New York State Commission on PROPERTY TAX RELIEF

Final Report to Governor David A. Paterson

December 1, 2008

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December 1, 2008

The Honorable David A. Paterson
Governor of New York
State Capitol
Albany, New York 12224

Dear Governor Paterson:

This final report produced by the Commission on Property Tax Relief is a blueprint for how to solve New York State's property tax problem. The debate is no longer whether or not there is a problem, or what caused the problem. The debate is instead over how to address the crushing school property tax burden our State faces.

Your leadership, particularly in proposing tax cap legislation soon after our preliminary report, is not only greatly appreciated, but has been essential to what is now a recognition that property taxes are not just a local dilemma, but rather a statewide systemic problem.

The fiscal crisis we now face demands that the State Legislature accept your challenge to work together to reduce State spending. Our school districts also need to reduce spending, but to do so the State must enact the historically difficult to achieve changes in state laws and mandates. The Commission respectfully requests that you now join your property tax cap effort with a mandate relief effort to empower school districts statewide to reduce costs. We will support your efforts to persuade the State Legislature to act.

These surely are difficult times. We must provide New Yorkers with property tax relief and we must improve educational quality. To succeed in both efforts, we must give schools the flexibility to redirect existing resources towards educational quality. Mandate reform is essential to that effort.

We are honored to have had the opportunity to develop solutions on behalf of New Yorkers and stand ready to support you and your efforts to address the property tax problem we face in this State. Excelsior!

Respectfully submitted,

Tom

Thomas R. Suozzi
Chairman

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EXECUTIVE SUMMARY

The New York State Commission on Property Tax Relief was established in January 2008 by Governor Eliot Spitzer's Executive Order No. 22 and continued by Governor David A. Paterson's Executive Order No. 1 in March 2008. The Commission, assisted by an excellent staff, has held 14 public meetings, received formal testimony from hundreds of people, received 45 white papers from outside parties, prepared 24 major working papers, held 9 regional roundtables, and numerous informal and formal meetings with subject experts, elected officials, stakeholders, and members of the public. The Commission issued a preliminary report on June 3, 2008. Building on that effort, this final report recommends solutions to the State's unsustainable property tax burden.

This report is organized as follows:

Part I: New York State's Commitment to Quality Public Education

Part II: The Problem

Property Taxes are Too High
Why Are Property Taxes So High?

- New York spends more per student than any state in America
  - Personnel costs are high
  - Compliance with mandates is costly
  - New York's system of special education has many expensive requirements
  - There are too many school districts
- State aid as a percentage of total cost is below the national average

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- Cost Evaluation of New Mandates
- Personnel and Other Operational Expenses
- Providing Alternatives in Special Education
- School District Consolidation
- Shared Service Delivery
- The Big Four

Part I: New York State's Commitment to Quality Public Education

This Commission believes that the education of our children must not be compromised. New York State has, in the two most recent Enacted Budgets, made an enormous and historic investment in school funding. Pursuant, in part, to a court ruling and new State policy, school aid investment has been targeted to ensure a "sound basic education" and to encourage smaller class size, full-day pre-kindergarten and kindergarten, and other educational initiatives to improve student achievement. Paramount in all of the Commission's deliberations has been the recognition of New York State's and, specifically, the Governor's and State Legislature's continued commitment to quality education. At the same time, the Commission believes that reducing voter anger over school taxes will help redirect the attention of New Yorkers toward maintaining and improving educational quality. Finally, during this time of fiscal crisis it is critical to work together to craft solutions and to evaluate in a cooperative and innovative spirit the options for restraining spending at all levels of government. The Commission urges school districts to focus on directing resources where they will have the most effective impact on academic performance, and urges the State Legislature to do more to provide mandate relief by acting on the recommendations made in this report.

Part II: The Problem

Property taxes are too high: New York State has the highest local taxes in America – 78 percent above the national average. Property taxes account for most of the local taxes levied outside of New York City, and New Yorkers pay some of the highest property taxes in the nation – especially school property taxes. In national comparisons, three of the ten counties where households paid the highest property taxes, eight of the ten counties with the highest property taxes as a percentage of home value, and four of the ten counties with the highest property taxes as a percentage of personal income, are all in New York State.

High property taxes have the most negative impact on low and moderate income working families, seniors on fixed incomes, and small business owners, who must shoulder this burden regardless of their ability to pay. Whether your concern is decreasing education costs, or increasing education spending, or addressing inequities in school funding, or improving programs, virtually all agree the answer cannot be to continue to increase property taxes at the current rate. The rate of increase in property taxes over recent years is unsustainable, and simply unfair to those who cannot afford to pay.

Why property taxes are so high: New York State property taxes are too high for two basic reasons:

> **Expenses are high.** New York schools outside of New York City spend more per student than any state in the nation – an estimated $18,768 in 2008-09.[1] New York's per student spending is more than 50 percent above the national average. This results from high personnel costs; the number and complexity of mandates and expense of compliance, especially those that govern special education; and the large number of school districts, many of which are small.
>
> New York is a proud State with a progressive history and a social compact devoted to improving the quality of life for all New Yorkers. Generations of New York's leaders, committed to maintaining its status as a national model of social responsibility, have adopted laws and regulations that require local school districts and local governments to provide certain functions in certain ways. The unintended consequence is government that is very expensive. The thorny challenge is to help school districts and other local governments reduce these expenses, while remaining faithful to our social contract.
>
> **State aid as a percentage of total cost is below the national average.** It must be noted that New York State spends a great deal on public education, well above the national average. In fact, the State has dramatically increased spending over the past several years. However, the State's contribution represents, as a percentage of the total cost, only 44 percent, which is below the national average of 47 percent. Given the severe economic crisis facing the nation and New York State's current fiscal challenges, significant increases in state aid to education are not anticipated. Therefore, it is crucial that action be taken to reduce expenses.

To the extent that the costs to maintain the most expensive schools in the nation are not covered by State aid, they must be paid by local property taxpayers. This report examines why school district costs are so high and how New York State compares to other states regarding state funding.

Part III: Recommendations

The remaining sections of this report discuss proposed solutions to the property tax problem in New York State. There are only three options to address the ever increasing cost burden of the New York State education system: 1) decrease expenses (or at least decrease the rate of growth), 2) increase state aid, or 3) increase property taxes. These options involve hard choices, but this Commission concludes that, regardless of any other factors, it must be a priority to limit property tax increases above a capped amount.

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[1] 2008-09 New York State Education Department Property Tax Report Card.

After months of public testimony and intensive study, the Commission identified a comprehensive approach that begins with a principal recommendation – a cap on the growth of property taxes. Once that critical priority is addressed, two other key recommendations can supplement the first in important ways: individual relief based upon need – a "STAR circuit breaker," – and reform of state laws and mandates, where compliance causes an unwarranted growth in costs, a crucial concern during this period of fiscal crisis.

The Property Tax Cap: The Commission proposes capping annual growth in the property tax levy at 4 percent or 120 percent of the Consumer Price Index (CPI), whichever is less. New construction, which results in an increase to the tax levy, may be added to increase the capped amount. Any levy not used may be "banked," to be used in future years at a rate not exceeding 1½ percent of the prior year's levy. School districts that do not exceed the cap would no longer be required to submit their budgets for an annual vote. If a school district wishes to exceed the cap, a positive vote by at least 55 percent of the voters would be required to override the cap. If a school district has received a 5 percent or greater increase in state aid, 60 percent of the voters would be required to override the cap. This 5 percent number is not intended to suggest that 5 percent growth in state aid is sufficient for high need districts. Following the submission of the Commission's preliminary report on June 3, 2008, Governor Paterson proposed legislation creating a property tax cap. The legislation was substantially similar to the Commission's cap proposal, except that the Governor's bill retained the requirement of a vote on the school budgets, even if their proposed increase was below the cap. The Commission supports this legislation.

The STAR Circuit Breaker: The Commission recommends that, after a property tax levy cap is adopted, the State reexamine the STAR program, which provides payments to school districts with no relation to individual taxpayers' ability to pay and has failed to effectively reduce property tax growth. A new STAR circuit breaker, targeted to relieve the tax burden on individual taxpayers based upon their income and ability to pay, would be a much more equitable way of reducing an individual's property tax burden. A levy cap is necessary to ensure that property tax growth is restrained for all taxpayers, including businesses. A circuit breaker implemented after a cap has been enacted ensures that, in addition to limiting property tax growth, individual relief is targeted to people most in need. Recognizing the financial pressure faced by the State, the Commission recommends redirecting at least $2 billion from the ineffective STAR program to a more effective circuit breaker.

Changing State Law and Mandate Relief: The Commission recommends that the State support school districts' efforts to rein in the costs of salaries, pensions and health care, as well as general operating and capital expenses. These recommendations address the root causes of high property taxes by adopting the following proposed solutions:

Reduce the Burden of Excessive Mandates

- **No new legislative or regulatory mandates** without a complete accounting of the fiscal impact on local governments, which must include full documentation, local government input and proposed revenue sources to fund the new mandates.
- **Mandate accountability** through an annual report from the Office of the State Comptroller, which should include the cumulative cost to localities of complying with all new regulatory and legislative mandates.

Decrease School District Personnel Costs

- **Adopt regional or statewide collective bargaining agreements.**
- **Increase health insurance premium contributions by employees** and provide health insurance coverage jointly with other public employers or school districts, including increased use of health benefit trusts.
- **Convene a study to evaluate creating a Tier 5** in the pension system for new employees.
- **Amend the "Triborough" provision** in collective bargaining to exclude teacher step and lane increments from continuation until new contracts are negotiated, and centralize reporting of school district collective bargaining outcomes.

Limit Other School District Operational Costs

- **Repeal the Wicks Law,** or significantly increase the threshold amounts for determining when separate contracts are required in construction projects.
- **Increase threshold amounts for purchasing** under competitive bidding requirements.
- **Increase participation in statewide energy efficiency programs** through collaborative efforts of state entities.
- **Centralize and streamline school district reporting** to decrease personnel and other costs associated with sometimes duplicative and unnecessary forms and other filing requirements.
- **Simplify or eliminate other individual education mandates.**

Improve Special Education

- **Shift the emphasis of the State Education Department from regulatory enforcement to outcome-based accountability** through targeted intervention to promote best practices in school districts.
- **Dramatically accelerate the integration of special education with general education, improving and increasing opportunities** to benefit students who need extra help within the general education setting.
- **Decrease special education classification rates** by requiring the State Education Department to review those school districts with classification rates 20% higher than the state average and determine whether assistance is needed.
- **Reduce the cost of litigation** by promoting alternative dispute resolution, improving the consistency and effectiveness of hearing officers, and by shifting the burden of proof back to the plaintiff except when the family is unable to afford counsel.
- **Increase collaboration** to enhance local and regional service delivery to students.
- **Secure additional federal funding** to reduce the pressure on the property tax.

Seek Economies of Scale and Enhanced Educational Opportunities

School District Consolidation

- **Require consolidation of school districts with fewer than 1,000 students and grant the Commissioner of Education discretionary authority to order consolidation of school districts with fewer than 2,000 pupils** to achieve economies of scale and to increase educational opportunities through expanded course offerings.
- **Restructure state reorganization aid** to ensure that it is used predominantly to pay for reorganization expense or to provide needed services, and temporarily suspend building aid for districts being consolidated.
- **Amend State law to simplify consolidation by removing anachronistic distinctions between, union free, central and city school districts.**

Shared Service Delivery

- **Eliminate State Education Department approvals for participation by BOCES in agreements with other local government entities to provide non-instructional services,** and remove the BOCES district superintendent salary cap to ensure qualified candidates for this leadership position.

Grant Mayoral Control and Provide Funding Flexibility in the "Big Four" Cities

- **Exempt the Big Four city school districts from the proposed property tax cap.**
- **Adjust the maintenance of financial effort requirements to reflect declining student populations.**
- **Grant mayoral control for the Big Four school districts,** with a sunset provision.

Encourage Efficient Delivery of Social Services

- **Provide social services to students in schools** by directing appropriate agencies to collaborate and coordinate with each other and with school districts.

Address Other Equity Concerns for Property Taxpayers

- **Create countywide property tax assessment** and uniform statewide assessing standards.

PREFACE

Context for the Report

In accordance with Executive Order No. 22 of Governor Eliot Spitzer and Executive Order No. 1 of Governor David A. Paterson, the New York State Commission on Property Tax Relief has closely examined the local property tax burden in New York State, and considered measures to provide property tax relief. The Commission reviewed property tax relief measures throughout the state's history, and evaluated the experiences in other states that have adopted restraints on property tax.

Meetings and Regional Roundtables throughout the State

This Commission and its Special Advisers have traveled throughout New York State. From Buffalo to Mineola, from New York City to Plattsburgh, the Commission held 14 public meetings and hosted 9 regional roundtables. Commission members have listened to all who wished to be heard, and actively sought the wisdom of the best minds on subjects relevant to the Commission's charge.

The Commission benefited from a broad diversity of views. Over 260 individuals provided formal testimony at public hearings. More than 45 white papers were received from around the State and from national sources. Commission staff wrote 24 major working papers, each representing an in-depth analysis of a subject within the charge of the Commission. We have carefully reviewed these submissions, and consulted with many of those who prepared those reports.

In addition, Commission members participated in scores of formal and informal meetings, phone conversations, and e-mail exchanges with the subject-matter experts, stakeholders, and elected officials – all with the specific purpose of understanding the many facets of this complex issue. Many of these contacts related to the work of the task forces established by the Commission after the release of its Preliminary Report. Between the release of the Preliminary and Final reports, the Commission focused on special education, mandate relief, consolidation, and Big Four dependent school districts.

Building on the Recommendations of Prior Commissions

In addition to the wealth of input received from external sources, the Commission was also able to stand on the shoulders of previous State commissions. 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." Over a 12-

month period, the LGEC gathered and analyzed information from public hearings, government documents, academic research, consultant studies, and reviewed 200 local initiatives to streamline local government. This effort produced over 70 recommendations to make New York State's local governments more efficient and effective.

The LGEC's final report, issued on April 30, 2008, was carefully reviewed by this Commission for issues of mutual concern.[2] This Commission endorses several of the LGEC recommendations because of their potential to reduce school district costs through mandate relief and more efficient service delivery systems. If enacted, these recommendations will help to relieve the pressure to increase property taxes.

The Commission also studied the December, 1993 report of the New York State Special Commission on Educational Structure, Policies and Practices, titled *Putting Children First.* That Commission was appointed by Governor Cuomo under the Moreland Act, and was charged with a broad mandate to study the operations of school districts. Even then, Commission members heard public anger about escalating property taxes, and concluded: "Residential property taxpayers are becoming increasingly alienated as property taxes for school purposes rise and incomes stagnate."[3]

Several of the recommendations made in *Putting Children First* have been adopted into state policy. Notably, the 1993 Commission found New York to have a "dual system of education" where schools in predominantly middle class districts offer their pupils far greater program resources than schools serving lower income children. In the 15 years since the report, State policies have shifted to significantly improve the equity of school districts finances. Now, the poorest ten percent of school districts spend, on average, the same amount per pupil as the sixth wealth decile. Thus, with the support of the Legislature and the Governor, the recommendations of State commissions can lead to dramatic improvements.

Conversely, several of the recommendations of 1993 Commission report were never acted upon. Some of them, such as repeal of the Wicks Law and greater flexibility for school districts through mandate relief, are recommended again in this report. The Commission feels strongly that leaving these problems for another 15 years, to be studied by the next commission, cannot be an option.

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[2] New York State Commission on Local Government Efficiency and Competitiveness. 21st Century Local Government. Albany: 30 April 2008.

[3] New York State Special Commission on Educational Structure, Policies and Practices. Putting Children First. Albany: December 1993. 25.

Five Peer States that Serve as Comparisons

The Commission committed itself early in the process to learning from the experience of other states – both to emulate successes and to avoid mistakes. Commission staff analyzed all fifty states, and presented to the Commission a view that five of them, labeled "peer states", were comparable to New York in terms of size, complexity, and diversity. In addition, each had important approaches to property tax relief that warranted close scrutiny. Those states are Massachusetts, Illinois, California, New Jersey, and Michigan. If a state outside the set of five was identified by experts as having an approach worth considering it, too, was evaluated closely.

Considering the Special Circumstances of Low Income Families and the Elderly

The Commission was mindful of the fallacy of averages – of designing solutions for average citizens who do not exist. For this reason, in addition to viewing the State region-by-region, the Commission examined many matters through the lens of low income families, where a property tax increase can force difficult choices about basic necessities of life; and of the elderly on fixed incomes, where a property tax increase destroys a carefully balanced budget. This led to a fuller understanding, for example, of the assistance that an improved circuit breaker mechanism could provide these citizens. It also led to a fuller understanding of how vital State aid is to all school districts, but especially those where the property tax base simply is too limited to support the quality schools that all New York children deserve.

Considering the Range of School Districts, from Wealthy to Most in Need

The Commission instructed staff to examine school districts in all of their complexity. The sorting of school district revenue and cost data, separating all school districts in the State into ten deciles, ranging from the poorest to the wealthiest, proved highly beneficial in, for example, evaluating the impact of State aid policies. While this report often cites statewide averages, the Commission notes that actual amounts, such as per pupil spending, may vary widely in different regions of the State, and among school districts of differing wealth.

Considering the Big Four Cities and their Legal Status of "Fiscal Dependency"

The Commission took note of the unique legal status of the "Big Four" cities – Buffalo, Rochester, Syracuse and Yonkers. These cities have school districts that are fiscally dependent, and therefore cannot independently levy property taxes. That function is reserved for the city, which must also levy property taxes for municipal services.

The Challenge Before Us

Our findings on these issues, taken together, present daunting challenges. This report addresses these challenges in all of their complexity, with a focus on the desire shared by all for quality schools and the need to address the burdens of the property taxpayer.

"I signed my oath of office, and the next thing I did was sign the executive order to keep this commission going, because we want to find a solution to property taxes in this state."

- Governor David A. Paterson
March 20, 2008

INTRODUCTION

New York is proud of its schools, but the property taxes that support those schools are growing at an unsustainable rate

The Commission heard over and over again, downstate and upstate, on Long Island and in Buffalo: New York has a problem. This State is proud of its schools, but the property taxes that support those schools are growing at an unsustainable rate.

New York has a problem… the property taxes that support its schools are growing at an unsustainable rate.

The debate is not about the problem, nor is the debate about why the problem exists. The debate is about exactly what should be done about it.

The Commission traveled throughout the State to conduct 14 commission meetings and 9 regional roundtables – taking testimony, receiving white papers, and discussing these complex issues with mayors, senators, assembly members, superintendents, school board members, and community leaders.

Most importantly, we heard from local taxpayers – taxpayers who are concerned, and sometimes even angry.

For example, we heard from a young mother from Malta who waited with two of her children for over an hour to testify before the Commission. Her story was like so many others. The property taxes on her home had risen $2,100 in one year. Even household repairs had become unaffordable on her husband's modest salary. She wanted us to know that they feared losing their home if their property taxes continue to rise.

Hundreds of additional stories – many called them nightmares – poured in through letters and emails from homeowners statewide. One senior citizen reported that his private sector pension had increased only 7 percent during a time when his property taxes had more than doubled. Another, a retired utility lineman from Saranac Lake, reported that when he first retired in 1994, property taxes were 8 percent of his fixed income. Last year, despite the STAR exemption, his taxes were $12,274 and consumed 22 percent of his income.

An 80-year-old widow from Woodstock told us that when she and her husband built their house, the combined school, town and county property taxes were $500. Her property taxes have increased ten-fold to more than $5,000 while she struggles to pay her bills with half of her husband's pension and social security. She wrote, "It was always the American dream to own

one's own home. Now it has gotten to the point where the home owns you. There has to be a breaking point, and I think we have reached it."

At the Commission's Yonkers hearing in October, Ronnie Cox of Mount Vernon told us about her efforts to expand opportunities for students beyond what tax dollars and state aid could provide. Because the property tax burden is so high in Westchester County, taxpayers in her school district had voted down the school budget, thereby cancelling all sports, as well as other programs. As President of the Mount Vernon Educational Foundation, Ms. Cox led efforts to raise funds to restore these programs – raising nearly $750,000. She told us, "Yes, we are finding a solution for this year, but it's only one shot at the well; we will not be able to go back to the public and generate this kind of support again. What are we going to do next year, what are we going to do year after year after year? This is where we need to look to our elected officials and our leadership for some relief."

...the property tax burden is one of the State's most pressing problems – and it is only getting worse.

Many expressed similar messages in their testimony – that the breaking point has arrived. Homeowners are "voting with their feet" – selling their homes and moving to escape the high property tax burden. Indeed, census data consistently show New York leading the nation in the number of residents migrating to other states. Almost universally, we heard that the high property tax burden is one of the State's most pressing problems – and it is only getting worse.

This is the reason that Governor Paterson has asked the Commission on Property Tax Relief to tackle this issue. Historically a local issue, today it is clearly a statewide issue. Indeed, the Governor's Executive Order asks the Commission to consider the systemic, statewide nature of this issue, and to recommend appropriate policies for consideration by the State's leaders.

What should be done? The reflexive response of most New Yorkers is this: If local communities are taxed to the limit, then the State, with funds from the income tax, must do more. This Commission notes that the State has recently committed to do more. Just two years ago, state aid to school districts was $18 billion. The State has increased school aid to $22.2 billion – an increase of $4.2 billion and 23 percent – in just two years. This is real progress.

What more should be done? Many would respond: stop, or slow, the spending growth. In good years, the State's economy has grown 5 percent, and most observers consider anything above 5 percent growth to be unsustainable. In years of economic strain, growth at a rate much lower than 5 percent may well be essential. In light of that reality, is there a way to halt school district spending growth that most observers believe is unsustainable?

The question is answered differently depending on where one sits.

If you are a school board member or a superintendent – and the Commission heard from many – the question is answered: Allow me to control my own destiny and perhaps I can rein in this growth. A school district has too many masters, they say. School districts must adhere to thousands of pages of regulation. They point to "mandates," particularly "unfunded mandates," as a costly usurpation of their authority, asserting that these mandated costs are responsible for most of the spending growth.

If you are a citizen struggling to make ends meet – and we have heard from many – you say: "If only I had 5 to 7 percent more every year to live on. If I did, life would not be as tough as it is." In this regard, the Commission has heard much criticism of what were viewed as extravagant salary raises and benefit increases that fuel unchecked spending.

> ***It might be a good idea to examine our structure.***
>
> **-Robert Bennett, Chancellor, New York State Board of Regents**

If you are an observer – in a national research center, or a think tank, or a university – you may point out certain fundamental facts about our school districts that might raise obvious questions about efficiency. For example, there are almost 700 distinct school districts in New York State. Approximately 200 of these districts enroll fewer than 1,000 children. Excluding New York City, New York's average school district size of about 2,500 ranks 32nd among states, just below Alaska, and substantially lower than the national average of 3,400 students.

The Commission has listened carefully to all of these voices. We have concluded that the State must adopt solutions that address taxpayers' anger, and redirect that anger to advocacy for increased educational quality. And, we must support school districts by providing administrators with greater control over their expenses and operations, so that their focus, too, can be on improved educational quality. We believe that there is a way to strike a balance – a balance that supports both continued enhancement of our children's educational opportunities and real relief for property taxpayers.

That is the subject of this report.

Part I

New York State's Commitment to Quality Public Education

"The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated"

New York State Constitution

New York State's Commitment to Quality Public Education

The education of our children cannot be compromised

This Commission believes that the education of our children must not be compromised. Further, this Commission believes that there is a consensus on this point among all citizens and leaders throughout the State.

Governor Paterson has strongly advocated for public education, and has expressed his administration's support for continuation of recent educational progress. Majority Leader Skelos and Speaker Silver, together with elected officials from both sides of the aisle, have all made clear that they share Governor Paterson's commitment.

In doing so, our leaders reinforce a proud and historic tradition. Since 1884, the New York State Constitution has required that: "The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated." (NY Constitution, Art XI Sec. 1).

There have been exciting advances:

- **State aid to schools.** In its most recent budgets, the State substantially increased its investment in education.[4] The 2006-07 budget provided $18 billion in school aid. The 2007-08 budget enacted an increase of $2.3 billion, and the 2008-09 budget provided for an increase of $1.9 billion. Thus, in just two years, the State has increased its commitment to schools by $4.2 billion to over $22.2 billion, an increase of 23 percent – very significant progress by any measure.

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[4] In 1995, the Court of Appeals held that the State Constitution required the provision of a sound, basic education to New York's students, *Campaign for Fiscal Equity vs. State of New York*, 86 NY2d 307 (1995). See also *Campaign for Fiscal Equity vs. State of New York*, 100 NY2d 893 (2003). The Court required a calculation of the actual expense of fulfilling the guarantee of a sound basic education in New York City. See *Campaign for Fiscal Equity, Inc. vs. State of New York*, 8 NY3d 14 (2006).

- **Funding school districts most in need.** The Commission has studied school aid funding in the poorest and wealthiest school districts across the State, and finds that the State's policy of directing more funds to districts with high needs is working. Under the foundation aid formula, the highest percentage growth in funding is directed to the school districts most in need. These policies, formulated to support schools and children, also support the taxpayers most in need, as high-need districts, in general, have limited and already over-burdened, property tax bases. When school spending grows in such high-need districts, state aid offers significant and important property tax relief.

- **Targeting and Accountability.** State policy targets school aid investment to ensure a "sound basic education," to address disparities in school district wealth and to encourage proven programs to improve student achievement. These programs include class size reductions, increased time on task, teacher and principal quality initiatives, full-day pre-kindergarten and kindergarten, support for English language learners, middle and high school restructuring and other education quality improvements.

These policies have helped move the State towards a more equitable education funding system as can be seen by examining per-pupil funding across the wealth spectrum. When the State's nearly 700 school districts are divided into wealth deciles we see that the average revenue per pupil from all sources for the first six wealth deciles is essentially equal.[5]

The following chart demonstrates that the poorest ten percent of school districts receive, on average, about the same total revenue per pupil as the sixth wealth decile of school districts.[6] New York City schools receive about the same per pupil funding as the 7th and 8th wealth deciles.

This chart also highlights that the wealthiest districts receive most of their school funding through their property tax bases and that State aid per pupil is weighted towards those districts with insufficient capacity to raise local revenues through methods such as the property tax. The poorest ten percent of school districts raises the least amount of funding through local sources and rely the most on State aid, while the wealthiest ten percent of school districts raise significantly more from local sources and rely on State aid to a much lower degree.

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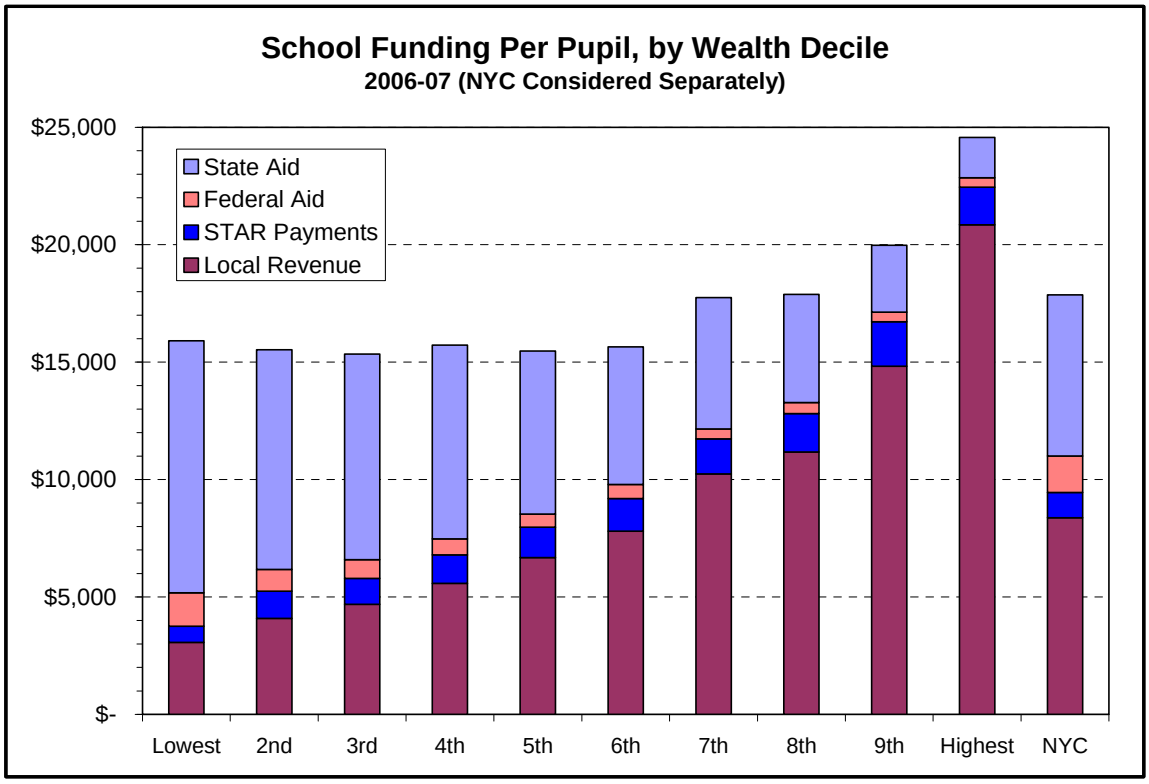
[5] The state has close to 700 school districts. The "lowest" decile includes the roughly 70 districts with the lowest property and income wealth per pupil, the "2nd" decile includes the roughly 70 districts with the next lowest property and income wealth per pupil, and so forth. New York City is treated separately. The rankings of wealth are based on the Combined Wealth Ratio, which measures property and income wealth in relation to the state average and considers both as being equally weighted.

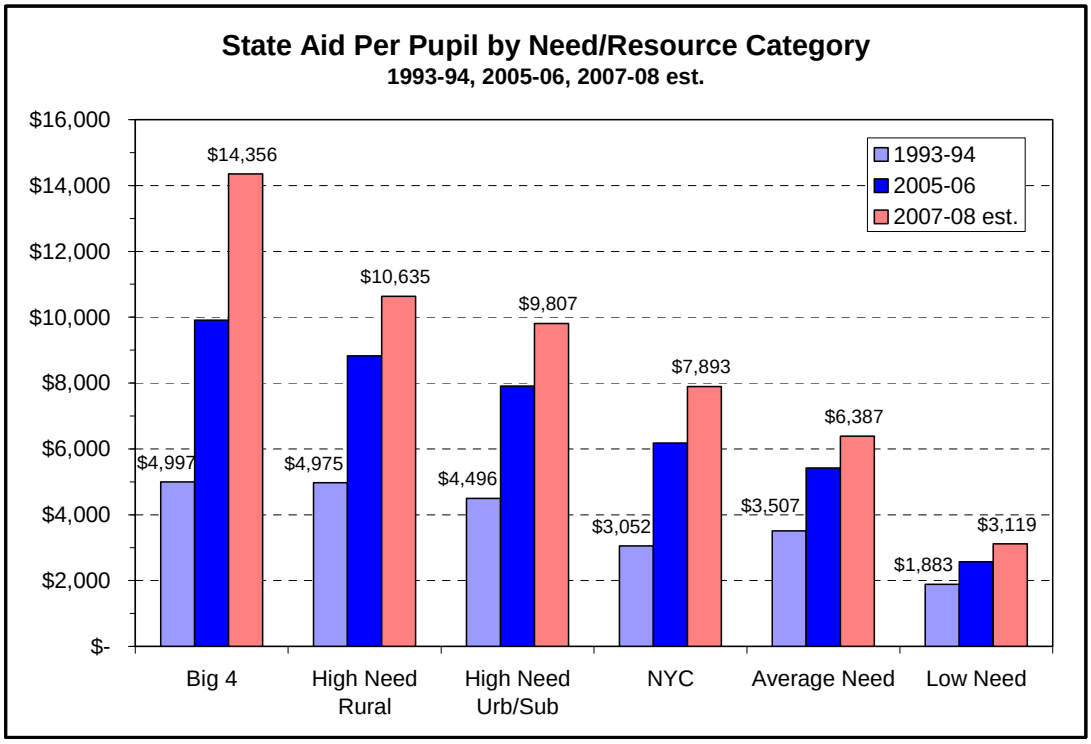
[6] Adjusting for pupil need by using Total Wealth Pupil Units (TWPU) instead of pupil counts, this "leveling" of revenue per pupil regardless of district wealth remains true, both in terms of wealth deciles and Need/Resource Categories.



Source: State Education Department ST-3 filings.

While New York's progressive use of State aid helps to equalize funding, equal revenue does not necessarily lead to similar outcomes. Lower wealth districts tend to have more high-needs students, whose education is more expensive. The State Education Department categorizes each school district into one of six need/resource categories – New York City, the "Big Four" dependent school districts of Buffalo, Rochester, Syracuse and Yonkers, high need urban/suburban districts, high need rural districts, average need districts and low need districts. These categories reflect both the ability for a school district to raise local revenue and the magnitude of need in the district.

The following chart shows how the growth of State aid revenues since 1993-94 has become more progressive when considered by need/resource categories. Since 1993-94, State aid has grown at a faster rate for the "Big Four" school districts, as well as for New York City, high need urban/suburban districts, and high need rural. In terms of linking State aid need to the ability to raise local funds, New York has improved dramatically over the last fifteen years.



Source: State Education Department ST-3 filings.

The Commission recognizes the State's commitment to providing a quality education to our children as reflected in recent school aid appropriations. The Commission notes that, since the submission of the preliminary report, there has been a very substantial deterioration in this State's – and the nation's – financial circumstances and outlook. The Commission previously acknowledged the essential relationship between State aid and local property taxation – the local taxpayer funds what the State does not fund. Local property tax rates continue as a concern, and local taxpayers are now personally bearing the additional financial burdens of greater expense for many essentials, including food, health care, energy and motor fuel, and may also be facing challenges such as job loss and home foreclosure. It is crucial to remember that these local property taxpayers also pay taxes to the State government, which has been forced to reevaluate its current and future spending plans in light of budgetary realities.

As this report points out, New York spends more per pupil than any other state. Overall expenditure growth has increased at a compound annual growth rate of 6 to 7 percent in recent years. At the same time, student population has been declining. This pattern is not sustainable.

At this time of fiscal stress, it is critical that all parties work together to craft solutions, and the options for restraining spending at all levels of government must be evaluated in a cooperative and innovative spirit. The need to provide a quality education to our students remains paramount. The Commission urges school districts to focus on efforts to ensure that limited

resources are directed where they will have the most effective impact on improved academic performance, and urges the State Legislature to do more to provide mandate relief by acting on the recommendations made in this report.

This report provides some suggestions for addressing the need to curb the growth of expenditures, which is essential to long term property tax relief. Economies and efficiencies implemented in response to current constrained fiscal circumstances will ensure that school districts are on a firmer footing to respond to property taxpayers' concerns when financial prospects improve. Thus, the recommendations in this report on approaches to relieving school district burdens have become an even more essential focus, and the Commission urges their adoption.

Part II

The Problem

The Problem: Property Taxes are too High

New York State has the highest local taxes in America – 78 percent above the national average.[7] New York's local taxes also rank far above those of other large states. For example, New Jersey has the next highest level of local taxes, but they are only 18 percent above the national average. As shown in the chart below, New Yorkers pay $84 per $1,000 of personal income in local taxes as compared to the national average of $47. When local taxes are combined with State taxes, New York has the highest tax burden of any large state – 35 percent higher than the U.S. average.[8] It is important to note, however, that State taxes are *not* a primary cause of this high tax burden. New York ranks only 5 percent above the national average in state taxes (at $73 per $1,000 dollars of personal income). It is New York's local taxes that are particularly high.

New York State has the highest local taxes in America – 78% above the national average.

State and Local Tax Burden
New York and the U.S. Average, 2005-06

Taxes Per $1,000 of Personal Income	U.S. Average	NY 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

We here in Onondaga County pay so dearly in property taxes, the highest in the country….it has led too many to have no choice but to sell their homes and leave the state.

- Central New York Homeowner

[7] New York State has the highest local taxes in America when mineral related severance taxes are excluded. If severance taxes are included, Wyoming has the highest local taxes. Source: Local Taxes in New York State: Easing the Burden. Citizens Budget Commission December 2007, based on data from US Bureau of Census (2004-05).
[8] Ibid.

There is a significant disparity between the taxes paid by citizens of New York State, not including New York City, when compared to the rest of the nation, as the chart below illustrates.

Local and Property Tax Burden
New York Not Including NYC Compared to U.S., 2005-06

Taxes Per $1,000 Personal Income	U.S. Average	New York State Not Including NYC	Percentage above U.S. Average
Local	$47	$71	52%
Property	$35	$54	56%

Source: Citizens Budget Commission based on data from U.S. Bureau of the Census and Bureau of Economic Analysis

Outside New York City property tax represents the greatest proportion, 76 percent, of local taxes. Outside New York City citizens pay $54 out of every $1,000 of income in property taxes, 56 percent above the national average of $35. Total local taxes are 52 percent above the national average.

Whether it is property tax amounts, property tax rates, or property tax as a percentage of income, residents outside of New York City pay some of the highest property taxes in America.

Looking at property tax *amounts*, several New York counties – Westchester, Nassau, and Rockland – were among the top ten counties nationally in terms of property taxes paid on owner-occupied residences in 2007.[9]

Median Household Tax by County, 2007

County and Rank	State	Median Tax
1. Westchester	**New York**	**$8,422**
2. Hunterdon	New Jersey	$8,224
3. Nassau	**New York**	**$8,153**
4. Bergen	New Jersey	$7,797
5. Somerset	New Jersey	$7,597
6. Essex	New Jersey	$7,535
6. Rockland	**New York**	**$7,535**
8. Morris	New Jersey	$7,281
9. Union	New Jersey	$7,007
10. Passaic	New Jersey	$6,928

Source: U.S. Bureau of the Census, American Community Survey, 2007

[9] The Tax Foundation based upon U.S. Bureau of the Census, American Community Survey, 2007.

When property taxes are expressed as a percentage of home value, eight of the top ten counties in the country are in New York State. Of particular note is that all of the eight New York counties are in the upstate area and are either losing population or experiencing slow population growth. Additionally, some of the counties are in rural areas of New York, where housing values tend to be lower, which necessitates higher tax rates to raise the same amount of taxes.

Property Taxes as a Percentage of Home Value by County, 2007

County and Rank	State	Tax Rate
1. Niagara	**New York**	**2.9%**
2. Monroe	**New York**	**2.8%**
3. Chautauqua	**New York**	**2.8%**
4. Wayne	**New York**	**2.6%**
5. Oswego	**New York**	**2.6%**
6. Onondaga	**New York**	**2.5%**
7. Erie	**New York**	**2.5%**
8. Fort Bend	Texas	**2.5%**
9. Steuben	**New York**	**2.5%**
10. Camden	New Jersey	2.4%

Source: U.S. Bureau of the Census, American Community Survey, 2007

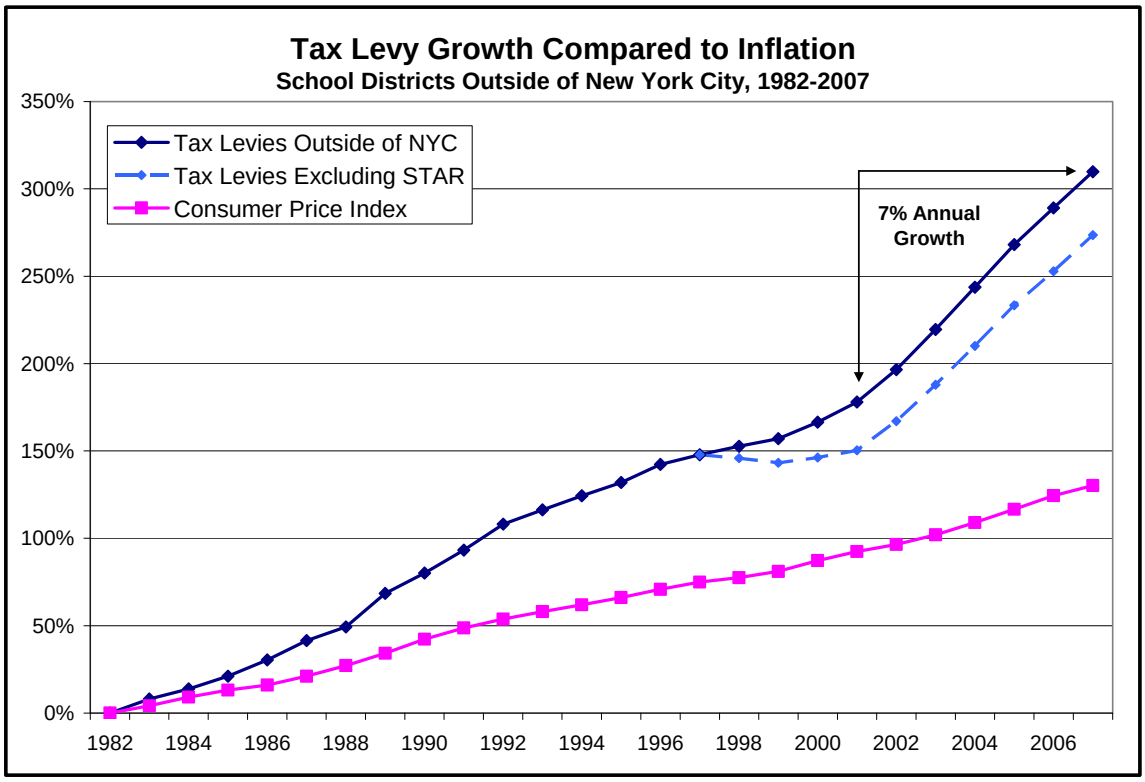
Looking at property taxes as a percentage of income, four of the top ten counties in the country are in New York. These counties are all in the metropolitan New York City area, where both average incomes and property taxes are higher than in other states.

Property Taxes by County as a Percentage of Household Income, 2007

County and Rank*	State	Taxes as Percentage of Income
1. Passaic	New Jersey	8.5%
2. Union	New Jersey	8.1%
3. Essex	New Jersey	8.1%
4. Nassau	**New York**	**8.0%**
5. Westchester	**New York**	**7.8%**
6. Bergen	New Jersey	7.8%
7. Rockland	**New York**	**7.7%**
8. Putnam	**New York**	**7.7%**
9. Hunterdon	New Jersey	7.5%
10. Hudson	New Jersey	7.5%

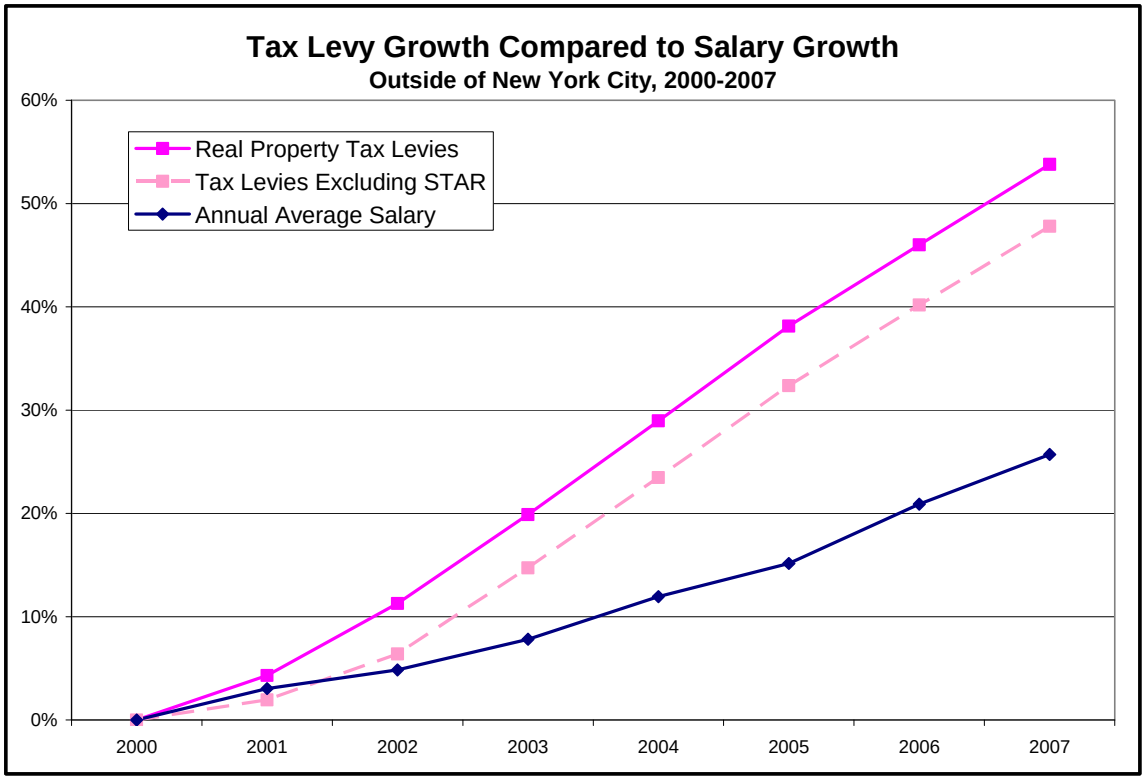
** New York's Suffolk County is ranked 11th and Orange County 24th.* Source: U.S. Bureau of the Census, American Community Survey, 2007

By any of these measures, property taxes in New York rank among the very highest in the nation. This problem is compounded by the increasing disparity between the growth of property taxes and inflation. The following chart shows that the growth rate of property tax levies in New York has dramatically exceeded inflation, especially since the year 2001.



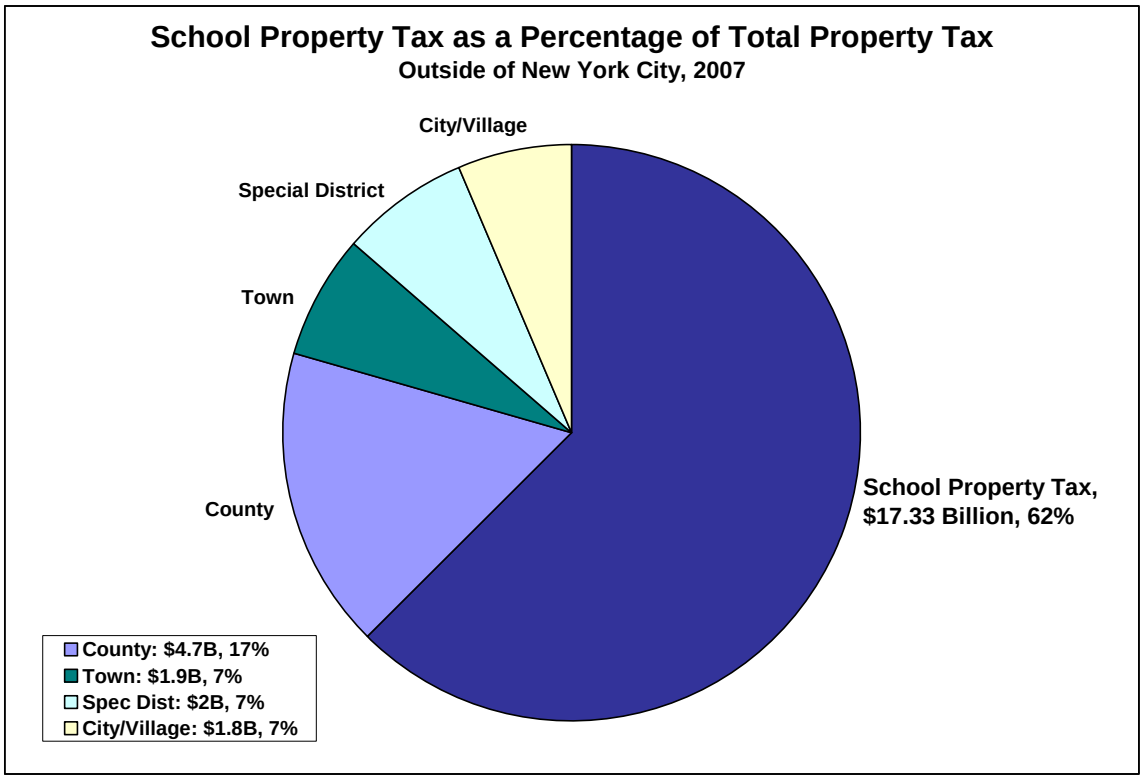
Source: Nelson A. Rockefeller Institute of Government.
CPI data from U.S. Bureau of Labor Statistics, Northeast Urban Consumer Price Index

The growth rate of tax levies is much greater than the growth rate of wages in New York. The following chart shows that while property taxes have increased by a total of nearly 54 percent since 2000, wages have risen by only about 26 percent. This underlines how unaffordable property tax bills have become for typical New York families, which makes the State a very costly place to live. It also creates a severe competitive disadvantage for New York, undercutting incentives businesses might otherwise have to locate in some New York communities.



Source: Nelson A. Rockefeller Institute of Government
Salary data from U.S. Bureau of Labor Statistics,
Property Tax Levy Data from New York State Office of Real Property Services

The Commission notes that school property taxes represent the majority of the property tax burden. Outside of New York City, school property taxes are 62 percent of total property taxes, as shown in the following chart.



Source: New York State Office of Real Property Services

Therefore, from every perspective, New York State property taxes have become the most burdensome in the nation. We must find a way to alleviate this problem.

The Problem: Why are Property Taxes so High?

School taxes are high and growing rapidly because: (1) New York spends more on primary and secondary education than any other state; (2) the annual spending growth rate accelerated from 4 percent to 6 percent and is now higher; (3) New York State's share of school funding (state aid plus STAR payments) is somewhat below the national average, although significantly higher in dollar amount; and (4) state funding growth had not – until 2007 – kept pace with higher expense growth.

This section examines school district expense and funding, and the details of individual expense categories (for example, salary and benefits) as well as broader expense drivers that cut across expense categories (for example, mandates, and special education).

School District Expenses and Funding

1. New York spends more per student on primary and secondary education than any state.

> ***The bottom line: it's not whether we pay for education; it's whether we pay wisely for education.***
>
> **- Alan Lubin, Executive Vice President, New York State United Teachers**

For the 2008-09 school year, New York will spend an estimated $18,768 per pupil, excluding school districts in New York City and the four other cities with dependent school districts. There is significant variation in per pupil spending among individual school districts, based on analysis of school district budgets. Including expenses for New York City, New York State consistently spends more per pupil than every other state (note that expenditures for the District of Columbia are sometimes higher).

The table below shows per-pupil spending, not total spending, on a statewide basis (including New York City).[10] It shows that New York's per-pupil spending has increased at a compound annual growth rate of 6.6 percent during the past six years. That rate is substantially higher than the national average of 4.8 percent.[11]

Per Pupil Spending Excluding Debt Service, 1999-00 to 2005-06 (even years)

State	1999-00	2001-02	2003-04	2005-06	6-Yr CAGR
United States	$7,394	$8,259	$8,900	$9,788	4.8%
District of Columbia	11,935	14,557	15,414	17,877	7.0%
New York	**10,957**	**12,343**	**13,926**	**16,095**	**6.6%**
New Jersey	10,903	12,197	13,776	15,362	5.9%
Rhode Island	9,646	10,552	12,279	13,917	6.3%
Connecticut	10,122	11,022	11,755	13,461	4.9%
Vermont	8,799	10,229	11,675	13,377	7.2%
Massachusetts	9,375	10,808	11,583	13,128	5.8%
California	6,401	7,439	7,708	8,416	4.7%

Source: U.S. Department of Education, National Center for Educational Statistics

The data in the following table summarizes New York's ranking on per-pupil spending compared to other states over the last 36 years. New York ranked first in per-pupil spending in 1969-70, and then slipped to fourth in 1989-90. Since 2000, with higher expense growth than other states, New York's rank has returned to first or second. While wholly comparable data are not yet available for 2006-07, trends suggest that New York will rank at or near the top again, and it is expected to hold this position in 2008-09.

State Ranking of Per Pupil Spending, 1970 to Present

State	1969-70	1979-80	1989-90	1999-00	2005-06
District of Columbia	3	4	1	1	1
New York	**1**	**2**	**4**	**2**	**2**
New Jersey	4	3	3	3	3
Rhode Island	15	11	6	5	4
Connecticut	5	20	5	4	5
Vermont	22	26	7	9	6
Massachusetts	20	6	8	6	7
California	11	18	24	37	39

Source: U.S. Department of Education, National Center for Educational Statistics

[10] Per pupil spending is total expenditure divided by average daily attendance, which is the method of state comparison that most closely matches the State Education Department's per pupil spending numbers.
[11] "Quality Counts," Education Week, 2008. Even when regional cost of living differences are taken into account, New York is still 32.7 percent above the national average in per pupil spending. This spending rate is exceeded only by New Jersey.

2. The annual growth rate of school expense accelerated from 4 percent to 6 percent and is now higher.

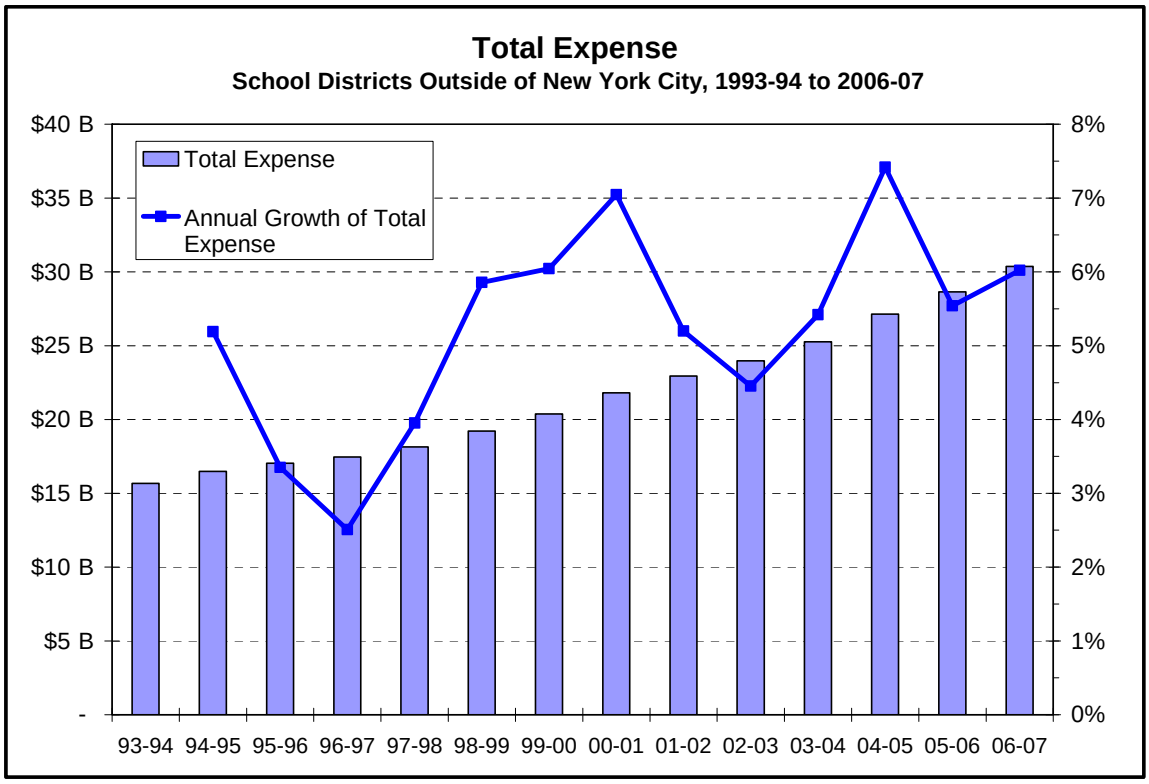
School expenses in New York have been increasing recently at a compound annual growth rate of 6 percent or more. The Commission notes, however, that expenses grew at only about 4 percent in the first four-year period shown below. Expenditure growth then accelerated to 6 percent, and in recent years has been higher, and is estimated to approach 7 percent for the 2007-08 school year.

Growth of School Expenses in New York

	Compound Annual Growth Rate			Annual Growth Rate	
	1993-94 to 1997-98	1997-98 to 2001-02	2001-02 to 2005-06	2006-07	2007-08 (estimated)
Expense	4%	6%	6%	6%	7 %

Source: State Education Department ST-3 filings, U.S. Bureau of Labor Statistics

The chart below shows expense growth on an annual basis, from 1993-2007. Expense growth was relatively modest from 1994-1998, ranging from a low of 2.5 percent to a high of 5.2 percent. Beginning in 1997-98, however, expense growth turned upward. Since then expense growth has ranged from a low of 5.2 percent to high of 7.4 percent. The STAR property tax relief program, which substituted State funding for a portion of local property taxes, was implemented at the beginning of this period.



Source: New York State Education Department, ST-3 filings

Total school district expense for 2007-08 is estimated to exceed $33 billion for non-NYC districts.

Total expense in 2006-07 for non-NYC school districts was $30.4 billion ($48.6 billion including New York City), roughly double the $15.6 billion spent in 1993-94 ($23.8 billion including New York City). Total school district expense for 2007-08 is estimated to exceed $33 billion for districts outside New York City ($53.7 billion including New York City). While final total expense data are not available for 2007-08, based on estimates of total funding collected, the expense growth is estimated at 6-7 percent annually.

3. New York State's share of school funding (State aid plus STAR payments) is somewhat below the national average, although significantly higher in dollar amount.

The primary sources of school funding are local revenue and State funding. Property tax constitutes the vast majority of local revenue. State funding consists of two distinct categories: State aid, which is designed to help pay for schools, and STAR payments, a form of property tax relief paid to schools in lieu of taxes that would otherwise be paid by homeowners. Federal aid is the third, much smaller component of school funding.

State aid is largely formula-driven, taking into account the number of pupils, pupil needs, specific programs (e.g., BOCES services or new construction) and, importantly, local district wealth. A large component of State aid is highly progressive relative to district wealth, although there are base levels that every district receives through various forms of general funding. In contrast, the Basic and Enhanced STAR Payments to school districts are somewhat regressive relative to district wealth, in that they are largely driven by local property values.

As can be seen in the following table, local revenue provides 53 percent of all funding for school districts excluding New York City. State funding, including both State aid and STAR payments, represents 44 percent of funding. Thirty-seven percent is state aid while another seven percent is from the effect of STAR payments by the State in lieu of homeowner property taxes.

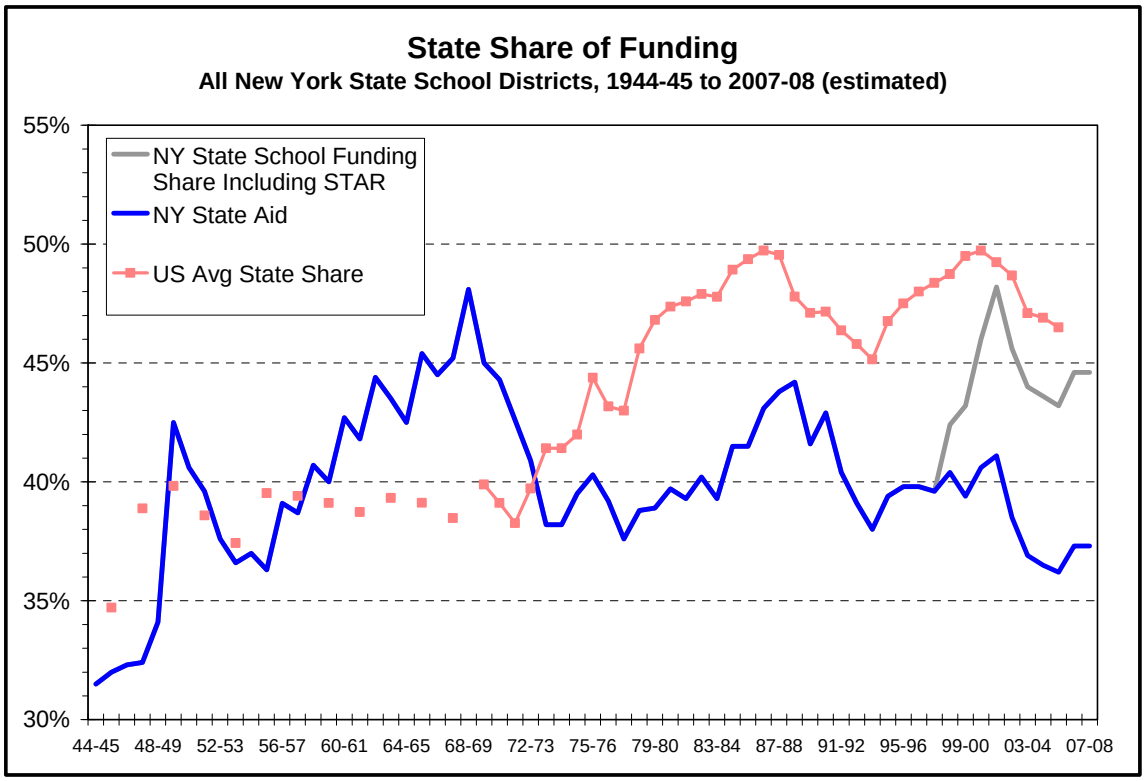
School Funding Sources, 2006-07

2006-07 Funding	New York State Not Including NYC	Percent of Total	New York State	Percent of Total
Local Revenue	**$16.4 B**	**53%**	**$25.0 B**	**51%**
State Aid	$11.0 B	36%	$18.0 B	37%
STAR Payments	$2.5 B	8%	$3.6 B	7%
State Funding	**$13.5 B**	**44%**	**$21.6 B**	**44%**
Federal Aid	**$1.2 B**	**4%**	**$2.7 B**	**6%**
Total	**$31.1 B**	**100%**	**$49.3 B**	**100%**

Source: New York State Education Department, ST-3 filings

New York's state share of school funding has consistently tracked lower than the national average.

The Commission examined New York's State share of school funding over time, from records reaching back to the 1940s, and found that it has consistently tracked *lower* than the national average. The following graph compares New York's share of school funding to the national average for each year since 1944-45. The State share has fluctuated over time; however, since the mid-1970s it has been lower than the national average. The share of State funding declined to 38 percent in 1993-94, but in the more recent period, with STAR payments included in State funding, there is another peak of over 48 percent in 2001-02. There is a gradual decline thereafter, bottoming out at 43 percent in 2005-06. The 2007-08 and 2008-09 State budgets included historic increases in school aid. Property taxes also increased, leaving the comparative shares relatively stable.



Source: New York State Education Department ST-3 filings, 2007-2008 revenue estimates by Commission Staff using data from SED, Office of Real Property Services and Division of Budget.

While the State's percentage share of total school funding is below average, the State's contribution in dollars is in fact relatively high. New York State spent $7,241 per pupil in 2005-06, 44 percent above the national average of $5,018 per pupil.[12] New York State spending per pupil is lower than that of only Hawaii, Vermont, Delaware and Minnesota – states that are either small, or which do not rely heavily on local funding for schools. This highlights a seeming contradiction: nationally, New York's per-pupil support of schools is the fifth highest, and yet its share of total school funding is lower.

While the State's percentage share of total school funding is below average, the State's contribution in dollars is in fact relatively high.

In other words, high per-pupil spending by school districts has tapped both local and State taxpayers. Even with the State's considerable investment in education, the school funding burden has fallen disproportionately on local property taxpayers. Comparative state data are not recent enough to take into account the 23 percent increase in state aid from New York State over the last two years. This commitment both increases State dollar funding and to some degree increase the State's share of total funding.

4. State funding growth had not – until 2007 – kept pace with higher expense growth.

When funding from the State does not grow at the same rate as school district expenditures, property taxes generally rise, sometimes dramatically, to cover the difference. This can be seen in the table below, which looks at growth rates covering four-year periods through 2005-06, and then annually through 2007-08.

The following table incorporates expense growth data discussed previously in this section, but adds four additional elements: State funding, local funding, the Consumer Price Index (CPI), and student enrollment data.

[12] State comparison data from the U.S. Department of Education, National Center for Education Statistics.

Growth of School Funding and Expenses in New York

	Compound Annual Growth Rate			Annual Growth Rate	
	1994-95 to 1997-98	1998-99 to 2001-02	2002-03 to 2005-06	2006-07	2007-08 (estimated)
Expense	3.7%	6.0%	5.7%	6.0%	6.6%
State Funding	4.0%	11.6%	3.5%	7.3%	10.0%
Local Funding	4.0%	1.1%	7.8%	7.7%	4.3%
CPI	2.7%	2.5%	2.5%	3.2%	4.2%
Pupils	1.1%	0.8%	(0.3)%	(0.5)%	(0.4)%

Source: State Education Department ST-3 filings, U.S. Bureau of Labor Statistics, 2007-08 Commission on Property Tax Relief Staff estimate

In the initial four-year period, 1994-95 to 1997-1998, overall school expense growth was a modest 3.7 percent, and State and local funding both grew 4 percent. This four-year period was a period of moderate CPI growth – 2.7 percent and very modest pupil growth – about 1 percent. But in the second four-year period, 1998-99 to 2001-2002, overall school expense growth jumped to an average of 6 percent. State funding grew sharply – 11.6 percent a year. Local funding increased only modestly – about 1 percent per year.

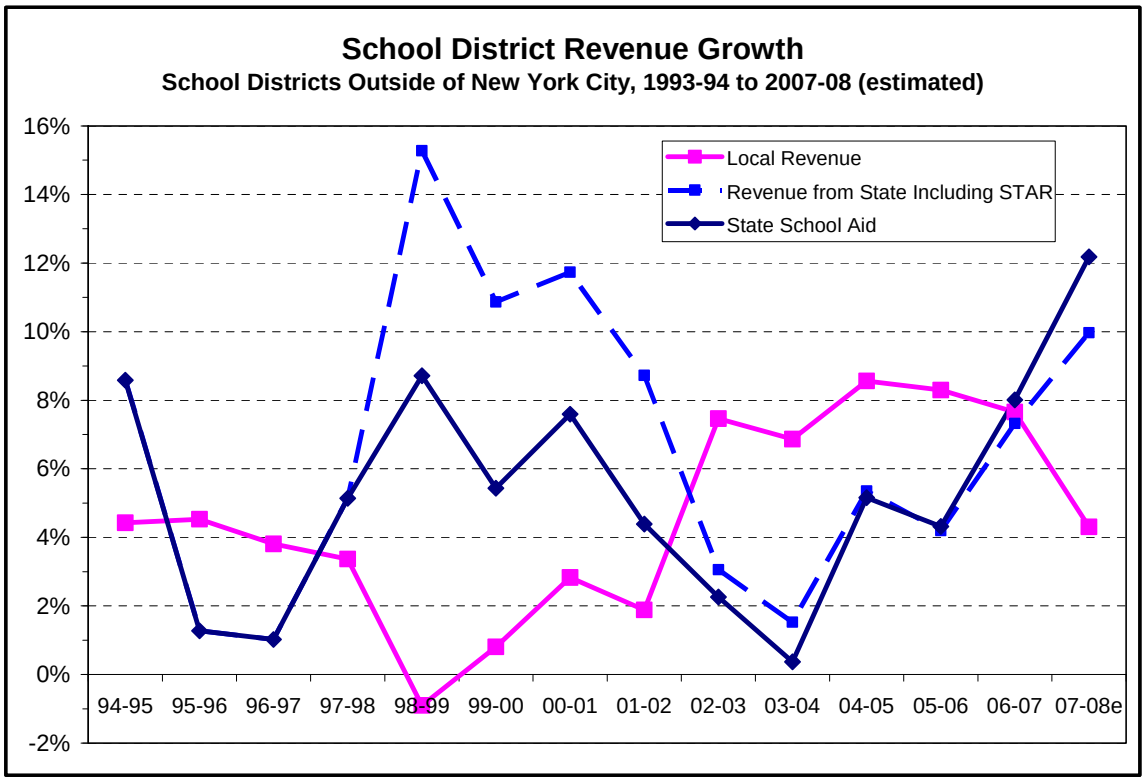
In the third four-year period, 2002-03 to 2005-06, overall expense again grew by nearly 6 percent, but in these years State funding growth dropped significantly – to only 3.5 percent a year. With expense growth at 6 percent, local funding from property taxes had to make up the shortfall – increasing an average nearly 8 percent a year.

Since that time, expense growth has risen to 6.6 percent annually. Note that pupil growth has stopped entirely and is declining slightly.

The Commission notes that the four-year period with 11.6 percent growth in state funding coincides with the implementation of the STAR program. STAR provides an exemption that lowers homeowner school property taxes. For every dollar of the reduction paid to a homeowner, the State pays a dollar to the school district to compensate for lost revenue.

When STAR was initiated in 1998 it no doubt contributed to the four-year moderate growth in local funding of only about 1 percent; however, the mitigating effect on local taxes appears to have been very short-lived. In the final four-year period beginning in 2002-03, STAR payments grew 6 percent, but local funding grew by almost 8 percent. This high local funding growth would not have resulted if overall expense growth had been closer to the earlier average growth of 4 percent. The last two years (2006-07 and estimates for 2007-08) show a return of higher state funding growth with no abatement of expense growth.

School district revenue growth on an annual basis is presented in the following chart. The chart shows total State funding (including STAR), state aid alone, and local support. The relationship between State funding and local support can be seen on a year-by-year basis.



Source: State Education Department ST-3 filings.

Thus, the interplay between expense growth and funding growth from local and State sources explains the recent high growth of property taxes. The Commission notes that with the increased State aid provided over the past two years, the growth in property taxes has slowed. However, the Commission views lower expense growth as the key to managing property tax growth. Unless underlying expenses are controlled, there can be no long-term permanent relief. The State's commitment to adequate and consistent state funding for schools – both progressive payments for the lowest wealth and greatest need areas, but also basic funding for all schools – provides the other element for property tax moderation.

The Commission views underlying expense growth as the key to managing property tax growth. Unless underlying expenses are managed, there can be no long-term permanent relief.

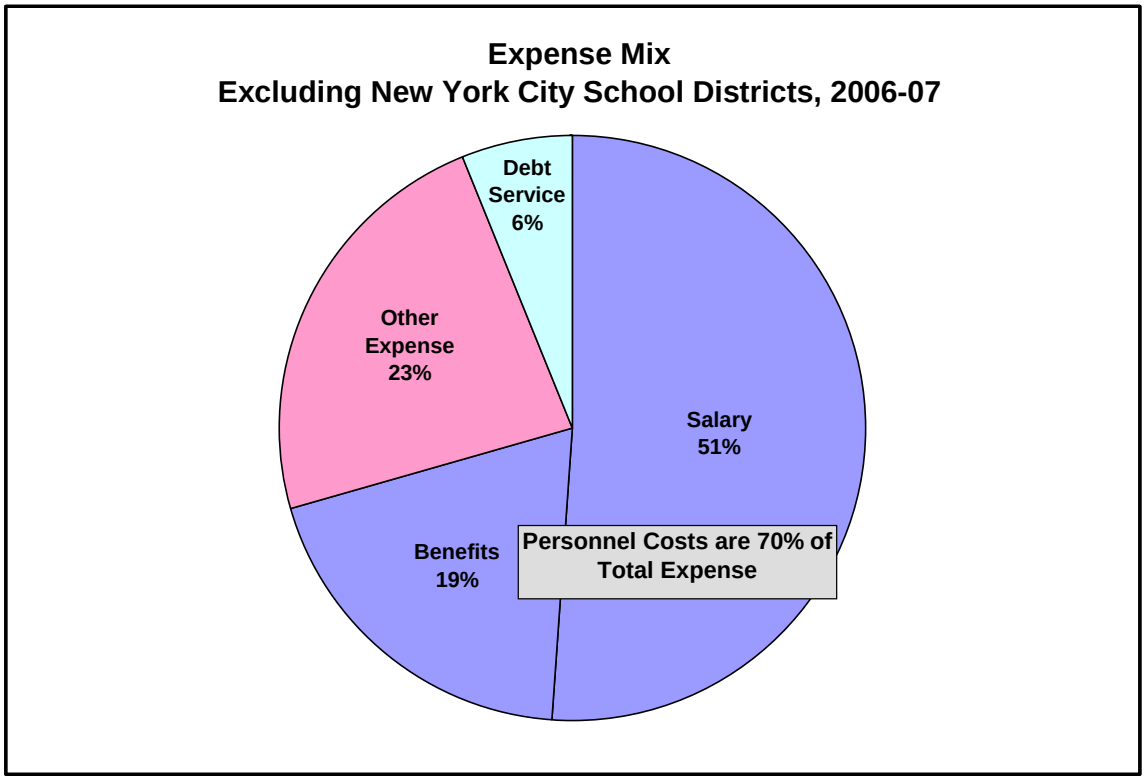
Major School Expense Drivers

Expense Categories

School districts have well-known expense drivers, and testimony was heard from across the State about how intractable some have proven to be. The largest, of course, is salaries and benefits, but there are other major categories of expense, including transportation and energy, special education, BOCES and other administrative expenses.

The chart below shows the major categories of 2006-07 expenses for school districts outside of New York City. The "other expense" category includes contractual, purchased goods and services, tuition, BOCES, capital and equipment. The Commission notes that salaries and benefits constituted over 70 percent of school district expenses. In addition to the categories for direct salary and benefits, other categories of expense, such as payments to participate in BOCES, may also incorporate substantial amounts for salary and benefits.

In this section, the Commission reviews its findings about these expense drivers.



Source: State Education Department ST-3 filings.

Growth of School District Expense in New York[1]

	Compound Annual Growth Rate			Annual Growth Rate	
	1994-95 to 1997-98	1998-99 to 2001-02	2002-03 to 2005-06	2006-07	2007-08 (estimate)
Total Expense	3.7%	6.0%	5.7%	6.0%	6.6%
Salaries[2]	4.0%	5.6%	3.5%	4.3%	Unavailable
Healthcare	4.5%	10.4%	11.4%	7.2%	Unavailable
Pension	(16.2)%	(18.3)%	65.4%	10.1%	Unavailable
Debt Service	7.7%	12.7%	3.7%	8.6%	Unavailable
All Other	4.7%	5.8%	5.4%	7.7%	Unavailable
Special Education[3]	n/a	3.3%	11.2%	7.7%	Unavailable
Pupils	1.1%	0.8%	(0.3)%	(0.5)%	(0.4)%
Expense Per Pupil	2.7%	5.2%	6.0%	6.6%	7.0%

1. NYS School Districts excluding New York City, except Special Education. 2. Salary Expense does not reflect the growth of individual salaries; see discussion below. 3. Special Education is limited to Instructional Expense, and includes New York City. Source: State Education Department ST-3 filings; 2007-08 CPTR Staff estimate

Salaries

Education is a labor intensive undertaking, and people are the key ingredient. Classrooms need qualified teachers and aides. Teachers perform an enormously important and difficult job. They deserve fair levels of compensation, as do well-educated professionals in other fields.

The Commission notes the increases in teachers' salaries over the past 25 years, made possible by additional State and local funding. In the 1980's, the Legislature made a policy decision to raise teacher compensation in an effort to attract more people to the profession and raise standards. Once considered underpaid, teachers outside New York City now receive a compensation package that is highly competitive in the job market, particularly when generous fringe benefits are taken into account.

In addition, important support is provided by other staff such as bus drivers, lunch workers, custodians, special education tutors, nurses, principals, and school administrators. All play a role, and that role is very expensive. As noted above, salaries and benefits constituted fully 70 percent of school district expenses. Thus changes to labor costs have the greatest impact on total school district expenses.

The Commission analyzed staffing levels – the number of people employed by our school districts – and found a higher than expected growth in staffing, given flat student enrollment.

Staffing levels have increased outside of New York City, while student enrollment has declined. From 2000-01 to 2006-07, the number of teachers increased by about 5,000.[13] Non-teaching personnel increased by about 2,400. Student population declined over this period by about 18,000 students or 1 percent for the period. Thus, staffing levels have increased approximately 0.6 percent a year for teachers, and 0.8 percent a year for all staff, at a time when enrollments were declining.

Analysis of State Education Department data shows that typical salary increases for individual teachers year-to-year are in the range of 5.5 to 11.0 percent. Since 1993-94, the total amount of salaries paid rose 4.4 percent a year (compound annual growth rate). This average growth rate of salaries is affected by changes in seniority and educational levels of instructional staff. The Commission examined the effect that retirements have had on the mix of junior and more experienced teachers. It found that average school district teacher salary expense has, in recent years, been lowered because a large number of experienced high-paid teachers are retiring and being replaced with lower paid teachers. Absent the impact from an above-average number of retirements, it is estimated that teacher salary growth for school districts could be approximately 2 percent higher. As teacher retirements taper off in future years, school district salary expenditures will increase.

Salaries for New York State teachers are higher than those in other states, according to a National Center for Educational Statistics survey.[14] The average teacher in New York earned $58,873 in 2005-06, the latest period available for comparing New York to other states. While the Commission recognizes that a higher cost of living in New York is a contributing factor, this average salary is 17 percent higher than the national average of $50,379. To compare salaries within New York, the 2006-07 statewide median teacher salary outside of New York City was $59,594. By major region, the median was $77,298 for Long Island, $73,731 for Mid-Hudson, and $59,094 for New York City.

Teachers are paid according to salary schedules established through collective bargaining. As illustrated in the following table, the salary schedules include both horizontal “steps” representing years of experience, and vertical “lanes” representing levels of academic attainment.

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[13] New York State Department of Education BEDS data.
[14] National Education Association, Estimates of School Statistics.

New York State 50th Percentile Salaries for Teachers

	2000-01 50th Percentile Salary				2006-07 50th Percentile Salary			
Experience	**Bachelors**	**Masters**	**Doctorate**	**Total**	**Bachelors**	**Masters**	**Doctorate**	**Total**
1 Year	$31,910	$36,045	$40,180	$32,549	$41,172	$45,586	$51,834	$41,172
2 Years	$32,549	$36,684	$40,819	$34,000	$43,799	$49,130	$54,461	$43,799
3 Years	$33,187	$37,322	$41,457	$36,045	$44,161	$49,492	$54,823	$47,604
4 Years	$33,825	$37,960	$42,095	$37,925	$44,802	$50,133	$55,464	$50,133
5 Years	$34,463	$38,823	$43,016	$38,598	$44,802	$50,683	$56,610	$50,683
6 Years	$34,742	$39,890	$45,336	$39,890	$45,352	$51,279	$58,473	$51,279
7 Years	$35,755	$41,749	$49,760	$42,638	$45,948	$51,279	$63,808	$53,375
8 Years	$36,178	$43,329	$52,287	$44,280	$46,791	$52,245	$67,637	$56,201
9 Years	$35,480	$43,828	$52,287	$45,625	$48,044	$53,375	$67,637	$59,049
10 Years	$35,929	$45,344	$52,287	$47,740	$45,948	$53,375	$67,637	$62,306
11-15 Years	$37,118	$48,152	$55,155	$51,020	$50,974	$55,180	$72,305	$64,786
16-20 Years	$43,924	$52,290	$59,743	$56,425	$56,975	$61,888	$77,249	$71,000
21-25 Years	$50,795	$57,661	$70,000	$62,887	$62,606	$66,909	$86,089	$77,249
26-30 Years	$57,199	$64,000	$70,000	$69,525	$70,681	$71,830	$90,472	$81,220
31-35 Years	$61,730	$67,932	$70,000	$70,000	$67,374	$75,411	$90,472	$82,777
36-40 Years	$63,389	$69,381	$70,200	$70,000	$79,810	$80,188	$90,472	$87,315
>40 Years	$61,123	$67,291	$70,200	$70,000	$74,564	$83,917	$90,472	$87,818
Average	**$33,453**	**$48,152**	**$66,600**	**$51,020**	**$43,799**	**$55,356**	**$ 77,249**	**$59,554**

Source: New York State Education Department

Teachers generally receive a raise for each additional year of experience, until the last step is reached. Further compensation can be achieved for academic attainment (e.g. receipt of a master's degree). Thus, teachers have the ability to make simultaneous vertical and horizontal moves, which can significantly increase their salaries. In addition, the "step" and "lane" amounts are usually increased annually under the terms of the negotiated agreement. In recent years, such annual increases have been in the 2 to 3 percent range.

How an individual teacher's salary is affected through experience and additional education can be seen on the table above. For example, a teacher fresh out of college with a bachelor's degree started at an average salary of $31,390 in 2000-01. If that teacher earned a master's degree (which is prerequisite for certification) within two years and also advanced in annual steps, in 2006-07 that teacher's salary would be $51,279.

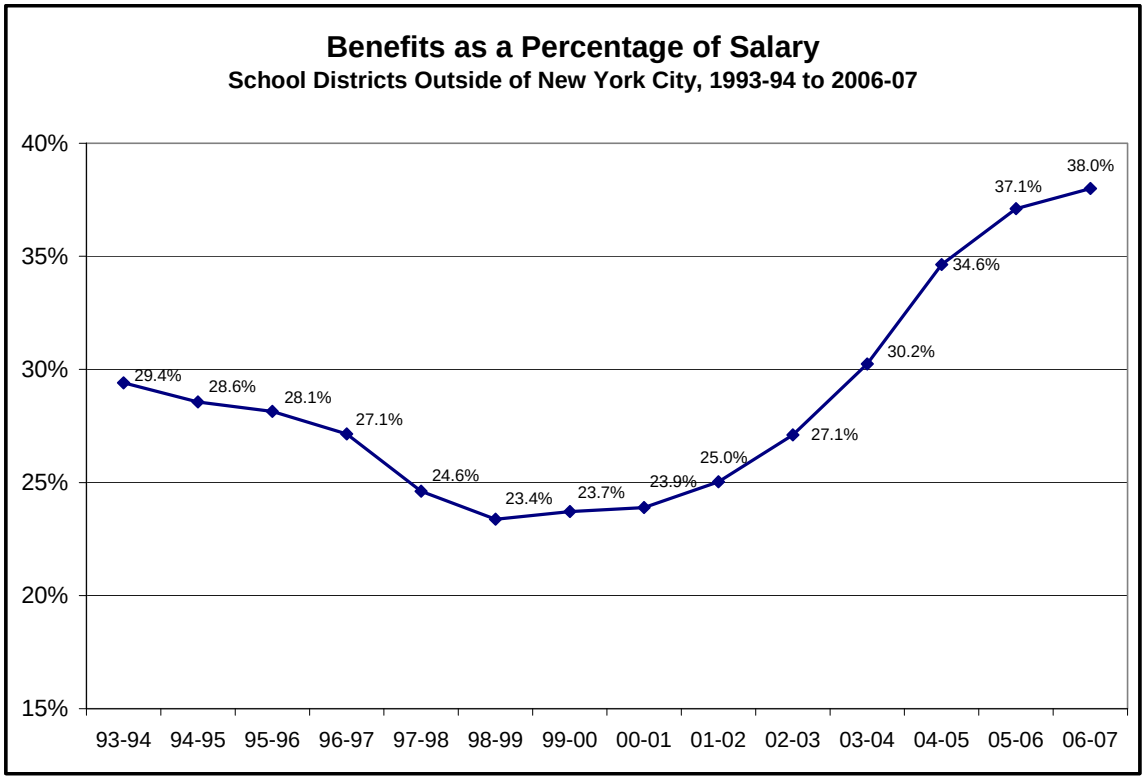
Benefits

This section reviews how the cost of benefits has risen faster than other expenses in recent years.

Benefits have the largest growth factor of any expense category. In 1993-94, benefits were 29 percent of salary expense. Benefits averaged 38 percent of salary expense in 2006-07.

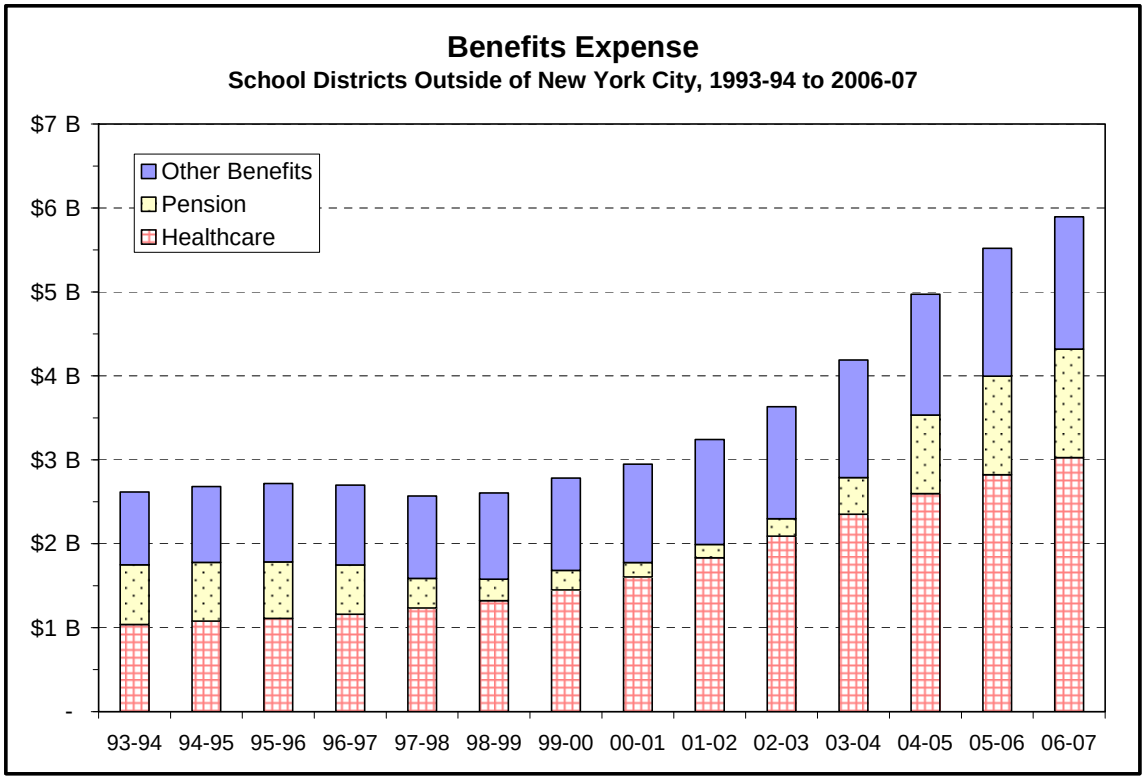
Benefits, consisting primarily of health care and pension programs, have the largest growth factor of any expense category. Benefit expense is best understood as a percentage of salary expense. Benefits in 1993-94 were 29 percent of salary expense. Benefits averaged 38 percent of salary expense in 2006-07. Thus, if a district hired an employee at a $50,000 salary, an additional $19,000 had to be budgeted for a total $69,000 to cover the full expense associated with that employee.

Similar to national trends, health care expense in New York has risen the most, increasing at a compound annual growth rate of 9 percent since 1993. Benefits costs are high in New York State. Total benefit expense for school districts outside of New York City reached $5.9 billion, or 19 percent of total school district expense in 2006-07. In that same year, health care represented 51 percent of benefit expense, pension represented 22 percent and other benefits (primarily social security and workers' compensation) accounted for 27 percent.



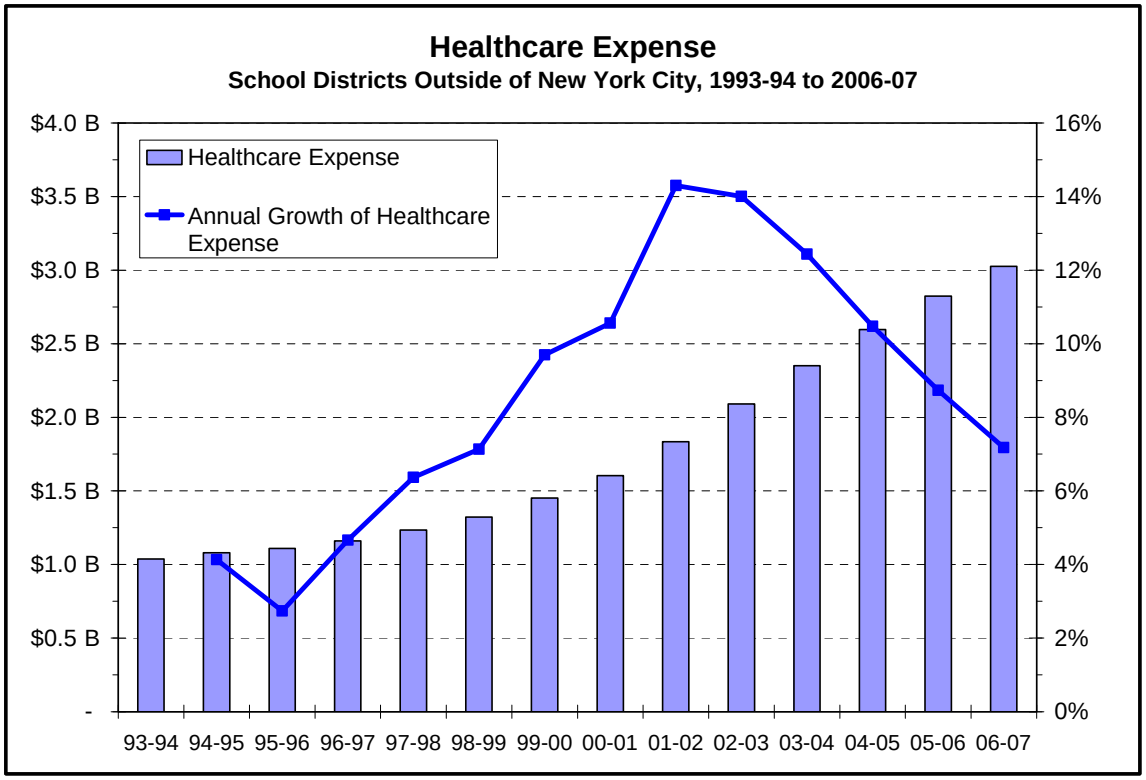
Source: State Education Department ST-3 filings.

As the following chart shows, all benefit categories have grown in cost over time, but the growth curve has trended upward in recent years.



Source: State Education Department ST-3 filings.

The cost of health care has grown more than that of any other benefit. For school districts outside of New York City, health care costs increased 192 percent between 1993-94 and 2006-07, or at a compound annual growth rate of almost 9 percent. The cost of pensions increased 81 percent or approximately 5 percent annually. The cost of other benefits increased 82 percent or approximately 5 percent annually. The following chart illustrates the growing cost of health care benefits.



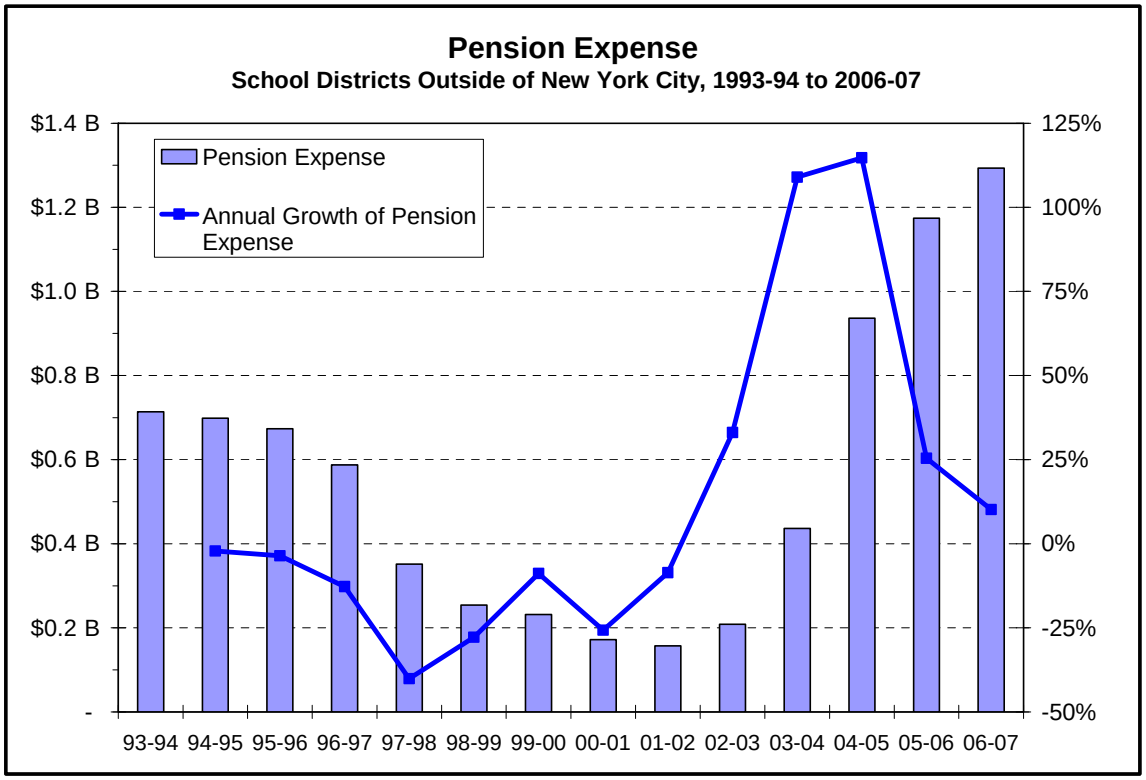
Source: New York State Education Department ST-3 filings.

There are some factors driving health care cost increases generally, such as significant growth in spending on pharmaceuticals. In 2006, private group health insurance for employers nationally represented 7.2 percent of total compensation. By comparison, New York school district payments for health benefits were 11.4 percent of total compensation.[15] The Commission notes that costs for health care benefits provided to retired employees are included in calculating the total health care cost paid by public employers in New York.

Pension contributions are another significant school district expense. Outside of New York City, the New York State and Local Employees' Retirement System administers pensions for non-instructional school district employees, while teachers' pensions are administered by the New York State Teachers' Retirement System. Pension contributions by school districts fell

[15] Kaiser Family Foundation, Wages and Benefits: A long-term View, Snapshots: Health Care Costs. February 2008.

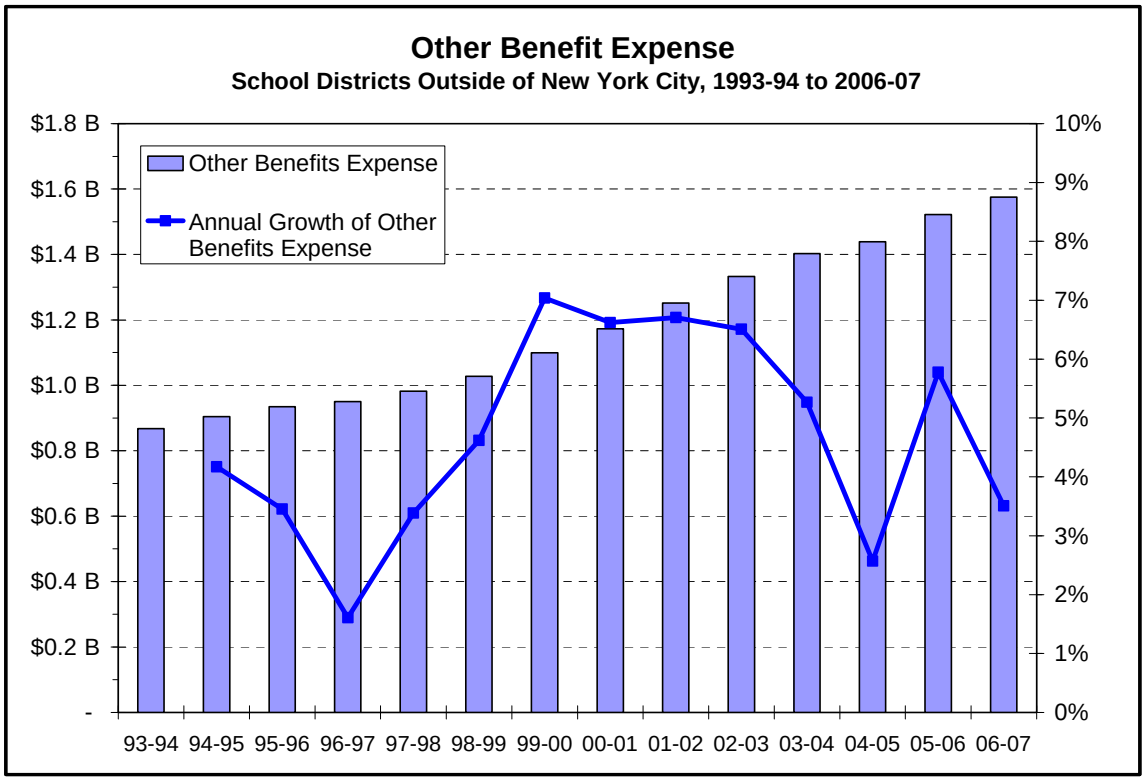
dramatically in the late 1990s. At that time, contributions were eliminated for some pension system members. In the current decade, pension contributions for school districts outside of New York City went from a low of $157 million in 2001-02 to a high of $1.3 billion in 2006-07. This resulted in a compound annual growth rate of 52 percent over five years. The Commission notes, however, that over the entire period of 1993-04 to 2006-07, the annual growth in pensions, on average, has been 4.7 percent, relatively consistent with the 4.4 percent growth in salaries.



Source: New York State Education Department ST-3 filings.

Stock market performance is the primary explanation for the wide swings in pension expense growth. During the late 1990s, high returns on investments translated to lower school district contributions to the pension system. Beginning in 2002, pension contributions increased dramatically to balance large declines in market performance. Increases in staff levels, and the magnitude of salary increases also affect the contribution rate of growth. Significantly, benefit enhancements enacted in 2000, including the elimination of contributions for many employees, also had an impact.

Other benefits, including social security payments and workers' compensation insurance, comprised 27 percent of all benefit expenses in 2006-07. This expense category has grown as well, with a compound annual growth rate of 4.7 percent from 1993-04 to 2006-07 for a total increase of 82 percent during that period.



Source: New York State Education Department ST-3 filings.

Special Education

Almost all representatives of school boards and school district management who testified to the Commission, as well as many academic experts, pointed to the growing costs of compliance with extensive federal mandates under the Individuals with Disabilities Education Act (IDEA) and the Americans with Disabilities Act (ADA), and with requirements established by the State that go beyond the federal requirements.

Instructional cost per pupil for special education is substantially higher than for the general pupil population. According to the most recent State Education Department data, instructional expenditures were $9,494 per pupil for general education, and $23,898 per pupil for special education in FY 2006-07. The total instructional spending for all general education was $26.1 billion for 2.7 million pupils and $9.7 billion for 405,309 special education pupils.

Other School Expenses and Debt Service

This section reviews non-personnel expense factors, that is "other expenses" and debt service. These expenses include operations, capital, fees for BOCES participation, and tuition for out-of-district education. Including debt service, these other expenses accounted for 30 percent of school district expenses in 2006-07, and their cost has grown at an annual compound rate of 6.1 percent since 1993.

Operating Expenses

Operating expenses include items such as the costs of textbooks, equipment, software, materials and supplies, and contractual and other services. Between 1993-94 and 2006-07 operating expenses increased by a compound annual growth rate of 5.4 percent, or 98 percent over that period. By 2006-07, these operating expenses accounted for about 65 percent of the other expenses category, excluding debt service, and 15 percent of total expenditures.

Transportation and Energy

All school districts are required by law to provide a certain level of student transportation services. Transportation costs for all New York school districts totaled $2.5 billion in 2006-07. Transportation expense has risen 5.1 percent annually for school districts outside of New York City from 1993-94 to 2006-07. The magnitude of these transportation costs is increased by the large number of school districts that exist in New York State that provide transportation services separately. Some of these school districts, especially those that are smaller, are not able to benefit from economies of scale, and more efficient plotting of routes.

BOCES

Boards of Cooperative Educational Services (BOCES) were established in the late 1940s in response to the need to provide an efficient and effective means of delivering educational services to rural districts. There are now 37 BOCES that provide both educational and non-instructional services on a regional basis to all but nine of the school districts in New York State. The dependent city districts of New York City, Yonkers, Syracuse, Rochester and Buffalo are not eligible for BOCES membership. The services provided by each BOCES vary but generally include career and technical education, services for students with disabilities, itinerant teachers for certain subjects, programs for adults, and "back-office services" such as payroll administration, human resources and employee benefit coordination, cooperative purchasing, and business office operations.

BOCES expenditures, which include indirect payments for salary and benefits, were 6 percent of total expenses in 2006-07. BOCES expenses grew from $904 million in 1993-1994 to $1.8 billion in 2006-07. This is a compound annual growth rate of 5.6 percent and an overall growth of 104 percent.

Capital Expense

According to the U.S. Census Bureau Annual Survey of Local Government Finances, New York's public school districts spent almost $4 billion on capital outlays and other expenditures in 2005-06. The bulk of that money, $3.4 billion, went to construction projects, almost $84 million went to projects related to land and existing structures, and equipment costs accounted for almost $507 million. New York school districts face rising construction costs. From 2000 to 2007, the cost of construction material throughout the nation rose more than 40 percent, and the cost of such critical materials as structural steel and concrete continues to rise.

In addition, many New York school districts, including the Big Five city school districts, have several school facilities nearing the end of their lifespan. The New York State Comptroller's report, *Financing Education in New York's "Big Five" Cities* (May 2005), noted that these school districts use some of the oldest school buildings in the State, with an average building age of more than 55 years (50 years is considered a reasonable maximum lifespan for school buildings).

Debt Service

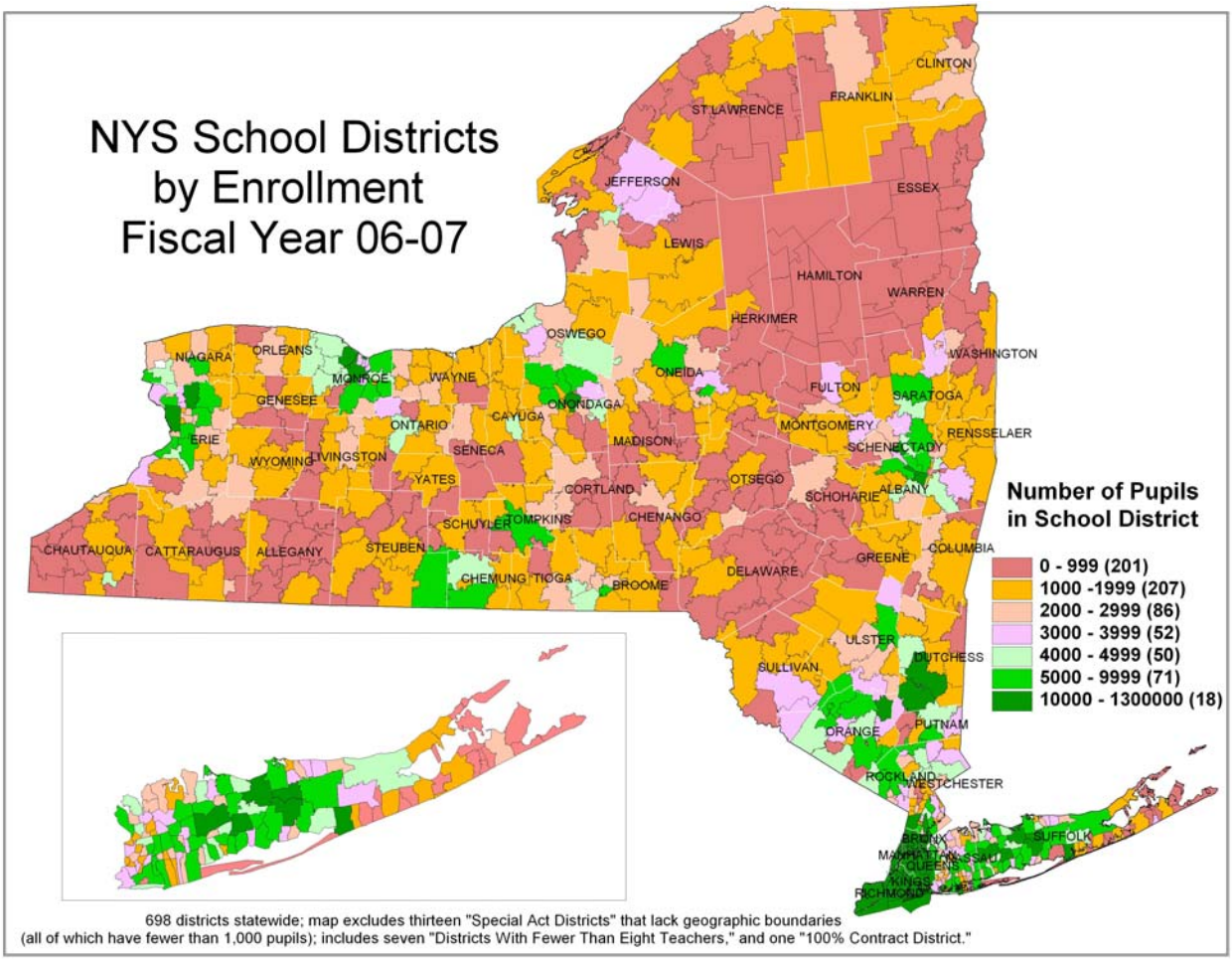
Local governments and school districts borrow money to finance construction projects, purchase vehicles and equipment, and maintain adequate cash flow for district operations. For districts outside of New York City, debt service payments, counting both principal and interest, grew from $684 million in 1993-94 to $1.9 billion in 2006-07. This is a compound annual growth rate of 8 percent. According to the New York State Office of Comptroller, four of the Big Five cities in New York had exhausted more than 70 percent of their constitutional debt limits in 2005-06.

Building aid from the New York State Education Department plays a significant role in the financing of construction, renovation, modernization, and expansion of public schools. In 2008-09, building aid is budgeted to be just over $2 billion, with an additional $109 million budgeted for debt service on state issued bonds that fund the EXCEL aid program for New York City.

Broader School Expense Drivers

Many Small School Districts

There are approximately 700 school districts in New York State, ranging in size from New York City to districts with fewer than eight teachers. Far too many are quite small. About 200, or approximately 28 percent, had fewer than 1,000 students in 2006-07, and over 500 have fewer than 3,000 pupils. Small districts are not limited to rural areas. On Long Island, where there are almost a half million pupils, over one fifth of the more than 120 school districts have fewer than 1,500 students, with an average district size of under 800 students.



Source: New York State Office of Real Property Services, 2008.

New York State's fragmented structure for delivering elementary and secondary education is somewhat comparable to the educational systems in other large states such as California, Texas and Illinois. These states rank high in terms of total number of districts and number of districts with fewer than 1,000 students, with New York having one of the lowest average school district

sizes of the large states. In comparison, Florida's system of countywide school districts includes only 67 districts, and school districts in that state, and in Maryland, North Carolina and Virginia, which also rely exclusively or extensively on countywide school districts, average approximately 40,000, 36,000, 12,000 and 9,000 students respectively.

70 percent of New York school districts saw pupil enrollments decline or remain the same.

From 2005-06 to 2006-07, 70 percent of New York school districts saw pupil enrollments decline or remain the same. Recent trends suggest that this pattern of declining student enrollment can be expected to continue.

If districts with fewer than 1,000 students were consolidated, as recommended in this report, the Commission estimates that the number of districts could be reduced considerably. Larger districts can take advantage of economies of scale and administrative and operational efficiencies. In addition to these financial benefits, the New York State Education Department's guide to reorganizing school districts suggests that merging smaller districts to create larger districts provides an "increased pupil and financial base" that allows the larger district to increase subject offerings (e.g., multiple languages and advanced placement) and increase the number of sections in a specific subject area to meet student needs. Larger district size also increases the likelihood that teachers will teach only their specialty and that specially equipped classrooms for specific subjects can be provided.

I would leave you with one question. What if we had 62 school districts…?

- Robert Bennett, Chancellor, New York State Board of Regents

Waste, Fraud and Abuse

Finally, there are the incremental expenses added through fraud, waste and abuse. Without question, the majority of school administrators and trustees take their fiduciary responsibilities seriously. Yet reviews by the Office of State Comptroller (OSC) as well as media reports across the State, have documented cases of wasteful practices, and even some cases of fraud and abuse. These instances have not only eroded the public's confidence in the management of school districts, but have also resulted in expenses – in some cases totaling millions of taxpayer dollars – being added to school district bottom lines.

Among the more egregious examples was a case on Long Island where the superintendent and assistant superintendent for business processed payments outside the normal flow of transactions. This resulted in more than $11 million in district funds being used for personal expenses of school officials and 26 other individuals. The OSC also identified problematic spending totaling more than $3 million due to lack of proper controls in another Long Island school district.

Examples in upstate New York include one district's former business manager awarding himself an amount exceeding $100,000, and another instance where two district officials received over $200,000 in questionable salary-related payments and leave benefits. All such incidents cast shadows over how administrators manage school districts and taxpayers' valuable resources. In addition, board members and administrators, while largely well-intentioned, often times are not fully familiar with the breadth of their internal control and fiduciary responsibilities.
The School District Accountability Initiative of the Office of the State Comptroller (OSC), introduced in 2005, identified clear guidelines for individual school districts to improve their financial operations and fiscal accountability. Focused primarily on strengthening internal controls, this five-point plan included the following:

- Strengthened internal claims auditor function to require that the internal claims auditor report to the director of the school board.
- School board financial oversight training is now required for all board members elected or appointed after July 1, 2005.
- More rigorous external audit standards to require both an annual audit report directly to the school board and that the board prepare a corrective action plan in response.
- New internal audit requirements that include developing, annually updating and reporting on a risk assessment of district operations.
- Audit committee required to assist school boards with financial oversight responsibilities, including selecting and overseeing external and internal auditors and implementing necessary corrective reforms.

This OSC initiative has already succeeded in bringing about significant reform and enhancing the business operations of school districts. A number of school districts voluntarily implemented all aspects of the five-point plan before new laws were enacted. Many districts chose to expand the audit committee membership beyond existing board members to include professionals in their communities with financial expertise. Others should consider following suit.

Additional actions worthy of future consideration may include requiring school boards and audit committees to meet regularly with internal auditors to set up a system to continuously review and strengthen internal control measures; undertaking a thorough review of qualifications for school district business officials, possibly requiring greater professional experience in accounting and business management disciplines; and encouraging school districts to adopt corporate models particularly focused on further strengthening internal controls in areas including purchasing, payroll, contracting of special education services and more broadly in matters related to contract procurement.

The Problem:
Why High Property Tax Growth is bad for New York State

This Commission rejects the idea that all taxes are bad. Taxes not only fund the education of our children – they pay for our parks, our bridges, our hospitals, our universities and many other fundamentals of a civilized society. Further, the Commission rejects the idea that all property tax growth is bad. Over time, the cost of goods and services rises in all sectors, and schools are no different.

Our concern is when taxes grow faster than taxpayers' ability to pay – which has been the case for too long in New York. As discussed previously, New Yorkers pay some of the highest property taxes in the nation. The focus of this Commission is high property tax growth – the kind that results in property taxes that double or more than double – in a ten-year period. We live in a State where this phenomenon is far too familiar.

> ***I have zero control over school budgets that are ever increasing and little control on my income aside from taking on a second job. I take that back; I already have a second job. Am I supposed to find a third?***
>
> **- Adirondack Homeowner**

In fact, the body of evidence before us suggests that we are rapidly reaching our limit; we have the highest property taxes of any large state in the United States. These taxes have grown 7 percent annually since 2001. In a recent survey of Long Island residents, when asked: "How serious a problem is high property taxes on Long Island?" 81 percent responded that the problem is "serious" or "very serious."[16] Clearly, our citizens are out of patience. Something must be done – now more than ever. The current fiscal climate poses severe challenges not just to governments, but to taxpayers who are concerned about their personal financial situations. Property tax increases will only add to the burdens already faced by those individuals.

High property tax growth breaches the basic covenant between homeowners and their community. Homeowners know before they buy a residence that they will need to pay certain expenses, including property taxes. But do our homeowners realize that their taxes will double in a decade, and is this fair? The Commission believes not.

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[16] 2008: Long Island Looks to the Future: Housing Alternatives and Downtown Development. Long Island Index. http://longislandindex.org/looking_future.html.

High property tax growth harms many different people in our communities:

- It is bad for the low-income household. Consider the single mother with three children, working in the service sector, or as an aide. The regressive nature of our property tax structure is most unfair to her and others like her. Those among us with the lowest incomes are most likely to pay the highest percentage of their income in property taxes.

- It is bad for seniors on fixed incomes and fixed budgets. They made the decision, perhaps many years ago, to buy their home, aware of the obligation to pay property taxes. How can seniors pay for taxes that double every ten years? This Commission's answer: It is unreasonable to expect them to shoulder this burden.

- It is bad for businesses, especially small businesses. A small business is extremely sensitive to overhead expense, which includes property tax expenses, paid either directly, or indirectly through rent. For many businesses large and small, the property tax is the largest business tax. In contrast to the corporate income tax, a business must pay property tax even when it is losing money.

- It is bad for the middle-class wage-earner. These households – made up of the nurses and construction workers of our society – rarely see their incomes double in a decade. They are fortunate if incomes rise 3 to 4 percent every year, while tax growth may equal 7 percent or more a year.

- It is bad for young families. These households are saving every penny, trying to afford the home of their dreams in a school district of their choice. Young families are forced away from too many homes in too many school districts because they have become unaffordable.

- And finally, high property tax growth is bad for teachers. At the same time that property taxes support schools and the teachers who work there, teachers too are finding it hard to own a home, or to balance their budgets when property taxes continue to take a higher and higher percentage of disposable income.

High property tax growth harms our communities and State because – at the end of the day – people have choices. They can leave New York State, for places with better jobs or a lower cost of living or both. Like so many other New Yorkers, members of this Commission decided long ago that this is a great State in which to raise their family, build their careers and to make their homes – and have watched with dismay as New York's population has decreased and economic conditions in some areas have deteriorated.

> ***Too many people I know have had to sell their homes and retreat to other states so that the can live a decent life and have the ability to save for their families' future.***
>
> **- Long Island Homeowner**

Indeed, the testimony provided across the State makes it abundantly clear that families and businesses are alarmed by the cost of their property tax bills, and are "voting with their feet" by leaving the State to escape this burden. While the Commission recognizes that property taxes are not the only contributor to the high cost of living, they are a significant factor.

When examining the challenge of property tax growth, it is essential to remember the income profile of the State. New York has ranked among the states with the highest per capita income for many years. But this fact obscures a more complex economic and demographic reality.

There are really two New Yorks: the "downstate" region, which includes the New York City metropolitan area, lower Hudson Valley and Long Island, and the "upstate" region. The state's high ranking in terms of income is due mostly to conditions downstate. In contrast, upstate cities and their surrounding areas have been losing industries, jobs, and population for many decades – nearly a quarter-million people left New York for other states in 2006 alone. Seventy percent of all school districts have declining enrollment. Absolute population declines would have become an overwhelming trend had it not been for a steady influx of immigrants. However, these immigrants settle predominately in the downstate area, where job possibilities are better, with a relatively smaller proportion choosing to settle upstate.

Perhaps one of the best summary indicators of the regional divergence is median home values. The median home in the New York City metropolitan area counties is worth over $400,000. In contrast, the median home value in 25 of the 50 upstate counties is less than $100,000.

Downstate, the dollar *amount* of taxes paid is the highest in the nation

High property tax growth is bad for downstate. The average income is high, but extreme wealth is a neighbor of extreme poverty. And while the middle class is strong, it does not have the wealth that the averages may imply. The range of income is key.

The Commission heard testimony from many downstate who complained of their property taxes doubling in a decade. In other words, a property tax bill that was $9,000 escalated to $18,000 over a ten-year period of time. An investment banker, who lives in a New York suburb earning $400,000 per year, may be able to absorb such an increase. But, for a teacher or nurse who earns $80,000, a tax of $9,000 represents 11 percent of gross income – almost unbearable. A tax of $18,000 represents 22 percent of gross income – beyond reason.

Upstate, the tax *rates* are the highest in the nation

High property tax growth is bad for upstate. Upstate, the median home value is far below the median home value downstate. And in some counties, for example Allegheny, the median value is around $50,000.

High property tax rates upstate are the result of low property values and declining tax bases. The Commission heard testimony that high tax rates depress property values.[17] For example, when a tax amounts to more than 2 percent of the market value of a property, the property's appreciation may be decreased by at least 2 percent a year. High tax rates are a clear disincentive to businesses, making the task of attracting new jobs more difficult. Some upstate communities have resorted to increasing property tax rates on non-residential property, which further inhibits job creation. However, real progress cannot be made until property tax growth rates are restrained, rather shifted to others.

Summary

High property tax growth harms the State. Whether you are a senior citizen on a fixed income, a small business struggling to pay the rent, or a two-income household economizing to make ends meet, high property tax growth is a major destabilizing force for citizens of this State and for the communities in which they reside. Upstate, property values have grown slowly, perhaps restrained by property tax growth. At the same time property tax increases may limit peoples' ability to live in the house of their choice. Downstate, where property values have increased dramatically, consequent property tax increases are forcing people out of their homes.

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[17] McMahon, E.J. Director, Empire Center for New York State Policy. Testimony before the New York State Commission on Property Tax Relief. 12 Feb. 2008

Part III

Recommendations

"It is always harder to change than to hold to the status quo. But with the economic challenges New York faces, doing nothing is no longer an acceptable answer. We need to find ways to tip the balance in favor of efficiency."

- Stan Lundine, former New York State Lieutenant Governor; Chairman – New York State Commission on Local Government Efficiency and Competitiveness

Recommendations: Property Tax Cap

Property taxes in New York State are too high, and have increased over recent years at a rate that is unduly burdensome to all New York property taxpayers. Those New Yorkers who are most in need, and those who live in school districts facing special challenges in ensuring that students receive an adequate education, may be particularly overwhelmed by high property taxes.

There are only three options for addressing the issue of the growth in school district budgets: 1) decrease expenditures; 2) increase state aid to education; or 3) continue to increase property taxes. The Commission has concluded that the growth of property taxes must be constrained. For this reason, as a first and essential remedy, a school property tax levy cap must be enacted.

We recognize that this restraint on growth of property taxes collected by school districts will require tough choices. It will require the discipline necessary to reevaluate and adjust spending decisions by both the State and school districts, in accord with the core charge given to this Commission under the Governor's Executive Order – to find a method of limiting property tax growth that does not compromise educational quality. The cap on the annual growth in amounts collected through school property taxes that this Commission believes to be essential would *not preclude* levy growth. Rather, it would *raise the bar* of voter approval required for levy growth that exceeds the cap.

New York Property Tax

New York's property tax is very old, dating back to as early as 1654 when New York was still a Dutch colony. It remains to this day the primary funding mechanism for thousands of local government units across the State. In local government fiscal years ending in 2007, the property tax raised over $41.2 billion in revenue, including over $26.3 billion for schools.[18]

A distinctive feature of the property tax is that the tax rate is not fixed in statute. Rather, local governments first decide on spending needs, and then set a rate that will result in collection of the desired tax levy. Other taxes, such as income or sales, have statutorily fixed rates. The

[18] New York State Office of the State Comptroller. 2007 Overall Property Tax Levies and Assessments.

amounts that such taxes yield rise and fall with the economy, and government spending must adjust to reflect economic conditions. In contrast, the lack of a fixed rate for the property tax means that there is no automatic "fiscal brake" on tax levies – which can and often do increase during periods when weak economic conditions make them less affordable.

The financial strain that property tax obligations create for many people is not a new phenomenon. The basic underpinning of the property tax was that property wealth indicates ability to pay. This equitable concept was certainly the case far back in history, although not as clear-cut today. However, the tax is paid out of income rather than property wealth. As a result, since the early years of the tax, policymakers also have reduced the property tax burden on certain classes of taxpayers deemed to need some degree of relief.

The most common type of tax relief is the property tax exemption, which exempts all or a portion of the assessed value of a parcel from the property tax. This, in essence, shifts the tax burden to remaining property taxpayers. Exemptions are granted on the basis of many different criteria, including the use of the property, the owner's ability to pay taxes and the desire of the governments to encourage certain economic or social activities. Property can be either wholly exempt, such as a church, or partially exempt, such as the residence of a veteran. Similarly, exemptions may be applicable to certain taxes, such as a town tax, but not for others, such as school tax.

A second and more recent type of tax shifting device shelters one class of taxpayers by placing the burden on a state-level funding source, such as state income and business taxes. The STAR (School Tax Relief) program is an example, as are tax "circuit breakers." These efforts to shift the tax burden do not result in a reduction in the total amount of property tax collected, or constrain its growth. Instead, the portions for which individual taxpayers are responsible are adjusted, and the burden for those payments is shifted onto state taxpayers.

Property Tax Caps in New York and Other States

In contrast to the types of relief already discussed, property tax caps seek to limit the aggregate amount of the tax collected. The first property tax caps were enacted in New York State in 1884 by constitutional amendment, restricting the property tax rate for county and city purposes to 2 percent of the assessed valuation of real and personal property, while also limiting debt.

In 1953, the Constitution was amended to set New York City's combined property tax rate for city and county purposes at 2.5 percent, and to allow voters to increase their school district's tax limit by one quarter of one percent annually. Under a 1985 constitutional amendment, tax caps were eliminated for school districts within cities having fewer than 125,000 residents. These caps

are not relevant to most municipalities and, as documented elsewhere in this report, they have not been effective in constraining property tax growth.

We identified four broad types of tax caps that exist in other states: (1) assessment caps; (2) expenditure caps; (3) tax rate caps; and (4) tax levy caps. Under the charge of the Executive Order the Commission finds the tax levy cap far preferable.

Assessment caps limit the growth in the assessed value of a home, but not the tax rate applied to that assessment. Assessment caps are used in some states, but are ineffective in limiting tax growth unless they are also accompanied by rate caps. For example, Nassau County has a limit on the percentage change in assessed value of properties, but still has some of the highest property taxes in the nation.

Expenditure caps limit the total spending of a government unit, regardless of the source of funds. Applied to schools, an expenditure cap would limit total expense growth, even if funded by state or federal sources, and would not necessarily limit school property tax growth. An expenditure cap would not be suitable, given the Executive Order's commitment to provision of a quality education to all students.

Tax rate caps limit property taxes to an established percentage of the property's assessed value. Currently, there is wide variation in tax rates for school districts in New York, ranging from a high of 3.9 percent of the market value of property to a low of 0.2 percent. This range makes a tax rate cap unworkable in New York, unless increased funding is provided by the State for the predominantly lower wealth districts that would be above the rate cap.

Levy caps limit the amount by which the total property tax can increase from year to year. This is the only tax cap that is effective in limiting the growth of total property taxes for a given municipality or school district. It was explicitly mentioned in the Executive Order, and was a focus of the Commission's deliberations.

According to the *National Tax Journal*, which surveyed the continental 48 states in 2006, 43 states have some form of limitation on real property taxes, with a number of states employing multiple types of caps. Only Maine, New Hampshire, Tennessee, Vermont (which has only a state property tax) and Virginia have no local property tax limitations. Twenty-nine states have a local property tax levy cap, and at least 15 allow voters to vote to lift temporarily, or override, this

> ***A workable cap on the growth of school and property taxes is absolutely critical to end the out of control growth that has driven our tax burden into the stratosphere.***
>
> **- David Duerr, Executive Vice President of the Greater Syracuse Chamber of Commerce**

cap. Thirty-four states, including New York, employ a tax rate cap. Twenty states, including New York, have some form of cap on assessed values. In New York, these caps apply only in New York City and Nassau County.

Massachusetts and California – starkly contrasting experiences

The Commission carefully analyzed the experiences in several states, including the peer states of Massachusetts, Illinois, California, New Jersey and Michigan. After the initial review, the Commission focused on Massachusetts, based on the state's proximity to New York, the lengthy period since a cap was enacted (during which much data has accumulated), and similarity in school funding mandates.

"Proposition 2½" was enacted in 1980 in response to the level of property taxation in Massachusetts, among the highest in the nation. Proposition 2½ is both a levy cap and a rate cap. The property tax levy cannot increase by more than 2½ percent annually, plus additions to the tax roll from new construction. Amounts less than the levy limit may be reserved and used in a subsequent year. In addition to the levy cap, Proposition 2½ also imposed a rate cap maximum of 2½ percent, which required a number of municipalities to reduce their taxes in the first years of implementation, with offsetting state funding increases. (The rate cap is not the focus of this Commission.)

Public involvement is an important aspect of Proposition 2½, which allows a community to increase its levy limit through the public override vote, and to reduce the levy by way of a voter underride. Over the course of 22 years, Massachusetts cities and towns have placed 3,583 override referenda before voters. Approximately 39 percent of the override attempts were successful, based on a simple majority vote. There have been only a few dozen underride votes, with over half approved.

Proposition 2½ has been successful in lowering the property tax burden in Massachusetts. In the first 20 years following the passage of Proposition 2½, the per capita residential property tax levy dropped 1.6 percent, after adjusting for inflation. Since the enactment of Proposition 2½, Massachusetts dropped from 3rd nationally in 1977 to 33rd in 2005 on the measure of state and local tax burden.

In 1993 Massachusetts instituted a "foundation budget" formula for state funding of schools. That formula, which is quite similar to the one adopted in New York in 2007, calculates the dollar amount needed for an adequate education by school district and determines the local contribution to that amount. Since 1993, Massachusetts state aid to schools has increased at a compound annual average growth (on a per capita basis, adjusted for inflation) of 8.6 percent.

The relative position of Massachusetts in national rankings of per pupil spending has not changed since the period before Proposition 2½ was enacted. Massachusetts has consistently ranked between fifth and seventh among states in per pupil spending, with the most recent comparable year of 2006 showing Massachusetts spending per pupil at $12,656, ranking seventh highest among states. During the same period, the state's share of school spending has risen.

Comparative pupil performance data demonstrate that the combination of Proposition 2½ and state foundation aid has not negatively affected Massachusetts student performance. The standard comparisons of pupil performance across states involve national tests in reading and mathematics given to fourth and eighth grade pupils. In 2007, in all four tests – 4th Grade Mathematics, 4th Grade Reading, 8th Grade Mathematics, 8th Grade Reading – Massachusetts ranked highest among all states.[19] In contrast, New York test scores are in the middle of the fifty states on these tests, despite ranking first or second in per-pupil spending. In another comparison, Massachusetts ranked third among those states where the percentage of students taking the SAT is at least 40 percent, while New York ranked twelfth.

Whereas the experience in Massachusetts demonstrates that a tax cap can be constructed to lower property taxes without harming the ability to provide education, California's experience has shown that a poorly constructed cap can have significant negative impacts.

California provides a sharp contrast to the experience of Massachusetts. California voters overwhelmingly approved Proposition 13 in 1978, as a response to rapidly increasing property taxes. Proposition 13 included both rate and assessment caps. Property taxes are limited to 1 percent of assessed value, the most stringent rate limitation in the nation and one which most observers agree is too low to sustain the government services funded by the property tax. Property assessments were rolled back to their 1976 values and increases in property assessments were limited to 2 percent per year (properties can be assessed at market value upon resale). By 1981 California's property taxes had declined from 51 percent above the national average in 1978 to 22 percent below the average.

California was unable to sustain funding for local government services through its property taxes. Local governments became much more dependent on state aid, and also significantly raised various local user fees. Nonetheless, California has witnessed widespread and major deterioration of public services – especially education – since enactment of Proposition 13. In terms of per pupil spending, California went from 11th nationally in 1970 to 38th in 2006. And while California schools ranked among the highest in the nation in the 1970s in terms of pupil performance, they now rank among the lowest. In national fourth and eighth grade reading and

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[19] United States, Department of Education, National Center for Education Statistics. National Assessment of Educational Progress State Comparisons, 2008. http://nces.ed.gov/nationsreportcard/nde/statecomp/

math tests in 2007, California's ranking ranged between 46th and 49th in all four tests – 4th Grade Mathematics, 4th Grade Reading, 8th Grade Mathematics, and 8th Grade Reading.[20]

Public Participation

New York requires local voter approval of school district budgets, except for the Big Five city school districts. If voters twice choose not to approve a budget, a contingency budget is, by law, adopted by the board of education, which provides for teachers' salaries and contingent expenses.

Public opinion polls and testimony before this Commission reflect dissatisfaction with high property taxes, although there are high passage rates for school budgets. The Commission on Local Government Efficiency and Competitiveness estimates that 14.2 percent of enrolled voters participated in the May 2006 school budget vote, with participation ranging from 20 percent enrolled voters in Suffolk County to approximately 10.4 percent in Sullivan County and in southwestern New York. Moreover, since 1998, when the uniform budget vote date and the STAR program were introduced, the percentage of budgets passing has been over 90 percent. In 2007, the passage rate reached an all-time high of over 95 percent.

Some view the school voting process in New York as being, effectively, a cap on school spending as voters have the power to turn down their school district's budget if it carries too large a tax increase. The above numbers, coupled with the findings in Part II of this report, show that in practice, the school budget voting process has not affected school spending. The Commission believes that changing the school budget vote from a vote on the *budget* to a vote on the *tax levy* would highlight the interconnection of school spending and the property tax.

Moreover, voter complacency shown by low turnouts can be addressed by focusing on the magnitude of increases to the tax levy. When a school tax levy increase is less than the cap, the Commission recommends that a vote need not occur. When a school board does call an override vote, the importance of that vote is highlighted by its very existence.

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[20] Ibid.

Recommendation: School Property Tax Cap

The Commission recommends implementation of a school property tax levy cap in order to control the unsustainable growth in school property taxes. The proposal includes the following elements:

- **The levy cap would be set at 120 percent of CPI or 4 percent increase, whichever is lower:** This is the same formula that applies to the current contingency budget that goes into effect when school budgets fail to pass. This formula is somewhat higher than the levy cap in Massachusetts, which is established in law at 2.5 percent, and allows some flexibility for inflation.

- **New construction would be added to the levy limit:** The construction of new homes and businesses, and major additions and renovations of existing buildings expand the school district's tax base without affecting existing taxpayers. This new growth would be added to the levy cap each year. In the three years ending in 2007, the median annual growth from net new construction in New York has exceeded one percent statewide.

- **"Banking" unused Levy Cap:** If the maximum levy growth permitted under the cap is not used in a given year, the unused portion would be "banked" and may be used in any future year to increase the levy by up to 1½ percent. This provides an incentive to save tax capacity for future years.

- **Separate capital expense / debt service vote:** Capital items – either as a one-time expense or debt service – would continue to be authorized by public vote, and would not be included within the levy cap. If approved by voters, such exceptions would last until payment for the capital item is completed.

- **Budget Votes Limited to Overrides:** The current school budget voting process would be replaced by a cap override vote. School districts would not have to submit their budgets to the voters in years when the tax levy growth does not exceed the levy cap. Levy growth in excess of the levy cap would have to be approved by the voters. By not requiring a vote when the tax levy growth is within the cap, the votes that do take place will take on a greater significance.

- **State aid growth affects override vote margin:** The vote required to override the levy cap is contingent on state aid growth by district. If the annual growth for a district of specified core state aid programs is at least 5 percent in the current year, the vote needed to override the levy cap would be 60 percent. If annual growth of state aid is less than 5

percent, a 55 percent vote would be needed to override the levy cap.[21] This assumes that state school aid funding decisions would be reached sufficiently in advance of school budget decisions and the public votes currently scheduled in May.

- **Underride:** Voters could place on the ballot an "underride" vote to keep the levy growth to a level beneath the calculated levy cap.

- **Dependent Districts:** The Big Five cities (New York City, Buffalo, Rochester, Syracuse and Yonkers) have "dependent" school districts within their city budgets. As a result, Big Five property taxes are not specifically earmarked for education. Thus, the property tax cap does not apply to those cities.

In its preliminary report, the Commission recommended the implementation of this property tax levy cap. Governor Paterson responded by proposing legislation to enact this recommendation. The Governor's proposed legislation differs from the Commission's recommendation in preserving the right of school district residents to vote on proposed levy increases of less than the 4 percent cap, thereby assuring that all levy increases are subject to voter approval.

Conclusion

It is this Commission's view that there are only three alternatives for addressing the growth in school district expenditures: decrease those expenditures, increase state aid to education or increase school property taxes. The Commission recognizes the overall burden on property taxpayers and the particular burden placed on low and moderate income taxpayers by the unsustainable growth in such levies over recent years, and believes that property taxes cannot be increased at current rates.

Over two-thirds of New Yorkers support capping the growth of property taxes.[22] A levy cap, as proposed by Governor Paterson based on the recommendations of the Commission would be successful in constraining the growth of school property taxes and will force difficult choices about expenditures that will be necessary to ensure that there is no negative impact on schools. The proposed cap is set at a level which allows for reasonable growth of school expenses and would be adjusted for economic conditions and growth of the tax base.

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[21]This is not to suggest that 5 percent growth in state aid is adequate for high need districts to provide a sound, basic education.

[22] Siena Research Institute conducted three separate statewide polls in June, July and August of 2008, asking whether people would support capping property tax increases at no more than four percent per year. Voters overwhelmingly supported a cap, with results ranging from nearly 3:1 to nearly 5:1.

The cap will encourage efficiencies and creative ways to control costs, and will be the “blunt instrument” needed to force some tough, necessary choices. At no time would district voters be precluded from increasing school taxes. Proposed increases in the levy cap are subject to a vote, as are proposed overrides, which are tied to growth in state aid. The proposal also includes a petition process for an underride vote. Over time, this constraint on the property tax levy will make New York a better place to live, work, raise a family and run a business.

Recommendations:
Why a "STAR Circuit Breaker" Would be Better than STAR

What is a Circuit Breaker?

It is essential that the growth in the amount of property taxes collected be constrained through a cap on tax levies, as discussed in the previous section. Once such a restraint on property tax growth is in place, the needs of individual taxpayers who may face difficulty in paying their property tax bills could be addressed. The Commission believes that an improved "circuit breaker" program would provide such targeted relief, while recognizing that it would not force hard choices that drive spending restraint, nor provide relief to particular groups of deserving taxpayers, such as small businesses struggling in today's economy. However, because it addresses the symptoms of the problem, rather than the problem itself, the Commission believes that such a benefit should not be enacted until the property tax cap has been instituted.

Conceptually, a circuit breaker shuts off property taxes that exceed a certain percentage of a particular taxpayer's income. This section examines individual tax relief by reviewing existing programs, discusses problems with these programs, and proposes principles for lawmakers to consider in a comprehensive restructuring of state tax relief programs. Specifically, the Commission recommends that current property tax relief programs, including STAR and the circuit breaker tax credit be combined and restructured. Existing levels of relief for middle class taxpayers and those who need it most should continue, and benefits should be expanded to certain taxpayers through an income-based "STAR Circuit Breaker."

Current Circuit Breaker

In 1978, during the "property tax revolt" era, New York enacted its current circuit breaker program (Tax Law section 606(e)). Under that statute, any resident, including a renter, with income below $18,000 (for a single filer) is eligible to receive this rebate. Rather than provide an exemption from the local property tax, this program reimburses that tax by way of a direct credit to individual taxpayers on the state personal income tax return. The maximum benefit is $375 for seniors and $75 for residents under age 65. Because the circuit breaker is provided as an income tax credit, it may not be evident to the taxpayer that it is, in fact, property tax relief.

New York's circuit breaker benefit has not been changed in the thirty years since its enactment. The income ceiling is currently among the lowest of state circuit breakers (the New Jersey income ceiling of $250,000 for homeowners is the highest). The maximum benefit in New York is among the lowest nationally (Maine, for example, provides a benefit of up to $2,000). According to the Department of Taxation and Finance, in 2005 the New York circuit breaker had approximately 279,000 beneficiaries, of whom the overwhelming majority (91 percent) were

renters as opposed to homeowners. Total benefits were $29.6 million, which amounted to an average benefit of only $106.

STAR Programs

By the 1990s, New York's limited circuit breaker program had shrunk in significance. Public dissatisfaction with increasing property taxes led to the enactment of the School Tax Relief (STAR) program in 1997. STAR has been expanded and amended several times, most recently in 2007 and is now the most broad-based form of property tax relief in New York.

The original STAR benefits– both **Basic STAR** and **Enhanced STAR** – are homeowner exemptions, supplemented with state funding. In both cases, a portion of the assessed value of a home is exempted from the school property tax.

- The Basic STAR exemption is available to all homeowners, and exempts the first $30,000 (adjusted annually in higher value and appreciating localities) of the full value of their primary residence from the school tax;
- The Enhanced STAR exemption is available only to seniors (age 65 and older) of limited income (in 2007 the income cutoff was $67,850), and exempts the first $56,800 (also adjusted annually) of the full value of their primary residence from the school tax; and
- Basic and Enhanced STAR also grant a state income tax credit to New York City taxpayers, because New York City schools are funded by city income tax as well as property tax.

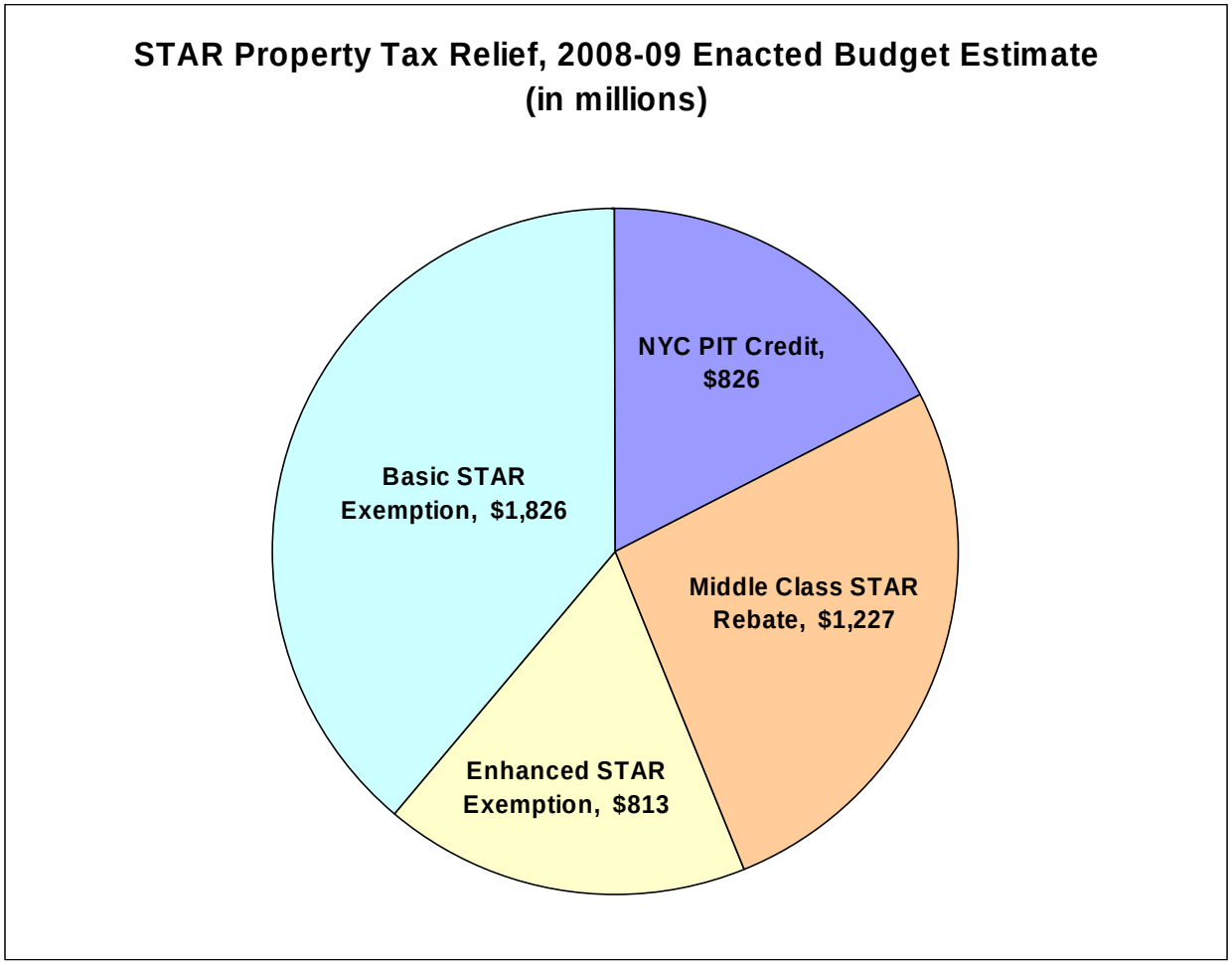
In a typical property tax exemption, the burden is shifted to the remaining property owners within the taxing jurisdiction. With the STAR exemptions, however, the tax reduction for individual beneficiaries is paid by the State, by way of a direct payment from the state general fund to school districts. School districts continue to set a tax levy each year, taxpayers pay an amount reduced by the STAR exemptions, and the State pays the difference directly to school districts as STAR Payments.

In 2006, for a single year, STAR was expanded to create the Local Property Tax Rebate Program, or **STAR Rebate.** Under this program, STAR-eligible homeowners paid the property taxes to local school districts, but the State rebated a portion of that tax by way of a check. The amount of the rebate was based on the size of the STAR exemption, rather than on income. There were 3.4 million beneficiaries, and the average benefit was approximately $200.

The STAR rebate was replaced in 2007 by **Middle Class STAR**, which also took the form of a rebate program. However, unlike its predecessor, Middle Class STAR is income-based, with the benefit phased out as income increases. The phase-out begins at different income levels

according to region ($90,000 for the upstate area and $120,000 for the downstate area). Middle Class STAR resembles a circuit breaker, in providing property tax relief based on income.

Today, STAR provides nearly 3.5 million Basic and Enhanced exemptions, on a statewide base of 5.6 million parcels of property. STAR programs are expected to cost a total of $4.7 billion under the 2008-09 Enacted Budget, an increase of $35 million over the 2007-08 fiscal year. As shown on the chart below, this consists of approximately $1.8 billion for Basic STAR exemptions (non-seniors outside NYC), $813 million for Enhanced STAR exemptions (seniors outside NYC), $826 million for NYC income tax credit (NYC income tax component for STAR exemptions) and $1.2 billion for Middle Class STAR rebates.



Source: New York State 2008-09 Enacted Budget Financial Plan

Problems with STAR

The Commission sees several fundamental problems with the current property tax relief programs, including inefficient targeting of relief, unintended consequence of higher taxes, insufficient help for those most in need, perverse school funding, and mounting complexity.

First, the current STAR programs have not adequately targeted property tax relief to individuals based on their ability to pay. Of the original STAR programs – Basic and Enhanced (plus NYC income credit) – about 70 percent of the total benefit is for Basic recipients. The Basic program has no income or property value limitations. Within a given municipality all homeowners receive the same amount regardless of home value, income, size of tax bill or other exemptions.

The Enhanced program for seniors is income based, and has a higher benefit. But since Enhanced STAR in essence provides an incremental benefit above the Basic program, income-qualified seniors would have gotten more than half of that benefit (or more than 15 percent of the total) in any case under the Basic program. Finally, the most recent Middle Class STAR rebate is income-based in terms of qualification, but not in terms of benefit received and therefore not as well targeted as it could be.

Second, the programs have not been effective in limiting school property tax increases. Critics of STAR have noted that taxpayers receiving STAR benefits are more likely to approve higher school district budgets and therefore school districts are more likely to propose them.[23] As was pointed out in Part II above, school expense growth accelerated just as the original STAR programs were created, and that growth rate has continued unabated. These effects undermine the basic goal of the program – to limit school taxes.

Third, STAR payments to schools generally run counter to the goals of state aid. State aid is progressive in terms of district wealth, with per pupil aid increased for lower wealth districts. In contrast, STAR payments are somewhat regressive, in that they rise slightly, on average, for higher wealth districts.

Finally, there are, quite simply, too many programs. The complexity has grown since the initial enactment, and could potentially increase in the future, as taxpayers are still not satisfied that school tax increases are under control. Thus, the STAR program is in need of major reform.

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[23] Eom, Tae Ho, William Duncombe, and John Yinger. Unintended Consequences of New York's STAR Program. School, Syracuse University, October 2005.

Recommendation: STAR Circuit Breaker

The Commission recommends that New York's current property tax relief programs (Basic and Enhanced STAR, Middle Class STAR and the circuit breaker tax credit) be combined and restructured into a mostly income-based "STAR Circuit Breaker."[24] The Commission believes that STAR benefits for most taxpayers should remain, and has special concern for areas where property values are so low that STAR covers an especially large percentage of the property tax. However, the program should be simplified and realigned to target those who need it the most.

The Commission's view is that the design of such a program should provide individual relief by incorporating the following principles:

- Property tax relief should be limited to the primary residence of individuals, both homeowners and renters;
- Eligibility should be phased out for those with higher income and property values;
- Benefits should be income based, using a broad definition of income; and
- Benefits should not wholly relieve the excess tax burden (to avoid perverse incentives), and should not exceed a maximum limit.

Many of those who testified before the Commission referred to the legislation introduced by Senator Little and Assemblywoman Galef and (S.1053A/ A.1575A). The Commission recommends that the Governor and the State Legislature transition at least $2 billion of the existing STAR program funding into income-based relief. There should be a careful review of all existing individual property tax exemptions to see whether they still make sense and are fair. Any such restructuring should not sacrifice the benefits for middle class taxpayers and those who need it most.

Conclusion

It is this Commission's view that once property tax levy growth is restrained through a levy cap, additional property tax relief should be targeted to individual middle class taxpayers and those New Yorkers who need it most. STAR benefits for most taxpayers should remain, but New York's current system should be simplified and restructured. Eligibility for all property tax relief programs should be phased out for those with higher income and property values. A restructured STAR Circuit Breaker program could provide relief for those taxpayers most burdened.

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[24] The Commission recognizes that the STAR Circuit Breaker is meant to provide relief for property taxes beyond school taxes.

Recommendations: Changing State Law and Mandate Relief

In a continuous effort to improve the quality of education provided to our children, New York leaders have, through numerous state regulations and laws, imposed many requirements on school districts. The Commission recognizes that many requirements in fact represent appropriate policy judgments, advancing important principles. However, the Commission's recommendation that the growth in property tax levies be constrained will require that future expenditure growth be controlled. The Commission believes that to reduce the burden on local property taxes, (1) New York State must be a partner with school districts in reining in the rising cost of public education; and (2) school districts must be creative, disciplined, and willing to enter into cooperative efforts, including consolidation, to achieve economies.

State mandates touch many aspects of school district operations including special education administration and services; compliance reporting; salaries and benefits; and student testing. The accumulation over time of these well-intended requirements, coupled with limitations on school districts' ability to act, has resulted in a regime of oversight viewed by many as overly burdensome and complex, sometimes outdated or redundant and very costly. School district expenses have grown at more than double the rate of inflation in the last ten years. The Commission believes, and many who testified before the Commission have asserted, that mandates from the State are a significant factor.

The accumulation over time of well-intended mandates has resulted in a regime of oversight viewed by many as overly burdensome and complex, sometimes outdated or redundant and very costly.

The following recommendations are directed at either changing existing mandates or proposing new mandates. Together, they will both reduce costs and allow educators to focus more efforts on educating our children.

Recommendations are made in the following areas:

- Cost Evaluation of New Mandates
- Personnel and Other Operational Expenses
- Providing Alternatives in Special Education
- School District Consolidation
- Shared Service Delivery
- The Big Four

Cost Evaluation of New Mandates

New mandates and regulatory provisions are continuously imposed on local governments by the State Legislature and administrative agencies. To ensure that such proposals are fully evaluated to determine the costs of compliance by local government entities, the Commission recommends that the analysis conducted during preparation of fiscal impact notes by the Legislature, and during State Education Department rulemaking, take into account information provided by local governments and the associations that represent them, and that an aggregate total of all new costs imposed by the Legislature and through State Education Department rulemaking be calculated annually by the State Comptroller and made publicly available.

The following Commission recommendations would more effectively incorporate consideration of local fiscal realities and facilitate public review.

1. **No new legislative mandates without a complete accounting of the fiscal impact on local governments, which must include full documentation, local government input and proposed revenue sources to fund the new mandates.** Specifically, the current requirements for the fiscal impact note must be strengthened. Section 51 of the Legislative Law requires that, with some limited exceptions, a fiscal impact note be prepared when a bill is proposed to the Legislature that is presumed to "substantially affect the revenues or expenses, or both of any political subdivision." Joint Rules of the Senate and Assembly articulate the content, procedure, and applicability of the requirements of fiscal notes. However, the Joint Rules do not provide guidance on the level of fiscal analysis required. As a result, the fiscal notes that accompany proposed legislation may vary in quality, and the underlying data and analysis may not be set forth. In addition, fiscal notes may not fully explore the shifting of costs from one government entity to another that will result from the legislative proposal.

> ***All choices have consequences, and school mandates are no exception. Mandates often force school districts to divert financial resources from their most important objective – educating students.***
>
> **- Tom Scherer, President, Geneva School Board**

The existing requirement for a fiscal impact note should be expanded to include more rigorous cost-benefit analysis. The process for developing fiscal notes must include input from local governments, including representatives of school districts. The views of local government associations, including the New York Association of Counties, the Conference of Mayors, the Association of Towns, the School Boards Association and the Council of School Superintendents must be sought when fiscal notes are being prepared, and made available to legislators before the vote on the legislation. Finally, the fiscal note

should identify funding for the full cost of implementing the proposal, including transfer of costs from the state to local governments or among local governments.

2. **No new regulatory mandates from the State Education Department without a complete accounting of the fiscal impacts on local governments, which must include full documentation, local government input, and proposed revenue sources to fund the new mandates.** Not all State mandates originate in statute. Many requirements are advanced as State agency regulations which, depending on the proposal, may not be subject to in-depth fiscal analysis. Almost all State agencies are subject to a regulatory review process that requires analysis of the potential fiscal impact before the rule is proposed. This requirement does not apply to the State Education Department, which is governed independently. The State Education Department has indicated to the Commission that it engages in an informal outreach process to determine the views of parties that will be affected by a potential rulemaking, but does not have a formal written procedure for this process. This Commission recommends that such written procedures, including the requirement of a fiscal impact analysis, be developed and implemented.

3. **Mandate accountability through an annual report the Office of the State Comptroller, which should include the cumulative cost to localities of complying with all new regulatory and legislative mandates**. Fiscal analyses of legislation and State Education Department rulemaking should be aggregated annually to calculate the cumulative cost to localities of complying with new state mandates. Currently, a single source for information on newly enacted mandates and their annual fiscal impact on local governments, including school districts, does not exist. As a result, there is no available analysis of the total impact of new state requirements on localities. This Commission believes that the Office of State Comptroller or another appropriate entity should aggregate the information from fiscal impact notes and the analyses of costs associated with State Education Department rulemaking, and should make this information available to the public. This is a critical step to ensuring transparency of policy-making in relation to the local impact of state requirements.

Personnel and Other Operational Expenses

Personnel

Personnel costs are the key expense drivers for school districts. Testimony presented to the Commission highlighted several statutory requirements and categories of State mandates that have a significant impact on school district costs and warrant immediate attention.

Recommendations related to personnel costs are listed below:

4. **Provide for a regional collective bargaining contract negotiated by BOCES, which school districts could voluntarily adopt.** Currently, each school district negotiates collective bargaining agreements separately, even though individual districts may be inadequately equipped to handle this task. This duplication of effort is expensive, and different salary scales for neighboring districts may inhibit school district consolidations. The LGEC proposed a regional collective bargaining contract with voluntary participation by school districts, and with State assistance and information sharing during negotiations. This would put school districts on a level playing field with teachers' unions during negotiations and would pave the way for consolidations by limiting or eliminating the impact of leveling-up the salary and benefit schedules of two merging school districts. Career flexibility for teachers would be enhanced as they could transfer more easily between districts. These regional contracts would be phased in as current contracts expire and would initially apply only to new hires, with existing employees "grandfathered" for some term. The Commission also recommends that the State consider negotiating a statewide contract, with regional differentials, that would be available for adoption by school districts.

5. **Require local government and school district employees to contribute toward the cost of health insurance, on the same basis as state employees.** This recommendation addresses one of the fastest growing expenses for school districts and local governments by aligning their employee health care contribution requirements with those that apply to State employees who participate in the Empire Plan (10 percent for individual coverage and 25 percent for dependent coverage). The LGEC estimated that this recommendation would save local governments and school districts outside of New York City approximately $475 million annually.

   Many local government entities participate in the New York State Health Insurance Plan (NYSHIP). In addition, the State offers local government employers a lower cost alternative, the Excelsior Plan, which incorporates additional cost containment measures, such as co-pays and limits on some benefits. As a result of these features, the premium rates for this plan are expected to grow more slowly. The Commission urges school districts to consider this centrally managed alternative as a means for controlling costs.

No matter what type of health benefit coverage is offered, the Commission urges school districts to negotiate higher employee contributions and other cost saving measures during collective bargaining.

6. **Encourage health benefit trusts.** This Commission heard testimony that cited savings when school districts pool resources to purchase employee health insurance, as is done through the cooperative health plan administered by the Orange-Ulster BOCES district. These self-funded municipal cooperatives are governed by Article 47 of the Insurance Law. The Commission notes that Governor Paterson has proposed legislation to ease the provisions of Article 47 in order to facilitate additional collaborative participation in health benefit cooperatives throughout the State, as recommended by the LGEC.

7. **Convene a study to implement a new Tier 5 within the pension system.** The LGEC concluded that the current pension program needs to be changed to address the relatively rich benefits available to public employees, and recommended that the State undertake of options. This Commission endorses the evaluation of a potential Tier 5, reinstating employee contributions throughout an individual's working years, and providing either a defined contribution system or the option of a defined contribution benefit. To underscore the urgency of moving to a Tier 5, such a study should review how best, rather than whether, to implement an additional tier.

8. **Require school district reporting on collective bargaining outcomes**. Currently, there is no single source for information on the outcomes of collective bargaining between school districts and employee unions. The Commission believes that this severely limits the transparency of an important aspect of school district operations. The Commission recommends that school districts be required to report on collective bargaining outcomes to the Governor's Office of Employee Relations (GOER). These outcomes would be summarized by GOER in an annual report to the Governor and Legislature. In addition, the Commission recommends that school districts be required to report on collective bargaining outcomes in their annual school budget presentation to the voters, in a manner that clearly and transparently informs the public of those outcomes, and attendant costs.

9. **Amend the Triborough provision of the Taylor Law to exclude teacher step and lane increments from continuation until new contracts are negotiated.** The Taylor Law, which regulates collective bargaining between public employee unions and public employers in New York, contains a provision known as the Triborough amendment. The Triborough amendment makes it an improper practice for a public employer to: "…refuse to continue all the terms of an expired agreement until a new agreement is negotiated."

Speakers testified to the Commission that the Triborough amendment is a major contributor to increases in teacher salaries and it has "tilted the bargaining table" in favor of teachers' unions. It is very difficult to precisely estimate the financial impact of the Triborough provision on school district expenses. However, as documented in this report, personnel costs are the major component of school district expenditures, and have been increasing at a rate above inflation for a number of years.

This Commission recommends that the Triborough provision be amended to create an exception for salary step and lane increments. This amendment would require school districts to maintain salaries at the rate set in the expired agreement, but without further enhancement through step and lane increments during a contract hiatus. This proposal recognizes the basic purpose of Triborough to maintain the status quo during contract negotiations, and would not preclude school districts from bargaining to pay step and lane increments that accrue during the contract hiatus, when a new contract is agreed upon.

Other Operational Expenses

10. **Repeal the Wicks Law, or significantly increase its threshold amounts.** This Commission strongly advocates the repeal of the Wicks Law (General Municipal Law§101). The Wicks Law, enacted in 1912 to promote fair bidding on construction projects, requires the State and local governments to issue multiple prime construction contracts for all public works under a monetary threshold. The original threshold, $50,000, was established in the early 1960's and had not been changed until the 2008-09 Enacted Budget increased the thresholds to $3 million for New York City, $1.5 million for projects in Nassau, Suffolk and Westchester counties, and $500,000 for all other counties.

    According to many local government officials and school superintendents, most construction projects in the counties outside of the New York metropolitan region now cost more than $500,000, and therefore multiple contracting will still be required. New York City had estimated, before the threshold changes, that it would save $3.7 billion over its ten-year capital plan with full repeal of Wicks requirements. There is no way to directly estimate of what a full repeal of the Wicks Law would save school districts, but significant savings are likely, given the districts' almost $4 billion outlay on capital and related expenditures in 2005-06. The bulk of that money went to construction projects ($3.4 billion). The rest went to projects related to land and existing structures (almost $84 million) and to equipment (almost $507 million).

11. **Facilitate cost-effective local purchasing by increasing thresholds for competitive bid requirements.** Local government procurement must be conducted through competitive bidding when the cost of the purchase will exceed certain thresholds. The current competitive bidding thresholds are $10,000 for commodities and $20,000 for

public works projects. The 2008-09 Executive Budget submission proposed increased thresholds of $20,000 and $50,000 respectively, but this reform was not adopted.

12. **Encourage participation in State energy efficiency programs.** Rising energy costs are a pressing concern for school district administrators. All school districts are eligible to participate in the Statewide Energy Services Program offered by the New York Power Authority (NYPA). NYPA designs, constructs and finances each project, and prepares all permits and filings required by the State Education Department. NYPA provides the upfront costs of the project, which are paid back over time from the school district's energy savings. In addition, the New York State Energy and Research Development Agency (NYSERDA) sponsors the Clean Air School Bus Program, which funds emission reduction technology. The Commission recommends increased utilization of these program by school districts, and urges NYPA, NYSERDA and, where appropriate, the Long Island Power Authority to work actively with BOCES and statewide school district associations to expand utilization of these energy efficiency programs.

13. **Centralize and streamline school district compliance reporting.** Because of overlapping State and federal requirements, school districts must prepare numerous and sometimes redundant reports. School district officials repeatedly testified to this Commission their view that compliance reporting required by the State and federal government is often unrelated to program effectiveness. Since 2004, legislation proposed by the State Education Department that would make numerous changes in many areas to existing regulatory reporting mandates has been pending in the State Legislature. This proposal is strongly supported by school district representatives, and the Commission urges both houses to act on this legislation without delay.

    This Commission believes there should be a single unit at the State Education Department responsible for all existing school district reporting, charged with responsibility for streamlining and consolidating all reporting. The unit would also determine how to implement and integrate new reporting requirements. The Commission recommends that the State Education Department involve representatives of school districts in the efforts of this unit.

14. **Simplify or eliminate other individual education mandates.** The Commission received extensive testimony and written materials from school districts about other mandates that they find onerous. The most expensive set of education mandates they cited relate to special education, which is separately discussed below. The Commission wishes to enumerate several other most frequently cited mandates, along with a recommendation that they be reviewed for potential simplification or elimination.

- No Child Left Behind / Academic Intervention Services should be limited to the level of services required by federal law, or school districts could be provided with increased implementation flexibility.

- The process provided for teacher discipline under Education Law §3020(a) should be reformed to reduce the very high overall cost and length of time required to complete individual hearings.

- Turn state mandates that prescribe details of personnel training, for example, one year of mentoring for all new teachers, and special safety training for bus drivers and monitors, into guidelines.

- Repeal personnel health and safety mandates involving paid leave – such as time off for cancer screening or blood donation – to subject such benefits to the collective bargaining process.

- For health and safety mandates imposed on all local governments including school districts – e.g., defibrillators, compliance with environmental regulations – afford school districts flexibility in terms of time to implement and/or method of implementation.

- Convert specific instructional mandates – e.g., requiring graphing calculators or instruction about the Irish Potato Famine – into guidelines.

Special Education

New York State's Social Compact – When discussing special education it is important to emphasize, especially during these difficult fiscal times, that New York State has always had, and continues to have, a deep commitment to the social compact that demands that we care for those most in need. The Commission can be successful in its mission to reduce expenses, especially those that relate to special education, only if it presents a roadmap that not only achieves cost savings, but also improves services and outcomes for students and their families.

> *The Council of School Superintendents commends the members and staff of the Commission on Property Tax Relief for undertaking what appears to be the most thorough independent review of New York's special education policies in the more than 30 years since the current basic structure was put in place.*
>
> - New York State Council of School Superintendents

Understanding Special Education – It is important to understand that "special education" is a term of art. For those who are not education experts, the perception may be that special education programs serve only those students with a severe diagnosed mental or physical challenge. In reality, the 400,000 school-age students classified in special education in New York State include pupils across a broad spectrum of disabilities from those with multiple mental and physical challenges to students with milder conditions. In fact, over 50 percent of the pupils classified as special education students spend more than 80 percent of their day in the regular classroom. Such students may need extra help in reading or math, speech therapy or other support due to either a mild disability or, in the many cases where there is no specific diagnosis, because they are simply not performing as well as their peers.

Parents, Students and the Educational System – The Commission solicited testimony and spoke with dozens of experts throughout this process. Many parents of students with milder issues seek special education classification for their children because they want them to receive "extra help" or services so they can succeed in school and life. They do not have enough confidence that their children will be provided with the assistance they need in the educational system unless they are classified as special education students.

We, as a State, must do a better job of providing "extra help" and other supportive services that parents demand and children need, in the general education setting. Classifying students into special education is not only more costly, but more restrictive and potentially less conducive to a student's success. To accomplish this goal, parents need to be able to trust that their children will be better served in the general education environment. Therefore, general education services for students with mild disabilities must be enhanced.

The Problem – Costs are too high, too many special education students are in separate schools or in other more restrictive environments, and key educational outcomes are well below the national averages.

NYS (including NYC) Special Education Compared to Other States, 2005-06

	New York		U.S. Average
	Amount	Rank	
Special Education Salary Expense Per Pupil	$10,466	1st	$3,428
Classification Rate[25]	15.9%	13th	13.8%
Graduation/Equivalent Rate[26]	47.0%	38th	52.5%

Source: U.S. Department of Education, NCIS

[25] The classification rate used within New York State and throughout this report is 12.4%. For purposes for comparison to other states, 15.9% is used. The rate used for comparison to other states calculates special education pupils as a percent of public school pupils. The rate used within New York State calculates special education pupils as a percent of public and private school pupils.

[26] State variation may reflect differences in requirements for graduation.

Special education was one of the mandates most frequently cited by school officials during testimony to the Commission as a significant contributor to educational costs. Almost all representatives of school boards and school district management, as well as many academic experts, pointed to the growing costs of compliance, and the fact that as of 2007, New York had over 200 separate special education mandates that either clarify or exceed federal requirements.

By a significant margin, New York ranks first in special education expense per pupil.

Based on salaries (the only data available for comparing expenditures by all states), New York spent $10,466 per pupil in 2005, three times more than the national average of $3,428. New Hampshire was a distant second, at $6,775 per pupil.

Even while spending much more, New York ranked 38th in 2005 in key educational outcomes, such as the proportion of such students leaving the system with either a diploma or certificate, or transferring to general education.[27] The graduation rate for those students is approximately 50 percent statewide, but only about 20 percent in large cities.

According to the State Education Department, special education accounts for 27.1 percent of the total instructional cost of education, even though it involves only 12.4 percent of the students. As shown on the following table, special education has been a key element in the past decade's accelerated growth in overall school expense. Instructional cost per pupil for special education is substantially higher than for the general pupil population – in 2006-07, instructional expense per pupil for special education was $23,898, just over 2.5 times the $9,494 for general education.

Special and General Education Summary
New York State, 2006-07

	Special Education	General Education	Total
Instructional Expense	$9.7 B	$26.1 B	$35.8 B
Share of Instructional Expense	27.1%	72.9%	100%
Pupils	405,309	2,747,663	3,152,972
Share of Pupils[28]	12.4%	87.6%	100%
Instructional Expense Per Pupil	$23,898	$9,494	$11,345

Source: State Education Department ST-3 filings

[27] Note that outcomes may reflect differing standards for graduation requirements.
[28] This rate is the ratio of school-age residents who are classified as having disabilities, divided by the total district-resident school-age population (including public school students, nonpublic school students, and students receiving home instruction).

For the last five years, special education expense has grown at a compounded annual rate of 9.0 percent, while general education spending has grown at a rate of 5.7 percent.

Annual Growth of Special and General Education
New York State, 2006-07

	Special Education	General Education	Combined
Instructional Expense	9.0%	5.7%	6.6%
Pupils	0.2%	- 0.6%	- 0.5%
Instructional Expense Per Pupil	8.7%	6.4%	7.1%

Source: State Education Department ST-3 filings

The split of funding for special education, as of 2006-07, was 7 percent federal, 32 percent state categorical aid and 60 percent local revenue and other. The most significant state categorical aid is foundation aid, under which districts receive for each special education pupil 2.41 times the amount received for other pupils. Districts also receive excess cost aid for out-of-district placements and for serving high need students in district.

The Commission is convinced that the chief motive for special education classification is the desire of parents' and educators' to deliver enriched services to students. However, the Commission joins in the Regents' concern that many children classified as having a disability may actually lose out on better educational opportunities available in the regular classroom.

Special Education Classification

Special education involves specifically designed individualized or group instruction or special services to meet the individual needs of students with disabilities. The federal IDEA requires that every child receive a "free and appropriate education" in the "least restrictive environment" which, in appropriate cases, means regular classrooms. While some special education students are educated in separate classroom, increasingly more students in almost all disability categories are spending much of their day in the regular classroom.

Each school district administers its own system for special education services under district policies. To receive special education services, each pupil must be evaluated and then classified as to disability type by a committee on special education (CSE, or CPSE for pre-school). There are 13 categories of disability under state law, covering a range of conditions varying in severity. As the chart below shows, in 2006-07 almost two-thirds of the special education classifications were for learning disabilities (42.7 percent) and speech or language impairment (21.7 percent).

Other familiar disorders, such as autism, mental retardation, or emotional disturbance account for only a small proportion of pupils, 3.7 percent, 3.3 percent, and 8.9 percent, respectively.

Distribution of Learning Disabilities in All Settings for Ages 4-21, 2006-07

Learning Disability	42.7%
Speech or Language Impairment	21.7%
Other Health Impairment	12.4%
Emotional Disturbance	8.9%
Multiple Disabilities	5.2%
Autism	3.7%
Mental Retardation	3.3%
Hearing Impairment	0.7%
Orthopedic Impairment	0.5%
Deafness	0.3%
Visual Impairment	0.3%
Traumatic Brain Injury	0.2%
Deaf Blindness	0.0%
Total	*100.0%*

Source: New York State Education Department

Parents are driven by a strong and completely understandable desire to do what is best for their children. The Commission heard testimony from parents who perceived that their child would thrive academically only with the additional support available through placement in special education. When a child is classified as needing special education, the district's Committee on Special Education develops an annual individualized education program (IEP) for the student that specifies an appropriate level of services, and sets goals. Parents who do not agree with the IEP developed for their child may request a due process hearing to review the plan.

Today, slightly more than 400,000 public and private school-age pupils in the State – one out of eight pupils – have been classified as needing special education services. This 12.4 percent classification rate[29] is a slight increase over the 11.8 percent rate five years ago.

Classification rates vary considerably across the State, even among similar districts. For example, as shown in the following table, low need districts range in classification rates from 4.7–17.6 percent, and the

Classification rates vary considerably across the state, even among similar districts. In low need districts, classification rates range from 4.7–17.6 percent, while average need school districts range from a low of 2.2 percent to a high of 23.1 percent.

[29] The classification rate used within New York State and throughout this report is 12.4%. For purposes for comparison to other states, 15.9% is used. The rate used for comparison to other states calculates special education pupils as a percent of public school pupils. The rate used within New York State calculates special education pupils as a percent of public and private school pupils.

classification rate among 337 average need school districts ranges from a low of 2.2 percent to a high of 23.1 percent. Although overall pupil counts in New York State have begun to decline, special education classifications have remained stable.

Range of Special Education Classification and Per Pupil Instructional Costs for Both General and Special Education According to Need Resource Capacity: 2006-07

Need Resource Capacity	Number of Districts	Classification Rates		Per Pupil Instructional Costs	
		Average	Range	Special Education	General Education
NYC	1	12.3%	NA	$27,212	$9,861
Big 4	4	12.2%	7.0%-15.75%	$20,548	$8,915
High Need / Urban-Suburban	46	13.2%	9.0% - 19.7%	$24,442	$9,679
High Need / Rural	156	13.6%	6.8% - 19.5%	$19,166	$8,381
Average Need	337	12.9%	2.2% - 23.1%	$23,956	$8,696
Low Need	133	11.1%	4.7% - 17.6%	$30,054	$10,797
Total	*677*	12.4%	*2.2% - 23.1%*	$25,458	$9,494

Source: New York State Education Department

The wide disparity between districts is directly related to two factors: 1) variation in subjective standards being applied by committees on special education in different districts; and 2) differing capacities of districts for accommodating students with the need for extra help in general education settings.

> ***[Our goals] are to prevent unnecessary special education placements and to ensure that students with disabilities who are returning to or remaining in the general education program have the support they need to meet higher standards.***
>
> **- December 1996 Report to the Regents by State Education Commissioner Richard Mills**

The Board of Regents has in recent years often expressed concern about inappropriate classification, and State Education Department has worked to avoid inappropriate referrals for special education. The department has encouraged and sometimes required new practices in districts where performance measures indicate significant need for reform.[30]

[30] New York State Board of Regents, P -16 A Plan For Action. November 2006.

Special Education Hearing Requirements

During the 2007-08 school year 6,157 hearings were requested in New York State. Most were settled or withdrawn, and only 820 of the requests resulted in issued decisions. According to research conducted by the New York State Dispute Resolution Association (NYSDRA), the average impartial hearing costs $75,000.[31] During a public hearing on Long Island, one superintendent from Long Island referred to a case that will cost his district $300,000. Results from a survey conducted by the Council of New York Special Education Administrators (CNYSEA) revealed that hearing costs ranged from approximately $25,000 to over $100,000. These expenses do not include costs associated with the State Education Department review of impartial hearing decisions. Thus, our school districts are spending millions on special education dispute resolution, which could otherwise be funneled to programs and services that improve educational outcomes.

Special Education Transportation

A student with a disability is entitled to suitable transportation, as specified in the child's Individualized Education Program. State law requires transportation to and from public school and nonpublic school settings within 50 miles of the child's home, if the child is receiving special education services and programs. The Commissioner may approve placement more than fifty miles in distance if no appropriate non-residential special service or program is available.

Each district has discretion to determine how transportation is provided. School districts may provide transportation services themselves, or contract with a private contractor or with BOCES, or use a combination of providers. State aid reimbursement is available for the cost of transporting students with disabilities.

School superintendents testified to the Commission that the already high cost of special education is increased by the growing district expenses associated with transporting students to non-public schools and off-site special education programs. As an illustration, nine Westchester school districts[32] report spending 30 percent of total transportation on public school student transportation; 23 percent of total transportation on non-public school students; and 47 percent of total transportation on special education (including out of district) transportation.

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[31] The NYS Dispute Resolution Association, Inc. (NYSDRA) calculated this figure in 2005 by interviewing several NYS Special Education advocates and parent attorneys regarding their average expenditures, and what was included in those costs (preparation for the hearings, hearing costs, experts, etc.), and several hearing officers to determine what costs they incurred.

[32] Regional Educational Advocacy Group. Written Testimony submitted to CPTR. June 2008.

Special Education Recommendations

Outcome-Based Accountability

15. The State Education Department should shift its emphasis from regulatory enforcement, especially in special education, to performance standards, and support improved performance with training and expert assistance that promotes best practices. This shift in regulatory approach is particularly important in the area of special education, but should be applied to general education as well.

Consistent with this approach, the State Education Department should actively engage those schools that do not meet performance standards by offering technical assistance and support. There are 204 State mandates that implement, clarify, or exceed the Federal special education requirements. As a first step towards performance-based management, the Commission recommends those State mandates that exceed federal law be administered as guidelines, where appropriate. To accomplish this, the State Education Department should convene a group of stakeholders, including representation from school boards, superintendents, principals, teachers and parents, with the goal of converting as many of these State mandates into guidelines as possible by the 2010-11 school year.

In the interim, the following mandates should be revised and simplified by the 2009-10 school year:

a. **Staffing Guidelines:** The Commission believes that inflexible staffing mandates that require pupil-teacher-aide ratios for various classifications and settings are a key contributor to the expense of special education.

b. **CSE Guidelines:** The requirements for the composition, procedures and multiple deadlines of the Committees on Special Education should be reduced to the Federal IDEA requirements.

c. **IEP Guidelines:** Many of the requirements for the composition of Individualized Education Program teams should be reduced Federal IDEA requirements and/or turned into guidelines, including requirements for IEP content.

d. **Eliminate Class Size Requirements:** Class size mandates should be repealed, and schools should be permitted to establish class size based on their students' needs.

e. **No Minimum Service Levels:** There should be no mandatory minimum levels of special education services such as the current minimum two hours per week for speech therapy, to cite one example. CSEs should be allowed to determine what service level is needed for each student.

f. **Requirements for Autistic Pupils Are Too Prescriptive:** The requirements for autism reflect the older, more severe definition of the disability and not the broader definition that is applied today. As a result, the specificity of existing requirements prevents CSEs from determining the appropriate level of support and service needed for each student.

g. **Increase Responsibility of the District of Residence:** Advocate for a federal change so that the district of residence can retain or at least share responsibility for the IEP in instances involving parental placement.

h. **Transportation:** Advocate for a federal change that would reduce the requirement that transportation be provided up to 50 miles to and from a private school.

Integrate Special Education with General Education

16. **Dramatically accelerate the integration of special education with general education.** For children with milder issues, parents should not have to pursue classification of their child in special education in order to receive services. Nor should districts be forced to go through the formal classification process before providing any basic additional help to pupils with milder needs. The Commission believes that the integration of special education with general education must be accelerated dramatically. Further, the artificial and outmoded barrier of "classification"

> ***Providing an appropriate education to students with disabilities will always cost proportionately more than services to non-disabled students, as their needs are, by definition, more intensive and more individualized. However, we must insure that these extensive dollars are spent in an effective manner that produces positive outcomes for these students and long-term benefits and savings for the taxpayers and the State's economy.***
>
> **- Rebecca Cort, Deputy Commissioner, Vocational and Educational Services for Individuals with Disabilities, New York State Education Department**

between general education and special education should be eliminated for the large number of pupils with needs on the milder end of each disability category or spectrum. The full integration of special and general education will be accomplished only if the skepticism of parents is allayed. The Commission believes this can occur if school officials and parents communicate and build partnerships to ensure that the needs of students are met.

The Commission proposes to strengthen educational services in general education, so that pupils with milder needs can be adequately served without being classified for special education.

a. **Enhance general education with evidence-based practices to provide appropriate services for all students.** "Evidence-based" techniques, such as response to intervention (RTI), identify individual pupil needs and adapt instruction to meet those needs. RTI and similar techniques should be available to all students in general education, early enough to improve educational performance, and without the need for classification for those with milder needs. This would ensure that services are available to more pupils, and would reduce classification, bureaucracy and overall expense. The Commission notes that the State Education Department is actively promoting the strengthening of general education to address the needs of struggling students who are at risk for classification without adequate intervention, and commends the State Education Department's efforts to encourage all school districts to adopt RTI.

b. **Strengthen pre-service training of all teachers so that they are prepared to meet the needs of students with disabilities in general education settings.** To maximize the inclusion of students with disabilities in the regular classroom, and to address workforce shortages, all teachers should be trained to meet the needs of students with disabilities in the general education environment.

c. **Encourage schools that reduce their classification rate to invest available funding.** Such schools generally continue to receive enhanced foundation aid as a result of "save harmless." These schools should invest those funds in general education programs that enhance services for students with milder needs.

Decrease Special Education Classification Rates

17. **School districts with classification rates 20 percent higher than the State average (approximately 130 school districts), should be reviewed by the State Education Department to determine if assistance in reducing these rates is required.** The State Education Department, working with BOCES, should expand the efforts of their expert teams to assist local Committees on Special Education in districts with high classification rates to follow State classification standards, identify weaknesses in general education capacity and implement best practices. In addition, the school report cards should include declassification rates as well as classification rates to emphasize the importance of reassessment of student needs.

Reduce Litigation Costs

18. **Reduce the Cost of Litigation.** The expense of litigation must be decreased, as amounts saved could be spent to improve and increase programs for students in special education.

    a. **Promote alternative dispute resolution:** The existing special education mediation program should be expanded and other methods to encourage early dispute resolution, such as IEP facilitation, should be promoted. Building parent and school district partnerships and trust is fundamental to reducing disputes and therefore costs.

    b. **Remove a hearing layer in the dispute process:** One layer of the current hearing process, which involves a district hearing followed by a State Education Department hearing, should be eliminated. Measures should also be taken to reduce the number and duration of disputes, and the consistency and effectiveness of hearing officers should be evaluated.

    c. **Shift the burden of proof in hearings:** Chapter 583 of the Laws of 2007 placed the burden of proof on the school district. This law should be modified so that the burden of proof is on the school district only when the family is unable to afford counsel.

    d. **Shorten the statute of limitations for non-approved private school reimbursement cases:** Parents who enroll their child in a non-approved private school, without the approval of the IEP team, have two years from the alleged violation to file a due process complaint seeking reimbursement from the school district for the cost of the placement. (Education Law § 4404 (1)(a)). Since school district budgets may be adversely affected when parents seek private school tuition reimbursements years after a placement, the time period for filing a complaint should be shortened to 90 days. Vermont, for example, has adopted a shortened statute of limitations for such reimbursement cases.

Increase Collaboration to Provide Services

19. **Increase Collaboration in Providing Services.** Numerous educators testified about the high cost of out-of-district placements, citing instances of tuition exceeding $100,000, expensive transportation, and reimbursement policies that do not adequately encourage collaboration.

    a. **Facilitate school district consortia to provide local alternatives to out-of-district placement.** School districts should consider joint planning to develop specialized programs that can be made available to other districts and coordination to make underutilized special education programs available to students from neighboring districts. These strategies could limit the need to send students to private programs.

    b. **Share out-of-district transportation for special education,** preferably as part of a broader shared non-instructional services effort through BOCES or through local district consortia.

    c. **Increase interagency collaboration to provide efficient regional delivery of emotional and psychiatric treatment.** Regional treatment of students with severe emotional disabilities could be established through partnerships that include school districts, the State Education Department and New York State Office of Mental Health and/or BOCES to determine whether there would be tuition and transportation savings. Providing more locally based services has the advantage of allowing students to remain in their homes and local schools, wherever possible.

Secure Federal Investment and Additional Savings

20. **Federal Investment and Additional Savings.** As funding special education remains a key reason for accelerated school spending and a significant burden on the property taxpayer, the Commission recommends the following:

    a. **The Governor and the Legislature should call upon New York's Congressional Delegation to secure the federal commitment to special education.** Congress set a target for the federal contribution to special education spending equal to 40 percent of the estimated excess cost of educating children with disabilities. In 2006-07, IDEA federal funding covered only 7 percent of the estimated additional cost of educating children with disabilities in New York. The shortfall in IDEA funding must be covered by the states and local school districts, creating additional burdens on local school budgets and school property taxes.

Additionally, the State should seek to maximize the availability of federal Medicaid reimbursement to offset the cost of providing special education to low income children with disabilities.[33]

b. **Shorten the time for reconciliation to reduce the amount of interest paid.** Several hundred schools – special act school districts and VESID approved special education private schools – have tuition set by the State Education Department rate setting methodology. The State reconciliation method includes payment for the interest borne by the district. If a timelier rate setting process was established, the State would save money by paying less interest on the loans.

Seeking Economies of Scale and Enhanced Educational Opportunities

New York State has too many school districts – 697 outside of New York City. These districts have an average size of 2,540 students, well below the national average of 3,400. Many of New York State's school districts are small – just over 200, or 28 percent, have fewer than 1,000 students. Many other states have much larger average school district student populations. For example, Maryland, North Carolina and Virginia average 36,000, 12,000 and 9,000 pupils respectively.

Smaller school districts have two basic flaws: 1) they are more expensive on a per pupil basis compared to larger districts; and 2) the educational opportunities they provide are more limited than those offered by larger districts.

Expense: School districts with fewer than 1,000 students spend more on non-instructional services than larger districts. In 2006-07, these districts spent $5,345 per student on non-instructional services, or $859 (19 percent) more than the average spent by all districts outside of New York City. The Commission staff conducted a regression analyses that found a statistically significant relationship between school total spending per pupil and pupil numbers – the higher the pupil numbers up to 1,000, the lower the per pupil spending.

Not only do smaller school districts spend more per pupil on overhead and other non-instructional expense, they also spend more on instruction per pupil. Commission analysis demonstrated that the merger of smaller school districts (smaller than 1,000 students) could save

[33] Medicaid provides for a 50% federal contribution, 25% state contribution and 25% local contribution of all eligible educationally related health services to children with disabilities.

as much as $7 for every additional student. In other words, for every 100 pupils added to a district with fewer than 1,000 pupils, the expense per student would be reduced by $700.

These savings are not trivial, and they support similar findings from the Maxwell School at Syracuse University.[34] Researchers found that consolidation would save two 900-pupil school districts 7 to 9 percent and two 300-pupil districts approximately 20 percent. In its final report, LGEC used the Maxwell School findings to estimate savings of $159 to $189 million from merging New York State districts with fewer than 900 students. These savings could be used to both increase educational opportunity and lower local school property taxes.

Educational Opportunities: The Commission found that higher pupil counts are related to increased educational opportunities. For example, one analysis of school districts with fewer than 1,000 students found that larger school districts within the study group had a greater likelihood of Advanced Placement course participation among pupils in grades 10 through 12.

There are two major areas of recommendation: 1) consolidation of school districts with fewer than 1,000 students and 2) shared provision of services among school districts or more broadly with units of local government, to achieve economies of scale and operational efficiencies.

School District Consolidation

The Commission makes the following recommendations regarding school district consolidation:

21. **Require consolidation of school districts that have fewer than 1,000 pupils. Additionally, grant the Commissioner of Education with discretionary authority to order consolidation of school districts with fewer than 2,000 pupils.** As a first step in determining where and how these recommended consolidations should occur, the State Education Department should undertake reviews that examine school districts under objective standards based on pupil enrollment trends, geography, breadth of educational programs, potential fiscal savings and level of tax burden. This Commission recognizes that these reviews could identify isolated instances where consolidation of districts would not be feasible. In addition, committees could be formed within each BOCES region to evaluate potential restructuring opportunities of school districts. The Commission understands that communities will have concerns regarding a loss of identity if school buildings are closed or sports teams disbanded. The Commission believes that efficiencies can be realized without such measures, through centralized

[34] Duncombe, William, and John Yinger. Does School District Consolidation Cut Costs? Syracuse: Center for Policy Research, 2001.

administration of a newly created, larger school district. In fact, in certain areas only administrative consolidation may be practical, especially where geographic distances would be too great to make consolidation feasible.

22. **Restructure state school reorganization aid to ensure that it is used predominantly to pay for reorganization expense or to provide needed services. Additionally, temporarily suspend building aid for new projects for districts identified for potential reorganization.** Currently, operating aid is increased by 40 percent for 5 years for districts that reorganize, and then reduced 4 percent a year over the next 9 years. This state incentive aid typically exceeds the direct costs of reorganization as well as the benefits. School reorganization aid should be reduced to pay only for reorganization expense or to improve needed services. The use of aid for "leveling up" of salaries and benefits, which diminishes merger savings, should be precluded, unless they result from collective bargaining and are approved by voters. Districts considered for consolidation should provide an estimate of direct costs associated with reorganization for consideration by the Commissioner of Education in making a determination.

23. **Amend state law to simplify consolidation by removing anachronistic distinctions between, union free, central and city school districts.** New York State Education Law provides various methods for school district reorganization, depending on the district category. For example, union free and small city district consolidations may be locally initiated, subject to the Commissioner's approval, while merger of other districts must be initiated by the Commissioner. Such distinctions should be removed to facilitate streamlining. In addition, there are no provisions authorizing merger of the "Big Five" city school districts with other districts, and the school districts in other cities cannot be consolidated with each other. All of these statutory barriers to consolidation should be removed.

Shared Service Delivery

Cooperative arrangements to share the expense of non-instructional support services among school districts can reduce expenditures for all school districts regardless of size. Sharing services maintains school districts as separate operating entities while reducing duplication in the provision of services such as personnel transactions, maintenance and grounds upkeep, pupil transportation, budget preparation and auditing. Boards of Cooperative Educational Services (BOCES) are authorized to offer both instructional and non-instructional shared services, some of which are eligible for reimbursement through state aid. BOCES expenditures on non-instructional services in school year 2006-07 totaled 16 percent, of their total expenditures of $2.4 billion. All school districts, except the Big Five and four others are members of a BOCES

There are numerous examples of consolidation of non-instructional functions through BOCES. These include a long-standing arrangement, the New York School and Municipal Energy Consortium, through which the Onondaga-Cortland-Madison BOCES has jointly purchased energy for school districts and local government entities throughout upstate. A similar program is managed by the Erie 1 and Erie 2 BOCES. The QUESTAR III BOCES provides state aid analyses and internal audit capacity for school districts statewide, and eleven BOCES deliver "back office" services. Nassau County Executive Thomas R. Suozzi recently released a plan under which a range of services would be jointly provided through mutual cooperation among the Nassau County government and local political subdivisions, as well as BOCES and school districts.

> ***I propose that we unleash the enormous potential of our BOCES throughout the state to reduce costs through greater service sharing beyond what BOCES is legally allowed to provide.***
>
> **- Ronald D. Valenti, Superintendent of Blind Brook School District**

The Commission makes the following recommendations regarding shared service delivery:

24. **Amend Education Law Section 1950 and General Municipal Law Article 5-G to remove obstacles and clearly authorize BOCES to enter into agreements with other local government entities for non-instructional services.** Article 5-G of the General Municipal Law broadly authorizes "municipal cooperation" among counties outside of New York City, cities, towns, villages, BOCES, fire districts and school districts for the performance of functions or provision of services. However, unlike other public entities, BOCES requires the approval of the State Education Department before entering into such agreements. To foster implementation of such initiatives on a broader basis, it may be appropriate to remove this approval requirement for BOCES participation in non-instructional shared service agreements, placing BOCES on the same footing as other public entities with ability to enter into, or lead, joint ventures. The State Education Department should, however, retain full jurisdiction over BOCES services that involve instruction or other activities for which state aid reimbursement would be available. Article 5-G should also be amended to permit public institutions of higher education, including community colleges, to participate in inter-municipal agreements.

25. **Rescind the statutory cap on the BOCES district superintendent salaries.** The BOCES district superintendent serves two roles. The individual is the chief executive officer of the BOCES who is hired by and reports to the BOCES board. The individual is also an employee of the Commissioner of Education and his or her representative in matters of concern to the Commissioner. The BOCES district superintendent's salary is paid in part by the BOCES district and in part by the State Education Department.

Currently, district superintendent salaries are linked to the salary of the Commissioner of Education to maintain alignment. This salary level has proved to be an obstacle to hiring and retaining the BOCES superintendents in wealthier areas of the state where school district superintendents' salaries are either on par or higher. Testimony presented to this Commission suggests that the current 25 percent vacancy rate in this pivotal leadership position resulted from non-competitive salary levels. The Commission recommends rescinding the BOCES salary cap to improve the ability of BOCES districts to hire and retain highly-qualified individuals for this demanding job.

Big Four City School Districts

Buffalo, Rochester, Syracuse and Yonkers (the "Big Four") have fiscally dependent school districts. Local revenues for the Big Four school districts are collected as part of city taxes that are also used to fund other municipal services, but the mayors in these cities have no role in the administration of schools. Instead, the Big Four school districts are governed by independent school boards who do not have to submit a budget to the voters each year. This system of governance is unlike New York City's mayoral control structure, and unlike the structure of independent school districts where the school boards levy taxes and manage schools. The Big Four are caught in between, without alignment between management and finances.

> ***As government leaders, it is time to take a hard look at everything we do and how we do it. We have to do more than cut services and make them smaller. We have to change the way we deliver services and make them better.***
>
> **- Mayor Robert Duffy, City of Rochester**

The Big Four have not had significant local revenue increases to school funding. From 1993-94 to 2007-08, the compound annual growth rate for local school revenue has been less than 1 percent (0.2 percent). This slow rate of local school revenue growth was possible largely because of significant state aid increases.

The Commission recommends:

26. **Exempt the Big Four from the proposed property tax levy cap**. Under the State Constitution, all municipalities, including the Big Four cities, are already subjected to a property tax rate cap for county and city purposes of no more than 2 percent of the average full valuation of real property. As the Big Four cities must both fund typical city services as well as schools, their current limit is much more restrictive than for areas with

independent school districts.[35] Also, as local school revenue growth is typically less than 1 percent for the Big Four school districts, a tax levy cap set at the lesser of 4 percent or 120 percent of the consumer price index may be superfluous. Moreover, because property taxes are not dedicated solely to schools, a cap on the property tax levy would put a limitation on the ability of these cities to raise funds to support other municipal functions. Big Four cities raise funds from a multitude of sources, so a cap on the property tax could simply shift the burden to other revenue streams.

27. **The calculation of the Maintenance of Effort (MOE) requirement should be modified from a fixed dollar amount to a per pupil amount.** The current MOE requirement was instituted in conjunction with the recent significant increases in school aid to ensure that state funds are used to increase school funding and do not simply replace local funds that had been devoted to education. If pupil counts continue to decline as they have for the past six years, the current MOE requirement implies an increased, rather than maintained, local share of school expenses. However, any decrease in the MOE amount must be less than the full per pupil amount to reflect funding for fixed costs. Maintaining the MOE requirement as currently structured will eventually, assuming continued population declines, put upward pressure on the property tax.

28. **Grant mayoral control for the Big Four school districts, with a sunset provision.** The Commission believes that mayoral control of education can enhance accountability for school performance and strengthen the links between school finances and management. Given the financing structure of dependent districts, linking school governance to existing political structures will allow for coordination with city-provided services, such as parks and recreation and social services. Most importantly, if mayoral control is successful in improving school performance, there may be a positive effect on economic development, retention of middle class families, and protection or expansion of the property tax base. The structure of governance should either be through a school board, with the members appointed by and serving at the pleasure of the mayor or, similar to that of New York City, with a chancellor reporting to the mayor.

[35] In 2005-06, Buffalo had exhausted 81.2 percent of its Constitutional tax limit, Rochester had exhausted 75.7 percent , Syracuse had exhausted 72.4 percent and Yonkers had exhausted 58.9 percent .

Additional Recommendations

Encourage Efficient Delivery of Social Services

29. **The Governor should direct the appropriate state agencies to collaborate and coordinate with each other and with local school districts to provide social services to students in schools.** By using existing state and local resources, social services could be provided more efficiently and effectively to children who need them in their own schools.

Property Tax Assessments

30. **Move property tax assessing and collection to counties for administration, providing reasonable phase-in provisions.** New York State's assessing system is among the most fragmented in the nation, with 1,128 individual assessing units, almost all at the town, city and village level of government. Tax collection is also quite fragmented, again mostly at the municipal level. Property assessment as well as property tax collection should be consolidated at the county level of government. Benefits from county-level assessing include, among others: (1) elimination of tax shifts resulting from changing equalization rates within the county; (2) improvement in assessment accuracy resulting from more regionalized data, analyses and market monitoring; and (3) specialization of staff for specific types of properties. This Commission further recommends that a system be established for charging back municipalities for the services shifted to county government, as a means of funding these services.

31. **Eliminate statutory requirements for school district collections that prevent functional consolidation.** School district boundaries are not at all co-terminus with other municipal boundaries. In fact, the 700 school districts have some 2,900 segments that cross into different towns, cities, village and counties. As a result, school district tax collections are handled differently depending on which portions of the district are located in a town of the first class, a town of the second class, or within a city. Having three different statutory arrangements for tax collections poses a barrier to consolidated, modernized operations. These statutory impediments to the efficiency of school tax collection should be removed.

32. **Establish uniform statewide assessing standards.** New York is one of only three states that do not have clear statewide valuation standards and is one of the few without periodic revaluation of all properties. The combination of a myriad of assessing jurisdictions and the lack of statewide standards makes the New York system of property assessment arguably the worst performing in the country, in terms of equitable treatment of taxpayers.

The Commission heard repeated testimony from assessors about the need for statewide assessing standards, including cyclical or annual reassessments, as well as on the plethora of exemptions that benefit some taxpayers and push the burden onto all the others. Numerous elected officials and assessors expressed the need for the state to reestablish common standards of assessing. Statewide standards would also greatly facilitate certain aspects of property tax relief, including the calculation details of both a levy cap and a circuit breaker.

The Commission recommends adoption of a statewide full value standard, which would require that every parcel be valued at its estimated market value, i.e., at 100 percent of full value. This could be adjusted annually, or at a minimum on a three-year cycle for all assessing jurisdictions. A phase-in would be appropriate for communities requiring a major reevaluation, and the restrictions on assessment increases which currently primarily affect New York City and Nassau County, would need to be repealed. To assist in the implementation of this program, the State through Office of Real Property Services (ORPS) would continue to provide aid to local assessing units when they conduct revaluations.

Estimates of Savings from Recommendations Affecting School District Expenses

Commission staff made high-level estimates of the potential expense savings from implementing the recommendations for changes to state law and mandate relief that appear above. Commission staff estimates that approximately $3 billion to $4.5 billion in statewide expense reductions ($2 billion to $3 billion for all school districts outside New York City) could result from full implementation of these recommendations. Commission staff estimates were not reviewed by the Commission.

Special Considerations: Rural School Districts

Rural School Districts

The Commission concluded, based on testimony, that the unique characteristics of rural school districts warrant special consideration. Of New York's almost 700 school districts, more than 300 are small and rural. Many of these districts are not just small but poor, yet their property tax rates are high – reflecting their very weak tax bases. The Commission noted that the State may not always adequately recognize the particular challenges posed by the poverty of many rural school districts.

Of these rural districts, 158 are classified as high-need districts. That is, they have comparatively low revenues and low property wealth – the symptoms of a tax base that is getting weaker.

For example, the Commission heard from Larry Cummings, Executive Director of the Central New York School Board Association who represents 50 small school districts in Central New York. He spoke about Hannibal, a low-income school district in Oswego County, just north of Syracuse. It has about 1,600 pupils, over 60 percent of who are at risk. Hannibal has one-third the wealth of an average school district. The total value of the property in the school district is just over $200 million – about $125,000 of taxable property per pupil.

Lawrence Kiley, Executive Director of the Rural Schools Association of New York State, illustrated for the Commission how these high-need, rural districts, like so much of Upstate, are experiencing the effects of a net population outflow and a lagging economy. Specifically, of 158 high-need rural districts, the combined pupil population has declined just over 1 percent per year for the last dozen years, with total pupil population declining from 196,000 in 1993-94 to 167,000 in 2005-06. The rate of decline actually increased, with these districts losing 1.5 percent of their pupils each year from 2000-01 to 2005-06, with a consequent reduction in tax base.

State aid growth rates vary from district to district based on several factors but generally tend to favor those districts that have suffered population losses. Districts with declining pupil counts are more likely to have higher per pupil state aid increases than those with consistent or rising pupil counts.

The current foundation formula has been targeting larger per pupil state aid increases to high-need rural districts when compared to urban and suburban districts. The combined annual growth rate of per pupil state aid to high-need rural districts is 5.9 percent from 1993-94 to 2006-07. The combined annual growth rate during this period for all school districts outside of New York City was 5.0 percent. High-need rural districts have also fared better than high-need urban/suburban districts in terms of per pupil state aid growth.

The Commission's recommendations, we believe, will have a major salutary effect. The average citizen in these districts is likely to benefit strongly from a revised property tax circuit breaker benefit, which provides individual tax relief. The impact of mandate relief on rural high-need districts will be substantial. Since these districts may not be able to offer services in addition to instructional basics, relief from mandates, and other cost-saving measures recommended in this report will have the most meaningful impact in such districts.

Appendix A: Executive Orders

No. 22: ESTABLISHING THE NEW YORK STATE COMMISSION ON PROPERTY TAX RELIEF

January 23, 2008

WHEREAS, high local property taxes impose a tremendous burden on New York taxpayers, including forcing seniors out of their homes, driving our young people out of our state, and discouraging the formation and expansion of businesses; and

WHEREAS, New York's per capita local tax burden is the highest in the nation, and is more than twice the national average; and

WHEREAS, school district property taxes account for 61% of the property taxes paid by New Yorkers outside of New York City, and these taxes have been growing by an average of 7.3% annually; and

WHEREAS, local property taxes have continued to rise, despite last year's historic increase in state education funding and numerous State efforts to relieve the property tax burden; and

WHEREAS, there is a need to uncover the root causes of high property taxes, with particular examination of unfunded mandates on both school districts and municipalities;

WHEREAS, the State's annual investment of $5 billion to lessen the impact of property taxes through the School Tax Relief (STAR) program has not mitigated the need for school districts to raise taxes over the past few years; and

WHEREAS, consideration must be given to the implementation of a fair and effective cap on school district property taxes while maintaining educational quality; and

NOW, THEREFORE, I, Eliot Spitzer, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York, including section six of the Executive Law, do hereby establish the New York State Commission on Property Tax Relief, with the following membership, responsibilities and powers:

1. The Commission shall be comprised of the following seven members: Thomas R. Suozzi, who shall be the Chair, Shirley Strum Kenny, Basil A. Paterson, Nicholas J. Pirro, Michael A. Solomon, Merryl H. Tisch, and Paul A. Tokasz.

2. The Commission shall examine and investigate the management and affairs of any and all departments, boards, bureaus or commissions of the State of New York with respect to the issue of local property taxes, including, but not limited to:

   (a) the root causes of New York's high property tax burden, including the expenditures of local governments and school districts, unfunded mandates imposed by the State, and other factors driving the growth of local property tax levies;

   (b) the impact of increased state financial support and state taxpayer relief and rebate programs on local school district budgets and tax levies;

   (c) the extent of public involvement in the development and approval of school and other local government budgets;

   (d) the effectiveness of the various state mechanisms to provide property tax relief to different classes of taxpayers;

(e) the effectiveness of property tax caps as a mechanism to control growth in school district tax levies, the experience of other states in implementing such caps, and the potential impact of such caps on educational achievement; and

(f) 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 students.

3. The Commission is hereby empowered to subpoena and enforce the attendance of witnesses, to administer oaths or affirmations and examine witnesses under oath, to require the production of any books, records or papers deemed relevant or material, and to perform any other functions that are necessary or appropriate to fulfill its duties and responsibilities, and I hereby give and grant to the Commissioners all powers and authorities that may be given or granted to persons appointed by me for such purpose under authority of section six of the Executive Law.

4. The Commission shall be assisted by an Executive Director and such other staff as shall be designated by the Governor, including but not limited to staff from the Office of Real Property Services, the Governor's Office of Regulatory Review, the Division of the Budget and the Department of State.

5. A majority of the total members of the Commission shall constitute a quorum, and all recommendations of the Commission shall require approval of a majority of the total members of the Commission. Members of the Commission shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties. No member of the Commission shall be disqualified from holding any public office or employment, nor shall he or she forfeit any such office or employment by virtue of his or her appointment hereunder.

6. Every agency, department, office, division, public authority or political subdivision of the State shall cooperate with the Commission and furnish such information and assistance as the Commission determines is reasonably necessary to accomplish its purposes.

7. The Commission shall issue a final report no later than December 1, 2008, setting forth its findings and conclusions and making such recommendations as it shall deem necessary and proper. In addition, the Commission shall issue such interim reports as it shall deem necessary, including an interim report no later than May 15, 2008 setting forth the Commission's recommendations with respect to a statutory school property tax cap.

G I V E N under my hand and the
Privy Seal of the State in the City of Albany
this twenty-third day of January
in the year two thousand eight.

Eliot Spitzer
BY THE GOVERNOR

Richard Baum
Secretary to the Governor

No. 1: CONTINUATION AND REVIEW OF PRIOR EXECUTIVE ORDERS

March 20, 2008

WHEREAS, an orderly transition is essential for the effective administration of State government; and

WHEREAS, in order to help facilitate such transition, a careful review of existing Executive Orders should be conducted to ensure their continued effectiveness and desirability;

NOW, THEREFORE, I, David A. Paterson, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York, do hereby order as follows:

1. The Counsel to the Governor, in conjunction with the Secretary to the Governor, the Director of the Budget and the Director of State Operations (the "Review Committee"), shall review and evaluate all Executive Orders and amendments heretofore issued and currently in effect.

2. This review shall be conducted within the next 90 days, and following such evaluation the Review Committee shall make such recommendations as it deems appropriate for the continuation, modification or revocation of all such Executive Orders and amendments.

3. Every agency, department, office, division and public authority of the State shall cooperate with this review and shall furnish such information and assistance as shall be requested by the Review Committee.

4. All Executive Orders and amendments heretofore issued and currently in effect shall remain in full force and effect until otherwise continued, modified or revoked.

G I V E N under my hand and the
Privy Seal of the State in the City of Albany
this twentieth day of March
in the year two thousand eight.

David A. Paterson

David A. Paterson
BY THE GOVERNOR

Charles O'Byrne
Secretary to the Governor

Appendix B: Summary of Recommendations

Principal Recommendation: Implement a School Property Tax Cap to limit the growth of school property taxes.

The cap would have these elements:

- **The levy cap would be set at 120 percent of CPI or 4 percent increase, whichever is lower:** This is the same formula that applies to the current contingency budget that goes into effect when school budgets fail to pass. Unlike the levy cap in Massachusetts, which is established in law at 2.5 percent, this formula is somewhat higher and allows some flexibility for inflation.

- **New construction should be added to the levy limit:** The construction of new homes and businesses, and major additions and renovations of existing buildings expand the school district's tax base without affecting existing taxpayers. This new growth should be added to the levy cap each year. In the three years ending in 2007, the median annual growth from net new construction in New York has exceeded one percent statewide.

- **"Banking" unused Levy Cap:** If the maximum levy growth permitted under the cap is not used in a given year, the unused portion would be "banked" and may be used in any future year to increase the levy by up to 1½ percent. This provides an incentive to save tax capacity for future years.

- **Separate capital expense / debt service vote:** Capital items – either as a one-time expense or debt service – would continue to be authorized by public vote, and would not be included within the levy cap. If approved by voters, such exceptions would last until payment for the capital item is completed.

- **Budget Votes Limited to Overrides:** The current school budget voting process would be replaced by a cap override vote. School districts would not have to submit their budgets to the voters in years when the tax levy growth does not exceed the levy cap. Levy growth in excess of the levy cap would have to be approved by the voters. By not requiring a vote when the tax levy growth is within the cap, the votes that do take place will take on a greater significance.

- **State Aid growth affects override vote margin.** The vote required to override the levy cap would be contingent on state aid growth by district. If the annual growth for a district of specified core state aid programs is at least 5 percent in the current year, the vote needed to override the levy cap would be 60 percent. If annual growth of state aid is less than 5 percent, a 55 percent vote would be needed to override the levy cap. This assumes that state school aid funding decisions would be reached sufficiently in advance of school budget decisions and the public votes.

- **Underride:** Voters could also place on the ballot an "underride" vote to keep the levy growth to a level beneath the calculated levy cap.

- **Dependent Districts:** The Big Five cities (New York City, Buffalo, Rochester, Syracuse and Yonkers) have "dependent" school districts within their city budgets. As a result, Big Five property taxes are not specifically earmarked for education. Thus, the property tax cap does not apply to these cities.

Other Recommendations

Circuit Breaker

- Restructure STAR to fund a new "Star Circuit Breaker" to target individual tax relief.

Changing State Law and Mandate Relief

The Commission recommends that the State support school districts' efforts to rein in the costs of salaries, pensions and health care, as well as general operating and capital expenses. These recommendations address the root causes of high property taxes by adopting the following proposed solutions:

Reduce the Burden of Excessive Mandates

- **No new legislative or regulatory mandates** without a complete accounting of the fiscal impact on local governments, which must include full documentation, local government input and proposed revenue sources to fund the new mandates.

- **Mandate accountability** through an annual report from the Office of the State Comptroller, which should include the cumulative cost to localities of complying with all new regulatory and legislative mandates.

Decrease School District Personnel Costs

- **Adopt regional or statewide collective bargaining agreements.**

- **Increase health insurance premium contributions by employees** and provide health insurance coverage jointly with other public employers or school districts, including increased use of health benefit trusts.

- **Convene a study to evaluate creating a Tier 5** in the pension system for new employees.

- **Amend the "Triborough" provision** in collective bargaining to exclude teacher step and lane increments from continuation until new contracts are negotiated, and centralize reporting of school district collective bargaining outcomes.

Limit Other School District Operational Costs

- **Repeal the Wicks Law,** or significantly increase the threshold amounts for determining when separate contracts are required in construction projects.

- **Increase threshold amounts for purchasing** under competitive bidding requirements.

- **Increase participation in statewide energy efficiency programs** through collaborative efforts of state entities.

- **Centralize and streamline school district reporting** to decrease personnel and other costs associated with sometimes duplicative and unnecessary forms and other filing requirements.

- **Simplify or eliminate other individual education mandates.**

Improve Special Education

- **Shift the emphasis of the State Education Department from regulatory enforcement to outcome-based accountability** through targeted intervention to promote best practices in school districts.

- **Dramatically accelerate the integration of special education with general education, improving and increasing opportunities** to benefit students who need extra help within the general education setting.

- **Decrease special education classification rates** by requiring the State Education Department to review those school districts with classification rates 20% higher than the state average and determine whether assistance is needed.

- **Reduce the cost of litigation** by promoting alternative dispute resolution, improving the consistency and effectiveness of hearing officers, and by shifting

the burden of proof back to the plaintiff except when the family is unable to afford counsel.

- **Increase collaboration** to enhance local and regional service delivery to students.

- **Secure additional federal funding** to reduce the pressure on the property tax.

Seek Economies of Scale and Enhanced Educational Opportunities

School District Consolidation

- **Require consolidation of school districts with fewer than 1,000 students and grant the Commissioner of Education discretionary authority to order consolidation of school districts with fewer than 2,000 pupils** to achieve economies of scale and to increase educational opportunities through expanded course offerings.

- **Restructure state reorganization aid** to ensure that it is used predominantly to pay for reorganization expense or to provide needed services, and temporarily suspend building aid for districts being consolidated.

- **Amend State law to simplify consolidation by removing anachronistic distinctions between, union free, central and city school districts.**

Shared Service Delivery

- **Eliminate State Education Department approvals for participation by BOCES in agreements with other local government entities to provide non-instructional services,** and remove the BOCES district superintendent salary cap to ensure qualified candidates for this leadership position.

Grant Mayoral Control and Provide Funding Flexibility in the "Big Four" Cities

- **Exempt the Big Four city school districts from the proposed property tax cap.**

- **Adjust the maintenance of financial effort requirements to reflect declining student populations.**

- **Grant mayoral control for the Big Four school districts,** with a sunset provision.

Encourage Efficient Delivery of Social Services

- **Provide social services to students in schools** by directing appropriate agencies to collaborate and coordinate with each other and with school districts.

Address Other Equity Concerns for Property Taxpayers

- **Create countywide property tax assessment** and uniform statewide assessing standards.

Appendix C: School District Funding, Expense and Pupil Counts Outside of New York City

School District Funding, Expense & Pupil Counts, 1993-94 to 2007-08e, NYS School Districts Outside New York City

($ mil)	93-94	94-95	95-96	96-97	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-08e	4-yr CAGR % 93-94 to 97-98	97-98 to 1-02	01-02 to 05-06	1-yr % chg 05-06 to 06-07	06-07 to 07-08e
Funding																				
State Aid	6,047	6,566	6,650	6,718	7,063	7,679	8,096	8,711	9,093	9,298	9,332	9,814	10,238	11,058	12,405	4.0%	6.5%	3.0%	8.0%	12.2%
STAR Payments	0	0	0	0	0	464	932	1,377	1,875	2,004	2,142	2,275	2,358	2,460	2,461	-	***25.0%***	5.9%	4.4%	0.0%
State Funding	6,047	6,566	6,650	6,718	7,063	8,143	9,028	10,087	10,967	11,302	11,475	12,089	12,596	13,518	14,866	4.0%	11.6%	3.5%	7.3%	10.0%
Local Funding	9,220	9,629	10,065	10,448	10,800	10,702	10,788	11,094	11,303	12,146	12,980	14,091	15,261	16,429	17,137	4.0%	1.1%	7.8%	7.7%	4.3%
Federal Aid	382	415	434	429	487	559	644	740	861	983	1,157	1,196	1,189	1,154	1,154	6.2%	15.3%	8.4%	-3.0%	0.0%
Total Funding	**15,650**	**16,610**	**17,148**	**17,595**	**18,350**	**19,404**	**20,460**	**21,920**	**23,131**	**24,432**	**25,612**	**27,376**	**29,046**	**31,101**	**33,156**	**4.1%**	**6.0%**	**5.9%**	**7.1%**	**6.6%**
Funding Mix																				
State Aid	39%	40%	39%	38%	38%	40%	40%	40%	39%	38%	36%	36%	35%	36%	37%					
STAR Payments	0%	0%	0%	0%	0%	2%	5%	6%	8%	8%	8%	8%	8%	8%	7%					
State Funding	39%	40%	39%	38%	38%	42%	44%	46%	47%	46%	45%	44%	43%	43%	45%					
Local Funding	59%	58%	59%	59%	59%	55%	53%	51%	49%	50%	51%	51%	53%	53%	52%					
Federal Aid	2%	2%	3%	2%	3%	3%	3%	3%	4%	4%	5%	4%	4%	4%	3%					
Total Revenue	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**					
Expense																				
Salary	***8,902***	**9,387**	**9,654**	**9,939**	**10,434**	**11,141**	**11,732**	**12,342**	**12,951**	**13,401**	**13,853**	**14,357**	**14,876**	**15,515**		**4.0%**	**5.6%**	**3.5%**	**4.3%**	
Healthcare	*1,037*	1,079	1,109	1,161	1,235	1,323	1,451	1,604	1,834	2,091	2,351	2,597	2,823	3,026		4.5%	10.4%	11.4%	7.2%	
Pension	*714*	698	673	587	352	254	231	172	157	209	436	937	1,174	1,293		-16.2%	-18.3%	65.4%	10.1%	
Other Benefits	*868*	904	935	950	982	1,028	1,100	1,173	1,251	1,333	1,403	1,439	1,522	1,576		3.2%	6.2%	5.0%	3.5%	
Benefits	**2,618**	**2,682**	**2,717**	**2,698**	**2,569**	**2,604**	**2,782**	**2,949**	**3,242**	**3,632**	**4,190**	**4,972**	**5,520**	**5,895**		**-0.5%**	**6.0%**	**14.2%**	**6.8%**	
Tuition	214	231	237	245	274	294	315	356	416	449	478	529	553	615		6.4%	11.0%	7.4%	11.2%	
BOCES Services	904	970	1,019	1,073	1,156	1,246	1,325	1,413	1,483	1,519	1,550	1,655	1,754	1,846		6.3%	6.4%	4.3%	5.2%	
Other Operating Exp	2,347	2,423	2,564	2,672	2,800	2,895	3,088	3,372	3,373	3,619	3,780	4,025	4,227	4,637		4.5%	4.8%	5.8%	9.7%	
Debt Service	684	790	848	836	920	1,035	1,136	1,382	1,482	1,348	1,418	1,604	1,715	1,863		7.7%	12.7%	3.7%	8.6%	
Other Expense	**4,149**	**4,414**	**4,668**	**4,825**	**5,150**	**5,470**	**5,863**	**6,522**	**6,754**	**6,936**	**7,225**	**7,813**	**8,250**	**8,961**		**5.6%**	**7.0%**	**5.1%**	**8.6%**	
Total Expense	**15,669**	**16,483**	**17,039**	**17,462**	**18,152**	**19,216**	**20,377**	**21,813**	**22,947**	**23,968**	**25,268**	**27,142**	**28,646**	**30,371**		**3.7%**	**6.0%**	**5.7%**	**6.0%**	***6.6%***
Growth (%)		5.2%	3.4%	2.5%	4.0%	5.9%	6.0%	7.0%	5.2%	4.5%	5.4%	7.4%	5.5%	6.0%						
Expense Mix																				
Salary	57%	57%	57%	57%	57%	58%	58%	57%	56%	56%	55%	53%	52%	51%						
Benefits	17%	16%	16%	15%	14%	14%	14%	14%	14%	15%	17%	18%	19%	19%						
Other Expense	26%	27%	27%	28%	28%	28%	29%	30%	29%	29%	29%	29%	29%	30%						
Total Expense	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**						
Benefits as % of Salary	29%	29%	28%	27%	25%	23%	24%	24%	25%	27%	30%	35%	37%	38%						
Pupils																				
DCAADM (000s)	**1,683**	**1,706**	**1,728**	**1,747**	**1,756**	**1,776**	**1,790**	**1,802**	**1,815**	**1,816**	**1,813**	**1,805**	**1,793**	**1,783**	**1,776**	**1.1%**	**0.8%**	**-0.3%**	**-0.5%**	**-0.4%**
Revenue / Pupil	9,300	9,738	9,923	10,071	10,451	10,926	11,428	12,167	12,742	13,450	14,125	15,171	16,203	17,439	18,665	3.0%	5.1%	6.2%	7.6%	7.0%
Expense / Pupil	9,311	9,663	9,860	9,995	10,338	10,820	11,382	12,107	12,641	13,195	13,935	15,041	15,980	17,029		2.7%	5.2%	6.0%	6.6%	7.0%

Data for 677 districts (excludes districts Less Than Eight Teachers (7), Special Act (13), 100% Contract (1)), from three major funds (General, Special Aid, Debt Service)
Source: SED ST-3 1993-94 to 2006-07; 2007-08e estimated by CPTR with ORPS, DOB & SED data

Appendix D: White Papers Received by the Commission

Batt, William H. Can a Circuit Breaker Ever Really Work? Center for the Study of Economics. 23 Apr. 2008.

Batt, William H. Generational Equity in Housing. Property Tax Considerations. Center for the Study of Economics. Feb. 2008.

Batt, William H. The Limits of Property Tax Relief. Presentation to New York State Commission on Property Tax Relief. 23 Apr. 2008.

Batt, William H. Property Tax White Paper. Center for the Study of Economics. Apr. 2008.

Deutsch, Ron. Taxes in New York State: Restoring Fairness and Equity to the Personal Income Tax to Reverse Decades of Reliance on the Property Tax-Short and Long Term Solutions. New Yorkers for Fiscal Fairness. (Undated).

Droz, John. What Needs to be Fixed with the NYS Property Tax System: The Goals are Equability and Fairness. 8 Apr. 2008.

Hugunin, Peter. Assessment: Violation of the Public Trust. Mar. 2008.

Hugunin, Peter. Over-Assessments: The Rabbit Out of the Hat, and a Dysfunctional Grievance Process. 13 Aug. 2008.

Koehler, Thomas. Comments on Proposed School Property Tax Cap. 25 Mar. 2008.

Lav, Iris. Comment to the New York State Commission on Property Tax Relief. Center on Budget and Policy Priorities. 20 Feb. 2008.

Manhasset Citizen's Advisory Committee for Legislative Affairs. Citizen Comment to the Commission on Property Tax Relief. 27 Apr. 2008.

Mauro, Frank. Property Taxes in New York: A State Problem Calling for a State Solution. Fiscal Policy Institute. 11 Feb. 2008.

McMahon, E.J. Enough is Enough: Why and How to Cap New York's School Property Taxes. Empire Center for New York State Policy. 3 Mar. 2008.

Nassau-Suffolk School Boards Association. Position Paper on School Property Tax Cap. 4 Aug. 2008.

New York State. Commission on Local Government Efficiency and Competitiveness. Root Causes: Considerations in Investigating the Root Causes of New York's High Property Tax Burden. Albany: 2008.

New York State Council of School Superintendents. Historical and Regional Trends in School Finance. Apr. 2008.

New York State Council of School Superintendents. Recommendations for Effective and Efficient Special Education. Nov. 2008.

New York State. Department of Taxation & Finance, Office of Tax Policy Analysis. Issues in Designing Property Tax Relief Through "Circuit Breaker" Credits. Albany: 2008.

New York State School Boards Association. Alternatives to the Real Property Tax: A Special Report to the New York State Commission on Property Tax Relief. Mar. 2008.

New York State School Boards Association. Excelsior!: Key Drivers Behind New York's 'Ever Upward' Property Tax Burden. Apr. 2008.

New York State School Boards Association. Pension Reform for the 21st Century Workforce. Apr. 2008.

New York State School Boards Association. Quality Educators in Every School. Mar. 2008.

New York State School Boards Association. Recommended Mandate Relief for School Districts. Mar. 2008.

New York State School Boards Association. Report of the Task Force on Maximizing School District Resources. Oct. 2008.

North Shore Schools Board of Education. Position Paper: Property Tax Caps and School Costs. Oct. 2008.

Ogilvie, Donald. Economics of Financing NYS Schools. Erie 1 Board of Cooperative Education Services. 2Apr. 2008.

Rand, George. Critique of the Preliminary Report of the New York State Commission on Property Tax Relief and Recommendations for the Final Report. 10 Oct. 2008.

Rand, George. Teachers and Administrators Salaries and Benefits Must be Capped to Achieve Property Tax Relief. 21 Apr. 2008.

Rivera, Manuel. Unfunded Mandates: Considerations in Investigating the Potential Root Causes of New York's High Property Tax Burden. 30 Jan. 2008.

Rodgers, Thomas. The Tax Cap Con. New York State Council of School Superintendents. Feb. 2008.

Rye City School District. Position Paper on School Property Tax Cap Proposal. 26 June 2008.

Rye Neck Union Free School District School Board and Superintendent. Letter to the New York State Commission on Property Tax Relief. 15 Apr. 2008.

Siver, Harold C., Jr. A Proposed Two Phase Solution to the Current Education Funding Crisis as Viewed from the "Trenches." 11 May 2008.

Sweeney, Sharon. White Paper. Four County School Boards Association. Apr. 2008.

Tedisco, James. The State of New York Schools: Addressing the Burden of Unfunded Mandates-Real Solutions, Real Relief. New York State Assembly Republican Conference. May 2008.

Whiteley, John. Tri-County Committee for Property Tax Relief. Inequitable Weighting of Property Values in Combined Wealth Ratio for State Aid. Nov. 2008.

Whiteley, John. Local Control-A Mixed Blessing: Who Votes, Who Pays Taxes, and What is the Impact on Local Budgets, Tax Levies, and Individual Tax Burdens? New York State Property Tax Reform Coalition. Apr. 2008.

Whiteley, John. Rational of Proposal. New York State Property Tax Reform Coalition. Mar. 2008.

Whiteley, John. Revised Proposal for Systemic School Funding Reform to be Combined with Relief via Galef-Little Circuit Breaker. New York State Property Tax Reform Coalition. Apr. 2008.

Whiteley, Roberta. Just a Few Money Saving Ideas. New York State Commission on Property Tax Relief. 16 Apr. 2008.

Appendix E: Hearings and Testimony

Individuals/Groups Who Presented Testimony (in presentation order):

Meeting 2
FEBRUARY 12, 2008, NEW YORK STATE MUSEUM: ALBANY, NY

Frank Mauro, Executive Director, Fiscal Policy Institute
Edmund J. McMahon, Director, Empire Center for New York State Policy
Hon. Elizabeth Little, Chair, New York State Senate Local Government Committee
Hon. James Tedisco, Minority Leader, New York State Assembly
Hon. Catherine Nolan, Chair, New York State Assembly Education Committee
Hon. Herman D. Farrell, Chair, New York State Assembly Ways and Means Committee
Hon. David Valesky, Ranking Member, New York State Senate Agriculture Committee
Hon. Stephen Saland, Chair, New York State Senate Education Committee
John Whiteley, Legislative Liaison, New York State Property Tax Reform Coalition
Thomas L. Rogers, Executive Director, New York State Council of School Superintendents
David Little, Director of Government Relations, New York State School Boards Association
Peter Baynes, Executive Director, New York Conference of Mayors and Municipal Officials

Meeting 3
MARCH 5, 2008, SUFFOLK COUNTY LEGISLATURE: SMITHTOWN, NY

Edmund J. McMahon, Director, Empire Center for New York State Policy
Hon. William Lindsay, Presiding Officer, Suffolk County Legislature
Hon. Lynn Nowick, Legislator, Suffolk County Legislature
Hon. Diane Yatauro, Presiding Officer, Nassau County Legislature
Hon. Harvey Levinson, Chair, Nassau County Board of Assessors
Richard Bivone, President, Nassau Council of Chambers of Commerce
Gary Bixhorn, Chief Operating Officer, Eastern Suffolk BOCES
William Johnson, Superintendent, Rockville Centre School District
Charles Murphy, Superintendent, Sachem School District
Martin Cantor, Director, Long Island Economic and Social Policy Institute at Dowling College
Lisa Tyson, Director, Long Island Progressive Coalition
Mary Jo O'Hagan, Secretary/Treasurer, Nassau-Suffolk School Boards Association
Martin Kaye, Board Member, West Hempstead Board of Education
Michael White, Executive Director, Long Island Regional Planning Board
Hon. Kate Browning, Legislator, Suffolk County Legislature
Andrea Vecchio, Member, East Islip Unit of Suffolk County PAC
Bennett Rechler, Executive Board Member, Association for a Better Long Island
Fred Gorman, Member, Long Islanders for Educational Reform (LIFER)
Michael Bernard, Executive Board Member, New York State Assessors' Association
John Whiteley, Legislative Liaison, New York State Property Tax Reform Coalition
Brian Schneck, Co-chair, Suffolk County Working Families Party
Evelyn Blose-Holman, Superintendent, Bay Shore School District
Maureen Dutcher, Assistant Superintendent of Business, Bay Shore School District
Lilly Knox, Association of Community Organizations for Reform Now (ACORN)
Barbara Erickson, Taxpayer
Bob Dinato, Taxpayer
Anita McDougal, Taxpayer

Meeting 4
MARCH 5, 2008, TARRYTOWN PUBLIC LIBRARY: TARRYTOWN, NY

Edmund J. McMahon, Director, Empire Center for New York State Policy
Hon. Andrew Spano, County Executive, Westchester County
Hon. John Faso, Former Minority Leader, New York State Assembly
Hon. Drew Fixell, Mayor, Village of Tarrytown
William Mooney, President, Westchester County Association
Hon. Ken Jenkins, Legislator, Westchester County Board of Legislators
Hon. Jose Alvarado, Legislator, Westchester County Board of Legislators
James Langlois, District Superintendent, Putnam/North Westchester BOCES
Tim Conway, Assistant Superintendent, Brewster School District
Howard Smith, Superintendent, Tarrytown School District
Joanne Sold, Vice President, Ardsley Board of Education
Lisa Tane, Board Member, Briarcliff Manor Board of Education
Sarah Stern, President, Edgemont Board of Education
Janet Walker, Executive Director, Westchester/Putnam School Boards Association
Hon. Richard Randazzo, Former Supervisor, Town of Cornwall
Robert Shaps, Superintendent, Hastings-on-Hudson Schools District
Peter Breslin, President, Katonah-Lewisboro Board of Education
Barbara Walker, Member, Westchester/Putnam Working Families Party
Irving Feiner, Member, New York State Property Tax Reform Coalition
Jim Timmings, Assessor, Town of Mount Pleasant
Deborah Sutton-Garvin, Member, Common Ground New York City
Hon. Gloria Fried, Receiver of Taxes, Town of Ossining
Thomas Frey, Executive Secretary, New York State Assessors' Association
Hon. Steven Otis, Mayor, City of Rye/Counsel and Chief of Staff, New York State Senator Suzi Oppenheimer
Hon. Andrea Stewart-Cousins, Senator, New York State Senate

Meeting 5
MARCH 20, 2008, ROCHESTER CITY HALL: ROCHESTER, NY

Hon. David Paterson, Governor, New York State
Hon. Sandra Frankel, Supervisor, Town of Brighton
Hon. William Pritchard, Vice President, Rochester City Council
Tom Nespeca, Board Member, Webster Board of Education
Hon. Robert Duffy, Mayor, City of Rochester
Tom Scherer, President, Geneva Board of Education
John Abbott, Deputy Superintendent, East Irondequoit School District/Member, Monroe 2-Orleans BOCES Board
Michael Ford, Superintendent, Phelps-Clifton Springs School District
Jody Siegle, Executive Director, Monroe County School Boards Association
Daniel Buerkle, Taxpayer Alliance
Hon. Mary Ellen Heyman, Supervisor, Town of Irondequoit
Tammy Gurowski, Alliance for Quality Education
Rosemary Rivera, Alliance for Quality Education
Lawrence Quinn, President, New York State Assessors' Association
Tom Gillet, Regional Staff Director, New York State United Teachers
John Greenbaum, Metro Justice
William McCoy, Metro Justice
Hon. Richard Moy, Supervisor, Town of Clarendon
John Whiteley, Legislative Liaison, New York State Property Tax Reform Coalition
Carole Kraus, Representative, New York State Property Tax Reform Coalition
John Keevert, Treasurer, Interfaith Impact of New York State
Paul Kramer, Taxpayer
Jay Gsell, County Manager, Genesee County
John Ryanne, Business Owner, Rochester

Meeting 6
APRIL 2, 2008, HEALTH NOW/BLUE CROSS/BLUE SHIELD BUILDING: BUFFALO, NY

Janet Penska, Commissioner of Administration, Finance, Policy and Urban Affairs, City of Buffalo
Hon. Lynn Marinelli, Chair, Erie County Legislature
Hon. Andrea McNulty, Legislator, Niagara County Legislature
David Smarczniak, Board Member, West Seneca School Board of Education
Andrew Rudnick, President and CEO, Buffalo Niagara Partnership
Donald Ogilvie, Superintendent, Erie 1 BOCES
Hon. Terry Keeley, Supervisor, Town of Portville
Joe Tette, Business Administrator, Wilson School District
Ramona Popowich, President, Williamsville Board of Education
James Anderson, Regional Board Chair, Citizens Action of Western New York
Hon. Satish Mohan, Supervisor, Town of Amherst
Hon. Maria Whyte, Majority Leader, Erie County Legislature
Roger Cook, Representative, Working Families Party of Western New York
Ellen Kennedy, Board President, Citizens Action of New York
Robert Bennett, Chancellor, New York State Boards of Regents

Meeting 7
APRIL 10, 2008, SYRACUSE CITY HALL: SYRACUSE, NY

Hon. Bea Gonzalez, President, Syracuse City Council
Frank Mauro, Director, Fiscal Policy Institute
William Duncombe, Professor, Syracuse University, Maxwell School
John Gamage, Commissioner, Department of Assessment, City of Syracuse
Hon. Bill Meyer, Chairman, Onondaga County Legislature
Larry Hart, Central New York Property Tax Alliance
Mike Masse, Board Member, Fayetteville–Manlius Board of Education
Rick Timbs, Executive Director, Statewide School Finance Consortium
Larry Cummings, Executive Director, Central New York State School Boards Association
Jessica Cohen, Superintendent, Cortland/Onondaga/Madison BOCES
Randy Kerr, Board Member, Newark Valley Board of Education
Joe Mareane, Chief Fiscal Officer, Onondaga County
C. Thomas Bailey, Executive Secretary, Cooperative Organization for Public Education
Linda Yancey, Assessor, Town of Forestport
Larry Kiley, Executive Director, Rural Schools Association
David Duerr, Executive Vice President, Greater Syracuse Chamber of Commerce
Hon. Thomas Seals, Councilmember, Syracuse City Council
Margrit Diehl, Parents for Public Schools
Mark Spadafore, Executive Director, Syracuse Alliance for a New Economy
Ralph Martone, Taxpayer
Bill Hicht, Taxpayer
Anthony Rossi, Taxpayer
Phil Dann, Taxpayer
Dick Barry, Taxpayer
John Carroll, Taxpayer
Joan Johnson, Taxpayer
Jane Palla, Taxpayer
Dan Lowengard, Superintendent, Syracuse City Schools
Hon. Richard Gladu, Councilmember, Town of Hague

Meeting 8
APRIL 23, 2008, STATE EDUCATION BUILDING, CHANCELLOR'S HALL: ALBANY, NY

Richard Mills, Commissioner, New York State Education Department
Robert Lowry, Deputy Director, New York State Council of School Superintendents
Hon. Gerald Jennings, Mayor, City of Albany
Hon. Kathy Jimino, County Executive, Rensselaer County
Alan Lubin, Executive Vice President, New York State United Teachers
Timothy Kremer, Executive Director, New York State School Boards Association
Rebecca Cort, Deputy Commissioner, Vocational and Educational Services for Individuals with Disabilities, New York State Education Department
Kenneth Pokalsky, Director, Environmental and Regulatory Programs, Business Council of New York State
John Lincoln, President, New York Farm Bureau
Richard Bivone, President, Nassau Council of Chambers of Commerce
Bruce Ventimiglia, Vice Chair, Business and Labor Council of New York
John Whiteley, Legislative Liaison, New York State Property Tax Reform Coalition
Vaughan Smith, Hudson Valley Property Tax Reform Task Force
Bernetta Calderone, Citizen of Gardiner/Member of Taxnightmare.org
Marlis Momber, Citizen of New Paltz/Member of Taxnightmare.org
Hon. Susan Zimet, Legislator, Ulster County Legislature
Robert McKeon, Tax Reform Effort of North Dutchess (TREND)
Richard Longhurst, Assistant to President, New York State Congress of Parents and Teachers
Bill Batt, Center for the Study of Economics
Tom Lee, Executive Director, New York State Teachers' Retirement System
Richard Young, Actuary, New York State Teachers' Retirement System
James Baldwin, Superintendent, Questar III BOCES
Ron Deutsch, Executive Director, New Yorkers for Fiscal Fairness
Robert Biggerstaff, Executive Director, New York State Association of Small City School Districts
G. Jeffrey Haber, Executive Director, Association of Towns of the State of New York
Steven Van Hoesen, Director of Government Relations and Professional Support Services, New York State Association of School Business Officials
Hon. Ken Zalewski, Councilman, City of Troy
Mary Evans, Resident, Town of Malta
Richard Wray, Member, New York State Property Tax Reform Coalition
Hon. Richard Gladu, Councilmember, Town of Hague
John Peck, Resident, Town of Bleecker
Doug Adams, Member, Property Tax Reform Task Force

Meeting 9
September 9, 2008, NASSAU COUNTY THEODORE ROOSEVELT EXECUTIVE AND LEGISLATIVE BUILDING: MINEOLA, NY

Jay Worona, General Counsel, New York State School Boards Association
Kathleen Feeley, Associate Professor, C.W. Post University
Jackie Harris, Director, Long Island Association of Special Education Administrators
Patrice Dobies, Director of Special Education Pupil Services, East Meadow School District
Bill Bushman, Director of Special Services, Shoreham-Wading River School District
Elizabeth Defazio-Rodriguez, Director, Long Island Parent Technical Assistance
Graham Kerby, Taxpayer
Gary Bixhorn, Superintendent, Eastern Suffolk BOCES
Ron Friedman, Superintendent, Great Neck School District
Donna Jones, Superintendent, Brentwood School District
Bill Johnson, Superintendent, Rockville Centre School District
Jay Williams, Superintendent, Amityville Union Free School District
Mary Jo O'Hagan, Nassau-Suffolk School Boards Association
Peter Quinn, Taxpayer
Hon. Harvey Weisenberg, Assemblyman, New York State Assembly
Andrea Vecchio, Long Islanders for Educational Reform Tax Pact
Frank Russo, President, Port Washington Educational Assembly
Laura Pandelakis, Taxpayer
Anita McDougal, Taxpayer
Amy Certilman, School Board, Cold Spring Harbor School District
Joseph Mugivan, Taxpayer
Eloise Meyer, Taxpayer
George Rand, Taxpayer

Meeting 10
October 2, 2008, STATE EDUCATION BUILDING, CHANCELLOR'S HALL: ALBANY, NY

Rebecca Cort, Deputy Commissioner, Vocational and Educational Services for Individuals with Disabilities, New York State Education Department
Alan Lubin, Executive Vice President, New York State United Teachers
Tom Rogers, Executive Director, New York State Council of School Superintendents
Maria DeWald, President, New York State Parent/Teachers' Association
Georgia Asciutto, Executive Director, Conference of the Big 5 School Districts
Charles Dawson, Deputy Director of Governmental Relations, New York State School Boards' Association
Peter Mannella, Executive Director, New York State Association for School Pupil Transportation
Rita Levay, Co-President, Council of New York Special Education Administrators
John Whiteley, Legislative Liaison Officer, New York State Property Tax Reform Coalition
Joseph Mugivan, Taxpayer
Eric Ely, Superintendent, Schenectady School District
Susan Rollin, Taxpayer

Meeting 11
October 22, 2008, YONKERS RIVERFRONT LIBRARY: YONKERS, NY

Hon. Andrea Stewart-Cousins, Senator, New York State Senate
Hon. Philip Amicone, Mayor, City of Yonkers
Bernard Pierorazio, Superintendent, Yonkers Public Schools
James Langlois, Superintendent, Putnam/ Northern Westchester BOCES
William Mooney, President, Westchester County Association
Lisa Davis, Executive Director, Westchester-Putnam School Boards Association
Mark Betz, Assistant Superintendent for Business, Bedford Central School District
Lorette Magnone Adams, Treasurer, West Nyack Free Library Association
Lisa Tane, Vice President, Briarcliff Manor School Board
Edward Fox, School Board, Rye City School District
Eugene Wolotsky, Director of Pupil Services, Blind Brook-Rye Union Free School District
Hon. Ronald Tocci, Former New York State Assemblyman
Frank Pepe, Superintendent, Arlington Central School District
Judy Weiner, Lower Hudson Education Coalition
Ronnie Cox, President, Mount Vernon Educational Foundation

Meeting 12
October 30, 2008, BUFFALO & ERIE COUNTY PUBLIC LIBRARY: BUFFALO, NY

Hon. Byron Brown, Mayor, City of Buffalo
Wayne Schlifke, President, New York State School Boards Association
James Mazgajewski, Superintendent, Cheektowaga-Sloan School District
Susan Kuznik, Chairwoman, Niagara Falls School District Committees on Special Education and Pre-School Education
David Smaczniak, Erie County Association of School Boards
James Bodziak, Superintendent, East Aurora School District
Phil Rumore, President, Buffalo Teachers Federation

Meeting 13
November 5, 2008, ROCHESTER CITY COUNCIL CHAMBERS: ROCHESTER, NY

Jean Claude-Brizard, Superintendent, City of Rochester School District
Willa Powell, Chairwoman, Finance Committee of the Rochester Board of Education
Malik Evans, President, Rochester Board of Education
Jody Siegle, Executive Director, Monroe County School Boards Association
Hon. Robert Duffy, Mayor, City of Rochester
Howard Maffucci, Superintendent, East Rochester School District
Susan K. Savagio, Superintendent, Sodus Central School District
Jodie Perry, President, Greece Chamber of Commerce
Tom Leadbetter, School Board, Newark School District
Judy Wolf, Taxpayer
Daniel Buerkle, Taxpayer Alliance
Jeff Llewelyn, Taxpayer
John Ryanne, Business Owner, Rochester

Meeting 14
November 12, 2008, ONONDAGA COUNTY LEGISLATIVE CHAMBERS: SYRACUSE, NY

Hon. Matt Driscoll, Mayor, City of Syracuse
Hon. Bill Meyer, Chairman, Onondaga County Legislature
Daniel Lowengard, Superintendent, City of Syracuse School District
Johanna Duncan-Poitier, Senior Deputy Commissioner of Education, New York State Education Department
James Baldwin, Superintendent, Questar BOCES III
Donald Ogilvie, Superintendent, Erie 1 BOCES
Jessica Cohen, Superintendent, Onondaga-Cortland-Madison BOCES
William Speck, Superintendent, Cayuga-Onondaga BOCES
Joseph Pabis, Superintendent, Auburn Enlarged City School District
Corliss Kaiser, Superintendent, Fayetteville-Manlius Central School District
Rick Timbs, Executive Director, Statewide School Finance Consortium
James Rowley, Chief Fiscal Officer, Onondaga County Legislature
Darlene Kerr, President, Greater Syracuse Chamber of Commerce
William P. Fisher, Upstate Mandate Relief Commission
John Whiteley, Legislative Liaison Officer, New York State Property Tax Reform Coalition
James Viola, Director, School Administrator's Association of New York State
Jane Suddaby, Oswego County BOCES
Phil Dann, Taxpayer
Marilyn Dominick, Superintendent, Jordan Elbridge School District
Bill Hecht, Taxpayer

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Hon. Maggie Brooks, County Executive, Monroe County
Hon. Byron Brown, Mayor, City of Buffalo
Matthew Crosson, President, Long Island Association
Max Donatelli, Member, New York State Parents Teacher Association
Garry F. Douglas, President and CEO, Plattsburgh North Country Chamber of Commerce
Hon. Patricia Eddington, Assemblymember, New York State Assembly
Catherine Glover, President & CEO, Greater Binghamton Chamber of Commerce
Hon. Jeff Klein, Deputy Minority Leader, New York State Senate
Mark Lansing, Partner, Hiscock & Barclay
Andrew Licari, Resident, St. James
William Lynch, President, New York State Association of Small City School Districts
Hon. Joanne Mahoney, County Executive, Onondaga County
Hon. Michael Manning, Mayor, City of Watervliet
George Miner, President, Southern Tier Economic Growth
Bob Orosz, Resident, Garden City
Art Sciorra, City Manager, City of Ogdensburg
Donna Stefanacci, Member, Working Families Party
Karen Zevin, Member. Regional Educational Advocacy Group.

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