Proposed New York property tax cap is much more restrictive than the Massachusetts cap after which it is supposedly modeled

By Frank Mauro, June 22, 2011

Supporters of Governor Cuomo's proposed property tax cap argue that Massachusetts' experience with Proposition 2½ is proof that a cap such as the one being proposed in New York could be implemented without hurting the quality of education or the adequacy of basic municipal services.

The truth is that the cap on property tax growth being proposed in New York is far more restrictive than the growth cap that has been in place in Massachusetts for the past quarter century. This is readily shown by an analysis of Census Bureau and Massachusetts Department of Revenue data together with a review of the Massachusetts law and the New York legislation.

If a hard cap of the lesser of 2 percent or the rate of inflation, with no overrides, had been in effect in Massachusetts since 1982-1983 (the second year of Proposition 2½), that state's property tax revenue in 2009-2010 would have been about 60 percent less than it actually was. What would that have meant?

- Between 1981-1982 and 2009-2010 total real property tax revenue in Massachusetts increased from $2.8 billion to $12 billion. If a hard cap of the lesser of 2 percent or the rate of inflation, with no overrides, had actually been in place in Massachusetts during this period, total property tax revenue in that state in 2009-2010 would have been $4.83 billion rather than the actual amount of $12 billion. That's a reduction of $7.2 billion or 60 percent.

- With such a 60 percent reduction in available resources, local governments in Massachusetts would not have been able to provide anywhere near the level of educational and other public services that they have actually provided.

This 60 percent reduction isn't the difference between the impact of a 2 percent cap and a 2.5 percent cap. Rather, it is the difference between a 2 percent cap and the actual experience in Massachusetts since 1981-1982. Over the course of this 28-year period, the annual growth in property tax revenue has averaged a little less than 5.5 percent per year. This is obviously higher than 2.5 percent but it is not excessive. In fact, between 1981-1982 and 2007-2008, the latest year for which comparable data is available from the Census Bureau for all 50 states, Massachusetts went from 13th to 17th among the states in terms of total property tax revenue as a percentage of total personal income.

Advocates of the cap might say that it is good to have a more restrictive cap. But that is inconsistent with the argument that the Massachusetts experience proves that a property tax cap can be implemented without undercutting the quality of public education. Quite simply, Massachusetts couldn't have the educational outcomes that it has if local property tax revenues were 60 percent less than they actually are.

So why has the actual rate of growth in Massachusetts been so much higher than the nominal cap (i.e., 5.5 percent compared to 2.5 percent)? The answer is that the Massachusetts cap is less restrictive than the cap being proposed in New York in a number of important ways.

1. The New York proposal would require school districts to secure a super majority of 60 percent of the voters for the approval of an override but, since 1987, Massachusetts has required a simple majority of the electorate for the approval of overrides of its growth cap. The proposed 60 percent super majority requirement would, in effect, make the votes of those who support an override much less powerful than the votes of those who oppose an override. Under the proposal, even if 59 percent of the electorate supported an override, it would be deemed disapproved. Moreover, as a result of a little discussed "kicker" in the New York proposal, if a second referendum (or, a first referendum, without a re-vote) on an override does not secure a 60 percent favorable vote, the default would be to the prior year's tax levy not to the 2 percent levy growth limit.

2. The Massachusetts law and the New York proposal are very different from each other in terms of the wording and structure of override questions. The New York proposal requires that the question be phrased in a confrontational, negative way:

   > "Adoption of this budget requires a tax levy increase of ______ which exceeds the statutory tax levy increase limit of ______ for this school fiscal year and therefore exceeds the state tax cap and must be approved by sixty percent of the qualified voters present and voting."

   Compare this with the required wording of override questions under the Massachusetts law:

   > "Shall the (city/town) of ______ be allowed to assess an additional $______ in real estate and personal property taxes for the purposes of (state the purpose(s) for which the monies from this assessment will be used) for the fiscal year beginning July first ______?"

3. The Massachusetts law allows multiple override questions on the same ballot and even allows multiple override options of different amounts for the same purpose with the highest approved amount for a purpose prevailing. A study of Proposition 2½ by a Federal Reserve Bank of Boston economist concluded that "Approaches such as these allow voters much more direct control over the local budget than do all-or-nothing votes on a sizable percentage increase in the levy limit. While local officials still control the proposals that appear on the ballot, they (obviously) cannot control which ones the voters approve or vote down, and as a result they have less discretion in making spending decisions after the vote is

taken, no matter what the voters enact. Thus offering the voters more choice shifts some power from local officials to the voters."

4. Under the Massachusetts' law, each locality's "levy limit" automatically increases by 2.5 percent each year, without any "use it or lose it" proviso. In addition, the value of overrides (but not debt exclusions) in Massachusetts are added to a locality's levy limit and then increased by the same 2.5 percent increase in subsequent years as the original levy limit. The New York proposal is for a cap of the lesser of 2 percent or the rate of inflation, with a limited carry over allowed.

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The Massachusetts experience does not support the claim that a cap of 2 percent (or the rate of inflation if it is less) on the growth in property tax levies is workable let alone desirable.

The proposed cap would undermine the quality of the entire array of locally-funded public services while providing very little relief, if any, to those homeowners who are most overburdened by real property taxes. New York can learn from the Massachusetts experience, but not if it ignores the reality of that experience.

The Fiscal Policy Institute (www.fiscalpolicy.org) is an independent, nonpartisan, nonprofit research and education organization committed to improving policies and practices to better the economic and social conditions of all New Yorkers. Founded in 1991, FPI works to create a strong economy in which prosperity is broadly shared.

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If Massachusetts had had a hard cap of 2 percent (or the rate of inflation, if lower) in force since 1981-1982 (with no overrides), its property tax revenue last year would have been about **60 percent less** than it actually was.

Fiscal Year	Property Tax Revenue, in Thousands of Dollars							
	Actual Experience					If capped at lesser of 2% and rate of inflation since 1981-1982 (with no overrides)		
	Property Tax Revenue as Reported by US Bureau of the Census (a)		Property Tax Levy as Reported by Massachusetts Department of Revenue (b)		Average of Three Data Sources	Estimated Total	Estimated Shortfall	
	Total	Minus Personal Property Tax on Motor Vehicles	From "Excess Levy Capacity" Tables	From "Levies by Class" Tables			$	%
1979 - 1980	3,183,499	2,917,387			2,917,387	2,917,387		
1980 - 1981	3,370,501	3,209,959			3,209,959	3,209,959		
1981 - 1982	2,916,366	2,803,905			2,803,905	2,803,905		
1982 - 1983	3,017,948	2,892,288			2,892,288	2,859,983	(32,305)	-1.1%
1983 - 1984	3,094,499	2,946,690			2,946,690	2,917,183	(29,508)	-1.0%
1984 - 1985	3,305,050	3,120,642		3,126,008	3,123,325	2,975,526	(147,799)	-4.7%
1985 - 1986	3,504,782	3,262,919	3,200,941	3,309,379	3,257,746	3,035,037	(222,709)	-6.8%
1986 - 1987	3,751,095	3,526,387	3,536,291	3,536,291	3,532,989	3,095,738	(437,252)	-12.4%
1987 - 1988	4,067,796	3,800,871	3,800,768	3,804,782	3,802,140	3,153,279	(648,861)	-17.1%
1988 - 1989	4,395,298	4,058,045	4,066,422	4,122,105	4,082,191	3,216,345	(865,846)	-21.2%
1989 - 1990	4,677,758	4,393,055	4,464,634	4,464,634	4,440,774	3,280,672	(1,160,103)	-26.1%
1990 - 1991	4,976,097	4,690,754	4,775,255	4,775,255	4,747,088	3,346,285	(1,400,803)	-29.5%
1991 - 1992	5,255,671	4,974,187	5,017,706	5,017,706	5,003,199	3,413,211	(1,589,989)	-31.8%
1992 - 1993	5,497,033	5,176,851	5,249,676	5,249,676	5,225,401	3,481,475	(1,743,926)	-33.4%
1993 - 1994	5,948,686	5,641,279	5,463,873	5,464,414	5,523,189	3,551,105	(1,972,084)	-35.7%
1994 - 1995	6,319,738	5,938,243	5,701,066	5,701,066	5,780,125	3,622,127	(2,157,999)	-37.3%
1995 - 1996	6,475,097	6,093,559	5,920,694	5,920,694	5,978,316	3,694,569	(2,283,747)	-38.2%
1996 - 1997	6,612,515	6,199,389	6,160,185	6,160,185	6,173,253	3,768,461	(2,404,792)	-39.0%
1997 - 1998	6,981,120	6,511,854	6,455,893	6,455,893	6,474,546	3,843,830	(2,630,717)	-40.6%
1998 - 1999	7,300,559	6,827,591	6,753,086	6,753,086	6,777,921	3,920,706	(2,857,215)	-42.2%
1999 - 2000	7,642,521	7,108,438	7,103,557	7,103,557	7,105,184	3,981,777	(3,123,408)	-44.0%
2000 - 2001			7,520,051	7,520,052	7,520,052	4,061,412	(3,458,640)	-46.0%
2001 - 2002	8,721,832	8,111,898	8,003,918	8,003,918	8,039,912	4,142,640	(3,897,271)	-48.5%
2002 - 2003			8,494,021	8,494,021	8,494,021	4,225,493	(4,268,528)	-50.3%
2003 - 2004	9,814,315	9,178,488	9,016,234	9,016,234	9,070,319	4,292,299	(4,778,019)	-52.7%
2004 - 2005	10,341,126	9,657,958	9,483,455	9,483,455	9,541,623	4,378,145	(5,163,477)	-54.1%
2005 - 2006	10,828,955	10,134,696	9,983,138	9,983,137	10,033,657	4,465,708	(5,567,949)	-55.5%
2006 - 2007	11,041,925	10,405,039	10,488,786	10,488,784	10,460,870	4,555,022	(5,905,847)	-56.5%
2007 - 2008	11,664,990	10,978,198	10,992,118	10,992,118	10,987,478	4,646,123	(6,341,355)	-57.7%
2008 - 2009			11,552,794	11,552,794	11,552,794	4,739,045	(6,813,749)	-59.0%
2009 - 2010			12,024,477	12,024,477	12,024,477	4,833,826	(7,190,651)	-59.8%
Average Annual Growth Rate	5.48%	5.39%	5.67%	5.54%	5.34%	1.96%		
Cumulative Reduction in Revenue Compared to Actual Experience							(79,094,546)	

Notes: The actual revenue data is from (a) the Governments Division of the US Census Bureau via the Tax Policy Center data base; and (b) the "Data Bank Reports" of the Division of Local Services of the Massachusetts Department of Revenue. Sources for (a): Total http://slfdqs.taxpolicycenter.org/pages.cfm; Minus Personal Property Tax on Motor Vehicles http://www.mass.gov/Ador/docs/dls/mdmstuf/PropertyTax/mvexcisestatetotals.xls. Sources for (b): From "Excess Levy Capacity" Tables http://www.mass.gov/Ador/docs/dls/mdmstuf/Prop2_LevyCap_RefVotes/excpstatetotals.xls; From "Levies by Class" Tables http://www.mass.gov/Ador/docs/dls/mdmstuf/PropertyTax/lvclstatetotals.xls. The hard cap calculations are by the Fiscal Policy Institute (FPI) using national Consumer Price Index data from the US Bureau of Labor Statistics. The Census Bureau did not publish local government financial data for 2000-2001 or 2002-2003. The "Average Annual Growth Rates" are for the years since the earliest year since 1981-1982 for which data for the measure involved is available to the most recent year for which such data is available.