Address Negative Tax Caps by Setting a Floor of Zero Percent

Due to nuances in the tax cap calculation, each year some districts have had negative caps. With the growth factor near zero this year, a record 88 districts to date – or nearly one in eight – are facing this challenge. The financial pressure of a negative cap can cause the loss of student programs. It complicates the public's ability to engage in the school budget process and creates instability for schools. We recommend setting a floor of zero percent for tax caps to provide a degree of stability rather than the disruption a negative cap causes for students and communities.

4. Prevent Propositions from Requiring an Override Vote

Currently, separate spending propositions (including voter-initiated propositions) can require a supermajority vote if together with the school budget proposal the aggregate effect of the impact on the tax levy exceeds the tax levy limit. The school budget should stand on its own and any separate spending propositions should not impact the budget vote, or the need to obtain supermajority approval for the budget.

5. Reform the Carryover Provision

Enact a workable carryover provision that enables schools seeking tax levy increases below 2 percent to apply the savings in a future budget. The existing carryover provision is narrowly interpreted and barely used as a result. We suggest allowing districts to bank this authority for three years.

<u>Enact Bills That Provide Tax Relief AND Preserve Education</u>

The following bills address the concerns raised above and make other improvements in the tax cap formula. These bills should be enacted this session.

A.9026 (Schimel) - Sets the allowable levy growth factor at 2%.

A.4975 (Schimel) / S.7622 (Boyle) - Authorizes school districts to increase school tax levies up to 2% before the inclusion of exemptions without the need of a supermajority vote.

A.9183 (Galef) / S.6640 (Murphy) - Exempts certain BOCES capital expenditures from limitation upon local school district tax levies.

A.3611 (Morelle) / S.1151 (O'Mara) - Relates to payments in lieu of taxes to adjust the growth factor for PILOT payments.

A.9792 (Lupardo) / S.7178 (Seward) - Provides that no tax levy limit shall be less than 0%.

A.1166 (Jaffee) and A.1239 (Steck) - Amends the Tax Cap statute to require a simple majority for an override of a tax levy limit.

A.8136 (Thiele) / S.5877-a (Croci) - Relates to the effect of propositions on the voter approval requirements for school budgets.

S.8049 (Rules) - Exempts BOCES capital costs from the tax levy limit, includes properties under PILOT agreements in the tax base growth factor and limits the impact of voter-submitted propositions on the school budget vote.