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Good morning, and thank you for this opportunity to testify on the crucial and intertwined issues of Local Mandate Relief and Tax Caps in New York State.

I want to begin today by commending the state Senate for its passage last month of Governor Cuomo's property tax cap bill. In years to come, the Jan. 31 vote may be seen as a turning point, a historic first step towards lasting relief for New York's taxpayers.

The need to limit property taxes in New York couldn't be more obvious. Our property tax bills have been among the highest in the country for decades. And they just keep rising. Between 1999 and 2009, total local property tax levies in jurisdictions outside New York City increased by 5.4 percent a year, more than double the average inflation rate of 2.6 percent. School taxes rose the fastest—an average of 6.3 percent a year. Property taxes in New York continued going *up* even as property values, personal incomes and consumer prices were going *down* during the severe recession of 2007-09.

New York's last attempt to limit property taxes, the STAR tax exemption, was flawed because it did not include a cap on the underlying tax levy. As a result, homeowners—and *only* homeowners—received some temporary relief from the new homestead exemption, paid for with state aid, while school spending actually accelerated during the STAR phase-in period. A decade after the program's full phase-in, you are channeling more than $3 billion a year of state personal income tax receipts into STAR, effectively *subsidizing* property taxes for most homeowners without *reducing* them for property owners in general. This has been a costly lesson in what *doesn't* work.

Several other major states have sought to limit property taxes though caps on rates, or assessments, or both. But these approaches, such as Proposition 13 in California, invariably create growing inequities between different groups and types of taxpayers. By contrast, the Massachusetts approach of uniformly capping the overall tax levy has distinct advantages. By imitating the basic outline of the Massachusetts approach, Governor Cuomo's proposed tax cap has these advantages:

- It is ***fair***, treating all taxpayers alike, extending the same protection to every class of property based on assessed market values.
- It is ***simple*** to understand, administer and enforce.
- It is ***democratic***, strengthening the accountability of county and municipal officials while giving voters direct control over school property taxes.

In contrast with Proposition 2 ½, which limits tax hikes to 2.5 percent, and with Governor Paterson's proposal to cap taxes at 4 percent or 1.2 times the inflation rate, the tax cap bill limits tax hikes to 2 percent of the tax levy or the inflation rate, period, whichever is less. A super-majority vote of the governing board will be required to override the cap in counties, cities, towns and villages.

The impact will be greatest—and most transformative--in school districts. The cap would eliminate the school budget vote and replace it with a vote on the tax levy. A district could raise taxes above the limit with the approval of at least 60 percent of the voters. A majority of more than 50 percent would be required to approve a tax levy hike below the limit. But if a tax levy increase is defeated twice, no increase will be allowed.

The main opponents of the tax cap — public employee unions and their allies – contend that limits on taxes will have a "devastating" impact and will "starve" schools in the wake of state aid cuts. But they offer no alternatives, other than policies that would drive taxes even higher on <u>both</u> the state and local level.

These critics rarely acknowledge that the Cuomo cap could be overridden by voters—something that has happened literally thousands of times in Massachusetts since Proposition 2½ was adopted 31 years ago. In fact, the cap you just passed in the Senate would be <u>more</u> democratic than the current system, which allows school districts to impose state-mandated "contingency" budgets that can raise taxes by higher amounts than voters have already rejected.

Local government and school officials have the most legitimate concerns about the impact of the tax cap. But the answer, again, should not be to simply stick local taxpayers with the bill for rising costs. To their credit, New York local government and school groups are not simply saying "no" to a cap. They are, instead, offering an ambitious, far-reaching mandate relief agenda –one that is deserving of your support. For school districts and municipalities, in particular, the budgetary cost center is employee compensation. Therefore, you need to give schools and local governments more tools to control personnel costs.

The imperative is even stronger because of the growing pressure on pension expenses, in particular. In the Empire Center's recent report on "New York's Exploding Pension Costs," we estimated that pension bills for teachers outside New York City will *quadruple* within the next five years – an increase of over $3.5 billion. This is the equivalent of 18 percentage points of salary. To put it another way, we calculated that the pension increase all by itself would be enough to drive up property tax levies by 3.5 percent. During the same period, pension contributions for all other local employees will roughly double.

In the short term, unfortunately, there is <u>no</u> fiscally responsible way to limit the growth in pensions. Indeed, the short-term cost-cutting measure approved as part of the 2010-11 state budget, sponsored initially by Comptroller DiNapoli, merely will allow local governments to convert a portion of each year's rising pension contribution into a 10-year IOU, repayable with interest to the pension find. This will simply push the rising burden of pension costs further out into the future.

The pension funding squeeze on local taxpayers is an unavoidable by-product of the traditional public-sector system of guaranteed defined-benefit pensions. Taxpayers shoulder 100 percent of the financial risk associated with financing constitutionally guaranteed retirement benefits. The future path of tax-funded contributions to pension funds is unpredictable and can be quite volatile, lagging several years behind financial market trends. This can produce tremendous generational inequities. During the economic booms of the 1990s and early 2000s, pension contributions fell to negligible amounts, so tax increases went primarily to expand services (and, not incidentally, staffing levels). In the wake of the worst recession since the 1930s, the taxpayers of the next decade will be paying *20 to 30 percent of salaries* in per-worker pension contributions—to finance benefits that few private-sector workers can only dream of.

In considering the options available now, the Legislature should not consider pensions in isolation but as part of a total employee compensation package. The answer is simple: if one area of compensation is rapidly growing, you cannot allow other areas to grow as much. If school districts are going to need to give teachers the equivalent of an 18 percent a raise just to cover pension costs, then there will be little or nothing available for salary increases during that period. Health benefit costs, typically rising at the rate of 8 percent a year, also must be reduced. Finally, as proposed by the state Conference of Mayors, you should seriously investigate the legal feasibility of restoring the employee pension contributions that were eliminated as part of the 2000 sweeteners.

Here are ten mandate relief priorities that can help localities and school districts cope in years ahead:

1. First, impose a statewide freeze on public-sector salaries. As explained in a legal analysis we solicited last year from one of the state's foremost experts in public-sector labor law, the Legislature has the authority to freeze salaries at all levels of government, pursuant to a finding that it is necessary. The cut in local aid that will be necessary under the next state budget is all the rationale you need for this step, as proposed for schools in a bill first introduced by Senator Flanagan last year. As Senator Flanagan argued then, a salary freeze can also save jobs.
2. Repeal the Triborough amendment—or at the very least modify the law so that it no longer requires automatic step increment increases in the absence of a contract.
3. Repeal the provision of the Tier 5 pension bill that permanently disallowed any change in retiree health benefits unless negotiated with the union representing active teachers.
4. Repeal compulsory binding arbitration of contracts for police and firefighters, or at the very least modify the law to require that "ability to pay" be the primary consideration for arbitrators weighing new contract awards.
5. Establish a mandatory minimum level of employee contributions to health-insurance premiums. A recent analysis by the Citizens Budget Commission suggests that requiring teachers alone to match the state employee level—10 percent of premiums for individual coverage, and 25 percent for family coverage—could save $500 million on a statewide basis.
6. Enact real, fundamental pension reform—putting newly hired civilian employees in defined-contribution annuity plans, like those chosen by nearly two-thirds of State University employees. This plan can offer employees a guaranteed retirement income while fixing the taxpayer contribution at a steady level and completely eliminating the risk of unfunded liabilities for future taxpayers.
7. Amend the Taylor Law to prohibit collective bargaining of retiree health benefits, just as it prohibits bargaining of pension benefits. For government employers throughout the state, those benefits currently represent an unfunded liability of more than $200 billion. When current contracts expire, employers should have the ability to restructure them along more affordable lines.
8. Amend the General Municipal Law to tighten the "performance of duty" disability standards for police and firefighters, as recommended by NYCOM.

9. Amend the Taylor Law to correct recent Public Employment Relations Board (PERB) decisions by (a) allowing for transfer of so-called "unit work" functions, to allow for both government consolidations and out-sourcing, and (b) making it clear that a particular work rule or employee perk will be considered a binding "past practice" only if it was explicitly authorized by the employer's governing body.
10. Identify and address the causes of the high cost of special education in New York State.

County, municipal and school officials have argued persuasively that they will need mandate relief more than ever under the proposed new property tax cap. Nonetheless, in adopting the cap first, the Senate has its priorities in the right order. The tax cap is an absolute prerequisite for mandate relief. Let me make a practical political observation: if there was no tax cap in sight, the kind of mandate relief we are now discussing would not be receiving the serious attention it has deserved for decades.

By passing the cap, you have agreed to *stop* passing the buck for generous pension benefits and collective bargaining rules tilted against the interests of taxpayers. <u>In effect, you have declared that, in the future, the buck stops in Albany.</u> The property tax cap will put tremendous added pressure on the Governor and the Legislature to finally get serious about mandates – by either lifting them or directly paying for them.

In closing, I would point out that the enactment of a property tax cap would not be a departure from fiscal tradition in New York.

In fact, the Empire State's first property tax caps date back to 1884. Article VIII, Section 10, of the State Constitution limits the taxing power of counties to 1.5 percent of the five-year average full valuation, which can be in-creased to 2 percent by either a two-thirds vote of the county's legislative body, or a majority vote confirmed in a mandatory referendum. The same provision limits the taxing power of cities and villages to 2 percent of the five-year average full valuation (or 2.5 percent in New York City).

More recently, just two years before Gov. Pataki proposed a levy cap in his original 1997 STAR bill, a cap on all property taxes in the state was proposed by Assembly Speaker Sheldon Silver and passed by the lower house of the Legislature.

Thus, while there is no discounting its significance, a cap on school tax levies would not represent revolution so much as *evolution*—a recognition of the need to update a traditional response to public concerns about excessive growth in property taxes.

Thank you. I would be happy to take your questions.