

Chairwoman Mayer, Chairman Benjamin, other Senators:

Thank you for this opportunity to testify today and for your interest in assuring that our state's school finance system fulfills the promise of our constitution of an adequate education for all our children.

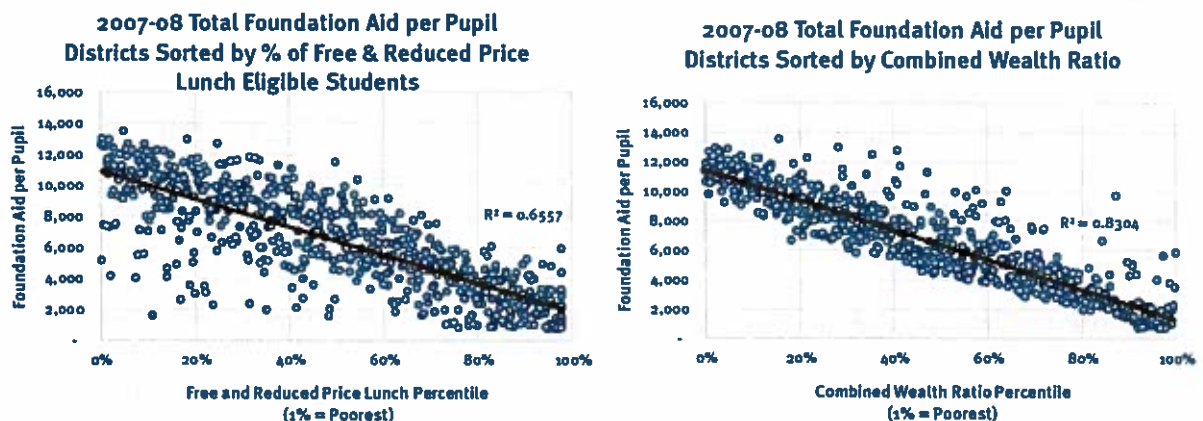
I am Robert Lowry, Deputy Director of the New York State Council of School Superintendents.

My experience with education finance began in September 1988, when I became the Assembly Ways and Means Committee's principal legislative budget analyst for School Aid. In all my subsequent positions over the past 31 years I have had involvement with state aid to education—as assistant secretary to the governor for education and the arts under Governor Mario Cuomo, as manager of school finance for New York State United Teachers, and, for the last 17 years, with the Council of School Superintendents.

The Foundation Aid formula enacted in 2007 exceeded my expectations of what was likely to result from the Campaign for Fiscal Equity litigation. It was an underappreciated accomplishment in public policy:

- It generally drove the greatest aid per pupil to the neediest districts.
- It promised all districts greater predictability in aid going forward.
- It used factors that could be understood, evaluated, and debated, making funding decisions more transparent and decision-makers more accountable.

The 2007-08 Foundation Aid formula generally drove the greatest aid per pupil to the highest poverty, lowest wealth districts



Total Foundation Aid refers to what districts would have received under the fully phased-in formula as estimated when the 2007-08 state budget was enacted.
SOURCE: Council analysis of 2007-08 NYSED School Aid data.

The Educational Conference Board, the coalition of major statewide education groups, developed a set of six principles for evaluating school finance reform—adequacy, equity, simplicity, predictability, flexibility, and accountability. The enacted formula scored well in meeting all these aspirations.

Educational Conference Board members reaffirm* their support for a school operating aid formula that functions as intended each year based on the following principles:

- ✓ **Adequacy:** The state must assure that all school districts have the resources needed to provide students with the opportunity to be successful, as defined by rigorous learning standards and college- and career- readiness.
- ✓ **Equity:** The state’s school finance system must assure fairness for all schools and students by appropriately accounting for differences in pertinent characteristics, including local fiscal capacity, regional cost differences, geographic sparsity and pupil needs related to poverty, disability, and language status.
- ✓ **Predictability:** In order to plan and effectively implement improvement efforts, schools need to be able to count on a recurring and stable source of operating aid. Formulas should be applied uniformly, each year.
- ✓ **Flexibility:** Districts should have sufficient general purpose operating aid so that they can make decisions about where to make educational investments. Local leaders and community members know the strengths and needs of their schools. Funding should be allocated through universally applied formulas rather than competitive grants.
- ✓ **Transparency:** A system that simplifies school finance would allow local school districts to engage their communities in a logical and thoughtful dialogue about school funding priorities and would enable citizens to hold school leaders and state leaders accountable.

** First adopted in 2004; updated in 2017.*

The achievement of Foundation Aid was enabled by an exceptional confluence of factors, including a series of strong court decisions in the CFE litigation extensive groundwork led by the Board of Regents and CFE in anticipation of final resolution of the litigation. These separate but complementary efforts built a consensus on what should be the elements of successful reform.

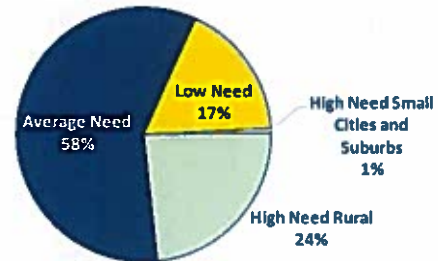
But now more than 10 years have passed. Facts have changed. Many districts have lost enrollment but nearly all are serving students with greater needs than when the formula was first enacted. Also, the school property tax cap was not in place then, nor was the \$10,000 cap on state and local tax deductions in the federal income tax.

The formula was intended to be phased-in over four years, by 2010-11. For the first two years, that phase-in was essentially on track. Then the financial system collapsed and the Great Recession ensued. Governors and legislators had to close yawning state budget deficits. The Gap Elimination Adjustment was enacted, reducing total School Aid by billions of dollars over its seven-year existence.¹ Foundation Aid was frozen for three straight years, then only minimally increased a few years thereafter.

Now, for 2019-20, the state is \$3.4 billion behind in phasing-in the permanent law formula. The districts which are furthest from being fully funded tend to have received relatively strong increases in Foundation Aid but have experienced growth in total enrollment and in higher-need students. These trends have increased the amounts they would receive under the fully phased-in formula. In effect, for these districts, the goal line moved further away.

Two hundred seventy-five districts (41% of all districts) are now on save-harmless, receiving \$315 million more in Foundation Aid for 2019-20 than the basic formula would provide. Over 80% of this save-harmless funding goes to average and rural high need districts. The median percentage of students poor enough to qualify for free or reduced-price lunches is slightly higher for districts on save-harmless than for districts “on the formula.”

Most Save-Harmless Foundation Aid Goes to Average and Rural High Need Districts
(Percentages are shares of save-harmless for each group)



SOURCE: Council analysis of 2019-20 NYSED School Aid data

Enrollment losses are the primary cause for districts falling on to save-harmless, but these districts have typically seen increases in student poverty, resulting in greater concentrations of poor children.

Foundation Aid Results and School District Characteristics
Districts Grouped by State Education Department Need/Resource Capacity Categories

Foundation Aid Results	New York State	High Need				Average Need	Low Need
		New York City	Big 4 Cities	Small Cities & Suburbs	Rural		
2019-20 Foundation Aid per Pupil	6,985	7,659	12,351	9,310	11,332	5,819	2,491
Total Foundation Aid per Pupil	8,281	8,699	14,298	13,095	12,506	6,894	3,303
2019-20 as % of Total Foundation Aid	84%	88%	86%	71%	91%	84%	75%
Increase in Foundation Aid, 2007-08 to 2019-20	35%	46%	36%	42%	29%	20%	19%
% of Districts on Save-Harmless	41%	0%	0%	7%	23%	50%	20%
Enrollment and Pupil Needs							
Change in enrollment, 2006-07 to 2018-19:	-5%	5%	1%	2%	-17%	-14%	-11%
K-6 Free and Reduced Price 2007-08	49%	81%	79%	66%	49%	25%	6%
Eligible Percent for aid in: 2019-20	54%	72%	80%	74%	60%	39%	14%
English Language Learner 2007-08	6%	12%	8%	10%	1%	2%	2%
Percent for aid in: 2019-20	9%	13%	16%	17%	1%	4%	4%
Wealth Measures							
Change in Property Value (2004 to 2016)	47%	97%	23%	16%	52%	26%	16%
Change in Income (2004 to 2016)	51%	70%	35%	33%	25%	37%	44%
Combined Wealth Ratio for aid in: 2007-08	1.000	1.012	0.469	0.622	0.455	0.851	1.855
2019-20	1.000	1.067	0.409	0.505	0.512	0.857	1.716

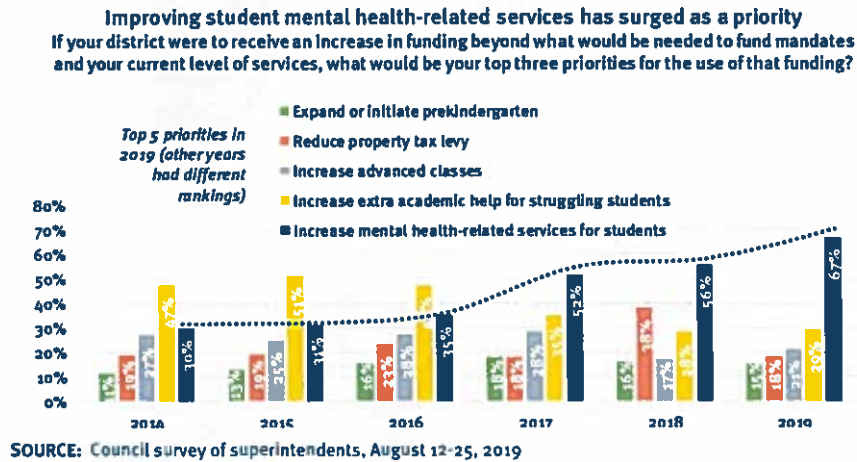
SOURCE: Council analysis of NYSED School Aid data; data omitted for 6 districts consolidated into 3 after 2007-08

Most fundamentally, the formula has become increasingly divorced from what is occurring in schools. A district enrolling more students, or serving more children in poverty, or more who are English Language Learners is not assured of additional state aid to serve those students. The property tax cap restricts the ability of all districts to raise alternative local revenue to meet growing needs, or to offset reductions in state support, if save-harmless were to be diminished.

In discussing Foundation Aid with school district leaders from around the state, a desire for greater predictability in state aid is a priority all have stressed, from the smallest to the largest districts.

Finally, substantially all districts have taken on tasks which were much smaller parts of their mission not so long ago. Schools have been called upon to fill holes created by mounting student needs and by reductions in some state and local government services.

Each year for the past nine years, my organization has surveyed superintendents on financial matters. In one question we have asked superintendents to name their top three priorities for new funding if their districts were to receive more revenue than what would be needed to maintain current services and satisfy mandates. Improving student mental health services has been the most widely cited priority this year and for the last three years. The percentage naming it as a top priority has nearly doubled in just three years, going from 35% in 2016 to 67% this year.



We have also asked superintendents how they anticipate their district budget each year would affect specific student-related functions. Only twice in nine years has a majority of superintendents anticipated a positive impact on any service area: mental health services this year and school security last year.ⁱⁱ

What Should Be Done—Adjusting the Basic Formula

In the regional roundtables, a “fix it” versus “fund it” cleavage has been apparent. Commitments to fully funding the formula and fixing its defects *are not* mutually exclusive. And if we know some factors are defective in measuring pertinent school district characteristics, we should fix those.

In contemplating how to proceed with Foundation Aid, there are two tasks:

- One is partly aspirational—deciding, what changes, if any, to make in the basic aid formula, potentially altering the amounts districts are to ultimately receive when the formula is fully phased-in.
- The other task is very practical—deciding how much districts are to receive in the year immediately ahead, a result that will be determined by decisions on how to phase-in the basic formula, and whether all districts should be assured some increase, and whether those increases should be adjusted based on district wealth, student needs, or any other factors.

To the extent any one year’s increase is calculated using a phase-in factor—a percentage of the difference between the aid a district is receiving and the aid it would receive under the basic formula—changing the latter will affect a district’s immediate aid.

Measures of student poverty used in Foundation Aid are flawed. The Regional Cost Index does not accurately measure cost differences and creates unjustifiably large changes in aid between districts close in both proximity and characteristics. The floor on the Income Wealth Index overstates the

ability of some of the poorest districts to raise local revenue. With changing state learning standards and assessments, the assumptions behind the Foundation Aid Amount are no longer valid. The Foundation Amount was intended to be a proxy for the per student cost of delivering a sound basic education.

Measuring Student Need

The Pupil Needs Index is one of the key elements of the Foundation Aid formula. It considers student poverty, English Language Learner counts, and geographic sparsity (i.e., students per square mile). One of the poverty measures is derived from the 2000 Census, reflecting district circumstances nearly 20 years ago. The other is based on kindergarten through grade six students eligible for the federal free and reduced-price lunch program (FRPL). Problems have emerged with the use of FRPL data due to the Community Eligibility Provision (CEP). The CEP was first offered in 2011-12 and allows schools to provide all students with free lunches if 40% of students in the school meet eligibility requirements. But schools using the CEP are prohibited from collecting actual applications from families, impairing the quality of data, and thereby understating true student need.

The state should undertake a study to explore more accurate and up-to-date ways of accounting for student poverty. One option could be to use the greater of FRPL or direct certification data. In addition, the weightings applied to the poverty and ELL counts should be re-evaluated to assess whether they accurately reflect what we now know about the full costs of educating students from those backgrounds.

The Regional Cost Index

The Regional Cost Index (RCI) adjusts Foundation Aid to reflect the higher costs of delivering the same education in different parts of the state. Constructing an RCI requires two sets of decisions: how to define regions and how to measure costs.

When school finance reform was being debated in the early and mid-2000s, a consensus developed among policymakers and stakeholders that an RCI should be based on factors beyond the ability of school districts to influence—districts should not be able to increase their state aid by spending more. The adopted measure uses compensation of workers in New York State in jobs requiring credentials similar to teachers. This is a reasonable choice, but the index values have never been updated since 2007.

A larger problem is the use of only nine regions. Including Westchester and Rockland Counties in a Hudson Valley region extending up to Dutchess and Ulster Counties has always seemed to understate school costs in the southern counties—their RCI is 1.314 compared to 1.425 for nearby New York City and Long Island.

Another problem is that the use of only nine regions contributes to unreasonably large changes in aid between neighboring and similar districts. For example: a district on the western edge of Sullivan County (in the Hudson Valley region) has an RCI of 1.314, while one just over the border in Delaware County (in the Southern Tier) has an index of 1.045. All else held equal, the Sullivan County district would receive roughly 25% more aid per pupil than its neighbor.

We recommend reviewing the Regional Cost Index with the goal of establishing more regions, perhaps setting index values by counties. This would result in fewer steep breaks between regions and mean

that the index values for districts would no longer be lowered or raised by costs at distant ends of their region.

The Income Wealth Index

The Foundation Aid formula allows school districts two options for determining their expected local contribution. One uses a State Sharing Ratio, based on district property wealth and income per pupil compared to state averages. The other uses an Expected Local Tax Rate—the amount a district would raise if it levied the statewide average school tax rate, adjusted by the Income Wealth Index (IWI). The IWI is the district's income per pupil compared to the state average—a district with half the income per pupil of the state average would have its expected tax rate lowered by half.

By law, the IWI is capped at the low end at 0.450. A total of 101 districts have IWI values below that cap. Because of the two options for calculating the local contribution, not all are adversely affected by the cap, but it is a completely arbitrary limitation on the aid these districts should receive and ought to be eliminated.

The Foundation Aid Amount

Arguably, the Foundation Aid Amount is the cornerstone of the formula. As noted, it was constructed as a proxy for the cost of providing a sound basic education to a general education student. It was determined by identifying a group of school districts deemed to operate successful schools based on student performance on a collection of state assessments, then using the average per pupil spending of these districts, excluding the upper spending half as an “efficiency screen.”

With changes in state standards and assessments, percentages of students deemed proficient have fallen, and it is no longer possible to use the earlier “successful schools model” to calculate the costs of a sound basic education. Also, the Board of Regents has embarked on a multi-year effort to revise high school diploma requirements. The point of this exercise should not be about deciding whether it is too easy or difficult for students to earn a diploma, but about assuring that all students have access to opportunities that prepare them to succeed in college or embark on a career and become engaged citizens.

We recommend a study to identify successful schools using high school completion rates and measures related to success beyond high school.

How to Proceed

Again, there are two tasks to be pursued in deciding how to proceed with possible changes to Foundation Aid. One is to decide whether to make changes in the basic formula which determines how much districts how much each district should ultimately receive; the other is to determine how much districts should receive next year, at least in part based on related decisions on how to phase-in the basic formula.

The Longer-Term

Consistent with the recommendations we and our partners in the Educational Conference Board made two weeks ago, we recommend taking time to formulate changes to the basic formula.

The State Education Department should be directed *and funded* over the year ahead to undertake studies and develop options for your consideration to improve student need measures, to revise the Regional Cost Index, and to update the Foundation Amount.

There should also be consideration of how the property tax cap and \$10,000 federal limit on state and local tax deductions have affected the ability of school districts to levy taxes matching the Foundation Aid formula's expected local contribution.

Making this a longer-term exercise and building in public engagement would allow more in-depth analysis, better understanding of the combined effects of possible changes, and perhaps greater consensus on changes that should be made. That is one of the lessons from the initial development of the Foundation Aid formula. It is worth striving to replicate now.

Changes in the basic formula are likely to produce winners and losers, increasing and decreasing amounts that districts would receive were the formula to be fully funded. But the truth is that there are winners and losers today, under the formula as it stands now.

Our goal ought to be to assure that the Foundation Aid formula accurately and fairly accounts for pertinent differences in school district characteristics. If we know that any aspect of the formula now is flawed, don't we have an obligation to fix that?

It is tempting to think that fairness is a purely subjective concept, entirely in the eye of the beholder. But here is a simple test of fairness to apply as we consider changes to the formula, both long- and near-term: are we treating similar districts similarly?

The Near-Term

For the near-term, we recommend attempting to continue to accelerate the phase-in of full funding for districts now furthest from that goal. In our analysis, many of these districts are far from full funding because their growth in student needs and overall enrollment exceeded the pace of aid increases.

At the same time, all districts should be assured some increase in Foundation Aid. Again, the property tax cap has restricted the ability of school districts to raise local revenue to offset inadequate state support. Together with our ECB partners, we recommend a higher guaranteed minimum increase for all districts than the 0.75% increase provided this year. Replicating the 1.90% minimum increase in Foundation Aid for 2018-19 would have added only \$26 million to the \$618 million increase in this year's budget.

For both near and long-term changes, we urge that you strive to avoid using sharp breaks in formulas which result in districts losing out on significant sums when they narrowly miss meeting eligibility criteria. These fail the test of treating similar districts in a similar fashion. For this reason, we recommend against targeting aid based on the State Education Department's Need/Resource Capacity categories. These are determined through a mathematical calculation; some districts narrowly fall short of the score needed for "high need" status and thereby lose out on aid targeted on that basis.

In visual terms, aid formulas should use ramps rather than steps, with aid amounts sloping downward as wealth rises or student need declines, rather than dropping in steep steps.

The Problem of Shares

Perpetuation of regional shares in the allocation of School Aid increases is an obstacle to a Foundation Aid that functions as intended.

A regional share for New York City was first set in the mid-1980s. One was added for Long Island in 1989 and increased a few years later. Ever since, except in years when School Aid has been cut or essentially frozen, these same percentage targets have been applied. Even if there was some fact-based rationale when the targets were first set, facts have changed: enrollments have increased and decreased, student poverty has grown, English Language Learners have become less concentrated in urban districts, and property values and resident incomes have risen and fallen.

As enacted, Foundation Aid was intended to be calculated using factors I have mentioned: a sound basic education amount multiplied by a pupil needs index and by a regional cost index, with that result offset by an expected local contribution.

But in practice, there is a new formula for determining Foundation Aid increases each year:

- First, the amount the state can afford to increase School Aid by is decided.
- Then the difference between that total sum and the amount required for increases for expense-based and categorical aids becomes the amount available for a Foundation Aid increase.
- Then the allocation of the Foundation Aid increase is calibrated so that the distribution of the total School Aid increase achieves the regional share targets.

Districts have no assurance of additional aid for additional enrollment, or for increasing student needs, or no basis for forecasting how much help they might receive from the largest state funding formula.

The share targets serve as both floors and ceilings on the sums received by the two regions. If discarded, future shares to the regions would vary from year-to-year and might sometimes be greater or smaller than now. But fixed share targets almost guarantee failure to meet the simple test of fairness given above: otherwise similar districts may receive significantly different increases, if not in the same region. State aid should be based on school district characteristics, not whether they are in one region or another.

Other Issues

A superintendent at the Syracuse roundtable offered an observation to the effect that not every problem in school finance needs to be solved through Foundation Aid. He was right.

One area where the 2007 Foundation Aid formula departed from the reform consensus which had developed was in including Public Excess Cost Aid among the 17 aid categories which were consolidated into Foundation Aid. Public Excess Cost Aid provided additional state aid to school districts for the additional cost of serving students with disabilities in public school settings. In our conversations with superintendents in recent years, we have heard mounting concerns about rising special education costs, particularly in rural districts. In our most recent finance survey, 56% of superintendents identified increasing special education costs as a “significant problem”—more than any other programmatic cost.

We are not suggesting resurrecting the old Public Excess Cost Aid formula—in its last year (2006-07) it allocated \$2.2 billion to school districts. But some form of aid to assist districts in managing growth in special education costs should be considered. The state should also reassess all special education laws and regulations beyond the federal minimum requirements to determine whether they actually improve outcomes and opportunities for students with disabilities, or are unnecessary fiscal burdens, in some cases, causing more harm than good.

Growth Aid was another formula folded into Foundation Aid. It provided additional current year aid to districts with enrollment growth greater than 0.4% over the prior year. A new Growth Aid formula might provide districts with aid for increases in overall enrollment and for increases in students with disabilities and English Language Learners.

We also recommend increasing BOCES and Special Services Aid to provide greater support for career and technical education opportunities, a cornerstone in giving more students a chance to succeed in life beyond high school.

Conclusion

Our organization has called on state leaders to enact a four-part agenda to assure greater financial sustainability for our public schools. 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. Again: 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.

Second, we continue to advocate for changes to the tax cap.

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. Shared services through BOCES enable poorer districts to give their students opportunities they could not support alone. They help all districts reduce costs borne by taxpayers through shared administrative services.

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 advocate that the starting point for the cap be made 2%, rather than the current lesser of 2 percent or inflation. It is widely understood to be a "2% cap." This should be coupled with a more workable carryover provision, giving districts an incentive to hold tax increases below 2% when they can, to have savings they might use in more challenging years.

We thank you for enacting the third leg in our financial sustainability agenda this year: school districts are now authorized to establish reserves for teacher pension obligations. Twice earlier in this

decade, increases in teacher pension costs exceeded increases in overall school spending in districts outside New York City, meaning that, on balance, districts had to reduce other spending to absorb growing pension costs.

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. And 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.

For now, 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 costs for all school districts, needy or well-off.

We get requests for lists of unfunded mandates. But without consensus on what constitutes a mandate and what qualifies as “unfunded,” the exercise is apt to be futile. There is a better question: what actions could the state take to help school districts take to reduce or control costs and maximize impact from existing resources for students? The answers would include relief from some mandates but also incentives, disincentives, and perhaps even some new requirements.

But the cornerstone must be a commitment to implement Foundation Aid. If rules which drive up costs while restricting the ability to raise local revenues will not be changed, then those rules must be funded—and that means funding Foundation Aid.

¹ The 2009-10 state budget included a Deficit Reduction Assessment, like the GEA it was a negative aid formula reducing state support for School Aid by \$1.098 billion which was fully offset that year by an equivalent sum of federal funding from the American Recovery and Reinvestment Act. The Gap Elimination Adjustment was initiated in 2010-11 and continued through 2016-17.

² In recent years, most superintendents have anticipated no change as the impact on most services from their district budgets.