NEW YORK STATE COMMISSION ON PROPERTY TAX RELIEF

Second Commission Meeting

New York State Museum
Madison Avenue
Albany, New York

February 12, 2008
11:00 a.m.

COMMITTEE MEMBERS:

Thomas R. Suozzi, Chairman
Dr. Shirley Strum Kenny
Basil A. Paterson (not present)
Nicholas J. Pirro
Michael Solomon
Merryl H. Tisch
Paul A. Tokasz
throughout the State, including the counties, the mayors, school boards, school superintendents, and different property tax relief citizens groups throughout the State.

Thank you very much. We will be back here in 15 or 20 minutes.

(Lunch recess.)

CHAIRMAN SUOZZI: Now we are going to have a presentation from Frank Mauro, who is the Executive Director of the Fiscal Policy Institute, and he's going to be helping us by setting some of the context for our commission's deliberations.

Frank.

MR. MAURO: Thank you. Thank you for inviting me.

What I was asked by John to do was to not present any policy recommendations or advocacy points at this stage in the process, but to share what my thoughts are on what are the important issues to have on your agenda in order to answers the questions that the Governor has asked you to answer.

The charge is interesting. I think it's important to realize and recognize that as you do this that I think that the pieces have to fit together, that
there are six assignments in the executive order, but I think you have to--I don't think that very many of them could be effectively addressed in isolation.

So I think particularly the property tax relief alternatives, the cap alternatives, and the causes of high property taxes, that those three really have to be looked at together.

The first charge that the Governor gave us to ask you to look at is the root causes of New York's high property tax burdens including the expenditures of local governments and school districts. And here what my suggestion is--there are lots of small requirements that bother people.

Bob Ward wrote a book called--something dollar Light Bulb -- $163 Light Bulb. So, there are a lot of mandates that people get upset about. The big picture is what your job is. Changing the state share of Medicaid or the state share of school aid is the big potatoes issue. You are not going to save--you are not going to reduce the property tax very much by changes in some of the small mandates that are irritants to people.

So, I think you have to keep an eye on the big picture, of what is the big picture, that all states create their own system of local government. All states
decide the division of labor between state and local. It's unique among the states. All states decide how much money they are going to give to local governments to help finance part of their responsibilities, and then it tells them what taxes they can impose to cover the rest.

So, the state is really setting the rules that determine what a school district or a town or a county can do and what it has to do. There are elements of both.

To give an example, New York State divides responsibility for the financing of the non-federal share of Medicaid costs between itself and its local governments on what we call one size fit all basis. It doesn't take the ability of counties into consideration. So, in Fulton-Montgomery counties it costs about $6 per thousand of full value if they are just using their property taxes, not their sales taxes. If they financed it all out of property taxes it would take about $6 per thousand. In Chairman Suozzi's Nassau County, it would take about a dollar per thousand. So, it's sort of a one size fits all approach.

So, I think you have to look at what this division of labor that's assigned to different units of
local governments, what that requires of local tax basis. I think it also leads to something which is where averages are misleading.

In a number of the Governor's speeches and in other handouts, it's sometimes 61 or 62 percent of outside of New York City, 61 or 62 percent of the property tax levy is schools. That's an average. It's a little off because it includes STAR as property taxes but leave that alone for the time being. It's an average. It varies incredibly.

If you look at Suffolk County, on the one hand, it's much higher than that. If you look at Montgomery and Fulton Counties, it's much lower than that because Medicaid is making the county levy very high and it's taking up a larger portion. So, don't deal with the issue on average. You have to take those variations into consideration.

The second charge that the Governor provides is what is the impact of increased state financial support and state taxpayer relief on local school districts budgets and tax levies. Well, that's a conceptual problem as well as an empirical one. It depends how those relief mechanisms work.

STAR does not reduce a school district's levy
the way that state aid does, state aid other than STAR.

So, when you look at the growth in the levy without subtracting STAR, it gives you a bigger picture than if you look at the real property taxes that people actually pay.

The STAR rebates are relief, but how in the world do the STAR rebates reduce the growth in the levy, because the STAR rebates are checks sent to people. So, in terms of looking at the second charge of the Governor, I think you have got a conceptual challenge as well as an empirical one.

It's not just the numbers, but there's an importance of understanding how the different relief mechanisms actually relate to the levy, since that's what the Governor is asking you about.

Third, the Governor says the extent of public involvement in the development and approval of school and other local government budgets. We know that there's a lot of involvement in school budgets because they are subject to a vote, and I think what's important is what information is available to school boards and voters at the times of the budget votes, and what information should be available.

In New Jersey, which is one of the few other
states that has school budget votes, they are not
binding like ours. Local government in which the school
district is located can exempt them from a lost budget
vote, but in New Jersey, which also has votes, districts
get a hard and fast school aid number before they set
their budget.

In New York they don't, yet they are supposed
to tell their budgets to their voters in a real property
tax report card at the time they are getting ready for
the budget vote in early May what the projected levy is.
In order to do that you have to know what the projected
aid is.

I think the new foundation formula system, if
it's dovetailed very well, it's not all of the local
share because the foundation formula does not cover the
local share of capital costs, debt service,
transportation, special ed and a few others.

I think the foundation formula that the
Governor recommended last year and which is now in the
process of being implemented, could be built on to
provide better information to school boards and voters
in a more timely fashion, because one of the criteria
that the Governor was shooting for, hasn't quite worked
out that way this year, but a lot of us hoped for, we
thought there would be more predictability for this system.

We thought that what was happening last year was four-year lie path to the numbers that were established by the adequacy study that the State Education Department did, but that's not what happened. I think the foundation formula still provides the basis for better information if it's fine tuned to restore the predictability that we thought we were arguing for.

Number four, the fourth charge is the effectiveness of the various state mechanisms to provide property tax relief to different classes of taxpayers. So, on the one hand, what's the impact on homeowners, renters, business and other property tax owners.

The big new benefits, STAR and unrelated ones, are only for homeowners. Well, we have some major relief mechanisms that are outside the levy system and outside the exemption system that are done through the income tax, which are paying the property taxes of many businesses now.

In fact, the part of the revision of the Empire Zones Program in 2000 that worried Governor Pataki the most after a year was this provision where
the State--if you could get into Empire Zones Program--
the State would pay, through a refundable credit item,
corporate or personal business income taxes a refundable
credit for all of your property taxes.

That's what lead to a lot of the creativity
where a lot of law firms in both Syracuse and Buffalo
and maybe other places, but we know about those two
cities because there have been studies that their
newspapers did, where many long established businesses
including long established law firms reincorporated to
get this benefit.

Farmers, except for really huge farmers or
their land, there's now a refundable credit that pays
for virtually all of it. But that's outside the levy
system, outside the exemption system and some through
the state income tax system.

So I think you have to look at those relief
mechanisms and how they affect what appears to be the
levy.

In terms of looking at how it impacts on
people by income ranges, I think it's a step in the
right direction that the Governor brought income into
consideration, but the real test of a property tax
relief mechanism is not just how it relates to you based
on your income, but how it relates to you based on your property taxes as a share of your income.

In framing this, I didn't present any data, we will do that in a white paper later, but I will just give one example. The data that you have in your book from the Tax Foundation comes from something called the American Community Survey. It's replacing the long form on the census that's done every year. The 2006 American Community Survey did a sample of 79,000 households in New York. Not bad.

Let's take Onondaga County. The average effective tax rate in Onondaga County, by comparing the median home value in Onondaga County to the median property tax bill, which might be two very different houses, is 2.5 percent, but when you look at the micro data, the Census Bureau makes the sample available.

You look at the City of Syracuse, which you can look at, because it's one what they call public use micro data area, it's 300 or so cases with weights.

This either means that when people are asked how much property taxes they paid last year they either don't know or they are making something up or we have something real bad with our tax system. Because just in the City of Syracuse where the tax rates should be the
same on everyone, there is a incredible variations in
the tax rates. There is no clustering around any median
or mean. It's almost randomly distributed, but then you
can also compare it to income.

And what you see then is the real problem
with the property tax is when you compare—when you take
the actual cases of the micro data, actual cases, not
the averages or medians, the property taxes as a
percentage of income in Syracuse for what is in that
data that the American Community Survey of the Census
Bureau publishes, and what people like us and the Tax
Foundation use, it varies from less than one percent of
income to hundreds of percents.

And those are unusual cases. Must be elderly
people who are paying their property taxes out of their
savings, but even if you leave out the extreme cases you
have lots of homeowners in the City of Syracuse who are
reporting that they pay above 10 percent, above
15 percent, of their income in property taxes.

So, I think the important criteria is
property taxes as a percentage of income, not income by
itself, because in order for income by itself to be
valid, there would have to be a relationship between
income and property taxes. That's the problem. There
isn't.

Five, the fifth charge the Governor gives you is the effectiveness of property tax caps as a mechanism to control growth in school district levies, the experience of other states in implementing caps, and the potential impact of such caps on educational achievement.

I think the important thing here, which a lot of people have said, is school budgets are composed primarily of two sources of revenue: Local property taxes and state aid.

If you cap the property tax portion, then what becomes very important is what happens to the school aid portion of the rest of the budget.

Let's take a year like 2003 where the Governor proposed an actual year to year reduction in school aid. After a lot of advocacy it got restored to about even, about the same as the previous year, but that same year school districts were having to increase substantially their pension contributions because the contribution rate had gone down to about zero a few years before that when the stock market was doing very well.

So, in 2003 they were getting hit with big
increases on both their teaching and their non-teaching
personnel on their pension contributions, and no
increase in state aid, so there would be property tax
increases that year.

If they were not allowed to have those
property tax increases we would have something which
doesn't contribute to educational quality, which is a
yo-yo type effect of bouncing up and down from year to
year school staffing.

I don't think that reaching a sound basic
education from school districts in New York can involve
laying off teachers one year and hiring them back
another year. So, I think that you have to look at both
what the responsibilities are the school districts are
assigned, the charges that are laid on them that they
can't avoid, and what happens to the portion of their
budget that's not financed by property taxes.

The sixth charge the Governor gave, he wants
to know the most effective approach to imposing a limit
on local school property tax growth in New York State
without adversely impacting the ability of school
districts to provide a quality education to all.

Now, what I think you need to do to reach
this assignment is you have to take into consideration
the kind of state New York is. New York has the
greatest income inequality of any state in the nation,
both between the top quintile of the income distribution
and the bottom, and between the top and the middle. We
have great differences in income.

We also, as some of the speakers said this
morning, the Educational Trust—which is a national
organization, which is not a liberal organization by any
means, it's a big supporter of No Child Left
Behind—they have been doing for the last three or four
years something they call the education gap study, and
New York, a northeastern state with a high poverty rate,
has the greatest gap in the country between what's spent
per weighted pupil in high poverty and low property
districts, and our neighbor in New Jersey has the lowest
gap in the country. Our property rate is twice New
Jersey's.

So, I think if we are going to do this we
would have find a needle that doesn't exist in a
haystack. We would have to compare New York to other
northeastern states with large economic disparities.
There aren't any.

So, to think that what might work in much
more homogeneous states with low poverty rates, like New
Jersey, or even lower poverty rates, like Massachusetts, is transferrable to New York I think would be making a mistake. So, I think you have to take that into consideration.

I think you also have to study the New York experience with caps.

CHAIRMAN SUOZZI: I have to limit you to five minutes more.

MR. MAURO: Okay. I am on the last of the six points.

I think you should study the New York experience. In the mid-'70s there was something called Hurd aid, which was a perennial problem of the legislature. It was a lawsuit. The plaintiff was named Hurd, I think it was against Buffalo, but it dealt with a number of the cities which were at their constitutional tax limits and the legislature had done various things which the court found not too acceptable to help them with that by increasing the number of things that didn't count toward the cap.

I think you have to look at the experience with small cities aid, which started in the late 1970s when many of the small city school districts used to have their own constitutional tax cap. And the small
city school districts were in a terrible situation. So, I think you have to look at that experience with small cities aid. I think you also have to look at what happens to the expenditure patterns in those counties that are near their constitutional tax limits, what can counties that aren't near their constitutional tax limits do for their residents that those counties can't, and what room is there for school districts to do more in counties where the county tax burden is low, than there is in counties where the county tax burden is high. And I think all of that contributes to the differential educational situation we have in New York.

I leave with this slide, that the primary source of local tax revenue for school districts in New York State and the rest of the nation is the property tax. While the property tax is lauded by a lot of people for its strengths, such as its stability and its breadth of income, it has two very important equity considerations. Equity among and between school districts, as was referred to earlier, and equity among and between individuals.

I think there is just loads of ways that can be understood, and I think what I have done the last few
days is look at the micro data from Syracuse, the variation within one taxing jurisdiction in terms of equity among and between individuals is just incredible. If we are concerned with where the property tax is forcing people out of their homes, it has to be on the relationship between a particular household's property taxes and a tax particular household's income. If a household is paying less than a percent of its income in property taxes, even if that amount is large, they are not in danger of being forced out of their house, but if it's 18 percent they are.

Thank you.

CHAIRMAN SUOZZI: As usual, I understood about one of every three words. You point to the complexity of the issues that exist and, again, bringing up the issues that we currently have with the inequities and the burdens that are placed on school districts and individuals is an important thing for us to consider.

Thank you very much.

E.J.

MR. MCMANON: Thank you. Like Frank, I would like to begin by thanking you for this opportunity. I too was specifically asked to talk about setting the context for your work and not to get into specific