



Testimony

to the
New York State Commission
on Property Tax Relief
on
April 23, 2008

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Testimony of
Alan B. Lubin
Executive Vice President
New York State United Teachers
to the
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Thomas R. Suozzi, Chair
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Good afternoon Chairman Suozzi and honorable members of the New York State Commission on Property Tax Relief.

I am Alan Lubin, Executive Vice President of New York State United Teachers.

NYSUT is a statewide union representing more than 600,000 members. Our members are pre-k to 12th grade teachers, school related professionals, higher education faculty, and other professionals in education and health care.

I thank you for the opportunity to address you today regarding property taxes in New York State.

Tax Caps

I would like to begin by addressing a particularly troubling issue under consideration by the Commission. The proposal I am referring to is the school property tax cap. I will say to you what I've said to the Governor, Legislative leaders, and others around the state - A tax cap proposal would take us in the wrong direction at a time when New York's progress in education is being recognized.

Let me take a minute to tell you exactly why a tax cap would be bad policy for New York's school children.

1. New York Schools are succeeding. Only a short time ago, Education Week's annual Quality Counts report showed that New York's schools received the highest overall marks nationwide. Our ratings show we are taking the right steps to reform education, improve achievement overall and close the achievement gap. Considering a tax cap when tax caps have been shown to lead to serious reductions in the level and quality of public education just doesn't make sense. Chairman, if you look at just a few districts in Nassau County, Uniondale and Westbury – you will see that a cap would have caused these

districts to lose \$27.5m and \$15.2m respectively over the last four years. That lost revenue would have forced programmatic cuts that would have hurt educational quality in these districts with a significant high need population (see attachment for details).

Let me give you some other examples – In California, under Proposition 13, K-12 spending per pupil fell dramatically, dropping from more than \$600 above the national average in 1978 (when Proposition 13 was passed) to more than \$600 *below* the national average in 2000. School districts in California have been forced to cut programs such as music, physical education, and art; reduce class offerings; and cut positions, such as librarians and counselors. California schools went from being one of the most highly regarded to one of the most troubled systems in the country. Similarly, in Massachusetts and Illinois, school districts affected by caps have eliminated positions, reduced the number of teaching assistants, imposed salary freezes, and cut certain classes. Studies have also found strong evidence that property tax caps lead to lower student test scores, higher dropout rates and a reduction in teacher preparedness. A tax cap just doesn't make sense if we are serious about our efforts to maintain a high quality education and close the achievement gap in New York State.

2. Tax caps do nothing to change the rising costs facing school districts; they only make it harder for schools to provide the services our children need. Tax caps do not slow the increase in the cost of health care or fuel, for example, which reflect forces outside of the control of local officials.
3. New Yorkers *have* and *want to keep* local control. Voter's last year approved 95 percent of the state's school budgets. They showed – yet again – that when asked to choose between quality schools and lower taxes their choice is quality schools. Local communities should be allowed to keep making these choices for themselves. School districts operate under a budget process that is already more open to public input than that of any other government body in New York State. Only school districts are required to submit an annual budget for voter approval. When a school district budget is defeated, the district must adopt a contingency budget which is capped at 120% of CPI or 4 percent whichever is lower.
4. Tax caps have been shown to disproportionately affect lower-income communities. One reason for this is that lower-income communities have been less able to achieve the supermajorities necessary to override property tax caps in states where this has been an option. This will exacerbate disparities across the state in educational performance leaving lower-income communities even worse off relative to their higher-income counterparts.

It is clear that if New York State imposes a mandatory tax cap on levy increases, it is our students who will suffer.

Property Taxes in New York State

New York has a long history of the State and local school districts sharing in the cost of providing education to our state's children. The predominant source of local revenue is the property tax. Over the past 20 years, the local share of school expenditures has ranged from a high of 56.8% in 1993-94 to a low of 46.4 in 2001-02. Since 2001-02, the local share has climbed above 50 percent. Simple math shows that with this type of sharing of costs, and the unpredictability of state aid, it is nearly impossible to have local property taxes not rise each year.

Since the enactment of STAR, New York's property tax relief program and the infusion of new State Aid, school property tax increases have stabilized. In the first year of STAR 1998-99, which also included a large increase in state aid, school property taxes increased by 1.61 percent. In 1997-98 property taxes had increased by 4.22 percent. In the final year of the STAR phase-in 2001-02, property taxes actually decreased by 1.7 percent.

In 2002-03, when state aid was reduced and STAR grew a small amount, school districts were dependent on local revenues to fund cost increases. Property taxes increased by 11 percent. In 2007-08, the Governor and legislature provided a record increase in state aid. According to the property tax report card data, property taxes increased on average 3.8 percent in the current year. This increase does not reflect the \$1 billion in new property tax rebates provided in 2007-08; **when the rebates are taken into account, the average increase drops to 1.5 percent.**

An Alternative to STAR: Property Tax "Circuit Breakers"

So as we can see, State efforts to reduce property taxes ARE making a difference. The new Middle Class STAR rebate program, which is better targeted than the original STAR program in that it takes income into consideration, continues to reduce the local property tax burden. However, STAR is not the most efficient property tax relief mechanism because it does not take the size of a homeowner's property tax bill into consideration and it is still based on county and school district averages. A circuit breaker like the Galef/Little proposal (A.1575A/S.1053A) would address both of these shortcomings. It looks at a homeowners ability to pay their taxes relative to their income.

A circuit breaker protects taxpayers from a property tax "overload" just like an electric circuit breaker by essentially "capping" an individual household's property taxes as a percentage of their income. Already, 35 states have some form of circuit breaker. This type of approach tends to be much less expensive than "across the board" property tax breaks like STAR because the benefits go to the taxpayers for whom property taxes are most burdensome. This type of tax relief would target aid to the low and moderate-income homeowners who need it most, especially seniors.

Response to Cost-Saving Proposals

NYSUT has been following with great interest the comments made by several presenters regarding the need to cut the defined benefit pension benefits available to future employees, as

well as the need to reform the Taylor Law and the Triborough Amendment to level the playing field for public employers at the bargaining table. However, a closer look at the facts requires that we look deeper into how resources are deployed in our public schools, as well as a further exploration of questionable practices by school administrators and school boards.

Defined Benefit Plans Have A Long and Successful History:

NYSUT believes that the current defined benefit pension plans serve the interests of our members and taxpayers better than any defined contribution plan for several reasons:

First, the New York State Teachers' Retirement System (STRS) has been in existence since 1921. This plan, as with all of New York's public pension plans, provide guaranteed and identifiable income replacement benefits for hundreds of thousands of career public employees and their dependents upon retirement, death or disability.

Second, these benefits are provided in a cost-effective way by utilizing professional asset managers to pool employer contributions, employee contributions and investment earnings together to limit individual risk and maximize system returns over the long-term. The Tier IV plan, established in September 1983, was estimated to cost public employers approximately 12% of payroll. But, the average annual cost to employers with members in STRS for providing these benefits over the past ten years is 3.73% of payroll. This rate fluctuates annually reflect changes in the system's investment experience over the preceding five year period. Due to more positive investment experience over the past several years, it is projected that the rate of contribution for employers to STRS will decrease from 8.70% in 2007-08 to 7.63% in 2008-09. It is anticipated that this reduction in the ECR will generate approximately \$120M in savings for school districts next year.

Third, defined benefit plans are particularly critical in terms of retaining a quality, career public educational workforce. Defined benefit plans reward professional experience for career public employees by providing a retirement benefit formula based on years of service and final average salary. Defined contribution plans reward employees who leave service by providing all accumulated employer and employee contributions upon breaking service. As such, defined contribution plans tend to encourage the attrition of talent and discourage talent development over the long term.

Lastly, moving to a defined contribution plan would not save school districts anything in the short term because the current pension system would continue for current employees and a properly funded defined contribution plan would require employer contributions of 8% to 10%. These contributions would never be reduced without severe reductions in benefits.

Defined Contribution Plans Are Unfair To Women with Families:

Defined benefit pensions are of particular importance to the K-12 educational community as females make up over 75% of all the teachers in our schools. From a retirement planning

perspective, females generally live longer than males and generally earn lower salaries over their careers due to breaks in service to rear their children. For participants in defined contribution plans, these two factors negatively impact the ability of an individual to provide for a secure retirement – a longer lifespan requires the accumulation of larger reserves to ensure a sustainable income later in life. However, it is difficult to dedicate the necessary resources to account for this because females generally earn less over their careers and are unable to contribute during that portion of their service that they are raising their children. We believe that the movement to this type of plan, in addition to requiring greater public resources while achieving no savings, would have the potential to create even greater pressure on our social service programs as future members outlive their accumulated benefits.

Health Insurance for Employees and Retirees

Health insurance is not a mandated cost, but a negotiated benefit. NYSUT is just as concerned as employers are about escalating health care costs as employers. Absent a real fundamental change at the federal level in terms of how these services are delivered and to whom they are available, this problem will not go away.

NYSUT will continue to work with our locals to negotiate changes within the collective bargaining process that are beneficial to our in-service and retired members, as well as the taxpayers. However, we do not believe and will not support the ability of school districts to change the health insurance benefits of our in-service and retired members outside of that process. A promise made should be a promise kept.

As I've mentioned, we have been just as concerned about the increases in health insurance costs as the employers. That is why we have supported universal health care to get a federal solution to this problem. We have also supported the development of a coordinated bulk drug purchasing program for all state agencies after observing double digit increase in the cost of pharmaceuticals most commonly prescribed.

The Taylor Law, Triborough Amendment and Labor Relations

In 1967, the New York State Legislature enacted the Public Employees' Fair Employment Act or the "Taylor Law." The Taylor Law was specifically designed to "promote harmonious and cooperative relationships" between public employers and employees (Civil Service Law, § 200). This law ensures a fair playing field for employers and employees by encouraging negotiation and compromise between the parties.

The Taylor Law provides public employees the statutory right to unionize and the right to negotiate the terms and conditions of employment. The Triborough Amendment was enacted to prohibit public employees from striking and to prohibit employers from unilaterally cutting negotiated benefits after the expiration of an existing contract. The Triborough amendment does not discourage or prohibit employers from seeking changes to existing benefits. It does, however, encourage all parties to the agreement to continue to work at the bargaining table to

produce an agreeable result for the betterment of the public employer, the employees and the communities that they serve.

The Triborough Amendment is not a major cost driver for local school districts. The salary steps for newer employees are the largest potential cost. In school districts, the cost of step salary increases, which were negotiated between the school district and the union, average 2.5% of teacher salaries. Teacher salaries average 40 percent of a school district budget. Thus, the impact of the step increases on the overall school district budget is 1 percent.

The success of this statute over time should not be measured or evaluated based on the relatively few high profile cases that have resulted from failed or bad faith negotiations, but on the hundreds of contracts that get settled on a yearly basis with little or no fanfare. The Taylor Law has been successful in this mission over the past 40 years due, in large part, to the relatively level playing field established during bargaining between public employers and employee organizations, as well as the ability for each party to seek the assistance of a neutral third party, when necessary.

Issues for Further Discussion and Consideration

Public Retirement Issues for Consideration:

- (1) Non-Governmental Entities Eligible for Public Retirement System Benefits:** Since 1989, the New York State School Boards Association (NYSSBA) employees have maintained the rights of membership in the New York State and Local Employees' Retirement System (RSS §31, Sub. a – added Ch. 378/1989). NYSSBA is not a public entity – school district participation is optional and the Association's employees are not covered under the Civil Service Law. It is ironic that NYSSBA would scapegoat the public pension system while availing itself of its benefits.
- (2) §211 Waiver Abuse:** The Retirement and Social Security Law §211 waiver provision which allows individuals to earn a full pension benefit, plus a regular salary without limitation was originally designed to insure the availability of an accessible pool of candidates to fill vacancies in various positions where suitable candidates were not readily available or interested. However, this benefit has been the subject of some questionable practices where less experience, but qualified school administration candidates are being denied employment opportunities. We would request a review of RSS §211 waiver requirements available to school superintendents and other school administration officials as a means for districts to (1) reduce payroll costs and (2) to provide opportunities for qualified individuals to initiate careers in these positions.

School Boards - Training, Establishment of Ethical Standards and Conflict of Interest Disclosure

Unlike our teachers association dues which come out of each individual teacher's paycheck, property taxes pay for school board association dues, as well as paying for travel to

conferences, etc. I believe in conferences for educational purposes, but these things need to be monitored by the state to ensure that it is essential for an entire school board to make these trips on the taxpayers dime.

(1) Expanded Training Requirements: Since 2005 (Chapter 263 of the Laws of 2005), newly elected school board members are required to take six hours of training regarding the financial oversight, accountability and fiduciary compliance approved by the Commissioner. It is clear that these minimum training requirements have not resulted in the efficient and effective deployment of resources in our school districts. We support the establishment of a more rigorous, annual training component for all school board members. We continue to support the right of the Commissioner to designate appropriate vendors for such training, but we believe that those vendors should be required to establish relevant curriculum for training and to furnish such curriculum to the department of education for review and approval prior to implementation. We also believe that this enhanced curriculum along with any performance assessment taken by individual board members should be available for public inspection.

(2) Establish Training Requirements and Adherence to Highly Ethical Code of Conduct: In 2007, the New York State Legislature enacted vigorous new ethical standards for public officials. In light of recent developments, we believe that the implementation of an annual training requirement should be expanded to include a training program in proper ethical conduct for school administration officials and school board members. Moreover, we believe that school administrators and school board members should be required to adhere to a code of ethical conduct and make disclosures to the local district and the department of education regarding any potential conflicts that such individuals may have relative to the vendors and businesses that are doing business with the school district.

Cost Saving Suggestions for School Districts

School district consolidation in New York State has nearly stopped. Only a few districts have opted to consolidate in the last 10 years. Many possible consolidations do not get approved because of parochial issues rather than lack of cost effectiveness. In order to avoid the issues surrounding closing of schools and loss of the school as the center of some smaller communities or changes to sports programs, the Legislature should consider regionalizing school district functions. Our staff has estimated that this could bring in savings of over \$440 million annually.

Regionalize School Board and Superintendent Functions—This approach would provide cost savings at the local level without having an impact on parents, students and local schools.

First, eliminating local school boards in small districts and having an elected regional board serve as the local school board would save the cost of board functions and training including the board clerk's salary. Local superintendents could be transferred to the regional entity as deputy superintendents responsible for a local school district. Where possible these positions will be eliminated by making the deputy superintendents serve more than one of the

former school districts. Currently, there are several school districts in New York State which education less than 100 pupils total, but where the Superintendent is receiving a salary over \$150,000 a year. This is a position which amounts to overseeing the equivalent of less than 4 classrooms. *One such district only has 34 pupils total and the Superintendent's salary is over \$178,000.* These changes would bring in an estimated savings of \$94 million annually.

Regionalize Central Office Functions— Require all business office functions to be centralized under a regional entity, saving at least 50 percent of the business office costs of the local districts. This would bring in an estimated savings of \$166 million annually.

Regionalize Transportation Services--Require all school districts to regionalize transportation systems. This would eliminate the administrative costs of running individual transportation systems, reduce the number of buses needed by ensuring full capacity of buses and reduce fuel costs by allowing bulk purchasing of fuel. This would bring in a savings of \$180 million annually.

Regionalize Purchasing --Require all school districts to participate in regional purchasing. Currently many districts save money through joint purchasing. By requiring joint purchasing, school districts will save more by increasing the purchasing power of the group. This function can be administered by local BOCES and produce savings through improved economies of scale.

Cost Effective Investments—Instead of discussing ways to cap revenues of local school districts, we should be discussing how to make cost effective investments in our schools such as Pre-kindergarten and early grade class size reduction. Both of these programs are proven to save money later in the school system by eliminating the need for extra services for these students such as AIS and special education.

Streamline School District Reporting—Allow districts to use simplified on-line application processes. Available web-based tools should be utilized to end highly bureaucratic paper driven processes that waste time and divert focus from teaching and learning.

The commission has the grave responsibility of recommending ways to appropriately reduce costs while upholding every child's constitutional entitlement to a sound basic education. The challenge is to focus resources on services to children and reduce the non-instructional and administrative service costs through appropriate economies of scale and efficiencies.