

THE LAW OF PROPERTY

SUPPLEMENTAL READINGS

Class 13

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THE TOP 40 REAL PROPERTY TAX TERMS

Real property tax terms are often confusing and misunderstood. This SRS *Issues in Focus* is designed to act as a quick reference. The ease of having these selected and common definitions available should save the reader time by not having to wade through New York State Law and the New York Codes, Rules and Regulations in order to find them. These definitions are presented in alphabetic order, with the term identified in italics.

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BACKGROUND

According to the State Comptroller's *Special Report on Municipal Affairs*, for the fiscal year ending in 1996 (latest year for which data are available), real property taxes accounted for 29% of the \$81.5 billion in total revenues for all local taxing jurisdictions. These taxes represented an especially significant share of total revenue for villages (47%), school districts (42%), and towns (54%). The money funds schools, pays for police and fire protection, goes to maintain roads, and funds other municipal services enjoyed by residents. Property taxes are also important to those who have to pay them, so familiarity with the various terms related to their administration is a necessity. Although by no means complete, the selected definitions provided here should help the reader better understand the terminology used in discussing real property taxation.

REAL PROPERTY TAX TERMS

Unless otherwise noted, the following definitions are derived from Title 9, Volume A-2, of the New York State Codes, Rules and Regulations and Articles 1 through 20 of the New York State Real Property Tax Law.

Adirondack Park parcels — parcels of wild or forest lands, owned by the State and located within the boundaries of the Adirondack Park, that are subject to taxation, in whole or in part, pursuant to Section 532(a) and (b) of the Real Property Tax Law, and for which assessments were approved by the State Board for the 1960 assessment roll.

Adjudicatory proceeding — any activity that is not a rule-making proceeding, a hearing to afford a party an opportunity to be heard in relation to the determination of rates, ratios, or assessments, an employee disciplinary action in which the rights, duties, or privileges of named parties are to be determined on a record after a hearing, or a review of a local disciplinary action by an appointing authority against an assessor.

Adjusted prior assessment — a prior assessment increased by reason of the addition of new property or decreased by reason of fire, demolition, or destruction, adjusted in accordance with the provision of subdivisions (4) and (5) of Section 1904 of the Real Property Tax Law.

Arm's-length transfer — a sale of a fee or all undivided interests in real property in the open market, between an informed and willing buyer and seller where neither is under any compulsion to participate in the transaction, unaffected by any unusual conditions indicating a reasonable possibility that the full sales price is not equal to the fair market value of the property assuming fee ownership.

Assessed value — the monetary amount at which a property is put on the assessment roll.

Assessing unit — a city, town, or county with the power to assess real property, unless the city, town, or county is part of a consolidated assessing unit, or a village as provided in Real Property Tax Law Section 1402.

Assessment information file — a collection of records for every parcel shown on the assessment roll, where related information for assessment administrative purposes, including the initial recording of all transfers, is maintained.

Base year assessment roll — the roll from which the State Board of Real Property Services selects its samples for the purpose of a market value survey.

Common law easement — an easement created pursuant to common law (i.e., the body of law developed primarily from judicial decisions based on custom and precedent, unwritten in statute or code) for conservation purposes acquired on or before January 1, 1990, on land within the Adirondack or Catskill parks.

Complaint review panel — a group of staff members of the Office of Real Property Services (ORPS) that provides for compliance with statutes, rules, and procedures in the review of the State equalization rate, class equalization, and class ratio complaints.

Conveyance — every instrument in writing, by which any estate or interest in real property is created, transferred, assigned, or surrendered, excluding a will, easement, right-of-way, lease, license agreement, or mortgage.

Current roll — the assessment roll for which a State equalization rate, special equalization rate, class equalization rate, or class ratio is determined, and the assessment roll for which an assessor's report is being completed.

Easement — a right to use another person's real estate for a specific purpose. The most common type of easement is the right to travel over another person's land, known as a right of way. In addition, property owners commonly grant easements for the placement of utility poles, utility trenches, water lines, or sewer lines. The owner of property that is subject to an easement is said to be "burdened" with the easement, because he/she is not allowed to interfere with its use. (Source: Nolo.com.)

Equalization Rate — a measure, based on sampling by the State Board of Real Property Services, of the average level of assessment in an assessing unit. Simply put, it is a statement of the average percentage of full value at which assessments have been set by the assessor, based on the State Board's valuation date. For example, suppose a town has a total assessed value of \$10 million, and it was determined that the full value is \$50 million. Dividing the assessed valuation (\$10,000,000) by the full valuation (\$50,000,000) produces an equalization rate of .20, or 20%. The reader should note that there is a lag between the valuation date on which an equalization rate is based and the year the rate is used. As a result, a community's equalization rate, in most cases, is not the **current** ratio between its assessed value and its full market value.

Exempt assessed value — the part of the assessed value of a parcel exempt from taxation.

First levy date — the last statutory day for the levy of any tax for any purpose upon the final assessment roll or a portion thereof.

Full sales price — the price actually paid or required to be paid for real property or an interest therein, whether paid or required to be paid by money, property, or any other thing of value, including the cancellation or discharge of an indebtedness or obligation, and the amount of any lien or encumbrance on the real property, or interest therein, that existed before the delivery of the deed and that remains thereon after the delivery of the deed, but excluding the fair market value of any property received by the buyer.

Full value standard — for the purposes of a State equalization rate, the manner in which the full value of taxable real property is determined when computing a State equalization rate. Where only one market value survey is used in the computation of an equalization rate, the full value of the taxable real property is the value as of the valuation date. Where two surveys are used, the full value of the taxable real property is a weighted average of the values as of each of the valuation dates.

Grievance day — the date on which local officials hear complaints in relation to assessments. This is generally the fourth Tuesday in May, but many localities change this date for one reason or another, so it best to check with your local assessor.

Homestead class — (1) all one-, two-, or three-family-dwelling residential real property, including such dwellings used in part for nonresidential purposes but primarily for residential purposes, and farm dwellings; (2) all other residential real property consisting of more than three dwelling units held in condominium form of ownership, provided certain special conditions are met; (3) all vacant land parcels located in an assessing unit that has a zoning law or ordinance in effect, provided that such parcel does not exceed 10 acres and is located in a zone that does not allow a residential use other than that described above; and (4) land that is used in agricultural production and is eligible for an agricultural assessment as defined in Section 305 or 306 of the Agriculture and Markets Law, where the owner of such land has filed an annual application for an agricultural assessment, and farm buildings and structures thereon. A mobile home or trailer does not constitute a homestead unless it is owner-occupied and separately assessed.

Land parcel — used interchangeably with *lot* in tax mapping. All real property parcels separately assessed apart from the land are to be identified to the land parcel.

Lending institution — any bank, trust company, national bank, savings bank, savings and loan association, federal savings bank, federal savings and loan association, private banker, credit union, investment company, pension fund, licensed mortgage banker, or any other entity that maintains a real property tax escrow account for real property located in New York State.

Levy roll — the final assessment roll upon which taxes are to be levied.

Market value ratio — the ratio of assessed value to full value of the taxable real property on a final assessment roll.

Measured roll — an assessment roll from which observations, either sample parcels for appraisal or sales, are chosen in conducting a market value survey or from which aggregate full values are

estimated based upon local reassessment activity. The procedures for market value surveys are to provide which assessment rolls are to be measured.

Municipality — a city, town, or village, other than a village that is not an assessing unit.

Nonhomestead class — all real property not included in the homestead class.

Nonresidential property — locally assessed properties that are not residential property.

ORPS — Office of Real Property Services.

Physical or quantity change — either an increase in assessed value from the prior roll to the current roll resulting from new construction, property annexed from another assessing unit, property omitted from the prior roll, property discovered during tax mapping, and property that has become a locally assessed property or taxable State land, or a decrease in assessed value from the prior roll to the current roll resulting from fire, demolition, loss of parcels from the roll due to tax mapping, removal of mobile homes, removal of duplicate parcels from the roll and property which is no longer a locally assessed property or taxable State land. It is not the result of the splitting or merging of parcels. Increases in assessments of oil and gas rights assessed pursuant to Real Property Tax Law Article 5, Title 5, that are a result of increased production are to be treated as increases resulting from new construction. Decreases in assessments of oil and gas rights assessed pursuant to the same section of law that are the result of decreased production are to be treated as decreases resulting from demolitions. Where new property has replaced existing property, the installation of new property will be treated as new construction and the removal of the previously existing property will be treated as a demolition, notwithstanding that the new property may be similar or identical, in function or otherwise, to the previously existing property. In special assessing units or homestead assessing units, physical or quantity changes also include a change in class designation and the annexation or removal of a parcel from a portion.

Residential Assessment Ratio — established by the State Board of Real Property Services according to law, the residential assessment ratio, or RAR, is the midpoint of a list, ranked from highest to lowest, of ratios of assessed value to sales price for each usable residential sale. The RAR is an indication of the level of assessment of residential property in a community. Residential property owners can use the RAR in an attempt to prove that their homes are assessed at a higher level than other homes on the assessment roll.

Residential property and residential real property — these terms are defined differently for different purposes, but generally mean one-, two-, and three-family residential property, including such dwellings used in part for nonresidential purposes but primarily for residential purposes, but excluding parcels with an assessment limitation and parcels held in a cooperative or condominium form of ownership.

Revaluation, reassessment, or update — a systematic review of the assessments of all locally assessed properties, valued as of the valuation date of the assessment roll containing those assessments.

Special ad valorem levy — a charge imposed upon benefited real property, in the same manner and at the same time as taxes for municipal purposes, to defray the cost, including operation and maintenance, of a special district improvement or service, but not including any charge imposed by or on behalf of a city or village.

Special district — a town or county improvement district, district corporation, or other district established for the purpose of carrying on, performing, or financing one or more improvements or services intended to benefit the health, welfare, safety, or convenience of the inhabitants of such district or to benefit the real property within such district, and in which real property is subject to special ad valorem levies or special assessments for the purposes for which such district was established.

State equalization rate — the percentage of full value at which taxable real property in a county, city, town, or village is assessed as determined by the State Board.

Tax billing address — the address designated by the buyer of the property to which tax bills are to be sent. A tax billing address may be expressed in the form of a code.

Tax lien — an unpaid tax, special ad valorem levy, special assessment, or other charge, imposed upon real property by or on behalf of a municipal corporation or special district, that is an encumbrance on real property, whether or not evidenced by a written instrument.

Taxable status date — the date as of which the taxable status of the property is determined according to its condition and ownership, and by which many municipalities require property tax exemptions to be filed (generally March 1st, but may vary depending on the locality).

Valuation date — the date when the full market value of the property is determined (generally January 1st, but may vary depending on the locality).

LEGISLATIVE ACTIVITY — 2000

The following bills proposing changes to real property tax definitions have been introduced to date in the 2000 Session:

- S. 963 — allows the governing body of any approved assessing unit except New York City, by referendum, to include owner-occupied four-family residential dwellings within the definition of *homestead class* (No Action);
- S. 2088 — includes, within the definition of *homestead class*, for purposes of class share tax treatment, residential real property consisting of more than three dwelling units held in cooperative form of ownership (Passed Senate); and
- S. 6462 — includes, within the homestead classification, residential real property held in cooperative form of ownership (No Action).

ADDITIONAL SOURCES OF INFORMATION

New York Codes, Rules and Regulations. Title 9, Volume A-2, Section 185.

New York State. Office of the State Comptroller. *Special Report on Municipal Affairs*. 1996.

Senate

Research Service

ISSUES IN FOCUS

NEW YORK PROPERTY TAXES — A REVIEW OF TWO REPORTS

Property owners in New York State recently had an opportunity to see somewhat different perspectives on real property taxes in New York. In early 2006, the Senate Finance Committee released a study on the cost of local government it had commissioned from Global Insight, Inc. (GI). In April of 2006, the Office of the State Comptroller published a research brief that summarized the issues associated with property taxes.

Prior reports on property taxation in New York have found that State residents pay substantially higher local taxes per capita than does the average American, whereas the State tax rates are much nearer to national averages. These reports agree about the high rates, but as with any group of reports that examine the same subject matter, there are also instances where the reports disagree. Generally speaking, the GI and OSC reports complemented each other.

Despite recent clamoring for increased State education aid as a mechanism to lower local property taxes, the OSC study found that having a single major identifiable local revenue source for municipalities and schools offers direct accountability and keeps the pressure on these local governments to carry out their operations in a cost-effective manner. OSC further notes that State aid, such as the STAR (school tax relief) program, lowers the effective tax rate on homeowners — the largest group of people who vote on and otherwise influence local school budgets. For many seniors, STAR has effectively eliminated their school tax burden.

GI found that the high local tax burden is due primarily to high growth rates in local government spending. New York State has a multiplicity of local governmental units, which results in the duplication of resources, inefficient service delivery, and ultimately higher costs and higher local taxes. Localities also have high levels of government employment and large payrolls because of duplication and overstaffing.

This SRS *Issues in Focus* summarizes and contrasts the Global Insight and State Comptroller studies.

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INTRODUCTION

Two significant reports that examine real property taxes in New York State were recently published, giving property owners an opportunity to see somewhat different perspectives on this politically charged topic. In early 2006, the State Senate Finance Committee released a study on the cost of local government it had commissioned with Global Insight, Inc. In April of 2006, the Office of the State Comptroller (OSC), through its Division of Local Government Services and Economic Development, published a research brief that summarized the issues associated with property taxes.

While the OSC brief is largely descriptive, both publications offer at least limited proscriptive counsel for the lowering of property taxes in the State. What follows is a summary of the main points of each report (neither of the reports are of such brevity as to allow them to be fully explained here) and some conclusions that can be drawn from a comparison of the two. Sources for copies of the individual reports can be found in "Additional Sources of Information," below.

BACKGROUND

The cost of local government is influenced by many factors, including the mix and quality of local services provided; the shares of local services paid for by the State; population size, age distribution, and density; land development patterns; income and property value levels; and attitudes towards taxation. However, the sources of funding for local government activities are more easily discernible (see table below).

<i>Units</i>	<i>Number</i>	<i>Percentage of revenues from:</i>	
		<i>Real property tax</i>	<i>Sales tax</i>
Cities	61	22.5%	17.3%
Counties	57(1)	21.4%	23.8%
Towns	932	50.1%	9.4%
Villages	554	43.0%	5.6%
School Districts	703(2)	51.7%	(3)
Fire Districts	862	92.1%	N/A

N/A = Not applicable
(1) Excluding the 5 boroughs of New York City.
(2) Includes both independent and dependent districts.
(3) A relatively small number of districts receive sales tax distributions or impose a consumer utility tax. Most of the remainder of school district funding (38%) is State aid.

Prior reports on property taxation in New York have found that State residents pay substantially higher local taxes per capita than do average Americans, whereas the State tax rates are much nearer to national averages. Unlike sales taxes and State aid, the property tax is a relatively stable, locally

controlled revenue source. Earlier studies have also suggested that the State's multiple local governmental units duplicate resources and services, provide inefficient service delivery, and generally have an inability to capture efficiencies and economies of scale in service delivery. Due to such duplication and, according to some, overstaffing, local governments experience high employment costs.¹

In 2002, there were 3,704 units of local government units in State, excluding units located in New York City. In addition to the units presented in the table above, there were 200 joint activities agencies, 116 industrial development agencies, and 219 special purpose units.

REPORT FINDINGS IN COMMON

As with any group of reports that examine the same subject matter, there are numerous instances where the reports express agreement. Such findings include the following:

- In 2002, New York State ranked first in the continental United States in the amount of all local taxes levied, at \$6,377 per household; local property tax revenues per household in New York State totaled \$3,750 as compared with the median for all states of \$2,254 (third highest in the nation, exceeded only by Connecticut and New Jersey).
- Local government spending in 2002 was \$4 billion higher in New York than the average of 10 states delivering similar services.
- In 2002, New York State provided approximately 38% of the revenues for local elementary and secondary education spending.
- Property taxes are the largest tax imposed by local governments in the State, representing 79% of all local taxes, not including New York City. (New York City's property taxes are relatively low compared with other localities because the City collects revenue from a number of other local taxes, including a personal income tax.)
- Local property tax levies grew by an unadjusted 60% from 1995 to 2005; most of this growth occurred between 1997 and 2002, when local government expenditures increased approximately 13% in real terms (i.e., after adjusting for inflation), while real property and sales taxes rose 19.6% in real terms over the same period. This resulted in rising tax burdens locally and relative to comparable states.
- In 2005, the revenue generated through local property taxes exceeded the amount levied via the State's personal income tax by roughly \$10 billion for the same year.
- Excluding New York City, the downstate area (in this instance defined as Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties) has far higher tax bills, but far lower tax rates than the upstate area.

¹ Cabalquinto, Casey, and Matthew Gardner. *Achieving Adequacy: Tax Options for New York in the Wake of the CFE Case*. Washington, DC: Institute on Taxation and Economic Policy, April 2005. Also, Public Policy Institute of New York State. *How High Is the Upstate Tax Burden — and Why?* August 16, 2004.

What follows is a closer look at each of the 2 reports and some conclusions that can be drawn from their findings.

REPORT 1: *ASSESSING THE COMPARATIVE COST OF LOCAL GOVERNMENT SERVICES IN NEW YORK STATE*

Commissioned by the Senate Finance Committee, Global Insight, Inc. (GI), a recognized international economic analysis service, analyzed aggregate local government revenues and expenditures. The resulting report, *Assessing the Comparative Cost of Local Government Services in New York State*, was released in December 2005.

GI examined the differences between upstate and downstate in those variables, as well as nationally and against a smaller cohort of similar states. Specifically, New York was compared to 10 other large states with major urban centers and local governments that provide a range and level of services similar to those provided in New York, namely, California, Connecticut, Illinois, Massachusetts, Michigan, Minnesota, New Jersey, Ohio, Pennsylvania, and Texas.

The analysis distinguished among general governmental and education spending, transportation and employment costs, and Medicaid expenditures and revenues. Not all of the results were statistically significant; only the major findings, conclusions, and recommendations are presented here.

Employment

GI found that the rate of local government employment in New York State was almost 26% higher than the national average. For the continental United States, the average size of a unit of government (city, town, village, etc.) in 2002 was 1,926 households; in New York State it was 1,493, excluding New York City. In 2002, the number of households per education unit (i.e., school district) was 5,733, excluding New York City, which was well below the 48-state median of 7,406.

As stated in the GI report, "These below-average figures suggest the possibility of both overlapping governmental units and the existence of too many small local government units, each serving a low number of households. Though these differences may be due to other factors, such as demands for higher-quality local services (e.g., smaller class sizes in schools; more police and fire personnel per household, etc.) and the broader range of services provided by local governments, they may also be due in part to the large number of local governments in the state."

Local government employment in New York State has risen in both absolute and unit terms. According to the report, in 2002, New York State had the second-highest level of local education full-time employees in the 11 states (0.076 per household) even before New York City was excluded, trailing only Texas at 0.079.

The federal Bureau of Labor Statistics states that total local government employment in the State rose from 1.007 million in 1997 to 1.092 million in 2004. Wages and salaries plus benefits comprised about 50% of total expenditures of local governments, including education employment, in the State in 2002. GI found that higher local government employment levels meant higher growth rates in local costs, as total compensation has been rising faster than has the rate of inflation.

Since local government services are labor-intensive, total compensation often comprises the majority of annual expenditures, so that the rate of government employment in workers per household has a significant effect on local government spending. The local government employment levels per household are only slightly lower upstate than downstate, but given the greater financial resources available downstate, GI expected to see larger percentage differences in the levels of compensation than it did, suggesting that there are too many local government workers upstate given the local resources available to pay for them.

What GI found was that higher local government spending and local tax levels in New York State may be due more to the number of workers and less to the average salaries paid. Noting that inefficiencies result when providing local government services in the sparsely populated, rural counties, GI stated that government services in such counties may require more workers per household. Structural factors prevent economies of scale from being realized in such areas.

According to GI, merely reducing the local government employment levels to those of the comparable states will not solve the problem of the cost of local government services. In addition to lowered employment levels, localities would also have to adjust the quality of services provided, alter employee wage and benefit levels, and revise local tax systems.

GI predicted that the size of the potential savings that could be obtained by improving the efficiency of delivering local government services in New York State is quite large, and presented an upper-bound estimate of \$2.465 billion upstate and \$0.99 billion downstate. Stated another way, “[T]he \$2.465 billion are local revenues that would not have been required if the local expenditures and taxes in the upstate counties had been based on the lower employment rates in the comparable states.”

Expenditures

There was a marked increase in the level of local government expenditures in recent years. From 1997 to 2002, local government expenditures increased nearly 30% in nominal terms and 13% in real terms (i.e., after adjusting for inflation). The sharp increase in local government spending in recent years has produced a similarly high growth rate in locally generated revenue, primarily that of real property and sales taxes. By way of example, real property tax collections, which represent around 41% of all local government revenues, increased 19.6% during the period 1997-2002, according to the Comptroller’s 2004 Annual Report, resulting in rising local tax rates.

The growth in local property tax that exceeded the rate of inflation from 1995 to 2005 raised the actual tax burden not only in real terms, but relative to comparable states as well. The GI analysis “compared local government expenditure, employment, and tax revenue levels in New York State to those in the 48 other states (Alaska, the District of Columbia, and Hawaii were excluded because they were not comparable), and then to a smaller set of 10 comparable states.”

Among the findings presented in the GI report:

- Total local government expenditures per household in New York State were \$15,172, well above the 48-state average of \$8,802. When New York City was excluded, the New York State figure was still approximately \$12,300 per household.
- The expenditure difference per household between New York and the other states is wider for local, general government services than for education services. Local, general government expenditures in New York State (including New York City) were \$9,747 per household in 2002, 94% higher than the 48-state average of \$5,030.
- Local education expenditures per household were \$5,425 in New York State, 44% above the 48-state average of \$3,772. According to *Education Week*, per-pupil spending in New York State in the 2001-02 school year was \$10,002, third-highest in the United States and 29% above the U.S. average of \$7,734.
- Local government employment expenditures per household was higher in New York State than in the other states, again with the difference greater for local, general government than for education.
- Because of high expenditure levels, local tax revenues per household in New York in 2002 for both local, general government and education services were 60% and 83% higher, respectively, than in other states.

In addition to measuring New York against the nation, GI also compared the State to 10 other large, comparable states with major urban centers, specifically, California, Connecticut, Illinois, Massachusetts, Michigan, Minnesota, New Jersey, Ohio, Pennsylvania, and Texas. The levels of both local, general government and education expenditures in New York State were higher than comparable state averages, and the differences were statistically significant to a high degree.

All tax revenues per household in New York were higher than the 11-state average. The comparison of revenue, expenditure, and local tax levels in New York with those in the 10 other states shows that the levels are consistently higher in New York, even when the distorting effects of New York City are excluded. These differences exist for both local, general government and education services, and the expenditure differences are slightly higher than the revenue differences. Finally, the differences between New York and the comparable states are somewhat greater for local, general government services than for education.

Units of Local Government

GI notes that, along with rising expenditures, there is a link between the structure of local government in New York State and the above-average tax burdens borne by its residents, as suggested by a series of recent studies. In particular, much attention has been focused on the fact that multiple government bodies within each county have the power to raise revenues through direct taxation, yet often provide overlapping services. Most municipal corporations, specifically including counties, cities, fire districts, school districts, towns, and villages, are authorized to levy taxes.

GI cites the following examples of the multitude of local government units: Seneca County, which has a population density of 108 persons per square mile, is served by 28 governments, and Chautauqua County, which has a population density of 130 persons per square mile, is served by 88 governments.

The report did not rely solely on anecdote, however. The number of households per unit of local government in New York State, for both education and general government, was found to be below the U.S. averages, especially in the upstate counties. There, the number of households per local noneducation unit of government is 52.6% less than in the downstate counties. This implies that New York, compared to the average state in the nation, supports significantly more units of local government to provide necessary services.

GI goes so far as to state, “[W]e conclude that local government services, notably local, general government, are not being delivered as efficiently as they could be in New York State, especially in the upstate counties.” It further finds that significant local tax revenues and State funding can be saved by promulgating policies designed to streamline government and share services. The report concludes, “It is difficult to state precisely what share of the additional local expenditures and taxes presented above are directly attributable to inefficiencies in providing local government services in New York State, but if we assume the share is half, then the additional local government expenditures were \$2.24 billion upstate and \$1.82 billion downstate, with additional local taxes paid of \$1.00 billion in the upstate counties and \$1.32 billion downstate.”

Other Factors

The report produced by GI mentions several other factors that have contributed to the State’s high property taxes. These include the higher cost of living generally in the Northeast, especially in the downstate region, and higher service standards, such as smaller classroom sizes or more days per week of trash collection.

In addition to streamlined government and consolidated services, the report finds that local property taxes could be lowered by altering how services are provided (i.e., what level of government provides the services) and/or how the services are funded. For example, in some states, highway maintenance is primarily the responsibility of county highway departments, while in others, local road maintenance is handled at the state level. Similarly, in many states, the state government pays the majority of local education costs, whereas in 2002, New York State provided approximately 38% of the revenues for local elementary and secondary school spending.

REPORT 2: PROPERTY TAXES IN NEW YORK STATE

The OSC, as part of its Local Government Issues in Focus series, published a 22-page “research brief” that summarized the issues associated with real property taxes and provided an analysis of recent trends. It should be noted that the OSC report, *Property Taxes in New York State*, was not as detailed or comprehensive as that done by GI. The OSC report concurred with the GI report in that tax burdens in New York State are generally higher than in the rest of the nation.

Regional Differences

The OSC report had mixed things to say about regional differences in property tax levels, growth rates, and relative burden. It found a great deal of variation across the State. Although taxpayers in suburban downstate counties pay the highest property tax bills per household, they have some of the lowest tax rates in the State, since their property values are much higher as well. These low rates are partly due to the growth in property values between 1995 and 2005, which was much stronger downstate than upstate, according to the OSC.

The fact that total taxes per household are higher in downstate counties, however, may not indicate by itself that property taxes are more burdensome there. Downstate residents are generally wealthier, and therefore may be able to afford higher taxes. As stated in the report, “[B]y this measure, downstate property taxes look much more affordable than average, especially in property-wealthy Suffolk and Westchester counties.”

Property Tax Growth

Generally speaking, property taxes are used to balance municipal budgets after accounting for all other sources of revenue, which means that property taxes tend to increase more quickly if other revenues stagnate or decline. During the late 1990s, the economic expansion allowed most local governments to keep property tax increases below inflation. According to the OSC report, school districts were the only local government units to have property tax growth that outpaced inflation between 1995 and 2000.

As the expansion cooled, however, the trend reversed. Economic slowdowns and resulting contractions in other revenues have placed additional pressure on local property tax levies. The OSC report said that, as a result, the property tax is currently the fastest growing local revenue in the State. It further declared, “Most [property tax] growth occurred in the last 5 years — when property tax levies increased by 42%, compared to inflation of 13%.”

In its discussion of the trends associated with property taxes, the OSC report specifies that local governments as a whole had average annual increases in the property tax levy of only 2.3% during the 1990s, and counties, cities, towns, and villages all kept annual levy increases below the inflation rate of 2.5%.

Slow property tax growth during that period was also related to increased growth in other sources of revenue (especially sales tax revenue growth due to the healthy economy) and moderating costs, including low interest rates for capital projects and lower-than-usual pension contributions. The low pension contributions were driven by 2 factors: then-Comptroller Carl McCall’s decision to reduce, and in some instances even eliminate, local pension contributions; and extraordinary returns on pension fund investments during that period.

The OSC found that from 2000 to 2005, the economic impact of the recession and the attacks of September 11, 2001, reduced State aid at the same time other local revenues declined. These changes, coupled with growth in local costs for health care and employee benefits, produced more rapid property tax growth. All classes of government shared in this acceleration, with levies growing faster than inflation during the period.

School district levies grew at an average annual rate of 7.3%, significantly outpacing inflation even after accounting for STAR. According to the Comptroller, the primary reason for this is that schools consume more public resources than other types of local government, accounting for 48% of total local government expenditures in 2004, and demands upon public education have been escalating. State revenue sharing and school aid increases also may have had an impact.

Preliminary school district and village levy data show growth slowing for those classes of government as well, although less dramatically (from 7.8% in 2005 to 6.8% in 2006 for school districts, and from 6.3% to about 5.5% for villages). However, growth rates for most classes of local government continue to be substantially above inflation.

And yet, not all of the news reported by the OSC was bad. Levy increases have moderated somewhat in 2006, particularly for counties, which benefited from last year's Medicaid cap (Chapter 58, L. 2005). However, Medicaid constitutes only a small portion of total local government expenditures; in 2002, local government spending attributable to Medicaid averaged only 2.6% of total spending. Nevertheless, as described in a recent OSC update separate from the aforementioned report, county tax levy increases slowed from an annual average increase of 7.0% statewide from 2000 to 2005 to 3.3% in 2006, a sizable portion of which can be attributed to the recent Medicaid cap.

Assessment Reform

One area examined in the OSC report, but not in the GI report, was property assessments. The Comptroller's Office found that assessment quality varies throughout the State, and in many areas properties with similar market values may have very different assessments and tax bills. Such discrepancies can lead to dissatisfaction and assessment challenges, which in turn may have a significant impact on the property tax base.

Although national standards call for property revaluation every few years, State law does not require jurisdictions to assess real property at full market value. Recent statistics from the Office of Real Property Services show that only two-thirds of assessing jurisdictions are achieving satisfactory uniformity in residential assessments. A 1996 interagency task force on real property valuation recommended that assessment requirements be strengthened in New York State. Specifically, State law should be amended to require that all assessing jurisdictions assess real property at market value, in accordance with standards promulgated by national standard-setting agencies — including updated assessments on a regular cycle, not to exceed 4 years. As indicated in the report, the Comptroller's Office would like to see the task force's recommendations acted upon.

CONCLUSION

The reports in question agreed on several points. There were also some variables that were considered by one report, but not the other. And then there were instances where the reports diverged in opinion as well. Generally speaking, the GI and OSC reports complemented each other.

Based on their multistate analysis, GI found that 2002 local government spending was up to \$4 billion higher in New York than the average of 10 states that deliver similar services. Education

spending accounted for 49.8% of all local spending, and local government spending on all other services, e.g., highways, water, public protection, and sanitation, represented 47.6% (the report did not detail how the remaining 2.6% was spent).

The OSC found that economic vagaries largely contributed to the jump in property taxes in the late 1990s and early 2000s, and that more favorable current economic conditions appear to have reduced the rate of property tax rate increases. For its part, GI attributed rising property taxes to New York's multijurisdictional approach to delivering local government services as well as a higher cost of delivering these services, requiring \$2.3 billion in additional local taxes and \$1.7 billion in additional State support.

Education Spending

New York employs more education workers than average, and total spending per pupil for K-12 education in the State far exceeds the U.S. average. Specifically, GI found that per-household, local education expenditures in 2002 were \$5,425 in New York State, 44% greater than the 48-state median of \$3,721. It also found that local educational employment in the State also exceeded that seen elsewhere. In 2002, the New York State level of 0.074 education employees per household was, respectively, 13.9% and 7.2% greater than the 48-state average and median figures of 0.065 and 0.069.

GI also noted that *Education Week's* "Quality Counts 2005: No Small Change," an annual report evaluating state school financing systems, indicated that annual, per-pupil spending in New York State in the 2001-02 school year was the third-highest in the nation and the State financing of education was 29% higher than the national average. According to GI, the State also enjoys smaller class sizes on average than the rest of the nation.

Increased State Aid to Lower Local Taxes

Recently, several groups have sought increased State education aid as a mechanism to lower local property taxes. As the STAR reimbursements made by the State come from the General Fund and are paid directly to local school districts, it can be considered a form of State education aid; households receive a portion of their State tax payments back in the form of lower school property tax levels.

According to the OSC, however, such programs may encourage growth in spending, particularly in higher-wealth, higher-spending areas. As stated in the Comptroller's report, "Having a single major identifiable local revenue source for municipalities and schools offers direct accountability and keeps the pressure on these local governments to carry out their operations in a cost-effective manner." It further cautions that STAR lowers the effective tax rate on homeowners, the largest group of people who vote on and otherwise influence local school budgets. For many seniors, STAR has effectively eliminated their school tax burden.

The OSC says that by reducing the local tax share paid for greater school spending, State education aid may actually provide an incentive to increase school spending, an impact the OSC notes has been described in several studies. OSC cautions that while short-term property tax relief may be the perceived effect of increased State education aid, the long-term outcome of such tax shifts may well be an overall increase in both State and local taxes.

LEGISLATIVE ACTIVITY — 2006

Each year, the Legislature considers a multitude of bills that would effect changes in the real property tax system. The following bills have seen action in the Senate in 2006:

- S. 101 — authorizes granting of a school tax exemption to veterans with at least 40% disability (Passed Senate);
- S. 734-A — provides State assistance for revaluation of school district assessments at full value (Passed Senate);
- S. 884 — permits tax jurisdictions to apply for and receive from the courts incidents of ownership of land subject to foreclosure to permit an environmental investigation (Passed Senate);
- S. 1975 — exempts from real property taxation property leased by a municipality for a public library for a period of 20 years or more (Passed Senate);
- S. 2224 — defines the War on Terrorism as a “period of war” for purposes of the veterans’ alternative property tax exemption (Passed Senate);
- S. 2353 — authorizes certain cities and villages to expedite foreclosure on substantially physically distressed and unoccupied residential, commercial, or industrial properties (Passed Senate);
- S. 2847-B — creates an exemption for increased value of property in certain areas of the Adirondack Park (Passed Senate);
- S. 3309 — grants the 80% real property tax exemption to forest lands subject to a recognized forest certification program (Passed Senate);
- S. 3691 — removes the distinction between owner-occupied and nonowner-occupied family properties in terms of eligibility for the small claims assessment review program (Passed Senate);
- S. 4018 — grants a 50% exemption for certain cold storage facilities used to hold fruit (Passed Senate);
- S. 4939 — provides for a third party designation by eligible senior real property owners for notices regarding annual recertification (Passed Senate);
- S. 5607 — provides third-party notice option for property owners eligible for the tax exemption for persons with disabilities (Passed Senate);
- S. 5966-A — extends, until January 1, 2011, the expiration of the law relating to the tax exemptions for solar, wind, or farm waste energy systems (Passed Senate); and
- S. 6830 — provides for adjusted homestead and non-homestead adjusted base proportions in assessing real estate taxes in Nassau County (Chapter 24, L. 2006).

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Public Policy Institute of New York State. *How High Is the Upstate Tax Burden — and Why?* August 16, 2004. (Available at http://www.ppiny.org/reports/2004/upstate_taxes04.pdf)

World Wide Web site:

United States Census Bureau — *2002 Census of Governments*
(<http://www.census.gov/govs/www/cog2002.html>)

**ROAD MAP OF THE STATE BOARD
OF REAL PROPERTY SERVICES**

The State Board of Real Property Services is a five-member body, appointed by the Governor, whose function is to oversee the administration of real property assessments in New York. The Board is required to establish State equalization rates, assess special franchises, investigate the methods of assessment throughout the State, and support real property tax equity. The body that carries out the Board's policies and programs is the Office of Real Property Services (ORPS). Through its six regional offices located throughout the State, ORPS provides several types of assistance to localities.

This SRS *Issues in Focus* describes the State Board of Real Property Services, including its membership and their powers and duties, and the role of ORPS.

SRS ANALYST: Jason Scott

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#I00-43



WHAT IS THE STATE BOARD OF REAL PROPERTY SERVICES?

In 1960, the Legislature created the State Board of Equalization and Assessment (Chapter 335, L. 1960). While it was renamed in 1994 to the State Board of Real Property Services, the Board's mission and function has not changed since its inception. As outlined in Article 2 of the Real Property Tax Law, the Board is a five-member body appointed by the Governor, with the advice and consent of the Senate, whose function is to oversee the administration of real property assessments in New York. The members of the Board are appointed for eight-year terms. They receive no monetary compensation for their membership, but are reimbursed for expenses incurred while on State business. Other than the statutory requirement that one of the members be "an individual actively engaged in the commercial production for sale of agricultural crops, livestock and livestock products of an average gross sales value of ten thousand dollars or more," it is the task of the Governor and Senate to appoint and approve qualified members to the Board.

WHO IS ON THE BOARD?

The current members of the Board are Chairwoman Ifigenia T. Brown of Ballston Spa (Saratoga County), John M. Bacheller of Latham (Albany County), Frank B. Cernese of Montrose (Westchester County), Ruth L. Henahan of Delmar (Albany County), and Leon E. Wright, Jr. of Franklinville (Cattaraugus County). Thomas G. Griffen of Kinderhook (Columbia County), Executive Director of the Office of Real Property Services (ORPS), also serves as the executive officer for, and secretary of, the Board. (The executive officer of ORPS is not appointed by the Governor but rather is appointed by the Board itself.)

The Board convenes several times a year for public meetings, which are usually held at ORPS's Sheridan Avenue office in Albany.

POWERS AND DUTIES OF THE STATE BOARD

Overseeing the administration of real property assessments in New York is no easy task. As part of that responsibility, the Board is required by law to:

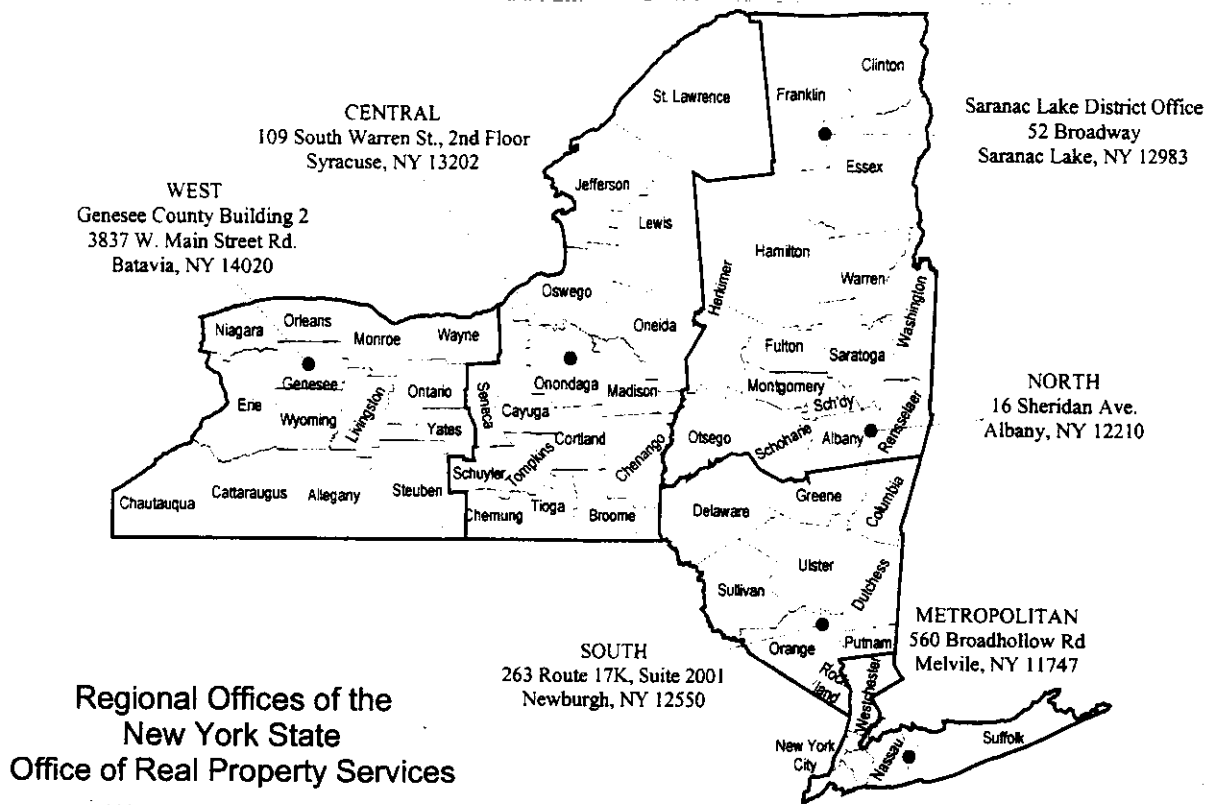
- establish State equalization rates for each county, city, town, and village;
- hear and determine reviews relating to determinations made by county equalization agencies;
- assess special franchises;
- approve assessments of State lands subject to taxation;
- have general supervision of the function of assessing throughout the State;
- investigate the methods of assessment throughout the State and confer with, advise, and assist assessors and other officials whose duties relate to assessments;

- furnish assessors with information and instructions that may aid them in making assessments;
- prescribe forms relating to assessments, including applications for exemption from real property tax;
- inquire into the provisions of the laws of other states and confer with the appropriate officials thereof regarding the most effectual and equitable methods of assessing and taxing real property;
- prepare an annual report to the Legislature that will include recommendations concerning amendments to existing law and other information that may be advisable;
- establish railroad ceilings for railroad real property;
- monitor the quality of local assessment practices by individual assessing units;
- impose, collect, and receive fees or charges that may be authorized by statute;
- adopt rules and regulations to implement the computerized statewide school district address match and income verification system as detailed in Section 171 of the Tax Law;
- administer oaths, take affidavits, and certify acknowledgments in relation to any matter or proceeding in the exercise of the powers or duties of the Board;
- meet with local officers concerning assessment and real property taxation matters if such a meeting is seen as necessary by the Board;
- make official visits to counties not more than once every two years to discuss matters relating to assessment and real property taxation; and
- direct disciplinary actions against officials who neglect or refuse to perform official duties.

THE ROLE OF THE OFFICE OF REAL PROPERTY SERVICES

The New York State Office of Real Property Services (ORPS), formerly the State Division of Equalization and Assessment, carries out the policies and programs of the Board. Its mission, "To lead the State's efforts to support local governments in their pursuit of real property tax equity," is brought to the Board by Executive Director Thomas G. Griffen.

ORPS maintains its principal office in Albany and extends its operations through regional offices in Batavia, Melville, Newburgh, Syracuse, and Albany. ORPS also maintains a full-service office in Saranac Lake. The map on the following page shows the counties served by each of the regional offices.



Using data processing equipment, these regional offices generally provide direct technical assistance to localities in the installation of the Real Property System (a computer program) and related real property administrative services, such as the municipal full-value measurement survey. In addition, the regional offices supply the following types of assistance:

- **Project Planning** — The regional staff assist localities in analyzing their needs and putting together work plans and timetables of project plans.
- **Initial Revaluation Projects and Valuation Updates** — The regional staff monitor the work of private valuation contractors and provide assistance, i.e., training, if needed. If a private contractor is not involved, then the regional staff run the initial revaluation project or valuation update by working with the local assessor(s).
- **Real Property System (RPS) Conversion** — RPS is a computer program that helps localities and assessors with the assessment process. The regional staff help the locality convert its existing files to the RPS.
- **Assessor Training** — This is part of the comprehensive services offered to local government.
- **Market Survey** — The regional staff assist ORPS with the responsibilities associated with doing market value surveys that produce municipal full-value estimates for the creation of equalization rates.

LEGISLATIVE ACTIVITY — 2000

A number of bills affecting the New York State Board of Real Property Services have been introduced in the current session. One measure provides that the Board may not cause a school district to be part of more than one regional service area when establishing regional offices to serve different areas of the state (A. 6147, No Action). Another authorizes the Board to study the fiscal impact of granting local school districts the authority to implement an income tax surcharge (S. 3130, No Action).

ADDITIONAL SOURCES OF INFORMATION

New York Codes, Rules and Regulations. Volume 9, Subtitle F.

New York State Consolidated Laws. Real Property Tax Law, Article 2.

World Wide Web site:

New York State Office of Real Property Services (www.orps.state.ny.us)

Real Property Tax Cap Information – Frequently Asked Questions

Notice: The answers listed below supplement the guidance issued by the New York State Department of Taxation and Finance and the New York State Department of State: “Property Tax Cap: Guidelines for Implementation”. These answers are intended to assist in implementing the law. As new questions arise or answers need to be clarified, we will provide additional information. Some of the responses are derived from [“Property Tax Cap: Guidelines for Implementation” \[pdf\]](#).

Applicability

Does the 2 percent cap on property taxes apply to tax levies, rates or real property assessments?

The legislation establishes a limit on the annual growth of real property taxes levied by local governments and school districts. The cap is not directly applicable to property tax rates, or to the assessed value of real property.

Fire districts are already subject to spending limits under section 176 (18) of the Town Law. How does this limitation differ from the tax levy limit?

The tax levy limit is a separate limitation on the amount of the tax levy, and is a restriction on fire districts that is in addition to the spending limitation. Fire districts must meet the requirements of both.

Counties, cities and villages are already subject to a constitutional tax limit under article VIII of the State Constitution. How does this limitation differ from the tax levy limit?

The tax cap is a restriction on the year-to-year increase in the tax levy, while the constitutional tax limit is a restriction on the total amount of the levy in any single year. Therefore, the tax levy limit is a separate restriction imposed upon counties, cities and villages that is in addition to the threshold constraint of the constitutional tax limit. Counties, cities and villages must meet both requirements.

Do special districts governed by separately elected commissioners but that include their budgets within the town budget have to report to OSC by November 20 when the town adopts its budget or when the commissioners approve the special district’s budget?

Special districts that have separate, independent elected boards and which have the authority to levy a tax, or can require a municipality to levy a tax on its behalf are subject to the tax levy limit and are not part of the municipality’s tax levy limit. Therefore, these special districts must submit the report form to OSC before the board of commissioners adopts the special district’s budget, regardless of when the town adopts its budget.

Are BIDS (business improvement districts) separately subject to the levy limit?

No. BIDs do not have separate, independent elected or appointed boards which have the authority to either levy a tax or require a tax to be levied on their behalf. The BID itself should be distinguished from the District Management Association (DMA), which is a not-for-profit entity that carries out BID activities, usually under a contractual arrangement. This arrangement is generally prescribed in the BID plan. The DMA can make **recommendations**, but it is the board that makes the decisions as to the amount of the levy. Therefore, in accordance with DOB guidance, BIDs would not be considered an independent district, so the levies for BIDs must be incorporated into the municipality's levy limit.

Are fire protection districts in towns separately subject to the levy limit?

No. Fire **protection** districts (as opposed to **fire districts**) are not governed by separately elected or appointed governing boards that can levy or require the levy of taxes on behalf of the district. Therefore, levies for fire **protection** districts are part of the town's tax levy limit.

Do libraries have their own tax levy limit? If so, how is the limit overridden?

In accordance with guidance provided by the New York State Division of the Budget, a library (such as a special legislative district public library, school district public library, a municipal public library, or an association library) has its own tax levy limit if it (i) has a separate, independent elected or appointed governing board, and (ii) can require a municipality or school district to levy a tax on its behalf (which includes, where applicable, a tax levy approved by voters). To the extent the budget of a library is comprised of revenues generated by a tax levy of a municipality or school district that the municipality or school district is required to impose on behalf of the library, those tax revenues fall within the tax levy limit of the library. To the extent the budget of that library is comprised of revenues generated by the taxing authority of a municipality (such as a town or village), and that municipality is not required to impose that tax levy on behalf of the library, those tax revenues fall within the tax levy limit of the municipality. The library's tax levy limit may be overridden by a resolution approved by a 60% vote of the total voting power of the library's governing board. If the library governing board overrides the tax cap and the library budget or taxes to support the library is subject to voter approval, the proposition must be approved by only a simple majority of the voters (i.e. more than 50%), unless, in the case of a special act library district, it is otherwise provided in the special act creating the district.

Calculating the Tax Levy Limit

Our local government levied less than was allowable according to our prior year tax levy limit. How do we calculate the amount of “available carryover” we can include in determining our tax levy limit for the coming fiscal year?

“Available carryover” generally refers to the amount, if any, by which the tax levy for the prior fiscal year was below the allowable tax levy limit for that year (before any exclusions for pension contributions and/or court orders/judgments arising out of tort actions), up to one and one-half percent (1.5%). In cases where a local government levied less than the amount of its allowable tax levy limit for the prior fiscal year, the amount of available carryover that the local government can include in calculating its tax levy limit for the coming fiscal year is the lesser of:

A) The difference between the prior year tax levy limit (before exclusions) and the actual levy for the prior fiscal year

Or

B) 1.5 percent of the prior year tax levy limit (before exclusions).

If a local government’s actual levy was equal to or more than the prior year’s calculated tax levy limit (before exclusions), there would be no amount available to be carried over.

Before performing the “available carryover” calculation, you should confirm with the tax levying body the amount actually levied for the prior fiscal year.

Please note: OSC has developed an easy-to-use available carryover calculator to help you perform this calculation within the online reporting system.

We set up a reserve after having identified an error in our property tax cap calculation from last year. How should we account for this reserve amount in our tax cap calculation for the coming year?

When an excess tax levy has been identified and set aside in reserve, the law requires that the excess levy plus any interest earned must be used to offset the tax levy in the coming fiscal year. There are two steps involved in order to accomplish this:

(1) **The Form:** OSC’s online report form includes a dedicated field that captures the total amount the unit had to place in reserve. That figure will automatically be subtracted from the amount in the “Prior Fiscal Year Tax Levy” field—before the tax base growth factor is applied. In the example below, the unit had to put \$10,000 in reserve in FYE 2012. Therefore, for the FYE 2013 calculation, the user would enter \$10,010 (which includes interest earned) in the appropriate field. The resultant levy limit in this example is \$105,444.

(2) **Offsetting Tax Levy:** Once the total level of property taxes needed to support the budget for the coming year is set, the amount in reserve (\$10,010) must then be used to offset the property taxes that will be levied for the coming fiscal year. This means that the entity would only have to levy the remaining \$95,434.

Base Formula Tax Levy Limit Calculation			
	FYE 2012 (year of the error)	FYE 2013 (year of correction)	FYE 2014 (year after correction)
Formula Element			
Prior Fiscal Year Tax Levy	100,000	112,700	105,444
- Deferred Levy from Reserve + Interest	NA	10,010	0
<i>Prior Fiscal Year Tax Levy Adjusted for Deferred Levy</i>	NA	102,690	<i>105,444</i>
x Tax Base Growth Factor	1.0000	1.0000	1.0000
+ PILOTs Receivable in Prior Fiscal Year	10,000	10,000	10,000
- Prior Year Tort Exclusion	NA	0	0
x Allowable Levy Growth Factor	1.02	1.02	1.02
- PILOTs Receivable in Coming Fiscal Year	10,000	10,000	10,000
+ Net adjustments and exclusions (in this example, just pension exclusion)	500	500	500
Total Levy Limit With Adjustments, Exclusions (including any deferred levy from prior year excess)	102,700	105,444	108,253
+Amount of Excess Levy OR -Deferred Levy from Prior Year	10,000	(10,010)	0
Actual Amount Levied in Coming Fiscal Year	112,700	95,434	108,253
Actual Amount Levied PLUS Deferred Levy	NA	105,444	108,253

In the following year’s calculation (FYE 2014 in this example) the starting point for the 2014 calculation (“prior year levy” field) will equal the prior year tax levy, irrespective of the \$10,010 reserve amount. However, a local government may choose to use the lower prior year levy number, which is net of the reserve offset.

Note: for detailed instructions as to the actual accounting treatment and required journal entries associated with the placing of excess levy into reserve, please consult OSC’s accounting [bulletin](#) on the topic.

My local government overrode the property tax levy limit last year but levied less than the limit before any adjustments or exclusions. Can we still utilize the carryover amount?

Yes. If the total property taxes levied was less than the tax levy limit in the prior year, a local government or school district is permitted to carryover up to 1.5 percent of the prior year levy limit. In accordance with [guidelines](#) issued by the Department of Taxation and Finance, there is no carryover permitted for unused exclusions associated with growth in pension costs or tort judgments.

Are relievs of delinquent taxes and levies of delinquent user fees subject to the tax levy limit of the local government which relievs or levies the charges?

No. Relievs of delinquent taxes and levies of delinquent user fees are not subject to the tax levy limit of the local government which relievs or levies the charges. Delinquent school taxes were already subject to a school district's levy limit. User fees are not taxes subject to the levy limit. In each case, the relevy or levy process is simply a mechanism to collect delinquencies, but does not change the character of the charge for purposes of the levy limit.

Is the prior year levy to be adjusted for tax refunds that are granted after taxes are levied?

No. Your prior year levy should consist of the amount of taxes levied in support of your local government or school district's budgeted expenditures for that fiscal year. There is no authority to adjust the levy for tax refunds made during the prior year.

How do I know my "allowable levy growth factor"?

OSC will pre-populate the prescribed report form with the appropriate allowable levy growth factor. The allowable levy growth factor is 1.02, or the sum of one plus the "inflation factor," whichever is less. The inflation factor is based on a calculation that uses the consumer price index for all urban consumers – unadjusted (CPI-U) published each month by the [Bureau of Labor Statistics](#).

How do I get my "tax base growth factor"?

The tax base growth factor is derived using a "quantity change factor," which is calculated by the Department of Taxation and Finance. The Department of Taxation and Finance will provide each local government with the applicable tax base growth factor, if any. This information is also available on [their website](#). In addition, OSC has pre-populated most local government's tax base growth factor into their electronic form.

Please contact the Department's Solutions Center at (518) 591-5233 if you have questions on how this figure is calculated or if your form does not have a pre-populated value.

Is the town tax levy limit calculated separately for the town-wide and town outside of village funds?

No. The tax levy limit is calculated based on the combined total levy for all funds for which the town board determines the amount of the levy, including the highway fund and funds for special districts that are governed by the town board.

We will not know how much our PILOT payments will be for the coming fiscal year until our tax rates are set. How should I go about filling out this part of the form?

The figure should be based on a good faith estimate of the amount you expect to receive. You should use the same process that you use to estimate your PILOTs receivable during budget development. Most local governments that receive PILOTs estimate the amount receivable pursuant to their respective PILOT agreements.

My municipality receives a payment made in lieu of real property taxes, but the formula by which the payment is derived is not based on the assessed value of the property or the tax rates. Are these types of PILOTs also included in the calculation of the tax levy limit?

Yes. The tax cap is based on all payments in lieu of taxes, and does not distinguish between PILOT amounts that are based on assessed value, or some other methodology.

Is the tax levy limit calculated based on the aggregate levy necessary for each fund or is the levy limit calculated separately for each fund? What if some of the funds have different tax bases and/or are not coterminous with the municipality's boundaries (such as a town outside village fund, part town highway fund, or a water fund that covers only a portion of the town)? What if some of the districts have a different type of levy (such as a per unit special assessment or an ad valorem tax) from the town or county's base property tax levy?

The tax levy limit should be calculated on the combined total levy for all funds and special districts that fall under the municipal levy. For additional guidance on which special districts are incorporated in the municipal levy, please see "[Property Tax Cap: Guidelines for Implementation](#)" [pdf] issued by the New York State Department of Taxation and Finance.

My local government has benefitted from a transfer of function. Do I need to report this to OSC?

Yes, all transfer of functions must be reported to OSC. The effects of any transfer of function beginning in 2013 must be included in your calculation of your tax levy limit. Please call the Comptroller's office to have an examiner calculate the effect of the transfer. You may contact us through your [regional office](#) [pdf]. Once the Comptroller's office has calculated the costs/savings, a letter will be issued and the amounts will then be pre-populated into your online form.

If you do not report this transfer and are later audited and discovered to have levied in excess of your levy limit because of this omission, your government could be required to put the excess levy into reserve.

If a local government's total levy in the coming fiscal year is higher than the tax levy limit based on the allowable growth and tax base growth factors, either due to the additional levy for excludable expenses or an override, what is its base levy when calculating the tax cap in the next fiscal year?

Pursuant to the guidance issued by the Department of Taxation and Finance (["The Property Tax Cap: Guidelines for Implementation" \[pdf\]](#)), the total levy, including the levy for excludable expenses or the higher levy resulting from a successful override, becomes the base for the following year's tax levy limit calculation.

How will the exclusion for certain expenses related to court orders or judgments work (tort actions only) if the cost has been financed?

If the annual debt service associated with the bonds or notes issued for this expense exceeds 5 percent of the prior year's levy, you may utilize this exclusion.

Is an administrative consent order, such as one entered into with the Department of Environmental Conservation, for violations of the Environmental Conservation Law or regulations (e.g. to remediate air or water pollution), covered by the court order/judgment language in the law?

No. The exclusion relates to court orders or judgments arising out of tort actions. An administrative consent order would not fall into this category.

Do we need a separate local law and/or resolution to override the levy limit for each fund or special district included within the overall municipal levy?

No. A county, city, town or village must enact a local law to override the tax levy limit that is based on the combined total levy for every fund and special district that falls within the municipal levy limit. If the levy for one special district included within the municipal levy limit increases by more than the allowable growth, but does not cause the total municipal levy to exceed the levy limit, then no local law overriding the limit is needed.

The statute provides that the tax levy limit generally does not apply to the first fiscal year after a "local government" is newly established. When a town establishes a new special district, governed by the town board, is the first year's levy for the new district included in the town's tax levy limit calculation?

Yes. In accordance with the guidance issued by the Department of Taxation and Finance and the Department of State, the tax levy that supports the operations of a special district that is "established, administered and governed by the governing board of another municipality," is

part of that municipality's tax levy and is subject to the municipality's overall property tax cap calculation. Therefore, under this guidance, the exception for a newly established local government does not apply and the levy for the special district is not exempt from the tax cap in the first year.

Is a unit based charge imposed to fund a town or county special district (e.g. sewer or water district) subject to the tax levy limit?

A unit based benefit assessment is subject to the limit. Special assessments (benefit assessments) and special ad valorem levies imposed within a town or county district are both included in the definition of "tax" in Chapter 97 of the Laws of 2011. Therefore, a benefit assessment, whether based on units or some other formula, constitutes a tax for purposes of the tax levy limit calculation. As noted earlier, however, user fees are not taxes subject to the levy limit. In limited circumstances, a user fee also may be properly based on units. It can sometimes be difficult to differentiate between a unit based benefit assessment and a unit based user fee. As a general guide, a special assessment is imposed on an assessment roll, against benefited properties within the district, in proportion to the benefit received by the property. A user fee is a contractual charge to district users and must bear a rational relationship to the amount of use. If you are uncertain whether a certain charge is a special assessment or a user fee, you should consult your attorney. Our legal staff is also available to speak to your attorney at (518) 474-5586 for assistance.

What are omitted taxes?

“Omitted Taxes” is a broadly used term for several types of real property tax adjustments that are billed in a subsequent year, such as a change in property ownership that also changes the status of the property from exempt to non-exempt. In that instance, the new owner is responsible for the pro-rated portion of the taxes on the property for the rest of the tax year, but that pro-rated amount is not billed to the new owner until the next tax billing cycle.

Taxes imposed for the prior fiscal year pursuant to Real Property Tax Law §520 (assessment and taxation of exempt property upon transfer of title) or pursuant to Real Property Tax Law §551 (entry by assessor of omitted real property on current assessment roll) should be included in the total levy for the upcoming fiscal year as there is no exclusion in the tax cap legislation for the taxes attributable to the prior fiscal year.

How are omitted taxes accounted for in the calculation of the levy limit?

The total amount of taxes levied on the tax rolls, including omitted taxes, should equal the levy adopted in the budget. In other words, the property taxes to be levied for the upcoming fiscal year plus omitted taxes (even though levied at prior year tax rate) should be the value used in the calculation of the tax levy limit. Omitted taxes levied should be included in the “prior year levy” field as well as in the “proposed levy” fields in the tax cap form.

For example: a municipality passes a budget requiring a total tax levy of \$1,000,000, which includes \$900,000 in property tax for the upcoming year, and \$100,000 of omitted taxes. The tax roll should show \$900,000 in tax levy for the upcoming year, and \$100,000 in omitted taxes. Municipalities should ensure that the total of \$1,000,000 is within the calculated tax levy limit and report this as the tax levy for the upcoming fiscal year.

How do charge-back arrangements affect the calculation of the levy limit for the county and/or municipality?

When counties provide certain services to municipalities, they can recover costs in one of two ways: the county can either elect to bill a municipality directly or add the amount to the county levy specific to a municipality. For purposes of calculating the levy limit, the charge-back amount should be reflected in the tax levy limit of whichever government levies the tax. Therefore:

- When the county **bills** the municipality, the charge becomes part of the municipality's tax levy limit because that municipality will raise taxes to pay the bill.
- When the county **levies** the charge under the county's own taxing authority, the charge becomes part of the county's tax levy limit

A county can switch between billing and using its own levy to recover its charge back costs. It is the responsibility of the county and the municipalities involved to properly report charge-back amounts with respect to their levy limit calculations. Failure to properly report charge back amounts in levy limit calculations may lead to an entity exceeding its levy limit and having to place the excess in a Reserve for Excess Tax Levy.

In cases where a county adjusts the municipal tax levy by adding the charge-back to the municipal levy, the amount of the charge back should be included in the county tax levy for purposes of calculating the county's levy limit. Once the county places a tax, under its own taxing authority, on the tax bill it is considered a county tax.

The county pays for tax certiorari refunds and then bills the town for the town's share. The town then includes an amount in its budget for the following fiscal year to cover the amount charged back by the county. Is the amount charged back to the town subject to the town's tax levy limit?

Yes. RPTL 726(1) (a) generally requires a county to pay the entire amount of a certiorari refund and to charge back to towns, etc. their shares of the refund. Under RPTL 726(4), unless a town bonds its share of a tax certiorari refund, the town is required to raise the money to reimburse the county in its next annual budget. Therefore, the amount charged back to the town is subject to the town's levy limit for the following year.

My library serves a school district and a portion of a municipality. We obtain voter approval for the school district portion but have a contract with the municipality for the portion of the library that serves the area outside the school district. What is my levy and do I need to report separately for the municipal portion?

Your levy is only the amount that was approved by voters within the school district. To the extent that the municipality levies taxes to support the expenditure made pursuant to its contract with your library, it is part of the municipality's levy limit.

We are a library that holds a vote when we want to raise the levy. In years when there is no vote, the town is only required to levy the amount needed for the funding passed by voters on the most recent ballot. Sometimes the town chooses to contribute more, at our request. Do we report a levy limit calculation every year, regardless of whether we hold a vote on the levy, and if so, what constitutes our "levy" in the intervening years?

Since the library board is, in effect, requiring a levy through the ballot process, you are, indeed, subject to the levy limit every year. However, only the amount approved by the voters is subject to the library's levy limit. Any amount that the municipality provides above that amount voluntarily is part of the municipality's levy limit.

My library had a levy vote through the process in Education Law § 259(1)(b) (a so-called "414" proposition) for the first time for the fiscal year beginning in 2012. I understand that I must calculate my own levy limit and report separately, but what do I use as my "prior year levy". Also, what if the levy driven by the voters exceeds the calculated limit?

In this case, you would enter a "0" as your prior year levy. As a result, it is likely that the voter approved levy will exceed the calculated limit. Therefore, the library governing board must enact a resolution to override the tax levy limit.

Some of the towns in my county have elected to use their sales tax allocation to offset the county tax levy. When calculating the levy limit for my county, how should I account for this?

When a town decides to use their sales tax allocation to offset the county portion of real property taxes levied to taxpayers in that town, for tax cap purposes, where all or a portion of a town's sales tax allocation is applied to reduce county taxes, such an amount must be subtracted from the county's tax levy.

When a local government dissolves, how does the successor government that will be assuming the debts, liabilities and obligations of the dissolved entity go about adjusting its allowable levy limit under the tax cap?

Under such circumstances, the allowable levy limit will be determined by the Office of the State Comptroller. The successor government is not expected to complete the online tax cap form.

Limited Exclusions

How can a local government account for the cost of unfunded mandates (e.g., costs associated with health and safety or environmental compliance) in the tax cap calculation?

The legislation does not provide for a general exclusion of "mandated costs". The tax cap allows for only a limited number of exclusions to the tax levy limit for local governments, which are (i) costs resulting from court orders or judgments against the local government arising out of tort actions that exceed five percent of the total prior year's tax levy, and (ii) pension costs associated with the annual growth in the "system average actuarial contribution rate" (for ERS and PFRS) and the "normal contribution rate" (for TRS) above two percentage points (view ["Property Tax Cap: Guidelines for Implementation" \[pdf\]](#) pages 6-8, for a more detailed explanation).

The voters in my Fire District approved a bond referendum. Is this additional voter approved expense exempt from the tax levy limit?

No. There is no statutory exclusion from the tax levy limit applicable to local governments for debt service on bonds or notes, even if the issuance of debt is voter approved. If the additional debt service expense, together with the district's other non-excludable expenses, would cause the tax levy to exceed the levy limit, the governing board of the Fire District must pass a resolution by at least a 60% vote to override the limit.

Will there be additional exclusions for emergency expenditures such as those resulting from Hurricane Irene? Are exclusions available for extraordinary expenditures related to the payment of tax certioraris, capital projects, debt service (including on bond issuances approved by the voters), payouts on large liabilities such as accumulated unused sick and vacation time to retirees; and projects required by DEC or another State agency?

No. The law ([Chapter 97 of the Laws of 2011 \[pdf\]](#)) only provides for limited exclusions as follows:

- Pension contributions due to increases in the statewide system average actuarial contribution rate (ERS or PFRS) or normal contribution rate (TRS) over 2 percentage points for major retirement systems.
- Expenditures resulting from court orders or judgments arising out of tort actions that exceed 5 percent of the total tax levied in the prior fiscal year.
- **For School Districts Only:** The tax levy to support capital local expenditures.

Any other expenses must be accommodated within the allowable levy limit, unless the governing body successfully overrides the levy limit.

Do I need to do a separate calculation to determine the additional levy for the excludable portion of each retirement system?

Yes. The law allows you to perform separate calculations for each of the major retirement systems (ERS, PFRS and TRS). Please refer to the Tax Cap User Guide for instructions on how these exclusions should be calculated. In addition, we have integrated a pension exclusion calculator into our online tax cap form to help with this calculation.

My municipality amortized our pension contribution in a prior year. How does this affect our ability to qualify for the pension contribution exclusion when calculating our levy limit for the coming fiscal year? Is it only applicable on the non-amortized portion of our bill?

Those local governments utilizing amortization may not levy for the pension exclusion pursuant to [The Property Tax Cap: Guidelines for Implementation \[pdf\]](#). You may utilize the pension exclusion for any pension system for which you DO NOT amortize or plan to amortize any portion of the bill for that year. However, if you take the pension exclusion, you are not allowed to later amortize any portion of your pension bill for that fiscal year. If you levy an additional amount for the pension exclusion and you amortize a portion of your contribution related to that retirement system, you will have to place the levy raised due to the pension exclusion calculation into a reserve to reduce your next year's tax levy.

If we amortized our pension contributions payable to one retirement system (ERS) and not another (PFRS), are we barred from utilizing the pension exclusion for both systems?

The calculation is separate for each pension system, so if you choose to amortize the payments for one pension system, you may still utilize the pension exclusion for the system for which the payments are not amortized.

I did not receive a User ID or PIN to access the Retirement System's salary base projections. Who do I contact for that?

Please email the Retirement System at RTEmpSer@osc.state.ny.us, or call Beth Wicks at 518-474-9236 or Patricia Engel at 518-486-3921.

Where do I get my salary base number? Which one do I use?

For the ERS and PFRS exclusions, you must use the projected salary base provided by the Retirement System online. Your form has been pre-populated with the salary base provided by the Retirement System. It will display once you select whether you are paying in December or February. If this salary base needs to be allocated to another local government, you may override the pre-populated salary base by entering in a different number. For example, you may change the salary base amounts to account for differences in salaries due to shared services if two local governments share police. Although the salary base amount will automatically appear in one municipality's base, this amount may be decreased and adjusted so that the other municipality can increase their base. This is the only instance in which a change should be made.

You also have access to the online system (Employer Rates and Projections) in order to determine your projected salary base for the ERS and PFRS system. The appropriate column to use is marked "Projected Salaries mm/dd/yyyy –mm/dd/yyyy". The only time this is not the case is for calendar year entities that are NOT planning to prepay their bill in December, but will instead be paying their current bill in February. These would use the "Salary Estimates mm/dd/yyyy – mm/dd/yyyy".

For the TRS system, you will have to estimate the salary base for your budget year. However, since the TRS system bills based on actual final salary figures for the school year just ended, this is less complex than for the ERS/PFRS system.

What if I don't have / don't agree with the projected salary base provided by the Employee or Police and Fire Retirement Systems? Can I use my own projection? With whom can I discuss the discrepancy?

For the ERS and PFRS exclusion, you must use the projected salary base provided by the Retirement System online (see above). If you have any questions about these numbers, please

email the Retirement System at RTEmpSer@osc.state.ny.us, or call Beth Wicks at 518-474-9236 or Patricia Engel at 518-486-3921.

What does the ERS/PFRS salary base include? Does it include LOSAP, overtime, “increases for a settled CBA”, FICA, longevity, or early retirement costs?

For ERS and PFRS, you must use the projected salary base provided by Retirement (see above). If you have questions about what this includes, please email the Retirement System at RTEmpSer@osc.state.ny.us, or call Beth Wicks at 518-474-9236 or Patricia Engel at 518-486-3921.

What if my salary base projection changes between the time I use it for calculating the pension exclusion and the time it is used to calculate my bill one year later? Can those affect my cap retroactively?

No. Your cap will not be affected retroactively.

My town has a number of special districts that are separately subject to the cap, but which are included within our pension bill. We allocate a portion of the pension costs to the districts. Would we include the whole salary base within our own pension exclusion, or will we have to calculate the share that pertains to us only? If so, on what basis would we do that?

The pension exclusion is meant to offset the tax levy necessary to pay for an extraordinary increase in pension costs. If that increase is passed along to an “independent” special district, the portion of the exclusion should be passed along as well. This is accomplished by allocating the salary base or total exclusion according to the method used to allocate the bill.

Our special district library must, by State law, enact its budget before our pension exclusion information is available, but after the inflation factor is calculated. The guidance issued by the Department of Taxation and Finance and the Department of State indicates that we may not estimate our pension exclusion. However, it may take some time until we can change our fiscal year, since our special act must be amended to do so. If we calculate our limit and file our limit information without the exclusion and either stay within that or pass a resolution to override, as necessary, are we in compliance with the law?

Yes. The pension exclusion is not a required part of the levy limit calculation; it can increase the amount that can be raised by taxes without an override. However, we would encourage you to work toward changing your fiscal year or budget process in order to be able to have as much flexibility as possible under the levy limit in future years.

Our county's retirement salary base includes county, community college and dependent special districts. In order to utilize the salary base for purposes of the retirement exclusion, are we expected to subtract out these salaries before we compute our county's pension exclusion?

No. To the extent that your county's salary base includes bases of special districts that are not subject to their own levy limits and a community college, they would be part of a single exclusion calculation.

It appears that the Comptroller's Office is calculating the pension exclusion on a cash basis only and not the actual expenses, even though local governments need to budget for it and record it according to GAAP rules. Can you please explain?

There seems to be some confusion regarding the standards for financial reporting and budgeting. Financial reporting standards state the financial statements of a local government should be presented in accordance with GAAP. Budgetary practices, however, are outside the scope of financial reporting standards, and as such, budgets are often prepared on a non-GAAP basis. The budget is simply the financial plan that contains estimates of expected inflows and outflows of spendable cash resources for the coming fiscal year. The amount actually paid to each retirement system (ERS, PFRS and TRS) each year represents the amount due on the annual bill. Each local government should budget for an appropriation of this total during the fiscal year in which their retirement system bill will be paid and include in its tax levy the budgeted total of appropriations. Thus, the tax levy exclusion is based upon the fiscal year in which the tax would have to be levied in order to pay the full amount of the anticipated pension bill.

Filing the Levy Limit Calculation

The local government budget process often results in many changes to the budget initially proposed. If the amendments made prior to final adoption of the budget change the estimated tax, which tax levy is to be reported to OSC or are multiple submissions required?

The law requires each local government, prior to adopting a budget, to submit to OSC the information necessary for calculating the tax levy limit, not the actual tax levy, for the coming fiscal year. The calculation of the tax levy limit does not change based on discretionary budgetary decisions. The tax levy limit is calculated based on factors that are generally known, including the prior year's tax levy, the tax base growth factor, PILOTS receivable in the prior fiscal year and the coming fiscal year, the exclusion pertaining to excess expenditures related to tort actions for the prior fiscal year, the allowable levy growth factor and available carryover, if any. These factors would not change during the budget process. Only one submission of this information is required but amended submissions will be accepted.

The report form that we have developed, in addition to requiring information necessary for calculating the levy limit, also provides for submission of information relating to the local

governments proposed tax levy and whether the governing body plans to override the levy limit. This information should be based on the proposed budget at the time the submission is made to OSC. The later in the budget process the information is submitted to us, as long as it is submitted prior to budget adoption, the more useful it will be.

Does a local government have to complete and submit the form even if it plans to override the tax levy limit?

Yes. Every local government, regardless of whether it intends to override, must submit to OSC on the required form the information necessary for calculating their tax levy limit.

If a local government has not levied a property tax in the prior fiscal year (e.g., 2012), does it need to calculate (and report) a tax levy limit for the coming fiscal year?

Yes. The law requires that all local governments (unless it is a newly created local government) subject to the tax cap calculate their tax levy limit for the coming fiscal year and, prior to adoption of their budgets, file the information necessary for that calculation with the Office of the State Comptroller.

Will OSC confirm my tax cap (i.e., tax levy limit) calculation?

No. Local governments are responsible for calculating their own levy limit. For informational purposes, the form that we have developed will run the mathematical computation for you after you have input all of the required data elements as outlined in the law. After you have submitted your form, our system will also generate a confirmation of your submission. However, *this confirmation does not attest to the accuracy of the data elements input by each reporting entity.*

If, upon entering the required elements, you do not agree with the tax levy limit that results from the application of the mathematical formula, you may contact OSC's Division of Local Government and School Accountability at (866) 321-8503 option 3.

How do coterminous town/villages report to OSC?

In this case, the town and village are separate local governmental entities and must report their tax levy limits to OSC separately, even if one of the governments does not levy a tax.

Who in my local government should have access to the reporting system? How do they gain access to the forms?

The Chief Fiscal Officer (CFO) of each local government should be enrolled with a primary authorizer account which allows the CFO to create and modify user accounts for their local government. An enrollment guide with instructions is emailed to new CFOs. Changes in CFO or changes in contact information can be sent to our mailbox: LGSAMonitoring@osc.state.ny.us

How can I find out about other training on this topic? Can we arrange a training session?

Please visit our Property Tax Cap website at Local Government Training Unit website [Real Property Tax Information](#) or call (866) 321-8503 option 5.

Does a local government or independent special district need to file with OSC if it does not plan to levy taxes in the coming fiscal year?

Yes. Any local government that is subject to the levy limit must file, even if it does not levy a tax in that year.

Our budget was approved by our governing body on August 31st. The NYS OSC form wasn't available to input the information. Will we be penalized for filing late?

No. Local governments who passed their budgets before the online form became available this year will not be penalized for reporting late. Please make sure you submit your form as soon as practicable.

Our association library has a calendar year fiscal year, but its service area coincides with the school district. So, when we need voter approval for a levy increase, we do so on the school district's ballot. However, in order to continue this in the future, we would have to adopt our budget before we will have information on the inflation factor. Can we continue to do this if we plan to pass an override resolution each year?

According to the new law, you must file your levy limit information with the Comptroller's Office before you adopt your budget. Since you cannot calculate that limit without the inflation factor, you cannot file the information until five months prior to the start of your fiscal year. Therefore, you will either have to change your fiscal year to coincide with the school year or, if feasible, hold your vote at a different time of the year.

Reserve for Erroneous Levies

If I have to set up a reserve because of an error in the implementation of the property tax cap, what kind of reserve should I be setting up?

When an excess tax levy has been identified, a series of accounting entries will be required. These entries assume that the local government or school district has already recorded the real property taxes levied for the current fiscal year's budget. The local government or school district will need to defer the recognition of revenues associated with the excess tax levy until the following fiscal year as required by the tax cap legislation. This deferral of revenue serves as the accounting mechanism for placing excess tax levy in reserve as required by the legislation. The amount of revenue deferred for excess tax levies should be placed in a separate interest-bearing bank account. The accounting entries can be found in our [accounting bulletin "Reserve for Excess Tax Levy" \[pdf\]](#)

Overrides of the Tax Levy Limit

If a local government or a special district (not newly formed) governed by a separate independently elected board did not levy or cause the levy of any “taxes” in 2012 (including special assessments and special ad valorem levies), but will do so in 2013, will the local government need to override the tax levy limit in order to levy taxes in 2013?

Yes. The law provides that all local governments subject to the cap must calculate the tax levy limit for the coming fiscal year in accordance with the statutory formula. If the amount of taxes to be levied in the coming fiscal year exceeds the applicable tax levy limit and the allowable exclusions, then the local government must override the tax levy limit.

What special wording is required on the budget resolution for voters to vote upon? Must it specify the actual monetary amount of the override and/or the specific districts for which the override is being passed? Will OSC provide suggested language?

For local governments, the law does not specify particular language for the budget resolution, although it should be clear that it is for the purpose of overriding the tax levy limit for the coming fiscal year only. Specific language is required for school districts seeking voter approval on a budget that relies on a tax levy that exceeds the levy limit ([Chapter 97 of the Laws of 2011 \[pdf\]](#)). Please consult your attorney or speak with your local government association for more guidance on model local laws/language.

A governing board of a local government has adopted a budget, or has a default budget (i.e. a budget by operation of law because the final budget was not adopted prior to statutory deadline), which includes a tax levy in excess of the allowable tax levy limit, without complying with the override requirements. What happens now?

As per guidance issued by the Department of Taxation and Finance, a local government may not impose or cause the imposition of taxes in excess of their levy limit without first complying with the statutory override requirement. In an instance where a local government has an adopted or default budget that provides for a levy in excess of the allowable levy limit, and there is no proper override in place, the local government must take steps to reduce the amount of the tax levy to be within the allowable limit.

In general, the governing board should pass a resolution that reduces the amount of the tax levy to an amount that complies with the allowable levy limit. Since a local government generally cannot change its budget after the budget deadline has passed, it is recommended that a deficit reduction plan be adopted and the budget revisited after the beginning of their fiscal year.

My local government adopted legislation to override the tax levy limit, but the adopted budget contains a tax levy within the allowable tax levy limit. How can we repeal the override legislation so that taxpayers are eligible for tax freeze credits?

Where the governing board of a local government has enacted a local law or resolution to override the tax levy limit for the coming fiscal year, and the adopted budget for the coming fiscal year contains a tax levy within the allowable tax levy limit, the local government must repeal the override local law or resolution in order to qualify its residents for tax freeze credits. The override legislation can only be repealed by legislation of “equal dignity”. In other words, if the local government (counties, cities, towns and villages) had to adopt a local law to override the tax levy limit, then it must adopt a local law in order to repeal the override. The repeal local law is subject to the same requirements as all other local laws (e.g., public hearing, filing with the Secretary of State). Fire districts and others override the tax levy limit by adopting a resolution and, therefore, may adopt a resolution to repeal the override

What are the time constraints, if any, for adopting the repeal local law?

Consistent with guidance issued by the Department of Taxation and Finance relating to the adoption of a local law to override the tax levy limit, the local law to repeal the override of the tax levy limit must be adopted before the local government certifies as tax freeze compliant. The certification must be made no later than the 21st day of the fiscal year to which it applies.

New York State's Property Tax Cap

A Citizens' Guide

EMPIRE  CENTER
FOR NEW YORK STATE POLICY

A project of the Manhattan Institute for Policy Research

NEW YORK STATE'S PROPERTY TAX CAP

A Citizens Guide

New York State has a new law capping annual increases in local government and school district property taxes. Effective in local fiscal years starting on or after Jan. 1, 2012, the law limits the annual growth of property taxes levied by local governments and school districts to **2 percent** or the rate of inflation, whichever is less.

The cap applies to all counties, cities, towns and villages outside New York City, and to all fiscally independent school districts. It also applies to the property tax levies of special districts established to finance fire departments, libraries, sewer and water systems and other purposes.

This booklet lays out the basics of the tax cap and answers some common questions about how the cap will work. It concludes with a full text of the tax cap provisions passed by the Legislature and signed into law by Governor Andrew Cuomo in June 2011.

Several important aspects of the new tax cap law may need to be clarified for many New Yorkers. For example:

- **The cap is not absolute.** School budgets can exceed the cap if approved by at least 60 percent of school district voters. Tax caps for counties, cities, towns, villages and special districts can be overridden by a vote of at least 60 percent of the local governing bodies.
- **The annual cap in your community will seldom be exactly two percent.** It could be *lower* if the rate of inflation has been below two percent, which was the case in several recent years. However, as explained in the following pages, the law also includes several exceptions and allowances that can make the cap *higher*. These factors will vary from year to year and will differ in each taxing jurisdiction.
- **A simple majority of voters will now have the power to block *any* tax increase in independent school districts.** Districts that fail to win voter approval for their proposed budgets after two tries must freeze their property tax levies.

CALCULATING THE CAP

Annual growth in property tax levies will be capped at 2 percent or inflation, whichever is less. Inflation is defined as the average monthly Consumer Price Index for all urban consumers (CPI-U) for the 12-month period ending six months prior to the start of the next fiscal year, minus the average for the same period preceding the current fiscal year. For example, if a town fiscal year begins Jan. 1, the percentage change in the inflation rate is the average CPI-U for July 1, 2010, through June 30, 2011. For school district fiscal years, which commonly start on July 1, the inflation rate is the change in average monthly CPI-U for the 12 months ending the previous Dec. 31. The cap cannot be less than zero.

The basic cap of up to 2 percent is subject to the following exclusions or modifications:

- **A growth factor reflecting the “quantity change” in taxable property values in the base year.** This factor is based on actual physical changes to taxable property—such as new construction of homes, stores and offices—and not mere changes in the assessed value of existing, unchanged taxable properties. These taxes can be added to the allowable (capped) levy in the first year after the value of the change is reflected on the local tax roll.
- **Tort settlements or awards whose costs exceed 5 percent of the tax levy in the base year.** A tort is a type of lawsuit seeking damages for personal injuries caused by negligence. Tort settlements exceeding 5 percent of a jurisdiction’s tax levy are rare.
- **Capital costs (including debt service) for school districts,** which cannot borrow money for capital purposes without voter approval.
- **Pension contribution increases that exceed two percentage points of covered payroll.** (See page 4 for details on how this amount is computed.)
- **A carryover of up to 1.5 percent of unused tax levy growth to the following year.** For example, if a city raises taxes by 2 percent in a year when its cap is 3 percent, 1 percent can be added to the subsequent year’s levy cap.

A proposed tax levy that does not exceed the cap will continue to require approval by more than 50 percent of the members of the governing body of a county, city, town, village or special district, or by a simple majority of voters participating in a school district or special district budget referendum.

The amount of property taxes that can be levied by a local government or school district without exceeding the cap can be calculated in this manner:

1. Determine the total amount of taxes levied, not collected, in the prior fiscal year.
2. Multiply the total amount of taxes levied for the prior year by the “tax base growth factor,” reflecting physical additions to the tax base, as reported to the local government by the state Department of Taxation and Finance.
3. Add any payments in lieu of taxes (PILOTs) that were receivable from property owners in the base year. The total amount of PILOTs receivable is to be included in the calculation of the tax levy limit. No adjustment is permitted.
4. Starting in fiscal year 2013, subtract the tax levy necessary to support expenditures for tort actions for any amount that exceeds five percent of the local government’s tax levy in the prior fiscal year. There is no subtraction for these expenditures in the calculation for the 2012 fiscal year.
5. Multiply the result by the allowable levy growth factor—either 2 percent or inflation, whichever is less.
6. Subtract any PILOTs receivable in the coming year. The total amount of PILOTs receivable is to be included in the calculation of the tax levy limit. No adjustment is permitted.
7. Add pension costs exceeding two percentage points of payroll, as explained on page 4.
8. Beginning with fiscal year 2013 budgets, add any available cap carryover from the prior fiscal year. There is no available carryover for the 2012 fiscal year.

Provisions for overriding the cap are summarized on page 5.

The Pension Exclusion

Pensions for employees of local governments covered by the tax cap are financed by annual tax-funded contributions to statewide public pension systems. Pension contribution rates are calculated as a percentage of total salaries paid to employees in each of the three pension plans—the New York State Employee Retirement System (ERS), the Police and Fire Retirement System (PFRS) and the New York State Teachers Retirement System (TRS). Taxpayer-funded pension contribution rates have been rising in recent years and will continue to rise in the next several years, mainly as a result of increases in pension benefits and market losses sustained by the pension funds since the late 1990s.

Pension costs attributable to pension contribution rate increases of more than two percentage points in a given year are *not* subject to the new property tax cap.

During fiscal years starting in 2011, the system-wide average contribution rates were 16.3 percent for ERS, 21.6 percent for PFRS and 11.1 percent for TRS. For budgets covering fiscal years that start in 2012—the first group subject to the tax cap—those rates rise by 2.6 percentage points for ERS employees and 4.2 percentage points for PFRS employees. (The TRS rate accrued by school districts in 2012-13 is expected to rise by no more than 1.4 percent, according to a preliminary projection, and so will fall under the cap.) Subtracting two percentage points from the ERS and PFRS figures, a jurisdiction can increase its tax levy by an amount equal to 0.6 percentage points of its ERS salaries and 2.2 percentage points of its PFRS salaries—in addition to the “capped” portion of the tax levy.

For a hypothetical employer with a \$1 million ERS salary base and a separate \$1 million PFRS salary base, the ERS exemption is calculated by multiplying 0.6 percent by the \$1 million salary base (\$6,000), and the PFRS exemption is calculated by multiplying 2.2 percent by the separate \$1 million salary base (\$22,000), for a total pension exemption of \$28,000. All other pension costs fall under the basic cap.

The impact of the pension exclusion on a given jurisdiction’s net tax cap depends on the relative size of its payroll in comparison with its property tax levy. The addition to the basic 2 percent cap will be *greatest* in jurisdictions where payrolls equal or exceed the tax levy, and *least* in jurisdictions where the payroll is smaller than the levy. In the example above, if the employer’s tax levy is the same as its total payroll of \$2 million, a pension exclusion of \$28,000 adds 1.4 percentage points to the basic cap, yielding a net tax cap of 3.4 percent before other exclusions. A budget holding taxes within the cap will still require approval by a simple majority of the governing board or school district voters.

OVERRIDE PROVISIONS

A **county, city, town, village or special district** can exceed the tax levy limit if at least 60 percent of the members of its governing body vote in favor of a local law overriding the cap. Local laws, in turn, are subject to statutory requirements including advance public notice and public hearings.

As explained by the state Department of Taxation and Finance:

A budget officer, or chief executive, may prepare a tentative budget that requires a tax levy in excess of the levy limit. However, the governing body cannot, without first complying with override requirements, (i) adopt a budget that requires a levy in excess of the tax levy limit, or (ii) impose or cause the imposition of a tax levy to the extent that a budget requires a levy in excess of the levy limit.

In other words, the override vote in a county, city, town, village or special district must come **before** the budget vote.

In **school districts**, voters will continue to have a direct say on proposed school budgets—and a greater say than ever on taxes. Under the new law, a school budget that requires a tax levy above the cap must be approved by a supermajority of at least 60 percent of the district residents participating in the annual budget vote, held on the second Tuesday in May. A budgeted tax hike within the limit will continue to require approval by at least a simple majority of voters.

If a budget is defeated, the school board can resubmit it to district voters in original or revised form. However, if the budget is defeated a second time, or if the board chooses not to resubmit, the district *must* revert to a contingency budget.

Under a contingency budget, the school tax will be frozen—with no exceptions or allowances. The tax cap law is clear:

Notwithstanding any other provision of law to the contrary, if the qualified voters fail to approve the proposed school district budget upon resubmission or upon a determination not to resubmit for a second vote ... the sole trustee, trustees or board of education shall levy a tax no greater than the tax that was levied for the prior school year.

QUESTIONS AND ANSWERS

Q: Does the property tax cap affect property tax rates?

A: Tax rates cannot be changed in any way that would raise the total amount of property taxes —the tax levy — above the cap. Localities cannot get around the cap by manipulating rates.

Q: Can I expect my own tax bill change at the same rate as the levy?

A: The cap will limit growth in your tax bill, but the specific level depends on assessments. To understand why, consider how the property tax rate is calculated:

$$(\text{Tax Levy} \div \text{Assessed Value}) \times 1,000 = \text{Tax Rate}$$

So, for example, in a community with a tax levy of \$1 million and a tax base with assessed value of \$100,000,000, the tax rate is \$10 per \$1,000. Assuming no change in assessed values, a 2 percent increase in the tax levy will also drive up the tax bill by 2 percent, or 20 cents per \$1,000 in the example used here. Your property tax bill could rise faster than the tax levy if, for example, there is a *decrease* in assessed property values during the same year. Possible causes of a decrease in property values include a flood or other natural disaster; the purchase of taxable property by a tax-exempt organization; eminent domain proceedings in which government acquires ownership of a private parcel; a general drop in market values; and successful challenges to assessed values.

If assessments change at a uniform rate, then the tax cap will have a uniform impact on individual tax bills. But if some assessments change more than others—rising faster, for example, in a section of town closest to a new school or highway—than taxes will increase more for some property owners than for others. **A locality cannot circumvent the tax cap simply by manipulating assessments.**

Q: In a given year, will the tax cap be the same for my county, town and school district?

A: The starting point in all cases will be a tax levy limit of 2 percent or the rate of inflation, whichever is less. But the net cap for each taxing jurisdiction may be slightly different, based on factors such as inflation rates in the prior year, pension contributions, growth factors and, on the school level, voter-approved capital construction expenses.

Q: A new strip mall was added to my town's tax base. Would the increased property tax revenue offset a property tax increase?

A: Under the new tax cap, as under previous law, the addition of new taxable properties to the tax base through new construction or expansion of existing structures or facilities will make it possible to reduce taxes on other taxable property. But to avoid discouraging development, new taxes generated by new construction during a given year (also known as "quantity change" in the tax base) will not initially be subject to the levy limit, although it will be part of the capped tax levy in subsequent years.

Q: How does the "carryover" provision work? Can it be used by a property tax jurisdiction to exceed the tax cap?

A: When a local governments or school district holds its annual tax levy within the cap, it has the option of adding the difference to the cap limit in the following year (but **only** in the immediately following year). For example, if a locality increased its tax levy by 1.2 percent in a year in which the 2 percent tax cap applied, then up to 0.8 percent of the tax levy is therefore "unused" and can then be raised in the next year before hitting the cap. Up to 1.5 percentage points can be carried over in this way, hypothetically raising the basic tax cap to as high as 3.5 percent above the prior year. Of course, there is no requirement to carryover unused taxing authority, and all local budgets will continue to require approval from the governing body or school district voters.

Q: A big utility in our town just won a big court-ordered reduction in its assessment, and a court-ordered refund of some past taxes. Will this be excluded from the tax cap?

A: The exclusion for court awards applies only to tort cases, which involve personal injuries due to negligence. Localities that are found liable for having over-assessed some property cannot use that as an excuse for exceeding the tax cap.

Q: In the past, defeated school budgets could be replaced by contingency budgets that raised taxes even higher. Does the new tax cap change this?

A: Yes. Under the new tax cap law, a contingency budget cannot result in a tax levy increase. That means spending increases up to the limit are allowable only if financed by revenues other than the

property tax; for example, state or federal aid, district fees or other sources.

Q: Can a school district circumvent the cap by having the public vote on separate referenda for expenditures, such as sports or music programs?

A: No. If separate referenda on budget items are put before the voters that necessitate a tax levy that exceeds the tax cap, then a 60 percent supermajority would be required for each individual referendum to be approved and go into effect. Bond issues for capital purposes will require a simple majority, however.

Q: I live in a city that does not have a separate school property tax. How does the tax cap apply, if at all, to my school district?

A: The school districts in Buffalo, Yonkers, Rochester and Syracuse are “dependent” on their city governments, which levy a single property tax to cover both municipal purposes and schools. Since residents of these cities do not vote directly on school budgets, they will not have the ability to directly control the share of the tax levy going to schools. But the total city tax levy, including the portion intended for the school district, is subject to the cap. Excluding these cities and New York City, which is completely excluded from the cap, all other school districts in New York State are independent property tax jurisdictions and are subject to the tax cap.

Q: In my town, the public directly votes on the budget for our fire and library districts. Do these budgets need 60 percent voter approval of their budgets to raise their tax levies above the cap?

A: Special district budgets will continue to require only simple majority approval from voters. A cap override in a special district will require approval from 60 percent of the members of the district’s governing body.

Q: My town tax bill lists a separate property tax for the highway department, which is headed by an independently elected superintendent. Would this be a special district subject to the tax cap?

A: No, not if the highway department is part of the town budget rather than an independent special district. It is not uncommon for individual municipal departments, particularly those headed by an elected official, to have their tax levies shown separately on a property tax bill, yet are legally part of the overall tax levy of the

town or municipality. Accordingly, it would be possible for a town department to have a large increase in the tax rate above the tax cap, though in actuality it represents merely a portion of the larger town tax levy that remains within tax cap.

Property taxes levied by a town to fund the town budget under its taxing authority fall within the town's tax levy limit. Property taxes levied by a town on behalf of another entity, such as a special district, fall within that other local entity's tax levy limit.

Q: My sewer district imposes a bi-annual fee on my property. Is this subject to the tax cap?

A: Fees that are imposed by a special district are **not** subject to the property tax cap since they are not taxes.

A key distinction between a fee and a property tax is that a tax is imposed based on the assessed value of the property, whereas a fee is typically imposed uniformly on each property in the district, or according to service usage by each property (as measured by water meters, for example), or has a rate differential based on the type of property.

Q: My town is going through a reassessment to full value, which may result in higher taxes on my house and in my neighborhood. Does the tax cap restrict that potential tax increase?

A: Assessment changes may redistribute the tax burden within a given taxing jurisdiction, but localities cannot use reassessments to raise that tax burden to a level exceeding the cap. As was the case prior to the tax cap, a reassessment to full value within a taxing jurisdiction will vary in its impact upon individual properties. Some homes will face a higher tax, while others may face a lower tax due to changes in individual property values. The sum of these individual tax liabilities constitutes the tax levy, which is subject to the tax cap.

Q: What happens if a taxing jurisdiction exceeds the allowable tax levy by mistake?

A: Each property tax jurisdiction is responsible for determining its tax levy amount prior to formally approving the tax levy based on several calculations, including the rate of inflation, and any allowable exceptions such as a tort judgment or excess employee pension costs. If the tax levy exceeds the allowable amount due to "clerical or technical error," the excess tax levy must be placed into

an interest-earning reserve account to be applied to offset the next year's tax levy. The state comptroller's office will prescribe specific requirements for property tax jurisdictions that accidentally exceed their levy limits.

Q: What happens when two local governments or school districts merge? Does the tax cap still apply?

A: Yes. A new tax levy within the tax cap is calculated by the new taxing jurisdiction as a result of any change in the previous governmental arrangement. For example, the new school district that emerges from a consolidation of two or more districts would calculate the new tax levy based on the prior year's levy amounts from the separate school districts, which would be overseen and determined by the state Education Department. Furthermore, if a local government dissolves and another assumes its debts, obligations and tax base, the new levy limit would be calculated by the remaining government.

RESOURCES

Links to additional information on the tax cap, including additional "frequently asked questions," can be found at the following state government websites:

Governor Andrew M. Cuomo

<http://governor.ny.gov/citizenconnects/?q=reforminggovernment/1>

Office of the State Comptroller*

<http://www.osc.state.ny.us/localgov/realprop/index.htm>

Department of Taxation and Finance*

<http://www.tax.ny.gov/research/property/cap.htm>

To compare property taxes and expenditures in different New York communities covered by the tax cap, use "BenchmarkingNY" at www.SeeThroughNY.net

* In some cases, portions of authoritative tax cap guidance reports developed by these agencies for the use of local government officials are paraphrased or reproduced verbatim in the preceding pages of this booklet. The official reports can be downloaded at the websites listed above.

APPENDIX

Property TaxCap Provisions

Excerpted from Chapter 97 of the Laws of 2011

Underlined text is new law; old law is crossed-out

PART A

Section 1. The general municipal law is amended by adding a new section 3-c to read as follows:

§ 3-c. Limit upon real property tax levies by local governments.

1. Unless otherwise provided by law, the amount of real property taxes that may be levied by or on behalf of any local government, other than the city of New York and the counties contained therein, shall not exceed the tax levy limit established pursuant to this section.

2. When used in this section:

(a) "Allowable levy growth factor" shall be the lesser of: (i) one and two one-hundredths; or (ii) the sum of one plus the inflation factor; provided, however, that in no case shall the levy growth factor be less than one.

(b) "Available carryover" means the amount by which the tax levy for the prior fiscal year was below the tax levy limit for such fiscal year, if any, but no more than an amount that equals one and one-half percent of the tax levy limit for such fiscal year.

(c) "Coming fiscal year" means the fiscal year of the local government for which a tax levy limit shall be determined pursuant to this section.

(d) "Inflation factor" means the quotient of: (i) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending six months prior to the start of the coming fiscal year minus the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending six months prior to the start of the prior fiscal year, divided by: (ii) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending six months prior to the start of the prior fiscal year, with the result expressed as a decimal to four places.

(e) "Local government" means a county, city, town, village, fire district, or special district

including but not limited to a district created pursuant to article twelve or twelve-A, or governed by article thirteen of the town law, or created pursuant to article five-A, five-B or five-D of the county law, chapter five hundred sixteen of the laws of nineteen hundred twenty-eight, or chapter two hundred seventy-three of the laws of nineteen hundred thirty-nine, and shall include town improvements provided pursuant to articles three-A and twelve-C of the town law but shall not include the city of New York or the counties contained therein.

(f) "Prior fiscal year" means the fiscal year of the local government immediately preceding the coming fiscal year.

(g) "Tax levy limit" means the amount of taxes authorized to be levied by or on behalf of a local government pursuant to this section, provided, however, that the tax levy limit shall not include the following:

(i) a tax levy necessary for expenditures resulting from court orders or judgments against the local government arising out of tort actions for any amount that exceeds five percent of the total tax levied in the prior fiscal year;

(ii) in years in which the system average actuarial contribution rate of the New York state and local employees' retirement system, as defined by paragraph ten of subdivision a of section nineteen-a of the retirement and social security law, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for local government employer contributions to the New York state and local employees' retirement system caused by growth in the system average actuarial contribution rate minus two percentage points;

(iii) in years in which the system average actuarial contribution rate of the New York state and local police and fire retirement system, as defined by paragraph eleven of subdivision a of section three hundred nineteen-a of the retirement and social security law, increases by more than two

percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for local government employer contributions to the New York state and local police and fire retirement system caused by growth in the system average actuarial contribution rate minus two percentage points:

(iv) in years in which the normal contribution rate of the New York state teachers' retirement system, as defined by paragraph a of subdivision two of section five hundred seventeen of the education law, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for local government employer contributions to the New York state teachers' retirement system caused by growth in the normal contribution rate minus two percentage points.

(h) "Tax" or "taxes" shall include (i) a charge imposed upon real property by or on behalf of a county, city, town, village or school district for municipal or school district purposes, and (ii) special ad valorem levies and special assessments as defined in subdivisions fourteen and fifteen of section one hundred two of the real property tax law.

3. (a) Subject to the provisions of subdivision five of this section, beginning with the fiscal year that begins in two thousand twelve, no local government shall adopt a budget that requires a tax levy that is greater than the tax levy limit for the coming fiscal year. Provided however the tax levy limit shall not prohibit a levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph (g) of subdivision two of this section.

(b)(i) The commissioner of taxation and finance shall calculate a quantity change factor for each local government for the coming fiscal year based upon the physical or quantity change, as defined by section twelve hundred twenty of the real property tax law, reported to the commissioner of taxation and finance by the assessor or assessors pursuant to section five hundred seventy-five of the real property tax law.

The quantity change factor shall show the percentage by which the full value of the taxable real property in the local government has changed due to physical or quantity change between the second final assessment roll or rolls preceding the final

assessment roll or rolls upon which taxes are to be levied, and the final assessment roll or rolls immediately preceding the final assessment roll or rolls upon which taxes are to be levied.

(ii) After determining the quantity change factor for the local government, the commissioner of taxation and finance shall proceed as follows:

(A) If the quantity change factor is negative, the commissioner of taxation and finance shall not determine a tax base growth factor for the local government.

(B) If the quantity change factor is positive, the commissioner of taxation and finance shall determine a tax base growth factor for the local government which is equal to one plus the quantity change factor.

(iii) The commissioner of taxation and finance shall notify the state comptroller and each local government of the applicable tax base growth factors, if any, as soon thereafter as such factors are determined.

(c) Each local government shall calculate the tax levy limit applicable to the coming fiscal year which shall be determined as follows:

(i) Ascertain the total amount of taxes levied for the prior fiscal year.

(ii) Multiply the result by the tax base growth factor, calculated pursuant to paragraph (b) of this subdivision, if any.

(iii) Add any payments in lieu of taxes that were receivable in the prior fiscal year.

(iv) Subtract the tax levy necessary to support expenditures pursuant to subparagraph (i) of paragraph (g) of subdivision two of this section for the prior fiscal year, if any.

(v) Multiply the result by the allowable levy growth factor.

(vi) Subtract any payments in lieu of taxes receivable in the coming fiscal year.

(vii) Add the available carryover, if any.

(d) Whenever the responsibility and associated cost of a local government function is transferred to another local government, the state comptroller shall determine the costs and savings on the affected local governments attributable to such transfer for the first fiscal year following the transfer, and notify such local governments of such determination and that they shall adjust their tax levy limits accordingly.

4. (a) When two or more local governments consolidate, the state comptroller shall determine the tax levy limit for the

consolidated local government for the first fiscal year following the consolidation based on the respective tax levy limits of the component local governments that formed such consolidated local government from the last fiscal year prior to the consolidation.

(b) When a local government dissolves, the state comptroller shall determine the tax levy limit for the local government that assumes the debts, liabilities, and obligations of such dissolved local government for the first fiscal year following the dissolution based on the respective tax levy limits of such dissolved local government and such local government that assumes the debts, liabilities, and obligations of such dissolved local government from the last fiscal year prior to the dissolution.

(c) The tax levy limit established by this section shall not apply to the first fiscal year after a local government is newly established or constituted through a process other than consolidation or dissolution.

5. A local government may adopt a budget that requires a tax levy that is greater than the tax levy limit for the coming fiscal year, not including any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph g of subdivision two of this section, only if the governing body of such local government first enacts, by a vote of sixty percent of the total voting power of such body, a local law to override such limit for such coming fiscal year only, or in the case of a district or fire district, a resolution, approved by a vote of sixty percent of the total voting power of such body, to override such limit for such coming fiscal year only.

6. In the event a local government's actual tax levy for a given fiscal year exceeds the tax levy limit as established pursuant to this section due to clerical or technical errors, the local government shall place the excess amount of the levy in reserve in accordance with such requirements as the state comptroller may prescribe, and shall use such funds and any interest earned thereon to offset the tax levy for the ensuing fiscal year. If, upon examination pursuant to sections thirty-three and thirty-four of this chapter, the state comptroller finds that a local government levied taxes in excess of the applicable tax levy limit, the local government, as soon as practicable, shall place an amount equal to the excess amount

of the levy in such reserve in accordance with this subdivision.

7. All local governments subject to the provisions of this section shall, prior to adopting a budget for the coming fiscal year, submit to the state comptroller, in a form and manner as he or she may prescribe, any information necessary for calculating the tax levy limit for the coming fiscal year.

§ 2. The education law is amended by adding a new section 2023-a to read as follows:

§ 2023-a. Limitations upon school district tax levies.

1. Generally, unless otherwise provided by law, the amount of taxes that may be levied by or on behalf of any school district, other than a city school district of a city with one hundred twenty-five thousand inhabitants or more, shall not exceed the tax levy limit established pursuant to this section, not including any tax levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of this section.

2. Definitions. As used in this section:

a. "Allowable levy growth factor" shall be the lesser of: (i) one and two one-hundredths; or (ii) the sum of one plus the inflation factor; provided, however, that in no case shall the levy growth factor be less than one.

b. "Available carryover" means the amount by which the tax levy for the prior school year was below the applicable tax levy limit for such school year, if any, but no more than an amount that equals one and one-half percent of the tax levy limit for such school year.

c. "Capital local expenditures" means the taxes associated with budgeted expenditures resulting from the financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for school district capital facilities or school district capital equipment, including debt service and lease expenditures, and transportation capital debt service, subject to the approval of the qualified voters where required by law.

d. "Capital tax levy" means the tax levy necessary to support capital local expenditures, if any.

e. "Coming school year" means the school year for which tax levy limits are being determined pursuant to this section.

f. "Inflation factor" means the quotient of: (i) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the current year minus the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the prior year, divided by: (ii) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the prior year, with the result expressed as a decimal to four places.

g. "Prior school year" means the school year immediately preceding the coming school year.

h. "School district" means a common school district, union free school district, central school district, central high school district or a city school district in a city with less than one hundred twenty-five thousand inhabitants.

i. "Tax levy limit" means the amount of taxes a school district is authorized to levy pursuant to this section, provided, however, that the tax levy limit shall not include the following:

(i) a tax levy necessary for expenditures resulting from court orders or judgments against the school district arising out of tort actions for any amount that exceeds five percent of the total tax levied in the prior school year;

(ii) in years in which the system average actuarial contribution rate of the New York state and local employees' retirement system, as defined by paragraph ten of subdivision a of section nineteen-a of the retirement and social security law, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for school district employer contributions to the New York state and local employees' retirement system caused by growth in the system average actuarial contribution rate minus two percentage points;

(iii) in years in which the normal contribution rate of the New York state teachers' retirement system, as defined by paragraph a of subdivision two of section five hundred seventeen of this chapter, increases by more than two percentage points from the previous year, a tax levy necessary for

expenditures for the coming fiscal year for school district employer contributions to the New York state teachers' retirement system caused by growth in the normal contribution rate minus two percentage points; and (iv) a capital tax levy.

2-a. Tax base growth factor.

a. No later than February fifteenth of each year, the commissioner of taxation and finance shall identify those school districts for which tax base growth factors must be determined for the coming school year, and shall notify the commissioner of the tax base growth factors so determined, if any.

b. The commissioner of taxation and finance shall calculate a quantity change factor for the coming school year for each school district based upon the physical or quantity change, as defined by section twelve hundred twenty of the real property tax law, reported to the commissioner of taxation and finance by the assessor or assessors pursuant to section five hundred seventy-five of the real property tax law. The quantity change factor shall show the percentage by which the full value of the taxable real property in the school district has changed due to physical or quantity change between the second final assessment roll or rolls preceding the final assessment roll or rolls upon which taxes are to be levied, and the final assessment roll or rolls immediately preceding the final assessment roll or rolls upon which taxes are to be levied.

c. After determining the quantity change factor for a school district, the commissioner of taxation and finance shall proceed as follows:

(i) If the quantity change factor is negative, the commissioner of taxation and finance shall not determine a tax base growth factor for the school district.

(ii) If the quantity change factor is positive, the commissioner of taxation and finance shall determine a tax base growth factor for the school district which is equal to one plus the quantity change factor.

3. Computation of tax levy limits. a. Each school district shall calculate the tax levy limit for each school year which shall be determined as follows:

(1) Ascertain the total amount of taxes levied for the prior school year.

(2) Multiply the result by the tax base growth factor, if any.

(3) Add any payments in lieu of taxes that

were receivable in the prior school year.

(4) Subtract the tax levy necessary to support the expenditures pursuant to subparagraphs (i) and (iv) of paragraph i of subdivision two of this section for the prior school year, if any.

(5) Multiply the result by the allowable levy growth factor.

(6) Subtract any payments in lieu of taxes receivable in the coming fiscal year.

(7) Add the available carryover, if any.

b. On or before March first of each year, any school district subject to the provisions of this section shall submit to the state comptroller, the commissioner, and the commissioner of taxation and finance, in a form and manner prescribed by the state comptroller, any information necessary for the calculation of the tax levy limit; and the school district's determination of the tax levy limit pursuant to this section shall be subject to review by the commissioner and the commissioner of taxation and finance.

4. Reorganized school districts. When two or more school districts reorganize, the commissioner shall determine the tax levy limit for the reorganized school district for the first school year following the reorganization based on the respective tax levy limits of the school districts that formed the reorganized district from the last school year in which they were separate districts, provided that in the event of formation of a new central high school district, the tax levy limits for the new central high school district and its component school districts shall be determined in accordance with a methodology prescribed by the commissioner.

5. Erroneous levies. In the event a school district's actual tax levy for a given school year exceeds the maximum allowable levy as established pursuant to this section due to clerical or technical errors, the school district shall place the excess amount of the levy in reserve in accordance with such requirements as the state comptroller may prescribe, and shall use such funds and any interest earned thereon to offset the tax levy for the ensuing school year.

6. (a) Notwithstanding any other provision of law to the contrary, in the event the trustee, trustees or board of education of a school district that is subject to the provisions of this section proposes a budget that will require a tax levy that exceeds the tax levy limit for the corresponding school year, not including any

levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of this section, then such budget shall be approved if sixty percent of the votes cast thereon are in the affirmative.

(b) Where the trustee, trustees or board of education proposes a budget subject to the requirements of paragraph (a) of this subdivision, the ballot for such budget shall include the following statement in substantially the same form: "Adoption of this budget requires a tax levy increase of which exceeds the statutory tax levy increase limit of for this school fiscal year and therefore exceeds the state tax cap and must be approved by sixty percent of the qualified voters present and voting."

7. In the event that the original proposed budget is not approved by the voters, the sole trustee, trustees or board of education may adopt a final budget pursuant to subdivision eight of this section or resubmit to the voters the original or a revised budget at a special district meeting in accordance with subdivision three of section two thousand seven of this part. Upon one defeat of such resubmitted budget, the sole trustee, trustees or board of education shall adopt a final budget pursuant to subdivision eight of this section.

8. Notwithstanding any other provision of law to the contrary, if the qualified voters fail to approve the proposed school district budget upon resubmission or upon a determination not to resubmit for a second vote pursuant to subdivision seven of this section, the sole trustee, trustees or board of education shall levy a tax no greater than the tax that was levied for the prior school year.

9. Nothing in this section shall preclude the trustee, trustees, or board of education of a school district, in their discretion, from submitting additional items of expenditures to the voters for approval as separate propositions or the voters from submitting propositions pursuant to sections two thousand eight and two thousand thirty-five of this part; provided however, except in the case of a proposition submitted for any expenditure contained within subparagraphs (i) through (iv) of paragraph i of subdivision two of this section, if any proposition, or propositions collectively that are subject to a vote on the same date, would require an expenditure of money that would require

a tax levy and would result in the tax levy limit being exceeded for the corresponding school year then such proposition shall be approved if sixty percent of the votes cast thereon are in the affirmative.

§ 3. Section 2023 of the education law, as amended by section 24 of part A of chapter 436 of the laws of 1997, subdivision 1 as amended by chapter 682 of the laws of 2002, subparagraphs (v) and (vi) of paragraph b of subdivision 4 as separately amended by section 1 of part D-2 of chapter 57 of the laws of 2007 and chapter 422 of the laws of 2007, subparagraph (vii) of paragraph b of subdivision 4 as added by section 1 of part D-2 of chapter 57 of the laws of 2007, subparagraph (vii) of paragraph b of subdivision 4 as added by chapter 422 of the laws of 2007 and paragraph b-1 of subdivision 4 as amended by section 5 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

§ 2023. Levy of tax for certain purposes without vote; contingency budget.

1. If the qualified voters shall neglect or refuse to vote the sum estimated necessary for teachers' salaries, after applying thereto the public school moneys, and other moneys received or to be received for that purpose, or if they shall neglect or refuse to vote the sum estimated necessary for ordinary contingent expenses, including the purchase of library books and other instructional materials associated with a library and expenses incurred for interschool athletics, field trips and other extracurricular activities and the expenses for cafeteria or restaurant services, the sole trustee, board of trustees, or board of education shall adopt a contingency budget including such expenses and shall levy a tax, subject to the restrictions as set forth in subdivision four of this section and subdivision eight of section two thousand twenty-three-a of this part, for the same, in like manner as if the same had been voted by the qualified voters, subject to the limitations contained in subdivisions three and four of this section.

2. Notwithstanding the defeat of a school budget, school districts shall continue to transport students to and from the regular school program in accordance with the mileage limitations previously adopted by the qualified voters of the school district. Such mileage limits shall change only when amended by a special proposition passed

by a majority of the qualified voters of the school district. In cases where the school budget is defeated by such qualified voters of the school district, appropriations for transportation costs for purposes other than for transportation to and from the regular school program, and transportation that would constitute an ordinary contingent expense pursuant to subdivision one of this section, shall be authorized in the budget only after approval by the qualified voters of the district.

3. The administrative component of a contingency budget shall not comprise a greater percentage of the contingency budget exclusive of the capital component than the lesser of (1) the percentage the administrative component had comprised in the prior year budget exclusive of the capital component; or (2) the percentage the administrative component had comprised in the last proposed defeated budget exclusive of the capital component.

4. a. ~~The contingency budget shall not result in a percentage increase in total spending over the district's total spending under the school district budget for the prior school year that exceeds the lesser of: (i) the result obtained when one hundred twenty percent is multiplied by the percentage increase in the consumer price index, with the result rounded to two decimal places; or (ii) four percent.~~

~~b. The following types of expenditures shall be disregarded in determining total spending:~~

~~(i) expenditures resulting from a tax certiorari proceeding;~~

~~(ii) expenditures resulting from a court order or judgment against the school district;~~

~~(iii) emergency expenditures that are certified by the commissioner as necessary as a result of damage to, or destruction of, a school building or school equipment;~~

~~(iv) capital expenditures resulting from the construction, acquisition, reconstruction, rehabilitation or improvement of school facilities, including debt service and lease expenditures, subject to the approval of the qualified voters where required by law;~~

~~(v) expenditures in the contingency budget attributable to projected increases in public school enrollment, which, for the purpose of this subdivision, may include increases attributable to the enrollment of students attending a pre-kindergarten program~~

~~established in accordance with section thirty-six hundred two-e of this chapter, to be computed based upon an increase in enrollment from the year prior to the base year for which the budget is being adopted to the base year for which the budget is being adopted, provided that where the trustees or board of education have documented evidence that a further increase in enrollment will occur during the school year for which the contingency budget is prepared because of new construction, inception of a pre-kindergarten program, growth or similar factors, the expenditures attributable to such additional enrollment may also be disregarded;~~

~~(vi) non-recurring expenditures in the prior year's school district budget; and~~

~~(vii) expenditures for payments to charter schools pursuant to section twenty-eight hundred fifty-six of this chapter.~~

~~(viii) expenditures for self-supporting programs. For purposes of this subparagraph, "self-supporting programs" shall mean any programs that are entirely funded by private funds that cover all the costs of the program.~~

~~b-1. Notwithstanding any other provision of this subdivision to the contrary, in the event a state grant in aid provided to the district in the prior year is eliminated and incorporated into a non-categorical general state aid in the current school year, the amount of such grant may be included in the computation of total spending for the prior school year, provided that the commissioner has verified that the grant in aid has been incorporated into such non-categorical general state aid] tax levy greater than the tax levied for the prior school year.~~

~~[c.] b.~~ The resolution of the trustee, board of trustees, or board of education adopting a contingency budget shall incorporate by reference a statement specifying the projected percentage increase or decrease in total spending for the school year, and explaining the reasons for disregarding any portion of an increase in spending in formulating the contingency budget.

~~[d.] c.~~ Notwithstanding any other provision of law to the contrary, the trustees or board of education shall not be authorized to amend or revise a final contingency budget where such amendment or revision would result in total spending in excess of the spending limitation in

paragraph (a) of this subdivision; provided that the trustees or board of education shall be authorized to add appropriations for:

~~(i) the categories of expenditures excluded from the spending limitations set forth in paragraph (b) of this subdivision, subject to approval of the qualified voters where required by law;~~

~~(ii) expenditures resulting from an actual increase in enrollment over the projected enrollment used to develop the contingency budget, provided that where such actual enrollment is less than such projected enrollment, it shall be the duty of the trustees or board of education to use such excess funds to reduce taxes; and~~

~~(iii) the expenditure of gifts, grants in aid for specific purposes or for general use or insurance proceeds authorized pursuant to subdivision two of [subdivision] section seventeen hundred eighteen of this chapter in addition to that which has been previously budgeted.~~

~~[e. For the purposes of this subdivision:~~

~~(i) "Base school year" shall mean the school year immediately preceding the school year for which the contingency budget is prepared.~~

~~(ii) "Consumer price index" shall mean the percentage that represents the average of the national consumer price indexes determined by the~~

~~United States department of labor, for the twelve month period preceding January first of the current year.~~

~~(iii) "Current year" shall mean the calendar year in which the school district budget is submitted for a vote of the qualified voters.~~

~~(iv) "Resident public school district enrollment shall mean the resident public school enrollment of the school district as defined in paragraph n of subdivision one of section thirty-six hundred two of this chapter.~~

~~(v) "Total spending" shall mean the total amount appropriated under the school district budget for the school year.]~~

§ 4. Paragraph a of subdivision 7 of section 1608 of the education law, as amended by chapter 238 of the laws of 2007, is amended to read as follows:

a. Each year, commencing with the proposed budget for the two thousand--two thousand one school year, the trustee or board of trustees shall prepare a property tax report card, pursuant to regulations of the commissioner, and shall make it

publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include:

(i) the amount of total spending and total estimated school tax levy that would result from adoption of the proposed budget and the percentage increase or decrease in total spending and total school tax levy from the school district budget for the preceding school year; and

(ii) the district's tax levy limit determined pursuant to section two thousand twenty-three-a of this title, and the estimated school tax levy, excluding any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of section two thousand twenty-three-a of this title, that would result from adoption of the proposed budget; and (iii) the projected enrollment growth for the school year for which the budget is prepared, and the percentage change in enrollment from the previous year; and [(iii)] (iv) the percentage increase in the consumer price index, as defined in paragraph c of this subdivision; and [(iv)] (v) the projected amount of the unappropriated unreserved fund balance that will be retained if the proposed budget is adopted, the projected amount of the reserved fund balance, the projected amount of the appropriated fund balance, the percentage of the proposed budget that the unappropriated unreserved fund balance represents, the actual unappropriated unreserved fund balance retained in the school district budget for the preceding school year, and the percentage of the school district budget for the preceding school year that the actual unappropriated unreserved fund balance represents.

§ 5. Paragraph a of subdivision 7 of section 1716 of the education law, as amended by chapter 238 of the laws of 2007, is amended to read as follows:

a. Each year, commencing with the proposed budget for the two thousand--two thousand one school year, the board of education shall prepare a property tax report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation,

appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include: (i) the amount of total spending and total estimated school tax levy that would result from adoption of the proposed budget and the percentage increase or decrease in total spending and total school tax levy from the school district budget for the preceding school year; and (ii) the district's tax levy limit determined pursuant to section two thousand twenty-three-a of this title, and the estimated school tax levy, excluding any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of section two thousand twenty-three-a of this title, that would result from adoption of the proposed budget; and (iii) the projected enrollment growth for the school year for which the budget is prepared, and the percentage change in enrollment from the previous year; and [(iii)] (iv) the percentage increase in the consumer price index, as defined in paragraph c of this subdivision; and [(iv)] (v) the projected amount of the unappropriated unreserved fund balance that will be retained if the proposed budget is adopted, the projected amount of the reserved fund balance, the projected amount of the appropriated fund balance, the percentage of the proposed budget that the unappropriated unreserved fund balance represents, the actual unappropriated unreserved fund balance retained in the school district budget for the preceding school year, and the percentage of the school district budget for the preceding school year that the actual unappropriated unreserved fund balance represents.

§ 6. Section 2008 of the education law is amended by adding a new subdivision 3 to read as follows:

3. Notwithstanding any other provision of law to the contrary, any proposition submitted by the voters that requires the expenditure of money shall be subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part.

§ 7. Section 2022 of the education law, as amended by section 23 of part A of chapter 436 of the laws of 1997, subdivisions 1 and 3 as amended by section 8 of part C of chapter 58 of the laws of 1998, subdivision

2-a as amended by section 3 of part A of chapter 60 of the laws of 2000, paragraph b of subdivision 2-a as amended by section 5 of part W of chapter 57 of the laws of 2008, subdivision 4 as amended by section 7 of part M of chapter 57 of the laws of 2005 and subdivision 6 as added by chapter 61 of the laws of 2003, is amended to read as follows:

§ 2022. Vote on school district budgets and on the election of school district trustees and board of education members.

1. Notwithstanding any law, rule or regulation to the contrary, the election of trustees or members of the board of education, and the vote upon the appropriation of the necessary funds to meet the estimated expenditures, in any common school district, union free school district, central school district or central high school district shall be held at the annual meeting and election on the third Tuesday in May, provided, however, that such election shall be held on the second Tuesday in May if the commissioner at the request of a local school board certifies no later than March first that such election would conflict with religious observances.

~~When such election or vote is taken by recording the ayes and noes of the qualified voters attending, a majority of the qualified voters present and voting, by a hand or voice vote, may determine to take up the question of voting the necessary funds to meet the estimated expenditures for a specific item separately, and the qualified voters present and voting may increase the amount of any estimated expenditures or reduce the same, except for teachers' salaries, and the ordinary contingent expenses of the schools.]~~

The sole trustee, board of trustees or board of education of every common, union free, central or central high school district and every city school district to which this article applies shall hold a budget hearing not less than seven nor more than fourteen days prior to the annual meeting and election or special district meeting at which a school budget vote will occur, and shall prepare and present to the voters at such budget hearing a proposed school district budget for the ensuing school year.

2. Except as provided in subdivision four of this section, nothing in this section shall preclude the trustees or board of education, in their discretion, from submitting additional items of expenditure to the voters for

approval as separate propositions or the voters from submitting propositions pursuant to ~~section~~ sections two thousand eight and two thousand thirty-five of this ~~article~~ part; provided however that such propositions shall be subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part.

2-a. Every common, union free, central, central high school district and city school district to which this article applies shall mail a school budget notice to all qualified voters of the school district after the date of the budget hearing, but no later than six days prior to the annual meeting and election or special district meeting at which a school budget vote will occur. The school budget notice shall compare the percentage increase or decrease in total spending under the proposed budget over total spending under the school district budget adopted for the current school year, with the percentage increase or decrease in the consumer price index, from January first of the prior school year to January first of the current school year, and shall also include the information required by paragraphs a and b of this subdivision. The notice shall also set forth the date, time and place of the school budget vote, in the same manner as in the notice of annual meeting, and shall also include the district's tax levy limit pursuant to section two thousand twenty-three-a of this part, and the estimated school tax levy, excluding any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of section two thousand twenty-three-a of this part, that would result from adoption of the proposed budget. Such notice shall be in a form prescribed by the commissioner.

a. Commencing with the proposed budget for the two thousand one--two thousand two school year, such notice shall also include a description of how total spending and the tax levy resulting from the proposed budget would compare with a projected contingency budget adopted pursuant to section two thousand twenty-three of this article, assuming that such contingency budget is adopted on the same day as the vote on the proposed budget. Such comparison shall be in total and by component (program, capital and administrative), and shall include a statement of the assumptions made in estimating the projected contingency

budget.

b. Commencing with the proposed budget for the two thousand eight--two thousand nine school year, such notice shall also include, in a format prescribed by the commissioner, an estimate of the tax savings that would be available to an eligible homeowner under the basic school tax relief (STAR) exemption authorized by section four hundred twenty-five of the real property tax law if the proposed budget were adopted. Such estimate shall be made in the manner prescribed by the commissioner, in consultation with the office of real property services.

3. In all elections for trustees or members of boards of education or votes involving the expenditure of money, or authorizing the levy of taxes, the vote thereon shall be by ballot, or, in school districts that prior to nineteen hundred ninety-eight conducted their vote at the annual meeting, may be ascertained by taking and recording the ayes and noes of such qualified voters attending and voting at such district meetings.

4. The budget adoption process shall conform to the requirements set forth in section two thousand twenty-three-a of this part. In the event that the original proposed budget is not approved by the voters, the sole trustee, trustees or board of education may adopt a final budget pursuant to subdivision five of this section or resubmit to the voters the original or a revised budget pursuant to subdivision three of section two thousand seven of this part. Upon one defeat of such resubmitted budget, the sole trustee, trustees or board of education shall adopt a final budget pursuant to subdivision five of this section.

Notwithstanding any other provision of law to the contrary, the school district budget for any school year, or any part of such budget or any propositions involving the expenditure of money for such school year shall not be submitted for a vote of the qualified voters more than twice.

5. If the qualified voters fail to approve the proposed school district budget upon resubmission or upon a determination not to resubmit for a second vote pursuant to subdivision four of this section, the sole trustee, trustees or board of education, after applying thereto the public school moneys and other moneys received or to be received for that purpose, shall levy a tax for the sum necessary for teachers' salaries and other

ordinary contingent expenses in accordance with the provisions of this subdivision and ~~section~~ sections two thousand twenty-three and two thousand twenty-three-a of this article.

6. Notwithstanding the provisions of subdivision four of section eighteen hundred four and subdivision five of section nineteen hundred six of this title, subdivision one of section two thousand two of this article, subdivision one of this section, subdivision two of section twenty-six hundred one-a of this title and any other provision of law to the contrary, the annual district meeting and election of every common, union free, central and central high school district and the annual meeting of every city school district in a city having a population of less than one hundred twenty-five thousand inhabitants that is scheduled to be held on the third Tuesday of May, two thousand three is hereby adjourned until the first Tuesday in June, two thousand three. The trustees or board of education of each such school district shall provide notice of such adjourned meeting to the qualified voters in the manner prescribed for notice of the annual meeting, and such notice shall provide for an adjourned budget hearing. The adjourned district meeting or district meeting and election shall be deemed the annual meeting or annual meeting and election of the district for all purposes under this title and the date of the adjourned meeting shall be deemed the state-wide uniform voting day for all purposes under this title. Notwithstanding the provisions of subdivision seven of section sixteen hundred eight or subdivision seven of section seventeen hundred sixteen of this title or any other provision of law, rule or regulation to the contrary, in two thousand three the property tax report card shall be submitted to the department no later than twenty days prior to the date of the adjourned meeting and the department shall make its compilation available electronically at least seven days prior to such date.

§ 8. Section 2035 of the education law is amended by adding a new subdivision 3 to read as follows:

3. Any proposition submitted pursuant to this section shall be subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part.

§ 9. Section 2601-a of the education law, as added by chapter 171 of the laws of 1996,

subdivision 2 as amended by section 6 and subdivision 4 as amended by section 8 of part M of chapter 57 of the laws of 2005, subdivision 3 as amended by chapter 640 of the laws of 2008, subdivision 5 as amended by section 29 of part A of chapter 436 of the laws of 1997, subdivision 6 as amended and subdivision 7 as added by chapter 474 of the laws of 1996, is amended to read as follows:

§ 2601-a. Procedures for adoption of school budgets in small city school districts. 1. The board of education of each city school district subject to this article shall provide for the submission of a budget for approval of the voters pursuant to the provisions of this section and in accordance with the requirements set forth in section two thousand twenty-three-a of this title.

2. The board of education shall conduct all annual and special school district meetings for the purpose of adopting a school district budget in the same manner as a union free school district in accordance with the provisions of article forty-one of this title, except as otherwise provided by this section. The annual meeting and election of each such city school district shall be held on the third Tuesday of May in each year, provided, however that such annual meeting and election shall be held on the second Tuesday in May if the commissioner at the request of a local school board certifies no later than March first that such election would conflict with religious observances, and any school budget revote shall be held on the date and in the same manner specified in subdivision three of section two thousand seven of this title. The provisions of this article, and where applicable subdivisions nine and nine-a of section twenty-five hundred two of this title, governing the qualification and registration of voters, and procedures for the nomination and election of members of the board of education shall continue to apply, and shall govern the qualification and registration of voters and voting procedures with respect to the adoption of a school district budget.

3. The board of education shall prepare a proposed school district budget for the ensuing year in accordance with the provisions of section seventeen hundred sixteen of this chapter, including all provisions relating to required notices and appendices to the statement of expenditures. No board of education shall incur a school district liability

except as authorized by the provisions of section seventeen hundred eighteen of this chapter. Such proposed budget shall be presented in three components: a program component, a capital component and an administrative component which shall be separately delineated in accordance with regulations of the commissioner after consultation with local school district officials. The administrative component shall include, but need not be limited to, office and central administrative expenses, traveling expenses and all compensation, salaries and benefits of all school administrators and supervisors, including business administrators, superintendents of schools and deputy, assistant, associate or other superintendents under all existing employment contracts or collective bargaining agreements, any and all expenditures associated with the operation of the board of education, the office of the superintendent of schools, general administration, the school business office, consulting costs not directly related to direct student services and programs, planning and all other administrative activities. The program component shall include, but need not be limited to, all program expenditures of the school district, including the salaries and benefits of teachers and any school administrators or supervisors who spend a majority of their time performing teaching duties, and all transportation operating expenses. The capital component shall include, but need not be limited to, all transportation capital, debt service, and lease expenditures; costs resulting from judgments in tax certiorari proceedings or the payment of awards from court judgments, administrative orders or settled or compromised claims; and all facilities costs of the school district, including facilities lease expenditures, the annual debt service and total debt for all facilities financed by bonds and notes of the school district, and the costs of construction, acquisition, reconstruction, rehabilitation or improvement of school buildings, provided that such budget shall include a rental, operations and maintenance section that includes base rent costs, total rent costs, operation and maintenance charges, cost per square foot for each facility leased by the school district, and any and all expenditures associated with custodial salaries and benefits, service contracts, supplies, utilities, and maintenance and repairs of

school facilities. For the purposes of the development of a budget for the nineteen hundred ninety-seven--ninety-eight school year, the board of education shall separate its program, capital and administrative costs for the nineteen hundred ninety-six--ninety-seven school year in the manner as if the budget for such year had been presented in three components. Except as provided in subdivision four of this section, nothing in this section shall preclude the board, in its discretion, from submitting additional items of expenditure to the voters for approval as separate propositions or the voters from submitting propositions pursuant to sections two thousand eight and two thousand thirty-five of this chapter subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part.

4. The budget adoption process shall conform to the requirements set forth in section two thousand twenty-three-a of this title. In the event the qualified voters of the district reject the budget proposed pursuant to subdivision three of this section, the board may propose to the voters a revised budget pursuant to subdivision three of section two thousand seven of this title or may adopt a contingency budget pursuant to subdivision five of this section and subdivision five of section two thousand twenty-two of this title. The school district budget for any school year, or any part of such budget or any propositions involving the expenditure of money for such school year shall not be submitted for a vote of the qualified voters more than twice. In the event the qualified voters reject the resubmitted budget, the board shall adopt a contingency budget in accordance with subdivision five of this section and subdivision five of such section two thousand twenty-two of this title.

5. If the qualified voters fail or refuse to vote the sum estimated to be necessary for teachers' salaries and other ordinary contingent expenses, the board shall adopt a contingency budget in accordance with this subdivision and shall levy a tax for that portion of such sum remaining after applying thereto the moneys received or to be received from state, federal or other sources, in the same manner as if the budget had been approved by the qualified voters; subject to the limitations imposed in subdivision four of section two thousand

twenty-three of this chapter, subdivision eight of section two thousand twenty-three-a of this title and this subdivision. The administrative component shall not comprise a greater percentage of the contingency budget exclusive of the capital component than the lesser of (1) the percentage the administrative component had comprised in the prior year budget exclusive of the capital component; or (2) the percentage the administrative component had comprised in the last proposed defeated budget exclusive of the capital component. Such contingency budget shall include the sum determined by the board to be necessary for:

(a) teachers' salaries, including the salaries of all members of the teaching and supervising staff;

(b) items of expense specifically authorized by statute to be incurred by the board of education, including, but not limited to, expenditures for transportation to and from regular school programs included as ordinary contingent expenses in subdivision twelve of section twenty-five hundred three of this chapter, expenditures for textbooks, required services for non-public school students, school health services, special education services, kindergarten and nursery school programs, and the district's share of the administrative costs and costs of services provided by a board of cooperative educational services;

(c) items of expense for legal obligations of the district, including, but not limited to, contractual obligations, debt service, court orders or judgments, orders of administrative bodies or officers, and standards and requirements of the board of regents and the commissioner that have the force and effect of law;

(d) the purchase of library books and other instructional materials associated with a library;

(e) items of expense necessary to maintain the educational programs of the district, preserve the property of the district or protect the health and safety of students and staff, including, but not limited to, support services, pupil personnel services, the necessary salaries for the necessary number of non-teaching employees, necessary legal expenses, water and utility charges, instructional supplies for teachers' use, emergency repairs, temporary rental of essential classroom facilities, and

expenditures necessary to advise school district voters concerning school matters; and

(f) expenses incurred for interschool athletics, field trips and other extracurricular activities; and

(g) any other item of expense determined by the commissioner to be an ordinary contingent expense in any school district.

6. The commissioner shall determine appeals raising questions as to what items of expenditure are ordinary contingent expenses pursuant to subdivision five of this section in accordance with section two thousand twenty-four and three hundred ten of this chapter.

7. Each year, the board of education shall prepare a school district report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include measures of the academic performance of the school district, on a school by school basis, and measures of the fiscal performance of the district, as prescribed by the commissioner. Pursuant to regulations of the commissioner, the report card shall also compare these measures to statewide averages for all public schools, and statewide averages for public schools of comparable wealth and need, developed by the commissioner. Such report card shall include, at a minimum, any information on the school district regarding pupil performance and expenditure per pupil required to be included in the annual report by the regents to the governor and the legislature pursuant to section two hundred fifteen-a of this chapter; and any other information required by the commissioner. School districts (i) identified as having fifteen percent or more of their students in special education, or (ii) which have fifty percent or more of their students with disabilities in special education programs or services sixty percent or more of the school day in a general education building, or

(iii) which have eight percent or more of their students with disabilities in special education programs in public or private separate educational settings shall indicate on their

school district report card their respective percentages as defined in this paragraph and paragraphs (i) and (ii) of this subdivision as compared to the statewide average.

§ 10. Paragraph b-1 of subdivision 4 of section 3602 of the education law, as amended by section 26 of part A of chapter 58 of the laws of 2011, is amended to read as follows:

b-1. Notwithstanding any other provision of law to the contrary, for the two thousand seven--two thousand eight ~~through~~ school year and thereafter, the additional amount payable to each school district pursuant to this subdivision in the current year as total foundation aid, after deducting the total foundation aid base, shall be deemed a state grant in aid identified by the commissioner for general use for purposes of ~~sections~~ section seventeen hundred eighteen ~~and two thousand twenty-three~~ of this chapter.

§ 11. Paragraph a of subdivision 1 of section 3635 of the education law, as amended by chapter 69 of the laws of 1992, is amended to read as follows:

a. Sufficient transportation facilities (including the operation and maintenance of motor vehicles) shall be provided by the school district for all the children residing within the school district to and from the school they legally attend, who are in need of such transportation because of the remoteness of the school to the child or for the promotion of the best interest of such children. Such transportation shall be provided for all children attending grades kindergarten through eight who live more than two miles from the school which they legally attend and for all children attending grades nine through twelve who live more than three miles from the school which they legally attend and shall be provided for each such child up to a distance of fifteen miles, the distances in each case being measured by the nearest available route from home to school. The cost of providing such transportation between two or three miles, as the case may be, and fifteen miles shall be considered for the purposes of this chapter to be a charge upon the district and an ordinary contingent expense of the district. Transportation for a lesser distance than two miles in the case of children attending grades kindergarten through eight or three miles in the case of children attending grades nine through twelve and for a greater distance than fifteen

miles may be provided by the district with the approval of the qualified voters, and, if provided, shall be offered equally to all children in like circumstances residing in the district; provided, however, that this requirement shall not apply to transportation offered pursuant to section thirty-six hundred thirty-five-b of this article.

§ 12. Nothing contained in this act shall impair or invalidate the powers or duties, as authorized by law, of a control board, interim finance authority or fiscal stability authority including such powers or duties that may require the tax levy limit, as that term is defined in section one or section two of this act, to be exceeded.

§ 13. This act shall take effect immediately; provided, however, that sections two through eleven of this act shall take effect July 1, 2011 and shall first apply to school district budgets and the budget adoption process for the 2012-13 school year; and shall continue to apply to school district budgets and the budget adoption process for any school year beginning in any calendar year during which this act is in effect; provided further, that if section 26 of part A of chapter 58 of the laws of 2011 shall not have taken effect on or before such date then section ten of this act shall take effect on the same date and in the same manner as such chapter of the

laws of 2011, takes effect; provided further, that section one of this act shall first apply to the levy of taxes by local governments for the fiscal year that begins in 2012 and shall continue to apply to the levy of taxes by local governments for any fiscal year beginning in any calendar year during which this act is in effect; provided, further, that this act shall remain in full force and effect at a minimum until and including June 15, 2016 and shall remain in effect thereafter only so long as the public emergency requiring the regulation and control of residential rents and evictions and all such laws providing for such regulation and control continue as provided in subdivision 3 of section 1 of the local emergency rent control act, sections 26-501, 26-502 and 26-520 of the administrative code of the city of New York, section 17 of chapter 576 of the laws of 1974 and subdivision 2 of section 1 of chapter 274 of the laws of 1946 constituting the emergency housing rent control law, and section 10 of chapter 555 of of the laws of 1982, amending the general business law and the administrative code of the city of new york relating to conversions of residential property to cooperative or condominium ownership in the city of New York as such laws are continued by chapter 93 of the laws of 2011 and as such sections are amended from time to time.

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The Property Tax in New York State

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Figures

Figure 1: Revenue Distribution, New York State (STAR treated as State Revenue).....	8
Figure 2: Revenue Distribution, New York State (STAR treated as Local Tax Revenue).....	9
Figure 3: Statewide Effective Property Tax Rate, 1993-2005	10
Figure 4: Residential Property Tax Levy as Percent of NYSAGI, 1993-2005	10
Figure 5: Tax Levy Distribution by Property Type, New York State School Districts.....	13
Figure 6: Change in School Districts' Effective Tax Rates, 1993-2005, by Wealth Groups.....	15
Figure 7: School Districts' Effective Tax Rates by Wealth Groups, 2005	15
Figure 8: School Districts' Effective Tax Rate vs. Income Per Pupil, 2005.....	16
Figure 9: School Districts' Effective Tax Rate vs. Poverty Rate, 2005	16
Figure 10: School Districts' Effective Tax Rate vs. Property Value Per Pupil, 2005	17
Figure 11: School Districts' Effective Tax Rate vs. Income Per Pupil, 1993.....	17
Figure 12: School Districts' Effective Tax Rate vs. Property Value Per Pupil, 1993	18
Figure 13: Correlations between Effective Tax Rate and Wealth Measures, 1993-2005.....	19
Figure 14: Change in School Property Tax Revenues (Inflation Adjusted),	22
Figure 15: Revenue Distribution Among School Districts with Various NRC Levels, SY 1993-94.....	23
Figure 16: Revenue Distribution Among School Districts with Various NRC Levels, SY 2006-07.....	23
Figure 17: Effective Tax Rate, NYS Regions, 1993-2005	24
Figure 18: Effective Tax Rate by Need and Resource Category, 1993-2005	25
Figure 19: Residential Property Tax Levy as Percent of NYSAGI.....	25
Figure 20: Effective Tax Rate, 2005	26
Figure 21: Tax Levy Distribution by Property Type, New York City School District.....	27
Figure 22: Tax Levy Distribution by Property Type, School Districts Outside NYC.....	28
Figure 23: Total School Tax Levy Distribution Across NRC School Districts, 1993 vs 2005.....	28
Figure 24: School District Revenue Distribution, New York State, Selected Years.....	29
Figure 25: Revenue Distribution, New York State, SY 1993-94 - SY 2006-07	30
Figure 26: Revenue Distribution Among NYS Regions.....	31
Figure 27: Property Tax Burden by Household Income, New York State	35
Figure 28: Property Tax Burden by Property Taxes, New York State	35
Figure 29: Property Tax Burden by Household Income and Homeowners' Age	36

Executive Summary

The property tax burden in New York State increased from 1993 through 2006, whether measured in inflation-adjusted dollars or in taxes paid as a proportion of property values. Total levies for school districts, including New York City, rose from \$12.1 billion to \$22.4 billion during the period. After accounting for inflation as measured by the Consumer Price Index, property tax collections by school districts rose 31.8 percent, while student enrollment increased by 4.8 percent for the period.¹ After adjusting for both enrollment and inflation, property taxes rose by one-quarter, or 25.7 percent. At the same time, state aid to school districts increased by 35.7 percent; and total school expenditures by 39.3 percent, both adjusted for inflation and enrollment increases. The overall average effective property tax rate for schools rose by roughly 13.7 percent from 1993 to 2005, from \$13.98 per \$1,000 of value to \$15.89.

These broad changes in the distribution of overall property tax burdens occurred during the study period:

- Among property classes, the proportion of taxes paid by residential property owners rose from 51.1 percent to 58.5 percent, while the proportion paid by commercial and industrial property owners declined.
- Effective tax rates (tax levies as a proportion of property values) rose in 77 percent of school districts, while declining in 23 percent. The average effective property tax rate rose sharply in Upstate school districts, while effective rates dropped significantly on Long Island and in the Westchester-Rockland region. The difference among regions was driven primarily by property values, which more than doubled in the Long Island and Westchester-Rockland regions while rising by smaller proportions in Upstate districts. Expenditures and tax levies rose by well over the rate of inflation in all regions.
- Statewide, average effective tax rates rose for both residential and commercial properties, the two largest property classes. The statewide increase in overall average property tax rates, and the statewide increase in average tax rates for residential property, were driven by especially large increases in New York City, where taxable values rose but were outpaced by increases in spending and tax levies. The effective school property tax rate on residential property in New York City rose by two-thirds, although the city's average residential effective rate in 2005 was still lower than rates outside the city.
- Outside New York City, overall average tax rates and tax rates on residential property rose during the mid- and late 1990s but then declined to around their 1993 level by 2005. Average effective

¹ Enrollment figures are based on NYS Education Department's Duplicated Combined Adjusted Average Daily Membership or DCAADM, which is based on the number of students receiving their educational program at district expense. For more information, please see <http://www.oms.nysed.gov/faru/Profiles/18th/revisedAppendix.html>.

tax rates on commercial property rose modestly outside New York City over the period, and rose sharply within the city, contributing to a significant average increase in commercial property tax rates statewide.

- Overall, the school property tax in New York became more regressive from 1993 to 2005, as indicated by effective property tax rates. Effective tax rates in poorer school districts rose relative to income over the period, while those in higher-income districts generally declined in relation to income. Conversely, overall tax collections in the highest-income districts increased by more than twice the rate of increase in the lowest-income school districts, in part because property values in higher-income districts rose rapidly.
- Property taxes generated, on average, only 18 percent of total revenue among the Big Four urban school districts, and 23 percent in high-need rural districts, in 2006-07. The Big Four districts saw large declines in combined wealth ratio compared to most other districts statewide. Property values for the school districts in Buffalo and Rochester declined by nearly 15 percent from 1993 to 2005, while the effective tax rates increased by over 30 percent.
- In 2006, according to the Census Bureau's American Community Survey (ACS) data, median property taxes as a proportion of household income were highest on Long Island, at 7.2 percent compared to a statewide average of 4.6 percent. The ACS data confirm the picture of a somewhat regressive property tax distribution, with lower-income households paying a relatively higher level of income in property taxes than higher-income households.

Property taxes in New York are imposed not only by school districts, but by counties, cities, towns, villages and fire districts as well. School districts represent the largest share of overall property tax collections, and raised total tax levies by 92 percent over the study period, more than twice the average increase for other taxing jurisdictions. Outside of New York City, school districts were responsible for 71 percent of the total increase in property tax collections from 1993 to 2005. Because of the Education Finance Research Consortium's particular interest in school finance, this report focuses primarily on property taxes collected by school districts.

Among the six Need Resource Categories of school districts established by the state Education Department, effective school property tax rates rose most noticeably during the study period in New York City and among high-need rural districts. As of 2005, average effective tax rates among the six NRC categories were clustered in two groups. The Big Four city school districts, and Low-Need districts, both had overall effective tax rates around 1.3 percent of value. New York City, and districts in the NRC categories of High Need Rural, High Need Urban/Suburban, and Average Need all had effective property tax rates around 1.7 to 1.8 percent. Such ratios can add up to substantial differences in tax bills – an effective tax rate of 1.8 percent on a \$100,000 home would represent \$500 more in annual taxes than a 1.3 percent effective rate.

While effective tax rates on property owners rose during the period, the property tax's share of overall school funding declined slightly (to characterize this observation another way, overall expenditures and revenues rose more rapidly than effective property tax rates). Such comparisons are complicated because the state's School Tax Relief (STAR) program was created in the middle of the study period, and STAR revenues to districts are difficult to classify purely as either state aid or property-tax equivalents. Throughout this report, unless otherwise noted, references to property tax revenues do not include STAR payments to school districts and homeowners. Setting STAR revenue aside, property taxes declined from 51.9 percent of total school revenues in 1993-94 to 45.4 percent in 2006-07.

I. Overview

Locally imposed property taxes represent a key funding source for local governments and school districts in New York State. (Unlike some states such as California and Washington, New York does not have a state-level real property tax.) Across the state, property taxes provided 29.9 percent of total revenues for schools, counties, cities (including New York City), towns, villages and fire districts in 2005. At \$37.2 billion, property tax revenues collected by school districts and other local governments were nearly equal to combined revenues from federal and state grants, and far surpassed other individual revenue sources, according to data from the Office of the State Comptroller (OSC).² School districts collect the largest share of property taxes, \$15.5 billion outside New York City in 2005, according to OSC data. (Appendix A shows property tax collections by major classes of local governments.) Including property tax revenues for the New York City School District brings the school total to \$23.1 billion, or 62 percent of all property taxes in the state that year.³

This paper reports on research and analysis of trends in the property tax in New York State conducted on behalf of the Education Finance Research Consortium by the Nelson A. Rockefeller Institute of Government, the public-policy research arm of the State University of New York. The study examines both statewide trends and variations in trends among local school districts, as well as the role of the School Tax Relief (STAR) program.

Data Sources

The primary study period is 1993 to 2005, with some additional data from more recent years. The research and analysis of school districts are based primarily on two sources of data – the New York State Education Department’s (NYSED’s) ST-3 reports on school district revenues, and the New York State Office of Real Property Services (ORPS) data on property values and tax levies. The Education Department’s ST-3 data are publicly available through the 2005-06 school year, and department staff provided the Rockefeller Institute with preliminary ST-3 data for the 2006-07 school year. ORPS’ data extend as recently as 2005. For analysis of statewide property tax collections by all classes of local governments, and of school district revenues in relation to other local entities, we rely on data from the Office of the State Comptroller; we have placed this analysis in Appendix A to minimize potential confusion among the NYSED, ORPS and OSC data. In addition, the Institute supplemented its analysis with the Census Bureau’s 2006 American Community Survey data, for certain analysis of property tax burdens at the individual household level. The Rockefeller Institute expresses its appreciation to staff at the Education Department, Office of Real Property Services, and

² See “2007 Annual Report on Local Governments” and “Financial Report on School Districts, Fiscal Years Ended 2005” both published by the Office of the State Comptroller and available at: <http://www.osc.state.ny.us/localgov/datanstat/index.htm>.

³ The \$23.1 billion figure is from the Office of the State Comptroller, while most references in this report rely on data from the New York State Education Department or the Office of Real Property Services.

Department of Taxation and Finance for their assistance. We are grateful to the Education Finance Research Consortium for sponsoring the study.

II. Major developments in property taxes statewide

In New York and elsewhere, the property tax is frequently criticized as excessively burdensome and often inequitable. Currently, Governor Paterson and a gubernatorially appointed Commission on Property Tax Relief are urging enactment of a statutory limit on annual growth in school property tax levies.⁴ Some legislators have called for going further by abolishing the property tax outright and replacing such revenue with unspecified new revenues provided by the state.⁵

Supporters of the property tax note that it generates the largest proportion of funding for public schools, and that revenue from the property tax is less volatile than either the second-largest source of education funding – state assistance – or the other two major sources of state and local tax revenue, income and sales taxes. During the period the Rockefeller Institute examined for this report, those two characteristics of the property tax – its role as the most important source of education funding, and the stability of revenue – were clearly in evidence.

From \$12.1 billion in the 1993-94 school year, property tax revenues collected by all school districts statewide (including New York City) rose 84 percent in nominal terms, to \$22.4 billion, as of 2006-07, according to New York State Education Department data. After accounting for a slight increase in enrollment and for inflation, school property tax levies rose an adjusted 31.8 percent during the period.⁶

Property taxes as a share of overall school revenues

School districts in New York rely primarily on two major sources of revenue – property tax levies and state aid. Federal aid, and local revenue other than property taxes (chiefly sales tax and utility tax revenue), contribute a combined total of roughly 10 percent of overall revenue for school districts. The proportion of total school revenue from state aid tends to fluctuate with the state's fiscal position. From 1993-94 to 2001-02, state assistance rose from 38.7 percent to 41.6 percent of all revenues, according to the Education Department's ST-3 data. In the wake of the September 11, 2001, terrorist attacks and the resulting damage to state revenues, state aid declined sharply as a share of total revenues. The state has provided major increases in aid to schools over the past two years. While available data do not allow calculation of the impact on

⁴ The principal investigator for this project, Robert Ward, is a non-voting special adviser to the Commission.

⁵ See, for instance, A.4746 by Assemblyman Cahill et al., introduced February 6, 2007.

⁶ Inflation adjustments are based on the Consumer Price Index.

overall school revenues for all districts, it appears that districts outside New York City and the Big Four city districts used some of the new state aid to reduce their reliance on property taxes.⁷

The role of STAR

Assessing the contribution that property taxes make to overall school revenues has become more complicated since creation of the state's STAR (School Tax Relief) program for homeowners in 1998. From the 2001-02 school year through 2006-07, STAR represented a consistent 7 percent or so of total revenues to all school districts.

Conceptually, STAR might best be considered as additional state aid to schools, given that the dollars come from the state's broad-based general revenues and are used to offset the costs that local taxpayers bear for public education. Treating STAR this way portrays an important change in the relationship between state assistance and locally generated revenue. Throughout most of the 1990s, property taxes and other local revenue provided more than 50 percent of school funding, while state aid was around 40 percent. In the first year of our study period, 1993-94, property taxes were just below 52 percent of the total, and state aid 38.7 percent – a gap of more than 13 percentage points. In 2006-07, the final year for which we have complete data, Education Department data show property taxes at 45.4 percent and state aid 36.6 percent of total revenue. Assigning STAR dollars to the state-aid portion of revenue in that year shrinks the gap between property taxes and state aid to less than 2 percent. The role of property taxes still exceeds that of state assistance, but not by much. If STAR is considered state aid, then, creation and expansion of the program have significantly increased the state share of overall education costs.

Alternatively, STAR may be considered as property-tax revenue to school districts, rather than state aid. When he initiated the program, Governor Pataki portrayed STAR dollars as direct substitutes or reimbursement for homeowners' property tax payments, a characterization echoed by supporters in the Legislature. Homeowners receive the benefit as a reduction in the tax payments they would otherwise make to their local school districts. As a technical matter, school districts continue to set their overall tax levies just as they have for decades – and they do not subtract STAR dollars from those levies in their official reports, or treat such revenue as state aid. If STAR is viewed as part of the property-tax total, school districts' reliance on property taxes has become even more predominant. Property taxes plus STAR totaled 52.6 percent in 2006-07, fully 16 percentage points more than aid from Albany.

Yet a third method of accounting for STAR – considering it partly state aid, and partly property tax revenue – is also worth considering, and may be the most useful way to analyze the program. Several

⁷ In 2008, some 630 school districts that submit proposed budgets to voters reported to the state Education Department that property tax levies would make up an average 58.5 percent of those districts' total expenditures for 2008-09. That was the lowest proportion among these districts since 2001. These figures are from the Property Tax Report Cards school districts submit to the department before school budget votes each year. Such submittals do not include New York City or the Big Four districts (because residents in those districts do not vote on school budgets), but represent more than 90 percent of tax levies outside the largest five districts.

researchers have concluded that STAR leads to higher school spending and higher property tax rates.⁸ If such is the case, STAR should not be regarded as entirely equivalent to state aid for analytical purposes. While increased state assistance may lead to higher spending, it tends to reduce local tax rates rather than increase them. From the perspective of local school officials, the main practical impact of STAR is that it reduces the cost of education for local homeowners, and thus likely increases voter support for any given increase in school spending. Given these characteristics, it may be worthwhile to “label” as state aid that proportion of STAR funding that reduces local costs, and to classify as property taxes the proportion of STAR that is consumed by otherwise unexpected increases in local tax levies and spending. Eom, Duncombe and Yinger find that “extra” tax increases stimulated by STAR offset some 40 percent of savings the program is intended to provide local taxpayers. If we consider 40 percent of STAR dollars as increases in local property taxes, that would add roughly \$1.4 billion to the Education Department’s count of total property tax collections in 2006-07—and raise the property tax proportion of overall school revenues to 48.3 percent. With the remaining 60 percent of STAR considered as state aid, the state assistance share of overall school revenues would total 40.9 percent.

Thinking about STAR’s role in school finance in different ways may influence the way it is treated in public policy discussions. Concerns over both rising property taxes and inequity of resources among school districts have prompted many advocates to call for increasing the state’s share of overall education funding, or to move away from reliance on the property tax toward the more progressive income tax, or both. In that context, the three alternative approaches to analyzing STAR that are outlined above lead to significantly different estimates of Albany’s contribution to school budgets. That share in 2006-07 was 36.6 percent if STAR is treated as the equivalent of property tax revenue; 40.9 percent if 60 percent of STAR is treated as state aid and the remainder as property tax; or 43.8 percent if STAR is regarded entirely as state aid. In some recent years, the combination of state aid and STAR dollars has approached half of total school funding.

Table 1: Major Revenue Sources: Varying Ways To Measure Proportions of Overall School Revenues		
	1993-94	2006-07
State Aid	38.7%	36.6%
...including all STAR revenue	38.7%	43.8%
Property Taxes	51.9%	45.4%
...including all STAR revenue	51.9%	52.6%
STAR	NA	7.2%
State Aid with 60% of STAR revenue	38.7%	40.9%
Property Taxes with 40% of STAR revenue	51.9%	48.3%
Source: ST-3 data; Rockefeller Institute calculations.		

⁸ See, for example, “The Unintended Consequences of Property Tax Relief: New York’s STAR Program,” Tae Ho Eom, William Duncombe and John Yinger, Center for Policy Research, Syracuse University, January 2007. The researchers also found that STAR resulted in small decreases in student performance and efficiency of educational services, while “magnifying existing inequities” in New York’s education finance system.

The following figures show two different groupings of revenue, where revenues from the STAR program are treated as state revenue (Figure 1) and as local revenue (Figure 2). If STAR revenues are treated as state revenue, the trends show convergence between state and local revenue until the early 2000's, and a divergent trend after 2002. If the revenues from the STAR program are treated as local revenue, then the convergence and divergence trends between state and local revenue are less pronounced but still observable. In either case, property taxes and other local resources remain the most important source of revenue for school districts.

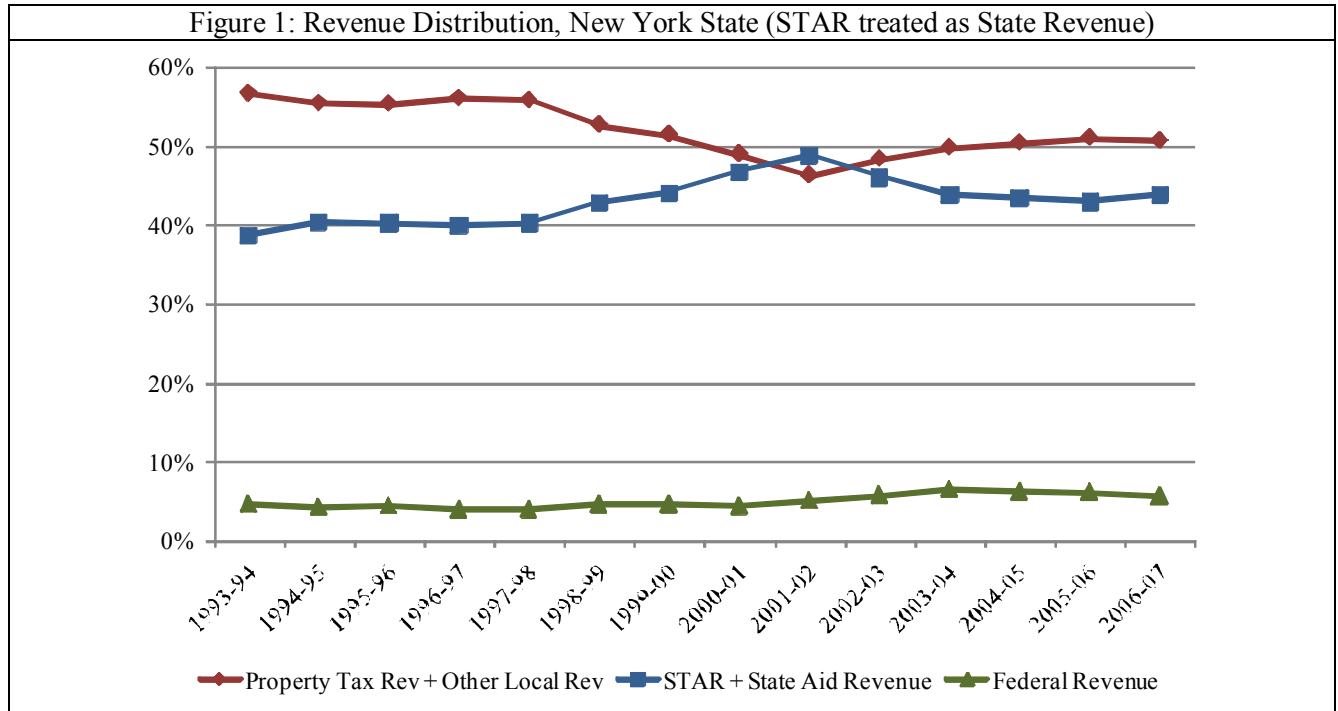
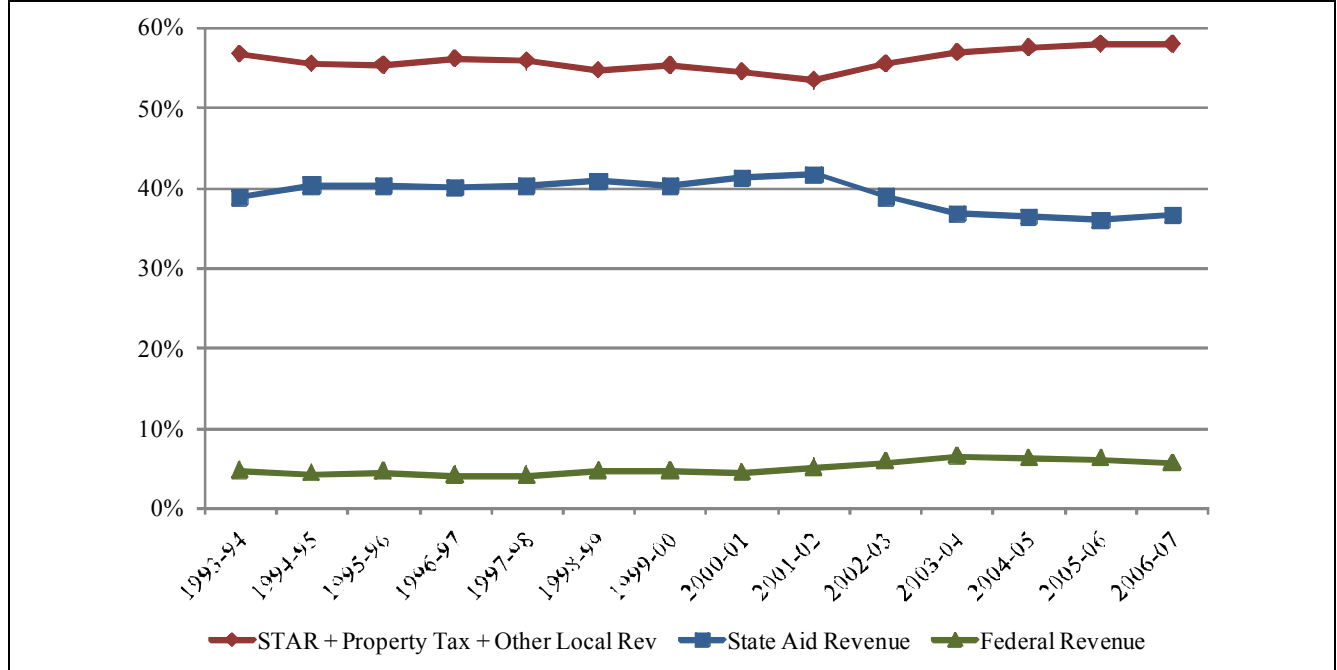


Figure 2: Revenue Distribution, New York State (STAR treated as Local Tax Revenue)



Overall effective property tax rates for schools

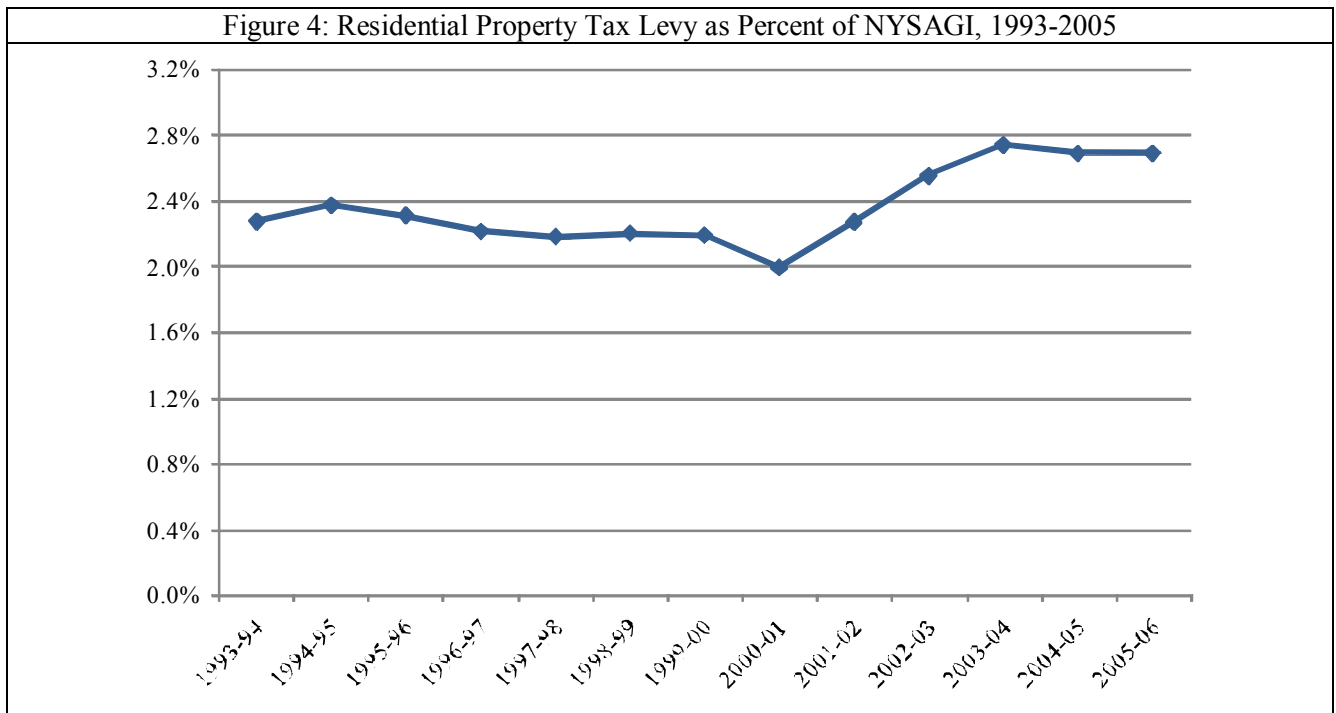
Property tax levies reflect the interplay of tax rates and taxable value. While overall taxable property values rose during the study period, school tax levies increased at a faster pace. The result was an increase in overall effective property tax rates.

According to ORPS data, the overall effective property tax rate for school districts statewide in 1993 (tax levies as a proportion of taxable value) was 1.40 percent. As shown in Figure 3, the overall average rate reached a high of 1.72 percent in 2001 before declining to just below 1.6 percent in 2005 – a level roughly 14 percent higher than in 1993.⁹

Figure 4 shows that, measured as a proportion of adjusted gross income (AGI), the average effective property tax rate on residential property fell modestly from the early 1990s to 2001, a period of dramatic income growth driven largely by the boom on Wall Street. After the recession of 2001, this measure of property tax burdens rose again to a level 18.4% higher than the start of the study period as of 2005. The sharp increase in taxes relative to income, starting in 2001-02, results from a dramatic drop in AGI following the 9/11 terrorist attacks and national recession. This measure of tax burden remained relatively high through

⁹ For most of the 1990s, ORPS’ reported data on property values lagged current values because of poor assessment practices in many localities. Because property values generally rise over time, ORPS’ data for most such years understated actual values slightly. Thus, our measures of property burdens are slightly overstated for the earliest years studied, and our measure of long-term increases in property burdens are somewhat understated. ORPS’ data reflect actual current values starting in 1999.

2005-06 because residential property tax levies rose at annual rates of 8 to 9 percent, far outpacing income growth for most of the period.



What drove the increases in effective tax rates?

Among the 674 districts for which we have data, 77 percent saw overall effective tax rates (total tax levies as a proportion of total property values) rise over the study period, while effective rates fell in 23 percent of districts. (A similar picture emerges if we analyze residential property taxes only, measuring levies as a share of adjusted gross income.)

To analyze relationships among effective tax rates, revenues and expenditures, we divided all 674 districts outside New York City into quartiles – Quartile One including the 23 percent of districts where effective rates declined; Quartile Two where effective rates rose by up to 20 percent; Quartile Three, where increases ranged from more than 20 percent to 40 percent; and Quartile Four, where increases in effective tax rates were above 40 percent.

Quartile	Expenditures	State Aid	Tax Levy	Property Value	Effective Tax Rate
Quartile 1	43.1%	36.3%	95.4%	148.5%	-21.4%
Quartile 2	42.4%	31.4%	100.5%	85.9%	7.9%
Quartile 3	44.0%	25.4%	96.0%	58.0%	24.1%
Quartile 4	29.2%	28.7%	83.5%	23.3%	48.8%

In most districts, the level of spending increases over the period was remarkably similar. In Quartiles One, Two and Three, average per-pupil spending increases (adjusted for inflation) were 43, 42 and 44 percent, respectively. Districts with the largest increases in effective tax rates – those in Quartile Four – tended to have the lowest levels of spending increases during the period, an average of 29 percent after adjusting for inflation and enrollment.

Increases in state aid over time were relatively similar among the groups, ranging from an average 25 percent to 36 percent in adjusted terms. Such aid rose most sharply in those districts where effective tax rates declined, perhaps reflecting wealthier districts' greater ability to spend local resources that would be matched, in part, by state assistance.

Tax levies also rose by fairly similar proportions among the quartiles of districts. School districts with decreases in effective tax rates reported average increases in tax levies of 95 percent, while those with the largest increases in effective rates saw levies rise by 83 percent.

The most striking difference among districts was the change in property values over time. Among districts where effective tax rates declined, property values rose an average 149 percent. Districts in Quartile Two, with relatively low increases in effective tax rates, saw property values rise by 86 percent. Districts with the highest increases in effective tax rates (Quartile Four) reported that property values rose by an average of only 23 percent – an indication that districts with relatively slow growth in their taxable base sought to pay for new spending by imposing heavier additional burdens on local property owners.

In sum, districts in Quartile Four reported the smallest increases in expenditures; increases in state aid that were nearly the average for all districts outside New York City; relatively low increases in total tax levies; relatively high increases in effective tax rates; and property values that grew at less than one-quarter the rate of growth in other districts.

We also analyzed relationships among effective tax rates, revenues and expenditures across school districts in New York City, Long Island, the Westchester-Rockland-Putnam region and Upstate New York. The level of spending increases in real terms over the period was highest in Westchester-Rockland-Putnam at 62 percent and lowest in Upstate New York at 30 percent (see Table 3).

In terms of real state aid trends, New York City saw the largest increases at 65 percent, while Upstate New York had the lowest increases at 26 percent. Increases in tax levies over time were relatively similar among the school districts in different regions, ranging from an average 82 percent in Upstate New York to 107 percent in Westchester-Rockland-Putnam region in real terms. Long Island and Westchester-Rockland-Putnam regions saw the largest declines in effective rates but the largest increases both in tax levies and property values.

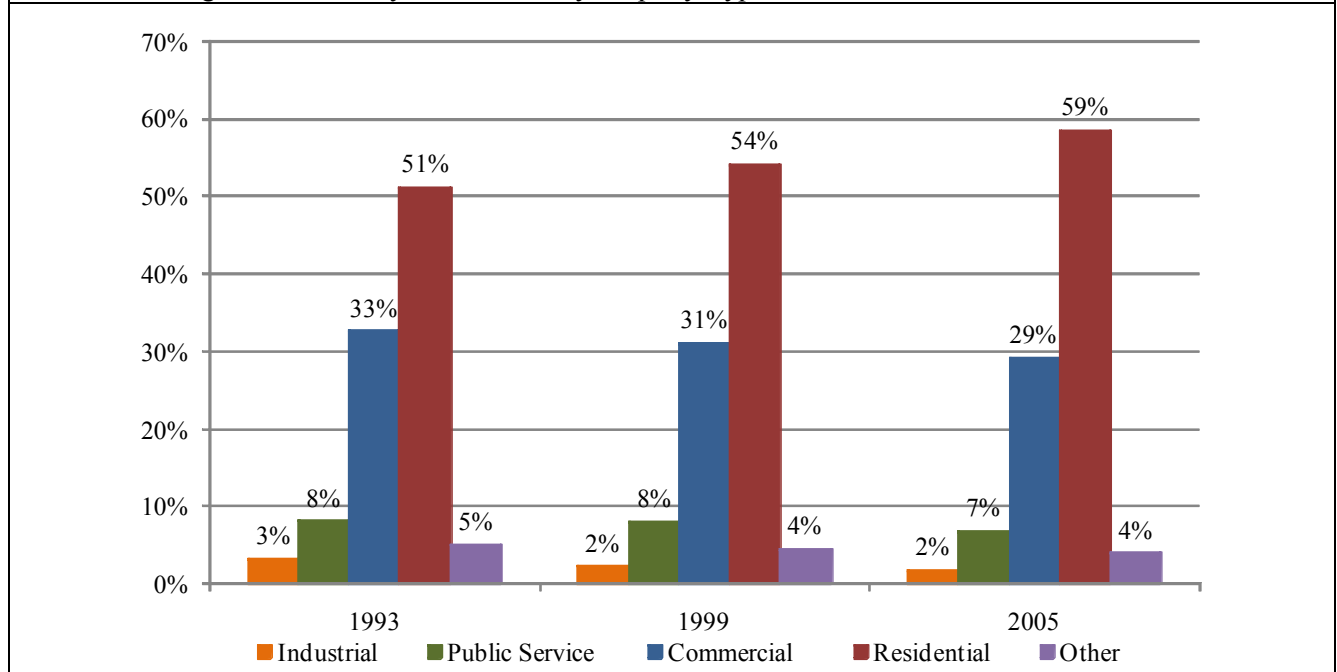
Region	Real Expenditures	Real State Aid	Tax Levy	Property Value	Effective Tax Rate
New York City	60.4%	65.4%	99.0%	37.0%	45.3%
Long Island	45.5%	40.7%	102.6%	141.0%	-15.9%
WRP	62.3%	55.2%	106.8%	130.6%	-10.3%
Upstate	29.9%	26.1%	82.3%	44.1%	26.5%

Changes in major sources of property tax revenue

Well over 80 percent of all property taxes in New York State are levied on two types of property – residential and commercial. From 1993 to 2005, home values rose and the proportion of total taxes paid by residential property owners jumped from 51.1 to 58.5 percent, according to ORPS data. Taxes on commercial properties fell slightly as a proportion of overall revenues, from 32.6 to just under 30 percent (see Figure 5).

One striking development during the period was the increase in residential property taxes. The total value of residential property in the state doubled, while taxes paid by residential owners rose by 124.2 percent in nominal terms, from \$6.2 billion in 1993 to \$13.8 billion in 2005. Commercial property values rose by one-third, and taxes levied on those parcels by 75 percent, to a total of \$6.9 billion in 2005. (The proportion of increased levy to increased assessment is higher for commercial property because the majority of commercial property value in the state is in New York City, where tax rates on most business properties are significantly higher than those on residential properties.)

Figure 5: Tax Levy Distribution by Property Type, New York State School Districts



After residential and commercial property, the next-largest share of property taxes falls on utility properties – electrical generating plants and power lines, telecommunications lines, railroad tracks and others – which ORPS classifies as “public service.” Such property represented 8 percent of taxes in 1993, falling slightly to 7 percent in 2005, despite a 63 percent increase in total property taxes paid. Industrial property declined slightly, as well. Combining commercial, industrial, public service and agriculture and forestry, properties used in various business activities fell from 45.1 percent of the tax levy in 1993 to roughly 38.5 percent in 2005. Other types of property – agricultural, community service (largely government property), recreation, forested lands and vacant lands – make up a small fraction of overall value, some 4 percent in 2005.

Changes in property tax burdens relative to income and property wealth

Measuring changes over time in effective property tax rates relative to taxpayers’ income is difficult because of limitations in available data. The two primary data sets used in this report, the state Education Department’s ST-3 data on school districts and the Office of Real Property Services’ statistics on property parcels, do not allow analysis of incomes at the household level. The Census Bureau’s American Community Survey reports both income and property tax payments at the household level, but the Census Bureau cautions against comparing its most recent ACS data with those from earlier years. (We analyzed the 2006 ACS data to provide a recent picture of tax burdens in relation to income and other factors, as discussed below.) In recent months, staff at the New York State Department of Taxation and Finance have worked to allow combination of their data sets on incomes in individual households with ORPS data on property taxes and values at the

individual parcel level. Taxation and Finance staff provided useful information to the study team on variations in incomes at the school district level, data that we expect will be useful in future research. For confidentiality and other reasons, it was not possible to use the department's data for analysis at the household level.

To develop a more complete understanding of statewide trends, we examined ST-3 data at the school-district level, segmenting all districts into groups based on income and property wealth. Such analysis shows that effective tax rates rose during the study period in school districts with relatively low average incomes and low property wealth, but declined in districts with the highest levels of income and property wealth.

To analyze effective tax rates relative to income and poverty, we divided all school districts into deciles based on income per pupil, and on property value per pupil (districts were not weighted by size). Effective tax rates rose from 1993 to 2005 in all but the two highest-income deciles, and all but the three highest-property value deciles; in those groups, effective tax rates fell slightly. Differences among the deciles were not very large – Decile 5 in the rankings of districts according to income per pupil had the highest increase in average tax rates, 0.6 percent. Still, there was a clear tendency for tax rates to rise in lower-income and lower-wealth districts, while the opposite was true in wealthier districts.

On the following pages, we show five complementary graphs illustrating the relationships among effective property tax rates, income and wealth.

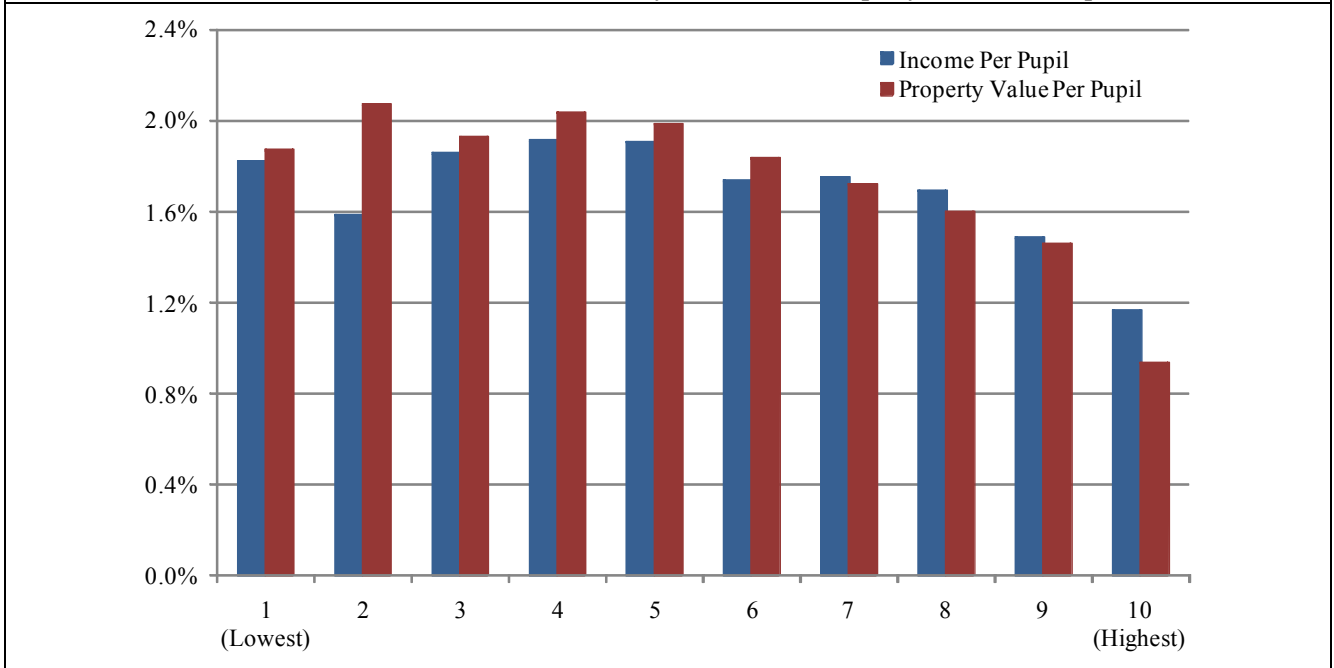
Figure 6 shows the decline, over time, in effective tax rates among districts with the highest levels of income per pupil and property value per pupil. As mentioned above, effective tax rates in districts with relatively lower incomes and property wealth rose. (At the same time, tax collections in wealthier districts rose at more than twice the rate of those in poorer districts. For example, tax revenues in the top 10 percent of districts ranked by income per pupil rose by 113 percent, while revenues in the lowest ranked 10 percent of districts rose by 48 percent.)

Figure 6: Change in School Districts' Effective Tax Rates, 1993-2005, by Wealth Groups
Deciles of School Districts Ranked by Income and Property Value Per Pupil



Figure 7 presents effective tax rates in 2005 for each decile of school districts, based on income and property value per pupil. By both measures, average tax burdens are significantly lower in districts with the highest levels of resources, while tax burdens in the second-highest decile are also lower than those in most districts.

Figure 7: School Districts' Effective Tax Rates by Wealth Groups, 2005
Deciles of School Districts Ranked by Income and Property Value Per Pupil



The next group of figures, Figure 8 through Figure 10, are scatterplots that illustrate the effective tax rate in all school districts throughout the state -- first relative to income per pupil, then relative to poverty rates and property value per pupil. Districts with higher incomes and higher property values per pupil tend to have relatively lower tax rates, while those with higher poverty rates generally have higher tax burdens.

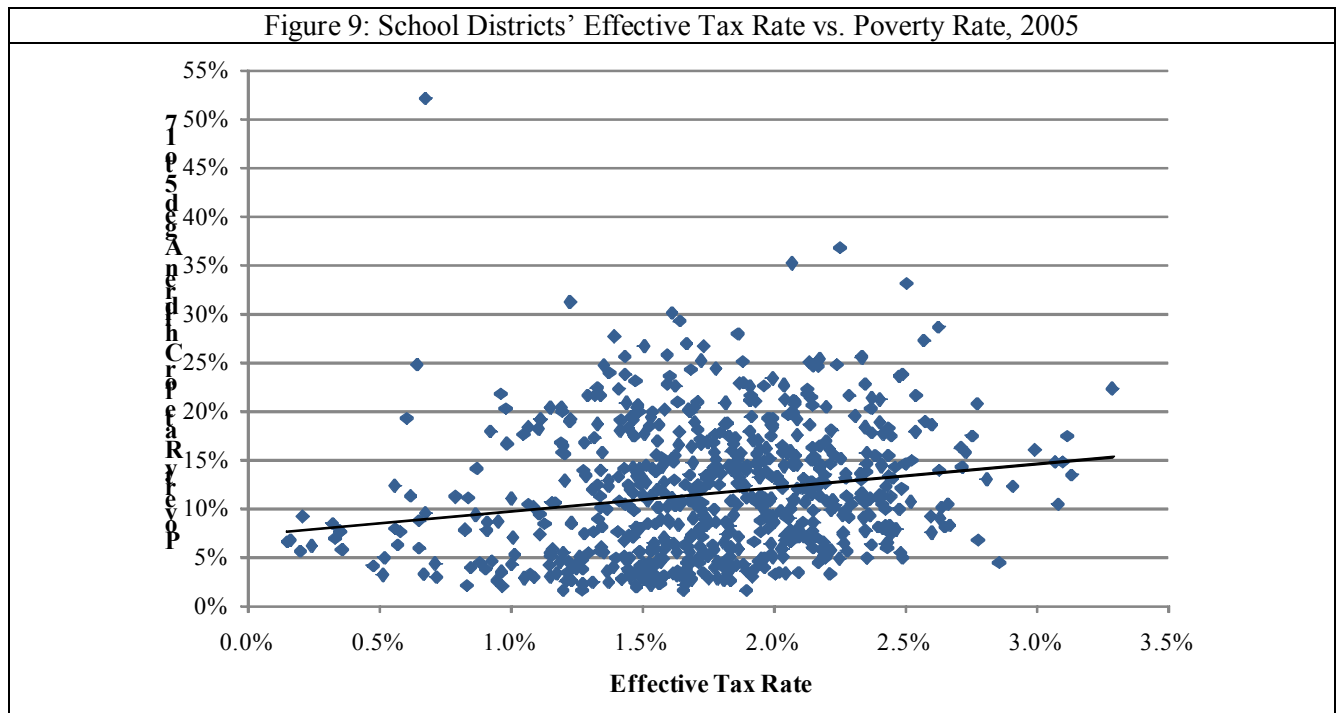
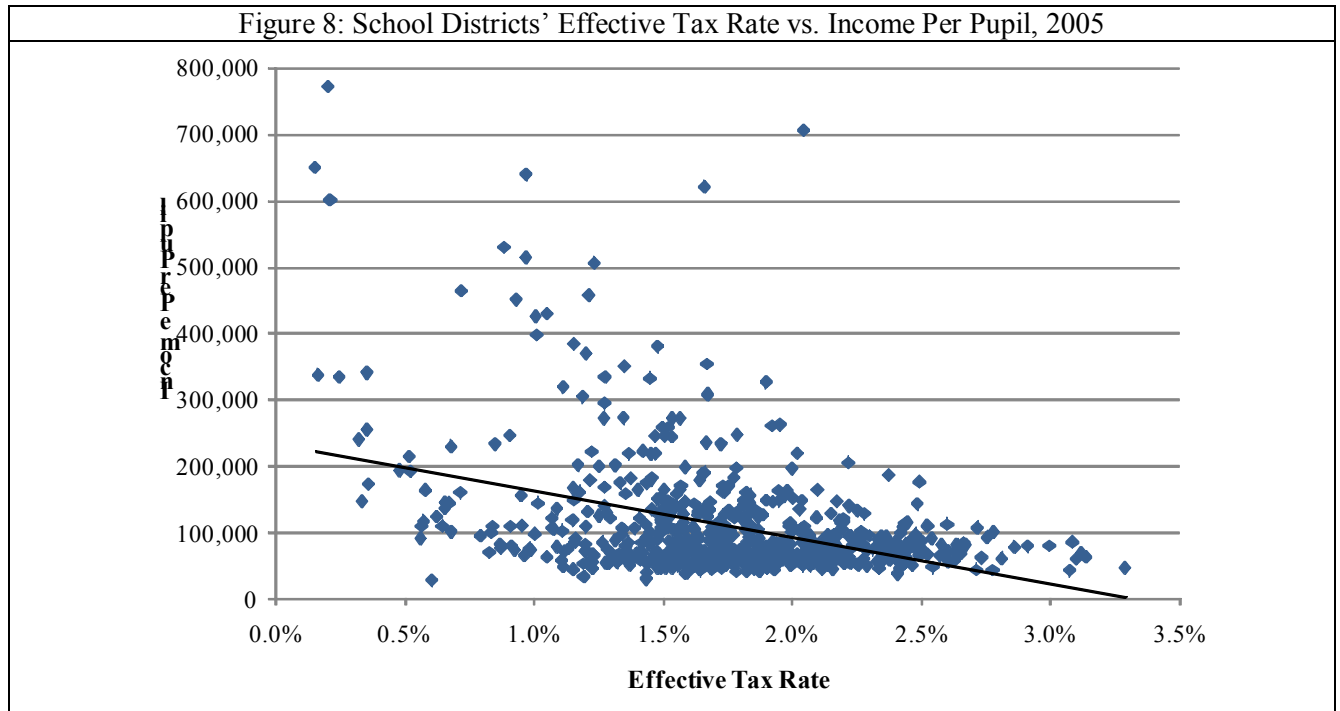
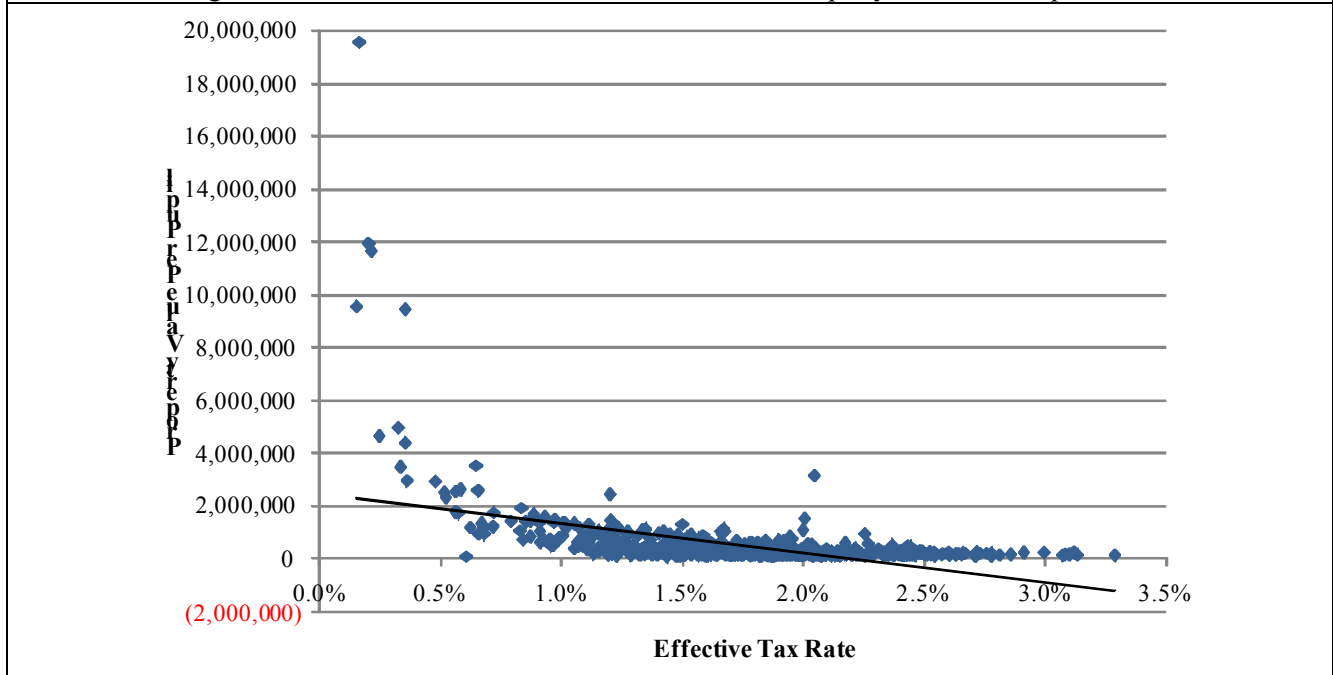
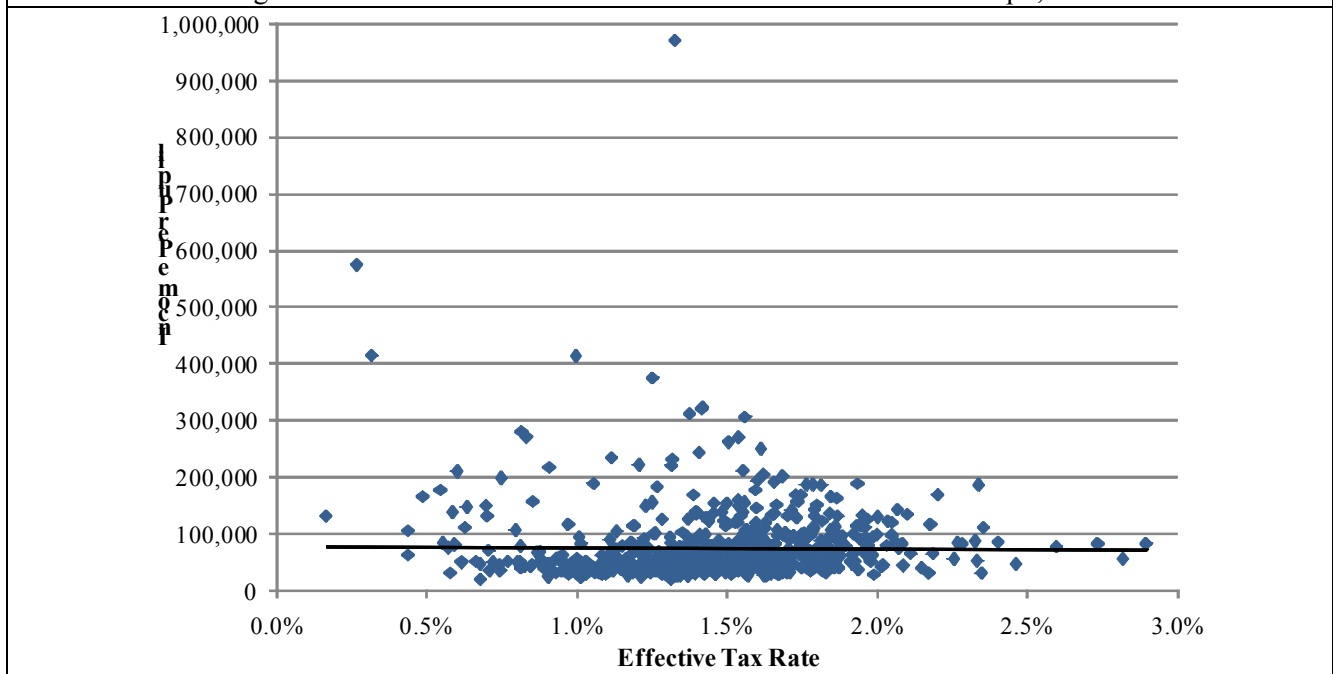


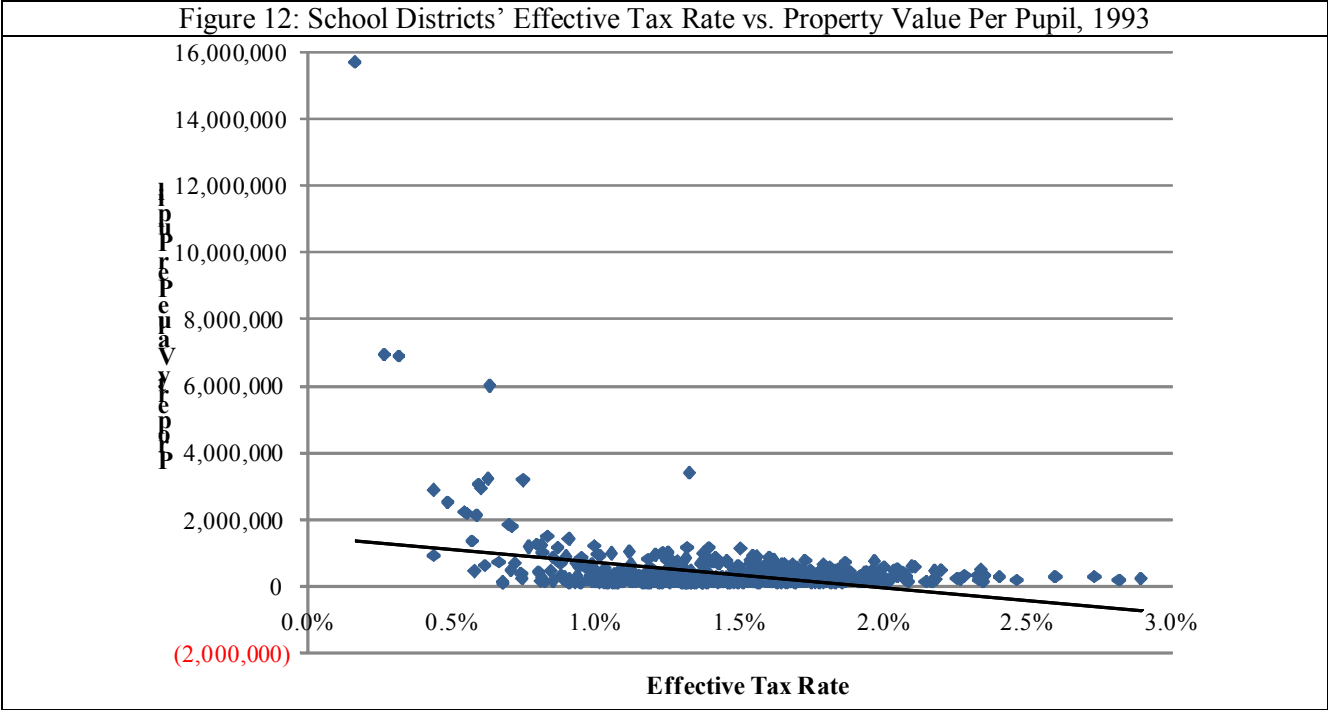
Figure 10: School Districts' Effective Tax Rate vs. Property Value Per Pupil, 2005



The 2005 data illustrated above differ noticeably from the data below, representing the start of our study period. In 1993, higher or lower income per pupil was not particularly associated with higher or lower effective tax rates. Census data for poverty rates at the school-district level are not available for 1993, so we do not attempt such a comparison over time.

Figure 11: School Districts' Effective Tax Rate vs. Income Per Pupil, 1993

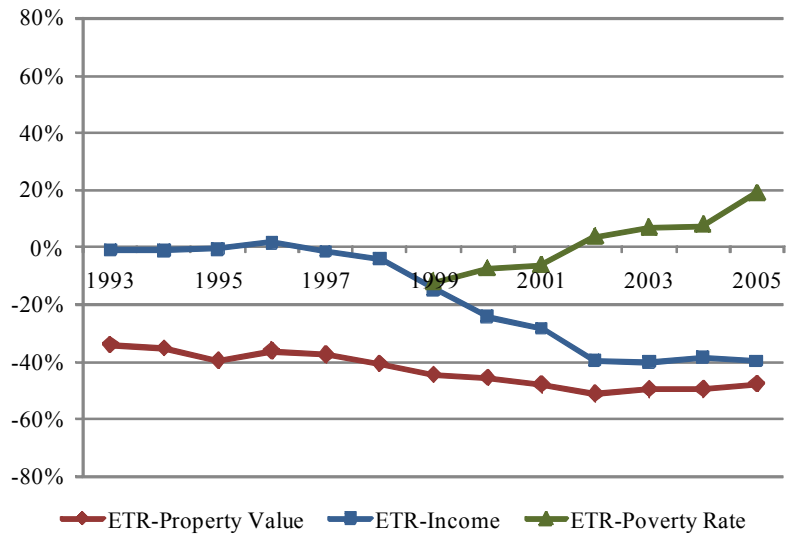




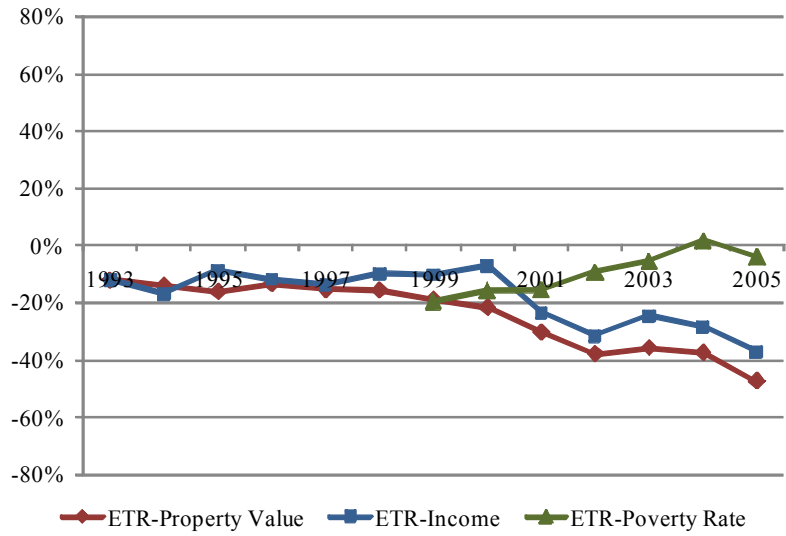
As further illustration of changes over time in the relationship between property tax burdens and economic status, the figures below show trends in correlations between the effective tax rate and three different wealth measures – property value per pupil, income per pupil, and poverty rate for children aged 5 to 17 – for the state as a whole, and for school districts with different need-resource capacity. (Poverty rates are available only from 1999 and later years.) The correlation is calculated based on school district data for each point of time. The blue line rectangles indicates the correlation between effective tax rate and per pupil property value, the red line with diamonds indicates the correlation between effective tax rate and per pupil income, and the green line with triangles indicates the correlation between effective tax rate and poverty rate for children aged 5 to 17.

Figure 13: Correlations between Effective Tax Rate and Wealth Measures, 1993-2005

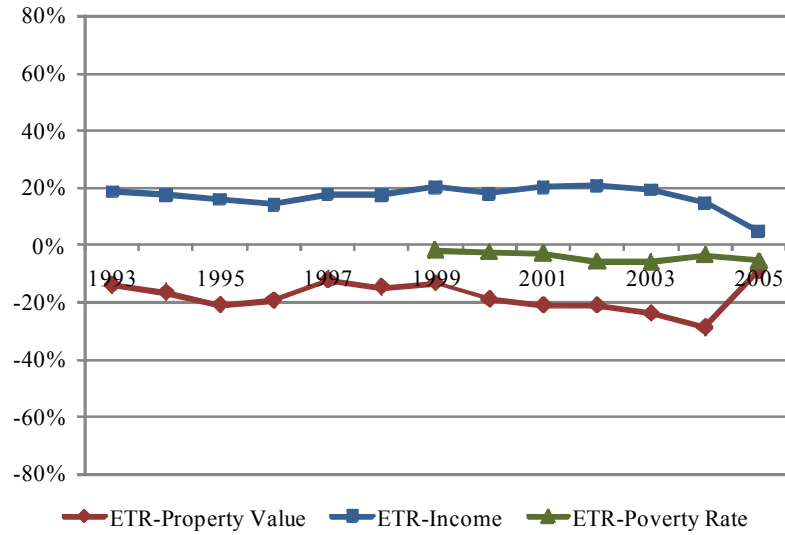
All New York State School Districts



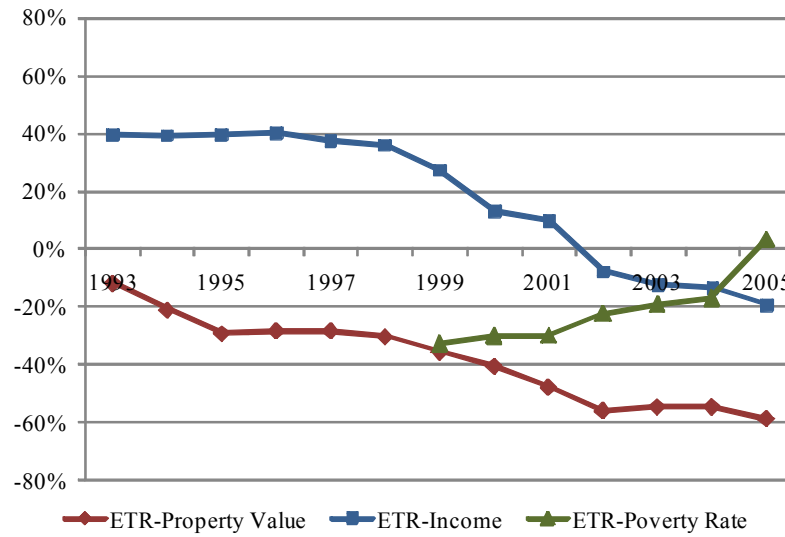
High Need Urban/Suburban School Districts



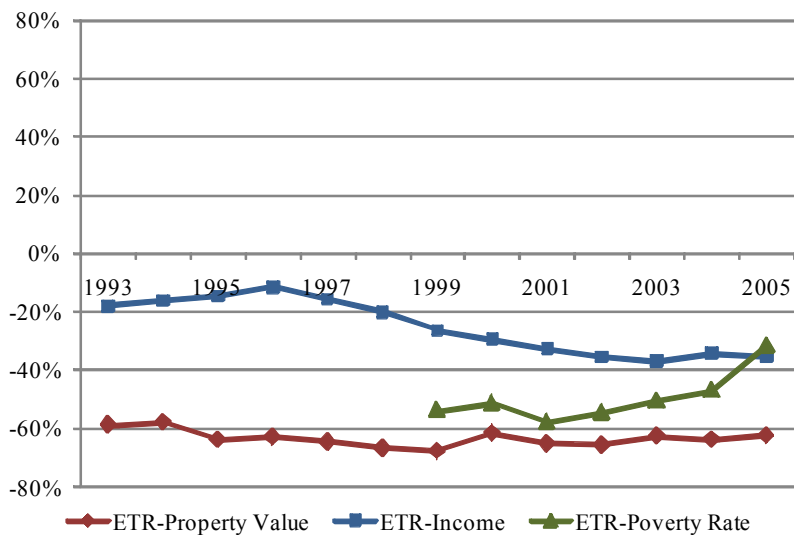
High Need Rural School Districts



Average Need School Districts



Low Need School Districts



In general, there is a negative correlation between effective tax rates and these wealth measures. School districts with higher effective tax rates have lower per pupil income and lower per pupil property value, but higher poverty rates. The gap between effective tax rate and wealth measures has been widening over time, particularly since the late 1990s. This observation holds true for high need urban-suburban, average need and low need school districts. The correlation between effective tax rate and different wealth measures was relatively stable for high need rural school districts.

The above comparisons illustrate that New York's school property tax became more regressive during the study period. School districts with relatively lower income and property value per pupil generally saw significant increases in effective property tax rates, while effective rates in districts with higher incomes and property wealth declined. Observed correlations between effective tax rates, and measures of wealth and income, grew increasingly negative during the period for high need urban-suburban, average need, and low-need school districts.

Further insights emerge from analysis of school districts at the regional level.

III. Major developments among regions and individual districts

School taxes increased at varying rates among regions across the state from 1993-94 through 2006-07. Statewide, after adjusting for inflation, total property tax revenue increased by 32%, state aid to local school districts rose by 42% and total revenue (including STAR, which did not exist at the start of the study period) by 50%. School property tax revenues increased by 45% in New York City in real terms, while the average increase outside the city was 25%. The average effective tax rate rose 45 percent in New York City, and 25 percent Upstate. Long Island and the Westchester-Rockland region saw overall effective tax rates decline, by 16 and 10 percent, respectively.

Statewide, average effective tax rates rose for both residential and commercial properties, the two largest property classes. The statewide increase in overall average property tax rates, and the statewide increase in average tax rates for residential property, were driven by especially large increases in New York City, where market values rose sharply but were outpaced by increases in effective tax rates. The effective school property tax rate on residential property in New York City rose by two-thirds, although the city's average residential effective rate in 2005 was still lower than rates outside the city.

For all districts outside New York City, overall average tax rates and tax rates on residential property rose during the mid- and late 1990s but then declined to around their 1993 level by 2005. (There were important variations among districts outside New York, as detailed below.) Average effective tax rates on commercial property rose modestly outside New York City over the period, and rose sharply within the city, contributing to a significant average increase statewide.

The map in Figure 14 shows the change in school property tax revenues, in real terms from 1993-94 to 2006-07. Property taxes declined (after adjusting for inflation) in many western and northern New York districts, while rising in the eastern and southern parts of the state.

Figure 14: Change in School Property Tax Revenues (Inflation Adjusted), 1993-94 to 2006-07

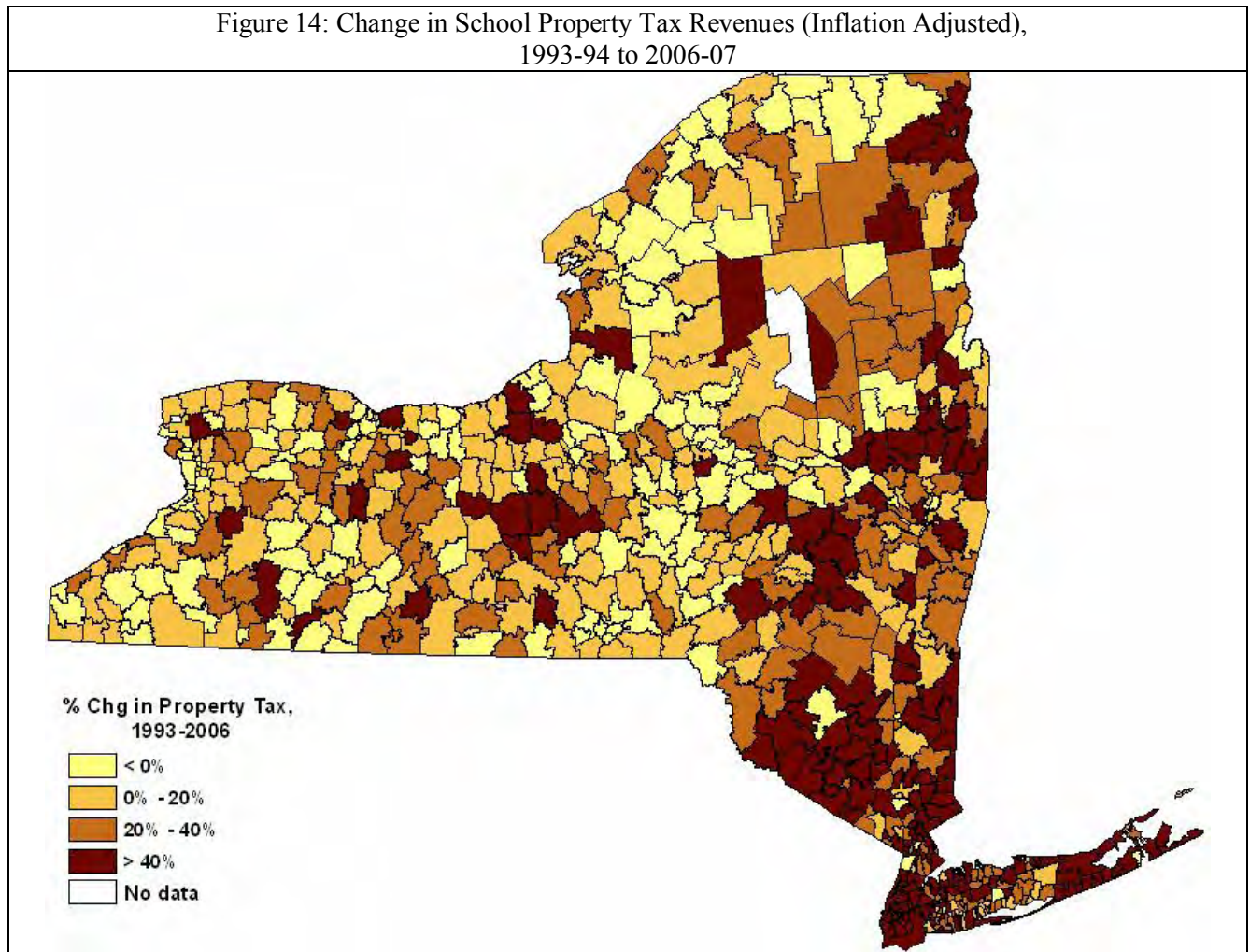


Figure 15 and Figure 16 below show the revenue distribution among all school districts, classified by the Education Department's need resource capacities, for school years 1993-94 and 2006-07. In school year 1993-94, school districts in High Need Rural areas and in the Big Four cities – Buffalo, Rochester, Syracuse, and Yonkers – had the lowest proportion of revenue from property taxes at 28 and 29 percent, respectively. At the same time, they had the highest share of revenue from state aid, at 65 and 54 percent respectively. By 2006-07, property taxes had declined significantly as a share of total revenues in the Big Four districts, falling to only 18% of total revenue. The Big Four districts received nearly two-thirds of total revenue from state aid. That same year, Low Need school districts relied most heavily on property taxes (70% of revenue), and received only 14% of their total resources from state aid.

Figure 15: Revenue Distribution Among School Districts with Various NRC Levels, SY 1993-94

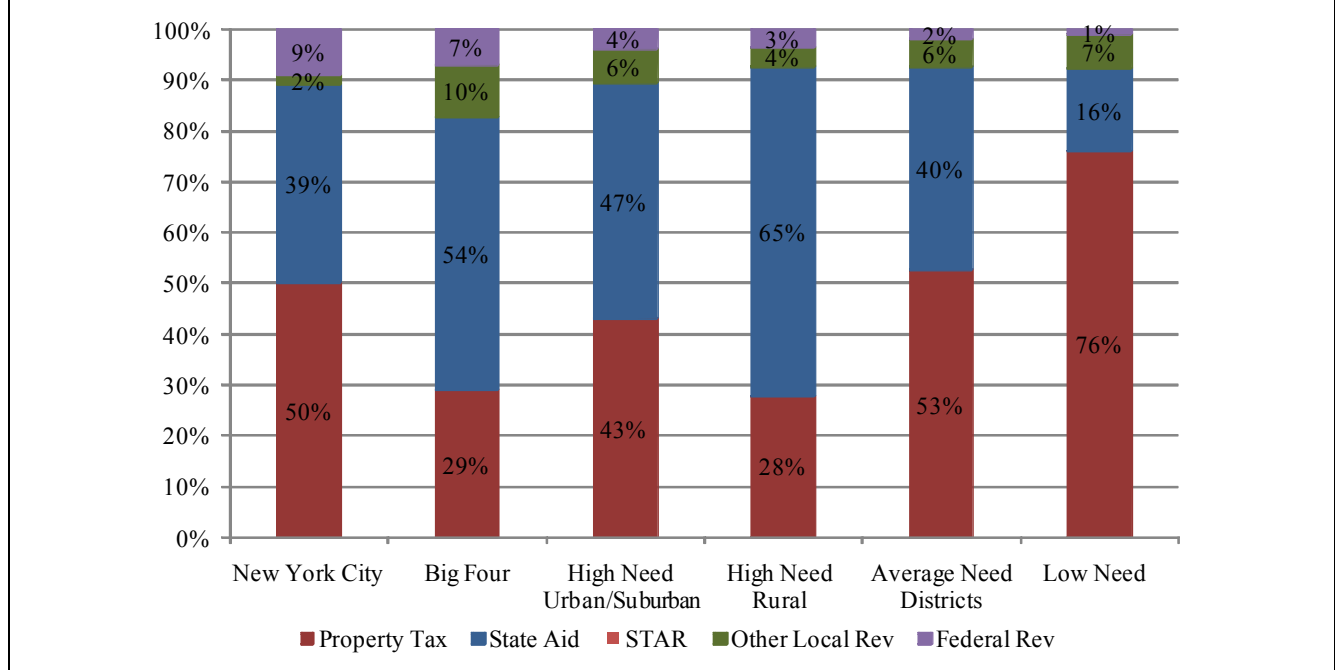
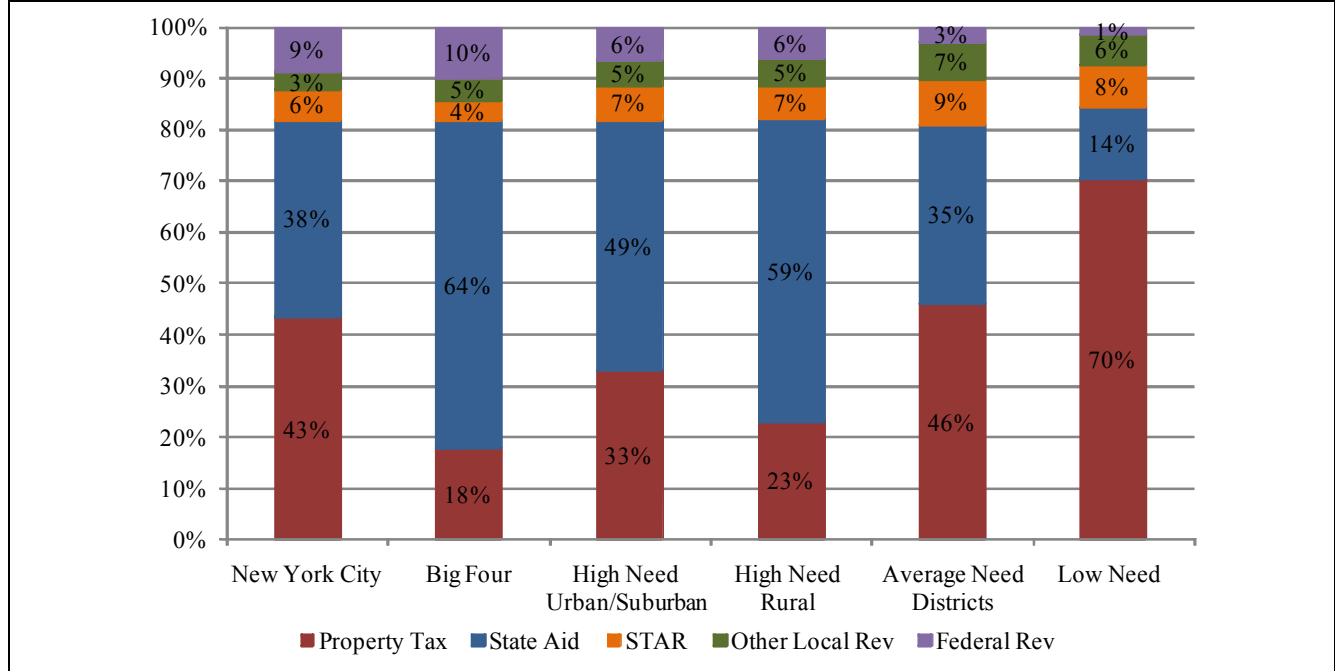


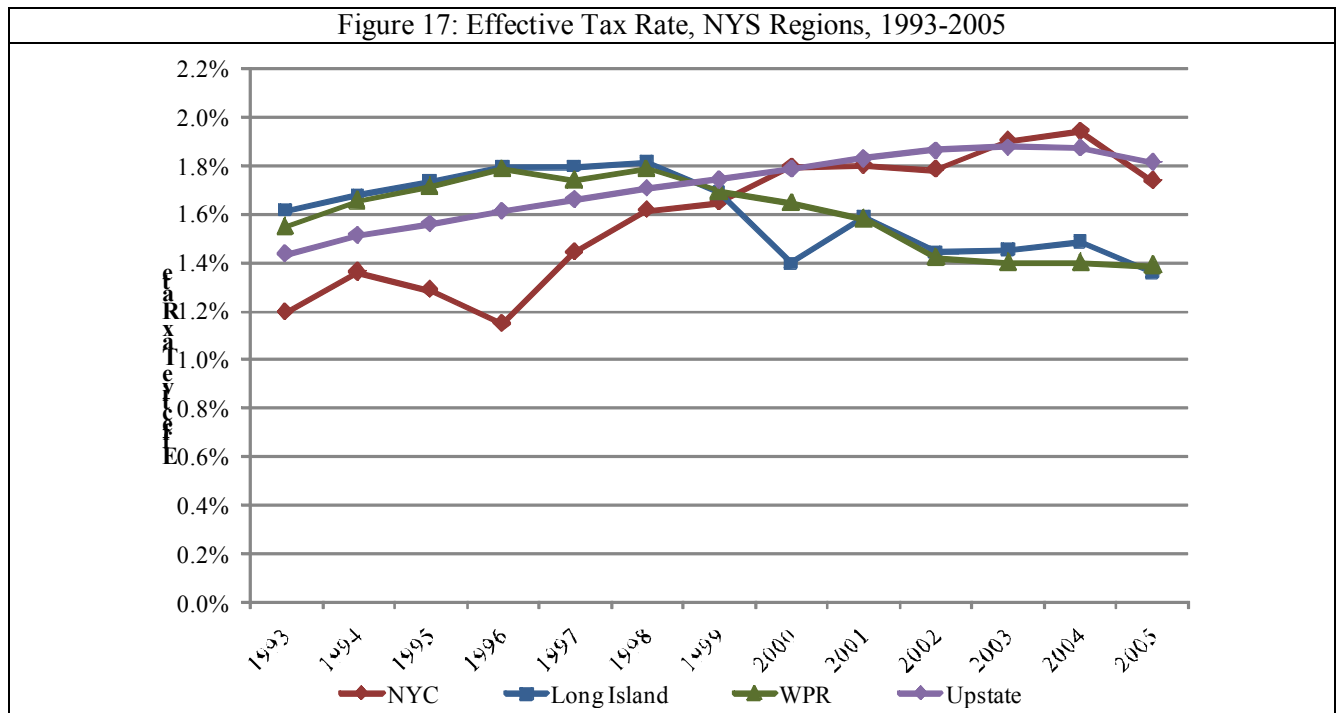
Figure 16: Revenue Distribution Among School Districts with Various NRC Levels, SY 2006-07



Effective property tax rates among school districts

As shown in Figure 17 and Figure 18, effective tax rates rose and fell at varying levels among different regions of the state, and among school districts in the Education Department’s need-resource categories. Effective tax rates declined on Long Island and in the suburban counties immediately north of New York City, while increasing in the city and Upstate. In New York City, taxable values for many

properties are significantly lower than market values because of state law that limits assessment changes. For example, assessment increases on one-, two- and three-family houses cannot exceed 6 percent in a single year or 20 percent over five years, regardless of market value. Because market values in much of the city rose sharply during the study period, the figures for taxable value used in this study are likely to produce higher effective tax rates than would be found with market values. More detailed analysis of effective tax rates in the city is beyond the scope of the study.



Elsewhere in the state, the effective property tax rate steadily increased in high need rural districts from 1993 to 2005, driven by an 83 percent increase in tax levies while property values rose only 37 percent. By 2005, high need rural districts had the highest effective tax rate among the need-resource categories, at 1.83%. Over the same period, average effective tax rates in low-need districts declined. While tax levies in those districts rose by especially high amounts – an average 111 percent – property values increased even more sharply, by an average 134 percent. High need urban/suburban school districts had the second highest effective tax rate in 2005, at 1.8%, while low need school districts had the lowest effective tax rate at 1.3%.

As a group, the Big Four school districts had the second lowest effective tax rate among need resource categories in 2005 at 1.33 percent, which was virtually unchanged from the effective rate in 1993. The Big Four school districts had the lowest increase in property values and tax levies for the study period compared to school districts with other need and resource capacities. There is a wide variation in trends in property values, tax levies and effective tax rates among the Big Four school districts. Property values in Yonkers increased significantly at 92 percent, while the tax levies increased by only 31 percent, with the

effective tax rates declining by 32 percent from 1993 to 2005. Property values for the school districts in Buffalo and Rochester declined by nearly 15 percent from 1993 to 2005, while the effective tax rates increased by over 30 percent. Syracuse showed the largest increase in effective tax rate among the Big Four districts at 99 percent, reflecting more than a doubling of its tax levy and a modest increase in property values.

Figure 18: Effective Tax Rate by Need and Resource Category, 1993-2005

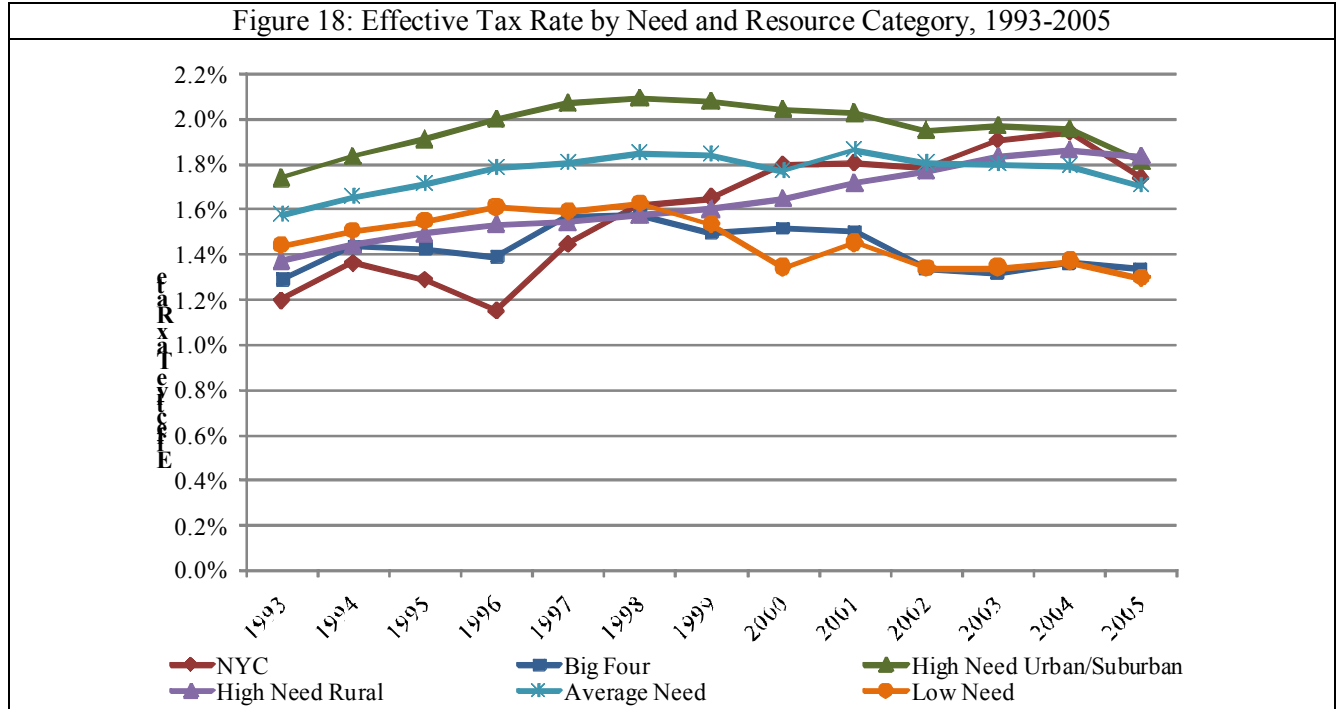
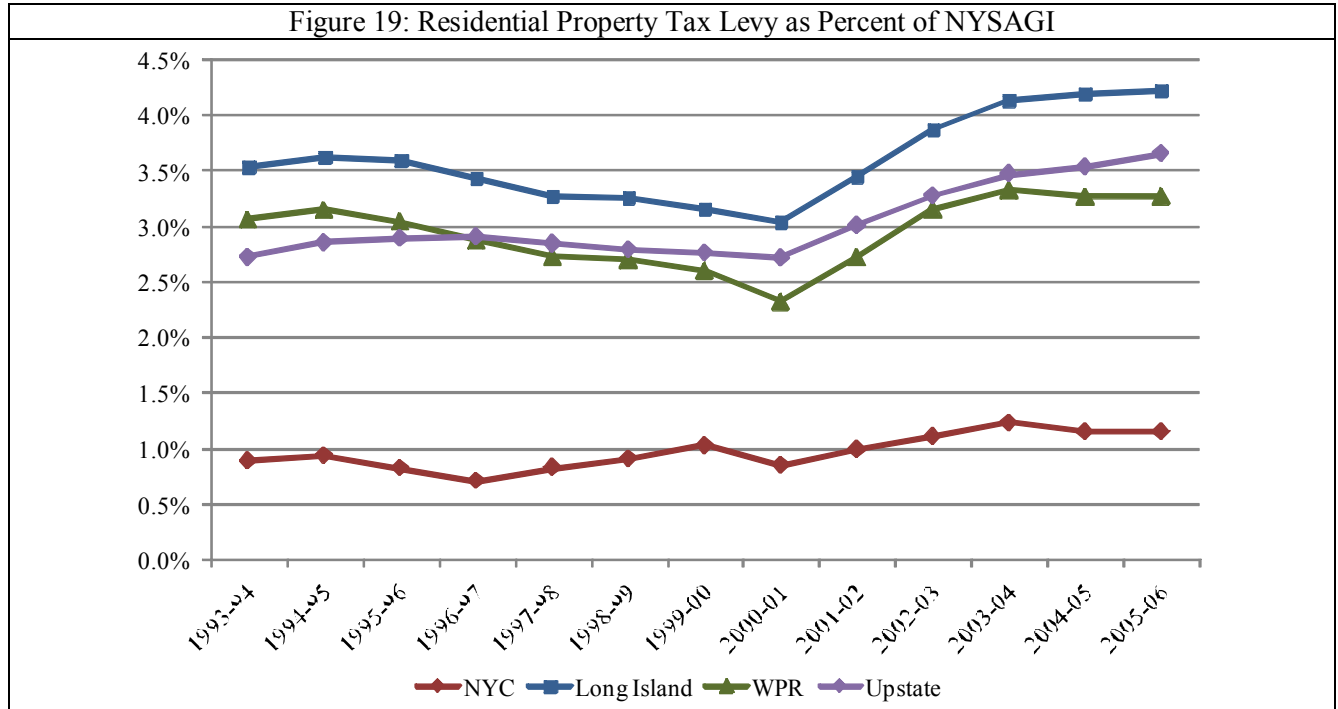
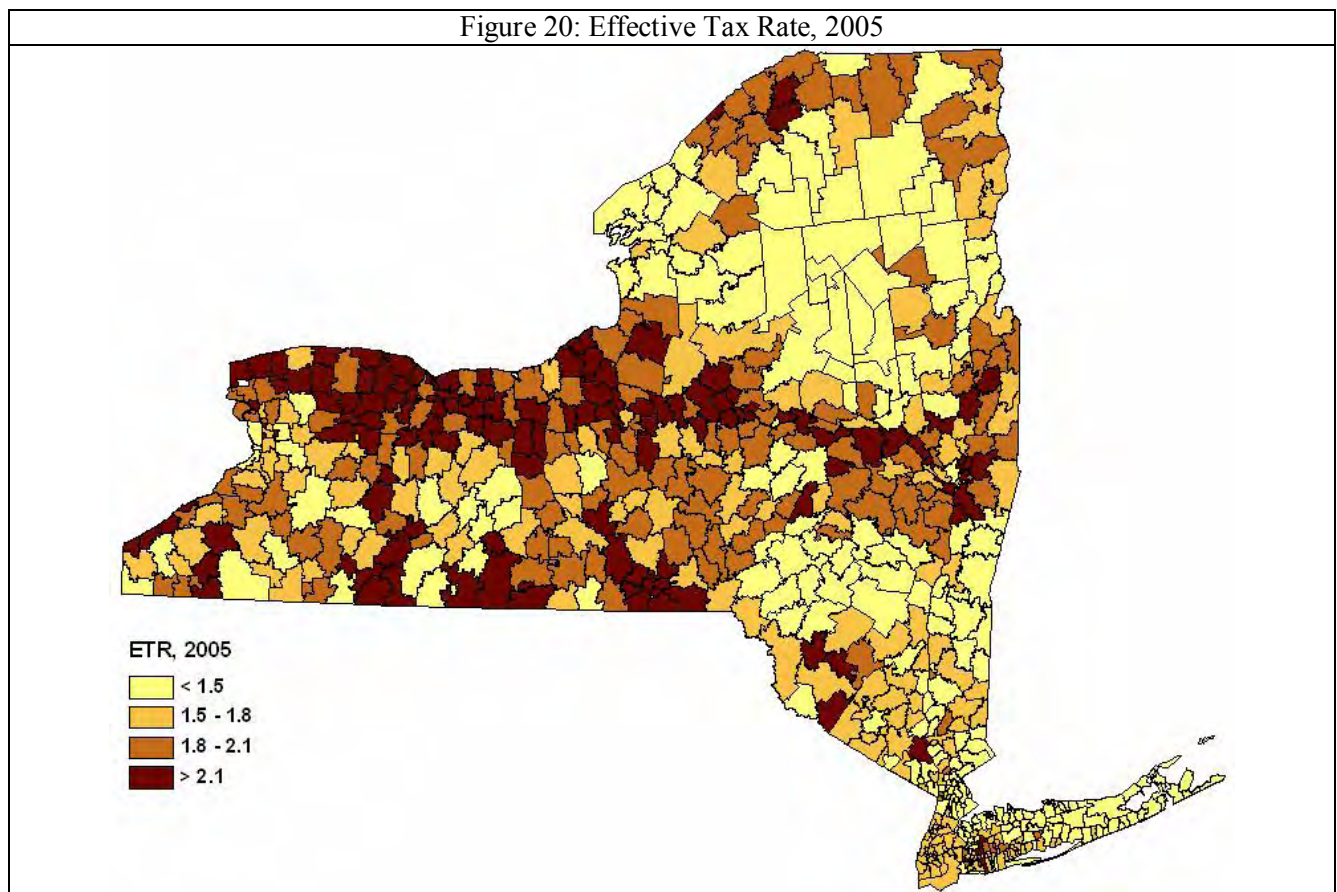


Figure 19: Residential Property Tax Levy as Percent of NYSAGI



As shown in Figure 19, on Long Island, school property taxes represented the equivalent of just over 5 percent of adjusted gross income in 2005, nearly the same level as in 1993. In New York City, its northern suburbs and Upstate, school taxes declined as a share of AGI over the period.

Although property tax revenue has declined as a share of overall revenues in most school districts in western New York, where property values are much lower, those school districts have higher effective property tax rates compared to the school districts in the eastern part of the state (see Figure 20).

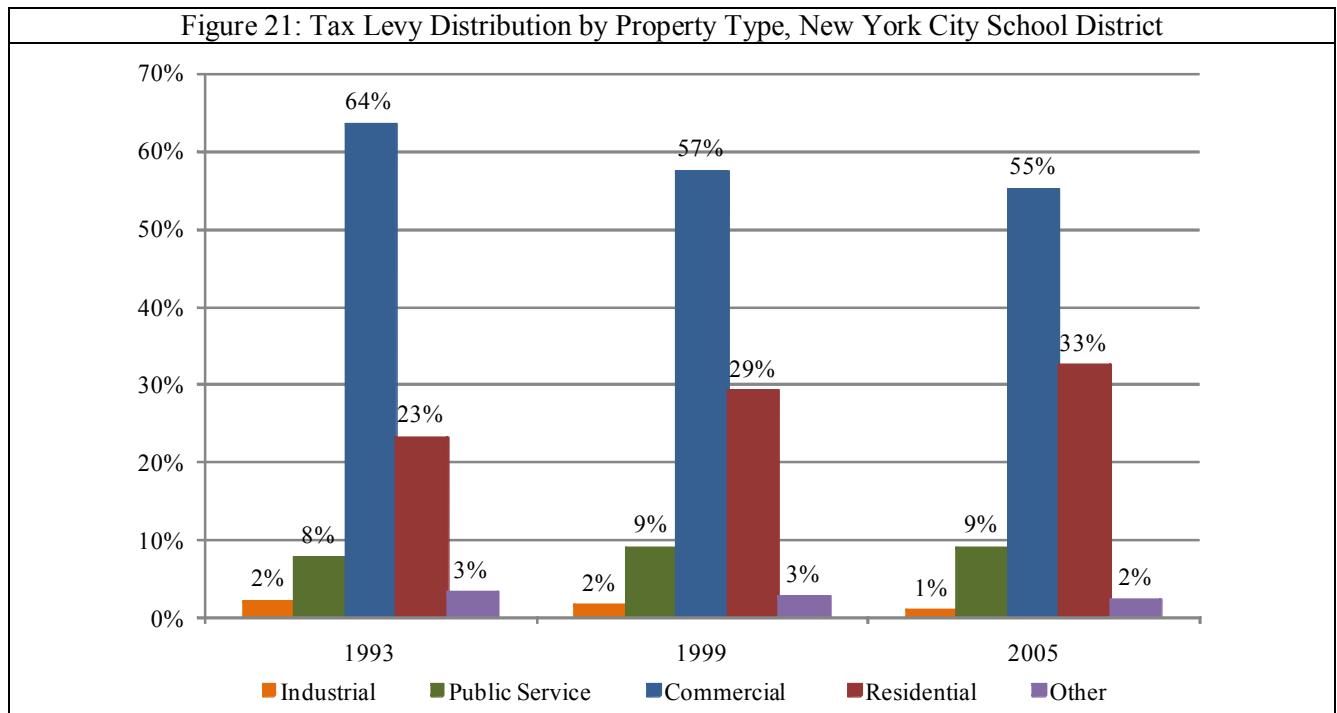


Distribution of property taxes among property classes

In 2005, nearly 90% of all property tax was levied on two classes of property – residential and commercial. The residential share increased by 7%, from 51% in 1993 to 59% in 2005. The share of tax levy for most other property types, including commercial, public service, and industrial properties, declined between the study years, from 1993 to 2005.

The share of property tax levy for different types of property is significantly different in New York City, compared to the rest of the state. New York City relies heavily on property tax from commercial properties, though such reliance has declined over time. In 1993, about 64% of all property tax in the city was

collected from commercial properties, while in 2005 it declined to 55%. Tax levies from residential properties made up about 23 percent of all property tax levies in 1993, but 33% in 2005 (see Figure 21).

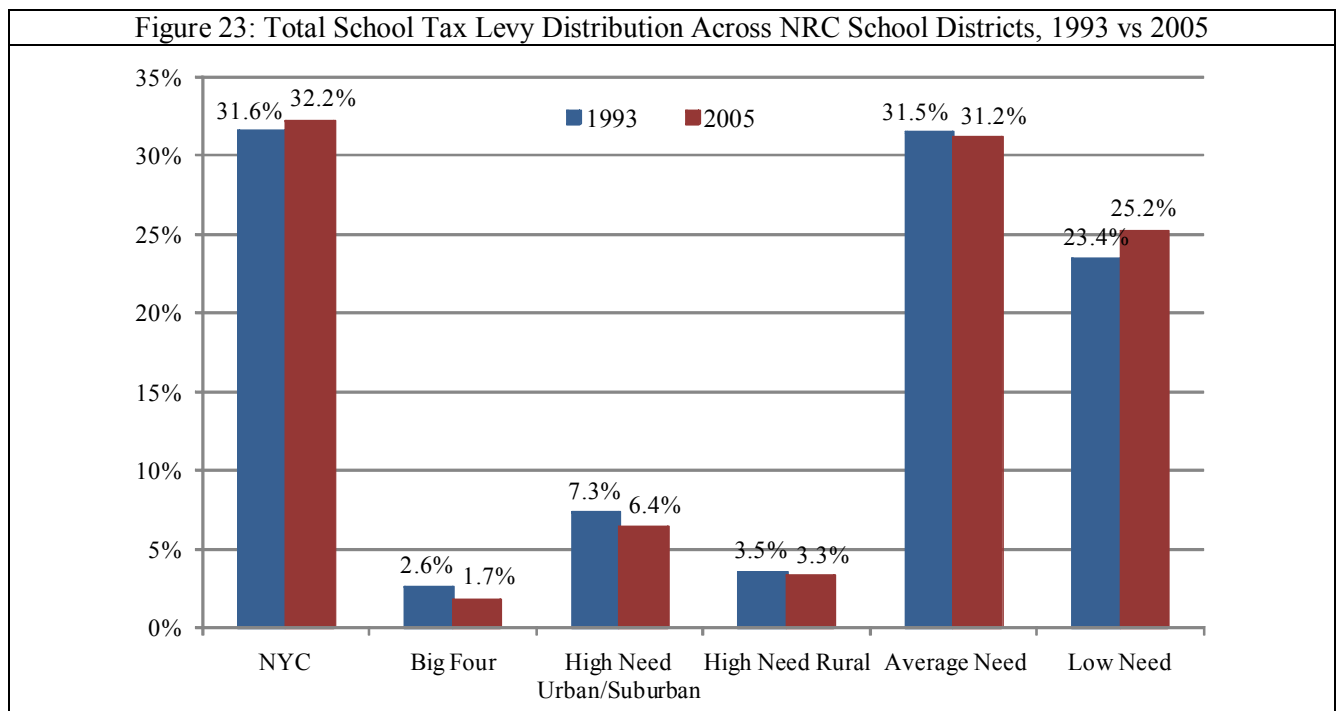
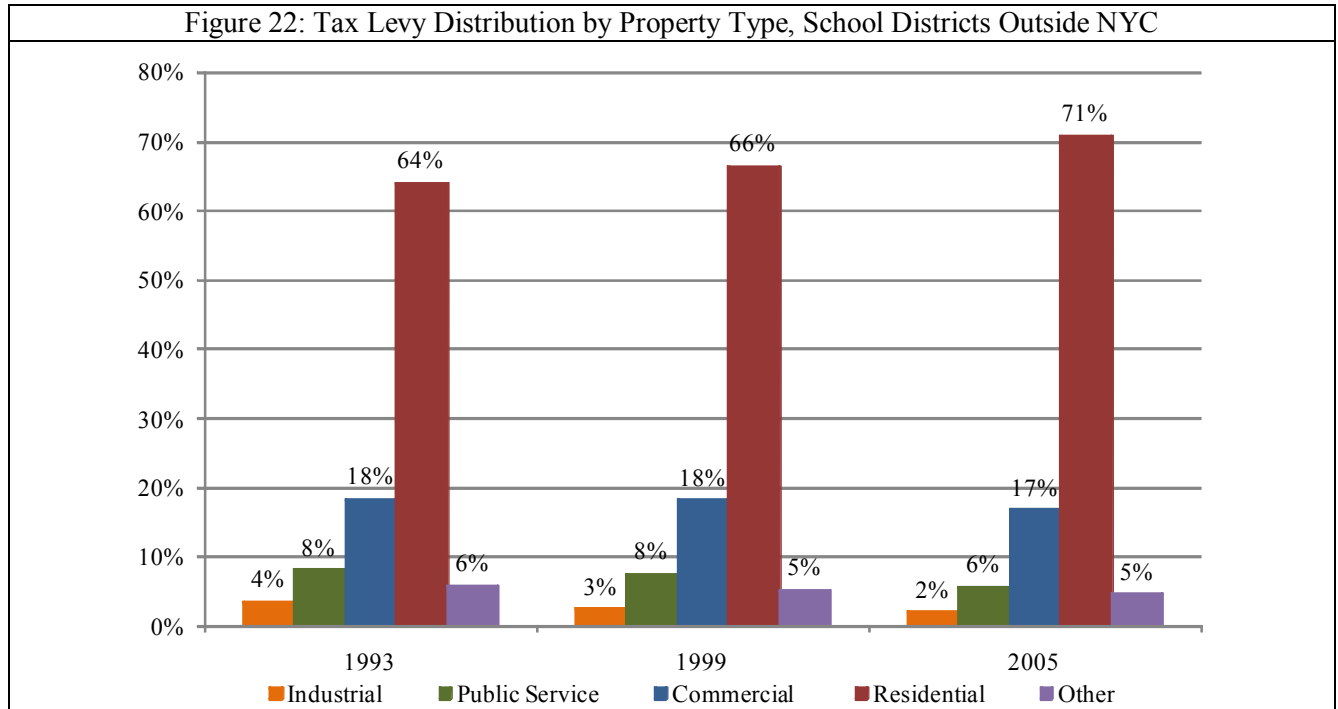


A 2006 study by New York City’s Independent Budget Office found that the effective property tax rate for all property taxes in the city fell by half, from 2.26 percent to 1.33 percent, from fiscal 1993 to 2007. Total market value of property in the city doubled during the period, but various exemptions and laws restricting increases in assessments limited growth in “billable” value to 46 percent. Total property tax levies rose by \$5.2 billion, or 62 percent, representing a significant share of the statewide increase in overall levies. (These figures represent the city’s overall property tax, as the IBO study did not separately analyze taxes collected for school purposes.) Overall effective tax rates for cooperative apartments, condominiums and small apartment buildings dropped most sharply, more than 50 percent each. The effective tax rate on one-, two- and three-family homes fell by 39 percent, and that on most business property (Class 4 under the city’s property classification) by an average of 12 percent. The effective tax rate on utility property, on the other hand, rose 30 percent from 1993 to 2007.¹⁰

As mentioned elsewhere in this report, the effective tax rate for school property taxes in New York City rose during the period, as indicated by the ST-3 reports city education officials submitted to the state Education Department. Unlike most school districts across the state, the city’s education budget is included within a municipal budget that also includes significant revenue from income, business and other taxes.

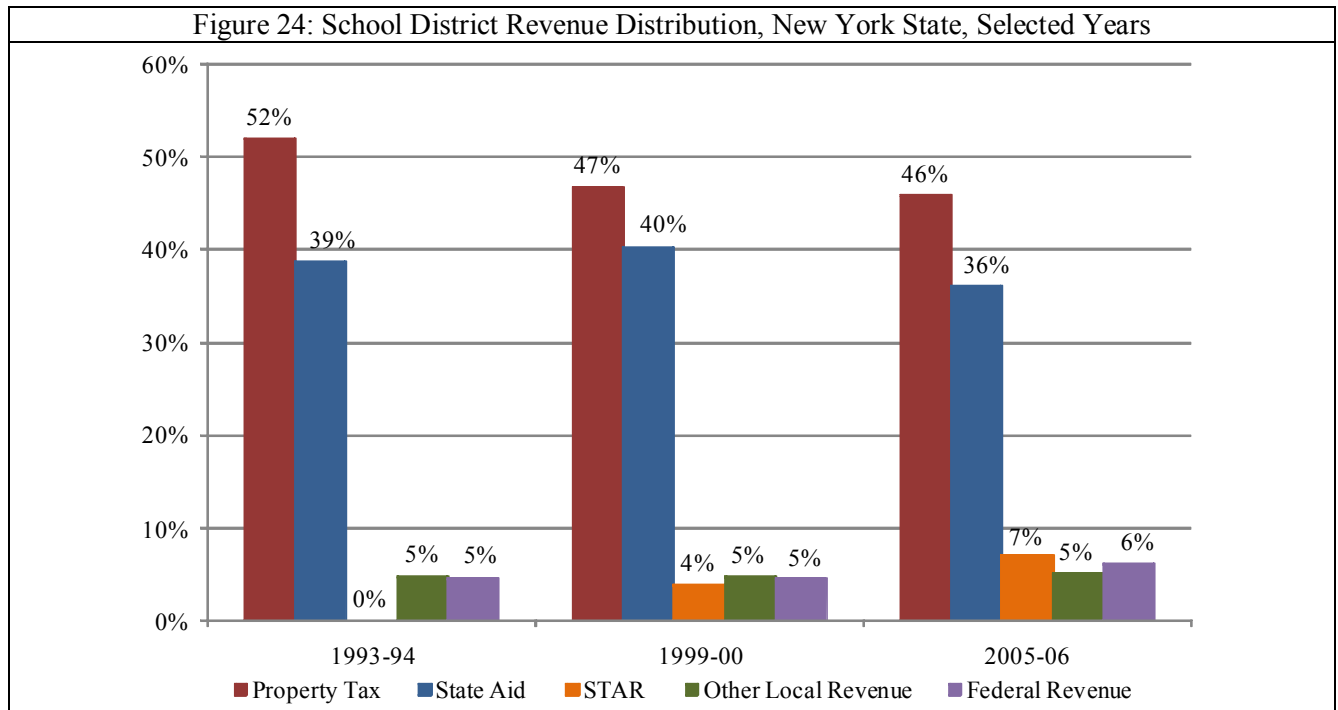
¹⁰ *Twenty-Five Years After S7000A: How Property Tax Burdens Have Shifted in New York City*, New York City Independent Budget Office, December 5, 2006.

In districts outside New York City, the share of all school property taxes that was imposed on commercial properties remained relatively constant over the period, declining slightly from 18% in 1993 to 17% in 2005 (see Figure 22). On the other hand, the property tax levy from residential properties increased by seven percentage points, or more than 10 percent, from 1993 to 2005.



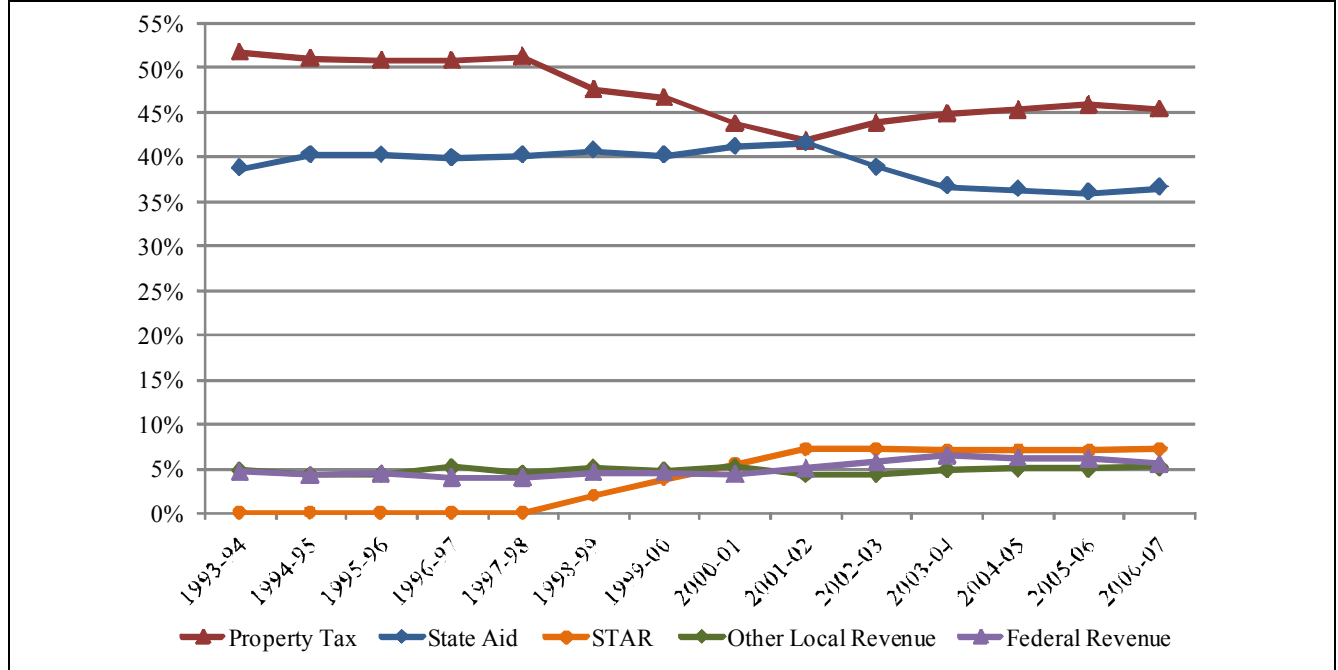
Although effective tax rates have increased among high need rural and high need urban/suburban school districts over time, these school districts combined levy less than 10% of property tax statewide (see Figure 23). However, the high need rural and high urban/suburban districts represent about 30% of all school districts statewide. Nearly one-third of all school property taxes are levied by New York City, and another one-third by districts the Education Department classifies as average need. Low need school districts represent about 20% of all school districts and contribute about 25% of the statewide property tax levy. Such proportions changed little during the study period.

In school year 1993-94, nearly 52% of school district total revenue was raised from property taxes, and another 39% from state aid. Federal revenue and other local revenue made up less than 10% of school districts' total revenue. Both property taxes and state aid as share of total revenue have declined with the introduction of STAR (see Figure 24).



Property taxes as a share of total revenue declined from 1993-94 to 2001-02, while state aid as a share of total revenue increased during that period. Around 2001-02, property taxes and state aid made up roughly equal shares of total revenue. In the years since, the property tax share of overall revenues has risen while the role of state aid has declined (see Figure 25). The share of other local revenue and federal aid has been relatively stable over time. Revenues from STAR have played a stable role in overall revenues since the program was fully implemented in 2001.

Figure 25: Revenue Distribution, New York State, SY 1993-94 - SY 2006-07



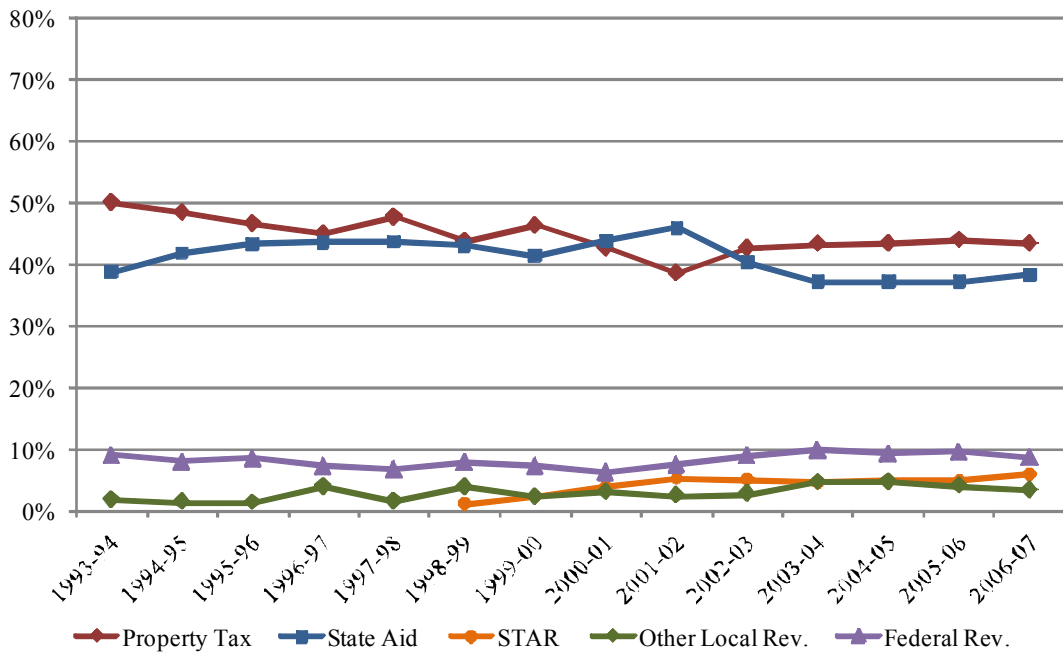
Reliance on different revenue sources, by region

School districts reliance on major sources of revenue varies across different regions of the state. As shown on Figure 26, New York City raises slightly more money from property tax than it receives from state aid. (Fluctuations in such measures for the New York City school district may reflect, at least in part, changes in the city’s internal accounting for school revenues relative to those for other municipal programs.)

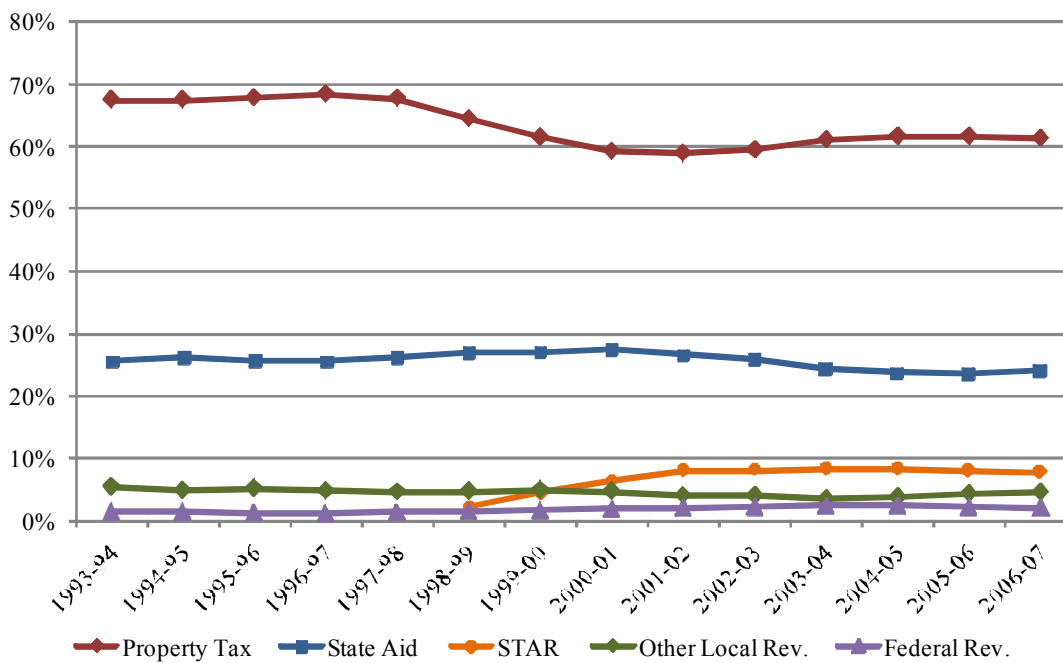
School districts in Long Island and the Westchester-Rockland-Putnam region raise a significantly higher share of revenues from property taxes, while receiving relatively little from state aid, compared to districts elsewhere in the state. Finally, school districts in upstate New York rely far more on from state aid, and raise proportionally less revenue from property taxes, compared to downstate districts. These proportions changed relatively little during the study period.

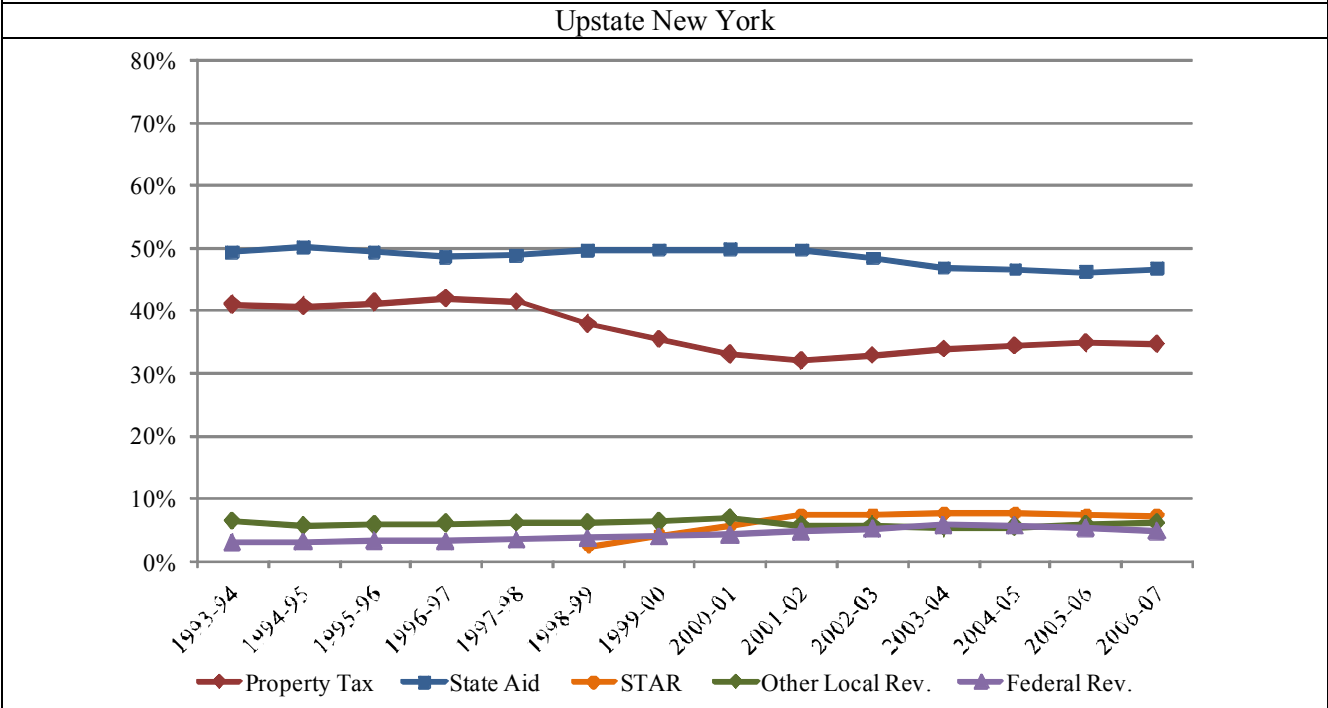
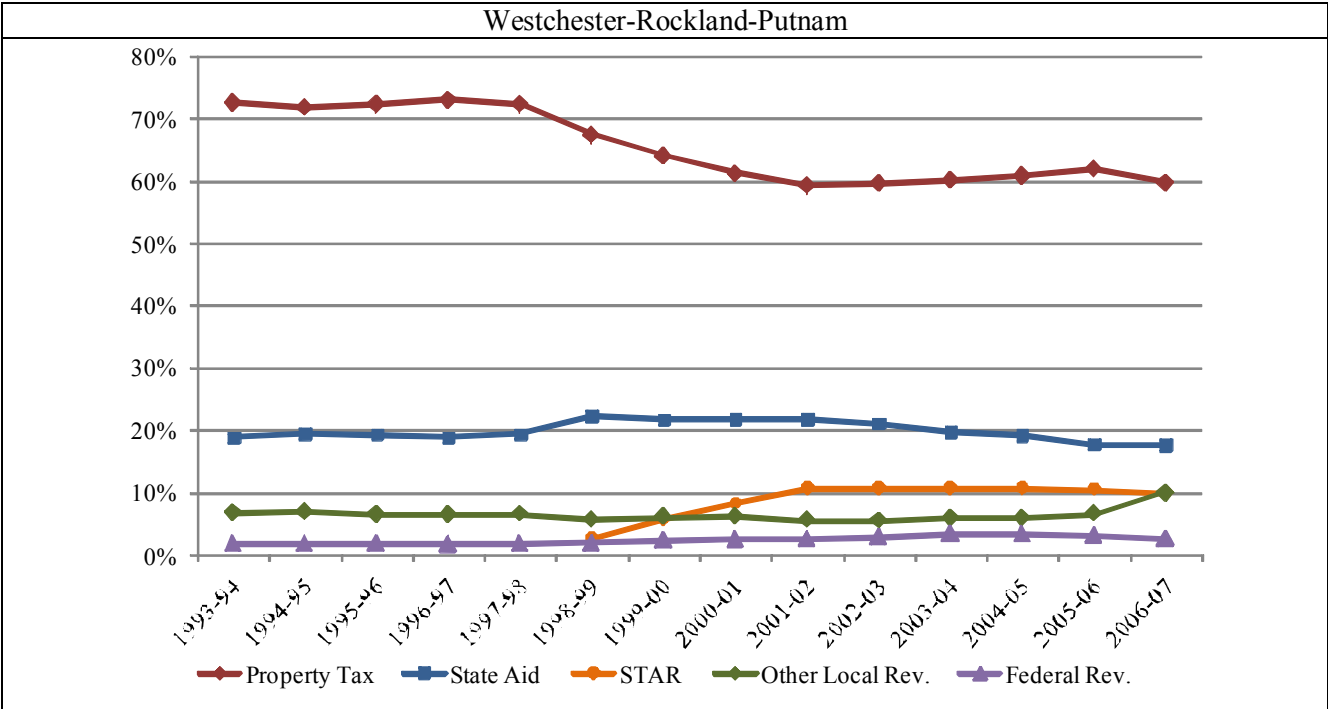
Figure 26: Revenue Distribution Among NYS Regions

New York City



Long Island





IV. Property tax burdens at the household level: ACS data for 2006

To obtain a picture of property tax burdens relative to incomes at the individual household level, and taxes relative to senior-citizen status, the study analyzed the U.S. Census Bureau’s American Community Survey (ACS) data for 2006. The ACS data are difficult to compare with previous years because of changes in

survey methodology over time. Nonetheless, they provide useful information about recent property tax burdens at a level not readily susceptible to analysis with data from other sources.

The 2006 ACS data were weighted to represent the estimated universe for New York State and regions. After weighting the number of sampled households and excluding households reporting a negative value or zero for household income, we find a total of 3,914,848 households.

For this part of our analysis, property tax burden is measured as the percentage of property taxes in household income (both self-reported by respondents). Data on actual property taxes are not available from the 2006 ACS data; rather, respondents report the level of taxes paid as one of 64 categories. For our analysis, we used the midpoint of each category range to represent the given category.¹¹

New York State is divided into four regions: New York City; Long Island; Westchester, Putnam and Rockland; and all other counties, grouped here as Upstate.¹²

The ACS asks respondents to indicate whether a resident of the household is 65 or older. We use this as a proxy indicator of ownership by senior citizens.

Property tax burden, household income, and property taxes

Table 4 presents regional distributions in the median values of property tax burden, household income, and property taxes. In the State of New York as a whole, the median property tax burden was about \$4.56 per \$100 of household income, ranging from \$2.98 in New York City to \$7.24 in Long Island. In the Westchester-Rockland region and upstate, median property burdens were \$5.75 and \$4.29 per \$100 of household income, respectively. Median household income in the state as a whole was \$50,010, ranging from \$45,610 in the Upstate to \$80,000 in Long Island. Median property taxes were \$3,050, ranging from \$2,450 in NYC to \$7,500 in Long Island.

Region	Median Value		
	Property Tax	Household Income	Property Taxes
Long Island	7.24	80,000	7,500
New York City	2.98	45,800	2,450
Westchester-Putnam-Rockland	5.75	75,000	7,500
Upstate	4.29	45,610	2,550
All Regions	4.56	50,010	3,050

¹¹ Since respondents who lived in institutional or non-institutional group quarters reported neither property taxes nor household income, responses related to both institutional and non-institutional group quarters (GQs) were excluded for analysis. The ACS data considers co-ops and condominiums as a form of ownership, so they are included in owner-occupied units.

¹² These four regions were constructed from public use microdata area (PUMA) codes (available from 2006 ACS data) and Census 2000 PUMA Maps (available from Census Bureau website, <http://www.census.gov/geo/www/maps/puma5pct.htm>).

Property tax burden by homeowners' age

Table 5 shows median property tax burdens by homeowner's age status across regions. In the state as a whole, the median value of property tax burden for senior-citizen households was \$5.82 per \$100 of household income, while it was \$4.21 for households with no resident aged 64 or older. In all four regions, senior citizen households paid higher property taxes relative to income than households without a senior citizen. In either category of homeowner's age, households in New York City had the lowest median property tax burden, while those in Long Island had the highest burden: The median property tax burden for senior-citizen households varied from \$4.27 in New York City to \$9.69 in Long Island per \$100 of household income.

Age Group	Long Island	NYC	WPR	Upstate	All Regions
65 or more	9.69	4.27	7.61	5.19	5.82
Less than 65	6.67	2.65	5.38	4.06	4.21
Total	7.24	2.98	5.75	4.29	4.56

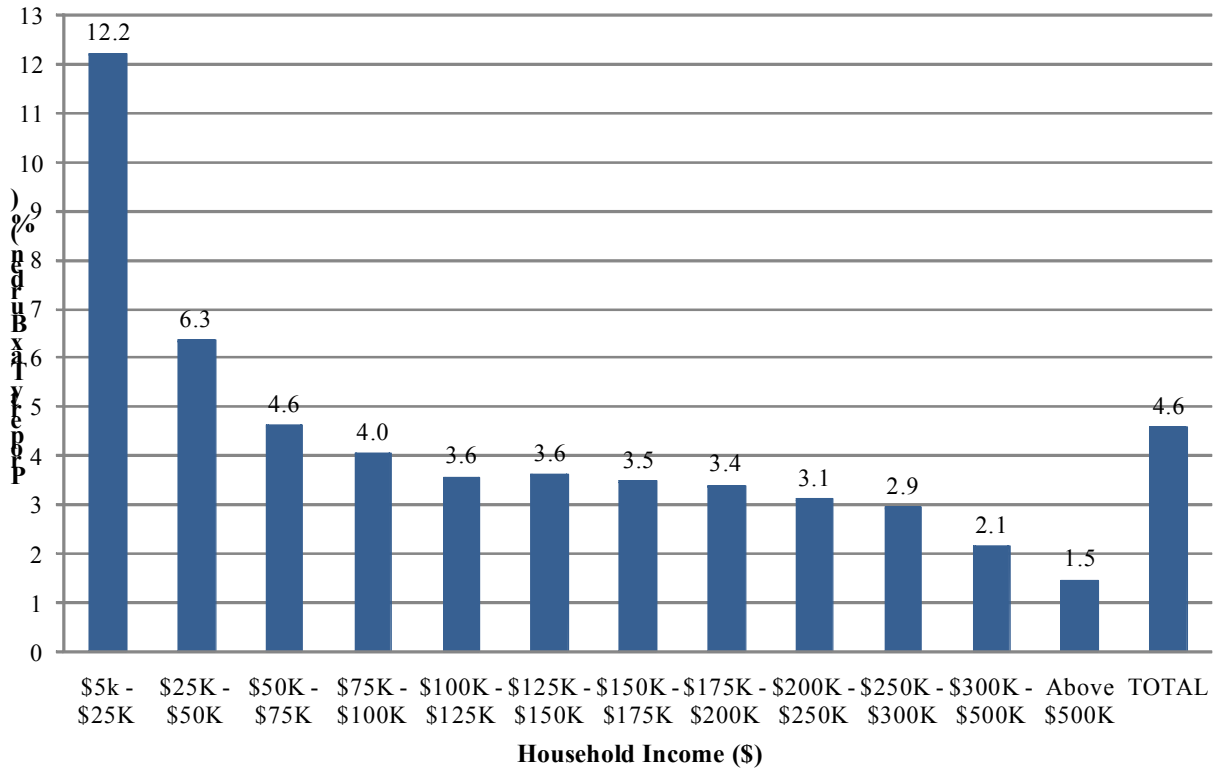
Property taxes by household income, New York State

Table 6 shows median property tax burdens by various groups of household income for New York State and across regions. For this analysis, we omit households with income below \$5,000 because a number of respondents reported property tax payments that appear inconsistent with reported income.

Household Income	Long Island	NYC	WPR	Upstate	Total NYS
\$5K - \$25K	231.77	13.42	29.13	9.42	12.20
\$25 K - \$50K	30.31	5.89	13.70	5.40	6.34
\$50 K - \$75 K	15.87	3.60	9.03	4.11	4.60
\$75 K - \$100 K	10.44	2.66	7.50	3.69	4.03
\$100 K - \$125 K	7.98	2.22	6.31	3.21	3.56
\$125 K - \$150 K	6.30	1.96	5.77	3.09	3.61
\$150 K - \$175 K	5.78	1.77	5.31	3.03	3.47
\$175 K - \$200 K	5.15	1.59	5.00	2.83	3.39
\$200 K - \$250 K	4.31	1.51	4.22	2.53	3.10
\$250 K - \$300 K	4.03	1.44	3.47	2.04	2.93
\$300 K - \$500 K	3.50	1.07	2.66	1.90	2.14
Above \$500 K	2.63	0.90	1.84	1.26	1.45
TOTAL	1.69	2.98	5.75	4.29	4.56

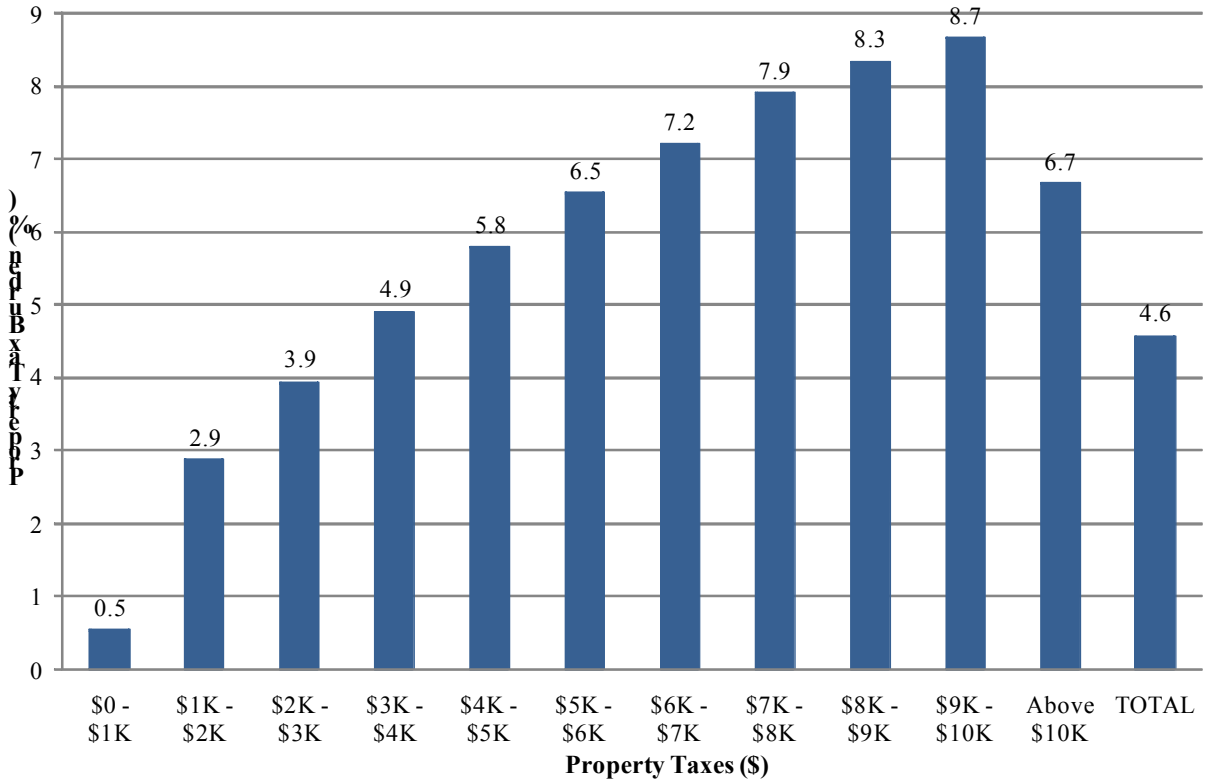
Source: U.S. Census Bureau, 2006 ACS Data.

Figure 27: Property Tax Burden by Household Income, New York State



Source: U.S. Census Bureau, 2006 ACS Data.

Figure 28: Property Tax Burden by Property Taxes, New York State



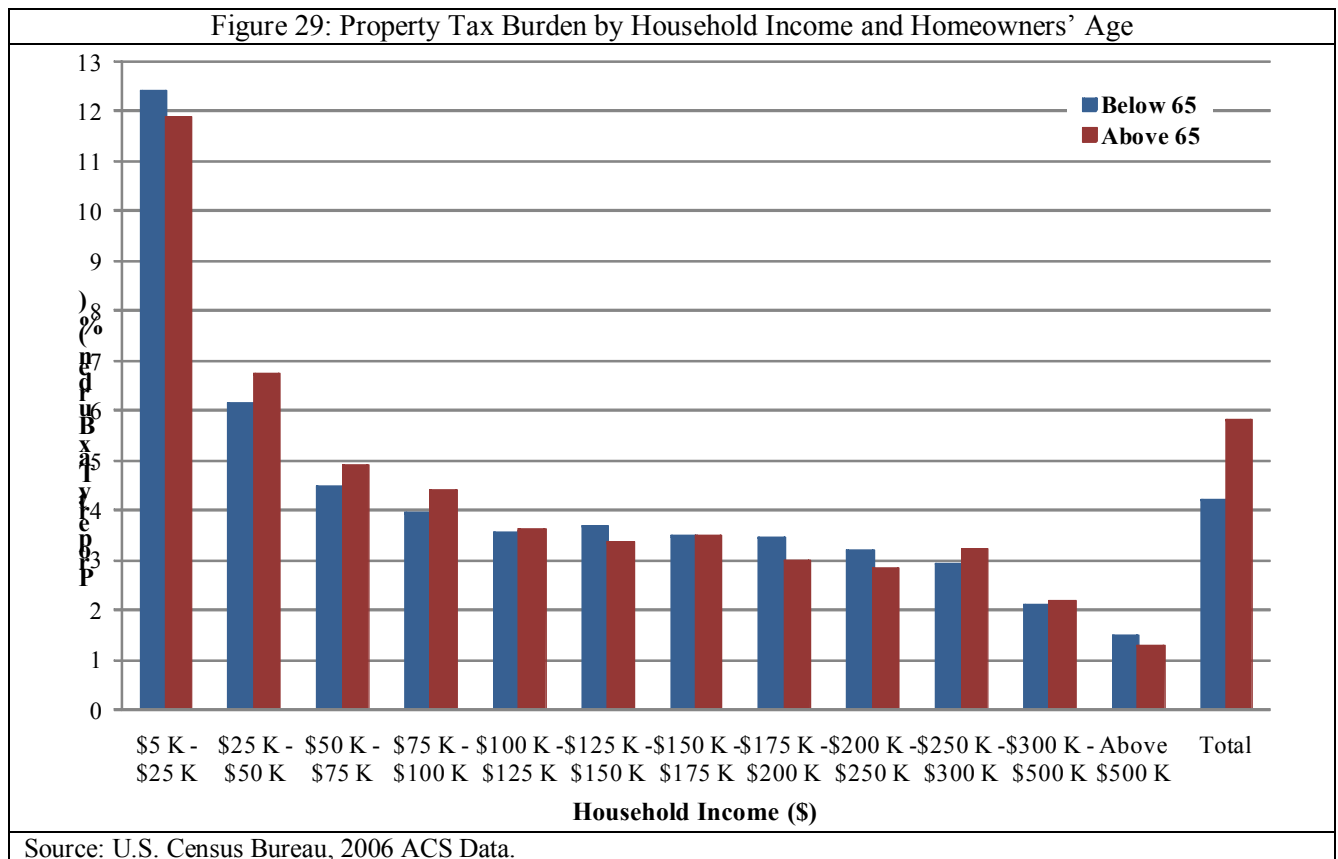
Source: U.S. Census Bureau, 2006 ACS Data.

Property tax burdens tend to decline as household income rises, as shown in Figure 27. The tax burden is highest for homeowners with household income of \$25,000 or less, declines by two-thirds for households with income between \$75,000 to \$100,000, and continues to fall as income rises.

Conversely, effective tax rates tend to rise as the total amount of property taxes paid increases, as shown in Figure 28.

Property taxes by household income and homeowner age

Figure 29 shows median property tax burdens by homeowners’ age and household income. In general, the tax burden was higher for homeowners above age 65. Regardless of homeowner’s age, median property tax burden generally decreased with an increase in household income. In the case of homeowners aged 65 or less, there were larger variations in median tax burden than in the case of homeowners aged 65 or more. But in some groups of household income, tax burdens were higher in the former case than in the latter.



Appendix A

Among major classes of local governmental entities, school districts outside New York City increased property tax collections at twice the rate of other classes of local government from 1993 to 2005, as shown in Table A-1. As a result, the share of total property tax revenues collected by school districts rose from 35 to 42 percent.

Table A-1: Property Tax Collections, Major Classes of Local Government, 1993-2005					
	1993	Share of 1993 Total	2005	Share of 2005 Total	Increase, 1993-2005
School Districts Outside of NYC	8,099	35%	15,545	42%	92%
Counties Outside of NYC	3,166	14%	4,385	12%	39%
Cities Outside of NYC	678	3%	987	3%	46%
New York City	8,077	35%	11,914	32%	48%
Towns	2,002	9%	2,885	8%	44%
Villages	610	3%	966	3%	58%
Fire Districts	275	1%	494	1%	80%
Total	22,907		37,176		62%
<i>Total Excluding School Districts</i>	<i>14,808</i>		<i>21,631</i>		<i>46%</i>
Source: Office of State Comptroller data; calculations by Rockefeller Institute of Government.					

The Nelson A. Rockefeller Institute of Government

The Rockefeller Institute of Government is the public-policy research arm of the State University of New York. Its researchers conduct studies on policy issues affecting the 50 states, with fiscal studies as one major area of emphasis. The Institute maintains a special focus on New York State issues and programs.

The authors of this report were Robert B. Ward, Deputy Director of the Institute and Director of its Fiscal Studies Program; and Lucy Dadayan, Senior Policy Analyst. Donald J. Boyd, a Senior Fellow at the Institute; and Suho Bae, an independent researcher, served as consultants.

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