

# EMPIRE CENTER

FOR NEW YORK STATE POLICY

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## **Testimony by E.J. McMahon**

*Senior Fellow, Manhattan Institute for Policy Research*

*Director, Empire Center for New York State Policy*

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Mr. Chairman, in my brief testimony I would like to concentrate on the issue of fiscal notes and impact statements.

As noted in the Brennan Center report, the joint rules of the Senate and Assembly now explicitly stipulate “no bill requiring a fiscal impact note shall be reported to the floor of the house unless accompanied by the appropriate note.” Unfortunately, both the letter and spirit of this rule have been routinely violated in legislation sponsored by members of both parties in both houses. This has further undermined fiscal accountability, responsibility and transparency in an already opaque legislative process.

The problem often begins, I think, at the point when a decision is made on whether a particular piece of legislation even requires a fiscal note. Therefore, this committee’s first step should be to direct the Finance Committee and the Senate Secretary to develop, within 30 days, clear criteria for determining when a fiscal note will be required. This should include criteria for attaching fiscal impact notes to legislation affecting local governments.

When the criteria are completed, they should be published as part of the Senate Rules and, of course, on the Internet. And then the leadership of this house needs to apply them consistently – to bills sent over from the Assembly as well as to bills originating in the Senate.

I would recommend your rules include the following provisions:

- All legislation affecting retirement benefits must be accompanied – at time of introduction – by a fiscal note from the chief actuary of the pension system or systems affected.
- For legislation dealing with non-pension issues, once it has been determined that a fiscal note is required, it shall be the responsibility of the Finance Committee staff to produce the note – which, again, shall be required at time of introduction.
- The Finance Committee should develop its estimate in consultation with the relevant state agency or agencies affected by or involved with the implementation of the legislation. When legislation would impose a cost on local governments, the Committee staff should develop its impact estimate in consultation with representatives of the affected local government groups – the Association of Counties, Conference of Mayors, Association of Towns and the School Boards Association.
- When a legislative proposal is being phased in over more than one year, the note shall include the fiscal impact for each year, as well as the cumulative impact for the phase-in period and the recurring impact in future years.

- Every fiscal note, including those appended to pension-related measures, shall include an explanation of the methodology used to calculate the estimated fiscal impact cited in the note.
- All measures changing the state tax code shall be accompanied by a fiscal note including a dynamic revenue estimate including both the impact a law change will have on revenues and the feedback effects that occur due to changes in taxpayer behavior and overall economic activity. Examples of feedback effects include changes in the level of employment and income -- which, in turn, affect state tax revenues. A dynamic revenue estimate must also factor in the impact of changes in state expenditures that would occur due to a tax law change.
- In any case where a member believes these provisions have been violated, the member shall have the right to appeal the issue to the chair when the bill is brought to committee -- or, if the member does not serve on the committee, on the floor before the vote of the full house. A denial of the appeal shall require the assent of a majority of the committee membership -- or, in the case of appeals on the floor, of the full membership of the Senate, in a roll-call vote.

Having made all these recommendations, I would add one more. Once you have done all this, you should also seek to add these fiscal note rules and procedures to the state Finance Law, to further ensure they actually can be enforced.

Thank you.