

Staff Report to the New York State Senate Select Committee on Budget and Tax Reform

on

Evaluating the Needs for and Costs of New York State Property Tax Exemptions

Chair: Senator Liz Krueger

Senator Neil Breslin

Senator Kenneth LaValle

Senator Kevin Parker

Senator Bill Perkins

Senator Michael Ranzenhofer



Select Committee Staff

***Executive Director:* Michael Lefebvre**

***Principal Analyst:* Richard Mereday**

***Administrator:* James Schlett**

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Based on testimony from a roundtable meeting in Albany on October 13, 2009

Prepared by James Schlett

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Executive Summary

The rampant growth of property taxes throughout New York State over the past quarter century has fueled an ever-growing demand for relief in the form of exemptions. But higher taxes call for more relief, which results in higher taxes. It's a vicious cycle.

Since 1992, the Executive and Legislature have launched at least three major initiatives geared toward pulling the state out of this cycle. They explored reforming New York's burgeoning ranks of property tax exemptions and the hodgepodge of fiscal relief mechanisms the state employs to help local governments cope with land taken off their tax rolls. Several smaller, though noteworthy, investigations have also been conducted by various Senate and Assembly committees and Executive agencies and commissions.

In the end dozens of recommendations have been forwarded, but only a handful has been enacted. In the meantime, the number of exemptions statewide has grown to 4.6 million in 2008, up 292 percent from 1.2 million in 1997. Excluding all School Tax Relief (STAR) programs, which are unique state-funded property tax exemptions that initially took effect in 1998, exemptions rose by almost 6 percent during the 11-year period.

By last year, the total value of exempt property (i.e. the total equalized exempt value) statewide was \$797.1 billion, up 151 percent from \$317.7 billion in 1997. Excluding STAR programs, the increase in value was up 99 percent during the 1997-2008 period.

Struggling with these exemption increases, which largely shift the tax burden onto non-exempt taxpayers, local governments have attempted to contain this growth. They have tried enforcing stricter interpretations of the Real Property Tax Law regarding nonprofit entities, but vague language in the New York Constitution and state statute have frustrated these efforts. For decades, the Legislature has balked at providing more clarity on the issue.

Nevertheless, at the same time, local governments have also contributed to the growth of exemptions. They annually send dozens of home rule messages to Albany asking the Legislature for certain exemptions. They also regularly opt into exemptions the Legislature approved for their counties.

Given New York's mounting property tax pressures, the New York State Senate Select Committee on Budget and Tax Reform held a roundtable in Albany on October 13, 2009 to explore the needs for and costs of the state's property tax exemptions. The six-member bi-

partisan committee heard testimony from 18 experts from various local government and nonprofit organizations. The committee chaired by Senator Liz Krueger also examined the 30-year history of recommendations and legislative proposals presented by other committees, why a majority of them have not advanced in the Legislature and which ones remain valid.

Key findings and conclusions from the roundtable's discussions are detailed in this staff report to the Select Committee. They include:

- **More relief, and more stress:** Over the past decade, the Legislature has created or expanded several property tax exemptions. These unfunded mandates ranged from exemptions for volunteer firefighters and ambulance workers to first time homeowners to agricultural structures to Leadership in Energy and Environmental Design (LEED)-certified buildings. With many of these exemptions, local governments either requested or opted into them.
- **Compensation:** New York's process for providing local governments with compensation for state lands within their borders has become more irregular because of the Legislature's actions over the past decade. The 2002 decision to make all state land used for public use in Putnam County subject to taxation exacerbated the patchwork of state land compensation methods, which include various tax-based programs, payment in lieu of taxes (PILOT) programs and hybrid programs. State agencies and commissions over the past three decades have made multiple recommendations to establish a uniform PILOT program for all state land, but those proposals have gone nowhere. Most other new state financial aid measures for exempt property have been limited to communities with heavy railroad ceilings, agricultural assessments and forestry exemptions.
- **More relief X2:** Despite the public outcry over high property taxes, the Legislature has not lost its appetite for property tax exemptions. In 2009, at least a dozen bills were introduced in the Senate proposing to create new exemptions or broaden existing ones. Just as many one-house bills were introduced in the Assembly. The legislation largely focuses on residential and agricultural exemptions. As with many of the exemptions enacted over the past decade, the current legislative proposals largely originate with local requests or feature local options.

- **Containment:** Over the past decade, the Legislature has largely focused its reform efforts on curtailing the growth of exemptions claimed by religious, educational and moral and mental health nonprofit organizations. Yet the number of these groups has grown throughout the state. For example, the ranks of educational nonprofit organizations last year totaled 7,580, marking a 31.7 percent increase from 1997 and a 153.2 percent jump from 1982. Nonprofit exemptions for the benefit the moral and mental health of men women and children totaled 3,432 last year, up 53.4 percent from 1997 and 304.2 percent from 1982. Senators have argued some of this growth is being driven by nonprofit entities that cater to their members' special interests. But the ranks of nonprofit entities have swelled significantly as they moved to fill the social services void left by the state, particularly through the deinstitutionalization of psychiatric centers in the 1970s. The State Constitution guarantees exemptions for religious, educational and charitable organizations, but it is within the Legislature's authority to establish definitions for those categories.
- **Constitutional concerns:** Not wanting to cross the line separating church and state, the Legislature and courts have largely declined to place limitations on property tax exemptions claimed by religious organizations. Such apprehensions have derailed attempts to contain nonprofit exemption growth by establishing stricter definitions for eligible nonprofits and land use requirements. However, outside the realm of religion, the Legislature is in a better position to differentiate and draw lines between taxable and tax-exempt property owned by nonprofit organizations — even under existing statute.
- **Conclusion:** Multiple examinations of New York's property tax system have concluded the state is in dire need of a targeted form of property tax relief based on taxpayers' income and need. Given the elimination of the Middle Class STAR Rebate Check program earlier this year and the Legislature's track record for adding to the property tax crisis by creating or expanding property tax exemptions, the need to answer the calls for an effective circuit breaker is greater than ever. Chairwoman Krueger earlier this year introduced legislation (S.4239) proposing to establish a middle-class circuit breaker tax credit that would be phased in over four years. Important to the creation of such a circuit breaker program will be the implementation of measures that assist or encourage local

governments to improve their fiscal situations; thus alleviating some pressures in the property tax system. Such measures could include stemming the proliferation of unfunded mandates by requiring in exemption-related bills more detailed fiscal notes, establishing more local control over relief measures and creating a more uniform compensation process for state-owned lands.

I. Introduction: An Overview

Recent Property Tax Exemption Growth

After undertaking an extensive analysis of New York State's school finance system, former state Comptroller M. Carl McCall in 1996 concluded "the property tax is here to stay — we simply cannot eliminate it." The state, he said, lacked the resources to rid itself of the tax and there were no viable alternatives, such as a shift of tax burden to the income tax.¹

While McCall's *An Agenda for Equitable and Cost Effectiveness School Finance Reform* did not address New York's multifarious property tax exemptions, the same conclusion could be drawn about them. The state Constitution guarantees a tax exemption on property used for religious, educational and charitable purposes. So, again, "we cannot simply eliminate it."

However, it is within the Legislature's purview to set exemption eligibility parameters, which could moderate their growth and ease the amount of property tax burden shifted from tax-exempt entities and individuals to non-exempt taxpayers. Yet, as exemption growth over the past decade exemplifies, even this has not been simple.

Between 1995 and 2005, during the nation's longest-running housing boom, local property taxes grew by 60 percent. By 2006, New Yorkers outside New York City were paying \$54 out of every \$1,000 of income on property taxes.²

These disturbing statistics have only strengthened New York's infamous reputation as one of the states with the heaviest state and local tax burdens. In 2008, the Tax Foundation ranked New York number two in that category, just one slot in front of Connecticut and one behind New Jersey.³

During the heady years of the recent housing boom, between 2000 and 2008, the total equalized value of property statewide rose 102 percent to \$2.6 trillion. However, property taxes weren't alone in their stark ascent; right behind them were property tax exemptions.⁴

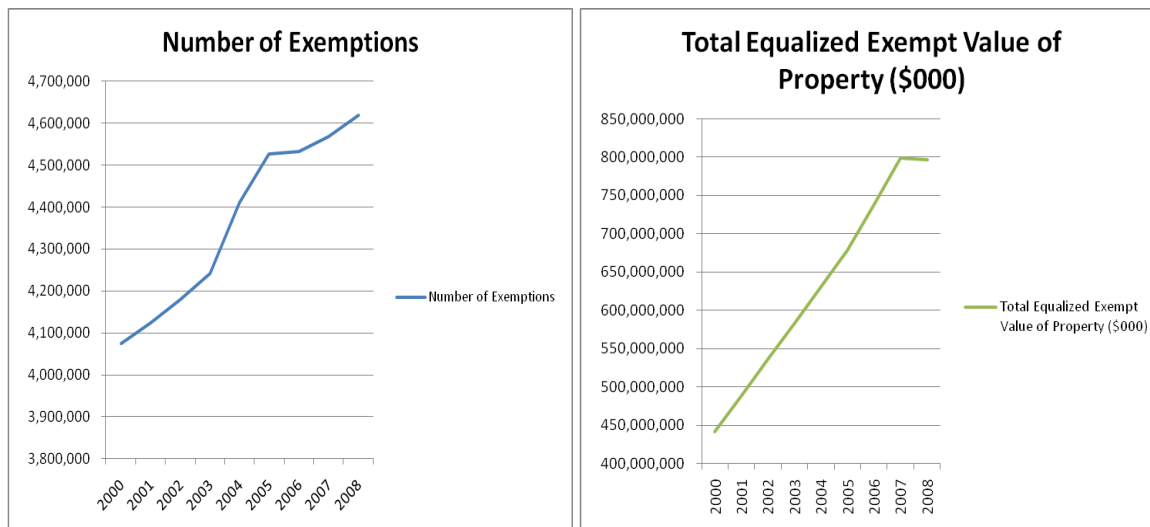
¹ New York State Office of the Comptroller, *An Agenda for Equitable and Cost-Effective School Finance Reform*. October, 1996.

² New York State Office of the Comptroller, *Local Government Issues In Focus: Property Taxes in New York State*. 2006.

³ Tax Foundation, *State and Local Tax Burdens, All Years, One State, 1977-2008*.

⁴ New York State Office of Real Property Taxes, *Exemptions from Real Property Taxation in New York State: 2008 County, City & Town Assessment Rolls*.

New York State Property Tax Exemptions, 2000-2008



Data from New York State Office of Real Property Services.

Between 2000 and 2008, the equalized exempt value of property statewide jumped 80 percent from \$441 billion to \$797 billion. That meant there was a significant chunk of additional property value that local governments could not tax to fund municipal operations and schools; thus making non-exempt taxpayers shoulder a heavier tax burden.

This increase also meant that by 2008, 30 percent of property value statewide was tax exempt. While unchanged from the level it stood at a decade earlier, it marked a jump from 23 percent in 1970.⁵ Prior to the 1998 enactment of the School Tax Relief (STAR) program, which is a state-funded program that provides partial school property tax exemptions for owner-occupied primary residences, the percentage of exempt value had hovered around 28 percent since the early 1980s.⁶

“STAR virtually doubled the number of property exemptions, but it’s different than the other exemptions ... [Exemptions] shift the burden among taxpayers, except for STAR where the state pays for it,” said Frank Mauro, the executive director of the Fiscal Policy Institute.⁷

⁵ New York State Temporary State Commission on State and Local Finances, *Report of the Temporary State Commission on State and Local Finances, v. II, The Real Property Tax*. March 1975.

⁶ New York State Office of Real Property Taxes, *Exemptions from Real Property Taxation in New York State: 1998 County, City & Town Assessment Rolls*.

⁷ Testimony from Frank Mauro, executive director of the Fiscal Policy Institute. New York State Senate Select Committee on Budget and Tax Reform Albany roundtable, Oct. 13, 2009.

When STAR took effect in 1998, the number of residential property tax exemptions statewide jumped to 1.49 million from 860,300 the previous year. During the same period, the total equalized value of the exempt property rose to \$62.2 billion from \$29.8 billion. But by 2008, and after many adjustments were made to the STAR program along with the introduction of new or expanded unfunded exemptions, New York had 4.2 million residential exemptions. The total exempt value of their property: \$232.1 billion, up 679 percent from 1997.⁸

Recent Legislative Actions

By and large, New York's property tax crisis has been driven by mounting school aid and Medicaid costs. Those two items have overshadowed the fiscal impacts of property tax exemptions. But legislation (S.7538/A.10613) enacted in 2008 could help highlight the impact exempt properties have on communities by requiring local governments to provide exemption fiscal impact reports in their budgets.

The act, which was introduced at the request of the New York State Office of Real Property Services (ORPS), mandates budget preparers to show, among other things, how much total assessed value on the final assessment roll is exempt from taxation. The reports must also detail the cumulative financial impact of each type of exemption.

Even as the Legislature establishes greater transparency and accountability in the property tax exemption system, there are more bills in both houses proposing to accelerate the growth of those unfunded mandates rather than reduce them or at least curb their growth.

During the 2009-2010 legislative session, at least a dozen bills were introduced in the Senate proposing to create new property tax exemptions or expand existing ones.⁹ Just as many similar, one-house bills were introduced in the Assembly during the same period.¹⁰ The legislation relates to everything from exemptions for seniors and veterans and volunteer firefighters to agricultural property.

A review of laws enacted over the past eight years further highlights the Legislature's support for property tax exemptions. While these measures further stress the property tax system, they also promote worthwhile causes, such as volunteerism, homeownership, economic

⁸ New York State Office of Real Property Taxes, *Exemptions from Real Property Taxation in New York State: 1997 County, City & Town Assessment Rolls*.

⁹ Senate bills include: S.38, S.2410, S.2414, S.2510, S.2670, S.2742, S.3974, S.3983, S.4097, S.4213, S.4621, S.4951,

¹⁰ One house Assembly bills include: A.931, A.997, A.1361, A.2903, A.3604, A.3802, A.3889, A.5291, A.6261, A.6450, A.7537, A.7934

development plus investments in rail, urban downtowns, energy efficiency and agricultural infrastructure. Major property tax exemptions laws, excluding STAR programs, include¹¹:

- **Fire and Ambulances** (1999-2007): Starting with Rockland County, the Legislature began granting partial property tax exemptions to volunteer firefighters and ambulance workers in select counties. The exemptions are granted at the local level and are authorized in 28 counties, including Albany, Cattaraugus, Chautauqua, Columbia, Dutchess, Erie, Jefferson, Lewis, Montgomery, Nassau, Niagara, Oneida, Onondaga, Orange, Orleans, Oswego, Putnam, Rockland, Saratoga, Schenectady, Schoharie, Steuben, St. Lawrence, Suffolk, Sullivan, Ulster, Westchester and Wyoming.
- **First-time Homebuyers** (2001): Municipalities were authorized to offer partial exemptions for newly-constructed homes bought by first-time homeowners. The exemption generally does not apply to existing homes unless they are renovated or remodeled. In 2003, eligibility requirements were aligned with State of New York Mortgage Agency income and purchase price qualifications. The exemption was slated to expire in 2005, but that year it was extended to 2010.
- **Agricultural Buildings Expansion** (2001): The Legislature extended property tax-exempt status to buildings used for the breeding and boarding of livestock, including commercial horse boarding operations. The exemption previously only covered buildings used for breeding horses.
- **Nuclear Power Plants** (2001): The Legislature authorized the Town of Cortland and Hendrick Hudson School District to enter a PILOT agreement with Entergy Corporation, following its acquisition of the Indian Point 3 nuclear power plant from the New York Power Authority. To shield area residents from wide swings in tax payments that could have been caused by the Entergy deal's impact on tax rolls and assessments, the Legislature approved of the establishment of a tax stabilization reserve fund. It also created an exemption for nuclear-powered electric-generating facilities.
- **Rail Infrastructure** (2002): The Legislature created a 10-year property tax exemption for intrastate railroads for freight-service and passenger services capital projects. The

¹¹ Property Tax Law summaries are largely based on the 2001-2008 annual reports from the New York State Assembly Standing Committee on Real Property Taxation.

exemptions, which expire in 2012, are realized by excluding the value of these investments from subsequent railroad ceiling calculations. The state is required to make transitional adjustment payments to local governments to offset revenue losses caused by the act. Transitional financial aid was extended to Rockland and Orange County municipalities and school districts in 2004.

- **Agriculture Housing** (2002): The Legislature created a property tax exemption for farm and food processing labor camps and commissaries and other structures used to improve the health and living conditions of farm laborers.
- **Residential-Commercial Urban Exemption (RESCUE)** (2002): The Legislature authorized 11 cities to offer property tax exemptions to encourage creative uses for office, warehouse, manufacturing and retail buildings. The exemption, which mirrored a similar revitalization program for lower Manhattan, was initially approved for Albany, Buffalo, Mount Vernon, New Rochelle, Niagara Falls, Rochester, Schenectady, Syracuse, Utica, White Plains and Yonkers. In 2004, RESCUE was extended statewide, excluding New York City.
- **Solar and Wind Energy PILOTs** (2002, 2006): The Legislature authorized local governments to enter PILOT contracts with properties used for solar or wind energy systems. Contracts cannot exceed 15 years. The property tax exemption for wind and solar systems was scheduled to expire in 2006, but it was extended that year to 2011.
- **Residential Investment** (2002-2007): Starting with Jamestown in 2002 and Rome in 2004, the Legislature created partial residential investment exemptions from city and ad valorem tax levies for the new construction residential units within city limits. A similar exemption was created for Albany in 2005 to encourage the conversion of multiple dwellings into one- or two-family homes. A year later, the exemption for the development or redevelopment of dwellings was extended to seven cities. They included Amsterdam, Buffalo, Cohoes, Dunkirk, Niagara, Syracuse and Utica. A residential investment exemption was created for Auburn in 2007.
- **Nonprofit Property Leased to Municipalities** (2003): The Legislature enabled nonprofits' property tax exemptions to remain in effect when a nonprofit entity leases its property to local governments for public purposes.

- **Change in Taxable Status Notification** (2003): The Legislature required assessors to notify taxpayers when partial property tax exemptions will be discontinued, particularly in cases when the property has not changed ownership.
- **State Land** (2004, 2006): All state land acquired for public use in Putnam County was subjected to taxation. At the time, the state owned up to \$1.5 million of such land in the county. In 2006, the state made 246 acres recently acquired through eminent domain by the State University of New York at Stony Brook taxable for school purposes only.
- **Senior Citizens and Persons with Disabilities** (2006): The Legislature raised the exemption qualifying income limit under RPTL §459-c for persons with disabilities from \$24,000 to \$26,000. Subsequent legislation incrementally bumped that threshold higher to \$29,000 by mid-2009. Also in 2006, the Legislature extended the option to choose the “most beneficial” exemption to real property with one or more owners who qualify for the over-65 exemption under RPTL §467 and another who qualifies for the person with disabilities exemption under RPTL §459-c.
- **Flood Relief** (2007): The Legislature authorized local governments to grant property tax relief to victims of the June 2006 floods in the Mohawk Valley and Hudson Valley. A separate budget act provided \$5 million in compensation to local governments for the property tax refunds provided under the Flood Assessment Relief Act of 2007. Covered counties included Broome, Chenango, Cortland, Delaware, Fulton, Greene, Hamilton, Herkimer, Madison, Montgomery, Oneida, Orange, Otsego, Rensselaer, Schenectady, Schoharie, Sullivan, Tioga, Tompkins and Ulster
- **LEED-certified Residential Buildings** (2008): The Legislature created a residential property tax exemption for the development or redevelopment of one- or two-family homes that are LEED-certified. The Syracuse Common Council requested the legislation.
- **Exemption Reporting** (2008): The Legislature required local governments to include in their annual budgets a report detailing how much total assessed value on the final assessment roll is tax-exempt and the fiscal impacts of those exemptions.

II. The Impacts of Property Tax Exemption Policy on Taxpayer Equity

Residential Concerns

The launch of STAR in 1998 marked a new strategy for the state in its property tax crisis. Under the program and its spinoffs, such as Enhanced STAR for the elderly and the Middle Class STAR Rebate checks, New York funded the relief measures and offered them to homeowners statewide.

However, as the previous chapter demonstrates, the Legislature and local governments in recent years have perpetuated their practice of passing unfunded property tax exemptions that benefit a select few. While many of the newer exemptions aim to promote volunteerism and urban revitalization, experts at the roundtable said such mandate proliferation is counterproductive and breeds inequities among taxpayers.

“Generally speaking ... more property tax exemptions ... [don’t] reduce your need for property taxes,” said Barbara VanEpps, deputy director of the New York State Conference of Mayors. “It just shifts the burden, and so your real property taxes increase as a result ... So you can make the argument that the proliferation of exemptions is going to hurt you in terms of development because people aren’t going to come into your community if you have high tax rates.”¹²

Mauro noted that a review of U.S. Census Bureau data found that Syracuse area homeowners with equivalent home values and who are subject to the same tax rates are paying “wildly different amounts of property taxes.” Although he initially attributed that trend to varying assessments, a closer analysis found property tax exemptions were more significantly behind the discrepancies.

“The system clearly isn’t fair in terms of taxes among people with the same home values because they have a variety of mixes of exemptions,” Mauro said. “We’re addressing the needs of a subset of the homeowner population, which has a mismatch between its income and property tax bills. The motivation for residential exemptions is to make the system fairer, but I think there is a very good chance it doesn’t deliver on that.”

¹² Testimony from Barbara VanEpps, deputy director of the New York State Conference of Mayors. New York State Senate Select Committee on Budget and Tax Reform Albany roundtable, Oct. 13, 2009.

New York's property tax exemption policy has become even more unfair among some demographics it's trying to assist. These groups include volunteer firefighters, said Michael Kenneally, associate counsel for the Association of Towns of the State of New York.¹³

Since 1999, the Legislature has approved partial residential exemptions for volunteer firefighters and ambulance workers in 28 counties. Given that volunteer first responders in the 34 other counties and those who rent cannot benefit from the exemption, Kenneally questioned its fairness. While Senator Thomas Morahan has proposed extending the volunteer firefighter and ambulance workers with bill S.2670, Kenneally said a measure such as the volunteer firefighter personal income tax credit the Legislature included in the 2007-2008 budget could also serve as an effective and equitable provision.

"The larger picture we're looking at is to what extent is the real property tax exemption the proper vehicle to be promoting these policies," Kenneally said.

State Land Concerns

The Legislature's 2004 decision to make all state-owned land acquired for public use in Putnam County subject to taxation lengthened New York's irrational list of state-compensated properties. The list has been getting longer since 1886, which was when New York began allowing the taxation of forest preserves in the Adirondack and Catskill regions.

During the 123 years following the creation of the forest preserve, this practice of taxing state land has spread beyond its initial confines. By 1996, when ORPS conducted a study on compensation agreements for state-owned land, 43 percent of New York's 1,700-plus taxing jurisdictions were receiving annual payments on some 3.6 million acres of state land.¹⁴

Initially, these tax agreements outside the forest preserves were extended to towns containing massive state land holdings, such as Morehouse and Benson in Hamilton County and Newcomb in Essex County. Later, similar agreements were struck for select watershed areas and state parks.¹⁵

¹³ Testimony from Michael Kenneally, associate counsel for the Association of Towns of the State of New York. New York State Senate Select Committee on Budget and Tax Reform Albany roundtable, Oct. 13, 2009.

¹⁴ New York State Office of Real Property Taxes, *Exemptions from Real Property Taxation in New York State: 1996 County, City & Town Assessment Rolls*.

¹⁵ *Ibid.*

“There is no rational basis [behind the process of subjecting state lands to taxation]. It’s the luck of the draw. The starting principle is the creation of the forest preserve, but it has been extended to other state lands without any rhyme or reason,” said ORPS Counsel James O’Keefe.

By 1994, New York was making \$80 million in payments to localities in the form of various tax-based programs, PILOT programs and hybrid programs. Compensation levels varied from \$335 per acre in Rockland County to zero in five other counties. And the disparities are even more glaring for PILOT payments, which at times can appear as “arbitrary lump-sum payments,” ORPS stated.¹⁶

“Once you go into a PILOT ... everything is up for grabs. There is no uniformity,” O’Keefe said.

While most PILOT agreements in New York stem from industrial development authority projects and nuclear power plants, many such arrangements exist in cities with large state infrastructures. For example, the City of Albany receives PILOT monies from the state for the tax-exempt South Mall, also known as the Empire State Plaza.

The South Mall PILOT, since the 2005 fiscal year, has stood at \$22.85 million. It is scheduled to drop to \$15 million in the 2011 fiscal year. As compensation for its capital city status and the loss of real property tax revenues, Albany also receives \$13.9 million in general purpose state aid with spin-up monies.¹⁷ The South Mall PILOT is included in the state aid per capita calculations — a practice Jennings opposes. Governor David Paterson in 2008 vetoed a bill that would have required the state to provide Albany with \$325 million in PILOT monies over 30 years for the 300-acre Harriman State Office Campus.

“The City of Albany has for generations faced the inequities of having significant portions of its tax base exempt from taxation — largely as a result of state ownership ... Compounding these inequities is the fact that the state allocation for aid to municipalities is not based on any definable or fair funding formula,” said Albany Mayor Jerry Jennings.¹⁸

According to Jennings, if Albany received commensurate aid per capita with Rochester then it would earn an extra \$35 million. At commensurate levels with Syracuse and Utica,

¹⁶ Ibid.

¹⁷ Testimony from Jerry Jennings, mayor of the City of Albany. New York State Senate Select Committee on Budget and Tax Reform Albany roundtable, Oct. 13, 2009.

¹⁸ Ibid.

Albany would also earn an additional \$38 million or \$12 million, respectively. The mayor called for a revision of the formula for state aid to municipalities and the establishment of PILOT agreements for all state land in any city where the value of tax-except state property exceeds a certain percentage of all property, such as 25 percent.

Over the past three decades, ORPS and its predecessors have thrice recommended replacing “the existing patchwork with a uniform PILOT system,” O’Keefe said. ORPS most recently recommended those changes in a 1996 report.¹⁹ However, these proposals were never adopted, primarily due to local governments’ concerns over the redistribution of state funds and the loss of control over taxable property because local assessments are not incorporated into PILOT agreements.

“Localities get to assess the value for tax purposes, and under a PILOT scheme the assessment doesn’t matter. A lot of localities up north would have looked at it as losing authority [or] losing control if they weren’t assessing it,” said ORPS Director of Research James Dunne.²⁰

The shift to a uniform PILOT system promises to not only improve equity among municipalities receiving compensation for state lands but also shield New York from the volatility of rapidly increasing local property tax rates.

As local government representatives at the roundtable complained about the tax burdens imposed on their communities by nonprofit entities’ property tax exemptions, Gene DeSantis of Malkin and Ross warned the Select Committee of seeing “only one side of the story.”

“Your analysis has to look at both how much revenue [is generated] because of the tax-exempt property and how much economic activity is generated because of government and those associated properties,” said DeSantis, who represents the New York State Camp Directors Association, the New York Section of the American Camping Association, the Long Island Association of Private School and Day Camps and the Rockland/Westchester Day Camp Association.²¹

¹⁹ New York State Office of Real Property Services, *Compensating Local Governments for Loss of Tax Base Due to State Ownership of Land*. September 1996.

²⁰ Testimony from James Dunne, director of research for the New York State Office of Real Property Services. New York State Senate Select Committee on Budget and Tax Reform Albany roundtable, Oct. 13, 2009.

²¹ Testimony from Gene DeSantis, of Malkin and Ross. New York State Senate Select Committee on Budget and Tax Reform Albany roundtable, Oct. 13, 2009.

By 1996, DeSantis said the amount of economic activity generated by New York nonprofit camps totaled:

- \$197 million in salaries and benefits for New York State residents.
- \$331 million to private businesses statewide.
- \$34 million in taxes to state and local government.

The Health Care Association of New York State (HANYs), which represents over 200 nonprofit and public hospitals statewide, said its members generate \$101.1 billion in economic activity for state and local governments annually — 10 percent of New York’s gross domestic product. A 2008 HANYs analysis also found²²:

- New York hospitals employ more than 357,800 full-time equivalent workers with a payroll of \$26.8 billion.
- New York hospitals indirectly generate approximately \$57.9 million in economic activity through employees’ spending on groceries, clothing, mortgage payments, rent and other expenditures.
- Hospital employees and jobs indirectly supported by hospitals paid \$919.3 million in local sales tax and \$901.2 million in state sales tax.

“In addition to being a critical resource for preventative care, New York’s hospitals are integral to their local economies, including the large number of people they employ, the impact of hospital purchasing and the impact of their employees’ spending and tax payments,” said Sue Ellen Wagner, the vice president of community health at the Healthcare Association of New York State.

²² Testimony from Sue Ellen Wagner, vice president of community development for the Healthcare Association of New York State. New York State Senate Select Committee on Budget and Tax Reform Albany roundtable, Oct. 13, 2009.

III. Containment, the Constitution and the Courts

Containment

The Legislature's voting history over the past decade demonstrates lawmakers' willingness to add to the ranks of tax-exempt properties. But history shows legislators approved of more exemptions so long as they can select the types of individuals (e.g. veterans or seniors) or entities benefitting from the relief measures.

However, some lawmakers have become increasingly leery of exemption growth elsewhere in the property tax exemption system. Concerns are piqued when it seems as though the courts — and not the Legislature — are selecting who is eligible for the relief measures. The problem of controlling this growth boils down to vague language in the state constitution and statute, which the Legislature has been reluctant to clarify.

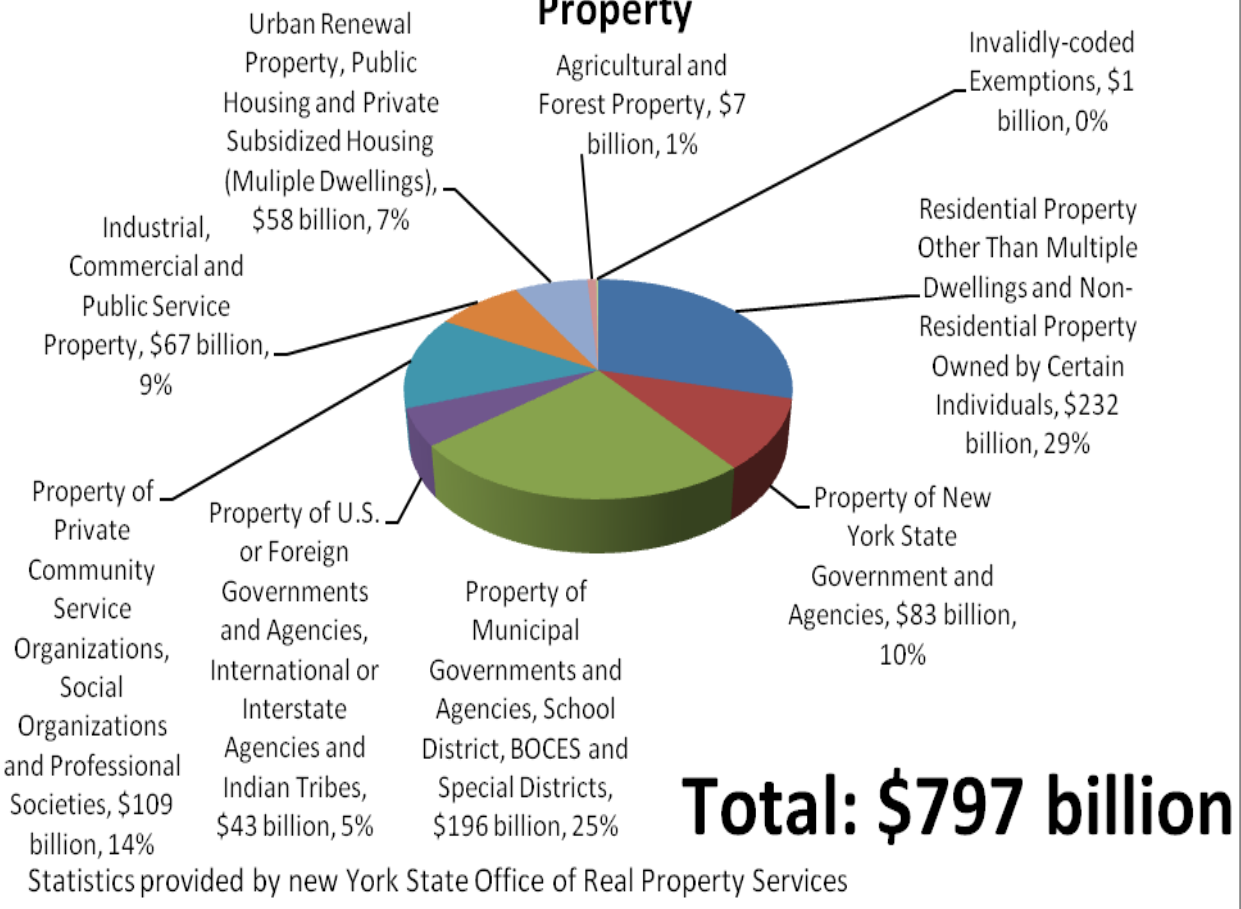
Exemption growth among private community service organizations, social organization and professional societies has sparked greatest concern among lawmakers in recent years, even though this category accounts for a small piece of the exemption pie. By value, this category accounted for 14 percent of exemptions in 2008. The category, which includes nonprofit religious, charitable, educational and health care organizations, accounted for \$109.5 billion of exemptions in 2008, compared to \$55.2 billion in 1997.

It is the rapid growth of nonprofit organizations and the value of their property tax exemptions that have most alarmed lawmakers on the local, county and state levels. For example, the ranks of educational nonprofit organizations last year totaled 7,580, marking a 31.7 percent increase from 1997 and a 153.2 percent jump from 1982. Exemptions for nonprofit organizations that benefit the moral and mental health of men women and children totaled 3,432 last year, up 53.4 percent from 1997 and 304.2 percent from 1982.²³

Some Senate and Assembly members are doubtful this nonprofit exemption growth wholly represents an outpouring of good will. As a 2003 Senate report on taxpayer equity

²³ New York State Office of Real Property Taxes, *Exemptions from Real Property Taxation in New York State: 2008 County, City & Town Assessment Rolls*.

New York State 2008 Equalized Exempt Value of Property



concluded: “Today, while some tax-exempt organizations continue to help meet critical public purposes, others cater solely to the personal preferences of their members.”²⁴ However, in many cases, new nonprofit entities are emerging to provide social services the state ceased providing.

“[T]he number of nonprofit groups and the cumulative impact of individual exemptions has steadily increased shifting the overall tax burden and triggering serious financial repercussions at the local level,” said the New York State Association of Directors of Real Property Tax Services. “To address this impact, the Legislature should create a system of annual application for these exemptions and tighten any standards for receiving them.”

²⁴ New York State Senate Standing Committee on Housing, Construction and Community Development and Standing Committee on Local Government, *Taxpayer Equity: Reforming New York’s Real Property Tax Exemptions*. April 2003.

However, the Legislature's attempts to deliver on such demands for clearer language for exemptions and more local control over them raises some constitutional questions.

Constitutional & Statutory Protections

Protections for various nonprofit entities built into the state Constitution make it difficult for the Legislature to curtail property tax exemption growth among them. Section 1 of Article XVI, which addresses taxation, states:

Exemptions from taxation may be granted only by general laws. Exemptions may be altered except those exempting real or personal property used exclusively for religious, educational or charitable purposes as defined by law and owned by any corporation or association organized or conducted exclusively for one or more of such purposes and not operating for profit.

When translated into law, this constitutional guarantee for tax exemptions is primarily divided into Sections 420-a and 420-b of the Real Property Tax Law (RPTL).

Section 420-a covers mandatory exemptions local governments must offer for property “owned by a corporation or association organized or conducted exclusively for religious, charitable, hospital, educational or moral or mental improvement of men, women or children purposes.”

Section 420-b addresses optional exemptions that local governments can decide whether to extend to “property owned by a corporation or association which is organized exclusively for bible tract, benevolent, missionary, infirmary, public playground, scientific, literary, bar association, medical society, library, patriotic or historical purposes, for the development of good sportsmanship of persons under the age of eighteen years old through the conduct of supervised athletic games, for the enforcement of laws relating to children or animals, or for two or more such purposes.”

These constitutional and statutory provisions become problematic when interpreting terms such “exclusively” and “religions,” “educational” and “charitable” institutions. While it is within the Legislature's constitutional authority to establish definitions for these terms, “To date, the Legislature has not done so,”²⁵ the 2003 Senate report on nonprofit property tax exemptions stated. Six years later, the Legislature still has not done so.

²⁵ Ibid.

However, by establishing these definitions, certain nonprofits could lose their tax-exempt status or see it reduced; therefore impacting their finances and ability to provide social welfare services. New York State Catholic Conference Director of Government Relations Kyle McCauley said many religious nonprofit organizations “are the providers of many of the major services the state cannot provide.” This point is evident in the 304.2 percent increase in moral and mental health nonprofit exemptions between 1982 and 2008 in the wake of the deinstitutionalization of psychiatric centers. She warned changes to organizations’ tax-exempt status could force them to cut the types of services; therefore threatening the state’s ability to fulfill its constitutional duties of providing social welfare.²⁶

In the state Constitution, Sections 1 and 3 of Article XVII, which were adopted during the Great Depression in 1938, state:

The aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine.

and

The protection and promotion of the health of the inhabitants of the state are matters of public concern and provision therefor shall be made by the state and by such of its subdivisions and in such manner, and by such means as the legislature shall from time to time determine.

“You can start assessing taxes, but there’s no ability for the organization to pay them. You’ll sink them,” said Michael West, legal advisor for the New York Council of Nonprofits. “One of two things will happen: Services will be discontinued or you can go back to paying more money for them from the governmental sector.”²⁷

Courts

The Legislature’s failure to set parameters for nonprofit eligibility criteria has pushed the front line of containing property tax exemptions to the local level and the courts.

²⁶ Testimony from Kyle McCauley, director of government relations for the New York State Catholic Conference. New York State Senate Select Committee on Budget and Tax Reform Albany roundtable, Oct. 13, 2009.

²⁷ Testimony from Michael West, legal advisor for the New York Council of Nonprofits. New York State Senate Select Committee on Budget and Tax Reform Albany roundtable, Oct. 13, 2009.

Seeing huge swaths of land increasingly taken off the tax rolls by nonprofits claiming to have religious missions, local governments have stepped up efforts to draw distinctions between taxable and tax-exempt property. Time and again, the courts stymied local governments' attempts to enforce stricter interpretations of the meaning of "exclusively" and how much tax-exempt property can be claimed under its umbrella.

A sampling of key appellate court decisions regarding the reach of the term "exclusively" regarding nonprofit exemptions established under the RPTL includes:

- ***Gospel Volunteers, Inc. v Village Speculator*, 33 AD 2d 407, 411, affd 29 NY2d 622 (1970):** *In order to be entitled to exemption from taxation under section 420 of the Real Property Tax Law, respondent must pass a three-step test. 1. It must be organized exclusively for the purposes in section 420 of the Real Property Tax Law. 2. Its property must be used primarily in furtherance of these purposes. 3. No pecuniary profit ... may inure to the benefit of any of its officers, members or employees, nor may it simply be used as a guise for profit-making operations*
- ***Association of Bar of City of N.Y. v Lewisohn*, 34 NY2d 143,153, supra (1974):** *[Uses] auxiliary or incidental to the main and exempt purpose and use will not defeat the exemption*
- ***Mohonk Trust v. Board of Assessors of the Town of Gardiner*, 47 N.Y.2d 476, 392 N.E.2d 876, 418 N.Y.S.2d 763 (1979):** *The determination of an organization's primary purpose may turn upon the extent to which it pursues the various purposes for which it was created, and is not necessarily dependent solely upon the language of the document pursuant to which the organization operates*
- ***Yeshivath Shearith Hapletah v Assessor of Town of Fallsburg*, 70 NY2d 244,249 (1992) :** *Although exemption statutes are to be strictly construed against the taxpayer, the interpretation of those statutes "should not be so narrow as to defeat [their] settled purpose, ... that of encouraging, fostering and protecting religious and educational institutions"* (quoting ***People ex rel. Watchtower Bible & Tract Socy. v Haring*, 8 NY2d 350, 358 (1960)**; see also, ***Association of Bar v Lewisohn*, 34 N.Y.2d 143, 153, supra**).

One of the most significant rulings in recent years came in 1991, with **Foundation for “A Course of Miracles”, Inc. v. Theodore**, 172 AD .2d 962, 568 NYS 2d 666, 668. In this case, the chairman for the Fremont board of assessors challenged the tax-exempt status of property owned by a nonprofit entity that offered educational programs based on its own interpretations of Christian values. The Foundation operated out of the former Tennanah Lake House, which included a five-story building featuring classrooms, a lecture hall, a dining room, a kitchen and housing units.

The Foundation lacked ties to any organized religious organization. Nevertheless, the appellate court ruled that “in absence of any evidence of insincerity or deception on the petitioner’s part,” it is corporation organized exclusively for religious purposes and eligible for the exemption.

“At this point, a determination was made that until the laws of the state of New York were changed to provide for a reinforcement of existing statutes and a new way to approach the exempt organizations, the assessors’ efforts to hold property owners to the exclusive use standards were fruitless,” Sullivan County Director of Real Property Tax Services Lynda Levine told the Assembly Standing Committee on Property Taxation at a September 2007 public hearing.²⁸

Given this predicament, real property tax service directors, such as Levine, have called for an overhaul of exemption provisions of the RPTL Section 420-a and for increased local control over the exemption process. While there is a consensus that genuine religious, educational and charitable organizations should receive property tax exemptions, there is less agreement over what portions of their land should or should not be subject to taxation. Carol LaGrasse, president of the Property Rights Foundation of America, recommended a “proportionality method” that could be applicable to everything from retreats to hospitals.

“If part of the land is held and clearly used for purposes of nonprofit then that fraction should be tax exempt, but the remaining fraction should pay a portion of the tax,” LaGrasse said.

However, Patricia Salkin, the director of Albany Law School’s Government Law Canter, said the state should be cautious about setting limits on religious organization’s land usage. She

²⁸ Testimony from Lynda Levine, director of Sullivan County Real Property Tax Services, New York State Assembly Standing Committee on Real Property Taxation Middletown public hearing, September 26, 2007.

said the courts have tried to “avoid these definitional issues by trying to find other ways to problem solve on this issue.”²⁹

“Exactly what constitutes the exercise of religion ... is clearly an issue of government at all levels and the courts do not like to get involved with it because it goes back to our founders’ principles of separation of church and state,” Salkin said. “And nobody wants government to underwrite religion and nobody wants government to say what is a legitimate religious exercise or religious group. It has caused tremendous confusion.”

Outside the realm of religion, local governments have experienced more success in enforcing stricter interpretations of the “used exclusively” clause in regard to property owned by nonprofits. However, more statutory support is necessary to improve enforcement.

Highlighting how courts have sided with local governments in drawing distinctions between taxable and tax-exempt property owned by educational and charitable nonprofit organizations, O’Keefe from ORPS referenced **Pace College v. Boyland, 4 N.Y.2d 528, 151 N.E.2d 900, 176 N.Y.S.2d 356**. In this 1958 case, New York City challenged the tax-exempt status of a Pace bookstore, saying it was a profit-making entity that had nothing to do with the college’s educational mission for which an exemption was granted. An appellate court sided with the city’s argument that the bookstore was an operation unrelated to the college’s mission.

“That analysis can be applied [elsewhere],” O’Keefe said. “It’s going to be a brave assessor who takes on a multi-million dollar research center in his municipality to say that portion of the research being done really is not in fulfillment of that nonprofit’s mission. So that is a possibility, and that is something the Legislature could address. It could draw lines, even under the current statute and constitution.”

This analysis could also bolster the “proportionality method” LaGrasse said should be applied to for-profit physicians’ offices within nonprofit hospitals. ORPS’s predecessor, the State Board of Equalization and Assessment (SBEA), in the 1970s already established a disposition toward granting tax-exempt status to hospital space leased to hospitals for doctors operating for profit.

²⁹ Testimony from Patricia Salkin, director of Albany Law School’s Government Law Center. New York State Senate Select Committee on Budget and Tax Reform Albany roundtable, Oct. 13, 2009.

In a 1973 opinion of council, the SBEA said, “Property owned by a hospital district authority ... leased and exclusively used by a group of doctors for the treatment of private patients for personal gain is not entitled to exempt status.”³⁰

A year earlier, the SBEA delivered a similar opinion concerning the construction of additional hospital space that would be leased private medical practices. The agency concluded, “To allow an exemption on such a facility would result in other taxpayers subsidizing a facility used by doctors in private practice to make a personal profit.”³¹

Wagner at HANYS noted that strict federal and state legal parameters of charity are already in place for nonprofit hospitals. In 1983, U.S. Internal Revenue Service Ruling 83-157 defined “charity” as “the promotion of health for a class of persons sufficiently large so the community as a whole benefits.”³²

“Tax exemption is often considered as a subsidy for costs the federal, state or local government would otherwise incur to provide important health services,” Wagner said. “A hospital’s tax-exempt status is linked to the amount of uncompensated care it provides, and to the community benefit programs the hospital offers.”

³⁰ Volume 3: Opinions of Council SBEA No. 12, July 20, 1973.

³¹ Volume 1: Opinions of Council SBEA No. 64, April 13, 1972.

³² Wagner.

IV. Recommendations and Proposals: A Brief History

Over the past 30 years, the Legislature and Executive have mounted at least three major initiatives aimed at reforming New York’s property tax exemption system. They include the 1992 Governor’s Panel on Real Property Tax Exemption and Classification Issues, ORPS’s 1996 study on state PILOT and property tax payments for state-owned land and the 2003 joint public hearings of the Senate Standing Committees on Housing, Construction and Community Development and on Local Government.

The goals of these initiatives have ranged from a systematic overhaul of the exemption system to standardizing payments on state-owned land to clamping down on land banking practices and the spread on nonprofit exemptions.

A plethora of recommendations and legislative proposals have emerged from these initiatives, many of which stem from the panel former Governor Mario Cuomo formed in 1992. However, the Legislature has opted not to adopt a majority of them, despite their promise to improve taxpayer equity and curb the costs associated with exemption growth.

Below is a list of the results of these three initiatives and other noteworthy efforts:

Major Executive a Legislature Property Tax Reform Initiatives			
Initiative/Years	Background	Property tax-Related Recommendations/Proposals	Enacted Results
<p>Governor's Panel on Real Property Tax Exemption and Classification Issues</p> <p>1992-1994</p>	<p>Former Governor Mario Cuomo in 1992 assembled the Governor's Panel on Real Property Taxation and Classification Issues, a group consisting of 13 appointed and 10 ex-officio members. Representatives from nonprofit organizations and local governments also worked with the panel chaired by former Schenectady Mayor Karen Johnson.</p> <p>Governor Cuomo tasked the panel of experts with studying real property tax exemptions, their impacts on local governments and their effectiveness in achieving statewide policy objectives. They were</p>	<ul style="list-style-type: none"> • Make all future exemptions, and some existing ones currently mandated, local options. • Make exemption laws clearer and easier to understand, particularly when there are multiple types of tax abatement or exemption programs. • Change fixed-dollar exemptions to exemptions based on a percentage of property value. • Repeal restrictions on the assessments of condominiums for all assessing units, excluding those in New York City and Nassau County. • Study tax-base sharing as a way of alleviating the fiscal pressures in municipalities that contain large tracts of tax-exempt property from which neighboring communities benefit. • Encourage the revaluation of all property and local tax expenditure reporting statewide to increase availability of accurate data and public awareness. 	<ul style="list-style-type: none"> • Authorized local governments to employ a targeted business investment exemption to attract desired economic activity and to steer it in specific parts of the community (Ch. 305, 1994). • Encouraged the revaluation of all property and local tax exemptions by changing reassessment aid programs (Ch. 405, 1999). • Required the state to provide financial assistance to local governments impacted by railroad ceilings (Ch. 698, 2002; Ch. 412, 2004), agricultural assessments and

	<p>tasked with making recommendations for restricting or converting exemptions to local-option status and developing a uniform classification tax rate system that could be adopted at local discretion."</p> <p>The panel convened its first meeting in October 1992 and issued an interim report in December 1993.</p>	<ul style="list-style-type: none"> • Establish a threshold beyond which local governments will be compensated by the state for the presence of state-owned land within their boundaries. • Establish a more timely and efficient process for reviewing state land holdings and create a streamlined disposition process that incentivizes state agencies for disposing unneeded land. • Encourage local governments with consulates and diplomatic residences within their boundaries to explore with the U.S. State Department the possibility of receiving compensation for services provided to foreign diplomats. • Authorize taxing units to grant business investment exemptions — based on locally-determined project cost thresholds — for certain types of business activity in specific geographic areas. • Require the state to provide financial assistance to local governments heavily impacted by railroad ceilings, agricultural assessments and forestry property. • Change the opt-out option established under §420-b of the Real Property Tax Law to an opt-in option and allow local governments to determine the extent of the exemption. • Move the exemption for property used for moral and mental improvement from §420-a to §420-b. • Authorize local governments to impose service charges on tax-exempt property. • Define terms related to eligibility for exemption and codify these definitions in statute. • Set statutory limits on the amount of land owned that is tax-exempt if it is infrequently used for purposes for which the exemption was granted. • Make the state administer veteran tax abatements through the personal income tax instead of requiring municipalities to grant property tax exemptions for them. • Grant local governments more authority in determining key features of 	<p>forestry exemptions (Ch. 55, 2004).</p> <ul style="list-style-type: none"> • Required local governments to include property tax exemption fiscal impact reports in their annual budgets (Ch. 258, 2008).
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		<p>exemptions for seniors.</p> <ul style="list-style-type: none"> • Explore the creation of an expanded personal income tax circuit breaker for property tax payments. 	
<p>Compensating Local Governments for Loss of Tax Base Due to State Ownership of Land</p> <p>1995-1996</p>	<p>Former Governor George Pataki in August 1995 directed the Office of Real Property Services (ORPS) to study the state's methods of compensating local governments for the presence of state-owned land within their boundaries. The agency reviewed a variety of compensation agreements that are irregularly spread throughout the state and range from actual property tax payments to payments in lieu of taxes (PILOTs).</p> <p>In September 1996, ORPS delivered its report on state-owned land compensation, which included six recommendations.</p> <p>ORPS's recommendations were included in Pataki's 1997-1998 Executive Budget as part of the STAR package passed that year, but the PILOT provisions were not included in the enacted budget.</p>	<ul style="list-style-type: none"> • Establish a single PILOT program that applies to all municipalities with eligible state-owned land. • Make PILOT payments on all state-owned land, excluding parcels used for basic infrastructure or administrative purposes. • Base PILOT payments on a fixed amount per acre of eligible state land. • Hold local governments harmless for any potential losses of revenue caused by payment changes on state-owned land. • Adjust the state education aid formula and other formulas to account for the switch from tax payments to PILOT payments on state-owned land. • Require the state to continue paying benefit assessments and other charges for local services provided to any of its properties eligible for PILOT payments. 	N/A
<p>Taxpayer Equity: Reforming New York's Real Property Tax Exemption</p> <p>2003</p>	<p>Chairs of the Senate Standing Committees on Housing, Construction and Community Development and on Local Government jointly introduced a package of legislation primarily addressing the proliferation of nonprofit organizations statewide and their massive holdings of unused or relatively rarely-used tax-exempt land. The committees chaired by Senators John</p>	<ul style="list-style-type: none"> • Require nonprofit organizations with tax-exempt property to annually validate that their land has been used in a way satisfying requirements (S.1123). • Subject residents with children who live in wholly-exempt real property within a school district to make tuition payments (S.1125). • Extend tax-exempt status to vacant or unimproved land only if an organization has plans to utilize and adapt the property within two years for the purpose the exemption was granted (S.1126) 	N/A

	Bonacic and Betty Little held six public hearings throughout the state to gather public comment on the bills and they jointly issued a report on their findings in April 2003.	<ul style="list-style-type: none"> • Set stricter standards for tax-exemptions by defining terms used for nonprofit organizations in §420-a and §420-b (S.1127). • Authorize local governments to grant tax exemptions to organizations claiming to benefit the moral or mental improvement of men, women and children (S.1398). • Provide a full state reimbursement to local taxing jurisdictions for any tax revenue losses stemming from certain forest land exemptions (S.1415). 	
Assembly Standing Committee on Real Property Taxation 2007	The Assembly committee held multiple public hearings on legislative proposals concerning assessments on condominiums and cooperatives, circuit breaker credits and other property tax exemption issues.	<ul style="list-style-type: none"> • Grant tax-exempt status only to vacant or unimproved land only if an organization has plans to utilize and adapt the property within seven years for the purpose the exemption was granted (A.1244). • Require nonprofit organizations with tax-exempt property to annually validate that their land has been used in a way satisfying requirements (A.1246). • Authorize municipalities to accept and administer property tax exemption applications from nonprofit organizations that have purchased property subject to taxation (A.1573-b). • Require market-based assessments on cooperatives and condominiums, excluding those in New York City and Nassau County (A.1574). • Raise the gross income eligibility and rent allowable to qualify for the circuit breaker tax credit (A.522) • Replace the Middle Class STAR program with a personal income tax credit for a portion of taxpayers' residential real property taxes that exceed a percentage of a households gross income. Taxpayers claiming circuit breaker credits would not be eligible for the personal income tax credit (A.1575). 	N/A
Assembly Standing Committee on Real Property Taxation and Senate Standing Committee on Local Government	The Senate and Assembly committees jointly held a public hearing in Albany predominately on a circuit breaker bill, but they also addressed some legislation related to property tax exemptions.	<ul style="list-style-type: none"> • Require local governments to include property tax exemption fiscal impact reports in their annual budgets (S.7538/A.10613). • Authorize municipalities to remove limits on assessments on condominiums and cooperatives, excluding those in New York City and Nassau County (S.2683/A.1572). 	S.7538/A.10613 signed into law in July 2008. (Ch.258).

<p>2008</p>		<ul style="list-style-type: none"> • Create a new circuit breaker that provides personal income tax credit for a portion of taxpayers' residential real property taxes that exceed a percentage of a household's gross income. (S.1053-a/A.1575-a) • Create a single statewide assessment standard, which will be developed by ORPS, pursuant to a three-year assessment cycle determined on a county-wide basis. (S.2683/A.1572). 	
<p>New York State Commission on Property Tax Relief</p> <p>2008</p>	<p>Former Governor Eliot Spitzer in January 2008 issued an executive order creating a seven-member New York State Commission on Property Tax Relief. The commission was charged with investigating the root causes of New York's high property tax burden, the impact of increased state financial support and state taxpayer relief, the effectiveness of various taxpayer tax relief mechanisms. It was also charged with weighing whether property tax caps are the most effective way to impose a limit on school property tax growth.</p> <p>The commission chaired by Nassau County Executive Thomas Suozzi held 14 public meetings statewide and issued its final report in December 2008.</p>	<ul style="list-style-type: none"> • Require property tax exemption legislation to include fiscal notes that provide a full accounting of how a mandate would impact local governments. The notes must include localities' input and proposed sources of revenue to fund the new mandate. • After implementing a property tax levy cap, redirect \$2 billion from the STAR program to fund a new STAR circuit breaker program, which provides targeted property tax relief based on taxpayer's income and ability to pay. 	<p>N/A</p>

V. Conclusion

A common thread through the recommendations proposed by various state entities over the past three decades is the call for a targeted form of property tax relief based on taxpayers' income and need. Governor Cuomo's 1992 panel on property tax exemptions, Comptroller McCall's 1996 school finance study and the 2008 Suozzi commission all called for some type of personal income tax circuit breaker credit. As recently as last year, the Assembly Standing Committee on Real Property Taxation and Senate Standing Committee on Local Government held public hearings on legislation proposing that property tax relief measure.

Given the elimination of the Middle Class Star Rebate Check program earlier this year and the Legislature's track record for adding to the property tax crisis by creating or expanding property tax exemptions, the need to answer the calls for an effective circuit breaker is greater than ever.

Granted, the creation of such a circuit breaker would add another exemption to New York's property tax system. But the Real Property Tax Credit has been in effect since 1977, and this type of circuit breaker suffers from many of the pitfalls plaguing the state's property tax exemptions. Namely, its focus is blurry and its ability to serve the general public is too limited. These qualities need to be remedied for both the circuit breaker and exemptions.

Chairwoman Krueger earlier this year introduced legislation (S.4239) proposing to establish a middle-class circuit breaker tax credit that would be phased in over four years. The bill would provide tax relief to households with an adjusted gross income of less than \$250,000 annually, broadening the reach of the state's existing circuit breaker program.

Important to the creation of such a circuit breaker program will be the implementation of measures that assist or encourage local governments to improve their fiscal situations; thus alleviating some pressures in the property tax system. Such measures could include the further consolidation of municipal operations, similar to those included in the New N.Y. Government Reorganization and Citizen Empowerment Act the Senate passed in June. Property tax exemption reforms will also be important to the circuit breaker initiative. Regarding such reforms, the Select Committee plans to explore what steps are necessary to achieve the following:

- Stemming the proliferation of exemptions by requiring legislators to include more detailed fiscal notes in property tax exemption bills. The notes should detail possible funding sources for the unfunded mandates and local government fiscal impacts. ORPS should provide assistance in determining these financial projections.
- Granting local governments more authority in accepting and administering property tax exemption applications and in determining what parts of unused and vacant property can be tax-exempt.
- Limiting the state's exposure to volatile local property tax rates and establishing more equitable and uniform PILOT compensation mechanism for state-owned lands.

Senate Select Committee on Budget and Tax Reform

Evaluating the needs for and costs of New York State property tax exemptions

Tuesday, October 13, 2009

Participants

Kyle McCauley

Director of Government Relations
New York State Catholic Conference

H. William Batt

Executive Director
Central Research Group

Gene DeSantis

Partner
Malkin & Ross (for New York State Camp Directors Association)

Carol LaGrasse

President
The Property Rights Foundation of America

Brian Houseal

Executive Director
The Adirondack Council

Gerald Jennings

Mayor
City of Albany

Michael Kenneally

Associate Counsel
The Association of Towns of the State of New York

David Little

Director of Government Relations
New York State School Boards Association

Victor Mallison/Jim Dunne/ Jim O'Keefe

Deputy Executive Director/Director of Research/Counsel
New York State Office of Real Property Services

Frank Mauro
Executive Director
Fiscal Policy Institute

Patricia Salkin
Director of Government Law Center
Albany Law School

Bill McCarthy
YMCAs of New York State

Barbara VanEpps
Deputy Director
New York State Conference of Mayors

Sue Ellen Wagner
Executive Director/Vice President
Healthcare Trustees of New York State/Community Health for the Healthcare Association of New York State

Lawrence Witul
Assistant Director
Niagara County Industrial Development Authority

Michael West
Legal Advisor
New York Council of Nonprofits

Written Testimony Only

New York State Association of County Director's of Real Property Tax Services

Senate Select Committee on Budget and Tax Reform

www.nysenate.gov/committee/budget-and-tax-reform-0

Chair: Senator Liz Krueger

Senators: Neil Breslin, Kenneth LaValle, Kevin Parker, Bill Perkins, Michael Ranzenhofer

NOTICE OF ROUNDTABLE MEETING

ALBANY

Tuesday, October 13, 2009

12:30 p.m.

Senate Majority Conference Room

Capitol, Room 332

Albany, NY

SUBJECT: Evaluating the needs for and costs of New York State property tax exemptions.

New York State is rapidly approaching the point where the tax exempt status provided to nonprofit organizations, educational organizations and other institutions may require re-evaluation in lieu of the jump in property values over the past decade. Between 2000 and 2008, the total equalized exempt value of property statewide rose 80 percent to \$797.1 billion, according to the New York State Office of Real Property Services. With property tax exemptions climbing toward unsustainable levels and imposing greater burdens on local and county governments, the Senate Select Committee on Budget and Tax Reform will convene a roundtable meeting to assess the costs for and costs of these relief measures.

Roundtable discussions should relate New York State's property tax exemptions. Some of the questions the Select Committee intends to ask include:

- In what ways are property tax exemptions succeeding or failing to fulfill their original intentions?
- How can the state better control and/or limit the amount of tax exempt property to prevent further erosion of local government tax bases?
- Should state lawmakers reconsider the definitions for what qualifies as tax exempt property or institute a policy of partial exemptions?
- How would the state constitution influence attempts to reform the property tax exemption system?
- How has the distribution of tax exemptions impacted economic development activities and revenue streams in urban and suburban areas?
- Should local governments be granted a role in determining what properties are exempt within their borders and be allowed to review whether they should repeal or reduce some exemptions?
- Are there any property tax exemption systems in other states that could serve as models for New York?

About the Select Committee on Budget and Tax Reform

On February 5, 2009, the New York State Senate adopted Senate Resolution No. 315, which created the Select Committee on Budget and Tax Reform. Since then, the six-member, bi-partisan committee chaired by Senator Liz Krueger has sought to look at New York State's entire tax structure. It aims to determine what aspects of it are working smoothly and where there are inequities and complications that must be rectified.

Select Committee activities in 2009 have included:

- **Personal Income Tax Reform:** *Exploring progressive changes to New York State's personal income tax system.*
 - Public hearing: Albany, March 12.
 - Outcome: Chairwoman Krueger introduced legislation (S.4239) proposing to establish a middle-class circuit breaker tax credit that would be phased in over four years. The bill would provide tax relief to households with an adjusted gross income of less than \$250,000 annually, broadening the reach of the state's existing circuit breaker program.
 - Outcome: Report to the Select Committee published in April 2009.
- **Business Tax Reform:** *Evaluating the equitability of New York State's business and banking tax structures and their effectiveness to foster economic growth statewide.*
 - Public hearings: Rochester, April 30; Manhattan, May 21.
 - Outcome: Chairwoman Krueger sponsored legislation (S.50047/A.8867) that proposed to align New York City's business and banking tax structures with those of the state. Both the Senate and Assembly in June passed this legislation, which the governor signed into law on July 10.
 - Outcome: Report to the Select Committee published in July 2009
- **Telecommunications Tax Reform:** *Modernizing New York State's telecommunication taxes.*
 - Roundtable: Albany, August 12.
 - Outcome: Report to the Select Committee published in September 2009.
- **Property Tax Exemption Reform:** *Evaluating the needs for and costs of New York State property tax exemptions.*
 - Roundtable: Albany, October 13.
 - Outcome: Report to the Select Committee published in December 2009.

The Select Committee's members also include Senators Neil Breslin, Kenneth LaValle, Kevin Parker, Bill Perkins and Michael Ranzenhofer. Select Committee staff includes Executive Director Michael Lefebvre, Principal Analyst Richard Mereday and Administrator James Schlett.