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**Assembly Standing Committees on Ways and Means, Education,
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Cap on Real Property Taxes

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Short Term Property Tax Relief and Long Term Tax Reform: An Omnibus Approach

The administration of the property tax can be improved. And a cap could be placed on the growth of local property tax levies. But even if the assessment process were perfect, and all properties were assessed at exactly their true market value, major problems with the property tax's "fairness" would still remain. And if a cap were enacted, the inequities in our current system of public school finance would be greatly exacerbated.

The attention that is currently being given to property tax issues in New York State is in large part the result of the efforts of organizations and individuals who, for a variety of reasons, have argued for years that the property tax should be replaced completely; or that it should be replaced as the basis for school funding; or that New York State should substantially reduce its reliance on the property tax for economic policy reasons or for tax fairness reasons. While differing in their emphasis and advocacy style, all of these people and organizations shared an interest in a classic type of "tax reform." Whether consciously or unconsciously or subconsciously they were all saying in one way or another that, as far as they were concerned, the property tax is not sufficiently related to various homeowners' relative "ability to pay."

Despite the “tax reform” roots of the current property tax debate, tax reform options are currently receiving insufficient attention as many of the state’s business elites promote the inherently flawed idea of a “one size fits all” cap that by its very nature implies that the current distribution of resources among the state’s school districts is just fine and that they should all move in lockstep from where they are now.

But the tax cap solution is even worse than that since the proposed caps do not include any requirement that the state uphold its end of the bargain for financing a reasonable portion of the costs of education or of basic municipal services. And the 2005 cap on the counties’ Medicaid costs misses the major mismatch – that some counties have much greater than average numbers of needy families relative to their property tax bases. Taxable property values are not by some magic distributed among school districts in the same proportions as students or student needs; nor are taxable property values distributed among cities, towns and villages in the same proportions as are their responsibilities for providing basic municipal services.

This means that without sufficient state aid distributed on a basis that takes service responsibilities and ability to pay into consideration, the pressure on the property tax is going to be much greater, on average, in some communities than in others. The reason that I say “on average” is that even if New York State were to deal effectively with the fiscal disparities that exist among its local governments (and it certainly should do so), there will still be hundreds of thousands of households who, through no fault of their own, are facing property tax bills that represent inordinate portions of their incomes. This includes, for example, workers who have lost their jobs as well as long time residents whose homes have increased in value much more than their incomes. For these households, the only affordable and effective solution is a circuit breaker that targets relief to those who are most overburdened by property taxes.

The 2007 statewide solution to the Campaign for Fiscal Equity litigation provides an example of an effective strategy for addressing fiscal disparities among local jurisdictions but it also demonstrates why an individually targeted circuit breaker is an essential element of an effective overall strategy. The plan that the Governor and the Legislature agreed on in 2007 was based on two essential premises: First, that all children in the state are entitled to a sound basic education whether they live in a school district with \$150,000 of taxable full value per pupil or in a school district with \$1.6 million of taxable full value per pupil. And second, that the tax effort that can be expected from low income New Yorkers is much less than the effort that can be expected from high income New Yorkers. We need a school finance system that is fair to the state’s tax paying households and that is fair to the state’s school pupils. The 2007 school finance reform plan recognizes that some communities can contribute much more on average to the cost of a sound basic education than can others but even among communities with very high incomes on average (and among communities with appropriately low full value tax rates) there are households whose property tax bills represent unacceptably large percentages of their income. These are the people who are being forced out of their homes by property taxes; and the only affordable and effective way to assist them is through a targeted circuit breaker. A “one size fits all” cap on the growth of school district tax levies will not address their situation but it will have very negative consequences for the concomitant need to reduce fiscal disparities among school districts while ensuring that all the state’s school children have access to a sound basic education.

We also need long-run tax reform. Over time, we should reform New York's state-local tax system by having the state gradually take responsibility for the financing of a greater share of the essential services that New York State performs through its local governments. An effective long-run plan for reforming the state-local tax system should also provide for the creation of a tax reform study commission, with members to be appointed by the Governor and all four parties in the Legislature, and the establishment of a statutory requirement for both a periodic study of the incidence of the overall state-local tax system and analyses of the distributional impact of proposed tax legislation.¹

Property tax relief: The immediate need for a middle class circuit breaker

Large portions of the public understand what a circuit breaker is, and there is broad public support for the idea of a middle class circuit breaker as a way to deal with those situations in which homeowners are significantly overburdened by their property taxes. Much of this is the result of the legislation sponsored over the course of the last five years by Senator Elizabeth Little and Assemblywoman Sandra Galef. It is also in large part the result of the work of the local property tax reform groups from throughout the state that work together as part of the New York State Property Tax Reform Coalition.

The Galef/Little bill would create a relatively generous middle class circuit breaker. It endeavors to limit the cost of this property tax relief by establishing a 5-year residency requirement, by excluding renters from participation, and by including a \$5,000 limit on the circuit breaker credit that a household could receive in a particular year. The earliest versions of the Galef/Little bill would have covered its estimated annual cost of about \$1.65 billion by eliminating the STAR rebate check program, which was established in 2006 and which provided relatively small checks to virtually all homeowners in the state. This "swap" was a good idea but, in 2009, the rebate check part of the STAR program was eliminated for budget balancing reasons.

Some legislators would be willing to cover the cost of a middle class circuit breaker with the proceeds from a high-end income tax increase and the State Assembly passed such a bill in August 2008. This bill was fiscally responsible in that the proposed circuit breaker was paid for and it recognized that a portion of tenants' rental payments go to property taxes and that many renting households are also overburdened by the property taxes on their homes. But, in terms of targeting, it had relatively low thresholds for participation and relatively low credits meaning that it would reach a larger portion of the population than the Galef/Little bill but that it would also provide much smaller credits to those households that are truly overburdened by property taxes.

Since the summer of 2008, we have worked with a wide array of organizations, in a cooperative effort that we call the Omnibus Consortium, because of a shared interest in both short-term property tax relief and long-term tax reform. On the circuit breaker front, we have concluded that the following factors are worth considering in the design and implementation of a middle class

¹ Three states—Maine, Minnesota, and Texas—have enacted laws of this type. These three states and two others (Colorado and Oregon) have completed periodic studies of the incidence (i.e., the distributional impact) of their tax systems.

circuit breaker bill. Many of these ideas have been embodied in legislation introduced last session by Senator Liz Krueger, Assemblyman Steve Engelbright and other members of the Senate and Assembly:

- Increasing the income limit in several annual or biennial steps rather than beginning with the \$250,000 income limit included in the Galef/Little bill.
- Decreasing the percent of income threshold in several annual or biennial steps (i.e., starting at eight or nine percent of income and then reducing that percent to the six, seven and eight percent limits contained in the Galef/Little bill).
- Ensuring that the criteria for determining a homeowner's eligibility for circuit breaker relief and for determining the amount of such relief does not vary with the homeowner's place of residence.
- Charging a tax reform study commission with using the results of a comprehensive study of the incidence of New York's state-local tax system to review the distributional impact of the items of income included in the definition of household income for purposes of the circuit breaker and make recommendations to the governor and the legislature for any changes in this definition that the commission deems appropriate.
- Including renters particularly if the circuit breaker is funded by the state income tax and/or other taxes of general applicability.
- Avoiding "notch" or "cliff" effects in the calculation of circuit breaker eligibility or credit amounts.

Tax reform: A continuing priority

The foundation formula reform plan enacted in 2007 was an important breakthrough in the way that the state government shares in the costs of a sound basic education. By establishing a method for calculating, for each school district in the state, a foundation funding level, the 2007 law provides a basis for determining how much of a school districts' expenditures might be appropriately taken over by the state. Since some school districts spend well above the foundation level in order to provide their students with a very high quality education, while others are still funding their schools at levels below the foundation level, taking over whatever school districts spend would institutionalize those inequities while providing state aid to school districts on a very inconsistent basis.

At its meetings and in its reports, the Suozzi Commission constantly repeated that school property taxes account for 62 percent of all local property taxes in New York State. This was true only if the STAR reimbursements provided to school districts are counted as taxes paid by property owners. Statewide, if STAR were counted as what it is (i.e., state aid), the school taxes paid by property owners made up 56 percent of local property taxes statewide—but that figure varied tremendously. It was 37 percent in Allegheny County, 37 percent in Fulton, and 39 percent in Cortland and Cattaraugus counties, but 71 percent in Saratoga and Putnam counties. Why the bigger differences? Because some counties have much greater concentrations of needy individuals relative to their tax bases than do other more prosperous counties. And that ends up making the local share of the costs of programs such as Medicaid a much greater lien on some counties' tax bases than on others. Similarly, some counties have one or more older cities and/or villages with responsibilities for substantial amounts of basic municipal services. So, in addition to shifting more school costs from the local school property tax base to the state tax base,

something similar should be done in regard to revenue sharing with the state's cities, towns and villages, and in regard to the division of responsibility for the non-federal share of Medicaid costs.

For general-purpose local governments, cities, towns and villages, the primary pressure that the state has placed on local governments is a negative. It's because of not sticking to its revenue sharing commitment. The underlying law, which gets notwithstanding every year, is that the state is supposed to share 8 percent of revenue with local governments. In the 1980s, when Governor Carey was governor, we had our first freeze on revenue sharing in order to allow one of the state's earliest multi-year income tax cuts to be phased in as scheduled despite the recession that the nation was then experiencing. In the budget problems of the early 1990s, no major state program was cut more than revenue sharing—from over \$1 billion a year to less than \$500 million a year.

In regard to Medicaid, the state should honor its commitment to picking up increases in the local share in excess of 3 percent per year. But in addition to this, New York should gradually increase the state share of Medicaid costs in a way that bases each county's share of Medicaid costs on objective measures of each county's relative "ability to pay."