

# Property Tax Cap: Pass or Fail for School Districts



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# INTRODUCTION

Gov.-elect Andrew M. Cuomo is likely to leverage his momentum and large margin of victory in the November election to seek a quick win in the state Legislature on a property tax cap. During the gubernatorial campaign, Cuomo championed a local property tax cap for all school districts and local governments. His proposal calls for a cap on tax levies of 2 percent or the inflation rate – whichever is lower.<sup>1</sup> While a property tax cap appears to be a popular quick fix to the state's heavy tax burden, the financial and educational impact of a cap on schools in New York has never been fully assessed – and likely will be devastating.

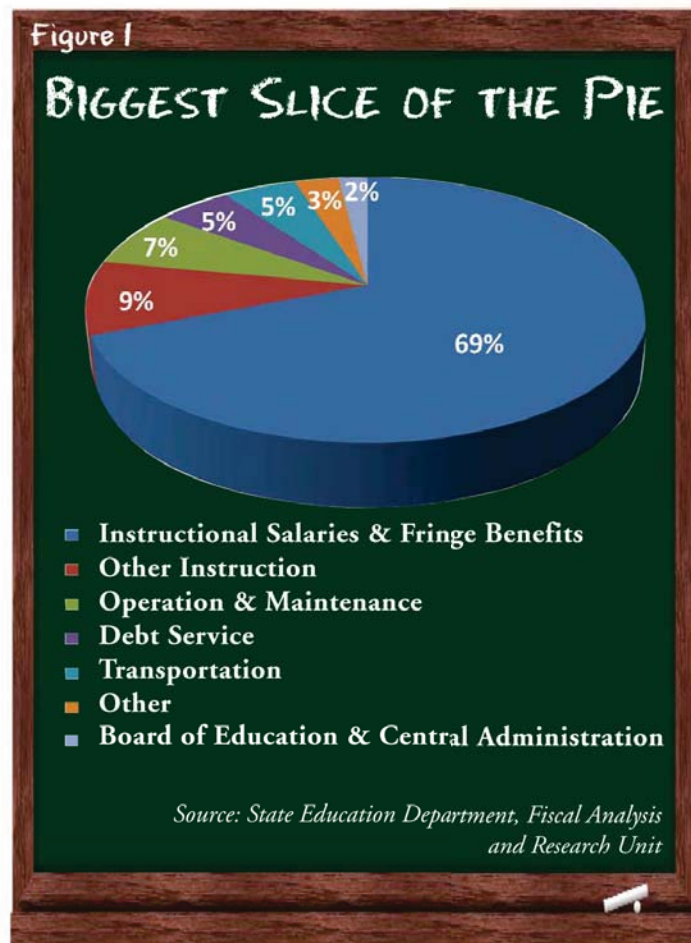
An analysis by the New York State School Boards Association (NYSSBA) found that if a property tax cap such as the one Cuomo advocates took effect just prior to the current school year, school districts in New York collectively would **be short an estimated \$3.3 billion between 2010-11 and 2013-14** just to meet increases in basic expenditures for payroll and other personnel costs. Those costs include salaries, employee pensions, and health insurance, which are collectively bargained or mandated by law.

The analysis found that, under a cap, the 668 school districts in the state with independent taxing authority would be able to **increase** property taxes a maximum of **\$229 million a year**, on average, over that four-year period. During that same period, however, increases in personnel expenses collectively in those districts are projected to average about **\$1.044 billion per year**, resulting in a shortfall of about **\$815 million per year**. The analysis excludes the state's large city school districts (New York City, Buffalo, Rochester, Syracuse and Yonkers), which do not have independent taxing authority.

Personnel costs comprise nearly 70 percent of a typical school district budget (see Figure 1). While there are other big-ticket line items besides personnel – such as transportation, operations and maintenance, and energy – personnel costs are often the major cost drivers impacting taxpayers. It is unlikely that reductions obtained in the other 30 percent of the school budget could offset dramatic increases in personnel expenses. More likely, schools will experience cost increases in those other areas as well and find themselves with even larger gaps between property tax revenues and expenditures.

NYSSBA believes that a hard tax cap would threaten the quality of public education by forcing drastic cuts in academic programs. School districts would be faced with having to increase class sizes, lay off staff, close school buildings, reduce electives and extra-curricular activities, and reduce or eliminate extra help for students, to name a few.

This report highlights seven alternatives – such as a temporary freeze on public employee salaries and a mandatory minimum employee health insurance contribution – that would be more effective than a property tax cap at lowering the cost of public education and reducing the property tax burden.



**Personnel costs (i.e., salaries and benefits) comprise the majority of a school district budget.**



# MANDATES, ECONOMY RESPONSIBLE FOR CURRENT PREDICAMENT

No one doubts that property taxes are high. According to the nonpartisan Tax Foundation, New York had the fourth highest median real estate taxes in 2009.<sup>2</sup> But contrary to popular belief, cost-conscious school boards actually have little discretion when it comes to managing the personnel costs of providing a high-quality education, since so many of these costs are mandated by the federal and state governments, or subject to collective bargaining agreements that were negotiated by predecessors.

## Pensions

One area in which schools have almost no discretion over spending is the mandatory contributions they make to the state pension systems. These contributions are based on rates set by the state and are expected to soar in the near term. For example, school district contributions to the state Teachers' Retirement System (TRS) increased from 0.36 percent of total teacher payroll in 2002-03 to 8.6 percent in 2010-11, and the employer contribution rate for the 2011-12 school year is expected to be between 11 percent and 11.5 percent. The state Employees' Retirement System (ERS) set 2011-12 employer contribution rates at 16.3 percent – an increase of 37 percent from the 2010-11 rate of 11.9 percent.

Employer contribution rates are determined annually through an actuarial valuation of assets and liabilities. This valuation is based on estimates of future salaries and projected benefit payments for all members. The projections are based upon current member data as well as actuarial assumptions regarding future events, such as the rate of return on assets; rates of salary growth; mortality rates for active, retired and disabled members; and rates of retirement, disability and withdrawal.

These rates can be volatile, putting school districts at the mercy of factors beyond their control. For example, from 1997 to 2003, the employer contribution rate for TRS was less than 2 percent of member salaries; three of those years had employee contribution rates of less than 1 percent of salaries. These low contribution rates were primarily the result of high rates of investment return during the boom years on Wall Street.

However, rates of return on investments turned unfavorable after the attacks of September 11, 2001. Consequently, the poor return of the equity and capital markets required a considerable increase in the employer contribution rate. ERS alone lost approximately \$29 billion in revenue due to adverse stock market conditions during the period from August 2008 to September 2010.<sup>3</sup> That \$29 billion must be made up by increased contributions by school districts and other public employers in the state pension system.

Aside from mandatory contribution rates, laws that shift pension expenses to the local level also have consequences for schools. One example is a state law that was enacted in the summer of 2000 that exempted employees in the state retirement systems from having to contribute 3 percent of their salaries to the pension system after being in the system for 10 years. Prior to this change, these employees paid into their pension systems based on their salaries throughout their careers. As a result of the change, school districts ended up paying more into the respective retirement systems – to the tune of \$296 million dollars in 2008 alone (see footnote below).

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According to its annual report, approximately 106,000 members of the Teachers' Retirement System had been in the pension system for longer than 10 years at an average salary of \$79,089 as of 2008. The elimination of the 3 percent contribution represented a loss of more than \$251 million a year in teacher contributions, with taxpayers picking up that amount. Likewise, as of 2008, the state Employees' Retirement System had about 54,000 members with more than 10 years of service, at an average salary of \$27,734, representing about \$45 million in lost pension contributions that had to be made up by taxpayers. In total, in 2008 taxpayers paid an additional \$296 million in employee pension contributions as a result of the law.



## Health insurance

Health care costs also continue to escalate. School district payments for health insurance rose by more than 30 percent from 2004-05 to 2008-09 alone, from \$2.6 billion to \$3.5 billion.<sup>4</sup>

Moreover, average annual increases in employer-provided health care benefit costs nationwide are projected to increase in 2011 by anywhere from 10.6 percent to 11.6 percent, depending on the type of plan.<sup>5</sup> That increase is after health care benefit costs rose by double digits in both 2009 and 2010.<sup>6</sup>

According to the Henry J. Kaiser Family Foundation, there are several reasons for the increase in health care costs,<sup>7</sup> all beyond the control of school districts. The Kaiser Foundation found that the proliferation of health care technology alone may account for half or more of spending growth. Other factors are the aging U.S. population (older people use more health care), health care plans that increasingly cover more procedures than ever before (which leads to a corresponding increase in health care usage), and the prevalence of health care coverage, which encourages the development of new technologies because technology innovators often know that insurance will bear a substantial share of any new costs. With these factors in play, health care costs figure to remain high.

## Salaries

While school districts have some discretion in the negotiation of salaries, collective bargaining constraints and other statutory limitations prevent them from responding to the economic climate in a manner similar to private sector organizations. For example, schools cannot unilaterally freeze salaries or require employees to contribute more to their medical and retirement costs in financially difficult times.

A major stumbling block for school districts is the Triborough Amendment to the Taylor Law, which requires school districts to pay salary increases in the form of “step” increments to employees even after a collective bargaining agreement expires. The impact of this can be shown with a simple example.

The St. Johnsville Central School District, a small district of 456 students in Montgomery County, will have to pay \$75,000 in step increases alone under Triborough when its collective bargaining agreements expire in June 2011 unless new pacts are negotiated. That increase would necessitate a roughly 3.5 percent increase in the tax levy just to cover the expense, according to school Superintendent Ralph Acquaro. Moreover, these automatic salary increases could create a disincentive for employees in those districts to negotiate, particularly if a school board is looking to obtain salary or health insurance concessions.

In addition, depending on the amount, the automatic increases alone could cause salaries to rise above what a property tax cap would allow. In fact, annual step increases paid to instructional employees average about 2 percent per year, according to the New York State Association of Management Advocates for School Labor Affairs, an organization for public sector management negotiators in New York.

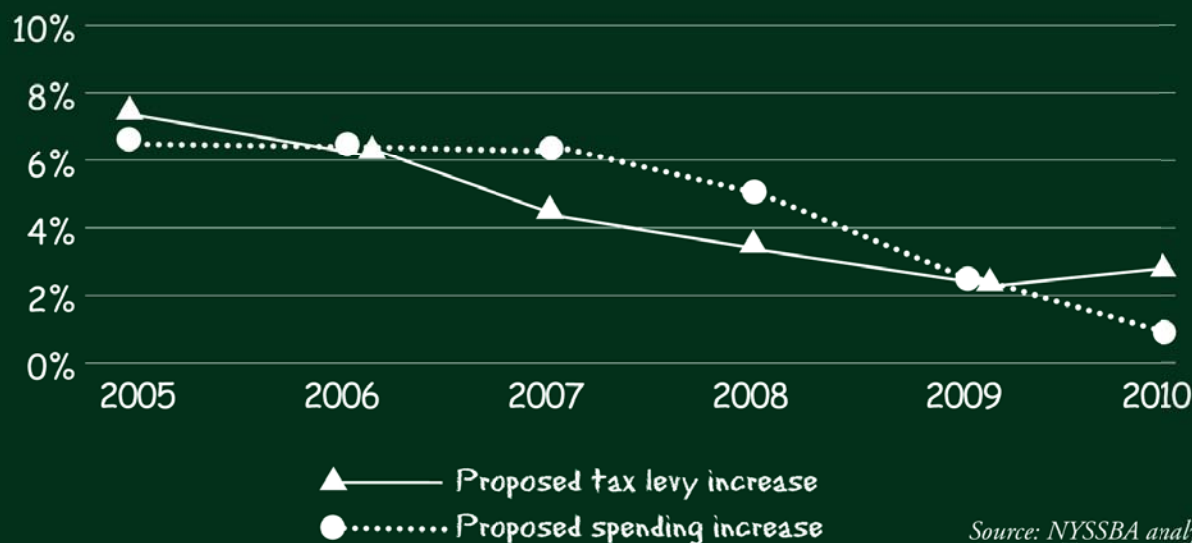


# SCHOOL DISTRICTS AT THE BREAKING POINT

School boards have responded to the myriad outside economic pressures by submitting to voters fiscally responsible budgets. As Figure 2 shows, the proposed tax levy and budget increases have fallen sharply over the last five years. Voters have responded by approving record numbers of budgets. In 2009, voters approved 97 percent of budgets placed before them, and in 2010, 92 percent gave their school budget the thumbs up.

Figure 2.

## A DOWNWARD TREND



Source: NYSSBA analysis of NYS Property Tax Report Card data.

*New York State school district spending and tax levies have shown an overall downward trend since 2005.*

This broad support for community schools demonstrates that voters have a clear understanding of the importance of the public school system to children as well as to economic well-being. For their part, school budgeting officials understand the economic realities in their communities and the need to balance a quality education with the ability of their taxpayers to pay for it.

School boards have also worked within the parameters of existing laws to obtain employee concessions in the midst of the current recession. A NYSSBA survey in the spring of 2010 found that 35 districts that negotiated concessions with their teachers unions under an existing collective bargaining agreement reported savings of more than \$10 million, an average of about \$290,000 per district. Concessions included switching to a less expensive health insurance plan, moving to a single health insurance carrier, increasing health care contributions required of teachers, implementing higher health insurance and prescription drug co-pays, deferring salary increases, and freezing pay.

But soon school districts will be unable to manage their burgeoning costs unless there are substantive structural changes at the state level. Heretofore schools have been able to manage these costs because of adequate levels of state aid, federal stimulus dollars, and by tapping into reserves. However, an unstable state aid funding stream, the loss of federal funds, and dwindling reserves threaten to hamper school districts' ability to manage their costs. Their only alternative is to reduce services to students and the community unless certain fundamental legislative changes are made at the state level.



## **State aid**

School districts can no longer rely on increases in state aid every year. After being held flat in the 2009-10 school year, state aid to education actually decreased by \$1.4 billion in 2010-11. On top of that, schools experienced a \$130 million mid-year state aid cut along with multiple delays in payments. With a \$9 billion projected state budget deficit in 2011-12 and the economy recovering at a slower than expected rate, Gov.-elect Cuomo has signaled his interest in a school aid cut. The state also faces the expiration of the surcharge on high income earners (commonly referred to as the “millionaires tax”).

## **Federal stimulus dollars**

On the federal side, the passage of the stimulus package in 2009 provided New York State’s schools with increased funding through the federal Title I and IDEA formulas and some \$2.5 billion in federal “stabilization aid” to help preserve jobs. In the current school year alone, school districts received \$700 million in aid from this stabilization fund; without that funding, school districts would have experienced a \$2.1 billion cut in the 2010-11 school year, rather than \$1.4 billion. However, the 2009 stimulus funds will expire at the end of the current school year.

The federal Education Jobs Act, passed in the summer of 2010, added another \$607 million for the state’s schools. Most districts will likely use this to offset the loss of federal stimulus dollars in the 2011-12 school year, based on an informal NYSSBA poll of school board members and the fact that the state Legislature has yet to allocate this funding to school districts as of this writing.

However, with fiscally conservative Republicans taking over the U.S. House of Representatives and making inroads in the U.S. Senate, the most immediate impact of the mid-term Congressional elections is likely to be the end of increased federal aid for public education. Despite the looming “funding cliff” resulting from the loss in federal stimulus funding, Congress is unlikely to muster support for another round of educational “bail out” funding.

Even with the influx of federal stimulus dollars, school districts were not immune to making the painful choice of laying off teachers and other staff to make ends meet. An August 2010 survey by NYSSBA asked school districts to quantify the number of teaching staff their districts had to cut. A total of 176 school districts responded to the survey, reporting a total of 701 classroom teacher layoffs. This total represents approximately 1.6 percent of the total teacher workforce of 43,375 in those districts. Applied to the total teacher workforce statewide of 226,764, a 1.6 percent teacher layoff rate would equate to an estimated 3,628 teacher layoffs.

## **Undesignated reserve funds**

School districts often use undesignated fund balances, or “rainy day funds,” to offset decreases in revenues and increases in costs. In fact, in the last four years, school districts have used nearly \$3.5 billion in undesignated fund balances, according to a NYSSBA analysis of data from the State Education Department (SED). In 2010-11, nearly 98 percent of districts are expected to use more than \$1.1 billion in unreserved fund balances. However, the more schools spend down their rainy day funds, the more they are left vulnerable to financial uncertainties that leave them unable to meet unanticipated expenditures.

# A \$3.3 BILLION SHORTFALL

With the fiscal pressures faced by school districts, NYSSBA conducted an analysis to assess the impact of a property tax cap. The analysis compares the estimated yearly growth in school spending on personnel costs with the estimated yearly growth in local property taxes if a property tax cap of the lesser of 2 percent or the rate of inflation had been implemented just prior to 2010-11.

Table 1 below shows projected statewide school expenditures on the four largest categories of personnel costs – non-teacher pensions, teacher pensions, health insurance and salaries – based on data from ST-3 annual financial report forms school districts are required to complete.

Table 1

## PROJECTED EXPENDITURES – PERSONNEL (in millions)

Year*	Employees' Retirement System	Teachers' Retirement System	Health care	Salaries	Total	Increase in total expenditures from previous year
	Expenditures	Expenditures	Expenditures	Expenditures		
2013-14	\$646	\$1,925	\$4,601	\$17,487	\$24,659	\$1,082
2012-13	\$558	\$1,662	\$4,213	\$17,144	\$23,577	\$1,128
2011-12	\$448	\$1,335	\$3,858	\$16,808	\$22,449	\$1,070
2010-11	\$327	\$1,044	\$3,530	\$16,478	\$21,379	\$894
2009-10	\$203	\$753	\$3,374	\$16,155	\$20,485	\$271
2008-09	\$234	\$922	\$3,220	\$15,838	\$20,214	-----

\* Yearly increases assume no reduction in staff and programs

*Projected yearly statewide aggregate school district expenditures in four personnel categories: pensions for non-instructional employees (Employees' Retirement System), pensions for instructional employees (Teachers' Retirement System), health care, and salaries.*

The most recent ST-3 school district expenditure data available is for the 2008-09 school year.<sup>8</sup> Therefore, we estimated yearly cost increases for subsequent years based on the data for that year and projected rates of spending growth (see footnote below). The far right column in Table 1 shows the total amount that all four categories are expected to increase from one year to the next.

Projected increases in school district contributions to the Teachers' Retirement System are based on calculations of the percentage increases in the employer contribution rates for each year using actual employer contribution rates from both the state Employees' and Teachers' Retirement Systems for 2009-10, 2010-11 and 2011-12. Employer contribution rates for 2012-13 and 2013-14 are based on projections of the contribution rate percentage reported by the New York State Department of Budget.<sup>9</sup> Because there are no estimates of projected increases in school district contribution rates to the Teachers' Retirement System for 2012-13 and 2013-14, projections of the contribution rate increases for the state Employees' Retirement System were used to estimate increases in contribution rates for the Teachers' Retirement System. Projected increases in health care are based on estimates reported by the New York State Department of Budget. Salary increases were estimated at a modest 2 percent per year, equivalent to the average annual step increase statewide, according to the New York State Association of Management Advocates for School Labor Affairs.



Table 2 shows the total statewide increase in the amount of property taxes that school districts would be able to raise under a tax cap proposal of the lower of the inflation rate or 2 percent and compares it with the total increase in personnel expenditures for each year.

Table 2

PROPERTY TAX VS. EXPENDITURES (in millions)				
Year	(A) Tax cap based on CPI	(B) Maximum yearly tax levy increase under tax cap	(C) Yearly increase in total expenditures	(D) Difference between increase in tax levy and increase in expenditures
2013-14	2.0%	\$371	\$1,082	- \$711
2012-13	1.5%	\$274	\$1,128	- \$854
2011-12	1.5%	\$270	\$1,070	- \$800
2010-11	0.0%	\$0	\$894	- \$894
Totals		\$915	\$4,174	- \$3,259

*This table compares projected increases in maximum yearly statewide property tax levies under a property tax cap of the lower of 2 percent or the inflation rate, and projected yearly statewide increases in school district expenditures on pensions, health care and salaries.*

According to the New York State School Property Tax Card Report published by SED, school districts statewide levied a total of slightly more than \$18 billion in local property taxes in 2009-10.<sup>10</sup> Column A of Table 2 shows what the maximum percentage tax levy increase would be for each subsequent year using projections of the increase in the Consumer Price Index reported by the state Department of Budget.<sup>11</sup> In the absence of a projection for 2013-14, the analysis assumes a 2 percent increase for that year – the highest possible. Column B shows the maximum aggregate dollar amount the tax levy could increase in each successive year for all districts statewide if a tax cap took effect just prior to 2010-11.

The analysis then compares the estimated yearly growth in personnel expenditures with the estimated yearly growth in local property taxes for each year had a property tax cap been implemented just prior to 2010-11. Column C shows the annual growth in personnel expenditures from Table 1. Column D shows the difference between the yearly growth in property taxes and the yearly increase in total expenditures.

As is evident from Table 2, the yearly growth in expenditures would exceed the yearly growth in local property tax revenues by about \$3.3 billion over the four-year period from 2010-11 to 2013-14 if a property tax cap were in effect.

[Note: This analysis is meant to illustrate the magnitude of the impact of a property tax cap. It is intended to show the cumulative, four-year impact of a property tax cap on school district personnel costs. The calculations do not take into account any diminutions in staff and educational programs that school districts would necessarily have to make when confronted with such a shortfall. In year one, for example, school districts would be faced with an immediate need to eliminate \$894 million in expenses or find alternative revenue sources. However, it is difficult to predict what specific measures more than 600 local school districts would take in response to a tax cap.]



To further illustrate the magnitude of the gap between revenues and expenditures, an \$894 million shortfall in the 2010-11 school year would be equivalent to the average salaries of 13,446 teachers and administrators. That estimate is based on the \$66,488 average salary of active members of the Teachers' Retirement System.<sup>12</sup> (see Figure 3).

A cap that limits property tax increases to the lesser of 2 percent or the rate of inflation – as Gov.-elect Cuomo's cap would – could create even greater shortfalls for school districts if inflation remained constant at zero each year. Applying the methodology used above, a zero percent cap would leave schools with a \$4.2 billion deficit between their personnel costs and local revenues.

## THE ALTERNATIVES

From the above analysis, it is clear that school districts will not be able to meet their growth in expenditures through increases in the local tax levy if limited by a property tax cap. The situation is made more complicated by the fact that for many districts, property taxes comprise the largest source of revenue. On average, property taxes make up about 45 percent of school district revenue statewide.<sup>13</sup>

Rather than placing an arbitrary cap on the ability of school districts to raise local revenues to meet their obligations, there are alternatives that could address the root problems of rising school district expenses and help control property tax growth. Here are seven possible alternatives:

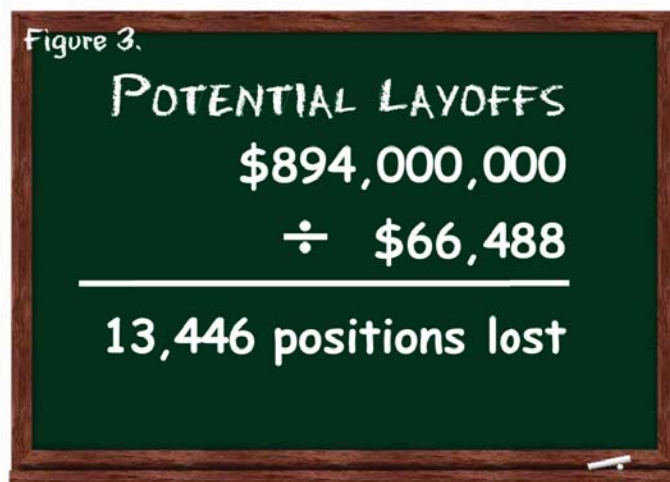
**1. Implement a mandatory minimum health insurance contribution for all employees.** Requiring local government and school district employees to contribute, at a minimum, 10 percent (for individual coverage) and 25 percent (for dependent coverage) toward the cost of health insurance would directly address one of the fastest growing school district expenses. This recommendation would align school district employees with what state employees are required to contribute, though it would still be below the nationwide average for all employees of 19 percent for individual coverage and 30 percent for dependent coverage.<sup>14</sup>

**2. Enact a new Tier VI of the state pension plan.** The state enacted a new Tier V pension plan in 2009 under which new employees will contribute 3 percent of salary toward their pensions during the entirety of their employment. Now, the state should create a new Tier VI for the state employees' and teachers' retirement systems that will offer either a defined contribution plan to new employees, or a hybrid of both defined benefit and defined contribution plans. This will stabilize school pension costs because of its predictability.

With a defined contribution plan, the amount of the employer's annual contribution is specified. Only employer contributions to the account are guaranteed, not the future benefits. Under a new Tier VI, schools would save money because they would not be responsible for losses in the value of the state pension funds caused by lower returns on investment and would be better able to gauge funding levels and manage district resources.

**3. Amend the Triborough provision of the Taylor Law to exclude teacher step increments from continuation until new contracts are negotiated.** The Triborough Amendment should be changed to require school dis-

Figure 3.



*A shortfall of \$894 million in 2010-11 under a property tax cap of the lower of 2 percent or the inflation rate would be equivalent to about 13,466 teaching and administrative positions lost based on the average salary of \$66,488 reported by the NYS Teachers' Retirement System in its 2009 Annual Report.*



tricts to maintain salaries at the rate set in the expired agreement, but without further enhancement through step increments during a contract hiatus. This proposal recognizes the basic purpose of Triborough to maintain the status quo during contract negotiations.

**4. Enable BOCES to negotiate a regional collective bargaining agreement for component districts to opt in.** Currently, each school district negotiates its collective bargaining agreements separately. A regional collective bargaining contract with voluntary participation by school districts would put districts on a more level playing field with teachers unions during negotiations. It would also provide more career flexibility for teachers as they would more easily be able to transfer between districts covered by the same contract.

**5. Implement a statewide salary schedule for teachers.** The state could move to a teacher salary schedule in which one statewide entity negotiates teacher contracts on behalf of school districts with one statewide entity negotiating on behalf of teachers. Such a schedule would help reduce the wide disparities in salaries (or increases in salaries) among different regions of the state.

A statewide teacher salary schedule that determines pay partly on performance-based measures would be optimal. New York State's system of teacher compensation fails to promote continuous improvement in educational methods, encourage the best teachers to teach students most in need, secure good teachers for the most difficult subjects and reward outstanding performance. Teacher compensation must be reformed to establish a career ladder in which teachers are rewarded for excellent work and for working under the most challenging conditions.

NYSSBA envisions a statewide salary schedule in which teachers would no longer get supplements for advanced degrees, which have only weak correlations to student performance. Instead, they would win additional compensation based on observations of teachers and growth of student performance.

**6. Implement a temporary statewide salary freeze for all public employees.** New York State is in a fiscal emergency. During this period of economic recovery, the state could impose a temporary statewide freeze on all school salaries. Freezing school salaries would help school districts cope with the simultaneous loss in state and federal revenue, without further imposing burdensome demands on local taxpayers. A one- or two-year freeze could enable public employers, including schools, to rein in spending while the state recovers from its current financial emergency.

**7. Create lower-cost regional health insurance plans for all school employees.** One of the best ways to lower school district health care insurance costs could be to establish regional health insurance pools – perhaps two or three. The size of these all-school district groups would have enormous potential to drive down costs through increased purchasing power, standardize benefits for all participants, allow for set employee contributions and co-pays by region, and enable prescription drug savings, among other benefits. Regional health purchasing pools would better reflect variations in health care costs among regions of the state compared to statewide plan. As it stands now, the current state plan is economically feasible only for downstate municipalities.



## CONCLUSION

If Gov.-elect Cuomo pushes successfully for a cap on local property taxes while simultaneously decreasing state aid and without providing immediate mandate relief, schools will have no recourse but to eviscerate educational programs, laying off thousands of employees in the process. A cap on state spending, which the governor-elect supports, would prevent even the possibility of increased state aid for education.

The long-term health of our state demands limitations on the growth of taxes and a sound educational system. But tax cap proposals are ineffective political “quick fixes” that do not deliver the expected results or address economic realities. A tax cap would dismantle much of the progress schools have made in providing educational equality by widening resource and achievement gaps among schools with poorer children and those more fortunate. New York can look to the experience of California for the unintended consequences of a property tax cap. California, with a similar demographic makeup as New York, passed Proposition 13 in 1978 that limited raising property taxes to no more than 2 percent a year as long as the property was not sold. Now, its test scores rank among the lowest in the nation.

Fortunately, Gov.-elect Cuomo has also indicated a willingness to address systemic cost drivers. The alternatives put forth in this report provide a better, more equitable way to control property tax growth. The answer to holding down real property taxes is for the state to provide school districts with the ability to hold down costs. The state can do this by addressing legislative, statutory and regulatory limitations, and refraining from passing new unfunded and under-funded mandates onto school districts.

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