

Can the Proposed Cap on New York State School Taxes Succeed?

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On January 23, 2008, in Executive Order No. 22, former New York Governor Elliot Spitzer called for a Commission on Property Tax Relief to find “the root causes of New York’s high property tax burden.” When he took office, current Governor David Patterson signed a continuation of Spitzer’s executive order. The commission, chaired by Nassau County Executive Thomas R. Suozzi, was directed to

- Examine why New York school taxes are so high.
- Develop a way to make the property tax system more fair to property owners.
- Cap property taxes.
- Find ways to reduce taxes.
- Develop recommendations on how to slow the growth of taxes in New York.
- Present the commission’s findings to the state legislature.

In a June 3, 2008 press conference to announce the commission’s findings, Governor Patterson stated, “The growth rate of property taxes in this state is unsustainable, especially for the elderly, working families and small businesses just starting,” and Chairman Suozzi stated, “By controlling the growth of the tax burden, we will be able to reduce voter anger over school taxes and redirect New Yorkers’ attention where it belongs—on the quality of our schools.” (Patterson 2008).

The commission’s recommendations were initially published in May 2008, followed by hearings on the proposal; the final draft was presented in December 2008.

Background

Property taxes are the primary source of revenue for local government: counties, schools, towns, cities, and villages. New York state has come under scrutiny and criticism for being ranked the highest per-capita taxing system 30 out of the last 31 years (Tax Foundation 2008). School property tax levies have increased an average of 7 percent annually for the past 10 years, almost three times the rate of inflation (see the figure); New York state taxes are now 79 percent higher than the national average (Ward 2007).

In 2005, an analysis by the Public Policy Institute [of the Business Council of New York State] showed that businesses in New York paid roughly \$14 billion in property taxes or 40 percent of the total. That made the property tax the biggest single tax on employers Property-tax levies statewide rose by \$11 billion from 2000 to 2005, according to the Office of the State Comptroller. That represents a \$4.4 billion tax increase on businesses. (Business Council of New York State 2007)

The cost of living in New York State has affected its economic growth and property values. The recent economic downturn and the loss in housing and investment values will further compound the problem as government revenues decrease. Municipalities and schools will have to increase property taxes to pay their bills if state aid is affected (Business Council of New York State 2007).

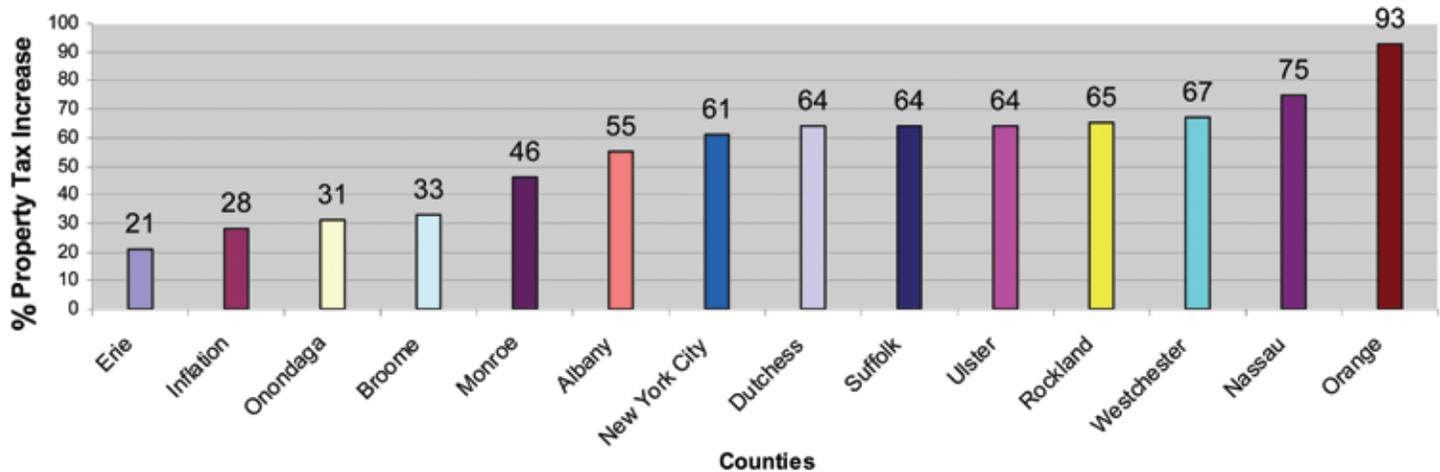
New York has the highest cost per student in the country by 50 percent above the national average.

The commission analyzed all 50 states but focused on five states that were comparable in “terms of size, complexity and diversity.” The five peer states—Massachusetts, Illinois, California, New Jersey, and Michigan—were closely examined so that the commission could learn from their successes and avoid their mistakes (Suozzi and Pugh 2008, 8).

The report examined the root causes of both New York state’s high school taxes and the increased cost to fund schools. Some of the leading factors were found to be as follows:

- New York has the highest cost per student in the country by 50 percent above the national average.
- The costs of school personnel are high.
- The state has legislated more mandates than schools can afford to implement. Special education has become increasingly expensive.

Figure. 10-year increase in property tax levies in selected counties and New York City, 1996–2005



Data include all property taxes from counties, cities, towns, villages, school districts and special districts.
Source: Office of the State Comptroller

- There are too many small school districts that are not cost-effective.
- State aid to schools is below the national average.

The commission stressed that educational standards should not be compromised. Nevertheless, it said the state legislature has to address the escalating financial burden of maintaining excellence in schools; the cost is becoming so prohibitive that people, businesses, and jobs are leaving the state. The high taxes have depressed the housing market in New York state—the monthly cost of property taxes limits the amount of mortgage a property owner can afford. New York’s population has decreased; because of the high cost of living due to the tax burden in New York state, people are “voting with their feet” (Suozzi and Pugh 2008, 44). This high cost of living has also discouraged new families and businesses from locating in the state. This cost of living has an even greater impact on homeowners with limited or fixed incomes and on small business trying to pay the rent (see the table).

How can the state maintain high educational standards, decrease expenses, and

reduce or maintain property tax levels? Answering this question requires an understanding of why the per-pupil cost is higher in New York than in other states.

The cost per student in New York state, excluding the “Big Five”—New York City, Buffalo, Rochester, Syracuse, and Yonkers with dependent school districts (excluding Debt Service)—is \$16,095, compared with \$8,416 in California and \$13,128 in Massachusetts (U.S. Dept of Education, National Center for Educational Statistics, 2005). School expenses have increased an estimated 7 percent for the 2007–2008 school year. The increased cost and inflation can be attributed, in part, to a combination of state mandates, low state aid to schools, and the evolution of school districts and employee union contracts (Suozzi and Pugh 2008, 26–28).

New York state prides itself in providing children in grades K–12 with a high-quality education. The state legislature has often passed expensive and complex mandates in an effort to improve education, meet some public outcry, or correct some current educational or social need. However, the legislature has not provided schools the support they need to fund

these mandated programs, and therefore the cost is passed on to the property taxpayer. The lack of program review for effectiveness or real benefits to the community has left schools with complex and overlapping mandates that sometimes receive more attention than the primary mandate of a sound education. The commission believed that a review of the costs and the benefits of current mandates is needed and that underperforming regulations should be eliminated, so that schools can better focus on the main objective of teaching, rather than trying to fulfill many “overly burdensome, complex and sometimes outdated or redundant and very costly...” state regulations (Suozzi and Pugh 2008, 67).

Previous Efforts at Relief

In 1993, another New York state commission titled *Putting Children First* made several of the same recommendations, but they were not acted upon. The 2008 commission strongly urged that its recommendations not be left untouched for another 15 years. One program the New York State Legislature devised to reduce school taxes, after this commissions report, was the School Tax Relief (STAR) exemption program, initiated in 1997 and designed to reduce the local tax burden for homeowners. Initially a cap on school budgets was to have been built in. However, when the exemption program was enacted, the cap was removed, leading to a growth in school spending that negated the taxpayer savings and shifted

Table. State and local tax burden, New York and the U.S. average, 2005–2006 per \$1,000 of personal income

| | U.S. Average | N.Y. Average | Percentage Difference |
|-----------------|--------------|--------------|-----------------------|
| State and Local | \$116 | \$157 | 35% |
| State | \$69 | \$73 | 5% |
| Local | \$47 | \$84 | 78% |

Source: U.S. Bureau of the Census and Bureau of Economic Analysis

taxes to businesses and renters who did not benefit from this exemption (Suozzi and Pugh 2008, 62).

The latest effort to ease the school tax burden on New York state residents was the Middle-Class STAR Rebate program, which directed the tax relief to lower income households. Checks were sent to homeowners whose income was less than \$250,000 in varying amounts from \$250 in Buffalo to \$809 in Scarsdale (Citizen Budget Commission 2008). This program was again directed to homeowners, not commercial property owners, and was extremely expensive to administer. Instead of giving a tax credit to property owners on their state tax, the program implemented a filing system, reporting system, phone bank for questions, and several mailings with each check. I think that the program was designed to make voters believe elected officials were doing something about high school taxes, without addressing any real change—the state did not have the money to pay for the program in the first place. There was no real permanent reduction in property tax or in policy that would create long-term changes and savings.

Commission Recommendations

The 2008 Commission on Property Tax Relief made the following recommendations to reduce costs to school districts:

- Collective bargaining between teachers unions and employers under the Triborough Amendment needs to be amended. Current regulations have tilted the scale in favor of teachers' unions and have been a component in increasing school districts' costs. The provision on "step and lane" pay increments should be discontinued until a new contract is negotiated (Suozzi and Pugh 2008, 69). The average teacher salary in New York for the 2007–2008 school year ranked second in the country at \$62,332. With nearly 207,315 teachers grades K–12, New York ranked third in the country for enrollment. With a student-to-teacher ratio of 13:1, New York was 42nd in the country (National Education Association 2008).
- From the 2000–2001 school year to the 2006–2007 school year, the number of teachers increased by 5,000 and the

number of nonteaching employees by 7,400. During the same period, the student population decreased by 15,900 students (Suozzi and Pugh 2008, 29). With increases in employee salaries, there is also an increase in the costs of benefits to school districts. Once employed, the typical teacher receives a salary increase of 5.5–11 percent per year, much higher than in the private sector.

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- No new legislative mandates should be proposed without the fiscal impact being fully documented, the costs and benefits analyzed, and the source of funding explained. Also, local government should be allowed to provide input on the proposals. Currently there is no annual review of the costs and benefits to students of mandated programs (Suozzi and Pugh 2008, 67).
- At present, school districts have to prepare numerous and sometimes redundant reports for both the state and federal governments. Compliance reporting should be centralized and streamlined, with one single department overseeing the documentation. Creating a task force to review all existing mandates and directing it to focus on "testing, instruction and procedural requirements" along with identifying redundancies or conflicts while maintaining quality education would help in reducing costs (Suozzi and Pugh 2008, 63–5).

Interagency Task Force

The commission was supported by an Interagency Task Force in its directive to "gather and analyze information from

public hearings, government documents, academic research, consultant studies" and to recommend ways to make state governments more efficient and effective. The commission reviewed the task force's recommendations and highlighted those that addressed the increased costs to school districts. First, schools should be able to conduct collective bargaining by region to reduce costs, create more uniform salary and benefit programs for school districts, provide career flexibility for teachers, and allow sharing of information in negotiations. Second, employee contributions to health insurance should be larger and should be phased in over a five-year period. "This recommendation alone could save local governments and school district's outside New York City an estimated \$475 million annually" (Suozzi and Pugh 2008, 69). Third, school districts should pool together to purchase health insurance or form their own cooperative, as did the Orange-Ulster School District.

The commission believed that there could be more transparency in school district operations by reporting collective bargaining outcomes with employee unions to the Governor's Office of Employee Relations and by having a single source for information on collective bargaining. This would give the public a better understanding of the process and the associated cost.

Local Government Efficiency and Competitiveness

The New York State Commission on Local Government Efficiency and Competitiveness (LGEC) was established by Executive Order in April 2007 "...to examine ways to strengthen and streamline local government [including school districts], reduce costs and improve effectiveness, maximize informed participation in local elections, and facilitate shared services, consolidation and regional governance" (New York State Commission on Local Government Efficiency & Competitiveness April 2008). Also recommended was the consolidation of schools with fewer than 1,000 students. There are more than 200 districts in New York that fall in this category, many of them rural and low-income districts. Consolidation would reduce administrative costs and provide efficiencies in services,

transportation, maintenance, and special education (Suozzi and Pugh 2008, 66–68). Savings could also be achieved by using Board of Cooperative Educational Services for back-office functions that are non-instructional, such as human resources, employee benefits administration, purchasing, legal services, and printing.

The LGEC addressed two areas in which state mandates have driven up costs. One is the Wicks Law, which requires local governments to issue multiple prime construction contracts on public works projects over a \$500,000 threshold for all school districts outside New York City and Nassau, Suffolk, and Westchester counties (which have higher limits). Few school construction projects fall under this threshold, costing school districts unnecessary dollars in completing public works projects. New York City said the recent increase in the threshold to \$1.5 million for projects outside the metropolitan New York area and \$3 million for New York City projects would save \$3.7 billion over its 10-year capital plan. The other area is competitive bid requirements for local government procurement. Currently the threshold is \$10,000 for purchasing commodities and \$20,000 for public works projects; the commission recommended that this level be increased.

The final recommendations from the LGEC addressed the property assessment process. According to the Office of Real Property Services (ORPS), the New York state property tax system is the most complex system in the nation with 1,128 assessing units; most states have fewer than 100. Moreover, each assessing unit has its own standard of assessment, level of value, and reassessment cycle. The LGEC recommended that property assessment and tax collection be consolidated at the county level of government to eliminate tax shifts due to different equalization rates within a county. Consolidation would also improve assessment accuracy by using regionalized market data and standardizing assessment functions, creating statewide assessing standards and cyclical or annual reassessments. Consolidation could lead to more specialized staff for dealing with specific types of property such as commercial,

farm, or industrial. The system would be funded by charging back municipalities for this service.

The commission recognized that a requirement that all properties in New York State be at full market value would have to be phased in because two of the largest assessing entities, New York City and Nassau County, are at fractional value and would need a major revaluation project to achieve market value. A great deal of political power and money will be needed to accomplish the commission's recommendations.

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For the state's 700 school districts, the school tax collection system is broken down into 2,900 segments because schools cross different towns, cities, villages, and counties. The elimination of the different statutory arrangements in tax collection would lead to consolidation and modernization of the process, creating greater efficiencies and cost savings.

The commission made a recommendation that school districts with less than 2,000 pupils be consolidated to achieve an economy of scale (Suozzi and Pugh 2008, 101). More than 200 of New York school districts enroll fewer than 1,000 children with an average school district size of 2,400 outside New York City, while the national average is 3,400 students in a district (New York State ORPS 2008).

The final recommendations of the 2008 Commission on Property Tax Relief recognized that four of the "Big

Five" city school districts, i.e., Buffalo, Rochester, Syracuse, and Yonkers, are dependent on city taxes for revenues. The budgets for these school districts are part of the municipal budgets and do not have to be submitted to a public vote but are adopted by city officials as part of the overall budget. Increases in the big four city districts have been well below the proposed 4 percent cap and state aid has been consistent. While the big four receive about 70 percent of their funding from the state, Mayor Robert Duffy of Rochester pointed out that the Big Five also educate "the most disadvantaged student population while suffering significant losses in property value and assessment" (Suozzi and Pugh 2008, 75).

Proposed Cap on Property Taxes

The key component of school tax reform is the 2008 commission's recommendation for a cap on the growth of property taxes. Restraining tax growth with a cap is not new to New York state; New York City has had such a program since 1884. The commission explored several types of caps: on assessments, on expenditures, on tax rates, and on levies. The levy cap was a key component of the commission's recommendations from the start and the most workable. According to the *National Tax Journal*, 43 states have some type of cap on property taxes (Suozzi and Pugh 2008, 49).

The commission recommended that school tax increases be capped at 4 percent, or 120 percent of the Consumer Price Index (CPI), whichever is less, applied to the current contingency budgets. The commission believes the higher cap of 4 percent, compared with Massachusetts' 2.5 percent, allows "some flexibility" for inflation. New construction in a district that expands a school tax base should be added to the levy cap each year. If the levy growth permitted under the cap is not used, it can be banked and used in the future to increase the levy by 1.5 percent. Capital expense items or debt service can be authorized by a public vote and would not be included in the cap. If a school budget is at the capped amount or less, the budget does not have to be submitted to a public vote (the governor's final proposed legislation retained the

requirement of a vote on school budgets, even if their proposed increase was below the cap). If a school budget exceeds the cap, it would have to be submitted to a public vote and pass by at least 55 percent to override the cap. Voters can also place on the ballot an “override” vote beneath the cap levy (Suozzi and Pugh 2008, 3–4). This process would compel schools, outside the Big Five city districts, to have a contingency budget.

Other States’ Programs

The commission studied two states whose situations were thought to be comparable to that in New York: Massachusetts and California. The commission focused on these states for comparison and analysis because of similarities in school funding and the amount of data available. In Massachusetts, Proposition 2½, enacted in 1980, set a maximum rate cap of 2½ percent annually. The community can reduce or increase the levy by a vote. Massachusetts’ cap has been overridden in 39 percent of the instances in which it has been subjected to a vote, and there have also been some override votes. Proposition 2½ has lowered the tax burden by 1.6 percent over the past 20 years when adjusted for inflation.

In 1978 California voters passed Proposition 13 in response to increasing property values and taxes. Property tax increases are limited to 1 percent of assessed values; however, this level was found to be too low to sustain government services. Property assessments were rolled back to 1976 values, and increases were limited to 2 percent unless the property was sold, in which case it could be assessed at its current market value or sale price. This process created great inequities—one homeowner could be at full value because he or she had recently purchased it, while a neighbor could be at a fraction of full value because of the cap on the 1976 value. During this time government became more dependent on state aid and public services deteriorated. “The schools of California were ranked among the highest in the nation in 1970 in terms of pupil performance; they now rank among the lowest” (Suozzi and Pugh 2008, 51). It will be interesting to see what happens in California with

the recent collapse of property market values there.

While the commission report sees successes in the Massachusetts program, the Center on Budget and Policy Priorities reported in May that there are hidden consequences from Proposition 2½ (Oliff and Lav 2008). The limit on schools’ source of revenue has constrained their ability to raise revenues even when the cost of the same services has increased beyond the 2½ percent cap. The cap has also made schools dependent on state aid, a problem during an economic downturn such as the current one. Some costs cannot be controlled, such as heating, fuel for buses, health insurance, and special education. Massachusetts has found that high-income communities are able to override Proposition 2½, which creates disparities between low-income communities and high-income ones. Often the constraints of the cap lead to the loss of services, programs, and staff.

One of the main warnings of the Center on Budget and Policy Priorities is that tax caps can be harmful if “adopted during a weak economy” (Oliff and Lav 2008). The Massachusetts cap was adopted when the economy was strong and state revenues were up and rising. In the current financial economic slowdown there will be a loss in state revenue that will make it difficult to increase state aid. The center’s conclusion is that Proposition 2½ is a flawed policy that has eroded local services and made schools dependent on the state for assistance, which is unreliable and can fluctuate with economic cycles and state policy (Oliff and Lav 2008).

Other states, such as Texas, have experienced similar negative effects as a result of instituting a cap on tax increases. The Texas Association of Counties reported that the cap has affected economic development by reducing the monies available to encourage and support projects. Unable to offer tax abatements and incentives because of budget restraints or to make investments in infrastructure improvements, the state is unable to effectively compete in attracting development projects (Texas Association of Counties n.d.).

At the 2008 Annual International Conference on Assessment Administration,

State Assessor for the State of Alaska Steve Van Sant and Assistant State Assessor Ron Brown gave a presentation on the proposal to cap taxes there (Van Sant and Brown 2008). Some of their concerns about implementing a cap were inequities to property owners in a short time and the negative impact of revenue restraints on services and the local economy. While market value does not reflect property owners’ ability to pay or wealth, it has proven to be a stable and reliable source of revenue to pay for the services a community needs and wants (IAAO 1990, 10).

Summary

The Commission on Property Tax Relief undertook a monumental task and tried to come up with a system that would alleviate the high taxes in New York state while maintaining the quality of education the state is known for. The issues covered by the commission are wide-ranging, and the solutions suggested will be difficult to move through the legislature. There will be many challenges for school administrators, teachers, parents, special-interest groups, and local governmental agencies.

I think that the cap program has some negative components that will have to be closely monitored. For example, the state legislature has to commit to fair and consistent state aid that districts can rely on. State aid has to be distributed fairly, accounting for an area’s property values, number of students, and income level. This process can be truly successful only if the other key components of the study are enacted: streamlining school reporting, conducting collective bargaining by region, consolidating purchasing from supplies to insurance, changing the way in which pay increases are implemented and benefit packages are paid for, consolidating schools, phasing out the Middle-Class STAR Rebate, altering the bidding process for construction projects, enforcing the full-value standard of assessment, and consolidating smaller assessing units into larger county assessing units.

Sweeping change is probably not going to happen. Recently the Brennan Center for Justice at the New York University School of Law updated and reissued its

landmark report on the New York State Legislature, which stated that the New York legislative process is the worst in the country. The initial report, released in 2004, found that both chambers of state government are plagued with “endemic problems” (Creelan and Moulton 2004). The top problems in the New York political system listed by the Brennan report are failed representation, inaccessible government, lack of public accountability, inefficiency, and courts without guidance. With this type of indictment on the state’s highest government body, it is hard to believe that any real effective change to help taxpayers will be enacted. With the economy in a downturn, the state’s elected leaders must make sound changes to the current system—not temporary quick fixes but changes that will have a lasting effect in reducing taxes without lowering the standard of excellence in education.

Taxes are high in New York State, and something needs to be done to lower the burden on taxpayers. The commission has done a commendable job researching the problem, examining solutions, and developing proposals to reduce costs and streamline some administrative and government functions. I hope that many of the proposals are enacted, not just the cap proposal. The education of children is important and needs to be funded fairly and adequately to maintain its high standards. The state also has to reduce the tax burden so that businesses and jobs are attracted to New York state. Too many children leave the state after they are finished with their education for areas where taxes are lower and high paying jobs are available. Changes in the state’s taxing system are necessary to reverse this trend.

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